

2005

ILLINOIS

REGISTER

RULES
OF GOVERNMENTAL
AGENCIES



Volume 29 Issue 11
March 11, 2005
Pages 3393-4163

Index Department
Administrative Code Div.
111 East Monroe Street
Springfield, IL 62756
(217) 782-7017
<http://www.cyberdriveillinois.com>

Printed on recycled paper

PUBLISHED BY JESSE WHITE • SECRETARY OF STATE

TABLE OF CONTENTS

March 11, 2005 Volume 29, Issue 11

PROPOSED RULES

CENTRAL MANAGEMENT SERVICES, DEPARTMENT OF	
State Vehicles and Garages	
44 Ill. Adm. Code 5040	3393
Conditions of Employment	
80 Ill. Adm. Code 303	3403
COMMERCE AND ECONOMIC OPPORTUNITY, DEPARTMENT OF	
State Administration of the Federal Community Development	
Block Grant Program for Small Cities	
47 Ill. Adm. Code 110	3411
EDUCATION, ILLINOIS STATE BOARD OF	
Public Schools Evaluation, Recognition and Supervision	
23 Ill. Adm. Code 1	3414
Certification	
23 Ill. Adm. Code 25	3421
Dismissal of Tenured Teachers	
23 Ill. Adm. Code 51	3459
Dismissal of Tenured Teachers and Civil Service Employees	
Under Article 34 (Repeal)	
23 Ill. Adm. Code 52	3474
Temporary Relocation Expenses	
23 Ill. Adm. Code 145	3489
Electronic Transfer of Funds	
23 Ill. Adm. Code 155	3494
Contested Cases and Other Formal Hearings	
23 Ill. Adm. Code 475	3504
Hearings Before the State Teacher Certification Board (Repeal)	
23 Ill. Adm. Code 480	3527
POLLUTION CONTROL BOARD	
Petroleum Underground Storage Tanks (Releases Reported September 23,	
1994, Through June 23, 2002)	
35 Ill. Adm. Code 732	3538
Petroleum Underground Storage Tanks (Releases Reported On Or After	
June 24, 2002)	
35 Ill. Adm. Code 734	3705
PUBLIC HEALTH, ILLINOIS DEPARTMENT OF	
Illinois Home Health Agency Code	
77 Ill. Adm. Code 245	3832
RACING BOARD, ILLINOIS	
Medication	
11 Ill. Adm. Code 603	3862
SECRETARY OF STATE, OFFICE OF THE	

Issuance of Licenses	
92 Ill. Adm. Code 1030	3865
ADOPTED RULES	
FINANCIAL AND PROFESSIONAL REGULATION, DEPARTMENT OF	
Electrologist Licensing Act	
68 Ill. Adm. Code 1246	3873
CORRECTIONS, DEPARTMENT OF	
Health Care	
20 Ill. Adm. Code 415	3883
EDUCATION, ILLINOIS STATE BOARD OF	
Access to Information of the State Board of Education Under the	
Freedom of Information Act	
2 Ill. Adm. Code 5001	3900
LABOR, DEPARTMENT OF	
Prevailing Wage Hearing Procedures	
56 Ill. Adm. Code 100	3909
NATURAL RESOURCES, DEPARTMENT OF	
Nuisance Wildlife Control Permits	
17 Ill. Adm. Code 525	3919
The Taking of Wild Turkeys - Spring Season	
17 Ill. Adm. Code 710	3935
Sport Fishing Regulations for the Waters of Illinois	
17 Ill. Adm. Code 810	3955
Special Wildlife Funds Grant Program	
17 Ill. Adm. Code 3060	4042
PUBLIC AID, ILLINOIS DEPARTMENT OF	
Pharmaceutical Assistance Program	
89 Ill. Adm. Code 119	4069
EMERGENCY RULES	
COMMERCE AND ECONOMIC OPPORTUNITY, DEPARTMENT OF	
State Administration of the Federal Community Development	
Block Grant Program for Small Cities	
47 Ill. Adm. Code 110	4088
RACING BOARD, ILLINOIS	
Medication	
11 Ill. Adm. Code 603	4116
PEREMPTORY RULES	
CENTRAL MANAGEMENT SERVICES, DEPARTMENT OF	
Pay Plan	
80 Ill. Adm. Code 310	4125
SECOND NOTICES RECEIVED	
JOINT COMMITTEE ON ADMINISTRATIVE RULES	
Second Notices Received.....	4149
JOINT COMMITTEE ON ADMINISTRATIVE RULES AGENDA	
JOINT COMMITTEE ON ADMINISTRATIVE RULES	

March Agenda.....	4151
REGULATORY AGENDA	
PROPERTY TAX APPEAL BOARD	
Practice and Procedure for Hearings Before the Property Tax Appeal	
86 Ill. Adm. Code 1910	4156
EXECUTIVE ORDERS AND PROCLAMATIONS	
PROCLAMATIONS	
Black History Awards Day	
2005-48.....	4157
Money Smart Week	
2005-49.....	4157
American Red Cross Month	
2005-50.....	4157
Chicago Business Opportunity Days	
2005-51	4158
Great American Weigh In Day	
2005-52	4159
National Association of Women Business Owners Day	
2005-53	4159
Women Veterans Recognition Month	
2005-54.....	4160
Financial Aid/Admission Awareness Month (Revised)	
2005-25.....	4160
Illinois State Day at Washington National Cathedral	
2005-55.....	4161
Extension Living Well Week	
2005-56.....	4162

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: State Vehicles and Garage
- 2) Code Citation: 44 Ill. Adm. Code 5040
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
5040.130	Amendment
5040.540	Amendment
5040.550	Amendment
5040.700	Amendment
- 4) Statutory Authority: Implementing and authorized by 20 ILCS 405/405-280 and 285
- 5) A Complete Description of the Subjects and Issues Involved: The Department of Central Management Services has entered into an agreement with vendors to provide Fleet Card services to supplement and potentially ultimately replace the existing DCMS Fleet Card. These vendors' systems provide a larger fuel vendor network for gasohol and diesel than can be utilized using the DCMS Fleet Card. Vendor Fleet Cards allow for better controls, requiring Agencies to have adequate policies and procedures in place to safeguard the usage of the Fleet Cards. In addition, language has been changed relating to outdated rates and Fleet Card purchase limits.
- 6) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: These proposed amendments neither create nor expand any State mandate on units of local government, school districts or community college districts.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit written comments within 45 days after the date of publication to:

Gina Wilson
Illinois Department of Central Management Services
720 Stratton Office Building

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

Springfield, Illinois 62706
217/785-1793

- 12) 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: Agency Vehicle Coordinators will be responsible for ordering Vendor Fleet Cards, tracking inventory control of cards, handling and processing lost, stolen and/or cancelled card requests, and dealing with Vendor Fleet Card purchase limit information, changes and/or exception requests.
- Agencies will be responsible for utilization of Fleet Card exception reporting capabilities and for establishing internal procedures for addressing issues identified through this reporting. Central Management Service will provide biannual reporting criteria (including card abuse information) for this purpose.
- Agencies will be responsible for assigning and tracking unique Personal Identification Numbers (PIN) for Vendor Fleet Cards for each fleet vehicle, required for accountability and theft prevention.
- C) Types of professional skills necessary for compliance: Existing Agency Vehicle Coordinators will have varied responsibilities due to the proposed changes.
- 13) Regulatory Agenda on which this rulemaking was summarized: This amendment was not included on the most recent regulatory agendas because: the changes are a result of an audit recommendation and were not anticipated.

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

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

TITLE 44: GOVERNMENT CONTRACTS, PROCUREMENT
AND PROPERTY MANAGEMENT

SUBTITLE D: PROPERTY MANAGEMENT

CHAPTER I: DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

PART 5040

STATE VEHICLES AND GARAGE

SUBPART A: GENERAL

Section

- 5040.100 Authority
- 5040.110 Policy
- 5040.120 Applicability
- 5040.130 Definitions

SUBPART B: ACQUISITION

Section

- 5040.200 Acquisition of Vehicles
- 5040.210 Fuel Economy Standards
- 5040.220 Availability of Vehicles
- 5040.230 Agency Purchase
- 5040.240 Motor Pool Lease or Rental
- 5040.250 Private Firm Lease or Rental
- 5040.260 Use of Personal Vehicles on State Business
- 5040.270 Requests for Acquisition of Vehicles

SUBPART C: USE OF VEHICLES

Section

- 5040.300 Use of Vehicles
- 5040.310 Title and Registration
- 5040.320 License Plates
- 5040.330 Identification of Vehicles
- 5040.340 Assignment to Individuals
- 5040.350 Authorized Use
- 5040.360 Use and Condition Review
- 5040.370 Exceptions to Use Rules
- 5040.380 Motor Pool

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

SUBPART D: MAINTENANCE

Section	
5040.400	Maintenance of Vehicles
5040.410	Scheduled Inspection and Maintenance
5040.420	DCMS Garages
5040.430	Warranty Work

SUBPART E: MISCELLANEOUS

Section	
5040.500	Driver Requirements
5040.510	Insurance
5040.520	Accidents Report Procedures
5040.530	Tickets
5040.540	Credit Card
5040.550	Gasoline Purchase
5040.560	Charges
5040.570	Payment of Charges
5040.580	Credits
5040.590	Cost Information (Repealed)
5040.600	Designation of Vehicle Coordinator
5040.610	DCMS Annual Statement
5040.620	Required Forms and Information
5040.630	Agency Signature Authority
5040.700	Rate Schedule

AUTHORITY: Implementing Sections 405-280, 405-285, and 405-215 of the Department of Central Management Services Law [20 ILCS 405/405-280, 405-285, and 405-215] and Sections 1 and 2 of the State Vehicle Identification Act [30 ILCS 610/1 and 2] and authorized by Section 405-280 of the Department of Central Management Services Law [20 ILCS 405/405-280].

SOURCE: Adopted at 4 Ill. Reg. 28, p. 173, effective July 1, 1980; amended at 4 Ill. Reg. 30, p. 1225, effective July 1, 1980, by the Department of Administrative Services; transferred to the Department of Central Management Services by Executive Order 82-1, effective July 1, 1982; amended at 7 Ill. Reg. 2483, effective March 1, 1983; codified at 8 Ill. Reg. 8180; amended at 9 Ill. Reg. 13720, effective August 21, 1985; amended at 13 Ill. Reg. 13829, effective August 22, 1989; amended at 15 Ill. Reg. 7553, effective May 7, 1991; amended at 19 Ill. Reg. 14774, effective October 5, 1995; amended at 25 Ill. Reg. 6221, effective April 17, 2001; amended at 26

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

Ill. Reg. 9695, effective June 19, 2002; amended at 29 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL

Section 5040.130 Definitions

"Agency Head" – The top appointed or elected person within a State entity or the person authorized to act in his or her behalf.

"DCMS Fleet Card" – A card issued by DCMS as a means of identifying a particular piece of equipment used to purchase fuel, maintenance and repair goods and services.

"Equipment" – Any motorized implement or vehicle used to perform official State business.

"Executive Department" – All departments, boards, commissions, and agencies of the State of Illinois subject to the Governor.

"State Employee" – Any person who is paid on a State warrant or providing a service to the State and who has permission from the "agency head" may use a State vehicle.

"Vehicle" – Any automobile, truck, or other conveyance capable of independent locomotion on the roads and highways of the State other than special mobile equipment as defined in Section 1-100 of the Illinois Vehicle Code [625 ILCS 5/1-100].

"Vendor Fleet Card" – A card issued by a private vendor, under contract with DCMS, as a means of identifying a particular piece of equipment and used to purchase fuel, maintenance and repair goods and services.

(Source: Amended at 29 Ill. Reg. _____, effective _____)

SUBPART E: MISCELLANEOUS

Section 5040.540 Credit Card

All costs (State garage or private vendor) incurred for the operation of a state-owned vehicle (gasoline, oil, parts, labor, etc.) shall be charged to the official Vehicle Equipment Credit Card

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

~~assigned to that vehicle, except where an emergency situation requires payment by a means other than the official credit card or where use of the credit card is not feasible. All gasoline, repair or other charges shall be promptly reported by the employee to his agency.~~

- a) ~~DCMS Fleet Cards are utilized for fuel purchases and repairs performed at DCMS garage and fueling sites. DCMS Fleet Cards or DCMS approved Vendor Fleet Cards are utilized for outside purchases of full tanks of fuel. Repairs and maintenance require prior DCMS approval. Exceptions to the above are minor repairs and services, including lube, oil and filter; windshield wiper replacements; light bulbs and headlights; and vehicle washes. Additionally, emergency towing and/or emergency tire repair are approved purchases. Emergency repairs and maintenance require authorization by DCMS the next business day. All official credit cards for state-owned vehicles will be prepared and assigned to the respective vehicle by the Division of Vehicles prior to the vehicle being placed in service. The initial credit card will be issued at no charge. Replacement cards needed due to normal wear and tear will also be issued at no charge. Other replacement cards shall be issued for the charge shown in the Rate Schedule (see Section 5040.700).~~
- b) ~~DCMS Fleet Cards are assigned to equipment when placed in service by the Division of Vehicles. DCMS will recover the cost of administering Fleet Card services in its rates. An official Vehicle Equipment Card shall be assigned to each state-owned vehicle and shall only be used for purchases related to that vehicle. Unauthorized use of the credit card makes the user subject to discipline and/or prosecution.~~
- c) ~~Any State employee involved in the unauthorized use of any credit card is subject to discipline and criminal prosecution. If a situation necessitates payment of costs associated with the operation of a vehicle by means other than an official Vehicle Credit Card, the driver must submit a written report to DCMS stating:~~
 - 1) ~~The date and place of service.~~
 - 2) ~~The exact nature and cost of service.~~
 - 3) ~~The reason necessitating payment by a means other than by official Vehicle Credit Card.~~
- d) ~~Agency Vehicle Coordinators are responsible for ordering Vendor Fleet Cards and for maintaining inventory control of Vendor Fleet Cards for agency~~

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

~~equipment, utilizing DCMS' vendor on-line systems and formats. In the event a Vehicle Credit Card is lost or damaged, the individuals responsible for that vehicle will notify the Agency Vehicle Coordinator. The Vehicle Coordinator will make a written request to DCMS for a replacement card detailing the circumstances of the loss, identifying the lost card by number and telling DCMS of known legitimate outstanding charges.~~

- e) Personal Identification Numbers (PIN) for Vendor Fleet Cards are required for accountability and to prevent theft and abuse. A unique PIN number is required for each vehicle or driver.
- 1) ~~Vehicle credit cards may be used without prior DCMS authorization for purchases outside DCMS facilities for gasoline, oil, oil changes/lubrication, washing, towing, and tire repair not to exceed:~~
- ~~\$ 50.00 cars/trucks through 1 ton~~
- ~~\$200.00 trucks over 1 ton.~~
- 2) ~~Minor mechanical repairs not to exceed \$50.00 (cars/light trucks) and \$100.00 (other vehicles) may be charged to this card without DCMS approval only in emergency situations. All other mechanical repairs require DCMS authorization.~~
- f) Drivers are responsible for accurate mileage information on all Fleet Card transactions.
- g) Lost, Stolen or Damaged Fleet Cards
- 1) Drivers are responsible for the appropriate use of and security of both the DCMS and Vendor Fleet Cards once received. Drivers are also responsible for reporting damaged, lost or stolen fleet fuel cards to their Agency Vehicle Coordinator immediately. Upon receipt of replacement cards, drivers are responsible for sending the original expired or damaged card back to the Agency Vehicle Coordinator.
- 2) Agency Vehicle Coordinators must document to DCMS a vehicle's lost, stolen or damaged DCMS Fleet Card for replacement.
- 3) The Agency Vehicle Coordinator must notify the Fleet Card vendor

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

immediately to cancel a Vendor Fleet Card that is lost or stolen.

- h) Limits on DCMS or Vendor Fleet Card purchases will be established by DCMS and may change. Exceptions will be granted on a case-by-case basis for operating needs. Agencies may obtain information on current limits by contacting DCMS.
- i) Agencies are required to utilize Vendor Fleet Card exception report capabilities and establish internal procedures for addressing issues identified through these reports. DCMS establishes twice annual reporting criteria, including card abuse reporting, for this purpose. Agencies shall report the results of exceptions review to DCMS on July 1 and January 1 of each year, in the form specified by DCMS.

(Source: Amended at 29 Ill. Reg. _____, effective _____)

Section 5040.550 Gasoline Purchase

- a) Purchases of fuel, oil, and related items for the operation of ~~State-owned state-owned equipment must~~ vehicles will be made from the most economical source. Unleaded gasoline (with ethanol blended in, often called Gasohol) shall, however, be used where available. ~~In determining the most economical source, drivers of State vehicles shall consider all factors, including price and route of travel. Employees are required to use E-85 (85% ethanol) and B2 (2% bio-diesel) when operating flexible fueled and diesel powered vehicles in the State fleet, whenever practical.~~
- b) If there is a ~~State-owned state-owned~~ garage or ~~State-owned state-owned~~ service station within a ~~reasonable distance, ten (10) mile radius~~ the driver should make purchases at this source. ~~This should be considered a guideline and does not require unreasonable deviation from planned route of travel.~~ State service stations are ~~available on the State of Illinois Enterprise web at <http://www.intra.state.il.us/poliproc/vehicleguide.pdf> listed in the Vehicle Operator's Instructions.~~
- c) If a ~~State-owned state-owned~~ garage or ~~State-owned state-owned~~ service station is not conveniently located, an appropriately located privately operated station with a self-service island shall be the source of purchase, ~~except when the driver is physically unable to operate a self-service pump. (a list of service stations accepting a State credit card is shown in the Vehicle Operator's Instructions).~~ ~~Except that this shall not apply where:~~

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 1) ~~The vehicles may require services such as oil, air, or water check, which must be performed by a station attendant.~~
- 2) ~~The driver of the vehicle is physically unable to operate a self-service pump.~~
- 3) ~~The privately operated station with a self-service gasoline island does not accept the official State Vehicle Credit Card.~~

(Source: Amended at 29 Ill. Reg. _____, effective _____)

Section 5040.700 Rate Schedule

- a) ~~The following rates shall be fixed and shall not change except by amendment to this Part.~~
 - 1) ~~Failure to return motor pool vehicles as scheduled (See Section 5040.380(b)(2)(C))~~ ~~\$ 2.00 per hour~~
 - 2) ~~Failure to cancel reservation at least four hours in advance (See Section 5040.380(c)(3))~~ ~~\$10.00~~
 - 3) ~~One-way trip fee (See Section 5040.380(d)(2))~~ ~~\$15.00~~
 - 4) ~~Late payment fee (See Section 5040.570)~~ ~~5%~~
 - 5) ~~Replacement card fee (See Section 5040.540(a))~~ ~~\$ 5.00~~

~~b) Rates for the following are published by DCMS annually or as changes occur through distribution to Agency Vehicle Coordinator categories are posted at garage and motor pool locations or sent to each agency vehicle coordinator. These rates may fluctuate based upon daily market changes.~~

- ~~a)1) Motor pool rental charge~~
- ~~b)2) Vehicle lease charge~~
- ~~c)3) Labor rates~~
- ~~d)4) Parts costs~~
- ~~e)5) Fuel, oil and anti-freeze~~

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 29 Ill. Reg. _____, effective _____)

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Conditions of Employment
- 2) Code Citation: 80 Ill. Adm. Code 303
- 3) Section Numbers: 303.112 Proposed Action: Amendment
- 4) Statutory Authority: Implementing and authorized by the Personnel Code [20 ILCS 415]
- 5) A Complete Description of the Subjects and Issues Involved: Amends the Sick Leave Bank section to mirror the collective bargaining contract, changing the amount that a participating employee shall retain in his or her sick leave bank account from 10 days to 5 days.
- 6) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking contain incorporations by reference? No
- 9) Are there any other proposed rulemakings pending on this Part? No.
- 10) Statement of Statewide Policy Objectives: These proposed amendments neither create nor expand any State mandate on units of local government, school districts or community college districts.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit written comments within 45 days after the date of publication to:

Gina Wilson
Illinois Department of Central Management Services
720 Stratton Office Building
Springfield, Illinois 62706
217/785-1793
- 12) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not for profit corporations affected: None

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENT

- B) Reporting, bookkeeping or other procedures required for compliance: New transaction codes may need to be established and the timekeeping system will also need modification.
 - C) Types of professional skills necessary for compliance: None
- 13) Regulatory Agenda on which this rulemaking was summarized: This amendment was not included on either of the 2 most recent regulatory agendas because: the changes were a result at AFSCME contract negotiations.

The full text of the Proposed Amendment appears on the next page.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENT

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES
SUBTITLE B: PERSONNEL RULES, PAY PLANS, AND
POSITION CLASSIFICATIONS
CHAPTER I: DEPARTMENT OF CENTRAL MANAGEMENT SERVICESPART 303
CONDITIONS OF EMPLOYMENT

SUBPART A: GRIEVANCE PROCEDURE

Section	
303.10	Definition of a Grievance
303.20	Procedure
303.30	Grievance Committee
303.45	Representation

SUBPART B: LEAVE OF ABSENCE

Section	
303.90	Sick Leave
303.100	Accumulation of Sick Leave
303.102	Payment in Lieu of Sick Leave
303.105	Reinstatement of Sick Leave
303.110	Advancement of Sick Leave
303.112	Sick Leave Bank
303.115	Veterans Hospital Leave
303.125	Leave for Personal Business
303.130	Maternity/Paternity and Adoption Leave
303.135	On-The-Job Injury – Industrial Disease
303.140	Leaves of Absence Without Pay
303.142	Leave to Attend Union Conventions
303.145	Disability Leave
303.148	Family Responsibility Leave
303.149	Organ Donor Leave
303.150	Employee Rights After Leave
303.153	Failure to Return
303.155	Leave to Take Exempt Position
303.160	Military and Peace Corps Leave
303.170	Military Reserve Training and Emergency Call-Up
303.171	Leave for Military Physical Examinations

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENT

- 303.175 Disaster Service Leave With Pay
- 303.176 Disaster Service Leave With Pay – Terrorist Attack
- 303.180 Attendance in Court
- 303.190 Authorized Holidays
- 303.200 Holiday Observance
- 303.215 Payment for Holidays
- 303.220 Holiday During Vacation
- 303.225 Eligibility for Holiday Pay
- 303.250 Vacation Eligibility
- 303.260 Prorated Vacation for Part-Time Employees
- 303.270 Vacation Schedule and Loss of Earned Vacation
- 303.290 Payment in Lieu of Vacation
- 303.295 Vacation Benefits on Death of Employee

SUBPART C: WORK HOURS AND SCHEDULES

- Section
- 303.300 Work Schedules
- 303.310 Emergency Shut-Down
- 303.320 Overtime
- 303.330 Overtime Payable Upon Death
- 303.340 Attendance Records
- 303.350 Notification of Absence
- 303.355 Review of Attendance Records

SUBPART D: UNDATED OR INCOMPLETE FORMS

- Section
- 303.360 Undated Forms
- 303.370 Incomplete Forms

SUBPART E: EMPLOYEE SEPARATIONS

- Section
- 303.380 Reason for Separation
- 303.385 Repayment of Benefit Time

SUBPART F: TUITION REIMBURSEMENT

- Section

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENT

303.390 Tuition Reimbursement

AUTHORITY: Implementing and authorized by the Personnel Code [20 ILCS 415] and the Organ Donor Leave Act [5 ILCS 327].

SOURCE: Filed May 29, 1975; amended at 3 Ill. Reg. 22, p. 78, effective June 1, 1979; amended at 3 Ill. Reg. 26, p. 199, effective July 1, 1979; emergency amendment at 3 Ill. Reg. 48, p. 188, effective January 1, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 11, p. 70, effective March 1, 1980; amended at 4 Ill. Reg. 15, p. 216, effective March 31, 1980; amended at 4 Ill. Reg. 22, p. 227, effective June 1, 1980; amended at 5 Ill. Reg. 8029, effective August 1, 1981; codified at 7 Ill. Reg. 13209; emergency amendment at 8 Ill. Reg. 329, effective January 1, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 7788, effective May 23, 1984; amended at 14 Ill. Reg. 3433, effective February 27, 1990; emergency amendment at 15 Ill. Reg. 5076, effective March 20, 1991, for a maximum of 150 days; emergency expired August 17, 1991; amended at 15 Ill. Reg. 5214, effective April 2, 1991; amended at 15 Ill. Reg. 14067, effective September 12, 1991; amended at 16 Ill. Reg. 8368, effective May 21, 1992; amended at 17 Ill. Reg. 5587, effective March 29, 1993; amended at 19 Ill. Reg. 8130, effective June 7, 1995; amended at 19 Ill. Reg. 11775, effective August 7, 1995; emergency amendment at 21 Ill. Reg. 11291, effective July 22, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 15454, effective November 24, 1997; amended at 23 Ill. Reg. 13815, effective November 4, 1999; emergency amendment at 24 Ill. Reg. 16694, effective October 27, 2000, for a maximum of 150 days; amended at 25 Ill. Reg. 4847, effective March 19, 2001; emergency amendment at 25 Ill. Reg. 12429, effective September 14, 2001, for a maximum of 150 days; amended at 26 Ill. Reg. 1138, effective January 18, 2002; amended at 27 Ill. Reg. 9008, effective May 23, 2003; emergency amendment at 28 Ill. Reg. 9677, effective July 1, 2004, for a maximum of 150 days; emergency expired November 27, 2004; emergency amendment at 28 Ill. Reg. 13795, effective October 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 16308, effective December 3, 2004; amended at 29 Ill. Reg. _____, effective _____.

SUBPART B: LEAVE OF ABSENCE

Section 303.112 Sick Leave Bank

- a) This Section contains rules governing the operation of plans allowing participating employees in each Agency to bank portions of their accrued sick leave in a sick leave bank to be used by participating employees in the same agency who have exhausted their accrued vacation time, personal days, sick leave or compensatory time. These rules provide a framework within which each Agency may administer a sick leave bank. Individual Agency procedures should be consistent with the framework set forth in these rules unless alternative

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENT

procedures have been agreed upon pursuant to collective bargaining negotiations.

b) Definitions

- 1) "Agency" means any branch, department, board, committee or commission of State government, but does not include units of local government, school districts or boards of election commissioners. ~~(Ill. Rev. Stat. 1991, ch. 127, par. 4255.10)~~ [5 ILCS 400/5.10].
- 2) "Sick leave bank" means a depository into which participating employees may donate accrued sick leave time for allocation to other participating employees. ~~(Ill. Rev. Stat. 1991, ch. 127, par. 4255.15)~~ [5 ILCS 400/5.15].
- 3) "Participating employee" means a permanent full- or part-time employee who has been employed by a State agency for a period of 6 months or more who voluntarily enrolls in the sick leave bank by depositing at least one full day of accrued sick leave in that bank. ~~(Ill. Rev. Stat. 1991, ch. 127, par. 4255.20)~~ [5 ILCS 400/5.20]. An employee who wishes to enroll must have a minimum of ~~5~~¹⁰ days of accrued sick time on the books.
- 4) "Catastrophic illness or injury" means temporary disability or incapacity resulting from a life threatening illness or injury or illness or injury of other catastrophic proportion as determined by the Director. Factors considered by the Director shall include the length of time the employee must be absent from work due to illness or injury.
- 5) "Personal catastrophic illness or injury" means a catastrophic illness or injury to the employee or, if agreed upon by the Agency Head and the Director, members of the employee's immediate family. Factors to be considered in determining if an employee's immediate family members are covered include the nature and duration of the catastrophic illness or injury and whether such individuals are covered pursuant to collective bargaining negotiations.

c) Participation in the sick leave bank is voluntary on the part of any employee. Employees wishing to participate must be permanent full-time or part-time employees with a minimum of 6 months of service.

d) A participating employee may deposit into the sick leave bank as much accrued sick leave as desired provided that the participating employee shall retain in his

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENT

or her own account at least ~~510~~ sick days ~~[Ill. Rev. Stat. 1991, ch. 127, par. 4260(b)]~~ [5 ILCS 400/10(b)].

- e) Employees may voluntarily enroll at any time. Employees who enroll within 30 calendar days after the establishment of a sick leave bank by an Agency must wait 30 calendar days before utilizing the sick leave bank. Employees who enroll more than 30 days after the establishment of a sick leave bank by an Agency must wait 60 calendar days after enrollment before utilizing the sick leave bank.
- f) An employee may use up to 25 work days from the sick leave bank per calendar year except that participating employees shall not use sick leave accumulated in the sick leave bank until all of their accrued vacation, personal days, sick leave and compensatory time have been used. The Director may approve limits of other than 25 work days per year. Factors considered in determining if an alternate limit should be approved include:
 - 1) the personnel jurisdiction governing the Agency and employees in question;
 - 2) whether limits have been established through collective bargaining negotiations;
 - 3) the desire for uniformity among Agency plans;
 - 4) operational needs of the Agency.
- g) Any sick leave in the sick leave bank used by a participating employee shall be only for the personal catastrophic illness or injury of the employee and may not be transferred, returned or used for any other purpose.
- h) Each State agency shall develop procedures, consistent with this Section, for establishing a single sick leave bank for all agency employees.
- i) Injuries and illnesses that are compensable under the Workers' Compensation Act ~~(Ill. Rev. Stat. 1991, ch. 48, par. 138.1 et seq.)~~ [820 ILCS 305/4 et seq.] or Workers' Occupational Disease Act ~~(Ill. Rev. Stat. 1991, ch. 48, par. 172.36 et seq.)~~ [820 ILCS 310/4 et seq.] shall not be eligible for sick leave bank use.
- j) *Participating employees who transfer from one agency to another may transfer their participation in the sick leave bank.* ~~(Ill. Rev. Stat. 1991, ch. 127, par.~~

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENT

~~4260(f)~~ [5 ILCS 400/10(f)].

- k) An employee shall not be eligible to withdraw the sick leave time he or she has contributed to the bank.
- l) Decisions affecting a participating employee's use of the sick leave bank may be submitted by the employee to a review committee. Unless otherwise approved by the Department, the committee shall consist of one Agency representative and two Department representatives. In determining if alternative committee membership should be approved, the Department shall consider the jurisdiction governing the Agency or employees in question. Decisions of review committees shall be final and binding.
- m) *Any abuse of the use of the sick leave bank shall be investigated by the agency and the Department and upon a finding of wrongdoing on the part of a participating employee, that employee shall repay all sick leave days drawn from the sick leave bank and shall be subject to other disciplinary action.* ~~(Ill. Rev. Stat. 1991, ch. 127, par. 4260(h))~~ [5 ILCS 400/10(h)].

(Source: Amended at 29 Ill. Reg. _____, effective _____)

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: State Administration of the Federal Community Development Block Grant Program for Small Cities
- 2) Code Citation: 47 Ill. Adm. Code 110
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
110.10	Amend
110.20	Amend
110.35	Amend
110.50	Amend
110.60	Amend
110.70	Amend
110.80	Amend
110.93	Amend
110.95	New Section
110.102	New Section
110.104	Amend
110.110	Amend
110.120	Amend
110.130	Amend
- 4) Statutory Authority: Implementing Sections 605-940 and 605-945 and authorized by Section 605-95 of the Civil Administrative Code of Illinois [20 ILCS 605/605-940, 605-945 and 605-95] and Title 1 of the Housing and Community Development Act of 1974, as amended, 42 USC 5302 et seq.
- 5) A Complete Description of the Subjects and Issues Involved: Two new Sections were added to the Community Development Assistance Program, which develops a new non-competitive grant program to assist persons with disabilities in non-metropolitan areas of the State. Specifically, eligible units of local governments may apply for funds on behalf of their eligible residents with mobility impairments that without affordable accessible housing improvements would be at risk of becoming homelessness, forced into institutionalization or become completely unable to perform normal life activities in their current housing unit due to structural impediments. In addition to the two new Sections, the Department is taking this opportunity to make non-substantive “clean-up” changes to other Sections within the Community Development Assistance Program Subpart.
- 6) Will these proposed amendments replace any emergency amendments currently in effect?
Yes

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF PROPOSED AMENDMENTS

- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Do these proposed amendments contain incorporations by reference? Yes
- 9) Are there any proposed amendments containing incorporations by reference? Yes
- 10) Statement of Statewide Policy Objectives: The rulemaking does not create or expand a State Mandate as defined in Section 3(b) of the State Mandate Act (30 ILCS 805).
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking:

Jolene Clarke
Rules Administrator
Department of Commerce and Economic Opportunity
620 E. Adams Street
Springfield, Illinois 62701

Phone: 217/557-1820
Fax: 217-782-0038
e-mail: jolene_clarke@commerce.state.il.us

- 12) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses and small municipalities affected: General contractors performing rehabilitation to housing units for compensation and small municipalities would benefit from an increase in an affordable handicap accessible housing units within the community.
 - B) Reporting, bookkeeping or other procedures required for compliance: Reporting, bookkeeping or other procedures are required to ensure compliance.
 - C) Types of professional skills necessary for compliance: Ability to administer federally funded housing rehabilitation programs according to state and federal (HUD) rules and regulations.
- 13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the two most recent regulatory agendas because: the Department did not anticipate the changes.

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF PROPOSED AMENDMENTS

The full text of the Proposed Amendments is identical to the text of the Emergency Amendments that appears in this issue of the *Illinois Register* on page 4088:

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Public Schools Evaluation, Recognition and Supervision
- 2) Code Citation: 23 Ill. Adm. Code 1
- 3) Section Number: 1.240 Proposed Action: Amendment
- 4) Statutory Authority: 105 ILCS 5/2-3.6
- 5) A Complete Description of the Subjects and Issues Involved: It has become apparent that, in at least one instance, access to a public early childhood education program has been denied to a child because of the child's immigration status. The Governor's Office and the State Board of Education were asked to intervene on behalf of the child's family, and ISBE has been directed to take action to prohibit denials of access such as this.

Free public education is guaranteed regardless of education status under the U.S. Supreme Court's 1982 decision in *Plyler v. Doe*. The present amendment to Part 1 will make this protection explicit in the rules of the State Board of Education.
- 6) Will this proposed amendment replace emergency amendments currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed amendment contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objective: This rulemaking will not create or enlarge a state mandate.
- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Written comments may be submitted within 45 days after the publication of this notice to:

Sally Vogl
Agency Rules Coordinator
Illinois State Board of Education
100 North First Street
Springfield, Illinois 62777

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENT

217/782-5270

Comments may also be submitted via e-mail, addressed to:

rules@isbe.net

- 12) 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
- 13) This rulemaking was not included in either of the two most recent Regulatory Agendas because: This matter had not reached conclusion in time for the January 2005 agenda.

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

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENT

TITLE 23: EDUCATION AND CULTURAL RESOURCES

SUBTITLE A: EDUCATION

CHAPTER I: STATE BOARD OF EDUCATION

SUBCHAPTER a: PUBLIC SCHOOL RECOGNITION

PART 1

PUBLIC SCHOOLS EVALUATION, RECOGNITION AND SUPERVISION

SUBPART A: SCHOOL RECOGNITION REQUIREMENTS

Section

- 1.10 Public School Accountability Framework
- 1.20 Operational Requirements
- 1.30 Quality Assurance Reviews
- 1.40 Student Performance and School Improvement Requirements (Repealed)
- 1.50 State Assessment
- 1.60 Operational Compliance (Repealed)
- 1.70 Effective Dates of Accreditation (Repealed)
- 1.80 Academic Early Warning and Watch Lists
- 1.85 Revisions to School Improvement Plans
- 1.90 System of Rewards and Recognition
- 1.100 Waiver and Modification of State Board Rules and School Code Mandates

SUBPART B: SCHOOL GOVERNANCE

Section

- 1.210 Powers and Duties
- 1.220 Duties of Superintendent
- 1.230 Board of Education and the School Code
- 1.240 Equal Opportunities for all Students
- 1.245 Waiver of School Fees
- 1.250 District to Comply with 23 Ill. Adm. Code 180
- 1.260 Commemorative Holidays to be Observed by Public Schools
- 1.270 Book and Material Selection
- 1.280 Discipline
- 1.285 Requirements for the Use of Isolated Time Out and Physical Restraint
- 1.290 Absenteeism and Truancy Policies

SUBPART C: SCHOOL DISTRICT ADMINISTRATION

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENT

Section

- 1.310 Administrative Responsibilities
- 1.320 Duties
- 1.330 Hazardous Materials Training

SUBPART D: THE INSTRUCTIONAL PROGRAM

Section

- 1.410 Determination of the Instructional Program
- 1.420 Basic Standards
- 1.430 Additional Criteria for Elementary Schools
- 1.440 Additional Criteria for High Schools
- 1.445 Required Course Substitute
- 1.450 Special Programs
- 1.460 Credit Earned Through Proficiency Examinations
- 1.462 Uniform Annual Consumer Education Proficiency Test
- 1.465 Ethnic School Foreign Language Credit and Program Approval
- 1.470 Adult and Continuing Education
- 1.480 Correctional Institution Educational Programs

SUBPART E: SUPPORT SERVICES

Section

- 1.510 Transportation
- 1.520 School Food Services
- 1.530 Health Services
- 1.540 Pupil Personnel Services (Repealed)

SUBPART F: STAFF CERTIFICATION REQUIREMENTS

Section

- 1.610 Personnel Required to be Qualified
- 1.620 Accreditation of Staff (Repealed)
- 1.630 Noncertificated Personnel
- 1.640 Requirements for Different Certificates (Repealed)
- 1.650 Transcripts of Credits
- 1.660 Records of Professional Personnel

SUBPART G: STAFF QUALIFICATIONS

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENT

Section

- 1.705 Minimum Requirements for Teachers (Repealed)
- 1.710 Requirements for Elementary Teachers
- 1.720 Requirements for Teachers of Middle Grades
- 1.730 Minimum Requirements for Secondary Teachers and Specified Subject Area Teachers in Grades Six (6) and Above through June 30, 2004
- 1.735 Requirements to Take Effect from July 1, 1991, through June 30, 2004
- 1.736 Requirements to Take Effect from July 1, 1994, through June 30, 2004
- 1.737 Minimum Requirements for the Assignment of Teachers in Grades 9 through 12 Beginning July 1, 2004
- 1.740 Standards for Reading through June 30, 2004
- 1.745 Requirements for Reading Teachers and Reading Specialists at all Levels as of July 1, 2004
- 1.750 Standards for Media Services through June 30, 2004
- 1.755 Requirements for Library Information Specialists Beginning July 1, 2004
- 1.760 Standards for Pupil Personnel Services
- 1.762 Supervision of Speech-Language Pathology Assistants
- 1.770 Standards for Special Education Personnel
- 1.780 Standards for Teachers in Bilingual Education Programs
- 1.781 Requirements for Bilingual Education Teachers in Grades K-12
- 1.782 Requirements for Teachers of English as a Second Language in Grades K-12
- 1.790 Substitute Teacher
-
- 1.APPENDIX A Professional Staff Certification
- 1.APPENDIX B Certification Quick Reference Chart
- 1.APPENDIX C Glossary of Terms (Repealed)
- 1.APPENDIX D State Goals for Learning
- 1.APPENDIX E Evaluation Criteria – Student Performance and School Improvement Determination (Repealed)
- 1.APPENDIX F Criteria for Determination – Student Performance and School Improvement (Repealed)
- 1.APPENDIX G Criteria for Determination – State Assessment (Repealed)

AUTHORITY: Implementing Sections 2-3.25, 2-3.25g, 2-3.43, 2-3.44, 2-3.96, 10-17a, 10-20.14, 10-22.43a, 14C-8, 21-0.01, 26-13, 27-12.1, 27-13.1, 27-20.3, 27-20.4, 27-20.5, 27-22, and 27-23.3 and authorized by Section 2-3.6 of the School Code [105 ILCS 5/2-3.25, 2-3.25g, 2-3.43, 2-3.44, 2-3.96, 10-17a, 10-20.14, 10-22.43a, 14C-8, 21-0.01, 26-13, 27-12.1, 27-13.1, 27-20.3, 27-20.4, 27-20.5, 27-22, 27-23.3, and 2-3.6].

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENT

SOURCE: Adopted September 21, 1977; codified at 7 Ill. Reg. 16022; amended at 9 Ill. Reg. 8608, effective May 28, 1985; amended at 9 Ill. Reg. 17766, effective November 5, 1985; emergency amendment at 10 Ill. Reg. 14314, effective August 18, 1986, for a maximum of 150 days; amended at 11 Ill. Reg. 3073, effective February 2, 1987; amended at 12 Ill. Reg. 4800, effective February 26, 1988; amended at 14 Ill. Reg. 12457, effective July 24, 1990; amended at 15 Ill. Reg. 2692, effective February 1, 1991; amended at 16 Ill. Reg. 18010, effective November 17, 1992; expedited correction at 17 Ill. Reg. 3553, effective November 17, 1992; amended at 18 Ill. Reg. 1171, effective January 10, 1994; emergency amendment at 19 Ill. Reg. 5137, effective March 17, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 6530, effective May 1, 1995; amended at 19 Ill. Reg. 11813, effective August 4, 1995; amended at 20 Ill. Reg. 6255, effective April 17, 1996; amended at 20 Ill. Reg. 15290, effective November 18, 1996; amended at 22 Ill. Reg. 22233, effective December 8, 1998; emergency amendment at 24 Ill. Reg. 6111, effective March 21, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 12985, effective August 14, 2000; amended at 25 Ill. Reg. 8159, effective June 21, 2001; amended at 25 Ill. Reg. 16073, effective November 28, 2001; amended at 26 Ill. Reg. 1157, effective January 16, 2002; amended at 26 Ill. Reg. 16160, effective October 21, 2002; amended at 28 Ill. Reg. 8486, effective June 1, 2004; emergency amendment at 28 Ill. Reg. 13637, effective September 27, 2004, for a maximum of 150 days; amended at 29 Ill. Reg. 1891, effective January 24, 2005; amended at 29 Ill. Reg. _____, effective _____.

SUBPART B: SCHOOL GOVERNANCE

Section 1.240 Equal Opportunities for all Students

All students within a school district must be provided equal opportunities in all education programs and services provided by the system (Section 10-20.12 of the School Code).

- a) No school system may exclude or segregate any pupil from a school because of color, race, or nationality (Section 10-22.5 of the School Code). Further, no school system may deny access to its schools or programs to students who lack documentation of their immigration status or legal presence in the United States (Plyler v. Doe, 457 U.S. 202 (1982)).
- b) Each school district~~The board of education~~ shall submit periodic reports as required by the State Board of Education detailing pupil attendance, faculty assignments, and actions taken and planned to prevent and eliminate segregation.
- c) Each school district shall be in compliance with 23 Ill. Adm. Code 200 (Sex Equity).

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENT

- d) ~~Each school district~~~~The board of education~~ shall be in compliance with 23 Ill. Adm. Code 375 (Student Records).
- e) ~~Each school district~~~~The board of education~~ shall charge tuition in an amount not exceeding 110% of the previous year's per capita cost, to nonresident students. Pupils who become nonresidents during a school term shall not be charged tuition for the remainder of the term (Section 10-20.12a of the School Code).
- f) ~~Each school district~~~~The board of education~~ shall loan textbooks to students whose parents are unable to buy them (Section 10-20.13 of the School Code) and shall waive ~~all~~ fees for parents who are unable to afford them in accordance with a written policy adopted by the district under Section 1.245 of this Part.
- g) Any school district containing one or more attendance centers having students of limited English-speaking fluency shall establish a program in transitional bilingual education according to 23 Ill. Adm. Code 228 (Transitional Bilingual Education).
- h) The establishment and operation of all special education shall follow 23 Ill. Adm. Code 226 (Special Education).
- i) Each school district whose ~~Chapter 1-weighted~~ average daily attendance (~~WADA~~) is between 1,000 and 50,000 shall annually file a plan with the State Board of Education. This plan must be in compliance with 23 Ill. Adm. Code 201 (Disadvantaged Students Funds Plan-Districts Between 1,000 and 50,000 ADA).
- j) Each school district whose ~~Chapter 1-weighted~~ average daily attendance (~~WADA~~) is 50,000 or more shall annually file a plan with the State Board of Education. This plan must be in compliance with 23 Ill. Adm. Code 202 (Disadvantaged Students Funds Plan – Districts over 50,000 ADA).

(Source: Amended at 29 Ill. Reg. _____, effective _____)

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Certification
- 2) Code Citation: 23 Ill. Adm. Code 25
- 3)

<u>Section Numbers</u> :	<u>Proposed Action</u> :
25.11	Amendment
25.22	Amendment
25.32	Amendment
25.42	Amendment
25.82	Amendment
25.100	Amendment
25.115	Amendment
25.125	Amendment
25.160	Amendment
25.235	Amendment
25.450	Amendment
- 4) Statutory Authority: 105 ILCS 5/Art. 21, 14C-8, and 2-3.6
- 5) A Complete Description of the Subjects and Issues Involved: Section 25.11(f) is being revised with respect to the definition of “four years of teaching experience” so that an individual who is approaching the end of the fourth year and who is expected to complete that year in his or her current position will be able to apply for the standard certificate.

The slight revision in each of Sections 25.22, 25.32, 25.42, and 25.82 is technical in nature. Section 25.725 was recently repealed and its currently needed content was subsumed in Section 25.720, so these references need to be updated.

The addition of a new subsection (m) to Section 25.100 will create another exception to the general model for adding endorsements in the case of “technology specialist”. Since Section 25.100 was added last year, staff have found it very difficult to determine which coursework should be counted toward a major area of concentration relevant to this endorsement. Terminology in this area varies widely, and it seems the more prudent course of action to require passage of the content-area test based on the applicable standards so as to ensure that candidates are prepared to perform the functions encompassed within the technology specialist’s area. Thus we are proposing that there be only one option available for adding this endorsement (passage of the test in conjunction with completion of 24 semester hours of coursework).

Section 25.115 is being revised to clarify that the “programs” under discussion in these rules are only those that prepare individuals for certification.

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

Section 25.125(d) discusses the review team that is involved in the on-site accreditation review. The requirement for ISBE team members and an ISBE co-chair on visits involving NCATE accreditation is being deleted. At the same time, the role of the ISBE consultant is being clarified, i.e., this individual does participate in the visit.

The procedure outlined in Section 25.160 has proven to contain one unnecessary step that will be eliminated in this rulemaking. When the State Teacher Certification Board's recommendation is for approval or accreditation that is not provisional or conditional, there is no need for the affected institution to submit a response and consequently no need for a 30-day waiting period before the recommendation is forwarded to the State Board of Education.

The requirement that each candidate for a school psychologist's credential have completed a program accredited by the National Association of School Psychologists (Section 25.235(a)) was widely applauded during last year's rulemaking on this subject but has since proven to create an untenable situation. This rule precludes the establishment of any new approved school psychology programs in Illinois, because accreditation by NASP requires data on graduates. Thus a proposed new program cannot attain that accreditation.

We have determined that the long-standing rule on lapsed certificates (Section 25.450) is unnecessarily stringent in terms of the timeframe within which individuals serving on reinstated certificates must complete the statutorily required five semester hours of college credit. The proposed revision would allow semester hours earned either during the certification year of reinstatement or during the five immediately preceding years to be counted for this purpose.

- 6) Will this rulemaking replace emergency any amendments currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking contain incorporations by reference? No
- 9) Are there any other proposed rulemakings pending on this Part? No
- 10) Statement of Statewide Policy Objective: This rulemaking will not create or enlarge a State mandate.

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Written comments may be submitted within 45 days after the publication of this notice to:

Sally Vogl
Agency Rules Coordinator
Illinois State Board of Education
100 North First Street
Springfield, Illinois 62777
(217) 782-5270

Comments may also be submitted via e-mail, addressed to:

rules@isbe.net

- 12) 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
- 13) Regulatory Agenda on which this rulemaking was summarized: January 2005

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

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES

SUBTITLE A: EDUCATION

CHAPTER I: STATE BOARD OF EDUCATION

SUBCHAPTER b: PERSONNEL

PART 25

CERTIFICATION

SUBPART A: DEFINITIONS

Section	
25.10	Definition of Terms Used in This Part

SUBPART B: CERTIFICATES

Section	
25.11	New Certificates (February 15, 2000)
25.15	Standards for Certain Certificates
25.20	Requirements for the Elementary Certificate
25.22	Requirements for the Elementary Certificate (2004)
25.30	Requirements for the Secondary Certificate
25.32	Requirements for the Secondary Certificate (2004)
25.35	Acquisition of Subsequent Certificates; Removal of Deficiencies
25.37	Acquisition of Subsequent Teaching Certificates (2004)
25.40	Requirements for the Special Certificate
25.42	Requirements for the Special Certificate (2004)
25.43	Standards for Certification of Special Education Teachers
25.45	Standards for the Standard Special Certificate – Speech and Language Impaired
25.50	General Certificate (Repealed)
25.60	State Special Certificate, Grades 11-12, For Teaching Elective Subjects (Repealed)
25.65	Alternative Certification
25.67	Alternative Route to Teacher Certification
25.70	State Provisional Vocational Certificate
25.75	Part-time Provisional Certificates
25.80	Requirements for the Early Childhood Certificate
25.82	Requirements for the Early Childhood Certificate (2004)
25.85	Special Provisions for Endorsement in Foreign Language for Individuals Currently Certified
25.86	Special Provisions for Endorsement in Foreign Language for Individuals Prepared as Teachers But Not Currently Certified

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

- 25.90 Transitional Bilingual Certificate and Examination
- 25.92 Visiting International Teacher Certificate
- 25.95 Majors, Minors, and Separate Fields for the Illinois High School Certificate (Repealed)
- 25.99 Endorsing Teaching Certificates
- 25.100 Endorsing Teaching Certificates (2004)

SUBPART C: APPROVING PROGRAMS THAT PREPARE
PROFESSIONAL EDUCATORS IN THE STATE OF ILLINOIS

Section

- 25.110 System of Approval: Levels of Approval (Repealed)
- 25.115 Recognition of Institutions, Accreditation of Educational Units, and Approval of Programs
- 25.120 Standards and Criteria for Institutional Recognition and Program Approval (Repealed)
- 25.125 Accreditation Review of the Educational Unit
- 25.127 Review of Individual Programs
- 25.130 Special Provisions for Institutions Subject to Conditions for Continuing Accreditation
- 25.135 Interim Provisions for Continuing Accreditation and Approval – July 1, 2000, through Fall Visits of 2001
- 25.136 Interim Provisions for Continuing Accreditation – Institutions Visited from Spring of 2002 through Spring of 2003
- 25.137 Interim Provisions for Continuing Accreditation and Approval – July 1, 1999, through June 30, 2000 (Repealed)
- 25.140 Transitional Requirements for Unit Assessment Systems
- 25.145 Approval of New Programs Within Recognized Institutions
- 25.147 Approval of Programs for Foreign Language Beginning July 1, 2003
- 25.150 The Periodic Review Process (Repealed)
- 25.155 Initial Recognition Procedures
- 25.160 Notification of Recommendations; Decisions by State Board of Education
- 25.165 Discontinuation of Programs

SUBPART D: SCHOOL SERVICE PERSONNEL

Section

- 25.200 Relationship Among Credentials in Subpart D
- 25.210 Requirements for the Certification of School Social Workers
- 25.215 Certification of School Social Workers (2004)
- 25.220 Requirements for the Certification of Guidance Personnel

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

25.225	Certification of School Counselors (2004)
25.227	Interim Certification of School Counselor Interns (2004)
25.230	Requirements for the Certification of School Psychologists
25.235	Certification of School Psychologists (2004)
25.240	Standard for School Nurse Endorsement
25.245	Certification of School Nurses (2004)
25.252	Certification of Non-Teaching Speech-Language Pathologists

SUBPART E: REQUIREMENTS FOR THE CERTIFICATION OF
ADMINISTRATIVE AND SUPERVISORY STAFF

Section

25.300	Relationship Among Credentials in Subpart E
25.310	Definitions (Repealed)
25.311	Administrative Certificate (Repealed)
25.313	Alternative Route to Administrative Certification
25.315	Renewal of Administrative Certificate
25.320	Application for Approval of Program (Repealed)
25.322	General Supervisory Endorsement
25.330	Standards and Guide for Approved Programs (Repealed)
25.333	General Administrative Endorsement
25.335	General Administrative Endorsement (2004)
25.344	Chief School Business Official Endorsement
25.345	Chief School Business Official (2004)
25.355	Superintendent Endorsement
25.360	Superintendent (2004)
25.365	Director of Special Education

SUBPART F: GENERAL PROVISIONS

Section

25.400	Registration of Certificates; Fees
25.405	Military Service
25.410	Revoked Certificates
25.415	Credit in Junior College (Repealed)
25.420	Psychology Accepted as Professional Education
25.425	Individuals Prepared in Out-of-State Institutions
25.427	Three-Year Limitation
25.430	Institutional Approval (Repealed)
25.435	School Service Personnel Certificate – Waiver of Evaluations (Repealed)
25.437	Equivalency of General Education Requirements (Repealed)

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

25.440	Master of Arts NCATE (Repealed)
25.442	Illinois Teacher Corps Programs
25.444	Illinois Teaching Excellence Program
25.445	College Credit for High School Mathematics and Language Courses (Repealed)
25.450	Lapsed Certificates
25.455	Substitute Certificates
25.460	Provisional Special and Provisional High School Certificates (Repealed)
25.464	Short-Term Authorization for Positions Otherwise Unfilled
25.465	Credit (Repealed)
25.470	Meaning of Experience on Administrative Certificates (Repealed)
25.475	Certificates and Permits No Longer Issued (Repealed)
25.480	Credit for Certification Purposes (Repealed)
25.485	Provisional Recognition of Institutions (Repealed)
25.490	Rules for Certification of Persons Who Have Been Convicted of a Crime
25.493	Part-Time Teaching Interns
25.495	Approval of Out-of-State Institutions and Programs (Repealed)
25.497	Supervisory Endorsements

SUBPART G: THE UTILIZATION OF PARAPROFESSIONALS AND
OTHER NONCERTIFIED PERSONNEL

Section	
25.510	Paraprofessionals; Teacher Aides
25.520	Other Noncertificated Personnel
25.530	Specialized Instruction by Noncertificated Personnel
25.540	Approved Teacher Aide Programs

SUBPART H: CLINICAL EXPERIENCES

Section	
25.610	Definitions
25.620	Student Teaching
25.630	Pay for Student Teaching (Repealed)

SUBPART I: ILLINOIS CERTIFICATION TESTING SYSTEM

Section	
25.705	Purpose – Severability
25.710	Definitions
25.715	Test Validation
25.717	Test Equivalence

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

25.720	Applicability of Testing Requirement and Scores
25.725	Applicability of Scores (Repealed)
25.728	Use of Test Results by Institutions of Higher Education
25.730	Registration
25.732	Late Registration
25.733	Emergency Registration
25.735	Frequency and Location of Examination
25.740	Accommodation of Persons with Special Needs
25.745	Special Test Dates
25.750	Conditions of Testing
25.755	Voiding of Scores
25.760	Passing Score
25.765	Individual Test Score Reports
25.770	Re-scoring
25.775	Institution Test Score Reports
25.780	Fees

SUBPART J: RENEWAL OF STANDARD AND MASTER CERTIFICATES

Section	
25.800	Professional Development Required
25.805	Continuing Professional Development Options
25.810	State Priorities
25.815	Submission and Review of the Plan (Repealed)
25.820	Review of Approved Plan (Repealed)
25.825	Progress Toward Completion (Repealed)
25.830	Application for Renewal of Certificate(s)
25.832	Validity and Renewal of Master Certificates
25.835	Review of and Recommendation Regarding Application for Renewal
25.840	Action by State Teacher Certification Board; Appeals
25.845	Responsibilities of School Districts
25.848	General Responsibilities of LPDCs
25.850	General Responsibilities of Regional Superintendents
25.855	Approval of Illinois Providers
25.860	Out-of-State Providers
25.865	Awarding of Credit for Activities with Providers
25.870	Continuing Education Units (CEUs)
25.872	Special Provisions for Interactive, Electronically Delivered Continuing Professional Development
25.875	Continuing Professional Development Units (CPDUs)
25.880	"Valid and Exempt" Certificates; Proportionate Reduction; Part-Time Teaching

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

25.885 Funding; Expenses (Repealed)

SUBPART K: REQUIREMENTS FOR RECEIPT OF
THE STANDARD TEACHING CERTIFICATE

Section

- 25.900 Applicability of Requirements in this Subpart
25.905 Choices Available to Holders of Initial Certificates
25.910 Requirements for Induction and Mentoring
25.915 Requirements for Coursework on the Assessment of One's Own Performance
25.920 Requirements for Coursework Related to the National Board for Professional Teaching Standards (NBPTS)
25.925 Requirements Related to Advanced Degrees and Related Coursework
25.930 Requirements for Continuing Professional Development Units (CPDUs)
25.935 Additional Activities for Which CPDUs May Be Earned
25.940 Examination
25.942 Requirements for Additional Options
25.945 Procedural Requirements
- 25.APPENDIX A Statistical Test Equating – Certification Testing System
25.APPENDIX B Certificates Available Effective February 15, 2000
25.APPENDIX C Exchange of Certificates
25.APPENDIX D Criteria for Identification of Teachers as "Highly Qualified" in Various Circumstances
25.APPENDIX E Endorsement Structure Beginning July 1, 2004

AUTHORITY: Implementing Article 21 and Section 14C-8 and authorized by Section 2-3.6 of the School Code [105 ILCS 5/Art. 21, 14C-8, and 2-3.6].

SOURCE: Rules and Regulations to Govern the Certification of Teachers adopted September 15, 1977; amended at 4 Ill. Reg. 28, p. 336, effective July 16, 1982; amended at 7 Ill. Reg. 5429, effective April 11, 1983; codified at 8 Ill. Reg. 1441; amended at 9 Ill. Reg. 1046, effective January 16, 1985; amended at 10 Ill. Reg. 12578, effective July 8, 1986; amended at 10 Ill. Reg. 15044, effective August 28, 1986; amended at 11 Ill. Reg. 12670, effective July 15, 1987; amended at 12 Ill. Reg. 3709, effective February 1, 1988; amended at 12 Ill. Reg. 16022, effective September 23, 1988; amended at 14 Ill. Reg. 1243, effective January 8, 1990; amended at 14 Ill. Reg. 17936, effective October 18, 1990; amended at 15 Ill. Reg. 17048, effective November 13, 1991; amended at 16 Ill. Reg. 18789, effective November 23, 1992; amended at 19 Ill. Reg. 16826, effective December 11, 1995; amended at 21 Ill. Reg. 11536, effective August 1, 1997; emergency amendment at 22 Ill. Reg. 5097, effective February 27, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 11767, effective June 25, 1998; amended at 22

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

Ill. Reg. 19745, effective October 30, 1998; amended at 23 Ill. Reg. 2843, effective February 26, 1999; amended at 23 Ill. Reg. 7231, effective June 14, 1999; amended at 24 Ill. Reg. 7206, effective May 1, 2000; emergency amendments at 24 Ill. Reg. 9915, effective June 21, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 12930, effective August 14, 2000; peremptory amendment at 24 Ill. Reg. 16109, effective October 12, 2000; peremptory amendment suspended at 25 Ill. Reg. 3718, effective February 21, 2001; peremptory amendment repealed by joint resolution of the General Assembly, effective May 31, 2001; emergency amendments at 25 Ill. Reg. 9360, effective July 1, 2001, for a maximum of 150 days; emergency expired November 27, 2001; emergency amendments at 25 Ill. Reg. 11935, effective August 31, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 16031, effective November 28, 2001; amended at 26 Ill. Reg. 348, effective January 1, 2002; amended at 26 Ill. Reg. 11867, effective July 19, 2002; amended at 26 Ill. Reg. 16167, effective October 21, 2002; amended at 27 Ill. Reg. 5744, effective March 21, 2003; amended at 27 Ill. Reg. 8071, effective April 28, 2003; emergency amendments at 27 Ill. Reg. 10482, effective June 26, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 12523, effective July 21, 2003; amended at 27 Ill. Reg. 16412, effective October 20, 2003; emergency amendment at 28 Ill. Reg. 2451, effective January 23, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 8556, effective June 1, 2004; emergency amendments at 28 Ill. Reg. 12438, effective August 20, 2004, for a maximum of 150 days; amended at 29 Ill. Reg. 1212, effective January 4, 2005; amended at 29 Ill. Reg. _____, effective _____.

SUBPART B: CERTIFICATES

Section 25.11 New Certificates (February 15, 2000)

Section 21-2 of the School Code [105 ILCS 5/21-2] established a new system of teaching certificates effective February 15, 2000. A complete list of the certificates that were available as of that date is found in Appendix B to this Part. The transition to the new system affected certified individuals as set forth in subsection (a) of this Section; under the new system, candidates for certification shall be treated in accordance with the remaining provisions of this Section.

- a) Holders of certain current Illinois teaching certificates shall receive corresponding standard teaching certificates when they next renew any of their current certificates.
 - 1) Certificates subject to exchange are listed in Appendix C to this Part.
 - 2) No certificate-holder shall be penalized in the exchange of certificates. Each endorsement held by a certificate-holder prior to February 15, 2000, shall be recorded on the appropriate certificate received pursuant to this

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

subsection (a). Qualifications accepted for particular teaching assignments prior to February 15, 2000, shall continue to be acceptable for those assignments, unless Section 25.100(l) of this Part applies.

- b) Out-of-state candidates who qualify for Illinois teaching certificates pursuant to Section 25.425 of this Part and who pass the applicable examinations (see Section 25.720 of this Part) shall receive either initial or standard teaching certificates, and, except as provided in subsection (b)(3) of this Section, those who receive initial certificates shall be subject to the requirements of subsection (d) of this Section in terms of their subsequent receipt of standard teaching certificates. An out-of-state applicant who does not qualify for an initial or standard certificate may qualify to receive a provisional certificate subject to the provisions of Section 21-10 of the School Code [105 ILCS 5/21-10].
- 1) *Standard certificates will be issued to candidates who present evidence of at least four years of teaching experience on a valid certificate issued by a state, territory, or possession of the United States.* (Section 21-2(b-5) of the School Code [105 ILCS 5/21-2(b-5)])
 - 2) Initial certificates will be issued to qualified candidates with fewer than four years of teaching experience.
 - A) A recipient of an initial certificate pursuant to this subsection (b)(2) shall be eligible to apply for a comparable standard certificate when he or she has accumulated a total of four years' teaching experience on a valid certificate, including the time taught outside Illinois.
 - B) Pursuant to Section 21-2(b-5) of the School Code, the 12 semester hours of graduate-level coursework needed to complete the option discussed in Section 25.905(d) of this Part and the 60 continuing professional development units (CPDUs) needed to complete the option discussed in Section 25.905(e) of this Part *shall be reduced in proportion to the amount of teaching time a candidate needs to accumulate in Illinois in order to complete four years of teaching.* The number of hours or CPDUs required shall be reduced by one-fourth for each full year of teaching completed outside Illinois.
 - 3) *The requirements of Subpart K of this Part shall not apply to an individual who holds a second-tier certificate from another state.* (Section 21-2(b-5))

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

of the School Code) A "second-tier certificate" is one that is issued after a teacher has:

- A) held a prerequisite teaching certificate that was valid for the same area or areas of assignment, other than an emergency, provisional, or substitute certificate; and
 - B) met specified additional requirements for professional development or induction to the profession of teaching.
- 4) Certificates will be endorsed in accordance with the provisions of Sections 25.100 and 25.425 of this Part.
- c) A candidate completing an approved Illinois teacher preparation program on or after February 15, 2000, may qualify for an initial teaching certificate by passing the applicable examinations as set forth in Section 25.20, 25.30, 25.40, or 25.80 of this Part, or in Section 25.22, 25.32, 25.42, or 25.82 of this Part, as applicable.
- d) An individual who has completed four years of teaching on an initial certificate (or on another certificate that was issued in conjunction with an initial certificate) may qualify for a comparable standard certificate as set forth in Subpart K of this Part.
- 1) All endorsements shall be carried forward from an initial to the comparable standard certificate.
 - 2) *A holder of an initial certificate who has not completed four years of teaching within four years may renew and register the certificate for additional four-year periods without limitation. (Section 21-14(b) of the School Code [105 ILCS 5/21-14(b)])*
 - 3) A candidate who has taught for four years on an initial certificate but has not met the requirements of Subpart K of this Part may not receive another comparable initial teaching certificate. For example, a holder of an initial elementary certificate will not be eligible to receive another initial elementary certificate. *However, such an individual may receive a reinstated certificate, valid for one year, during which he or she may complete the option chosen as a means of qualifying for the standard teaching certificate. (Section 21-14(b) of the School Code) No initial certificate-holder may receive a reinstated certificate more than once pursuant to this subsection (d)(3).*

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

- 4) When an individual completes four years of teaching experience on an initial certificate, that certificate shall become invalid on the following June 30.
- e) A holder of an Illinois teaching certificate who has teaching experience on a valid certificate as required by Section 21-11.2 of the School Code [105 ILCS 5/21-11.2] may receive an additional certificate of another type as set forth in Section ~~25.37~~~~25.35~~ of this Part, unless the additional certificate is to be issued based on comparable out-of-state certification. Once an individual has received a standard teaching certificate, any other subsequently issued early childhood, elementary, secondary, special K-12, or special preschool-age 21 certificate shall also be a standard certificate, with the exception of any master certificate for which the individual also qualifies.
- f) "Four years of teaching experience" means the equivalent of four years' full-time employment, i.e., eight semesters of scheduled full-time teaching, which may, however, be accumulated in any combination of increments. That is, it need not be accumulated through full-time teaching. To permit timely processing of applications for standard certificates, the State Superintendent of Education may accept applications from individuals who are at least midway through their final semester of required teaching experience, provided that each such individual submits a letter that otherwise meets the requirements of subsection (g) of this Section but indicates that:
- 1) the individual has completed 3½ years of teaching plus the required portion of the final semester; and
 - 2) the representative of the employing entity knows of no reason why the individual will not complete four years of teaching experience during the then-current semester.
- g) "Evidence of teaching experience" means a letter signed by the chief administrator or other designated official of the employing school district or nonpublic school documenting the nature and duration of the candidate's teaching. A letter signed by an official of the state education agency in another state may be substituted for an employer's letter when the latter cannot be secured. Experience gained while teaching in a home school shall not be applicable to the fulfillment of this requirement.
- h) For purposes of this Section, "valid certificate" means a certificate equivalent to

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

an Illinois master, standard, initial, or provisional early childhood, elementary, secondary, or special certificate.

- i) Upon application, a holder of certification issued by the National Board for Professional Teaching Standards (NBPTS) shall be issued a comparable Illinois master certificate. Endorsements comparable to those held by the individual shall appear on the master certificate. The State Board shall make available the list of NBPTS certifications for which Illinois master credentials are available and shall update that list as the NBPTS expands its areas of certification.

(Source: Amended at 29 Ill. Reg. _____, effective _____)

Section 25.22 Requirements for the Elementary Certificate (2004)

- a) Each applicant shall:
 - 1) have completed an approved Illinois teacher preparation program for the elementary certificate, including coursework addressing *the psychology of, the identification of, and the methods of instruction for the exceptional child, including without limitation the learning disabled* (Section 21-2a of the School Code [105 ILCS 5/21-2a]) (see Subpart C of this Part); or
 - 2) have completed a comparable program in another state or country or hold an elementary or comparable certificate issued by another state or country (see Section 25.425 of this Part); or
 - 3) hold a valid certificate of another type issued by Illinois, submit his or her credentials for evaluation under Section 21-11.2 of the School Code [105 ILCS 5/21-11.2], and complete such additional coursework and/or experiences as may be required pursuant to Section 25.37 of this Part.
- b) Each applicant shall have completed 32 semester hours in elementary education or a major in the field, as identified by the accredited institution on the individual's official transcript.
- c) Each applicant shall have completed pre-student teaching field experiences (see Section 25.610 of this Part). However, applicants with teaching experience at the K-9 level, as verified by the employer, need not complete pre-student teaching clinical experience, except as may be required under Section 25.37 of this Part.

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

- d) Each applicant shall have completed student teaching in conformance with the requirements of Section 25.620 of this Part. However, applicants presenting the required credit in student teaching and evidence of teaching experience, as verified by the employer, need not complete another student teaching experience, except as may be required under Section 25.37 of this Part.
- e) Each applicant shall be required to pass the tests required for the certificate as specified in SectionSections 25.720 ~~and 25.725~~ of this Part.
- f) Nothing in this Section is intended to preclude the issuance of a provisional certificate under Section 21-10 of the School Code [105 ILCS 5/21-10].
- g) The requirements of this Section shall not apply to an elementary certificate that is issued along with a secondary certificate in place of a special certificate as provided in Appendix C to this Part.

(Source: Amended at 29 Ill. Reg. _____, effective _____)

Section 25.32 Requirements for the Secondary Certificate (2004)

- a) Each applicant shall:
 - 1) have completed an approved Illinois teacher preparation program for the secondary certificate, including coursework addressing *the psychology of, the identification of, and the methods of instruction for the exceptional child, including without limitation the learning disabled* (Section 21-2a of the School Code) (see Subpart C of this Part); or
 - 2) have completed a comparable program in another state or country or hold a secondary or comparable certificate issued by another state or country (see Section 25.425 of this Part); or
 - 3) hold a valid certificate of another type issued by Illinois, submit his or her credentials for evaluation under Section 21-11.2 of the School Code, and complete such additional coursework and/or experiences as may be required pursuant to Section 25.37 of this Part.
- b) Each applicant shall have completed pre-student teaching field experiences (see Section 25.610 of this Part). However, applicants with teaching experience at the 6-12 level, as verified by the employer, need not complete pre-student teaching field experience, except as may be required under Section 25.37 of this Part.

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

- c) Each applicant shall have completed student teaching in conformance with the requirements of Section 25.620 of this Part. However, applicants presenting the required credit in student teaching and evidence of teaching experience, as verified by the employer, need not complete another student teaching experience, except as may be required under Section 25.37 of this Part.
- d) A total of 32 semester hours in an area of specialization, or a major as identified by the accredited institution on the individual's official transcript, shall be required.
- e) Each applicant shall be required to pass the tests required for the certificate as specified in ~~Section~~~~Sections~~ 25.720 ~~and 25.725~~ of this Part.
- f) Nothing in this Section is intended to preclude the issuance of a provisional certificate under Section 21-10 of the School Code.
- g) The requirements of this Section shall not apply to a secondary certificate that is issued along with an elementary certificate in place of a special certificate as provided in Appendix C to this Part.

(Source: Amended at 29 Ill. Reg. _____, effective _____)

Section 25.42 Requirements for the Special Certificate (2004)

- a) Each applicant shall:
 - 1) have completed an approved Illinois teacher preparation program for the special certificate, including coursework addressing *the psychology of, the identification of, and the methods of instruction for the exceptional child, including without limitation the learning disabled* (Section 21-2a of the School Code) (see Subpart C of this Part); or
 - 2) have completed a comparable program in another state or country or hold a special or comparable certificate issued by another state or country (see Section 25.425 of this Part); or
 - 3) hold a valid certificate of another type issued by Illinois, submit his or her credentials for evaluation under Section 21-11.2 of the School Code, and complete such additional coursework and/or experiences as may be required pursuant to Section 25.37 of this Part.

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

- b) Each applicant shall have completed pre-student teaching field experiences (see Section 25.610 of this Part). However, applicants with teaching experience in the field of specialization, as verified by the employer, need not complete pre-student teaching field experience, except as may be required under Section 25.37 of this Part.
- c) Each applicant shall have completed student teaching in conformance with the requirements of Section 25.620 of this Part. However, applicants presenting the required credit in student teaching and evidence of teaching experience, as verified by the employer, need not complete another student teaching experience, except as may be required under Section 25.37 of this Part.
- d) A total of 32 semester hours in an area of specialization, or a major as identified by the accredited institution on the individual's official transcript, shall be required.
- e) Each applicant shall be required to pass the tests required for the certificate as specified in ~~Section~~Sections 25.720 ~~and 25.725~~ of this Part.
- f) Nothing in this Section is intended to preclude the issuance of a provisional certificate under Section 21-10 of the School Code.

(Source: Amended at 29 Ill. Reg. _____, effective _____)

Section 25.82 Requirements for the Early Childhood Certificate (2004)

- a) Each applicant shall:
 - 1) have completed an approved Illinois teacher preparation program for the early childhood certificate, including coursework addressing *the psychology of, the identification of, and the methods of instruction for the exceptional child, including without limitation the learning disabled* (Section 21-2a of the School Code) (see Subpart C of this Part); or
 - 2) have completed a comparable program in another state or country or hold an early childhood or comparable certificate issued by another state or country (see Section 25.425 of this Part); or
 - 3) hold a valid certificate of another type issued by Illinois, submit his or her credentials for evaluation under Section 21-11.2 of the School Code, and

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

complete such additional coursework and/or experiences as may be required pursuant to Section 25.37 of this Part.

- b) Each applicant shall have completed pre-student teaching field experiences (see Section 25.610 of this Part). However, applicants with teaching experience at the PreK-3 level, as verified by the employer, need not complete pre-student teaching field experience, except as may be required under Section 25.37 of this Part.
- c) Each applicant shall have completed student teaching in conformance with the requirements of Section 25.620 of this Part. However, applicants presenting the required credit in student teaching and evidence of teaching experience, as verified by the employer, need not complete another student teaching experience, except as may be required under Section 25.37 of this Part.
- d) Each applicant shall have completed 32 semester hours in early childhood education or a major in the field, as identified by the accredited institution on the individual's official transcript.
- e) Each applicant shall be required to pass the tests required for the certificate as specified in ~~Section~~Sections 25.720 ~~and 25.725~~ of this Part.
- f) Nothing in this Section is intended to preclude the issuance of a provisional certificate under Section 21-10 of the School Code.

(Source: Amended at 29 Ill. Reg. _____, effective _____)

Section 25.100 Endorsing Teaching Certificates (2004)

Beginning July 1, 2004, the structure of endorsements available on Illinois certificates will be changed. Appendix E to this Part provides a list of the endorsements that will become available at that time, other than the endorsements in special education that are the subject of federal court orders of February 27 and August 15, 2001, in the matter of Corey H., et al., v. Board of Education of the City of Chicago, et al. Appendix E shows for each new endorsement the related endorsements that were previously issued and will be discontinued or replaced. Any semester hours of credit presented toward fulfillment of the requirements of this Section may be earned in on-line or electronically-mediated courses, provided that college credit is awarded for the coursework by a regionally accredited institution of higher education.

- a) Subject-area "designations" shall be required in conjunction with some endorsements, as shown in Appendix E to this Part. Except in the case of foreign language, a certificate-holder shall be authorized to teach all the subjects

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

encompassed by a particular endorsement, regardless of the designation or designations received in conjunction with that endorsement. However, a certificate-holder may not teach honors courses, as these are defined by the employing district, or Advanced Placement courses in a subject for which he or she does not hold the specific designation, unless he or she holds an applicable master certificate. For example, a secondary science teacher with a biology designation may not teach honors physics or chemistry unless he or she holds a master certificate endorsed for sciences.

- b) Endorsement(s) at Time of Issuance
Pursuant to Section 21-1b of the School Code [105 ILCS 5/21-1b], *all certificates initially issued under this Article...shall be specifically endorsed by the State Board of Education for each subject the holder of the certificate is legally qualified to teach.*
- 1) For each application for certification received on or before September 30, 2004, the certificate issued shall be endorsed in keeping with the program completed and the related test passed by the candidate, as well as for any additional subject in which the candidate completed the required coursework.
 - 2) For each application received on or after October 1, 2004, the certificate issued shall be endorsed in keeping with the program completed and the related content-area test or test of subject matter knowledge passed by the candidate and, except as provided in subsections (g), (h), (i), (j), ~~and (k)~~, and (m) of this Section:
 - A) any additional area in which the individual has completed a major area of concentration, totaling 32 semester hours or as otherwise identified by a regionally accredited institution on the individual's official transcript; and
 - B) any additional area in which the individual presents evidence of having accumulated 24 semester hours of college credit demonstrably related to the subject area, either as a subset of an approved program at an Illinois institution or from one or more regionally accredited institutions of higher education, and has passed the applicable content-area test (or test of subject matter knowledge); and

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

- C) any additional area for which the individual has met the applicable requirements of subsection (e) of this Section.
- 3) An individual who passes a test of subject matter knowledge prior to July 1, 2004, and applies for the related certificate no later than five years after the date on which the test was taken shall receive an endorsement valid only for the specific subjects covered under the prior system, unless the institution that offered the program completed by the candidate certifies to the State Board of Education that the candidate completed a program that met the applicable standards set forth at 23 Ill. Adm. Code 27 (Standards for Certification in Specific Teaching Fields). An endorsement under the new structure will be issued to an individual who either passes the applicable new content-area test or completes a program based upon the applicable standards for the content area.
- 4) To account for the differing stages of preparation attained by candidates who were already enrolled in approved programs as of July 1, 2004, each institution may, through June 30, 2006, recommend to the State Board of Education the issuance of one or more endorsements under the structure in effect prior to July 1, 2004, to a candidate who has completed the coursework required for those endorsements and, in the judgment of the institution's certification officer, did not have a sufficient opportunity to complete the requirements for the comparable new endorsements instead.
- c) Pursuant to Section 21-4 of the School Code [105 ILCS 5/21-4], an individual who is eligible to receive a special certificate may elect to receive both an elementary and a secondary certificate, each endorsed as the special or special preschool-age 21 certificate would have been endorsed. An individual who elects to hold a special certificate may add endorsements to it by submitting an application pursuant to Section 21-12 of the School Code and demonstrating that he or she has met the applicable requirements of subsection (f)(3) of this Section.
- d) Endorsements issued under the system used prior to July 1, 2004, shall continue to be valid only for the specific subjects covered. An individual who wishes to teach other subjects in the same field shall be required to apply for the relevant new endorsement in keeping with Section 21-12 of the School Code and meet the applicable requirements of this Section.
- e) Each endorsement or designation indicated by an asterisk in Appendix E to this Part has no corresponding content-area test. The provisions of this subsection (e) shall apply to the issuance of these endorsements and designations.

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

- 1) For an applicant who is receiving an Illinois teaching certificate, the institution that offered the approved program completed by the applicant shall indicate that the applicant has met the standards applicable to the endorsement or the particular designation.
 - 2) An applicant prepared out of state, or an applicant who is already certified in Illinois and is seeking to add a new endorsement or designation in one of these subjects, other than an endorsement in safety and driver education, shall:
 - A) present verification from an institution with an approved teacher preparation program that he or she is prepared in the area covered by the endorsement or designation sought; or
 - B) present evidence of completion of nine semester hours of coursework in the area covered by the endorsement or designation sought; or
 - C) present evidence of at least one year's teaching experience on a valid certificate in the area covered by the endorsement or designation sought.
 - 3) An applicant prepared out of state or an applicant who is already certified in Illinois and is seeking to add a new endorsement in safety and driver education shall be subject to the requirements set forth at 23 Ill. Adm. Code 1.730(q).
- f) **Addition of Endorsements to Previously Issued Certificates**
Individuals seeking to endorse previously issued certificates shall apply for such endorsements, using a format specified by the State Board of Education, in accordance with the provisions of Section 21-12 of the School Code [105 ILCS 5/21-12].
- 1) An applicant who qualifies for an endorsement shall receive a new copy of the original certificate with the endorsement and date of the endorsement affixed.
 - 2) Applications received through June 30, 2005, shall, at the request of the applicant, be reviewed against the requirements in place immediately prior to July 1, 2004, and deficiency statements shall be issued when an

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

applicant does not qualify for the requested endorsements. Each deficiency statement shall be honored by the State Board of Education for a period of one year from the date of issue, except in the case of reading as provided in subsection (i)(1)(C) of this Section. Applicants will receive the endorsements only if they remove the identified deficiencies within one year after the date of the deficiency statement. Subsequent applications for the same endorsements shall be accompanied by another fee and shall be subject to any new requirements.

- 3) Except as provided in subsections (g), (h), (i), (j), ~~and (k)~~, and (m) of this Section, for applications received on or after July 1, 2005, an endorsement will be issued to each applicant who:
- A) has completed a major area of concentration, totaling 32 semester hours or as otherwise identified by a regionally accredited institution on the individual's official transcript; or
 - B) presents evidence of having accumulated 24 semester hours of college credit demonstrably related to the subject area, either as a subset of an approved program at an Illinois institution or from one or more regionally accredited institutions of higher education, and has passed the applicable content-area test (or test of subject matter knowledge); or
 - C) has met the applicable requirements of subsection (e) of this Section.
- g) Special provisions shall apply to the addition of endorsements in self-contained general education. An individual who holds a secondary, special K-12, or special preschool-age 21 certificate, or an individual who holds an elementary certificate endorsed in some other field by virtue of having "split" a special or special preschool-age 21 certificate, may qualify for the endorsement in self-contained general education on that certificate only by completing an approved program for the elementary certificate in accordance with Section 25.37 of this Part and passing the elementary/middle grades test. Fulfillment of these requirements qualifies the individual for an elementary certificate with this endorsement. However, an individual with an early childhood or a secondary certificate may choose whether to receive the elementary certificate or to add the endorsement to his or her existing certificate, thereby restricting his or her capacity for assignment to the grade levels encompassed by that certificate. An individual who elects to receive a separate certificate pursuant to this subsection (g) shall be

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

required to pass the test of basic skills and/or the applicable assessment of professional teaching if passage of one or both of these tests would be required for receipt of a subsequent standard certificate as explained in Section 25.720 of this Part.

- h) Special provisions shall apply to the issuance of endorsements in the sciences and social sciences.
 - 1) An individual seeking to add an endorsement and a designation in either of these fields who does not already hold that endorsement with one of its other available designations shall be required to pass the content-area test for the designation sought and either:
 - A) be recommended for the endorsement and the designation by an institution with an approved program in the subject area based on having completed coursework sufficient to address the applicable content-area standards; or
 - B) present evidence of having accumulated 32 semester hours of college coursework in the field, from one or more regionally accredited institutions, that meets the following requirements:
 - i) at least 12 semester hours of credit must have been earned in the subject area of the designation sought; and
 - ii) some portion of the coursework completed must have addressed at least two additional designations within the field.
 - 2) The requirement stated in subsection (h)(1) of this Section shall apply whenever an individual seeks to add his or her first endorsement in one of these fields.
 - 3) An individual may receive a subsequent designation in the same field if he or she has:
 - A) passed the applicable content-area test; or
 - B) completed a major in the content area of the designation.

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

- 4) An individual who holds an endorsement in the sciences or social sciences under the structure that was in effect prior to July 1, 2004, may receive an endorsement and a designation in that field under the new structure by passing the content-area test for the designation sought. He or she may then qualify for additional designations in the field pursuant to subsection (h)(3) of this Section.
- i) Special provisions shall apply to the issuance of endorsements for reading teachers and reading specialists. A reading teacher is one whose assignment involves teaching reading to students, while a reading specialist is one whose assignment involves the provision of technical assistance and/or professional development to other teachers and may also include teaching reading to students.
 - 1) Reading Teacher

This endorsement shall not be issued as an individual's first teaching credential. An individual who holds or receives an Illinois early childhood, elementary, secondary, or special certificate shall be eligible to receive this additional endorsement on that certificate (and on any other certificate held or subsequently earned) when he or she presents evidence of:

 - A) having passed the applicable content-area test (or test of subject matter knowledge) and having been recommended for the endorsement by virtue of completing an approved reading teacher's preparation program based on the standards set forth at 23 Ill. Adm. Code 27.110 that requires at least 24 semester hours of graduate or undergraduate coursework in reading, including a practicum, at an institution that is recognized to offer teacher preparation programs in Illinois; or
 - B) having passed the applicable content-area test (or test of subject matter knowledge) and having completed 24 semester hours of graduate or undergraduate coursework in reading, including a practicum, at one or more regionally accredited institutions of higher education, provided that all the following areas were addressed:
 - i) foundations of reading,
 - ii) content-area reading,
 - iii) assessment and diagnosis of reading problems,

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

- iv) developmental and remedial reading instruction and support,
 - v) developmental and remedial materials and resources, and
 - vi) literature appropriate to students across all grade ranges; or
- C) having completed, on or before June 30, 2005, the 18 semester hours of college coursework in reading described at 23 Ill. Adm. Code 1.740(a), in which case passage of the content-area test or test of subject matter knowledge shall not be required and no deficiency statement shall extend the timeline for completion of the coursework beyond June 30, 2005.
- 2) Reading Specialist
The reading specialist's endorsement shall require two years of teaching experience. An individual who holds an Illinois early childhood, elementary, secondary, or special certificate shall be eligible to receive this endorsement on that certificate or on a separate special K-12 certificate when he or she presents evidence of having completed the required teaching experience and:
- A) having completed a K-12 reading specialist's program approved pursuant to Subpart C of this Part that includes a practicum and leads to the issuance of a master's or higher degree; and
 - B) having been recommended for the endorsement by the institution offering the program; and
 - C) having passed the content-area test for reading specialist.
- 3) An individual who elects to receive a separate special K-12 certificate pursuant to subsection (i)(2) of this Section shall be required to pass the test of basic skills and/or the applicable assessment of professional teaching if passage of one or both of these tests would be required for receipt of a subsequent certificate as explained in Section 25.720 of this Part.
- j) Special provisions shall apply to the addition of endorsements and designations in foreign languages.

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

- 1) An endorsement and a designation for a foreign language may be added to an existing certificate when an individual has completed a major area of concentration in the language, totaling 32 semester hours or as otherwise identified by a regionally accredited institution on the individual's official transcript.
 - 2) An endorsement and a designation for a foreign language may be added to an existing certificate when an individual presents evidence of having accumulated 20 semester hours of college credit in the language, either as a subset of an approved program at an Illinois institution or from one or more regionally accredited institutions of higher education, and has passed the applicable content-area test (or test of subject matter knowledge). The 20 semester hours may be calculated by including semester hours of study that were waived by the institution offering the coursework based on the individual's prior learning, provided that the individual presents verification issued by the institution to this effect (i.e., a statement on the official transcript or a letter signed by the certification officer identifying the number of hours involved).
 - 3) Each additional designation for a foreign language shall be subject to the requirements of this subsection (j).
 - 4) Sections 25.85 and 25.86 of this Part set forth additional provisions for certification in foreign languages under specified circumstances.
- k) The requirements of 23 Ill. Adm. Code 1.720 (Requirements for Teachers of Middle Grades), rather than the requirements of this Section, shall apply to credentials and assignments in the middle grades, including reading assignments in the middle grades. The requirements of 23 Ill. Adm. Code 1.780, 1.781, and 1.782, rather than the requirements of this Section, shall apply to credentials and assignments in the areas of bilingual education and English as a Second (New) Language.
- l) Each individual who is first assigned to teach a particular subject on or after July 1, 2004, based on completion of the minimum requirements for college coursework in that subject that are set forth at 23 Ill. Adm. Code 1.737(b), 1.745(b)(3), or 1.755(c), as applicable, but who has not met the requirements of this Section for an endorsement in that subject area shall have three years after the date of first assignment to meet those requirements and receive the relevant endorsement. An individual who does not do so shall become ineligible to teach

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

the subject in question in any subsequent semester, unless he or she later receives the endorsement.

- m) An additional endorsement for "technology specialist" shall be issued only upon presentation of evidence that the applicant has completed at least 24 semester hours of college coursework demonstrably related to the subject area at one or more regionally accredited institutions of higher education and has passed the relevant content-area test.

(Source: Amended at 29 Ill. Reg. _____, effective _____)

SUBPART C: APPROVING PROGRAMS THAT PREPARE PROFESSIONAL
EDUCATORS IN THE STATE OF ILLINOIS

**Section 25.115 Recognition of Institutions, Accreditation of Educational Units, and
Approval of Programs**

In order for an Illinois institution of higher education to offer one or more programs that prepare professional educators, that institution must be recognized, and the educational unit responsible for such program(s) must be accredited, by the State Board of Education in consultation with the State Teacher Certification Board. "Educational unit" means the institution or college, school, department, or other administrative body within the institution that is primarily responsible for the initial and continuing preparation of teachers and other education professionals. Each program that is offered by a recognized institution~~Specific preparation programs offered by recognized institutions~~ must also be individually approved by the State Board of Education in consultation with the State Teacher Certification Board. "Program" or "preparation program" means a program that leads to certification. When authorized by the State Superintendent, written materials required pursuant to this Subpart C may be submitted in electronic form.

- a) An institution shall be recognized if it:
- 1) is approved as a degree-granting institution by the Illinois Board of Higher Education, if the institution is subject to provisions of the Institution of Learning Powers Act [110 ILCS 50];
 - 2) sponsors a course of study leading to an appropriate baccalaureate or higher degree and awards the degree; and
 - 3) conducts or proposes to conduct at least one approved program that will prepare professional educators.

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

- b) An educational unit shall be accredited if the institution meets the standards enumerated in "Professional Standards for the Accreditation of Schools, Colleges, and Departments of Education" (2002), published by the National Council for the Accreditation of Teacher Education (NCATE), 2010 Massachusetts Avenue, N.W., Suite 500, Washington, D.C. 20036-1023 (no later amendments to or editions of these standards are incorporated by this Section).
- c) A preparation program shall be approved if it meets the applicable content standards established by the State Board of Education and the standards set forth at 23 Ill. Adm. Code 24 (Standards for All Illinois Teachers) or 23 Ill. Adm. Code 29.100 (Illinois Professional School Leader Standards), as applicable, except as provided in Section 25.135 of this Part.
- d) The accreditation of an educational unit and the approval of its programs shall be subject to review every five years until completion of its first review in light of the standards incorporated by subsection (b) of this Section. Accreditation Review shall be conducted as provided in Sections 25.125 and 25.127 of this Part and decisions regarding continued accreditation and approval shall be made as provided in those Sections, except as provided in Section 25.130, 25.135, or 25.136 of this Part. Once an institution has completed an Accreditation Review under the standards referenced in subsection (b) of this Section and fulfilled any requirements imposed under Section 25.125(j) of this Part, its Accreditation Reviews shall be scheduled at seven-year intervals.
- e) Each accredited educational unit shall annually submit to the State Superintendent of Education, in a format defined by the State Superintendent and according to a timeline announced at least six months in advance:
- 1) a report that describes any significant changes in the unit or its program(s), updates any information previously provided as needed, and provides other information requested by the State Superintendent of Education;
 - 2) as relevant to the institution, a report on all programs provided by the institution that have been approved as an alternate route to certification under Section 25.67 of this Part; and
 - 3) institutional data that describe the results of unit and program assessments and the actions taken or planned to address identified areas of concern.
- f) If relevant to the institution, the report required under subsection (e) of this

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

Section shall include a description of how the unit has addressed any applicable standard(s) identified during the most recent review of the unit and its programs as "not met" or "met with areas for improvement". However, for institutions that have been assigned "Continuing Accreditation with Conditions" or "Probation", this description shall not be required in those years in which the institution is required to submit a special report or is subject to a focused or full visit as discussed in Section 25.127 of this Part.

- g) No later than April 7 of each year, each institution shall report to the State Board of Education, using a form supplied by the Board, on its program completers' pass rates on the examinations required for initial certification pursuant to this Part and other information required by Title II of the Higher Education Act [20 USCA 1027]. Further, each institution shall make this information readily available to the public on an annual basis and shall include it in or with publications routinely sent to potential applicants, guidance counselors, and prospective employers of the institution's program completers.

(Source: Amended at 29 Ill. Reg. _____, effective _____)

Section 25.125 Accreditation Review of the Educational Unit

The requirements of this Section shall apply to Accreditation Reviews that take place on or after July 1, 2003. The review visits conducted pursuant to this Section shall occur between March 1 and May 31 and between September 1 and November 30 and shall be scheduled for the mutual convenience of the affected institution and the review team.

- a) No later than February 1 (for a spring review) or September 1 (for a fall review) of the year before the year when its Accreditation Review will be held, the institution shall submit to the State Superintendent of Education five copies of each of the two reports specified in this subsection (a). However, in the case of an institution that is also seeking initial accreditation from NCATE, these reports shall be submitted six months earlier than otherwise required by this subsection (a).
- 1) The institution shall submit a report providing an overview of the unit's conceptual frameworks(s), which shall include a description of each framework, its development, and any changes that have been made since the institution's previous Accreditation Review. The discussion of the framework(s) shall address each of the "structural elements" found in the standards referred to in Section 25.115(b) of this Part.

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

- 2) The institution shall submit a composite report describing how the unit's teacher preparation programs address the standards set forth at 23 Ill. Adm. Code 24 (Standards for All Illinois Teachers) and how the unit's preparation programs for school administrators address the Illinois Professional School Leader Standards set forth at 23 Ill. Adm. Code 29.100 (see Standards for Administrative Certification).
- b) A panel established by the State Superintendent shall review the overview of the unit's conceptual framework(s) no more than 30 days after the overview is submitted. No later than 30 days after the panel completes its review, the State Board of Education shall notify the institution either that the description of its conceptual framework(s) is adequate or that certain structural elements were not adequately addressed and will undergo additional scrutiny by the review team during the visit described in subsection (e) of this Section.
 - c) No later than 60 days before its review visit, the institution shall submit to the State Superintendent the number of copies specified in light of the review team's size, and to NCATE (if applicable) the number of copies required by NCATE, of a report presented in a format prescribed by the State Board of Education and incorporating:
 - 1) an overview of the institution;
 - 2) an overview of the unit's conceptual framework(s);
 - 3) evidence that it is meeting each of the standards referred to in Section 25.115(b) of this Part; and
 - 4) evidence that it is meeting the standards established by the State Board of Education (see 23 Ill. Adm. Code 24, Standards for All Illinois Teachers, and 23 Ill. Adm. Code 29, Standards for Administrative Certification, as applicable).
 - d) A review team shall be empanelled to conduct an on-site review to verify the information provided by the institution as required by subsection (c) of this Section. The review team shall be constituted as provided in subsection (d)(1) or (d)(2) of this Section, depending upon whether the institution is also seeking to achieve or retain accreditation of its educational unit by NCATE.
 - 1) Institutions Seeking State Accreditation Only
From a pool of individuals who have been trained in the applicable

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

standards and procedures, the State Superintendent shall empanel a team to conduct the on-site review and shall appoint the team's chair. A staff member of the State Board of Education or another individual designated by the State Superintendent who has been trained in the applicable standards and procedures shall accompany the review team, serving as a consultant ~~serve as a consultant~~ to ensure that applicable standards, procedures, rules, and statutes are addressed.

- 2) Institutions Also Seeking to Achieve or Retain NCATE Accreditation ~~From a pool of individuals who have been trained in the applicable standards and procedures, the State Superintendent shall select members to serve on a joint review team with representatives of NCATE's Board of Examiners to conduct the on-site review. The review team shall be co-chaired by a member appointed by the State Superintendent and a member of NCATE's Board of Examiners.~~ A staff member of the State Board of Education or another individual designated by the State Superintendent who has been trained in the applicable standards and procedures shall accompany the review team appointed by NCATE's Board of Examiners, serving as a consultant ~~to serve as a consultant to~~ ensure that applicable Illinois standards, procedures, rules, and statutes are addressed.

- e) The review team shall visit the institution and verify the degree to which the educational unit and its programs meet the standards referred to in Section 25.115(b) of this Part.
- f) The review team shall prepare a draft report during the on-site visit, incorporating an overview of the unit and its conceptual framework(s), summarizing data on the performance of candidates and graduates, and taking into account the recommendations arising from the review of program reports as outlined in Section 25.127 of this Part. This draft report shall be provided to the institution within 30 business days after the conclusion of the visit for the purpose of allowing the institution 30 days to correct any factual errors. The team chair ~~or co-chairs~~ shall review the institution's suggested revisions and make appropriate corrections in consultation with the State Board staff member who is serving pursuant to subsection (d) of this Section. The final report shall be submitted to the institution within 30 days after the State Board's receipt of the institution's suggested corrections.
- g) Within 30 days after receipt of the final report, the institution shall submit to the State Superintendent either a letter stating agreement with the report's findings or a rejoinder to those findings that meets the following requirements:

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

- 1) The rejoinder must indicate the grounds for disagreement with one or more of the team's findings and include documentation to support the institution's position.
 - 2) All documentation must describe conditions that existed at the time of the on-site review. (Changes made by the unit after the visit will not be considered.)
 - 3) All documentation must relate directly to the standards and procedures that applied at the time of the on-site visit.
- h) Staff of the State Board of Education shall convey to the State Teacher Certification Board the institutional report, the review team's report, the institution's letter of agreement or rejoinder, a response to that rejoinder provided by the team's chair ~~or co-chairs~~, and the results of the review of the program report(s), as well as any other relevant documentation that was available to the review team.
- i) After consideration of the information submitted pursuant to subsection (h) of this Section, the Certification Board shall convey to the State Board of Education a recommendation regarding the accreditation of the educational unit as appropriate to the circumstances, in keeping with the provisions of subsection (j) of this Section. The Certification Board shall also convey recommendations regarding approval of the unit's individual programs (see Section 25.127 of this Part).
- j) The possible outcomes of Accreditation Review shall align with those used in the NCATE system of review, so that Illinois institutions desiring both national accreditation through NCATE and the State recognition, accreditation, and program approval required pursuant to this Subpart C will not be caused to duplicate their efforts or undergo duplicate reviews.
- 1) If the educational unit has met all the applicable standards, the State Teacher Certification Board shall recommend that the State Board of Education continue the accreditation of the educational unit (which may include the identification of areas for improvement), thereby authorizing the institution to conduct its approved program(s) and to recommend candidates for certification by entitlement.
 - 2) If the educational unit has failed to meet one or more of the applicable standards, the State Teacher Certification Board shall recommend that the

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

State Board of Education assign accreditation of the educational unit with conditions, thereby authorizing the institution to conduct its approved program(s) and to recommend candidates for certification by entitlement. An institution to which accreditation with conditions has been assigned shall, within 30 days after receipt of the State Board's decision, provide written notification to the candidates enrolled in the unit's programs to this effect.

- A) If the State Teacher Certification Board believes that the unit can make adjustments so as to satisfy the conditions expressed within six months, the Board shall recommend that the State Board of Education request submission of documentation that addresses the unmet standard(s) as well as any other areas for improvement within that time. However, the affected unit may choose to undergo a focused visit pursuant to subsections (j)(2)(C) and (D) of this Section instead.
- B) If documentation is submitted pursuant to subsection (j)(2)(A) of this Section, the State Board of Education shall either continue the institution's accreditation, if the conditions expressed have been satisfied, or require a focused visit addressing the unmet standard(s) and any additional area(s) for improvement, which shall occur within one year after the semester in which the documentation was submitted.
- C) If the State Teacher Certification Board believes that the conditions expressed cannot be satisfied within six months, the Board shall recommend that the State Board of Education require a focused visit addressing the unmet standard(s) and any additional area(s) for improvement within two years after the semester when the conditions were issued.
- D) Each focused visit shall be conducted by a team established by the State Superintendent of Education and trained in the review process. The team conducting a focused visit shall forward to the State Teacher Certification Board a report indicating whether the conditions expressed have been satisfied.
- E) After reviewing the team's report, the State Teacher Certification Board shall recommend that the State Board of Education continue or revoke the unit's accreditation.

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

- F) A unit to which continued accreditation is granted as a result of a six-month report or a focused visit shall next be due for Accreditation Review according to its original schedule (see Section 25.115(d) of this Part).
- 3) If the educational unit has failed to meet one or more of the applicable standards and exhibits areas for improvement that may limit its candidates' ability to meet the standards for certification, the State Teacher Certification Board shall recommend that the State Board of Education assign accreditation of the educational unit with probation. An institution to which accreditation with probation has been assigned shall, within 30 days after receipt of the State Board's decision, provide written notification to the candidates enrolled in the unit's programs to this effect. If accreditation with probation is assigned, the unit must schedule an on-site visit within two years after the semester in which the decision was rendered. As part of this visit, the unit must address all the standards in effect at the time of the review that resulted in probation.
- A) An on-site review required pursuant to this subsection (j)(3) shall be subject to the requirements of subsections (a) through (g) of this Section.
- B) Following the on-site review, the State Teacher Certification Board shall review the team's report and, based on its assessment of the degree to which the unit has achieved compliance with the applicable standards, shall recommend to the State Board of Education that it either continue or revoke the institution's recognition and the educational unit's accreditation.
- C) A unit whose accreditation has been continued pursuant to this subsection (j)(3) shall next be subject to Accreditation Review according to its original schedule (see Section 25.115(d) of this Part).
- k) The provisions of subsection (j) of this Section notwithstanding, an institution not accredited by NCATE may decide to seek NCATE accreditation at any time, thus becoming subject to NCATE's initial review cycle. (If NCATE accreditation is sought other than in conjunction with a scheduled Accreditation Review, an Accreditation Review shall be conducted as described in this Section, and the schedule for subsequent Accreditation Reviews shall be altered accordingly.)

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

- l) Actions following upon the recommendation of the State Teacher Certification Board shall be as described in Section 25.160 of this Part. Revocation of recognition and accreditation shall be subject to the provisions of Section 25.165(b) of this Part.
- m) If NCATE requires a focused visit and the State Board of Education does not, a State Board staff member shall serve as a non-voting observer during the on-site review and report to the State Teacher Certification Board and the State Board of Education as appropriate.

(Source: Amended at 29 Ill. Reg. _____, effective _____)

Section 25.160 Notification of Recommendations; Decisions by State Board of Education

- a) The State Superintendent of Education shall notify an affected institution in writing not later than 30 days after receipt of a recommendation from the State Teacher Certification Board pursuant to the provisions of this Subpart C and, except as provided in this subsection (a), shall await the institution's response (see subsection (b) of this Section) prior to forwarding that recommendation to the State Board of Education. The State Superintendent shall not await a response from an institution if, as applicable to the nature of the review:
 - 1) the State Teacher Certification Board has recommended the initial recognition of the institution, the accreditation of its educational unit, and the approval of all of its proposed programs under Section 25.155(l)(1) of this Part; or
 - 2) the State Teacher Certification Board has recommended continuing the accreditation of the educational unit under Section 25.125(j)(1) of this Part and the approval of all the unit's existing preparation programs under Section 25.127(o)(1) of this Part; or
 - 3) the State Teacher Certification Board has recommended provisional approval of each proposed new preparation program under Section 25.145(d)(1) of this Part.
- b) Within 30 days after receipt of written notification from the State Superintendent, an affected institution may submit a notice of objection to the Certification Board's recommendation, provided that: ~~1)~~ the institution's narrative explanation of its objection(s) and any supporting documentation shall be submitted to the

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

State Superintendent not later than 30 days after the institution submits its notice of objection; ~~and 2) the State Teacher Certification Board has recommended anything other than unconditional accreditation of the unit and approval of the affected preparation program(s).~~

- c) The State Superintendent shall forward to the State Board of Education for consideration at its next available meeting the recommendation made by the State Teacher Certification Board and the institution's presentation of its objection(s) and shall inform the Certification Board that these materials have been submitted for the State Board's consideration.
- d) No more than 30 days after the State Board of Education makes its decision, the State Superintendent shall notify the institution in writing of the State Board's action.

(Source: Amended at 29 Ill. Reg. _____, effective _____)

SUBPART D: SCHOOL SERVICE PERSONNEL

Section 25.235 Certification of School Psychologists (2004)

- a) Each candidate for the school service personnel certificate endorsed for school psychology shall hold a master's degree in psychology or educational psychology with a specialization in school psychology.
- b) ~~Each~~ Except as provided in subsection (d) of this Section, each candidate shall have completed an Illinois program approved for the preparation of school psychologists pursuant to Subpart C of this Part ~~and accredited by the National Association of School Psychologists~~ or a comparable approved program in another state or country or hold a comparable certificate issued by another state or country (see Section 25.425 of this Part).
- c) Each candidate shall have completed both a supervised field experience of at least 250 hours in a school setting and/or child study center and an internship of at least 1200 contact hours and lasting a full school year under the direction of an intern supervisor.
- d) ~~An applicant who has completed a program in another state that is not accredited by the National Association of School Psychologists shall be required to enroll in an approved school psychology preparation program. The Illinois institution offering the program shall review the individual's educational background and~~

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

~~identify any of the standards set forth at 23 Ill. Adm. Code 23.130 that the individual's preparation has not addressed. Upon successful completion of the coursework offered by the institution that addresses the identified standards, the applicant shall be eligible to be recommended for certification by entitleme e)~~
 Each candidate shall be required to pass the applicable content-area test (see Section 25.710 of this Part), as well as the test of basic skills, subject to the provisions of Section 25.720 if its passage would be required for receipt of a standard certificate pursuant to Section 25.720(a) of this Part. (See also 23 Ill. Adm. Code 23.130.)

- ~~e)f)~~ Nothing in this Section is intended to preclude the issuance of a provisional certificate under Section 21-10 of the School Code.

(Source: Amended at 29 Ill. Reg. _____, effective _____)

SUBPART F: GENERAL PROVISIONS

Section 25.450 Lapsed Certificates

- a) A lapsed certificate, one that has not been registered or renewed for a period of five or more years since expiration of its last registration, shall be reinstated for a one-year period upon payment of all accumulated registration fees.
- b) The Regional Superintendent shall notify the holder of a reinstated certificate of:
- 1) The specific time of reinstatement, including beginning and ending dates.
 - 2) The requirement that in order to renew the certificate at the end of the period of reinstatement, during the time of reinstatement, the certificate holder ~~in order to renew the certificate at the end of reinstatement~~ must:
 - A) Have earned, within the six-year period that encompasses the certification year of reinstatement and the five-year period immediately prior to the year of reinstatement, Earn five semester hours of college credit from one or more regionally accredited institutions in a recognized institution of higher learning in the field of professional education or in courses related to the holder's contractual teaching duties, or
 - B) Present evidence of holding a valid regular certificate of some other type, whether issued by Illinois or by another state, territory,

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

or possession of the U.S.

- c) As a reinstated certificate is a reissued certificate, the expiration of all reinstated certificates shall be on June 30 following the date of reinstatement in accordance with Section 21-22 of the School Code.
- d) The Regional Superintendent shall stamp the back of a lapsed certificate with the date of reinstatement.
- e) Standard Certificates issued between July 1, 1929, and July 1, 1951, do not lapse.
- f) When a lapsed certificate that was issued prior to February 15, 2000, has been reinstated and then is to be renewed pursuant to this Section, it shall be exchanged for a comparable standard teaching certificate in accordance with Section 25.11 and Appendix C of this Part. The certificate-holder shall thereupon become subject to the requirements of Sections 21-2 and 21-14 of the School Code and Subpart J of this Part regarding continuing professional development.
 - 1) Subsequent renewals of such an individual's certificate(s) shall be contingent upon his or her completion of continuing professional development activities in accordance with the requirements of Subpart J of this Part.
 - 2) College credit earned pursuant to subsection (b)(2)(A) of this Section shall not be used to satisfy any portion of the continuing professional development requirements of Section 21-14 of the School Code.

(Source: Amended at 29 Ill. Reg. _____, effective _____)

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Dismissal of Tenured Teachers
- 2) Code Citation: 23 Ill. Adm. Code 51
- 3)

<u>Section Number:</u>	<u>Proposed Action:</u>
51.10	Amendment
51.20	Amendment
51.30	Amendment
51.40	Amendment
51.50	Repeal
51.55	Amendment
51.60	Amendment
51.70	Amendment
51.80	Amendment
- 4) Statutory Authority: 105 ILCS 5/24-12 and 34-85
- 5) A Complete Description of the Subjects and Issues Involved: The procedures for the dismissal of tenured teachers in school districts outside of the City of Chicago and within the City of Chicago were previously separated into Parts 51 and 52. The proposed amendments to Part 51 represent the consolidation of these two Parts.

Distinctions have been made within the rules to accommodate statutorily established differences between the processes for the Chicago Public Schools and for other districts. Previously, Parts 51 and 52 had duplicated the statutory requirements for the provision of reasonable warning to remove remediable conduct, approval of a motion for dismissal, notice to a teacher, selection of a hearing officer, scheduling of the hearing, and suspension of a teacher pending the hearing. The new version of the rules does not include requirements that are sufficiently specified by statute, as ISBE does not want to force districts, teachers and other constituents to review both the statute and rules to determine where differences occur.

Under the new version of the rules, hearing officers for hearings involving the Chicago Public Schools may be residents of the City of Chicago. Part 52 previously required Chicago hearing officers to be non-residents, even though the statutory restriction on resident hearing officers only applies to hearings outside of the City of Chicago. Finally, the per diem payment of \$300 is no longer specified in our rules. ISBE is currently reviewing its ability to increase this per diem amount.
- 6) Will this rulemaking replace any emergency amendments currently in effect? No

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking contain incorporations by reference? No
- 9) Are there any other proposed rulemaking pending on this Part? No
- 10) Statement of Statewide Policy Objective: This rulemaking will not create or enlarge a State mandate.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Written comments may be submitted within 45 days after the publication of this notice to:

Sally Vogl
Agency Rules Coordinator
Illinois State Board of Education
100 North First Street
Springfield, Illinois 62777
217/782-5270

Comments may also be submitted via e-mail, addressed to:

rules@isbe.net

- 12) 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
- 13) Regulatory Agenda on which this rulemaking was summarized: January 2005

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

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES

SUBTITLE A: EDUCATION

CHAPTER I: STATE BOARD OF EDUCATION

SUBCHAPTER b: PERSONNEL

PART 51

DISMISSAL OF TENURED TEACHERS UNDER ARTICLE 24 AND
DISMISSAL OF TENURED TEACHERS AND PRINCIPALS
UNDER ARTICLE 34 OF THE SCHOOL CODE

Section

- 51.10 Definitions
 51.20 Applicability of this Part
 51.30 ~~Initiation of~~ Dismissal Proceedings, Notice to Tenured Teachers, and Compliance with Other Applicable Provisions of the School Code
 51.40 Qualifications ~~Rules Regarding the Appointment~~ of Hearing Officers; Conditions of Service
 51.50 Suspension Pending the Hearing (Repealed)
 51.55 Pre-Hearing Procedures
 51.60 The Hearing
 51.70 The Decision
 51.80 Waiver, Interpretation and Application of this Part

AUTHORITY: Implementing and authorized by Sections 24-12 and 34-85 of the School Code [105 ILCS 5/24-12 and 34-85].

SOURCE: Rules Prescribed by the State Board of Education Governing the Procedure for the Dismissal of Tenured Teachers in Illinois, adopted February 19, 1976; codified at 8 Ill. Reg. 13739; emergency amendment at 9 Ill. Reg. 13116, effective August 9, 1985, for a maximum of 150 days; amended at 10 Ill. Reg. 5807, effective April 2, 1986; emergency amendment at 10 Ill. Reg. 19572, effective October 30, 1986, for a maximum of 150 days; amended at 11 Ill. Reg. 5950, effective March 23, 1987; amended at 29 Ill. Reg. _____, effective _____.

Section 51.10 Definitions

"Board" ~~means~~ refers to the local school board and not to the State Board of Education.

"Parties" means the tenured teacher against whom charges are brought and the school board bringing the charges.

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

~~"Service" shall mean service of any document by personal service or by depositing in United States mail by certified mail, postage prepaid, sent to the individual's last known address.~~

"Tenured Teacher" means any teacher ~~who~~that has entered upon contractual continued service pursuant to ~~Section 24-11 of the~~The School Code [105 ILCS 5/24-11] and, in school districts having a population of 500,000 or more, a teacher or principal as defined in Sections 34-84 and 34-85 of the School Code [105 ILCS 5/34-84 and 34-85], Section 24-11 (Ill. Rev. Stat. 1983, ch. 122, par. 24-11).

(Source: Amended at 29 Ill. Reg. _____, effective _____)

Section 51.20 Applicability of this Part

~~a) This Part applies to the dismissal for reason or cause of a tenured teacher (see Section 51.10 of this Part) under teachers "for reason or cause" as delineated in Section 24-12 or Section 34-85 of the~~The School Code ~~(Ill. Rev. Stat. 1983, ch. 122, pars. 24-11 and 24-12).~~

b) ~~These Rules do not apply to:~~

- ~~1) dismissal of non-tenured teachers;~~
- ~~2) dismissal as a result of a decrease in the number of teachers employed;~~
- ~~3) dismissal as a result of a discontinuance of a particular teaching service;~~
- ~~4) dismissal of a teacher who attains retirement age.~~

(Source: Amended at 29 Ill. Reg. _____, effective _____)

Section 51.30 Initiation of Dismissal Proceedings, Notice to Tenured Teachers, and Compliance with Other Applicable Provisions of the School Code

The approval of charges or a motion for dismissal, provision of notice to the affected tenured teacher, selection of the hearing officer, scheduling of the hearing, and suspension of the teacher pending the hearing shall be as set forth in Section 24-12 or Section 34-85 of the School Code, as applicable. To comply with Section 24-12 or Section 34-85 of the School Code, as applicable, the notice to the tenured teacher of the charges or motion for dismissal must inform the teacher

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

that he or she has ten days after receiving notice to request in writing that a hearing be scheduled. A motion approved by a board pursuant to Section 24-12 of the School Code or charges approved by the general superintendent pursuant to Section 34-85 of the School Code may include a scheduled date for a hearing, provided that the hearing is scheduled no fewer than 15 nor more than 30 days after the approval of the motion or charges.

- a) ~~Where the conduct which gives rise to the cause or reasons for dismissal is remediable the Board must serve the teacher with reasonable warning in writing, stating specific causes which, if not removed, may result in termination. However, no such written warning shall be required if the causes have been the subject of a remediation plan pursuant to article 24A of The School Code (Added by Public Act 84-126, effective August 1, 1985).~~
- b) ~~In the event the grounds are not remediable or in the event the grounds are not remedied after proper warning, the Board must approve a motion for dismissal which contains specific charges.
 - 1) ~~This motion must be approved by a majority of all the Board's members.~~
 - 2) ~~The motion shall state either that the causes are irremediable, or if remediable, that after reasonable warning has been given in writing of the specific grounds, they have not been remediated, or that the causes have been the subject of a remediation plan pursuant to Article 24A of The School Code.~~
 - 3) ~~The teacher must be served with written notice of the charges within 5 days of the adoption of the motion. The notice shall contain a bill of particulars.~~
 - 4) ~~Such notice shall inform the teacher that he/she has ten days after receiving notice to request in writing that a hearing be scheduled.~~~~
- e) ~~Upon written request by the teacher that a hearing be scheduled, the Board shall schedule a hearing. The Board may schedule the hearing in the motion.
 - 1) ~~This hearing is to be scheduled no less than 15 nor more than 30 days after the approval of the motion.~~
 - 2) ~~Within five days after a hearing date is set, a Notice of Hearing is to be forwarded to the teacher and the State Board of Education by the Secretary~~~~

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

~~of the Board.~~

- ~~3) The Notice of Hearing sent to the State Board of Education must be accompanied by a certified copy of the Board's motion and vote for dismissal, copies of the notice of charges including the bill of particulars, the teacher's written request for a hearing, and the last known address of the teacher.~~
- ~~4) Within five days after receiving the Notice of Hearing, the State Board shall provide the local Board of Education and the teacher with a list of five prospective impartial hearing officers. The State Board shall select the first five hearing officers from the master list who do not reside in the school district. The State Board shall place the four hearing officers not selected at the bottom of the master list and shall rotate the names on the list accordingly.~~
- ~~5) Within three days after receipt of the list of impartial hearing officers, first the teacher and then the Board or its authorized agents or attorneys shall alternately strike one name from the list until only one name remains. That person shall be the Hearing Officer.~~
- ~~6) Within three days thereafter, the State Board of Education shall be notified in writing of the person designated as Hearing Officer.~~
- ~~7) A copy of the notice of charges and a bill of particulars shall be forwarded by the State Board of Education to the designated Hearing Officer.~~
- ~~d) The teacher, the Board and the Hearing Officer may mutually agree upon the time and place of the hearing. If there is a dispute as to time or place, the Hearing Officer shall fix the time and place upon request made to the State Board of Education. If the Hearing Officer is fixing the place of hearing it must be within the district's boundaries.~~

(Source: Amended at 29 Ill. Reg. _____, effective _____)

**Section 51.40 Qualifications ~~Rules Regarding the Appointment~~ of Hearing Officers;
Conditions of Service**

- a) Each hearing officer ~~All Hearing Officers~~ proposed by the State Board of Education shall possess the following qualifications:

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

- 1) ~~He or she~~They must be accredited by a national arbitration association.
 - 2) ~~He or she~~They must be a non-resident of the school district involved in the hearing at the time of the hearing, unless the hearing involves a school district organized pursuant to Article 34 of the School Code.
 - 3) ~~He or she~~They must be disinterested and impartial.
 - 4) ~~He or she~~They must have no financial or personal interest in the result of the hearing.
- b) ~~The State Board of Education shall place the names of the four hearing officers not selected at the bottom of the master list and shall rotate the names on the list accordingly. Notice of the appointment of the Hearing Officer shall be mailed to the Hearing Officer by the State Board of Education and the signed acceptance of the Hearing Officer shall be filed with the State Board of Education within three days of receipt of notice of appointment.~~
- c) Upon notice of ~~his or her~~his/her appointment as a ~~hearing officer~~Hearing Officer, the prospective ~~hearing officer~~Hearing Officer shall disclose any circumstances ~~which he or she (s)he~~ believes might disqualify ~~him or her~~him/her as an impartial ~~hearing officer~~Hearing Officer.
- 1) Upon receipt of such information the State Board of Education shall immediately disclose it to the parties.
 - 2) The parties may waive the presumptive disqualification.
 - 3) If either party declines to waive the presumptive disqualification, the State Board of Education shall declare a vacancy.
- d) If any ~~hearing officer~~Hearing Officer shall resign, die, withdraw, refuse or be unable or disqualified to perform the duties of ~~his or her~~ his/her position, the State Board of Education shall, on proof satisfactory to it, declare the position vacant.
- 1) Vacancies shall be filled in the same manner as that governing the making of the original appointment.
 - 2) Should a vacancy occur during the course of a hearing, the entire matter

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

shall be reheard by a new ~~hearing officer~~Hearing Officer.

- e) ~~The State Board of Education shall pay the Hearing Officer a per diem of \$300. Billing procedures shall be arranged on an individual basis between the State Board and the Hearing Officer.~~
- e)f) All communication from the parties to the ~~hearing officer~~Hearing Officer other than at oral hearing shall be in writing and copies shall be sent at the same time to the opposing party and the State Board of Education. However, where circumstances necessitate, the ~~hearing officer~~Hearing Officer may make other appropriate arrangements, including but not limited to conference telephone calls. The ~~hearing officer~~Hearing Officer shall promptly report to the other party the complete substance of any unilateral communications.
- d)g) All hearing officers shall abide by the professional standards set forth in "The Code of Professional Responsibility for Arbitrators of Labor Management Disputes," ~~(2003), published by~~of the National Academy of Arbitrators, 1 No. Main Street, Suite 412, Cortland, New York 13045; the American Arbitration Association, and the Federal Mediation and Conciliation Service (1974 edition; any no later amendments to or editions of these standards are not incorporated by this rule).

(Source: Amended at 29 Ill. Reg. _____, effective _____)

Section 51.50 Suspension Pending the Hearing (Repealed)

- a) ~~If in the opinion of the Board the interests of the school require it, the Board may suspend the teacher pending the hearing.~~
- b) ~~If acquitted, the teacher shall not suffer loss of any salary by reason of the suspension.~~

(Source: Repealed at 29 Ill. Reg. _____, effective _____)

Section 51.55 Pre-Hearing Procedures

- a) The parties and the hearing officer may agree to a location for the hearing. If there is a dispute as to the location of the hearing, the hearing officer shall fix the place of the hearing at a location within the district's boundaries.

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

b) Discovery

- 1) Either party may request in writing from the other, with copies to the State Board of Education and the hearing officer, *a list of persons (and their addresses) who may be called as expert witnesses at the hearing, the omission of any such name to result in a preclusion of the testimony of such witness in the absence of a showing of good cause and the express permission of the hearing officer.*
- 2)b) Either party may request in writing from the other, with copies to the State Board of Education and the hearing officer, a list of persons (and their addresses) who may have knowledge of facts related to the charges and/or the defenses thereto. This is not to be construed as a list of witnesses to be used at the hearing, but no person whose name is not so disclosed may testify except upon good cause shown and by the express permission of the hearing officer.
- 3)e) Further discovery, limited to written interrogatories, bills of particulars, requests to produce, and lists of witnesses, may be allowed ~~for good cause.~~
- A)1) Application for such discovery ~~under this subsection (e)~~, shall be made by written motion to the hearing officer, with copies to the State Board of Education and the other party.
- B)2) The motion shall state the specific nature of the discovery and the circumstances necessitating the discovery. If interrogatories are sought, a copy of these same shall be attached to the motion.
- C)3) The hearing officer shall rule on the motion within five days after ~~of~~ receipt of thesaid motion, sending copies of the decision to both parties and to the State Board of Education. ~~If the motion for discovery is allowed, the~~ The ruling shall set a date by which ~~such~~ discovery shall be completed. In the case of interrogatories, receipt of the hearing officer's ruling shall be deemed service of the interrogatories where the provisions of subsection (b)(3)(B) of this Section ~~51.55(e)(2)~~ have been complied with.
- D)4) In ruling on the motion, the hearing officer shall not permit discovery which will unnecessarily delay the proceedings or harass a party, but shall allow only that discovery which will further the

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

resolution of the dispute, avoid surprise to a party, or aid in doing substantial justice.

4) Each party providing answers to discovery requests shall sign his or her responses under oath, and each attorney making objections shall sign his or her objections under oath.

c)⊕ Other pretrial motions may be resolved prior to the hearing at the discretion of the hearing officer, provided that no motion shall be resolved prior to the hearing that would result in a default judgment against the tenured teacher~~employee~~.

(Source: Amended at 29 Ill. Reg. _____, effective _____)

Section 51.60 The Hearing

- a) The hearing shall be closed to the public unless one of the parties requests that it be open and the hearing officer so orders~~at the request of either the Board or the teacher~~. The hearing officer~~Hearing Officer~~ shall exclude witnesses during the testimony of other witnesses upon the motion of either party.
- b) The parties may be present and represented by counsel and by other authorized representatives.
- c) The order of proceeding shall be as follows:
 - 1) The hearing shall be opened by the recording of the place, time, and date of the hearing, the presence of the hearing officer~~Hearing Officer~~ and the parties and counsel, if any, and any stipulations as to facts. Pre-hearing motions submitted in accordance with Section ~~51.40 and Section~~ 51.55 of this Part and not previously disposed of shall be heard at this time.
 - 2) Upon the opening of the hearing, the hearing officer~~Hearing Officer~~ shall allow the parties to make opening statements.
 - 3) The board~~Board~~ shall proceed first to present its evidence ~~first~~.
 - 4) Either party may cross-examine the witnesses, offer evidence, and present a defense or rebuttal.
 - 5) All testimony shall be taken under oath or affirmation administered by the

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

~~hearing officer~~Hearing Officer.

- 6) The ~~hearing officer~~Hearing Officer may issue subpoenas requiring the attendance of witnesses and subpoenas duces tecum, and, at the request of either of the parties, shall issue such subpoenas; but ~~the Hearing Officer~~ may limit the number of witnesses to be subpoenaed on behalf of either party to not more than ten.
- 7) The ~~hearing officer~~Hearing Officer shall cause a record of the proceedings to be kept and shall employ a competent reporter to take stenotype notes of all the testimony. The State Board of Education shall pay for the attendance and services of the court reporter as well as for the transcript, if any, ordered by the ~~hearing officer~~Hearing Officer for the purpose of making ~~his or her~~his/her decision.
- 8) Exhibits, when offered by either party, may be received in evidence by the ~~hearing officer~~Hearing Officer. The names and addresses of all witnesses and exhibits, in order received, shall be made a part of the record. The ~~hearing officer~~Hearing Officer shall make rulings on the admissibility of exhibits.
- 9) The ~~hearing officer~~,Hearing Officer for good cause shown, may continue the hearing upon the request of the teacher or the ~~board~~ Board or upon ~~his or her~~his/her own initiative, ~~and shall adjourn when the teacher and the Board agree thereto.~~
- 10) The hearing may proceed in the absence of either party, who, after due notice, fails to be present or fails to obtain a continuance.
- 11) *The hearing officer shall consider and give weight to all of the teacher's evaluations written pursuant to article 24A of the School Code.*
- 12) The ~~hearing officer may, at his or her~~ Hearing Officer has discretion, ~~to~~ vary the normal procedure under which the ~~board~~ Board presents its ~~case~~claim first, but in any ~~event~~ease shall afford full and equal opportunity to all parties for presentation of relevant proof.
- 13) ~~At~~Upon the conclusion of the hearing, each party may make a closing statement (orally and/or written at the discretion of the ~~hearing officer~~Hearing Officer) incorporating arguments of fact and law.

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

- 14) The hearing shall not be considered closed until all evidence has been submitted and briefs, if allowed by the ~~hearing officer~~Hearing Officer, have been received by the ~~hearing officer~~Hearing Officer. The ~~hearing officer~~Hearing Officer shall notify the parties, in writing, of the closing date of the hearing. A copy of the notice shall be forwarded to the State Board of Education.
- d) Evidentiary ~~rules~~Rules to be followed during the hearing shall be as follows:
- 1) The parties may offer such evidence as they desire, and ~~each party~~ shall produce such additional evidence as the ~~hearing officer~~Hearing Officer may deem necessary to an understanding and determination of the dispute. *~~The hearing officer may limit the number of witnesses on behalf of either party to no more than ten. (Sections 24-12 and 34-85 of the School Code)~~*
 - 2) The ~~hearing officer~~Hearing Officer shall be the judge of the relevancy and materiality of the evidence offered and strict conformity to legal rules of evidence shall not be necessary.
 - 3) Objections to evidentiary offers may be made and shall be noted in the record. The ~~hearing officer~~Hearing Officer shall have the power to make rulings, including the power to exclude ~~irrelevant, immaterial or unduly repetitious~~ evidence. "Offers of Proof" shall be permitted.
 - 4) Any ~~hostile~~-witness ~~designated as hostile by the hearing officer~~ may be examined as if under cross-examination.
 - 5) ~~If the hearing officer grants a party's request to submit a document after the evidentiary portion of the hearing is closed, the party shall file that document with the hearing officer, with copies to the State Board of Education and the other party, within the time designated by the hearing officer. All documents not filed with the Hearing Officer at the hearing but which are arranged to be submitted by agreement of the parties at the hearing or subsequently, shall be filed with the Hearing Officer, with copies to the State Board of Education and the other party.~~
- e) ~~When the hearing officer determines that neither party has further proof to offer or witnesses to be heard, he or she~~Before concluding the hearing, the Hearing Officer shall inquire of all parties whether they have any further proof to offer or

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

~~witnesses to be heard. Upon receiving negative replies, the Hearing Officer~~ shall declare the hearing concluded and a minute thereof shall be so noted in the record~~recorded~~. If written briefs are to be submitted subsequently, the hearing officer~~Hearing Officer~~ shall so note.

(Source: Amended at 29 Ill. Reg. _____, effective _____)

Section 51.70 The Decision

When a hearing is held under Section 24-12 of the School Code, the decision must be rendered within 30 days after the conclusion of the hearing or closure of the record, whichever occurs later. When a hearing is held under Section 34-85 of the School Code, the hearing officer's findings of fact and recommendation must be rendered within 45 days after the conclusion of the hearing. For purposes of the remainder of this Section, "decision" means either a decision under Section 24-12 of the School Code or the findings of fact and recommendation under Section 34-85 of the School Code.

- a) The hearing officer~~Hearing Officer~~ shall, ~~with reasonable dispatch,~~ make a decision in writing as to whether or not the teacher shall be dismissed. The hearing officer's~~Such~~ decision shall include findings of fact.
- b) If the hearing officer fails, without good cause, to render a~~The~~ decision within the required timeframes~~shall be rendered no later than 45 days from the date of closing the hearing, his or her name shall be struck from the master list of hearing officers maintained by the State Board of Education for a period of at least six months unless the parties agree to waive the 45-day period.~~
- c) A copy of the decision shall be given to the State Board of Education to be forwarded by certified mail to both the teacher and the Board, or their legal representatives of record.
- d) The decision of the hearing officer, if rendered pursuant to Section 24-12 of the School Code,~~Hearing Officer~~ is final unless reviewed under the Administrative Review Law [735 ILCS 5/Art. III],~~(Ill. Rev. Stat. 1983, ch. 110, pars. 3-101 et seq.)~~ as provided in Sections~~Section~~ 24-16 and 34-85b of the~~The~~ School Code [105 ILCS 5/24-16 and 34-85b]~~(Ill. Rev. Stat. 1983, ch. 122, par. 24-16).~~
 - 1) If neither party appeals, then either party desiring a transcript of the hearing shall pay for the cost thereof.

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

- 2) ~~The~~In the event such review is instituted, any costs of preparing and filing the record of proceedings in the case of a review shall be paid by the State Board of Education.
- 3) The record of the hearing shall include:
- A) all pleadings and exhibits,
 - B) a statement of matters officially noticed,
 - C) a transcript of the hearing, and
 - D) the decision of the hearing officer~~Hearing Officer~~.
- e) Pursuant to Sections 24-12 and 34-85 of the School Code, the Board shall not lose jurisdiction to discharge a teacher if the hearing officer fails to render a decision within the applicable time specified in this Section.

(Source: Amended at 29 Ill. Reg. _____, effective _____)

Section 51.80 Waiver, Interpretation and Application of this Part

- a) Any party who proceeds with the hearing after knowledge that any provision of this Part prior to hearing has not been complied with and who fails to state his or her objection~~object~~ thereto in writing either to the State Board of Education or to the hearing officer~~Hearing Officer~~ shall be deemed to have waived his or her~~his/her~~ right to object.
- b) The hearing officer~~Hearing Officer~~ shall interpret and apply the provisions of this Part~~these rules~~ insofar as they relate to his or her~~his/her~~ powers and duties and shall follow any court~~Court~~ interpretation of this Part~~these rules~~.
- c) A violation of the professional standards identified in Section 51.40(f) of this Part~~set forth in "The Code of Professional Responsibility for Arbitrators of Labor Management Disputes," of the National Academy of Arbitrators, the American Arbitration Association, and the Federal Mediation and Conciliation Service (1974 edition; any later amendments are not incorporated by this rule)~~ shall be grounds for removal of the hearing officer~~Hearing Officer~~ from the master list ~~of~~ Hearing Officers maintained by the State Board of Education.

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

d) All other rules shall be interpreted and applied by the State Board of Education.

(Source: Amended at 29 Ill. Reg. _____, effective _____)

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED REPEALER

- 1) Heading of the Part: Dismissal of Tenured Teachers and Civil Service Employees Under Article 34
- 2) Code Citation: 23 Ill. Adm. Code 52
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
52.10	Repeal
52.20	Repeal
52.30	Repeal
52.35	Repeal
52.40	Repeal
52.50	Repeal
52.60	Repeal
52.70	Repeal
52.80	Repeal
52.90	Repeal
- 4) Statutory Authority: 105 ILCS 5/34-85
- 5) A Complete Description of the Subjects and Issues Involved: The procedures for the dismissal of tenured teachers in school districts outside of the City of Chicago and within the City of Chicago were previously separated into Parts 51 and 52. This proposed repealer of Part 52 accompanies comprehensive amendments to Part 51 that consolidate the material in these two Parts.
- 6) Will this proposed repealer replace an emergency repealer currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed repealer contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objective: This rulemaking will not create or enlarge a State mandate.
- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Written comments may be submitted within 45 days after the publication of this notice to:

Sally Vogl

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED REPEALER

Agency Rules Coordinator
Illinois State Board of Education
100 North First Street
Springfield, Illinois 62777

(217) 782-5270

Comments may also be submitted via e-mail, addressed to:

rules@isbe.net

12) 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

13) Regulatory Agenda on which this rulemaking was summarized: January 2005

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

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED REPEALER

TITLE 23: EDUCATION AND CULTURAL RESOURCES

SUBTITLE A: EDUCATION

CHAPTER I: STATE BOARD OF EDUCATION

SUBCHAPTER b: PERSONNEL

PART 52

DISMISSAL OF TENURED TEACHERS AND CIVIL
SERVICE EMPLOYEES UNDER ARTICLE 34 (REPEALED)

Section

52.10	Definitions
52.20	Applicability of This Part
52.30	Initiation of Dismissal Proceedings for Civil Service Employees
52.35	Initiation of Dismissal Proceedings for Tenured Teachers and Principals
52.40	Qualifications and Employment of the Hearing Officers
52.50	Suspension Pending the Hearing
52.60	Pre-Hearing Procedures
52.70	The Hearing
52.80	The Decision
52.90	Waiver, Interpretation and Application of this Part

AUTHORITY: Implementing Sections 34-15 and 34-85 and authorized by Section 34-85b of the School Code [105 ILCS 5/34-15, 34-85 and 34-85b].

SOURCE: Emergency rule adopted at 2 Ill. Reg. 45, p. 56, effective October 26, 1978, for a maximum of 150 days; adopted at 3 Ill. Reg. 14, p. 71, effective April 1, 1979; codified at 8 Ill. Reg. 4143; emergency amendment at 9 Ill. Reg. 13116, effective August 9, 1985, for a maximum of 150 days; amended at 10 Ill. Reg. 5818, effective April 2, 1986; repealed at 29 Ill. Reg. _____, effective _____.

Section 52.10 Definitions

"Board" refers to the local school board and not the State Board of Education.

"Civil Service Employees" shall refer only to those employees of boards of education referred to in The School Code, Section 34-15 (Ill. Rev. Stat. 1983, ch. 122, par. 34-15).

"Employee" shall include tenured teachers, principals and civil service employees.

"Notice of Dismissal" means the copy of the dismissal motion which is served

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED REPEALER

upon the employee and the State Board of Education, and shall include written charges and specifications approved by the Board.

"Parties" means the employee against whom charges are brought and the school board bringing the charges.

"Service" shall mean service of any document by personal service or by depositing in the United States mail by certified mail, postage prepaid, sent to the individual's last known address.

"Tenured Teacher" means any teacher or principal as defined in The School Code, Sections 34-84 and 34-85.

Section 52.20 Applicability of This Part

- a) This Part applies to the dismissal of tenured teachers, principals or civil service employees *"for reason or cause"* as delineated in The School Code, Sections 34-15 and 34-85.
- b) This Part does not apply to:
 - 1) dismissal of non-tenured teachers,
 - 2) dismissal of those employees referred to as the general superintendent of schools, heads of other general departments, assistant and district superintendents, members of the board of examiners, attorneys and assistant attorneys,
 - 3) hearings on reclassification of principals to a lower position or administrative grade under the provisions of Section 34-85 of The School Code.

Section 52.30 Initiation of Dismissal Proceedings for Civil Service Employees

- a) To initiate the dismissal of a civil service employee as defined in Section 52.10 above, the Board shall approve a motion for dismissal.
 - 1) The motion must contain written charges and specifications which are the grounds for dismissal.
 - 2) The motion must be approved by a majority of the Board's full

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED REPEALER

membership.

- 3) The motion shall contain a request that the State Board of Education appoint an impartial hearing officer for the conduct of hearings on the stated charges.

b) Service of Notice of Dismissal

- 1) A written copy of the motion for dismissal shall be served upon the employee no more than 10 days after the approval of the motion along with a notification that the employee may waive a hearing at any time prior to the appointment of a hearing officer.
- 2) *If the employee cannot be found upon diligent inquiry, the charges may be served upon the employee by mailing a copy thereof in a sealed envelope by prepaid certified mail, return receipt requested, to the employee's last known address. A return receipt showing delivery to such address within 20 days after the date of the adoption of the motion constitutes proof of service.*
- 3) The Board shall send a certified copy of the motion for dismissal to the State Board of Education within 30 days from the date of its adoption and shall include the last known address of the employee.

c) Selection of a Hearing Officer

- 1) Within 10 days after receiving the copy of the motion for dismissal, the State Board shall provide the employee and the local board with a list of five prospective, impartial hearing officers. The State Board shall select the first five hearing officers from the master list who do not reside in the school district. The State Board shall place the four hearing officers not selected at the bottom of the master list and shall rotate the names on the list accordingly.
- 2) Within 10 days of receipt of the list, first the employee and then the Board or their authorized agents or attorneys, shall alternately strike one name from the list until only one name remains.
- 3) If the employee fails to notify the Board within the statutory 10-day period of any name stricken or fails to cooperate in the selection process, the Board may select the hearing officer from the remaining names on the list.

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED REPEALER

- d) Notification of the Hearing Officer
 - 1) After the hearing officer has been selected, the Board shall promptly notify the State Board of Education of the person chosen.
 - 2) Notification of the selection shall be mailed to the hearing officer by the State Board of Education and a signed acceptance shall be filed with the State Board of Education within 10 days of receipt of the notice of selection.
 - 3) If any hearing officer shall resign, die, withdraw, refuse or be unable to or be disqualified from performing the duties of the position, the State Board of Education shall, on proof satisfactory to it, declare the position vacant.
 - A) Vacancies shall be filled in the same manner as that governing the making of the original appointment.
 - B) Should the vacancy occur during the course of the hearing, the entire matter shall be reheard by the new hearing officer.
 - 4) After the hearing officer's acceptance has been filed with the State Board of Education, the State Board of Education shall send a Notification of Appointment to the hearing officer with a copy to the parties.
 - 5) For purposes of Section 52.60 the date on the Notification of Appointment shall be deemed the date of notification.
 - 6) A copy of the notice of charges shall be forwarded by the State Board of Education to the designated hearing officer.

Section 52.35 Initiation of Dismissal Proceedings for Tenured Teachers and Principals

- a) To initiate the dismissal of a tenured teacher or principal as defined in Section 52.10 of this Part, the Board shall approve a motion for dismissal.
 - 1) The motion must contain written charges and specifications which are the grounds for dismissal.
 - 2) The motion must be approved by a majority of the Board's full membership.

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED REPEALER

- 3) The motion shall state either that the causes are irremediable; or if remediable, that after reasonable warning has been given in writing of the specific grounds, they have not been remediated; or that the causes have been the subject of a remediation plan pursuant to Article 24A of The School Code (Added by Public Act 84-124, effective August 1, 1985).
- b) Service of Notice of Dismissal
- 1) *A written notice of the charges shall be served upon the teacher or principal within 5 days of the adoption of the motion.*
 - 2) Such notice shall inform the teacher or principal that he/she has ten days after receiving notice to request in writing of the Board that a hearing be scheduled.
 - 3) *If the teacher or principal cannot be found upon diligent inquiry, the charges may be served upon him/her by mailing a copy thereof in a sealed envelope by prepaid certified mail, return receipt requested, to the teacher's or principal's last known address. A return receipt showing delivery to such address within 10 days after the date of the adoption of the motion shall constitute proof of service.*
 - 4) Upon written request by the teacher or principal that a hearing be scheduled, *the Board shall schedule a hearing on those charges before a disinterested hearing officer on a date no less than 15 nor more than 30 days after the adoption of the motion.* The Board may schedule the hearing in the motion.
- c) Service of Notice of Hearing
- 1) The Board shall forward a copy of the notice of hearing to the State Board of Education within five days from the date of the adoption of the motion.
 - 2) The notice of hearing sent to the State Board of Education must be accompanied by a certified copy of the Board's motion and vote for dismissal, copies of the notice of charges and the written request for a hearing, and the last known address of the teacher or principal.
- d) Selection of a Hearing Officer

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED REPEALER

- 1) *Within five days after receiving a copy of the notice of hearing, the State Board of Education shall provide the teacher or principal and the local board with a list of five prospective, impartial hearing officers.* The State Board shall select the first five hearing officers from the master list who do not reside in the school district. The State Board shall place the four hearing officers not selected at the bottom of the master list and shall rotate the names on the list accordingly.
 - 2) Within three days of receipt of the list, first the employee and then the Board or their authorized agents or attorneys, shall alternately strike one name from the list until only one name remains.
 - 3) If the teacher or principal fails to notify the Board, within the statutory three-day period, of any name stricken, or fails to cooperate in the selection process, the Board may select the hearing officer from the remaining names on the list.
- e) Notification of the Hearing Officer
- 1) After the Hearing Officer has been selected, the Board shall promptly notify the State Board of Education in writing of the person chosen.
 - 2) Notification of the selection shall be mailed to the Hearing Officer by the State Board of Education and a signed acceptance shall be filed with the State Board of Education within five days of receipt of the notice of selection.
 - 3) A copy of the notice of charges shall be forwarded by the State Board of Education to the designated Hearing Officer.
 - 4) If any hearing officer shall resign, die, withdraw, refuse or be unable to or be disqualified from performing the duties of the position, the State Board of Education shall, on proof satisfactory to it, declare the position vacant.
 - A) Vacancies shall be filled in the same manner as that governing the making of the original appointment.
 - B) Should the vacancy occur during the course of the hearing, the entire matter shall be reheard by the new hearing officer.

Section 52.40 Qualifications and Employment of the Hearing Officers

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED REPEALER

- a) All hearing officers proposed by the State Board of Education shall possess the following qualifications:
 - 1) They must be accredited by a national arbitration association.
 - 2) They must be disinterested and impartial.
 - 3) They must have no financial or personal interest in the result of the hearing.
- b) Upon notice of appointment as a hearing officer, the prospective hearing officer shall disclose any circumstances which might disqualify that person as an impartial hearing officer.
 - 1) Upon receipt of such information, the State Board of Education shall immediately disclose it to the parties.
 - 2) The parties may waive the presumptive disqualification.
 - 3) If either party declines to waive the presumptive disqualification, the State Board of Education shall declare a vacancy.
- c) The State Board of Education shall pay the hearing officer a per diem of \$300. Billing procedures shall be arranged on an individual basis between the State Board of Education and the hearing officer.
- d) All communication from the parties to the hearing officer other than at the hearing shall be in writing and copies shall be sent at the same time to the opposing party and to the State Board of Education. However, where circumstances necessitate, the hearing officer may make other appropriate arrangements, including but not limited to conference telephone calls. The hearing officer shall promptly report to the other party the complete substance of any unilateral communications.
- e) All hearing officers shall abide by the professional standards set forth in "The Code of Professional Responsibility for Arbitrators of Labor Management Disputes," of the National Academy of Arbitrators, the American Arbitration Association, and the Federal Mediation and Conciliation Service (1974 edition; any later amendments are not incorporated by this rule.).

Section 52.50 Suspension Pending the Hearing

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED REPEALER

- a) The employee charged may be suspended pending the hearing pursuant to the rules prescribed by the Board.
- b) If acquitted, the employee shall not suffer the loss of any salary by reason of the suspension.

Section 52.60 Pre-Hearing Procedures

- a) In the case of civil service employees, the hearing officer shall schedule a hearing date no less than 20 nor more than 45 days after the date of notification as defined in Section 52.30(d)(5), above.
- b) The parties and hearing officer may agree to a location for a hearing. If there is a dispute as to the location of the hearing, and the hearing officer fixes the place of the hearing, it must be held within the district.
- c) Discovery
 - 1) Either party may request in writing from the other, with copies to the State Board of Education and the hearing officer, a list of persons and their addresses who may have knowledge of facts related to the charges and/or the defenses thereto. This is not to be construed as a list of witnesses to be used at the hearing, but no person whose name is not so disclosed may testify except upon good cause shown and by permission of the hearing officer.
 - 2) Further discovery limited to interrogatories related to the charges and specifications, requests to produce, and lists of witnesses may be allowed for good cause.
 - A) Application for such discovery shall be made by motion to the hearing officer, with copies to the State Board of Education and the other party.
 - B) The motion shall state the specific nature of the discovery and the circumstances necessitating the discovery. If interrogatories are sought, a copy of same shall be attached to the motion.
 - C) The hearing officer shall rule on the motion within five days of receipt of said motion, sending copies of the decision to both

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED REPEALER

parties and to the State Board of Education. If necessary, the ruling shall set a date by which such discovery shall be completed. In the case of interrogatories, receipt of the hearing officer's ruling shall be deemed service of the interrogatories where the provisions of Section 52.60(c)(2)(B) have been complied with.

- D) In ruling on the motion, the hearing officer should not permit discovery which will unnecessarily delay the proceedings or harass a party, but should allow only that discovery which in his/her opinion will further the resolution of the dispute, avoid surprise to a party, or aid in doing substantial justice.
- d) Other pretrial motions may be resolved prior to the hearing at the discretion of the hearing officer, provided that no motion shall be resolved prior to the hearing which would result in a default judgment against the employee.

Section 52.70 The Hearing

- a) The hearing shall be public at the request of either the Board or the employee. The hearing officer shall exclude witnesses during the testimony of other witnesses upon the motion of either party.
- b) The parties may be present and represented by counsel.
- c) The order of proceedings shall be as follows:
 - 1) The hearing shall be opened by the recording of the place, time, and date of the hearing, the presence of the hearing officer and the parties and counsel, if any, and any stipulations as to facts. Pre-hearing motions not previously disposed of shall be heard at this time.
 - 2) Upon the opening of the hearing, the hearing officer shall allow the parties to make opening statements.
 - 3) The Board shall proceed first to present its evidence.
 - 4) Either party may cross-examine the witnesses, offer evidence, and present a defense or rebuttal.
 - 5) All testimony shall be taken under oath or affirmation administered by the hearing officer.

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED REPEALER

- 6) The hearing officer may issue subpoenas requiring the attendance of witnesses and, at the request of either of the parties, shall issue such subpoenas but may limit the number of witnesses to be subpoenaed on behalf of either party to not more than ten.
- 7) The hearing officer shall cause a record of the proceedings to be kept and shall employ a competent reporter to take stenotype notes of all the testimony. The State Board of Education shall pay for the attendance and services of the court reporter as well as for the transcript, if any, ordered by the hearing officer for the purpose of making his/her decision.
- 8) Exhibits, when offered by either party, may be received in evidence by the hearing officer. The names and addresses of all witnesses and exhibits, in order received, shall be made a part of the record. The hearing officer shall make rulings on the admissibility of exhibits.
- 9) The hearing officer for good cause shown may continue the hearing upon the request of the employee or the board or upon his/her own initiative, and shall adjourn when the employee and the Board agree thereto.
- 10) The hearing may proceed in the absence of either party who, after due notice, fails to be present and fails to obtain a continuance.
- 11) A decision of dismissal of a civil service employee shall not be made solely on the default of the employee. The hearing officer shall require the Board to submit such evidence as may be required to understand and determine the dispute, including but not limited to proof of due notice.
- 12) *The hearing officer shall consider and give weight to all the teacher's evaluations written pursuant to Article 24A.*
- 13) The hearing officer may, in his/her discretion, vary the normal procedure under which the Board first presents its case, but in any event shall afford full and equal opportunity to all parties for presentation of relevant proofs.
- 14) At the conclusion of the hearing, each party may make a closing statement (orally and/or written at the discretion of the hearing officer) incorporating arguments of fact and law.
- 15) The hearing shall not be considered closed until all evidence has been

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED REPEALER

submitted and briefs, if allowed by the hearing officer, have been received by the hearing officer. The hearing officer shall notify the parties, in writing, of the closing date of the hearing. A copy of the notice shall be forwarded to the State Board of Education.

- d) Evidentiary rules to be followed during the hearing shall be as follows:
- 1) The parties may offer such evidence as they desire and shall produce such additional evidence as the hearing officer may deem necessary to an understanding and determination of the dispute.
 - 2) The hearing officer shall be the judge of the relevancy and materiality of the evidence offered and strict conformity to legal rules of evidence shall not be required.
 - 3) Objections to evidentiary offers may be made and shall be noted in the record. The hearing officer shall have the power to make rulings including the power to exclude evidence. "Offers of Proof" shall be permitted.
 - 4) Any hostile witness may be examined as if under cross-examination.
 - 5) All documents not filed with the hearing officer at the hearing but which are arranged at the hearing to be subsequently submitted, shall be filed with the hearing officer with copies to the State Board of Education and the other party.
- e) Before concluding the hearing, the hearing officer shall inquire of all parties whether they have any further proofs to offer or witnesses to be heard. Upon receiving negative replies, the hearing officer shall declare the hearing concluded and shall be so recorded. If written briefs are to be submitted subsequently, the hearing officer shall so note.

Section 52.80 The Decision

- a) The hearing officer shall, within 45 days of the conclusion of the hearing, make a decision in writing as to whether or not the employee shall be dismissed. Such decision shall include findings of fact.
- b) If the hearing officer fails, without good cause, to render a decision within 45 days, the name of such hearing officer shall be struck from the master list of

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED REPEALER

hearing officers maintained by the State Board of Education for a period of at least six months.

- c) A copy of the decision shall be given to the State Board of Education to be forwarded by certified mail to both the employee and the Board or their legal representatives of record.
- d) The decision of the hearing officer is final unless reviewed under the Administrative Review Law (Ill. Rev. Stat. 1981, ch. 110, pars. 3-101 et seq.) as provided in Section 34-85b of The School Code.
 - 1) If neither party appeals, then either party desiring a transcript of the hearing shall pay for the cost thereof.
 - 2) The costs of preparing and filing the record of proceedings in the case of a review shall be paid by the party instituting the review.
 - 3) The record of the hearing shall include:
 - A) all pleadings and exhibits,
 - B) a statement of matters officially noticed,
 - C) a transcript of the hearing, and
 - D) the decision of the hearing officer.

Section 52.90 Waiver, Interpretation and Application of this Part

- a) Any party who proceeds with the hearing after knowledge that any provision of this Part prior to hearing has not been complied with and fails to state his/her objection thereto in writing to the State Board of Education or the hearing officer shall be deemed to have waived his/her right to object.
- b) The hearing officer shall interpret and apply the provisions of this Part insofar as they relate to his/her powers and duties and shall follow any court interpretation of this Part.
- c) A violation of the professional standards set forth in "The Code of Professional Responsibility for Arbitrators of Labor Management Disputes," of the National Academy of Arbitrators, the American Arbitration Association, and the Federal

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED REPEALER

Mediation and Conciliation Service (1974 edition; any later amendments are not incorporated by this rule) shall be grounds for removal of the hearing officer from the master list of hearing officers maintained by the State Board of Education.

- d) All other rules shall be interpreted and applied by the State Board of Education.

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Temporary Relocation Expenses
- 2) Code Citation: 23 Ill. Adm. Code 145
- 3) Section Number: 145.20 Proposed Action:
Amendment
- 4) Statutory Authority: 105 ILCS 5/2-3.77
- 5) A Complete Description of the Subjects and Issues Involved: As a result of the general review of these rules, it has been determined that the process for repaying loan funds to the State Board can be simplified. Instead of requiring that districts submit to ISBE the proceeds of tax levies related to these expenses within 30 days after the proceeds are received, we believe it will be sufficient for each affected district to make one payment annually, consisting of all proceeds received to that point. There is no penalty for a district whose levy proceeds arrive too late to be included in the relevant annual payment.
- 6) Will this proposed amendment replace emergency amendments currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed amendment contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objective: This rulemaking will not create or enlarge a State mandate.
- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Written comments may be submitted within 45 days after the publication of this notice to:

Sally Vogl
Agency Rules Coordinator
Illinois State Board of Education
100 North First Street
Springfield, Illinois 62777

217/782-5270

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

Comments may also be submitted via e-mail, addressed to:

rules@isbe.net

- 12) 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
- 13) Regulatory Agenda on which this rulemaking was summarized: January 2005

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

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES
 SUBTITLE A: EDUCATION
 CHAPTER I: STATE BOARD OF EDUCATION
 SUBCHAPTER c: FINANCE

PART 145
 TEMPORARY RELOCATION EXPENSES

Section	
145.10	Definitions
145.20	General Requirements
145.30	Allowable Expenses
145.40	Documentation (Repealed)
145.50	Accounting Requirements
145.60	Determination of Loan and Grant Amounts
145.TABLE A	Accounting Entries (Repealed)

AUTHORITY: Implementing and authorized by Section 2-3.77 of the School Code [105 ILCS 5/2-3.77].

SOURCE: Adopted at 10 Ill. Reg. 15060, effective August 28, 1986; amended at 22 Ill. Reg. 19777, effective October 30, 1998; amended at 29 Ill. Reg. _____, effective _____.

Section 145.20 General Requirements

- a) The school board of a district making initial application for a temporary relocation expense loan or grant shall adopt and submit to the State Board of Education along with its application:
 - 1) a resolution levying the tax provided for by Section 17-2.2c of the School Code [105 ILCS 5/17-2.2c] at the maximum rate permitted thereunder, in order to repay the State of Illinois for funds received pursuant to this Part; ~~and agreeing to submit the levy proceeds to the State Board within thirty days after their receipt by the district;~~ and
 - 2) a resolution encumbering all insurance proceeds payable to the district for relocation expenses for the affected facility and providing that ~~thesesueh~~ proceeds shall be paid to the State Board of Education within thirty days after their receipt by the district.

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

- b) Each district shall remit to the State Board of Education all proceeds received by the district from the tax levied under Section 17-2.2c of the School Code no later than January 31 of the year following the calendar year to which the proceeds are attributable. Proceeds received by the district after that date may, at the district's discretion, be remitted at any time prior to the next January 31 deadline or may be held by the district and included with that payment. (That is, only one payment per year shall be required, but a district may make additional payments at its option.)
- c) Each application shall indicate:
- 1) whether the application is for a loan, a grant, or both;
 - 2) the date and nature of the qualifying event leading to the application;
 - 3) that the school board has adopted a plan to house the displaced students permanently;
 - 4) the time required to effect the permanent solution described in the plan;
 - 5) an estimate of the necessary temporary relocation expenses to be incurred and a description of the necessity for them;
 - 6) an estimate of the amount of insurance proceeds to be received;
 - 7) an estimate of the amount of funds that can be raised through the levy of the tax called for in Section 17-2.2c of the School Code;
 - 8) the amount which the district does not expect to be able to repay to the State Board of Education from funds realized under subsections (b)(6) and (7) and for which an outright grant is requested, if any; and
 - 9) an agreement to comply with Section 2-3.77 of the School Code and this Part and to authorize the State Board of Education to deduct from the district's general State aid any amount owed to the State Board under this Part which is in default.
- d) Applications shall be considered on a first come, first served basis as long as funds remain available. Districts otherwise eligible but not receiving a loan or grant due to insufficiency of the appropriation shall receive first consideration in

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

the subsequent fiscal year.

(Source: Amended at 29 Ill. Reg. _____, effective _____)

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Electronic Transfer of Funds
- 2) Code Citation: 23 Ill. Adm. Code 155
- 3)

<u>Section Number</u> :	<u>Proposed Action</u> :
155.20	Amendment
155.30	Amendment
155.40	Amendment
155.50	Amendment
155.60	Amendment
155.70	Amendment
- 4) Statutory Authority: 105 ILCS 5/2-3.2a and 2-3.116
- 5) A Complete Description of the Subjects and Issues Involved: These proposed changes represent the results of the general review of this set of rules. In addition to general technical updating, the revisions include elimination of the option for certain participants to designate multiple bank accounts for the receipt of electronically transmitted funds. We have not found that many entities have used this option, perhaps because it entails time-consuming maintenance not only on ISBE's part but also on the part of payees.
- 6) Will these proposed amendments replace emergency amendments currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Do these proposed amendments contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objective: This rulemaking will not create or enlarge a State mandate.
- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Written comments may be submitted within 45 days after the publication of this notice to:

Sally Vogl
Agency Rules Coordinator
Illinois State Board of Education
100 North First Street

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

Springfield, Illinois 62777
217/782-5270

Comments may also be submitted via e-mail, addressed to:

rules@isbe.net

12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not-for-profit corporations affected: These rules affect small businesses, small municipalities, and not-for-profit corporations that receive payments from the State Board of Education.
- B) Reporting, bookkeeping or other procedures required for compliance: The existing provisions in these rules require that each payee make arrangements with a financial organization to receive electronic transfers of funds and provide certain information to the State Board to facilitate those payments.
- C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: January 2005

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

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES

SUBTITLE A: EDUCATION

CHAPTER I: STATE BOARD OF EDUCATION

SUBCHAPTER c: FINANCE

PART 155

ELECTRONIC TRANSFER OF FUNDS

Section

155.10	Purpose
155.20	Participation
155.30	Initiation of Electronic Fund Transfers
155.40	Altering Electronic Fund Transfer Arrangements
155.50	Terminating Electronic Fund Transfer Arrangements
155.60	Responsibilities of the State Superintendent <u>Board</u> of Education
155.70	Responsibilities of the Comptroller

AUTHORITY: Implementing and authorized by Sections 2-3.2a and 2-3.116 of the School Code [105 ILCS 5/2-3.2a and 2-3.116].

SOURCE: Adopted at 19 Ill. Reg. 16538, effective December 5, 1995; amended at 26 Ill. Reg. 16193, effective October 21, 2002; amended at 29 Ill. Reg. _____, effective _____.

Section 155.20 Participation

- a) Beginning July 1, 2002, each payment made under a program administered by the State Board of Education shall be disbursed by the Comptroller through the electronic transfer of funds. Entities required to receive funds electronically shall include but not be limited to:
 - 1) school districts;
 - 2) regional superintendents of schools;
 - 3) other public educational agencies such as cooperatives, joint agreements, and charter schools;
 - 4) other payees such as nonpublic schools, universities, hospitals, township treasurers, community-based organizations, and day care centers; and

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

- 5) individuals.
- b) At the option of the local school board, a school district may request its regional superintendent of schools to receive all payments due to the district. Each school board that wishes payments to be directed to the regional office of education shall adopt a resolution to this effect. A school district shall make this request in writing no later than May 31 of the fiscal year preceding the fiscal year in which the arrangement is to begin and shall forward to the regional superintendent a copy of the resolution adopted by the local board.
- 1) If the regional superintendent wishes to accept receipt of one or more districts' funds, he or she shall do so no later than June 10 of the fiscal year preceding the fiscal year in which the arrangement is to begin by submitting to the State SuperintendentBoard of Education a copy of each school board's resolution.
 - 2) If the regional superintendent does not accept receipt of a district's funds, he or she shall send written notification to this effect to the district superintendent no later than ten days after receiving the district's request so that the district may comply with the requirements of Section 155.30 of this Part prior to the beginning of the new fiscal year.
- c) The State SuperintendentBoard of Education shall direct the Comptroller to transfer each payment to an account identified by a participant pursuant to Section 155.30 of this Part, unless:
- 1) an entity participates in the public funds investment account administered by the State Treasurer and an approved application has been provided to the State SuperintendentBoard by the Treasurer;
 - 2) a State agency, by completing a form supplied by the State SuperintendentBoard, instructs the State SuperintendentBoard to remit funds due to the agency via intergovernmental transfer;
 - 3) the State Board is required to direct funds to a specified financial institution in conformance with an agreement executed under Section 820-50(b)7.59 of the Illinois Development Finance Authority Act [20 ILCS 3501/820-50(b)3505/7.59], Section 13 of the Local Government Debt Reform Act [30 ILCS 350/13], or other applicable law; or

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

- 4) the expected duration of a financial relationship is so short or the expected number of payments is so small as to make the establishment of an arrangement for the electronic transfer of funds undesirable in the ~~judgment~~judgement of the State ~~Superintendent~~Board.

(Source: Amended at 29 Ill. Reg. _____, effective _____)

Section 155.30 Initiation of Electronic Fund Transfers

- a) To initiate electronic transfer of payments, the participant shall provide the following information to the State ~~Superintendent~~Board of Education on an authorization form prescribed by the State ~~Superintendent~~Board and approved by the Comptroller.
 - 1) The participant's nine-digit taxpayer identification number or Social Security number;
 - 2) The participant's eleven-digit code assigned by the State ~~Superintendent~~Board;
 - 3) The name of the participant;
 - 4) The telephone number of the participant's main business office;
 - 5) The street address, city, state, and zip code of the participant's main business office;
 - 6) The name of the chief executive officer for the participant;
 - 7) A dated statement of authorization, signed by the chief executive officer of the participant, for all payments to be directed to the participant's account and for necessary debit entries and adjustments for errors to be initiated;
 - 8) The name of the financial organization to which funds are to be electronically transferred, which shall be a member of the Federal Access or the Automated Clearing House (the nationwide network that provides the electronic payment system);
 - 9) The street address, city, state, and zip code of the financial organization designated;

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

- 10) The title, type (checking or savings), and number of the account into which electronic transfers are to be made;
 - 11) The nine-digit routing number of the financial organization designated; and
 - 12) The telephone number of the financial organization.
- b) A copy of a deposit slip or voided check for the account into which funds are to be electronically transferred must be attached to the authorization application form required under subsection (a) of this Section. If no deposit slip or voided check is available, the participant shall submit a signed statement from the financial organization verifying that the account belongs to the participant and that the information supplied is correct.
- c) Each participant shall make all necessary arrangements with the designated financial organization for the receipt of electronic fund transfers, including at least:
- 1) obtaining the organization's signed, written agreement for electronic transfers, on a form supplied by the State Superintendent Board of Education as approved by the Comptroller, which shall state that:
 - A) the financial organization agrees to receive and deposit sums for the participant payee,
 - B) the financial organization understands that its account number will be included as additional identification on individual payment credits to the participant payee's account and that the participant payee has the right to cancel the authorization with the financial organization,
 - C) the financial organization agrees to forward all communications from the State of Illinois to the participant payee promptly, including the information contained in the addendum,
 - D) the financial organization agrees to return all payments that are not due to the participant payee, and

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

- E) the financial organization may reserve the right to cancel the agreement by notice to the participant payee; and
- 2) establishing the frequency and detail of transaction communications to ensure the participant payee's receipt of the 38-character descriptive entry called for in Section 155.60(c) of this Part, so that the origin and nature of each payment can be correctly identified.
- d) ~~Each~~Unless otherwise provided in this subsection (d), each participant shall designate only one financial organization and one account number to which funds shall be electronically transferred.
- 1) ~~A regional superintendent of schools may designate two accounts, provided that one is reserved for the operational funds of the regional office and the other is a distributive account into which funds received for school districts shall be deposited.~~
- 2) ~~A fiscal or administrative agent for a cooperative, a joint agreement, or another similar public educational entity may designate multiple accounts if necessary to segregate the funds attributable to different members.~~
- 3) ~~A university or college may designate one account for each of its administrative offices (e.g., the University of Illinois at Urbana/Champaign and at Chicago).~~
- 4) ~~A nonpublic or not-for-profit entity such as a child care company that operates several day care centers may designate one account for each of its administrative offices.~~
- 5) ~~A participant may receive approval from the State Board of Education to designate more than one account if it demonstrates that its structure, scope, or complexity compares to that of an entity discussed in any of subsections (d)(1) through (4) of this Section.~~
- e) Within 30 days after receipt of a completed authorization application from a participant, the State ~~Superintendent Board~~ of Education will request the Comptroller to establish~~confirm the establishment of~~ the electronic transfer of funds for the participant by submission of a pre-note or zero fund transfer, i.e., a practice exercise in which no funds are transmitted.

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

- f) After a pre-note transfer from the Comptroller is attempted and the time period allowed for completion of the pre-note transfer has expired, all payments to the participant for programs administered by the State Board of Education will be directed electronically unless the Comptroller receives notice from the financial institution that the pre-note transfer has failed or as may be otherwise required by law.
- g) Upon receipt of notice that a pre-note transfer has failed, the Comptroller shall notify the State ~~SuperintendentBoard~~ of Education. The State ~~SuperintendentBoard of Education~~ shall take the actions necessary to identify the reason for the pre-note transfer's failure and to facilitate the electronic payment to the participant.

(Source: Amended at 29 Ill. Reg. _____, effective _____)

Section 155.40 Altering Electronic Fund Transfer Arrangements

- a) A participant wishing to designate a different account for the transfer of funds under this Part shall complete a new ~~authorization~~~~application~~ form as called for in Section 155.30(a) of this Part and submit it to the State ~~SuperintendentBoard~~ of Education at least ~~30~~~~thirty~~ days before activation of transfers to the new account is desired.
- b) Each change in an account will be confirmed via submission of a pre-note transfer as described in Section 155.30(e) of this Part.
- c) After the State ~~SuperintendentBoard~~ receives confirmation of an accurate pre-note fund transfer, all payments to the participant will be made to the newly designated account.

(Source: Amended at 29 Ill. Reg. _____, effective _____)

Section 155.50 Terminating Electronic Fund Transfer Arrangements

The State ~~SuperintendentBoard~~ of Education and the Comptroller shall have the right to terminate an arrangement for the electronic transfer of funds for repeated problems or other interruptions in the processing of electronic fund transfers, or as otherwise permitted or required by law.

(Source: Amended at 29 Ill. Reg. _____, effective _____)

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

Section 155.60 Responsibilities of the State ~~Superintendent~~Board of Education

- a) The State ~~Superintendent~~Board of Education shall follow the instructions given by a participant in an ~~authorization form~~application submitted pursuant to Section 155.30 or Section 155.40 of this Part.
- b) The State ~~Superintendent~~Board of Education shall transmit information received from participants pursuant to this Part to the Comptroller, to ensure that participants receive transfers into the correct accounts.
- c) The State ~~Superintendent~~Board of Education shall transmit to the Comptroller a 38-character descriptive entry for each payment authorized which, when communicated to the participant (see Section 155.70 of this Part), will describe the origin and nature of the payment.
- d) The State ~~Superintendent~~Board of Education or the Comptroller may withhold payments to a participant as permitted or required by law. The State ~~Superintendent~~Board or the Comptroller, as applicable, shall provide written notice to the participant of ~~this~~its action.
- e) The State ~~Superintendent~~Board of Education may withhold payments to a participant for failure to meet the terms of a contract.
- f) The State ~~Superintendent~~Board of Education will handle all inquiries regarding electronic fund transfers made by the State ~~Superintendent~~Board, and only authorized personnel of the State Board shall forward unresolved inquiries to the ~~Office~~office of the Comptroller.

(Source: Amended at 29 Ill. Reg. _____, effective _____)

Section 155.70 Responsibilities of the Comptroller

- a) The Comptroller will receive transmissions of information and instructions from the State ~~Superintendent~~Board of Education permitting the electronic transfer of funds.
- b) In response to instructions received from the State ~~Superintendent~~Board, the Comptroller will transmit payments electronically to designated financial institutions. Each such transmission shall include the complete 38-character descriptive entry called for in Section 155.60(c) of this Part.

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

- | c) The Comptroller will notify the State ~~Superintendent~~Board of Education of all unsuccessful pre-note fund transfers.
- d) The Comptroller may issue a warrant instead of transferring funds electronically when:
- 1) A designated financial institution rejects a transfer attempted pursuant to this Part;
 - 2) An amount is subject to garnishment, offset, reduction, involuntary withholding, or other proceeding as provided by law (any amount payable after such action may be issued as a warrant); or
 - 3) The transfer is rejected by the Comptroller's internal authorization system.

(Source: Amended at 29 Ill. Reg. _____, effective _____)

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Contested Cases and Other Formal Hearings
- 2) Code Citation: 23 Ill. Adm. Code 475
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
475.10	Amendment
475.15	New Section
475.20	Amendment
475.30	Amendment
475.40	Amendment
475.50	Amendment
475.60	Amendment
475.70	Amendment
475.80	Amendment
475.90	Amendment
475.100	Amendment
- 4) Statutory Authority: 5 ILCS 100/5-10(a)(i)
- 5) A Complete Description of the Subjects and Issues Involved: Part 475 is being generally updated and also revised to incorporate a number of provisions that are currently found in another set of rules (Hearings Before the State Teacher Certification Board – Part 480). These two Parts cover similar topics and therefore lend themselves to being combined.

Part 475 will now require evidentiary hearings that are under the jurisdiction of the Certification Board (STCB) to be conducted by a hearing officer in accordance with the Illinois Administrative Procedure Act (IAPA), unless the STCB specifically elects not to appoint a hearing officer. A hearing can be held in the presence of the entire Certification Board or independent of it. In any case, the STCB will make the final decision.

Others of the amendments change timeframes for notices and responses in order to give the parties more time to prepare their material. Finally, the language of the rules is generally being brought into conformance with the requirements of the IAPA and current rulemaking style. These amendments are accompanied by the proposed repeal of Part 480.
- 6) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

- 8) Does this rulemaking contain incorporations by reference? No
- 9) Are there any other proposed rulemakings pending on this Part? No
- 10) Statement of Statewide Policy Objective: This rulemaking will not create or enlarge a State mandate.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Written comments may be submitted within 45 days after the publication of this notice to:

Sally Vogl
Agency Rules Coordinator
Illinois State Board of Education
100 North First Street
Springfield, Illinois 62777
(217) 782-5270

Comments may also be submitted via e-mail, addressed to:

rules@isbe.net

- 12) 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
- 13) Regulatory Agenda on which this rulemaking was summarized: January 2005

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

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES
 SUBTITLE A: EDUCATION
 CHAPTER I: STATE BOARD OF EDUCATION
 SUBCHAPTER n: DISPUTE RESOLUTION

PART 475
 CONTESTED CASES AND OTHER FORMAL HEARINGS

Section

475.10	Authority and Applicability
<u>475.15</u>	<u>Alternatives to Appointment of Hearing Officers</u>
475.20	Filing and Form of Documents
475.30	Appearance of Parties
475.40	Notice of Hearing
475.50	Motion and Answer
475.60	Hearing Officer: <u>Qualifications</u> , Powers and Duties
475.70	Pre-Hearing Conferences and Consent Orders
475.80	<u>Depositions and</u> Discovery
475.90	Hearings
475.100	Orders

AUTHORITY: Implementing by Section 5-10(a)(i) of the Illinois Administrative Procedure Act [5 ILCS 100/5-10(a)(i)] and Article 21 of the School Code [105 ILCS 5/Art. 21] and authorized by Section 5-10(a)(i) of the Illinois Administrative Procedures Act.

SOURCE: Adopted at 4 Ill. Reg. 28, p. 253, effective July 9, 1980; codified at 8 Ill. Reg. 13757; amended at 29 Ill. Reg. _____, effective _____.

Section 475.10 Authority and Applicability

- a) ~~This~~~~The rules in this~~ Part is authorized by Section 5-10(a)(i) of are enacted pursuant to the Illinois Administrative Procedure Act [5 ILCS 100/5-10(a)(i)]~~(Ill. Rev. Stat. 1983, ch. 127, par. 1004(a)(1))~~.
- b) ~~This Part~~~~These rules~~ shall apply to all administrative hearings conducted under the jurisdiction of the Illinois State Board of Education (ISBE), ~~or~~ the State Superintendent of Education, or the State Teacher Certification Board (STCB) wherein the provisions of the Illinois Administrative Procedure Act concerning contested cases ~~shall~~ apply or where provided by the rules of the State Board of Education governing formal administrative hearings, except as provided in

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

subsection (c) of this Section below.

- c) Where statutes or other rules applicable to ~~of the ISBE or the STCB~~ State Board of Education contain practices different from those set forth in this Part ~~these rules~~, then those separate statutes and rules shall apply insofar as they differ from this Part, e.g., in the case of hearings related to renewal of teaching certificates conducted under Section 21-14 of the School Code [105 ILCS 5/21-14(h)(2)] and pursuant to 23 Ill. Adm. Code 25 (Certification) ~~these rules~~.

(Source: Amended at 29 Ill. Reg. _____, effective _____)

Section 475.15 Alternatives to Appointment of Hearing Officers

- a) When an administrative hearing is to be held pursuant to this Part, the entity under whose jurisdiction the hearing will be held may determine whether a hearing officer will be designated. When no hearing officer is designated, all authority to conduct the hearing pursuant to this Part shall be exercised by:
- 1) the State Superintendent or his representative, for hearings conducted under the jurisdiction of the ISBE or the State Superintendent;
 - 2) the STCB or its representative, for hearings conducted under the jurisdiction of the STCB.
- b) For purposes of this Part, the term "hearing officer" shall, as applicable, include the individuals described in subsection (a) of this Section.

(Source: Added at 29 Ill. Reg. _____, effective _____)

Section 475.20 Filing and Form of Documents

- a) Documents and requests permitted or required to be filed with the ISBE ~~State Board of Education~~ or the State Superintendent of Education pursuant to this Part ~~in connection with a hearing~~ shall be addressed and mailed or personally delivered in duplicate to the State Superintendent of Education, 100 North First Street, Springfield, Illinois 62777, unless another address is designated in the notice of hearing, such as for electronic transmission or the submission of facsimile copies. The office of the State Board of Education is open for filing of documents from 8:00 a.m. to 5:00 p.m., Monday through Friday, except on federal ~~National~~ and State legal holidays.

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

- b) Documents and requests permitted or required to be filed with the STCB in connection with an evidentiary hearing shall be mailed or personally delivered to the Secretary of the STCB, at the same address specified in subsection (a) of this Section.
- c) Documents shall clearly show the title of the proceedings in connection with which they are filed.
- d)e) Except as otherwise provided, a copy of all documents including notices, motions, and petitions, shall be simultaneously filed with the designated hearing officer and the General Counsel~~Legal Advisor~~ to the ISBE (General Counsel) State Superintendent of Education at 100 North First Street, Springfield, Illinois 62777~~Room 607, 188 West Randolph Street, Chicago, Illinois, 60601.~~
- e)d) Documents shall be presented in letter-quality print on one side only of letter-sized~~typewritten or reproduced from typewritten copy on letter or legal size paper,~~ and one; ~~and e)~~ ~~One~~ copy of each document filed shall be signed by the party or by the party's authorized representative.
- f) Computation of any period of time prescribed by this Part or any other applicable requirement~~section~~ shall begin with the first business day following the date of filing of the document with the State Superintendent of Education and shall run until the end of the last day, or the next following business day if the last day is a Saturday, Sunday or legal holiday. Notice requirements shall be construed to mean notice received, but proof that notice was sent by certified or registered mail at least four days prior to ~~dispatched by means reasonably calculated to be received by~~ the prescribed date shall be prima facie proof that notice was timely received.

(Source: Amended at 29 Ill. Reg. _____, effective _____)

Section 475.30 Appearance of Parties

Any person entitled to participation in proceedings may appear as follows:

- a) A natural person may appear on his/her own behalf or by a representative designated in writing.
- b) An association or other business, nonprofit or government organization may

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

appear by any bona fide officer, employee or representative designated in writing.

- c) For hearings conducted under the jurisdiction of the ISBE or the State Superintendent of Education, a designated representative appearing on behalf of a party shall file a written notice of appearance with the hearing officer designated by the State Superintendent. For hearings conducted under the jurisdiction of the STCB, a designated representative appearing on behalf of a party shall file a written notice of appearance with the hearing officer designated by the STCB, the Secretary of the STCB, or the State Superintendent, as provided in Section 475.60 of this Part.~~Hearing Officer.~~

(Source: Amended at 29 Ill. Reg. _____, effective _____)

Section 475.40 Notice of Hearing

- a) All hearings conducted under the jurisdiction of the ISBE or the State Superintendent shall be initiated by ~~the~~ issuance by the ISBE ~~State Board of Education~~ or the State Superintendent of Education, upon written request or upon the Superintendent's own motion, of a written Notice of Opportunity for Hearing, which shall be served upon all known parties to the hearing.
- b) All hearings conducted under the jurisdiction of the STCB shall be initiated when the STCB or the State Superintendent of Education issues a written Notice of Opportunity for Hearing. Such a notice shall be served upon all known parties to the hearing and shall be issued:
- 1) upon written request of a person entitled to a hearing; or
 - 2) upon presentation of evidence to the STCB or the State Superintendent demonstrating that a certificate should be suspended or revoked under Section 21-1 or 21-23 of the School Code [105 ILCS 5/21-1 or 21-23] or that an application for a certificate should be denied under Section 21-1 of the School Code.
- c) Any party receiving a Notice of Opportunity for Hearing must file a request for hearing within ten days after receipt. When such a request is received, a Notice of Hearing shall be issued by the entity under whose jurisdiction the hearing will be held.
- d)b) Requirements for Service of Notices

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

- 1) Service of ~~either a the~~ Notice of Opportunity for Hearing or a Notice of Hearing shall be complete when it has been: served
- A) ~~4)~~ served in person; or
- B) ~~2)~~ served by certified or registered ~~deposited in the~~ United States Mail, ~~postage prepaid~~, addressed to the last known address of the person(s), partnership(s), association(s), or corporation(s) involved ~~not less than ten (10) days before the day designated for the hearing. Such notice shall be served by certified or registered mail.~~
- 2) A Notice of Hearing shall be served no fewer than 30 days before the day designated for the hearing.
- 3) The person serving the notice shall certify to the manner and date of service in the following form:

I certify that I served the foregoing by depositing a copy thereof in the United States Mail, postage prepaid, on _____, 20____, addressed to the the following at the address shown:

Signature

If service is made by a non-attorney, the certificate of manner and date of service shall be subscribed and sworn to before a notary public.

- e)e) A Notice of ~~Opportunity for~~ Hearing served under ~~paragraph (a) of~~ this Section shall include:
- 1) The time, place and nature of the hearing;
 - 2) The legal authority and jurisdiction under which the hearing is to be held;
 - 3) A reference to the particular section of the statutes and rules involved;

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

- 4) A short and plain statement of the matters asserted, except where a more detailed statement is otherwise provided for by law; and
- 5) A designation of a ~~hearing officer~~Hearing Officer, if any, to preside over the hearing, and the ~~hearing officer's~~Hearing Officer's address.

~~f)~~ A copy of a ~~Notice of Hearing~~notice of hearing served pursuant to ~~this Section~~paragraph (a) above shall be referred to the ~~designated hearing officer or other designated individual~~Hearing Officer designated therein, together with the original complaint, application or report and any written request for a hearing filed pursuant to this Part.

~~g)~~e) Service of any document ~~other than a notice~~ upon any party may be made by personal delivery or by depositing it in the United States Mail, postage prepaid, addressed to the last known address of the party. ~~The person serving the document shall certify to the manner and date of service as specified in subsection (d)(3) of this Section.~~

- 1) ~~The person serving the document shall certify to the manner and date of service in the following form:~~

~~I certify that I served the foregoing by depositing a copy thereof in the United States Mail, postage prepaid, on _____, 19____, addressed to the following at the address shown:~~

Signature

- 2) ~~If service is made by a non-attorney, the certificate of manner and date of service shall be subscribed and sworn to before a notary public.~~

(Source: Amended at 29 Ill. Reg. _____, effective _____)

Section 475.50 Motion and Answer

- a) ~~Any party receiving a Notice of Opportunity for Hearing must file a request for hearing within ten (10) days of receipt.~~ A written answer ~~to a Notice of Hearing~~ may be filed not later than seven ~~(7)~~ days prior to the date of the hearing. ~~For hearings conducted under the jurisdiction of the ISBE or the State Superintendent~~

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

~~of Education, all~~ answers or motions preliminary to a hearing shall be presented to the State Superintendent or a designated ~~hearing officer~~Hearing Officer in accordance with Section 475.20 of ~~this Part~~these rules at least seven ~~(7)~~ days prior to the date of the hearing. For hearings conducted under the jurisdiction of the STCB, all answers or motions preliminary to a hearing shall be presented to the Secretary of the STCB or a designated hearing officer in accordance with Section 475.20 of this Part at least seven days prior to the date of the hearing. Failure to file an answer shall be deemed a general denial of matters asserted.

- b) Unless made orally on the record during a hearing, or unless the ~~hearing officer~~Hearing Officer directs otherwise, a motion shall be in writing and shall be accompanied by any affidavits or other evidence relied upon, and, when appropriate, by a proposed order. For hearings conducted under the jurisdiction of the ISBE or the State Superintendent of Education, at~~At~~ least two copies of all such motions shall be filed with the ~~General Counsel, Legal Advisor and~~ one copy shall be filed with the ~~hearing officer~~Hearing Officer and at least one copy shall be served on each additional party, if any, to the hearing. For hearings conducted under the jurisdiction of the STCB, at least two copies of all motions shall be filed with the Secretary to the STCB, one copy shall be filed with the General Counsel, one copy shall be filed with the hearing officer, and at least one copy shall be served on each additional party, if any, to the hearing.
- c) Within seven ~~(7)~~ days after service of a written motion, or such other period of time as the ~~hearing officer~~Hearing Officer may prescribe, owing to the complexity of the issues involved, a party may file a response in support of or in opposition to the motion, accompanied by affidavits or other evidence.
- d) No oral argument will be heard on a motion unless the ~~hearing officer~~Hearing Officer directs otherwise. If oral argument is permitted, then the hearing officer shall issue an order setting a date, time, and place for such argument. A telephone conference may be scheduled. A written brief may be filed with a motion or an answer to a motion, stating the arguments and authorities relied upon.
- e) A written motion will be disposed of by written order, with ~~and on~~ notice to~~of~~ all parties.
- f) The ~~hearing officer~~Hearing Officer shall rule upon all motions, except that the ~~hearing officer~~Hearing Officer shall have no authority to dismiss or decide a hearing on the merits without granting all parties to the proceeding a right to be

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

heard and to establish a record.

- g) Unless otherwise ordered, the filing of an answer or motion shall not stay the proceeding or extend the time for the performance of any act.
- h) A party may participate in the proceeding without forfeiting any jurisdictional objection, if such objection is raised at or before the time the party files an answer or motion, or, if no answer or motion is made, before the commencement of the hearing.
- i) Additional Parties
- 1) In the interest of convenient, expeditious and complete determination of matters, the ~~hearing officer~~Hearing Officer may consolidate or sever hearing proceedings involving any number of parties; and may order additional parties to be joined.
 - 2) Upon timely written application, the ~~hearing officer~~Hearing Officer may permit any party to intervene in a hearing proceeding, subject to the necessity for conducting an orderly and expeditious hearing, when ~~any~~either of the following conditions is met:
 - A) ~~The~~When the party is so situated as to be adversely affected by a final order arising from the hearing; ~~or~~
 - B) The party has an unconditional statutory right to intervene in the proceedings; or
 - C) ~~A~~When a party's circumstances and the hearing proceeding have a question of law or fact in common.
 - 3) Two copies of a petition for intervention shall be filed with the General Counsel, Legal Advisor and one copy shall be filed with the ~~hearing officer~~Hearing Officer, and one copy shall be served on each party, no later than 48 hours prior to the date set for hearing of matters set forth in the Notice of Hearing. The ~~hearing officer~~Hearing Officer may permit later intervention when there is good cause shown for the delay.
 - 4) An intervenor shall have all the rights of an original party, except that the ~~hearing officer~~Hearing Officer may, in the Order allowing intervention,

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

provide that the party shall not raise issues which might more properly have been raised at an earlier stage of the proceeding, that the party shall not raise new issues or add new parties, or that in other respects the party shall not interfere with the conduct of the hearing, as justice and the avoidance of undue delay might require.

- j) A hearing may be postponed or continued for due cause by the hearing officer~~Hearing Officer~~ upon the hearing officer's~~Hearing Officer's~~ own motion or upon motion of a party to the hearing. Such motion of the party shall set forth facts attesting that the request for continuance is not for the purpose of delay. Notice of any postponement or continuance shall be given in writing to all parties to the hearing within a reasonable time in advance of the previously scheduled hearing date. All parties involved in a hearing shall attempt to avoid undue delay caused by repeated postponements or continuances so that the subject matter may be resolved expeditiously.

(Source: Amended at 29 Ill. Reg. _____, effective _____)

Section 475.60 Hearing Officer: Qualifications, Powers and Duties

- a) *The State Superintendent or an attorney licensed to practice law in Illinois may act as a hearing officer to preside over a hearing and to exercise all the powers of a hearing officer enumerated in this Part. [5 ILCS 100/10-20]*
- b) Appointment of Hearing Officer
- 1) When a hearing officer is to be appointed for a hearing conducted under the jurisdiction of the ISBE or the State Superintendent, the appointment shall be made by the State Superintendent.
- 2) When a hearing officer is to be appointed for a hearing conducted under the jurisdiction of the STCB, the STCB may either appoint the hearing officer or request that the State Superintendent appoint a hearing officer. At the direction of the STCB, a hearing officer may either preside over the hearing in the presence of the STCB or conduct an independent hearing. A hearing officer may also afford the STCB such legal counsel as it may require during the course of a hearing and until a final order is executed.
- c) A hearing officer~~Hearing Officer~~ designated to preside over a hearing shall have all powers necessary and appropriate to conduct a fair, full and impartial hearing,

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

including the following:

- 1) To administer oaths and affirmations;
 - 2) To rule upon offers of proof and receive relevant evidence;
 - 3) To exercise the power of the Superintendent, and issue subpoenas under any applicable statute;
 - 4) To provide for discovery and determine its scope;
 - 5) To initiate, schedule, and conduct a pre-hearing conference;
 - 6) To regulate the course of the hearing and the conduct of the parties and their counsel therein;
 - 7) ~~6)~~ To consider and rule upon procedural requests;
 - 8) To rule upon motions, objections, and evidentiary questions;
 - 9) ~~7)~~ To hold conferences for the settlement or simplification of the issues;
 - 10) ~~8)~~ To 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;
 - 11) ~~9)~~ To make decisions in accordance with the appropriate Act, any rules adopted pursuant to that Act ~~and Rules~~, this Part, and the Illinois Administrative Procedure Act [5 ILCS 100].
- d) b) *Except in the disposition of matters ~~that~~which are authorized by law to be entertained or disposed of on an ex parte basis, no agency employee or hearing officer ~~Hearing Officer~~ shall, after notice of hearing pursuant to this Part, communicate directly or indirectly, in connection with any issue of fact, with any person or party, or in connection with any other issue with any party or representative except upon notice and opportunity for all parties to participate. However, an agency member may communicate with other members of the agency and an agency member or hearing officer ~~Hearing Officer~~ may have the aid and advice of one or more personal assistants. [5 ILCS 100/10-60]*

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

e)e) Disqualification:

- 1) When a ~~hearing officer~~Hearing Officer deems himself or herself disqualified to preside over a particular hearing, he or she shall withdraw ~~therefrom~~ by notice on the record directed to the State Superintendent of Education for hearings conducted under the jurisdiction of the ISBE or the State Superintendent or to the Secretary of the STCB for hearings conducted under the jurisdiction of the STCB.
- 2) The ISBE, State Superintendent, or STCB, on its own motion or the motion of any party, may disqualify a hearing officer for bias or conflict of interest as provided under Section 10-30(b) of the Illinois Administrative Procedure Act [5 ILCS 100/10-30(b)]. A party's motion shall be supported by affidavits setting forth the alleged grounds for disqualification. A motion by the ISBE, the State Superintendent, or the STCB shall state the alleged grounds for disqualification. Any party who deems a Hearing Officer, for any reason, especially for reasons of bias, prejudice, or possible prior involvement, to be disqualified to preside over a particular hearing may file with the Legal Advisor a motion to disqualify and remove the Hearing Officer, such motion to be supported by affidavits setting forth the alleged grounds for disqualification. The Legal Advisor shall refer the motion, together with affidavits, including any affidavits of the Legal Advisor, to the State Superintendent of Education who shall rule upon the motion.

f)d) Failure ~~of~~ or Refusal to Appear or to Obey the Rulings of a Presiding Hearing Officer:

- 1) Contumacious or improper conduct at any hearing before the ~~hearing officer~~Hearing Officer shall be grounds for exclusion from the ~~hearing~~Hearing.
- 2) If a witness or a party refuses to answer a question after being directed to do so or refuses to obey an order to provide or to permit discovery, the ~~hearing officer~~Hearing Officer may make such orders with regard to the refusal as are just and appropriate, including an order denying the application or complaint of a party or regulating the contents of the record of the ~~hearing~~Hearing.

g) At the request of any party, the hearing officer shall exclude all witnesses from

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

the hearing room, except that, at any time, one representative of each party in addition to counsel shall be allowed to be present.

- h)e) On any procedural question not regulated by this Part~~these rules~~, the appropriate Act ~~and Rules~~, or the Illinois Administrative Procedure Act, a hearing officer~~Hearing Officer~~ may be guided to the extent practicable by any pertinent provisions of the Illinois Supreme Court Rules or the Illinois Code of Civil Procedure [735 ILCS 5].

(Source: Amended at 29 Ill. Reg. _____, effective _____)

Section 475.70 Pre-Hearing Conferences and Consent Orders

- a) Convening a Conference: Upon the hearing officer's~~Hearing Officer's~~ own motion or the motion of a party, the hearing officer~~Hearing Officer~~ may direct the parties or their counsel to meet with the hearing officer~~Hearing Officer~~ for a conference to consider:
- 1) Simplification of the issues;
 - 2) Necessity or desirability of amendment to documents for purposes of clarification, simplification or limitation;
 - 3) Stipulations, admissions of fact and of contents and authenticity of documents;
 - 4) Limitation of the number of witnesses;
 - 5) Propriety of prior mutual exchange between and among the parties who have prepared testimony or exhibits; and
 - 6) Such other matters as may tend to expedite disposition of the proceedings and assure a just conclusion thereof.
- b) Record of Conference: The hearing officer~~Hearing Officer~~ shall make an order that~~which~~ recites the action taken at the conference, the amendments allowed to any documents that~~which~~ have been filed, and the agreements made between the parties as to any of the matters considered. This order shall limit,~~and which limits~~ the issues for hearing to those not disposed of by admissions or agreements, and such an order, when entered, shall control~~controls~~ the subsequent course of

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

the hearing unless modified at the hearing to prevent manifest injustice.

- c) Consent Orders: At any time before the reception of evidence in any hearing or during any hearing, a reasonable opportunity may be afforded to permit negotiations by the parties or an agreement containing consent findings and a rule or order disposing of the whole or any part of the proceedings. The allowance of such opportunity and the duration thereof shall be in the discretion of the ~~hearing officer~~presiding Hearing Officer after consideration of the nature of the proceedings, the requirements of the public interest, the representations of the parties, and the probability of an agreement ~~that~~which will result in a just disposition of the issues involved.
- 1) Any agreement containing consent findings and rules or orders disposing of a proceeding shall also provide:
 - A) That the rule or order shall have the same force and effect as if made after a full hearing;
 - B) That the entire record on which any rule or order may be based shall consist solely of the application or complaint and the agreement;
 - C) A waiver of any further procedural steps before the ~~hearing officer~~Hearing Officer for the State Superintendent of Education; and
 - D) Waiver of any right to challenge or contest the validity of the findings and of the rule or order made in accordance with the agreement.
 - 2) On or before the expiration of the time granted for negotiations, the parties or their counsel may:
 - A) Submit the proposed agreement in writing to the ~~hearing officer~~presiding Hearing Officer for his or her consideration; or
 - B) Inform the ~~hearing officer~~presiding Hearing Officer that agreement cannot be reached.
 - 3) In the event that an agreement contains consent findings and a rule or

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

order is submitted in the time allowed ~~therefore~~, the hearing officer, upon written approval of the final decision-maker, i.e., the ISBE, the STCB, or the State Superintendent, presiding Hearing Officer may accept ~~the such~~ agreement by issuing a decision based upon the agreed findings in accordance with Section 10-25(c) of the Illinois Administrative Procedure Act [5 ILCS 100/10-25(c)].

(Source: Amended at 29 Ill. Reg. _____, effective _____)

Section 475.80 Depositions and Discovery

- a) For reasons of unavailability or for other good cause shown, the testimony of any witness may be taken by deposition. Depositions may be taken orally, or upon written interrogatories before any person designated by the hearing officer presiding Hearing Officer and having the power to administer oaths.
- b) Any party desiring to take the deposition of a witness may make application in writing to the hearing presiding Hearing Officer, setting forth:
 - 1) The reasons why such deposition should be taken;
 - 2) The time when, the place where, and the name and post office address of the person before whom the deposition is to be taken;
 - 3) The name and address of each witness; and
 - 4) The subject matter concerning which each witness is expected to testify.
- c) Such notice as the hearing officer presiding Hearing Officer may order shall be given by the party taking the deposition to every other party.
- d) Each witness testifying upon deposition shall be sworn, and the parties not calling this witness shall have the right to cross-examination. The questions propounded and the answers thereto, together with all objections made, shall be reduced to writing, read to the witness, subscribed to by the witness and certified by the officer before whom the deposition is taken. Thereafter, the officer shall seal the deposition, with two copies thereof, in an envelope and mail the same by registered mail to the hearing officer presiding Hearing Officer. Subject to such objections to the questions and answers as were noted at the time of taking, the deposition may be read and offered in evidence by the party taking it as against

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

any party who was present, was represented at the taking of the deposition, or ~~who~~ had due notice of the taking of the deposition~~thereof~~. No part of a deposition shall be admitted in evidence unless there is a showing that the reasons for the taking of the deposition in the first instance exist at the time of the hearing.

- e) Whenever appropriate to a just disposition of any issue in a hearing, the hearing officer~~presiding Hearing Officer~~ may allow discovery by any other appropriate procedure, such as by written interrogatories upon a party, by requests for admission, or by entry for inspection of the employment or place of employment involved.

(Source: Amended at 29 Ill. Reg. _____, effective _____)

Section 475.90 Hearings

- a) All hearings shall be public unless required by statute to be otherwise.
- b) The following shall be the order of proceedings of all hearings, subject to modification by the hearing officer~~presiding Hearing Officer~~ for good cause:
- 1) Presentation, argument, and disposition of motions preliminary to a hearing on the merits of the matters raised in the notice or answer;
 - 2) Presentation of complainant's opening statement;
 - 3) Presentation of respondent's opening statement;
 - 4) Complainant's case;
 - 5) Respondent's case;
 - 6) Complainant's rebuttal, if any;
 - 7) Respondent's rebuttal, if any;
 - 8) Complainant's closing statement;
 - 9) ~~7)~~ Respondent's closing statement;
 - 10) ~~8)~~ Presentation and argument of all motions prior to final order;

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

- ~~11)9)~~ Presentation of written briefs if required or allowed by ~~the hearing officer~~presiding Hearing Officer;
- ~~12)10)~~ Filing of proposed findings of fact and conclusions of law and recommendations of the ~~hearing officer~~Hearing Officer.
- c) The complainant shall have the burden of proof except in cases under the jurisdiction of the STCB pursuant to Section 21-1 of the School Code where the STCB must determine the good character of an applicant, in which case the applicant has the burden of proof.
- d) Failure of a party to appear on the date set for hearing or failure to proceed as ordered by the ~~hearing officer may, at the sole discretion of the hearing officer,~~Hearing Officer shall constitute a default. In the case of a default, the hearing officer~~The Hearing Officer~~ shall ~~thereupon~~ enter such findings, opinions, and recommendations as are appropriate based on~~under~~ the pleadings and ~~such~~ evidence ~~as is~~ received into the record.
- e) Evidence:
- 1) A party shall be entitled to present the party's case or defense ~~and~~; oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for full and true disclosure of the facts. *Any oral or documentary evidence may be received but a presiding ~~hearing officer~~Hearing Officer may exclude evidence ~~that~~which is irrelevant, immaterial or unduly repetitious. The rules of evidence and privileges applied in civil cases in the courts of the State of Illinois shall be followed; however, evidence not admissible under such rules of evidence may be admitted, except where excluded by statute, if it is of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs. Subject to these requirements, when a hearing will be expedited and the interest of the parties will not be prejudiced, a ~~hearing officer~~Hearing Officer may allow evidence to be received in written form. [5 ILCS 100/10-40]*
 - 2) The testimony of a witness shall be under oath or affirmation administered by the ~~hearing officer~~presiding Hearing Officer.
 - 3) If a party objects to the admission or rejection of any examination, or to

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

the failure to limit its scope, the party shall state briefly the grounds for ~~thesueh~~ objection. Rulings on all objections shall appear in the record. When the admissibility of disputed evidence depends upon an arguable interpretation of substantive law, the ~~hearing officerHearing Officer~~ shall admit such evidence subject to the right of the ~~hearing officerHearing Officer~~ to strike ~~thesueh~~ evidence from the record either during the hearing or as a part of the findings of fact and conclusions of law if the ~~hearing officerHearing Officer~~ determines that it was improperly admitted, in which case it shall not be considered in making findings of fact, conclusions of law and recommendations.

4) Formal exception to an adverse ruling is not required.

- f) *Official notice may be taken of any material fact not appearing in evidence in the record if the Circuit Courts of this State could take judicial notice of such fact. In addition, notice may be taken of generally recognized technical or scientific facts within the ~~STCB's or the ISBE'sState Board of Education's~~ or its employees' specialized knowledge. Parties shall be notified either before or during the hearing or by reference in preliminary reports or otherwise of the material noticed, including any staff memoranda or data and they shall be afforded an opportunity to contest the facts so noticed. The agency's expertise, technical competence and specialized knowledge may be utilized in the evaluation of the evidence. [5 ILCS 100/10-40(c)]*
- g) Hostile or Adverse Witness:
- 1) If the ~~hearing officerHearing Officer~~ determines that a witness is hostile or unwilling or adverse, the witness may be examined by the party calling the witness as if under cross-examination.
 - 2) The party calling an occurrence witness, upon the showing that the party called the witness in good faith and is surprised by the witness' testimony, may impeach the witness by proof of prior inconsistent statements.
- h) *Oral proceedings or any part thereof shall be recorded [5 ILCS 100/10-35(b)] by a certified court reporter ~~or by a mechanical recording device~~. Such records shall be transcribed either:*
- 1) upon written application filed with the reporter or ~~hearing officerHearing Officer~~ by any party and upon the payment of fees at the rate provided in

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

the agreement with the reporter or as established by the State Superintendent of Education, or

- 2) upon receipt of summons in ~~administrative review~~Administrative Review or an order of a court, with payment of fees when allowed or required by statute. Any recording or transcription will be retained through and including the time allotted for appeal, revision, re-hearing, or other manner of review, prior to final disposition as provided for by the ~~ISBE, State Board of Education,~~ the State Superintendent of Education, ~~STCB, the hearing officer,~~ Hearing Officer or by law.
- i) The official record of ~~each hearing conducted~~all hearings pursuant to ~~this Part~~these rules shall consist of ~~the items enumerated in Section 10-35(a) of the Illinois Administrative Procedure Act [5 ILCS 100/10-35(a)].~~
 - 1) ~~All pleadings, including all notices and responses thereto;~~
 - 2) ~~Evidence received;~~
 - 3) ~~A statement of matters officially noticed;~~
 - 4) ~~Offers of proof or objections and rulings thereon;~~
 - 5) ~~Proposed findings and acceptance;~~
 - 6) ~~Any decision, opinion or report of the Hearing Officer;~~
 - 7) ~~All staff memoranda or data submitted to the Hearing Officer or members of the agency in connection with their consideration of the case; and~~
 - 8) ~~Any communication prohibited by Section 10-60 of the Illinois Administrative Procedure Act, but such communication shall not form the basis for any findings of fact.~~
 - j) The ~~hearing officer~~Hearing Officer may require or allow parties to submit written briefs to the ~~hearing officer~~Hearing Officer within ~~21~~ten (10) days after the close of the hearing or such other reasonable time as the ~~hearing officer~~Hearing Officer shall determine consistent with the ~~ISBE's, the STCB's, State Board of Education's~~ or the State Superintendent of Education's responsibility for expeditious decision.

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 29 Ill. Reg. _____, effective _____)

Section 475.100 Orders

- a) The provisions of this subsection (a) shall apply in those cases where the hearing officer is authorized by statute or rule to act as the personal representative of the State Superintendent of Education and in those cases where no hearing officer has been designated by the entity authorized to conduct the hearing and that entity or its representative is acting as the hearing officer, as provided in Section 475.15 of this Part.~~Hearing Officer's Findings, Opinions and Decisions:~~
- 1) The ~~hearing officer's~~~~Hearing Officer's~~ findings and ~~conclusions~~~~Opinions~~ shall be in writing and shall include findings of fact and conclusions of law ~~or opinions~~ separately stated and in conformance with Section 10-50(a) of the Illinois Administrative Procedure Act [5 ILCS 100/10-50(a)]~~when possible~~. Findings of fact shall be based exclusively on the evidence presented at the hearing or known to all parties, including matters officially noticed. Findings of fact, if set forth in statutory language, shall be accompanied by a statement of the underlying, supporting facts. Each conclusion of law shall be supported by authority or reasoned opinion.
 - 2) ~~The hearing officer~~~~Where authorized by statute or rule to act as the personal representative of the State Superintendent of Education, the Hearing Officer~~ shall, in addition to the findings of fact and opinion required by subsection (a)(1) of this Section~~above~~, render a decision and issue an order upon consideration of the record as a whole or such portion thereof as may be supported by competent, material and substantial evidence. The decision in the case will be the decision for and of the ~~ISBE, State Board of Education or~~ the State Superintendent of Education, ~~or the STCB, as applicable and shall become effective immediately upon the execution of the Order by the Hearing Officer or as otherwise specified within the order or an applicable statute.~~ The parties shall be immediately notified ~~either personally or by mail, postage prepaid, certified or registered, addressed to the last known address of each party. A copy of the order shall be delivered or mailed to each party and to each attorney of record.~~
- b) The provisions of this subsection (b) shall apply in those cases where the final decision is required to be rendered by an individual or entity other than the

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

hearing officer, including all hearings conducted under the jurisdiction of the State Teacher Certification Board pursuant to Section 21-1 or Section 21-23 of the School Code for which hearing officers are appointed. ~~Order of the State Board of Education or the State Superintendent of Education:~~

- 1) Hearing Officer's Recommendations:
 - A) Initial Recommendations: The hearing officer shall prepare proposed findings of fact and conclusions of law and make recommendations by way of a proposed order that complies with Section 10-45 of the Illinois Administrative Procedure Act. ~~Where the State Board of Education or the State Superintendent of Education is required by law or by delegation to be the sole, personal acting officer, the Hearing Officer shall, in lieu of decision and order under paragraph (a)(2) above, and in addition to the findings and opinions required by paragraph (a)(1), make recommendations by way of proposal for decision.~~ ~~These~~ Such recommendations shall be made upon consideration of the record as a whole or such portion thereof as may be supported by competent, material and substantial evidence.
 - B) Opportunity to ~~File~~ file Exceptions: The hearing officer ~~Hearing Officer~~ shall forward a copy of the proposed findings of fact, conclusions of law ~~opinions~~ and recommendations to each party of record in the hearing and each party of record shall be allowed 21 ~~ten (10)~~ days in which to submit exceptions to the findings, conclusions ~~opinions~~ and recommendations of the hearing officer ~~Hearing Officer~~ and to present a brief to the hearing officer ~~Hearing Officer~~ in support of the position of the party.
 - C) Final Recommendations: ~~The Hearing Officer shall then prepare and submit to the State Board of Education or to the State Superintendent of Education a final set of finding, opinions and recommendations which, if a party submitted proposed finding of fact which might control the decision or order, shall include a ruling upon each proposed finding of fact together with the exceptions and briefs pursuant to paragraph (b)(1)(B) of this Section.~~
- 2) Preparation of Final ~~Order of the State Board of Education or the State~~

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

~~Superintendent of Education~~: Upon the ~~hearing officer's~~~~Hearing Officer's~~ recommendations, the ~~ISBE, the STCB, State Board of Education~~ or the State Superintendent of Education shall review the record and the ~~hearing officer's~~~~Hearing Officer's~~ findings, ~~conclusions, opinions~~ and recommendations, together with exceptions thereto and briefs in support thereof, and shall either:

A) request the hearing officer to prepare a final set of findings and conclusions and a recommended order for approval and issuance;

B) issue a final~~an~~ order, within a reasonable time, that complies with Section 10-50 of the Illinois Administrative Procedure Act [5 ILCS 100/10-50] and as set forth by applicable statutes~~within a reasonable time.~~

c) Effectiveness of Orders: The final decision in ~~each~~~~the~~ case will become effective immediately upon the execution of the ~~order~~~~Order~~ or as specified by applicable statute. The parties shall be immediately notified either personally or by mail, postage paid, certified or registered, addressed to the last known address of each party. A copy of the order shall be delivered or mailed to each party and to the party's attorney of record. Each order shall indicate whether it is final and, if so, that it is subject to the Administrative Review Law [735 ILCS 5/Art. III]. [5 ILCS 100/10-50(b)]

(Source: Amended at 29 Ill. Reg. _____, effective _____)

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED REPEALER

- 1) Heading of the Part: Hearings Before the State Teacher Certification Board
- 2) Code Citation: 23 Ill. Adm. Code 480
- 3)

<u>Section Number:</u>	<u>Proposed Action:</u>
480.10	Repeal
480.20	Repeal
480.30	Repeal
480.40	Repeal
480.50	Repeal
480.60	Repeal
480.70	Repeal
480.80	Repeal
480.90	Repeal
- 4) Statutory Authority: 5 ILCS 100/5-10(a)(i)
- 5) A Complete Description of the Subjects and Issues Involved: Part 475 of the State Board's rules (Contested Cases and Other Formal Hearings) is being generally updated and also revised to incorporate a number of provisions that are currently found Part in 480. These two Parts cover similar topics and therefore lend themselves to being combined. Part 480 is therefore being repealed.
- 6) Will this proposed repealer replace an emergency repealer currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed repealer contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objective: This rulemaking will not create or enlarge a State mandate.
- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Written comments may be submitted within 45 days after the publication of this notice to:

Sally Vogl
Agency Rules Coordinator

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED REPEALER

Illinois State Board of Education
100 North First Street
Springfield, Illinois 62777
217/782-5270

Comments may also be submitted via e-mail, addressed to:

rules@isbe.net

12) 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

13) Regulatory Agenda on which this rulemaking was summarized: January 2005

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

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED REPEALER

TITLE 23: EDUCATION AND CULTURAL RESOURCES

SUBTITLE A: EDUCATION

CHAPTER I: STATE BOARD OF EDUCATION

SUBCHAPTER n: DISPUTE RESOLUTION

PART 480

HEARINGS BEFORE THE STATE TEACHER CERTIFICATION BOARD **(REPEALED)**

Section

480.10	Authority and Applicability
480.20	Filing and Form of Documents
480.30	Appearance of Parties
480.40	Notice of Hearing
480.50	Motion and Answer
480.60	State Teacher Certification Board: Powers and Duties
480.70	Hearing Officer
480.80	Hearings
480.90	Orders

AUTHORITY: Implementing Article 21 of the School Code (Ill. Rev. Stat. 1985, ch. 122, par. 21-1 et seq.) and authorized by Section 5-10(a)(i) of the Illinois Administrative Procedure Act (Ill. Rev. Stat. 1991, ch. 127, par. 1005-10(a)(i)).

SOURCE: Adopted at 11 Ill. Reg. 5956, effective March 23, 1987; repealed at 29 Ill. Reg. _____, effective _____.

Section 480.10 Authority and Applicability

- a) This Part is enacted pursuant to Section 4(a)(1) of the Illinois Administrative Procedure Act (Ill. Rev. Stat. 1985, ch. 127, par. 1004(a)(1)).
- b) This Part shall apply to all administrative hearings conducted under the jurisdiction of the State Teacher Certification Board (hereinafter, Board) wherein the provisions of the Illinois Administrative Procedure Act concerning contested cases shall apply.

Section 480.20 Filing and Form of Documents

- a) Documents and requests permitted or required to be filed with the State Teacher Certification Board or the State Superintendent of Education in connection with a

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED REPEALER

hearing shall be addressed and mailed or personally delivered in duplicate to the Secretary of the State Teacher Certification Board (hereinafter, Secretary of the Board), State Board of Education, 100 North First Street, Springfield, Illinois 62777. The office is open for filing of documents from 8:00 a.m. to 5:00 p.m. Monday through Friday, except on national and State of Illinois legal holidays.

- b) Documents shall clearly show the title of the proceedings in connection with which they are filed.
- c) A copy of all documents, including notices, motions, and petitions, shall be simultaneously filed with the Legal Advisor to the State Board of Education (hereinafter, Legal Advisor) at 100 North First Street, Springfield, Illinois 62777.
- d) Documents shall be typewritten or reproduced from typewritten copy on 8½" x 11" white paper.
- e) One copy of each document filed shall be signed by the party or by the party's authorized representative.
- f) Computation of any period of time prescribed by this or any other section of this Part shall be calculated in accordance with Section 1.11 of "AN ACT to revise the law in relation to the construction of the statutes" (Ill. Rev. Stat. 1985, ch. 1, par. 1012). Notice requirements shall be construed to mean notice received, but proof that notice was sent by certified or registered mail at least 4 days prior to the prescribed date shall be prima facie proof that notice was timely received.

Section 480.30 Appearance of Parties

Any person entitled to participation in proceedings may appear as follows.

- a) A natural person may appear on his/her own behalf or by legal counsel.
- b) A party which is not a natural person shall appear only through legal counsel.
- c) An attorney appearing on behalf of a party shall file a written notice of appearance with the Secretary of the Board.

Section 480.40 Notice of Hearing

- a) Initiation – All hearings shall be initiated when the State Teacher Certification

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED REPEALER

Board or the State Superintendent of Education, upon written request of a person entitled to a hearing, or whenever evidence is presented to the Superintendent or Board demonstrating that a certificate should be suspended or revoked or an application for a certificate be denied under Article 21 of The School Code, issues a written Notice of Hearing, which shall be served upon all known parties of the hearing.

- b) Service of the Notice of Hearing – Service shall be made:
- 1) in person, or
 - 2) deposited in the United States Mail, postage prepaid, addressed to the last known address of the person(s) involved, not less than thirty (30) days before the day designated for the hearing. Such notice shall be served by certified or registered mail.
- c) Contents – A Notice of Hearing served under subsection (a) of this Section shall include:
- 1) the time, place and nature of the hearing;
 - 2) the legal authority and jurisdiction under which the hearing is to be held;
 - 3) a reference to the particular section of the statutes and rules involved;
 - 4) a short and plain statement of the matters asserted.
- d) Service of any document upon any party may be made by personal delivery or by depositing it in the United States Mail, postage prepaid, addressed to the last known address of the party.
- 1) The person serving the document shall certify to the manner and date of service in the following form: "I certify that I served the foregoing by depositing a copy thereof in the United States Mail, postage prepaid, on _____, 19__ , addressed to the following at the address shown:

Signature

- 2) If service is made by a non-attorney, the certificate of manner and date of

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED REPEALER

service shall be subscribed and sworn to before a notary public.

Section 480.50 Motion and Answer

- a) Any party receiving a Notice of Hearing may file a written answer not later than fourteen (14) days prior to the date of the hearing. The failure to file an answer shall be deemed a general denial of matters asserted.
- b) Unless made orally on the record during a hearing, a motion shall be in writing and shall be accompanied by any affidavits or other evidence relied upon, and, when appropriate, by a proposed order. At least two copies of all such motions shall be filed with the Secretary of the Board, one copy with the Legal Advisor, and at least one copy served on each additional party, if any, to the hearing.
- c) Within seven (7) days after service of a written motion, a party may file a response in support of or in opposition to the motion, accompanied by affidavits or other evidence.
- d) All motions filed prior to the hearing, except motions for postponement or continuance of the hearing, will be heard and determined at the beginning of the hearing.
- e) Unless otherwise ordered upon a specific finding that additional time is necessary, the filing of an answer or motion shall not stay the proceeding or extend the time for the performance of any act.
- f) A party may participate in the proceeding without forfeiting any jurisdictional objection, if such objection is raised at or before the time the party files an answer or motion, or, if no answer or motion is made, before the commencement of the hearing.
- g) Postponement or Continuance of Hearing – A hearing may be postponed or continued by the Board upon the Board's own motion or upon motion of a party to the hearing for good cause shown such as the unavailability of a witness, party or counsel due to illness or other circumstances beyond the individual's control. Such motion of the party shall set forth the facts attesting that the request for continuance is not for purposes of delay. Notice of any postponement or continuance shall be given in writing to all parties to the hearing as soon as the continuance or postponement is granted.

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED REPEALER

Section 480.60 State Teacher Certification Board: Powers and Duties

- a) Powers – The Board shall have the power to conduct a fair, full and impartial hearing, including the power to:
- 1) administer oaths and affirmations;
 - 2) rule upon offers of proof and receive relevant evidence;
 - 3) regulate the course of the hearing and the conduct of the parties and their counsel therein to ensure an orderly hearing;
 - 4) consider and rule upon procedural requests;
 - 5) examine witnesses and request witnesses to testify to obtain information which has not been presented by the parties, and to limit repetitious or cumulative testimony; and
 - 6) make decisions in accordance with Article 21 of The School Code (Ill. Rev. Stat. 1985, ch. 122, par. 21-1 et seq.) and Rules adopted pursuant thereto (23 Ill. Adm. Code 25, Certification, and 23 Ill. Adm. Code 1, Public Schools Evaluation, Recognition and Supervision), this Part, and the Illinois Administrative Procedure Act (Ill. Rev. Stat. 1991, ch. 127, par. 1001-1 et seq.).
- b) *Ex Parte Consultations – Except in the disposition of matters which are authorized by law to be entertained or disposed of on an ex parte basis, no State Board of Education employee, member of the Board thereof, or Board member shall, after receiving notice of hearing pursuant to this Part, communicate directly or indirectly with any person or party or, in connection with any issue, with any party or representative except upon notice and opportunity for all parties to participate. However, a State Board of Education employee may communicate with other employees of the agency and a State Board of Education employee or Board member may have the aid and advice of one or more personal assistants. (Ill. Rev. Stat. 1985, ch. 127, par. 1015)*
- c) Failure or Refusal to Appear or to Obey the Rulings of the Board –
- 1) Contumacious conduct at any hearing before the Board shall be grounds for exclusion from the Hearing.

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED REPEALER

- 2) If a witness or a party refuses to answer a question after being directed to do so or refuses to obey an order to provide or to permit discovery, the Board shall make such orders with regard to the refusal as are just and appropriate, including an order denying the application or complaint of a party or regulating the contents of the record of the Hearing (for example, an order excluding evidence or striking testimony).

Section 480.70 Hearing Officer

Whenever the Board determines that the dispute is of such a nature that it can best be resolved through the use of a hearing officer, the Board shall request the State Superintendent of Education to appoint an attorney, licensed to practice in Illinois, to serve as hearing officer with power to conduct the hearing, question witnesses, make rulings on motions and objections, or to submit proposed findings of fact and conclusions of law to the Board at the conclusion of the case. The hearing officer may also afford the Board such legal counsel as it may require during the course of the hearing and until a final order is signed.

Section 480.80 Hearings

- a) All hearings shall be public.
- b) Order of Proceeding – The following shall be the order of proceeding of all hearings, unless the Board orders otherwise (e.g., due to the unavailability of a witness):
 - 1) Presentation, argument and disposition of motions by the parties preliminary to a hearing on the merits of the matters raised in the notice or answer.
 - 2) Presentation of complainant's opening statement.
 - 3) Presentation of respondent's opening statement.
 - 4) Complainant's case.
 - 5) Respondent's case.
 - 6) Complainant's closing statement.

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED REPEALER

- 7) Respondent's closing statement.
 - 8) Presentation and argument of all motions prior to final order.
 - 9) Decision or Recommendation of the Board.
- c) Burden of Proof – The complainant shall have the burden of proof except in cases pursuant to Section 21-1 of The School Code (Ill. Rev. Stat. 1985, ch. 122, par. 21-1) where the Board must determine the good character of an applicant, in which case the applicant has the burden of proof.
- d) Evidence
- 1) Admissibility – A party shall be entitled to present the party's case or defense, oral or documentary evidence, to submit rebuttal evidence, and to *conduct such cross-examination as may be required for a full and true disclosure of the facts. Any oral or documentary evidence may be received but the Board may exclude evidence which is irrelevant, immaterial or unduly repetitious. The rules of evidence and privileges applied in civil cases in the courts of the State of Illinois shall be followed; however, evidence not admissible under such rules of evidence may be admitted, except where excluded by statute, if it is of a type commonly relied upon by prudent persons in the conduct of their affairs. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced, the Board may allow evidence to be received in written form* (Ill. Rev. Stat. 1985, ch. 127, par. 1012).
 - 2) Testimony of Witnesses – The testimony of a witness shall be under oath or affirmation administered by the official court reporter.
- e) Official Notice – Official notice may be taken of any material fact not appearing in evidence in the record if the Circuit Courts of this state could take judicial notice of such fact. In addition, notice may be taken of generally recognized technical or scientific facts within the Board's specialized knowledge.
- f) Hostile or Adverse Witnesses
- 1) If the Board determines that a witness is hostile or unwilling or adverse, the witness may be examined by the party calling the witness as if under cross-examination.

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED REPEALER

- 2) The credibility of a witness may be attacked by any party, including the party calling him.
- g) Transcript – Oral proceedings shall be recorded by a certified court reporter or by a mechanical recording device. Such records shall be transcribed and a copy provided to each party who requests it. Any recording or transcription will be retained through and including the time allotted for appeal, revision, rehearing, or other manner of review, prior to final disposition as provided for by the State Board of Education, the State Superintendent of Education, or the Board, or by law.
- h) Official Record – *the official record of each hearing conducted pursuant to this Part shall consist of:*
- 1) *All pleadings and other documents relating to the hearing, including all notices and responses thereto;*
 - 2) *Evidence received;*
 - 3) *A statement of matters officially noticed;*
 - 4) *Offers of proof or objections and rulings thereon;*
 - 5) *Written briefs or proposed findings of fact and conclusions of law submitted by the parties;*
 - 6) *Hearing Officer's final set of findings, opinions and recommendations; and*
 - 7) *Any decision, opinion or report of the Board.*
 - 8) *Staff memoranda, if any, and all data submitted to the hearing officer or the Board in connection with consideration of the case;*
 - 9) *Any communications prohibited by Section 10-60 of the Illinois Administrative Procedure Act, but such communications shall not form the basis for any finding of fact. (Ill. Rev. Stat. 1991, ch. 127, par. 1010-60)*
- i) Briefs – The Board may require or allow parties to submit written briefs and/or

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED REPEALER

proposed findings of fact and conclusions of law to the Hearing Officer whenever the Board determines that such briefs, findings or conclusions would aid in resolving the issues in dispute. The Board shall set a due date for such submissions, which shall be no later than 60 days following the parties' receipt of the transcript.

Section 480.90 Orders

- a) In those cases involving the suspension of a certificate in which the Board is authorized to issue a final decision by Section 21-23 of The School Code, the Board, at the conclusion of the hearing, shall make a final decision which complies with Section 10-50 of The Illinois Administrative Procedure Act and shall serve a copy of the final decision on each party.
- b) In those cases in which the Board is not authorized to issue a final decision, the Board, at the conclusion of the hearing, shall cause to be prepared findings of fact and conclusions of law, and shall submit the findings and conclusions to the State Superintendent of Education, who shall review the findings and conclusions, together with briefs in support thereof, if any, and prepare a proposal for decision in accordance with Section 10-45 of the Illinois Administrative Procedure Act. The State Superintendent shall serve a copy of the proposal on each of the parties, who shall have 21 days from receipt of the proposal to file exceptions and briefs with the State Superintendent. The State Superintendent shall, within 30 days thereafter, issue a final decision and serve the parties and the Secretary of the State Teacher Certification Board with a copy of the final decision.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

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

<u>Section Numbers:</u>	<u>Proposed Action:</u>
732.100	Amend
732.101	Amend
732.103	Amend
732.104	Amend
732.106	Amend
732.108	New Section
732.110	New Section
732.112	New Section
732.114	New Section
732.200	Amend
732.202	Amend
732.203	Amend
732.204	Amend
732.300	Amend
732.302	Amend
732.303	Amend
732.304	Amend
732.305	Amend
732.306	Amend
732.307	Amend
732.308	Amend
732.309	Amend
732.310	Amend
732.311	Amend
732.312	Amend
732.400	Amend
732.402	Amend
732.403	Amend
732.404	Amend
732.405	Amend
732.406	Amend
732.407	Amend
732.408	Amend
732.409	Amend

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

732.411	Amend
732.500	Amend
732.501	Repeal
732.502	Repeal
732.503	Amend
732.504	Repeal
732.505	Amend
732.605	Amend
732.610	Amend
732.612	Amend
732.614	New Section
732.701	Amend
732.702	Amend
732.703	Amend
732.704	Amend
732.800	New Section
732.810	New Section
732.815	New Section
732.820	New Section
732.825	New Section
732.830	New Section
732.835	New Section
732.840	New Section
732.845	New Section
732.850	New Section
732.855	New Section
732.860	New Section
732.865	New Section
732.870	New Section
732.875	New Section
732.Appendix A	Amend
732.Appendix B	Amend
732.Appendix C	Amend
732.Appendix D	Amend
732.Appendix E	Amend

- 4) Statutory authority: Implementing Sections 22.12 and 57-57.17 and authorized by Section 57.14 of the Environmental Protection Act [415 ILCS 5/22.12, 57-57.17] as

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

amended by P.A. 92-0554, effective June 24, 2002, 92-574, 92-561, and P.A. 92-0735, effective July 25, 2003

- 5) A complete description of the subjects and issues involved: A more complete description of this proposal may be found in the Board's opinion and order of February 17, 2005, in Board docket R04-22/23. The amendments to Part 732 are part of a larger rulemaking that includes the proposal of a new Part 734 (also published in this issue of the *Illinois Register*), which is applicable to releases reported after June 24, 2002.

The amendments to Part 732 set forth corrective action measures that must be taken in response to a leak and procedures for seeking payment from the Underground Storage Tank Fund (UST Fund). The amendments to Part 732 also reflect changes from P.A. 92-0554, effective June 24, 2002 and P.A. 92-0735, effective July 25, 2003, which allow a Licensed Professional Geologist to certify certain information. The proposed amendments are designed, for the most part to streamline the process for obtaining payment from the UST Fund. The streamlining will be accomplished by specifying maximum amounts that will be reimbursed for remediation activities. The proposal also includes bidding as an alternative to the maximum reimbursement amounts for UST remediation specified in the proposal.

Additionally, the proposal calls for the establishment of a "LUST Advisory Committee" comprised of numerous groups involved in the UST program. The Committee is required to meet quarterly to review the Illinois Environmental Protection Agency's implementation of the rules.

This first notice proposal is the result of five groups of hearings and numerous public comments. The Board made significant changes, in response to the testimony and comments, to the proposal that was filed by the Illinois Environmental Protection Agency. The first notice proposal is intended to reflect the extensive efforts made by all of the parties in this rulemaking.

- 6) Will this rulemaking replace any emergency rulemakings currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking contain incorporations by reference? Yes
- 9) Are there any other proposed rulemakings on this Part? No
- 10) Statement of Statewide Policy Objectives: These proposed amendments do not create or enlarge a state mandate as defined in Section 3(b) of the State Mandates Act. [30 ILCS 805/3 (2002)].

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking:

The Board will accept written public comment on this proposal for 45 days after the date of publication in the *Illinois Register*. Comments should reference Docket R04-22/23 and be addressed to:

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

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

For more information contact Marie Tipsord at 312/814-4925 or email at tipsordm@ipcb.state.il.us.

12) Initial regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities, and not-for-profit corporations affected: The proposed amendments may affect small business owners, small municipalities, and not-for-profit corporations that own or operate a business that has a leaking underground storage tank. Additionally, any small business that operates as consultants or environmental engineers with a focus on leaking underground storage tanks may be affected by these amendments.
- B) Reporting, bookkeeping or other procedures required for compliance: The proposed amendments require detailed reporting and bookkeeping procedures to account for expenses that owners/operators of a leaking underground storage tank may be seeking reimbursement.
- C) Types of professional skills necessary for compliance: Compliance with the existing rules and proposed amendments may be aided by the services of an attorney, engineer, and geologist.

13) Regulatory Agenda on which this rulemaking was summarized: January 2005

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

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

PART 732

PETROLEUM UNDERGROUND STORAGE TANKS

(RELEASES REPORTED SEPTEMBER 23, 1994 THROUGH JUNE 23, 2002)

SUBPART A: GENERAL

Section

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

SUBPART B: EARLY ACTION

Section

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

SUBPART C: SITE EVALUATION AND CLASSIFICATION

Section

- 732.300 General
- 732.301 Agency Authority to Initiate

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

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

SUBPART D: CORRECTIVE ACTION

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

SUBPART E: ~~REVIEW OF SELECTION AND REVIEW PROCEDURES FOR~~
PLANS, BUDGET PLANS, AND REPORTS

Section	
732.500	General
732.501	Submittal of Plans or Reports (<u>Repealed</u>)
732.502	Completeness Review (<u>Repealed</u>)
732.503	Full Review of Plans, <u>Budget Plans</u> , or Reports
732.504	Selection of Plans or Reports for Full Review (<u>Repealed</u>)
732.505	Standards for Review of Plans, <u>Budget Plans</u> , or Reports

SUBPART F: PAYMENT ~~FROM THE FUND OR REIMBURSEMENT~~

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

Section

732.600	General
732.601	Applications for Payment
732.602	Review of Applications for Payment
732.603	Authorization for Payment; Priority List
732.604	Limitations on Total Payments
732.605	Eligible <u>Corrective Action</u> Costs
732.606	Ineligible <u>Corrective Action</u> Costs
732.607	Payment for Handling Charges
732.608	Apportionment of Costs
732.609	Subrogation of Rights
732.610	Indemnification
732.611	Costs Covered by Insurance, Agreement or Court Order
732.612	Determination and Collection of Excess Payments
<u>732.614</u>	<u>Audits and Access to Records; Records Retention</u>

SUBPART G: NO FURTHER REMEDIATION LETTERS
AND RECORDING REQUIREMENTS

Section

732.700	General
732.701	Issuance of a No Further Remediation Letter
732.702	Contents of a No Further Remediation Letter
732.703	Duty to Record a No Further Remediation Letter
732.704	Voidance of a No Further Remediation Letter

SUBPART H: MAXIMUM PAYMENT AMOUNTSSection

<u>732.800</u>	<u>Applicability</u>
<u>732.810</u>	<u>UST Removal or Abandonment Costs</u>
<u>732.815</u>	<u>Free Product or Groundwater Removal and Disposal</u>
<u>732.820</u>	<u>Drilling, Well Installation, and Well Abandonment</u>
<u>732.825</u>	<u>Soil Removal and Disposal</u>
<u>732.830</u>	<u>Drum Disposal</u>
<u>732.835</u>	<u>Sample Handling and Analysis</u>
<u>732.840</u>	<u>Concrete, Asphalt, and Paving; Destruction or Dismantling and Reassembly of Above Grade Structures</u>
<u>732.845</u>	<u>Professional Consulting Services</u>
<u>732.850</u>	<u>Payment on Time and Materials Basis</u>

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

<u>732.855</u>	<u>Bidding</u>
<u>732.860</u>	<u>Unusual or Extraordinary Circumstances</u>
<u>732.865</u>	<u>Handling Charges</u>
<u>732.870</u>	<u>Increase in Maximum Payment Amounts</u>
<u>732.875</u>	<u>Agency Review of Payment Amounts</u>
732.APPENDIX A	Indicator Contaminants
732.APPENDIX B	Additional Parameters
732.APPENDIX C	Backfill Volumes and Weights
<u>732.APPENDIX D</u>	<u>Sample Handling and Analysis</u>
<u>732.APPENDIX E</u>	<u>Personnel Titles and Rates</u>
732.ILLUSTRATION A	Equation For for Groundwater Transport (Repealed)
732.ILLUSTRATION B	Equation For for Soil-Groundwater Relationship (Repealed)
732.ILLUSTRATION C	Equation Forfor Calculating Groundwater Objectives at the Source (Repealed)
732.ILLUSTRATION D	Equation Forfor Calculating Soil Objectives at the Source (Repealed)
732.TABLE A	Groundwater and Soil Remediation <u>remediation</u> Objectives (Repealed)
732.TABLE B	Soil remediation Methodology: Model Parameter Values (Repealed)
732.TABLE C	Soil remediation Methodology: Chemical Specific Parameters (Repealed)
732.TABLE D	Soil remediation Methodology: Objectives (Repealed)

AUTHORITY: Implementing Sections 22.12 and 57-57.17 and authorized by Section 57.14 of the Environmental Protection Act [415 ILCS 5/22.12, 57-57.17].

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

SUBPART A: GENERAL

Section 732.100 Applicability

- a) This Part applies to owners or operators of any underground storage tank system used to contain petroleum and for which a release was reported to Illinois Emergency Management Agency (IEMA) on or after September 23, 1994, but

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

~~prior to June 24, 2002, in accordance with regulations adopted by the Office of the State Fire Marshal (OSFM). It also applies to owners or operators that, prior to June 24, 2002, elected to proceed in accordance with this Part pursuant to Section 732.101 of this Part. This Part applies to owners or operators of any underground storage tank system used to contain petroleum and for which a release has been confirmed and required to be reported to Illinois Emergency Management Agency (IEMA) on or after September 23, 1994 in accordance with regulations adopted by the Office of State Fire Marshal (OSFM). It does not apply to owners or operators of sites for which the OSFM does not require a report to IEMA or for which the OSFM has issued or intends to issue a certificate of removal or abandonment pursuant to Section 57.5 of the Environmental Protection Act (Act) [415 ILCS 5/57.5]. Owners or operators of any underground storage tank system used to contain petroleum and for which a release was reported to IEMA on or before September 12, 1993, may elect to proceed in accordance with this Part pursuant to Section 732.101.~~

- b) Upon the receipt of a corrective action order ~~issued by~~ from the OSFM prior to June 24, 2002, and pursuant to Section 57.5(g) of the Act, where the OSFM has determined that a release poses a threat to human health or the environment, the owner or operator of any underground storage tank system used to contain petroleum and taken out of operation before January 2, 1974, or any underground storage tank system used exclusively to store heating oil for consumptive use on the premises where stored and which serves other than a farm or residential unit shall conduct corrective action in accordance with this Part.
- c) Owners or operators subject to this Part by law or by election shall proceed expeditiously to comply with all requirements of the Act and the regulations and to obtain the No Further Remediation Letter signifying final disposition of the site for purposes of this Part. The Agency may use its authority pursuant to the Act and Section 732.105 of this Part to expedite investigative, preventive or corrective action by an owner or operator or to initiate such action.
- d) The following underground storage tank systems are excluded from the requirements of this Part:
- 1) Equipment or machinery that contains petroleum substances for operational purposes such as hydraulic lift tanks and electrical equipment tanks.
 - 2) Any underground storage tank system whose capacity is 110 gallons or

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

less.

- 3) Any underground storage tank system that contains a de minimis concentration of petroleum substances.
 - 4) Any emergency spill or overfill containment underground storage tank system that is expeditiously emptied after use.
 - 5) Any wastewater treatment tank system that is part of a wastewater treatment facility regulated under Section 402 or 307(b) of the Clean Water Act (33 USC U.S.C. 1251 et seq. ~~(1972)~~).
 - 6) Any UST system holding hazardous waste listed or identified under Subtitle C of the Solid Waste Disposal Act (42 USC U.S.C. 3251 et seq.) or a mixture of such hazardous waste or other regulated substances.
- e) Owners or operators subject to this Part may, pursuant to 35 Ill. Adm. Code 734.105, elect to proceed in accordance with 35 Ill. Adm. Code 734 instead of this Part.

(Source: Amended at 29 Ill. Reg. _____, effective _____)

Section 732.101 Election to Proceed under Part 732

- a) Prior to June 24, 2002, owners~~Owners~~ or operators of any underground storage tank system used to contain petroleum and for which a release was reported to the proper State authority on or before September 12, 1993; were able to~~may~~ elect to proceed in accordance with this Part by submitting to the Agency a written statement of such election signed by the owner or operator. ~~Such election shall be submitted on forms prescribed and provided by the Agency and, if specified by the Agency by written notice, in an electronic format. Corrective action shall then follow the requirements of this Part.~~ The election ~~became~~shall be effective upon receipt by the Agency and shall not be withdrawn ~~once made~~. However, an owner or operator that elected to proceed in accordance with this Part may, pursuant to 35 Ill. Adm. Code 734.105, elect to proceed in accordance with 35 Ill. Adm. Code 734 instead of this Part.
- b) Prior to June 24, 2002, except~~Except~~ as provided in Section 732.100(b) of this Part, owners or operators of underground storage tanks (USTs) used exclusively to store heating oil for consumptive use on the premises where stored and that

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

serve other than a farm or residential unit ~~were able to~~ may elect to proceed in accordance with this Part by submitting to the Agency a written statement of such election signed by the owner or operator. ~~Such election shall be submitted on forms prescribed and provided by the Agency and, if specified by the Agency by written notice, in an electronic format. Corrective action shall then follow the requirements of this Part.~~ The election ~~became~~ shall be effective upon receipt by the Agency and shall not be withdrawn ~~once made.~~ However, an owner or operator that elected to proceed in accordance with this Part may, pursuant to 35 Ill. Adm. Code 734.105, elect to proceed in accordance with 35 Ill. Adm. Code 734 instead of this Part.

- c) If the owner or operator ~~elected~~ elects to proceed pursuant to this Part, corrective action costs incurred in connection with the release and prior to the notification of election shall be payable ~~from the Fund or reimbursable~~ in the same manner as was allowable under the ~~law applicable to the owner or operator prior to the notification of election then existing law.~~ Corrective action costs incurred after the notification of election shall be payable from the Fund or reimbursable in accordance with Subparts E and F of this Part. Corrective action costs incurred on or after the effective date of an election to proceed in accordance with 35 Ill. Adm. Code 734 shall be payable from the Fund in accordance with that Part.

(Source: Amended at 29 Ill. Reg. _____, effective _____)

Section 732.103 Definitions

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

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

"Agency" means the Illinois Environmental Protection Agency.

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

"Board" means the Illinois Pollution Control Board.

"Bodily Injury" means bodily injury, sickness, or disease sustained by a person,

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

including death at any time, resulting from a release of petroleum from an underground storage tank [415 ILCS 5/57.2].

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

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

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

"Confirmed Exceedence" means laboratory verification of an exceedence of the applicable ~~remediation groundwater quality standards or~~ objectives.

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

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

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

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

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

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

"Environmental Land Use Control" means Environmental Land Use Control as defined in 35 Ill. Adm. Code 742.200, an instrument that meets the requirements of these regulations and is placed in the chain of title to real property that limits or places requirements upon the use of the property for the purpose of protecting human health or the environment, is binding upon the property owner, heirs, successors, assigns, and lessees, and runs in perpetuity or until the Agency approves, in writing, removal of the limitation or requirement from the chain of title.

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

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

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

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

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

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

"Fund"~~"Fund"~~ means the Underground Storage Tank Fund~~underground storage tank fund~~ [415 ILCS 5/57.2].

"GIS" means Geographic Information System.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

"GPS" means Global Positioning System.

"Groundwater"~~"Groundwater"~~ means underground water which occurs within the saturated zone and geologic materials where the fluid pressure in the pore space is equal to or greater than atmospheric pressure [415 ILCS 5/3.210]~~[415 ILCS 5/3.64]~~.

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

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

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

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

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

"IEMA" means the Illinois Emergency Management Agency.

"Indemnification" means indemnification of an owner or operator for the amount of judgment entered against the owner or operator in a court of law, for the amount of any final order or determination made against the owner or operator by any agency of State government or any subdivision thereof, or for the amount of any settlement entered into by the owner or operator, if the judgment, order,

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

determination, or settlement arises out of bodily injury or property damage suffered as a result of a release of petroleum from an underground storage tank owned or operated by the owner or operator [415 ILCS 5/57.2].

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

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

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

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

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

~~"Line Item Estimate" means an estimate of the costs associated with each line item (including, but not necessarily limited to, personnel, equipment, travel, etc.) that an owner or operator anticipates will be incurred for the development, implementation and completion of a plan or report.~~

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

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

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

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

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

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

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

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

"Owner" means:

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

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

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

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

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

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

"Potable"~~"Potable"~~ means generally fit for human consumption in accordance with accepted water supply principles and practices [415 ILCS 5/3.340][415 ILCS 5/3.65].

"Practical Quantitation Limit" or "PQL" means the lowest concentration that can be reliably measured within specified limits of precision and accuracy for a specific laboratory analytical method during routine laboratory operating conditions in accordance with "Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods," EPA Publication No. SW-846, incorporated by reference at Section 732.104 of this Part. For filtered water samples, PQL also means the Method Detection Limit or Estimated Detection Limit in accordance with the applicable method revision in: "Methods for the Determination of Metals in Environmental Samples," EPA Publication No. EPA/600/4-91/010; "Methods for the Determination of Metals in Environmental Samples, Supplement I," EPA Publication No. EPA/600/R-94/111; "Methods for the Determination of Organic Compounds in Drinking Water," EPA Publication No. EPA/600/4-88/039; "Methods for the Determination of Organic Compounds in Drinking Water, Supplement II," EPA Publication No. EPA/600/R-92/129; or "Methods for the Determination of Organic Compounds in Drinking Water, Supplement III," EPA Publication No. EPA/600/R-95/131, all of which are incorporated by reference at Section 732.104 of this Part.

"Property Damage"~~"Property damage"~~ means physical injury to, destruction of, or contamination of tangible property owned by a person other than an owner or operator of the UST from which a release of petroleum has occurred and which tangible property is located off the site where the release occurred. Property damage includes all resulting loss of use of that property; or loss of use of

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

tangible property that is not physically injured, destroyed or contaminated, but has been evacuated, withdrawn from use, or rendered inaccessible because of a release of petroleum from an underground storage tank- [415 ILCS 5/57.2].

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

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

"Regulated Recharge Area"~~"Regulated recharge area"~~ means a compact geographic area, as determined by the Board, the geology of which renders a potable resource groundwater particularly susceptible to contamination [415 ILCS 5/3.390]~~[415 ILCS 5/3.67]~~.

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

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

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

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

"Right-of-way" means the land, or interest therein, acquired for or devoted to a

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

highway [605 ILCS 5/2-217].

"Setback Zone"~~"Setback Zone"~~ means a geographic area, designated pursuant to the Act or regulations (see 35 Ill. Adm. Code, Subtitle F), containing a potable water supply well or a potential source or potential route, having a continuous boundary, and within which certain prohibitions or regulations are applicable in order to protect groundwater. [415 ILCS 5/3.450][415 ILCS 5/3.61].

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

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

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

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

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

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

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

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

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

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

Septic tank;

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

Surface impoundment, pit, pond, or lagoon;

Storm water or waste water collection system;

Flow-through process tank;

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

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

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

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

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

(Source: Amended at 29 Ill. Reg. _____, effective _____)

Section 732.104 Incorporations by Reference

- a) The Board incorporates the following material by reference:

ASTM. American Society for Testing and Materials, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, PA, 19428-2959 (610) 832-9585

ASTM D 422-63, Standard Test Method for Particle-Size Analysis of Soils, approved November 21, 1963 (reapproved 1990).

ASTM D 1140-92, Standard Test Method for Amount of Material in Soils Finer than the No. 200 (75 μm) Sieve, approved November 15, 1992.

ASTM D 2216-92, Standard Test Method for Laboratory Determination of Water (Moisture) Content of Soil and Rock, approved June 15, 1992.

ASTM D 4643-93, Standard Test Method for Determination of Water (Moisture) Content of Soil by the Microwave Oven Method, approved July 15, 1993.

ASTM D 2487-93, Standard Test Method for Classification of Soils for Engineering Purposes, approved September 15, 1993.

ASTM D 2488-93, Standard Practice for Description and Identification of Soils (Visual-Manual Procedure), approved September 15, 1993.

ASTM D 5084-90, Standard Test Method for Measurement of Hydraulic Conductivity of Saturated Porous Materials Using a Flexible Wall Permeameter, approved June 22, 1990.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

ASTM D 4525-90, Standard Test Method for Permeability of Rocks by Flowing Air, approved May 25, 1990.

ASTM D 1587-83, Standard Practice for Thin-Walled Tube Sampling of Soils, approved August 17, 1983.

ISGS. Illinois State Geological Survey, 615 E. Peabody Drive, Champaign, IL 61820-6964 (217) 333-4747

Richard C. Berg, John P. Kempton, Keros Cartwright, "Potential for Contamination of Shallow Aquifers in Illinois" (1984), Circular No. 532.

NTIS. National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161 (703) 605-6000 or (800) 553-6847

~~"Methods for Chemical Analysis of Water and Wastes," EPA Publication No. EPA-600/4-79-020 (March 1983), Doc. No. PB 84-128677.~~

~~"Methods for the Determination of Metals in Environmental Samples," EPA Publication No. EPA/600/4-91/010 (June 1991);~~

~~"Methods for the Determination of Metals in Environmental Samples, Supplement I," EPA Publication No. EPA/600/R-94/111 (May 1994);~~

~~"Methods for the Determination of Organic Compounds in Drinking Water," EPA Publication No. EPA/600/4-88/039 (December 1988) (revised July 1991); "Methods for the Determination of Organic Compounds in Drinking Water," EPA, EMSL, EPA-600/4-88/039 (December 1988), Doc. No. PB 89-220461.~~

~~"Methods for the Determination of Organic Compounds in Drinking Water, Supplement II," EPA Publication No. EPA/600/R-92/129 (August 1992);~~

~~"Methods for the Determination of Organic Compounds in Drinking Water, Supplement III," EPA Publication No. EPA/600/R-95/131 (August 1995);~~

~~"Practical Guide for Ground Water Sampling," EPA Publication No. EPA-600/2-85/104 (September 1985), Doc. No. PB 86-137304.~~

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

~~"Rapid Assessment of Exposure to Particulate Emissions from Surface Contamination Sites," EPA Publication No. EPA-600/8-85/002 (February 1985), Doc. No. PB 85-192219.~~

"Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods," EPA Publication No. SW-846, Third Edition (September 1986), as amended by Updates I, IIA, III, and IIIA (Final Update IIIA dated April 1998), Doc. No. 955-001-00000-1.

~~USGS, United States Geological Survey, 1961 Stout Street, Denver, CO 80294 (303) 844-4169~~

~~"Techniques of Water Resources Investigations of the United States Geological Survey, Guidelines for Collection and Field Analysis of Ground Water Samples for Selected Unstable Constituents," Book I, Chapter D2 (1981).~~

- b) ~~CFR (Code of Federal Regulations). Available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (202) 783-3238~~

~~40 CFR 261, Appendix II (1992).~~

~~40 CFR 761, Subpart G (2000).~~

- be) This Section incorporates no later editions or amendments.

(Source: Amended at 29 Ill. Reg. _____, effective _____)

Section 732.106 Laboratory Certification

All quantitative analyses of samples collected on or after January 1, 2003, and utilizing any of the approved test methods identified in 35 Ill. Adm. Code 186.180, shall be completed by an accredited laboratory in accordance with the requirements of 35 Ill. Adm. Code 186. A certification from the accredited laboratory stating that the samples were analyzed in accordance with the requirements of this Section shall be included with the sample results when they are submitted to the Agency. Quantitative analyses not utilizing an accredited laboratory in accordance with Part 186 shall be deemed invalid.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 29 Ill. Reg. _____, effective _____)

Section 732.108 Licensed Professional Engineer or Licensed Professional Geologist Supervision

All investigations, plans, budget plans, and reports conducted or prepared under this Part, excluding Corrective Action Completion Reports submitted pursuant to Section 732.300(b) or 732.409 of this Part, must be conducted or prepared under the supervision of a Licensed Professional Engineer or Licensed Professional Geologist. High Priority Corrective Action Completion Reports submitted pursuant to Section 732.300(b) or 732.409 of this Part must be prepared under the supervision of a Licensed Professional Engineer.

(Source: Added at 29 Ill. Reg. _____, effective _____)

Section 732.110 Form and Delivery of Plans, Budget Plans, and Reports; Signatures and Certifications

- a) All plans, budget plans, and reports must be submitted to the Agency on forms prescribed and provided by the Agency and, if specified by the Agency in writing, in an electronic format. At a minimum, all site maps submitted to the Agency must meet the following requirements:
- 1) The maps must be of sufficient detail and accuracy to show required information;
 - 2) The maps must contain the map scale, an arrow indicating north orientation, and the date the map was created; and
 - 3) The maps must show the following:
 - A) The property boundary lines of the site, properties adjacent to the site, and other properties that are, or may be, adversely affected by the release;
 - B) The uses of the site, properties adjacent to the site, and other properties that are, or may be, adversely affected by the release;
 - C) The locations of all current and former USTs at the site, and the contents of each UST; and

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- D) All structures, other improvements, and other features at the site, properties adjacent to the site, and other properties that are, or may be, adversely affected by the release, including but not limited to buildings, pump islands, canopies, roadways and other paved areas, utilities, easements, rights-of-way, and actual or potential natural or man-made pathways.
- b) All plans, budget plans, and reports must be mailed or delivered to the address designated by the Agency. The Agency's record of the date of receipt must be deemed conclusive unless a contrary date is proven by a dated, signed receipt from certified or registered mail.
- c) All plans, budget plans, and reports must be signed by the owner or operator and list the owner's or operator's full name, address, and telephone number.
- d) All plans, budget plans, and reports submitted pursuant to this Part, excluding Corrective Action Completion Reports submitted pursuant to Section 732.300(b) or 732.409 of this Part, must contain the following certification from a Licensed Professional Engineer or Licensed Professional Geologist. Corrective Action Completion Reports submitted pursuant to Section 732.300(b) or 732.409 of this Part must contain the following certification from a Licensed Professional Engineer.
- I certify under penalty of law that all activities that are the subject of this plan, budget plan, or report were conducted under my supervision or were conducted under the supervision of another Licensed Professional Engineer or Licensed Professional Geologist and reviewed by me; that this plan, budget plan, or report and all attachments were prepared under my supervision; that, to the best of my knowledge and belief, the work described in the plan, budget plan, or report has been completed in accordance with the Environmental Protection Act [415 ILCS 5], 35 Ill. Adm. Code 732, and generally accepted standards and practices of my profession; and that the information presented is accurate and complete. I am aware there are significant penalties for submitting false statements or representations to the Agency, including but not limited to fines, imprisonment, or both as provided in Sections 44 and 57.17 of the Environmental Protection Act [415 ILCS 5/44 and 57.17].
- e) Except in the case of sites subject to Section 732.703(c) or (d) of this Part, reports documenting the completion of corrective action at a site must contain a form

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

addressing site ownership. At a minimum, the form must identify the land use limitations proposed for the site, if land use limitations are proposed; the site's common address, legal description, and real estate tax/parcel index number; and the names and addresses of all title holders of record of the site or any portion of the site. The form must also contain the following certification, by original signature, of all title holders of record of the site or any portion of the site, or the agent(s) of such person(s):

I hereby affirm that I have reviewed the attached report entitled _____ and dated _____, and that I accept the terms and conditions set forth therein, including any land use limitations, that apply to property I own. I further affirm that I have no objection to the recording of a No Further Remediation Letter containing the terms and conditions identified in the report upon the property I own.

(Source: Added at 29 Ill. Reg. _____, effective _____)

Section 732.112 Notification of Field Activities

The Agency may require owners and operators to notify the Agency of field activities prior to the date the field activities take place. The notice must include information prescribed by the Agency, and may include, but is not limited to, a description of the field activities to be conducted, the person conducting the activities, and the date, time, and place the activities will be conducted. The Agency may, but is not required to, allow notification by telephone, facsimile, or electronic mail. This Section does not apply to activities conducted within 45 days plus 14 days after initial notification to IEMA of a release, or to free product removal activities conducted within 45 days plus 14 days after the confirmation of the presence of free product.

(Source: Added at 29 Ill. Reg. _____, effective _____)

Section 732.114 LUST Advisory Committee

Once each calendar quarter the Agency must meet with a LUST Advisory Committee to discuss the Agency's implementation of this Part, provided that the Agency or members of the Committee raise one or more issues for discussion. The LUST Advisory Committee must consist of the following individuals: one member designated by the Illinois Petroleum Marketers Association, one member designated by the Illinois Petroleum Council, one member designated by the American Consulting Engineers Council of Illinois, one member designated by the Illinois Society of Professional Engineers, one member designated by the Illinois Chapter of the American Institute of Professional Geologists, one member designated by the Professionals of

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

Illinois for the Protection of the Environment, one member designated by the Illinois Association of Environmental Laboratories, one member designated by the Illinois Environmental Regulatory Group, one member designated by the Office of the State Fire Marshal, and one member designated by the Illinois Department of Transportation. Members of the LUST Advisory Committee must serve without compensation.

(Source: Added at 29 Ill. Reg. _____, effective _____)

SUBPART B: EARLY ACTION

Section 732.200 General

Owners and operators of underground storage tanks shall, in response to all confirmed releases of petroleum, comply with all applicable statutory and regulatory reporting and response requirements. [415 ILCS 5/57.6](Section 57.6(a) of the Act) No work plan or corresponding budget plan shall be required for conducting early action activities, excluding free product removal activities conducted more than 45 days after confirmation of the presence of free product.

(Source: Amended at 29 Ill. Reg. _____, effective _____)

Section 732.202 Early Action

- a) Upon confirmation of a release of petroleum from ~~aan~~ UST system in accordance with regulations promulgated by the OSFM, the owner or operator, or both, shall perform the following initial response actions within 24 hours after the release:
 - 1) Report the release to IEMA (e.g., by telephone or electronic mail);
 - 2) Take immediate action to prevent any further release of the regulated substance to the environment; and
 - 3) Identify and mitigate fire, explosion and vapor hazards.
- b) Within 20 days after initial notification to IEMA of a release plus 14 days, after confirmation of a release of petroleum from a UST system in accordance with regulations promulgated by the OSFM, the owner or operator shall perform the following initial abatement measures:
 - 1) Remove as much of the petroleum from the UST system as is necessary to

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

prevent further release into the environment;

- 2) Visually inspect any aboveground releases or exposed below ground releases and prevent further migration of the released substance into surrounding soils and groundwater;
 - 3) 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);
 - 4) 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 35 Ill. Adm. Code 722, 724, 725, and 807 through 815;
 - 5) Measure for the presence of a release where contamination is most likely to be present at the UST site, unless the presence and source of the release have been confirmed in accordance with regulations promulgated by the OSFM. In selecting sample types, sample locations, and measurement methods, the owner or operator shall consider the nature of the stored substance, the type of backfill, depth to groundwater and other factors as appropriate for identifying the presence and source of the release; and
 - 6) Investigate to determine the possible presence of free product, and begin free product removal as soon as practicable and in accordance with Section 732.203.
- c) Within 20 days after initial notification to IEMA of a release plus 14 days, the owner or operator~~after confirmation of a release of petroleum from a UST system in accordance with regulations promulgated by the OSFM, owners or operators~~ shall submit a report to the Agency summarizing the initial abatement steps taken under subsection (b) of this Section and any resulting information or data. ~~The report shall be submitted on forms prescribed and provided by the Agency and, if specified by the Agency by written notice, in an electronic format.~~
- d) Within 45 days after initial notification to IEMA of a release plus 14 days, the owner or operator~~after confirmation of a release, owners or operators~~ shall assemble information about the site and the nature of the release, including

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

information gained while confirming the release or completing the initial abatement measures in subsections (a) and (b) of this Section. This information shall include, but is not limited to, the following:

- 1) Data on the nature and estimated quantity of release;
 - 2) Data from available sources or site investigations concerning the following factors: surrounding populations, water quality, use and approximate locations of wells potentially affected by the release, subsurface soil conditions, locations of subsurface sewers, climatological conditions and land use;
 - 3) Results of the site check required at subsection (b)(5) of this Section; and
 - 4) Results of the free product investigations required at subsection (b)(6) of this Section, to be used by owners or operators to determine whether free product must be recovered under Section 732.203 of this Part.
- e) Within 45 days after initial notification to IEMA of a release plus 14 days, the owner or operator after confirmation of a release of petroleum from a UST system in accordance with regulations promulgated by the OSFM, owners or operators shall submit to the Agency the information collected in compliance with subsection (d) of this Section in a manner that demonstrates its applicability and technical adequacy. The information shall be submitted on forms prescribed and provided by the Agency and, if specified by the Agency by written notice, in an electronic format.
- f) *Notwithstanding any other corrective action taken, an owner or operator may, at a minimum, and prior to submission of any plans to the Agency, remove the tank system, or abandon the underground storage tank in place, in accordance with the regulations promulgated by the Office of the State Fire Marshal (see 41 Ill. Adm. Code 160, 170, 180, 200). The owner may remove visibly contaminated fill material and any groundwater in the excavation which exhibits a sheen. For purposes of payment for early action costs, however, fill material shall not be removed in an amount in excess of 4 feet from the outside dimensions of the tank. Early action may also include disposal in accordance with applicable regulations or ex situ treatment of contaminated fill material removed from within 4 feet from the outside dimensions of the tank in accordance with Section 57.7(a)(1)(B) of the Act [415 ILCS 5/57.6(b)]-*

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- g) For purposes of payment from the Fundreimbursement, the activities set forth in subsection (f) of ~~this~~the Section shall be performed within 45 days after initial notification to IEMA of a release plus 147 days, unless special circumstances, approved by the Agency in writing, warrant continuing such activities beyond 45 days plus 147 days. The owner or operator shall notify the Agency in writing of such circumstances within 45 days after initial notification to IEMA of a release plus 147 days. Costs incurred beyond 45 days plus 147 days shall be eligible if the Agency determines that they are consistent with early action.

BOARD NOTE: Owners or operators seeking payment from the Fundreimbursement are to first notify IEMA of a suspected release and then confirm the release within 14seven days to IEMA pursuant to regulations promulgated by the OSFM. See 41 Ill. Adm. Code 170.560 and; 170.580; 170.600. The Board is setting the beginning of the paymentreimbursement period at subsection (g) to correspond to the notification and confirmation to IEMA.

- h) The owner or operator shall determine whether the areas or locations of soil contamination exposed as a result of early action excavation (e.g., excavation boundaries, piping runs) meet the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants applicable Tier 1 remediation objectives pursuant to 35 Ill. Adm. Code 742, Subpart E. Six samples shall be collected, one on each sidewall and two at the bottom of the excavation. If contaminated backfill is returned to the excavation, 2 representative samples must be collected and analyzed for the applicable indicator contaminants. Additional samples may be required for a multiple tank excavation.

1) At a minimum, for each UST that is removed, the owner or operator shall collect and analyze soil samples as follows. The Agency must allow an alternate location for, or excuse the collection of, one or more samples if sample collection in the following locations is made impracticable by site-specific circumstances.

A) One sample must be collected from each UST excavation wall. The samples must be collected from locations representative of soil that is the most contaminated as a result of the release. If an area of contamination cannot be identified on a wall, the sample must be collected from the center of the wall length at a point located one-third of the distance from the excavation floor to the ground surface. For walls that exceed 20 feet in length, one sample must be collected for each 20 feet of wall length, or fraction thereof, and

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

the samples must be evenly spaced along the length of the wall. For USTs abandoned in place, the samples must be collected via borings drilled as close as practicable to the UST backfill.

- B) Two samples must be collected from the excavation floor below each UST with a volume of 1,000 gallons or more. One sample must be collected from the excavation floor below each UST with a volume of less than 1,000 gallons. The samples must be collected from locations representative of soil that is the most contaminated as a result of the release. If areas of contamination cannot be identified, the samples must be collected from below each end of the UST if its volume is 1,000 gallons or more, and from below the center of the UST if its volume is less than 1,000 gallons.
- C) One sample must be collected from the floor of each 20 feet of UST piping run excavation, or fraction thereof. The samples must be collected from a location representative of soil that is the most contaminated as a result of the release. If an area of contamination cannot be identified within a length of piping run excavation being sampled, the sample must be collected from the center of the length being sampled. For UST piping abandoned in place, the samples must be collected in accordance with subsection (h)(2)(B) of this Section.
- D) If backfill is returned to the excavation, one representative sample of the backfill must be collected for each 100 cubic yards of backfill returned to the excavation.
- E) The samples must be analyzed for the applicable indicator contaminants. In the case of a used oil UST, the sample that appears to be the most contaminated as a result of a release from the used oil UST must be analyzed in accordance with Section 732.310(g) of this Part to determine the indicator contaminants for used oil. The remaining samples collected pursuant to subsections (h)(1)(A) through (D) of this Section must then be analyzed for the applicable used oil indicator contaminants.
- 2) At a minimum, for each UST that remains in place, the owner or operator must collect and analyze soil samples as described in subsections

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

(h)(2)(A) through (D). The Agency must allow an alternate location for, or excuse the drilling of, one or more borings if drilling in the following locations is made impracticable by site-specific circumstances.

- A) One boring must be drilled at the center point along each side of each UST, or along each side of each cluster of multiple USTs, remaining in place. If a side exceeds 20 feet in length, one boring must be drilled for each 20 feet of side length, or fraction thereof, and the borings must be evenly spaced along the side. The borings must be drilled in the native soil surrounding the UST(s) and as close as practicable to, but not more than five feet from, the backfill material surrounding the UST(s). Each boring must be drilled to a depth of 30 feet below grade, or until groundwater or bedrock is encountered, whichever is less. Borings may be drilled below the groundwater table if site specific conditions warrant, but no more than 30 feet below grade.
- B) Two borings, one on each side of the piping, must be drilled for every 20 feet of UST piping, or fraction thereof, that remains in place. The borings must be drilled as close as practicable to, but not more than five feet from, the locations of suspected piping releases. If no release is suspected within a length of UST piping being sampled, the borings must be drilled in the center of the length being sampled. Each boring must be drilled to a depth of 15 feet below grade, or until groundwater or bedrock is encountered, whichever is less. Borings may be drilled below the groundwater table if site specific conditions warrant, but no more than 15 feet below grade. For UST piping that is removed, samples must be collected from the floor of the piping run in accordance with subsection (h)(1)(C) of this Section.
- C) If auger refusal occurs during the drilling of a boring required under subsection (h)(2)(A) or (B) of this Section, the boring must be drilled in an alternate location that will allow the boring to be drilled to the required depth. The alternate location must not be more than five feet from the boring's original location. If auger refusal occurs during drilling of the boring in the alternate location, drilling of the boring must cease and the soil samples collected from the location in which the boring was drilled to the greatest depth must be analyzed for the applicable indicator contaminants.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

D) One soil sample must be collected from each five-foot interval of each boring required under subsections (h)(2)(A) through (C) of this Section. Each sample must be collected from the location within the five-foot interval that is the most contaminated as a result of the release. If an area of contamination cannot be identified within a five-foot interval, the sample must be collected from the center of the five-foot interval, provided, however, that soil samples must not be collected from soil below the groundwater table. All samples must be analyzed for the applicable indicator contaminants.

3)4) If the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants have been met, and if none of the criteria set forth in subsections (h)(4)(A) through (C) are met, within 30 days after the completion of early action activities there is no evidence that contaminated soils may be or may have been in contact with groundwater, the owner or operator shall submit a corrective action completion-report demonstrating compliance with those remediation objectives. The report must include, but is not limited to, the following:

A) A characterization of the site that demonstrates compliance with the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants;

B) Supporting documentation, including, but not limited to, the following:

i) A site map meeting the requirements of Section 732.110(a)(1) of this Part that shows the locations of all samples collected pursuant to this subsection (h);

ii) Analytical results, chain of custody forms, and laboratory certifications for all samples collected pursuant to this subsection (h); and

iii) A table comparing the analytical results of all samples collected pursuant to this subsection (h) to the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants; and

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

C) A site map containing only the information required under Section 732.110(a)(1) of this Part.

~~4)2)~~ If the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants have not been met, or if one or more of the following criteria are met, ~~there is evidence that contaminated soils may be or may have been in contact with groundwater,~~ the owner or operator shall continue evaluation in accordance with Subpart C of this Part.

A) There is evidence that groundwater wells have been impacted by the release above the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants (e.g., as found during release confirmation or previous corrective action measures);

B) Free product that may impact groundwater is found to need recovery in compliance with Section 732.203 of this Part; or

C) There is evidence that contaminated soils may be or may have been in contact with groundwater, unless:

i) The owner or operator pumps the excavation or tank cavity dry, properly disposes of all contaminated water, and demonstrates to the Agency that no recharge is evident during the 24 hours following pumping; and

ii) The Agency determines that further groundwater investigation is not necessary.

~~BOARD NOTE: Section 57.7(a)(1)(B) of the Act limits payment or reimbursement from the Fund for removal of contaminated fill material during early action activities. Owners or operators proceeding with activities set forth in subsection (f) of this Section are advised that they may not be entitled to full payment or reimbursement. See Subpart F of this Part.~~

(Source: Amended at 29 Ill. Reg. _____, effective _____)

Section 732.203 Free Product Removal

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- a) Under any circumstance in which conditions at a site indicate the presence of free product, owners or operators shall remove, to the maximum extent practicable, free product exceeding one-eighth of an inch in depth as measured in a groundwater monitoring well, or present as a sheen on groundwater in the tank removal excavation or on surface water, to the maximum extent practicable while initiating or continuing any actions required pursuant to this Part or other applicable laws or regulations. In meeting the requirements of this Section, owners or operators shall:
- 1) Conduct free product removal in a manner that minimizes the spread of contamination into previously uncontaminated zones by using recovery and disposal techniques appropriate to the hydrogeologic conditions at the site and that properly treats, discharges or disposes of recovery byproducts in compliance with applicable local, State and federal regulations;
 - 2) Use abatement of free product migration as a minimum objective for the design of the free product removal system;
 - 3) Handle any flammable products in a safe and competent manner to prevent fires or explosions;
 - 4) Within 45 days after the confirmation of presence of free product from a UST, prepare and submit to the Agency a free product removal report ~~on forms prescribed and provided by the Agency and, if specified by the Agency, by written notice, in an electronic format~~. The report shall, at a minimum, provide the following:
 - A) The name of the persons responsible for implementing the free product removal measures;
 - B) The estimated quantity, type and thickness of free product observed or measured in wells, boreholes and excavations;
 - C) The type of free product recovery system used;
 - D) Whether any discharge will take place on-site or off-site during the recovery operation and where this discharge will be located;
 - E) The type of treatment applied to, and the effluent quality expected

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

from, any discharge;

- F) The steps that have been or are being taken to obtain necessary permits for any discharge; ~~and~~
 - G) The disposition of the recovered free product; ~~and~~
 - H) The steps taken to identify the source and extent of the free product; and
 - I) A schedule of future activities necessary to complete the recovery of free product still exceeding one-eighth of an inch in depth as measured in a groundwater monitoring well, or still present as a sheen on groundwater in the tank removal excavation or on surface water. The schedule must include, but not be limited to, the submission of plans and budgets required pursuant to subsections (c) and (d) of this Section; and
- 5) If free product removal activities are conducted more than 45 days after the confirmation of the presence of free product, submit free product removal reports in accordance with a schedule established by the Agency.
- b) For purposes of ~~payment from the Fund reimbursement~~, owners or operators are not required to obtain Agency approval ~~pursuant to Section 732.202(g)~~ for free product removal activities conducted ~~within more than 45 days after the confirmation of the presence of free product~~ initial notification to IEMA of a release.
 - c) If free product removal activities will be conducted more than 45 days after the confirmation of the presence of free product, the owner or operator must submit to the Agency for review a free product removal plan. The plan must be submitted with the free product removal report required under subsection (a)(4) of this Section. Free product removal activities conducted more than 45 days after the confirmation of the presence of free product must not be considered early action activities.
 - d) Any owner or operator intending to seek payment from the Fund must, prior to conducting free product removal activities more than 45 days after the confirmation of the presence of free product, submit to the Agency a free product removal budget plan with the corresponding free product removal plan. The

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

budget plan must include, but not be limited to, an estimate of all costs associated with the development, implementation, and completion of the free product removal plan, excluding handling charges. The budget plan should be consistent with the eligible and ineligible costs listed in Sections 732.605 and 732.606 of this Part and the maximum payment amounts set forth in Subpart H of this Part. As part of the budget plan, the Agency may require a comparison between the costs of the proposed method of free product removal and other methods of free product removal.

- e) Upon the Agency's approval of a free product removal plan, or as otherwise directed by the Agency, the owner or operator must proceed with free product removal in accordance with the plan.
- f) Notwithstanding any requirement under this Part for the submission of a free product removal plan or free product removal budget plan, an owner or operator may proceed with free product removal in accordance with this Section prior to the submittal or approval of an otherwise required free product removal plan or budget plan. However, any such removal plan and budget plan must be submitted to the Agency for review and approval, rejection, or modification in accordance with the procedures contained in Subpart E of this Part prior to payment for any related costs or the issuance of a No Further Remediation Letter.

BOARD NOTE: Owners or operators proceeding under subsection (f) of this Section are advised that they may not be entitled to full payment from the Fund. Furthermore, applications for payment must be submitted no later than one year after the date the Agency issues a No Further Remediation Letter. See Subpart F of this Part.

- g) If, following approval of any free product removal plan or associated budget plan, an owner or operator determines that a revised removal plan or budget plan is necessary in order to complete free product removal, the owner or operator must submit, as applicable, an amended free product removal plan or associated budget plan to the Agency for review. The Agency must review and approve, reject, or require modification of the amended removal plan or budget plan in accordance with Subpart E of this Part.

BOARD NOTE: Owners and operators are advised that the total payment from the Fund for all free product removal plans and associated budget plans submitted by an owner or operator must not exceed the amounts set forth in Subpart H of this Part.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 29 Ill. Reg. _____, effective _____)

Section 732.204 Application for Payment of Early Action Costs

Owners or operators intending to seek payment ~~or reimbursement~~ for early action activities, excluding free product removal activities conducted more than 45 days after confirmation of the presence of free product, are not required to submit a corresponding budget plan ~~to the Agency prior to the application for payment~~. The application for payment may be submitted to the Agency upon completion of the early action activities in accordance with the requirements at Subpart F of this Part, excluding free product removal activities conducted more than 45 days after confirmation of the presence of free product. Applications for payment of free product removal activities conducted more than 45 days after confirmation of the presence of free product may be submitted upon completion of the free product removal activities.

(Source: Amended at 29 Ill. Reg. _____, effective _____)

SUBPART C: SITE EVALUATION AND CLASSIFICATION

Section 732.300 General

- a) Except as provided in subsection (b) of this Section, or unless the owner or operator submits a report pursuant to Section 732.202(h)(3) of this Part demonstrating that the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants have been met, the owner or operator of any site subject to this Part shall evaluate and classify the site in accordance with the requirements of this Subpart C. All such sites shall be classified as No Further Action, Low Priority or High Priority. Site classifications shall be based on the results of the site evaluation, including, but not limited to, the physical soil classification and the groundwater investigation, if applicable.
- b) An owner or operator may choose to conduct remediation sufficient to satisfy the remediation objectives in Section 732.408 of this Part as an alternative to conducting site classification activities pursuant to this Subpart C provided that:
 - 1) Upon completion of the remediation, the owner or operator shall submit a corrective action completion report, demonstrating compliance with the required levels. The corrective action completion report must include, but not be limited to, a narrative and timetable describing the implementation and completion of all elements of the remediation and the procedures used for the collection and analysis of samples, soil boring logs, actual

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

~~analytical results, laboratory certification, site maps, well logs, and any other information or documentation relied upon by the Licensed Professional Engineer in reaching the conclusion that the requirements of the Act and regulations have been satisfied and that no further remediation is required at the site. With the exception of Federal Landholding Entities subject to Section 732.703(d), the owner or operator must sign and submit, with the corrective action completion report, a form prescribed and provided by the Agency addressing ownership of the site. Where the owner or operator owns the site, the owner or operator must so indicate on the form. Where the owner or operator either does not own or does not solely own the site, the owner or operator must provide, on the form, a certification by original signature of the title holder(s) of record for the remediation site or each portion thereof, or the agent(s) of such person(s), stating as follows:~~

~~I hereby certify that I have reviewed the attached report and that I accept the terms and conditions set forth therein, including any land use limitations, that apply to property I own. I further certify that I have no objection to the recording of a No Further Remediation Letter containing the terms and conditions identified in the corrective action completion report; and~~

- A) Documentation of the water supply well survey conducted pursuant to subsection (b)(3) of this Section must include, but is not limited to, the following:
- i) One or more maps, to an appropriate scale, showing the following: The location of the community water supply wells and other potable water supply wells identified pursuant to subsection (b)(3) of this Section, and the setback zone for each well; the location and extent of regulated recharge areas and wellhead protection areas identified pursuant to subsection (b)(3) of this Section; the current extent of groundwater contamination exceeding the Tier 1 groundwater ingestion exposure route remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants; and the modeled extent of groundwater contamination exceeding the Tier 1 groundwater ingestion exposure route remediation

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants.
- ii) One or more tables listing the setback zones for each community water supply well and other potable water supply wells identified pursuant to subsection (b)(3) of this Section;
 - iii) A narrative that, at a minimum, identifies each entity contacted to identify potable water supply wells pursuant to subsection (b)(3) of this Section, the name and title of each person contacted at each entity, and field observations associated with the identification of potable water supply wells; and
 - iv) A certification from a Licensed Professional Engineer or Licensed Professional Geologist that the water supply well survey was conducted in accordance with the requirements of subsection (b)(3) of this Section and that the documentation submitted pursuant to subsection (b)(1)(A) of this Section includes the information obtained as a result of the survey.
- B) The corrective action completion report must be accompanied by a certification from a Licensed Professional Engineer stating that the information presented in the applicable report is accurate and complete, that corrective action has been completed in accordance with the requirements of the Act and subsection (b) of this Section, and that no further remediation is required at the site.
- 2) Unless an evaluation pursuant to 35 Ill. Adm. Code 742 demonstrates that no groundwater investigation is necessary, the owner or operator must complete a groundwater investigation under the following circumstances:
- A) If there is evidence that groundwater wells have been impacted by the release above the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants~~Tier 1 residential numbers set forth in 35 Ill. Adm. Code 742 Appendix B~~ (e.g., as found during release confirmation or previous corrective action measures);

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- B) If free product that may impact groundwater is found to need recovery in compliance with Section 732.203 of this Part; or
- C) If there is evidence that contaminated soils may be or may have been in contact with groundwater, except that, if the owner or operator pumps the excavation or tank cavity dry, properly disposes of all contaminated water, and demonstrates to the Agency that no recharge is evident during the 24 hours following pumping, the owner or operator does not have to complete a groundwater investigation, unless the Agency's review reveals that further groundwater investigation is necessary.

3) As part of the remediation conducted under subsection (b) of this Section, owners and operators must conduct a water supply well survey in accordance with this subsection (b)(3).

- A) At a minimum, the owner or operator must identify all potable water supply wells located at the site or within 200 feet of the site, all community water supply wells located at the site or within 2,500 feet of the site, and all regulated recharge areas and wellhead protection areas in which the site is located. Actions taken to identify the wells must include, but is not limited to, the following:
 - i) Contacting the Agency's Division of Public Water Supplies to identify community water supply wells, regulated recharge areas, and wellhead protection areas;
 - ii) Using current information from the Illinois State Geological Survey, the Illinois State Water Survey, and the Illinois Department of Public Health (or the county or local health department delegated by the Illinois Department of Public Health to permit potable water supply wells) to identify potable water supply wells other than community water supply wells; and
 - iii) Contacting the local public water supply entities to identify properties that receive potable water from a public water supply.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- B) In addition to the potable water supply wells identified pursuant to subsection (b)(3)(A) of this Section, the owner or operator must extend the water supply well survey if soil or groundwater contamination exceeding the Tier 1 groundwater ingestion exposure route remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants extends beyond the site's property boundary, or, as part of remediation, the owner or operator leaves in place soil or groundwater contamination exceeding the Tier 1 groundwater ingestion exposure route remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants and contamination exceeding such objectives is modeled to migrate beyond the site's property boundary. At a minimum, the extended water supply well survey must identify the following:
- i) All potable water supply wells located within 200 feet, and all community water supply wells located within 2,500 feet, of the current or modeled extent of soil or groundwater contamination exceeding the Tier 1 groundwater ingestion exposure route remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants; and
 - ii) All regulated recharge areas and wellhead protection areas in which the current or modeled extent of soil or groundwater contamination exceeding the Tier 1 groundwater ingestion exposure route remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants is located.
- C) The Agency may require additional investigation of potable water supply wells, regulated recharge areas, or wellhead protection areas if site-specific circumstances warrant. Such circumstances must include, but are not limited to, the existence of one or more parcels of property within 200 feet of the current or modeled extent of soil or groundwater contamination exceeding the Tier 1 groundwater ingestion exposure route remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants where potable water is likely to be used, but that is not served by a public water supply or a well identified pursuant to subsections (b)(3)(A) or (b)(3)(b) of this Section. The additional investigation

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

may include, but is not limited to, physical well surveys (e.g., interviewing property owners, investigating individual properties for wellheads, distributing door hangers or other material that requests information about the existence of potable wells on the property, etc.).

BOARD NOTE: Owners or operators proceeding under subsection (b) of this Section are advised that they ~~are not~~may not be entitled to ~~full~~ payment from the Fund for costs incurred after completion of early action activities in accordance with Subpart B or reimbursement. See Subpart F of this Part.

- c) For corrective action completion reports submitted pursuant to subsection (b) of this Section, the Agency shall issue a No Further Remediation Letter upon approval of the report by the Agency in accordance with Subpart E.

(Source: Amended at 29 Ill. Reg. _____, effective _____)

Section 732.302 No Further Action Sites

- a) Unless an owner or operator elects to classify a site under Section 732.312, sites shall be classified as No Further Action if all of the following criteria are satisfied:
- 1) The physical soil classification procedure completed in accordance with Section 732.307 confirms either of the following:
 - A) "Berg Circular"
 - i) The site is located in an area designated D, E, F or G on the Illinois State Geological Survey Circular (1984) entitled "Potential for Contamination of Shallow Aquifers in Illinois," incorporated by reference at Section 732.104 of this Part; and
 - ii) The site's actual physical soil conditions are verified as consistent with those designated D, E, F or G on the Illinois State Geological Survey Circular (1984) entitled "Potential for Contamination of Shallow Aquifers in Illinois"; or
 - B) The site soil characteristics satisfy the criteria of Section

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

732.307(d)(3) of this Part;

- 2) The UST system is not within the minimum or maximum setback zone of a potable water supply well or regulated recharge area of a potable water supply well;
 - 3) After completion of early action measures in accordance with Subpart B of this Part, there is no evidence that, through natural pathways or man-made pathways, migration of petroleum or vapors threatens human health or human safety or may cause explosions in basements, crawl spaces, utility conduits, storm or sanitary sewers, vaults or other confined spaces;
 - 4) There is no designated Class III special resource groundwater within 200 feet of the UST system; and
 - 5) After completing early action measures in accordance with Subpart B of this Part, no surface bodies of water are adversely affected by the presence of a visible sheen or free product layer as a result of a release of petroleum.
- b) Groundwater investigation shall be required to confirm that a site meets the criteria of a No Further Action site if the Agency has received information indicating that the groundwater is contaminated at levels in excess of the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants applicable groundwater objectives specified in 35 Ill. Adm. Code 742 at the property boundary line or 200 feet from the UST system, whichever is less. In such cases, a groundwater investigation that meets the requirements of Section 732.307(j) shall be performed. If the investigation confirms there is an exceedence of the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants applicable Tier 1 residential indicator contaminant objectives (set forth in 35 Ill. Adm. Code 742 Appendix B), the Agency may reclassify the site as High Priority.

(Source: Amended at 29 Ill. Reg. _____, effective _____)

Section 732.303 Low Priority Sites

Unless an owner or operator elects to classify a site under Section 732.312, sites shall be classified as Low Priority if all of the following criteria are met:

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- a) The physical soil classification and groundwater investigation procedures confirm the following:
- 1) The most stringent Tier 1 groundwater remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants have groundwater quality standard or groundwater objective for any applicable indicator contaminant has not been exceeded at the property boundary line or 200 feet from the UST system, whichever is less; and
 - 2) "Berg Circular"
 - A) The site is located in an area designated A1, A2, A3, A4, A5, AX, B1, B2, BX, C1, C2, C3, C4, or C5 on the Illinois State Geological Survey Circular (1984) entitled, "Potential for Contamination of Shallow Aquifers in Illinois," incorporated by reference at Section 732.104 of this Part; and
 - B) The site's actual physical soil conditions are verified as consistent with those designated A1, A2, A3, A4, A5, AX, B1, B2, BX, C1, C2, C3, C4, or C5 on the Illinois State Geological Survey Circular (1984) entitled, "Potential for Contamination of Shallow Aquifers in Illinois"; or
 - 3) The site soil characteristics do not satisfy the criteria of Section 732.307(d)(3) of this Part;
- b) The UST system is not within the minimum or maximum setback zone of a potable water supply well or regulated recharge area of a potable water supply well;
- c) After completing early action measures in accordance with Subpart B of this Part, there is no evidence that, through natural or man-made pathways, migration of petroleum or vapors threaten human health or human safety or may cause explosions in basements, crawl spaces, utility conduits, storm or sanitary sewers, vaults or other confined spaces;
- d) There is no designated Class III special resource groundwater within 200 feet of the UST system; and
- e) After completing early action measures in accordance with Subpart B of this Part,

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

there are no surface bodies of water adversely affected by the presence of a visible sheen or free product layer as a result of the release of petroleum.

(Source: Amended at 29 Ill. Reg. _____, effective _____)

Section 732.304 High Priority Sites

Unless an owner or operator elects to classify a site under Section 732.312, sites shall be classified as High Priority if any of the following are met:

- a) The physical soil classification and groundwater investigation procedures confirm the following:
 - 1) The most stringent Tier 1 groundwater remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants have groundwater quality standard or groundwater objective for any applicable indicator contaminant has been exceeded at the property boundary line or 200 feet from the UST system, whichever is less; and
 - 2) "Berg Circular"
 - A) The site is located in an area designated A1, A2, A3, A4, A5, AX, B1, B2, BX, C1, C2, C3, C4, or C5 on the Illinois State Geological Survey Circular (1984) entitled, "Potential for Contamination of Shallow Aquifers in Illinois," incorporated by reference at Section 732.104 of this Part; and
 - B) The site's actual physical soil conditions are verified as consistent with those designated A1, A2, A3, A4, A5, AX, B1, B2, BX, C1, C2, C3, C4, or C5 on the Illinois State Geological Survey Circular (1984) entitled, "Potential for Contamination of Shallow Aquifers in Illinois"; or
 - 3) The site soil characteristics do not satisfy the criteria of Section 732.307(d)(3) of this Part;
- b) The UST system is within the minimum or maximum setback zone of a potable water supply well or regulated recharge area of a potable water supply well;
- c) After completing early action measures in accordance with Subpart B of this Part,

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

there is evidence that, through natural or man-made pathways, migration of petroleum or vapors threaten human health or human safety or may cause explosions in basements, crawl spaces, utility conduits, storm or sanitary sewers, vaults or other confined spaces;

- d) There is designated Class III special resource groundwater within 200 feet of the UST system; or
- e) After completing early action measures in accordance with Subpart B of this Part, a surface body of water is adversely affected by the presence of a visible sheen or free product layer as a result of a release of petroleum.

(Source: Amended at 29 Ill. Reg. _____, effective _____)

Section 732.305 Plan Submittal and Review

- a) Unless an owner or operator elects to classify a site under Section 732.312, prior to conducting any site evaluation activities, the owner or operator shall submit to the Agency a site classification plan, including but not limited to a physical soil classification and groundwater investigation plan, satisfying the minimum requirements for site evaluation activities as set forth in Section 732.307. The plans shall be designed to collect data sufficient to determine the site classification in accordance with Section 732.302, 732.303 or 732.304 of this Part. ~~Site classification plans shall be submitted on forms prescribed and provided by the Agency and, if specified by the Agency by written notice, in an electronic format.~~
- b) In addition to the plan required in subsection (a) of this Section and prior to conducting any site evaluation activities, any owner or operator intending to seek payment from the Fund shall submit to the Agency ~~a:1)An application for payment of costs associated with eligible early action costs incurred pursuant to Subpart B of this Part; and2)A site classification budget plan~~ with the corresponding site classification plan. The budget plan ~~that~~ shall include, but not be limited to, a copy of the eligibility and deductibility determination of the OSFM and ~~ana line item~~ estimate of all costs associated with the development, implementation and completion of the site evaluation activities required in Section 732.307, excluding handling charges. Formulation of budget plans should be consistent with the eligible and ineligible costs listed at Sections 732.605 and 732.606 of this Part and the maximum payment amounts set forth in Subpart H of this Part. ~~Site classification budget plans shall be submitted on~~

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

~~forms prescribed and provided by the Agency and, if specified by the Agency by written notice, in an electronic format.~~

- c) The Agency shall have the authority to review and approve, reject or require modification of any plan or budget plan submitted pursuant to this Section in accordance with the procedures contained in Subpart E of this Part.
- d) Notwithstanding subsections (a), ~~and (b), and (e)~~ of this Section, an owner or operator may proceed to conduct site evaluation activities in accordance with this Subpart C prior to the submittal or approval of an otherwise required site classification plan or budget plan (including physical soil classification and groundwater investigation plans, costs associated with activities to date, and anticipated further costs). However, any such classification plan and budget plan shall be submitted to the Agency for review and approval, rejection, or modification in accordance with the procedures contained in Subpart E of this Part prior to payment ~~or reimbursement~~ for any related costs or the issuance of a No Further Remediation Letter. ~~If the owner or operator has obtained Agency approval of a Site Classification Work Plan and site classification completion report without submittal of a budget plan pursuant to subsection (b) of this Section, the owner or operator may, as an alternative to submitting a budget plan, submit, on a form provided by the Agency and attached to the application for payment, the actual costs incurred in performing site evaluation activities.~~
- BOARD NOTE: Owners or operators proceeding under subsection (d) of this Section are advised that they may not be entitled to full payment from the Fund or reimbursement. Furthermore, applications for payment must be submitted no later than one year after the date the Agency issues a No Further Remediation Letter. See Subpart F of this Part.
- e) If, following the approval of any site classification plan, an owner or operator determines that revised procedures or cost estimates are necessary in order to comply with the minimum required activities for the site, the owner or operator shall submit, as applicable, an amended site classification plan or associated budget plan for review by the Agency. The Agency shall have the authority to review and approve, reject, or require modifications of the amended classification plan or budget plan in accordance with the procedures contained in Subpart E of this Part.

BOARD NOTE: Owners and operators are advised that the total payment from the Fund for all site classification plans and associated budget plans submitted by an owner or operator must not exceed the amounts set forth in Subpart H of this Part.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 29 Ill. Reg. _____, effective _____)

Section 732.306 Deferred Site Classification; Priority List for Payment

- a) An owner or operator who has received approval for any budget plan submitted pursuant to this Part and who is eligible for payment from the Fund may elect to defer site classification activities until funds are available in an amount equal to the amount approved in the budget plan if the requirements of subsection (b) of this Section are met.~~An owner or operator who has received approval for any budget plan submitted pursuant to this Part and who is eligible for payment from the Underground Storage Tank Fund may elect to defer site classification, low priority groundwater monitoring, or remediation activities until funds are available in an amount equal to the amount approved in the budget plan if the requirements of subsection (b) of this Section are met. (Section 57.8(b) of the Act)~~
- 1) Approvals of budget plans shall be pursuant to Agency review in accordance with Subpart E of this Part.
 - 2) The Agency shall monitor the availability of funds to determine whether sufficient resources exist to provide payment in an amount equal to the total of the approved budget plans and shall provide notice of insufficient funds to owners or operators in accordance with Section 732.503(g) of this Part.~~of the availability of funds in accordance with Section 732.503(h). Funds shall not be deemed available for owners or operators electing to defer site classification so long as there are owners or operators on the priority list established pursuant to Section 732.603(d) of this Part awaiting forwarding of vouchers to the Office of the State Comptroller.~~
 - 3) Owners and operators must submit elections to defer site classification activities on forms prescribed and provided by the Agency and, if specified by the Agency by written notice, in an electronic format. The forms must be mailed or delivered to the address designated by the Agency. The Agency's record of the date of receipt must be deemed conclusive unless a contrary date is proven by a dated, signed receipt from certified or registered mail.
 - 4) The Agency must review elections to defer site classification activities to determine whether the requirements of subsection (b) of this Section are

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

met. The Agency must notify the owner or operator in writing of its final action on any such election. If the Agency fails to notify the owner or operator of its final action within 120 days after its receipt of the election, the owner or operator may deem the election rejected by operation of law.

A) The Agency must mail notices of final action on an election by registered or certified mail, post marked with a date stamp and with return receipt requested. Final action must be deemed to have taken place on the post marked date that such notice is mailed.

B) Any action by the Agency to reject an election, or rejection of an election by the Agency's failure to act, is subject to appeal to the Board within 35 days after the Agency's final action in the manner provided for the review of permit decisions in Section 40 of the Act.

5)3) Upon approval of an election receiving written notification that an owner or operator elects to defer site classification until funds are available, the Agency shall place the site on a priority list for payment and notification of availability of sufficient funds. Sites shall enter the priority list for payment based solely on the date the Agency receives a complete the written election of deferral, with the earliest dates having the highest priority. The Agency's record of the date of receipt shall be deemed conclusive, unless a contrary date is proven by a dated, signed receipt from registered or certified mail.

6)4) As funds become available, the Agency shall encumber funds for each site in the order of priority in an amount equal to the total of the approved budget plan for which deferral was sought. The Agency shall then notify owners or operators that sufficient funds have been allocated for the owner or operator's site. After such notification the owner or operator shall commence site classification activities.

7)5) Authorization of payment of encumbered funds for deferred site classification activities shall be approved in accordance with the requirements of Subpart F of this Part.

8)6) The priority list for payment and notification of availability of sufficient funds shall be the same as that used for deferred corrective action pursuant to Section 732.406 with both types of deferrals entering the list and

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

moving up solely on the basis of the date the Agency receives written notice of the deferral.

- b) An owner or operator who elects to defer site classification, ~~low priority groundwater monitoring, or remediation~~ activities under subsection (a) of this Section shall submit a report certified by a Licensed Professional Engineer or Licensed Professional Geologist demonstrating the following:
- 1) The Agency has approved the owner's or operator's site classification budget plan;
 - 2) The owner or operator has been determined eligible to seek payment from the Fund;
 - 3)4) The early action requirements of Subpart B of this Part have been met; ~~and~~
 - 4) Groundwater contamination does not exceed Tier 1 groundwater ingestion exposure route remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants as a result of the release, modeling in accordance with 35 Ill. Adm. Code 742 shows that groundwater contamination will not exceed such Tier 1 remediation objectives as a result of the release, and no potable water supply wells are impacted as a result of the release; and
 - 5) Soil contamination exceeding the Tier 1 groundwater ingestion exposure route remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants does not extend beyond the site's property boundary and is not located within a regulated recharge area, a wellhead protection area, or the setback zone of a potable water supply well. Documentation to demonstrate that this subsection (b)(5) is satisfied must include, but is not limited to, the results of a water supply well survey conducted in accordance with Section 732.307(f) of this Part.
 - 2) ~~The release does not pose a threat to human health or the environment through migratory pathways following the investigation of migration pathways requirements of Section 732.307(g).~~
- c) An owner or operator may, at any time, withdraw the election to defer site classification activities. ~~commence site classification activities upon the availability of funds at any time.~~ The owner or operator must notify the Agency

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

~~shall be notified~~ in writing of the withdrawal. Upon such withdrawal, the owner or operator shall proceed with site classification in accordance with the requirements of this Part.

(Source: Amended at 29 Ill. Reg. _____, effective _____)

Section 732.307 Site Evaluation

- a) Except as provided in Section 732.300(b), or unless an owner or operator submits a report pursuant to Section 732.202(h)(3) of this Part demonstrating that the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants have been met or elects to classify a site under Section 732.312, the owner or operator of any site for which a release of petroleum has been confirmed in accordance with regulations promulgated by the OSFM and reported to IEMA shall arrange for site evaluation and classification in accordance with the requirements of this Section. A Licensed Professional Engineer or Licensed Professional Geologist (or, where appropriate, persons working under the direction of a Licensed Professional Engineer or Licensed Professional Geologist) shall conduct the site evaluation. The results of the site evaluation shall provide the basis for determining the site classification. The site classification shall be certified by the supervising Licensed Professional Engineer or Licensed Professional Geologist.
- b) As a part of each site evaluation, the Licensed Professional Engineer or Licensed Professional Geologist shall conduct a physical soil classification in accordance with the procedures at subsection (c) or (d) of this Section. Except as provided in subsection (e) of this Section, all elements of the chosen method of physical soil classification must be completed for each site. In addition to the requirement for a physical soil classification, the Licensed Professional Engineer or Licensed Professional Geologist shall, at a minimum, complete the requirements at subsections (f) through (j) of this Section before classifying a site as High Priority or Low Priority and subsections (f) through (i) of this Section before classifying a site as No Further Action.
- c) Method One for Physical Soil Classification:
 - 1) Soil Borings
 - A) Prior to conducting field activities, a review of scientific publications and regional geologic maps shall be conducted to

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

determine if the subsurface strata are as generally mapped in the Illinois State Geological Survey Circular (1984) entitled "Potential for Contamination of Shallow Aquifers in Illinois," incorporated by reference in Section 732.104 of this Part. A list of the publications reviewed and any preliminary conclusions concerning the site geology shall be included in the site classification completion report.

- B) A minimum of one soil boring to a depth that includes 50 feet of native soil or to bedrock shall be performed for each tank field with a release of petroleum.
- C) If, during boring, bedrock is encountered or if auger refusal occurs because of the density of a geologic material, a sample of the bedrock or other material shall be collected to determine permeability or an in situ test shall be performed to determine hydraulic conductivity in accordance with subsections (c)(3)(A) and (c)(3)(B) of this Section. If bedrock is encountered or auger refusal occurs, the Licensed Professional Engineer or Licensed Professional Geologist shall verify that the conditions that prevented the full boring are expected to be continuous through the remaining required depth.
- D) Borings shall be performed within 200 feet of the outer edge of the tank field or at the property boundary, whichever is less. If more than one boring is required per site, borings shall be spaced to provide reasonable representation of site characteristics. The actual spacing of the borings shall be based on the regional hydrogeologic information collected in accordance with subsection (c)(1)(A) of this Section. Location shall be chosen to limit to the greatest extent possible the vertical migration of contamination.
- E) Soil borings shall be continuously sampled to ensure that no gaps appear in the sample column.
- F) If anomalies are encountered, additional soil borings may be necessary to verify the consistency of the site geology.
- G) Any water bearing units encountered shall be protected as necessary to prevent cross-contamination of water bearing units

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

during drilling.

- H) The owner or operator may utilize techniques other than those specified in this subsection (c)(1) for soil classification provided that:
- i) The techniques provide equivalent, or superior, information as required by this Section;
 - ii) The techniques have been successfully utilized in applications similar to the proposed application;
 - iii) Methods for quality control can be implemented; and
 - iv) The owner or operator has received written approval from the Agency prior to the start of the investigation.

2) Soil Properties

The following tests shall be performed on a representative sample of each of the stratigraphic units encountered in the native soil boring that which has been determined most conducive to transporting contaminants from the source based on site factors, including but not limited to visual and tactile observations, the classification of the soil, any prior evaluation of the site stratigraphy, the volume of the release, the thickness or extent of the stratigraphic unit, and the requirements of ASTM D 2488-93, Standard Practice for Description and Identification of Soils (Visual-Manual Procedure), approved September 15, 1993:

- A) A soil particle analysis using the test methods specified in ASTM (American Society for Testing and Materials) Standard D 422-63 or D 1140-92, "Standard Test Method for Particle-Size Analysis of Soils," or "Standard Test Method for Amount of Material in Soils Finer than the No. 200 (75 μ m) Sieve," incorporated by reference in Section 732.104 of this Part, or other Agency approved method;
- B) A soil moisture content analysis using the test methods specified in ASTM Standard D 2216-92 or D 4643-93, "Standard Test Method for Laboratory Determination of Water (Moisture) Content of Soil and Rock," or "Standard Test Method for Determination of Water (Moisture) Content of Soil by the Microwave Oven Method,"

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

incorporated by reference in Section 732.104 of this Part, or other Agency approved method;

- C) A soil classification using the test methods specified in ASTM Standard D 2487-93 or D 2488-93, "Standard Test Method for Classification of Soils for Engineering Purposes" or "Standard Practice for Description and Identification of Soils (Visual-Manual Procedure)," incorporated by reference in Section 732.104 of this Part, or other Agency approved method;
- D) Unconfined compression strength shall be determined in tons per square foot by using a hand penetrometer; and
- E) If representative samples of each stratigraphic unit are collected for soil property testing by the use of thin-walled tube sampling, an additional soil boring must be performed for this sampling within 5 feet of the site classification boring. Thin-walled tube sampling must be conducted in accordance with ASTM Standard Test Method D 1587-83, incorporated by reference in Section 732.104 of this Part, or other Agency approved method. The boring from which the thin-walled tubes are collected must be logged in accordance with the requirements of Section 732.308(a) of this Part.

3) Hydraulic Conductivity

- A) If a water bearing unit is encountered while performing soil boring(s) for the physical soil classification, an in-situ hydraulic conductivity test shall be performed in the first fully saturated layer below the water table. If multiple water bearing units are encountered, an in-situ hydraulic conductivity test shall be performed on each such unit. ~~Wells used for hydraulic conductivity testing shall be constructed in a manner that ensures the most accurate results.~~
 - i) Wells used for hydraulic conductivity testing shall be constructed in a manner that ensures the most accurate results.
 - ii) The screen must be contained within the saturated zone.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- B) If no water bearing unit is encountered in the required soil boring(s), then the following laboratory analyses shall be conducted, as applicable, on a representative sample from each stratigraphic unit:
- i) A hydraulic conductivity analysis of undisturbed or laboratory compacted granular soils (i.e., clay, silt, sand or gravel) using the test method specified in ASTM Standard D 5084-90, "Standard Test Method for Measurement of Hydraulic Conductivity of Saturated Porous Materials Using a Flexible Wall Permeameter," incorporated by reference in Section 732.104 of this Part, or other Agency approved method.
 - ii) Granular soils that are estimated to have hydraulic conductivity greater than 1×10^{-3} cm/sec will fail the minimum geologic conditions for "No Further Action", i.e., rating of D, E, F, or G as described in the Berg Circular, and therefore, no physical tests need to be run on the soils.
 - iii) A hydraulic conductivity analysis of bedrock using the test method specified in ASTM Standard D 4525-90, "Standard Test Method for Permeability of Rocks by Flowing Air," incorporated by reference in Section 732.104 of this Part, or other Agency approved method.
 - iv) If representative samples of each stratigraphic unit are collected for soil property testing by the use of thin-walled tube sampling, an additional soil boring must be performed for this sampling within 5 feet of the site classification boring. Thin-walled tube sampling must be conducted in accordance with ASTM Standard Test Method D 1587-83, incorporated by reference in Section 732.104 of this Part, or other Agency approved method. The boring from which the thin-walled tubes are collected must be logged in accordance with the requirements of Section 732.308(a) of this Part.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- 4) If the results of the physical soil classification or groundwater investigation reveal that the actual site geologic characteristics are different from those generally mapped by the Illinois State Geological Survey Circular (1984) entitled "Potential for Contamination of Shallow Aquifers in Illinois," incorporated by reference at Section 732.104 of this Part, the site classification shall be determined using the actual site geologic characteristics.
- d) Method Two for Physical Soil Classification:
- 1) Soil Borings
 - A) A minimum of one soil boring to a depth that includes native material from the invert elevation of the most shallow UST to 15 feet below the invert elevation of the deepest UST for each tank field with a release of petroleum.
 - B) This boring shall meet the requirements of subsections (c)(1)(C) through (c)(1)(G) of this Section.
 - 2) Soil Properties
The following tests mustshall be performed on a representative sample of each of the stratigraphic units encountered in the native soil boring that has been determined most conducive to transporting contaminants from the source based on site factors, including but not limited to visual and tactile observations, the classification of the soil, any prior evaluation of the site stratigraphy, the volume of the release, the size or extent of the unit, and the requirements of ASTM D 2488-93, Standard Practice for Description and Identification of Soils (Visual-Manual Procedure), approved September 15, 1993 and incorporated by reference in Section 732.104 of this Part:
 - A) A soil particle analysis satisfying the requirements of subsection (c)(2)(A) of this Section; and
 - B) Either:
 - i) A pump test or equivalent to determine the yield of the geologic material. Methodology, assumptions and any calculations performed shall be submitted as part of the site

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

classification completion report. If the aquifer geometry and transmissivity have been obtained through a site-specific field investigation, an analytical solution may be used to estimate well yield. The Licensed Professional Engineer or Licensed Professional Geologist shall demonstrate the appropriateness of the analytical solution to estimate well yield versus an actual field test. Well yield should be determined for either confined or unconfined formations. Once the yield has been determined site-specifically, the hydraulic conductivity shall be calculated; or

- ii) Hydraulic conductivity shall be determined in accordance with subsection (c)(3) of this Section. Once the hydraulic conductivity has been determined site-specifically, the yield shall be calculated.
- C) If representative samples of each stratigraphic unit are collected for soil property testing by the use of thin-walled tube sampling, an additional soil boring must be performed for this sampling within 5 feet of the site classification boring. Thin-walled tube sampling must be conducted in accordance with ASTM Standard Test Method D1587-83, incorporated by reference in Section 732.104 of this Part, or other Agency approved method. The boring from which the thin-walled tubes are collected must be logged in accordance with the requirements of Section 732.308(a) of this Part.
- 3) The results of the boring(s) and tests described in subsections (d)(1) and (d)(2) of this Section shall be used to demonstrate whether the native material from the invert elevation of the most shallow UST to 15 feet below the invert elevation of the deepest UST meets all of the following criteria:
- A) Does not contain unconsolidated sand, gravel or sand and gravel that is 5 feet or more in thickness with 12 percent or less fines (i.e., fines that pass through a No. 200 sieve tested according to ASTM Standard Test Method D 2487-93, "Standard Test Method for Classification of Soils for Engineering Purposes," incorporated by reference at Section 732.104 of this Part, or other Agency

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

approved method);

- B) Does not contain sandstone that is 10 feet or more in thickness, or fractured carbonate that is 15 feet or more in thickness;
 - C) Is not capable of sustained groundwater yield, from up to a 12 inch borehole, of 150 gallons per day or more from a thickness of 15 feet or less; and
 - D) Is not capable of hydraulic conductivity of 1×10^{-4} cm/sec or greater.
- e) If, during the completion of the requirements of subsection (c) or (d) of this Section, a Licensed Professional Engineer or Licensed Professional Geologist determines that the site geology is not consistent with area D, E, F or G of the Illinois State Geological Survey Circular (1984) entitled, "Potential for Contamination of Shallow Aquifers in Illinois," incorporated by reference in Section 732.104 of this Part or that the criteria of subsection (d)(3) are not satisfied, any remaining steps required by subsection (c) or (d) may be suspended, provided that the soil investigation has been sufficient to satisfy the requirements of subsection (g) of this Section. If activities are suspended under this subsection (e), the Licensed Professional Engineer or Licensed Professional Geologist shall complete the requirements of subsections (f) through (j) of this Section in order to determine whether the site is High Priority or Low Priority. The site conditions upon which the suspension of the requirements of subsection (c) or (d) of this Section is based shall be documented in the site classification completion report.
- f) Survey of Water Supply Wells. At a minimum, the owner or operator must conduct a water supply well survey to identify all potable water supply wells located at the site and within 200 feet of the site, all community water supply wells located at the site and within 2,500 feet of the site, and all regulated recharge areas and wellhead protection areas in which the site is located. Actions taken to identify the wells must include, but are not limited to, the following.
- 1) Contacting the Agency's Division of Public Water Supplies to identify community water supply wells, regulated recharge areas, and wellhead protection areas;
 - 2) Using current information from the Illinois State Geological Survey, the Illinois State Water Survey, and the Illinois Department of Public Health

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

(or the county or local health department delegated by the Illinois Department of Public Health to permit potable water supply wells) to identify potable water supply wells other than community water supply wells; and

- 3) Contacting the local public water supply entities to identify properties that receive potable water from a public water supply.
- ~~1) The Licensed Professional Engineer shall conduct a survey of water supply wells for the purpose of identifying and locating all community water supply wells within 2500 feet of the UST system and all potable water supply wells within 200 feet of the UST system. The survey shall include, but not be limited to, contacting the Illinois State Geological Survey and the Illinois State Water Survey. The unit of local government with authority over the site shall be contacted to determine if there is a local ordinance or policy regulating the usage of potable water supply wells.~~
- ~~2) The Licensed Professional Engineer shall provide a map to scale showing the locations of all community water supply wells and potable water supply wells including the designated minimum and maximum setback zones of the wells identified pursuant to subsection (f)(1) of this Section. Radii of 200, 400, 1000, and 2500 feet from the UST system shall be marked on the map.~~
- ~~3) The Licensed Professional Engineer shall provide a table indicating the setback zone for each community water supply well and potable water supply well identified pursuant to subsection (f)(1) of this Section and the distance from the UST system to the well. The locations of each well shall be identified on the map by numbers corresponding to the information provided in the table.~~
- ~~4) The Licensed Professional Engineer shall determine if the UST system is within the regulated recharge area of any community water supply well or potable water supply well. The sources consulted in making this determination shall be described in the site classification completion report.~~

- g) Investigation of Migration Pathways

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- 1) The Licensed Professional Engineer or Licensed Professional Geologist shall conduct an investigation either separately or in conjunction with the physical soil classification to identify all potential natural and man-made migration pathways that are on the site, in rights-of-way attached to the site, or in any area surrounding the site that may be adversely affected as a result of the release of petroleum from the UST system. Once the migration pathways have been identified, the areas along all such pathways shall be further investigated in a manner sufficient to determine whether there is evidence that migration of petroleum or vapors along such pathways:
 - A) May potentially threaten human health or human safety; or
 - B) May cause explosions in basements, crawl spaces, utility conduits, storm or sanitary sewers, vaults or other confined spaces.
- 2) Natural pathways shall be identified using data obtained from investigation at the site. This must include, but is not limited to, identification and location of groundwater if encountered during excavation activities or soil boring activities, identification of different soil strata during excavation activities or soil boring activities and inspection of surface water bodies. Investigation and evaluation of natural migration pathways shall include, for applicable indicator contaminants along potential natural migration pathways:
 - A) Soil sampling and laboratory analysis of samples; and
 - B) When groundwater is encountered or when there is potential for surface water contamination, groundwater and surface water sampling and laboratory analysis of samples.
- 3) Man-made pathways shall be identified from available sources, including but not limited to site plans; a review of underground utilities as identified by the Joint Utility Location Information for Excavators (J.U.L.I.E.), the Chicago Utility Alert Network (Digger), another public locator, or a private locator; and interviews with site owners or personnel. The Licensed Professional Engineer or Licensed Professional Geologist must determine whether migration of indicator contaminants ~~contaminants of concern~~ along any of these pathways has occurred, using laboratory analytical data for applicable indicator contaminants obtained as follows:

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- A) From prior sampling, provided that such laboratory analytical data demonstrates that no contaminant of concern has migrated to or along any man-made pathways;
 - B) From soil samples, and groundwater samples if groundwater is encountered, taken between man-made pathways and contaminated soil, provided that such laboratory analytical data demonstrates that no contaminant of concern has migrated to or along any man-made pathways; or
 - C) From soil samples, and groundwater samples if groundwater is encountered, taken along man-made pathways.
- 4) The Licensed Professional Engineer or Licensed Professional Geologist shall provide a map of the site and any surrounding areas that may be adversely affected by the release of petroleum from the UST system. At a minimum, the map shall be to scale, oriented with north at the top, and shall show the location of the leaking UST system(s) with any associated piping and all potential natural and man-made pathways that are on the site, that are in rights-of-way attached to the site, or that are in areas that may be adversely affected as a result of the release of petroleum.
- 5) Unless the Agency's review reveals objective evidence to the contrary, the Licensed Professional Engineer or Licensed Professional Geologist shall be presumed correct when certifying whether or not there is evidence that, through natural or man-made pathways, migration of petroleum or vapors:
- A) May potentially threaten human health or human safety; or
 - B) May cause explosions in basements, crawl spaces, utility conduits, storm or sanitary sewers, vaults or other confined spaces.
- h) The Licensed Professional Engineer or Licensed Professional Geologist shall verify whether Class III groundwater exists within 200 feet of the UST system.
- i) The Licensed Professional Engineer or Licensed Professional Geologist shall locate all surface bodies of water on site and within 100 feet of the site and provide a map noting the locations. All such surface bodies of water shall be inspected to determine whether they have been adversely affected by the presence

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

of a sheen or free product layer resulting from the release of petroleum from the UST system.

j) Groundwater Investigation

- 1) For sites failing to meet NFA site classification or for sites where a groundwater investigation is necessary pursuant to Section 732.302(b) of this Part, the Licensed Professional Engineer or Licensed Professional Geologist shall perform a groundwater investigation as required under this Part in accordance with this subsection (j) to determine whether the most stringent Tier 1 groundwater remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants have an applicable indicator contaminant groundwater quality standard has been exceeded at the property boundary or 200 feet from the UST system, whichever is less, as a result of the UST release of petroleum.
- 2) Applicable indicator contaminants and groundwater quality standards shall be those identified pursuant to SectionSections 732.310 and 732.311 of this Part.
- 3) Except as provided in subsection (j)(6) of this Section, a minimum of four groundwater monitoring wells shall be installed at the property boundary or 200 feet from the UST system, whichever is less. In the event that a groundwater monitoring well cannot be physically installed at the property line or 200 feet from the UST system, whichever is closer, in accordance with this subsection (j), the owner or operator shall request approval from the Agency to place the well further out, but at the closest practical point to the compliance point. The owner or operator may elect to place a monitoring well in a location that is closer to the UST system than this Part requires. However, once the election is made, the owner or operator may not withdraw the election at a later time. The Agency may require the installation of additional monitoring wells to ensure that at least one monitoring well is located hydraulically upgradient and three monitoring wells are located hydraulically downgradient of the UST system. The wells must be installed so that they provide the greatest likelihood of detecting migration of groundwater contamination. At a minimum, monitoring well construction shall satisfy the following requirements:
 - A) Construction shall be in a manner that will enable the collection of representative groundwater samples;

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- B) All monitoring wells shall be cased in a manner that maintains the integrity of the borehole. Casing material shall be inert so as not to affect the water sample. Casing requiring solvent-cement type couplings shall not be used;
- C) Wells shall be screened to allow sampling only at the desired interval. Annular space between the borehole wall and well screen section shall be packed with clean, well-rounded and uniform material sized to avoid clogging by the material in the zone being monitored. The slot size of the screen shall be designed to minimize clogging. Screens shall be fabricated from material that is inert with respect to the constituents of the groundwater to be sampled;
- D) Annular space above the well screen section shall be sealed with a relatively impermeable, expandable material such as cement/bentonite grout that does not react with or in any way affect the sample, in order to prevent contamination of groundwater samples and groundwater and avoid interconnections. The seal shall extend to the highest known seasonal groundwater level;
- E) The annular space shall be backfilled with expanding cement grout from an elevation below the frost line and mounded above the surface and sloped away from the casing so as to divert surface water away;
- F) All monitoring wells shall be covered with vented caps and equipped with devices to protect against tampering and damage. Locations of wells shall be clearly marked and protected against damage from vehicular traffic or other activities associated with expected site use; and
- G) All wells shall be developed to allow free entry of groundwater~~water~~, minimize turbidity of the sample, and minimize clogging.
- 4) Monitoring well construction diagrams prescribed and provided by the Agency shall be completed for each monitoring well.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- 5) Static water elevations shall be measured for each monitoring well. Groundwater samples shall be taken from each well and analyzed for the applicable indicator contaminants. The data collected shall be used to determine the direction of groundwater flow and whether the applicable groundwater ~~remediation quality standards or clean-up~~ objectives have been exceeded. Samples shall be collected and analyzed in accordance with the following procedures:
- A) Samples shall be collected in accordance with ~~the procedures set forth in the documents "Methods for Chemical Analysis of Water and Wastes," "Methods for the Determination of Organic Compounds in Drinking Water," "Practical Guide for Ground-Water Sampling," "Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods," EPA Publication No. SW-846, or "Techniques of Water Resources Investigations of the United States Geological Survey, Guidelines for Collection and Field Analysis of Ground-Water Samples for Selected Unstable Constituents," as appropriate for the applicable indicator contaminants or groundwater objectives and as~~ incorporated by reference at Section 732.104 of this Part, or other procedures approved by the Agency.
 - B) Groundwater elevation in a groundwater monitoring well shall be determined and recorded to establish the gradient of the groundwater table.
 - C) The analytical methodology used for the analysis of the indicator contaminants shall be consistent with both of the following:
 - i) The methodology ~~must~~shall have a practical quantitation limit (PQL) at or below the most stringent objectives or detection levels set forth in 35 Ill. Adm. Code 742 or as set for mixtures or degradation products as provided in Section 732.310 of this Part; and
 - ii) The methodology must be consistent with the methodologies contained in ~~"Methods for Chemical Analysis of Water and Wastes," "Methods for the Determination of Organic Compounds in Drinking Water,"~~

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

~~"Practical Guide for Ground Water Sampling," "Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods," EPA Publication No. SW-846, and "Techniques of Water Resources Investigations of the United States Geological Survey, Guidelines for Collection and Field Analysis of Ground Water Samples for Selected Unstable Constituents,"~~ as incorporated by reference at Section 732.104, or other Agency approved methods.

- D) In addition to analytical results, sampling and analytical reports shall contain the following information:
- i) Sample collection information including but not limited to the name of sample collector, time and date of sample collection, method of collection, and monitoring location;
 - ii) Sample preservation and shipment information including but not limited to field quality control;
 - iii) Analytical procedures including but not limited to the method detection limits and the practical quantitation limits (PQL);
 - iv) Chain of custody and control; and
 - v) Field and lab blanks.
- 6) As an alternative to the installation of monitoring wells under subsection (j)(3) of this Section, the Licensed Professional Engineer or Licensed Professional Geologist may demonstrate to the Agency through a site-specific evaluation that the groundwater monitoring should not be required.
- A) The evaluation shall be based on a demonstration of the following factors:
- i) Whether groundwater is present within the depth of the boring used to perform physical soil classification under the selected method (Method One under subsection (c) of this Section or Method Two under subsection (d) of this

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

Section);

- ii) Whether groundwater is withdrawn for potable use within 1000 feet of the UST system and at what depths; and
 - iii) Whether seasonal fluctuation in groundwater could result in groundwater contacting contaminated soil (e.g., historical records).
- B) The presence or absence of a water bearing unit under subsection (j)(6)(A)(i) of this Section shall be determined on the basis of at least one soil boring to the depth necessary to perform physical soil classification under the selected method (Method One under subsection (c) of this Section or Method Two under subsection (d) of this Section), unless auger refusal occurs because of the density of a geologic material or because bedrock is encountered. If auger refusal occurs, then the Licensed Professional Engineer or Licensed Professional Geologist must demonstrate the depth to a water bearing unit from the available site specific or regional information.
- C) If the evaluation fails to demonstrate to the Agency that a groundwater investigation should not be required as part of site classification activities, then the Licensed Professional Engineer or Licensed Professional Geologist shall perform a groundwater investigation in accordance with the remainder of this subsection (j).
- D) If the evaluation demonstrates to the Agency that a groundwater investigation should not be required, then the site shall be classified as Low Priority, unless other High Priority criteria are present. Upon Agency approval of the evaluation to demonstrate that a groundwater investigation should not be required, then the site shall be classified as Low Priority and a No Further Remediation Letter shall be issued to the owner or operator of the site, unless other High Priority criteria are present.

(Source: Amended at 29 Ill. Reg. _____, effective _____)

Section 732.308 Boring Logs and Sealing of Soil Borings and Groundwater Monitoring

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

Wells

- a) Soil boring logs shall be kept for all soil borings. The logs shall be submitted along with the site classification completion report and shall be on forms prescribed and provided by the Agency and, if specified by the Agency by written notice, in an electronic format.
 - 1) Soil boring logs shall contain the following information at a minimum:
 - A) Sampling device, sample number and amount of recovery;
 - B) Total depth of boring to the nearest 6 inches;
 - C) Detailed field observations describing materials encountered in boring, including soil constituents, consistency, color, density, moisture, odors, and the nature and extent of sand or gravel lenses or seams equal to or greater than 1 inch in thickness;
 - D) Petroleum hydrocarbon vapor readings (as determined by continuous screening of borings with field instruments capable of detecting such vapors);
 - E) Locations of sample(s) used for physical or chemical analysis; and
 - F) Groundwater levels while boring and at completion.
 - 2) Boring logs for soil boring(s) completed for physical soil classification also shall include the following information, as applicable for the classification method chosen, for each stratigraphic unit encountered at the site:
 - A) Moisture content;
 - B) Unconfined compression strength in tons per square foot (TSF) using a hand penetrometer;
 - C) Unified Soil Classification System (USCS) soil classification group symbol in accordance with ASTM Standard D 2487-93, "Standard Test Method for Classification of Soils for Engineering Purposes," incorporated by reference in Section 732.104 of this

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

Part, or other Agency approved method; and

- D) The reasoning behind the Licensed Professional Engineer's or Licensed Professional Geologist's decision to perform or not perform soil testing pursuant to Section 732.307(c)(2) and (d)(2) of this Part as to each identified stratigraphic unit.
- b) Boreholes and monitoring wells shall be abandoned pursuant to regulations promulgated by the Illinois Department of Public Health at 77 Ill. Adm. Code 920.120.

(Source: Amended at 29 Ill. Reg. _____, effective _____)

Section 732.309 Site Classification Completion Report

- a) Within 30 days after the completion of a site evaluation in accordance with Section 732.307 of this Part, the owner or operator shall submit to the Agency a site classification completion report addressing all applicable elements of the site evaluation. The report shall contain all maps, diagrams, and any other information required by Section 732.307 of this Part, ~~as well as~~ the results or conclusions of all surveys and investigations and any documentation necessary to demonstrate those results or conclusions, ~~and. The report shall be submitted on forms prescribed and provided by the Agency, shall be signed by the owner or operator, and shall contain~~ the certification of a Licensed Professional Engineer of the site's classification as No Further Action, Low Priority or High Priority in accordance with this Subpart C. Documentation of the water supply well survey conducted pursuant to Section 732.307(f) of this Part must include, but is not limited to, the following:
- 1) One or more maps, to an appropriate scale, showing the following:
- A) The location of the community water supply wells and other potable water supply wells identified pursuant to Section 732.307(f) of this Part, and the setback zone for each well;
 - B) The location and extent of regulated recharge areas and wellhead protection areas identified pursuant to Section 732.307(f) of this Part;
 - C) The current extent of groundwater contamination exceeding the Tier 1 groundwater ingestion exposure route remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants; and
 - D) The modeled extent of groundwater contamination exceeding the Tier 1

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

groundwater ingestion exposure route remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants. The information required under this subsection (a)(1)(D) is not required to be shown in the site classification completion report if modeling is not performed as part of site investigation;

- 2) One or more tables listing the setback zones for each community water supply well and other potables water supply wells identified pursuant to Section 732.307(f) of this Part;
- 3) A narrative that, at a minimum, identifies each entity contacted to identify potable water supply wells pursuant to Section 732.307(f) of this Part, the name and title of each person contacted at each entity, and field observations associated with the identification of potable water supply wells; and
- 4) A certification from a Licensed Professional Engineer or Licensed Professional Geologist that the water supply well survey was conducted in accordance with the requirements of Section 732.307(f) of this Part and that the documentation submitted pursuant to this Section includes the information obtained as a result of the survey.

~~For No Further Action sites, with the exception of Federal Landholding Entities subject to Section 732.703(d), the owner or operator must sign and submit, with the site classification completion report, a form prescribed and provided by the Agency addressing ownership of the site. Where the owner or operator owns the site, the owner or operator must so indicate on the form. Where the owner or operator either does not own or does not solely own the site, the owner or operator must provide, on the form, a certification by original signature of the title holder(s) of record for the remediation site or each portion thereof, or the agent(s) of such person(s), state as follows:~~

~~I hereby certify that I have reviewed the attached report and that I accept the terms and conditions set forth therein, including any land use limitations, that apply to property I own. I further certify that I have no objection to the recording of a No Further Remediation Letter containing the terms and conditions identified in the site classification completion report.~~

- b) The Agency shall have the authority to review and approve, reject or require modification of any report submitted pursuant to this Section in accordance with the procedures contained in Subpart E of this Part.

(Source: Amended at 29 Ill. Reg. _____, effective _____)

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

Section 732.310 Indicator Contaminants

- a) For purposes of this Part, the term "indicator contaminants" shall mean the parameters identified in subsections (b) through (i) of this Section.
- b) For gasoline, including but not limited to leaded, unleaded, premium and gasohol, the indicator contaminants shall be benzene, ethylbenzene, toluene, total xylenes and methyl tertiary butyl ether (MTBE), except as provided in subsection (h) of this Section. For leaded gasoline, lead shall also be an indicator contaminant.
- c) For aviation turbine fuels, jet fuels, diesel fuels, gas turbine fuel oils, heating fuel oils, illuminating oils, kerosene, lubricants, liquid asphalt and dust laying oils, cable oils, crude oil, crude oil fractions, petroleum feedstocks, petroleum fractions and heavy oils, the indicator contaminants shall be benzene, ethylbenzene, toluene, total xylenes, and the polynuclear aromatics ~~(PNA)~~ listed in Appendix B of this Part. For leaded aviation turbine fuels, lead shall also be an indicator contaminant.
- d) For transformer oils the indicator contaminants shall be benzene, ethylbenzene, toluene, total xylenes, the polynuclear aromatics listed in Appendix B and the polychlorinated biphenyl parameters listed in Appendix B of this Part.
- e) For hydraulic fluids the indicator contaminants shall be benzene, ethylbenzene, toluene, total xylenes, the polynuclear aromatics listed in Appendix B of this Part and barium.
- f) For petroleum spirits, mineral spirits, Stoddard solvents, high-flash aromatic naphthas, moderately volatile hydrocarbon solvents and petroleum extender oils, the indicator contaminants shall be the volatile, base/neutral and polynuclear aromatic parameters listed in Appendix B of this Part. The Agency may add degradation products or mixtures of any of the above pollutants in accordance with 35 Ill. Adm. Code 620.615.
- g) For used oil the indicator contaminants shall be determined by the results of a used oil soil sample analysis. In accordance with Section 732.202(h) of this Part, soil samples must be collected from the walls and floor of the used oil UST excavation if the UST is removed, or from borings drilled along each side of the used oil UST if the UST remains in place. The sample that appears to be the most contaminated as a result of a release from the used oil UST must then be analyzed

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

for the following parameters. If none of the samples appear to be contaminated, a soil sample must be collected from the floor of the used oil UST excavation below the former location of the UST if the UST is removed, or from soil located at the same elevation as the bottom of the used oil UST if the UST remains in place, and analyzed for the following parameters:~~Prior to the submission of a site classification plan, the owner or operator shall collect a grab sample from a location representative of soil that is the most contaminated as a result of the release from the used oil UST. If an area of contamination cannot be identified, the sample shall be collected from beneath the used oil UST. The sample shall be analyzed for:~~

- 1) All volatile, base/neutral, polynuclear aromatic, and metal parameters listed at Appendix B of this Part and any other parameters the Licensed Professional Engineer or Licensed Professional Geologist suspects may be present based on UST usage. The Agency may add degradation products or mixtures of any of the above pollutants in accordance with 35 Ill. Adm. Code 620.615.
 - 2) The used oil indicator contaminants shall be those volatile, base/neutral, ~~polynuclear aromatic~~ and metal parameters listed at Appendix B of this Part or as otherwise identified at subsection (g)(1) of this Section that exceed their remediation objective at 35 Ill. Adm. Code 742, in addition to benzene, ethylbenzene, toluene, total xylenes, and polynuclear aromatics listed in Appendix B of this Part and PNAs.
 - 3) If none of the parameters exceed their remediation objective, the used oil indicator contaminants shall be benzene, ethylbenzene, toluene, total xylenes, and the polynuclear aromatics listed in Appendix B of this Part.
- h) Unless an owner or operator elects otherwise pursuant to subsection (i) of this Section, the term "indicator contaminants" shall not include MTBE for any release reported to the Illinois Emergency Management Agency prior to June 1, 2002 (the effective date of amendments establishing MTBE as an indicator contaminant).
- i) An owner or operator ~~of a site~~ exempt from having to address MTBE as an indicator contaminant pursuant to subsection (h) of this Section may elect to include MTBE as an indicator contaminant under the circumstances listed in subsection (i)(1) or (2) following circumstances: Elections to include MTBE as an indicator contaminant must be made by submitting to the Agency a written

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

notification of such election signed by the owner or operator. The election must be effective upon the Agency's receipt of the notification and cannot be withdrawn once made. Owners or operators electing to include MTBE as an indicator contaminant must remediate MTBE contamination in accordance with the requirements of this Part.

- 1) If the Agency has not issued a No Further Remediation Letter for the releasesite by June 1, 2002 (the effective date of the amendments establishing MTBE as an indicator contaminant); or
- 2) If the Agency has issued a No Further Remediation Letter for the release and the release at the site has caused off-site groundwater contamination exceeding the remediation objective for MTBE set forth in 35 Ill. Adm. Code 742, provided that the owner or operator complies with all applicable requirements of this Part.

(Source: Amended at 29 Ill. Reg. _____, effective _____)

Section 732.311 ~~Indicator Contaminant~~ Groundwater Remediation Objectives

For purposes of this Part, remediation objectives for groundwater indicator contaminant groundwater quality standards shall be the groundwater remediation groundwater objectives specified in 35 Ill. Adm. Code 742 for the applicable indicator contaminants. For mixtures and degradation products that have been included as indicator contaminants in accordance with Section 732.310 of this Part, the Agency shall determine groundwater remediation objectives on a site-by-site basis.

(Source: Amended at 29 Ill. Reg. _____, effective _____)

Section 732.312 Classification by Exposure Pathway Exclusion

- a) An owner or operator electing to classify a site by exclusion of human exposure pathways under 35 Ill. Adm. Code 742, Subpart C, shall meet the requirements of this Section, except as provided in subsections (a)(1) and (j) of this Section.
 - 1) Such election shall be made in writing by the owner or operator as part of the submission of the site classification plan under subsection (be) of this Section. The election may be made at any time until the Agency issues a No Further Remediation Letter, provided, however, that the election must be received by the Agency prior to the effective date of this amendment.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

On or after the effective date of this amendment, owners and operators desiring to proceed with the exclusion of human exposure pathways under 35 Ill. Adm. Code 742, Subpart C, must elect pursuant to 35 Ill. Adm. Code 734.105 to proceed in accordance with 35 Ill. Adm. Code 734 and conduct site investigation and corrective action in accordance with that Part instead of meeting the requirements of this Section.

2) An owner or operator who chooses to revoke an election submitted under subsection ~~(b)~~ of this Section shall do so in writing.

~~b) Upon completion of early action requirements pursuant to Subpart B of this Part, the owner or operator shall determine whether the areas or locations addressed under early action (e.g., backfill) meet the requirements applicable for a Tier 1 evaluation pursuant to 35 Ill. Adm. Code 742, Subpart E.~~

~~1) If the remediation objectives have been met, the owner or operator shall submit a corrective action completion report demonstrating compliance with the required levels.~~

~~2) If the remediation objectives have not been met, evaluation shall continue in accordance with subsection (c) of this Section.~~

~~be) The~~If, upon completion of early action requirements pursuant to Subpart B of this Part, the requirements under subsection (b) of this Section have not been met, then the owner or operator, prior to conducting any site evaluation activities, shall submit to the Agency a site classification plan including, but not limited to, a contaminant identification and groundwater investigation plan (if one or more of the criteria set forth in Section 732.202(h)(4)(A) through (C) of this Part are met~~applicable in accordance with Section 732.300(b)(1)~~), satisfying the minimum requirements for site evaluation activities as set forth in this Section. Site classification plans shall be submitted on forms prescribed and provided by the Agency and, if specified by the Agency by written notice, in an electronic format. The plans shall be designed to:

1) Determine the full extent of soil or groundwater contamination exceeding the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants~~remediation objectives for Tier 1 sites under 35 Ill. Adm. Code 742, Subpart E.~~ Such activities may include soil borings with sampling and analysis, groundwater monitoring wells with sampling and analysis, groundwater modeling, or a combination of

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

these activities.

- 2) Collect data sufficient to determine which, if any, of the applicable exposure routes under 35 Ill. Adm. Code 742 can be excluded pursuant to 35 Ill. Adm. Code 742, Subpart C. The data shall include, but is not limited to, site-specific data demonstrating the physical characteristics of soil and groundwater.

- ~~cd~~) A Licensed Professional Engineer or Licensed Professional Geologist (or, where appropriate, persons working under the direction of a Licensed Professional Engineer or Licensed Professional Geologist) shall conduct the site evaluation. The results of the site evaluation shall provide the basis for determining the site classification. The site classification shall be certified by the supervising Licensed Professional Engineer or Licensed Professional Geologist.
- ~~de~~) As a part of each site evaluation, the Licensed Professional Engineer or Licensed Professional Geologist shall conduct physical soil classification and contaminant identification in accordance with the procedures at subsection (~~be~~) of this Section.
- ~~ef~~) In addition to the plan required in subsection (~~be~~) of this Section and prior to conducting any site evaluation activities, any owner or operator intending to seek payment from the Fund shall submit to the Agency a: 1)An application for payment of costs associated with eligible early action costs incurred pursuant to Subpart B of this Part, except as provided in subsection (f)(2) of this Section; and 2)A site classification budget plan with the corresponding site classification plan. The budget plan, that shall include, but not be limited to, a copy of the eligibility and deductibility determination of the OSFM and ~~ana-line item~~ estimate of all costs associated with the development, implementation and completion of the site evaluation activities required under subsection (~~be~~) of this Section, excluding handling charges. Formulation of budget plans should be consistent with the eligible and ineligible costs listed at Sections 732.605 and 732.606 of this Part and the maximum payment amounts set forth in Subpart H of this Part.
- ~~fg~~) Sites shall be classified as No Further Action if the Licensed Professional Engineer or Licensed Professional Geologist determines that all applicable exposure routes can be excluded from further consideration pursuant to 35 Ill. Adm. Code 742, Subpart C.
- ~~gh~~) Sites shall be classified as High Priority if the Licensed Professional Engineer or Licensed Professional Geologist determines that any of the applicable exposure

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

routes cannot be excluded from further consideration pursuant to 35 Ill. Adm. Code 742, Subpart C.

- ~~hi)~~ Within 30 days after the completion of a site evaluation in accordance with this Section, the owner or operator shall submit to the Agency a site classification completion report addressing all applicable elements of the site evaluation. The report shall contain all maps, diagrams, and any other information required by this Section, ~~as well as~~ the results or conclusions of all surveys and investigations and any documentation necessary to demonstrate those results or conclusions, ~~and~~. ~~The report shall be submitted on forms prescribed and provided by the Agency and, if specified by the Agency by written notice, in an electronic format, shall be signed by the owner or operator, and shall contain~~ the certification of a Licensed Professional Engineer or Licensed Professional Geologist of the site's classification as No Further Action or High Priority in accordance with this Section. For any site classified as High Priority, the report shall also contain the certification of a Licensed Professional Engineer or Licensed Professional Geologist as to which exposure routes, if any, have been excluded from further consideration under 35 Ill. Adm. Code 742, Subpart C. ~~With the exception of Federal Landholding Entities subject to Section 732.703(d), the owner or operator must sign and submit, with the site classification completion report, a form prescribed and provided by the Agency addressing ownership of the site. Where the owner or operator owns the site, the owner or operator must so indicate on the form. Where the owner or operator either does not own or does not solely own the site, the owner or operator must provide, on the form, a certification by original signature of the title holder(s) of record for the remediation site or each portion thereof, or the agent(s) of such person(s), stating as follows:~~

~~I hereby certify that I have reviewed the attached report and that I accept the terms and conditions set forth therein, including any land use limitations, that apply to property I own. I further certify that I have no objection to the recording of a No Further Remediation Letter containing the terms and conditions identified in the site classification completion report.~~

- ~~ij)~~ The Agency shall have the authority to review and approve, reject, or require modification of any classification plan, budget plan, or report submitted pursuant to this Section in accordance with the procedures contained in Subpart E of this Part.
- ~~jk)~~ Notwithstanding subsections ~~(be)~~ and ~~(ef)~~ of this Section, prior to the effective date of this amendment an owner or operator may proceed to conduct site

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

evaluation activities in accordance with this Section prior to the submittal or approval of any otherwise required site classification plan or budget plan and associated budget plans. However, any such classification plan and budget plan shall be submitted to the Agency for review and approval, rejection, or modification in accordance with the procedures contained in Subpart E of this Part prior to receiving payment or reimbursement for any related costs or the issuance of a No Further Remediation Letter. On or after the effective date of this amendment, owners and operators desiring to proceed with the exclusion of human exposure pathways under 35 Ill. Adm. Code 742, Subpart C, must elect pursuant to 35 Ill. Adm. Code 734.105 to proceed in accordance with 35 Ill. Adm. Code 734 and conduct site investigation and corrective action in accordance with that Part instead of meeting the requirements of this Section. If the owner or operator has obtained Agency approval of a Site Classification Work Plan and site classification completion report without submittal of a budget plan pursuant to subsection (b) of this Section, the owner or operator may, as an alternative to submitting a budget plan, submit, on a form provided by the Agency and attached to the application for payment, the actual costs incurred in performing site evaluation activities.

- k) If, following the approval of any site classification plan, an owner or operator determines that revised procedures or cost estimates are necessary in order to comply with the minimum required activities for the site, the owner or operator shall submit, as applicable, an amended site classification plan or associated budget plan for review by the Agency. The Agency shall have the authority to review and approve, reject, or require modification of the amended classification plan or budget plan in accordance with the procedures contained in Subpart E of this Part.

BOARD NOTE: Owners or operators proceeding under subsection (a)(2) or (j) of this Section are advised that they may not be entitled to full payment from the Fund and that applications for payment must be submitted no later than one year after the date the Agency issues a No Further Remediation Letter or reimbursement. Furthermore, owners or operators may only be reimbursed for one method of site classification. See Subpart F of this Part.

Owners and operators are also advised that the total payment from the Fund for all corrective action plans and associated budget plans submitted by an owner or operator must not exceed the amounts set forth in Subpart H of this Part.

(Source: Amended at 29 Ill. Reg. _____, effective _____)

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

SUBPART D: CORRECTIVE ACTION

Section 732.400 General

- a) Following approval of the site evaluation and classification by the Agency pursuant to Subpart C of this Part and except as provided in subsection (b) or (c) of this Section, the owner or operator of ~~an~~ UST system subject to the requirements of this Part shall develop and submit a corrective action plan and perform corrective action activities in accordance with the procedures and requirements contained in this Subpart D.
- b) Owners or operators of sites classified in accordance with the requirements of Subpart C as No Further Action may choose to conduct remediation sufficient to satisfy the remediation objectives referenced in Section 732.408 of this Part.
- c) Owners or operators of sites classified in accordance with the requirements of Subpart C as Low Priority may choose to conduct remediation sufficient to satisfy the remediation objectives referenced in Section 732.408 of this Part. Any owner or operator choosing to conduct remediation sufficient to satisfy the remediation objectives in Section 732.408 of this Part shall so notify the Agency in writing prior to conducting such efforts. Upon completion of the remediation activities, owners or operators choosing to conduct remediation sufficient to satisfy the remediation objectives in Section 732.408 of this Part shall submit a corrective action completion report to the Agency demonstrating compliance with the required levels. Upon approval of the corrective action completion report by the Agency in accordance with Subpart E, a No Further Remediation Letter shall be issued by the Agency.

BOARD NOTE: Owners or operators proceeding under subsection (b) or (c) of this Section are advised that they may not be entitled to full payment ~~from the Funder~~ reimbursement. See Subpart F of this Part.

(Source: Amended at 29 Ill. Reg. _____, effective _____)

Section 732.402 No Further Action Site

The owner or operator of a site that has been certified as a No Further Action site by a Licensed Professional Engineer or Licensed Professional Geologist and approved as such by the Agency shall have no additional remediation responsibilities beyond those performed pursuant to Subpart

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

B or C of this Part. If the Agency fails to approve, reject or modify the site classification completion report within 120 days after receipt of the completion report pursuant to Section 732.309 or Section 732.312, the site classification completion report is rejected by operation of law.

(Source: Amended at 29 Ill. Reg. _____, effective _____)

Section 732.403 Low Priority Site

- a) The owner or operator of a site that has been certified as a Low Priority site by a Licensed Professional Engineer or Licensed Professional Geologist and approved as such by the Agency shall develop a groundwater monitoring plan and perform groundwater monitoring in accordance with the requirements of this Section.
- b) The owner or operator ~~of a site certified as Low Priority by a Licensed Professional Engineer and approved as such by the Agency~~ shall develop a groundwater monitoring plan designed to satisfy the following requirements at a minimum:
 - 1) Groundwater monitoring shall be conducted for a period of three years following the Agency's approval of the site classification, unless subsection (b)(6) or subsection (i) of this Section applies;
 - 2) Groundwater monitoring wells shall be placed at the property line or 200 feet from the UST system, whichever is closer. The wells shall be placed in a configuration designed to provide the greatest likelihood of detecting migration of groundwater contamination. In the event that a groundwater monitoring well cannot physically be installed at the property line or 200 feet from the UST system, whichever is closer, in accordance with this subsection (b)(2), the owner or operator shall request approval from the Agency to place the well further out, but at the closest practical point to the compliance point. The owner or operator may elect to place a monitoring well in a location that is closer to the UST system than the rule requires. However, once the election is made the owner or operator may not withdraw the election at a later time;
 - 3) Groundwater monitoring wells shall satisfy the requirements at Section~~subsections~~ 732.307(j)(3) and (4) of this Part;
 - 4) During the first year of groundwater monitoring, samples from each well

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

shall be collected and analyzed on a quarterly basis. During the second year of groundwater monitoring, samples from each well shall be collected and analyzed during the second and fourth quarters. During the third and final year of groundwater monitoring, at a minimum, samples from each well shall be collected and analyzed in the fourth quarter;

- 5) To determine whether groundwater ~~remediation quality standards or Agency approved~~ objectives have been exceeded, samples for groundwater monitoring shall be collected and analyzed in accordance with the procedures set forth in Section 732.307(j)(5) of this Part for the applicable indicator contaminants determined pursuant to Section 732.310 of this Part;
- 6) The owner or operator may use groundwater monitoring data that has been collected up to 3 years prior to the site being certified as Low Priority, if the data meets the requirements of subsections (b)(2) through (b)(5) of this Section. This data may be used to satisfy all or part of the three year period of groundwater monitoring required under this Section.
- c) Prior to the implementation of groundwater monitoring, except as provided under subsection (b)(6) of this Section, the owner or operator shall submit the groundwater monitoring plan to the Agency for review in accordance with Section 732.405 ~~of this Part~~. If the owner or operator intends to seek payment from the Fund, a groundwater monitoring budget plan also shall be submitted to the Agency for review. ~~The groundwater monitoring budget plan shall include a line item estimate of all costs associated with the implementation and completion of the groundwater monitoring plan. Groundwater monitoring plans and budgets shall be submitted on forms prescribed and provided by the Agency and, if specified by the Agency by written notice, in an electronic format.~~
- d) Groundwater analysis results obtained pursuant to subsection (b) of this Section shall be submitted to the Agency within 30 days after the end of each annual sampling period ~~on forms prescribed and provided by the Agency~~, except as provided under subsection (b)(6) of this Section. Groundwater analysis data being used pursuant to subsection (b)(6) shall be submitted to the Agency as part of a Low Priority groundwater monitoring plan or the Low Priority groundwater monitoring completion report.
 - 1) The information to be collected shall include, but not be limited to, the information set forth in Section 732.307(j)(5) of this Part.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- 2) If at any time the groundwater analysis results indicate a confirmed exceedence of the applicable indicator contaminant groundwater ~~remediation quality standards or Agency approved~~ objectives as a result of the underground storage tank release of petroleum, the owner or operator shall notify the Agency of the exceedence within 30 days and provide supporting documentation of the nature and extent of the exceedence.
 - 3) Indicator contaminant groundwater ~~remediation objectives quality standards~~ shall be determined in accordance with Section 732.311 of this Part.
- e) Within 30 days after the completion of the Low Priority groundwater monitoring plan, the owner or operator shall submit to the Agency a groundwater monitoring completion report in accordance with Section 732.409 of this Part. If there is no confirmed exceedence of applicable indicator contaminant objectives during the three year groundwater monitoring period, the report shall contain a certification to that effect by a Licensed Professional Engineer or Licensed Professional Geologist.
 - f) The Agency shall review the groundwater monitoring completion report in accordance with the procedures set forth in Subpart E of this Part and shall issue a No Further Remediation Letter to the owner or operator in accordance with Subpart G of this Part upon approval of the report by the Agency. If the owner or operator elects to appeal an Agency action to disapprove, modify, or reject by operation of law a Low Priority groundwater monitoring completion report, the Agency shall indicate to the Board in conjunction with such appeal whether it intends to reclassify the site as High Priority.
 - g) If at any time groundwater analysis results indicate a confirmed exceedence of applicable indicator contaminant objectives, the Agency may reclassify the site as a High Priority site any time before the Agency's final approval of a Low Priority groundwater monitoring completion report. The Agency shall notify the owner or operator in writing if a site is reclassified. Notice of reclassification shall be by registered or certified mail, post marked with a date stamp and with return receipt requested. Final action shall be deemed to have taken place on the post marked date that such notice is mailed. Any action by the Agency to reclassify the site as a High Priority site shall be subject to appeal to the Board within 35 days after the Agency's final action in the manner provided for in the review of permit decisions in Section 40 of the Act.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- h) The owner or operator of a Low Priority site reclassified to High Priority pursuant to subsection (g) of this Section shall develop and submit for Agency approval a High Priority corrective action plan satisfying the requirements of Section 732.404 of this Part within 120 days after receiving the notice of reclassification. If the owner or operator intends to seek ~~payment reimbursement~~ from the Fund, a corrective action ~~budget~~ plan ~~budget~~ also shall be submitted within 120 days after receiving the notice of reclassification.
- i) As a result of the demonstration under Section 732.307(j)(6), the owner or operator of a site classified as Low Priority by a Licensed Professional Engineer ~~or Licensed Professional Geologist~~ shall prepare a report in accordance with Section 732.409 of this Part, that supports the issuance of a No Further Remediation Letter or reclassification of the site as a High Priority site. In the event the site is reclassified as a High Priority site, the owner or operator shall develop and submit for Agency approval a High Priority corrective action plan in accordance with ~~subsection (h) Section 732.403(h)~~ of this ~~Section Part~~.

(Source: Amended at 29 Ill. Reg. _____, effective _____)

Section 732.404 High Priority Site

- a) The owner or operator of a site ~~classified as High Priority that has been certified by a Licensed Professional Engineer as a High Priority site and approved as such by the Agency~~ shall develop a corrective action plan and perform corrective action in accordance with the requirements of this Section. The purpose of the corrective action plan shall be to remediate or eliminate each of the criteria set forth in subsection (b) of this Section that caused the site to be classified as High Priority.
- b) The owner or operator ~~of a site certified as High Priority by a Licensed Professional Engineer and approved as such by the Agency or reclassified as High Priority by the Agency pursuant to Section 732.403(g)~~ shall develop a corrective action plan based on site conditions and designed to achieve the following as applicable to the site:
- 1) For sites that have submitted a site classification report under Section 732.309, provide that:
 - A) After complete performance of the corrective action plan,

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

applicable indicator contaminants identified in the groundwater investigation are not present in groundwater, as a result of the underground storage tank release, in concentrations exceeding the remediation objectives referenced in Section 732.408 of this Part at the property boundary line or 200 feet from the UST system, whichever is less;

- B) After complete performance of the corrective action plan, Class III special resource groundwater quality standards for Class III special resource groundwater within 200 feet of the UST system are not exceeded as a result of the underground storage tank release for any indicator contaminant identified in the groundwater investigation;
 - C) After complete performance of the corrective action plan, remediation of contamination in natural or man-made exposure pathways as a result of the underground storage tank release has been conducted in accordance with 35 Ill. Adm. Code 742;
 - D) Threats to potable water supplies are remediated; and
 - E) Threats to bodies of surface water are remediated.
- 2) For sites that have submitted a site classification completion report under Section 732.312 of this Part, provide that, after complete performance of the corrective action plan, the concentrations of applicable indicator contaminants meet the remediation objectives developed under Section 732.408 for any applicable exposure route not excluded from consideration under Section 732.312.
- c) The owner or operator is not required to perform corrective action on an adjoining or off-site property to meet the requirements of this Section, even where complete performance of the corrective action plan under subsection (b)(1) or (b)(2) of this Section would otherwise require such off-site action, if the Agency determines that the owner or operator is unable to obtain access to the property despite the use of best efforts in accordance with the requirements of Section 732.411 of this Part.
 - d) In developing the corrective action plan, if the Licensed Professional Engineer or Licensed Professional Geologist selects soil or groundwater remediation, or both,

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

to satisfy any of the criteria set forth in subsection (b) of this Section, remediation objectives shall be determined in accordance with Section 732.408 of this Part. Groundwater monitoring wells shall satisfy the requirements of Section 732.307(j)(3) and (4) of this Part.

- e) Except where provided otherwise pursuant to Section 732.312 of this Part, in developing the corrective action plan, additional investigation activities beyond those required for the site evaluation and classification may be necessary to determine the full extent of soil or groundwater contamination and of threats to human health or the environment. Such activities may include, but are not limited to, additional soil borings with sampling and analysis or additional groundwater monitoring wells with sampling and analysis. Such activities as are technically necessary and consistent with generally accepted engineering practices may be performed without submitting a work plan or receiving prior approval from the Agency, and associated costs may be included in a High Priority corrective action budget plan. A description of these activities and the results shall be included as a part of the corrective action plan.

1) In addition to the potable water supply wells identified pursuant to Section 732.307(f) of this Part, the owner or operator must extend the water supply well survey if soil or groundwater contamination exceeding the Tier 1 groundwater ingestion exposure route remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants extends beyond the site's property boundary, or, as part of a corrective action plan, the owner or operator proposes to leave in place soil or groundwater contamination exceeding the Tier 1 groundwater ingestion exposure route remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants and contamination exceeding such objectives is modeled to migrate beyond the site's property boundary. At a minimum, the extended water supply well survey must identify the following:

- A) All potable water supply wells located within 200 feet, and all community water supply wells located within 2,500 feet, of the current or modeled extent of soil or groundwater contamination exceeding the Tier 1 groundwater ingestion exposure route remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants; and
- B) All regulated recharge areas and wellhead protection areas in which the current or modeled extent of soil or groundwater

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

contamination exceeding the Tier 1 groundwater ingestion exposure route remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants is located.

- 2) The Agency may require additional investigation of potable water supply wells, regulated recharge areas, or wellhead protection areas if site-specific circumstances warrant. Such circumstances must include, but are not limited to, the existence of one or more parcels of property within 200 feet of the current or modeled extent of soil or groundwater contamination exceeding the Tier 1 groundwater ingestion exposure route remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants where potable water is likely to be used, but that is not served by a public water supply or a well identified pursuant to Section 732.307(f)(1) of this Part or subsection (e)(1) of this Section. The additional investigation may include, but is not limited to, physical well surveys (e.g., interviewing property owners, investigating individual properties for wellheads, distributing door hangers or other material that requests information about the existence of potable wells on the property, etc.).
- f) The owner or operator shall submit the corrective action plan to the Agency for review in accordance with Section 732.405 of this Part. If the owner or operator intends to seek payment from the Fund, a corrective action budget plan budget also shall be submitted to the Agency for review. ~~The corrective action plan budget shall include a line item estimate of all costs associated with the implementation and completion of the corrective action plan. The corrective action plan and corrective action plan budget shall be submitted on forms prescribed and provided by the Agency and, if specified by the Agency by written notice, in an electronic format.~~
- g) Within 30 days after completing the performance of the High Priority corrective action plan, the owner or operator shall submit to the Agency a corrective action completion report in accordance with Section 732.409 of this Part.
- h) Within 120 days, the Agency shall review the corrective action completion report in accordance with the procedures set forth in Subpart E of this Part and shall issue a No Further Remediation Letter to the owner or operator in accordance with Subpart G of this Part upon approval by the Agency.

(Source: Amended at 29 Ill. Reg. _____, effective _____)

Section 732.405 Plan Submittal and Review

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- a) Prior to conducting any corrective action activities pursuant to this Subpart D, the owner or operator shall submit to the Agency a Low Priority groundwater monitoring plan or a High Priority corrective action plan satisfying the minimum requirements for such activities as set forth in Section 732.403 or 732.404 of this Part, as applicable. ~~Groundwater monitoring and corrective action plans shall be submitted on forms prescribed and provided by the Agency and, if specified by the Agency by written notice, in an electronic format.~~
- b) In addition to the plans required in subsections (a), (e), and (f) of this Section and prior to conducting any groundwater monitoring or corrective action activities, any owner or operator intending to seek payment from the Fund shall submit to the Agency a groundwater monitoring or corrective action budget plan with the corresponding groundwater monitoring or corrective action plan. Such budget plans shall include, but not be limited to, a copy of the eligibility and deductibility determination of the OSFM and ~~ana-line item~~ estimate of all costs associated with the development, implementation and completion of the applicable activities, excluding handling charges. Formulation of budget plans should be consistent with the eligible and ineligible costs listed at Sections 732.605 and 732.606 of this Part and the maximum payment amounts set forth in Subpart H of this Part. As part of the budget plan, the Agency may require a comparison between the costs of the proposed method of remediation and other methods of remediation. ~~Groundwater monitoring and corrective action budget plans shall be submitted on forms prescribed and provided by the Agency and, if specified by the Agency by written notice, in an electronic format.~~
- c) The Agency shall have the authority to review and approve, reject, or require modification of any plan or budget plan submitted pursuant to this Section in accordance with the procedures contained in ~~this~~ Subpart E of this Part.
- d) Notwithstanding subsections (a), (b), (e), and (f) of this Section and except as provided at Section 732.407 of this Part, an owner or operator may proceed to conduct Low Priority groundwater monitoring or High Priority corrective action activities in accordance with this Subpart D prior to the submittal or approval of an otherwise required groundwater monitoring plan or budget plan or corrective action plan or budget plan. However, any such plan and budget plan shall be submitted to the Agency for review and approval, rejection, or modification in accordance with the procedures contained in Subpart E of this Part prior to payment ~~or reimbursement~~ for any related costs or the issuance of a No Further Remediation Letter. ~~If the owner or operator has obtained Agency approval of a Low Priority groundwater monitoring plan and a Low Priority groundwater~~

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

~~monitoring completion report, or has obtained Agency approval of a High Priority corrective action plan and a High Priority corrective action completion report, without the submittal of a budget plan pursuant to subsection (b) of this Section, the owner or operator may, as an alternative to submitting a budget plan, submit, on a form provided by the Agency and attached to the application for payment, the actual costs incurred in performing the applicable activities required, for a Low Priority site, in Section 732.403 of this Part or, for a High Priority site, in Section 732.404 of this Part.~~

BOARD NOTE: Owners or operators proceeding under subsection (d) of this Section are advised that they may not be entitled to full payment from the Fund ~~reimbursement~~. Furthermore, applications for payment must be submitted no later than one year after the date the Agency issues a No Further Remediation Letter. See Subpart F of this Part.

- e) If, following approval of any groundwater monitoring plan, corrective action plan or associated budget plan, an owner or operator determines that revised procedures or cost estimates are necessary in order to comply with the minimum required activities for the site, the owner or operator shall submit, as applicable, an amended groundwater monitoring plan, corrective action plan or associated budget plan for review by the Agency. The Agency shall review and approve, reject, or require modifications of the amended plan or budget plan in accordance with the procedures contained in Subpart E of this Part.
- f) If the Agency determines any approved corrective action plan has not achieved applicable remediation objectives within a reasonable time, based upon the method of remediation and site specific circumstances, the Agency may require the owner or operator to submit a revised corrective action plan. If the owner or operator intends to seek payment from the Fund, the owner or operator must also submit a revised budget plan. Any action by the Agency to require a revised corrective action plan pursuant to this subsection (f) shall be subject to appeal to the Board within 35 days after the Agency's final action in the manner provided for the review of permit decisions in Section 40 of the Act.

BOARD NOTE: Owners and operators are advised that the total payment from the Fund for all groundwater monitoring plans and associated budget plans, and for all corrective action plans and associated budget plans, submitted by an owner or operator must not exceed the amounts set forth in Subpart H of this Part.

(Source: Amended at 29 Ill. Reg. _____, effective _____)

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

Section 732.406 Deferred Corrective Action; Priority List for Payment

- a) An owner or operator who has received approval for any budget plan submitted pursuant to this Part and who is eligible for payment from the underground storage tank fund may elect to defer site classification, low priority groundwater monitoring, or remediation activities until funds are available in an amount equal to the amount approved in the budget plan if the requirements of subsection (b) of this Section are met. ~~An owner or operator who has received approval for any budget plan submitted pursuant to this Part and who is eligible for payment from the underground storage tank fund may elect to defer site classification, low priority groundwater monitoring, or remediation activities until funds are available in an amount equal to the amount approved in the budget plan if the requirements of subsection (b) of this Section are met [415 ILCS 5/57.8(b)].~~
- 1) Approvals of budget plans shall be pursuant to Agency review in accordance with Subpart E of this Part.
 - 2) The Agency shall monitor the availability of funds ~~to determine whether sufficient resources exist to provide payment of approved budget plans~~ and shall provide notice of insufficient funds to owners or operators ~~of the availability of funds~~ in accordance with Section 732.503(g) of this Part. ~~Funds shall not be deemed available for owners or operators electing to defer corrective action so long as there are owners or operators on the priority list established pursuant to Section 732.603(d) of this Part awaiting forwarding of vouchers to the Office of the State Comptroller.~~
 - 3) Owners and operators must submit elections to defer low priority groundwater monitoring or high priority corrective action activities on forms prescribed and provided by the Agency and, if specified by the Agency by written notice, in an electronic format. The Agency's record of the date of receipt must be deemed conclusive unless a contrary date is proven by a dated, signed receipt from certified or registered mail.
 - 4) The Agency must review elections to defer low priority groundwater monitoring or high priority corrective action activities to determine whether the requirements of subsection (b) of this Section are met. The Agency must notify the owner or operator in writing of its final action on any such election. If the Agency fails to notify the owner or operator of its final action within 120 days after its receipt of the election, the owner or operator may deem the election rejected by operation of law.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- A) The Agency must mail notices of final action on an election to defer by registered or certified mail, postmarked with a date stamp and with return receipt requested. Final action must be deemed to have taken place on the post marked date that such notice is mailed.
- B) Any action by the Agency to reject an election, or the rejection of an election by the Agency's failure to act, is subject to appeal to the Board within 35 days after the Agency's final action in the manner provided for the review of permit decisions in Section 40 of the Act.
- 53) Upon approval of an election~~receiving written notification that an owner or operator elects to defer~~ low priority groundwater monitoring or high priority corrective action activities~~corrective action~~ until funds are available, the Agency shall place the site on a priority list for payment and notification of availability of sufficient funds. Sites shall enter the priority list for payment and move up based solely on the date the Agency receives a complete~~the~~ written election of deferral, with the earliest dates having the highest priority. ~~The Agency's record of the date of receipt shall be deemed conclusive, unless a contrary date is proven by a dated, signed receipt from registered or certified mail.~~
- 64) As funds become available, the Agency shall encumber funds for each site in the order of priority in an amount equal to the total of the approved budget plan for which deferral was sought. The Agency shall then notify owners or operators that sufficient funds have been allocated for the owner's or operator's site. After such notification the owner or operator shall commence corrective action.
- 75) Authorization of payment of encumbered funds for deferred low priority groundwater monitoring or high priority corrective action~~corrective action~~ activities shall be approved in accordance with the requirements of Subpart F of this Part.
- 86) The priority list for payment and notification of availability of sufficient funds shall be the same as that used for deferred site classification pursuant to Section 732.306 of this Part with both types of deferrals entering the list and moving up solely on the basis of the date the Agency

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

receives written notice of the deferral.

- b) An owner or operator who elects to defer ~~site classification~~, low priority groundwater monitoring or high priority corrective action, ~~or remediation~~ activities under subsection (a) of this Section shall submit a report certified by a Licensed Professional Engineer or Licensed Professional Geologist demonstrating the following:
- 1) The Agency has approved the owner's or operator's low priority groundwater monitoring or high priority corrective action budget plan;
 - 2) The owner or operator has been determined eligible to seek payment from the Fund;
 - 3) ~~The early action requirements of Subpart B of this Part have been met; and~~
 - 4) Groundwater contamination does not exceed the Tier 1 groundwater ingestion exposure route remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants as a result of the release, modeling in accordance with 35 Ill. Adm. Code 742 shows that groundwater contamination will not exceed such Tier 1 remediation objectives as a result of the release, and no potable water supply wells are impacted as a result of the release; and
 - 5) Soil contamination exceeding the Tier 1 groundwater ingestion exposure route remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants does not extend beyond the site's property boundary and is not located within a regulated recharge area, a wellhead protection area, or the setback zone of a potable water supply well. Documentation to demonstrate that this subsection (b)(5) is satisfied must include, but is not limited to, the results of a water supply well survey conducted in accordance with Section 732.307(f) of this Part.
 - 2) ~~The release does not pose a threat to human health or the environment through migratory pathways following the investigation of migration pathways requirements of Section 732.307(g) of this Part.~~
- c) An owner or operator may, at any time, withdraw the election to defer low priority groundwater monitoring or high priority corrective action activities. ~~commence corrective action upon the availability of funds at any time.~~

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

The owner or operator must notify the Agency ~~shall be notified~~ in writing of the withdrawal. Upon such withdrawal, the owner or operator shall proceed with corrective action in accordance with the requirements of this Part.

(Source: Amended at 29 Ill. Reg. _____, effective _____)

Section 732.407 Alternative Technologies

- a) An owner or operator may choose to use an alternative technology for corrective action in response to a release of petroleum at a High Priority site. Corrective action plans proposing the use of alternative technologies shall be submitted to the Agency in accordance with Section 732.405 of this Part. In addition to the requirements for corrective action plans contained in Section 732.404, the owner or operator who seeks approval of an alternative technology shall submit documentation along with the corrective action plan demonstrating that:
- 1) The proposed alternative technology has a substantial likelihood of successfully achieving compliance with all applicable regulations and all corrective action remediation objectives necessary to comply with the Act and regulations and to protect human health or the environment;
 - 2) The proposed alternative technology will not adversely affect human health or the environment;
 - 3) The owner or operator will obtain all Agency permits necessary to legally authorize use of the alternative technology;
 - 4) The owner or operator will implement a program to monitor whether the requirements of subsection (a)(1) of this Section have been met; and
 - 5) Within one year from the date of Agency approval the owner or operator will provide to the Agency monitoring program results establishing whether the proposed alternative technology will successfully achieve compliance with the requirements of subsection (a)(1) of this Section and any other applicable regulations. The Agency may require interim reports as necessary to track the progress of the alternative technology. The Agency will specify in the approval when those interim reports shall be submitted to the Agency.
- b) An owner or operator intending to seek payment ~~or reimbursement~~ for costs

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

associated with the use of an alternative technology shall submit a corresponding budget plan in accordance with Section 732.405 of this Part. In addition to the requirements for corrective action budget plans at Section 732.404 of this Part, the budget plan must demonstrate that the cost of the alternative technology will not exceed the cost of conventional technology and is not substantially higher than other available alternative technologies. The budget plan must compare the costs of at least two other alternative technologies to the costs of the proposed alternative technology, if other alternative technologies are available and are technically feasible.

- c) If an owner or operator has received approval of a corrective action plan and associated budget plan from the Agency prior to implementing the plan and the alternative technology fails to satisfy the requirements of subsection (a)(1) or (a)(2) of this Section, such failure shall not make the owner or operator ineligible to seek payment ~~or reimbursement~~ for the activities associated with the subsequent performance of a corrective action using conventional technology. However, in no case shall the total payment ~~or reimbursement~~ for the site exceed the statutory maximums. Owners or operators implementing alternative technologies without obtaining pre-approval shall be ineligible to seek payment ~~or reimbursement~~ for the subsequent performance of a corrective action using conventional technology.

- d) The Agency may require remote monitoring of an alternative technology. The monitoring may include, but is not limited to, monitoring the alternative technology's operation and progress in achieving the applicable remediation objectives.

(Source: Amended at 29 Ill. Reg. _____, effective _____)

Section 732.408 Remediation Objectives

For sites requiring High Priority corrective action or for which the owner or operator has elected to conduct corrective action pursuant to Section 732.300(b), 732.400(b), or 732.400(c) of this Part, the owner or operator shall propose remediation objectives for applicable indicator contaminants in accordance with 35 Ill. Adm. Code 742. Owners and operators seeking payment from the Fund that perform on-site corrective action in accordance with Tier 2 remediation objectives of 35 Ill. Adm. Code 742 must determine the following parameters on a site-specific basis:

Hydraulic conductivity (K)

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

Soil bulk density (ρ_b)

Soil particle density (ρ_s)

Moisture content (w)

Organic carbon content (f_{oc})

BOARD NOTE: Failure to use site-specific remediation objectives on-site and to utilize available groundwater ordinances as institutional controls may result in certain corrective action costs being ineligible for payment from the Fund. See Section 732.606(eee) and (fff) of this Part.

(Source: Amended at 29 Ill. Reg. _____, effective _____)

Section 732.409 Groundwater Monitoring and Corrective Action Completion Reports

- a) Within 30 days after completing the performance of a Low Priority groundwater monitoring plan or High Priority corrective action plan, the owner or operator shall submit to the Agency a groundwater monitoring completion report or a corrective action completion report.
- 1) The Low Priority groundwater monitoring completion report shall include, but not be limited to, a narrative describing the implementation and completion of all elements of the groundwater monitoring plan and the procedures used for collection and analysis of samples, analytical results in tabular form, actual analytical results, laboratory certification and any other information or documentation relied upon by the Licensed Professional Engineer or Licensed Professional Geologist in reaching the conclusion that the requirements of the Act and regulations have been satisfied and that no further remediation is required at the site.
 - 2) The High Priority corrective action completion report shall include, but not be limited to, a narrative and timetable describing the implementation and completion of all elements of the corrective action plan and the procedures used for the collection and analysis of samples, soil boring logs, actual analytical results, laboratory certification, site maps, well logs and any other information or documentation relied upon by the Licensed Professional Engineer in reaching the conclusion that the requirements of

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

the Act and regulations have been satisfied and that no further remediation is required at the site. Documentation of any water supply well survey conducted pursuant to Section 732.404(e) of this Part must include, but is not limited to, the following:

- A) One or more maps, to an appropriate scale, showing the following:
 - i) The location of the community water supply wells and other potable water supply wells identified pursuant to Section 732.404(e) of this Part, and the setback zone for each well;
 - ii) The location and extent of regulated recharge areas and wellhead protection areas identified pursuant to Section 732.404(e) of this Part;
 - iii) The current extent of groundwater contamination exceeding the Tier 1 groundwater ingestion exposure route remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants; and
 - iv) The modeled extent of groundwater contamination exceeding the Tier 1 groundwater ingestion exposure route remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants;
 - B) One or more tables listing the setback zones for each community water supply well and other potable water supply wells identified pursuant to Section 732.404(e) of this Part;
 - C) A narrative that, at a minimum, identifies each entity contacted to identify potable water supply wells pursuant to Section 732.404(e) of this Part, the name and title of each person contacted at each entity, and field observations associated with the identification of potable water supply wells; and
 - D) A certification from a Licensed Professional Engineer or Licensed Professional Geologist that the water supply well survey was conducted in accordance with the requirements of Section 732.404(e) of this Part and that the documentation submitted pursuant to this Section includes the information obtained as a result of the survey.
- 3) A High Priority corrective action completion report shall demonstrate the

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

following:

- A) For sites submitting a site classification report under Section 732.309 of this Part:
- i) Applicable indicator contaminant groundwater objectives are not exceeded at the property boundary line or 200 feet from the UST system, whichever is less, as a result of the release of petroleum for any indicator contaminant identified during the groundwater investigation;
 - ii) Class III resource groundwater quality standards for Class III special use resource groundwater within 200 feet of the UST system are not exceeded as a result of the release of petroleum for any indicator contaminant identified during the groundwater investigation;
 - iii) The release of petroleum does not threaten human health or human safety due to the presence or migration, through natural or manmade pathways, of petroleum in concentration sufficient to harm human health or human safety or to cause explosions in basements, crawl spaces, utility conduits, storm or sanitary sewers, vaults or other confined spaces;
 - iv) The release of petroleum does not threaten any surface water body; and
 - v) The release of petroleum does not threaten any potable water supply.
- B) For sites submitting a site classification completion report under Section 732.312 of this Part, the concentrations of applicable indicator contaminants meet the remediation objectives developed under Section 732.408 of this Part for any applicable exposure route not excluded from further consideration under Section 732.312 of this Part.

- b) The applicable report shall be ~~submitted on forms prescribed and provided by the Agency, and, if specified by the Agency by written notice, in an electronic format,~~

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

~~shall be signed by the owner or operator, and shall be~~ accompanied by a certification from a Licensed Professional Engineer, in accordance with subsection (a) of this Section, that the information presented in the applicable report is accurate and complete, that groundwater monitoring or corrective action have been completed in accordance with the requirements of the Act and this Subpart D, and that no further remediation is required at the site. ~~With the exception of Federal Landholding Entities subject to Section 732.703(d), the owner or operator must sign and submit, with the corrective action completion report, a form prescribed and provided by the Agency addressing ownership of the site. Where the owner or operator owns the site, the owner or operator must so indicate on the form. Where the owner or operator either does not own or does not solely own the site, the owner or operator must provide, on the form, a certification by original signature of the title holder(s) of record for the remediation site or each portion thereof, or the agent(s) of such person(s), stating as follows:~~

~~I hereby certify that I have reviewed the attached report and that I accept the terms and conditions set forth therein, including any land use limitations, that apply to property I own. I further certify that I have no objection to the recording of a No Further Remediation Letter containing the terms and conditions identified in the corrective action completion report.~~

- c) The Agency shall have the authority to review and approve, reject or require modification of any report submitted pursuant to this Section in accordance with the procedures contained in Subpart E of this Part.

(Source: Amended at 29 Ill. Reg. _____, effective _____)

Section 732.411 Off-site Access

- a) An owner or operator seeking to comply with the best efforts requirements of Section 732.404(c) of this Part must demonstrate compliance with the requirements of this Section.
- b) In conducting best efforts to obtain off-site access, an owner or operator must, at a minimum, send a letter by certified mail to the owner of any off-site property to which access is required, stating:
- 1) Citation to ~~Title XVI~~~~Section 57~~ of the Act stating the legal responsibility of the owner or operator to remediate the contamination caused by the

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

release;

- 2) That, if the property owner denies access to the owner or operator, the owner or operator may seek to gain entry by a court order pursuant to Section 22.2c22.2(e) of the Act;
 - 3) That, in performing the requested investigation, the owner or operator will work so as to minimize any disruption on the property, will maintain, or its consultant will maintain, appropriate insurance and will repair any damage caused by the investigation;
 - 4) If contamination results from a release by the owner or operator, the owner or operator will conduct all associated remediation at its own expense;
 - 5) That threats to human health and the environment and diminished property value may result from failure to remediate contamination from the release; and
 - 6) A reasonable time to respond to the letter, not less than 30 days.
- c) An owner or operator, in demonstrating that the requirements of this Section have been met, must provide to the Agency, as part of the corrective action completion report, the following documentation:
- 1) A sworn affidavit, signed by the owner or operator, identifying the specific off-site property involved by address, the measures proposed in the corrective action plan that require off-site access, and the efforts taken to obtain access, and stating that the owner or operator has been unable to obtain access despite the use of best efforts; and
 - 2) A copy of the certified letter sent to the owner of the off-site property pursuant to subsection (b) of this Section.
- d) In determining whether the efforts an owner or operator has made constitute best efforts to obtain access, the Agency must consider the following factors:
- 1) The physical and chemical characteristics, including toxicity, persistence and potential for migration, of applicable indicator contaminants at the property boundary line;

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- 2) The hydrogeological characteristics of the site and the surrounding area, including the attenuation capacity and saturation limits of the soil at the property boundary line;
 - 3) The nature and extent of known contamination at the site, including the levels of applicable indicator contaminants at the property boundary line;
 - 4) The potential effects of residual contamination on nearby surface water and groundwater;
 - 5) The proximity, quality, and current and future uses of nearby surface water and groundwater, including ~~setback zones and~~ regulated recharge areas, wellhead protection areas, and setback zones of potable water supply wells;
 - 6) Any known or suspected natural or man-made migration pathways existing in or near the suspected area of off-site contamination;
 - 7) The nature and use of the part of the off-site property that is the suspected area of contamination;
 - 8) Any existing on-site engineered barriers or institutional controls that might have an impact on the area of suspected off-site contamination, and the nature and extent of such impact; and
 - 9) Any other applicable information assembled in compliance with this Part.
- e) The Agency shall issue a No Further Remediation Letter to an owner or operator subject to this Section and otherwise entitled to such issuance only if the owner or operator has, in accordance with this Section, either completed any requisite off-site corrective action or demonstrated to the Agency's satisfaction an inability to obtain off-site access despite best efforts.
- f) The owner or operator is not relieved of responsibility to clean up a release that has migrated beyond the property boundary even where off-site access is denied.

(Source: Amended at 29 Ill. Reg. _____, effective _____)

SUBPART E: REVIEW OF SELECTION AND REVIEW PROCEDURES FOR PLANS,

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

BUDGET PLANS, AND REPORTS**Section 732.500 General**

a) The Agency shall have the authority to review any plan, budget plan, or report, including any amended plan, budget plan, or report, submitted pursuant to this Part. All such reviews shall be subject to the procedures set forth in the Act and this Subpart E.

b) ~~For purposes of this Part, "plan" shall mean:~~

- ~~1) Any physical soil classification or groundwater investigation plan or associated budget plan submitted pursuant to Subpart C of this Part;~~
- ~~2) Any groundwater monitoring plan or associated budget plan submitted pursuant to Subpart D of this Part; or~~
- ~~3) Any site specific corrective action plan or associated budget plan submitted pursuant to Subpart D of this Part.~~

e) ~~For purposes of this Part, "report" shall mean:~~

- ~~1) Any early action report or free product removal report submitted pursuant to Subpart B of this Part;~~
- ~~2) Any site classification completion report submitted pursuant to Subpart C of this Part;~~
- ~~3) Any annual groundwater monitoring report submitted pursuant to Subpart D of this Part;~~
- ~~4) Any groundwater monitoring completion report submitted pursuant to Subpart D of this Part; or~~
- ~~5) Any corrective action completion report submitted pursuant to Subpart D of this Part or Section 732.300(b) or 732.400(b).~~

(Source: Amended at 29 Ill. Reg. _____, effective _____)

Section 732.501 Submittal of Plans or Reports (Repealed)

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

~~All plans or reports shall be made on forms prescribed and provided by the Agency and, if specified by the Agency by written notice, in an electronic format. Plans or reports shall be mailed or delivered to the address designated by the Agency. The Agency's record of the date of receipt shall be deemed conclusive unless a contrary date is proven by a dated, signed receipt from certified or registered mail.~~

(Source: Repealed at 29 Ill. Reg. _____, effective _____)

Section 732.502 Completeness Review (Repealed)

- a) ~~The Agency shall review for completeness all plans submitted pursuant to this Part 732. The completeness review shall be sufficient to determine whether all information and documentation required by the Agency form for the particular plan are present. The review shall not be used to determine the technical sufficiency of a particular plan or of the information or documentation submitted along with the plan.~~
- b) ~~The Agency shall have 45 days from the receipt of a plan to finish the completeness review. If the completeness review finds that the plan is complete, the Agency shall so notify the owner or operator in writing and proceed, where appropriate, to approval, rejection or modification of the substantive portions of the plan. If the completeness review finds that the plan is incomplete, the Agency shall notify the owner or operator in writing. The notification shall include an explanation of the specific type of information or documentation that the Agency deems necessary to complete the plan.~~
 - 1) ~~The Agency may, to the extent consistent with Agency deadlines, provide the owner or operator with a reasonable opportunity to correct deficiencies prior to a final determination on completeness.~~
 - 2) ~~The Agency shall mail notice of incompleteness by registered or certified mail, post marked with a date stamp and with return receipt requested. The decision shall be deemed to have taken place on the post marked date that such notice is mailed.~~
 - 3) ~~All time limits for Agency final action on a plan or report shall be calculated from the date the Agency receives a plan or report. Receipt of an amended plan or report, after a notice of incompleteness, shall restart all time limits for Agency final action on that plan or report.~~

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- e) ~~Any budget plan submitted must be preceded or accompanied by an associated technical plan in order for the budget plan to be deemed complete.~~
- d) ~~The failure of the Agency to notify an owner or operator within 45 days that a plan is incomplete shall result in the plan being deemed complete. Any action by the Agency pursuant to this Section shall be subject to appeal to the Board within 35 days after the Agency's final action in the manner provided for in the review of permit decisions in Section 40 of the Act.~~

(Source: Repealed at 29 Ill. Reg. _____, effective _____)

Section 732.503 ~~Full~~ Review of Plans, Budget Plans, or Reports

- a) ~~The Agency may review~~In addition to the completeness review for plans conducted pursuant to Section 732.502 of this Part, the Agency may conduct a full review of plans or reports selected in accordance with the requirements of Section 732.504 of this Part. ~~A full review may include~~ any or all technical or financial information, or both, relied upon by the owner or operator or the Licensed Professional Engineer or Licensed Professional Geologist in developing ~~any~~the plan, budget plan, or report selected for review. ~~The Agency may also full review also may include the review of~~ any other plans, budget plans, or reports submitted in conjunction with the site.
- b) The Agency shall have the authority to approve, reject, or require modification of any plan, budget plan, or report ~~it reviews that has been given a full review~~. The Agency shall notify the owner or operator in writing of its final action on any such plan, budget plan, or report, except in the case of 20 day, 45 day or free product removal reports, in which case no notification is necessary. Except as provided in subsections ~~(c) and (d) and (e)~~ of this Section, if the Agency fails to notify the owner or operator of its final action on a plan, budget plan, or report within 120 days after the receipt of a plan, budget plan, or report, the owner or operator may deem the plan, budget plan, or report rejected by operation of law. If the Agency rejects a plan, budget plan, or report or requires modifications, the written notification shall contain the following information, as applicable:
 - 1) An explanation of the specific type of information, if any, that the Agency needs to complete the ~~full~~ review;
 - 2) An explanation of the Sections of the Act or regulations that may be violated if the plan, budget plan, or report is approved; and

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- 3) A statement of specific reasons why the cited Sections of the Act or regulations may be violated if the plan, budget plan, or report is approved.
- c) For High Priority corrective action plans submitted by owners or operators not seeking payment reimbursement from the Fund, the Agency may delay final action on such plans until 120 days after it receives the corrective action completion report required pursuant to Section 732.409 of this Part.
- d) An owner or operator may waive the right to a final decision within 120 days after the submittal of a complete plan, budget plan, or report by submitting written notice to the Agency prior to the applicable deadline. Any waiver shall be for a minimum of 60 days.
- e) The Agency shall mail notices of final action on plans, budget plans, or reports by registered or certified mail, post marked with a date stamp and with return receipt requested. Final action shall be deemed to have taken place on the post marked date that such notice is mailed.
- f) Any action by the Agency to reject or require modification, or rejection by failure to act, of a plan, budget plan, or report shall be subject to appeal to the Board within 35 days after the Agency's final action in the manner provided for the review of permit decisions in Section 40 of the Act. ~~If the owner or operator elects to incorporate modifications required by the Agency rather than appeal, a revised plan or report shall be submitted to the Agency within 35 days after the receipt of the Agency's written notification. If no revised plan or report is submitted to the Agency or no appeal to the Board is filed within the specified time frames, the plan or report shall be deemed approved as modified by the Agency. If any plan or report is rejected by operation of law, in lieu of an immediate appeal to the Board the owner or operator may either resubmit the plan or report to the Agency or file a joint request for a 90 day extension in the manner provided for extensions of permit decisions in Section 40 of the Act.~~
- g) Notification of Selection for Full Review
- 1) ~~Owners or operators submitting plans shall be notified by the Agency within 60 days after the date the plan is deemed complete if the plan has not been selected for full review in accordance with Section 732.504 of this Part. Failure of the Agency to so notify the owner or operator shall mean that the plan has been selected for full review. Notification by the~~

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

~~Agency that the plan has not been selected for full review shall constitute approval of the plan.~~

- ~~2) Owners or operators submitting reports shall be notified by the Agency within 60 days after the receipt of the report if the report has not been selected for full review in accordance with Section 732.504 of this Part, except in the case of 20 day, 45 day or free product reports, in which case no notification of selection is necessary. Failure of the Agency to so notify the owner or operator shall mean that the report has been selected for full review. Notification by the Agency that the report has not been selected for full review shall constitute approval of the report.~~
- ~~3) Notice shall be sent and the date of notification shall be computed in accordance with subsection (e) of this Section.~~

- ~~gh) In accordance with Sections 732.306 and 732.406 of this Part, upon the approval of any budget plan by the Agency, the Agency shall include as part of the final notice to the owner or operator a notice of insufficient funds if the Fund does not contain sufficient funds to provide payment of the total costs approved in the budget plan.statement of whether or not the Fund contains sufficient resources in order to immediately commence the approved measures.~~

(Source: Amended at 29 Ill. Reg. _____, effective _____)

Section 732.504 Selection of Plans or Reports for Full Review (Repealed)

- ~~a) The Agency shall select for full review a reasonable number of each type of plan or report. The number of plans or reports selected for full review shall be determined by the Agency based on the resources available to the Agency, the potential environmental impact at the site, the financial and technical complexity of the plan or report, and experience with prior reviews. To assure consistency and fairness in the selection process, the Agency shall follow a selection process that has the following goals:~~
 - ~~1) A full technical and financial review of every "High Priority" corrective action plan, associated budget plan, and completion report submitted pursuant to Subpart D of this Part;~~
 - ~~2) A full technical and financial review of every corrective action plan, associated budget plan, and completion report submitted pursuant to~~

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

~~Sections 732.300(b) or 732.400(c) of this Part;~~

- ~~3) A full technical review of approximately 20% of the site classification reports submitted pursuant to Subpart C of this Part;~~
 - ~~4) Site Classification Plans
 - ~~A) A full technical review of any site classification plan (including physical soil classification and groundwater investigation plans) for which the associated site classification report was selected for full review or that has an associated budget plan exceeding the typical cost for such plans as determined by the Agency;~~
 - ~~B) A full financial review of any site classification budget plan exceeding the typical cost for such plans as determined by the Agency;~~~~
 - ~~5) "Low Priority" Groundwater Monitoring Plans
 - ~~A) A full technical review of any "Low Priority" groundwater monitoring plan that has an associated budget plan exceeding the typical cost for such plans as determined by the Agency;~~
 - ~~B) A full financial review of any "Low Priority" groundwater monitoring budget plan exceeding the typical cost for such plans as determined by the Agency;~~~~
 - ~~6) A full technical review of any "Low Priority" annual groundwater sampling and analysis report or any groundwater monitoring completion report submitted pursuant to Subpart D of this Part;~~
 - ~~7) A full technical review of any 20-day report, 45-day report, or free product report submitted pursuant to Subpart B of this Part in conjunction with the review of another plan or report selected in accordance with this Section.~~
- b) ~~The Agency may conduct a full review of any plan or report not selected in accordance with the provisions of this Section if the Agency has reason to believe that such review is necessary in conjunction with the review of another plan or report selected for that site.~~

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- e) ~~Notwithstanding any other limitations on reviews, the Agency may conduct a full technical review on any plan or report identified in this Section that concerns a site for which an investigation has been or may be initiated pursuant to Section 732.105 of this Part.~~
- d) ~~Agency decisions on whether or not to select a plan or report for full review shall not be subject to appeal.~~

(Source: Repealed at 29 Ill. Reg. _____, effective _____)

Section 732.505 Standards for Review of Plans, Budget Plans, or Reports

- a) A ~~full~~ technical review shall consist of a detailed review of the steps proposed or completed to accomplish the goals of the plan and to achieve compliance with the Act and regulations. Items to be reviewed, if applicable, shall include, but not be limited to, number and placement of wells and borings, number and types of samples and analysis, results of sample analysis, and protocols to be followed in making determinations. The overall goal of the technical review for plans shall be to determine if the plan is sufficient to satisfy the requirements of the Act and regulations and has been prepared in accordance with generally accepted engineering practices or principles of professional geology. The overall goal of the technical review for reports shall be to determine if the plan has been fully implemented in accordance with generally accepted engineering practices or principles of professional geology, if the conclusions are consistent with the information obtained while implementing the plan, and if the requirements of the Act and regulations have been satisfied.
- b) If the Licensed Professional Engineer or Licensed Professional Geologist certifies that there is no evidence that, through natural or manmade pathways, migration of petroleum or vapors threaten human health or human safety or may cause explosions in basements, crawl spaces, utility conduits, storm or sanitary sewers, vaults or other confined spaces, the Licensed Professional Engineer's or Licensed Professional Geologist's certification to that effect shall be presumed correct unless the Agency's review reveals objective evidence to the contrary.
- c) A ~~full~~ financial review shall consist of a detailed review of the costs associated with each element necessary to accomplish the goals of the plan as required pursuant to the Act and regulations. Items to be reviewed shall include, but not be limited to, costs associated with any materials, activities or services that are included in the budget plan. The overall goal of the financial review shall be to

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

assure that costs associated with materials, activities, and services shall be reasonable, shall be consistent with the associated technical plan, shall be incurred in the performance of corrective action activities, ~~and~~ shall not be used for corrective action activities in excess of those necessary to meet the minimum requirements of the Act and regulations, and must not exceed the maximum payment amounts set forth in Subpart H of this Part.

(Source: Amended at 29 Ill. Reg. _____, effective _____)

SUBPART F: PAYMENT FROM THE FUND OR REIMBURSEMENT**Section 732.601 Applications for Payment**

- a) An owner or operator seeking payment from the Fund shall submit to the Agency an application for payment on forms prescribed and provided by the Agency and, if specified by the Agency by written notice, in an electronic format. The owner or operator may submit an application for partial payment or final payment. Costs for which payment is sought must be approved in a budget plan, provided, however, that no budget plan shall be required for early action activities conducted pursuant to Subpart B of this Part other than free product removal activities conducted more than 45 days after confirmation of the presence of free product for materials, activities or services contained in an approved budget plan. An application for payment also may be submitted for materials, activities or services for early action conducted pursuant to Subpart B of this Part and for which no budget plan is required.
- b) A complete application for payment shall consist of the following elements:
 - 1) A certification from a Licensed Professional Engineer or a Licensed Professional Geologist acknowledged by the owner or operator that the work performed has been in accordance with a technical plan approved by the Agency or, for early action activities, in accordance with Subpart B of this Part;
 - 2) A statement of the amounts approved in the corresponding budget plan and the amounts actually sought for payment along with a certified statement by the owner or operator that the amounts so sought have been expended in conformance with the elements of a budget plan approved by the Agency;

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- 3) A copy of the OSFM or Agency eligibility and deductibility determination;
 - 4) Proof that approval of the payment requested will not exceed the limitations set forth in the Act and Section 732.604 of this Part;
 - 5) A federal taxpayer identification number and legal status disclosure certification;
 - 6) A private insurance coverage~~A Private Insurance Coverage~~ form;
 - 7) A minority/women's business~~Minority/Women's Business Usage~~ form;
~~and~~
 - 8) Designation~~designation~~ of the address to which payment and notice of final action on the application for payment are to be sent;
~~;~~
 - 9) An accounting of all costs, including but not limited to, invoices, receipts, and supporting documentation showing the dates and descriptions of the work performed; and
 - 10) Proof of payment of subcontractor costs for which handling charges are requested. Proof of payment may include cancelled checks, lien waivers, or affidavits from the subcontractor.
- c) The address designated on the application for payment may be changed only by subsequent notification to the Agency, on a form provided by the Agency, of a change in address.
 - d) Applications for payment and change of address forms shall be mailed or delivered to the address designated by the Agency. The Agency's record of the date of receipt shall be deemed conclusive unless a contrary date is proven by a dated, signed receipt from certified or registered mail.
 - e) Applications for partial or final payment may be submitted no more frequently than once every 90 days.
 - f) Except for applications for payment for costs of early action conducted pursuant to Subpart B of this Part, other than costs associated with free product removal activities conducted more than 45 days after confirmation of the presence of free

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

~~product, or applications for payment/budget plans submitted pursuant to Section 732.305(e), 732.312(l), 732.405(e), and 732.405(f) of this Part~~, in no case shall the Agency review an application for payment unless there is an approved budget plan on file corresponding to the application for payment.

- g) In no case shall the Agency authorize payment to an owner or operator in amounts greater than the amounts approved by the Agency in a corresponding budget plan. Revised cost estimates or increased costs resulting from revised procedures must be submitted to the Agency for review in accordance with Subpart E of this Part using amended budget plans as required under ~~in accordance with Section 732.305(e) or 732.405(e) of this Part~~.
- h) Applications for payment of costs associated with site classification may not be submitted prior to approval or modification of the site classification completion report.
- i) Applications for payment of costs associated with site classification, low priority groundwater monitoring, or high priority corrective action that was deferred pursuant to Section 732.306 or 732.406 of this Part may not be submitted prior to approval or modification of the corresponding site classification completion report, low priority groundwater monitoring completion report, or high priority corrective action completion report.
- j) All applications for payment of corrective action costs must be submitted no later than one year after the date the Agency issues a No Further Remediation Letter pursuant to Subpart G of this Part. For releases for which the Agency issued a No Further Remediation Letter prior to the effective date of this subsection (j), all applications for payment must be submitted no later than one year after the effective date of this subsection (j).

(Source: Amended at 29 Ill. Reg. _____, effective _____)

Section 732.602 Review of Applications for Payment

- a) At a minimum, the Agency must review each application for payment submitted pursuant to this Part to determine the following:
- 1) whether the application contains all of the elements and supporting documentation required by Section 732.601(b) of this Part;

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- 2) for costs incurred pursuant to Subpart B of this Part, other than free product removal activities conducted more than 45 days after confirmation of the presence of free product, whether the amounts sought are reasonable, and whether there is sufficient documentation to demonstrate that the work was completed in accordance with the requirements of this Part;
- 3) for costs incurred pursuant to Subpart C of this Part and free product removal activities conducted more than 45 days after confirmation of the presence of free product, whether the amounts sought exceed the amounts approved in the corresponding budget plan, and whether there is sufficient documentation to demonstrate that the work was completed in accordance with the requirements of this Part and a plan approved by the Agency; and
- 4) Whether the amounts sought are eligible for payment.

~~The Agency shall conduct a review of any application for payment submitted pursuant to this Part. Each application for payment shall be reviewed to determine whether the application contains all of the elements and supporting documentation required by Section 732.601(b) of this Part and whether the amounts sought for payment have been certified in accordance with Section 732.601(b)(2) of this Part as equal to or less than the amounts approved in the corresponding budget plan. Any action by the Agency pursuant to this subsection shall be subject to appeal to the Board within 35 days after the Agency's final action in the manner provided for the review of permit decisions in Section 40 of the Act.~~

- b) ~~The Agency may conduct a full review of any application for payment:~~
 - 1) ~~If the amounts sought for payment exceed the amounts approved in the corresponding budget plan;~~
 - 2) ~~If the Agency has reason to believe that the application for payment is fraudulent; or~~
 - 3) ~~If the application for payment includes costs for early action activities conducted pursuant to Subpart B of this Part and either of the following circumstances exists:~~
 - A) ~~The application for payment is solely for early action costs that~~

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

~~have not been approved as part of a prior budget plan; or~~

~~B) The application for payment includes early action costs that have not been approved as part of a prior budget plan, except that only the portion of the application for the unapproved early action costs may be given a full review.~~

~~b)e)~~ When conducting a ~~full~~ review of any application for payment, the Agency may require the owner or operator to submit a full accounting supporting all claims as provided in ~~subsection (c)~~subsection (d) of this Section.

~~c)d)~~ ~~A full review of an application for payment shall be sufficient to determine which line items contained in the application for payment have caused the application for payment to exceed the corresponding approved budget plan pursuant to subsection (b)(1) of this Section, which line items, if any, are ineligible for payment pursuant to subsection (b)(2) or (b)(3) of this Section, and whether there is sufficient documentation to demonstrate that line items have been completed in accordance with a plan approved by the Agency. The Agency's~~A full review may include review of any or all elements and supporting documentation relied upon by the owner or operator in developing the application for payment, including but not limited to a review of invoices or receipts supporting all claims. The ~~full~~ review also may include the review of any plans, budget plans, or reports previously submitted for the site to ensure that the application for payment is consistent with work proposed and actually performed in conjunction with the site.

~~d)e)~~ Following a review, the Agency shall have the authority to approve, deny or require modification of applications for payment or portions thereof. The Agency shall notify the owner or operator in writing of its final action on any such application for payment. Except as provided in ~~subsection (e)~~subsection (f) of this Section, if the Agency fails to notify the owner or operator of its final action on an application for payment within 120 days after the receipt of a complete application for payment, the owner or operator may deem the application for payment approved by operation of law. If the Agency denies payment for an application for payment or for a portion thereof or requires modification, the written notification shall contain the following information, as applicable:

1) An explanation of the specific type of information, if any, that the Agency needs to complete the ~~full~~ review;

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- 2) An explanation of the Sections of the Act or regulations that may be violated if the application for payment is approved; and
- 3) A statement of specific reasons why the cited Sections of the Act or regulations may be violated if the application for payment is approved.

e)f) An owner or operator may waive the right to a final decision within 120 days after the submittal of a complete application for payment by submitting written notice to the Agency prior to the applicable deadline. Any waiver shall be for a minimum of 30 days.

f)g) The Agency shall mail notices of final action on applications for payment by registered or certified mail, post marked with a date stamp and with return receipt requested. Final action shall be deemed to have taken place on the post marked date that such notice is mailed. The Agency shall mail notices of final action on applications for payment, and direct the Comptroller to mail payments to the owner or operator, at the address designated for receipt of payment in the application for payment or on a change of address form, provided by the Agency, submitted subsequent to submittal of the application for payment.

g)h) Any action by the Agency to deny payment for an application for payment or portion thereof or to require modification shall be subject to appeal to the Board within 35 days after the Agency's final action in the manner provided for the review of permit decisions in Section 40 of the Act. ~~If the owner or operator elects to incorporate modifications required by the Agency rather than appeal, a revised application for payment shall be submitted to the Agency within 35 days after the receipt of the Agency's written notification. If no revised application for payment is submitted to the Agency or no appeal to the Board is filed within the specified timeframes, the application for payment shall be deemed approved as modified by the Agency and payment shall be authorized in the amount approved.~~

(Source: Amended at 29 Ill. Reg. _____, effective _____)

Section 732.603 Authorization for Payment; Priority List

- a) Within 60 days after notification to an owner or operator that the application for payment or a portion thereof has been approved by the Agency or by operation of law, the Agency shall forward to the Office of the State Comptroller in accordance with subsection (d) or (e) of this Section a voucher in the amount approved. If the owner or operator has filed an appeal with the Board of the

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

Agency's final decision on an application for payment, the Agency shall have 60 days after the final resolution of the appeal to forward to the Office of the State Comptroller a voucher in the amount ordered as a result of the appeal.

Notwithstanding the time limits imposed by this Section, the Agency shall not forward vouchers to the Office of the State Comptroller until sufficient funds are available to issue payment.

- b) The following rules shall apply regarding deductibles:
- 1) Any deductible, as determined by the OSFM or the Agency, shall be subtracted from any amount approved for payment by the Agency or by operation of law or ordered by the Board or courts;
 - 2) Only one deductible shall apply per occurrence;
 - 3) If multiple incident numbers are issued for a single site in the same calendar year, only one deductible shall apply for those incidents, even if the incidents relate to more than one occurrence; and
 - 4) Where more than one deductible determination is made, the higher deductible shall apply.
- c) The Agency shall instruct the Office of the State Comptroller to issue payment to the owner or operator at the address designated in accordance with Section 732.601(b)(8) or (c) of this Part. In no case shall the Agency authorize the Office of the State Comptroller to issue payment to an agent, designee, or entity that who has conducted corrective action activities for the owner or operator.
- d) For owners or operators who have deferred site classification or corrective action in accordance with Section 732.306 or 732.406 of this Part, payment shall be authorized from funds encumbered pursuant to Section 732.306(a)(6) or 732.406(a)(6)~~732.306(a)(4) or 732.406(a)(4)~~ of this Part upon approval of the application for payment by the Agency or by operation of law.
- e) For owners or operators not electing to defer site classification or corrective action in accordance with Section 732.306 or 732.406 of this Part, the Agency shall form a priority list for payment for the issuance of vouchers pursuant to subsection (a) of this Section.
- 1) All such applications for payment shall be assigned a date that is the date

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

upon which the complete application for partial or final payment was received by the Agency. This date shall determine the ~~owner's~~owner or operator's priority for payment in accordance with subsection (e)(2) of this Section, with the earliest dates receiving the highest priority.

- 2) Once payment is approved by the Agency or by operation of law or ordered by the Board or courts, the application for payment shall be assigned priority in accordance with subsection (e)(1) of this Section. The assigned date shall be the only factor determining the priority for payment for those applications approved for payment.

(Source: Amended at 29 Ill. Reg. _____, effective _____)

Section 732.604 Limitations on Total Payments

a) Limitations per occurrence:

- 1) The Agency must not approve any payment from the Fund to pay an owner or operator for costs of corrective action incurred by the owner or operator in an amount in excess of \$1,000,000 per occurrence.~~The Agency shall not approve any payment from the fund to pay an owner or operator for costs of corrective action incurred by such owner or operator in an amount in excess of \$1,000,000 per occurrence. (Section 57.8(g) of the Act)~~
- 2) The Agency must not approve any payment from the Fund to pay an owner or operator for costs of indemnification of the owner or operator in an amount in excess of \$1,000,000 per occurrence.~~The Agency shall not approve any payment from the fund to pay an owner or operator for costs of indemnification of such owner or operator in an amount in excess of \$1,000,000 per occurrence. (Section 57.8(g) of the Act)~~

b) Aggregate limitations:

- 1) Notwithstanding any other provision of this Part, the Agency must not approve payment to an owner or operator from the Fund for costs of corrective action or indemnification incurred during a calendar year in excess of the following amounts based on the number of petroleum underground storage tanks owned or operated by the owner or operator in Illinois:

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

<u>Amount</u>	<u>Number of Tanks</u>
<u>\$1,000,000</u>	<u>fewer than 101</u>
<u>\$2,000,000</u>	<u>101 or more</u>

~~Notwithstanding any other provision of this Part 732, the Agency shall not approve payment to an owner or operator from the fund for costs of corrective action or indemnification incurred during a calendar year in excess of the following amounts based on the number of petroleum underground storage tanks owned or operated by such owner or operator in Illinois:~~

<u>AMOUNT</u>	<u>NUMBER OF TANKS</u>
<u>\$1,000,000</u>	<u>Fewer than 101</u>
<u>\$2,000,000</u>	<u>101 or more</u>

- 2) Costs incurred in excess of the aggregate amounts set forth in subsection (b)(1) of this Section will not be eligible for payment in subsequent years. ~~Costs incurred in excess of the aggregate amounts set forth in subsection (b)(1) of this Section shall not be eligible for payment in subsequent years. (Section 57.8(d) of the Act)~~
- c) For purposes of subsection (b) of this Section, requests submitted by any of the agencies, departments, boards, committees or commissions of the State of Illinois shall be acted upon as claims from a single owner or operator [415 ILCS 5/57.8(d)(2)]. ~~For purposes of subsection (b) of this Section, requests submitted by any of the agencies, departments, boards, committees or commissions of the State of Illinois shall be acted upon as claims from a single owner or operator. (Section 57.8(d) of the Act)~~
- d) For purposes of subsection (b) of this Section, owner or operator includes:
- 1) any subsidiary, parent, or joint stock company of the owner or operator; and
 - 2) any company owned by any parent, subsidiary, or joint stock company of the owner or operator [415 ILCS 5/57.8(d)(3)].

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

For purposes of subsection (b) of this Section, owner or operator includes:

- 1) *any subsidiary, parent, or joint stock company of the owner or operator; and*
- 2) *any company owned by any parent, subsidiary, or joint stock company of the owner or operator. (Section 57.8(d) of the Act)*

(Source: Amended at 29 Ill. Reg. _____, effective _____)

Section 732.605 Eligible Corrective Action Costs

- a) Types of costs that may be eligible for payment from the Fund include those for corrective action activities and for materials or services provided or performed in conjunction with corrective action activities. Such activities and services may include but are not limited to reasonable costs for:
- 1) Early action activities conducted pursuant to Subpart B of this Part;
 - 2) Engineer or geologist~~Engineering~~ oversight services;
 - 3) Remedial investigation and design;
 - 4) Feasibility studies;
 - 4)5) Laboratory services necessary to determine site classification and whether the established remediation~~corrective action~~ objectives have been met;
 - 5)6) The installation~~Installation~~ and operation of groundwater investigation and groundwater monitoring wells;
 - 6)7) The removal, treatment, transportation, and disposal of soil contaminated by petroleum at levels in excess of the established remediation~~corrective action~~ objectives;
 - 7)8) The removal, treatment, transportation, and disposal of water contaminated by petroleum at levels in excess of the established remediation~~corrective action~~ objectives;
 - 8)9) The placement of clean backfill to grade to replace excavated soil

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

contaminated by petroleum at levels in excess of the established ~~remediation~~corrective action objectives;

- ~~9)~~10) Groundwater corrective action systems;
- ~~10)~~11) Alternative technology, including but not limited to feasibility studies approved by the Agency;
- ~~11)~~12) Recovery of free product exceeding one-eighth of an inch in depth as measured in a groundwater monitoring well, or present as a sheen on groundwater in the tank removal excavation or on surface water~~phase petroleum from groundwater~~;
- ~~12)~~13) The removal and disposal of any UST if a release of petroleum from the UST was identified and IEMA was notified prior to its removal, with the exception of any UST deemed ineligible by the ~~OSFM~~Office of State Fire Marshal;
- ~~13)~~14) Costs incurred as a result of a release of petroleum because of vandalism, theft or fraudulent activity by a party other than an owner, operator or agent of an owner or operator;
- ~~14)~~15) ~~Engineer or geologist~~Engineering costs associated with seeking payment ~~or reimbursement~~ from the Fund, including, but not limited to, completion of an application for partial or final payment;
- ~~15)~~16) Costs associated with obtaining an Eligibility and Deductibility Determination from the OSFM or the Agency;
- ~~16)~~17) Costs for destruction and replacement of concrete, asphalt, ~~or and~~ paving to the extent necessary to conduct corrective action ~~and~~ if the concrete, asphalt, or paving was installed prior to the initiation of corrective action activities, the destruction and replacement has been certified as necessary to the performance of corrective action by a Licensed Professional Engineer, and the destruction and replacement and its costs are approved by the Agency in writing prior to the destruction and replacement. The costs for destruction and replacement of concrete, asphalt, and paving must not be paid more than once. Costs associated with the replacement of concrete, asphalt, or paving must not be paid in excess of the cost to install, in the same area and to the same depth, the same material that was

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

destroyed (e.g., replacing four inches of concrete with four inches of concrete);

- 17)18) The destruction or dismantling and reassembly of above grade structures in response to a release of petroleum if such activity has been certified as necessary to the performance of corrective action by a Licensed Professional Engineer and such activity and its costs are approved by the Agency in writing prior to the destruction or dismantling and re-assembly. Such costs must not be paid in excess of a total \$10,000 per occurrence. For purposes of this subsection (a)(17)(a)(18), destruction, dismantling, or reassembly of above grade structures does not include costs associated with replacement of pumps, pump islands, buildings, wiring, lighting, bumpers, posts, or canopies; ~~and~~
- 18)19) Preparation of reports submitted pursuant to Section 732.202(h)(3) of this Part, free product removal plans and associated budget plans, free product removal reports, site classification plans (including physical soil classification and groundwater investigation plans) and associated budget plans, site classification reports, groundwater monitoring plans and associated budget plans, groundwater monitoring completion reports, High Priority corrective action plans and associated budget plans, and High Priority corrective action completion reports:-
- 19) Costs associated with the removal or abandonment of a potable water supply well, and replacement of the well or connection to a public water supply, whichever is less, if a Licensed Professional Engineer or Licensed Professional Geologist certifies that such activity is necessary to the performance of corrective action and that the property served by the well cannot receive an adequate supply of potable water from an existing source other than the removed or abandoned well, and the Agency approves such activity in writing. If the well being removed or abandoned is a public water supply well, the Licensed Professional Engineer or Licensed Professional Geologist is required to certify only that the removal or abandonment of the well is necessary to the performance of corrective action; and
- 20) Costs associated with the repair or replacement of potable water supply lines damaged to the point of requiring repair or replacement as a direct result of the release, if such activity is certified by a Licensed Professional Engineer or Licensed Professional Geologist as necessary for the

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

protection of the potable water supply and approved by the Agency in writing.

- b) An owner or operator may submit a budget plan or application for partial or final payment that includes an itemized accounting of costs associated with activities, materials or services not identified in subsection (a) of this Section if the owner or operator submits detailed information demonstrating that the activities, materials or services not identified in subsection (a) of this Section are essential to the completion of the minimum corrective action requirements of the Act and this Part.

(Source: Amended at 29 Ill. Reg. _____, effective _____)

Section 732.606 Ineligible Corrective Action Costs

Costs ineligible for payment from the Fund include but are not limited to:

- a) Costs for the removal, treatment, transportation, and disposal of more than four feet of fill material from the outside dimensions of the UST, as set forth in Appendix C of this Part, during early action activities conducted pursuant to Section 732.202(f), and costs for the replacement of contaminated fill materials with clean fill materials in excess of the amounts set forth in Appendix C of this Part during early action activities conducted pursuant to Section 732.202(f) of this Part;
- b) Costs or losses resulting from business interruption;
- c) Costs incurred as a result of vandalism, theft or fraudulent activity by the owner or operator or agent of an owner or operator, including the creation of spills, leaks or releases;
- d) Costs associated with the replacement of above grade structures such as pumps, pump islands, buildings, wiring, lighting, bumpers, posts or canopies, including but not limited to those structures destroyed or damaged during corrective action activities;
- e) *Costs of corrective action ~~or indemnification~~ incurred by an owner or operator prior to July 28, 1989 [415 ILCS 5/57.8(j)];*
- f) Costs associated with the procurement of a generator identification number;

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- g) Legal fees or costs, including but not limited to legal fees or costs for seeking payment under this Part unless the owner or operator prevails before the Board and the Board authorizes payment of such costs~~Legal defense costs including legal costs for seeking payment under these regulations unless the owner or operator prevails before the Board and the Board authorizes payment of legal fees [415 ILCS 5/57.8(1)];~~
- h) Purchase costs of non-expendable materials, supplies, equipment or tools, except that a reasonable rate may be charged for the usage of such materials, supplies, equipment or tools;
- i) Costs associated with activities that violate any provision of the Act or Board, OSFM or Agency regulations;
- j) Costs associated with investigative action, preventive action, corrective action, or enforcement action taken by the State of Illinois if the owner or operator failed, without sufficient cause, to respond to a release or substantial threat of a release upon, or in accordance with, a notice issued by the Agency pursuant to Section 732.105 of this Part and Section 57.12 of the Act;
- k) Costs for removal, disposal or abandonment of a UST if the tank was removed or abandoned, or permitted for removal or abandonment, by the OSFM before the owner or operator provided notice to IEMA of a release of petroleum;
- l) Costs associated with the installation of new USTs, the repair of existing USTs, and removal and disposal of USTs determined to be ineligible by the Office of the State Fire Marshal;
- m) Costs exceeding those contained in a budget plan or amended budget plan approved by the Agency;
- n) Costs of corrective action ~~or indemnification~~ incurred before providing notification of the release of petroleum to IEMA in accordance with Section 732.202 of this Part;
- o) Costs for corrective action activities and associated materials or services exceeding the minimum requirements necessary to comply with the Act;
- p) Costs associated with improperly installed sampling or monitoring wells;

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- q) Costs associated with improperly collected, transported, or analyzed laboratory samples;
- r) Costs associated with the analysis of laboratory samples not approved by the Agency for constituents other than applicable indicator contaminants or groundwater objectives;
- s) Costs for any corrective activities, services, or materials unless accompanied by a letter from OSFM or the Agency confirming eligibility and deductibility in accordance with Section 57.9 of the Act;
- t) Interest or finance costs charged as direct costs;
- u) Insurance costs charged as direct costs;
- v) Indirect corrective action costs for personnel, materials, service, or equipment charged as direct costs;
- w) Costs associated with the compaction and density testing of backfill material;
- x) Costs associated with sites that have not reported a release to IEMA or are not required to report a release to IEMA;
- y) Costs related to activities, materials, or services not necessary to stop, minimize, eliminate, or clean up a release of petroleum or its effects in accordance with the minimum requirements of the Act ~~[415 ILCS 5]~~ and regulations;
- z) Costs incurred after completion of early action activities in accordance with Subpart B by owners or operators choosing, pursuant to Section 732.300(b) of this Part, to conduct remediation sufficient to satisfy the remediation objectives;
- aa) Costs incurred after completion of site classification activities in accordance with Subpart C by owners or operators choosing, pursuant to Section 732.400(b) or (c) of this Part, to conduct remediation sufficient to satisfy the remediation objectives;
- bb) Costs of alternative technology that exceed the costs of conventional technology;
- cc) Costs for ~~investigative~~ activities and related services or materials ~~for developing a~~

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

~~High Priority corrective action plan~~ that are unnecessary, ~~or~~ inconsistent with generally accepted engineering practices or principles of professional geology, or unreasonable costs for justifiable activities, materials, or services;

- dd) Costs to prepare site classification plans and associated budget plans under Section 732.305 of this Part, to perform site classification under Section 732.307 of this Part, or to prepare site classification completion reports under Section 732.309 of this Part, for sites where owners or operators have elected to classify under Section 732.312 of this Part;
- ee) Costs to prepare site classification plans and associated budget plans under Section 732.312 of this Part, to perform site classification under Section 732.312 of this Part, or to prepare site classification completion reports under Section 732.312 of this Part, for sites where owners or operators have performed classification activities under Sections 732.305, 732.307, or 732.309 of this Part;
- ff) Costs requested that are based on mathematical errors;
- gg) Costs that lack supporting documentation;
- hh) Costs proposed as part of a budget plan that are unreasonable;
- ii) Costs incurred during early action that are unreasonable;
- jj) Costs incurred on or after the date the owner or operator enters at a site that has entered the Site Remediation Program under Title XVII of the Act and 35 Ill. Adm. Code 740 to address the UST release;
- kk) Costs incurred ~~for additional remediation~~ after receipt of a No Further Remediation Letter for the occurrence for which the No Further Remediation Letter was received. This subsection (kk) does not apply to the following:
 - 1) Costs, except costs incurred for MTBE remediation pursuant to Section 732.310(i)(2) of this Part;
 - 2) Monitoring well abandonment costs;
 - 3) County recorder or registrar of titles fees for recording the No Further Remediation Letter;

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- 4) Costs associated with seeking payment from the Fund; and
- 5) Costs associated with remediation to Tier 1 remediation objectives on-site if a court of law voids or invalidates a No Further Remediation Letter and orders the owner or operator to achieve Tier 1 remediation objectives in response to the release;
- ll) Handling charges for ~~subcontractors~~~~subcontractors~~ costs that have been billed directly to the owner or operator;
- mm) Handling charges for ~~subcontractors~~~~subcontractor's~~ costs when the contractor has not submitted proof of payment of the subcontractor costs~~paid the subcontractor~~;
- nn) Costs associated with standby and demurrage; ~~and~~
- oo) Costs associated with a corrective action plan incurred after the Agency notifies the owner or operator, pursuant to Section 732.405(f) of this Part, that a revised corrective action plan is required; ~~provided,~~ however, that costs associated with any subsequently approved corrective action plan will be eligible for payment~~reimbursement~~ if they meet the requirements of this Part; ~~;~~
- pp) Costs incurred after the effective date of an owner's or operator's election to proceed in accordance with 35 Ill. Adm. Code 734;
- qq) Costs associated with the preparation of free product removal reports not submitted in accordance with the schedule established in Section 732.203(a)(5) of this Part;
- rr) Costs submitted more than one year after the date the Agency issues a No Further Remediation Letter pursuant to Subpart G of this Part;
- ss) Handling charges for subcontractor costs where any person with a direct or indirect financial interest in the contractor has a direct or indirect financial interest in the subcontractor;
- tt) Costs for the destruction and replacement of concrete, asphalt, or paving, except as otherwise provided in Section 732.605(a)(16) of this Part;
- uu) Costs incurred as a result of the destruction of, or damage to, any equipment, fixtures, structures, utilities, or other items during corrective action activities, except as otherwise provided in Section 732.605(a)(16) or (17) of this Part;

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- vv) Costs associated with oversight by an owner or operator;
- ww) Handling charges charged by persons other than the owner's or operator's primary contractor;
- xx) Costs associated with the installation of concrete, asphalt, or paving as an engineered barrier to the extent they exceed the cost of installing an engineered barrier constructed of asphalt four inches in depth. This subsection does not apply if the concrete, asphalt, or paving being used as an engineered barrier was replaced pursuant to Section 732.605(a)(16) of this Part;
- yy) The treatment or disposal of soil that does not exceed the applicable remediation objectives for the release, unless approved by the Agency in writing prior to the treatment or disposal;
- zz) Costs associated with the removal or abandonment of a potable water supply well, or the replacement of such a well or connection to a public water supply, except as otherwise provided in Section 732.605(a)(19) of this Part;
- aaa) Costs associated with the repair or replacement of potable water supply lines, except as otherwise provided in Section 732.605(a)(20) of this Part;
- bbb) Costs associated with the replacement of underground structures or utilities, including but not limited to septic tanks, utility vaults, sewer lines, electrical lines, telephone lines, cable lines, or water supply lines, except as otherwise provided in Section 732.605(a)(19) or (20) of this Part;
- ccc) Costs associated with the maintenance, repair, or replacement of leased or subcontracted equipment, other than costs associated with routine maintenance that are approved in a budget plan;
- ddd) Costs that exceed the maximum payment amounts set forth in Subpart H of this Part;
- eee) Costs associated with on-site corrective action to achieve remediation objectives that are more stringent than the Tier 2 remediation objectives developed in accordance with 35 Ill. Adm. Code 742. This subsection (eee) does not apply if Karst geology prevents the development of Tier 2 remediation objectives for on-site remediation, or if a court of law voids or invalidates a No Further

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

Remediation Letter and orders the owner or operator to achieve Tier 1 remediation objectives on-site in response to the release:

fff) Costs associated with groundwater remediation if a groundwater ordinance already approved by the Agency for use as an institutional control in accordance with 35 Ill. Adm. Code 742 can be used as an institutional control for the release being remediated.

(Source: Amended at 29 Ill. Reg. _____, effective _____)

Section 732.607 Payment for Handling Charges

Handling charges are eligible for payment only if they are equal to or less than the amount determined by the following table:

<u>Subcontract or Field Purchase Cost:</u>	<u>Eligible Handling Charges as a Percentage of Cost:</u>
<u>\$0 – \$5,000.....</u>	<u>12%</u>
<u>\$5,001 – \$15,000.....</u>	<u>\$600 + 10% of amt. over \$5,000</u>
<u>\$15,001 – \$50,000.....</u>	<u>\$1,600 + 8% of amt. over \$15,000</u>
<u>\$50,001 – \$100,000.....</u>	<u>\$4,400 + 5% of amt. over \$50,000</u>
<u>\$100,001 – \$1,000,000.....</u>	<u>\$6,900 + 2% of amt. over \$100,000</u>

Handling charges are eligible for payment only if they are equal to or less than the amount determined by the following table (Section 57.8(g) of the Act):

<u>SUBCONTRACT OR FIELD PURCHASE COST:</u>	<u>ELIGIBLE HANDLING CHARGES AS A PERCENTAGE OF COST:</u>
<u>\$0 – \$5,000</u>	<u>12%</u>
<u>\$5,001 – \$15,000</u>	<u>\$600 PLUS 10% OF AMOUNT OVER \$5,000</u>
<u>\$15,001 – \$50,000</u>	<u>\$1,600 PLUS 8% OF AMOUNT OVER \$15,000</u>
<u>\$50,001 – \$100,000</u>	<u>\$4,400 PLUS 5% OF AMOUNT OVER \$50,000</u>
<u>\$100,001 – \$1,000,000</u>	<u>\$6,900 PLUS 2% OF AMOUNT OVER \$100,000 [415 ILCS 5/57.8(f)]</u>

(Source: Amended at 29 Ill. Reg. _____, effective _____)

Section 732.608 Apportionment of Costs

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- a) The Agency may apportion payment of costs if:
- 1) ~~*The owner or operator was deemed eligible to access the Fund for payment of corrective action costs for some, but not all, of the underground storage tanks at the site; and The owner or operator was deemed eligible to access the fund for payment of corrective action costs for some, but not all, of the underground storage tanks at the site; and*~~
 - 2) ~~*The owner or operator failed to justify all costs attributable to each underground storage tank at the site. [415 ILCS 5/57.8(m)] The owner or operator failed to justify all costs attributable to each underground storage tank at the site. (Section 57.8(m) of the Act)*~~
- b) The Agency will determine, based on volume or number of tanks, which method of apportionment will be most favorable to the owner or operator. The Agency will notify the owner or operator of such determination in writing.

(Source: Amended at 29 Ill. Reg. _____, effective _____)

Section 732.610 Indemnification

- a) An owner or operator seeking indemnification from the Fund for payment of costs incurred as a result of a release of petroleum from an underground storage tank must submit to the Agency an application for payment on forms prescribed and provided by the Agency and, if specified by the Agency by written notice, in an electronic format.
- 1) A complete application for payment must contain the following:
 - A) A certified statement by the owner or operator of the amount sought for payment;
 - B) Proof of the legally enforceable judgment, final order, or determination against the owner or operator, or the legally enforceable settlement entered into by the owner or operator, for which indemnification is sought. The proof must include, but is not limited to, the following:

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- i) A copy of the judgment certified by the court clerk as a true and correct copy, a copy of the final order or determination certified by the issuing agency of State government or subdivision thereof as a true and correct copy, or a copy of the settlement certified by the owner or operator as a true and correct copy; and
 - ii) Documentation demonstrating that the judgment, final order, determination, or settlement arises out of bodily injury or property damage suffered as a result of a release of petroleum from the UST for which the release was reported, and that the UST is owned or operated by the owner or operator;
 - C) A copy of the OSFM or Agency eligibility and deductibility determination;
 - D) Proof that approval of the indemnification requested will not exceed the limitations set forth in the Act and Section 732.604 of this Part;
 - E) A federal taxpayer identification number and legal status disclosure certification;
 - F) A private insurance coverage form; and
 - G) Designation of the address to which payment and notice of final action on the request for indemnification are to be sent to the owner or operator.
- 2) The owner's or operator's address designated on the application for payment may be changed only by subsequent notification to the Agency, on a form provided by the Agency, of a change of address.
 - 3) Applications for payment must be mailed or delivered to the address designated by the Agency. The Agency's record of the date of receipt must be deemed conclusive unless a contrary date is proven by a dated, signed receipt from certified or registered mail.
- b)a) ~~The~~Upon ~~submittal~~ of a request for indemnification for payment of costs incurred

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

as a result of a release of petroleum from an underground storage tank, the Agency shall review ~~application~~~~the application~~ for payment in accordance with this Subpart F. In addition, the Agency must review each application for payment to determine the following:

- 1) Whether the application contains all of the information and supporting documentation required by subsection (a) of this Section;
- 2) Whether there is sufficient documentation of a legally enforceable judgment entered against the owner or operator in a court of law, final order or determination made against the owner or operator by an agency of State government or any subdivision thereof, or settlement entered into by the owner or operator;
- 3) Whether there is sufficient documentation that the judgment, final order, determination, or settlement arises out of bodily injury or property damage suffered as a result of a release of petroleum from an underground storage tank owned or operated by the owner or operator; and
- 4) Whether the amounts sought for indemnification are eligible for payment.

~~c)~~b) If the application for payment of the costs of indemnification is deemed complete and otherwise satisfies all applicable requirements of this Subpart F, the Agency shall forward the request for indemnification to the Office of the Attorney General for review and approval in accordance with Section 57.8(c) of the Act. The owner or operator's request for indemnification shall not be placed on the priority list for payment until the Agency has received the written approval of the Attorney General. The approved application for payment shall then enter the priority list established at ~~Section 732.603(e)(1)~~~~Section 732.603(d)(1)~~ of this Part based on the date the complete application was received by the Agency in accordance with Section 57.8(c) of the Act.

d) Costs ineligible for indemnification from the Fund include, but are not limited to:

- 1) Amounts an owner or operator is not legally obligated to pay pursuant to a judgment entered against the owner or operator in a court of law, a final order or determination made against the owner or operator by an agency of State government or any subdivision thereof, or any settlement entered into by the owner or operator;

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- 2) Amounts of a judgment, final order, determination, or settlement that do not arise out of bodily injury or property damage suffered as a result of a release of petroleum from an underground storage tank owned or operated by the owner or operator;
- 3) Amounts incurred prior to July 28, 1989;
- 4) Amounts incurred prior to notification of the release of petroleum to IEMA in accordance with Section 732.202 of this Part;
- 5) Amounts arising out of bodily injury or property damage suffered as a result of a release of petroleum from an underground storage tank for which the owner or operator is not eligible to access the Fund;
- 6) Legal fees or costs, including but not limited to legal fees or costs for seeking payment under this Part unless the owner or operator prevails before the Board and the Board authorizes payment of such costs;
- 7) Amounts associated with activities that violate any provision of the Act or Board, OSFM, or Agency regulations;
- 8) Amounts associated with investigative action, preventive action, corrective action, or enforcement action taken by the State of Illinois if the owner or operator failed, without sufficient cause, to respond to a release or substantial threat of a release upon, or in accordance with, a notice issued by the Agency pursuant to Section 732.105 of this Part and Section 57.12 of the Act;
- 9) Amounts associated with a release that has not been reported to IEMA or is not required to be reported to IEMA;
- 10) Amounts incurred on or after the date the owner or operator enters the Site Remediation Program under Title XVII of the Act and 35 Ill. Adm. Code 740 to address the UST release; and
- 11) Amounts incurred after the effective date of the owner's or operator's election to proceed in accordance with 35 Ill. Adm. Code 734.

(Source: Amended at 29 Ill. Reg. _____, effective _____)

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

Section 732.612 Determination and Collection of Excess Payments

- a) If, for any reason, the Agency determines that an excess payment has been paid from the Fund, the Agency may take steps to collect the excess amount pursuant to subsection (c) of this Section.
- 1) Upon identifying an excess payment, the Agency shall notify the owner or operator receiving the excess payment by certified or registered mail, return receipt requested.
 - 2) The notification letter shall state the amount of the excess payment and the basis for the Agency's determination that the payment is in error.
 - 3) The Agency's determination of an excess payment shall be subject to appeal to the Board in the manner provided for the review of permit decisions in Section 40 of the Act.
- b) An excess payment from the Fund includes, but is not limited to:
- 1) Payment for a non-corrective action cost;
 - 2) Payment in excess of the limitations on payments set forth in Sections 732.604 and 732.607 [and Subpart H](#) of this Part;
 - 3) Payment received through fraudulent means;
 - 4) Payment calculated on the basis of an arithmetic error;
 - 5) Payment calculated by the Agency in reliance on incorrect information; ~~or-~~
 - 6) [Payment of costs that are not eligible for payment.](#)
- c) Excess payments may be collected using any of the following procedures:
- 1) Upon notification of the determination of an excess payment in accordance with subsection (a) of this Section or pursuant to a Board order affirming such determination upon appeal, the Agency may attempt to negotiate a payment schedule with the owner or operator. Nothing in this subsection (c)(1) of this Section shall prohibit the Agency from exercising at any time its options at subsection (c)(2) or (c)(3) of this Section or any

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

other collection methods available to the Agency by law.

- 2) If an owner or operator submits a subsequent claim for payment after previously receiving an excess payment from the Fund, the Agency may deduct the excess payment amount from any subsequently approved payment amount. If the amount subsequently approved is insufficient to recover the entire amount of the excess payment, the Agency may use the procedures in this Section or any other collection methods available to the Agency by law to collect the remainder.
- 3) The Agency may deem an excess payment amount to be a claim or debt owed the Agency, and the Agency may use the Comptroller's Setoff System for collection of the claim or debt in accordance with Section 10.5 of the "State Comptroller Act": [15 ILCS 405/10.05]~~(1993)~~.

(Source: Amended at 29 Ill. Reg. _____, effective _____)

Section 732.614 Audits and Access to Records; Records Retention

- a) Owners or operators that submit a report, plan, budget, application for payment, or any other data or document under this Part, and Licensed Professional Engineers and Licensed Professional Geologists that certify such report, plan, budget, application for payment, data, or document, must maintain all books, records, documents, and other evidence directly pertinent to the report, plan, budget, application for payment, data, or document, including but not limited to all financial information and data used in the preparation or support of applications for payment. All books, records, documents, and other evidence must be maintained in accordance with accepted business practices and appropriate accounting procedures and practices.
- b) The Agency or any of its duly authorized representatives must have access to the books, records, documents, and other evidence set forth in subsection (a) of this Section during normal business hours for the purpose of inspection, audit, and copying. Owners, operators, Licensed Professional Engineers, and Licensed Professional Geologists must provide proper facilities for such access and inspection.
- c) Owners, operators, Licensed Professional Engineers, and Licensed Professional Geologists must maintain the books, records, documents, and other evidence set

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

forth in subsection (a) of this Section and make them available to the Agency or its authorized representative until the latest of the following:

- 1) The expiration of 4 years after the date the Agency issues a No Further Remediation Letter pursuant to Subpart G of this Part;
- 2) For books, records, documents, or other evidence relating to an appeal, litigation, or other dispute or claim, the expiration of 3 years after the date of the final disposition of the appeal, litigation, or other dispute or claim;
or
- 3) The expiration of any other applicable record retention period.

(Source: Added at 29 Ill. Reg. _____, effective _____)

SUBPART G: NO FURTHER REMEDIATION LETTERS
AND RECORDING REQUIREMENTS

Section 732.701 Issuance of a No Further Remediation Letter

- a) Upon approval by the Agency of a report submitted pursuant to Section 732.202(h)(3) of this Part, a No Further Action site classification report, a Low Priority groundwater monitoring completion report, or a High Priority corrective action completion report, the Agency shall issue to the owner or operator a No Further Remediation Letter. The No Further Remediation Letter shall have the legal effect prescribed in Section 57.10 of the Act. The No Further Remediation Letter shall be denied if the Agency rejects or requires modification of the applicable report.
- b) The Agency shall have 120 days after the date of receipt of a complete report to issue a No Further Remediation Letter and may include the No Further Remediation Letter as part of the notification of approval of the applicable report in accordance with Subpart E of this Part. If the Agency fails to send the No Further Remediation Letter within 120 days, it shall be deemed denied by operation of law.
- c) The notice of denial of a No Further Remediation Letter by the Agency may be included with the notification of rejection or modification of the applicable report. The reasons for the denial shall be stated in the notification. The denial shall be considered a final determination appealable to the Board within 35 days after the

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

Agency's final action in the manner provided for the review of permit decisions in Section 40 of the Act. If any request for a No Further Remediation Letter is denied by operation of law, in lieu of an immediate repeal to the Board the owner or operator may either resubmit the request and applicable report to the Agency or file a joint request for a 90 day extension in the manner provided for extensions of permit decision in Section 40 of the Act.

- d) The Agency shall mail the No Further Remediation Letter by registered or certified mail, postmarked with a date stamp and with return receipt requested. Final action shall be deemed to have taken place on the postmarked date that the letter is mailed.
- e) The Agency at any time may correct errors in No Further Remediation Letters that arise from oversight, omission or clerical mistake. Upon correction of the No Further Remediation Letter, the Agency shall mail the corrected letter to the owner or operator as set forth in subsection ~~(d)~~(e) of this Section. The corrected letter shall be perfected by recording in accordance with the requirements of Section 732.703 [of this Part](#).

(Source: Amended at 29 Ill. Reg. _____, effective _____)

Section 732.702 Contents of a No Further Remediation Letter

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

- a) An acknowledgement that the requirements of the applicable report were satisfied;
- b) A description of the location of the affected property by adequate legal description or by reference to a plat showing its boundaries, or, for purposes of Section 732.703(d) of this Part, other means sufficient to identify site location with particularity;
- c) [A statement that the](#)The remediation objectives [were](#) determined in accordance with 35 Ill. Adm. Code 742, and [the identification of](#) any land use limitation, as applicable, required by 35 Ill. Adm. Code 742 as a condition of the remediation objectives;
- d) A statement that the Agency's issuance of the No Further Remediation Letter signifies that:

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- 1) *All corrective action requirements under Title XVI of the Act and this Part ~~Part 732~~ applicable to the occurrence have been complied with;*
 - 2) *All corrective action concerning the remediation of the occurrence has been completed; and*
 - 3) *No further corrective action concerning the occurrence is necessary for the protection of human health, safety, and the environment [415 ILCS 5/57.10(c)], or, if the No Further Remediation Letter is issued pursuant to Section 732.411(e) of this Part, that the owner or operator has demonstrated to the Agency's satisfaction an inability to obtain access to an off-site property despite best efforts and therefore is not required to perform corrective action on the off-site property in order to satisfy the corrective action requirements of this Part, but is not relieved of responsibility to clean up portions of the release that have migrated off-site;*
- e) The prohibition under Section 732.703(e) of this Part against the use of any site in a manner inconsistent with any applicable land use limitation, without additional appropriate remedial activities;
 - f) A description of any approved preventive, engineering, and institutional controls identified in the plan or report and notification that failure to manage the controls in full compliance with the terms of the plan or report may result in voidance of the No Further Remediation Letter;
 - g) The recording obligations pursuant to Section 732.703 of this Part;
 - h) The opportunity to request a change in the recorded land use pursuant to Section ~~732.703~~ 732.704(e) of this Part;
 - i) Notification that further information regarding the site can be obtained from the Agency through a request under the Freedom of Information Act [5 ILCS 140]; and
 - j) Any other provisions agreed to by the Agency and the owner or operator.

(Source: Amended at 29 Ill. Reg. _____, effective _____)

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

Section 732.703 Duty to Record a No Further Remediation Letter

- a) Except as provided in subsections (c) and (d) of this Section, an owner or operator receiving a No Further Remediation Letter from the Agency pursuant to this Subpart G shall submit the letter, with a copy of any applicable institutional controls (as set forth in 35 Ill. Adm. Code 742, Subpart J) proposed as part of a corrective action completion report, to the office of the recorder or the registrar of titles~~Office of the Recorder or the Registrar of Titles~~ of the county in which the site is located within 45 days after receipt of the letter. The letter and any attachments shall be filed in accordance with Illinois law so that they form it forms a permanent part of the chain of title for the site. Upon the lapse of the 45-day period for recording, pursuant to Section 732.704(a)(5) of this Part, the Agency may void an unrecorded No Further Remediation Letter for failure to record it in a timely manner.
- b) Except as provided in subsections (c) and (d) of this Section, a No Further Remediation Letter shall be perfected upon the date of the official recording of such letter. The owner or operator shall obtain and submit to the Agency, within 30 days after the official recording date, a certified or otherwise accurate and official copy of the letter and any attachments as recorded. An unperfected No Further Remediation Letter is effective only as between the Agency and the owner or operator. ~~The Agency may, pursuant to Section 732.704(a)(5) of this Part, void a No Further Remediation Letter for failure to perfect in a timely manner in accordance with subsection (a) of this Section.~~
- c) For sites located in a highway authority right-of-way~~an Illinois Department of Transportation (IDOT) right-of-way~~, the following requirements shall apply:
- 1) In order for the No Further Remediation Letter to be perfected, the highway authority with jurisdiction over the right-of-way~~IDOT~~ must enter into a Memorandum of Agreement (MOA) with the Agency. The MOA must include, but is not limited to:
 - A) The name of the site, if any, and any highway authority~~IDOT~~ or Agency identifiers (e.g., incident number, Illinois inventory identification number);
 - B) The address of the site (or other description sufficient to identify the location of the site with certainty);

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- C) A copy of the No Further Remediation Letter for each site subject to the MOA;
- D) Procedures for tracking sites subject to the MOA so that all [highway authority offices and personnel](#)~~DOT~~ [bureaus](#) whose responsibilities (e.g., land acquisition, maintenance, construction, utility permits) may affect land use limitations will have notice of any environmental concerns and land use limitations applicable to a site;
- E) Provisions addressing future conveyances (including title or any lesser form of interest) or jurisdictional transfers of the site to any other agency, private person or entity and the steps that will be taken to ensure the long-term integrity of any land use limitations including, but not limited to, the following:
- i) Upon creation of a deed, the recording of the No Further Remediation Letter and any other land use limitations requiring recording under 35 Ill. Adm. Code 742, with copies of the recorded instruments sent to the Agency within 30 days after recording;
 - ii) Any other arrangements necessary to ensure that property that is conveyed or transferred remains subject to any land use limitations approved and implemented as part of the corrective action plan and the No Further Remediation Letter; and
 - iii) Notice to the Agency at least 60 days prior to any such intended conveyance or transfer indicating the mechanism(s) to be used to ensure that any land use limitations will be operated or maintained as required in the corrective action plan and No Further Remediation Letter; and
- F) Provisions for notifying the Agency if any actions taken by [the highway authority](#)~~DOT~~ or its permittees at the site result in the failure or inability to restore the site to meet the requirements of the corrective action plan and the No Further Remediation Letter.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- 2) Failure to comply with the requirements of this subsection (c) may result in avoidance of the No Further Remediation Letter pursuant to Section 732.704 of this Part as well as any other penalties that may be available.
- d) For sites located on Federally Owned Property for which the Federal Landholding Entity does not have the authority under federal law to record institutional controls on the chain of title, the following requirements shall apply:
 - 1) To perfect a No Further Remediation Letter containing any restriction on future land use(s), the Federal Landholding Entity or Entities responsible for the site must enter into a Land Use Control Memorandum of Agreement (LUC MOA) with the Agency that requires the Federal Landholding Entity to do, at a minimum, the following:
 - A) Identify the location on the Federally Owned Property of the site subject to the No Further Remediation Letter. Such identification shall be by means of common address, notations in any available facility master land use plan, site specific GIS or GPS coordinates, plat maps, or any other means that identify the site in question with particularity;
 - B) Implement periodic site inspection procedures that ensure oversight by the Federal Landholding Entities of any land use limitations or restrictions imposed pursuant to the No Further Remediation Letter;
 - C) Implement procedures for the Federal Landholding Entities to periodically advise the Agency of continued compliance with all maintenance and inspection requirements set forth in the LUC MOA;
 - D) Implement procedures for the Federal Landholding Entities to notify the Agency of any planned or emergency changes in land use that may adversely impact land use limitations or restrictions imposed pursuant to the No Further Remediation Letter;
 - E) Notify the Agency at least 60 days in advance of a conveyance by deed or fee simple title, by the Federal Landholding Entities, of the site or sites subject to the No Further Remediation Letter, to any entity that will not remain or become a Federal Landholding

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

Entity, and provide the Agency with information about how the Federal Landholding Entities will ensure the No Further Remediation Letter is recorded on the chain of title upon transfer of the property; and

- F) Attach to the LUC MOA a copy of the No Further Remediation Letter for each site subject to the LUC MOA.
- 2) To perfect a No Further Remediation letter containing no restriction(s) on future land use, the Federal Landholding Entity shall submit the letter to the Office of the Recorder or the Registrar of Titles of the county in which the site is located within 45 days after receipt of the letter. The letter shall be filed in accordance with Illinois law so it forms a permanent part of the chain of title. The Federal Landholding Entity shall obtain and submit to the Agency, within 30 days after recording, a copy of the letter demonstrating that the recording requirements have been satisfied.
- 3) Failure to comply with the requirements of this subsection (d) and the LUC MOA may result in voidance of the No Further Remediation Letter as well as any other penalties that may be available.
- e) At no time shall any site for which a land use limitation has been imposed as a result of corrective action under this Part be used in a manner inconsistent with the land use limitation set forth in the No Further Remediation Letter. The land use limitation specified in the No Further Remediation Letter may be revised only by the perfecting of a subsequent No Further Remediation Letter, issued pursuant to Title XVII of the Act and regulations thereunder, following further investigation or remediation that demonstrates the attainment of objectives appropriate for the new land use.

(Source: Amended at 29 Ill. Reg. _____, effective _____)

Section 732.704 Voidance of a No Further Remediation Letter

- a) The No Further Remediation Letter shall be voidable if site activities are not carried out in full compliance with the provisions of this Part, and 35 Ill. Adm. Code 742 where applicable, or the remediation objectives upon which the issuance of the No Further Remediation Letter was based. Specific acts or omissions that may result in voidance of the No Further Remediation Letter include, but shall not be limited to:

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- 1) Any violations of institutional controls or land use restrictions, if applicable;
- 2) The failure of the owner or operator or any subsequent transferee to operate and maintain preventive, engineering and institutional controls ~~or comply with a groundwater monitoring plan, if applicable;~~
- 3) Obtaining the No Further Remediation Letter by fraud or misrepresentation;
- 4) Subsequent discovery of indicator contaminants related to the occurrence upon which the No Further Remediation Letter was based ~~that which:~~
 - A) were not identified as part of the investigative or remedial activities upon which the issuance of the No Further Remediation Letter was based;
 - B) results in the following:
 - i) the site no longer satisfying the criteria of a No Further Action site classification;
 - ii) the site no longer satisfying the criteria of a Low Priority site classification;
 - iii) failing to meet the ~~remediation~~ ~~remedial~~ objectives established for a High Priority site; and
 - C) pose a threat to human health or the environment;
- 5) Upon ~~the~~ lapse of the 45 day period for ~~recording~~ ~~perfection of~~ the No Further Remediation Letter ~~for recording~~, the failure to ~~record and thereby~~ perfect the No Further Remediation Letter ~~in a timely manner;~~
- 6) ~~The disturbance~~ ~~Disturbance~~ or removal of contamination left in place under an approved plan;
- 7) The failure to comply with the requirements of Section 732.703(c) and the Memorandum of Agreement entered in accordance with Section

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

732.703(c) for a site that is located in a highway authority right-of-way~~an IDOT right-of-way~~;

- 8) The failure to comply with the requirements of Section 732.703(d) and the LUC MOA entered in accordance with Section 732.703(d) for a site located on Federally Owned Property for which the Federal Landholding Entity does not have the authority under federal law to record institutional controls on the chain of title;
 - 9) The failure to comply with the requirements of Section 732.703(d) of this Part or the failure to record a No Further Remediation Letter perfected in accordance with Section 732.703(d) within 45 days following the transfer of the Federally Owned Property subject to the No Further Remediation Letter to any entity that will not remain or become a Federal Landholding Entity; or
 - 10) The failure to comply with the notice or confirmation requirements of 35 Ill. Adm. Code 742.1015(b)(5) and (c).
- b) If the Agency seeks to void a No Further Remediation Letter, it shall provide a Notice of Voidance~~notice~~ to the current title holder of the site and the owner or operator at his or her last known address.
 - 1) The Notice of Voidance~~notice~~ shall specify the cause for the voidance and describe the facts in support of the cause.
 - 2) The Agency shall mail Notices of Voidance by registered or certified mail, date stamped with return receipt requested.
 - c) Within 35 days after receipt of the Notice of Voidance, the current title holder and owner or operator of the site at the time the No Further Remediation Letter was issued may appeal the Agency's decision to the Board in the manner provided for the review of permit decisions in Section 40 of the Act.
 - d) If the Board fails to take final action within 120 days, unless such time period is waived by the petitioner, the petition shall be deemed denied and the petitioner shall be entitled to an appellate court order pursuant to subsection (d) of Section 41 of the Act. The Agency shall have the burden of proof in such action.
 - 1) If the Agency's action is appealed, the action shall not become effective

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

until the appeal process has been exhausted and a final decision is reached by the Board or courts.

- A) Upon receiving a notice of appeal, the Agency shall file a Notice of lis pendens with the office of the recorder or the registrar of titles~~Office of the Recorder or the Registrar of Titles~~ for the county in which the site is located. The notice shall be filed in accordance with Illinois law so that it becomes a part of the chain of title for the site.
 - B) If the Agency's action is not upheld on appeal, the Notice of lis pendens shall be removed in accordance with Illinois law within 45 days after receipt of the final decision of the Board or the courts.
- 2) If the Agency's action is not appealed or is upheld on appeal, the Agency shall submit the Notice of Voidance to the office of the recorder or the registrar of titles~~Office of the Recorder or the Registrar of Titles~~ for the county in which the site is located. The Notice shall be filed in accordance with Illinois law so that it forms a permanent part of the chain of title for the site.

(Source: Amended at 29 Ill. Reg. _____, effective _____)

SUBPART H: MAXIMUM PAYMENT AMOUNTSSection 732.800 Applicability

- a) Methods for Determining Maximum Amounts. This Subpart H provides three methods for determining the maximum amounts that can be paid from the Fund for eligible corrective action costs. All costs associated with conducting corrective action are grouped into the tasks set forth in Sections 732.810 through 732.850 of this Part.
 - 1) The first method for determining the maximum amount that can be paid for each task is to use the maximum amounts for each task set forth in those Sections, and in Section 732.870. In some cases the maximum amounts are specific dollar amounts, and in other cases the maximum amounts are determined on a site-specific basis.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- 2) As an alternative to using the amounts set forth in Sections 732.810 through 732.850 of this Part, the second method for determining the maximum amounts that can be paid for one or more tasks is bidding in accordance with Section 732.855 of this Part. As stated in that Section, when bidding is used, if the lowest bid for a particular task is less than the amount set forth in Sections 732.810 through 732.850, the amount in Sections 732.810 through 732.850 of this Part may be used instead of the lowest bid.
- 3) The third method for determining maximum amounts that can be paid from the Fund applies to unusual or extraordinary circumstances. The maximum amounts for such circumstances can be determined in accordance with Section 732.860 of this Part.
- b) The costs listed under each task set forth in Sections 732.810 through 732.850 of this Part identify only some of the costs associated with each task. They are not intended as an exclusive list of all costs associated with each task for the purposes of payment from the Fund.
- c) This Subpart H sets forth only the methods that can be used to determine the maximum amounts that can be paid from the Fund for eligible corrective action costs. Whether a particular cost is eligible for payment must be determined in accordance with Subpart F of this Part.

(Source: Added at 29 Ill. Reg. _____, effective _____)

Section 732.810 UST Removal or Abandonment Costs

Payment for costs associated with UST removal or abandonment of each UST must not exceed the amounts set forth in this Section. Such costs must include, but not be limited to, those associated with the excavation, removal, disposal, and abandonment of UST systems.

<u>UST Volume</u>	<u>Maximum Total Amount per UST</u>
<u>110 – 999 gallons</u>	<u>\$2,100</u>
<u>1,000 – 14,999 gallons</u>	<u>\$3,150</u>
<u>15,000 or more gallons</u>	<u>\$4,100</u>

(Source: Added at 29 Ill. Reg. _____, effective _____)

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

Section 732.815 Free Product or Groundwater Removal and Disposal

Payment for costs associated with the removal and disposal of free product or groundwater must not exceed the amounts set forth in this Section. Such costs must include, but are not limited to, those associated with the removal, transportation, and disposal of free product or groundwater, and the design, construction, installation, operation, maintenance, and closure of free product or groundwater removal systems.

- a) Payment for costs associated with each round of free product or groundwater removal via hand bailing or a vacuum truck must not exceed a total of \$0.68 per gallon or \$200, whichever is greater.
- b) Payment for costs associated with the removal of free product or groundwater via a method other than hand bailing or vacuum truck must be determined on a time and materials basis and must not exceed the amounts set forth in Section 732.850 of this Part. Such costs must include, but are not limited to, those associated with the design, construction, installation, operation, maintenance, and closure of free product and groundwater removal systems.

(Source: Added at 29 Ill. Reg. _____, effective _____)

Section 732.820 Drilling, Well Installation, and Well Abandonment

Payment for costs associated with drilling, well installation, and well abandonment must not exceed the amounts set forth in this Section.

- a) Payment for costs associated with each round of drilling must not exceed the following amounts. Such costs must include, but are not limited to, those associated with mobilization, drilling labor, decontamination, and drilling for the purposes of soil sampling or well installation.

<u>Type of Drilling</u>	<u>Maximum Total Amount</u>
<u>Hollow-stem auger</u>	<u>greater of \$23 per foot or \$1,500</u>
<u>Direct-push platform</u>	
<u>– for sampling or other</u>	<u>greater of \$18 per foot or \$1,200</u>
<u>non-injection purposes</u>	
<u>– for injection purposes</u>	<u>greater of \$15 per foot or \$1,200</u>

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- b) Payment for costs associated with the installation of monitoring wells, excluding drilling, must not exceed the following amounts. Such costs must include, but are not limited to, those associated with well construction and development.

<u>Type of Borehole</u>	<u>Maximum Total Amount</u>
<u>Hollow-stem auger</u>	<u>\$16.50/foot (well length)</u>
<u>Direct-push platform</u>	<u>\$12.50/foot (well length)</u>

- c) Payment for costs associated with the installation of recovery wells, excluding drilling, must not exceed the following amounts. Such costs must include, but are not limited to, those associated with well construction and development.

<u>Well Diameter</u>	<u>Maximum Total Amount</u>
<u>4 or 6 inches</u>	<u>\$25/foot (well length)</u>
<u>8 inches or greater</u>	<u>\$41/foot (well length)</u>

- d) Payment for costs associated with the abandonment of monitoring wells must not exceed \$10 per foot of well length.

(Source: Added at 29 Ill. Reg. _____, effective _____)

Section 732.825 Soil Removal and Disposal

Payment for costs associated with soil removal, transportation, and disposal must not exceed the amounts set forth in this Section. Such costs must include, but are not limited to, those associated with the removal, transportation, and disposal of contaminated soil exceeding the applicable remediation objectives or visibly contaminated fill removed pursuant to Section 732.202(f) of this Part, and the purchase, transportation, and placement of material used to backfill the resulting excavation.

- a) Payment for costs associated with the removal, transportation, and disposal of contaminated soil exceeding the applicable remediation objectives, visibly contaminated fill removed pursuant to Section 732.202(f) of this Part, and concrete, asphalt, or paving overlying such contaminated soil or fill must not exceed a total of \$57 per cubic yard.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- 1) Except as provided in subsection (a)(2) of this Section, the volume of soil removed and disposed of must be determined by the following equation, using the dimensions of the resulting excavation:

$$\text{(Excavation Length x Excavation Width x Excavation Depth) x 1.05}$$

A conversion factor of 1.5 tons per cubic yard must be used to convert tons to cubic yards.

- 2) The volume of soil removed from within four feet of the outside dimension of the UST and disposed of pursuant to Section 732.202(f) of this Part must be determined in accordance with Appendix C of this Part.

- b) Payment for costs associated with the purchase, transportation, and placement of material used to backfill the excavation resulting from the removal and disposal of soil must not exceed a total of \$20 per cubic yard.

- 1) Except as provided in subsection (b)(2) of this Section, the volume of backfill material must be determined by the following equation, using the dimensions of the backfilled excavation:

$$\text{(Excavation Length x Excavation Width x Excavation Depth) x 1.05}$$

A conversion factor of 1.5 tons per cubic yard must be used to convert tons to cubic yards.

- 2) The volume of backfill material used to replace soil removed from within four feet of the outside dimension of the UST and disposed of pursuant to Section 732.202(f) of this Part must be determined in accordance with Appendix C of this Part.

- c) Payment for costs associated with the removal and subsequent return of soil that does not exceed the applicable remediation objectives but whose removal is required in order to conduct corrective action must not exceed a total of \$6.50 per cubic yard. The volume of soil removed and returned must be determined by the following equation, using the dimensions of the excavation resulting from the removal of the soil:

$$\text{(Excavation Length x Excavation Width x Excavation Depth)}$$

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

A conversion factor of 1.5 tons per cubic yard must be used to convert tons to cubic yards.

(Source: Added at 29 Ill. Reg. _____, effective _____)

Section 732.830 Drum Disposal

Payment for costs associated with the purchase, transportation, and disposal of 55-gallon drums containing waste generated as a result of corrective action (e.g., boring cuttings, water bailed for well development or sampling, hand-bailed free product) must not exceed the following amounts or a total of \$500, whichever is greater.

<u>Drum Contents</u>	<u>Maximum Total Amount per Drum</u>
<u>Solid waste</u>	<u>\$250</u>
<u>Liquid waste</u>	<u>\$150</u>

(Source: Added at 29 Ill. Reg. _____, effective _____)

Section 732.835 Sample Handling and Analysis

Payment for costs associated with sample handling and analysis must not exceed the amounts set forth in Appendix D of this Part. Such costs must include, but are not limited to, those associated with the transportation, delivery, preparation, and analysis of samples, and the reporting of sample results. For laboratory analyses not included in this Section, the Agency may determine reasonable maximum payment amounts on a site-specific basis.

(Source: Added at 29 Ill. Reg. _____, effective _____)

Section 732.840 Concrete, Asphalt, and Paving; Destruction or Dismantling and Reassembly of Above Grade Structures

- a) Payment for costs associated with concrete, asphalt, and paving installed as an engineered barrier, other than replacement concrete, asphalt, and paving, must not exceed the following amounts. Costs associated with the replacement of concrete, asphalt, and paving used as an engineered barrier are subject to the maximum amounts set forth in subsection (b) of this Section instead of this subsection (a).

<u>Depth of Material</u>	<u>Maximum Total Amount per Square Foot</u>
--------------------------	---

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

<u>Asphalt and paving – 2 inches</u>	<u>\$1.65</u>
<u>3 inches</u>	<u>\$1.86</u>
<u>4 inches</u>	<u>\$2.38</u>

<u>Concrete – any depth</u>	<u>\$2.38</u>
-----------------------------	---------------

- b) Payment for costs associated with the replacement of concrete, asphalt, and paving must not exceed the following amounts:

<u>Depth of Material</u>	<u>Maximum Total Amount per Square Foot</u>
--------------------------	---

<u>Asphalt and paving – 2 inches</u>	<u>\$1.65</u>
<u>3 inches</u>	<u>\$1.86</u>
<u>4 inches</u>	<u>\$2.38</u>
<u>6 inches</u>	<u>\$3.08</u>

<u>Concrete – 2 inches</u>	<u>\$2.45</u>
<u>3 inches</u>	<u>\$2.93</u>
<u>4 inches</u>	<u>\$3.41</u>
<u>5 inches</u>	<u>\$3.89</u>
<u>6 inches</u>	<u>\$4.36</u>
<u>8 inches</u>	<u>\$5.31</u>

For depths other than those listed in this subsection, the Agency must determine reasonable maximum payment amounts on a site-specific basis.

- c) Payment for costs associated with the destruction or the dismantling and reassembly of above grade structures must not exceed the time and material amounts set forth in Section 732.850 of this Part. The total cost for the destruction or the dismantling and reassembly of above grade structures must not exceed \$10,000 per site.

(Source: Added at 29 Ill. Reg. _____, effective _____)

Section 732.845 Professional Consulting Services

Payment for costs associated with professional consulting services must not exceed the amounts set forth in this Section. Such costs must include, but are not limited to, those associated with

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

project planning and oversight; field work; field oversight; travel; per diem; mileage; transportation; vehicle charges; lodging; meals; and the preparation, review, certification, and submission of all plans, budget plans, reports, applications for payment, and other documentation.

- a) Early Action and Free Product Removal. Payment of costs for professional consulting services associated with early action and free product removal activities conducted pursuant to Subpart B of this Part must not exceed the following amounts:
- 1) Payment for costs associated with preparation for the abandonment or removal of USTs must not exceed a total of \$960.
 - 2) Payment for costs associated with early action field work and field oversight must not exceed a total of \$390 per half-day, plus travel costs in accordance with subsection (e) of this Section. The number of half-days must not exceed the following:
 - A) If one or more USTs are removed, one half-day for each leaking UST that is removed, not to exceed a total of 10 half-days, plus one half-day for each 225 cubic yards, or fraction thereof, of visibly contaminated fill material removed and disposed of in accordance with Section 732.202(f) of this Part;
 - B) If one or more USTs remain in place, one half-day for every four soil borings, or fraction thereof, drilled pursuant to Section 732.202(h)(2) of this Part; and
 - C) One half-day if a UST line release is repaired.
 - 3) Payment for costs associated with the preparation and submission of 20-day and 45-day reports, including, but not limited to, field work not covered by subsection (a)(2) of this Section, must not exceed a total of \$4,800.
 - 4) Payment for costs associated with the preparation and submission of free product removal plans and the installation of free product removal systems must be determined on a time and materials basis and must not exceed the amounts set forth in Section 732.850 of this Part.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- 5) Payment for costs associated with the field work and field oversight for free product removal must not exceed a total of \$390 per half-day, plus travel costs in accordance with subsection (e) of this Section. The Agency must determine the reasonable number of half-days on a site-specific basis.
 - 6) Payment for costs associated with the preparation and submission of free product removal reports must not exceed a total of \$1,600 per report.
 - 7) Payment for costs associated with the preparation and submission of reports submitted pursuant to Section 732.202(h)(3) of this Part must not exceed a total of \$500.
- b) Site Evaluation and Classification. Payment of costs for professional consulting services associated with site evaluation and classification activities conducted pursuant to Subpart C of this Part must not exceed the following amounts:
- 1) For site evaluation and classifications conducted pursuant to Section 732.307 of this Part, payment for costs associated with the preparation and submission of site classification plans, site classification preparation, field work, field oversight, and the preparation and submission of the site classification completion report must not exceed a total of \$9,870.
 - 2) For site evaluation and classifications conducted pursuant to Section 732.312 of this Part, payment for costs must be determined on a time and materials basis and must not exceed the amounts set forth in Section 732.850 of this Part. For owners and operators that elect to proceed in accordance with 35 Ill. Adm. Code 734, costs incurred after the notification of election must be payable from the Fund in accordance with that Part.
- c) Low Priority Corrective Action. Payment of costs for professional consulting services associated with low priority corrective action activities conducted pursuant to Subpart D of this Part must not exceed the following amounts:
- 1) Payment for costs associated with the preparation and submission of low priority groundwater monitoring plans must not exceed a total of \$3,200.
 - 2) Payment for costs associated with low priority groundwater monitoring field work and field oversight must not exceed a total of \$390 per half-

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

day, up to a maximum of seven half-days, plus travel costs in accordance with subsection (e) of this Section.

- 3) Payment for costs associated with the preparation and submission of the first year groundwater monitoring report must not exceed a total of \$2,560.
 - 4) Payment for costs associated with the preparation and submission of the second year groundwater monitoring report must not exceed a total of \$2,560.
 - 5) Payment for costs associated with the preparation and submission of low priority groundwater monitoring completion report must not exceed a total of \$2,560.
- d) High Priority Corrective Action. Payment of costs for professional consulting services associated with high priority corrective action activities conducted pursuant to Subpart D of this Part must not exceed the following amounts:
- 1) Payment for costs associated with the preparation and submission of investigation plans for sites classified pursuant to Section 732.307 of this Part must not exceed the following:
 - A) A total of \$3,200 for plans to investigate on-site contamination.
 - B) A total of \$3,200 for plans to investigate off-site contamination.
 - 2) Payment for costs associated with field work and field oversight to define the extent of contamination resulting from the release must not exceed a total of \$390 per half-day, plus travel costs in accordance with subsection (e) of this Section. The number of half-days must not exceed the following:
 - A) One half-day for every four soil borings, or fraction thereof, drilled as part of the investigation but not used for the installation of monitoring wells. Borings in which monitoring wells are installed must be included in subsection (d)(2)(B) of this Section instead of this subsection (d)(2)(A); and

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- B) One half-day for each monitoring well installed as part of the investigation.
- 3) Payment for costs associated with well surveys conducted pursuant to Section 732.404(e)(1) of this Part must not exceed a total of \$160. Payment for costs associated with well surveys conducted pursuant to Section 732.404(e)(2) of this Part must be determined on a time and materials basis and must not exceed the amounts set forth in Section 732.850 of this Part.
- 4) For conventional technology, payment for costs associated with the preparation and submission of corrective action plans must not exceed a total of \$5,120. For alternative technologies, payment for costs must be determined on a time and materials basis and must not exceed the amounts set forth in Section 732.850 of this Part.
- 5) Payment for costs associated with high priority corrective action field work and field oversight must not exceed the following amounts:
- A) For conventional technology, a total of \$390 per half-day, not to exceed one half-day for each 225 cubic yards, or fraction thereof, of soil removed and disposed of, plus travel costs in accordance with subsection (e) of this Section.
- B) For alternative technologies, payment for costs must be determined on a time and materials basis and must not exceed the amounts set forth in Section 732.850 of this Part.
- 6) Development of Tier 2 and Tier 3 Remediation Objectives. Payment of costs for professional consulting services associated with the development of Tier 2 and Tier 3 remediation objectives in accordance with 35 Ill. Adm. Code 742 must not exceed the following amounts:
- A) Payment for costs associated with field work and field oversight for the development of remediation objectives must not exceed a total of \$390 per half-day, plus travel costs in accordance with subsection (e) of this Section. The number of half-days must not exceed the following:

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- i) One half-day for every four soil borings, or fraction thereof, drilled solely for the purpose of developing remediation objectives. Borings in which monitoring wells are installed must be included in subsection (d)(6)(A)(ii) of this Section instead of this subsection (d)(6)(A)(i); and
 - ii) One half-day for each monitoring well installed solely for the purpose of developing remediation objectives.
 - B) Excluding costs set forth in subsection (d)(6)(A) of this Section, payment for costs associated with the development of Tier 2 or Tier 3 remediation objectives must not exceed a total of \$800.
- 7) Payment for costs associated with Environmental Land Use Controls and Highway Authority Agreements used as institutional controls pursuant to 35 Ill. Adm. Code 742 must not exceed a total of \$800 per Environmental Land Use Control or Highway Authority Agreement.
- 8) Payment for costs associated with the preparation and submission of high priority corrective action completion reports must not exceed a total of \$5,120.
- e) Payment for costs associated with travel, including, but not limited to, travel time, per diem, mileage, transportation, vehicle charges, lodging, and meals, must not exceed the following amounts. Costs for travel will be allowed only when authorized elsewhere in this Part.

<u>Distance to Site (land miles)</u>	<u>Maximum Total Amount Per Calendar Day</u>
<u>0 to 29</u>	<u>\$140</u>
<u>30 to 59</u>	<u>\$220</u>
<u>60 or more</u>	<u>\$300</u>

Distances must be measured in ground miles and rounded to the nearest mile. If a consultant maintains more than one office, distance to the site must be measured from the consultant's office that is closest to the site.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- f) If a plan must be amended due to unforeseen circumstances, costs associated with the amendment of the plan and its associated budget plan must not exceed a total of \$640.

(Source: Added at 29 Ill. Reg. _____, effective _____)

Section 732.850 Payment on Time and Materials Basis

This Section sets forth the maximum amounts that may be paid when payment is allowed on a time and materials basis.

- a) Payment for costs associated with activities that have a maximum payment amount set forth in other Sections of this Subpart H (e.g. sample handling and analysis, drilling, well installation and abandonment, drum disposal, or consulting fees for plans, field work, field oversight, and reports) must not exceed the amounts set forth in those Sections, unless payment is made pursuant to Section 732.860 of this Part.
- b) Maximum payment amounts for costs associated with activities that do not have a maximum payment amount set forth in other Sections of this Subpart H must be determined by the Agency on a site-specific basis, provided, however, that personnel costs must not exceed the amounts set forth in Appendix E of this Part. Personnel costs must be based upon the work being performed, regardless of the title of the person performing the work. Owners and operators seeking payment must demonstrate to the Agency that the amounts sought are reasonable.

BOARD NOTE: Alternative technology costs in excess of the costs of conventional technology are ineligible for payment from the Fund. See Sections 732.407(b) and 732.606(bb) of this Part.

(Source: Added at 29 Ill. Reg. _____, effective _____)

Section 732.855 Bidding

As an alternative to the maximum payment amounts set forth in this Subpart H, one or more maximum payment amounts may be determined via bidding in accordance with this Section. Each bid must cover all costs included in the maximum payment amount that the bid is replacing.

- a) A minimum of three written bids must be obtained. The bids must be based upon the same scope of work and must remain valid for a period of time that will allow

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

the owner or operator to accept them upon the Agency's approval of the associated budget. Bids must be obtained only from persons qualified and able to perform the work being bid. Bids must not be obtained from persons in which the owner or operator, or the owner's or operator's primary contractor, has a financial interest.

- b) The bids must be summarized on forms prescribed and provided by the Agency. The bid summary form, along with copies of the bid requests and the bids obtained, must be submitted to the Agency in the associated budget. If more than the minimum three bids are obtained, summaries and copies of all bids must be submitted to the Agency.
- c) The maximum payment amount for the work bid must be the amount of the lowest bid, unless the lowest bid is less than the maximum payment amount set forth in this Subpart H, in which case the maximum payment amount set forth in this Subpart H must be allowed. The owner or operator is not required to use the lowest bidder to perform the work, but instead may use another person qualified and able to perform the work, including, but not limited to, a person in which the owner or operator, or the owner's or operator's primary consultant, has a direct or indirect financial interest. However, regardless of who performs the work, the maximum payment amount will remain the amount of the lowest bid.

(Source: Added at 29 Ill. Reg. _____, effective _____)

Section 732.860 Unusual or Extraordinary Circumstances

If, as a result of unusual or extraordinary circumstances, an owner or operator incurs or will incur eligible costs that exceed the maximum payment amounts set forth in this Subpart H, the Agency may determine maximum payment amounts for the costs on a site-specific basis. Owners and operators seeking to have the Agency determine maximum payment amounts pursuant to this Section must demonstrate to the Agency that the costs for which they are seeking a determination are eligible for payment from the Fund, exceed the maximum payment amounts set forth in this Subpart H, are the result of unusual or extraordinary circumstances, are unavoidable, are reasonable, and are necessary in order to satisfy the requirements of this Part. Examples of unusual or extraordinary circumstances include, but are not limited to, an inability to obtain a minimum of three bids pursuant to Section 732.855 of this Part due to a limited number of persons providing the service needed.

(Source: Added at 29 Ill. Reg. _____, effective _____)

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

Section 732.865 Handling Charges

Payment of handling charges must not exceed the amounts set forth in Section 732.607 of this Part.

(Source: Added at 29 Ill. Reg. _____, effective _____)

Section 732.870 Increase in Maximum Payment Amounts

The maximum payment amounts set forth in this Subpart H must be adjusted annually by an inflation factor determined by the annual Implicit Price Deflator for Gross National Product as published by the U.S. Department of Commerce in its Survey of Current Business.

- a) The inflation factor must be calculated each year by dividing the latest published annual Implicit Price Deflator for Gross National Product by the annual Implicit Price Deflator for Gross National Product for the previous year. The inflation factor must be rounded to the nearest 1/100th. In no case must the inflation factor be more than five percent in a single year.
- b) Adjusted maximum payment amounts must become effective on July 1 of each year and must remain in effect through June 30 of the following year. The first adjustment must be made on July 1, 2006 by multiplying the maximum payment amounts set forth in this Subpart H by the applicable inflation factor. Subsequent adjustments must be made by multiplying the latest adjusted maximum payment amounts by the latest inflation factor.
- c) The Agency must post the inflation factors on its website no later than the date they become effective. The inflation factors must remain posted on the website in subsequent years to aid in the calculation of adjusted maximum payment amounts.
- d) Adjusted maximum payment amounts must be applied as follows:
 - 1) For costs approved by the Agency in writing prior to the date the costs are incurred, the applicable maximum payment amounts must be the amounts in effect on the date the Agency received the budget in which the costs were proposed. Once the Agency approves a cost, the applicable maximum payment amount for the cost must not be increased (e.g. by proposing the cost in a subsequent budget).

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- 2) For costs not approved by the Agency in writing prior to the date the costs are incurred, including but not limited to early action costs, the applicable maximum payment amounts must be the amounts in effect on the date the costs were incurred.
- 3) Owners and operators must have the burden of requesting the appropriate adjusted maximum payment amounts in budgets and applications for payment.

(Source: Added at 29 Ill. Reg. _____, effective _____)

Section 732.875 Agency Review of Payment Amounts

At least every three years, the Agency must review the amounts set forth in this Subpart H and submit a report to the Board on whether the amounts are consistent with the prevailing market rates. The report must identify amounts that are not consistent with the prevailing market rates and suggest changes needed to make the amounts consistent with the prevailing market rates.

(Source: Added at 29 Ill. Reg. _____, effective _____)

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

Section 732.APPENDIX A Indicator Contaminants

TANK CONTENTS	INDICATOR CONTAMINANTS
GASOLINE Leaded ¹ , unleaded, premium, and gasohol	Benzene benzene Ethylbenzene ethylbenzene Toluene toluene Xylene xylene Methyl tertiary butyl ether (MTBE)
MIDDLE DISTILLATE AND HEAVY ENDS	
aviation turbine fuels ¹ jet fuels	Benzene benzene Ethylbenzene ethylbenzene Toluene toluene Xylene xylene
diesel fuels gas turbine fuel oils heating fuel oils illuminating oils kerosene lubricants liquid asphalt and dust laying oils cable oils crude oil, crude oil fractions petroleum feedstocks petroleum fractions heavy oils transformer oils ² hydraulic fluids ³ petroleum spirits ⁴ mineral spirits ⁴ , Stoddard solvents ⁴ high-flash aromatic naphthas ⁴ VM&P naphthas ⁴ moderately volatile hydrocarbon solvents ⁴ petroleum extender oils ⁴	Acenaphthene Anthracene Benzo benzo(a)anthracene Benzo benzo(a)pyrene Benzo benzo(b)fluoranthene Benzo benzo(k)fluoranthene Chrysene Dibenzo dibenzo(a,h)anthracene Fluoranthene Fluorene Indeno indeno(1,2,3-c,d)pyrene Naphthalene Pyrene Acenaphthylene other non-carcinogenic PNAs (total)⁶ Benzo(g,h,i)perylene Phenanthrene
USED OIL	Screening screening sample ⁵

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

NOTES:

¹ lead is also an indicator contaminant

² the polychlorinated biphenyl parameters listed in Appendix B are also indicator contaminants

³ barium is also an indicator contaminant

⁴ the volatile, base/neutral and polynuclear aromatic parameters listed in Appendix B are also indicator contaminants

⁵ used oil indicator contaminants shall be based on the results of a used oil soil sample analysis – refer to Section 732.310(g)

⁶ ~~acenaphthylene, benzo(g,h,i)perylene and phenanthrene~~

(Source: Amended at 29 Ill. Reg. _____, effective _____)

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

Section 732.APPENDIX B Additional Parameters

Volatiles

1. Benzene
2. Bromoform
3. Carbon tetrachloride
4. Chlorobenzene
5. Chloroform
6. Dichlorobromomethane
7. 1,2-Dichloroethane
8. 1,1-Dichloroethene
9. cis-1,2-Dichloroethylene
10. trans-1,2-Dichloroethylene
11. Dichloromethane (Methylene chloride)
12. 1,2-Dichloropropane
13. 1,3-Dichloropropylene (cis + trans)
14. Ethylbenzene
15. Styrene
16. Tetrachloroethylene
17. Toluene
18. 1,1,1-Trichloroethane
19. 1,1,2-Trichloroethane
20. Trichloroethylene
21. Vinyl chloride
22. Xylenes (total)

Base/Neutrals

1. Bis(2-chloroethyl)ether
2. Bis(2-ethylhexyl)phthalate
3. 1,2-Dichlorobenzene
4. 1,4-Dichlorobenzene
5. Hexachlorobenzene
6. Hexachlorocyclopentadiene
7. *n*-Nitrosodi-*n*-propylamine
8. *n*-Nitrosodiphenylamine
9. 1,2,4-Trichlorobenzene

Polynuclear Aromatics

1. Acenaphthene
2. Anthracene

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

3. Benzo(a)anthracene
4. Benzo(a)pyrene
5. Benzo(b)fluoranthene
6. Benzo(k)fluoranthene
7. Chrysene
8. Dibenzo(a,h)anthracene
9. Fluoranthene
10. Fluorene
11. Indeno(1,2,3-c,d)pyrene
12. Naphthalene
13. Pyrene
14. Acenaphthylene
15. Benzo(g,h,i)perylene
16. Phenanthrene
17. ~~Other Non-Carcinogenic PNAs (total)~~

Metals (total inorganic and organic forms)

1. Arsenic
2. Barium
3. Cadmium
4. Chromium (total)
5. Lead
6. Mercury
7. Selenium

~~Acids~~

- ~~1. Pentachlorophenol~~
- ~~2. Phenol (total)~~
- ~~3. 2,4,6-Trichlorophenol~~

~~Pesticides~~

- ~~1. Aldrin~~
- ~~2. alpha-BHC~~
- ~~3. Chlordane~~
- ~~4. 4,4'-DDD~~
- ~~5. 4,4'-DDE~~
- ~~6. 4,4'-DDT~~
- ~~7. Dieldrin~~
- ~~8. Endrin~~
- ~~9. Heptachlor~~

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- 10. ~~Heptachlor epoxide~~
- 11. ~~Lindane (gamma-BHC)~~
- 12. ~~Toxaphene~~

Polychlorinated Biphenyls

1. Polychlorinated Biphenyls (as Decachlorobiphenyl)

(Source: Amended at 29 Ill. Reg. _____, effective _____)

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

Section 732.APPENDIX C Backfill Volumes ~~and Weights~~

Volume of Tank in Gallons	Maximum amount of backfill material to be removed in :		Maximum amount of backfill material to be replaced in :	
	<u>Cubic yards</u>	<u>tons</u>	<u>Cubic yards</u>	<u>tons</u>
< 285	54	91	56	94
285 to 299	55	92	57	96
300 to 559	56	94	58	97
560 to 999	67	113	70	118
1000 to 1049	81	136	87	146
1050 to 1149	89	150	96	161
1150 to 1999	94	158	101	170
2000 to 2499	112	188	124	208
2500 to 2999	128	215	143	240
3000 to 3999	143	240	161	270
4000 to 4999	175	294	198	333
5000 to 5999	189	318	219	368
6000 to 7499	198	333	235	395
7500 to 8299	206	346	250	420
8300 to 9999	219	368	268	450
10,000 to 11,999	252	423	312	524
12,000 to 14,999	286	480	357	600
>15,000	345	580	420	706

A conversion factor of 1.5 tons per cubic yard must be used to convert tons to cubic yards.

~~Site specific information may be used to determine the weight of backfill material if site conditions such as backfill material, soil moisture content, and soil conditions differ significantly from the default values.~~

~~BOARD NOTE: The weight of backfill material is calculated by using the default bulk density values listed in the TACO regulations at 35 Ill. Adm. Code 742, Appendix C, Table B. The weight of backfill material to be removed is based on a dry bulk density value of 1.8 g/cm³ for sand and a moisture content of 10 percent which equals 1.98 g/cm³. The Board has rounded the removed backfill density to 2.0 g/cm³. The weight of backfill material to be replaced is based on a dry bulk density value of 2.0 g/cm³ for gravel.~~

(Source: Amended at 29 Ill. Reg. _____, effective _____)

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

Section 732.APPENDIX D. Sample Handling and Analysis

<u>Chemical</u>	<u>Max. Total Amount per Sample</u>
<u>BETX Soil with MTBE</u>	<u>\$85</u>
<u>BETX Water with MTBE</u>	<u>\$81</u>
<u>COD (Chemical Oxygen Demand)</u>	<u>\$30</u>
<u>Corrosivity</u>	<u>\$15</u>
<u>Flash Point or Ignitability Analysis EPA 1010</u>	<u>\$33</u>
<u>FOC (Fraction Organic Carbon)</u>	<u>\$38</u>
<u>Fat, Oil, & Grease (FOG)</u>	<u>\$60</u>
<u>LUST Pollutants Soil – analysis must include all volatile, base/neutral, polynuclear aromatic, and metal parameters listed in Appendix B of this Part</u>	<u>\$693</u>
<u>Organic Carbon (ASTM-D 2974-87)</u>	<u>\$33</u>
<u>Dissolved Oxygen (DO)</u>	<u>\$24</u>
<u>Paint Filter (Free Liquids)</u>	<u>\$14</u>
<u>PCB/Pesticides (combination)</u>	<u>\$222</u>
<u>PCBs</u>	<u>\$111</u>
<u>Pesticides</u>	<u>\$140</u>
<u>PH</u>	<u>\$14</u>
<u>Phenol</u>	<u>\$34</u>
<u>Polynuclear Aromatics PNA, or PAH SOIL</u>	<u>\$152</u>
<u>Polynuclear Aromatics PNA, or PAH WATER</u>	<u>\$152</u>
<u>Reactivity</u>	<u>\$68</u>
<u>SVOC – Soil (Semi-volatile Organic Compounds)</u>	<u>\$313</u>
<u>SVOC – Water (Semi-volatile Organic Compounds)</u>	<u>\$313</u>
<u>TKN (Total Kjeldahl) "nitrogen"</u>	<u>\$44</u>
<u>TOC (Total Organic Carbon) EPA 9060A</u>	<u>\$31</u>
<u>TPH (Total Petroleum Hydrocarbons)</u>	<u>\$122</u>
<u>VOC (Volatile Organic Compound) – Soil (Non-Aqueous)</u>	<u>\$175</u>
<u>VOC (Volatile Organic Compound) – Water</u>	<u>\$169</u>
<u>Geo-Technical</u>	
<u>Bulk Density ASTM D4292/D2937</u>	<u>\$22</u>
<u>Ex-Situ Hydraulic Conductivity/Permeability</u>	<u>\$255</u>
<u>Moisture Content ASTM D2216-90/D4643-87</u>	<u>\$12</u>

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

<u>Porosity</u>	<u>\$30</u>
<u>Rock Hydraulic Conductivity Ex-Situ</u>	<u>\$350</u>
<u>Sieve/Particle Size Analysis ASTM D422-63/D1140-54</u>	<u>\$145</u>
<u>Soil Classification ASTM D2488-90/D2487-90</u>	<u>\$68</u>
<u>Metals</u>	
<u>Arsenic TCLP Soil</u>	<u>\$16</u>
<u>Arsenic Total Soil</u>	<u>\$16</u>
<u>Arsenic Water</u>	<u>\$18</u>
<u>Barium TCLP Soil</u>	<u>\$10</u>
<u>Barium Total Soil</u>	<u>\$10</u>
<u>Barium Water</u>	<u>\$12</u>
<u>Cadmium TCLP Soil</u>	<u>\$16</u>
<u>Cadmium Total Soil</u>	<u>\$16</u>
<u>Cadmium Water</u>	<u>\$18</u>
<u>Chromium TCLP Soil</u>	<u>\$10</u>
<u>Chromium Total Soil</u>	<u>\$10</u>
<u>Chromium Water</u>	<u>\$12</u>
<u>Cyanide TCLP Soil</u>	<u>\$28</u>
<u>Cyanide Total Soil</u>	<u>\$34</u>
<u>Cyanide Water</u>	<u>\$34</u>
<u>Iron TCLP Soil</u>	<u>\$10</u>
<u>Iron Total Soil</u>	<u>\$10</u>
<u>Iron Water</u>	<u>\$12</u>
<u>Lead TCLP Soil</u>	<u>\$16</u>
<u>Lead Total Soil</u>	<u>\$16</u>
<u>Lead Water</u>	<u>\$18</u>
<u>Mercury TCLP Soil</u>	<u>\$19</u>
<u>Mercury Total Soil</u>	<u>\$10</u>
<u>Mercury Water</u>	<u>\$26</u>
<u>Selenium TCLP Soil</u>	<u>\$16</u>
<u>Selenium Total Soil</u>	<u>\$16</u>
<u>Selenium Water</u>	<u>\$15</u>
<u>Silver TCLP Soil</u>	<u>\$10</u>
<u>Silver Total Soil</u>	<u>\$10</u>
<u>Silver Water</u>	<u>\$12</u>
<u>Metals TCLP Soil (a combination of all RCRA metals)</u>	<u>\$103</u>
<u>Metals Total Soil (a combination of all RCRA metals)</u>	<u>\$94</u>
<u>Metals Water (a combination of all RCRA metals)</u>	<u>\$119</u>

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

<u>Soil preparation for Metals TCLP Soil (one fee per sample)</u>	<u>\$79</u>
<u>Soil preparation for Metals Total Soil (one fee per sample)</u>	<u>\$16</u>
<u>Water preparation for Metals Water (one fee per sample)</u>	<u>\$11</u>
<hr/>	
<u>Other</u>	
<hr/>	
<u>En Core[®] Sampler, purge-and-trap sampler, or equivalent sampling device</u>	<u>\$10</u>
<u>Sample Shipping (*maximum total amount for shipping all samples collected in a calendar day)</u>	<u>\$50*</u>

(Source: Added at 29 Ill. Reg. _____, effective _____)

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

Section 732.APPENDIX E Personnel Titles and Rates

<u>Title</u>	<u>Degree Required</u>	<u>Ill. License Req'd.</u>	<u>Min. Yrs. Experience</u>	<u>Max. Hourly Rate</u>
<u>Engineer I</u>	<u>Bachelor's in Engineering</u>	<u>None</u>	<u>0</u>	<u>\$75</u>
<u>Engineer II</u>	<u>Bachelor's in Engineering</u>	<u>None</u>	<u>2</u>	<u>\$85</u>
<u>Engineer III</u>	<u>Bachelor's in Engineering</u>	<u>None</u>	<u>4</u>	<u>\$100</u>
<u>Professional Engineer</u>	<u>Bachelor's in Engineering</u>	<u>P.E.</u>	<u>4</u>	<u>\$110</u>
<u>Senior Prof. Engineer</u>	<u>Bachelor's in Engineering</u>	<u>P.E.</u>	<u>8</u>	<u>\$130</u>
<u>Geologist I</u>	<u>Bachelor's in Geology or Hydrogeology</u>	<u>None</u>	<u>0</u>	<u>\$70</u>
<u>Geologist II</u>	<u>Bachelor's in Geology or Hydrogeology</u>	<u>None</u>	<u>2</u>	<u>\$75</u>
<u>Geologist III</u>	<u>Bachelor's in Geology or Hydrogeology</u>	<u>None</u>	<u>4</u>	<u>\$88</u>
<u>Professional Geologist</u>	<u>Bachelor's in Geology or Hydrogeology</u>	<u>P.G.</u>	<u>4</u>	<u>\$92</u>
<u>Senior Prof. Geologist</u>	<u>Bachelor's in Geology or Hydrogeology</u>	<u>P.G.</u>	<u>8</u>	<u>\$110</u>
<u>Scientist I</u>	<u>Bachelor's in a Natural or Physical Science</u>	<u>None</u>	<u>0</u>	<u>\$60</u>
<u>Scientist II</u>	<u>Bachelor's in a Natural or Physical Science</u>	<u>None</u>	<u>2</u>	<u>\$65</u>
<u>Scientist III</u>	<u>Bachelor's in a Natural or Physical Science</u>	<u>None</u>	<u>4</u>	<u>\$70</u>
<u>Scientist IV</u>	<u>Bachelor's in a Natural or Physical Science</u>	<u>None</u>	<u>6</u>	<u>\$75</u>
<u>Senior Scientist</u>	<u>Bachelor's in a Natural or Physical Science</u>	<u>None</u>	<u>8</u>	<u>\$85</u>
<u>Project Manager</u>	<u>None</u>	<u>None</u>	<u>8¹</u>	<u>\$90</u>
<u>Senior Project Manager</u>	<u>None</u>	<u>None</u>	<u>12¹</u>	<u>\$100</u>
<u>Technician I</u>	<u>None</u>	<u>None</u>	<u>0</u>	<u>\$45</u>
<u>Technician II</u>	<u>None</u>	<u>None</u>	<u>2¹</u>	<u>\$50</u>
<u>Technician III</u>	<u>None</u>	<u>None</u>	<u>4¹</u>	<u>\$55</u>
<u>Technician IV</u>	<u>None</u>	<u>None</u>	<u>6¹</u>	<u>\$60</u>
<u>Senior Technician</u>	<u>None</u>	<u>None</u>	<u>8¹</u>	<u>\$65</u>
<u>Account Technician I</u>	<u>None</u>	<u>None</u>	<u>0</u>	<u>\$35</u>
<u>Account Technician II</u>	<u>None</u>	<u>None</u>	<u>2²</u>	<u>\$40</u>
<u>Account Technician III</u>	<u>None</u>	<u>None</u>	<u>4²</u>	<u>\$45</u>
<u>Account Technician IV</u>	<u>None</u>	<u>None</u>	<u>6²</u>	<u>\$50</u>
<u>Senior Acct. Technician</u>	<u>None</u>	<u>None</u>	<u>8²</u>	<u>\$55</u>
<u>Administrative Assistant I</u>	<u>None</u>	<u>None</u>	<u>0</u>	<u>\$25</u>
<u>Administrative Assistant II</u>	<u>None</u>	<u>None</u>	<u>2³</u>	<u>\$30</u>
<u>Administrative Assistant III</u>	<u>None</u>	<u>None</u>	<u>4³</u>	<u>\$35</u>
<u>Administrative Assistant IV</u>	<u>None</u>	<u>None</u>	<u>6³</u>	<u>\$40</u>
<u>Senior Admin. Assistant</u>	<u>None</u>	<u>None</u>	<u>8³</u>	<u>\$45</u>

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

<u>Draftperson/CAD I</u>	<u>None</u>	<u>None</u>	<u>0</u>	<u>\$40</u>
<u>Draftperson/CAD II</u>	<u>None</u>	<u>None</u>	<u>2⁴</u>	<u>\$45</u>
<u>Draftperson/CAD III</u>	<u>None</u>	<u>None</u>	<u>4⁴</u>	<u>\$50</u>
<u>Draftperson/CAD IV</u>	<u>None</u>	<u>None</u>	<u>6⁴</u>	<u>\$55</u>
<u>Senior Draftperson/CAD</u>	<u>None</u>	<u>None</u>	<u>8⁴</u>	<u>\$60</u>

- ¹ Equivalent work-related or college level education with significant coursework in the physical, life, or environmental sciences can be substituted for all or part of the specified experience requirements.
- ² Equivalent work-related or college level education with significant coursework in accounting or business can be substituted for all or part of the specified experience requirements.
- ³ Equivalent work-related or college level education with significant coursework in administrative or secretarial services can be substituted for all or part of the specified experience requirements.
- ⁴ Equivalent work-related or college level education with significant coursework in drafting or computer aided design (CAD) can be substituted for all or part of the specified experience requirements.

(Source: Added at 29 Ill. Reg. _____, effective _____)

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

1) Heading of the Part: Petroleum Underground Storage Tanks (Releases Reported On Or After June 24, 2002)

2) Code citation: 35 Ill. Adm. Code 734

<u>Section Numbers:</u>	<u>Proposed Action:</u>
734.100	New Section
734.105	New Section
734.110	New Section
734.115	New Section
734.120	New Section
734.125	New Section
734.130	New Section
734.135	New Section
734.140	New Section
734.145	New Section
734.150	New Section
734.200	New Section
734.205	New Section
734.210	New Section
734.215	New Section
734.220	New Section
734.300	New Section
734.305	New Section
734.310	New Section
734.315	New Section
734.320	New Section
734.325	New Section
734.330	New Section
734.335	New Section
734.340	New Section
734.345	New Section
734.350	New Section
734.355	New Section
734.400	New Section
734.405	New Section
734.410	New Section
734.415	New Section
734.420	New Section
734.425	New Section

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

734.430	New Section
734.435	New Section
734.440	New Section
734.445	New Section
734.450	New Section
734.500	New Section
734.505	New Section
734.510	New Section
734.600	New Section
734.605	New Section
734.610	New Section
734.615	New Section
734.620	New Section
734.625	New Section
734.630	New Section
734.635	New Section
734.640	New Section
734.645	New Section
734.650	New Section
734.655	New Section
734.660	New Section
734.665	New Section
734.700	New Section
734.705	New Section
734.710	New Section
734.715	New Section
734.720	New Section
734.800	New Section
734.810	New Section
734.815	New Section
734.820	New Section
734.825	New Section
734.830	New Section
734.835	New Section
734.840	New Section
734.845	New Section
734.850	New Section
734.855	New Section
734.860	New Section
734.865	New Section

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

734.870	New Section
734.875	New Section
734.Appendix A	New Section
734.Appendix B	New Section
734.Appendix C	New Section
734.Appendix D	New Section
734.Appendix E	New Section

- 4) Statutory authority: Implementing Sections 22.12 and 57 through 57.17 and authorized by Sections 5, 22, 27, and 57.14A of the Environmental Protection Act [415 ILCS 5/5, 22, 22.12, 27, and 57 through 57.17] as amended by P.A. 92-0554, effective June 24, 2002, P.A. 92-574, effective June 26, 2002, P.A. 92-561, effective June 24, 2002, and P.A. 92-0735, effective July 25, 2002.

- 5) A complete description of the subjects and issues involved:

A more complete description of this proposal may be found in the Board's opinion and order of February 17, 2005, in Board docket R04-22/23. Part 734 is part of a larger rulemaking that includes the proposal of amendments to Part 732 (also published in this issue of the *Illinois Register*).

The rules proposed in Part 734 set forth corrective action measures that must be taken in response to a leak from an underground storage tank and procedures for seeking payment from the Underground Storage Tank Fund (UST Fund) for that corrective action. Part 734 is identical in many ways to Part 732, except for changes enacted in P.A. 92-0554. Those exceptions include different site investigation requirements, corrective action requirements, and increased caps on the total amount owners and operators can be paid from the UST Fund.

The proposed rules are designed to streamline the process for obtaining payment from the UST Fund. The streamlining will be accomplished by specifying maximum amounts that will be reimbursed for remediation activities. The proposal also includes bidding as an alternative to the maximum reimbursement amounts for UST remediation specified in the proposal.

Additionally, the proposal calls for the establishment of a "LUST Advisory Committee" comprised of numerous groups involved in the UST program. The Committee is required to meet quarterly to review the Illinois Environmental Protection Agency's implementation of the rules.

This first notice proposal is the result of five groups of hearings and numerous public comments. The Board made significant changes, in response to the testimony and

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

comments, to the proposal that was filed by the Illinois Environmental Protection Agency. The first notice proposal is intended to reflect the extensive efforts made by all of the parties in this rulemaking.

- 6) Will these proposed rules replace any emergency rules currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Do these proposed rules contain incorporations by reference? Yes
- 9) Are there any other amendments pending on this Part? No
- 10) Statement of statewide policy objectives: These proposed amendments do not create or enlarge a state mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3 (2002)].
- 11) Time, place and manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comment on this proposal for 45 days after the date of publication in the *Illinois Register*. Comments should reference Docket R04-22/23 and be addressed to:

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

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

For more information contact Marie Tipsord at 312/814-4925 or email at tipsordm@ipcb.state.il.us.

- 12) Initial regulatory flexibility analysis:
 - A) Types of small businesses, small municipalities, and not-for-profit corporations affected: The proposed amendments may affect small business owners, small municipalities, and not-for-profit corporations that own or operate a business that has a leaking underground storage tank. Additionally, any small business that operates as consultants or environmental engineers with a focus on leaking

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

underground storage tanks may be affected by these amendments.

- B) Reporting, bookkeeping or other procedures required for compliance: The proposed amendments require detailed reporting and bookkeeping procedures to account for expenses that owners/operators of a leaking underground storage tank may be seeking reimbursement.
- C) Types of professional skills necessary for compliance: Compliance with the existing rules and proposed amendments may be aided by the services of an attorney, engineer, and geologist.
- 13) Regulatory agenda on which this rulemaking was summarized: January 2005

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

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

PART 734

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

SUBPART A: GENERAL

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

SUBPART B: EARLY ACTION

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

SUBPART C: SITE INVESTIGATION AND CORRECTIVE ACTION

Section	
734.300	General
734.305	Agency Authority to Initiate
734.310	Site Investigation – General
734.315	Stage 1 Site Investigation
734.320	Stage 2 Site Investigation

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

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

SUBPART D: MISCELLANEOUS PROVISIONS

Section	
734.400	General
734.405	Indicator Contaminants
734.410	Remediation Objectives
734.415	Data Quality
734.420	Laboratory Certification
734.425	Soil Borings
734.430	Monitoring Well Construction and Sampling
734.435	Sealing of Soil Borings and Groundwater Monitoring Wells
734.440	Site Map Requirements
734.445	Water Supply Well Survey
734.450	Deferred Site Investigation or Corrective Action; Priority List for Payment

SUBPART E: REVIEW OF PLANS, BUDGETS, AND REPORTS

Section	
734.500	General
734.505	Review of Plans, Budgets, or Reports
734.510	Standards for Review of Plans, Budgets, or Reports

SUBPART F: PAYMENT FROM THE FUND

Section	
734.600	General
734.605	Applications for Payment
734.610	Review of Applications for Payment
734.615	Authorization for Payment; Priority List
734.620	Limitations on Total Payments
734.625	Eligible Corrective Action Costs
734.630	Ineligible Corrective Action Costs

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

734.635	Payment for Handling Charges
734.640	Apportionment of Costs
734.645	Subrogation of Rights
734.650	Indemnification
734.655	Costs Covered by Insurance, Agreement, or Court Order
734.660	Determination and Collection of Excess Payments
734.665	Audits and Access to Records; Records Retention

SUBPART G: NO FURTHER REMEDIATION LETTERS
AND RECORDING REQUIREMENTS

Section	
734.700	General
734.705	Issuance of a No Further Remediation Letter
734.710	Contents of a No Further Remediation Letter
734.715	Duty to Record a No Further Remediation Letter
734.720	Voidance of a No Further Remediation Letter

SUBPART H: MAXIMUM PAYMENT AMOUNTS

Section	
734.800	Applicability
734.810	UST Removal or Abandonment Costs
734.815	Free Product or Groundwater Removal and Disposal
734.820	Drilling, Well Installation, and Well Abandonment
734.825	Soil Removal and Disposal
734.830	Drum Disposal
734.835	Sample Handling and Analysis
734.840	Concrete, Asphalt, and Paving; Destruction or Dismantling and Reassembly of Above Grade Structures
734.845	Professional Consulting Services
734.850	Payment on Time and Materials Basis
734.855	Bidding
734.860	Unusual or Extraordinary Circumstances
734.865	Handling Charges
734.870	Increase in Maximum Payment Amounts
734.875	Agency Review of Payment Amounts
734.APPENDIX A	Indicator Contaminants
734.APPENDIX B	Additional Parameters

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

734.APPENDIX C	Backfill Volumes
734.APPENDIX D	Sample Handling and Analysis
734.APPENDIX E	Personnel Titles and Rates

AUTHORITY: Implementing Sections 22.12 and 57 through 57.17 and authorized by Sections 5, 22, 27, and 57.14A of the Environmental Protection Act [415 ILCS 5/5, 22, 22.12, 27, and 57 through 57.17]

SOURCE: Adopted in R04-22/23 at 29 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL

Section 734.100 Applicability

- a) This Part applies to owners or operators of any underground storage tank system used to contain petroleum and for which a release is reported to Illinois Emergency Management Agency (IEMA) on or after the effective date of this Part in accordance with Office of the State Fire Marshal (OSFM) regulations. It does not apply to owners or operators of sites for which the OSFM does not require a report to IEMA or for which the OSFM has issued or intends to issue a certificate of removal or abandonment pursuant to Section 57.5 of the Act [415 ILCS 5/57.5].
 - 1) For releases reported on or after June 24, 2002, but prior to the effective date of this Part, and for owners and operators electing prior to the effective date of this Part to proceed in accordance with Title XVI of the Act as amended by P.A. 92-0554, the Agency may deem that one or more requirements of this Part have been satisfied, based upon activities conducted prior to the effective date of this Part, even though the activities were not conducted in strict accordance with the requirements of this Part. For example, an owner or operator that adequately defined the extent of on-site contamination prior to the effective date of this Part may be deemed to have satisfied Sections 734.210(h) and 734.315 even though sampling was not conducted in strict accordance with those Sections.
 - 2) Costs incurred pursuant to a budget approved prior to the effective date of this Part must be reimbursed in accordance with the amounts approved in the budget and must not be subject to the maximum payment amounts set forth in Subpart H of this Part.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

- b) Owners or operators of any underground storage tank system used to contain petroleum and for which a release was reported to the proper State authority prior to June 24, 2002 may elect to proceed in accordance with this Part pursuant to Section 734.105 of this Part.
- c) Upon the receipt of a corrective action order issued by the OSFM on or after June 24, 2002, and pursuant to Section 57.5(g) of the Act [415 ILCS 5/57.5(g)], where the OSFM has determined that a release poses a threat to human health or the environment, the owner or operator of any underground storage tank system used to contain petroleum and taken out of operation before January 2, 1974, or any underground storage tank system used exclusively to store heating oil for consumptive use on the premises where stored and which serves other than a farm or residential unit, must conduct corrective action in accordance with this Part.
- d) Owners or operators subject to this Part by law or by election must proceed expeditiously to comply with all requirements of the Act and the regulations and to obtain the No Further Remediation Letter signifying final disposition of the site for purposes of this Part. The Agency may use its authority pursuant to the Act and Section 734.125 of this Part to expedite investigative, preventive, or corrective action by an owner or operator or to initiate such action.
- e) The following underground storage tank systems are excluded from the requirements of this Part:
 - 1) Equipment or machinery that contains petroleum substances for operational purposes, such as hydraulic lift tanks and electrical equipment tanks.
 - 2) Any underground storage tank system whose capacity is 110 gallons or less.
 - 3) Any underground storage tank system that contains a de minimis concentration of petroleum substances.
 - 4) Any emergency spill or overfill containment underground storage tank system that is expeditiously emptied after use.
 - 5) Any wastewater treatment tank system that is part of a wastewater treatment facility regulated under Section 402 or 307(b) of the Clean Water Act (33 USC 1251 et seq.).

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

- 6) Any UST system holding hazardous waste listed or identified under Subtitle C of the Solid Waste Disposal Act (42 USC 3251 et seq.) or a mixture of such hazardous waste or other regulated substances.

Section 734.105 Election to Proceed under Part 734

- a) Owners or operators of any underground storage tank system used to contain petroleum and for which a release was reported to the proper State authority prior to June 24, 2002 may elect to proceed in accordance with this Part by submitting to the Agency a written statement of such election signed by the owner or operator. Such election must be submitted on forms prescribed and provided by the Agency and, if specified by the Agency in writing, in an electronic format. Corrective action must then follow the requirements of this Part. The election must be effective upon receipt by the Agency and must not be withdrawn once made.
- b) Except as provided in Section 734.100(c) of this Part, owners or operators of underground storage tanks used exclusively to store heating oil for consumptive use on the premises where stored and that serve other than a farm or residential unit may elect to proceed in accordance with this Part by submitting to the Agency a written statement of such election signed by the owner or operator. Such election must be submitted on forms prescribed and provided by the Agency and, if specified by the Agency in writing, in an electronic format. Corrective action must then follow the requirements of this Part. The election must be effective upon receipt by the Agency and must not be withdrawn once made.
- c) Owners and operators electing pursuant to this Section to proceed in accordance with this Part must submit with their election a summary of the activities conducted to date and a proposed starting point for compliance with this Part. The Agency must review and approve, reject, or modify the submission in accordance with the procedures contained in Subpart E of this Part. The Agency may deem a requirement of this Part to have been met, based upon activities conducted prior to an owner's or operator's election, even though the activities were not conducted in strict accordance with the requirement. For example, an owner or operator that adequately defined the extent of on-site contamination prior to the election may be deemed to have satisfied Sections 734.210(h) and 734.315 even though sampling was not conducted in strict accordance with those Sections.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

- d) If the owner or operator elects to proceed pursuant to this Part, corrective action costs incurred in connection with the release and prior to the notification of election must be payable from the Underground Storage Tank Fund in the same manner as was allowable under the law applicable to the owner or operator prior to the notification of election. Corrective action costs incurred after the notification of election must be payable from the Fund in accordance with this Part.
- e) This Section does not apply to any release for which the Agency has issued a No Further Remediation Letter.

Section 734.110 Severability

If any provision of this Part or its application to any person or under any circumstances is adjudged invalid, such adjudication must not affect the validity of this Part as a whole or of any portion not adjudged invalid.

Section 734.115 Definitions

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

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

"Agency" means the Illinois Environmental Protection Agency.

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

"Board" means the Illinois Pollution Control Board.

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

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

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

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

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

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

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

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

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

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

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

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

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

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

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

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

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

"GIS" means Geographic Information System.

"GPS" means Global Positioning System.

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

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

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

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

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

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

"IEMA" means the Illinois Emergency Management Agency.

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

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

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

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

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

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

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

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

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

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

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

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

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

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

"Owner" means:

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

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

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

"Person" means, for the purposes of interpreting the definitions of the terms "owner" or "operator," an individual, trust, firm, joint stock company, joint venture, consortium, commercial entity, corporation (including a government

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

corporation), partnership, association, state, municipality, commission, political subdivision of a state, or any interstate body and must include the United States Government and each department, agency, and instrumentality of the United States. (Derived from 42 USC 6991)

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

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

"Practical Quantitation Limit" or "PQL" means the lowest concentration that can be reliably measured within specified limits of precision and accuracy for a specific laboratory analytical method during routine laboratory operating conditions in accordance with "Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods," EPA Publication No. SW-846, incorporated by reference at Section 734.120 of this Part. For filtered water samples, PQL also means the Method Detection Limit or Estimated Detection Limit in accordance with the applicable method revision in: "Methods for the Determination of Metals in Environmental Samples," EPA Publication No. EPA/600/4-91/010; "Methods for the Determination of Metals in Environmental Samples, Supplement I," EPA Publication No. EPA/600/R-94/111; "Methods for the Determination of Organic Compounds in Drinking Water," EPA Publication No. EPA/600/4-88/039; "Methods for the Determination of Organic Compounds in Drinking Water, Supplement II," EPA Publication No. EPA/600/R-92/129; or "Methods for the Determination of Organic Compounds in Drinking Water, Supplement III," EPA Publication No. EPA/600/R-95/131, all of which are incorporated by reference at Section 734.120 of this Part.

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

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

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

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

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

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

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

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

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

"Setback Zone" means a geographic area, designated pursuant to the Act [415 ILCS 5/14.1, 14.2, 14.3] or regulations (see 35 Ill. Adm. Code Subtitle F),

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

containing a potable water supply well or a potential source or potential route, having a continuous boundary, and within which certain prohibitions or regulations are applicable in order to protect groundwater [415 ILCS 5/3.450].

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

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

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

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

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

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

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

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

Septic tank;

Pipeline facility (including gathering lines) regulated under the Natural Gas Pipeline Safety Act of 1968 (49 USC App. 1671 et seq.), or the Hazardous Liquid Pipeline Safety Act of 1979 (49 USC App. 2001 et

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

seq.), or which is an intrastate pipeline facility regulated under state laws as provided in either of these provisions of law, and that is determined by the Secretary of Energy to be connected to a pipeline or to be operated or intended to be capable of operating at pipeline pressure or as an integral part of a pipeline;

Surface impoundment, pit, pond, or lagoon;

Storm water or waste water collection system;

Flow-through process tank;

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

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

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

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

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

Section 734.120 Incorporations by Reference

- a) The Board incorporates the following material by reference:

ASTM. American Society for Testing and Materials, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken PA 19428-2959 (610) 832-9585

ASTM D 2487-93, Standard Test Method for Classification of Soils for Engineering Purposes, approved September 15, 1993.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

NTIS. National Technical Information Service, 5285 Port Royal Road,
Springfield VA 22161 (703) 605-6000 or (800) 553-6847

"Methods for the Determination of Metals in Environmental Samples,"
EPA Publication No. EPA/600/4-91/010 (June 1991);

"Methods for the Determination of Metals in Environmental Samples,
Supplement I," EPA Publication No. EPA/600/R-94/111 (May 1994);

"Methods for the Determination of Organic Compounds in Drinking
Water," EPA Publication No. EPA/600/4-88/039 (December 1988)
(revised July 1991);

"Methods for the Determination of Organic Compounds in Drinking
Water, Supplement II," EPA Publication No. EPA/600/R-92/129 (August
1992);

"Methods for the Determination of Organic Compounds in Drinking
Water, Supplement III," EPA Publication No. EPA/600/R-95/131 (August
1995);

"Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods,"
EPA Publication No. SW-846, Third Edition (September 1986), as
amended by Updates I, IIA, III, and IIIA (Final Update IIIA dated April
1998), Doc. No. 955-001-00000-1.

- b) This Section incorporates no later editions or amendments.

**Section 734.125 Agency Authority to Initiate Investigative, Preventive, or Corrective
Action**

- a) *The Agency has the authority to do either of the following:*
- 1) *Provide notice to the owner or operator, or both, of an underground storage tank whenever there is a release or substantial threat of a release of petroleum from such tank. Such notice shall include the identified investigation or response action and an opportunity for the owner or operator, or both, to perform the response action.*

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

- 2) *Undertake investigative, preventive or corrective action whenever there is a release or a substantial threat of a release of petroleum from an underground storage tank. [415 ILCS 5/57.12(c)]*
- b) *If notice has been provided under this Section, the Agency has the authority to require the owner or operator, or both, of an underground storage tank to undertake preventive or corrective action whenever there is a release or substantial threat of a release of petroleum from such tank [415 ILCS 5/57.12(d)].*

Section 734.130 Licensed Professional Engineer or Licensed Professional Geologist Supervision

All investigations, plans, budgets, and reports conducted or prepared under this Part, excluding Corrective Action Completion Reports submitted pursuant to Section 734.345 of this Part, must be conducted or prepared under the supervision of a Licensed Professional Engineer or Licensed Professional Geologist. Corrective Action Completion Reports submitted pursuant to Section 734.345 of this Part must be prepared under the supervision of a Licensed Professional Engineer.

Section 734.135 Form and Delivery of Plans, Budgets, and Reports; Signatures and Certifications

- a) All plans, budgets, and reports must be submitted to the Agency on forms prescribed and provided by the Agency and, if specified by the Agency in writing, in an electronic format.
- b) All plans, budgets, and reports must be mailed or delivered to the address designated by the Agency. The Agency's record of the date of receipt must be deemed conclusive unless a contrary date is proven by a dated, signed receipt from certified or registered mail.
- c) All plans, budgets, and reports must be signed by the owner or operator and list the owner's or operator's full name, address, and telephone number.
- d) All plans, budgets, and reports submitted pursuant to this Part, excluding Corrective Action Completion Reports submitted pursuant to Section 734.345 of this Part, must contain the following certification from a Licensed Professional Engineer or Licensed Professional Geologist. Corrective Action Completion Reports submitted pursuant to Section 734.345 of this Part must contain the following certification from a Licensed Professional Engineer.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

I certify under penalty of law that all activities that are the subject of this plan, budget, or report were conducted under my supervision or were conducted under the supervision of another Licensed Professional Engineer or Licensed Professional Geologist and reviewed by me; that this plan, budget, or report and all attachments were prepared under my supervision; that, to the best of my knowledge and belief, the work described in the plan, budget, or report has been completed in accordance with the Environmental Protection Act [415 ILCS 5], 35 Ill. Adm. Code 734, and generally accepted standards and practices of my profession; and that the information presented is accurate and complete. I am aware there are significant penalties for submitting false statements or representations to the Agency, including but not limited to fines, imprisonment, or both as provided in Sections 44 and 57.17 of the Environmental Protection Act [415 ILCS 5/44 and 57.17].

- e) Except in the case of sites subject to Section 734.715(c) or (d) of this Part, reports documenting the completion of corrective action at a site must contain a form addressing site ownership. At a minimum, the form must identify the land use limitations proposed for the site, if land use limitations are proposed; the site's common address, legal description, and real estate tax/parcel index number; and the names and addresses of all title holders of record of the site or any portion of the site. The form must also contain the following certification, by original signature, of all title holders of record of the site or any portion of the site, or the agent(s) of such person(s):

I hereby affirm that I have reviewed the attached report entitled _____ and dated _____, and that I accept the terms and conditions set forth therein, including any land use limitations, that apply to property I own. I further affirm that I have no objection to the recording of a No Further Remediation Letter containing the terms and conditions identified in the report upon the property I own.

Section 734.140 Development of Remediation Objectives

The owner or operator must propose remediation objectives for the applicable indicator contaminants in accordance with 35 Ill. Adm. Code 742.

BOARD NOTE: Several provisions of this Part require the owner or operator to determine whether contamination exceeds the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742. Please note that these requirements do not limit the owner's or operator's ability to use Tier 2 or Tier 3 remediation objectives in accordance with 35 Ill. Adm. Code 742.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

- a) The owner or operator may develop remediation objectives at any time during site investigation or corrective action. Prior to developing Tier 2 or Tier 3 remediation objectives the owner or operator must propose the development of remediation objectives in the appropriate site investigation plan or corrective action plan. Documentation of the development of remediation objectives must be included as a part of the appropriate plan or report.
- b) Any owner or operator intending to seek payment from the Fund shall, prior to the development of Tier 2 or Tier 3 remediation objectives, propose the costs for such activities in the appropriate budget. The costs should be consistent with the eligible and ineligible costs listed at Sections 734.625 and 734.630 of this Part and the maximum payment amounts set forth in Subpart H of this Part.
- c) Upon the Agency's approval of a plan that includes the development of remediation objectives, the owner or operator must proceed to develop remediation objectives in accordance with the plan.
- d) If, following the approval of any plan or associated budget that includes the development of remediation objectives, an owner or operator determines that a revised plan or budget is necessary, the owner or operator must submit, as applicable, an amended plan or associated budget to the Agency for review. The Agency must review and approve, reject, or require modification of the amended plan or budget in accordance with Subpart E of this Part.
- e) Notwithstanding any requirement under this Part for the submission of a plan or budget that includes the development of remediation objectives, an owner or operator may proceed to develop remediation objectives prior to the submittal or approval of an otherwise required plan or budget. However, any such plan or budget must be submitted to the Agency for review and approval, rejection, or modification in accordance with the procedures contained in Subpart E of this Part prior to receiving payment for any related costs or the issuance of a No Further Remediation Letter.
BOARD NOTE: Owners or operators proceeding under subsection (e) of this Section are advised that they may not be entitled to full payment. Furthermore, applications for payment must be submitted no later than one year after the date the Agency issues a No Further Remediation Letter. See Subpart F of this Part.

Section 734.145 Notification of Field Activities

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

The Agency may require owners and operators to notify the Agency of field activities prior to the date the field activities take place. The notice must include information prescribed by the Agency, and may include, but is not limited to, a description of the field activities to be conducted, the person conducting the activities, and the date, time, and place the activities will be conducted. The Agency may, but is not required to, allow notification by telephone, facsimile, or electronic mail. This Section does not apply to activities conducted within 45 days plus 14 days after initial notification to IEMA of a release, or to free product removal activities conducted within 45 days plus 14 days after the confirmation of the presence of free product.

Section 734.150 LUST Advisory Committee

Once each calendar quarter the Agency must meet with a LUST Advisory Committee to discuss the Agency's implementation of this Part, provided that the Agency or members of the Committee raise one or more issues for discussion. The LUST Advisory Committee must consist of the following individuals: one member designated by the Illinois Petroleum Marketers Association, one member designated by the Illinois Petroleum Council, one member designated by the American Consulting Engineers Council of Illinois, one member designated by the Illinois Society of Professional Engineers, one member designated by the Illinois Chapter of the American Institute of Professional Geologists, one member designated by the Professionals of Illinois for the Protection of the Environment, one member designated by the Illinois Association of Environmental Laboratories, one member designated by the Illinois Environmental Regulatory Group, one member designated by the Office of the State Fire Marshal, and one member designated by the Illinois Department of Transportation. Members of the LUST Advisory Committee must serve without compensation.

SUBPART B: EARLY ACTION

Section 734.200 General

Owners and operators of underground storage tanks shall, in response to all confirmed releases of petroleum, comply with all applicable statutory and regulatory reporting and response requirements [415 ILCS 5/57.6(a)]. No work plan or corresponding budget must be required for conducting early action activities, excluding free product removal activities conducted more than 45 days after confirmation of the presence of free product.

Section 734.205 Agency Authority to Initiate

Pursuant to Section 734.100 or 734.125 of this Part, the Agency has the authority to require or initiate early action activities in accordance with the remainder of this Subpart B.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

Section 734.210 Early Action

- a) Upon confirmation of a release of petroleum from a UST system in accordance with regulations promulgated by the OSFM, the owner or operator, or both, must perform the following initial response actions within 24 hours after the release:
 - 1) Report the release to IEMA (e.g., by telephone or electronic mail);
 - 2) Take immediate action to prevent any further release of the regulated substance to the environment; and
 - 3) Identify and mitigate fire, explosion and vapor hazards.
- b) Within 20 days after initial notification to IEMA of a release plus 14 days, the owner or operator must perform the following initial abatement measures:
 - 1) Remove as much of the petroleum from the UST system as is necessary to prevent further release into the environment;
 - 2) Visually inspect any aboveground releases or exposed below ground releases and prevent further migration of the released substance into surrounding soils and groundwater;
 - 3) 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);
 - 4) 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 must comply with 35 Ill. Adm. Code 722, 724, 725, and 807 through 815;
 - 5) Measure for the presence of a release where contamination is most likely to be present at the UST site, unless the presence and source of the release have been confirmed in accordance with regulations promulgated by the OSFM. In selecting sample types, sample locations, and measurement methods, the owner or operator must consider the nature of the stored

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

substance, the type of backfill, depth to groundwater and other factors as appropriate for identifying the presence and source of the release; and

- 6) Investigate to determine the possible presence of free product, and begin removal of free product as soon as practicable and in accordance with Section 734.215 of this Part.
- c) Within 20 days after initial notification to IEMA of a release plus 14 days, the owner or operator must submit a report to the Agency summarizing the initial abatement steps taken under subsection (b) of this Section and any resulting information or data.
- d) Within 45 days after initial notification to IEMA of a release plus 14 days, the owner or operator must assemble information about the site and the nature of the release, including information gained while confirming the release or completing the initial abatement measures in subsections (a) and (b) of this Section. This information must include, but is not limited to, the following:
 - 1) Data on the nature and estimated quantity of release;
 - 2) Data from available sources or site investigations concerning the following factors: surrounding populations, water quality, use and approximate locations of wells potentially affected by the release, subsurface soil conditions, locations of subsurface sewers, climatological conditions and land use;
 - 3) Results of the site check required at subsection (b)(5) of this Section; and
 - 4) Results of the free product investigations required at subsection (b)(6) of this Section, to be used by owners or operators to determine whether free product must be recovered under Section 734.215 of this Part.
- e) Within 45 days after initial notification to IEMA of a release plus 14 days, the owner or operator must submit to the Agency the information collected in compliance with subsection (d) of this Section in a manner that demonstrates its applicability and technical adequacy.
- f) *Notwithstanding any other corrective action taken, an owner or operator may, at a minimum, and prior to submission of any plans to the Agency, remove the tank system, or abandon the underground storage tank in place, in accordance with*

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

the regulations promulgated by the Office of the State Fire Marshal (see 41 Ill. Adm. Code 160, 170, 180, 200). The owner may remove visibly contaminated fill material and any groundwater in the excavation which exhibits a sheen. For purposes of payment of early action costs, however, fill material shall not be removed in an amount in excess of 4 feet from the outside dimensions of the tank [415 ILCS 5/57.6(b)]. Early action may also include disposal in accordance with applicable regulations or ex-situ treatment of contaminated fill material removed from within 4 feet from the outside dimensions of the tank.

- g) For purposes of payment from the Fund, the activities set forth in subsection (f) of this Section must be performed within 45 days after initial notification to IEMA of a release plus 14 days, unless special circumstances, approved by the Agency in writing, warrant continuing such activities beyond 45 days plus 14 days. The owner or operator must notify the Agency in writing of such circumstances within 45 days after initial notification to IEMA of a release plus 14 days. Costs incurred beyond 45 days plus 14 days must be eligible if the Agency determines that they are consistent with early action.

BOARD NOTE: Owners or operators seeking payment from the Fund are to first notify IEMA of a suspected release and then confirm the release within 14 days to IEMA pursuant to regulations promulgated by the OSFM. See 41 Ill. Adm. Code 170.560 and 170.580. The Board is setting the beginning of the payment period at subsection (g) to correspond to the notification and confirmation to IEMA.

- h) The owner or operator must determine whether the areas or locations of soil contamination exposed as a result of early action excavation (e.g., excavation boundaries, piping runs) or surrounding USTs that remain in place meet the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants.
- 1) At a minimum, for each UST that is removed, the owner or operator must collect and analyze soil samples as indicated in subsections (h)(1)(A) through (E). The Agency must allow an alternate location for, or excuse the collection of, one or more samples if sample collection in the following locations is made impracticable by site-specific circumstances.
- A) One sample must be collected from each UST excavation wall. The samples must be collected from locations representative of soil that is the most contaminated as a result of the release. If an area of contamination cannot be identified on a wall, the sample must be collected from the center of the wall length at a point located

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

one-third of the distance from the excavation floor to the ground surface. For walls that exceed 20 feet in length, one sample must be collected for each 20 feet of wall length, or fraction thereof, and the samples must be evenly spaced along the length of the wall.

- B) Two samples must be collected from the excavation floor below each UST with a volume of 1,000 gallons or more. One sample must be collected from the excavation floor below each UST with a volume of less than 1,000 gallons. The samples must be collected from locations representative of soil that is the most contaminated as a result of the release. If areas of contamination cannot be identified, the samples must be collected from below each end of the UST if its volume is 1,000 gallons or more, and from below the center of the UST if its volume is less than 1,000 gallons.
- C) One sample must be collected from the floor of each 20 feet of UST piping run excavation, or fraction thereof. The samples must be collected from a location representative of soil that is the most contaminated as a result of the release. If an area of contamination cannot be identified within a length of piping run excavation being sampled, the sample must be collected from the center of the length being sampled. For UST piping abandoned in place, the samples must be collected in accordance with subsection (h)(2)(B) of this Section.
- D) If backfill is returned to the excavation, one representative sample of the backfill must be collected for each 100 cubic yards of backfill returned to the excavation.
- E) The samples must be analyzed for the applicable indicator contaminants. In the case of a used oil UST, the sample that appears to be the most contaminated as a result of a release from the used oil UST must be analyzed in accordance with Section 734.405(g) of this Part to determine the indicator contaminants for used oil. The remaining samples collected pursuant to subsections (h)(1)(A) and (B) of this Section must then be analyzed for the applicable used oil indicator contaminants.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

- 2) At a minimum, for each UST that remains in place, the owner or operator must collect and analyze soil samples as described in subsections (h)(2)(A) through (D). The Agency must allow an alternate location for, or excuse the drilling of, one or more borings if drilling in the following locations is made impracticable by site-specific circumstances.
- A) One boring must be drilled at the center point along each side of each UST, or along each side of each cluster of multiple USTs, remaining in place. If a side exceeds 20 feet in length, one boring must be drilled for each 20 feet of side length, or fraction thereof, and the borings must be evenly spaced along the side. The borings must be drilled in the native soil surrounding the UST(s) and as close as practicable to, but not more than five feet from, the backfill material surrounding the UST(s). Each boring must be drilled to a depth of 30 feet below grade, or until groundwater or bedrock is encountered, whichever is less. Borings may be drilled below the groundwater table if site specific conditions warrant, but no more than 30 feet below grade.
- B) Two borings, one on each side of the piping, must be drilled for every 20 feet of UST piping, or fraction thereof, that remains in place. The borings must be drilled as close as practicable to, but not more than five feet from, the locations of suspected piping releases. If no release is suspected within a length of UST piping being sampled, the borings must be drilled in the center of the length being sampled. Each boring must be drilled to a depth of 15 feet below grade, or until groundwater or bedrock is encountered, whichever is less. Borings may be drilled below the groundwater table if site specific conditions warrant, but no more than 15 feet below grade. For UST piping that is removed, samples must be collected from the floor of the piping run in accordance with subsection (h)(1)(C) of this Section.
- C) If auger refusal occurs during the drilling of a boring required under subsection (h)(2)(A) or (B) of this Section, the boring must be drilled in an alternate location that will allow the boring to be drilled to the required depth. The alternate location must not be more than five feet from the boring's original location. If auger refusal occurs during drilling of the boring in the alternate location, drilling of the boring must cease and the soil samples collected

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

from the location in which the boring was drilled to the greatest depth must be analyzed for the applicable indicator contaminants.

- D) One soil sample must be collected from each five-foot interval of each boring required under subsections (h)(2)(A) through (C) of this Section. Each sample must be collected from the location within the five-foot interval that is the most contaminated as a result of the release. If an area of contamination cannot be identified within a five-foot interval, the sample must be collected from the center of the five-foot interval, provided, however, that soil samples must not be collected from soil below the groundwater table. All samples must be analyzed for the applicable indicator contaminants.
- 3) If the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants have been met, and if none of the criteria set forth in subsections (h)(4)(A) through (C) of this Section are met, within 30 days after the completion of early action activities the owner or operator must submit a report demonstrating compliance with those remediation objectives. The report must include, but is not limited to, the following:
- A) A characterization of the site that demonstrates compliance with the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants;
- B) Supporting documentation, including, but not limited to, the following:
- i) A site map meeting the requirements of Section 734.440 of this Part that shows the locations of all samples collected pursuant to this subsection (h);
- ii) Analytical results, chain of custody forms, and laboratory certifications for all samples collected pursuant to this subsection (h); and
- iii) A table comparing the analytical results of all samples collected pursuant to this subsection (h) to the most

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants; and

- C) A site map containing only the information required under Section 734.440 of this Part.
- 4) If the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants have not been met, or if one or more of the following criteria are met, the owner or operator must continue in accordance with Subpart C of this Part:
 - A) There is evidence that groundwater wells have been impacted by the release above the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants (e.g., as found during release confirmation or previous corrective action measures);
 - B) Free product that may impact groundwater is found to need recovery in compliance with Section 734.215 of this Part; or
 - C) There is evidence that contaminated soils may be or may have been in contact with groundwater, unless:
 - i) The owner or operator pumps the excavation or tank cavity dry, properly disposes of all contaminated water, and demonstrates to the Agency that no recharge is evident during the 24 hours following pumping; and
 - ii) The Agency determines that further groundwater investigation is not necessary.

Section 734.215 Free Product Removal

- a) Under any circumstance in which conditions at a site indicate the presence of free product, owners or operators must remove, to the maximum extent practicable, free product exceeding one-eighth of an inch in depth as measured in a groundwater monitoring well, or present as a sheen on groundwater in the tank removal excavation or on surface water, while initiating or continuing any actions required pursuant to this Part or other applicable laws or regulations. In meeting the requirements of this Section, owners or operators must:

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

- 1) Conduct free product removal in a manner that minimizes the spread of contamination into previously uncontaminated zones by using recovery and disposal techniques appropriate to the hydrogeologic conditions at the site and that properly treats, discharges or disposes of recovery byproducts in compliance with applicable local, State, and federal regulations;
- 2) Use abatement of free product migration as a minimum objective for the design of the free product removal system;
- 3) Handle any flammable products in a safe and competent manner to prevent fires or explosions;
- 4) Within 45 days after the confirmation of presence of free product from a UST, prepare and submit to the Agency a free product removal report. The report must, at a minimum, provide the following:
 - A) The name of the persons responsible for implementing the free product removal measures;
 - B) The estimated quantity, type and thickness of free product observed or measured in wells, boreholes, and excavations;
 - C) The type of free product recovery system used;
 - D) Whether any discharge will take place on-site or off-site during the recovery operation and where this discharge will be located;
 - E) The type of treatment applied to, and the effluent quality expected from, any discharge;
 - F) The steps that have been or are being taken to obtain necessary permits for any discharge;
 - G) The disposition of the recovered free product;
 - H) The steps taken to identify the source and extent of the free product; and

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

- I) A schedule of future activities necessary to complete the recovery of free product still exceeding one-eighth of an inch in depth as measured in a groundwater monitoring well, or still present as a sheen on groundwater in the tank removal excavation or on surface water. The schedule must include, but not be limited to, the submission of plans and budgets required pursuant to subsections (c) and (d) of this Section; and
- 5) If free product removal activities are conducted more than 45 days after confirmation of the presence of free product, submit free product removal reports quarterly or in accordance with a schedule established by the Agency.
- b) For purposes of payment from the Fund, owners or operators are not required to obtain Agency approval for free product removal activities conducted within 45 days after the confirmation of the presence of free product.
- c) If free product removal activities will be conducted more than 45 days after the confirmation of the presence of free product, the owner or operator must submit to the Agency for review a free product removal plan. The plan must be submitted with the free product removal report required under subsection (a)(4) of this Section. Free product removal activities conducted more than 45 days after the confirmation of the presence of free product must not be considered early action activities.
- d) Any owner or operator intending to seek payment from the Fund must, prior to conducting free product removal activities more than 45 days after the confirmation of the presence of free product, submit to the Agency a free product removal budget with the corresponding free product removal plan. The budget must include, but not be limited to, an estimate of all costs associated with the development, implementation, and completion of the free product removal plan, excluding handling charges. The budget should be consistent with the eligible and ineligible costs listed in Sections 734.625 and 734.630 of this Part and the maximum payment amounts set forth in Subpart H of this Part. As part of the budget plan, the Agency may require a comparison between the costs of the proposed method of free product removal and other methods of free product removal.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

- e) Upon the Agency's approval of a free product removal plan, or as otherwise directed by the Agency, the owner or operator must proceed with free product removal in accordance with the plan.
- f) Notwithstanding any requirement under this Part for the submission of a free product removal plan or free product removal budget, an owner or operator may proceed with free product removal in accordance with this Section prior to the submittal or approval of an otherwise required free product removal plan or budget. However, any such removal plan and budget plan must be submitted to the Agency for review and approval, rejection, or modification in accordance with the procedures contained in Subpart E of this Part prior to payment for any related costs or the issuance of a No Further Remediation Letter.
BOARD NOTE: Owners or operators proceeding under subsection (f) of this Section are advised that they may not be entitled to full payment from the Fund. Furthermore, applications for payment must be submitted no later than one year after the date the Agency issues a No Further Remediation Letter. See Subpart F of this Part.
- g) If, following approval of any free product removal plan or associated budget, an owner or operator determines that a revised plan or budget is necessary in order to complete free product removal, the owner or operator must submit, as applicable, an amended free product removal plan or associated budget to the Agency for review. The Agency must review and approve, reject, or require modification of the amended removal plan or budget plan in accordance with Subpart E of this Part.
BOARD NOTE: Owners and operators are advised that the total payment from the Fund for all free product removal plans and associated budgets submitted by an owner or operator must not exceed the amounts set forth in Subpart H of this Part.

Section 734.220 Application for Payment of Early Action Costs

Owners or operators intending to seek payment for early action activities, excluding free product removal activities conducted more than 45 days after confirmation of the presence of free product, are not required to submit a corresponding budget plan. The application for payment may be submitted to the Agency upon completion of the early action activities in accordance with the requirements at Subpart F of this Part, excluding free product removal activities conducted more than 45 days after confirmation of the presence of free product. Applications for payment of free product removal activities conducted more than 45 days after confirmation of

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

the presence of free product may be submitted upon completion of the free product removal activities.

SUBPART C: SITE INVESTIGATION AND CORRECTIVE ACTION

Section 734.300 General

Unless the owner or operator submits a report pursuant to Section 734.210(h)(3) of this Part demonstrating that the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants have been met, the owner or operator must investigate the site, conduct corrective action, and prepare plans, budgets, and reports in accordance with the requirements of this Subpart C.

Section 734.305 Agency Authority to Initiate

Pursuant to Section 734.100 or 734.125 of this Part, the Agency has the authority to require or initiate site investigation and corrective action activities in accordance with the remainder of this Subpart C.

Section 734.310 Site Investigation – General

The investigation of the release must proceed in three stages as set forth in this Part. If, after the completion of any stage, the extent of the soil and groundwater contamination exceeding the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants as a result of the release has been defined, the owner or operator must cease investigation and proceed with the submission of a site investigation completion report in accordance with Section 734.330 of this Part.

- a) Prior to conducting site investigation activities pursuant to Section 734.315, 734.320, or 734.325 of this Part, the owner or operator must submit to the Agency for review a site investigation plan. The plan must be designed to satisfy the minimum requirements set forth in the applicable Section and to collect the information required to be reported in the site investigation plan for the next stage of the site investigation, or in the site investigation completion report, whichever is applicable.
- b) Any owner or operator intending to seek payment from the Fund must, prior to conducting any site investigation activities, submit to the Agency a site investigation budget with the corresponding site investigation plan. The budget must include, but not be limited to, a copy of the eligibility and deductibility

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

determination of the OSFM and an estimate of all costs associated with the development, implementation, and completion of the site investigation plan, excluding handling charges and costs associated with monitoring well abandonment. Costs associated with monitoring well abandonment must be included in the corrective action budget. Site investigation budgets should be consistent with the eligible and ineligible costs listed at Sections 734.625 and 734.630 of this Part and the maximum payment amounts set forth in Subpart H of this Part. A budget for a Stage 1 site investigation must consist of a certification signed by the owner or operator, and by a Licensed Professional Engineer or Licensed Professional Geologist, that the costs of the Stage 1 site investigation will not exceed the amounts set forth in Subpart H of this Part.

- c) *Upon the Agency's approval of a site investigation plan, or as otherwise directed by the Agency, the owner or operator shall conduct a site investigation in accordance with the plan [415 ILCS 5/57.7(a)(4)].*
- d) If, following the approval of any site investigation plan or associated budget, an owner or operator determines that a revised plan or budget is necessary in order to determine, within the area addressed in the applicable stage of the investigation, the nature, concentration, direction of movement, rate of movement, and extent of the contamination, or the significant physical features of the site and surrounding area that may affect contaminant transport and risk to human health and safety and the environment, the owner or operator must submit, as applicable, an amended site investigation plan or associated budget to the Agency for review. The Agency must review and approve, reject, or require modification of the amended plan or budget in accordance with Subpart E of this Part.
BOARD NOTE: Owners and operators are advised that the total payment from the Fund for all site investigation plans and associated budgets submitted by an owner or operator must not exceed the amounts set forth in Subpart H of this Part.
- e) Notwithstanding any requirement under this Part for the submission of a site investigation plan or budget, an owner or operator may proceed to conduct site investigation activities in accordance with this Subpart C prior to the submittal or approval of an otherwise required site investigation plan or budget. However, any such plan or budget must be submitted to the Agency for review and approval, rejection, or modification in accordance with the procedures contained in Subpart E of this Part prior to receiving payment for any related costs or the issuance of a No Further Remediation Letter.
BOARD NOTE: Owners or operators proceeding under subsection (e) of this Section are advised that they may not be entitled to full payment. Furthermore,

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

applications for payment must be submitted no later than one year after the date the Agency issues a No Further Remediation Letter. See Subpart F of this Part.

Section 734.315 Stage 1 Site Investigation

The Stage 1 site investigation must be designed to gather initial information regarding the extent of on-site soil and groundwater contamination that, as a result of the release, exceeds the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants.

- a) The Stage 1 site investigation must consist of the following:
 - 1) Soil investigation.
 - A) Up to four borings must be drilled around each independent UST field where one or more UST excavation samples collected pursuant to 734.210(h), excluding backfill samples, exceed the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants. One additional boring must be drilled as close as practicable to each UST field if a groundwater investigation is not required under subsection (a)(2) of this Section. The borings must be advanced through the entire vertical extent of contamination, based upon field observations and field screening for organic vapors, provided that borings must be drilled below the groundwater table only if site-specific conditions warrant.
 - B) Up to two borings must be drilled around each UST piping run where one or more piping run samples collected pursuant to Section 734.210(h) exceed the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants. One additional boring must be drilled a close as practicable to each UST piping run if a groundwater investigation is not required under subsection (a)(2) of this Section. The borings must be advanced through the entire vertical extent of contamination, based upon field observations and field screening for organic vapors, provided that borings must be drilled below the groundwater table only if site-specific conditions warrant.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

- C) One soil sample must be collected from each five-foot interval of each boring drilled pursuant to subsections (a)(1)(A) and (B) of this Section. Each sample must be collected from the location within the five-foot interval that is the most contaminated as a result of the release. If an area of contamination cannot be identified within a five-foot interval, the sample must be collected from the center of the five-foot interval. All samples must be analyzed for the applicable indicator contaminants.
- 2) Groundwater investigation.
- A) A groundwater investigation is required under the following circumstances:
- i) There is evidence that groundwater wells have been impacted by the release above the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants;
 - ii) Free product that may impact groundwater is found to need recovery in compliance with Section 734.215 of this Part; or
 - iii) There is evidence that contaminated soils may be or may have been in contact with groundwater, except that, if the owner or operator pumps the excavation or tank cavity dry, properly disposes of all contaminated water, and demonstrates to the Agency that no recharge is evident during the 24 hours following pumping, the owner or operator does not have to complete a groundwater investigation, unless the Agency's review reveals that further groundwater investigation is necessary.
- B) If a groundwater investigation is required, the owner or operator must install five groundwater monitoring wells. One monitoring well must be installed in the location where groundwater contamination is most likely to be present. The four remaining wells must be installed at the property boundary line or 200 feet from the UST system, whichever is less, in opposite directions from each other. The wells must be installed in locations where

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

they are most likely to detect groundwater contamination resulting from the release and provide information regarding the groundwater gradient and direction of flow.

- C) One soil sample must be collected from each five-foot interval of each monitoring well installation boring drilled pursuant to subsection (a)(2)(B) of this Section. Each sample must be collected from the location within the five-foot interval that is the most contaminated as a result of the release. If an area of contamination cannot be identified within a five-foot interval, the sample must be collected from the center of the five-foot interval. All soil samples exhibiting signs of contamination must be analyzed for the applicable indicator contaminants. For borings that do not exhibit any signs of soil contamination, samples from the following intervals must be analyzed for the applicable indicator contaminants, provided that the samples must not be analyzed if other soil sampling conducted to date indicates that soil contamination does not extend to the location of the monitoring well installation boring:
- i) The five-foot intervals intersecting the elevations of soil samples collected pursuant to Section 734.210(h), excluding backfill samples, that exceed the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants.
 - ii) The five-foot interval immediately above each five-foot interval identified in subsection (a)(2)(C)(i) of this Section; and
 - iii) The five-foot interval immediately below each five-foot interval identified in subsection (a)(2)(C)(i) of this Section.
- D) Following the installation of the groundwater monitoring wells, groundwater samples must be collected from each well and analyzed for the applicable indicator contaminants.
- E) As a part of the groundwater investigation an in-situ hydraulic conductivity test must be performed in the first fully saturated layer below the water table. If multiple water bearing units are

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

encountered, an in-situ hydraulic conductivity test must be performed on each such unit.

- i) Wells used for hydraulic conductivity testing must be constructed in a manner that ensures the most accurate results.
 - ii) The screen must be contained within the saturated zone.
- 3) An initial water supply well survey in accordance with Section 734.445(a) of this Part.
- b) The Stage 1 site investigation plan must consist of a certification, signed by the owner or operator and by a Licensed Professional Engineer or Licensed Professional Geologist, that the Stage 1 site investigation will be conducted in accordance with this Section.
 - c) If none of the samples collected as part of the Stage 1 site investigation exceed the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants, the owner or operator must cease site investigation and proceed with the submission of a site investigation completion report in accordance with Section 734.330 of this Part. If one or more of the samples collected as part of the Stage 1 site investigation exceed the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants, within 30 days after completing the Stage 1 site investigation the owner or operator must submit to the Agency for review a Stage 2 site investigation plan in accordance with Section 734.320 of this Part.

Section 734.320 Stage 2 Site Investigation

The Stage 2 site investigation must be designed to complete the identification of the extent of soil and groundwater contamination at the site that, as a result of the release, exceeds the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants. The investigation of any off-site contamination must be conducted as part of the Stage 3 site investigation.

- a) The Stage 2 site investigation must consist of the following:
 - 1) The additional drilling of soil borings and collection of soil samples necessary to identify the extent of soil contamination at the site that

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

exceeds the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants. Soil samples must be collected in appropriate locations and at appropriate depths, based upon the results of the soil sampling and other investigation activities conducted to date, provided, however, that soil samples must not be collected below the groundwater table. All samples must be analyzed for the applicable indicator contaminants; and

- 2) The additional installation of groundwater monitoring wells and collection of groundwater samples necessary to identify the extent of groundwater contamination at the site that exceeds the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants. If soil samples are collected from a monitoring well boring, the samples must be collected in appropriate locations and at appropriate depths, based upon the results of the soil sampling and other investigation activities conducted to date, provided, however, that soil samples must not be collected below the groundwater table. All samples must be analyzed for the applicable indicator contaminants.
- b) The Stage 2 site investigation plan must include, but is not limited to, the following:
- 1) An executive summary of Stage 1 site investigation activities and actions proposed in the Stage 2 site investigation plan to complete the identification of the extent of soil and groundwater contamination at the site that exceeds the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants;
 - 2) A characterization of the site and surrounding area, including, but not limited to, the following:
 - A) The current and post-remediation uses of the site and surrounding properties; and
 - B) The physical setting of the site and surrounding area, including, but not limited to, features relevant to environmental, geographic, geologic, hydrologic, hydrogeologic, and topographic conditions;
 - 3) The results of the Stage 1 site investigation, including, but not limited to, the following:

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

- A) One or more site maps meeting the requirements of Section 734.440 that show the locations of all borings and groundwater monitoring wells completed to date and the groundwater flow direction;
 - B) One or more site maps meeting the requirements of Section 734.440 that show the locations of all samples collected to date and analyzed for the applicable indicator contaminants;
 - C) One or more site maps meeting the requirements of Section 734.440 that show the extent of soil and groundwater contamination at the site that exceeds the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants;
 - D) One or more cross-sections of the site that show the geology of the site and the horizontal and vertical extent of soil and groundwater contamination at the site that exceeds the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants;
 - E) Analytical results, chain of custody forms, and laboratory certifications for all samples analyzed for the applicable indicator contaminants as part of the Stage 1 site investigation;
 - F) One or more tables comparing the analytical results of the samples collected to date to the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants;
 - G) Water supply well survey documentation required pursuant to Section 734.445(d) of this Part for water supply well survey activities conducted as part of the Stage 1 site investigation; and
 - H) For soil borings and groundwater monitoring wells installed as part of the Stage 1 site investigation, soil boring logs and monitoring well construction diagrams meeting the requirements of Sections 734.425 and 734.430 of this Part; and
- 4) A Stage 2 sampling plan that includes, but is not limited to, the following:

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

- A) A narrative justifying the activities proposed as part of the Stage 2 site investigation;
 - B) A map depicting the location of additional soil borings and groundwater monitoring wells proposed to complete the identification of the extent of soil and groundwater contamination at the site that exceeds the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants; and
 - C) The depth and construction details of the proposed soil borings and groundwater monitoring wells.
- c) If the owner or operator proposes no site investigation activities in the Stage 2 site investigation plan and none of the applicable indicator contaminants that exceed the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 as a result of the release extend beyond the site's property boundaries, upon submission of the Stage 2 site investigation plan the owner or operator must cease site investigation and proceed with the submission of a site investigation completion report in accordance with Section 734.330 of this Part. If the owner or operator proposes no site investigation activities in the Stage 2 site investigation plan and applicable indicator contaminants that exceed the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 as a result of the release extend beyond the site's property boundaries, within 30 days after the submission of the Stage 2 site investigation plan the owner or operator must submit to the Agency for review a Stage 3 site investigation plan in accordance with Section 734.325 of this Part.
- d) If the results of a Stage 2 site investigation indicate that none of the applicable indicator contaminants that exceed the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 as a result of the release extend beyond the site's property boundaries, upon completion of the Stage 2 site investigation the owner or operator must cease site investigation and proceed with the submission of a site investigation completion report in accordance with Section 734.330 of this Part. If the results of the Stage 2 site investigation indicate that applicable indicator contaminants that exceed the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 as a result of the release extend beyond the site's property boundaries, within 30 days after the completion of the Stage 2 site

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

investigation the owner or operator must submit to the Agency for review a Stage 3 site investigation plan in accordance with Section 734.325 of this Part.

Section 734.325 Stage 3 Site Investigation

The Stage 3 site investigation must be designed to identify the extent of off-site soil and groundwater contamination that, as a result of the release, exceeds the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants.

- a) The Stage 3 site investigation must consist of the following:
 - 1) The drilling of soil borings and collection of soil samples necessary to identify the extent of soil contamination beyond the site's property boundaries that exceeds the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants. Soil samples must be collected in appropriate locations and at appropriate depths, based upon the results of the soil sampling and other investigation activities conducted to date, provided, however, that soil samples must not be collected below the groundwater table. All samples must be analyzed for the applicable indicator contaminants; and
 - 2) The installation of groundwater monitoring wells and collection of groundwater samples necessary to identify the extent of groundwater contamination beyond the site's property boundaries that exceeds the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants. If soil samples are collected from a monitoring well boring, the samples must be collected in appropriate locations and at appropriate depths, based upon the results of the soil sampling and other investigation activities conducted to date, provided, however, that soil samples must not be collected below the groundwater table. All samples must be analyzed for the applicable indicator contaminants.
- b) The Stage 3 site investigation plan must include, but is not limited to, the following:
 - 1) An executive summary of Stage 2 site investigation activities and actions proposed in the Stage 3 site investigation plan to identify the extent of soil and groundwater contamination beyond the site's property boundaries that

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

exceeds the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants;

- 2) The results of the Stage 2 site investigation, including but not limited to the following:
 - A) One or more site maps meeting the requirements of Section 734.440 that show the locations of all borings and groundwater monitoring wells completed as part of the Stage 2 site investigation;
 - B) One or more site maps meeting the requirements of Section 734.440 that show the locations of all groundwater monitoring wells completed to date, and the groundwater flow direction;
 - C) One or more site maps meeting the requirements of Section 734.440 that show the extent of soil and groundwater contamination at the site that exceeds the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants;
 - D) One or more cross-sections of the site that show the geology of the site and the horizontal and vertical extent of soil and groundwater contamination at the site that exceeds the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants;
 - E) Analytical results, chain of custody forms, and laboratory certifications for all samples analyzed for the applicable indicator contaminants as part of the Stage 2 site investigation;
 - F) One or more tables comparing the analytical results of the samples collected to date to the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants; and
 - G) For soil borings and groundwater monitoring wells installed as part of the Stage 2 site investigation, soil boring logs and monitoring well construction diagrams meeting the requirements of Sections 734.425 and 734.430 of this Part; and

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

- 3) A Stage 3 sampling plan that includes, but is not limited to, the following:
 - A) A narrative justifying the activities proposed as part of the Stage 3 site investigation;
 - B) A map depicting the location of soil borings and groundwater monitoring wells proposed to identify the extent of soil and groundwater contamination beyond the site's property boundaries that exceeds the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants; and
 - C) The depth and construction details of the proposed soil borings and groundwater monitoring wells.
- c) Upon completion of the Stage 3 site investigation, the owner or operator must proceed with the submission of a site investigation completion report that meets the requirements of Section 734.330 of this Part.

Section 734.330 Site Investigation Completion Report

Within 30 days after completing the site investigation, the owner or operator shall submit to the Agency for approval a site investigation completion report [415 ILCS 5/57.7(a)(5)]. At a minimum, a site investigation completion report must contain the following:

- a) A history of the site with respect to the release;
- b) A description of the site, including but not limited to the following:
 - 1) General site information, including but not limited to the site's and surrounding area's regional location; geography, hydrology, geology, hydrogeology, and topography; existing and potential migration pathways and exposure routes; and current and post-remediation uses;
 - 2) One or more maps meeting the requirements of Section 734.440 that show the locations of all borings and groundwater monitoring wells completed as part of site investigation, and the groundwater flow direction;

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

- 3) One or more maps showing the horizontal extent of soil and groundwater contamination exceeding the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants;
 - 4) One or more map cross-sections showing the horizontal and vertical extent of soil and groundwater contamination exceeding the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants;
 - 5) Soil boring logs and monitoring well construction diagrams meeting the requirements of Sections 734.425 and 734.430 of this Part for all borings drilled and all groundwater monitoring wells installed as part of site investigation;
 - 6) Analytical results, chain of custody forms, and laboratory certifications for all samples analyzed for the applicable indicator contaminants as part of site investigation;
 - 7) A table comparing the analytical results of samples collected as part of site investigation to the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants; and
 - 8) The water supply well survey documentation required pursuant to Section 734.445(d) of this Part for water supply well survey activities conducted as part of site investigation; and
- c) A conclusion that includes, but is not limited to, an assessment of the sufficiency of the data in the report.

Section 734.335 Corrective Action Plan

- a) *If any of the applicable indicator contaminants exceed the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants, within 30 days after the Agency approves the site investigation completion report, the owner or operator shall submit to the Agency for approval a corrective action plan designed to mitigate any threat to human health, human safety, or the environment resulting from the underground storage tank release. [415 ILCS 5/57.7(b)(2)].* The corrective action plan must address all media impacted by the UST release and must contain, at a minimum, the following information:

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

- 1) An executive summary that identifies the objectives of the corrective action plan and the technical approach to be utilized to meet such objectives. At a minimum, the summary must include the following information:
 - A) The major components (e.g., treatment, containment, removal) of the corrective action plan;
 - B) The scope of the problems to be addressed by the proposed corrective action, including but not limited to the specific indicator contaminants and the physical area; and
 - C) A schedule for implementation and completion of the plan;
- 2) A statement of the remediation objectives proposed for the site;
- 3) A description of the remedial technologies selected and how each fits into the overall corrective action strategy, including but not limited to the following:
 - A) The feasibility of implementing the remedial technologies;
 - B) Whether the remedial technologies will perform satisfactorily and reliably until the remediation objectives are achieved;
 - C) A schedule of when the remedial technologies are expected to achieve the applicable remediation objectives and a rationale for the schedule; and
 - D) For alternative technologies, the information required under Section 734.340 of this Part;
- 4) A confirmation sampling plan that describes how the effectiveness of the corrective action activities will be monitored or measured during their implementation and after their completion;
- 5) A description of the current and projected future uses of the site;

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

- 6) A description of any engineered barriers or institutional controls proposed for the site that will be relied upon to achieve remediation objectives. The description must include, but is not limited to, an assessment of their long-term reliability and operating and maintenance plans;
 - 7) A description of water supply well survey activities required pursuant to Section 734.445(b) and (c) of this Part that were conducted as part of site investigation; and
 - 8) Appendices containing references and data sources relied upon in the report that are organized and presented logically, including but not limited to field logs, well logs, and reports of laboratory analyses.
- b) Any owner or operator intending to seek payment from the Fund must, prior to conducting any corrective action activities beyond site investigation, submit to the Agency a corrective action budget with the corresponding corrective action plan. The budget must include, but is not limited to, a copy of the eligibility and deductibility determination of the OSFM and an estimate of all costs associated with the development, implementation, and completion of the corrective action plan, excluding handling charges. The budget should be consistent with the eligible and ineligible costs listed at Sections 734.625 and 734.630 of this Part and the maximum payment amounts set forth in Subpart H of this Part. As part of the budget the Agency may require a comparison between the costs of the proposed method of remediation and other methods of remediation.
 - c) *Upon the Agency's approval of a corrective action plan, or as otherwise directed by the Agency, the owner or operator shall proceed with corrective action in accordance with the plan [415 ILCS 5/57.7(b)(4)].*
 - d) Notwithstanding any requirement under this Part for the submission of a corrective action plan or corrective action budget, except as provided at Section 734.340 of this Part, an owner or operator may proceed to conduct corrective action activities in accordance with this Subpart C prior to the submittal or approval of an otherwise required corrective action plan or budget. However, any such plan and budget must be submitted to the Agency for review and approval, rejection, or modification in accordance with the procedures contained in Subpart E of this Part prior to payment for any related costs or the issuance of a No Further Remediation Letter.

BOARD NOTE: Owners or operators proceeding under subsection (d) of this Section are advised that they may not be entitled to full payment from the Fund.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

Furthermore, applications for payment must be submitted no later than one year after the date the Agency issues a No Further Remediation Letter. See Subpart F of this Part.

- e) If, following approval of any corrective action plan or associated budget, an owner or operator determines that a revised plan or budget is necessary in order to mitigate any threat to human health, human safety, or the environment resulting from the underground storage tank release, the owner or operator must submit, as applicable, an amended corrective action plan or associated budget to the Agency for review. The Agency must review and approve, reject, or require modification of the amended plan or budget in accordance with Subpart E of this Part.

BOARD NOTE: Owners and operators are advised that the total payment from the Fund for all corrective action plans and associated budgets submitted by an owner or operator must not exceed the amounts set forth in Subpart H of this Part.

Section 734.340 Alternative Technologies

- a) An owner or operator may choose to use an alternative technology for corrective action in response to a release. Corrective action plans proposing the use of alternative technologies must be submitted to the Agency in accordance with Section 734.335 of this Part. In addition to the requirements for corrective action plans contained in Section 734.335, the owner or operator who seeks approval of an alternative technology must submit documentation along with the corrective action plan demonstrating that:
 - 1) The proposed alternative technology has a substantial likelihood of successfully achieving compliance with all applicable regulations and remediation objectives necessary to comply with the Act and regulations and to protect human health and safety and the environment;
 - 2) The proposed alternative technology will not adversely affect human health and safety or the environment;
 - 3) The owner or operator will obtain all Agency permits necessary to legally authorize use of the alternative technology;
 - 4) The owner or operator will implement a program to monitor whether the requirements of subsection (a)(1) of this Section have been met; and

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

- 5) Within one year from the date of Agency approval, the owner or operator will provide to the Agency monitoring program results establishing whether the proposed alternative technology will successfully achieve compliance with the requirements of subsection (a)(1) of this Section and any other applicable regulations. The Agency may require interim reports as necessary to track the progress of the alternative technology. The Agency will specify in the approval when those interim reports must be submitted to the Agency.
- b) An owner or operator intending to seek payment for costs associated with the use of an alternative technology must submit a corresponding budget in accordance with Section 734.335 of this Part. In addition to the requirements for a corrective action budget at Section 734.335 of this Part, the budget must demonstrate that the cost of the alternative technology will not exceed the cost of conventional technology and is not substantially higher than other available alternative technologies. The budget plan must compare the costs of at least two other available alternative technologies to the costs of the proposed alternative technology.
- c) If an owner or operator has received approval of a corrective action plan and associated budget from the Agency prior to implementing the plan and the alternative technology fails to satisfy the requirements of subsection (a)(1) or (a)(2) of this Section, such failure must not make the owner or operator ineligible to seek payment for the activities associated with the subsequent performance of a corrective action using conventional technology. However, in no case must the total payment for the site exceed the statutory maximums. Owners or operators implementing alternative technologies without obtaining pre-approval must be ineligible to seek payment for the subsequent performance of a corrective action using conventional technology.
- d) The Agency may require remote monitoring of an alternative technology. The monitoring may include, but is not limited to, monitoring the alternative technology's operation and progress in achieving the applicable remediation objectives.

Section 734.345 Corrective Action Completion Report

- a) *Within 30 days after the completion of a corrective action plan that achieves applicable remediation objectives the owner or operator shall submit to the Agency for approval a corrective action completion report. The report shall*

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

demonstrate whether corrective action was completed in accordance with the approved corrective action plan and whether the remediation objectives approved for the site, as well as any other requirements of the plan, have been achieved.
[415 ILCS 57.7(b)(5)] At a minimum, the report must contain the following information:

- 1) An executive summary that identifies the overall objectives of the corrective action and the technical approach utilized to meet those objectives. At a minimum, the summary must contain the following information:
 - A) A brief description of the site, including but not limited to a description of the release, the applicable indicator contaminants, the contaminated media, and the extent of soil and groundwater contamination that exceeded the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants;
 - B) The major components (e.g., treatment, containment, removal) of the corrective action;
 - C) The scope of the problems corrected or mitigated by the corrective action; and
 - D) The anticipated post-corrective action uses of the site and areas immediately adjacent to the site;
- 2) A description of the corrective action activities conducted, including but not limited to the following:
 - A) A narrative description of the field activities conducted as part of corrective action;
 - B) A narrative description of the remedial actions implemented at the site and the performance of each remedial technology utilized;
 - C) Documentation of sampling activities conducted as part of corrective action, including but not limited to the following:

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

- i) Sample collection information, including but not limited to the sample collector's name, the date and time of sample collection, the collection method, and the sample location;
 - ii) Sample preservation and shipment information, including but not limited to field quality control;
 - iii) Analytical procedure information, including but not limited to the method detection limits and the practical quantitation limits;
 - iv) Chain of custody and control; and
 - v) Field and lab blanks; and
- D) Soil boring logs and monitoring well construction diagrams meeting the requirements of Sections 734.425 and 734.430 of this Part for all borings drilled and all groundwater monitoring wells installed as part of corrective action;
- 3) A narrative description of any special conditions relied upon as part of corrective action, including but not limited to information regarding the following:
- A) Engineered barriers utilized in accordance with 35 Ill. Adm. Code 742 to achieve the approved remediation objectives;
 - B) Institutional controls utilized in accordance with 35 Ill. Adm. Code 742 to achieve the approved remediation objectives, including but not limited to a legible copy of any such controls;
 - C) Other conditions, if any, necessary for protection of human health and safety and the environment that are related to the issuance of a No Further Remediation Letter; and
 - D) Any information required pursuant to Section 734.350 of this Part regarding off-site access;
- 4) An analysis of the effectiveness of the corrective action that compares the confirmation sampling results to the remediation objectives approved for

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

the site. The analysis must present the remediation objectives in an appropriate format (e.g., tabular and graphical displays) such that the information is organized and presented logically and the relationships between the different investigations for each medium are apparent;

- 5) A conclusion that identifies the success in meeting the remediation objectives approved for the site, including but not limited to an assessment of the accuracy and completeness of the data in the report;
 - 6) Appendices containing references and data sources relied upon in the report that are organized and presented logically, including but not limited to field logs, well logs, and reports of laboratory analyses;
 - 7) The water supply well survey documentation required pursuant to Section 734.445(d) of this Part for water supply well survey activities conducted as part of corrective action; and
 - 8) A site map containing only the information required under Section 734.440 of this Part. The site map must also show any engineered barriers utilized to achieve remediation objectives.
- b) The owner or operator is not required to perform remedial action on an off-site property, even where complete performance of a corrective action plan would otherwise require such off-site action, if the Agency determines that the owner or operator is unable to obtain access to the property despite the use of best efforts in accordance with the requirements of Section 734.350 of this Part.

Section 734.350 Off-site Access

- a) An owner or operator seeking to comply with the best efforts requirements of Section 734.345(b) of this Part must demonstrate compliance with the requirements of this Section.
- b) In conducting best efforts to obtain off-site access, an owner or operator must, at a minimum, send a letter by certified mail to the owner of any off-site property to which access is required, stating:
 - 1) Citation to Title XVI of the Act stating the legal responsibility of the owner or operator to remediate the contamination caused by the release;

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

- 2) That, if the property owner denies access to the owner or operator, the owner or operator may seek to gain entry by a court order pursuant to Section 22.2c of the Act;
 - 3) That, in performing the requested investigation, the owner or operator will work so as to minimize any disruption on the property, will maintain, or its consultant will maintain, appropriate insurance and will repair any damage caused by the investigation;
 - 4) If contamination results from a release by the owner or operator, the owner or operator will conduct all associated remediation at its own expense;
 - 5) That threats to human health and the environment and diminished property value may result from failure to remediate contamination from the release; and
 - 6) A reasonable time to respond to the letter, not less than 30 days.
- c) An owner or operator, in demonstrating that the requirements of this Section have been met, must provide to the Agency, as part of the corrective action completion report, the following documentation:
- 1) A sworn affidavit, signed by the owner or operator, identifying the specific off-site property involved by address, the measures proposed in the corrective action plan that require off-site access, and the efforts taken to obtain access, and stating that the owner or operator has been unable to obtain access despite the use of best efforts; and
 - 2) A copy of the certified letter sent to the owner of the off-site property pursuant to subsection (b) of this Section.
- d) In determining whether the efforts an owner or operator has made constitute best efforts to obtain access, the Agency must consider the following factors:
- 1) The physical and chemical characteristics, including toxicity, persistence and potential for migration, of applicable indicator contaminants at the property boundary line;

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

- 2) The hydrogeological characteristics of the site and the surrounding area, including the attenuation capacity and saturation limits of the soil at the property boundary line;
 - 3) The nature and extent of known contamination at the site, including the levels of applicable indicator contaminants at the property boundary line;
 - 4) The potential effects of residual contamination on nearby surface water and groundwater;
 - 5) The proximity, quality and current and future uses of nearby surface water and groundwater, including regulated recharge areas, wellhead protection areas, and setback zones of a potable water supply wells;
 - 6) Any known or suspected natural or man-made migration pathways existing in or near the suspected area of off-site contamination;
 - 7) The nature and use of the part of the off-site property that is the suspected area of contamination;
 - 8) Any existing on-site engineered barriers or institutional controls that might have an impact on the area of suspected off-site contamination, and the nature and extent of such impact; and
 - 9) Any other applicable information assembled in compliance with this Part.
- e) The Agency must issue a No Further Remediation Letter to an owner or operator subject to this Section and otherwise entitled to such issuance only if the owner or operator has, in accordance with this Section, either completed any requisite off-site corrective action or demonstrated to the Agency's satisfaction an inability to obtain off-site access despite best efforts.
- f) The owner or operator is not relieved of responsibility to clean up a release that has migrated beyond the property boundary even where off-site access is denied.

Section 734.355 Status Report

- a) *If within 4 years after the approval of any corrective action plan the applicable remediation objectives have not been achieved and the owner or operator has not submitted a corrective action completion report, the owner or operator shall*

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

submit a status report for Agency review. The status report shall include, but is not limited to, a description of the remediation activities taken to date, the effectiveness of the method of remediation being used, the likelihood of meeting the applicable remediation objectives using the current method of remediation, and the date the applicable remediation objectives are expected to be achieved. [415 ILCS 5/57.7(b)(6)]

- b) *If the Agency determines any approved corrective action plan will not achieve applicable remediation objectives within a reasonable time, based upon the method of remediation and site specific circumstances, the Agency may require the owner or operator to submit to the Agency for approval a revised corrective action plan. If the owner or operator intends to seek payment from the Fund, the owner or operator shall also submit a revised budget.* [415 ILCS 5/57.7(b)(7)]
The revised corrective action plan and any associated budget must be submitted in accordance with Section 734.335 of this Part.
- c) Any action by the Agency to require a revised corrective action plan pursuant to subsection (b) of this Section must be subject to appeal to the Board within 35 days after the Agency's final action in the manner provided for the review of permit decisions in Section 40 of the Act.

SUBPART D: MISCELLANEOUS PROVISIONS

Section 734.400 General

This Subpart D applies to all activities conducted under this Part and all plans, budgets, reports, and other documents submitted under this Part.

Section 734.405 Indicator Contaminants

- a) For purposes of this Part, the term "indicator contaminants" means the parameters identified in subsections (b) through (i) of this Section.
- b) For gasoline, including but not limited to leaded, unleaded, premium and gasohol, the indicator contaminants must be benzene, ethylbenzene, toluene, total xylenes, and methyl tertiary butyl ether (MTBE), except as provided in subsection (h) of this Section. For leaded gasoline, lead must also be an indicator contaminant.
- c) For aviation turbine fuels, jet fuels, diesel fuels, gas turbine fuel oils, heating fuel oils, illuminating oils, kerosene, lubricants, liquid asphalt and dust laying oils,

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

cable oils, crude oil, crude oil fractions, petroleum feedstocks, petroleum fractions, and heavy oils, the indicator contaminants must be benzene, ethylbenzene, toluene, total xylenes, and the polynuclear aromatics listed in Appendix B of this Part. For leaded aviation turbine fuels, lead must also be an indicator contaminant.

- d) For transformer oils the indicator contaminants must be benzene, ethylbenzene, toluene, total xylenes, and the polynuclear aromatics and the polychlorinated biphenyl parameters listed in Appendix B of this Part.
- e) For hydraulic fluids the indicator contaminants must be benzene, ethylbenzene, toluene, total xylenes, the polynuclear aromatics listed in Appendix B of this Part, and barium.
- f) For petroleum spirits, mineral spirits, Stoddard solvents, high-flash aromatic naphthas, moderately volatile hydrocarbon solvents, and petroleum extender oils, the indicator contaminants must be the volatile, base/neutral and polynuclear aromatic parameters listed in Appendix B of this Part. The Agency may add degradation products or mixtures of any of the above pollutants in accordance with 35 Ill. Adm. Code 620.615.
- g) For used oil, the indicator contaminants must be determined by the results of a used oil soil sample analysis. In accordance with Section 734.210(h) of this Part, soil samples must be collected from the walls and floor of the used oil UST excavation if the UST is removed, or from borings drilled along each side of the used oil UST if the UST remains in place. The sample that appears to be the most contaminated as a result of a release from the used oil UST must then be analyzed for the parameters listed in subsections (g)(1), (2) and (3). If none of the samples appear to be contaminated, a soil sample must be collected from the floor of the used oil UST excavation below the former location of the UST if the UST is removed, or from soil located at the same elevation as the bottom of the used oil UST if the UST remains in place, and analyzed for the following parameters:
 - 1) All volatile, base/neutral, polynuclear aromatic, and metal parameters listed at Appendix B of this Part and any other parameters the Licensed Professional Engineer or Licensed Professional Geologist suspects may be present based on UST usage. The Agency may add degradation products or mixtures of any of the above pollutants in accordance with 35 Ill. Adm. Code 620.615.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

- 2) The used oil indicator contaminants must be those volatile, base/neutral, and metal parameters listed at Appendix B of this Part or as otherwise identified at subsection (g)(1) of this Section that exceed their remediation objective at 35 Ill. Adm. Code 742 in addition to benzene, ethylbenzene, toluene, total xylenes, and polynuclear aromatics listed in Appendix B of this Part.
 - 3) If none of the parameters exceed their remediation objective, the used oil indicator contaminants must be benzene, ethylbenzene, toluene, total xylenes, and the polynuclear aromatics listed in Appendix B of this Part.
- h) Unless an owner or operator elects otherwise pursuant to subsection (i) of this Section, the term "indicator contaminants" must not include MTBE for any release reported to the Illinois Emergency Management Agency prior to June 1, 2002 (the effective date of amendments establishing MTBE as an indicator contaminant).
- i) An owner or operator exempt from having to address MTBE as an indicator contaminant pursuant to subsection (h) of this Section may elect to include MTBE as an indicator contaminant under the circumstances listed in subsection (i)(1) or (2). Elections to include MTBE as an indicator contaminant must be made by submitting to the Agency a written notification of such election signed by the owner or operator. The election must be effective upon the Agency's receipt of the notification and cannot be withdrawn once made. Owners or operators electing to include MTBE as an indicator contaminant must remediate MTBE contamination in accordance with the requirements of this Part.
- 1) If the Agency has not issued a No Further Remediation Letter for the release; or
 - 2) If the Agency has issued a No Further Remediation Letter for the release and the release has caused off-site groundwater contamination exceeding the remediation objective for MTBE set forth in 35 Ill. Adm. Code 742.

Section 734.410 Remediation Objectives

The owner or operator must propose remediation objectives for applicable indicator contaminants in accordance with 35 Ill. Adm. Code 742. Owners and operators seeking payment from the Fund that perform on-site corrective action in accordance with Tier 2 remediation

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

objectives of 35 Ill. Adm. Code 742 must determine the following parameters on a site-specific basis:

Hydraulic conductivity (K)

Soil bulk density (ρ_b)

Soil particle density (ρ_s)

Moisture content (w)

Organic carbon content (f_{oc})

BOARD NOTE: Failure to use site-specific remediation objectives on-site and to utilize available groundwater ordinances as institutional controls may result in certain corrective action costs being ineligible for payment from the Fund. See Section 734.630(bbb) and (ccc) of this Part.

Section 734.415 Data Quality

- a) The following activities must be conducted in accordance with "Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods," EPA Publication No. SW-846, incorporated by reference at Section 734.120 of this Part, or other procedures as approved by the Agency:
 - 1) All field sampling activities, including but not limited to activities relative to sample collection, documentation, preparation, labeling, storage and shipment, security, quality assurance and quality control, acceptance criteria, corrective action, and decontamination procedures;
 - 2) All field measurement activities, including but not limited to activities relative to equipment and instrument operation, calibration and maintenance, corrective action, and data handling; and
 - 3) All quantitative analysis of samples to determine concentrations of indicator contaminants, including but not limited to activities relative to facilities, equipment and instrumentation, operating procedures, sample management, test methods, equipment calibration and maintenance, quality assurance and quality control, corrective action, data reduction and validation, reporting, and records management. Analyses of samples that

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

require more exacting detection limits than, or that cannot be analyzed by standard methods identified in, "Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods," EPA Publication No. SW-846, must be conducted in accordance with analytical protocols developed in consultation with and approved by the Agency.

- b) The analytical methodology used for the analysis of indicator contaminants must have a practical quantitation limit at or below the most stringent objectives or detection levels set forth in 35 Ill. Adm. Code 742 or determined by the Agency pursuant to Section 734.140 of this Part.
- c) All field or laboratory measurements of samples to determine physical or geophysical characteristics must be conducted in accordance with applicable ASTM standards incorporated by reference at 35 Ill. Adm. Code 742.210, or other procedures as approved by the Agency.

Section 734.420 Laboratory Certification

All quantitative analyses of samples collected on or after January 1, 2003, and utilizing any of the approved test methods identified in 35 Ill. Adm. Code 186.180, must be completed by an accredited laboratory in accordance with the requirements of 35 Ill. Adm. Code 186. A certification from the accredited laboratory stating that the samples were analyzed in accordance with the requirements of this Section must be included with the sample results when they are submitted to the Agency. Quantitative analyses not utilizing an accredited laboratory in accordance with Part 186 must be deemed invalid.

Section 734.425 Soil Borings

- a) Soil borings must be continuously sampled to ensure that no gaps appear in the sample column.
- b) Any water bearing unit encountered must be protected as necessary to prevent cross-contamination during drilling.
- c) Soil boring logs must be kept for all soil borings. The logs must be submitted in the corresponding site investigation plan, site investigation completion report, or corrective action completion report on forms prescribed and provided by the Agency and, if specified by the Agency in writing, in an electronic format. At a minimum, soil boring logs must contain the following information:

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

- 1) Sampling device, sample number, and amount of recovery;
- 2) Total depth of boring to the nearest 6 inches;
- 3) Detailed field observations describing materials encountered in boring, including but not limited to soil constituents, consistency, color, density, moisture, odors, and the nature and extent of sand or gravel lenses or seams equal to or greater than 1 inch in thickness;
- 4) Petroleum hydrocarbon vapor readings (as determined by continuous screening of borings with field instruments capable of detecting such vapors);
- 5) Locations of sample(s) used for physical or chemical analysis;
- 6) Groundwater levels while boring and at completion; and
- 7) Unified Soil Classification System (USCS) soil classification group symbols in accordance with ASTM Standard D 2487-93, "Standard Test Method for Classification of Soils for Engineering Purposes," incorporated by reference in Section 734.120 of this Part, or other Agency approved method.

Section 734.430 Monitoring Well Construction and Sampling

- a) At a minimum, all monitoring well construction must satisfy the following requirements:
 - 1) Wells must be constructed in a manner that will enable the collection of representative groundwater samples;
 - 2) Wells must be cased in a manner that maintains the integrity of the borehole. Casing material must be inert so as not to affect the water sample. Casing requiring solvent-cement type couplings must not be used;
 - 3) Wells must be screened to allow sampling only at the desired interval. Annular space between the borehole wall and well screen section must be packed with clean, well-rounded and uniform material sized to avoid clogging by the material in the zone being monitored. The slot size of the

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

screen must be designed to minimize clogging. Screens must be fabricated from material that is inert with respect to the constituents of the groundwater to be sampled;

- 4) Annular space above the well screen section must be sealed with a relatively impermeable, expandable material such as cement/bentonite grout that does not react with or in any way affect the sample, in order to prevent contamination of groundwater samples and groundwater and avoid interconnections. The seal must extend to the highest known seasonal groundwater level;
 - 5) The annular space must be backfilled with expanding cement grout from an elevation below the frost line and mounded above the surface and sloped away from the casing so as to divert surface water away;
 - 6) Wells must be covered with vented caps and equipped with devices to protect against tampering and damage. Locations of wells must be clearly marked and protected against damage from vehicular traffic or other activities associated with expected site use; and
 - 7) Wells must be developed to allow free entry of groundwater, minimize turbidity of the sample, and minimize clogging.
- b) Monitoring well construction diagrams must be completed for each monitoring well. The well construction diagrams must be submitted in the corresponding site investigation plan, site investigation completion report, or corrective action completion report on forms prescribed and provided by the Agency and, if specified by the Agency in writing, in an electronic format.
 - c) Static groundwater elevations in each well must be determined and recorded following well construction and prior to each sample collection to determine the gradient of the groundwater table, and must be reported in the corresponding site investigation plan, site investigation completion report or corrective action completion report.

Section 734.435 Sealing of Soil Borings and Groundwater Monitoring Wells

Boreholes and monitoring wells must be abandoned pursuant to regulations promulgated by the Illinois Department of Public Health at 77 Ill. Adm. Code 920.120.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

Section 734.440 Site Map Requirements

At a minimum, all site maps submitted to the Agency must meet the following requirements:

- a) The maps must be of sufficient detail and accuracy to show required information;
- b) The maps must contain the map scale, an arrow indicating north orientation, and the date the map was created; and
- c) The maps must show the following:
 - 1) The property boundary lines of the site, properties adjacent to the site, and other properties that are, or may be, adversely affected by the release;
 - 2) The uses of the site, properties adjacent to the site, and other properties that are, or may be, adversely affected by the release;
 - 3) The locations of all current and former USTs at the site, and the contents of each UST; and
 - 4) All structures, other improvements, and other features at the site, properties adjacent to the site, and other properties that are, or may be, adversely affected by the release, including but not limited to buildings, pump islands, canopies, roadways and other paved areas, utilities, easements, rights-of-way, and actual or potential natural or man-made pathways.

Section 734.445 Water Supply Well Survey

- a) At a minimum, the owner or operator must conduct a water supply well survey to identify all potable water supply wells located at the site or within 200 feet of the site, all community water supply wells located at the site or within 2,500 feet of the site, and all regulated recharge areas and wellhead protection areas in which the site is located. Actions taken to identify the wells must include, but not be limited to, the following:
 - 1) Contacting the Agency's Division of Public Water Supplies to identify community water supply wells, regulated recharge areas, and wellhead protection areas;

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

- 2) Using current information from the Illinois State Geological Survey, the Illinois State Water Survey, and the Illinois Department of Public Health (or the county or local health department delegated by the Illinois Department of Public Health to permit potable water supply wells) to identify potable water supply wells other than community water supply wells; and
 - 3) Contacting the local public water supply entities to identify properties that receive potable water from a public water supply.
- b) In addition to the potable water supply wells identified pursuant to subsection (a) of this Section, the owner or operator must extend the water supply well survey if soil or groundwater contamination exceeding the Tier 1 groundwater ingestion exposure route remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants extends beyond the site's property boundary, or, as part of a corrective action plan, the owner or operator proposes to leave in place soil or groundwater contamination exceeding the Tier 1 groundwater ingestion exposure route remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants and contamination exceeding such objectives is modeled to migrate beyond the site's property boundary. At a minimum, the extended water supply well survey must identify the following:
- 1) All potable water supply wells located within 200 feet, and all community water supply wells located within 2,500 feet, of the current or modeled extent of soil or groundwater contamination exceeding the Tier 1 groundwater ingestion exposure route remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants; and
 - 2) All regulated recharge areas and wellhead protection areas in which the current or modeled extent of soil or groundwater contamination exceeding the Tier 1 groundwater ingestion exposure route remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants is located.
- c) The Agency may require additional investigation of potable water supply wells, regulated recharge areas, or wellhead protection areas if site-specific circumstances warrant. Such circumstances must include, but not be limited to, the existence of one or more parcels of property within 200 feet of the current or modeled extent of soil or groundwater contamination exceeding the Tier 1 groundwater ingestion exposure route remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants where potable water is likely

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

to be used, but that is not served by a public water supply or a well identified pursuant to subsections (a) or (b) of this Section. The additional investigation may include, but is not limited to, physical well surveys (e.g., interviewing property owners, investigating individual properties for wellheads, distributing door hangers or other material that requests information about the existence of potable wells on the property, etc.).

- d) Documentation of the water supply well survey conducted pursuant to this Section must include, but not be limited to, the following:
- 1) One or more maps, to an appropriate scale, showing the following:
 - A) The location of the community water supply wells and other potable water supply wells identified pursuant to this Section, and the setback zone for each well;
 - B) The location and extent of regulated recharge areas and wellhead protection areas identified pursuant to this Section;
 - C) The current extent of groundwater contamination exceeding the Tier 1 groundwater ingestion exposure route remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants; and
 - D) The modeled extent of groundwater contamination exceeding the Tier 1 groundwater ingestion exposure route remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants. The information required under this subsection (d)(1)(D) is not required to be shown in a site investigation report if modeling is not performed as part of site investigation;
 - 2) One or more tables listing the setback zones for each community water supply well and other potable water supply wells identified pursuant to this Section;
 - 3) A narrative that, at a minimum, identifies each entity contacted to identify potable water supply wells pursuant to this Section, the name and title of each person contacted at each entity, and field observations associated with the identification of potable water supply wells; and

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

- 4) A certification from a Licensed Professional Engineer or Licensed Professional Geologist that the water supply well survey was conducted in accordance with the requirements of this Section and that the documentation submitted pursuant to this subsection (d) includes the information obtained as a result of the survey.

Section 734.450 Deferred Site Investigation or Corrective Action; Priority List for Payment

- a) An owner or operator who has received approval for any budget submitted pursuant to this Part and who is eligible for payment from the Fund may elect to defer site investigation or corrective action activities until funds are available in an amount equal to the amount approved in the budget if the requirements of subsection (b) of this Section are met.
 - 1) Approvals of budgets must be pursuant to Agency review in accordance with Subpart E of this Part.
 - 2) The Agency must monitor the availability of funds and must provide notice of insufficient funds to owners or operators in accordance with Section 734.505(g) of this Part.
 - 3) Owners and operators must submit elections to defer site investigation or corrective action activities on forms prescribed and provided by the Agency and, if specified by the Agency by written notice, in an electronic format. The Agency's record of the date of receipt must be deemed conclusive unless a contrary date is proven by a dated, signed receipt from certified or registered mail.
 - 4) The Agency must review elections to defer site investigation or corrective action activities to determine whether the requirements of subsection (b) of this Section are met. The Agency must notify the owner or operator in writing of its final action on any such election. If the Agency fails to notify the owner or operator of its final action within 120 days after its receipt of the election, the owner or operator may deem the election rejected by operation of law.
 - A) The Agency must mail notices of final action on an election to defer by registered or certified mail, post marked with a date stamp and with return receipt requested. Final action must be deemed to

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

have taken place on the post marked date that such notice is mailed.

- B) Any action by the Agency to reject an election, or the rejection of an election by the Agency's failure to act, is subject to appeal to the Board within 35 days after the Agency's final action in the manner provided for the review of permit decisions in Section 40 of the Act.
- 5) Upon approval of an election to defer site investigation or corrective action activities until funds are available, the Agency must place the site on a priority list for payment and notification of availability of sufficient funds. Sites must enter the priority list for payment based solely on the date the Agency receives a complete written election of deferral, with the earliest dates having the highest priority.
 - 6) As funds become available, the Agency must encumber funds for each site in the order of priority in an amount equal to the total of the approved budget for which deferral was sought. The Agency must then notify owners or operators that sufficient funds have been allocated for the owner's or operator's site. After such notification the owner or operator must commence site investigation or corrective action activities.
 - 7) Authorization of payment of encumbered funds for deferred site investigation or corrective action activities must be approved in accordance with the requirements of Subpart F of this Part.
- b) An owner or operator who elects to defer site investigation or corrective action activities under subsection (a) of this Section must submit a report certified by a Licensed Professional Engineer or Licensed Professional Geologist demonstrating the following:
 - 1) The Agency has approved the owner's or operator's site investigation budget or corrective action budget;
 - 2) The owner or operator has been determined eligible to seek payment from the Fund;
 - 3) The early action requirements of Subpart B of this Part have been met;

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

- 4) Groundwater contamination does not exceed the Tier 1 groundwater ingestion exposure route remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants as a result of the release, modeling in accordance with 35 Ill. Adm. Code 742 shows that groundwater contamination will not exceed such Tier 1 remediation objectives as a result of the release, and no potable water supply wells are impacted as a result of the release; and
 - 5) Soil contamination exceeding the Tier 1 groundwater ingestion exposure route remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants does not extend beyond the site's property boundary and is not located within a regulated recharge area, a wellhead protection area, or the setback zone of a potable water supply well. Documentation to demonstrate that this subsection (b)(5) is satisfied must include, but is not limited to, the results of a water supply well survey conducted in accordance with Section 734.445 of this Part.
- c) An owner or operator may, at any time, withdraw the election to defer site investigation or corrective action activities. The Agency must be notified in writing of the withdrawal. Upon such withdrawal, the owner or operator must proceed with site investigation or corrective action, as applicable, in accordance with the requirements of this Part.

SUBPART E: REVIEW OF PLANS, BUDGETS, AND REPORTS

Section 734.500 General

The Agency has the authority to review any plan, budget, or report, including any amended plan, budget, or report, submitted pursuant to this Part. All such reviews are subject to the procedures set forth in the Act and this Subpart E.

Section 734.505 Review of Plans, Budgets, or Reports

- a) The Agency may review any or all technical or financial information, or both, relied upon by the owner or operator or the Licensed Professional Engineer or Licensed Professional Geologist in developing any plan, budget, or report selected for review. The Agency may also review any other plans, budgets, or reports submitted in conjunction with the site.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

- b) The Agency has the authority to approve, reject, or require modification of any plan, budget, or report it reviews. The Agency must notify the owner or operator in writing of its final action on any such plan, budget, or report, except in the case of 20 day, 45 day, or free product removal reports, in which case no notification is necessary. Except as provided in subsections (c) and (d) of this Section, if the Agency fails to notify the owner or operator of its final action on a plan, budget, or report within 120 days after the receipt of a plan, budget, or report, the owner or operator may deem the plan, budget, or report rejected by operation of law. If the Agency rejects a plan, budget, or report or requires modifications, the written notification must contain the following information, as applicable:
- 1) An explanation of the specific type of information, if any, that the Agency needs to complete its review;
 - 2) An explanation of the Sections of the Act or regulations that may be violated if the plan, budget, or report is approved; and
 - 3) A statement of specific reasons why the cited Sections of the Act or regulations may be violated if the plan, budget, or report is approved.
- c) For corrective action plans submitted by owners or operators not seeking payment from the Fund, the Agency may delay final action on such plans until 120 days after it receives the corrective action completion report required pursuant to Section 734.345 of this Part.
- d) An owner or operator may waive the right to a final decision within 120 days after the submittal of a complete plan, budget, or report by submitting written notice to the Agency prior to the applicable deadline. Any waiver must be for a minimum of 60 days.
- e) The Agency must mail notices of final action on plans, budgets, or reports by registered or certified mail, post marked with a date stamp and with return receipt requested. Final action must be deemed to have taken place on the post marked date that such notice is mailed.
- f) Any action by the Agency to reject or require modifications, or rejection by failure to act, of a plan, budget, or report must be subject to appeal to the Board within 35 days after the Agency's final action in the manner provided for the review of permit decisions in Section 40 of the Act.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

- g) In accordance with Section 734.450 of this Part, upon the approval of any budget by the Agency, the Agency must include as part of the final notice to the owner or operator a notice of insufficient funds if the Fund does not contain sufficient funds to provide payment of the total costs approved in the budget.

Section 734.510 Standards for Review of Plans, Budgets, or Reports

- a) A technical review must consist of a detailed review of the steps proposed or completed to accomplish the goals of the plan and to achieve compliance with the Act and regulations. Items to be reviewed, if applicable, must include, but are not limited to, number and placement of wells and borings, number and types of samples and analysis, results of sample analysis, and protocols to be followed in making determinations. The overall goal of the technical review for plans must be to determine if the plan is sufficient to satisfy the requirements of the Act and regulations and has been prepared in accordance with generally accepted engineering practices or principles of professional geology. The overall goal of the technical review for reports must be to determine if the plan has been fully implemented in accordance with generally accepted engineering practices or principles of professional geology, if the conclusions are consistent with the information obtained while implementing the plan, and if the requirements of the Act and regulations have been satisfied.
- b) A financial review consists of a detailed review of the costs associated with each element necessary to accomplish the goals of the plan as required pursuant to the Act and regulations. Items to be reviewed must include, but are not limited to, costs associated with any materials, activities, or services that are included in the budget. The overall goal of the financial review must be to assure that costs associated with materials, activities, and services must be reasonable, must be consistent with the associated technical plan, is incurred in the performance of corrective action activities, must not be used for corrective action activities in excess of those necessary to meet the minimum requirements of the Act and regulations, and must not exceed the maximum payment amounts set forth in Subpart H of this Part.

SUBPART F: PAYMENT FROM THE FUND

Section 734.600 General

The Agency has the authority to review any application for payment or reimbursement and to authorize payment or reimbursement from the Fund or such other funds as the legislature directs

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

for corrective action activities conducted pursuant to the Act and this Part. For purposes of this Part and unless otherwise provided, the use of the word "payment" must include reimbursement. The submittal and review of applications for payment and the authorization for payment must be in accordance with the procedures set forth in the Act and this Subpart F.

Section 734.605 Applications for Payment

- a) An owner or operator seeking payment from the Fund must submit to the Agency an application for payment on forms prescribed and provided by the Agency and, if specified by the Agency by written notice, in an electronic format. The owner or operator may submit an application for partial payment or final payment. Costs for which payment is sought must be approved in a budget, provided, however, that no budget must be required for early action activities conducted pursuant to Subpart B of this Part other than free product removal activities conducted more than 45 days after confirmation of the presence of free product.
- b) A complete application for payment must consist of the following elements:
 - 1) A certification from a Licensed Professional Engineer or a Licensed Professional Geologist acknowledged by the owner or operator that the work performed has been in accordance with a technical plan approved by the Agency or, for early action activities, in accordance with Subpart B of this Part;
 - 2) A statement of the amounts approved in the corresponding budget and the amounts actually sought for payment along with a certified statement by the owner or operator that the amounts so sought have been expended in conformance with the elements of a budget approved by the Agency;
 - 3) A copy of the OSFM or Agency eligibility and deductibility determination;
 - 4) Proof that approval of the payment requested will not exceed the limitations set forth in the Act and Section 734.620 of this Part;
 - 5) A federal taxpayer identification number and legal status disclosure certification;
 - 6) Private insurance coverage form(s);

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

- 7) A minority/women's business form;
 - 8) Designation of the address to which payment and notice of final action on the application for payment are to be sent;
 - 9) An accounting of all costs, including but not limited to, invoices, receipts, and supporting documentation showing the dates and descriptions of the work performed; and
 - 10) Proof of payment of subcontractor costs for which handling charges are requested. Proof of payment may include cancelled checks, lien waivers, or affidavits from the subcontractor.
- c) The address designated on the application for payment may be changed only by subsequent notification to the Agency, on a form provided by the Agency, of a change in address.
 - d) Applications for payment and change of address forms must be mailed or delivered to the address designated by the Agency. The Agency's record of the date of receipt must be deemed conclusive unless a contrary date is proven by a dated, signed receipt from certified or registered mail.
 - e) Applications for partial or final payment may be submitted no more frequently than once every 90 days.
 - f) Except for applications for payment for costs of early action conducted pursuant to Subpart B of this Part, other than costs associated with free product removal activities conducted more than 45 days after confirmation of the presence of free product, in no case must the Agency review an application for payment unless there is an approved budget on file corresponding to the application for payment.
 - g) In no case must the Agency authorize payment to an owner or operator in amounts greater than the amounts approved by the Agency in a corresponding budget. Revised cost estimates or increased costs resulting from revised procedures must be submitted to the Agency for review in accordance with Subpart E of this Part using amended budget plans as required under this Part.
 - h) Applications for payment of costs associated with a Stage 1, Stage 2, or Stage 3 site investigation may not be submitted prior to the approval or modification of a

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

site investigation plan for the next stage of the site investigation or the site investigation completion report, whichever is applicable.

- i) Applications for payment of costs associated with site investigation or corrective action that was deferred pursuant to Section 734.450 of this Part may not be submitted prior to approval or modification of the corresponding site investigation plan, site investigation completion report, or corrective action completion report.
- j) All applications for payment of corrective action costs must be submitted no later than one year after the date the Agency issues a No Further Remediation Letter pursuant to Subpart G of this Part. For releases for which the Agency issued a No Further Remediation Letter prior to the effective date of this subsection (j), all applications for payment must be submitted no later than one year after the effective date of this subsection (j).

Section 734.610 Review of Applications for Payment

- a) At a minimum, the Agency must review each application for payment submitted pursuant to this Part to determine the following:
 - 1) Whether the application contains all of the elements and supporting documentation required by Section 734.605(b) of this Part;
 - 2) For costs incurred pursuant to Subpart B of this Part, other than free product removal activities conducted more than 45 days after confirmation of the presence of free product, whether the amounts sought are reasonable, and whether there is sufficient documentation to demonstrate that the work was completed in accordance with the requirements of this Part;
 - 3) For costs incurred pursuant to Subpart C of this Part and free product removal activities conducted more than 45 days after confirmation of the presence of free product, whether the amounts sought exceed the amounts approved in the corresponding budget, and whether there is sufficient documentation to demonstrate that the work was completed in accordance with the requirements of this Part and a plan approved by the Agency; and
 - 4) Whether the amounts sought are eligible for payment.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

- b) When conducting a review of any application for payment, the Agency may require the owner or operator to submit a full accounting supporting all claims as provided in subsection (c) of this Section.
- c) The Agency's review may include a review of any or all elements and supporting documentation relied upon by the owner or operator in developing the application for payment, including but not limited to a review of invoices or receipts supporting all claims. The review also may include the review of any plans, budgets, or reports previously submitted for the site to ensure that the application for payment is consistent with work proposed and actually performed in conjunction with the site.
- d) Following a review, the Agency has the authority to approve, deny or require modification of applications for payment or portions thereof. The Agency must notify the owner or operator in writing of its final action on any such application for payment. Except as provided in subsection (e) of this Section, if the Agency fails to notify the owner or operator of its final action on an application for payment within 120 days after the receipt of a complete application for payment, the owner or operator may deem the application for payment approved by operation of law. If the Agency denies payment for an application for payment or for a portion thereof or requires modification, the written notification must contain the following information, as applicable:
 - 1) An explanation of the specific type of information, if any, that the Agency needs to complete the review;
 - 2) An explanation of the Sections of the Act or regulations that may be violated if the application for payment is approved; and
 - 3) A statement of specific reasons why the cited Sections of the Act or regulations may be violated if the application for payment is approved.
- e) An owner or operator may waive the right to a final decision within 120 days after the submittal of a complete application for payment by submitting written notice to the Agency prior to the applicable deadline. Any waiver must be for a minimum of 30 days.
- f) The Agency must mail notices of final action on applications for payment by registered or certified mail, post marked with a date stamp and with return receipt requested. Final action must be deemed to have taken place on the post marked

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

date that such notice is mailed. The Agency must mail notices of final action on applications for payment, and direct the Comptroller to mail payments to the owner or operator, at the address designated for receipt of payment in the application for payment or on a change of address form, provided by the Agency, submitted subsequent to submittal of the application for payment.

- g) Any action by the Agency to deny payment for an application for payment or portion thereof or to require modification must be subject to appeal to the Board within 35 days after the Agency's final action in the manner provided for the review of permit decisions in Section 40 of the Act.

Section 734.615 Authorization for Payment; Priority List

- a) Within 60 days after notification to an owner or operator that the application for payment or a portion thereof has been approved by the Agency or by operation of law, the Agency must forward to the Office of the State Comptroller in accordance with subsection (d) or (e) of this Section a voucher in the amount approved. If the owner or operator has filed an appeal with the Board of the Agency's final decision on an application for payment, the Agency must have 60 days after the final resolution of the appeal to forward to the Office of the State Comptroller a voucher in the amount ordered as a result of the appeal. Notwithstanding the time limits imposed by this Section, the Agency must not forward vouchers to the Office of the State Comptroller until sufficient funds are available to issue payment.
- b) The following rules must apply regarding deductibles:
- 1) Any deductible, as determined by the OSFM or the Agency, must be subtracted from any amount approved for payment by the Agency or by operation of law, or ordered by the Board or courts;
 - 2) Only one deductible must apply per occurrence;
 - 3) If multiple incident numbers are issued for a single site in the same calendar year, only one deductible must apply for those incidents, even if the incidents relate to more than one occurrence; and
 - 4) Where more than one deductible determination is made, the higher deductible must apply.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

- c) The Agency must instruct the Office of the State Comptroller to issue payment to the owner or operator at the address designated in accordance with Section 734.605(b)(8) or (c) of this Part. In no case must the Agency authorize the Office of the State Comptroller to issue payment to an agent, designee, or entity that has conducted corrective action activities for the owner or operator.
- d) For owners or operators who have deferred site classification or corrective action in accordance with Section 734.450 of this Part, payment must be authorized from funds encumbered pursuant to Section 734.450(a)(6) of this Part upon approval of the application for payment by the Agency or by operation of law.
- e) For owners or operators not electing to defer site investigation or corrective action in accordance with Section 734.450 of this Part, the Agency must form a priority list for payment for the issuance of vouchers pursuant to subsection (a) of this Section.
 - 1) All such applications for payment must be assigned a date that is the date upon which the complete application for partial or final payment was received by the Agency. This date must determine the owner's or operator's priority for payment in accordance with subsection (e)(2) of this Section, with the earliest dates receiving the highest priority.
 - 2) Once payment is approved by the Agency or by operation of law or ordered by the Board or courts, the application for payment must be assigned priority in accordance with subsection (e)(1) of this Section. The assigned date must be the only factor determining the priority for payment for those applications approved for payment.

Section 734.620 Limitations on Total Payments

- a) Limitations per occurrence:
 - 1) *The Agency shall not approve any payment from the Fund to pay an owner or operator for costs of corrective action incurred by such owner or operator in an amount in excess of \$1,500,000 per occurrence [415 ILCS 5/57.8(g)(1)]; and*
 - 2) *The Agency shall not approve any payment from the Fund to pay an owner or operator for costs of indemnification of such owner or operator in an amount in excess of \$1,500,000 per occurrence [415 ILCS 5/57.8(g)(2)].*

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

b) Aggregate limitations:

1) *Notwithstanding any other provision of this Part, the Agency shall not approve payment to an owner or operator from the Fund for costs of corrective action or indemnification incurred during a calendar year in excess of the following amounts based on the number of petroleum underground storage tanks owned or operated by such owner or operator in Illinois:*

A) For calendar years prior to 2002:

Amount	Number of Tanks
\$1,000,000	fewer than 101
\$2,000,000	101 or more

B) For calendar years 2002 and later:

<i>Amount</i>	<i>Number of Tanks</i>
<i>\$2,000,000</i>	<i>fewer than 101</i>
<i>\$3,000,000</i>	<i>101 or more</i>

[415 ILCS 5/57.8(d)]

2) *Costs incurred in excess of the aggregate amounts set forth in subsection (b)(1) of this Section shall not be eligible for payment in subsequent years. [415 ILCS 5/57.8(d)(1)]*

c) *For purposes of subsection (b) of this Section, requests submitted by any of the agencies, departments, boards, committees or commissions of the State of Illinois shall be acted upon as claims from a single owner or operator. [415 ILCS 5/57.8(d)(2)]*

d) *For purposes of subsection (b) of this Section, owner or operator includes:*

1) *any subsidiary, parent, or joint stock company of the owner or operator; and*

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

- 2) *any company owned by any parent, subsidiary, or joint stock company of the owner or operator.* [415 ILCS 5/57.8(d)(3)]

Section 734.625 Eligible Corrective Action Costs

- a) Types of costs that may be eligible for payment from the Fund include those for corrective action activities and for materials or services provided or performed in conjunction with corrective action activities. Such activities and services may include, but are not limited to, reasonable costs for:
 - 1) Early action activities conducted pursuant to Subpart B of this Part;
 - 2) Engineer or geologist oversight services;
 - 3) Remedial investigation and design;
 - 4) Laboratory services necessary to determine site investigation and whether the established remediation objectives have been met;
 - 5) The installation and operation of groundwater investigation and groundwater monitoring wells;
 - 6) The removal, treatment, transportation, and disposal of soil contaminated by petroleum at levels in excess of the established remediation objectives;
 - 7) The removal, treatment, transportation, and disposal of water contaminated by petroleum at levels in excess of the established remediation objectives;
 - 8) The placement of clean backfill to grade to replace excavated soil contaminated by petroleum at levels in excess of the established remediation objectives;
 - 9) Groundwater corrective action systems;
 - 10) Alternative technology, including but not limited to feasibility studies approved by the Agency;

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

- 11) Recovery of free product exceeding one-eighth of an inch in depth as measured in a groundwater monitoring well, or present as a sheen on groundwater in the tank removal excavation or on surface water;
- 12) The removal and disposal of any UST if a release of petroleum from the UST was identified and IEMA was notified prior to its removal, with the exception of any UST deemed ineligible by the OSFM;
- 13) Costs incurred as a result of a release of petroleum because of vandalism, theft, or fraudulent activity by a party other than an owner or operator or agent of an owner or operator;
- 14) Engineer or geologist costs associated with seeking payment from the Fund, including but not limited to completion of an application for partial or final payment;
- 15) Costs associated with obtaining an Eligibility and Deductibility Determination from the OSFM or the Agency;
- 16) Costs for destruction and replacement of concrete, asphalt, or paving to the extent necessary to conduct corrective action if the concrete, asphalt, or paving was installed prior to the initiation of corrective action activities, the destruction and replacement has been certified as necessary to the performance of corrective action by a Licensed Professional Engineer, and the destruction and replacement and its costs are approved by the Agency in writing prior to the destruction and replacement. The destruction and replacement of concrete, asphalt, and paving must not be paid more than once. Costs associated with the replacement of concrete, asphalt, or paving must not be paid in excess of the cost to install, in the same area and to the same depth, the same material that was destroyed (e.g., replacing four inches of concrete with four inches of concrete);
- 17) The destruction or dismantling and reassembly of above grade structures in response to a release of petroleum if such activity has been certified as necessary to the performance of corrective action by a Licensed Professional Engineer and such activity and its costs are approved by the Agency in writing prior to the destruction or dismantling and re-assembly. Such costs must not be paid in excess of a total of \$10,000 per occurrence. For purposes of this subsection (a)(17), destruction, dismantling, or reassembly of above grade structures does not include costs associated

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

with replacement of pumps, pump islands, buildings, wiring, lighting, bumpers, posts, or canopies;

- 18) Preparation of reports submitted pursuant to Section 734.210(h)(3) of this Part, free product removal plans and associated budgets, free product removal reports, site investigation plans and associated budgets, site investigation completion reports, corrective action plans and associated budgets, and corrective action completion reports;
- 19) Costs associated with the removal or abandonment of a potable water supply well, and replacement of the well or connection to a public water supply, whichever is less, if a Licensed Professional Engineer or Licensed Professional Geologist certifies that such activity is necessary to the performance of corrective action and that the property served by the well cannot receive an adequate supply of potable water from an existing source other than the removed or abandoned well, and the Agency approves such activity in writing. If the well being removed or abandoned is a public water supply well, the Licensed Professional Engineer or Licensed Professional Geologist is required to certify only that the removal or abandonment of the well is necessary to the performance of corrective action; and
- 20) Costs associated with the repair or replacement of potable water supply lines damaged to the point of requiring repair or replacement as a direct result of the release, if such activity is certified by a Licensed Professional Engineer or Licensed Professional Geologist as necessary for the protection of the potable water supply and approved by the Agency in writing.
 - b) An owner or operator may submit a budget or application for partial or final payment that includes an itemized accounting of costs associated with activities, materials, or services not identified in subsection (a) of this Section if the owner or operator submits detailed information demonstrating that the activities, materials, or services not identified in subsection (a) of this Section are essential to the completion of the minimum corrective action requirements of the Act and this Part.

Section 734.630 Ineligible Corrective Action Costs

Costs ineligible for payment from the Fund include, but are not limited to:

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

- a) Costs for the removal, treatment, transportation, and disposal of more than four feet of fill material from the outside dimensions of the UST, as set forth in Appendix C of this Part, during early action activities conducted pursuant to Section 734.210(f) of this Part, and costs for the replacement of contaminated fill materials with clean fill materials in excess of the amounts set forth in Appendix C of this Part during early action activities conducted pursuant to Section 734.210(f) of this Part;
- b) Costs or losses resulting from business interruption;
- c) Costs incurred as a result of vandalism, theft, or fraudulent activity by the owner or operator or agent of an owner or operator, including the creation of spills, leaks, or releases;
- d) Costs associated with the replacement of above grade structures such as pumps, pump islands, buildings, wiring, lighting, bumpers, posts, or canopies, including but not limited to, those structures destroyed or damaged during corrective action activities;
- e) *Costs of corrective action incurred by an owner or operator prior to July 28, 1989 [415 ILCS 5/57.8(j)];*
- f) Costs associated with the procurement of a generator identification number;
- g) Legal fees or costs, including but not limited to legal fees or costs for seeking payment under this Part unless the owner or operator prevails before the Board and the Board authorizes payment of such costs;
- h) Purchase costs of non-expendable materials, supplies, equipment, or tools, except that a reasonable rate may be charged for the usage of such materials, supplies, equipment, or tools;
- i) Costs associated with activities that violate any provision of the Act or Board, OSFM, or Agency regulations;
- j) Costs associated with investigative action, preventive action, corrective action, or enforcement action taken by the State of Illinois if the owner or operator failed, without sufficient cause, to respond to a release or substantial threat of a release

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

upon, or in accordance with, a notice issued by the Agency pursuant to Section 734.125 of this Part and Section 57.12 of the Act;

- k) Costs for removal, disposal, or abandonment of a UST if the tank was removed or abandoned, or permitted for removal or abandonment, by the OSFM before the owner or operator provided notice to IEMA of a release of petroleum;
- l) Costs associated with the installation of new USTs, the repair of existing USTs, and removal and disposal of USTs determined to be ineligible by the OSFM;
- m) Costs exceeding those contained in a budget or amended budget approved by the Agency;
- n) Costs of corrective action incurred before providing notification of the release of petroleum to IEMA in accordance with Section 734.210 of this Part;
- o) Costs for corrective action activities and associated materials or services exceeding the minimum requirements necessary to comply with the Act;
- p) Costs associated with improperly installed sampling or monitoring wells;
- q) Costs associated with improperly collected, transported, or analyzed laboratory samples;
- r) Costs associated with the analysis of laboratory samples not approved by the Agency;
- s) Costs for any corrective activities, services, or materials unless accompanied by a letter from OSFM or the Agency confirming eligibility and deductibility in accordance with Section 57.9 of the Act;
- t) Interest or finance costs charged as direct costs;
- u) Insurance costs charged as direct costs;
- v) Indirect corrective action costs for personnel, materials, service, or equipment charged as direct costs;
- w) Costs associated with the compaction and density testing of backfill material;

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

- x) Costs associated with sites that have not reported a release to IEMA or are not required to report a release to IEMA;
- y) Costs related to activities, materials, or services not necessary to stop, minimize, eliminate, or clean up a release of petroleum or its effects in accordance with the minimum requirements of the Act and regulations;
- z) Costs of alternative technology that exceed the costs of conventional technology;
- aa) Costs for activities and related services or materials that are unnecessary, inconsistent with generally accepted engineering practices or principles of professional geology, or unreasonable costs for justifiable activities, materials, or services;
- bb) Costs requested that are based on mathematical errors;
- cc) Costs that lack supporting documentation;
- dd) Costs proposed as part of a budget that are unreasonable;
- ee) Costs incurred during early action that are unreasonable;
- ff) Costs incurred on or after the date the owner or operator enters the Site Remediation Program under Title XVII of the Act and 35 Ill. Adm. Code 740 to address the UST release;
- gg) Costs incurred after receipt of a No Further Remediation Letter for the occurrence for which the No Further Remediation Letter was received. This subsection (gg) does not apply to the following:
 - 1) Costs incurred for MTBE remediation pursuant to Section 734.405(i)(2) of this Part;
 - 2) Monitoring well abandonment costs;
 - 3) County recorder or registrar of titles fees for recording the No Further Remediation Letter;
 - 4) Costs associated with seeking payment from the Fund; and

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

- 5) Costs associated with remediation to Tier 1 remediation objectives on-site if a court of law voids or invalidates a No Further Remediation Letter and orders the owner or operator to achieve Tier 1 remediation objectives in response to the release;
- hh) Handling charges for subcontractor costs that have been billed directly to the owner or operator;
- ii) Handling charges for subcontractor costs when the contractor has not submitted proof of payment of the subcontractor costs;
- jj) Costs associated with standby and demurrage;
- kk) Costs associated with a corrective action plan incurred after the Agency notifies the owner or operator, pursuant to Section 734.355(b) of this Part, that a revised corrective action plan is required, provided, however, that costs associated with any subsequently approved corrective action plan will be eligible for payment if they meet the requirements of this Part;
- ll) Costs incurred prior to the effective date of an owner's or operator's election to proceed in accordance with this Part, unless such costs were incurred for activities approved as corrective action under this Part;
- mm) Costs associated with the preparation of free product removal reports not submitted in accordance with the schedule established in Section 734.215(a)(5) of this Part;
- nn) Costs submitted more than one year after the date the Agency issues a No Further Remediation Letter pursuant to Subpart G of this Part;
- oo) Handling charges for subcontractor costs where any person with a direct or indirect financial interest in the contractor has a direct or indirect financial interest in the subcontractor;
- pp) Costs for the destruction and replacement of concrete, asphalt, or paving, except as otherwise provided in Section 734.625(a)(16) of this Part;
- qq) Costs incurred as a result of the destruction of, or damage to, any equipment, fixtures, structures, utilities, or other items during corrective action activities, except as otherwise provided in Sections 734.625(a)(16) or (17) of this Part;

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

- rr) Costs associated with oversight by an owner or operator;
- ss) Handling charges charged by persons other than the owner's or operator's primary contractor;
- tt) Costs associated with the installation of concrete, asphalt, or paving as an engineered barrier to the extent they exceed the cost of installing an engineered barrier constructed of asphalt four inches in depth. This subsection does not apply if the concrete, asphalt, or paving being used as an engineered barrier was replaced pursuant to Section 734.625(a)(16) of this Part;
- uu) The treatment or disposal of soil that does not exceed the applicable remediation objectives for the release, unless approved by the Agency in writing prior to the treatment or disposal;
- vv) Costs associated with the removal or abandonment of a potable water supply well, or the replacement of such a well or connection to a public water supply, except as otherwise provided in Section 734.625(a)(19) of this Part;
- ww) Costs associated with the repair or replacement of potable water supply lines, except as otherwise provided in Section 734.625(a)(20) of this Part;
- xx) Costs associated with the replacement of underground structures or utilities, including but not limited to septic tanks, utility vaults, sewer lines, electrical lines, telephone lines, cable lines, or water supply lines, except as otherwise provided in Sections 734.625(a)(19) or (20) of this Part;
- yy) For sites electing under Section 734.105 of this Part to proceed in accordance with this Part, costs incurred pursuant to Section 734.210 of this Part;
- zz) Costs associated with the maintenance, repair, or replacement of leased or subcontracted equipment, other than costs associated with routine maintenance that are approved in a budget;
- aaa) Costs that exceed the maximum payment amounts set forth in Subpart H of this Part;
- bbb) Costs associated with on-site corrective action to achieve remediation objectives that are more stringent than the Tier 2 remediation objectives developed in

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

accordance with 35 Ill. Adm. Code 742. This subsection (bbb) does not apply if Karst geology prevents the development of Tier 2 remediation objectives for on-site remediation, or if a court of law voids or invalidates a No Further Remediation Letter and orders the owner or operator to achieve Tier 1 remediation objectives on-site in response to the release.

- ccc) Costs associated with groundwater remediation if a groundwater ordinance already approved by the Agency for use as an institutional control in accordance with 35 Ill. Adm. Code 742 can be used as an institutional control for the release being remediated.

Section 734.635 Payment for Handling Charges

Handling charges are eligible for payment only if they are equal to or less than the amount determined by the following table:

Subcontract or Field Purchase Cost:	Eligible Handling Charges as a Percentage of Cost:
\$0 – \$5,000.....	12%
\$5,001 – \$15,000.....	\$600 + 10% of amt. over \$5,000
\$15,001 – \$50,000.....	\$1,600 + 8% of amt. over \$15,000
\$50,001 – \$100,000.....	\$4,400 + 5% of amt. over \$50,000
\$100,001 – \$1,000,000.....	\$6,900 + 2% of amt. over \$100,000

Section 734.640 Apportionment of Costs

- a) The Agency may apportion payment of costs if:
 - 1) *The owner or operator was deemed eligible to access the Fund for payment of corrective action costs for some, but not all, of the underground storage tanks at the site; and*
 - 2) *The owner or operator failed to justify all costs attributable to each underground storage tank at the site. [415 ILCS 5/57.8(m)]*
- b) The Agency will determine, based on volume or number of tanks, which method of apportionment will be most favorable to the owner or operator. The Agency will notify the owner or operator of such determination in writing.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

Section 734.645 Subrogation of Rights

Payment of any amount from the fund for corrective action or indemnification shall be subject to the State acquiring by subrogation the rights of any owner, operator, or other person to recover the costs of corrective action or indemnification for which the fund has compensated such owner, operator, or person from the person responsible or liable for the release [415 ILCS 5/57.8(h)].

Section 734.650 Indemnification

- a) An owner or operator seeking indemnification from the Fund for payment of costs incurred as a result of a release of petroleum from an underground storage tank must submit to the Agency a request for payment on forms prescribed and provided by the Agency and, if specified by the Agency by written notice, in an electronic format.
 - 1) A complete application for payment must contain the following:
 - A) A certified statement by the owner or operator of the amount sought for payment;
 - B) Proof of the legally enforceable judgment, final order, or determination against the owner or operator, or the legally enforceable settlement entered into by the owner or operator, for which indemnification is sought. The proof must include, but is not limited to, the following:
 - i) A copy of the judgment certified by the court clerk as a true and correct copy, a copy of the final order or determination certified by the issuing agency of State government or subdivision thereof as a true and correct copy, or a copy of the settlement certified by the owner or operator as a true and correct copy; and
 - ii) Documentation demonstrating that the judgment, final order, determination, or settlement arises out of bodily injury or property damage suffered as a result of a release of petroleum from the UST for which the release was reported, and that the UST is owned or operated by the owner or operator;

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

- C) A copy of the OSFM or Agency eligibility and deductibility determination;
 - D) Proof that approval of the indemnification requested will not exceed the limitations set forth in the Act and Section 734.620 of this Part;
 - E) A federal taxpayer identification number and legal status disclosure certification;
 - F) A private insurance coverage form; and
 - G) Designation of the address to which payment and notice of final action on the request for indemnification are to be sent to the owner or operator.
- 2) The owner's or operator's address designated on the application for payment may be changed only by subsequent notification to the Agency, on a form provided by the Agency, of a change of address.
 - 3) Applications for payment must be mailed or delivered to the address designated by the Agency. The Agency's record of the date of receipt must be deemed conclusive unless a contrary date is proven by a dated, signed receipt from certified or registered mail.
- b) The Agency must review applications for payment in accordance with this Subpart F. In addition, the Agency must review each application for payment to determine the following:
 - 1) Whether the application contains all of the information and supporting documentation required by subsection (a) of this Section;
 - 2) Whether there is sufficient documentation of a legally enforceable judgment entered against the owner or operator in a court of law, final order or determination made against the owner or operator by an agency of State government or any subdivision thereof, or settlement entered into by the owner or operator;

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

- 3) Whether there is sufficient documentation that the judgment, final order, determination, or settlement arises out of bodily injury or property damage suffered as a result of a release of petroleum from an underground storage tank owned or operated by the owner or operator; and
 - 4) Whether the amounts sought for indemnification are eligible for payment.
- c) If the application for payment of the costs of indemnification is deemed complete and otherwise satisfies all applicable requirements of this Subpart F, the Agency must forward the request for indemnification to the Office of the Attorney General for review and approval in accordance with Section 57.8(c) of the Act. The owner or operator's request for indemnification must not be placed on the priority list for payment until the Agency has received the written approval of the Attorney General. The approved application for payment must then enter the priority list established at Section 734.615(e)(1) of this Part based on the date the complete application was received by the Agency in accordance with Section 57.8(c) of the Act.
- d) Costs ineligible for indemnification from the Fund include, but are not limited to:
- 1) Amounts an owner or operator is not legally obligated to pay pursuant to a judgment entered against the owner or operator in a court of law, a final order or determination made against the owner or operator by an agency of State government or any subdivision thereof, or any settlement entered into by the owner or operator;
 - 2) Amounts of a judgment, final order, determination, or settlement that do not arise out of bodily injury or property damage suffered as a result of a release of petroleum from an underground storage tank owned or operated by the owner or operator;
 - 3) Amounts incurred prior to July 28, 1989;
 - 4) Amounts incurred prior to notification of the release of petroleum to IEMA in accordance with Section 734.210 of this Part;
 - 5) Amounts arising out of bodily injury or property damage suffered as a result of a release of petroleum from an underground storage tank for which the owner or operator is not eligible to access the Fund;

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

- 6) Legal fees or costs, including but not limited to legal fees or costs for seeking payment under this Part, unless the owner or operator prevails before the Board and the Board authorizes payment of such costs;
- 7) Amounts associated with activities that violate any provision of the Act or Board, OSFM, or Agency regulations;
- 8) Amounts associated with investigative action, preventive action, corrective action, or enforcement action taken by the State of Illinois if the owner or operator failed, without sufficient cause, to respond to a release or substantial threat of a release upon, or in accordance with, a notice issued by the Agency pursuant to Section 734.125 of this Part and Section 57.12 of the Act;
- 9) Amounts associated with a release that has not been reported to IEMA or is not required to be reported to IEMA;
- 10) Amounts incurred on or after the date the owner or operator enters the Site Remediation Program under Title XVII of the Act and 35 Ill. Adm. Code 740 to address the UST release; and
- 11) Amounts incurred prior to the effective date of the owner's or operator's election to proceed in accordance with this Part.

Section 734.655 Costs Covered by Insurance, Agreement, or Court Order

Costs of corrective action or indemnification incurred by an owner or operator which have been paid to an owner or operator under a policy of insurance, another written agreement, or a court order are not eligible for payment from the Fund. An owner or operator who receives payment under a policy of insurance, another written agreement, or a court order shall reimburse the State to the extent such payment covers costs for which payment was received from the Fund.
[415 ILCS 5/57.8(e)]

Section 734.660 Determination and Collection of Excess Payments

- a) If, for any reason, the Agency determines that an excess payment has been paid from the Fund, the Agency may take steps to collect the excess amount pursuant to subsection (c) of this Section.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

- 1) Upon identifying an excess payment, the Agency must notify the owner or operator receiving the excess payment by certified or registered mail, return receipt requested.
 - 2) The notification letter must state the amount of the excess payment and the basis for the Agency's determination that the payment is in error.
 - 3) The Agency's determination of an excess payment must be subject to appeal to the Board in the manner provided for the review of permit decisions in Section 40 of the Act.
- b) An excess payment from the Fund includes, but is not limited to:
- 1) Payment for a non-corrective action cost;
 - 2) Payment in excess of the limitations on payments set forth in Sections 734.620 and 734.635 and Subpart H of this Part;
 - 3) Payment received through fraudulent means;
 - 4) Payment calculated on the basis of an arithmetic error;
 - 5) Payment calculated by the Agency in reliance on incorrect information; or
 - 6) Payment of costs that are not eligible for payment.
- c) Excess payments may be collected using any of the following procedures:
- 1) Upon notification of the determination of an excess payment in accordance with subsection (a) of this Section or pursuant to a Board order affirming such determination upon appeal, the Agency may attempt to negotiate a payment schedule with the owner or operator. Nothing in this subsection (c)(1) of this Section must prohibit the Agency from exercising at any time its options at subsection (c)(2) or (c)(3) of this Section or any other collection methods available to the Agency by law.
 - 2) If an owner or operator submits a subsequent claim for payment after previously receiving an excess payment from the Fund, the Agency may deduct the excess payment amount from any subsequently approved payment amount. If the amount subsequently approved is insufficient to

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

recover the entire amount of the excess payment, the Agency may use the procedures in this Section or any other collection methods available to the Agency by law to collect the remainder.

- 3) The Agency may deem an excess payment amount to be a claim or debt owed the Agency, and the Agency may use the Comptroller's Setoff System for collection of the claim or debt in accordance with Section 10.5 of the State Comptroller Act [15 ILCS 405/10.05].

Section 734.665 Audits and Access to Records; Records Retention

- a) Owners or operators that submit a report, plan, budget, application for payment, or any other data or document under this Part, and Licensed Professional Engineers and Licensed Professional Geologists that certify such report, plan, budget, application for payment, data, or document, must maintain all books, records, documents, and other evidence directly pertinent to the report, plan, budget, application for payment, data, or document, including but not limited to all financial information and data used in the preparation or support of applications for payment. All books, records, documents, and other evidence must be maintained in accordance with accepted business practices and appropriate accounting procedures and practices.
- b) The Agency or any of its duly authorized representatives must have access to the books, records, documents, and other evidence set forth in subsection (a) of this Section during normal business hours for the purpose of inspection, audit, and copying. Owners, operators, Licensed Professional Engineers, and Licensed Professional Geologists must provide proper facilities for such access and inspection.
- c) Owners, operators, Licensed Professional Engineers, and Licensed Professional Geologists must maintain the books, records, documents, and other evidence set forth in subsection (a) of this Section and make them available to the Agency or its authorized representative until the latest of the following:
 - 1) The expiration of 4 years after the date the Agency issues a No Further Remediation Letter pursuant to Subpart G of this Part;
 - 2) For books, records, documents, or other evidence relating to an appeal, litigation, or other dispute or claim, the expiration of 3 years after the date

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

of the final disposition of the appeal, litigation, or other dispute or claim;
or

- 3) The expiration of any other applicable record retention period.

SUBPART G: NO FURTHER REMEDIATION LETTERS
AND RECORDING REQUIREMENTS

Section 734.700 General

Subpart G provides the procedures for the issuance of No Further Remediation Letters under Title XVI and this Part. Subpart G also sets forth the recording requirements and the circumstances under which the letter may be voidable.

Section 734.705 Issuance of a No Further Remediation Letter

- a) Upon approval by the Agency of a report submitted pursuant to Section 734.210(h)(3) of this Part or a corrective action completion report, the Agency must issue to the owner or operator a No Further Remediation Letter. The No Further Remediation Letter must have the legal effect prescribed in Section 57.10 of the Act. The No Further Remediation Letter must be denied if the Agency rejects or requires modification of the applicable report.
- b) The Agency must have 120 days after the date of receipt of the applicable report to issue a No Further Remediation Letter and may include the No Further Remediation Letter as part of the notification of approval of the report in accordance with Subpart E of this Part. If the Agency fails to send the No Further Remediation Letter within 120 days, it must be deemed denied by operation of law.
- c) The notice of denial of a No Further Remediation Letter by the Agency may be included with the notification of rejection or modification of the applicable report. The reasons for the denial of the letter must be stated in the notification. The denial must be considered a final determination appealable to the Board within 35 days after the Agency's final action in the manner provided for the review of permit decisions in Section 40 of the Act. If any request for a No Further Remediation Letter is denied by operation of law in lieu of an immediate appeal to the Board, the owner or operator may either resubmit the request and applicable report to the Agency or file a joint request for a 90 day extension in the manner provided for extensions of permit decision in Section 40 of the Act.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

- d) The Agency must mail the No Further Remediation Letter by registered or certified mail, post marked with a date stamp and with return receipt requested. Final action must be deemed to have taken place on the post marked date that the letter is mailed.
- e) The Agency at any time may correct errors in No Further Remediation Letters that arise from oversight, omission, or clerical mistake. Upon correction of the No Further Remediation Letter, the Agency must mail the corrected letter to the owner or operator as set forth in subsection (d) of this Section. The corrected letter must be perfected by recording in accordance with the requirements of Section 734.715 of this Part.

Section 734.710 Contents of a No Further Remediation Letter

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

- a) An acknowledgment that the requirements of the applicable report were satisfied;
- b) A description of the location of the affected property by adequate legal description or by reference to a plat showing its boundaries, or, for the purposes of Section 734.715(d) of this Part, other means sufficient to identify the site location with particularity;
- c) A statement that the remediation objectives were determined in accordance with 35 Ill. Adm. Code 742, and the identification of any land use limitation, as applicable, required by 35 Ill. Adm. Code 742 as a condition of the remediation objectives;
- d) A statement that the Agency's issuance of the No Further Remediation Letter signifies that:
 - 1) *All statutory and regulatory corrective action requirements applicable to the occurrence have been complied with;*
 - 2) *All corrective action concerning the remediation of the occurrence has been completed; and*
 - 3) *No further corrective action concerning the occurrence is necessary for the protection of human health, safety and the environment [415 ILCS*

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

5/57.10(c)(1)-(3)], or, if the No Further Remediation Letter is issued pursuant to Section 734.350(e) of this Part, that the owner or operator has demonstrated to the Agency's satisfaction an inability to obtain access to an off-site property despite best efforts and therefore is not required to perform corrective action on the off-site property in order to satisfy the corrective action requirements of this Part, but is not relieved of responsibility to clean up portions of the release that have migrated off-site;

- e) The prohibition under Section 734.715(e) of this Part against the use of any site in a manner inconsistent with any applicable land use limitation, without additional appropriate remedial activities;
- f) A description of any approved preventive, engineering, and institutional controls identified in the plan or report and notification that failure to manage the controls in full compliance with the terms of the plan or report may result in avoidance of the No Further Remediation Letter;
- g) The recording obligations pursuant to Section 734.715 of this Part;
- h) The opportunity to request a change in the recorded land use pursuant to Section 734.715(e) of this Part;
- i) Notification that further information regarding the site can be obtained from the Agency through a request under the Freedom of Information Act [5 ILCS 140]; and
- j) Any other provisions agreed to by the Agency and the owner or operator.

Section 734.715 Duty to Record a No Further Remediation Letter

- a) Except as provided in subsections (c) and (d) of this Section, an owner or operator receiving a No Further Remediation Letter from the Agency pursuant to this Subpart G must submit the letter, with a copy of any applicable institutional controls (as set forth in 35 Ill. Adm. Code 742, Subpart J) proposed as part of a corrective action completion report, to the office of the recorder or the registrar of titles of the county in which the site is located within 45 days after receipt of the letter. The letter and any attachments must be filed in accordance with Illinois law so that they form a permanent part of the chain of title for the site. Upon the lapse of the 45 day period for recording, pursuant to Section 734.720(a)(5) of this

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

Part, the Agency may void an unrecorded No Further Remediation Letter for failure to record it in a timely manner.

- b) Except as provided in subsections (c) and (d) of this Section, a No Further Remediation Letter must be perfected upon the date of the official recording of such letter. The owner or operator must obtain and submit to the Agency, within 30 days after the official recording date, a certified or otherwise accurate and official copy of the letter and any attachments as recorded. An unperfected No Further Remediation Letter is effective only as between the Agency and the owner or operator.
- c) For sites located in a highway authority right-of-way, the following requirements must apply:
 - 1) In order for the No Further Remediation Letter to be perfected, the highway authority with jurisdiction over the right-of-way must enter into a Memorandum of Agreement (MOA) with the Agency. The MOA must include, but is not limited to:
 - A) The name of the site, if any, and any highway authority or Agency identifiers (e.g., incident number, Illinois inventory identification number);
 - B) The address of the site (or other description sufficient to identify the location of the site with certainty);
 - C) A copy of the No Further Remediation Letter for each site subject to the MOA;
 - D) Procedures for tracking sites subject to the MOA so that all highway authority offices and personnel whose responsibilities (e.g., land acquisition, maintenance, construction, utility permits) may affect land use limitations will have notice of any environmental concerns and land use limitations applicable to a site;
 - E) Provisions addressing future conveyances (including title or any lesser form of interest) or jurisdictional transfers of the site to any other agency, private person or entity and the steps that will be

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

taken to ensure the long-term integrity of any land use limitations including, but not limited to, the following:

- i) Upon creation of a deed, the recording of the No Further Remediation Letter and any other land use limitations requiring recording under 35 Ill. Adm. Code 742, with copies of the recorded instruments sent to the Agency within 30 days after recording;
 - ii) Any other arrangements necessary to ensure that property that is conveyed or transferred remains subject to any land use limitations approved and implemented as part of the corrective action plan and the No Further Remediation Letter; and
 - iii) Notice to the Agency at least 60 days prior to any such intended conveyance or transfer indicating the mechanism(s) to be used to ensure that any land use limitations will be operated or maintained as required in the corrective action plan and No Further Remediation Letter; and
- F) Provisions for notifying the Agency if any actions taken by the highway authority or its permittees at the site result in the failure or inability to restore the site to meet the requirements of the corrective action plan and the No Further Remediation Letter.
- 2) Failure to comply with the requirements of this subsection (c) may result in voidance of the No Further Remediation Letter pursuant to Section 734.720 of this Part as well as any other penalties that may be available.
- d) For sites located on Federally Owned Property for which the Federal Landholding Entity does not have the authority under federal law to record institutional controls on the chain of title, the following requirements must apply:
- 1) To perfect a No Further Remediation Letter containing any restriction on future land use(s), the Federal Landholding Entity or Entities responsible for the site must enter into a Land Use Control Memorandum of Agreement (LUC MOA) with the Agency that requires the Federal Landholding Entity to do, at a minimum, the following:

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

- A) Identify the location on the Federally Owned Property of the site subject to the No Further Remediation Letter. Such identification must be by means of common address, notations in any available facility master land use plan, site specific GIS or GPS coordinates, plat maps, or any other means that identify the site in question with particularity;
 - B) Implement periodic site inspection procedures that ensure oversight by the Federal Landholding Entities of any land use limitations or restrictions imposed pursuant to the No Further Remediation Letter;
 - C) Implement procedures for the Federal Landholding Entities to periodically advise the Agency of continued compliance with all maintenance and inspection requirements set forth in the LUC MOA;
 - D) Implement procedures for the Federal Landholding Entities to notify the Agency of any planned or emergency changes in land use that may adversely impact land use limitations or restrictions imposed pursuant to the No Further Remediation Letter;
 - E) Notify the Agency at least 60 days in advance of a conveyance by deed or fee simple title, by the Federal Landholding Entities, of the site or sites subject to the No Further Remediation Letter, to any entity that will not remain or become a Federal Landholding Entity, and provide the Agency with information about how the Federal Landholding Entities will ensure the No Further Remediation Letter is recorded on the chain of title upon transfer of the property; and
 - F) Attach to the LUC MOA a copy of the No Further Remediation Letter for each site subject to the LUC MOA.
- 2) To perfect a No Further Remediation letter containing no restriction(s) on future land use, the Federal Landholding Entity must submit the letter to the Office of the Recorder or the Registrar of Titles of the county in which the site is located within 45 days after receipt of the letter. The letter must be filed in accordance with Illinois law so it forms a permanent part of the

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

chain of title. The Federal Landholding Entity must obtain and submit to the Agency, within 30 days after recording, a copy of the letter demonstrating that the recording requirements have been satisfied.

- 3) Failure to comply with the requirements of this subsection (d) and the LUC MOA may result in voidance of the No Further Remediation Letter as well as any other penalties that may be available.
- e) At no time must any site for which a land use limitation has been imposed as a result of corrective action under this Part be used in a manner inconsistent with the land use limitation set forth in the No Further Remediation Letter. The land use limitation specified in the No Further Remediation Letter may be revised only by the perfecting of a subsequent No Further Remediation Letter, issued pursuant to Title XVII of the Act and regulations thereunder, following further investigation or remediation that demonstrates the attainment of objectives appropriate for the new land use.

Section 734.720 Voidance of a No Further Remediation Letter

- a) The No Further Remediation Letter must be voidable if site activities are not carried out in full compliance with the provisions of this Part, and 35 Ill. Adm. Code 742 where applicable, or the remediation objectives upon which the issuance of the No Further Remediation Letter was based. Specific acts or omissions that may result in voidance of the No Further Remediation Letter include, but are not limited to:
 - 1) Any violations of institutional controls or land use restrictions, if applicable;
 - 2) The failure of the owner or operator or any subsequent transferee to operate and maintain preventive, engineering, and institutional controls;
 - 3) Obtaining the No Further Remediation Letter by fraud or misrepresentation;
 - 4) Subsequent discovery of indicator contaminants related to the occurrence upon which the No Further Remediation Letter was based that:
 - A) were not identified as part of the investigative or remedial activities upon which the issuance of the No Further Remediation

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

Letter was based;

- B) results in the failure to meet the remediation objectives established for the site; and
 - C) pose a threat to human health or the environment;
- 5) Upon the lapse of the 45 day period for recording the No Further Remediation Letter, the failure to record and thereby perfect the No Further Remediation Letter in a timely manner;
 - 6) The disturbance or removal of contamination left in place under an approved plan;
 - 7) The failure to comply with the requirements of Section 734.715(c) of this Part and the Memorandum of Agreement entered in accordance with Section 734.715(c) of this Part for a site that is located in a highway authority right-of-way;
 - 8) The failure to comply with the requirements of Section 734.715(d) of this Part and the LUC MOA entered in accordance with Section 734.715(d) of this Part for a site located on Federally Owned Property for which the Federal Landholding Entity does not have the authority under federal law to record institutional controls on the chain of title;
 - 9) The failure to comply with the requirements of Section 734.715(d) of this Part or the failure to record a No Further Remediation Letter perfected in accordance with Section 734.715(d) of this Part within 45 days following the transfer of the Federally Owned Property subject to the No Further Remediation Letter to any entity that will not remain or become a Federal Landholding Entity; or
 - 10) The failure to comply with the notice or confirmation requirements of 35 Ill. Adm. Code 742.1015(b)(5) and (c).
- b) If the Agency seeks to void a No Further Remediation Letter, it must provide a Notice of Voidance to the current title holder of the site and the owner or operator at his or her last known address.
- 1) The Notice of Voidance must specify the cause for the voidance and

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

describe the facts in support of the cause.

- 2) The Agency must mail Notices of Voidance by registered or certified mail, date stamped with return receipt requested.
- c) Within 35 days after receipt of the Notice of Voidance, the current title holder and owner or operator of the site at the time the No Further Remediation Letter was issued may appeal the Agency's decision to the Board in the manner provided for the review of permit decisions in Section 40 of the Act.
- d) If the Board fails to take final action within 120 days, unless such time period is waived by the petitioner, the petition must be deemed denied and the petitioner must be entitled to an appellate court order pursuant to subsection (d) of Section 41 of the Act. The Agency must have the burden of proof in such action.
 - 1) If the Agency's action is appealed, the action must not become effective until the appeal process has been exhausted and a final decision is reached by the Board or courts.
 - A) Upon receiving a notice of appeal, the Agency must file a Notice of lis pendens with the office of the recorder or the registrar of titles for the county in which the site is located. The notice must be filed in accordance with Illinois law so that it becomes a part of the chain of title for the site.
 - B) If the Agency's action is not upheld on appeal, the Notice of lis pendens must be removed in accordance with Illinois law within 45 days after receipt of the final decision of the Board or the courts.
 - 2) If the Agency's action is not appealed or is upheld on appeal, the Agency must submit the Notice of Voidance to the office of the recorder or the registrar of titles for the county in which the site is located. The Notice must be filed in accordance with Illinois law so that it forms a permanent part of the chain of title for the site.

SUBPART H: MAXIMUM PAYMENT AMOUNTS

Section 734.800 Applicability

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

- a) Methods for Determining Maximum Amounts. This Subpart H provides three methods for determining the maximum amounts that can be paid from the Fund for eligible corrective action costs. All costs associated with conducting corrective action are grouped into the tasks set forth in Sections 734.810 through 734.850 of this Part.
- 1) The first method for determining the maximum amount that can be paid for each task is to use the maximum amounts for each task set forth in those Sections and Section 734.870. In some cases the maximum amounts are specific dollar amounts, and in other cases the maximum amounts are determined on a site-specific basis.
 - 2) As an alternative to using the amounts set forth in Sections 734.810 through 734.850 of this Part, the second method for determining the maximum amounts that can be paid for one or more tasks is bidding in accordance with Section 734.855 of this Part. As stated in that Section, when bidding is used, if the lowest bid for a particular task is less than the amount set forth in Sections 734.810 through 734.850, the amount in Sections 734.810 through 734.850 of this Part may be used instead of the lowest bid.
 - 3) The third method for determining maximum amounts that can be paid from the Fund applies to unusual or extraordinary circumstances. The maximum amounts for such circumstances can be determined in accordance with Section 734.860 of this Part.
- b) The costs listed under each task set forth in Sections 734.810 through 734.850 of this Part identify only some of the costs associated with each task. They are not intended as an exclusive list of all costs associated with each task for the purposes of payment from the Fund.
- c) This Subpart H sets forth only the methods that can be used to determine the maximum amounts that can be paid from the Fund for eligible corrective action costs. Whether a particular cost is eligible for payment must be determined in accordance with Subpart F of this Part.

Section 734.810 UST Removal or Abandonment Costs

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

Payment for costs associated with UST removal or abandonment of each UST must not exceed the amounts set forth in this Section. Such costs must include, but not be limited to, those associated with the excavation, removal, disposal, and abandonment of UST systems.

UST Volume	Maximum Total Amount per UST
110 – 999 gallons	\$2,100
1,000 – 14,999 gallons	\$3,150
15,000 or more gallons	\$4,100

Section 734.815 Free Product or Groundwater Removal and Disposal

Payment for costs associated with the removal and disposal of free product or groundwater must not exceed the amounts set forth in this Section. Such costs must include, but are not limited to, those associated with the removal, transportation, and disposal of free product or groundwater, and the design, construction, installation, operation, maintenance, and closure of free product or groundwater removal systems.

- a) Payment for costs associated with each round of free product or groundwater removal via hand bailing or a vacuum truck must not exceed a total of \$0.68 per gallon or \$200, whichever is greater.
- b) Payment for costs associated with the removal of free product or groundwater via a method other than hand bailing or vacuum truck must be determined on a time and materials basis and must not exceed the amounts set forth in Section 734.850 of this Part. Such costs must include, but are not limited to, those associated with the design, construction, installation, operation, maintenance, and closure of free product and groundwater removal systems.

Section 734.820 Drilling, Well Installation, and Well Abandonment

Payment for costs associated with drilling, well installation, and well abandonment must not exceed the amounts set forth in this Section.

- a) Payment for costs associated with each round of drilling must not exceed the following amounts. Such costs must include, but are not limited to, those associated with mobilization, drilling labor, decontamination, and drilling for the purposes of soil sampling or well installation.

Type of Drilling	Maximum Total Amount
------------------	----------------------

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

Hollow-stem auger	greater of \$23 per foot or \$1,500
Direct-push platform	
– for sampling or other non-injection purposes	greater of \$18 per foot or \$1,200
– for injection purposes	greater of \$15 per foot or \$1,200

- b) Payment for costs associated with the installation of monitoring wells, excluding drilling, must not exceed the following amounts. Such costs must include, but are not limited to, those associated with well construction and development.

Type of Borehole	Maximum Total Amount
Hollow-stem auger	\$16.50/foot (well length)
Direct-push platform	\$12.50/foot (well length)

- c) Payment for costs associated with the installation of recovery wells, excluding drilling, must not exceed the following amounts. Such costs must include, but are not limited to, those associated with well construction and development.

Well Diameter	Maximum Total Amount
4 or 6 inches	\$25/foot (well length)
8 inches or greater	\$41/foot (well length)

- d) Payment for costs associated with the abandonment of monitoring wells must not exceed \$10 per foot of well length.

Section 734.825 Soil Removal and Disposal

Payment for costs associated with soil removal, transportation, and disposal must not exceed the amounts set forth in this Section. Such costs must include, but are not limited to, those associated with the removal, transportation, and disposal of contaminated soil exceeding the applicable remediation objectives or visibly contaminated fill removed pursuant to Section 734.210(f) of this Part, and the purchase, transportation, and placement of material used to backfill the resulting excavation.

- a) Payment for costs associated with the removal, transportation, and disposal of contaminated soil exceeding the applicable remediation objectives, visibly contaminated fill removed pursuant to Section 734.210(f) of this Part, and

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

concrete, asphalt, or paving overlying such contaminated soil or fill must not exceed a total of \$57 per cubic yard.

- 1) Except as provided in subsection (a)(2) of this Section, the volume of soil removed and disposed of must be determined by the following equation using the dimensions of the resulting excavation:

$$(\text{Excavation Length} \times \text{Excavation Width} \times \text{Excavation Depth}) \times 1.05$$

A conversion factor of 1.5 tons per cubic yard must be used to convert tons to cubic yards.

- 2) The volume of soil removed from within four feet of the outside dimension of the UST and disposed of pursuant to Section 734.210(f) of this Part must be determined in accordance with Appendix C of this Part.

- b) Payment for costs associated with the purchase, transportation, and placement of material used to backfill the excavation resulting from the removal and disposal of soil must not exceed a total of \$20 per cubic yard.

- 1) Except as provided in subsection (b)(2) of this Section, the volume of backfill material must be determined by the following equation using the dimensions of the backfilled excavation:

$$(\text{Excavation Length} \times \text{Excavation Width} \times \text{Excavation Depth}) \times 1.05$$

A conversion factor of 1.5 tons per cubic yard must be used to convert tons to cubic yards.

- 2) The volume of backfill material used to replace soil removed from within four feet of the outside dimension of the UST and disposed of pursuant to Section 734.210(f) of this Part must be determined in accordance with Appendix C of this Part.

- c) Payment for costs associated with the removal and subsequent return of soil that does not exceed the applicable remediation objectives but whose removal is required in order to conduct corrective action must not exceed a total of \$6.50 per cubic yard. The volume of soil removed and returned must be determined by the following equation using the dimensions of the excavation resulting from the removal of the soil:

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

(Excavation Length x Excavation Width x Excavation Depth)

A conversion factor of 1.5 tons per cubic yard must be used to convert tons to cubic yards.

Section 734.830 Drum Disposal

Payment for costs associated with the purchase, transportation, and disposal of 55-gallon drums containing waste generated as a result of corrective action (e.g., boring cuttings, water bailed for well development or sampling, hand-bailed free product) must not exceed the following amounts or a total of \$500, whichever is greater.

Drum Contents	Maximum Total Amount per Drum
Solid waste	\$250
Liquid waste	\$150

Section 734.835 Sample Handling and Analysis

Payment for costs associated with sample handling and analysis must not exceed the amounts set forth in Appendix D of this Part. Such costs must include, but are not limited to, those associated with the transportation, delivery, preparation, and analysis of samples, and the reporting of sample results. For laboratory analyses not included in this Section, the Agency may determine reasonable maximum payment amounts on a site-specific basis.

Section 734.840 Concrete, Asphalt, and Paving; Destruction or Dismantling and Reassembly of Above Grade Structures

- a) Payment for costs associated with concrete, asphalt, and paving installed as an engineered barrier, other than replacement concrete, asphalt, and paving, must not exceed the following amounts. Costs associated with the replacement of concrete, asphalt, and paving used as an engineered barrier are subject to the maximum amounts set forth in subsection (b) of this Section instead of this subsection (a).

Depth of Material	Maximum Total Amount per Square Foot
Asphalt and paving – 2 inches	\$1.65
3 inches	\$1.86

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

	4 inches	\$2.38
Concrete –	any depth	\$2.38

- b) Payment for costs associated with the replacement of concrete, asphalt, and paving must not exceed the following amounts:

Depth of Material	Maximum Total Amount per Square Foot
Asphalt and paving – 2 inches	\$1.65
3 inches	\$1.86
4 inches	\$2.38
6 inches	\$3.08
Concrete – 2 inches	\$2.45
3 inches	\$2.93
4 inches	\$3.41
5 inches	\$3.89
6 inches	\$4.36
8 inches	\$5.31

For depths other than those listed in this subsection, the Agency must determine reasonable maximum payment amounts on a site-specific basis.

- c) Payment for costs associated with the destruction or the dismantling and reassembly of above grade structures must not exceed the time and material amounts set forth in Section 734.850 of this Part. The total cost for the destruction or the dismantling and reassembly of above grade structures must not exceed \$10,000 per site.

Section 734.845 Professional Consulting Services

Payment for costs associated with professional consulting services must not exceed the amounts set forth in this Section. Such costs must include, but are not limited to, those associated with project planning and oversight; field work; field oversight; travel; per diem; mileage; transportation; vehicle charges; lodging; meals; and the preparation, review, certification, and submission of all plans, budgets, reports, applications for payment, and other documentation.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

- a) Early Action and Free Product Removal. Payment of costs for professional consulting services associated with early action and free product removal activities conducted pursuant to Subpart B of this Part must not exceed the following amounts:
- 1) Payment for costs associated with preparation for the abandonment or removal of USTs must not exceed a total of \$960.
 - 2) Payment for costs associated with early action field work and field oversight must not exceed a total of \$390 per half-day, plus travel costs in accordance with subsection (e) of this Section. The number of half-days must not exceed the following:
 - A) If one or more USTs are removed, one half-day for each leaking UST that is removed, not to exceed a total of 10 half-days, plus one half-day for each 225 cubic yards, or fraction thereof, of visibly contaminated fill material removed and disposed of in accordance with Section 734.210(f) of this Part;
 - B) If one or more USTs remain in place, one half-day for every four soil borings, or fraction thereof, drilled pursuant to Section 734.210(h)(2) of this Part; and
 - C) One half-day if a UST line release is repaired.
 - 3) Payment for costs associated with the preparation and submission of 20-day and 45-day reports, including, but not limited to, field work not covered by subsection (a)(2) of this Section, must not exceed a total of \$4,800.
 - 4) Payment for costs associated with the preparation and submission of free product removal plans and the installation of free product removal systems must be determined on a time and materials basis and must not exceed the amounts set forth in Section 734.850 of this Part.
 - 5) Payment for costs associated with Stage 3 site investigations will be reimbursed pursuant to Section 734.850.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

- 6) Payment for costs associated with the preparation and submission of reports submitted pursuant to Section 734.210(h)(3) of this Part must not exceed a total of \$500.
- b) Site Investigation. Payment of costs for professional consulting services associated with site investigation activities conducted pursuant to Subpart C of this Part must not exceed the following amounts:
- 1) Payment for costs associated with Stage 1 site investigation preparation must not exceed a total of \$1,600.
 - 2) Payment for costs associated with Stage 1 field work and field oversight must not exceed a total of \$390 per half-day, plus travel costs in accordance with subsection (e) of this Section. The number of half-days must not exceed the following:
 - A) One half-day for every four soil borings, or fraction thereof, drilled as part of the Stage 1 site investigation but not used for the installation of monitoring wells. Borings in which monitoring wells are installed must be included in subsection (b)(2)(B) of this Section instead of this subsection (b)(2)(A); and
 - B) One half-day for each monitoring well installed as part of the Stage 1 site investigation.
 - 3) Payment for costs associated with the preparation and submission of Stage 2 site investigation plans must not exceed a total of \$3,200.
 - 4) Payment for costs associated with Stage 2 field work and field oversight must not exceed a total of \$390 per half-day, plus travel costs in accordance with subsection (e) of this Section. The number of half-days must not exceed the following:
 - A) One half-day for every four soil borings, or fraction thereof, drilled as part of the Stage 2 site investigation but not used for the installation of monitoring wells. Borings in which monitoring wells are installed must be included in subsection (b)(4)(B) of this Section instead of this subsection (b)(4)(A); and

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

- B) One half-day for each monitoring well installed as part of the Stage 2 site investigation.
- 5) Payment for costs associated with the preparation and submission of Stage 3 site investigation plans must not exceed a total of \$3,200.
- 6) Payment for costs associated with Stage 3 field work and field oversight must not exceed a total of \$390 per half-day, plus travel costs in accordance with subsection (e) of this Section. The number of half-days must not exceed the following:
 - A) One half-day for every four soil borings, or fraction thereof, drilled as part of the Stage 3 site investigation but not used for the installation of monitoring wells. Borings in which monitoring wells are installed must be included in subsection (b)(6)(B) of this Section instead of this subsection (b)(6)(A); and
 - B) One half-day for each monitoring well installed as part of the Stage 3 site investigation.
- 7) Payment for costs associated with well surveys conducted pursuant to Section 734.445(b) of this Part must not exceed a total of \$160. Payment for costs associated with well surveys conducted pursuant to Section 734.445(c) of this Part must be determined on a time and materials basis and must not exceed the amounts set forth in Section 734.850 of this Part.
- 8) Payment for costs associated with the preparation and submission of site investigation completion reports must not exceed a total of \$1,600.
- c) Corrective Action. Payment of costs for professional consulting services associated with corrective action activities conducted pursuant to Subpart C of this Part must not exceed the following amounts:
 - 1) For conventional technology, payment for costs associated with the preparation and submission of corrective action plans must not exceed a total of \$5,120. For alternative technologies, payment for costs must be determined on a time and materials basis and must not exceed the amounts set forth in Section 734.850 of this Part.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

- 2) Payment for costs associated with corrective action field work and field oversight must not exceed the following amounts:
 - A) For conventional technology, a total of \$390 per half-day, not to exceed one half-day for each 225 cubic yards, or fraction thereof, of soil removed and disposed, plus travel costs in accordance with subsection (e) of this Section.
 - B) For alternative technologies, payment for costs must be determined on a time and materials basis and must not exceed the amounts set forth in Section 734.850 of this Part.
 - 3) Payment for costs associated with Environmental Land Use Controls and Highway Authority Agreements used as institutional controls pursuant to 35 Ill. Adm. Code 742 must not exceed a total of \$800 per Environmental Land Use Control or Highway Authority Agreement.
 - 4) Payment for costs associated with the preparation and submission of corrective action completion reports must not exceed a total of \$5,120.
- d) Development of Tier 2 and Tier 3 Remediation Objectives. Payment of costs for professional consulting services associated with the development of Tier 2 and Tier 3 remediation objectives in accordance with 35 Ill. Adm. Code 742 must not exceed the following amounts:
- 1) Payment for costs associated with field work and field oversight for the development of remediation objectives must not exceed a total of \$390 per half-day, plus travel costs in accordance with subsection (e) of this Section. The number of half-days must not exceed the following:
 - A) One half-day for every four soil borings, or fraction thereof, drilled solely for the purpose of developing remediation objectives. Borings in which monitoring wells are installed must be included in subsection (d)(1)(B) of this Section instead of this subsection (d)(1)(A); and
 - B) One half-day for each monitoring well installed solely for the purpose of developing remediation objectives.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

- 2) Excluding costs set forth in subsection (d)(1) of this Section, payment for costs associated with the development of Tier 2 or Tier 3 remediation objectives must not exceed a total of \$800.
- e) Payment for costs associated with travel, including, but not limited to, travel time, per diem, mileage, transportation, vehicle charges, lodging, and meals, must not exceed the following amounts. Costs for travel will be allowed only when authorized elsewhere in this Part.

Distance to Site (land miles)	Maximum Total Amount per Calendar Day
0 to 29	\$140
30 to 59	\$220
60 or more	\$300

Distances must be measured in ground miles and rounded to the nearest mile. If a consultant maintains more than one office, distance to the site must be measured from the consultant's office that is closest to the site.

- f) If a plan must be amended due to unforeseen circumstances, costs associated with the amendment of the plan and its associated budget must not exceed a total of \$640.

Section 734.850 Payment on Time and Materials Basis

This Section sets forth the maximum amounts that may be paid when payment is allowed on a time and materials basis.

- a) Payment for costs associated with activities that have a maximum payment amount set forth in other Sections of this Subpart H (e.g, sample handling and analysis, drilling, well installation and abandonment, drum disposal, or consulting fees for plans, field work, field oversight, and reports) must not exceed the amounts set forth in those Sections, unless payment is made pursuant to Section 734.860 of this Part.
- b) Maximum payment amounts for costs associated with activities that do not have a maximum payment amount set forth in other Sections of this Subpart H must be determined by the Agency on a site-specific basis, provided, however, that

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

personnel costs must not exceed the amounts set forth in Appendix E of this Part. Personnel costs must be based upon the work being performed, regardless of the title of the person performing the work. Owners and operators seeking payment must demonstrate to the Agency that the amounts sought are reasonable.

BOARD NOTE: Alternative technology costs in excess of the costs of conventional technology are ineligible for payment from the Fund. See Sections 734.340(b) and 734.630(z) of this Part.

Section 734.855 Bidding

As an alternative to the maximum payment amounts set forth in this Subpart H, one or more maximum payment amounts may be determined via bidding in accordance with this Section. Each bid must cover all costs included in the maximum payment amount that the bid is replacing.

- a) A minimum of three written bids must be obtained. The bids must be based upon the same scope of work and must remain valid for a period of time that will allow the owner or operator to accept them upon the Agency's approval of the associated budget. Bids must be obtained only from persons qualified and able to perform the work being bid. Bids must not be obtained from persons in which the owner or operator, or the owner's or operator's primary contractor, has a financial interest.
- b) The bids must be summarized on forms prescribed and provided by the Agency. The bid summary form, along with copies of the bid requests and the bids obtained, must be submitted to the Agency in the associated budget. If more than the minimum three bids are obtained, summaries and copies of all bids must be submitted to the Agency.
- c) The maximum payment amount for the work bid must be the amount of the lowest bid, unless the lowest bid is less than the maximum payment amount set forth in this Subpart H, in which case the maximum payment amount set forth in this Subpart H must be allowed. The owner or operator is not required to use the lowest bidder to perform the work, but instead may use another person qualified and able to perform the work, including, but not limited to, a person in which the owner or operator, or the owner's or operator's primary consultant, has a direct or indirect financial interest. However, regardless of who performs the work, the maximum payment amount will remain the amount of the lowest bid.

Section 734.860 Unusual or Extraordinary Circumstances

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

If, as a result of unusual or extraordinary circumstances, an owner or operator incurs or will incur eligible costs that exceed the maximum payment amounts set forth in this Subpart H, the Agency may determine maximum payment amounts for the costs on a site-specific basis. Owners and operators seeking to have the Agency determine maximum payment amounts pursuant to this Section must demonstrate to the Agency that the costs for which they are seeking a determination are eligible for payment from the Fund, exceed the maximum payment amounts set forth in this Subpart H, are the result of unusual or extraordinary circumstances, are unavoidable, are reasonable, and are necessary in order to satisfy the requirements of this Part. Examples of unusual or extraordinary circumstances include, but are not limited to, an inability to obtain a minimum of three bids pursuant to Section 734.855 of this Part due to a limited number of persons providing the service needed.

Section 734.865 Handling Charges

Payment of handling charges must not exceed the amounts set forth in Section 734.635 of this Part.

Section 734.870 Increase in Maximum Payment Amounts

The maximum payment amounts set forth in this Subpart H must be adjusted annually by an inflation factor determined by the annual Implicit Price Deflator for Gross National Product as published by the U.S. Department of Commerce in its Survey of Current Business.

- a) The inflation factor must be calculated each year by dividing the latest published annual Implicit Price Deflator for Gross National Product by the annual Implicit Price Deflator for Gross National Product for the previous year. The inflation factor must be rounded to the nearest 1/100th. In no case must the inflation factor be more than five percent in a single year.
- b) Adjusted maximum payment amounts must become effective on July 1 of each year and must remain in effect through June 30 of the following year. The first adjustment must be made on July 1, 2006 by multiplying the maximum payment amounts set forth in this Subpart H by the applicable inflation factor. Subsequent adjustments must be made by multiplying the latest adjusted maximum payment amounts by the latest inflation factor.
- c) The Agency must post the inflation factors on its website no later than the date they become effective. The inflation factors must remain posted on the website in subsequent years to aid in the calculation of adjusted maximum payment amounts.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

- d) Adjusted maximum payment amounts must be applied as follows:
- 1) For costs approved by the Agency in writing prior to the date the costs are incurred, the applicable maximum payment amounts must be the amounts in effect on the date the Agency received the budget in which the costs were proposed. Once the Agency approves a cost, the applicable maximum payment amount for the cost must not be increased (e.g. by proposing the cost in a subsequent budget).
 - 2) For costs not approved by the Agency in writing prior to the date the costs are incurred, including, but not limited to, early action costs, the applicable maximum payment amounts must be the amounts in effect on the date the costs were incurred.
 - 3) Owners and operators must have the burden of requesting the appropriate adjusted maximum payment amounts in budgets and applications for payment.

Section 734.875 Agency Review of Payment Amounts

At least every three years the Agency must review the amounts set forth in this Subpart H and submit a report to the Board on whether the amounts are consistent with the prevailing market rates. The report must identify amounts that are not consistent with the prevailing market rates and suggest changes needed to make the amounts consistent with the prevailing market rates

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

Section 734.APPENDIX A Indicator Contaminants

TANK CONTENTS	INDICATOR CONTAMINANTS
GASOLINE leaded ¹ , unleaded, premium and gasohol	Benzene Ethylbenzene Toluene Xylene Methyl tertiary butyl ether (MTBE)
MIDDLE DISTILLATE AND HEAVY ENDS	
aviation turbine fuels ¹ jet fuels	Benzene Ethylbenzene Toluene Xylene
diesel fuels gas turbine fuel oils heating fuel oils illuminating oils kerosene lubricants liquid asphalt and dust laying oils cable oils crude oil, crude oil fractions petroleum feedstocks petroleum fractions heavy oils transformer oils ² hydraulic fluids ³ petroleum spirits ⁴ mineral spirits ⁴ , Stoddard solvents ⁴ high-flash aromatic naphthas ⁴ VM&P naphthas ⁴ moderately volatile hydrocarbon solvents ⁴ petroleum extender oils ⁴	Acenaphthene Anthracene Benzo(a)anthracene Benzo(a)pyrene Benzo(b)fluoranthene Benzo(k)fluoranthene Chrysene Dibenzo(a,h)anthracene Fluoranthene Fluorene Indeno(1,2,3-c,d)pyrene Naphthalene Pyrene Acenaphthylene Benzo(g,h,i)perylene Phenanthrene
USED OIL	Screening sample ⁵

NOTES:

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

- 1 lead is also an indicator contaminant
- 2 the polychlorinated biphenyl parameters listed in Appendix B are also indicator
contaminants
- 3 barium is also an indicator contaminant
- 4 the volatile, base/neutral and polynuclear aromatic parameters listed in Appendix B are also
indicator contaminants
- 5 used oil indicator contaminants must be based on the results of a used oil soil sample
analysis – refer to Section 734.405(g) of this Part

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

Section 734.APPENDIX B Additional Parameters

Volatiles

1. Benzene
2. Bromoform
3. Carbon tetrachloride
4. Chlorobenzene
5. Chloroform
6. Dichlorobromomethane
7. 1,2-Dichloroethane
8. 1,1-Dichloroethene
9. cis-1,2-Dichloroethylene
10. Trans-1,2-Dichloroethylene
11. Dichloromethane (Methylene chloride)
12. 1,2-Dichloropropane
13. 1,3-Dichloropropylene (cis + trans)
14. Ethylbenzene
15. Styrene
16. Tetrachloroethylene
17. Toluene
18. 1,1,1-Trichloroethane
19. 1,1,2-Trichloroethane
20. Trichloroethylene
21. Vinyl chloride
22. Xylenes (total)

Base/Neutrals

1. Bis(2-chloroethyl)ether
2. Bis(2-ethylhexyl)phthalate
3. 1,2-Dichlorobenzene
4. 1,4-Dichlorobenzene
5. Hexachlorobenzene
6. Hexachlorocyclopentadiene
7. *n*-Nitrosodi-*n*-propylamine
8. *n*-Nitrosodiphenylamine
9. 1,2,4-Trichlorobenzene

Polynuclear Aromatics

1. Acenaphthene
2. Anthracene

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

3. Benzo(a)anthracene
4. Benzo(a)pyrene
5. Benzo(b)fluoranthene
6. Benzo(k)fluoranthene
7. Chrysene
8. Dibenzo(a,h)anthracene
9. Fluoranthene
10. Fluorene
11. Indeno(1,2,3-c,d)pyrene
12. Naphthalene
13. Pyrene
14. Acenaphthylene
15. Benzo(g,h,i)perylene
16. Phenanthrene

Metals (total inorganic and organic forms)

1. Arsenic
2. Barium
3. Cadmium
4. Chromium (total)
5. Lead
6. Mercury
7. Selenium

Polychlorinated Biphenyls

1. Polychlorinated Biphenyls
(as Decachlorobiphenyl)

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

Section 734.APPENDIX C Backfill Volumes

Volume of Tank in Gallons	Maximum amount of backfill material to be removed:	Maximum amount of backfill material to be replaced:
	Cubic yards	Cubic yards
<285	54	56
285 to 299	55	57
300 to 559	56	58
560 to 999	67	70
1000 to 1049	81	87
1050 to 1149	89	96
1150 to 1999	94	101
2000 to 2499	112	124
2500 to 2999	128	143
3000 to 3999	143	161
4000 to 4999	175	198
5000 to 5999	189	219
6000 to 7499	198	235
7500 to 8299	206	250
8300 to 9999	219	268
10,000 to 11,999	252	312
12,000 to 14,999	286	357
>15,000	345	420

A conversion factor of 1.5 tons per cubic yard must be used to convert tons to cubic yards.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

Section 734.APPENDIX D Sample Handling and Analysis

Chemical	Max. Total Amount per Sample
BETX Soil with MTBE	\$85
BETX Water with MTBE	\$81
COD (Chemical Oxygen Demand)	\$30
Corrosivity	\$15
Flash Point or Ignitability Analysis EPA 1010	\$33
FOC (Fraction Organic Carbon)	\$38
Fat, Oil, & Grease (FOG)	\$60
LUST Pollutants Soil – analysis must include all volatile, base/neutral, polynuclear aromatic, and metal parameters listed in Section 734.AppendixB of this Part	\$693
Organic Carbon (ASTM-D 2974-87)	\$33
Dissolved Oxygen (DO)	\$24
Paint Filter (Free Liquids)	\$14
PCB/Pesticides (combination)	\$222
PCBs	\$111
Pesticides	\$140
PH	\$14
Phenol	\$34
Polynuclear Aromatics PNA, or PAH SOIL	\$152
Polynuclear Aromatics PNA, or PAH WATER	\$152
Reactivity	\$68
SVOC – Soil (Semi-volatile Organic Compounds)	\$313
SVOC – Water (Semi-volatile Organic Compounds)	\$313
TKN (Total Kjeldahl) "nitrogen"	\$44
TOC (Total Organic Carbon) EPA 9060A	\$31
TPH (Total Petroleum Hydrocarbons)	\$122
VOC (Volatile Organic Compound) – Soil (Non-Aqueous)	\$175
VOC (Volatile Organic Compound) – Water	\$169
<hr/> Geo-Technical <hr/>	
Bulk Density ASTM D4292/D2937	\$22
Ex-Situ Hydraulic Conductivity/Permeability	\$255
Moisture Content ASTM D2216-90/D4643-87	\$12
Porosity	\$30
Rock Hydraulic Conductivity Ex-Situ	\$350

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

Sieve/Particle Size Analysis ASTM D422-63/D1140-54	\$145
Soil Classification ASTM D2488-90/D2487-90	\$68

Metals

Arsenic TCLP Soil	\$16
Arsenic Total Soil	\$16
Arsenic Water	\$18
Barium TCLP Soil	\$10
Barium Total Soil	\$10
Barium Water	\$12
Cadmium TCLP Soil	\$16
Cadmium Total Soil	\$16
Cadmium Water	\$18
Chromium TCLP Soil	\$10
Chromium Total Soil	\$10
Chromium Water	\$12
Cyanide TCLP Soil	\$28
Cyanide Total Soil	\$34
Cyanide Water	\$34
Iron TCLP Soil	\$10
Iron Total Soil	\$10
Iron Water	\$12
Lead TCLP Soil	\$16
Lead Total Soil	\$16
Lead Water	\$18
Mercury TCLP Soil	\$19
Mercury Total Soil	\$10
Mercury Water	\$26
Selenium TCLP Soil	\$16
Selenium Total Soil	\$16
Selenium Water	\$15
Silver TCLP Soil	\$10
Silver Total Soil	\$10
Silver Water	\$12
Metals TCLP Soil (a combination of all RCRA metals)	\$103
Metals Total Soil (a combination of all RCRA metals)	\$94
Metals Water (a combination of all RCRA metals)	\$119
Soil preparation for Metals TCLP Soil (one fee per sample)	\$79
Soil preparation for Metals Total Soil (one fee per sample)	\$16

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

Water preparation for Metals Water (one fee per sample) \$11

Other

En Core[®] Sampler, purge-and-trap sampler, or equivalent sampling device \$10

Sample Shipping (*maximum total amount for shipping all samples collected in a calendar day) \$50*

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

Section 734.APPENDIX E Personnel Titles and Rates

Title	Degree Required	Ill. License Req'd.	Min. Yrs. Experience	Max. Hourly Rate
Engineer I	Bachelor's in Engineering	None	0	\$75
Engineer II	Bachelor's in Engineering	None	2	\$85
Engineer III	Bachelor's in Engineering	None	4	\$100
Professional Engineer	Bachelor's in Engineering	P.E.	4	\$110
Senior Prof. Engineer	Bachelor's in Engineering	P.E.	8	\$130
Geologist I	Bachelor's in Geology or Hydrogeology	None	0	\$70
Geologist II	Hydrogeology	None	2	\$75
Geologist III	Bachelor's in Geology or Hydrogeology	None	4	\$88
Professional Geologist	Hydrogeology	P.G.	4	\$92
Senior Prof. Geologist	Bachelor's in Geology or Hydrogeology	P.G.	8	\$110
Scientist I	Bachelor's in a Natural or Physical Science	None	0	\$60
Scientist II	Science	None	2	\$65
Scientist III	Bachelor's in a Natural or Physical Science	None	4	\$70
Scientist IV	Science	None	6	\$75
Senior Scientist	Bachelor's in a Natural or Physical Science	None	8	\$85
Project Manager	None	None	8 ¹	\$90
Senior Project Manager	None	None	12 ¹	\$100
Technician I	None	None	0	\$45
Technician II	None	None	2 ¹	\$50
Technician III	None	None	4 ¹	\$55
Technician IV	None	None	6 ¹	\$60
Senior Technician	None	None	8 ¹	\$65

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

Account Technician I	None	None	0	\$35
Account Technician II	None	None	2 ²	\$40
Account Technician III	None	None	4 ²	\$45
Account Technician IV	None	None	6 ²	\$50
Senior Acct. Technician	None	None	8 ²	\$55
Administrative Assistant I	None	None	0	\$25
Administrative Assistant II	None	None	2 ³	\$30
Administrative Assistant III	None	None	4 ³	\$35
Administrative Assistant IV	None	None	6 ³	\$40
Senior Admin. Assistant	None	None	8 ³	\$45
Draftperson/CAD I	None	None	0	\$40
Draftperson/CAD II	None	None	2 ⁴	\$45
Draftperson/CAD III	None	None	4 ⁴	\$50
Draftperson/CAD IV	None	None	6 ⁴	\$55
Senior Draftperson/CAD	None	None	8 ⁴	\$60

¹ Equivalent work-related or college level education with significant coursework in the physical, life, or environmental sciences can be substituted for all or part of the specified experience requirements.

² Equivalent work-related or college level education with significant coursework in accounting or business can be substituted for all or part of the specified experience requirements.

³ Equivalent work-related or college level education with significant coursework in administrative or secretarial services can be substituted for all or part of the specified experience requirements.

⁴ Equivalent work-related or college level education with significant coursework in drafting or computer aided design (CAD) can be substituted for all or part of the specified experience requirements.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Illinois Home Health Agency Code
- 2) Code Citation: 77 Ill. Adm. Code 245
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
245.20	Amendment
245.50	Amendment
245.72	Amendment
- 4) Statutory Authority: Home Health Agency Licensing Act [210 ILCS 55]
- 5) A Complete Description of the Subjects and Issues: Section 245.20 is being amended so that the definition of Medical Social Worker more closely conforms with the definition in the Clinical Work and Social Work Practice Act [225 ILCS 20]. Section 245.50 is being amended to extend the time limit for obtaining a physician's or podiatrist's signature on any modification to a patient's medical treatment plan from 14 to 30 days. Section 245.72 is being amended to replace the existing text with a requirement that facilities comply with the Health Care Worker Background Check Act [225 ILCS 46] and the Health Care Worker Background Check Code (77 Ill. Adm. Code 955) (adopted at 28 Ill. Reg. 14133, effective October 15, 2004).

Currently, Part 245 requires medical social workers to undergo a full year of training after acquiring their social worker license before being eligible for employment by home health agencies. But as a licensed social worker must already have completed 3,000 hours of work before getting his or her license, requiring them to complete an additional year of training constitutes an onerous burden. Abolishing the requirement would eliminate the burden and bring Part 245 in line with the Act.

Section 245.50 sets 14 days as the maximum time limit to obtain a physician's or podiatrist's signature following a modification of a plan of treatment. It also sets 14 days as the maximum limit for verbal orders for medication or a change in medication to be written and signed by a patient's physician or podiatrist. However, the Act [210 ILCS 55] specifies no time limit, nor do federal regulations. Hospitals are permitted by code (77 Ill. Adm. Code 250) to set the time limit by policy. The standard of the Joint Commission on Accreditation of Health Care Organizations is 30 days. Amending Part 245 to extend the time limit to 30 days for home health agencies would remove an undue burden.

When the Health Care Worker Background Check Act [the Act] was enacted in 1996, requirements for compliance with the Act were added to the rules governing licensure of each "health care employer" defined in the Act. Home health agencies are included as

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

health care employers. Since that time, the Act has been amended several times and has increased in length. Amending each set of licensing rules (15 in all) each time the Act is amended has become a time-consuming process. The rules are also reviewed by seven different advisory boards. Since the boards meet at different times throughout the year, changes to the rules are not able to be promulgated all at the same time. Placing the rules in one Part is a more efficient use of the Department's resources.

The economic effect of this proposed rulemaking is unknown. Therefore, the Department requests any information that would assist in calculating this effect.

The Department anticipates adoption of this rulemaking approximately six to nine months after publication of the notice in the *Illinois Register*.

- 6) Will this rulemaking replace an emergency rulemaking currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking contain any incorporations by reference? No
- 9) Are there any other proposed rulemakings pending on this Part? No
- 10) Statement of Statewide Policy Objective: This rulemaking does not create or expand a State mandate.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking:

Interested persons may present their comments concerning this rulemaking within 45 days after this issue of the *Illinois Register* to:

Susan Meister
Division of Legal Services
Illinois Department of Public Health
535 West Jefferson St., 5th Floor
Springfield, Illinois 62761

217/782-2043
e-mail: rules@idph.state.il.us

- 12) Initial Regulatory Flexibility Analysis:

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- A) Type of small businesses, small municipalities and not-for-profit corporations affected: home health agencies
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 13) Regulatory Agenda on which this rulemaking was summarized: January 2005

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

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

TITLE 77: PUBLIC HEALTH

CHAPTER I: DEPARTMENT OF PUBLIC HEALTH

SUBCHAPTER b: HOSPITALS AND AMBULATORY CARE FACILITIES

PART 245

ILLINOIS HOME HEALTH AGENCY CODE

SUBPART A: GENERAL PROVISIONS

Section	Purpose
245.10	Purpose
245.20	Definitions
245.25	Incorporated and Referenced Materials

SUBPART B: OPERATIONAL REQUIREMENTS

Section	Purpose
245.30	Organization and Administration
245.40	Staffing and Staff Responsibilities
245.50	Services
245.60	Annual Financial Statement
245.70	Home Health Aide Training
245.72	Health Care Worker Background Check

SUBPART C: LICENSURE PROCEDURES

Section	Purpose
245.80	Licensure Required
245.90	License Application
245.100	Provisional License
245.110	Inspections and Investigations
245.120	Violations
245.130	Adverse Licensure Actions
245.140	Penalties and Fines
245.150	Hearings

AUTHORITY: Implementing and authorized by the Home Health Agency Licensing Act [210 ILCS 55].

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

SOURCE: Adopted at 2 Ill. Reg. 31, p. 77, effective August 2, 1978; emergency amendment at 3 Ill. Reg. 38, p. 314, effective September 7, 1979, for a maximum of 150 days; amended at 3 Ill. Reg. 40, p. 153, effective October 6, 1979; emergency amendment at 4 Ill. Reg. 18, p. 129, effective April 21, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 40, p. 56, effective September 23, 1980; emergency amendment at 6 Ill. Reg. 5855, effective April 28, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 11006, effective August 30, 1982; amended at 7 Ill. Reg. 13665, effective October 4, 1983; codified at 8 Ill. Reg. 16829; amended at 9 Ill. Reg. 4836, effective April 1, 1985; amended at 14 Ill. Reg. 2382, effective February 15, 1990; amended at 15 Ill. Reg. 5376, effective May 1, 1991; amended at 18 Ill. Reg. 2414, effective January 22, 1994; emergency amendments at 20 Ill. Reg. 488, effective January 1, 1996, for a maximum of 150 days; emergency expired May 29, 1996; amended at 20 Ill. Reg. 3273, effective February 15, 1996; amended at 20 Ill. Reg. 10033, effective July 15, 1996; amended at 22 Ill. Reg. 3948, effective February 13, 1998; amended at 22 Ill. Reg. 22050, effective December 10, 1998; amended at 23 Ill. Reg. 1028, effective January 15, 1999; amended at 24 Ill. Reg. 17213, effective November 1, 2000; amended at 25 Ill. Reg. 6379, effective May 1, 2001; amended at 26 Ill. Reg. 11241, effective July 15, 2002; amended at 28 Ill. Reg. 3487, effective February 9, 2004; amended at 28 Ill. Reg. 8094, effective May 26, 2004; amended at 29 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 245.20 Definitions

Act – the Home Health Agency Licensing Act [210 ILCS 55].

Administrator – any one of the following:

a physician;

a registered nurse;

an individual with at least one year of supervisory or administrative experience in home health care or in related health provider programs; or

an individual who meets the requirements for Public Health Administrator as contained in 77 Ill. Adm. Code 600.300 of the Certified Local Health Department Code (77 Ill. Adm. Code 600) as promulgated by the Department.

Agency – a Home Health Agency, unless otherwise designated.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

Audiologist – a person who has received a license to practice audiology pursuant to the Illinois Speech-Language Pathology and Audiology Practice Act [225 ILCS 110].

Branch Office – a location or site from which a home health agency provides services within a portion of the total geographic area served by the parent agency. The branch office is part of the home health agency and is located sufficiently close to share administration, supervision and services in a manner that renders it unnecessary for the branch independently to meet the conditions of participation as a home health agency.

Bylaws or Equivalent – a set of rules adopted by a home health agency for governing the agency's operation.

Clinical Note – a dated, written notation by a member of the health team of a contact with a patient, containing a description of signs and symptoms, treatment and/or drug given, the patient's reaction and any changes in physical or emotional condition.

Clinical Record – an accurate account of services provided for each patient and maintained by the agency in accordance with accepted professional standards.

Department – ~~the~~ The Department of Public Health of the State of Illinois.
(Section 2.01 of the Act)

Director – the Director of Public Health of the State of Illinois, or his designee.
(Section 2.02 of the Act)

Discharge Summary – the written report of services rendered, goals achieved and final disposition at the time of discharge from service.

Employee Prospect – a person or persons to whom an agency expects to extend an offer of employment.

Geographic Service Area – the area from which patients are drawn. This area is to be clearly defined by readily recognizable boundaries.

Home Health Agency – *a public agency or private organization which provides skilled nursing services and at least one other home health service as defined in*

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

this Part. (Section 2.04 of the Act)

Home Health Aide – a person who provides personal care and emotional comfort to assist the patient toward independent living in a safe environment. A person may not be employed as a home health aide unless he/she meets the requirements of Section 245.70 of this Part.

Home Health Services – services provided to a person at his residence according to a plan of treatment for illness or infirmity prescribed by a physician or podiatrist. Such services include part-time and intermittent nursing services and other therapeutic services such as physical therapy, occupational therapy, speech therapy, medical social services or services provided by a home health aide.
(Section 2.05 of the Act)

Licensed Practical Nurse – a person currently licensed as a licensed practical nurse under the Nursing and Advanced Practice Nursing Act [225 ILCS 65].

Medical Social Worker – a person who is a licensed social worker or a licensed clinical social worker under the Clinical Social Work and Social Work Practice Act [225 ILCS 20] ~~and has one year of social work experience in a health care setting.~~

Occupational Therapist – a person who is licensed as an occupational therapist under the Illinois Occupational Therapy Practice Act [225 ILCS 75] and meets one or more of the following requirements:

is a graduate of an occupational therapy curriculum accredited jointly by the Council on Medical Education of the American Medical Association and the American Occupational Therapy Association, or

is eligible for the National Registration Examination of the American Occupational Therapy Association, or

has two years of appropriate experience as an occupational therapist and has achieved a satisfactory grade on a proficiency examination conducted, approved or sponsored by the U.S. Public Health Service, except that such examinations of proficiency do not apply with respect to persons initially licensed by a state or seeking initial qualification as an occupational therapist after December 31, 1977.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

Occupational Therapy Assistant – a person who is licensed as an occupational therapy assistant under the Illinois Occupational Therapy Practice Act and meets one or more of the following requirements:

meets the requirements for certification as an occupational therapy assistant established by the American Occupational Therapy Association;
or

has two years of appropriate experience as an occupational therapy assistant and has achieved a satisfactory grade on a proficiency examination conducted, approved or sponsored by the U.S. Public Health Service, except that such determinations of proficiency do not apply with respect to persons initially licensed by a state or seeking initial qualification as an occupational therapy assistant after December 31, 1977.

Part Time or Intermittent Care – home health services given to a patient at least once every 60 days or as frequently as a few hours a day, several times per week.

Patient – a person who is under treatment or care for illness, disease, injury or conditions appropriately responsive to home health services to maintain health or prevent illness.

Patient Care Plan – a coordinated and combined care plan prepared by and in collaboration with each discipline providing service to the patient, to the patient's family, or to both.

Person – any individual, firm, partnership, corporation, company, association or any other legal entity. (Section 2.03 of the Act)

Physical Therapist – a person who is licensed as a physical therapist under the Illinois Physical Therapy Act [225 ILCS 90] and who meets the qualifications for a physical therapist under the Federal Conditions of Participation for Home Health Agencies established by the Health Care Financing Administration (42 CFR 484.1 through 484.40).

Physical Therapist Assistant – a person who is licensed as a physical therapist assistant under the Illinois Physical Therapy Act and who meets the qualifications for a physical therapist assistant under the Federal Conditions of Participation for Home Health Agencies established by the Health Care Financing Administration

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

(42 CFR 484.1 through 484.40).

Physician – Any person licensed to practice medicine in all of its branches under the Medical Practice Act of 1987 [225 ILCS 60]. For a patient who has received medical care in another state, or has moved from another state, and who has not secured the services of a physician licensed in Illinois, an individual who holds an active license to practice medicine in another state will be considered the physician for the patient during this emergency (as determined by the physician) as provided in Section 3 of the Medical Practice Act of 1987. Such an emergency may not extend more than six months in any case.

Plan of Treatment – a plan based on the patient's diagnosis and the assessment of the patient's immediate and long-range needs and resources. The plan of treatment is established in consultation with the home health services team, which includes the attending physician or podiatrist, pertinent members of the agency staff, the patient and members of the family.

Podiatrist – a person who is licensed to practice under the Podiatric Medical Practice Act of 1987 [225 ILCS 100].

Professional Advisory Group – a group composed of at least one practicing physician, one registered nurse (preferably a public health nurse), and with appropriate representation from other professional disciplines that are participating in the provision of home health services. It is highly recommended that a consumer be a member of the group. At least one member of the group is neither an owner nor an employee of the agency.

Progress Notes – a dated, written notation by a member of the health team, summarizing facts about care and the patient's response during a given period of time.

Purchase of Services/Contractual – the provision of services through a written agreement with other providers of services.

Registered Nurse – a person who is currently licensed as a registered nurse under the Nursing and Advanced Practice Nursing Act [225 ILCS 65].

Social Work Assistant – a person who has a baccalaureate degree in social work, psychology, sociology, or other field related to social work and has had at least one year of social work experience in a health care setting; or has two years of

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

appropriate experience as a social work assistant and has achieved a satisfactory grade on a proficiency examination conducted, approved or sponsored by the U.S. Public Health Service, except that such determinations of proficiency do not apply with respect to persons initially licensed by a state or seeking initial qualifications as a social work assistant after December 31, 1977.

Speech-Language Pathologist – a person who is licensed as a speech-language pathologist under the Illinois Speech-Language Pathology and Audiology Practice Act [225 ILCS 110].

Student – an individual who is enrolled in an educational institution and who is receiving training in a health-related profession.

Subdivision – a component of a multi-function health agency, such as the home care department of a hospital or the nursing division of a health department, which independently meets the federal conditions of participation for home health agencies. A subdivision that has branches is regarded as a parent agency.

Substantial compliance or substantially meets – meeting requirements except for variance from the strict and literal performance, which results in unimportant omissions or defects given the particular circumstances involved.

Subunit – a semi-autonomous organization, which serves patients in a geographic area different from that of the parent agency. The subunit by virtue of the distance between it and the agency is judged incapable of sharing administration, supervision and services.

Summary Report – a compilation of the pertinent factors from the clinical notes and progress notes regarding a patient, which is submitted to the patient's physician or podiatrist.

Supervision – authoritative procedural guidance by a qualified person of the appropriate discipline.

(Source: Amended at 29 Ill. Reg. _____, effective _____)

SUBPART B: OPERATIONAL REQUIREMENTS

Section 245.50 Services

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- a) Services Provided
- 1) Each agency shall provide skilled nursing service and at least one other home health service on a part-time or intermittent basis. The basic skilled nursing service shall be provided directly by agency staff. Other home health services may be provided by agency staff directly or through a contractual purchase of services. Additional skilled specialty nursing services and use of additional nursing staff to meet changes in caseload may be provided by contract. All services shall be provided in accordance with the orders of the patient's physician or podiatrist, under a plan of treatment established by such physician or podiatrist, and under the supervision of agency staff.
 - 2) The agency shall state in writing what services will be provided directly and what services will be provided under contractual arrangements.
 - 3) Services provided under contractual arrangements shall be through a written agreement that includes but is not limited to the following:
 - A) Services to be provided.
 - B) Provision for adherence to all applicable agency policies and personnel requirements, including requirements for initial health evaluations and employee health policies.
 - C) Designation of full responsibility for agency control over contracted services.
 - D) Procedures for submitting clinical and progress notes.
 - E) Charges for contracted services.
 - F) Statement of responsibility of liability and insurance coverage.
 - G) Period of time in effect.
 - H) Date and signatures of appropriate authorities.
 - I) Provision for termination.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- b) Acceptance of Patients. Patient acceptance and discharge policies shall include but not be limited to the following:
- 1) Persons shall be accepted for health service on a part-time or intermittent basis upon a plan of treatment established by the patient's physician or podiatrist. This plan shall be in writing within 14 days.
 - 2) Prior to acceptance, the person shall be informed of the agency's charges for the various services that it offers.
 - 3) No person shall be refused service because of age, race, color, sex, marital status, national origin or source of payment. An agency is not required to accept a patient whose source of payment is less than the cost of the service.
 - 4) Patients are accepted for treatment on the basis of a reasonable expectation that the patient's medical, nursing, and social needs can be met adequately by the agency in the patient's place of residence.
 - 5) When services are to be terminated by the home health agency, the patient is to be notified three working days in advance of the date of termination, stating the reason for termination. This information shall be documented in the clinical record. When indicated, a plan shall be developed or a referral made for any continuing care.
 - 6) Services shall not be terminated until such time as the registered nurse, the appropriate therapist, or both, in consultation with the patient's physician or podiatrist, deem it appropriate or arrangements are made for continuing care.
- c) Plan of Treatment
- 1) Skilled nursing and other home health services shall be in accordance with a plan based on the patient's diagnosis and assessment of the patient's immediate and long-range needs and resources. The plan of treatment is established in consultation with the home health services team, which includes the patient's physician or podiatrist, pertinent members of the agency staff, the patient and members of the patient's family. The plan of treatment shall include:

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- A) Diagnoses.
 - B) Functional limitations and rehabilitation potential.
 - C) Expected outcomes for the patient.
 - D) The patient's physician's or podiatrist's regimen of:
 - i) Medications;
 - ii) Treatments;
 - iii) Activity;
 - iv) Diet;
 - v) Specific procedures deemed essential for the health and safety of the patient;
 - vi) Mental status;
 - vii) Frequency of visits;
 - viii) Equipment required; and
 - ix) Instructions for timely discharge or referral.
 - E) The patient's physician's or podiatrist's signature and date.
- 2) Consultation with the patient's physician or podiatrist on any modifications in the plan of treatment deemed necessary shall be documented, and the patient's physician's or podiatrist's signature shall be obtained within ~~30~~4 days after any modification of the medical plan of treatment.
- 3) The plan shall be reviewed by the home health services team every 62 days or more often should the patient's condition warrant.
- 4) An updated plan of treatment shall be given to the patient's physician or podiatrist for review, for any necessary revisions, and for signature every

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

62 days or more often as indicated.

- d) Patient Care Plan
- 1) Home health services from members of the agency staff as well as those under contractual arrangements shall be given in accordance with the plan of treatment and the patient care plan. The patient care plan shall be written by appropriate members of the home health services team based upon the plan of treatment and an assessment of the patient's needs, resources, family and environment. The initial assessment is to be made by a registered nurse. Assessment by other members of the health services team shall be made on orders of the patient's physician or podiatrist or by request of a registered nurse. In those circumstances where the patient's physician has ordered only therapy services, the appropriate therapist (physical therapist or speech-language pathologist) may perform the initial assessment.
 - 2) The patient care plan shall be updated as often as the patient's condition indicates. The plan shall be maintained as a permanent part of the patient's record. The patient care plan shall indicate:
 - A) Patient problems.
 - B) Patient's goals, family's goals, service goals.
 - C) Service approaches to modify or eliminate problems.
 - D) The staff responsible for a given element of service.
 - E) Anticipated outcome of service approach with an estimated time frame for completion.
 - F) Potential for discharge from service.
- e) Clinical Records. Each patient shall have a clinical record, identifiable for home health services and maintained by the agency in accordance with accepted professional standards. Clinical records shall contain:
- 1) Appropriate identifying information for the patient, household members and caretakers, medical history and current findings.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- 2) A plan of treatment signed by the patient's physician or podiatrist.
- 3) A patient care plan developed by the home health services team that is in accord with the patient's physician's or podiatrist's plan of treatment.
- 4) A ~~notated~~ ~~noted~~ medication list with dates reviewed, revised and date sent to the patient's physician or podiatrist.
- 5) Initial and periodic patient assessments by the registered nurse, which include documentation of the patient's functional status and eligibility for service.
- 6) Assessments made by other members of the home health services team.
- 7) Signed and dated clinical notes for each contact, which are written the day of service and incorporated into the patient's clinical record at least weekly.
- 8) Reports on all patient home health care conferences.
- 9) Reports of contacts with the patient's physician or podiatrist by patient and staff.
- 10) Indication of supervision of home health services by the supervising nurse, a registered nurse, or other members of the home health services team.
- 11) Written summary reports sent to the patient's physician or podiatrist every 62 days containing home health services provided, the patient's status, recommendations for revision of the plan of treatment and the need for continuation or termination of services noted.
- 12) Written and signed confirmation of the patient's physician's or podiatrist's interim verbal orders.
- 13) A discharge summary giving a brief review of service, patient status, reason or reasons for discharge and plans for post discharge needs of the patient. A discharge summary may suffice as documentation to close the patient record for one-time visits and short-term or event-focused or diagnosis-focused interventions. The discharge summary need not be a

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

separate piece of paper and may be incorporated into the routine summary reports already furnished to the physician.

- 14) A copy of appropriate patient transfer information, when requested, if the patient is transferred to another health facility or health agency.
 - 15) Each agency shall have a written policy on records procedures and shall retain records for a minimum of five years beyond the last date of service provided. These procedures may include that the agency will utilize and maintain faxed copies of records from licensed professionals, rather than original records, provided that the faxed copies will be maintained on nonthermal paper and that the original records will be maintained for a period of five years by the professional who originated the records. If that professional is providing services through a contract with the agency, then the contract must include that the original records must be maintained for a period of five years by the professional.
 - 16) Those agencies which are subject to the Local Records Act should note that *except as otherwise provided by law, no public record shall be disposed of by any officer or agency unless the written approval of the appropriate Local Records Commission is first obtained.* (Section 7 of the Local Records Act [50 ILCS 205/7])
 - 17) Each agency shall have a written policy and procedure for the protection of confidentiality of patient records, which explains the use of records, removal of records and release of information.
- f) Drugs and Biologicals. The agency shall have written policies governing the supervision and administration of drugs and biologicals, which shall include but not be limited to the following:
- 1) All orders for medications to be given shall be dated and signed by the patient's physician or podiatrist.
 - 2) All orders for medications shall contain the name of the drug, dosage, frequency, method or site of injection and permission from the patient's physician or podiatrist if the patient, the patient's family, or both are to be taught to give medications.
 - 3) The agency's physician or podiatrist or registered nurse shall check all

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

medicines a patient may be taking to identify possible ineffective drug therapy or adverse reactions, significant side effects, drug allergies, and contraindicated medications and shall promptly report any problem to the patient's physician or podiatrist.

- 4) All verbal orders for medication or change in medication orders shall be taken by the registered nurse, written, and signed by the patient's physician or podiatrist within 30 ~~14~~ days.
 - 5) When any experimental drug, sera, allergenic desensitizing agent, penicillin or any other potentially hazardous drug is administered, the registered nurse administering such drugs shall have an emergency plan and any drugs and devices that may be necessary in the event of a drug reaction.
- g) Evaluation. The home health agency shall have written policies and shall make an overall evaluation of the agency's total program at least once a year. This evaluation shall be made by the Professional Advisory Group (or a committee of this group), home health agency staff, consumers, or representation from professional disciplines that are participating in the provision of home health services. The evaluation shall consist of an overall policy and administrative review and a clinical record review. The evaluation shall assess the extent to which the agency's program is appropriate, adequate, effective and efficient. Results of the evaluation shall be reported to and acted upon by those responsible for the operation of the agency and maintained separately as administrative records.
- h) Policy and Administrative Review. As a part of the evaluation process, the policies and administrative practices of the agency shall be reviewed to determine the extent to which they promote patient care that is appropriate, adequate, effective and efficient. Mechanisms shall be established in writing for the collection of pertinent data to assist in evaluation. The data to be considered may include but are not limited to: number of patients receiving each service offered, number of patient visits, reasons for discharge, breakdown by diagnosis, sources of referral, number of patients not accepted with reasons and total staff days for each service offered.
- i) Clinical Record Review
- 1) At least quarterly, members of professional disciplines representing at

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

least the scope of the agency's programs; shall review a sample of both active and closed clinical records to assure that established policies are followed in providing services (direct, as well as those under contractual arrangement). This review shall include, but not be limited to:

- A) Whether the patient care plan was directly related to the stated diagnosis and plan of treatment;
 - B) Whether the frequency of visits was consistent with the plan of treatment;
 - C) Whether the services could have been provided in a shorter span of time.
- 2) Clinical records shall be reviewed continually for each 62 day period that a patient received home health services to determine the adequacy of the plan of treatment and the appropriateness of continuing home health care.

(Source: Amended at 29 Ill. Reg. _____, effective _____)

Section 245.72 Health Care Worker Background Check

A facility shall comply with the Health Care Worker Background Check Act [225 ILCS 46] and the Health Care Worker Background Check Code (77 Ill. Adm. Code 955).

- a) *The agency shall not knowingly hire any individual in a position with duties involving direct care for patients if that person has been convicted of committing or attempting to commit one or more of the following offenses (Section 25 of the Health Care Worker Background Check Act [225 ILCS 46/25]):*
 - 1) ~~Solicitation of murder, solicitation of murder for hire (Sections 8-1.1 and 8-1.2 of the Criminal Code of 1961 [720 ILCS 5/8-1.1 and 8-1.2] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 8-1.1 and 8-1.2));~~
 - 2) ~~Murder, homicide, manslaughter or concealment of a homicidal death (Sections 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, and 9-3.3 of the Criminal Code of 1961 [720 ILCS 5/9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2 and 9-3.3] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, and 9-3.3; Ill. Rev. Stat. 1985; ch. 38, par. 9-1.1; Ill. Rev. Stat. 1961, ch. 38, pars. 3, 236, 358, 360, 361, 362, 363, 364, 364a, 365,~~

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

~~370, 373, 373a, 417, and 474~~);

- 3) ~~Kidnaping or child abduction (Sections 10-1, 10-2, 10-5 and 10-7 of the Criminal Code of 1961 [720 ILCS 5/10-1, 10-2, 10-5, and 10-7] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 10-1, 10-2, 10-5, and 10-7; Ill. Rev. Stat. 1985, ch. 38, par. 10-6; Ill. Rev. Stat. 1961, ch. 38, pars. 384 to 386))~~);
- 4) ~~Unlawful restraint or forcible detention (Sections 10-3, 10-3.1, and 10-4 of the Criminal Code of 1961 [720 ILCS 5/10-3, 10-3.1, and 10-4] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 10-3, 10-3.1, and 10-4; Ill. Rev. Stat. 1961, ch. 38, pars. 252, 252.1, and 252.4))~~);
- 5) ~~Indecent solicitation of a child, sexual exploitation of a child, exploitation of a child, child pornography (Sections 11-6, 11-9.1, 11-19.2, and 11-20.1 of the Criminal Code of 1961 [720 ILCS 5/11-6, 11-9.1, 11-19.2, and 11-20.1] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 11-6, 11-19.2, and 11-20.1; Ill. Rev. Stat. 1983, ch. 38, par. 11-20a; Ill. Rev. Stat. 1961, ch. 38, pars. 103 and 104))~~);
- 6) ~~Assault, battery, heinous battery, tampering with food, drugs or cosmetics, or infliction of great bodily harm (Sections 12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.5, 12-4.6, and 12-4.7 of the Criminal Code of 1961 [720 ILCS 5/12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.5, 12-4.6, and 12-4.7] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.5, 12-4.6, and 12-4.7; Ill. Rev. Stat. 1985, ch. 38, par. 9-1.1; Ill. Rev. Stat. 1961, ch. 38, pars. 55, 56, and 56a to 60b))~~);
- 7) ~~Aggravated stalking (Section 12-7.4 of the Criminal Code of 1961 [720 ILCS 5/12-7.4] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 12-7.4))~~);
- 8) ~~Home invasion (Section 12-11 of the Criminal Code of 1961 [720 ILCS 5/12-11] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 12-11))~~);
- 9) ~~Criminal sexual assault or criminal sexual abuse (Sections 12-13, 12-14, 12-14.1, 12-15, and 12-16 of the Criminal Code of 1961 [720 ILCS 5/12-13, 12-14, 12-14.1, 12-15, and 12-16] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 11-1, 11-2, 11-3, 11-4, 11-5, 12-13, 12-14, 12-15, and 12-16; Ill. Rev. Stat. 1985, ch. 38, pars. 11-1, 11-4, and 11-4.1; Ill. Rev. Stat. 1961,~~

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

~~ch. 38, pars. 109, 141, 142, 490, and 491));~~

- 10) ~~Abuse and gross neglect of a long-term care facility resident (Section 12-19 of the Criminal Code of 1961 [720 ILCS 5/12-19] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 12-19));~~
- 11) ~~Criminal abuse or neglect of an elderly or disabled person (Section 12-21 of the Criminal Code of 1961 [720 ILCS 5/12-21] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 12-21));~~
- 12) ~~Endangering the life or health of a child (Section 12-21.6 of the Criminal Code of 1961 [720 ILCS 5/12-21.6] (formerly Ill. Rev. Stat. 1991, ch. 23, par. 2354; Ill. Rev. Stat. 1961, ch. 38, par. 95));~~
- 13) ~~Ritual mutilation, ritualized abuse of a child (Sections 12-32 and 12-33 of the Criminal Code of 1961 [720 ILCS 5/12-32 and 12-33] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 12-32 and 12-33));~~
- 14) ~~Theft, retail theft (Sections 16-1 and 16A-3 of the Criminal Code of 1961 [720 ILCS 5/16-1 and 16A-3] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 16-1 and 16A-3; Ill. Rev. Stat. 1961, ch. 38, pars. 62, 207 to 218, 240 to 244, 246, 253, 254.1, 258, 262, 262a, 273, 290, 291, 301a, 354, 387 to 388b, 389, 393 to 400, 404a to 404c, 438, 492 to 496));~~
- 15) ~~Financial exploitation of an elderly person or a person with a disability (Section 16-1.3 of the Criminal Code of 1961 [720 ILCS 5/16-1.3] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 16-1.3));~~
- 16) ~~Forgery (Section 17-3 of the Criminal Code of 1961 [720 ILCS 5/17-3] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 17-3; Ill. Rev. Stat. 1961, ch. 38, pars. 151 and 277 to 286));~~
- 17) ~~Robbery, armed robbery (Sections 18-1 and 18-2 of the Criminal Code of 1961 [720 ILCS 5/18-1 and 18-2] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 18-1 and 18-2));~~
- 18) ~~Vehicular hijacking, aggravated vehicular hijacking, aggravated robbery (Sections 18-3, 18-4, and 18-5 of the Criminal Code of 1961 [720 ILCS 5/18-3, 18-4, and 18-5]);~~

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- 19) ~~Burglary, residential burglary (Sections 19-1 and 19-3 of the Criminal Code of 1961 [720 ILCS 5/19-1 and 19-3] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 19-1 and 19-3; Ill. Rev. Stat. 1961, ch. 38, pars. 84 to 86, 88 and 501));~~
- 20) ~~Criminal trespass to a residence (Section 19-4 of the Criminal Code of 1961 [720 ILCS 5/19-4] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 19-4));~~
- 21) ~~Arson (Sections 20-1 and 20-1.1 of the Criminal Code of 1961 [720 ILCS 5/20-1 and 20-1.1] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 20-1 and 20-1.1; Ill. Rev. Stat. 1961, ch. 38, pars. 48 to 53 and 236 to 238));~~
- 22) ~~Unlawful use of weapons, aggravated discharge of a firearm, or reckless discharge of a firearm (Sections 24-1, 24-1.2, and 24-1.5 of the Criminal Code of 1961 [720 ILCS 5/24-1, 24-1.2, and 24-1.5] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 24-1 and 24-1.2; Ill. Rev. Stat. 1961, ch. 38, pars. 152, 152a, 155, 155a to 158b, 414a to 414c, 414e and 414g));~~
- 23) ~~Armed violence—elements of the offense (Section 33A-2 of the Criminal Code of 1961 [720 ILCS 5/33A-2] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 33A-2));~~
- 24) ~~Those provided in Section 4 of the Wrongs to Children Act (Section 4 of the Wrongs to Children Act [720 ILCS 150/4] (formerly Ill. Rev. Stat. 1991, ch. 23, par. 2354));~~
- 25) ~~Cruelty to children (Section 53 of the Criminal Jurisprudence Act [720 ILCS 115/53] (formerly Ill. Rev. Stat. 1991, ch. 23, par. 2368));~~
- 26) ~~Manufacture, delivery or trafficking of cannabis, delivery of cannabis on school grounds, delivery to person under 18, violation by person under 18 (Sections 5, 5.1, 5.2, 7, and 9 of the Cannabis Control Act [720 ILCS 550/5, 5.1, 5.2, 7, and 9] (formerly Ill. Rev. Stat. 1991, ch. 56-1/2, pars. 705, 705.1, 705.2, 707 and 709)); or~~
- 27) ~~Manufacture, delivery or trafficking of controlled substances (Sections 401, 401.1, 404, 405, 405.1, 407 and 407.1 of the Illinois Controlled Substances Act [720 ILCS 570/401, 401.1, 404, 405, 405.1, 407, and 407.1] (formerly Ill. Rev. Stat. 1991, ch. 56-1/2, pars. 1401, 1401.1, 1404, 1405, 1405.1, 1407, and 1407.1)).~~

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- b) ~~The agency shall not knowingly employ or retain any individual in a position with duties involving direct care for patients if that person has been convicted of committing or attempting to commit one or more of the offenses listed in subsections (a)(1) to (27) of this Section unless the applicant, employee or employer obtains a waiver pursuant to this Section. (Section 25 of the Health Care Worker Background Check Act)~~
- e) ~~The agency shall not hire, employ, or retain any individual in a position with duties involving direct care of clients, patients, or residents if the agency becomes aware that the individual has been convicted in another state of committing or attempting to commit an offense that has the same or similar elements as an offense listed in subsections (a)(1) to (27) of this Section, as verified by court records, records from a State agency, or an FBI criminal history record check. This shall not be construed to mean that an agency has an obligation to conduct a criminal history records check in other states in which an employee has resided. (Section 25(b) of the Act)~~
- d) ~~For the purpose of this Section:~~
- 1) ~~"Applicant" means an individual seeking employment with an agency who has received a bona fide conditional offer of employment.~~
 - 2) ~~"Conditional offer of employment" means a bona fide offer of employment by an agency to an applicant, which is contingent upon the receipt of a report from the Department of State Police indicating that the applicant does not have a record of conviction of any of the criminal offenses listed in subsections (a)(1) to (27) of this Section.~~
 - 3) ~~"Direct care" means the provision of nursing care or assistance with feeding, dressing, movement, bathing, or other personal needs.~~
 - 4) ~~"Initiate" means the obtaining of the authorization for a record check from a student, applicant, or employee. (Section 15 of the Health Care Worker Background Check Act)~~
- e) ~~For purposes of the Health Care Worker Background Check Act, the agency shall establish a policy defining which employees provide direct care. In making this determination, the agency shall consider the following:~~

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- 1) ~~The employee's assigned job responsibilities as set forth in the employee's job description;~~
 - 2) ~~Whether the employee is required to or has the opportunity to be alone with patients, with the exception of infrequent or unusual occasions;~~
 - 3) ~~Whether the employee's responsibilities include physical contact with patients, for example to provide therapy or to draw blood.~~
- f) ~~Beginning January 1, 1996, when the agency makes a conditional offer of employment to an applicant who is not exempt under subsection (w) of this Section, for a position with duties that involve direct care for patients, the employer must initiate or have initiated on its behalf a Uniform Conviction Information Act (UCIA) criminal history record check for that applicant. (Section 30(e) of the Health Care Worker Background Check Act) If the applicant is on the Department's Nurse Aide Registry in good standing and has had a UCIA criminal history record check within the last 12 months, the employer need not initiate another check.~~
- g) ~~The facility shall transmit all necessary information and fees to the Illinois State Police within 10 working days after receipt of the authorization. (Section 15 of the Health Care Worker Background Check Act)~~
- h) ~~The agency may accept an authentic UCIA criminal history record check that has been conducted within the last 12 months rather than initiating a check as required in subsection (f) of this Section.~~
- i) ~~The request for a UCIA criminal history record check shall be made as prescribed by the Department of State Police. The applicant or employee must be notified of the following whenever a non fingerprint based UCIA criminal history record check is made:~~
- 1) ~~That the agency shall request or have requested on its behalf a non-fingerprint based UCIA criminal history record check pursuant to the Health Care Worker Background Check Act.~~
 - 2) ~~That the applicant or employee has a right to obtain a copy of the criminal records report from the agency, challenge the accuracy and completeness of the report, and request a waiver in accordance with this Section.~~

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- 3) ~~That the applicant, if hired conditionally, may be terminated if the non-fingerprint based criminal records report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1) to (27) of this Section unless the applicant's identity is validated and it is determined that the applicant or employee does not have a disqualifying criminal history record based on a fingerprint based records check pursuant to subsection (k) of this Section.~~
- 4) ~~That the applicant, if not hired conditionally, shall not be hired if the non-fingerprint based criminal records report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1) to (27) of this Section unless the applicant's record is cleared based on a fingerprint based records check pursuant to subsection (k) of this Section.~~
- 5) ~~That the employee may be terminated if the criminal records report indicates that the employee has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1) to (27) of this Section unless the employee's record is cleared based on a fingerprint based records check pursuant to subsection (k) of this Section. (Section 30(e) and (f) of the Health Care Worker Background Check Act)~~
- j) ~~An agency may conditionally employ an applicant to provide direct care for up to three months pending the results of a UCIA criminal history record check. (Section 30(g) of the Health Care Worker Background Check Act)~~
- k) ~~An applicant or employee whose non-fingerprint based UCIA criminal history record check indicates a conviction for committing or attempting to commit one or more of the offenses listed in subsections (a)(1) to (27) of this Section may request that the agency or its designee or the Department commence a fingerprint based UCIA criminal records check by submitting any necessary fees and information in a form and manner prescribed by the Department of State Police. (Section 35 of the Health Care Worker Background Check Act)~~
- l) ~~An agency having actual knowledge from a source other than a non fingerprint check that an employee has been convicted of committing or attempting to commit one of the offenses enumerated in Section 25 of the Act must initiate a fingerprint based background check within 10 working days after acquiring that knowledge. The agency may continue to employ that individual in a direct care position, may reassign that individual to a non direct care position, or may suspend the~~

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

~~individual until the results of the fingerprint based background check are received. (Section 30(d) of the Health Care Worker Background Check Act)~~

- m) ~~An applicant, employee or employer may request a waiver to subsection (a), (b) or (c) of this Section by submitting the following to the Department within five working days after the receipt of the criminal records report:~~
- ~~1) A completed fingerprint based UCIA criminal records check form (Section 40(a) of the Health Care Worker Background Check Act), which the Department will forward to the Department of State Police; and~~
 - ~~2) A certified check, money order or agency check made payable to the Department of State Police for the amount of money necessary to initiate a fingerprint based UCIA criminal records check.~~
- n) ~~The Department may accept the results of the fingerprint based UCIA criminal records check instead of the items required by subsections (m)(1) and (2).~~
- o) ~~An application for a waiver shall be denied unless the applicant meets the following requirements and submits documentation thereof with the waiver application:~~
- ~~1) Except in the instance of payment of court imposed fines or restitution in which the applicant is adhering to a payment schedule, the applicant shall have met all obligations to the court and under terms of parole (i.e., probation has been successfully completed); and~~
 - ~~2) The applicant shall have satisfactorily completed a drug and/or alcohol recovery program, if drugs and/or alcohol were involved in the offense.~~
- p) ~~The Department may grant a waiver based on mitigating circumstances, which may include:~~
- ~~1) The age of the individual at which the crime was committed;~~
 - ~~2) The circumstances surrounding the crime;~~
 - ~~3) The length of time since the conviction;~~
 - ~~4) The applicant's or employee's criminal history since the conviction;~~

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- 5) ~~The applicant's or employee's work history;~~
 - 6) ~~The applicant's or employee's current employment references;~~
 - 7) ~~The applicant's or employee's character references;~~
 - 8) ~~Nurse Aide Registry records; and~~
 - 9) ~~Other evidence demonstrating the ability of the applicant or employee to perform the employment responsibilities competently and evidence that the applicant or employee does not pose a threat to the health or safety of patients, which may include, but is not limited to, the applicant's or employee's participation in a drug/alcohol rehabilitation program and continued involvement in recovery; the applicant's or employee's participation in anger management or domestic violence prevention programs; the applicant's or employee's status on nurse aide registries in other states; the applicant's or employee's criminal history in other states; or the applicant's or employee's successful completion of all outstanding obligations or responsibilities imposed by or to the court. (Section 40(b) of the Health Care Worker Background Check Act)~~
- q) ~~Waivers will not be granted to individuals who have not met the following time frames. "Disqualifying" refers to offenses listed in subsections (a)(1) to (27) of this Section:~~
- 1) ~~Single disqualifying misdemeanor conviction — waiver consideration no earlier than one year after the conviction date;~~
 - 2) ~~Two to three disqualifying misdemeanor convictions — waiver consideration no earlier than three years after the most recent conviction date;~~
 - 3) ~~More than three disqualifying misdemeanor convictions — waiver consideration no earlier than five years after the most recent conviction date;~~
 - 4) ~~Single disqualifying felony convictions — waiver consideration no earlier than three years after the conviction date;~~

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- 5) ~~Two to three disqualifying felony convictions—waiver consideration no earlier than five years after the most recent conviction date;~~
- 6) ~~More than three disqualifying felony convictions—waiver consideration no earlier than ten years after the most recent conviction date.~~
- r) ~~Waivers will not be granted to individuals who have been convicted of committing or attempting to commit one or more of the following offenses:~~
 - 1) ~~Solicitation of murder, solicitation of murder for hire (Sections 8-1.1 and 8-1.2 of the Criminal Code of 1961 [720 ILCS 5/8-1.1 and 8-1.2]);~~
 - 2) ~~Murder, homicide, manslaughter, concealment of a homicidal death (Sections 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, and 9-3.3 of the Criminal Code of 1961 [720 ILCS 5/9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, and 9-3.3]);~~
 - 3) ~~Kidnaping or aggravated kidnaping (Sections 10-1 and 10-2 of the Criminal Code of 1961 [720 ILCS 5/10-1 and 10-2]);~~
 - 4) ~~Aggravated battery, heinous battery, or infliction of great bodily harm (Sections 12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.6, and 12-4.7 of the Criminal Code of 1961 [720 ILCS 5/12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.6, and 12-4.7]);~~
 - 5) ~~Criminal sexual assault or aggravated criminal sexual assault (Sections 12-13, 12-14, and 12-14.1 of the Criminal Code of 1961 [720 ILCS 5/12-13, 12-14, and 12-14.1]);~~
 - 6) ~~Criminal sexual abuse or aggravated criminal sexual abuse (Sections 12-15 and 12-16 of the Criminal Code of 1961 [720 ILCS 5/12-15 and 12-16]);~~
 - 7) ~~Abuse and gross neglect of a long-term care facility resident (Section 12-19 of the Criminal Code of 1961 [720 ILCS 5/12-19]);~~
 - 8) ~~Criminal abuse or neglect of an elderly or disabled person (Section 12-21 of the Criminal Code of 1961 [720 ILCS 5/12-21]);~~

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- 9) ~~Financial exploitation of an elderly person or a person with a disability (Section 16-1.3 of the Criminal Code of 1961 [720 ILCS 5/16-1.3]);~~
- 10) ~~Indecent solicitation of a child, sexual exploitation of a child, exploitation of a child, child pornography (Sections 11-6, 11-9.1, 11-19.2, and 11-20.1 of the Criminal Code of 1961 [720 ILCS 5/11-6, 11-9.1, 11-19.2, and 11-20.1]);~~
- 11) ~~Armed robbery (Section 18-2 of the Criminal Code of 1961 [720 ILCS 5/18-2]); and~~
- 12) ~~Aggravated vehicular hijacking, aggravated robbery (Sections 18-4 and 18-5 of the Criminal Code of 1961 [720 ILCS 5/18-4 and 18-5]);~~
- s) ~~The Director of Public Health may grant a waiver to an individual who does not meet the requirements of subsection (o), (q), or (r), based on mitigating circumstances (see subsection (p)). (Section 40(b) of the Health Care Worker Background Check Act)~~
- t) ~~An individual shall not be employed in a direct care position from the time that the employer receives the results of a non-fingerprint check containing disqualifying conditions until the time that the individual receives a waiver from the Department. If the individual challenges the results of the non-fingerprint check, the employer may continue to employ the individual in a direct care position if the individual presents convincing evidence to the employer that the non-fingerprint check is invalid. If the individual challenges the results of the non-fingerprint check, his or her identity shall be validated by a fingerprint based records check in accordance with subsection (k) of this Section. (Section 40(d) of the Health Care Worker Background Check Act)~~
- u) ~~An agency is not obligated to employ or offer permanent employment to an applicant, or to retain an employee who is granted a waiver. (Section 40(f) of the Health Care Worker Background Check Act)~~
- v) ~~An agency may retain the individual in a direct care position if the individual presents clear and convincing evidence to the agency that the non-fingerprint-based criminal records report is invalid and if there is a good faith belief on the part of the employer that the individual did not commit an offense listed in subsections (a)(1) to (27) of this Section, pending positive verification through a fingerprint based criminal records check. Such evidence may include, but not be~~

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

~~limited to:~~

- ~~1) certified court records;~~
 - ~~2) written verification from the State's Attorney's office that prosecuted the conviction at issue;~~
 - ~~3) written verification of employment during the time period during which the crime was committed or during the incarceration period stated in the report;~~
 - ~~4) a signed affidavit from the individual concerning the validity of the report;~~
~~or~~
 - ~~5) documentation from a local law enforcement agency that the individual was not convicted of a disqualifying crime.~~
- w) ~~This Section shall not apply to:~~
- ~~1) An individual who is licensed by the Department of Professional Regulation or the Department of Public Health under another law of this State;~~
 - ~~2) An individual employed or retained by a health care employer for whom a criminal background check is required by another law of this State; or~~
 - ~~3) A student in a licensed health care field including, but not limited to, a student nurse, a physical therapy student, or a respiratory care student unless he or she is employed by a health care employer in a position with duties involving direct care for residents. (Section 20 of the Health Care Worker Background Check Act)~~
- x) ~~An employer need not initiate an additional criminal background check for an employee if the employer initiated a criminal background check for the employee after January 1, 1996 and prior to January 1, 1998. This subsection applies only to persons employed prior to January 1, 1998. Any person newly employed on or after January 1, 1998 must receive a background check as required by Section 30 of the Health Care Worker Background Check Act. (Section 25.1 of the Health Care Worker Background Check Act)~~

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- y) ~~The agency shall send a copy of the results of the UCIA criminal history record check to the State Nurse Aide Registry for those individuals who are on the Registry. (Section 30(b) of the Health Care Worker Background Check Act) The agency shall include the individual's Social Security number on the criminal history record check results.~~
- z) ~~The agency shall retain on file, for a period of 5 years, records of criminal records requests for all employees. The agency shall retain the results of the UCIA criminal history records check and waiver, if appropriate, for the duration of the individual's employment. The files shall be subject to inspection by the Department. A fine of \$500 shall be imposed for failure to maintain these records. (Section 50 of the Health Care Worker Background Check Act)~~
- aa) ~~The agency shall maintain a copy of the employee's criminal history record check results and waiver, if applicable, in the personnel file or other secure location accessible to the Department.~~

(Source: Amended at 29 Ill. Reg. _____, effective _____)

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENTS

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

<u>Section Numbers</u> :	<u>Proposed Action</u> :
603.60	Amend
603.75	New
- 4) Statutory Authority: 230 ILCS 5/9(b)
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking addresses subtrace levels of therapeutic drugs that are now detectable for days after administration, and minute traces of drugs that enter the horse's system by way of contamination.

On Thursday, February 17, 2005, the Board held a special meeting and took testimony from two scientists widely renown in drug testing of race horses, Dr Negrusz, Director of the IRB program and Professor of Forensic Science at UIC and Dr. Barker, Director of the Louisiana Drug Testing Laboratory and Professor of Veterinary Medicine and Toxicology. Both testified that advances in drug testing technology over the past five years have increased sensitivity of detection of substances over 1,000 fold. Testing capabilities are so sensitive as to detect drugs in parts per trillion concentration. Drugs are being identified in the horses system days and even weeks after a legal, therapeutic administration by a veterinarian, leaving the concept of "zero tolerance" unenforceable.

Additionally certain substances present in the environment as contaminates can now be detected in a horse's system at even lower trace levels. As a result, owners and trainers risk being unreasonably punished for the legitimate used of therapeutics or the presence of trace levels of environmental contaminates that are beyond their control.

The Board voted to establish threshold levels for 3 nonsteroidal therapeutic drugs and restructured the penalty system for two environmental contaminates. Only the issue of establishing a threshold level for cocaine metabolites was controversial. Testimony taken by the Board showed that traces of cocaine can be found on almost every piece of US currency. Published studies have demonstrated that urine taken from humans handling money can test as high as 80 ng/ml concentration of BE (cocaine metabolite). The Federal Department of Health and Human Services as well as the World Health Organization have established the screening threshold for cocaine metabolites at 300 ng/ml in humans, with a confirmatory level of 150 ng/ml for BE. Dr. Negrusz and Dr. Barker are confident that a trace level of BE under 150 ng/ml is insignificant in the horse,

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENTS

having no pharmacological or behavioral effects and representative of an environmental contamination.

In adopting these regulatory action levels, the Board considered testimony of the scientific and veterinary experts, the horsemen's groups, racetrack operators and recommendations, reports and studies published by the National Horsemen's Benevolent & Protective Association (HBPA), the NTRA Racing Integrity and Drug Testing Task Force, the American Association of Equine Practitioners (AAEP), and the NTRA Racing Medication and Testing Consortium. The NTRA Medication Consortium represents a group of 26 industry organizations and has extensively researched the thresholds at issue.

The therapeutic drug thresholds conform to those adopted by several racing jurisdictions, including, California, Ohio, Iowa and Louisiana and conform to ARCI model rules. Ohio and Louisiana have adopted threshold levels of 150ng/ml for BE, with no action taken against a trainer.

This rulemaking does provide for penalties to the trainer if a horse tests under the 150ng level consistent with contamination. The penalties range from a fine of \$250 for the first violation up to \$1,000 for the third violation. The horse shall not be disqualified, however, and the purse is not redistributed.

Levels as low as 20 ng/ml to 50 ng/ml of BE have recently been reported by the UIC laboratory in horses racing at Illinois Tracks. Without establishing a threshold level for guidance, any cocaine found in a horse would result in a minimum penalty of 6 months suspension for the trainer and a loss of purse for the owner.

- 6) Will this proposed rulemaking replace any emergency amendments currently in effect? Yes
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Do these proposed amendment contain incorporation by reference? No
- 9) Are there any other proposed amendments pending in this Part? Yes

<u>Section Number:</u>	<u>Proposed Action:</u>	<u>Ill. Reg. Citation</u>
603.50	Amend	28 Ill. Reg. 6015, 4/16/04
603.70	Amend	28 Ill. Reg. 16196, 12/17/04
603.70	Amend	28. Ill. Reg. 2779, 2/5/05

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENTS

- 10) Statement of Statewide Policy Objective: No local governmental units will be required to increase expenditures.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Written comments should be submitted, within 45 days after this notice, to:
- Mickey Ezzo
Illinois Racing Board
100 West Randolph, Suite 7-701
Chicago, Illinois 60601
- (312) 814-5017
- 12) Initial Regulatory Flexibility Analysis:
- A) Types of small business affected: None
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None
- 13) Regulatory Agenda which this rulemaking was summarized: This rulemaking was not included on either of the most two recent regulatory agendas because: it was not anticipated when they were submitted.

The full text of the Proposed Amendments is identical to the text of the Emergency Amendments that appears in this issue of the *Illinois Register* on page 4116:

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Issuance of Licenses
- 2) Code Citation: 92 Ill. Adm. Code 1030
- 3) Section Number: 1030.140 Proposed Action:
New Section
- 4) Statutory Authority: Implementing changes to Section 5/6-110.1 of the Illinois Vehicle Code [625 ILCS 5/6-110.1] and authorized by Section 2-104(b) of the Illinois Vehicle Code [625 ILCS 5/2-104(b)].
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking is intended to clarify and explain the guidelines regarding the storage of images captured by the Office of the Secretary of State and their use by the Office and criminal justice agencies.
- 6) Will this rulemaking replace an emergency rule currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking contain incorporations by reference? No
- 9) Are there any other proposed rulemakings pending on this Part? Yes

<u>Section Numbers</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
1030.13	Amendment	28 Ill. Reg. 9936; July 16, 2004
1030.75	Amendment	28 Ill. Reg. 9936; July 16, 2004
1030.92	Amendment	28 Ill. Reg. 9936; July 16, 2004

- 10) Statement of Statewide Policy Objectives: The proposed amendments do not require expenditures by units of local government.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Texts of the proposed amendments are posted on Secretary of State's web site, www.sos.state.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 the:

Secretary of State
Robert Mueller, Assistant General Counsel
298 Howlett Building

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT

Springfield, IL 62701

217-785-3094

- 12) 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
- 13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because: the need for this rulemaking was not anticipated at the time the agendas were prepared.

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 1030
ISSUANCE OF LICENSES

Section	
1030.10	What Persons Shall Not be Licensed or Granted Permits
1030.11	Procedure for Obtaining a Driver's License/Temporary Visitor's Driver's License
1030.12	Driver's License Medical Advisory Board
1030.13	Denial of License or Permit
1030.15	Cite for Re-examination
1030.16	Physical and Mental Evaluation
1030.17	Errors in Issuance of Driver's License/Cancellation
1030.18	Medical Criteria Affecting Driver Performance
1030.20	Classification of Drivers – References
1030.30	Classification Standards
1030.40	Fifth Wheel Equipped Trucks
1030.50	Bus Driver's Authority, Religious Organization and Senior Citizen Transportation
1030.55	Commuter Van Driver Operating a For-Profit Ridesharing Arrangement
1030.60	Third-Party Certification Program
1030.63	Religious Exemption for Social Security Numbers
1030.65	Instruction Permits
1030.70	Driver's License Testing/Vision Screening
1030.75	Driver's License Testing/Vision Screening With Vision Aid Arrangements Other Than Standard Eye Glasses or Contact Lens(es)
1030.80	Driver's License Testing/Written Test
1030.81	Endorsements
1030.82	Charter Bus Driver Endorsement Requirements
1030.84	Vehicle Inspection
1030.85	Driver's License Testing/Road Test
1030.86	Multiple Attempts – Written and/or Road Tests
1030.88	Exemption of Facility Administered Road Test
1030.89	Temporary Licenses
1030.90	Requirement for Photograph and Signature of Licensee on Driver's License
1030.91	Disabled Person/Handicapped Identification Card
1030.92	Restrictions
1030.93	Restricted Local Licenses
1030.94	Duplicate or Corrected Driver's License or Instruction Permit
1030.95	Consular Licenses (Repealed)

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT

- 1030.96 Restricted Commercial Driver's License
- 1030.97 Invalidation of a Driver's License, Permit and/or Driving Privilege
- 1030.98 School Bus Commercial Driver's License
- 1030.100 Anatomical Gift Donor
- 1030.110 Emergency Medical Information Card
- 1030.115 Change-of-Address
- 1030.120 Issuance of a Probationary License
- 1030.130 Grounds for Cancellation of a Probationary License
- 1030.140 Use of Captured Images
- 1030.APPENDIX A Questions Asked of a Driver's License Applicant
- 1030.APPENDIX B Acceptable Identification Documents

AUTHORITY: Implementing Article I of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/Ch. 6, Art. I] and authorized by Section 2-104(b) of the Illinois Vehicle Title and Registration Law of the Illinois Vehicle Code [625 ILCS 5/2-104(b)].

SOURCE: Filed March 30, 1971; amended at 3 Ill. Reg. 7, p. 13, effective April 2, 1979; amended at 4 Ill. Reg. 27, p. 422, effective June 23, 1980; amended at 6 Ill. Reg. 2400, effective February 10, 1982; codified at 6 Ill. Reg. 12674; amended at 9 Ill. Reg. 2716, effective February 20, 1985; amended at 10 Ill. Reg. 303, effective December 24, 1985; amended at 10 Ill. Reg. 18182, effective October 14, 1986; amended at 11 Ill. Reg. 9331, effective April 28, 1987; amended at 11 Ill. Reg. 18292, effective October 23, 1987; amended at 12 Ill. Reg. 3027, effective January 14, 1988; amended at 12 Ill. Reg. 13221, effective August 1, 1988; amended at 12 Ill. Reg. 16915, effective October 1, 1988; amended at 12 Ill. Reg. 19777, effective November 15, 1988; amended at 13 Ill. Reg. 5192, effective April 1, 1989; amended at 13 Ill. Reg. 7808, effective June 1, 1989; amended at 13 Ill. Reg. 12880, effective July 19, 1989; amended at 13 Ill. Reg. 12978, effective July 19, 1989; amended at 13 Ill. Reg. 13898, effective August 22, 1989; amended at 13 Ill. Reg. 15112, effective September 8, 1989; amended at 13 Ill. Reg. 17095, effective October 18, 1989; amended at 14 Ill. Reg. 4570, effective March 8, 1990; amended at 14 Ill. Reg. 4908, effective March 9, 1990; amended at 14 Ill. Reg. 5183, effective March 21, 1990; amended at 14 Ill. Reg. 8707, effective May 16, 1990; amended at 14 Ill. Reg. 9246, effective May 16, 1990; amended at 14 Ill. Reg. 9498, effective May 17, 1990; amended at 14 Ill. Reg. 10111, effective June 11, 1990; amended at 14 Ill. Reg. 10510, effective June 18, 1990; amended at 14 Ill. Reg. 12077, effective July 5, 1990; amended at 14 Ill. Reg. 15487, effective September 10, 1990; amended at 15 Ill. Reg. 15783, effective October 18, 1991; amended at 16 Ill. Reg. 2182, effective January 24, 1992; emergency amendment at 16 Ill. Reg. 12228, effective July 16, 1992, for a maximum of 150 days; emergency expired on December 13, 1992; amended at 16 Ill. Reg. 18087, effective November 17, 1992; emergency amendment at 17 Ill. Reg. 1219, effective January 13, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 2025, effective February 1, 1993; amended at 17 Ill. Reg. 7065, effective May 3, 1993;

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT

amended at 17 Ill. Reg. 8275, effective May 24, 1993; amended at 17 Ill. Reg. 8522, effective May 27, 1993; amended at 17 Ill. Reg. 19315, effective October 22, 1993; amended at 18 Ill. Reg. 1591, effective January 14, 1994; amended at 18 Ill. Reg. 7478, effective May 2, 1994; amended at 18 Ill. Reg. 16457, effective October 24, 1994; amended at 19 Ill. Reg. 10159, effective June 29, 1995; amended at 20 Ill. Reg. 3891, effective February 14, 1996; emergency amendment at 20 Ill. Reg. 8358, effective June 4, 1996, for a maximum of 150 days; emergency amendment repealed in response to an objection of the Joint Committee on Administrative Rules at 20 Ill. Reg. 14279; amended at 21 Ill. Reg. 6588, effective May 19, 1997; amended at 21 Ill. Reg. 10992, effective July 29, 1997; amended at 22 Ill. Reg. 1466, effective January 1, 1998; emergency amendment at 23 Ill. Reg. 9552, effective August 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 13947, effective November 8, 1999; amended at 24 Ill. Reg. 1259, effective January 7, 2000; emergency amendment at 24 Ill. Reg. 1686, effective January 13, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 6955, effective April 24, 2000; emergency amendment at 24 Ill. Reg. 13044, effective August 10, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 18400, effective December 4, 2000; amended at 25 Ill. Reg. 959, effective January 5, 2001; amended at 25 Ill. Reg. 7742, effective June 5, 2001; amended at 25 Ill. Reg. 12646, effective September 24, 2001; emergency amendment at 25 Ill. Reg. 12658, effective September 24, 2001, for a maximum of 150 days; emergency expired February 20, 2002; amended at 26 Ill. Reg. 9961, effective June 24, 2002; amended at 27 Ill. Reg. 855, effective January 3, 2003; emergency amendment at 27 Ill. Reg. 7340, effective April 14, 2003, for a maximum of 150 days; emergency expired September 10, 2003; emergency amendment at 27 Ill. Reg. 16968, effective October 17, 2003, for a maximum of 150 days; emergency expired March 14, 2004; emergency amendment at 28 Ill. Reg. 384, effective January 1, 2004, for a maximum of 150 days; emergency expired May 29, 2004; amended at 28 Ill. Reg. 8895, effective June 14, 2004; amended at 28 Ill. Reg. 10776, effective July 13, 2004; amended at 29 Ill. Reg. 920, effective January 1, 2005; emergency amendment at 29 Ill. Reg. 2469, effective January 31, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. _____, effective _____.

Section 1030.140 Use of Captured Images

- a) Definitions. As used in this Section, the following definitions shall apply:

"Criminal Justice Agencies" means the federal and state courts, a governmental agency or a sub-unit thereof that performs the duties of the detection, apprehension or detention of accused persons or criminal offenders pursuant to a statute.

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT

"Image" means the digital photo and signature captured in the process of issuing an Illinois driver's license or identification card and retrieved from the Secretary of State database.

- b) The Secretary of State shall maintain a file of all images captured in the process of issuing a driver's license or identification card.
- 1) No other entity shall maintain a file of all or any subset of images, or store them as part of a database or separately established collection, unless explicitly authorized by law or this Section.
 - 2) Images may be retained in hard copy or electronic format only as part of a case record by a criminal justice agency, as required to complete an investigation, to provide evidence or other documentation for the investigation, or as required for any subsequent law enforcement action. The images must remain confidential, be available only to criminal justice agencies, and be disposed of in accordance with established record retention policies pertaining to criminal justice records.
 - 3) Images retrieved for the sole purpose of secondary dissemination shall not be stored by the disseminating agency except for the purposes of transmission.
 - 4) Illinois State Police may store images retrieved for the purpose of verification and issuance of Firearm Owner Identification Cards and for use on their Sex Offender Registry.
 - 5) Upon the request of the individual, the Secretary of State may maintain a captured image as part of its Lobbyist Registration database, which is available for access by the general public.
- c) The images shall not be publicly displayed or accessed by or distributed to persons other than those authorized by this Section, unless otherwise explicitly allowed by law.
- 1) The images shall be confidential and shall not be disclosed, except to the following persons and for the following reasons:
 - A) The individual upon written request;

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT

- B) A family member or estate executor of a deceased individual upon written request, submission of a copy of the death certificate or other proof of death, and other information at the discretion of the Department of Driver Services;
 - C) Officers and employees of the Secretary of State who have a need to have access to the stored images to:
 - i) issue or control driver's licenses and identification cards;
 - ii) conduct an investigation into fraudulent activities;
 - iii) conduct hearings regarding the cancellation, suspension or revocation of a driver's license or identification card; or
 - iv) register individuals under the Lobbyist Registration Act;
 - D) Illinois and federal criminal justice agencies for lawful civil or criminal law enforcement investigations;
 - E) Criminal justice agencies from other states or jurisdictions for the purpose of lawful civil or criminal law enforcement investigations; or
 - F) For use and display by the Illinois State Police in their Sex Offender Registry maintained by law and for display in the Secretary of State Lobbyist Registry.
- 2) Broad secondary dissemination to the public or to persons other than those authorized by this Section can occur if it is deemed to be necessary for locating a suspect or crime victim or for protecting public or officer safety in the course of a criminal investigation, and if:
- A) No other suitable image is available;
 - B) Additional methods of verification of the person's identity and image have been completed;
 - C) Applicable disclaimer language is included; and

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT

- D) It is approved in advance in writing by the Secretary of State Department of Police.
- 3) Only images of a suspect in the investigation for which the image was requested shall be used in any line-up or photo array. Other images can only be used in a photo line-up or array if the individual has provided express written consent in advance.
- d) Recipients of images from the Secretary of State may not disseminate images further, except criminal justice agencies may disseminate images to other eligible criminal justice agencies for the purposes of the investigation for which the image was originally requested.
- 1) The Secretary of State shall establish procedures for electronic and hard copy dissemination of images that ensure secure transmission and adherence with all established law and rules regarding images.
- 2) Any agency that secondarily disseminates an image must have the ability to identify other eligible entities and provide records of dissemination, and must have the ability to ensure that the secondary recipient/requestor meets the definition of criminal justice agency. Secondary dissemination will require verification of the recipient's LEADS certification or similar level of verification if LEADS certification is not applicable, and may require other levels of verification defined by the Secretary of State that are necessary to ensure secure and legal distribution and use of images.
- 3) Methods of requesting and disseminating the images must include a provision that the request for and subsequent receipt of the images serves as an agreement to keep the images confidential and to adhere to all established law and rule regarding the images, and must include any disclaimers required by the Secretary of State.

(Source: Added at 29 Ill. Reg. _____, effective _____)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED RULES

- 1) Heading of the Part: Electrologist Licensing Act
- 2) Code Citation: 68 Ill. Adm. Code 1246
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
1246.10	New Section
1246.20	New Section
1246.30	New Section
1246.40	New Section
1246.50	New Section
1246.60	New Section
1246.70	New Section
1246.80	New Section
1246.90	New Section
1246.100	New Section
1246.105	New Section
1246.110	New Section
- 4) Statutory Authority: Implementing the Electrologist Licensing Act [225 ILCS 412]
- 5) Effective Date of Rules: February 22, 2005
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these rules contain incorporations by reference? Yes
- 8) A copy of the adopted rules, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Date Notice of Proposal Published in Illinois Register: November 5, 2004; 28 Ill. Reg. 14402.
- 10) Has JCAR issued a Statement of Objection to these rules? No
- 11) Differences between proposal and final version: A number of nonsubstantive technical changes were made to the rules, but no substantive changes were made.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED RULES

- 13) Will these rules replace any emergency rules currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rules: Public Act 92-750 established the Electrologist Licensing Act. This rulemaking provides qualifications and requirements for individuals in the practice of electrology in this State to obtain a license from the Department of Financial and Professional Regulation-Division of Professional Regulation as an electrologist. These rules will allow the Division to begin accepting and processing applications for licensure.

Sections 1246.10, 1246.20, 1246.30, and 1246.50 set forth the application process and requirements for licensure as an electrologist. Qualifications are also provided for individuals who wish to apply under the grandfather provision. Standards for sterilization and sanitation, procedures for renewal of a license, and conditions for the Director of the Division to grant a variance to these rules are also provided. Fees for certification and renewal as well as general processing fees are set forth in Section 1246.40.

- 16) Information and questions regarding this adopted rulemaking shall be directed to:

Department of Financial and Professional Regulation
Attention: Barb Smith
320 West Washington, 3rd Floor
Springfield, Illinois 62786

217/785-0813 Fax: 217/782-7645

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED RULES

TITLE 68: PROFESSIONS AND OCCUPATIONS

CHAPTER VII: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

PART 1246

ELECTROLOGIST LICENSING ACT

Section

1246.10	Qualifications for Licensure
1246.20	Examination
1246.30	Application for Licensure By Examination
1246.40	Fees
1246.50	Endorsement
1246.60	Standards of Sterilization and Sanitation
1245.70	Continuing Education
1246.80	Renewals
1246.90	Restoration
1246.100	Inactive Status
1246.105	Granting Variances
1246.110	Dishonorable, Unethical or Unprofessional Conduct

AUTHORITY: Implementing the Electrologist Licensing Act [225 ILCS 412] and authorized by Section 2105-15(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15(7)].

SOURCE: Adopted at 29 Ill. Reg. 3873, effective February 22, 2005.

Section 1246.10 Qualification for Licensure

- a) An applicant may apply for licensure as an electrologist by filing an application on forms provided by the Department of Financial and Professional Regulation-Division of Professional Regulation (Division). For individuals who wish to apply under the grandfather provision, the application shall be postmarked no later than January 1, 2006 and shall include:
 - 1) A complete work history documenting employment as an electrologist;
 - 2) Verification that the applicant has received compensation for practicing electrology for a period of 3 years. This may be in the form of affidavits from at least 3 clients or business owners who can attest to applicant's practicing electrology for compensation;

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED RULES

- 3) Proof of one of the following:
 - A) Current board certification by the American Electrology Association as a Certified Professional Electrologist (CPE) or Clinical Certified Electrologist (CCE) or certification from any other organization approved by the Division; or
 - B) Completion of 30 hours of continuing education in electrology as set forth in Section 1246.70; and
 - 4) the required fee set forth in Section 1246.30.
- b) Individuals applying for licensure as an electrologist, except for those qualified under the grandfather provision, shall file an application with the Division, on forms provided by the Division, that the applicant has:
- 1) Completed 600 hours in the study of electrology over a period of not less than 16 weeks nor more than 2 consecutive years at a program approved by the Division. If an applicant completed a program before December 31, 2003, the program may be less than 600 hours if it is approved by the Division; and
 - 2) Successfully completed the IBEC (International Board of Electrology Certification) examination.

Section 1246.20 Examination

- a) The examination for licensed electrologists shall be the IBEC (International Board of Electrology Certification) examination.
- b) The passing score on the examination shall be the passing score of the testing entity.
- c) Applicants who fail the examination 3 times in Illinois or any other jurisdiction shall be required to submit proof of successful completion of 100 hours in an electrology education program in a course of study on the subjects of the portion failed in the third examination.

Section 1246.30 Application for Licensure by Examination

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED RULES

Applicants for licensure based on examination shall submit to the Division a properly completed application on forms provided by the Division, along with the following:

- a) Proof of successful completion of the examination approved by the Division specified in Section 1246.20 of this Part; and
- b) The required fee set forth in Section 1246.40.

Section 1246.40 Fees

The following fees shall be paid to the Division and are not refundable:

- a) **Application Fees.**
The fee for application for a license as an electrologist is calculated at \$125.
- b) **Renewal Fees.**
The fee for the renewal of a license as an electrologist shall be calculated at \$62.50 per year.
- c) **Examination.**
Applicants for examination shall be required to pay, either to the Division or to the designated testing service, a fee covering the cost of the examination. Failure to appear for the examination on the scheduled date, at the time and place specified, after the applicant's application for examination has been received and acknowledged by the Division or the designated testing service, shall result in the forfeiture of the examination fee.
- d) **General Fees.**
 - 1) The fee for the restoration of a license other than from inactive status is \$20 plus payment of all lapsed renewal fees not to exceed \$500.
 - 2) The fee for the issuance of a duplicate license, for the issuance of a replacement license, for a license that has been lost or destroyed, or for the issuance of a license with a change of name or address other than during the renewal period is \$20. No fee is required for name and address changes on Division records when no duplicate license is issued.
 - 3) The fee for a certification of a licensee's record for any purpose is \$20.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED RULES

- 4) The fee for a wall certificate showing licensure shall be the actual cost of producing the certificate.
- 5) The fee for a roster of persons licensed as electrologists in this State shall be the actual cost of producing the roster.

Section 1246.50 Endorsement

- a) An applicant for licensure as an electrologist who is licensed under the laws of another state shall file an application with the Division that shall include:
 - 1) Documentation certifying that applicant meets the education requirements set forth in Section 1246.10(b);
 - 2) Documentation from all jurisdictions in which the applicant has been licensed, certifying the time during which the applicant was licensed in that jurisdiction, whether the file on the applicant contains any disciplinary actions taken or pending, and the applicant's license number;
 - 3) A report of the applicant's examination record forwarded directly from the test reporting service;
 - 4) Complete work history; and
 - 5) The required fee.
- b) The Division shall examine each endorsement application to determine whether the requirements and examination in the jurisdiction at the date of licensing were substantially equivalent to the requirements and examination then in force in this State and whether the applicant has otherwise complied with the Act.
- c) The Division shall either issue a license by endorsement to the applicant or notify the applicant in writing of the reasons for the denial of the application.

Section 1246.60 Standards of Sterilization and Sanitation

The Division hereby incorporates by reference "Standards of Practice for Electrologists" (1998), as approved by the American Electrology Association, and "Infection Control Standards for the

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED RULES

Practice of Electrology" (2001), as approved by the American Electrology Association, P.O. Box 687, Bodega Bay CA 94923 (no later amendments or editions included).

Section 1246.70 Continuing Education

For the April 2009 renewal and every renewal thereafter, in order to renew a license, the licensee shall be required to complete 30 hours of continuing education. One Continuing Education Unit (CEU) is defined as 10 contact hours of participation in an organized continuing education experience.

- a) Qualifying continuing education activities are the following:
 - 1) courses offered or approved by the American Electrology Association or its affiliates;
 - 2) hospital or medical school sponsored educational offerings, provided the coursework is related to health issues of practitioners;
 - 3) credit-bearing college courses and other post-graduate classes for continuing education credit offered at a regionally accredited academic institution, provided the coursework is clearly related to electrology theory, technical and clinical aspects of electrolysis, electrology research, ethical or legal aspects of practicing electrolysis or health issues of electrologists;
 - 4) any other courses approved by the Division.
- b) Continuing education activities shall meet the following requirements:
 - 1) the activity involves face-to-face instruction or a home study program;
 - 2) the provider implements a mechanism to monitor and document physical attendance at such instruction or to verify licensee completion in the case of a home study program;
 - 3) the provider retains written records for a period of 3 years from the participant's actual successful completion of the activity, including but not limited to: content description; instructor; date of activity; location of activity; list of participants; participant's evaluation of instruction presented; and number of contact hours; and

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED RULES

- 4) the provider issues a certificate of completion after the participant's successful completion of the activity. The certificate shall include the participant's name, provider's name, title or subject area of the activity, date and location of attendance, and number of contact hours completed.

Section 1246.80 Renewals

- a) The first renewal date for licensure under the Electrologist Licensing Act [225 ILCS 412] (Act) shall be April 30, 2007. Thereafter, every license issued under the Act shall expire on April 30 of odd numbered years. The holder of the license may renew the license during the month preceding the expiration date by paying the required fee and proof of 30 hours of continuing education in accordance with Section 1245.70.
- b) It is the responsibility of each license holder to notify the Division of any change of address. Failure to receive a renewal form from the Division shall not constitute an excuse for failure to pay the renewal fee.
- c) Practice on an expired license shall be considered the unlicensed practice of electrology and subject to discipline or other penalties set forth in Section 75 of the Act.

Section 1246.90 Restoration

- a) A person seeking restoration of a license that has expired for 5 years or less shall have the license restored upon payment of all lapsed renewal fees and proof of 30 hours of continuing education.
- b) A person seeking restoration of a license that has been placed on inactive status for 5 years or less shall have the license restored upon payment of the current renewal fee and proof of 30 hours of continuing education.
- c) A person seeking restoration of a license after it has expired or been placed on inactive status for more than 5 years shall file an application, on forms supplied by the Division, including the applicant's work history since the license expired, the required fee and proof of 30 hours of continuing education completed within the 24 months preceding the date of application. The person shall also submit one of the following:

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED RULES

- 1) Sworn evidence of active practice in another jurisdiction. The evidence shall include a statement from the appropriate board or licensing authority in the other jurisdiction that the registrant was authorized to practice during the term of active practice; or
- 2) An affidavit attesting to military service as provided in Section 60 of the Act.
- d) When the accuracy of any submitted documentation or the relevance or sufficiency of the course work or experience is questioned by the Division because of a lack of information, discrepancies or conflicts in information given or a need for clarification, the applicant seeking restoration of a license shall be requested to provide information as may be necessary.
- e) Upon the recommendation of the Director of the Division of Professional Regulation (Director), an applicant shall have the license restored or will be notified in writing of the reason for the denial of the application.

Section 1246.100 Inactive Status

- a) An electrologist who notifies the Division, on forms provided by the Division, may place his or her license on inactive status and shall be excused from paying renewal fees until he/she notifies the Division in writing of the intention to resume active practice.
- b) Any electrologist seeking restoration from inactive status shall do so in accordance with Section 1246.80.
- c) Any person violating this Section shall be considered to be practicing without a license and shall be subject to the disciplinary provisions of the Act.

Section 1246.105 Granting Variances

The Director may grant variances from this Part in individual cases where he or she finds that:

- a) The provision from which the variance is granted is not statutorily mandated;
- b) No party will be injured by the granting of the variance; and

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED RULES

- c) The rule from which the variance is granted would, in the particular case, be unreasonable or unnecessarily burdensome.

Section 1246.110 Dishonorable, Unethical or Unprofessional Conduct

- a) The Division may suspend or revoke a license, refuse to issue or renew a license or take disciplinary action, based upon its finding of dishonorable, unethical or unprofessional conduct within the meaning of Section 75 of the Act.
- b) The Division hereby incorporates by reference "Standards of Practice for Electrologists" (1998), as approved by the American Electrology Association, P.O. Box 687, Bodega Bay CA 94923 (no later amendments or editions included).

DEPARTMENT OF CORRECTIONS

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Health Care
- 2) Code Citation: 20 Ill. Adm. Code 415
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
415.10	Amend
415.20	Amend
415.30	Amend
415.40	Amend
415.50	Amend
415.60	Amend
415.70	Amend
415.80	Amend
- 4) Statutory Authority: Implementing Sections 3-2-2, 3-6-2, 3-7-2, 3-8-2, 3-10-2, 3-10-3, and 5-2-6 of the Unified Code of Corrections [730 ILCS 5/3-2-2, 3-6-2, 3-7-2, 3-8-2, 3-10-2, 3-10-3, and 5-2-6] and authorized by Section 3-7-1 of the Unified Code of Corrections [730 ILCS 5/3-7-1]
- 5) Effective Date of Rulemaking: March 1, 2005
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: 28 Ill. Reg. 15365; December 3, 2004
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Difference between proposal and final version: None
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? No agreements were necessary.
- 13) Will this rulemaking replace an emergency rulemaking currently in effect? No. The following emergency rulemaking expired on February 27, 2005.

DEPARTMENT OF CORRECTIONS

NOTICE OF ADOPTED AMENDMENTS

<u>Section Number</u>	<u>Emergency Action</u>	<u>Ill. Register Citation</u>
415.40	Amendment	28 Ill. Reg. 13805; October 15, 2004

- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rulemaking: These amendments permanently adopt the emergency rulemaking that became effective on 10/1/2004 that ensures juveniles for whom the Department provides community mental health services continue to have access to the services at providers who have been certified via 59 Ill. Adm. Code 132, Medicaid Community Mental Health Services Program; update organizational changes and for clarification purposes; change "committed person" to the more generic term "offender" throughout the rules; clarify that Transition Centers are not required to have health care units or areas and that the Department is not required to provide dental or medical treatment to offenders in Transition Centers; clarify that offenders in Impact Incarceration Programs and at work camps receive health care through the program or camp's parent facility; clarify that parents or guardians of minors under the age of 18 regardless of where they are incarcerated (adult or juvenile facility) will have the opportunity to be involved in treatment; clarify that the co-pay for non-emergency visits applies only to adult offenders; and require the Chief Administrative Officer in the case of critical illness or major surgery to notify the Agency Medical Director and, if any consent or legal issues are involved, the Chief Legal Counsel.
- 16) Information and questions regarding these adopted amendments shall be directed to:

Beth Kiel, Rules Coordinator
Illinois Department of Corrections
1301 Concordia Court
P. O. Box 19277
Springfield, Illinois 62794-9277

(217) 522-2666, extension 6511

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

DEPARTMENT OF CORRECTIONS

NOTICE OF ADOPTED AMENDMENTS

TITLE 20: CORRECTIONS, CRIMINAL JUSTICE, AND LAW ENFORCEMENT
CHAPTER I: DEPARTMENT OF CORRECTIONS
SUBCHAPTER d: PROGRAMS AND SERVICESPART 415
HEALTH CARE

Section

415.10	Applicability
415.15	Responsibilities
415.20	Definitions
415.30	Medical and Dental Examinations and Treatment
415.40	Mental Health Services
415.50	Mental Health Examinations and Treatment for Guilty but Mentally Ill
415.60	Review of Placements in a Specialized Mental Health Setting
415.70	Involuntary Administration of Psychotropic Medication
415.80	Organ Transplants

AUTHORITY: Implementing Sections 3-2-2, 3-6-2, 3-7-2, 3-8-2, 3-10-2, 3-10-3, and 5-2-6 of the Unified Code of Corrections [730 ILCS 5/3-2-2, 3-6-2, 3-7-2, 3-8-2, 3-10-2, 3-10-3, and 5-2-6] and authorized by Section 3-7-1 of the Unified Code of Corrections [730 ILCS 5/3-7-1].

SOURCE: Adopted at 8 Ill. Reg. 14496, effective August 1, 1984; amended at 11 Ill. Reg. 10240, effective June 1, 1987; emergency amendment at 14 Ill. Reg. 13316, effective August 15, 1990, for a maximum of 150 days; amended at 15 Ill. Reg. 988, effective January 12, 1991; amended at 19 Ill. Reg. 15428, effective November 15, 1995; emergency amendment at 21 Ill. Reg. 638, effective January 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 5911, effective May 1, 1997; emergency amendment at 28 Ill. Reg. 13805, effective October 1, 2004, for a maximum of 150 days; emergency expired February 27, 2005; amended at 29 Ill. Reg. 3883, effective March 1, 2005.

Section 415.10 Applicability

This Part applies to [adult and juvenile correctional centers and programs within the Adult, Juvenile, and Community Services Divisions](#) of the Department of Corrections.

(Source: Amended at 29 Ill. Reg. 3883, effective March 1, 2005)

Section 415.20 Definitions

DEPARTMENT OF CORRECTIONS

NOTICE OF ADOPTED AMENDMENTS

- a) "Agency Medical Director" means the Medical Director of the Department of Corrections.
- b) "Chief Administrative Officer" means the highest ranking official of a correctional facility.
- c) "Communicable disease" means a disease caused by an organism ~~that~~which is transmitted through airborne means or casual contact, or through blood or bodily secretion contact from one human being to another.
- d) "Department" means the Department of Corrections.
- e) "Department physician or dentist" means any physician or dentist who provides services for the Department.
- f) "Director" means the Director of the Department of Corrections.
- g) "Gravely disabled" means a condition in which ~~an offender~~a committed person, as a result of a mental illness or mental disorder:
- 1) Is in danger of serious physical harm resulting from the person's failure to provide for his or her essential human needs of health or safety; or
 - 2) Manifests serious deterioration in routine functioning evidenced by repeated and escalating loss of cognitive or volitional control over the person's actions ~~that~~which is likely to seriously jeopardize his or her health or safety.
- h) "Likelihood of serious harm" means:
- 1) A substantial risk that physical harm will be inflicted by ~~an offender~~a committed person upon his or her own person as evidenced by, among other things, threats or attempts to commit suicide or inflict physical harm on one's self; or
 - 2) A substantial risk that physical harm will be inflicted by ~~an offender~~a committed person upon another as evidenced by, among other things, behavior ~~that~~which has caused such harm or ~~that~~which places another person or persons in reasonable fear of sustaining such harm; or

DEPARTMENT OF CORRECTIONS

NOTICE OF ADOPTED AMENDMENTS

- 3) A substantial risk that physical harm will be inflicted by an offender~~a committed person~~ upon the property of others as evidenced by, among other things, behavior that~~which~~ has caused substantial loss or damage to the property of others.
- i) "Mental health professional" means a psychiatrist, physician, psychiatric nurse, clinically trained psychologist, or an individual who has clinical training and a master's degree in social work or psychology~~and clinical training~~.
- j) "Physician" means an individual who is licensed by the State of Illinois to practice medicine in all of its branches.
- k) "Specialized mental health setting" means a Department of Corrections facility or unit that~~which~~ specializes in mental health care.

(Source: Amended at 29 Ill. Reg. 3883, effective March 1, 2005)

Section 415.30 Medical and Dental Examinations and Treatment

- a) Within seven working days after admission to a reception and classification center, each offender~~committed person~~ shall be given a physical examination by a physician or by a nurse practitioner under the direct supervision of a physician or by a physician's assistant under the direct supervision of a physician. Each offender~~committed person~~ shall be immunized as prescribed by the physician.
- b) Each offender~~committed person~~ shall be examined by a dentist within 10 working days after admission to a reception and classification center. The dentist shall chart the oral cavity and classify dental health.
- c) Emergency treatment shall be available to offender~~committed persons~~ 24 hours a day.
- d) A health care unit or area shall be established at each adult and juvenile correctional facility (excluding transition centers) within the Department Adult and Juvenile Divisions. Offenders~~Committed persons~~ shall be admitted to the health care unit or area as determined by health care personnel. Offenders in the Impact Incarceration Program or at work camps shall receive health care through the program or camp's parent facility.
- e) Offenders~~Committed persons~~ shall be informed of the institutional procedures for

DEPARTMENT OF CORRECTIONS

NOTICE OF ADOPTED AMENDMENTS

obtaining medical, dental, or mental health services.

- f) Persons committed to ~~adult and juvenile~~the Adult and Juvenile Division facilities ~~(excluding transition centers)~~ shall be provided medical and dental treatment, with the consent of the parent or guardian where applicable, as prescribed by a Department physician or dentist.
- g) Adult offenders~~Committed persons~~ who require non-emergency medical or dental services ~~at offices or facilities other than Department facilities~~ shall authorize the Department to deduct a \$2.00 co-payment from present or future funds in his or her trust fund account prior to each visit. Non-emergency services do not include any follow-up visits~~are scheduled services~~ determined necessary by a Department physician.
- 1) The co-payment shall be paid from the ~~offender's~~committed person's trust fund when the services are delivered.
 - 2) Offenders~~Committed persons~~ who are without funds at the time services are delivered shall not be denied medical or dental services. The ~~offender's~~committed person's trust fund account shall be restricted for the amount of co-payment and shall be paid upon receipt of future funds.
 - 3) An offender~~A committed person~~ who is found to be indigent shall be exempt from the co-payment. An offender~~A committed person~~ shall be considered indigent if during the entire term of his or her incarceration the ~~offender~~committed person is without funds to pay the \$2.00 co-payment.
- h) An offender~~A committed person~~ who has or is suspected of having a communicable disease may be isolated from other ~~offender~~committed persons. This determination shall be made by a physician as deemed medically necessary.
- i) In case of critical illness or major surgery, the Chief Administrative Officer shall:
- 1) ~~Attempt~~attempt to notify the person designated by the ~~offender~~committed person to be contacted in case of an emergency and, where applicable, the parent or guardian.
 - 2) Notify the Chief Legal Counsel if consent for treatment is not obtained or other legal issues arise.

DEPARTMENT OF CORRECTIONS

NOTICE OF ADOPTED AMENDMENTS

- 3) [Notify the Agency Medical Director.](#)
- j) The decision to continue or terminate a pregnancy is a medical determination ~~that~~[which](#) shall be made by the ~~offender~~[committed person](#) in consultation with her physician.
- 1) ~~Offenders~~[Committed persons](#) contemplating an abortion shall be provided with information and counseling concerning the nature of, the consequences of, and any risks associated with the procedure and available alternatives.
- 2) ~~Offenders~~[Committed persons](#) shall be granted a furlough for the purpose of obtaining an abortion. ~~Offenders~~[Committed persons](#) shall be permitted to accept funds for an abortion from local community charities or other sources.
- k) A record of all medical and dental examinations, findings, and treatment shall be maintained.

(Source: Amended at 29 Ill. Reg. 3883, effective March 1, 2005)

Section 415.40 Mental Health Services

- a) Persons committed to the Department shall have access to mental health services as determined by a mental health professional.
- b) [Community mental health services offered through the Department for juveniles released on parole or Mandatory Supervised Release shall be provided in accordance with 59 Ill. Adm. Code 132, Medicaid Community Mental Health Services. Such services shall be provided by entities that are Medicaid certified and periodically reviewed by the Department or by the Department of Human Services in accordance with 59 Ill. Adm. Code 132.](#)

(Source: Amended at 29 Ill. Reg. 3883, effective March 1, 2005)

Section 415.50 Mental Health Examinations and Treatment for Guilty but Mentally Ill

- a) Within 48 hours after admission to a reception and classification center, each ~~offender~~[committed person](#) adjudicated guilty but mentally ill shall be screened by a mental health professional.

DEPARTMENT OF CORRECTIONS

NOTICE OF ADOPTED AMENDMENTS

- b) An examination by a licensed or registered mental health professional shall be performed on ~~an offender~~~~a committed person~~ adjudicated guilty but mentally ill within four days after the ~~offender's~~~~committed person's~~ admission to a reception and classification center. The purpose of the examination is to determine the mental health status of the individual at the time of admission to the Department and to make any appropriate recommendations necessary for the care of such individuals. ~~Offenders~~~~Committed persons~~ so examined:
- 1) Who demonstrate acute symptoms of mental illness or who are determined to be dangerous to self or others shall be treated in accordance with the procedures applicable to other ~~offender~~~~committed persons~~. Treatment may include routine or emergency placement in a specialized mental health setting. ~~Offenders~~~~Committed persons~~ placed in a specialized mental health setting shall remain as long as determined to be clinically necessary.
 - 2) Who are determined not to be in need of placement in a specialized mental health setting may receive necessary treatment services in a general institutional setting when such services are clinically recommended by a mental health professional.
 - 3) Who are found to be symptom free or in remission at the time of admission to the Department and are not in need of mental health treatment shall be placed in a general institutional setting.
- c) Once placed in a general institutional setting, these ~~offender~~~~committed persons~~ shall be examined or evaluated by a mental health professional at a minimum of every three months for the first six months and then every six months thereafter.
- 1) These ~~offender~~~~committed persons~~ may be referred by appropriate staff or may request an examination or evaluation more frequently.
 - 2) More frequent evaluations may also be performed at the discretion of the examining mental health professional as determined to be clinically necessary.
- d) Three months prior to the scheduled release date of ~~an offender~~~~a committed person~~ adjudicated guilty but mentally ill, an evaluation by a mental health professional shall be conducted to assess the person's post-release treatment

DEPARTMENT OF CORRECTIONS

NOTICE OF ADOPTED AMENDMENTS

needs, ~~that~~which may include residential care, out-patient counseling, psychotropic medication, periodic psychiatric or psychological evaluation, high level parole supervision, commitment to Department of Mental Health and Developmental Disabilities, or other supportive services (e.g., sheltered workshops, group homes, or vocational training and assistance in obtaining needed treatment or services).

- 1) If the ~~offender~~committed person has received psychotropic medication within the previous 12 months, this report must include a psychiatric evaluation of the need for medication or psychiatric monitoring.
 - 2) A copy of the report shall be provided to the appropriate field service office.
- e) Within 30 days before the scheduled release date of ~~an offender~~a committed person adjudicated guilty but mentally ill, a final evaluation by a mental health professional shall be conducted to determine whether any changes in the ~~offender's~~person's mental or emotional status may affect the previous evaluation of the ~~offender's~~person's post-release treatment needs. A report shall be prepared and forwarded to the appropriate field service office no later than seven days prior to the ~~offender's~~committed person's scheduled release date.

(Source: Amended at 29 Ill. Reg. 3883, effective March 1, 2005)

Section 415.60 Review of Placements in a Specialized Mental Health Setting

- a) A review of each ~~offender~~committed person placed at a specialized mental health setting shall be made at least once every six months.
 - 1) The review shall be conducted by a staff psychiatrist and the Administrator of the mental health center or unit or designee.
 - 2) Written results of the review shall be given to the ~~offender~~committed person.
 - 3) If the recommendation is for the ~~offender~~committed person to continue in the program at the mental health center or unit, the individual may request a review of that decision by the Placement Review Board.
 - A) The Placement Review Board shall be composed of three members

DEPARTMENT OF CORRECTIONS

NOTICE OF ADOPTED AMENDMENTS

appointed by the Director. One member shall be a mental health professional and one member shall not be employed by the Department.

- B) The Placement Review Board shall review all psychiatric records and may interview the petitioner. The Board may call any employee or other person to present information determined to be relevant to the review.
 - C) An agreement by a majority of the Board shall be considered the decision of the Board.
 - D) The decision shall be delivered to the ~~offender~~~~committed person~~ in writing.
- b) A request for a review hearing may be made at anytime by ~~an offender~~~~committed person~~ placed at a specialized mental health setting and must be granted at least once every six months.

(Source: Amended at 29 Ill. Reg. 3883, effective March 1, 2005)

Section 415.70 Involuntary Administration of Psychotropic Medication

- a) Administration of Psychotropic Medication
 - 1) Psychotropic medication shall not be administered to any ~~offender~~~~committed person~~ against his or her will or without the consent of the parent or guardian of a minor who is under the age of 18 ~~and confined in the Juvenile Division~~, unless:
 - A) A psychiatrist, or in the absence of a psychiatrist a physician, has determined that:
 - i) The ~~offender~~~~committed person~~ suffers from a mental illness or mental disorder; and
 - ii) The medication is in the medical interest of the ~~offender~~~~committed person~~; and
 - iii) The ~~offender~~~~committed person~~ is either gravely disabled or

DEPARTMENT OF CORRECTIONS

NOTICE OF ADOPTED AMENDMENTS

poses a likelihood of serious harm to self or others; and

B) The administration of such medication has been approved by the Treatment Review Committee after a hearing (see subsection (b) of this Section). However, no such approval or hearing shall be required when the medication is administered in an emergency situation. An emergency situation exists whenever the required determinations listed in subsection (a)(1)(A) of this Section have been made and a psychiatrist, or in the absence of a psychiatrist a physician, has determined that the ~~offender~~~~committed person~~ poses an imminent threat of serious physical harm to self or others. In all emergency situations, the procedures set forth in subsection (e) of this Section shall be followed.

2) Whenever a physician orders the administration of psychotropic medication to ~~an offender~~~~a committed person~~ against the person's will, the physician shall document in the ~~offender's~~~~committed person's~~ medical file the facts and underlying reasons supporting the determination that the standards in subsection (a)(1) of this Section have been met and:

A) The Chief Administrative Officer shall be notified as soon as practicable; and

B) Unless the medication was administered in an emergency situation, the Chairperson of the Treatment Review Committee shall be notified in writing within three days.

b) Treatment Review Committee Procedures

The Treatment Review Committee shall be comprised of two members appointed by the Chief Administrative Officer, both of whom shall be mental health professionals and one of whom shall be a physician. One member shall serve as Chairperson of the Committee. Neither of the Committee members may be involved in the current decision to order the medication. The members of the Committee shall have completed a training program in the procedural and mental health issues involved ~~that~~~~which~~ has been approved by the Agency Medical Director.

1) The Chief Administrative Officer shall designate a member of the program staff not involved in the current decision to order medication to assist the

DEPARTMENT OF CORRECTIONS

NOTICE OF ADOPTED AMENDMENTS

~~offendereommitted person~~. The staff assistant shall have completed a training program in the procedural and mental health issues involved ~~that~~~~which~~ has been approved by the Agency Medical Director.

- 2) The ~~offendereommitted person~~ and staff assistant shall receive written notification of the time and place of the hearing at least 24 hours prior to the hearing. The notification shall include the tentative diagnosis and the reasons why the medical staff believes the medication is necessary. The staff assistant shall meet with the ~~offendereommitted person~~ prior to the hearing to discuss the procedural and mental health issues involved.
- 3) The ~~offendereommitted person~~ shall have the right to attend the hearing unless the Committee determines that it is likely that the person's attendance would subject the person to substantial risk of serious physical or emotional harm or pose a threat to the safety of others. If such a determination is made, the facts and underlying reasons supporting the determination shall be documented in the ~~offender's eommitted person's~~ medical file. The staff assistant shall appear at the hearing whether or not the ~~offendereommitted person~~ appears.
- 4) The documentation in the medical file referred to in subsection (a)(2) of this Section shall be reviewed by the Committee and the Committee may request the physician's personal appearance at the hearing.
- 5) Prior to the hearing, witnesses identified by the ~~offendereommitted person~~ and the staff assistant may be interviewed by the staff assistant after consultation with the ~~offendereommitted person~~ as to appropriate questions to ask. Any such questions shall be asked by the staff assistant unless cumulative, irrelevant, or a threat to the safety of individuals or the security of the facility.
- 6) Prior to the hearing, the ~~offendereommitted person~~ and the staff assistant may request in writing that witnesses be interviewed by the Committee and may submit written questions for witnesses to the Chairperson of the Committee. These questions shall be asked by the Committee unless cumulative, irrelevant, or a threat to the safety of individuals or the security of the facility. If any witness is not interviewed, a written reason shall be provided.
- 7) Prior to the hearing, the ~~offendereommitted person~~ and the staff assistant

DEPARTMENT OF CORRECTIONS

NOTICE OF ADOPTED AMENDMENTS

may request in writing that witnesses appear at the hearing. Any such request shall include an explanation of what the witnesses would state. Reasonable efforts shall be made to have such witnesses present at the hearing, unless their testimony or presence would be cumulative, irrelevant, or a threat to the safety of individuals or the security of the facility, or for other reasons including, but not limited to, unavailability of the witness or matters relating to institutional order. In the event requested witnesses are unavailable to appear at the hearing but are otherwise available, they shall be interviewed by the Committee as provided for in subsections (b)(6) and (9) of this Section.

- 8) At the hearing, the ~~offendereommitted person~~ and the staff assistant may make statements and present documents ~~that~~~~which~~ are relevant to the proceedings. The staff assistant may direct relevant questions to any witnesses appearing at the hearing. The ~~offendereommitted person~~ may request that the staff assistant direct relevant questions to any witnesses appearing at the hearing and the staff assistant shall ask such questions unless cumulative, irrelevant, or a threat to the safety of individuals or the security of the facility.
- 9) The Committee shall make such investigation as it deems necessary. The staff assistant shall be informed of any investigation conducted by the Committee and shall be permitted to direct relevant questions to any witnesses interviewed by the Committee. The staff assistant shall consult with the ~~offendereommitted person~~ regarding any statements made by witnesses interviewed by the Committee and shall comply with requests by the ~~offendereommitted person~~ to direct relevant questions to such witnesses unless cumulative, irrelevant, or a threat to the safety of individuals or the security of the facility.
- 10) The Committee shall consider all relevant information and material ~~that~~~~which~~ has been presented in deciding whether to approve administration of the medication.
- 11) A written decision shall be prepared and signed by all members of the Committee ~~that~~~~which~~ contains a summary of the hearing and the reasons for approving or disapproving the administration of the medication. Copies of the decision shall be given to the ~~offendereommitted person~~, the staff assistant, and the Chief Administrative Officer. Any decision by the Committee to approve involuntary administration of psychotropic

DEPARTMENT OF CORRECTIONS

NOTICE OF ADOPTED AMENDMENTS

medication must be unanimous. The Chief Administrative Officer shall direct staff to comply with the decision of the Committee.

- 12) If the Committee approves administration of the medication, the ~~offendereommitted person~~ shall be advised of the opportunity to appeal the decision to the Agency Medical Director by filing a written appeal with the Chairperson within five days after the ~~offender's eommitted person's~~ receipt of the written decision.
- c) Review by Agency Medical Director
 - 1) If the ~~offendereommitted person~~ appeals the Treatment Review Committee's decision, staff shall continue to administer the medication as ordered by the physician and approved by the Committee while awaiting the Agency Medical Director's decision on the appeal.
 - 2) The Chairperson of the Committee shall promptly forward the written notice of appeal to the Agency Medical Director or a physician designated by the Agency Medical Director.
 - 3) Within five working days after receipt of the written notice of appeal, the Agency Medical Director shall:
 - A) Review the Committee's decision, make such further investigation as deemed necessary, and submit a written decision to the Chief Administrative Officer; and
 - B) Provide a copy of the written decision to the ~~offendereommitted person~~, the staff assistant, and the Chairperson of the Committee.
 - 4) The Chief Administrative Officer shall direct staff to comply with the decision of the Agency Medical Director.
 - d) Periodic Review of Medication
 - 1) Whenever any ~~offendereommitted person~~ has been involuntarily receiving psychotropic medication continuously or on a regular basis for a period of six months, the administration of such medication shall, upon the ~~offender's eommitted person's~~ written request, be reviewed by the Treatment Review Committee in accordance with the procedures

DEPARTMENT OF CORRECTIONS

NOTICE OF ADOPTED AMENDMENTS

enumerated in subsections (b) and (c) of this Section. Every six months thereafter, for so long as the involuntary medication continues on a regular basis, the ~~offender~~~~committed person~~ shall have the right to a review hearing upon written request.

- 2) Every ~~offender~~~~committed person~~ who is involuntarily receiving psychotropic medication shall be evaluated by a psychiatrist at least every 30 days, and the psychiatrist shall document in the ~~offender's~~~~committed person's~~ medical file the basis for the decision to continue the medication.
- e) Emergency Procedures
Subsequent to the involuntary administration of psychotropic medication in an emergency situation:
- 1) The basis for the decision to administer the medication shall be documented in the ~~offender's~~~~committed person's~~ medical file and a copy of the documentation shall be given to the ~~offender~~~~committed person~~ and to the Agency Medical Director for review.
 - 2) A mental health professional shall meet with the ~~offender~~~~committed person~~ to discuss the reasons why the medication was administered and to give the ~~offender~~~~committed person~~ an opportunity to express any concerns he or she may have regarding the medication.
- f) Documentation
Copies of all notifications and written decisions shall be placed in the ~~offender's~~~~committed person's~~ medical file.
- g) Grievances
~~An offender~~~~A committed person~~ may submit a grievance concerning the involuntary administration of psychotropic medication directly to the Administrative Review Board in accordance with 20 Ill. Adm. Code 504.Subpart F. In considering the grievance, the Board shall confer with the Agency Medical Director.
- h) Treatment of Minors in the Juvenile Division
In the case of ~~an offender~~~~a committed person~~ who is a minor under the age of 18 ~~and confined in the Juvenile Division~~, the parent or guardian shall be sent the documentation and written decisions that are provided to the ~~offender~~~~committed~~

DEPARTMENT OF CORRECTIONS

NOTICE OF ADOPTED AMENDMENTS

~~person~~ pursuant to this Section and shall be permitted to attend and participate in any proceedings required by this Section. Notice of any Treatment Review Committee hearing shall be promptly sent to the parent or guardian and reasonable attempts shall be made to provide such notice at least 72 hours prior to the hearing.

(Source: Amended at 29 Ill. Reg. 3883, effective March 1, 2005)

Section 415.80 Organ Transplants

- a) The Department shall grant a medical furlough for purposes of obtaining an organ transplant if:
- 1) The ~~offendereommitted person~~ or the parent or guardian of a minor who is under the age of 18 ~~and confined in the Juvenile Division~~ has made all necessary arrangements with the organ transplant facility, including application for eligibility as a recipient of an organ donor and appropriate financial arrangements. The ~~offendereommitted person~~ must be accepted by an approved organ transplant facility prior to approval of the medical furlough;
 - 2) The Agency Medical Director confirms that the ~~offendereommitted person~~ would be a suitable candidate for an organ transplant ~~that which~~ is needed to preserve the ~~offender's eommitted person's~~ life or prevent irreparable harm; and
 - 3) The organ transplant facility is approved by the Agency Medical Director and the Chief Administrative Officer.
- b) The ~~offendereommitted person~~ or the parent or guardian of a minor who is under the age of 18 ~~and confined in the Juvenile Division~~ shall be responsible for the cost of the organ transplant procedure, including but not limited to pre-transplant evaluations performed by the transplant facility, the hospital stay, the physicians' services and other medical services involved. The ~~offendereommitted person~~ shall be permitted to accept funds for the organ transplant from local community charities or other sources. The cost of the transportation and security for the ~~offendereommitted person~~ shall be paid by the ~~offendereommitted person~~, whenever possible.
- c) The Department shall direct the ~~offendereommitted person~~ or the parent or

DEPARTMENT OF CORRECTIONS

NOTICE OF ADOPTED AMENDMENTS

guardian of a minor who is under the age of 18 ~~and confined to the Juvenile Division~~ to the organ transplant facilities and known sources of funding associated with an organ transplant.

- d) Use of in-State transplant facilities is preferred. Out-of-State facilities shall be considered if no in-State facility is available and if the ~~offender committed person~~ or the parent or guardian of a minor who is under the age of 18 ~~and confined to the Juvenile Division~~ signs a waiver of extradition.

(Source: Amended at 29 Ill. Reg. 3883, effective March 1, 2005)

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Access to Information of the State Board of Education Under the Freedom of Information Act
- 2) Code Citation: 2 Ill. Adm. Code 5001
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
5001.100	Amendment
5001.110	Amendment
5001.210	Amendment
5001.300	Amendment
5001.310	Repeal
5001.400	Amendment
5001.410	Repeal
5001.500	Amendment
5001.510	Amendment
5001.520	Repeal
5001.600	Repeal
- 4) Statutory Authority: 5 ILCS 104/3(g) and 5 ILCS 100/5-15
- 5) Effective Date of Amendments: February 22, 2005
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: Not applicable
- 10) Has JCAR issued a Statement of Objection to this rulemaking? Not applicable
- 11) Differences between proposal and final version: Not applicable
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Not applicable
- 13) Will rulemaking replace any emergency amendments currently in effect? No
- 14) Are there any other rulemakings pending on this Part? No

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

- 15) Summary and Purpose of Amendments: Several of ISBE's existing Freedom of Information Act rules are repeated verbatim from the text of the Act or are otherwise adequately addressed by statute. These sections were determined to be unnecessary and have been deleted in the proposed amendments. The procedures for providing public records and the procedures for providing access to materials incorporated by reference in administrative rules were consolidated into one Subpart. While the amendments will streamline ISBE's FOIA rules, they do not represent a substantive change in ISBE's FOIA procedures.
- 16) Information and questions regarding these adopted amendments shall be directed to:

Jonathan Furr
General Counsel
Illinois State Board of Education
100 North First Street
Springfield, Illinois 62777-0001

(217) 782-5270

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

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

TITLE 2: GOVERNMENTAL ORGANIZATION

SUBTITLE F: EDUCATIONAL AGENCIES

CHAPTER I: STATE BOARD OF EDUCATION

PART 5001

ACCESS TO INFORMATION OF THE STATE BOARD OF EDUCATION
UNDER THE FREEDOM OF INFORMATION ACT

SUBPART A: INTRODUCTION

- Section
- 5001.100 Summary and Purpose
- 5001.110 Definitions

SUBPART B: PROCEDURES FOR REQUESTING PUBLIC RECORDS

- Section
- 5001.200 Office to Which Requests are Submitted
- 5001.210 Form and Content of Requests

SUBPART C: PROCEDURES FOR AGENCY RESPONSE
TO REQUESTS FOR PUBLIC RECORDS

- Section
- 5001.300 ~~Agency Timeline for Department~~ Response
- 5001.310 Types of Responses ~~(Repealed)~~

SUBPART D: PROCEDURES FOR APPEAL OF A DENIAL

- Section
- 5001.400 Appeal of a Denial
- 5001.410 Superintendent's Response to Appeal ~~(Repealed)~~

SUBPART E: PROCEDURES FOR PROVIDING PUBLIC RECORDS TO REQUESTERS

- Section
- 5001.500 Inspection of Records ~~and Materials Incorporated by Reference in ISBE's~~
~~Administrative Rules~~
- 5001.510 Copies of Public Records
- 5001.520 General Materials Available from the Freedom of Information Office ~~(Repealed)~~

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

SUBPART F: ACCESS TO MATERIALS INCORPORATED
BY REFERENCE IN ADMINISTRATIVE RULES

Section

5001.600 Inspection of Materials (Repealed)

AUTHORITY: Implementing and authorized by Section 3(g) of the Freedom of Information Act [5 ILCS 140/3(g)] and Section 5-15 of the Illinois Administrative Procedure Act [5 ILCS 100/5-15].

SOURCE: Adopted and codified at 8 Ill. Reg. 15443, effective August 8, 1984; amended at 17 Ill. Reg. 14913, effective September 2, 1993; amended at 29 Ill. Reg. 3900, effective February 22, 2005.

SUBPART A: INTRODUCTION

Section 5001.100 Summary and Purpose

~~a) This Part implements these rules are established to implement~~ the provisions of the Freedom of Information Act [5 ILCS 140](~~Supp. to Ill. Rev. Stat. 1983, ch. 116, par. 201 et seq.~~). The purpose of ~~this Part these rules~~ is to support the policy of providing public access to the public records in the possession of the State Board of Education while, at the same time, protecting legitimate privacy interests and maintaining administrative efficiency.

~~b) These rules create a procedure by which the public may request and obtain public records. Therefore, they are being filed in accordance with Section 5-15 of the Illinois Administrative Procedure Act (Ill. Rev. Stat. 1991, ch. 127, par. 1005-15) and Section 3(g) of the Freedom of Information Act (Supp. to Ill. Rev. Stat. 1983, ch. 116, par. 203(g)).~~

(Source: Amended at 29 Ill. Reg. 3900, effective February 22, 2005)

Section 5001.110 Definitions

- a) Terms used in these rules shall have the same meaning as in the Freedom of Information Act.
- b) "FOIA" means the Freedom of Information Act.
- c) "Freedom of Information Office" ("FIO") means the unit within the agency which is responsible for receiving and responding to requests for public records.

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

- d) "Requester" means a person who submits a request for public records in accordance with these rules.
- e) "Agency" means the State Board of Education.

(Source: Amended at 29 Ill. Reg. 3900, effective February 22, 2005)

SUBPART B: PROCEDURES FOR REQUESTING PUBLIC RECORDS

Section 5001.210 Form and Content of Requests

- a) Requests in accordance with the FOIA and ~~this Part these rules~~ shall be made in writing.
- b) Forms will be available in the agency's offices (Springfield ~~and~~, Chicago, ~~and Mt. Vernon~~) for ~~visitors who wish to submit written~~ requests for records.
- c) The requester shall provide the following information in a request for public records:
 - 1) The requester's full name, address and phone number.
 - 2) A brief description of the public records sought, being as specific as possible.
 - 3) Whether the request is for inspection of public records, copies of public records, or both.
- d) ~~Oral requests will be handled expeditiously. However, the required response times and the appeal procedures contained in the FOIA and these rules do not apply to oral requests.~~

(Source: Amended at 29 Ill. Reg. 3900, effective February 22, 2005)

SUBPART C: PROCEDURES FOR AGENCY RESPONSE
TO REQUESTS FOR PUBLIC RECORDS**Section 5001.300 ~~Agency Timeline for Department~~ Response**

- a) The Agency shall respond to a written request for public records within the timeline provided

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

~~in the FOIA. The Agency may avail itself of all extensions of time and exceptions set forth in the FOIA 7 working days after the receipt of such request.~~

- b) ~~The Agency may give notice of an extension of time to respond which does not exceed an additional 7 working days. Such an extension is allowable only if written notice is provided within the original 7 working day time limit and only for the reasons provided in Section 3(d) of the FOIA. Such notice of extension shall state the reasons the extension is necessary.~~

(Source: Amended at 29 Ill. Reg. 3900, effective February 22, 2005)

Section 5001.310 Types of Responses (Repealed)

- a) ~~The Agency shall respond to a request for public records in one of three ways,~~
- ~~1) Approve the request;~~
 - ~~2) Approve in part and deny in part;~~
 - ~~3) Deny the request.~~
- b) ~~Upon approval of a request for public records, the Agency may either provide the materials immediately, give notice that the materials shall be made available upon payment of reproduction costs or give notice of the time and place for inspection of records.~~
- e) ~~A denial of a request for public records shall be made in writing. It shall state the reasons for the denial in accordance with either Section 3(f) or Section 7 of the FOIA and the names and titles of individuals responsible for the decision. It shall also give notice of the requester's right to appeal to the State Superintendent of Education.~~
- d) ~~Categorical requests creating an undue burden upon the Agency shall be denied only after extending to the requester an opportunity to confer in an attempt to reduce the request to manageable proportions in accordance with Section 3(f) of the FOIA.~~
- e) ~~Failure to respond to a written request within 7 working days may be considered by the requester a denial of the request.~~

(Source: Repealed at 29 Ill. Reg. 3900, effective February 22, 2005)

STATE BOARD OF EDUCATION
NOTICE OF ADOPTED AMENDMENTS

SUBPART D: PROCEDURES FOR APPEAL OF A DENIAL

Section 5001.400 Appeal of a Denial

- a) A requester whose request has been denied by the FIO Freedom of Information Office may appeal the denial to the State Superintendent of Education. The notice of appeal shall be made in writing and sent to:

State Superintendent of Education
State Board of Education
100 North First Street
Springfield, Illinois 62777
ATTN: FOIA Appeal

- b) The notice of appeal shall include a copy of the original request, a copy of the denial received by the requester, and a statement of the reasons the appeal should be granted. The Superintendent shall respond to the appeal in accordance with the FOIA.

(Source: Amended at 29 Ill. Reg. 3900, effective February 22, 2005)

Section 5001.410 Superintendent's Response to Appeal (Repealed)

~~The Superintendent shall respond to an appeal within 7 working days after receiving notice thereof. The Superintendent shall either affirm the denial or provide access to the requested public records. Failure to respond within 7 working days may be considered by the requester an affirmation of the denial.~~

(Source: Repealed at 29 Ill. Reg. 3900, effective February 22, 2005)

SUBPART E: PROCEDURES FOR PROVIDING PUBLIC RECORDS TO REQUESTERS

Section 5001.500 Inspection of Records and Materials Incorporated by Reference in ISBE's Administrative Rules

- a) For purposes of this Subpart E, "records" includes public records and all materials incorporated by reference in the administrative rules of the State Board of Education. Generally, public records will be made available for inspection during normal working hours of the Agency.

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

- b) ~~Unless otherwise approved by the Agency, records will be made available for inspections during normal working hours of the Agency.~~
- c) Documents ~~that~~~~which~~ the requester wishes to have copied shall be segregated during the course of the inspection. ~~Unless otherwise approved by the Agency, Generally,~~ all copying shall be done by Agency employees.
- d)e) The inspection of records shall take place at the location within the office designated by the ~~FIO~~~~Freedom of Information Office.~~
- e)d) An employee of the Agency may be present throughout the inspection. A requester may be prohibited from bringing bags, brief cases or other containers into the inspection room.

(Source: Amended at 29 Ill. Reg. 3900, effective February 22, 2005)

Section 5001.510 Copies of Public Records

- a) Copies of public records shall be provided to the requester only upon payment of any charges ~~that~~~~which~~ are due.
- b) Charges for copies of public records shall be assessed in accordance with the "Fee Schedule for Duplication of Public Records," which shall be available in each of the ~~Agency's~~~~agency's~~ offices.
- c) Charges shall be waived if fees for an individual request amount to ~~\$10~~~~ten dollars~~ (\$10) or less. Charges shall also be waived if the request is ~~from~~~~for~~ a State agency, a constitutional officer, or a member of the General Assembly. Charges ~~shall~~~~will~~ not be waived, ~~however,~~ when the records are to be used for political campaign purposes. Charges may be waived ~~in any other case~~ where the ~~Agency~~~~agency~~ determines that the waiver serves the public interest.

(Source: Amended at 29 Ill. Reg. 3900, effective February 22, 2005)

Section 5001.520 General Materials Available from the Freedom of Information Office
(Repealed)

~~The Freedom of Information Office shall make available to the public at no charge the following materials:~~

- a) ~~A brief description of the organizational structure and budget of the Agency;~~

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

- ~~b) A brief description of the means for requesting information and public records;~~
- ~~c) A list of types and categories of public records maintained by the Agency; and~~
- ~~d) A fee schedule for duplication of public records.~~

(Source: Repealed at 29 Ill. Reg. 3900, effective February 22, 2005)

SUBPART F: ACCESS TO MATERIALS INCORPORATED
BY REFERENCE IN ADMINISTRATIVE RULES

Section 5001.600 Inspection of Materials (Repealed)

- ~~a) All materials incorporated by reference in administrative rules of the State Board of Education shall be available for inspection at the office of the Agency Rules Coordinator, 100 North First Street, Springfield, Illinois (telephone 217/782-3950).~~
- ~~b) Inspection of incorporated materials shall be governed by the procedures applicable to inspection of other public records pursuant to Subpart E of this Part.~~

(Source: Repealed at 29 Ill. Reg. 3900, effective February 22, 2005)

DEPARTMENT OF LABOR

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Prevailing Wage Hearing Procedures
- 2) Code Citation: 56 Ill. Adm. Code 100
- 3)

<u>Section Numbers</u> :	<u>Adopted Action</u>
100.5	Amended
100.22	Amended
100.24	Amended
100.60	Amended
100.120	Amended
- 4) Statutory Authority: 820 ILCS 130/11a
- 5) Effective Date of Rulemaking: February 28, 2005
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any incorporations by reference, is on file in the Department of Labor's principle office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: October 29, 2004, 28 Ill. Reg. 13952
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences between proposal and final version: Minor non-substantive editorial changes were made in response to JCAR.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rulemaking currently in effect? Yes
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rulemaking: The adopted rulemaking was implemented in order to be consistent with recent statutory amendments to the Prevailing Wage Act. The adopted amendments provide that a notice of violation can be issued for failure of a

DEPARTMENT OF LABOR

NOTICE OF ADOPTED AMENDMENTS

contractor or subcontractor to: furnish a sworn statement that their records are accurate, insert into each subcontract or lower-tiered subcontract and project specifications a written stipulation that not less than the prevailing rate of wages be paid, post at a location on the project site the prevailing wage rates for each craft and employee and strengthen the recordkeeping requirements to include actual hourly wages paid in each pay period to each employee and the hours worked each day in each work week, and starting and ending times of work for each employee. Statutory citations were updated in this amendment to reflect current citation format.

- 16) Information and questions regarding this adopted rulemaking shall be directed to:

Valerie A. Puccini
Assistant General Counsel
Illinois Department of Labor
160 N. LaSalle Street, C-1300

Chicago IL 60601

(312) 793-7838

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

DEPARTMENT OF LABOR

NOTICE OF ADOPTED AMENDMENTS

TITLE 56: LABOR AND EMPLOYMENT
CHAPTER I: DEPARTMENT OF LABOR
SUBCHAPTER a: GENERAL ADMINISTRATIVE RULESPART 100
PREVAILING WAGE HEARING PROCEDURES

Section	
100.5	Applicability
100.10	Policy
100.20	Applicability (Renumbered)
100.22	Definitions
100.24	Notice of Violation
100.26	Initiation of Hearing
100.30	Notice of Hearing
100.40	Intervention
100.50	Postponement or Continuance of Hearing
100.60	Hearing Examiner; Power and Duties
100.70	Pre-Hearing Conference
100.80	Consent Findings and Rules or Orders
100.90	Discovery
100.100	Hearing
100.110	Hearing Examiner's Decision
100.120	Judicial Review

AUTHORITY: Implementing and authorized by Section 11a of the Prevailing Wage Act [820 ILCS 130/11a].

SOURCE: Adopted at 8 Ill. Reg. 1586, effective January 20, 1984; emergency amendments at 14 Ill. Reg. 1026, effective January 1, 1990, for a maximum of 150 days; emergency expired May 31, 1990; amended at 14 Ill. Reg. 13608, effective August 9, 1990; emergency amendment at 29 Ill. Reg. 14204, effective October 18, 2004, for a maximum of 150 days; amended at 29 Ill. Reg. 3909, effective February 28, 2005.

Section 100.5 Applicability

This Part shall apply to all hearings conducted by this Department of Labor under Section 11a of [the Prevailing Wage Act \[820 ILCS 130/11a\]](#) "~~AN ACT regulating wages of laborers, mechanics, and other workers employed in any public works by the State, county, city or any public body or any political subdivision or by any one under contract for public works~~" (the Act) ([Ill. Rev. Stat.](#)

DEPARTMENT OF LABOR

NOTICE OF ADOPTED AMENDMENTS

~~1987, ch. 48, par. 39s-11a as amended by P.A. 86-693 and P.A. 86-799 both effective January 1, 1990)~~ for purposes of debarring a contractor or subcontractor from contracting for public works as defined in the Act for a two year period. Such debarment is automatic after the contractor or subcontractor has received notice of a second violation of the Act, unless within 10 working days ~~after~~ receipt of the notice of a second violation ~~he/she~~ requests a hearing in writing in accordance with ~~this Part~~ these rules.

(Source: Amended at 29 Ill. Reg. 3909, effective February 28, 2005)

Section 100.22 Definitions

- a) "Violation" means a written determination by the Department that a contractor or subcontractor has: failed or refused to pay the prevailing wage to one or more laborers, workers, or mechanics under a single contract or subcontract as required by Section 3 of the Act; failed to keep accurate records as required by Section 5 of the Act; produced falsified records or records not in compliance with the provisions of subsection (d) of this Section to the Department for inspection, as prohibited by Section 6 of the Act; refused to submit records to the Department in response to a subpoena issued in accordance with Section 10 of the Act; ~~or~~ refused access to the Department for inspection of records at any reasonable hours as required by Section 5 of the Act (regular business hours of the contractor or subcontractor or by mutual agreement between the Department and contractor or subcontractor); failed to furnish a sworn statement of the accuracy of its records in accordance with Section 10 of the Act; or failed to insert into each subcontract or lower tiered subcontract and into the project specifications for each subcontract or lower tiered subcontract a written stipulation that not less than the prevailing rate of wages be paid as required by Section 4 of the Act. A violation also means a written determination by the Department that a contractor or construction manager failed to post at a location on the project site of the public works the prevailing wage rates as required by Section 4 of the Act.
- b) "Second violation" is a violation as defined in subsection (a) ~~that~~ which has occurred within two years of a previous violation.
- c) "Prevailing hourly rate of wages" means the hourly cash wages plus fringe benefits for health and welfare, insurance, vacations and pensions paid most frequently (numerically most occurring), in the county in which the public works is performed, to employees engaged on public works, as determined by the public body awarding the contract or the most recent revision as determined by the Department of Labor effective prior to the date when the contract was let for bids

DEPARTMENT OF LABOR

NOTICE OF ADOPTED AMENDMENTS

or, if not let for bids, when executed; and all revisions by the Illinois Department of Labor when effected.

- d) "Accurate records" means the names, addresses, telephone numbers and social security numbers of all employees engaged in a public works project; each employee's classification for the type of work actually performed on the public works project; the hours worked each day in each work week by each employee, including any overtime hours; the hourly rate of pay for straight time hours worked; the hourly rate of pay for overtime hours worked; the hourly rate paid for fringe benefits, including pension, health and welfare and vacations, and a designation of whether such fringe benefits were paid into a fund or paid directly to the employee; each employee's gross weekly wage, withholdings and net weekly wage; and the starting and ending times of work for each employee.
- e) "Determination" means the decision by the Director or his/her designee to issue a Notice of Violation to a contractor or subcontractor because the Act has been violated. Each specific finding listed in the Notice of Violation is a separate "Determination" that the Act has been violated.
- f) "Notice of Violation" means the formal written notice to a contractor or subcontractor that the Department has made a ~~determination~~determination(s) that the contractor or subcontractor has violated the Act.
- g) "Employee", for purposes of the Act and this Part, means laborers, mechanics and other workers employed in any public works, as defined and covered under the Act, by anyone under contracts for public works.
- h) "Construction manager" includes, but is not limited to, the contractor, subcontractor or anyone overseeing any project covered by the Act for purposes of the posting requirement.
- i) "Employer", for purposes of the Act and this Part, means contractors and subcontractors who perform public works projects subject to the Act.

(Source: Amended at 29 Ill. Reg. 3909, effective February 28, 2005)

Section 100.24 Notice of Violation

- a) Upon receipt of a report of an inspection, survey or evaluation of a complaint against an employer, the Director or his/her designee shall review the findings

DEPARTMENT OF LABOR

NOTICE OF ADOPTED AMENDMENTS

contained in the investigative file to determine whether the findings constitute a violation or violations of which the contractor or subcontractor must be given notice. All information, evidence and observations made during an audit, investigation or survey shall be considered and shall constitute the basis for the Department's determination that the Act has been violated and that a Notice of Violation shall be issued. The Notice of Violation shall list the specific ~~determination~~ determination(s) that a contractor or subcontractor has violated the Act.

- b) The Notice of Violation shall state the amount of monies estimated due by the Department to be in controversy based on findings contained in the investigation file.
- c) In making a determination where a contractor or subcontractor has failed to allow the Director or his/her deputies or agents access to accurate payroll records, the Director shall rely on the information contained in the investigative file and shall assess a separate violation for each day worked by each worker on the subject project. Each determination of a separate violation under Section ~~5~~ Five of the Act shall be listed in the Notice of Violation.
- d) In deciding whether the findings warrant a determination that the Act has been violated and require the issuance of a notice of violation, the Director or his/her designee shall base his/her decision on the following factors:
 - 1) The severity of the violations. The Director or his/her designee will consider the following:
 - A) Whether the contractor or subcontractor is charged with violating the Act on at least ~~2(2)~~ two separate occasions.
 - B) The activity or conduct complained of violates the requirements of the statute and was not merely a technical, non-substantive error.
 - 2) The frequency and duration of the present ~~violations~~ violation(s) as well as that of findings in previous investigations and the contractor or subcontractor's general inspection history. The Director or his/her designee may consider whether the same or similar findings, relating to the prior violations of the Act, has been the result of prior investigations; and whether the contractor or subcontractor has allowed the conditions or violations to continue or recur.

DEPARTMENT OF LABOR

NOTICE OF ADOPTED AMENDMENTS

- 3) The amount of wages determined to be in controversy (the difference between the amount actually paid and the required prevailing wage for that type of work). The Director or his/her designee may consider the amount of money in controversy for the cited ~~violations~~ violation(s).
 - 4) Whether the contractor or subcontractor has made and kept, for a period of not less than 3 years, true and accurate records of the name, address, telephone number when available, social security number and occupation of all laborers, workers, and mechanics employed by them in connection with public works and whether those records show the actual hourly wages paid in each pay period to each employee and the hours worked each day in each work week by each employee, as well as starting and ending times of work for each employee kept or caused to be kept an accurate record showing names and occupations of all laborers, workers and showing the actual hourly wages paid to each of such persons, which record shall be open at all reasonable hours to the inspection of the public body awarding the contract, its officers and agents, and to the Director of Labor and his/her deputies and agents.
 - 5) The failure of a contractor or subcontractor to allow the Department reasonable access to their payroll records.
 - 6) Whether the contractor or subcontractor furnished a sworn statement of the accuracy of its records pursuant to Section 10 of the Act.
 - 7) Whether the contractor or subcontractor inserted into each subcontract or lower tiered subcontract and into the project specifications for each subcontract or lower tiered subcontract a written stipulation that not less than the prevailing rate of wages shall be paid to all laborers, workers, and mechanics performing work under the contract for public works.
 - 8) Whether the contractor or construction manager to whom a contract for public works is awarded posted, at a location on the project site of the public works that is easily accessible to the employees engaged on the project, the prevailing wage rates for each craft or type of laborer, worker and mechanic needed to execute the contract or project or work to be performed.
- e) The notices of the first and second violations shall be sent by the Department by

DEPARTMENT OF LABOR

NOTICE OF ADOPTED AMENDMENTS

certified mail, deposited in the United States mail, postage prepaid, addressed to the last known address of the persons, partnerships, associations, or corporations~~person(s), partnership(s), association(s), or corporation(s)~~ involved. Said notices shall contain a reference to the specific Sections of the Act or this Part alleged to have been violated; identify the particular public works project involved; the conduct complained of; an identification as to first or second notice and a statement of remedies available to the contractor or subcontractor and Department.

(Source: Amended at 29 Ill. Reg. 3909, effective February 28, 2005)

Section 100.60 Hearing Examiner; Power and Duties

- a) Powers: A Hearing Examiner designated to preside over a hearing shall have all powers necessary and appropriate to conduct a fair, full and impartial hearing, including the following:
- 1) To administer oaths and affirmations;
 - 2) To rule upon offers of proof and receive relevant evidence;
 - 3) To exercise the power of the Director and issue subpoenas under any statute;
 - 4) To provide for discovery and to determine its scope;
 - 5) To regulate the course of the hearing and the conduct of the parties and their counsel ~~therein~~;
 - 6) To consider and rule upon procedural requests;
 - 7) To hold conferences for the settlement or simplification of the issues;
 - 8) To examine witnesses and direct witnesses to testify, limit the number of times any witness may testify, limit repetition or cumulative testimony and set reasonable limits on the amount of time each witness may testify;
 - 9) To make or cause to be made an inspection of the employment or place of employment involved;

DEPARTMENT OF LABOR

NOTICE OF ADOPTED AMENDMENTS

- 10) To make decisions in accordance with the Illinois Prevailing Wage Act, this Part, and the Illinois Administrative Procedure Act [\[5 ILCS 100\]](#)~~(Ill. Rev. Stat. 1991, ch. 127, par. 1001-1 et seq.)~~.
- b) Ex Parte Consultations: Except in the disposition of matters which are authorized by law to be entertained or disposed of on an ex parte basis, no agency member, or employee or Hearing Examiner shall, after notice of hearing pursuant to this ~~Part~~[Part](#), communicate directly or indirectly in connection with any issue of fact with any person or party or in connection with any other issue with any party or his representative except upon notice and opportunity for all parties to participate. However, an agency member may communicate with other members of the agency, and an agency member or Hearing Examiner may have the aid and advice of one or more personal assistants.
- c) Disqualification:
 - 1) When a Hearing Examiner deems himself/herself unqualified to preside over a particular hearing, he/she shall withdraw [from the hearing](#) ~~therefrom~~ by notice on the record directed to the Director of Labor.
 - 2) Any party who deems a Hearing Examiner, for any reason, to be unqualified to preside or to continue to preside over a particular hearing may file with the Director of Labor a motion to disqualify and remove the Hearing Examiner; and such motion to be supported by affidavits setting forth the alleged grounds for disqualification. The Director of Labor shall rule on the motion.
- d) Contumacious Conduct – Failure of or Refusal to Appear or Obey the Rulings of a Presiding Hearing Examiner:
 - 1) Contumacious conduct at any hearing before the Hearing Examiner shall be grounds for sanctions to be imposed by the Hearing Examiner.
 - 2) If a witness or a party refuses to answer a question after being directed to do so or refuses to obey an order to provide or permit discovery, the Hearing Examiner shall render a decision based upon the information available.
- e) Referral to Illinois Supreme Court Rules: On any procedural question not regulated by this Part, the Illinois Prevailing Wage Act and the Illinois

DEPARTMENT OF LABOR

NOTICE OF ADOPTED AMENDMENTS

Administrative Procedure Act, a Hearing Examiner may be guided to the extent practicable by any pertinent provisions of the Illinois Supreme Court Rules.

(Source: Amended at 29 Ill. Reg. 3909, effective February 28, 2005)

Section 100.120 Judicial Review

- a) If the proceedings to review judicially the final determination of the Department of Labor are not instituted as ~~hereafter~~ provided in subsection (b), the such determination shall be final and binding upon publication in the Illinois Register.
- b) The provisions of the Administrative Review Law [735 ILCS 5/Art. III](~~Ill. Rev. Stat. 1987, ch. 110, pars. 3-101 et seq.~~), and all amendments and modifications ~~thereof, and the rules adopted pursuant thereto~~, shall apply to and govern all proceedings for the judicial review of final "administrative decisions" of the Department of Labor ~~hereunder~~. The term administrative decision is defined as in Section 3-101 of ~~the said~~ Administrative Review Law.

(Source: Amended at 29 Ill. Reg. 3909, effective February 28, 2005)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Nuisance Wildlife Control Permits
- 2) Code Citation: 17 Ill. Adm. Code 525
- 3)

<u>Section Numbers</u> :	<u>Adopted Action</u> :
525.20	Amendment
525.30	Amendment
525.35	New Section
- 4) Statutory Authority: Implementing and authorized by Section 2.37 of the Wildlife Code [520 ILCS 5/2.37]
- 5) Effective Date of Amendments: February 24, 2005
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendments, including all material incorporated by reference, is on file in the Department of Natural Resource's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: November 19, 2004; 28 Ill. Reg. 14926
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences between proposal and final version:

Sections 525.20(d)(3), 525.30(n) and 525.35(d)(1) – replaced "1985" with "2004"

Section 525.35(a)(2) – after the semicolon, added "or"

Section 525.35(a)(3)(B) – after "21.41", added "(2004)" and changed the semicolon to a period

Section 525.35(a)(4) through (f):

relabelled subsection (a)(4) to "b)" and relabeled "A)" to "1)", "B)" to "2)", "C)" to "3)", "D)" to "4)", "E)" to "5)", and "F)" to "6)"; relabeled subsection "b)" to "d)"; changed "number" to "numbers"; changed "they have" to "he or she has"; moved the subsection to

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

the correct location; and relabeled subsections "d)" through "f)" as "e)" through "g)"

Section 525.35(e) – replaced "control work will take place" with "the taking will occur"

Section 524.35(e)(1) – added "(2004)" following "21.41"

Section 525.35(f) – replaced "taking or eagles" with "taking of eagles"

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and purpose of rulemaking: This Part was amended to incorporate language regarding nuisance migratory birds.
- 16) Information and questions regarding these adopted amendments shall be directed to:

Jack Price, Legal Counsel
Department of Natural Resources
One Natural Resources Way
Springfield IL 62702-1271

217/782-1809

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

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

TITLE 17: CONSERVATION
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES
SUBCHAPTER b: FISH AND WILDLIFEPART 525
NUISANCE WILDLIFE CONTROL PERMITS

Section

525.10	Purpose
525.20	Requirements and Application
525.30	General Provisions
<u>525.35</u>	<u>Migratory Birds</u>
525.40	Revocation and Suspension of Permits – Hearings and Appeals
525.EXHIBIT A	Application for Nuisance Wildlife Control Permit

AUTHORITY: Implementing and authorized by Section 2.37 of the Wildlife Code [520 ILCS 5/2.37].

SOURCE: Adopted at 15 Ill. Reg. 4149, effective March 4, 1991; amended at 16 Ill. Reg. 1826, 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 23 Ill. Reg. 3406, effective March 8, 1999; amended at 27 Ill. Reg. 735, effective January 6, 2003; amended at 29 Ill. Reg. 3919, effective February 24, 2005.

Section 525.20 Requirements and Application

- a) Any individual desiring to control Protected Species which are causing damage to property or a risk to human health or safety on the land of another, for a fee, must first obtain a valid Class A Nuisance Wildlife Control Permit from the Department. Taking any protected species in violation of this subsection is a Class B misdemeanor (see 520 ILCS 5/2.33, 2.33(a)). Control of white-tailed deer and ~~migratory~~-threatened, or endangered species is prohibited except as provided for in Section 525.30(h). Unlawful taking of white-tailed deer is a Class B misdemeanor (see 520 ILCS 5/2.24), as is unlawful taking of migratory birds (see 520 ILCS 5/2.18). Unlawful taking of an endangered species is a Class A misdemeanor (see 520 ILCS 10/9).
- b) Any person desiring to control Protected Species which are causing damage to property or a risk to human health or safety on the land of another, at no charge, must first obtain a valid Class B Nuisance Wildlife Control Permit from the

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Department. Not-for-profit (501(c)(3)) zoos and botanical gardens desiring to control protected species that are causing damage to property or are a risk to human health or safety on lands owned by that entity must first obtain a valid Class B Nuisance Wildlife Control Permit from the Department. Control of white-tailed deer and migratory, threatened, or endangered species is prohibited except as provided for in Section 525.30(h). Unlawful taking of white-tailed deer is a Class B misdemeanor (see 520 ILCS 5/2.24), as is unlawful taking of an endangered species (see 520 ILCS 5/2.18). Unlawful taking of migratory birds is a Class B misdemeanor (see 520 ILCS 10/9).

- c) Any governmental body desiring to control Protected Species which are causing damage to property or a risk to human health or safety on lands governed, owned or managed by that governmental body must first obtain a valid Class C Nuisance Wildlife Control Permit from the Department. Control of white-tailed deer and migratory, threatened, or endangered species is prohibited except as provided for in Section 525.30(h). Unlawful taking of white-tailed deer is a Class B misdemeanor (see 520 ILCS 5/2.24), as is unlawful taking of an endangered species (see 520 ILCS 5/2.18). Unlawful taking of migratory birds is a Class B misdemeanor (see 520 ILCS 10/9).
- d) Permit Procedures
 - 1) To be eligible for a Class A or Class B Nuisance Wildlife Control Permit the applicant must be at least 18 years of age.
 - 2) Application for a Nuisance Wildlife Control Permit shall be made on forms provided by the Department's Division of Wildlife Program Development and Coordination and shall be obtained by submitting a request to the Division.
 - 3) The Department shall issue a Class A Nuisance Wildlife Control Permit to an individual provided the applicant has:
 - A) met eligibility requirements as per this Section;
 - B) passed a written examination administered by the Department which tests the applicant's knowledge and understanding of:
 - i) this Part;

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- ii) the Wildlife Code [520 ILCS 5/2.37];
 - iii) Illinois List of Endangered and Threatened Fauna (17 Ill. Adm. Code 1010);
 - iv) the Illinois Dead Animal Disposal Act [225 ILCS 610];
 - v) "Specifications for the Humane Handling, Care, Treatment, and Transportation of Warmblooded Animals Other Than Dogs, Cats, Rabbits, Hamsters, Guinea Pigs, Nonhuman Primates, and Marine Mammals" (Subpart F, Subchapter A, ch. 1, Title 9 CFR, [20041985](#)) (no later editions or amendments are included);
 - vi) Disease Free Certification and Quarantine Provisions for Propagation, Release, Importation, Exportation, and Transportation of Game Mammals, Game Birds, Migratory Birds, or Exotic Wildlife (17 Ill. Adm. Code 630); and
 - vii) diseases, life cycles, habits, and habitats of common Illinois wildlife as well as methods of preventing or controlling damage and risks to human health or safety.
- C) completed a Hunter Safety Course administered by the Department or provided proof of equivalent training if guns are to be used to take or euthanize animals.
- 4) Each new applicant or person whose permit has been revoked or has expired shall be required to answer correctly at least 80% of the questions on the closed-book examination. Applicants failing the required examination may repeat the exam after 45 days. Should a second failure occur, a six-month waiting period from the date of the second exam is required. The examination sequence can be repeated no more than twice during any two-year period.
- 5) The Department shall issue a Class B Nuisance Wildlife Control Permit to an individual provided the applicant has:
- A) met eligibility requirements as per this Section;

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- B) successfully completed an interview during which a representative of the Division of Wildlife Resources has determined the applicant's knowledge of wildlife and wildlife capture techniques sufficient to render services as provided for in this Section; and
 - C) completed a Hunter Safety Course administered by the Department or provided proof of equivalent training if guns are to be used to take or euthanize animals.
- 6) The Department shall issue a Class B Nuisance Wildlife Control Permit to a not-for-profit (501(c)(3)) zoo provided that entity is accredited by the American Zoological Association and a staff member in charge of nuisance wildlife control activities complies with provisions set forth in Section 525.20(d)(5). The Department shall issue a Class B Nuisance Wildlife Control Permit to a not-for-profit (501(c)(3)) botanical garden provided that entity is a member of the American Arboreta and Botanic Garden Association and a staff member in charge of nuisance wildlife control activities complies with provisions set forth in Section 525.20(d)(5). Authorization granted to not-for-profit zoos and botanical gardens is limited to properties owned by those entities and subject to refusal, revocation and/or suspension pursuant to Sections 525.20(e), 525.30(q), and 525.40.
- 7) The Department shall issue a Class C Nuisance Wildlife Control Permit to a governmental body upon application.
- e) Violation of the Illinois Endangered Species [Protection](#) Act [520 ILCS 10], the Fish Code of 1971 [520 ILCS 5] or the Wildlife Code [520 ILCS 5] during the 3 years prior to application for a Class A or Class B Nuisance Wildlife Control Permit shall be grounds for refusal to issue said permit.
- f) Final judgment of applications shall be made by the Chief, Division of Wildlife Program Development and Coordination, or his designee, based on criteria contained in subsection (d).
- g) Providing deceptive or false information on an application is a Class A misdemeanor (see 520 ILCS 5/2.38).

(Source: Amended at 29 Ill. Reg. 3919, effective February 24, 2005)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Section 525.30 General Provisions

- a) Nuisance Wildlife Control Permits shall be issued on an annual basis and expire January 31 of each year. Nuisance Wildlife Control Permits are not transferable. Permitted Nuisance Wildlife Control is governed solely by Sections 2.37 and 2.38 of the Wildlife Code [520 ILCS 5/2.37 and 2.38] and this Part. All other provisions of The Game Protective Regulations of the Wildlife Code [520 ILCS 5] do not apply.
- b) Under no circumstances shall a Nuisance Wildlife Control Permit be used in lieu of a scientific collector's permit or sport or commercial licenses.
- c) Permittee's method of taking fauna must be approved by the Department. Approved methods include, but are not limited to trapping and shooting. In addition,
 - 1) Only the following devices shall be used for land sets:
 - A) box traps, cage traps or traps of similar design;
 - B) EGG traps[®], D-P[®] (Dog-Proof) traps or traps of similar design with a single access opening no larger than three square inches;
 - C) cushion-hold traps with no modifications from the manufacturer's specifications other than the addition of auxiliary springs and/or swivels. "Cushion-hold trap" means an approved, commercially manufactured trap of the spring-loaded type with offset jaws designed to capture an animal by closing upon one of its limbs and that is so constructed that the edges designed to touch the animal are composed of a non-metallic substance that eliminates or mitigates injury to the trapped animal; and
 - D) body-gripping traps powered by two springs and having an inside jaw spread no larger than 25 square inches may be used if set inside a residence at least four inches from any outside surface of the structure or set outdoors at least eight feet from the ground and enclosed in a tube, cylinder or open-ended box constructed of solid wood, metal or plastic such that the trigger of the trap is located at least twelve inches from any entrance to the enclosure in which it is set.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- E) Violation is a Class B misdemeanor (see 520 ILCS 5/2.33(a)).
- 2) Body-gripping traps, cushion-hold traps, leghold traps, EGG[®] traps and D-P[®] (Dog-Proof) traps or traps of similar design, Bailey beaver traps or traps of similar design, Snead colony traps or traps of similar design, and cage traps, box traps or traps of similar design may be used for water sets. Snares that are not powered by springs or other mechanical devices shall be used for water sets only if at least one-half of the snare noose loop is located under water at all times; the noose loop diameter is not greater than 15 inches (38.1 CM); the snare is equipped with a mechanical lock, anchor swivel, and stop device to prevent the mechanical lock from closing the noose loop to a diameter of less than 2½ inches (6.4 CM); the cable diameter is not less than 5/64 inch (2.0 MM) but not greater than ¼ inch (3.2 MM); and the snare is not constructed of stainless steel metal cable or wire. Violation is a Class B misdemeanor (see 520 ILCS 5/2.33(a)).
 - 3) It is unlawful to fail to visit and remove all animals from traps staked out, set, used, tended, placed or maintained at least once each calendar day. Violation is a Class B misdemeanor (see 520 ILCS 5/2.33(a)).
 - 4) It is unlawful for any person to place, set, use, or maintain any trap or snare that is not tagged, inscribed, or otherwise identified with the permittee's name and address. Violation is a Class B misdemeanor (see 520 ILCS 5/2.33(a)).
 - 5) It is unlawful for any person to place, set, use, or maintain a cushion-hold trap or leghold trap, in water, that has an inside jaw spread larger than 7½ inches (19.1 CM), or a body-gripping trap having an inside jaw spread larger than 144 square inches. Violation is a Class B misdemeanor (see 520 ILCS 5/2.33(a)).
 - 6) It is unlawful for any person to place, set, use, or maintain a cushion-hold trap, on land, that has an inside jaw spread larger than 6½ inches (16.6 CM). Violation is a Class B misdemeanor (see 520 ILCS 5/2.33(a)).
 - 7) It is unlawful to use any trap with saw-toothed, serrated, spiked, or toothed jaws. Violation is a Class B misdemeanor (see 520 ILCS 5/2.33(a)).

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- 8) It is unlawful to place, set, or maintain any leghold trap or cushion-hold trap within 30 feet (9.14 m) of bait placed in such a manner or position that it is not completely covered and concealed from sight, except that this shall not apply to underwater sets. Bait shall mean and include any bait composed of mammal, bird, or fish flesh, fur, hide, entrails, or feathers. Violation is a Class B misdemeanor (see 520 ILCS 5/2.33(a)).
- 9) It is unlawful to use any deadfall, pit trap, spear, gig, hook, crossbow, poison, chemical, explosive or any like device to take any Protected Species, except that commercially available gas cartridges that emit carbon monoxide or carbon dioxide as primary lethal agents may be used according to the manufacturer's specifications. Violation is a Class B misdemeanor (see 520 ILCS 5/2.33(a)).
- 10) It is unlawful for any person, except persons permitted by law, to have or carry any gun in or on any vehicle, conveyance or aircraft, unless such gun is unloaded and enclosed in a case. Violation is a Class B misdemeanor (see 520 ILCS 5/2.33(n)).
- 11) It is unlawful to fire a rifle, pistol, revolver, or airgun on, over or into any waters of this State, including frozen waters. Violation is a Class B misdemeanor (see 520 ILCS 5/2.33(q)).
- 12) It is unlawful to discharge any gun along, upon, across, or from any public right-of-way or highway in this State. Violation is a Class B misdemeanor (see 520 ILCS 5/2.33(r)).
- 13) It is unlawful to use a silencer or other device to muffle or mute the sound of the explosion or report resulting from the firing of any gun. Violation is a Class B misdemeanor (see 520 ILCS 5/2.33(s)).
- 14) It is unlawful for any person to remove animals from or to move or disturb in any manner, the traps owned by another person without written authorization of the owner to do so. Violation is a Class B misdemeanor (see 520 ILCS 5/2.33(v)).
- 15) It is unlawful for any person to wantonly or carelessly injure or destroy, in any manner whatsoever, any real or personal property on the land of another while engaged in activities permitted by this Section. Violation is a Class B misdemeanor (see 520 ILCS 5/2.33(x)).

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- 16) It is unlawful for any person to take any Protected Species during the gun deer hunting season in those counties open to gun deer hunting, unless he wears, when in the field, a cap and outer garment of a solid blaze orange color, with such articles of clothing displaying a minimum of 400 square inches of blaze orange material. Violation is a Class B misdemeanor (see 520 ILCS 5/2.33(ff)).
- 17) The use of guns shall be subject to all State restrictions.
- 18) The use of guns shall be subject to municipal restrictions unless otherwise authorized in writing by an official of the municipality.
- d) Taking of fauna on private properties by Class A and Class B permittees requires the landowner's or tenant's written permission. Class B not-for-profit permittees are restricted to taking nuisance fauna only on the lands owned by the not-for-profit entity. Nothing in this Part allows the taking of wildlife on the property of another without permission from the landowner or tenant. Violation is a Class B misdemeanor (see 520 ILCS 5/2.33(t)).
- e) Taking of fauna on State-owned or -managed lands requires written authorization from the Site Superintendent or District Wildlife Habitat Biologist. Violation is a Class B misdemeanor (see 520 ILCS 835/6).
- f) Permittees shall describe to the persons seeking services the estimated cost and type of control methods to be used to relieve the nuisance problem and/or to alleviate damage to livestock, crops, or property.
- g) The Nuisance Wildlife Control Permit must be carried on the person at all times when taking or transporting fauna and be presented, upon request, to any authorized employee of the Department or any peace officer. Violation is a petty offense (see 520 ILCS 5/2.37).
- h) The taking of white-tailed deer, endangered species, threatened species, ~~migratory birds~~, or other species protected by Federal regulations is prohibited except for: ~~1) the salvage and disposal of dead white-tailed deer in accordance with subsection (k) of this Section;~~
- 2) ~~the control of blackbirds, cowbirds, grackles, crows and magpies in accordance with and under authority of a standing depredation order~~

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

~~issued by the U.S. Fish and Wildlife Service (50 CFR 21.43);~~

- 3) ~~the destruction of nests and eggs of protected species of waterfowl including wild ducks, geese and swans in accordance with the following requirements:~~
 - A) ~~individuals desiring to destroy the nests and eggs of protected species of waterfowl, for a fee, must first answer correct at least 80% of questions on a written exam which tests their knowledge of methods of preventing, abating and controlling property damage and risks to human health or safety caused by protected species of waterfowl, topics specified by Section 525.20(d)(3)(B) and applicable federal regulations (50 CFR 21.41); individuals who pass the written exam and meet other requirements set forth in this Part shall be issued a certificate of authorization to destroy the nests and eggs of protected species of waterfowl;~~
 - B) ~~prior to destroying the nests and eggs of protected species of waterfowl, permittees must request and obtain appropriate authorization from the U.S. Fish and Wildfish Service and written approval from the Department for each site where control work will take place; and~~
 - C) ~~methods of destroying waterfowl eggs shall be limited to adding, oiling, puncturing and freezing.~~
 - 4) ~~the control of any other migratory birds or other species protected by federal regulations requires prior authorization from the U.S. Fish and Wildlife Service and written approval from the Department for each site where control work will take place.~~
- i) All fur-bearing mammals [520 ILCS 5/1.2g] and game mammals [520 ILCS 5/1.2h] that are not endangered or threatened (17 Ill. Adm. Code 1010) and are taken under authority of this Part must be released alive or euthanized except that:
 - 1) striped skunks must be euthanized; and
 - 2) raccoons must be euthanized or released on the same property and within 100 yards of where they were captured, or surrendered to a licensed veterinarian who is a licensed wildlife rehabilitator for euthanasia or

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

treatment and release. Release may only be after an observation period of at least 45 days. During observation, raccoons may be housed at any properly licensed rehabilitator. Violation is a petty offense (see 520 ILCS 5/2.37).

All other Protected Species must be released alive or surrendered to a licensed rehabilitator. Violation is a Class B misdemeanor (see 520 ILCS 5/2.33).

- j) Methods of euthanizing animals must be approved by the Department and include such methods as:
 - 1) captive bolt, gunshot, drowning, and stunning (mechanical only);
 - 2) inhalants, including halothane, isoflurane, carbon monoxide, and carbon dioxide; and
 - 3) non-inhalants including Secobarbital/dibucaine.
- k) All dead animals must be transferred to a licensed renderer or disposed of in accordance with the Illinois Dead Animal Disposal Act [225 ILCS 610]. Violation is a Class C misdemeanor (see 225 ILCS 610/19).
- l) Animals, animal parts and animal by-products taken under authority of this Part may not be sold, offered for sale, bartered or shipped for the purpose of sale or barter. Violation is a Class A misdemeanor (see 520 ILCS 5/2.36).
- m) All animals released alive must be re-located into suitable habitat in the State of Illinois within 24 hours after capture. Except as provided for in subsection (i) of this Section, the release site must be located at least 10 but not more than 40 miles from the capture site unless the Department grants specific authority to release animals greater than 40 miles from the capture site and the animals are certified disease-free as provided for in 17 Ill. Adm. Code 630. Animals captured by duly appointed representatives of municipalities shall be re-located into suitable habitat less than 10 miles from the capture site if this subsection would require the release of animals on lands outside their jurisdiction. Violation is a petty offense (see 520 ILCS 5/2.37).
- n) Temporary holding facilities must meet U.S. Department of Agriculture standards for animal welfare as specified in "Specifications for the Humane Handling, Care, Treatment, and Transportation of Warmblooded Animals Other Than Dogs, Cats,

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Rabbits, Hamsters, Guinea Pigs, Nonhuman Primates, and Marine Mammals" (~~subpart Subpart F, subchapter Subchapter A~~, ch. 1, Title 9 CFR, ~~20041985~~) (no later editions or amendments are included). Violation is a petty offense (see 520 ILCS 5/2.37).

- o) Release of fauna onto public or private land requires written authorization from the site superintendent, tenant, or landowner. In the event that threatened or endangered species are involved, the release shall be directed by the Endangered and Threatened Species Conservation Program Coordinator, Division of Resource Stewardship and Protection, Department of Natural Resources, One Natural Resources Way, Springfield, Illinois 62702-1271. Violation is a petty offense (see 520 ILCS 5/2.37).
- p) Permittees who rent, lend or otherwise transfer traps to clients, citizens, or other parties who are not under their direct supervision and have not obtained a Nuisance Wildlife Control Permit or a Nuisance Animal Removal Permit are responsible for any damages or violations of this Section that are perpetrated by the other party. Any animals taken by a second party must be reported by the permittee in accordance with subsection (q). Failure to comply with this Part shall result in permit suspension or revocation in accordance with Section 525.40.
- q) All permittees shall maintain records and submit an annual report to the Department showing the following information: total number of complaints received, number of complaints serviced, county of residence, name, address, and phone number of the permittee, number and kinds of animals relocated, name, address, and phone number of any site supervisor, tenant or landowner on whose property animals were released, locations where animals were released, and number and kinds of all animals euthanized. This report shall be made on or before January 20 and shall include all operations for the period from January 1 through December 31 of the previous year. All such reports and records required by this Section shall be available for inspection by any officer or authorized employee of the Department, any sheriff, deputy sheriff, or any other peace officer at any reasonable time when request is made for same. Failure to comply with the provisions of this Section shall bar the permittee from obtaining a Nuisance Wildlife Control Permit for the following year.
- r) It shall be unlawful for any person to represent himself or herself falsely to be an authorized employee of the Department, or to assume to act as such without having been duly appointed and employed as such. Violation is a petty offense (see 520 ILCS 5/1.23).

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- s) A Class A Nuisance Wildlife Control Permittee is an industrial user as listed in the Hypodermic Syringes and Needles Act [720 ILCS 635].

(Source: Amended at 29 Ill. Reg. 3919, effective February 24, 2005)

Section 525.35 Migratory Birds

- a) Any owner or tenant of lands, including operations, associations and governmental bodies, may, without a permit, scare away migratory birds, either game or non-game, as defined in Section 2.2 of the Wildlife Code [520 ILCS 5/2.2] when they are:
- 1) causing damage to property or wildlife;
 - 2) creating a risk to human health or safety; or
 - 3) concentrated in such numbers and manner as to constitute a health hazard or other nuisance, provided that:
 - A) the damage, risk, hazard or other nuisance must be identifiable to an employee of the Department; and
 - B) scaring must be done in accordance with 50 CFR 21.41 (2004), except birds that have a nest with eggs and/or a nest with young may not be scared without proper authorization from the Department.
- b) Damage to property or wildlife or a risk to human health or safety or health hazard or other nuisance includes, but is not limited to:
- 1) excessive fecal matter accumulations on property;
 - 2) damage to turf, ornamental plantings, agricultural crops, structures, vehicles;
 - 3) risks to human safety, such as human conflicts with aggressive birds and vehicle collisions with birds;

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- 4) a risk to human health as identified or reasonably expected by a Department Wildlife Biologist or Conservation Police Officer in consultation with any public health official or medical doctor;
 - 5) excessive bothersome noise in residential or commercial areas; and
 - 6) excessive damage to other species of wildlife, such as competition for nesting sites or territory or damage to vegetation necessary for the well being of other wildlife species.
- c) Methods of scaring include, but are not limited to:
- 1) noise-making devices such as propane cannons, airhorns, distress calls, whistles, blank shells, cracker shells, or pyrotechnic devices such as bangers and screamers;
 - 2) visual methods such as flash tape, balloons, flags, vehicles, fencing, radio-controlled vehicles, dogs or non-harmful light-emitting devices; and
 - 3) chemical repellants that are registered for the non-lethal control of birds by the USEPA.
- d) Any person may remove or destroy, by use of a shotgun, air gun or traps and only on or over the threatened area, any red-winged blackbirds, rusty blackbirds, Brewer's blackbirds, cowbirds, grackles and crows when found committing or about to commit depredations upon ornamental or shade trees, agricultural crops, livestock or wildlife, or when concentrated in such numbers and manner as to constitute a health hazard or other nuisance, without a permit, so long as he or she has written permission from the landowner or tenant.
- e) The destruction of nests and eggs of protected species of waterfowl, including wild ducks, geese and swans, shall be conducted only in accordance with the following requirements:
- 1) Individuals desiring to destroy the nests and eggs of protected species of waterfowl, for a fee, must first answer correctly at least 80% of the questions on a written exam that tests their knowledge of methods of preventing, abating and controlling property damage and risks to human health or safety caused by protected species of waterfowl, topics specified by Section 525.20(d)(3)(B) and applicable federal regulations (50 CFR

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

21.41 (2004)). Individuals who pass the written exam and meet other requirements set forth in this Part shall be issued a certificate of authorization to destroy the nests and eggs of protected species of waterfowl.

- 2) Prior to destroying the nests and eggs of protected species of waterfowl, permittees must request and obtain appropriate authorization from the U.S. Fish and Wildlife Service and written approval from the Department for each site where control work will take place.
 - 3) Methods of destroying waterfowl eggs shall be limited to addling, oiling, puncturing and freezing.
- f) The taking of any migratory birds or other species protected by federal regulations requires prior authorization from the U.S. Fish and Wildlife Service and written approval from the Department for each site where the taking will occur.
- g) This Section does not apply to eagles or endangered species. Unlawful scaring or harassing of eagles or endangered species is a Class A misdemeanor. Unlawful taking of eagles or endangered species can be up to a Class 3 felony.

(Source: Added at 29 Ill. Reg. 3919, effective February 24, 2005)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: The Taking of Wild Turkeys – Spring Season
- 2) Code Citation: 17 Ill. Adm. Code 710
- 3)

<u>Section Numbers</u> :	<u>Adopted Action</u> :
710.10	Amendment
710.30	Amendment
710.50	Amendment
710.70	New Section
- 4) Statutory Authority: Implementing and authorized by Sections 1.3, 1.4, 1.20, 2.9, 2.10 and 2.11 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.20, 2.9, 2.10 and 2.11]
- 5) Effective Date of Amendments: February 24, 2005
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendments, including all material incorporated by reference, is on file in the Department of Natural Resource's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: November 12, 2004; 28 Ill. Reg. 14751
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version:

In Section 710.70(f), the following sites were added:

Cache River State Natural Area

Crab Orchard National Wildlife Refuge (Closed and Open Units)

Crawford County Conservation Area

Cypress Pond State Natural Area

Deer Pond State Natural Area

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Ferne Clyffe State Park

Ferne Clyffe State Park - Cedar Draper State Habitat Area

Giant City State Park

Horseshoe Lake Conservation Area - Alexander County

I-24 Wildlife Management Area

Kinkaid Lake State Fish and Wildlife Area

Mermet Lake State Fish and Wildlife Area

Newton Lake State Fish and Wildlife Area

Pyramid State Park

Pyramid State Park - East Conant Unit

Rend Lake State Fish and Wildlife Area

Rend Lake Corps of Engineers-managed land in Jefferson and Franklin Counties

Sam Parr State Park

Sielbeck Forest State Natural Area

Trail of Tears State Forest

Union County Conservation Area

In Section 710.70(f), the site-specific information listed in parentheses was deleted at the following sites:

Kankakee River State Park

Momence Wetlands

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and purpose of rulemaking: Amendments to this Part include updating season dates and sites open to hunting. A new section containing regulations pertaining to Spring Youth Turkey Hunts was also added. Currently, regulations on all youth hunts appear in 17 Ill. Adm. Code 685. The Department has determined that adult and youth hunting regulations pertaining to the same species should appear in one rule.
- 16) Information and questions regarding these adopted amendments shall be directed to:

Jack Price, Legal Counsel
Department of Natural Resources
One Natural Resources Way
Springfield IL 62702-1271

217/782-1809

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

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

TITLE 17: CONSERVATION
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES
SUBCHAPTER b: FISH AND WILDLIFEPART 710
THE TAKING OF WILD TURKEYS – SPRING SEASON

Section

710.5	Hunting Zones
710.10	Hunting Seasons
710.20	Statewide Turkey Permit Requirements
710.21	Turkey Permit Requirements – Special Hunts (Renumbered)
710.22	Turkey Permit Requirements – Landowner/Tenant Permits
710.25	Turkey Permit Requirements – Special Hunts
710.28	Turkey Permit Requirements – Heritage Youth Turkey Hunt (Repealed)
710.30	Turkey Hunting Regulations
710.40	Other Regulations (Repealed)
710.50	Regulations at Various Department-Owned or -Managed Sites
710.55	Special Hunts for Disabled Hunters
710.60	Releasing or Stocking of Turkeys
<u>710.70</u>	<u>Spring Youth Turkey Hunt</u>

AUTHORITY: Implementing and authorized by Sections 1.3, 1.4, 1.20, 2.9, 2.10 and 2.11 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.20, 2.9, 2.10 and 2.11].

SOURCE: Adopted at 4 Ill. Reg. 15, p. 153, effective April 1, 1980; codified at 5 Ill. Reg. 10643; amended at 6 Ill. Reg. 3852, effective March 31, 1982; amended at 7 Ill. Reg. 4208, effective March 25, 1983; amended at 8 Ill. Reg. 5663, effective April 16, 1984; amended at 9 Ill. Reg. 6200, effective April 24, 1985; amended at 10 Ill. Reg. 6848, effective April 4, 1986; amended at 11 Ill. Reg. 2267, effective January 20, 1987; amended at 12 Ill. Reg. 5342, effective March 8, 1988; amended at 13 Ill. Reg. 5090, effective April 4, 1989; amended at 14 Ill. Reg. 663, effective January 2, 1990; amended at 15 Ill. Reg. 4161, effective March 4, 1991; amended at 16 Ill. Reg. 1843, effective January 17, 1992; amended at 17 Ill. Reg. 3184, effective March 2, 1993; amended at 18 Ill. Reg. 1156, effective January 18, 1994; emergency amendment at 18 Ill. Reg. 3751, effective March 1, 1994, for a maximum of 150 days; emergency expired July 29, 1994; amended at 19 Ill. Reg. 2450, effective February 17, 1995; emergency amendment at 19 Ill. Reg. 5312, effective April 1, 1995, for a maximum of 150 days; emergency expired August 29, 1995; amended at 20 Ill. Reg. 777, effective December 29, 1995; 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. 3125, effective March 3, 1997; amended at 22 Ill. Reg. 2192,

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

effective January 2, 1998; amended at 22 Ill. Reg. 19568, effective October 23, 1998; amended at 23 Ill. Reg. 11956, effective September 21, 1999; amended at 24 Ill. Reg. 7984, effective May 24, 2000; amended at 24 Ill. Reg. 17778, effective November 27, 2000; amended at 25 Ill. Reg. 14176, effective October 22, 2001; amended at 26 Ill. Reg. 18028, effective December 6, 2002; amended at 27 Ill. Reg. 17075, effective October 22, 2003; amended at 29 Ill. Reg. 3935, effective February 24, 2005.

Section 710.10 Hunting Seasons

a) Northern Zone Season Dates:

1st Season: Monday, April ~~1112~~-Friday, April ~~1516~~, ~~20052004~~

2nd Season: Saturday, April ~~1617~~-Thursday, April ~~2122~~, ~~20052004~~

3rd Season: Friday, April ~~2223~~-Wednesday, April ~~2728~~, ~~20052004~~

4th Season: Thursday, April ~~2829~~-Wednesday, May ~~45~~, ~~20052004~~

5th Season: Thursday, May ~~56~~-Thursday, May ~~1213~~, ~~20052004~~

b) Southern Zone Season Dates:

1st Season: Monday, April ~~45~~-Friday, April ~~89~~, ~~20052004~~

2nd Season: Saturday, April ~~910~~-Thursday, April ~~1415~~, ~~20052004~~

3rd Season: Friday, April ~~1516~~-Wednesday, April ~~2021~~, ~~20052004~~

4th Season: Thursday, April ~~2122~~-Wednesday, April ~~2728~~, ~~20052004~~

5th Season: Thursday, April ~~2829~~-Thursday, May ~~56~~, ~~20052004~~

c) Open Counties:

NORTHERN ZONE

Adams

Boone

Brown

Bureau

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Calhoun
Carroll
Cass
Champaign
Christian
Clark
Coles
Cumberland
DeKalb
DeWitt
Edgar
Fulton
Greene
Grundy
Hancock
Henderson
Henry
Iroquois
Jersey
Jo Daviess
Kankakee
Kendall
Knox
La Salle
Lee
Livingston
Logan
Macon
Macoupin
Marshall-Putnam
Mason
McDonough
McHenry
McLean
Menard
Mercer
Montgomery
Morgan
Moultrie
Ogle

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Peoria
Piatt
Pike
Rock Island
Sangamon
Schuyler
Scott
Shelby
Stark
Stephenson
Tazewell
Vermilion
Warren
Whiteside
Will
Winnebago
Woodford

SOUTHERN ZONE

Alexander
Bond
Clay
Clinton
Crawford
Edwards
Effingham
Fayette
Franklin
Hamilton
Gallatin-Hardin
Jackson
Jasper
Jefferson
Johnson
Lawrence
Madison
Marion
Massac
Monroe
Perry

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Pope
Pulaski
Randolph
Richland
Saline
St. Clair
Union
Wabash
Washington
Wayne
White
Williamson

(Source: Amended at 29 Ill. Reg. 3935, effective February 24, 2005)

Section 710.30 Turkey Hunting Regulations

It is unlawful:

- a) to use live or electronic turkey decoys, recorded calls, dogs, or bait (an area is considered as baited during the presence of and for 10 consecutive days following the removal of the bait);
- b) to take any wild turkey except a hen with a visible beard or a gobbler (male);
- c) to take, or attempt to take, more than three wild turkeys during the spring season, one must have a valid permit for each turkey that is taken;
- d) to use any weapon except a shotgun or bow and arrow. #4 shot is the largest and #7½ is the smallest size shot that may be legally used. Archers may use a long, recurved, or compound bow with a minimum pull of 40 pounds at some point within a 28-inch draw. Minimum arrow length is 20 inches and broadheads must be used. Broadheads may have fixed or expandable blades, but they must be barbless and have a minimum 7/8 inch diameter when fully opened. Broadheads with fixed blades must be metal or flint-, chert-, or obsidian-knapped; broadheads with expandable blades must be metal. Any mechanical device capable of maintaining a drawn position or partially drawn position on a bow is illegal. All other bows and arrows, including electronic arrow tracking systems, are illegal;
- e) to hunt except from ½ hour before sunrise to 1:00 p.m. during each day of the season;

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- f) for any person having taken the legal limit of wild turkeys to further participate with a weapon in any hunting party for the purpose of taking additional wild turkeys;
- g) for any person to possess while in the field during wild turkey season any turkey permit issued to another person (permits are non-transferable);
- h) to transport or leave a wild turkey without first affixing the adhesive-backed turkey permit securely around the leg. Immediately upon kill and before the turkey is moved, transported or field dressed, the hunter must cut out the designated notch on the leg tag to invalidate it, and the tag must be affixed to the turkey. Successful hunters must register their harvest by 3:00 p.m. on the same calendar day as the turkey was taken by calling the toll-free telephone number provided with their turkey hunting permit. Hunters must provide all information requested by the telephone check-in system, and will be provided with a confirmation number to verify that they checked in their harvest. The confirmation number must be written by the hunter on the leg tag. The leg tag must remain attached to the leg of the turkey until it is at the legal residence of the person who legally took or possessed the turkey and the turkey has been checked in. The turkey must remain whole (or field dressed) until it has been checked in;
- i) for any person to shoot a wild turkey while it is in a tree before 7:00 a.m.;
- j) for any person to hunt wild turkeys without possessing a Wild Turkey Hunting Permit which shall include the hunter's signature recorded on the permit and carried on the person while hunting, except that a person without a weapon may accompany a turkey hunter as a caller or observer;
- k) for any person to use a turkey call that imitates sounds made by a turkey or to attempt to call a turkey by making these sounds while in the field in the Southern Zone from March 15 through the day before the 1st turkey season and in the Northern Zone from March 22 through the day before the 1st turkey season. This prohibition only applies in counties open to spring turkey hunting. This prohibition does not apply to participants in the Youth Turkey ~~HuntSeason~~ with a valid permit, or their accompanying adult, during that season as prescribed by ~~Section 710.7017 Ill. Adm. Code 685—Youth Hunting Seasons.~~

(Source: Amended at 29 Ill. Reg. 3935, effective February 24, 2005)

Section 710.50 Regulations at Various Department-Owned or -Managed Sites

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- a) Hunters who intend to hunt Department sites and who have a physical disability that requires special accommodations must contact the site superintendent at least 10 days before the date they wish to hunt. The site superintendent shall make reasonable accommodations necessary to allow the disabled person to participate in the hunting experience at the site. Disabled hunters who require an aide or assistant with them during the hunt are responsible for providing the aide or assistant and notifying the site superintendent that an assistant will be present, and whether the assistant will also be hunting.
- b) Hunters must sign in/sign out at all sites in subsections (c) and (d) which are followed by a (1).
- c) Statewide regulations shall apply for the following sites:
- Anderson Lake Conservation Area (1)
 - Argyle Lake State Park (1)
 - Cache River State Natural Area (1)
 - Campbell Pond Wildlife Management Area
 - Carlyle Lake Wildlife Management Area
 - Cypress Pond State Natural Area (1)
 - Deer Pond State Natural Area (1)
 - Devil's Island State Fish and Wildlife Area
 - Dog Island Wildlife Management Area (1)
 - Ferne Clyffe State Park – Cedar Draper Bluff Hunting Area (1)
 - Fort de Chartres State Historic Site (muzzleloading shotgun or archery only) (1)
 - Franklin Creek State Park (1)
 - Giant City State Park (1)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Horseshoe Lake Conservation Area – Alexander County (controlled goose hunting area and public hunting area only) (1)

I-24 Wildlife Management Area (1)

Jubilee State Park (archery only) (1)

Kaskaskia River State Fish and Wildlife Area (except for that area lying north of Highway 154, east of the Kaskaskia River, and south of the Risdon School Road and Beck's Landing access road; a handicapped hunter with a P-2 handicapped certification, accompanied by a non-hunting attendant, may hunt at the site's designated handicapped hunting spot within this closed area. The hunting spot will be allocated on a first come-first served basis or via a drawing, if needed, held at the site office) (1)

Kinkaid Lake Fish and Wildlife Area (1)

Mark Twain National Wildlife Refuge, Gardner Division

Mississippi River Fish and Wildlife Area (Pools 25 and 26)

Mississippi River Pools 16, 17, 18, 21, 22, and 24

Nauvoo State Park (Max Rowe Unit only)

Oakford Conservation Area

Pere Marquette State Park (designated area only) (1)

Ray Norbut Fish and Wildlife Area (1)

Rend Lake Project Lands and Waters except Wayne Fitzgerald State Park

Saline County Fish and Wildlife Area (1)

Sanganois Conservation Area (site issued free permit required)

Sielbeck Forest State Natural Area (1)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Trail of Tears State Forest (1)

Turkey Bluffs State Fish and Wildlife Area (1)

Union County Conservation Area – Firing Line Unit and Public Hunting Area only (1)

Weinberg-King State Park (1)

Weinberg-King State Park (Cecil White Unit)

Weinberg-King State Park (Markert Unit)

Wildcat Hollow State Forest (1)

- d) Statewide regulations shall apply except that all hunting is allowed by site-specific permit only. The Department of Natural Resources allocates permits for these areas through the lottery process set forth in Section 710.20. This permit is only valid for the specific site and season indicated on the permit.

Apple River Canyon State Park – Thompson and Salem Units (1)

Beaver Dam State Park

Big Bend State Fish and Wildlife Area (1)

Big River State Forest (1)

Castle Rock State Park (1)

Clinton Lake State Recreation Area

Coffeen Lake State Fish and Wildlife Area

Crawford County Conservation Area

Dixon Springs State Park (youth ages 10-15 only) (1)

Falling Down Prairie State Natural Area (1)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Ferne Clyffe Hunting Area (1)

Fort Massac State Park (Youth Ages 10-15 only) (1)

Fox Ridge State Park (1)

Green River State Wildlife Area (1)

Hamilton County Conservation Area

Hanover Bluff State Natural Area (1)

Harry "Babe" Woodyard State Natural Area (1)

Hidden Springs State Forest (first 2 seasons only) (1)

Horseshoe Lake State Park (Madison County)

Horseshoe Lake State Park (Madison County) – Gabaret, Mosenthein,
Chouteau Island Units

Hurricane Creek Habitat Area (must have Fox Ridge State Park permit)
(1)

Iroquois County State Wildlife Area

Jim Edgar Panther Creek State Fish and Wildlife Area

Jim Edgar Panther Creek State Fish and Wildlife Area (West Open Unit)

Johnson-Sauk Trail State Park (1)

Kankakee River State Park (hunting hours are from one-half hour before
sunrise until 12:00 noon) (1)

Kickapoo State Park (1)

Kishwaukee River State Fish and Wildlife Area

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Lowden Miller State Forest (1)

Mackinaw River Fish and Wildlife Area (1)

Marseilles Fish and Wildlife Area (site is open to hunting Monday through Thursday only; hunting hours are from one-half hour before sunrise until 8:30 a.m.; if space is available after site permit holders have checked in or if there have been no site specific permits issued, La Salle County permit holders who have an unfilled permit for the current season may be allowed on the site to hunt; if more La Salle County permit holders want to hunt than there are vacancies, a daily drawing at the site hunter check station will be held to determine who may enter the site to hunt) (1)

Marshall Fish and Wildlife Area (1)

Matthiessen State Park (South of Vermilion River Area) (1)

Mermet Lake State Fish and Wildlife Area (1)

Middlefork State Fish and Wildlife Management Area (1)

Mississippi Palisades State Park (closed during the fifth season) (1)

Momence Wetlands (1)

Newton Lake Fish and Wildlife Area

Pere Marquette State Park (Piasa, Quotoga, Potawatomi Camp Areas) (no hunting allowed on weekends)

Pyramid State Park (1)

Pyramid State Park – East Conant Unit

Ramsey Lake State Park (1)

Randolph County Conservation Area (a handicapped hunter with a P-2 handicapped certification, accompanied by a non-hunting attendant, wanting to hunt at one of the site's two designated handicapped hunting spots is not required to have a site-specific permit. These hunting spots

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

will be allocated on a first come-first served basis or via a drawing, if needed, held at the site office) (1)

Red Hills State Park

Red Hills State Park/Chauncey Marsh

Sahara Woods (1)

Sam Dale Lake Conservation Area (1)

Sam Parr State Park

Sand Ridge State Forest

Sandy Ford State Natural Area

Sangamon County Conservation Area

Sanganois Conservation Area (Squirrel Timber Unit) (1)

Sangchris Lake State Park

Siloam Springs State Park (1)

Siloam Springs State Park (Buckhorn Unit) (1)

Spoon River State Forest (1)

~~Siloam Springs State Park (Scripps Unit) (1)~~

~~Snakeden Hollow Fish and Wildlife Area—Ives Unit (1)~~

Stephen A. Forbes State Park (1)

Tapley Woods State Natural Area (1)

Ten Mile Creek Fish and Wildlife Area

Washington County Conservation Area (hunting hours are from ½ hour

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

before sunrise until 12:00 noon) (1)

Weinberg-King State Park (Scripps Unit) (1)

Weldon Springs State Park – Piatt County Unit

Witkowsky State Wildlife Area (1)

Wolf Creek State Park (first 2 seasons only) (1)

(Source: Amended at 29 Ill. Reg. 3935, effective February 24, 2005)

Section 710.70 Spring Youth Turkey Hunt

- a) Hunting Dates
- 1) Northern Zone: the Saturday and Sunday beginning 9 days prior to the opening date of the Northern Zone first spring turkey hunting season.
 - 2) Southern Zone: the Saturday and Sunday beginning 9 days prior to the opening date of the Southern Zone first spring turkey hunting season.
- b) Open Counties: All counties listed in Section 710.10 are open to Spring Youth Turkey Hunting.
- c) Eligibility: The Spring Youth Turkey Hunt is open only to Illinois residents under the age of 16 on the beginning date of the designated youth hunting days. All participating youths must have completed a Department-approved Hunter Education course.
- d) Permit Requirements – Spring Youth Turkey Hunt
- 1) All youth hunters must have a current, valid Youth Turkey Hunt Permit (\$10). For permit application and other information write to:

Illinois Department of Natural Resources
Youth Turkey Hunt
One Natural Resources Way
P.O. Box 19227
Springfield IL 62794-9227

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- 2) Each applicant must enclose a separate fee (check or money order) payable to the Department of Natural Resources or the application will be returned. Applicants should not send cash with their applications. The Department will not be responsible for cash sent through the mail.
 - 3) Each applicant must complete the official Department Youth Wild Turkey Permit application.
 - 4) Applications will be accepted through the second Monday in February.
 - 5) The applicants must not have had their hunting privileges suspended or revoked in this State or any other state.
 - 6) If more than one application for an Illinois Youth Turkey Hunt Permit is received from the same person, all applications submitted in that name will be rejected and permits revoked.
 - 7) A \$3 service fee will be charged for replacement permits issued by the Department.
 - 8) The Youth Turkey Hunt Permit shall be valid only for the dates and counties listed on the permit. Each youth must also possess a valid Illinois hunting license and Habitat Stamp prior to hunting, unless exempt. Hunting without a permit is a Class B misdemeanor [520 ILCS 5/2.9].
 - 9) A permit issued for the Youth Turkey Hunt will count toward the maximum number of permits (Section 710.20(j)) an individual can receive for the Spring Wild Turkey Season .
- e) Youth Turkey Hunting Regulations
- 1) Each Illinois Youth Turkey Hunt Permit holder is required to be accompanied afield by a parent/guardian or responsible adult who possesses a valid Firearm Owners Identification (FOID) Card. The accompanying adult must be present for the permit holder (youth) to hunt. The adult and/or adult caller is not allowed to hunt, but may accompany the youth hunter as a caller or observer. The supervising adult shall be criminally liable for the actions of the youth in the hunting party and shall be subject to the criminal penalties provided by law.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- 2) All regulations prescribed by Section 710.30 of this Part apply during the Youth Turkey Hunt.
- f) The following sites will be open to holders of a valid Youth Turkey Hunt Permit for the county in which the site is located. Persons wishing to hunt one of the listed sites should contact that site prior to hunting for information about site regulations and restrictions.

Anderson Lake Fish and Wildlife Area

Apple River Canyon State Park – Thompson and Salem Units (1)

Argyle Lake State Park

Big Bend Fish and Wildlife Area (Whiteside County)

Big River State Forest

Cache River State Natural Area

Castle Rock State Park

Crab Orchard National Wildlife Refuge (Closed and Open Units)

Crawford County Conservation Area

Cypress Pond State Natural Area

Deer Pond State Natural Area

Falling Down Prairie State Natural Area (1)

Ferne Clyffe State Park

Ferne Clyffe State Park – Cedar Draper State Habitat Area

Giant City State Park

Green River State Wildlife Area

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Hanover Bluff State Natural Area (1)

Horseshoe Lake Conservation Area – Alexander County

I-24 Wildlife Management Area

Jim Edgar Panther Creek State Fish and Wildlife Area

Jim Edgar Panther Creek State Fish and Wildlife Area (West Open Unit)

Kankakee River State Park

Kaskaskia River State Fish and Wildlife Area

Kinkaid Lake State Fish and Wildlife Area

Mackinaw River State Fish and Wildlife Area (1)

Mermet Lake State Fish and Wildlife Area

Mississippi River Area Pools 21, 22, 24, 25 and 26

Momence Wetlands

Nauvoo State Park (Max Rowe Unit Only)

Newton Lake State Fish and Wildlife Area

Pere Marquette State Park (open area south of Graham Hollow Road only)
(1)

Pyramid State Park

Pyramid State Park – East Conant Unit

Ray Norbut Fish and Wildlife Area

Rend Lake State Fish and Wildlife Area

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Rend Lake Corps of Engineers-managed land in Jefferson and Franklin Counties

Sam Parr State Park

Sangchris Lake State Park

Sielbeck Forest State Natural Area

Siloam Springs State Park

Siloam Springs State Park (Buckhorn Unit)

Snake Den Hollow State Fish and Wildlife Area (Ives Unit)

Trail of Tears State Forest

Turkey Bluffs State Fish and Wildlife Area

Union County Conservation Area

Weinberg-King State Park

Weinberg-King State Park (Cecil White Unit)

Weinberg-King State Park (Markert Unit)

Weinberg-King State Park (Scripps Unit)

Witkowsky State Wildlife Area (1)

(Source: Added at 29 Ill. Reg. 3935, effective February 24, 2005)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Sport Fishing Regulations for the Waters of Illinois
- 2) Code Citation: 17 Ill. Adm. Code 810
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
810.37	Amendment
810.45	Amendment
810.70	Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 1-120, 1-125, 1-150, 5-5, 10-5, 10-10, 10-15, 10-20, 10-25, 10-30, 10-35, 10-45, 10-50, 10-60, 10-75, 10-90, 10-95, 15-50, 20-5, 20-35 and 25-5 of the Fish and Aquatic Life Code [515 ILCS 5/1-120, 1-125, 1-150, 5-5, 10-5, 10-10, 10-15, 10-20, 10-25, 10-30, 10-35, 10-45, 10-50, 10-60, 10-75, 10-90, 10-95, 15-50, 20-5, 20-35 and 25-5]
- 5) Effective Date of Amendments: February 24, 2005
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendments, including all material incorporated by reference, is on file in the Department of Natural Resource's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: November 19, 2004; 28 Ill. Reg. 14942
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version: In Section 810.45, under the entry for Lake Michigan (Illinois Portion), State of Illinois, the following underlined language was added:

Yellow Perch	-	Closed During July (<u>exception: 10 fish daily limit during July for youth under age 16</u>)
--------------	---	---
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency amendments currently in effect? No

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- 14) Are there any amendments pending on this Part? No
- 15) Summary and purpose of rulemaking: This Part was amended to update site-specific fishing regulations, update individual site-specific fishing regulations by water area and update the Free Fishing Days for 2005.
- 16) Information and questions regarding these adopted amendments shall be directed to:

Jack Price, Legal Counsel
Department of Natural Resources
One Natural Resources Way
Springfield IL 62702-1271

217/782-1809

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

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

TITLE 17: CONSERVATION
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES
SUBCHAPTER b: FISH AND WILDLIFEPART 810
SPORT FISHING REGULATIONS FOR THE WATERS OF ILLINOIS

Section

810.10	Sale of Fish and Fishing Seasons
810.20	Snagging
810.30	Pole and Line Fishing Only (Repealed)
810.35	Statewide Sportfishing Regulations – Daily Catch and Size Limits
810.37	Definitions for Site Specific Sportfishing Regulations
810.40	Daily Catch and Size Limits (Repealed)
810.45	Site Specific Water Area Regulations
810.50	Bait Fishing
810.60	Bullfrogs (Repealed)
810.70	Free Fishing Days
810.80	Emergency Protective Regulations
810.90	Fishing Tournament Permit
810.100	Bed Protection

AUTHORITY: Implementing and authorized by Sections 1-120, 1-125, 1-150, 5-5, 10-5, 10-10, 10-15, 10-20, 10-25, 10-30, 10-35, 10-45, 10-50, 10-60, 10-75, 10-90, 10-95, 15-50, 20-5, 20-35 and 25-5 of the Fish and Aquatic Life Code [515 ILCS 5/1-120, 1-125, 1-150, 5-5, 10-5, 10-10, 10-15, 10-20, 10-25, 10-30, 10-35, 10-45, 10-50, 10-60, 10-75, 10-90, 10-95, 15-50, 20-5, 20-35 and 25-5].

SOURCE: Adopted at 5 Ill. Reg. 751, effective January 8, 1981; codified at 5 Ill. Reg. 10647; amended at 6 Ill. Reg. 342, effective December 23, 1981; amended at 6 Ill. Reg. 7411, effective June 11, 1982; amended at 7 Ill. Reg. 209, effective December 22, 1982; amended at 8 Ill. Reg. 1564, effective January 23, 1984; amended at 8 Ill. Reg. 16769, effective August 30, 1984; amended at 9 Ill. Reg. 2916, effective February 26, 1985; emergency amendment at 9 Ill. Reg. 3825, effective March 13, 1985, for a maximum of 150 days; emergency expired August 10, 1985; amended at 9 Ill. Reg. 6181, effective April 24, 1985; amended at 9 Ill. Reg. 14291, effective September 5, 1985; amended at 10 Ill. Reg. 4835, effective March 6, 1986; amended at 11 Ill. Reg. 4638, effective March 10, 1987; amended at 12 Ill. Reg. 5306, effective March 8, 1988; emergency amendment at 12 Ill. Reg. 6981, effective April 4, 1988, for a maximum of 150 days; emergency expired September 1, 1988; emergency amendment at 12 Ill. Reg. 10525, effective June 7, 1988, for a maximum of 150 days; emergency expired November 4, 1988;

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

amended at 12 Ill. Reg. 15982, effective September 27, 1988; amended at 13 Ill. Reg. 8419, effective May 19, 1989; emergency amendment at 13 Ill. Reg. 12643, effective July 14, 1989, for a maximum of 150 days; emergency expired December 11, 1989; emergency amendment at 13 Ill. Reg. 14085, effective September 4, 1989, for a maximum of 150 days; emergency expired February 1, 1990; emergency amendment at 13 Ill. Reg. 15118, effective September 11, 1989, for a maximum of 150 days; emergency expired February 8, 1990; amended at 14 Ill. Reg. 6164, effective April 17, 1990; emergency amendment at 14 Ill. Reg. 6865, effective April 17, 1990, for a maximum of 150 days; emergency expired September 19, 1990; amended at 14 Ill. Reg. 8588, effective May 21, 1990; amended at 14 Ill. Reg. 16863, effective October 1, 1990; amended at 15 Ill. Reg. 4699, effective March 18, 1991; emergency amendment at 15 Ill. Reg. 5430, effective March 27, 1991, for a maximum of 150 days; emergency expired August 24, 1991; amended at 15 Ill. Reg. 9977, effective June 24, 1991; amended at 15 Ill. Reg. 13347, effective September 3, 1991; amended at 16 Ill. Reg. 5267, effective March 20, 1992; emergency amendment at 16 Ill. Reg. 6016, effective March 25, 1992, for a maximum of 150 days; emergency expired August 22, 1992; amended at 16 Ill. Reg. 12526, effective July 28, 1992; amended at 17 Ill. Reg. 3853, effective March 15, 1993; emergency amendment at 17 Ill. Reg. 5915, effective March 25, 1993, for a maximum of 150 days; emergency expired August 22, 1993; amended at 17 Ill. Reg. 10806, effective July 1, 1993; amended at 18 Ill. Reg. 3277, effective February 28, 1994; emergency amendment at 18 Ill. Reg. 5667, effective March 25, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 12652, effective August 9, 1994; amended at 19 Ill. Reg. 2396, effective February 17, 1995; emergency amendment at 19 Ill. Reg. 5262, effective April 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 10614, effective July 1, 1995; amended at 20 Ill. Reg. 4640, effective March 6, 1996; recodified by changing the agency name from Department of Conservation to Department of Natural Resources at 21 Ill. Reg. 9389; amended at 21 Ill. Reg. 4709, effective April 1, 1997; emergency amendment at 21 Ill. Reg. 5590, effective April 15, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 12140, effective August 26, 1997; amended at 22 Ill. Reg. 4930, effective March 2, 1998; amended at 23 Ill. Reg. 3434, effective March 8, 1999; emergency amendment at 23 Ill. Reg. 7317, effective June 10, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 8406, effective July 7, 1999; amended at 24 Ill. Reg. 3736, effective February 25, 2000; amended at 25 Ill. Reg. 6296, effective March 26, 2001; emergency amendment at 25 Ill. Reg. 7947, effective June 16, 2001, for a maximum of 150 days; emergency amendment at 25 Ill. Reg. 9912, effective August 1, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 11386, effective August 14, 2001; emergency amendment at 25 Ill. Reg. 12122, effective September 15, 2001, for a maximum of 150 days; amended at 26 Ill. Reg. 1210, effective January 16, 2002; amended at 26 Ill. Reg. 4294, effective March 6, 2002; amended at 27 Ill. Reg. 3376, effective February 14, 2003; amended at 28 Ill. Reg. 4607, effective March 1, 2004; amended at 29 Ill. Reg. 3955, effective February 24, 2005.

Section 810.37 Definitions for Site Specific Sportfishing Regulations

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- a) Site Specific Regulations are listed by water area affected. The coverage of the regulation is dictated by the extent of the water area listed and not by the county. In some cases, regulations for a given water area or site may extend beyond the counties listed. The counties listed refer to the location of the dam or outfall for impoundments or mouths of small streams. Since large rivers or streams usually flow through many counties, the term "Multiple" is used rather than listing all counties where the large stream or river flows.
- b) The subsections listed below are referred to by number in Section 810.45. Each water area listed in Section 810.45 has numbers in parenthesis which explain all of the definitions in this Section which apply to that water area.
 - 1) Anglers must not use more than 2 poles and each pole must not have more than 2 hooks or lures attached while fishing, except that legal size cast nets, (in accordance with subsection 810.50(a)(1)) shad scoops, and minnow seines may be used to obtain shad, minnows, and crayfish to use as bait, provided that they are not sold, and except that bullfrogs may be taken by hand, gig, pitchfork, spear, landing net, and hook and line during bullfrog season.
 - 2) All jugs set in a body of water shall be under the immediate supervision of the fisherman. Immediate supervision shall be defined as the fisherman being on the water where the jugs are set and readily available to identify jugs to law enforcement officers.
 - 3) All largemouth and smallmouth bass taken must be less than 12 inches in total length or greater than 15 inches in total length.
 - 4) Except that sport fishermen shall be allowed to use trotlines, jugs, and by hand, except that the use and aid of underwater breathing devices is prohibited. West of Wolf Creek Road, fishing from boats is permitted all year. Trotlines/jugs must be removed from sunrise until sunset from Memorial Day through Labor Day. East of Wolf Creek Road, fishing from boats is permitted from March 15 through September 30. Fishing from the bank is permitted all year only at the Wolf Creek and Route 148 causeways. On the entire lake, jugs and trotlines must be checked daily and must be removed on the last day they are used. It is illegal to use stakes to anchor any trotlines; they must be anchored only with portable weights and must be removed on the last day they are used. The taking of

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

carp and buffalo with bow and arrow is permissible.

- 5) Except that sport fishermen may take carp, carsuckers, buffalo, gar, bowfin and suckers by pitchfork, gigs, bow and arrow or bow and arrow devices.
- 6) Including the Fox River south of the Illinois-Wisconsin line to the Algonquin Dam and the Nippersink Creek upstream to the Wilmot Road Bridge.
- 7) Except that sport fishermen may take carp, buffalo, suckers and gar by bow and arrow or bow and arrow devices, gigs or spears during May and June.
- 8) Daily catch limit includes Striped Bass, White Bass, Yellow Bass and Hybrid Striped Bass either singly or in the aggregate.
- 9) Catch and Release Fishing Only means that fish (all or identified species) caught must be immediately released alive and in good condition back into the water from which it came.
- 10) It shall be illegal to possess trout during the period of October 1 to 5 a.m. on the third Saturday in October (both dates inclusive) which were taken during that period.
- 11) It shall be illegal to possess trout during the period of March 15 to 5 a.m. on the 1st Saturday in April (both dates inclusive) which were taken during that period.
- 12) Daily catch limit for largemouth or smallmouth bass, singly or in the aggregate, shall not exceed 6 fish per day, no more than one of which shall be greater than 15 inches in length and none of which shall be greater than 12 inches and less than or equal to 15 inches in length.
- 13) Except that jug fishing is permitted from the hours of sunset to sunrise, and except that carp and buffalo may be taken by bow and arrow devices from May 1 through September 30. All jugs must have owner's/user's name and complete address affixed.
- 14) Daily catch limit includes all fish species (either singly or in the

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

aggregate) caught within each of the following fish groupings.

- A) Largemouth or Smallmouth Bass
 - B) Walleye, Sauger, or their hybrid
 - C) Bluegill, Redear Sunfish or Pumpkinseed
 - D) Channel or Blue Catfish
- 15) Daily catch limit includes white, black, or hybrid crappie either singly or in the aggregate.
 - 16) Daily catch limit includes Striped Bass, White Bass and Hybrid Striped Bass either singly or in the aggregate.
 - 17) Daily catch limit shall not exceed 10 fish daily, no more than 3 of which may be 17 inches or longer in length.
 - 18) Except that sport fishermen shall be allowed to use trotlines, jugs and bank poles; and carp, carsuckers and buffalo may be taken by bow and arrow, bow and arrow devices, gigs and spears in the portions of the lake that lie north of the Davenport Bridge and northeast of the Parnell Bridge.
 - 19) No fishing within 250 yards of an occupied waterfowl blind (within the hunting area) on all Department-owned or -managed sites.
 - 20) Carlyle Lake (including its tributary streams and those portions of the Kaskaskia River and Hurricane Creek up to the U.S. Army Corps of Engineers Carlyle Lake Project boundaries), U.S. Army Corps of Engineers, Bond, Clinton, and Fayette Counties.
 - 21) Lake Shelbyville (including its tributary streams and those portions of the West Okaw and Kaskaskia Rivers up to Lake Shelbyville Project boundaries – including parts of the Lake Shelbyville Fish and Wildlife Management Area), U.S. Army Corps of Engineers, Shelby and Moultrie Counties.
 - 22) Rend Lake (including its tributary streams and those portions of the Big Muddy and Casey Fork Rivers up to the Rend Lake Project boundaries),

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Rend Lake Project Ponds, U.S. Army Corps of Engineers, Franklin and Jefferson Counties.

- 23) Daily catch limit for black, white or hybrid crappies, singly or in the aggregate, shall not exceed 20 fish daily, no more than 10 of which can be below 10" in total length and no more than 10 of which can be 10" or longer in total length.
- 24) 15" minimum length limit for walleye with no possession of walleye greater than or equal to 20" and less than or equal to 27" in total length – protected slot limit.
- 25) Daily catch limit for largemouth or smallmouth bass, singly or in the aggregate, shall not exceed 3 fish per day, no more than one of which may be equal to or greater than 15 inches in total length and no more than 2 of which may be less than 15 inches in total length.
- 26) Lake Vermilion – Trotline and jug fishing allowed north of Boiling Springs Road.
- 27) Except that bank fishing is prohibited. Boat fishing is permitted May 1 through August 31 during the hours of 2:00 p.m. to 8:00 p.m. See site for additional regulations and exact opening and closing dates.
- 28) Except that trotlines may be set within 300 feet from shore.
- 29) Except that carp, buffalo, suckers and carpsuckers may be taken by means of pitchfork and gigs (no bow and arrow devices).
- 30) Fishing is permitted from March 15 through September 30, both dates inclusive, from sunrise to sunset. Fishing during all other times of the year is illegal and not permitted.
- 31) Daily catch limit for largemouth or smallmouth bass, singly or in the aggregate, shall not exceed 3 fish daily, no more than one of which may be equal to or greater than 15 inches in total length and no more than 2 of which may be less than 12 inches in total length.
- 32) Daily catch limit includes Striped Bass, White Bass, Yellow Bass and Hybrid Striped Bass, either singly or in the aggregate, no more than 4 of

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

which may be 15 inches or longer in length.

- 33) It shall be unlawful to enter upon a designated waterfowl hunting area during the 7 days prior to the regular duck season, or to fish on such areas during the regular duck season except in areas posted as open to fishing. It shall be unlawful to enter upon areas designated as waterfowl rest areas or refuges from 2 weeks prior to the start of the regular duck season through the end of duck and Canada goose season.
- 34) Except that sport fishermen may take carp, buffalo, suckers and gar by bow and arrow or bow and arrow devices, gigs, or spears from May 1 through August 31.
- 35) Daily catch limit for Walleye, Sauger, or Hybrid Walleye, singly or in the aggregate, shall not exceed 3 fish daily, no more than one of which may be greater than 24 inches in total length and no more than 2 of which may be less than 18 inches in total length and greater than or equal to 14 inches in total length.
- 36) Except that sportfishermen may not use a minnow seine, cast net, or shad scoop for bait collecting in Cook County Forest Preserve District Waters (except in the Des Plaines River).
- 37) All smallmouth bass taken must be less than 12 inches in total length or greater than 18 inches in total length. Only 1 bass greater than 18 inches and 2 bass less than 12 inches may be taken in the creel daily.
- 38) All largemouth and smallmouth bass taken must be less than 14 inches in total length or greater than 18 inches in total length. Only 1 bass greater than 18 inches and 5 bass less than 14 inches may be taken in the creel daily.
- 39) Powerton Lake shall be closed to boat traffic, except for legal waterfowl hunters, from one week prior to regular waterfowl season to February 15, and closed to all unauthorized entry during the regular goose and duck season.
- 40) The 48 inch total length limit on pure muskellunge applies to that body of water listed as well as any tailwaters as defined below:

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Evergreen Lake (McLean County) – including the portion of Six Mile Creek below the Evergreen Lake Dam downstream to its confluence with the Mackinaw River.

Forbes State Lake (Marion County) – no tailwaters

Fox Chain O' Lakes (Lake/McHenry Counties) – including the Fox River south of the Wisconsin-Illinois boundary to the Algonquin Dam and the Nippersink Creek upstream to the Wilmot Road Bridge.

Kinkaid Lake (Jackson County) – including the portion of Kinkaid Creek below the Kinkaid Lake Dam downstream to the Route 149 Bridge.

Lake Mingo and Kennekuk Cove Park Ponds (Vermilion County) – no tailwaters.

Lake Shelbyville (Moultrie/Shelby Counties) – including the portion of the Kaskaskia River below the Lake Shelbyville Dam downstream to the State Route 128 Road Bridge near Cowden.

Otter Lake (Macoupin County) – including the portion of Otter Creek below Otter Lake Dam downstream to its confluence with East Otter Creek.

Pierce Lake (Winnebago County) – including the portion of Willow Creek below the Pierce Lake Dam downstream to Forest Hills Road.

Shabbona Lake (DeKalb County) – including that portion of Indian Creek below the Shabbona Lake Dam downstream to Shabbona Grove Road.

Spring Lakes (North and South) (Tazewell County) – no tailwaters.

- 41) It shall be unlawful to enter upon areas designated as waterfowl hunting areas during the 10 days prior to the start of the regular duck season, or to fish on such areas during the regular duck season except in areas posted as open to fishing. It shall be unlawful to enter upon areas designated as waterfowl rest areas or refuges from 10 days prior to the start of the regular duck season through the end of duck and Canada goose season.
- 42) During duck season, walk-in only access for fishing from the bank is

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

permitted after 1:00 p.m.

- 43) When using live bait, all live bait in excess of 8" in total length shall be rigged with a quick set rig. The hook shall be immediately set upon the strike. A quick set rig is defined as follows: a live bait rig with up to 2 treble hooks attached anywhere on the live bait; single hooks are prohibited. This rule does not apply to trotlines, jug lines, etc., if allowed on the lake.

(Source: Amended at 29 Ill. Reg. 3955, effective February 24, 2005)

Section 810.45 Site Specific Water Area Regulations

Fishing regulations, including species of fish, fishing methods and daily catch limits are listed for each water area. The numbers in parenthesis refer to the corresponding numbered definitions in Section 810.37 of this Part. If a water area is not listed or if a specific species is not listed, then state-wide restrictions apply. Check the bulletin boards at the specific site for any emergency changes to regulations.

Anderson Lake Fish and Wildlife Area (33)

Fulton County

Andover Lake, City of Andover

Henry County

- | | |
|-----------------|------------------------------------|
| All Fish | - 2 Pole and Line Fishing Only (1) |
| Channel Catfish | - 6 Fish Daily Creel Limit |

Anna City Lake, City of Anna

Union County

- | | |
|---------------------------------|------------------------------------|
| All fish | - 2 Pole and Line Fishing Only (1) |
| Bluegill or Redear Sunfish | - 8" Minimum Length Limit |
| Bluegill or Redear Sunfish (14) | - 10 Fish Daily Creel Limit |
| Channel Catfish | - 6 Fish Daily Creel Limit |
| Large or Smallmouth Bass | - 15" Minimum Length Limit |
| Large or Smallmouth Bass (14) | - 3 Fish Daily Creel Limit |

Apple River and tributaries, State of Illinois

Jo Daviess County

- | | |
|-----------------|------------------------------------|
| All Fish | - 2 Pole and Line Fishing Only (1) |
| Smallmouth Bass | - 14" Minimum Length Limit |

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Trout	- Spring Closed Season (11)
Argyle Lake, Argyle Lake State Park McDonough County	
Recreational Use Restrictions	- All live bait in excess of 8" must be rigged with a quick set rig (43)
All Fish	- 2 Pole and Line Fishing Only (1)
Bluegill or Redear Sunfish (14)	- 25 Fish Daily Creel Limit
Channel Catfish	- 6 Fish Daily Creel Limit
Hybrid Walleye	- 3 Fish Daily Creel Limit
Large or Smallmouth Bass (14)	- 1 Fish > 15" and/or 5 < than 12" Daily (12)
Trout	- Fall Closed Season (10)
White, Black, or Hybrid Crappie (15)	- 10 Fish Daily Creel Limit
White, Black, or Hybrid Crappie	- 9" Minimum Length Limit
Arrowhead Heights Lake, Village of Camp Point Adams County	
All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit
Arrowhead Lake, City of Johnston City Williamson County	
All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 15" Minimum Length Limit
Large or Smallmouth Bass (14)	- 3 Fish Daily Creel Limit
<u>White, Black, or Hybrid Crappie (15)</u>	<u>- 15 Fish Daily Creel Limit</u>
Ashland City Old Reservoir #4611, City of Ashland Morgan County	
All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit
Ashland City Reservoir, City of Ashland Cass County	
All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 15" Minimum Length Limit

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Auburn Park Lagoon, Chicago Park District

Cook County

- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 4 Fish Daily Creel Limit

Axehead Lake, Cook County Forest Preserve

Cook County

- All Fish - 2 Pole and Line Fishing Only (1) (36)
- Large or Smallmouth Bass - 14" Minimum Length
- Trout - Fall Closed Season (10)
- Trout - Spring Closed Season (11)

Bakers Lake, City of Peru

LaSalle County

- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 6 Fish Daily Creel Limit
- Large or Smallmouth Bass - 14" Minimum Length Limit
- Large or Smallmouth Bass (14) - 1 Fish Daily Creel Limit

Baldwin Lake, Baldwin Lake Conservation Area

Randolph County

- All Fish - 2 Pole and Line Fishing Only (1) (5)
- Large or Smallmouth Bass - 18" Minimum Length Limit
- Striped, White, or Hybrid Striped Bass - 17" Minimum Length Limit
- Striped, White, or Hybrid Striped Bass (16) - 3 Fish Daily Creel Limit
- White, Black, or Hybrid Crappie (15) - 25 Fish Daily Creel Limit
- White, Black, or Hybrid Crappie - 9" Minimum Length Limit

Banana Lake, Lake County Forest Preserve District

Lake County

- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 6 Fish Daily Creel Limit
- Large or Smallmouth Bass (14) - 1 Fish Daily Creel Limit
- Large or Smallmouth Bass - 15" Minimum Length Limit
- Trout - Fall Closed Season (10)
- Trout - Spring Closed Season (11)

Banner Marsh Lake & Ponds, Banner Marsh State Fish and Wildlife Area (33)

Peoria/Fulton Counties

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- Recreational Use Restrictions - All live bait in excess of 8" must be rigged with a quick set rig (43)
- All Fish - 2 Pole and Line Fishing Only (1) (34)
- Channel Catfish - 6 Fish Daily Creel Limit
- Large or Smallmouth Bass (14) - 3 Fish Daily Creel Limit
- Large or Smallmouth Bass - 12"-18" Protected Slot Length Limit (no possession)
- Pure Muskellunge - 42" Minimum Length Limit
- White, Black, or Hybrid Crappie (15) - 25 Fish Daily Creel Limit
- White, Black, or Hybrid Crappie - 9" Minimum Length Limit

Bass Lake, DuPage County Forest Preserve District

DuPage County

- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 3 Fish Daily Creel Limit
- Channel Catfish - 12" Minimum Length Limit
- Large or Smallmouth Bass - 18" Minimum Length Limit
- Large or Smallmouth Bass (14) - 1 Fish Daily Creel Limit
- White, Black, or Hybrid Crappie - 9" Minimum Length Limit
- White, Black, or Hybrid Crappie (15) - 15 Fish Daily Creel Limit

Batchtown Wildlife Management Area (33)
Calhoun County

Baumann Park Lake, City of Cherry Valley
Winnebago County

- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 6 Fish Daily Creel Limit
- Large or Smallmouth Bass - 14" Minimum Length Limit
- Large or Smallmouth Bass (14) - 1 Fish Daily Creel Limit

Beall Woods Lake, Beall Woods Conservation Area
Wabash County

- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 6 Fish Daily Creel Limit
- Large or Smallmouth Bass - 15" Minimum Length Limit
- Trout - Spring Closed Season (11)
- Trout - Fall Closed Season (10)

Beaver Dam Lake, Beaver Dam State Park

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Macoupin County

- All Fish - 2 Pole and Line Fishing Only (1)
- Bluegill or Redear Sunfish (14) - 25 Fish Daily Creel Limit
- Channel Catfish - 6 Fish Daily Creel Limit
- Large or Smallmouth Bass - 15" Minimum Length Limit
- Large or Smallmouth Bass (14) - 3 Fish Daily Creel Limit
- Trout - Fall Closed Season (10)
- White, Black, or Hybrid Crappie (15) - 10 Fish Daily Creel Limit
- White, Black, or Hybrid Crappie - 9" Minimum Length Limit

Beck Lake, Cook County Forest Preserve District

Cook County

- All Fish - 2 Pole and Line Fishing Only (1) (36)
- Channel Catfish - 6 Fish Daily Creel Limit
- Large or Smallmouth Bass - 14" Minimum Length Limit
- Walleye, Sauger, or Hybrid Walleye - 18" Minimum Length Limit

Belk Park Pond, City of Wood River

Madison County

- Channel Catfish - 6 Fish Daily Creel Limit
- Large or Smallmouth Bass - 18" Minimum Length Limit
- Large or Smallmouth Bass (14) - 1 Fish Daily Creel Limit

Belleau Lake, Cook County Forest Preserve District

Cook County

- All Fish - 2 Pole and Line Fishing Only (36)
- Large or Smallmouth Bass - 14" Minimum Length Limit
- Trout - Fall Closed Season (10)
- Trout - Spring Closed Season (11)

Belvidere Ponds, City of Belvidere

Boone County

- Large or Smallmouth Bass (14) - 1 Fish Daily Creel Limit
- Large or Smallmouth Bass - 14" Minimum Length Limit

Bevier Lagoon, Waukegan Park District

Lake County

- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 6 Fish Daily Creel Limit

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Bird Park Quarry, City of Kankakee

Kankakee County

Trout

- Fall Closed Season (10)

Trout

- Spring Closed Season (11)

Borah Lake, City of Olney

Richland County

All Fish

- 2 Pole and Line Fishing Only (1)

Channel Catfish

- 6 Fish Daily Creel Limit

Large or Smallmouth Bass

- 14" Minimum Length Limit

Boston Pond, Stephen A. Forbes State Park

Marion County

Trout

- Fall Closed Season (10)

Trout

- Spring Closed Season (11)

Bowen Lake, City of Washington

Tazewell County

All Fish

- 2 Pole and Line Fishing Only (1)

Channel Catfish

- 6 Fish Daily Creel Limit

Large or Smallmouth Bass

- 12"-15" Protected Slot Length Limit (no possession)

Large or Smallmouth Bass (14)

- 3 Fish Daily Creel Limit

Braidwood Lake State Fish and Wildlife Area (41)

Will County

Recreational Use Restrictions

- Braidwood Lake is closed to all fishing and boat traffic, except for legal waterfowl hunters, from 10 days prior to duck season through the day before duck season and is closed to all fishing during waterfowl season commencing with regular duck season through the close of the Canada goose and regular duck season

All Fish

- 2 Pole and Line Fishing Only (1)

Large or Smallmouth Bass

- 15" Minimum Length Limit

Large or Smallmouth Bass (14)

- 3 Fish Daily Creel Limit

Striped, White, or Hybrid Striped Bass

- 17" Minimum Length Limit

Striped, White, or Hybrid Striped Bass

- 3 Fish Daily Creel Limit

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- (16)
White, Black or Hybrid Crappie (15) - 10 Fish Daily Creel Limit
- Breeze JC's Park Pond, City of Breeze
Clinton County
All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass - 15" Minimum Length Limit
Large or Smallmouth Bass (14) - 3 Fish Daily Creel Limit
- Buckner City Reservoir, City of Buckner
Franklin County
All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass - 15" Minimum Length Limit
- Bullfrog Lake, Cook County Forest Preserve District
Cook County
All Fish - 2 Pole and Line Fishing Only (1) (36)
Large or Smallmouth Bass - 14" Minimum Length Limit
Bluegill or Redear Sunfish - 8" Minimum Length Limit
Bluegill or Redear Sunfish (14) - 10 Fish Daily Creel Limit
- Bunker Hill Lake, City of Bunker Hill
Macoupin County
All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit
- Burrells Wood Park Pond
White County
Channel Catfish - 6 Fish Daily Creel Limit
- Busse Lake, Cook County Forest Preserve
Cook County
All Fish - 2 Pole and Line Fishing Only (1)
Bluegill or Redear Sunfish - 8" Minimum Length Limit
Bluegill or Redear Sunfish (14) - 10 Fish Daily Creel Limit
Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass - 14" Minimum Length Limit
Walleye, Sauger, or Hybrid Walleye - 18" Minimum Length Limit

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Cache River State Natural Area (19)

Pulaski/Johnson Counties

- | | |
|----------|------------------------------------|
| All Fish | - 2 Pole and Line Fishing Only (1) |
| All Fish | - No Seines |

Calhoun Point Wildlife Management Area (33)

Calhoun County

Calumet River

Cook County

- | | |
|--------------|-----------------------------|
| Yellow Perch | - 15 Fish Daily Creel Limit |
| Yellow Perch | - Closed During July |

Campbell Pond Wildlife Management Area (19)

Jackson County

Campus Lake – Southern Illinois University, State of Illinois

Jackson County

- | | |
|-----------------|------------------------------------|
| All Fish | - 2 Pole and Line Fishing Only (1) |
| Channel Catfish | - 6 Fish Daily Creel Limit |

Campus Pond – Eastern Illinois University, State of Illinois

Coles County

- | | |
|-----------------|------------------------------------|
| All Fish | - 2 Pole and Line Fishing Only (1) |
| Channel Catfish | - 6 Fish Daily Creel Limit |
| Trout | - Fall Closed Season (10) |
| Trout | - Spring Closed Season (11) |

Canton Lake, City of Canton

Fulton County

- | | |
|-------------------------------|--|
| Recreational Use Restrictions | - All live bait in excess of 8" must be rigged with a quick set rig (43) |
| All Fish | - 2 Pole and Line Fishing Only (1) |
| Channel or Blue Catfish (14) | - 6 Fish Daily Creel Limit |
| Large or Smallmouth Bass | - 15" Minimum Length Limit |
| Large or Smallmouth Bass (14) | - 3 Fish Daily Creel Limit |

Carbondale City Reservoir, City of Carbondale

Jackson County

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Large or Smallmouth Bass	- 15" Minimum Length Limit
Large or Smallmouth Bass (14)	- 3 Fish Daily Creel Limit
Carlinville Lake #1, City of Carlinville Macoupin County	
All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit
Carlinville Lake #2, City of Carlinville Macoupin County	
All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit
Carlton Silt Basin, State of Illinois Whiteside County	
All Fish	- 2 Pole and Line Fishing Only (1)
Bluegill or Redear Sunfish	- 8" Minimum Length Limit
Bluegill or Redear Sunfish (14)	- 10 Fish Daily Creel Limit
Large or Smallmouth Bass	- Catch and Release Fishing Only (9)
Carlyle Lake, U.S. Army Corps of Engineers (20) (33) Clinton/Bond/Fayette Counties	
Large or Smallmouth Bass	- 14" Minimum Length Limit
White, Black, or Hybrid Crappie (15)	- 10 Fish Daily Creel Limit
White, Black, or Hybrid Crappie	- 10" Minimum Length Limit
Carthage Lake, City of Carthage Hancock County	
All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit
Casey Park Pond, City of Casey Clark County	
All Fish	- 2 Pole and Line Fishing Only (1)
Bluegill or Redear Sunfish (14)	- 15 Fish Daily Creel Limit of which only 5 fish over 8" are allowed
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 18" Minimum Length Limit
Large or Smallmouth Bass (14)	- 1 Fish Daily Creel Limit

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Cedar Lake, U.S. Forest Service and City of Carbondale

Jackson County (19)

- | | |
|---|---|
| All Fish | - 2 Pole and Line Fishing Only (1) (5) |
| Large or Smallmouth Bass | - 14"-18" Protected Slot Length Limit (no possession) |
| Large or Smallmouth Bass (14) | - 5 Fish Under 14" and 1 Fish over 18" Daily Creel Limit (38) |
| Striped, White, or Hybrid Striped Bass | - 17" Minimum Length Limit |
| Striped, White, or Hybrid Striped Bass (16) | - 3 Fish Daily Creel Limit |

Centralia Foundation Park Catfish Pond, Centralia Park Foundation

Marion County

- | | |
|-----------------|------------------------------------|
| All Fish | - 2 Pole and Line Fishing Only (1) |
| Channel Catfish | - 6 Fish Daily Creel Limit |

Centralia Lake, City of Centralia

Marion County

- | | |
|--------------------------|----------------------------|
| Large or Smallmouth Bass | - 15" Minimum Length Limit |
|--------------------------|----------------------------|

Cermack Quarry, Cook County Forest Preserve District

Cook County

- | | |
|--------------------------|---|
| All Fish | - 2 Pole and Line Fishing Only (1) (36) |
| Channel Catfish | - 6 Fish Daily Creel Limit |
| Large or Smallmouth Bass | - 14" Minimum Length Limit |

Champaign Park District Lakes (Kaufman Lake, Heritage Lake, and Mattis Lake), Champaign Park District

Champaign County

- | | |
|-------------------------------|------------------------------------|
| All Fish | - 2 Pole and Line Fishing Only (1) |
| Channel Catfish | - 6 Fish Daily Creel Limit |
| Large or Smallmouth Bass | - 15" Minimum Length Limit |
| Large or Smallmouth Bass (14) | - 1 Fish Daily Creel Limit |

Charleston Lower Channel Lake, City of Charleston

Coles County

- | | |
|----------|------------------------------------|
| All Fish | - 2 Pole and Line Fishing Only (1) |
|----------|------------------------------------|

Charleston Side Channel Lake, City of Charleston

Coles County

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- | | |
|---|--|
| All Fish | - 2 Pole and Line Fishing Only (1) |
| Channel Catfish | - 6 Fish Daily Creel Limit |
| Large or Smallmouth Bass | - 14" Minimum Length Limit |
| Striped, White, or Hybrid Striped Bass | - 17" Minimum Length Limit |
| Striped, White, or Hybrid Striped Bass(16) | - 3 Fish Daily Creel Limit |
| White, Black or Hybrid Crappie (15) | - 10 Fish Daily Creel Limit for Fish Under 10"; 10 Fish Daily Creel Limit for Fish 10" and Longer (23) |
|
 | |
| Charlie Brown Lake & Pond, City of Flora | |
| Clay County | |
| All Fish | - 2 Pole and Line Fishing Only (1) |
| Channel Catfish | - 6 Fish Daily Creel Limit |
| Large or Smallmouth Bass | - 14" Minimum Length Limit |
|
 | |
| Charter Oak North – Peoria Park District Lake, Peoria Park District | |
| Peoria County | |
| All Fish | - 2 Pole and Line Fishing Only (1) |
| Channel Catfish | - 6 Fish Daily Creel Limit |
| Large or Smallmouth Bass | - 15" Minimum Length Limit |
| Large or Smallmouth Bass (14) | - 1 Fish Daily Creel Limit |
|
 | |
| Charter Oak South – Peoria Park District Pond, Peoria Park District | |
| Peoria County | |
| All Fish | - 2 Pole and Line Fishing Only (1) |
| Channel Catfish | - 6 Fish Daily Creel Limit |
| Large or Smallmouth Bass | - 15" Minimum Length Limit |
| Large or Smallmouth Bass (14) | - 1 Fish Daily Creel Limit |
|
 | |
| Chauncey Marsh (19) | |
| Lawrence County | |
|
 | |
| Chautauqua Lake North Pool, U.S. Fish and Wildlife Service | |
| Mason County | |
| Recreational Use Restrictions | - Lake Chautauqua North Pool will be closed to boat fishing from October 15 through January 14 |
| | - Bank fishing will be allowed in selected areas only |

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- Ice fishing will be allowed following the January 15 reopening
- ~~- 2 Pole and Line Fishing Only (1)~~
- All Fish**
- Black, White, or Hybrid Crappie
 - ~~10"9"~~ Minimum Length Limit (except, when the Illinois River overflows the levee system of the North Pool, there is no minimum length limit)
- Black, White, or Hybrid Crappie (15)
 - ~~1525~~ Fish Daily Creel Limit (except, when the Illinois River overflows the levee system of the North Pool, there is no daily creel limit)
- Largemouth Bass
 - 15" Minimum Length Limit (12" minimum length limit when the Illinois River overflows the levee system of the North Pool)

- Chenoa City Lake, City of Chenoa
McLean County
 - All Fish
 - 2 Pole and Line Fishing Only (1)
 - Channel Catfish
 - 6 Fish Daily Creel Limit

- Chicago River (including its North Branch, South Branch, and the North Shore Channel)
Cook County
 - Yellow Perch
 - 15 Fish Daily Creel Limit
 - Yellow Perch
 - Closed During July

- Citizen's Lake, City of Monmouth
Warren County
 - All Fish
 - 2 Pole and Line Fishing Only (1)
 - Bluegill or Redear Sunfish (14)
 - 10 Fish Daily Creel Limit
 - Channel Catfish
 - 6 Fish Daily Creel Limit
 - Large or Smallmouth Bass (14)
 - 6 Fish Daily Creel Limit
 - 1 Fish Over 15" and 5 Fish under 12" Daily Creel Limit (12)
 - Trout
 - Fall Closed Season (10)

- Clear Lake, Kickapoo State Park
Vermillion County
 - All Fish
 - 2 Pole and Line Fishing Only (1)
 - Channel Catfish
 - 6 Fish Daily Creel Limit

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- | | |
|-------|-----------------------------|
| Trout | - Fall Closed Season (10) |
| Trout | - Spring Closed Season (11) |
- Clinton Lake, Clinton Lake State Recreation Area (19)
DeWitt County
- | | |
|---|--|
| All Fish | - 2 Pole and Line Fishing Only (1) (18) |
| Large or Smallmouth Bass | - 16" Minimum Length Limit |
| Large or Smallmouth Bass (14) | - 3 Fish Daily Creel Limit |
| Striped, White, or Hybrid Striped Bass (16) | - 10 Creel/3 Fish 17" or Longer Daily (17) |
| White, Black, or Hybrid Crappie (15) | - 15 Fish Daily Creel Limit |
| White, Black, or Hybrid Crappie | - 9" Minimum Length Limit |
- Coffeen Lake, Coffeen Lake State Fish and Wildlife Area
Montgomery County
- | | |
|---|--|
| Channel Catfish | - All jugs must be attended at all times while fishing (2) |
| Large or Smallmouth Bass | - 15" Minimum Length Limit |
| Large or Smallmouth Bass (14) | - 3 Fish Daily Creel Limit |
| White, Black, or Hybrid Crappie (15) | - 10 Fish Daily Creel Limit |
| White, Black, or Hybrid Crappie | - 10" Minimum Length Limit |
| Striped, White, or Hybrid Striped Bass | - 17" Minimum Length Limit |
| Striped, White, or Hybrid Striped Bass (16) | - 3 Fish Daily Creel Limit |
- Coles County Airport Lake, Coles County Airport
Coles County
- | | |
|--------------------------|------------------------------------|
| All Fish | - 2 Pole and Line Fishing Only (1) |
| Channel Catfish | - 6 Fish Daily Creel Limit |
| Large or Smallmouth Bass | - 14" Minimum Length Limit |
- Coleta Trout Pond, State of Illinois
Whiteside County
- | | |
|-------|-----------------------------|
| Trout | - Fall Closed Season (10) |
| Trout | - Spring Closed Season (11) |
- Columbus Park Lagoon, Chicago Park District
Cook County
- | | |
|-----------------|------------------------------------|
| All Fish | - 2 Pole and Line Fishing Only (1) |
| Channel Catfish | - 4 Fish Daily Creel Limit |

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Commissioners Park Pond, Alsip Park District

Cook County

- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 6 Fish Daily Creel Limit

Cook Co. F.P.D. Lakes, Cook County Forest Preserve District

Cook County

- All Fish - 2 Pole and Line Fishing Only (1)
- Large or Smallmouth Bass - 14" Minimum Length Limit
- Walleye, Sauger, or Hybrid Walleye - 18" Minimum Length Limit

Coulterville City Lake, City of Coulterville

Randolph County

- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 6 Fish Daily Creel Limit

Crab Orchard National Wildlife Refuge – Ann Manns Lake, U.S. Fish and Wildlife Service
(19)

- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 6 Fish Daily Creel Limit
- Large or Smallmouth Bass - 15" Minimum Length Limit

Crab Orchard National Wildlife Refuge – Crab Orchard Lake, U.S. Fish and Wildlife Service
(19)

Williamson County

- All Fish - 2 Pole and Line Fishing Only (1) (4)
- Striped, White, or Hybrid Striped Bass - 10 Creel/3 Fish 17" or Longer Daily (17)
(16)
- Large or Smallmouth Bass - 16" Minimum Length Limit
- Large or Smallmouth Bass (14) - 3 Fish Daily Creel Limit

Crab Orchard National Wildlife Refuge – Devil's Kitchen Lake, U.S. Fish and Wildlife Service
(19)

Williamson County

- All Fish - 2 Pole and Line Fishing Only (1)

Crab Orchard National Wildlife Refuge – Little Grassy Lake, U.S. Fish and Wildlife Service
(19)

Williamson County

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- | | |
|--------------------------|------------------------------------|
| All Fish | - 2 Pole and Line Fishing Only (1) |
| Channel Catfish | - 6 Fish Daily Creel Limit |
| Large or Smallmouth Bass | - 12-15" Slot Length Limit (3) |
- Crab Orchard National Wildlife Refuge. Refuge Ponds (except Visitor Pond), U.S. Fish and Wildlife Service
Williamson County
- | | |
|--------------------------|------------------------------------|
| All Fish | - 2 Pole and Line Fishing Only (1) |
| Large or Smallmouth Bass | - 15" Minimum Length Limit |
- Crab Orchard National Wildlife Refuge. Visitor Pond, U.S. Fish and Wildlife Service
Williamson County
- | | |
|--------------------------|--|
| All Fish (30) | - 2 Pole and Line Fishing Only (1) (5) |
| Large or Smallmouth Bass | - 21" Minimum Length Limit |
- Crawford Co. Cons. Area – Picnic Pond, Crawford County Conservation Area
Crawford County
- | | |
|--------------------------|------------------------------------|
| All Fish | - 2 Pole and Line Fishing Only (1) |
| Channel Catfish | - 6 Fish Daily Creel Limit |
| Large or Smallmouth Bass | - 15" Minimum Length Limit |
| Trout | - Fall Closed Season (10) |
- Crawford Co. Cons. Area Ponds, Crawford County Conservation Area
Crawford County
- | | |
|--------------------------|------------------------------------|
| All Fish | - 2 Pole and Line Fishing Only (1) |
| Channel Catfish | - 6 Fish Daily Creel Limit |
| Large or Smallmouth Bass | - 15" Minimum Length Limit |
- Crull Impoundment Wildlife Management Area (33)
Jersey County
- Crystal Lake, Urbana Park District
Champaign County
- | | |
|-----------------|------------------------------------|
| All Fish | - 2 Pole and Line Fishing Only (1) |
| Channel Catfish | - 3 Fish Daily Creel Limit |
- Cypress Creek National Wildlife Refuge – All Ponds, U.S. Fish and Wildlife Service
Johnson/Pulaski/Union Counties
- | | |
|-----------------|------------------------------------|
| All Fish | - 2 Pole and Line Fishing Only (1) |
| Channel Catfish | - 6 Fish Daily Creel Limit |

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Large or Smallmouth Bass - 15" Minimum Length Limit

Cypress Creek National Wildlife Refuge – Cache River from Rt. 37 to Rt. 51 in Ullin, U.S.

Fish and Wildlife Service

Johnson/Pulaski Counties

All Fish - 2 Pole and Line Fishing Only (1)

All Fish - No Seines

Dawson Lake & Park Ponds, Moraine View State Park

McLean County

All Fish - 2 Pole and Line Fishing Only (1)

Bluegill or Redear Sunfish (14) - 15 Fish Daily Creel Limit

Channel Catfish - 6 Fish Daily Creel Limit

Large or Smallmouth Bass - 15" Minimum Length Limit

Walleye, Sauger, or Hybrid Walleye (14) - 3 Fish Daily Creel Limit

White, Black or Hybrid Crappie (15) - 10 Fish Daily Creel Limit

Decatur Park Dist. Ponds, City of Decatur

Macon County

All Fish - 2 Pole and Line Fishing Only (1)

Channel Catfish - 6 Fish Daily Creel Limit (except for
Fairview Park – Dreamland Pond, which
has a 3 Fish Daily Creel Limit)

Deep Pit Lake, Boone County Conservation District

Boone County

All Fish - 2 Pole and Line Fishing Only (1)

Channel Catfish - 6 Fish Daily Creel Limit

Large or Smallmouth Bass - 14" Minimum Length Limit

Large or Smallmouth Bass (14) - 1 Fish Daily Creel Limit

Deep Quarry Lake, DuPage County Forest Preserve District

DuPage County

All Fish - 2 Pole and Line Fishing Only (1)

Channel Catfish - 3 Fish Daily Creel Limit

Channel Catfish - 12" Minimum Length Limit

Large or Smallmouth Bass - 18" Minimum Length Limit

Large or Smallmouth Bass (14) - 1 Fish Daily Creel Limit

Walleye, Sauger, or Hybrid Walleye - 16" Minimum Length Limit

Walleye, Sauger, or Hybrid Walleye - 3 Fish Daily Creel Limit

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

(14)

White, Black, or Hybrid Crappie

- 9" Minimum Length Limit

White, Black, or Hybrid Crappie (15)

- 15 Fish Daily Creel Limit

Defiance Lake, Moraine Hills State Park

McHenry County

All Fish

- 2 Pole and Line Fishing Only (1)

Channel Catfish

- 6 Fish Daily Creel Limit

Large or Smallmouth Bass

- 14" Minimum Length Limit

Large or Smallmouth Bass (14)

- 3 Fish Daily Creel Limit

Des Plaines River Basin (Hoffman Dam to 47th Street Bridge, including tributaries)

Cook County

Channel Catfish

- 15" Minimum Length Limit

Channel Catfish

- 6 Fish Daily Creel Limit

Large or Smallmouth Bass

- Catch and Release Only – No Harvest Permitted (9)

Northern Pike

- 30" Minimum Length Limit

Northern Pike

- 1 Fish Daily Creel Limit

White, Black or Hybrid Crappie (15)

- 10 Fish Daily Creel Limit

Walleye, Sauger, or Hybrid Walleye

- 18" Minimum Length Limit

Walleye, Sauger, or Hybrid Walleye (14)

- 1 Fish Daily Creel Limit

Des Plaines River Conservation Area (19)

Will County

Diamond Lake, City of Mundelein

Lake County

All Fish

- 2 Pole and Line Fishing Only (1)

Channel Catfish

- 6 Fish Daily Creel Limit

Large or Smallmouth Bass

- 15" Minimum Length Limit

Large or Smallmouth Bass (14)

- 3 Fish Daily Creel Limit

Dog Island Wildlife Management Area (19)

Pope County

Dolan Lake, Hamilton County Conservation Area

Hamilton County

All Fish

- 2 Pole and Line Fishing Only (1)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Bluegill or Redear Sunfish	- 8" Minimum Length Limit
Bluegill or Redear Sunfish (14)	- 10 Fish Daily Creel Limit
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 14" Minimum Length Limit

Donnelley State Wildlife Area (33)
Bureau County

Double "T" State Fish and Wildlife Area, State of Illinois
Fulton County

Recreational Use Restrictions	- Waterfowl Refuge or Hunting Area (all use other than waterfowl hunting is prohibited from October 1 through the end of the central zone Canada goose season)
	- All live bait in excess of 8" must be rigged with a quick set rig (43)
All Fish	- 2 Pole and Line Fishing Only (1)
Channel or Blue Catfish	- 6 Fish Daily Creel Limit
White, Black, or Hybrid Crappie	- 10" Minimum Length Limit
White, Black, or Hybrid Crappie (15)	- 25 Fish Daily Creel Limit
Bluegill or Redear Sunfish (14)	- 25 Fish Daily Creel Limit
Large or Smallmouth Bass	- 21" Minimum Length Limit
Large or Smallmouth Bass (14)	- 1 Fish Daily Creel Limit
Pure Muskellunge	- 42" Minimum Length Limit

Douglas Park Lagoon, Chicago Park District
Cook County

All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 4 Fish Daily Creel Limit

DuPage County Forest Preserve District Lakes and Ponds (excluding Bass Lake, Deep Quarry Lake, and Grove Lake), DuPage County Forest Preserve District

DuPage County

All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit
<u>Channel Catfish</u>	- <u>12" Minimum Length Limit</u>
Large or Smallmouth Bass	- <u>15"14" Minimum Length Limit</u>
Large or Smallmouth Bass (14)	- 3 Fish Daily Creel Limit
<u>Walleye, Sauger, or Hybrid Walleye</u>	- <u>16" Minimum Length Limit</u>

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

<u>Walleye, Sauger, or Hybrid Walleye (14)</u>	- <u>3 Fish Daily Creel Limit</u>
White, Black or Hybrid Crappie	- 9" Minimum Length Limit
White, Black or Hybrid Crappie (15)	- 15 Fish Daily Creel Limit

DuPage River – West Branch (between the dams located in the McDowell Grove Forest Preserve and the Warrenville Grove Forest Preserve)

DuPage County

Large or Smallmouth Bass - Catch and Release Fishing Only (9)

East Fork Lake, City of Olney

Richland County

All Fish - 2 Pole and Line Fishing Only (1)

Channel Catfish - 6 Fish Daily Creel Limit

Large or Smallmouth Bass - 15" Minimum Length Limit

White, Black, or Hybrid Crappie (15) - 25 Fish Daily Creel Limit

Eldon Hazlet State Park (19) (See Also Carlyle Lake)

Clinton County

Elkville City Reservoir, City of Elkville

Jackson County

Large or Smallmouth Bass - 15" Minimum Length Limit

Large or Smallmouth Bass (14) - 3 Fish Daily Creel Limit

Elliott Lake, Wheaton Park District

DuPage County

All Fish - 2 Pole and Line Fishing Only (1)

Channel Catfish - 6 Fish Daily Creel Limit

Evergreen Lake, City of Bloomington

McLean County

Recreational Use Restrictions - All live bait in excess of 8" must be rigged with a quick set rig (43)

All Fish - 2 Pole and Line Fishing Only (1) (5)

Large or Smallmouth Bass - 15" Minimum Length Limit

Pure Muskellunge - 48" Minimum Length Limit (40)

White, Black, or Hybrid Crappie (15) - 25 Fish Daily Creel Limit

Fairgrounds Pond – Fort Massac State Park, State of Illinois

Massac County

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Trout	- Fall Closed Season (10)
Trout	- Spring Closed Season (11)
Fairview Park – Dreamland Pond, City of Decatur	
Macon County	
All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 3 Fish Daily Creel Limit
Fairies Park Pond, Decatur Park District	
Macon County	
All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit
Trout	- Fall Closed Season (10)
Ferne Clyffe Lake, Ferne Clyffe State Park	
Johnson County	
All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit
Trout	- Fall Closed Season (10)
Trout	- Spring Closed Season (11)
Flatfoot Lake, Cook County Forest Preserve District	
Cook County	
All Fish	- 2 Pole and Line Fishing Only (1) (36)
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 14" Minimum Length Limit
Foli Park Pond, Village of Plano	
Kendall County	
All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit
Forbes State Lake, Stephen A. Forbes State Park (19)	
Marion County	
Recreational Use Restrictions	- All live bait in excess of 8" must be rigged with a quick set rig (43)
All Fish	- 2 Pole and Line Fishing Only (1) (5)
Bluegill or Redear Sunfish	- 8" Minimum Length Limit
Bluegill or Redear Sunfish (14)	- 10 Fish Daily Creel Limit
Channel Catfish	- 6 Fish Daily Creel Limit

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Large or Smallmouth Bass	-14" Minimum Length Limit
Pure Muskellunge	- 48" Minimum Length (40)
Striped, White, or Hybrid Striped Bass	- 17" Minimum Length Limit
Striped, White, or Hybrid Striped Bass (16)	- 3 Fish Daily Creel Limit

Forbes State Park Ponds, Stephen A. Forbes State Park (19)

Marion County

All Fish	- 2 Pole and Line Fishing Only (1) (5)
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 14" Minimum Length Limit

Forest Park Lagoon, City of Shelbyville

Shelby County

All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit
Trout	- Fall Closed Season (10)
Trout	- Spring Closed Season (11)

Fort de Chartres Historic Site (19)

Randolph County

Four Lakes, Winnebago County Forest Preserve

Winnebago County

All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 14" Minimum Length Limit
Large or Smallmouth Bass (14)	- 1 Fish Daily Creel Limit

Fox Chain O'Lakes (including the Fox River south of the Wisconsin-Illinois boundary to the Algonquin Dam and the Nippersink Creek upstream to the Wilmot Road Bridge) (6) (Applies to Grass Lake and Nippersink Lake State Managed Blind Areas Only (19)), State of Illinois Lake and McHenry Counties

Recreational Use Restrictions	- All live bait in excess of 8" must be rigged with a quick set rig (43)
Large or Smallmouth Bass	- 14" Minimum Length Limit (6)
Large or Smallmouth Bass (14)	- 6 Fish Daily Creel Limit of which no more than 3 can be Smallmouth Bass
Pure Muskellunge	- 48" Minimum Length Limit (40)
Smallmouth Bass	- All fish must be immediately released

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- Walleye, Sauger, or Hybrid Walleye between April 1 and June 15
 - 14" Minimum Length Limit with an 18-24" Protected Slot Length Limit (no possession) (6)
- Walleye, Sauger, or Hybrid Walleye (14) - 2 Fish \geq 14" and $<$ 18" &/or 1 Fish $>$ 24" Daily Creel Limit (35)

Fox Ridge State Park (see also [Hurricane Pond](#), Wilderness Pond and Ridge Lake) (19)
 Coles County

Fox River, Algonquin Dam to confluence with the Illinois River, including tributaries, State of Illinois

Multiple Counties

- Smallmouth Bass - 1 Fish 12" or over and 2 Fish under 12" Daily Creel Limit

Frank Holten Lakes, Frank Holten State Park

St. Clair County

- All Fish - 2 Pole and Line Fishing Only (1)
 Channel Catfish - 6 Fish Daily Creel Limit
 Large or Smallmouth Bass - 14" Minimum Length Limit
 Trout - Fall Closed Season (10)
 Trout - Spring Closed Season (11)

Franklin Creek (within the boundaries of Franklin Creek State Natural Area)

Lee County

- All Fish - 2 Pole and Line Fishing Only (1)

Franklin Creek Mill Pond – Franklin Creek State Park, State of Illinois

Lee County

- All Fish - 2 Pole and Line Fishing Only (1)
 Large or Smallmouth Bass - 15" Minimum Length Limit
 Large or Smallmouth Bass (14) - 1 Fish Daily Creel Limit

Fuller Lake (19)

Calhoun County

Fulton County Camping and Recreation Area Waters, Fulton County Board

Fulton County

- All Fish - 2 Pole and Line Fishing Only (1)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 12"-15" Protected Slot Length Limit (no possession)
Large or Smallmouth Bass (14)	- 3 Fish Daily Creel Limit
Blue gill or Redear Sunfish (14)	- 25 Fish Daily Creel Limit

Gages Lake, Wildwood Park District
Lake County

All Fish	- 2 Pole and Line Fishing Only (1)
Large or Smallmouth Bass	- 15" Minimum Length Limit
Large or Smallmouth Bass (14)	- 3 Fish Daily Creel Limit
Walleye, Sauger, or Hybrid Walleye	- 16" Minimum Length Limit
Walleye, Sauger, or Hybrid Walleye (14)	- 3 Fish Daily Creel Limit

Garfield Park Lagoon, Chicago Park District
Cook County

All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 4 Fish Daily Creel Limit

Gebhard Woods Ponds, Gebhard Woods State Park
Grundy County

All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 15" Minimum Length Limit
Trout	- Spring Closed Season (11)

Germantown Lake, City of Germantown
Clinton County

All Fish	- 2 Pole and Line Fishing Only (1)
Bluegill or Redear Sunfish (14)	- 15 Fish Daily Creel Limit
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 18" Minimum Length Limit
Large or Smallmouth Bass (14)	- 1 Fish Daily Creel Limit

Giant City Park Ponds, Giant City State Park
Jackson and Union Counties

All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit
Largemouth and Spotted Bass	- 15" Minimum Length Limit

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Gillespie New City Lake, City of Gillespie

Macoupin County

- | | |
|-------------------------------|--------------------------------|
| Channel Catfish | - 6 Fish Daily Creel Limit |
| Large or Smallmouth Bass | - 12-15" Slot Length Limit (3) |
| Large or Smallmouth Bass (14) | - 3 Fish Daily Creel Limit |

Gillespie Old City Lake, City of Gillespie

Macoupin County

- | | |
|-------------------------------|------------------------------------|
| All Fish | - 2 Pole and Line Fishing Only (1) |
| Channel Catfish | - 6 Fish Daily Creel Limit |
| Large or Smallmouth Bass | - 15" Minimum Length Limit |
| Large or Smallmouth Bass (14) | - 3 Fish Daily Creel Limit |

Glades -12 Mile Island Wildlife Management Area (33)

Jersey County

Gladstone Lake, Henderson County Conservation Area

Henderson County

- | | |
|-------------------------------------|---|
| All Fish | - 2 Pole and Line Fishing Only (1) |
| Bluegill or Redear Sunfish (14) | - 10 Fish Daily Creel Limit |
| Channel or Blue Catfish (14) | - 6 Fish Daily Creel Limit |
| Large or Smallmouth Bass | - 12-15" Slot Length Limit (3) |
| Large or Smallmouth Bass (14) | - <u>1 Fish \geq 15" and/or 2 $<$ 12" Daily (31)</u> 3 Fish Daily Creel Limit |

Glen Oak Park Lagoon, Peoria Park District

Peoria County

- | | |
|-----------------|------------------------------------|
| All Fish | - 2 Pole and Line Fishing Only (1) |
| Channel Catfish | - 6 Fish Daily Creel Limit |

Glen Shoals Lake, City of Hillsboro

Montgomery County

- | | |
|--|----------------------------|
| Large or Smallmouth Bass | - 15" Minimum Length Limit |
| Large or Smallmouth Bass (14) | - 3 Fish Daily Creel Limit |
| Striped, White, or Hybrid Striped Bass | - 17" Minimum Length Limit |
| Striped, White, or Hybrid Striped Bass
(16) | - 3 Fish Daily Creel Limit |

Godar-Diamond/Hurricane Island Wildlife Management Area (33)

Calhoun County

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Gompers Park Lagoon, Chicago Park District
Cook County

- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 4 Fish Daily Creel Limit

Gordon F. More Park Lake, City of Alton
Madison County

- All Fish - 2 Pole and Line Fishing Only (1)
- Bluegill or Redear Sunfish (14) - 25 Fish Daily Creel Limit
- Channel Catfish - 6 Fish Daily Creel Limit
- Large or Smallmouth Bass - 15" Minimum Length Limit
- Large or Smallmouth Bass (14) - 3 Fish Daily Creel Limit

Governor Bond Lake, City of Greenville
Bond County

- Channel Catfish - All jugs must be attended at all times while fishing (2)
- Large or Smallmouth Bass - 15" Minimum Length Limit
- Large or Smallmouth Bass (14) - 3 Fish Daily Creel Limit
- Striped, White, or Hybrid Striped Bass - 17" Minimum Length Limit
- Striped, White, or Hybrid Striped Bass (16) - 3 Fish Daily Creel Limit
- White, Black, or Hybrid Crappie (15) - 25 Fish Daily Creel Limit

Grayslake Park District (Grayslake and Park Ponds)
Lake County

- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 6 Fish Daily Creel Limit
- Large or Smallmouth Bass - 15" Minimum Length Limit
- Large or Smallmouth Bass (14) - 3 Fish Daily Creel Limit

Greenfield City Lake, City of Greenfield
Greene County

- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 6 Fish Daily Creel Limit
- Large or Smallmouth Bass - 12"-15" Protected Slot Length Limit (no possession)
- Large or Smallmouth Bass - 5 Fish Under 12" and 1 Fish Over 15" Daily Creel Limit

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Greenville Old City Lake, Kingsbury Park District

Bond County

- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 6 Fish Daily Creel Limit
- Trout - Fall Closed Season (10)
- Large or Smallmouth Bass - 15" Minimum Length Limit
- Large or Smallmouth Bass (14) - 3 Fish Daily Creel Limit

Grove Lake, DuPage County Forest Preserve District

DuPage County

- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 3 Fish Daily Creel Limit
- Channel Catfish - 12" Minimum Length Limit
- Large or Smallmouth Bass - 18" Minimum Length Limit
- Large or Smallmouth Bass (14) - 1 Fish Daily Creel Limit
- White, Black, or Hybrid Crappie - 9" Minimum Length Limit
- White, Black, or Hybrid Crappie (15) - 15 Fish Daily Creel Limit

Harrisburg New City Reservoir, City of Harrisburg

Saline County

- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 6 Fish Daily Creel Limit
- Striped, White, or Hybrid Striped Bass - 17" Minimum Length Limit
- Striped, White or Hybrid Striped Bass (16) - 3 Fish Daily Creel Limit

Heidecke Lake, Heidecke Lake State Fish and Wildlife Area

Grundy County (41)

- Recreational Use Restrictions - Heidecke Lake shall be closed to all fishing and boat traffic except for legal waterfowl hunters from 10 days prior to duck season through the day before duck season and is closed to all fishing during waterfowl season commencing with regular duck season through the close of the Canada goose and regular duck season
- All live bait in excess of 8" must be rigged with a quick set rig (43)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- | | |
|--|--|
| All Fish | - 2 Pole and Line Fishing Only (1) |
| Channel Catfish | - 6 Fish Daily Creel Limit |
| Large or Smallmouth Bass | - 15" Minimum Length Limit |
| Large or Smallmouth Bass (14) | - 3 Fish Daily Creel Limit |
| Striped, White, or Hybrid Striped Bass (16) | - 10 Creel/3 Fish 17" or Longer Daily (17) |
| Walleye, Sauger, or Hybrid Walleye | - 16" Minimum Length Limit |
| Walleye, Sauger, or Hybrid Walleye (14) | - 3 Fish Daily Creel Limit |
|
Helmbold Slough (19)
Calhoun County | |
|
Hennepin Canal – Mainline & Feeder, Hennepin Canal Parkway State Park
Multiple Counties | |
| All Fish | - 2 Pole and Line Fishing Only (1) (13) |
| Large or Smallmouth Bass | - 14" Minimum Length Limit |
| Trout | - Fall Closed Season (10) |
| Trout | - Spring Closed Season (11) |
|
Hennepin-Hopper Lakes, The Wetlands Initiative
Putnam County | |
| Recreational Use Restrictions | - All live bait in excess of 8" must be rigged with a quick set rig (43) |
| All Fish | - 2 Pole and Line Fishing Only (1) |
| Black, White or Hybrid Crappie | - 9" Minimum Length Limit |
| Black, White or Hybrid Crappie (15) | - 25 Fish Daily Creel Limit |
| Channel Catfish | - 6 Fish Daily Creel Limit |
| Large or Smallmouth Bass | - 15" Minimum Length Limit |
| Large or Smallmouth Bass (14) | - 3 Fish Daily Creel Limit |
| Pure Muskellunge | - 42" Minimum Length Limit |
| Walleye, Sauger or Hybrid Walleye | - 18" Minimum Length Limit |
| Walleye, Sauger or Hybrid Walleye (14) | - 3 Fish Daily Creel Limit |
|
Herrin Lake #1, City of Herrin
Williamson County | |
| All Fish | - 2 Pole and Line Fishing Only (1) |
| Channel Catfish | - 6 Fish Daily Creel Limit |
| Large or Smallmouth Bass | - 15" Minimum Length Limit |
| Large or Smallmouth Bass (14) | - 3 Fish Daily Creel Limit |

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Herrin Lake #2, City of Herrin

Williamson County

- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 6 Fish Daily Creel Limit
- Large or Smallmouth Bass - 15" Minimum Length Limit
- Large or Smallmouth Bass (14) - 3 Fish Daily Creel Limit

Hidden Springs State Forest Ponds, Hidden Springs State Forest

Shelby County

- All Fish - 2 Pole and Line Fishing Only (1)
- Bluegill or Redear Sunfish (14) - 10 Fish Daily Creel Limit
- Channel Catfish - 6 Fish Daily Creel Limit
- Large or Smallmouth Bass - 18" Minimum Length Limit
- Large or Smallmouth Bass (14) - 1 Fish Daily Creel Limit

Highland Old City Lake, City of Highland

Madison County

- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 6 Fish Daily Creel Limit
- Trout - Fall Closed Season (10)

Hillsboro Old City Lake, City of Hillsboro

Montgomery County

- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 6 Fish Daily Creel Limit
- Large or Smallmouth Bass - 12-15" Slot Length Limit

Homer Guthrie Pond – Eldon Hazlet State Park, State of Illinois

Clinton County

- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 6 Fish Daily Creel Limit
- Bluegill or Redear Sunfish (14) - 10 Fish Daily Creel Limit
- Large or Smallmouth Bass - 18" Minimum Length Limit
- Large or Smallmouth Bass (14) - 1 Fish Daily Creel Limit

Homer Lake, Champaign County Forest Preserve District

Champaign County

- All Fish - 2 Pole and Line Fishing Only (1)
- Bluegill or Redear Sunfish - 8" Minimum Length Limit
- Bluegill or Redear Sunfish (14) - 10 Fish Daily Creel Limit

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- | | |
|--------------------------|----------------------------|
| Channel Catfish | - 6 Fish Daily Creel Limit |
| Large or Smallmouth Bass | - 14" Minimum Length Limit |
- Hormel Pond, Donnelly State Fish and Wildlife Area
Bureau County
- | | |
|--------------------------|--|
| All Fish | - 2 Pole and Line Fishing Only (1) (5) |
| Channel Catfish | - 6 Fish Daily Creel Limit |
| Large or Smallmouth Bass | - 14" Minimum Length Limit |
- Horseshoe Lake-Alexander Co., Horseshoe Lake Conservation Area
Alexander County
- | | |
|-------------------------------|---|
| Recreational Use Restrictions | - Only trolling motors in refuge from October 5-March 1 |
| All Fish | - 2 Pole and Line Fishing Only (1) (5) |
| Channel Catfish | - 6 Fish Daily Creel Limit |
| Large or Smallmouth Bass | - 14" Minimum Length Limit |
- Horseshoe Lake-Madison County, Horseshoe Lake State Park (33)
Madison County
- | | |
|-------------------------------------|--|
| All Fish | - 2 Pole and Line Fishing Only (1) (28) (34) |
| Large or Smallmouth Bass | - 15" Minimum Length Limit |
| Large or Smallmouth Bass (14) | - 3 Fish Daily Creel Limit |
| White, Black or Hybrid Crappie (15) | - 25 Fish Daily Creel Limit |
- Horton Lake, Nauvoo State Park
Hancock County
- | | |
|-----------------|------------------------------------|
| All Fish | - 2 Pole and Line Fishing Only (1) |
| Channel Catfish | - 6 Fish Daily Creel Limit |
- Humbolt Park Lagoon, Chicago Park District
Cook County
- | | |
|-----------------|------------------------------------|
| All Fish | - 2 Pole and Line Fishing Only (1) |
| Channel Catfish | - 4 Fish Daily Creel Limit |
- Hurricane Pond, Fox Ridge State Park
Coles County
- | | |
|---------------------------------|--|
| Recreational Use Restrictions | - Waterfowl Refuge and Hunting Area (19) |
| All Fish | - 2 Pole and Line Fishing Only (1) |
| Bluegill or Redear Sunfish (14) | - 5 Fish Daily Creel Limit |
| Channel Catfish | - 6 Fish Daily Creel Limit |

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- | | |
|-------------------------------|----------------------------|
| Large or Smallmouth Bass | - 18" Minimum Length Limit |
| Large or Smallmouth Bass (14) | - 1 Fish Daily Creel Limit |
- Illinois & Michigan Canal, State of Illinois
Grundy/LaSalle/ Will Counties
- | | |
|--------------------------|------------------------------------|
| All Fish | - 2 Pole and Line Fishing Only (1) |
| Channel Catfish | - 6 Fish Daily Creel Limit |
| Large or Smallmouth Bass | - 15" Minimum Length Limit |
| Trout | - Spring Closed Season (11) |
- Illinois Beach State Park Ponds, Illinois Beach State Park
Lake County
- | | |
|-----------------|------------------------------------|
| All Fish | - 2 Pole and Line Fishing Only (1) |
| Channel Catfish | - 6 Fish Daily Creel Limit |
- Illinois Department of Transportation Lake, State of Illinois
Sangamon County
- | | |
|--------------------------|------------------------------------|
| All Fish | - 2 Pole and Line Fishing Only (1) |
| Channel Catfish | - 6 Fish Daily Creel Limit |
| Large or Smallmouth Bass | - 15" Minimum Length Limit |
| Trout | - Fall Closed Season (10) |
| Trout | - Spring Closed Season (11) |
- Illinois River – Pool 26 (19)
Calhoun County
- Illinois River – Starved Rock and Marseilles Pools
LaSalle and Grundy Counties
- | | |
|---|-----------------------------|
| Large or Smallmouth Bass | - 18" Minimum Length Limit |
| Large or Smallmouth Bass (14) | - 1 Fish Daily Creel Limit |
| Striped, White or Hybrid Striped Bass
(16) | - 10 Fish Daily Creel Limit |
| White, Black or Hybrid Crappie (15) | - 10 Fish Daily Creel Limit |
- Illinois River – State of Illinois
Multiple Counties
- | | |
|--------------------------|----------------------------|
| Large or Smallmouth Bass | - 12" Minimum Length Limit |
|--------------------------|----------------------------|
- Indian Boundary South Pond, Frankfort Square Park District
Will County

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- | | |
|-----------------|------------------------------------|
| All Fish | - 2 Pole and Line Fishing Only (1) |
| Channel Catfish | - 6 Fish Daily Creel Limit |
- Iroquois & Kankakee Rivers and their Tributaries, State of Illinois
Multiple Counties
- | | |
|------------------------------------|----------------------------|
| Walleye, Sauger and Hybrid Walleye | - 16" Minimum Length Limit |
| Walleye, Sauger and Hybrid Walleye | - 3 Fish Daily Creel Limit |
- Jackson Park (Columbia Basin) Lagoon, Chicago Park District
Cook County
- | | |
|-----------------|------------------------------------|
| All Fish | - 2 Pole and Line Fishing Only (1) |
| Channel Catfish | - 4 Fish Daily Creel Limit |
- Jim Edgar/Panther Creek Fish and Wildlife Area, All Lakes and Ponds, Jim Edgar/Panther
Creek Fish and Wildlife Area
Cass County
- | | |
|--|---|
| Recreational Use Restrictions | - All live bait in excess of 8" must be rigged
with a quick set rig (43) |
| All Fish | - 2 Pole and Line Fishing Only (1) |
| Bluegill or Redear Sunfish | - 8" Minimum Length Limit |
| Bluegill or Redear Sunfish (14) | - 10 Fish Daily Creel Limit |
| Channel Catfish | - 6 Fish Daily Creel Limit |
| Large or Smallmouth Bass | - 15" Minimum Length Limit |
| Large or Smallmouth Bass (14) | - 3 Fish Daily Creel Limit |
| Pure Muskellunge | - 48" Minimum Length Limit |
- Jim Edgar/Panther Creek Fish and Wildlife Area, Gurney Road Pond, Jim Edgar/Panther Creek
Fish and Wildlife Area
Cass County
- | | |
|--|--|
| All Fish | - 2 Pole and Line Fishing Only (1) |
| Bluegill or Redear Sunfish | - 8" Minimum Length Limit |
| Bluegill or Redear Sunfish (14) | - 10 Fish Daily Creel Limit |
| Channel Catfish | - 6 Fish Daily Creel Limit |
| Large or Smallmouth Bass | - 15" Minimum Length Limit |
| Large or Smallmouth Bass (14) | - 3 Fish Daily Creel Limit |
| Trout | - Spring Closed Season (11) |
- Johnson Sauk Trail Lake & Pond, Johnson Sauk Trail State Park
Henry County
- | | |
|-------------------------------|--|
| Recreational Use Restrictions | - All live bait in excess of 8" must be rigged |
|-------------------------------|--|

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- | | |
|---|--|
| | with a quick set rig (43) |
| All Fish | - 2 Pole and Line Fishing Only (1) |
| Channel Catfish | - 6 Fish Daily Creel Limit |
| Large or Smallmouth Bass | - 14" Minimum Length Limit |
| Johnston City Lake, City of Johnston City | |
| Williamson County | |
| All Fish | - 2 Pole and Line Fishing Only (1) |
| Channel Catfish | - 6 Fish Daily Creel Limit |
| Large or Smallmouth Bass | - 15" Minimum Length Limit |
| Large or Smallmouth Bass (14) | - 3 Fish Daily Creel Limit |
| Jones Lake Trout Pond, Saline County Conservation Area | |
| Saline County | |
| Trout | - Fall Closed Season (10) |
| Jones Park Lake, City of East St. Louis | |
| St. Clair County | |
| All Fish | - 2 Pole and Line Fishing Only (1) |
| Channel Catfish | - 6 Fish Daily Creel Limit |
| Trout | - Fall Closed Season (10) |
| Trout | - Spring Closed Season (11) |
| Jones State Lake, Saline County Conservation Area | |
| Saline County | |
| All Fish | - 2 Pole and Line Fishing Only (1) |
| Channel Catfish | - 6 Fish Daily Creel Limit |
| Large or Smallmouth Bass | - 14"-18" Protected Slot Length Limit (no possession) (38) |
| Large or Smallmouth Bass | - 5 Fish under 14" and 1 Fish over 18" Daily Creel Limit |
| Jubilee College State Park Ponds, Jubilee College State Park | |
| Peoria County | |
| All Fish | - 2 Pole and Line Fishing Only (1) |
| Channel Catfish | - 6 Fish Daily Creel Limit |
| Large or Smallmouth Bass | - 15" Minimum Length Limit |
| Large or Smallmouth Bass (14) | - 1 Fish Daily Creel Limit |
| Kankakee-Iroquois Rivers and their Tributaries, State of Illinois | |

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Multiple Counties

- | | |
|-------------------------------------|----------------------------|
| Walleye, Sauger, and Hybrid Walleye | - 16" Minimum Length Limit |
| Walleye, Sauger, and Hybrid Walleye | - 3 Fish Daily Creel Limit |
| (14) | |

Kankakee River, from the Kankakee Dam to the mouth of the Kankakee River, including tributaries, State of Illinois

Multiple Counties

- | | |
|-----------------|---|
| Smallmouth Bass | - 12"-18" Protected Slot Length Limit (no possession) |
| Smallmouth Bass | - 1 Fish over 18" and 2 Fish under 12" Daily Creel Limit (37) |

Kankakee River State Park (19)

Kankakee/Will Counties

Kaskaskia River Fish and Wildlife Area (19)

St.Clair/Randolph/Monroe Counties

Kaskaskia River Fish and Wildlife Area – Doza Creek Wildlife Management Area (33)

St.Clair County

Kendall Co. Lake #1, Kendall County Forest Preserve District

Kendall County

- | | |
|-------------------------------|------------------------------------|
| All Fish | - 2 Pole and Line Fishing Only (1) |
| Channel Catfish | - 6 Fish Daily Creel Limit |
| Large or Smallmouth Bass | - 14" Minimum Length Limit |
| Large or Smallmouth Bass (14) | - 3 Fish Daily Creel Limit |

Kent Creek

Winnebago County

- | | |
|-------|-----------------------------|
| Trout | - Spring Closed Season (11) |
|-------|-----------------------------|

Kickapoo State Park Lakes & Pond, Kickapoo State Park

Vermilion County

- | | |
|-------------------------------|------------------------------------|
| All Fish | - 2 Pole and Line Fishing Only (1) |
| Channel Catfish | - 6 Fish Daily Creel Limit |
| Large or Smallmouth Bass | - 14" Minimum Length Limit |
| Large or Smallmouth Bass (14) | - 3 Fish Daily Creel Limit |

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Kincaid City Reservoir, City of Kincaid

Christian County

- | | |
|--------------------------|------------------------------------|
| All Fish | - 2 Pole and Line Fishing Only (1) |
| Channel Catfish | - 6 Fish Daily Creel Limit |
| Large or Smallmouth Bass | - 15" Minimum Length Limit |

Kincaid Lake, Kincaid Lake State Fish and Wildlife Area (19)

Jackson County

- | | |
|--------------------------------------|--|
| Recreational Use Restrictions | - All live bait in excess of 8" must be rigged with a quick set rig (43) |
| Large or Smallmouth Bass | - 16" Minimum Length Limit |
| Large or Smallmouth Bass (14) | - 3 Fish Daily Creel Limit |
| Pure Muskellunge | - 48" Minimum Length Limit (40) |
| White, Black, or Hybrid Crappie | - 9" Minimum Length Limit |
| White, Black, or Hybrid Crappie (15) | - 25 Fish Daily Creel Limit |

Kinmundy Reservoir, City of Kinmundy

Marion County

- | | |
|-------------------------------|--|
| All Fish | - 2 Pole and Line Fishing Only (1) (5) |
| Channel Catfish | - 6 Fish Daily Creel Limit |
| Large or Smallmouth Bass | - 15" Minimum Length Limit |
| Large or Smallmouth Bass (14) | - 1 Fish Daily Creel Limit |

Kishwaukee River and South Branch of Kishwaukee River and Tributaries, State of Illinois

Multiple Counties

- | | |
|-----------------|----------------------------|
| Smallmouth Bass | - 14" Minimum Length Limit |
|-----------------|----------------------------|

Lake Atwood, McHenry County Conservation District

McHenry County

- | | |
|-----------------|------------------------------------|
| All Fish | - 2 Pole and Line Fishing Only (1) |
| Channel Catfish | - 6 Fish Daily Creel Limit |
| Trout | - Spring Closed Season (11) |

Lake Bloomington, City of Bloomington

McLean County

- | | |
|--|------------------------------------|
| All Fish | - 2 Pole and Line Fishing Only (1) |
| Bluegill or Redear Sunfish | - 8" Minimum Length Limit |
| Bluegill or Redear Sunfish (14) | - 10 Fish Daily Creel Limit |
| Large or Smallmouth Bass | - 15" Minimum Length Limit |
| Striped, White, or Hybrid Striped Bass | - 17" Minimum Length Limit |

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- Striped, White, or Hybrid Striped Bass - 3 Fish Daily Creel Limit
(16)
White, Black or Hybrid Crappie (15) - 25 Fish Daily Creel Limit

Lake Carlton, Morrison-Rockwood State Park

Whiteside County

- Recreational Use Restrictions - All live bait in excess of 8" must be rigged
with a quick set rig (43)
All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass (14) - 1 Fish Daily Creel Limit
Large or Smallmouth Bass - 14" Minimum Length Limit
Pure Muskellunge - 36" Minimum Length Limit
White, Black, or Hybrid Crappie (15) - 25 Fish Daily Creel Limit

Lake Co. Forest Preserve District Lakes (except Independence Grove Lake), Lake County Forest Preserve District

Lake County

- All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit
Large Smallmouth Bass (14) - 1 Fish Daily Creel Limit
Large or Smallmouth Bass - 15" Minimum Length Limit
Walleye, Sauger, or Hybrid Walleye - 16" Minimum Length Limit

Lake Decatur, City of Decatur

Macon County

- All Fish - 2 Pole and Line Fishing Only (1)(29)
White, Black, or Hybrid Crappie - 10" Minimum Length Limit
White, Black, or Hybrid Crappie (15) - 10 Fish Daily Creel Limit
Large or Smallmouth Bass - 14" Minimum Length Limit

Lake Depue Fish and Wildlife Area (33)

Bureau County

Lake Eureka, City of Eureka

Woodford County

- All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass - 15" Minimum Length Limit
Large or Smallmouth Bass (14) - 1 Fish Daily Creel Limit

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Lake George, Loud Thunder Forest Preserve
Rock Island County

Recreational Use Restrictions	- All live bait in excess of 8" must be rigged with a quick set rig (43)
All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 14" Minimum Length Limit
Pure Muskellunge	- 36" Minimum Length Limit
Striped, White, or Hybrid Striped Bass	- 17" Minimum Length Limit
Striped, White, or Hybrid Striped Bass (16)	- 1 Fish Daily Creel Limit
White, Black, or Hybrid Crappie (15)	- 25 Fish Daily Creel Limit

Lake Jacksonville, City of Jacksonville
Morgan County

All Fish	- 2 Pole and Line Fishing Only (1)
Bluegill or Redear Sunfish	- 8" Minimum Length Limit
Bluegill or Redear Sunfish	- 10 Fish Daily Creel Limit
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 15" Minimum Length Limit
Striped, White, or Hybrid Striped Bass	- 17" Minimum Length Limit
Striped, White, or Hybrid Striped Bass (16)	- 3 Fish Daily Creel Limit
White, Black, or Hybrid Crappie (15)	- 25 Fish Daily Creel Limit
White, Black, or Hybrid Crappie	- 9" Minimum Length Limit

Lake Kakusha, City of Mendota
LaSalle County

All Fish	- 2 Pole and Line Fishing Only (1)
Bluegill or Redear Sunfish	- 8" Minimum Length Limit
Bluegill or Redear Sunfish (14)	- 10 Fish Daily Creel Limit
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 14" Minimum Length Limit
Large or Smallmouth Bass (14)	- 3 Fish Daily Creel Limit
White, Black, or Hybrid Crappie (15)	- 25 Fish Daily Creel Limit

Lake Le-Aqua-Na, Lake Le-Aqua-Na State Park
Stephenson County

All Fish	- 2 Pole and Line Fishing Only (1)
----------	------------------------------------

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass (14)	- 1 Fish Daily Creel Limit
Large or Smallmouth Bass	- 14" Minimum Length Limit
White, Black, or Hybrid Crappie (15)	- 10 Fish Daily Creel Limit

Lake Mendota, City of Mendota
LaSalle County

All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass (14)	- 1 Fish \geq 15" &/or 2 <12" Daily (31)

Lake Michigan (Illinois Portion), State of Illinois
Lake/Cook Counties

Trout and Salmon	- 10" Minimum Length Limit
Trout and Salmon	- No more than 5 fish of any one species daily, except for Lake Trout
Lake Trout	- 2 Fish Daily Creel Limit
Yellow Perch	- 15 Fish Daily Creel Limit
Yellow Perch	- Taking of yellow perch from charter boats is prohibited
Yellow Perch	- Closed During July (<u>exception: 10 fish daily limit during July for youth under age 16</u>)
Large or Smallmouth Bass	- 21" Minimum Length Limit
Large or Smallmouth Bass (14)	- 1 Fish Daily Creel Limit

Lake Milliken, Des Plaines Conservation Area
Will County

All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 15" Minimum Length Limit
Trout	- Spring Closed Season (11)

Lake Mingo & Kennekuk Cove Park Ponds, Vermilion County Conservation Area
Vermilion County

Recreational Use Restrictions	- All live bait in excess of 8" must be rigged with a quick set rig (43)
All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 15" Minimum Length Limit
Pure Muskellunge	- 48" Minimum Length Limit (40)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Lake Murphysboro, Lake Murphysboro State Park

Jackson County

- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 6 Fish Daily Creel Limit
- Large or Smallmouth Bass (14) - 3 Fish Daily Creel Limit

Lake Nellie, City of St. Elmo

Fayette County

- All Fish - 2 Pole and Line Fishing Only (1) (5)
- Channel Catfish - 6 Fish Daily Creel Limit
- Large or Smallmouth Bass (14) - 3 Fish Daily Creel Limit
- Large or Smallmouth Bass - 14" Minimum Length Limit

Lake of the Woods & Elk's Pond, Champaign County Forest Preserve District

Champaign County

- Recreational Use Restrictions - All live bait in excess of 8" must be rigged with a quick set rig (43)
- All Fish - 2 Pole and Line Fishing Only (1)
- Bluegill or Redear Sunfish - 8" Minimum Length Limit
- Bluegill or Redear Sunfish (14) - 10 Fish Daily Creel Limit
- Channel Catfish - 6 Fish Daily Creel Limit
- Large or Smallmouth Bass - 15" Minimum Length Limit
- Large or Smallmouth Bass (14) - 1 Fish Daily Creel Limit
- Trout - Spring Closed Season (11)

Lake Owen, Hazel Crest Park District

Cook County

- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 6 Fish Daily Creel Limit

Lake Paradise, City of Mattoon

Coles County

- All Fish - 2 Pole and Line Fishing Only (1)
- Large or Smallmouth Bass - 14" Minimum Length Limit

Lake Paradise Shadow Ponds, City of Mattoon

Coles County

- All Fish - 2 Pole and Line Fishing Only (1)
- Large or Smallmouth Bass - 14" Minimum Length Limit

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Channel Catfish - 6 Fish Daily Creel Limit

Lake Sara, City of Effingham
Effingham County

Large or Smallmouth Bass - 14" Minimum Length Limit

White, Black, or Hybrid Crappie (15) - 25 Fish Daily Creel Limit

Lake Shelbyville (21), U.S. Army Corps of Engineers
Moultrie/Shelby Counties

Recreational Use Restrictions - During the regular waterfowl season, no bank or boat fishing shall be permitted on the Kaskaskia River from the Strickland Boat Access north to the Illinois Central Railroad Bridge from one-half hour before sunrise to 1 p.m.

- All live bait in excess of 8" must be rigged with a quick set rig (43)

Large or Smallmouth Bass - 14" Minimum Length Limit

Pure Muskellunge - 48" Minimum Length Limit (4)

White, Black, or Hybrid Crappie (15) - 10 Fish Daily Creel Limit

White, Black, or Hybrid Crappie - 10" Minimum Length Limit

Lake Shelbyville – U.S. Army Corps of Engineers Project Ponds and Wood Lake, and Lake Shelbyville State Fish and Wildlife Management Area Ponds (33)

Moultrie/Shelby Counties

All Fish - 2 Pole and Line Fishing Only (1)

Channel Catfish - 6 Fish Daily Creel Limit

Large or Smallmouth Bass - 14" Minimum Length Limit

White, Black, or Hybrid Crappie - 10" Minimum Length Limit

White, Black, or Hybrid Crappie (15) - 10 Fish Daily Creel Limit

Lake Shermerville, Northbrook Park District
Cook County

All Fish - 2 Pole and Line Fishing Only

Channel Catfish - 6 Fish Daily Creel Limit

Lake Sinnissippi (19)
Whiteside County

Lake Springfield, City of Springfield

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Sangamon County

- All Fish - 2 Pole and Line Fishing Only (1)
- Large or Smallmouth Bass - 15" Minimum Length Limit
- White, Black, or Hybrid Crappie (15) - ~~1025~~ Fish Daily Creel Limit
- White, Black, or Hybrid Crappie - ~~10"9"~~ Minimum Length Limit

Lake Storey, City of Galesburg

Knox County

- Recreational Use Restrictions - All live bait in excess of 8" must be rigged with a quick set rig (43)
- All Fish - 2 Pole and Line Fishing Only (1)
- Bluegill and Redear Sunfish (14) - 25 Fish Daily Creel Limit
- Channel or Blue Catfish (14) - 6 Fish Daily Creel Limit
- Large or Smallmouth Bass (14) - ~~1 Fish > 15" and/or 5 < 12" Daily (12) 12-15" Slot Length Limit (3)~~
- Pure Muskellunge - 42" Minimum Length Limit
- Walleye, Sauger, or Hybrid Walleye (14) - 3 Fish Daily Creel Limit

Lake Strini, Village of Romeoville

Will County

- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 6 Fish Daily Creel Limit

Lake Sule, Flagg-Rochelle Park District

Ogle County

- Recreational Use Restrictions - All live bait in excess of 8" must be rigged with a quick set rig (43)
- All Fish - 2 Pole and Line Fishing Only (1)
- Bluegill or Redear Sunfish (14) - 5 Fish Daily Creel Limit
- Channel Catfish - 6 Fish Daily Creel Limit
- Large or Smallmouth Bass - 14" Minimum Length Limit
- Large or Smallmouth Bass (14) - 1 Fish Daily Creel Limit
- Pure Muskellunge - 36" Minimum Length Limit
- White, Black or Hybrid Crappie (15) - 10 Fish Daily Creel Limit

Lake Taylorville, City of Taylorville

Christian County

- Large or Smallmouth Bass - 15" Minimum Length Limit
- White, Black, or Hybrid Crappie - 9" Minimum Length Limit

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

White, Black, or Hybrid Crappie (15) - 25 Fish Daily Creel Limit

Lake Vandalia, City of Vandalia

Fayette County

- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 6 Fish Daily Creel Limit
- Large or Smallmouth Bass - 14" Minimum Length Limit
- Striped, White, or Hybrid Striped Bass - 17" Minimum Length Limit
- Striped, White, or Hybrid Striped Bass (16) - 3 Fish Daily Creel Limit

Lake Vermilion, Vermilion County Conservation District

Vermilion County

- All Fish - 2 Pole and Line Fishing Only (1) (26) (except that sport fisherman may take carp, carpsuckers, buffalo, gar, bowfin, and suckers by pitchfork, gigs, bow and arrow or bow and arrow devices north of Boiling Springs Road, but not within 300 feet around the wetland boardwalk)
- Large or Smallmouth Bass - 15" Minimum Length Limit
- White, Black, or Hybrid Crappie - 9" Minimum Length Limit
- White, Black, or Hybrid Crappie (15) - 25 Fish Daily Creel Limit

Lake Victoria, City of South Beloit

Winnebago County

- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 6 Fish Daily Creel Limit
- Large or Smallmouth Bass - 14" Minimum Length Limit
- Large or Smallmouth Bass (14) - 1 Fish Daily Creel Limit

Lake Williamsville, City of Williamsville

Sangamon County

- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 6 Fish Daily Creel Limit

LaSalle Lake, LaSalle Lake State Fish and Wildlife Area ~~Power Station~~

LaSalle County

- Recreational Use Restrictions - Waterfowl refuge or hunting area; LaSalle Lake is closed to all fishing and boating

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

from October 16 until March 15; during
October and March, the lake is closed on
Mondays and Tuesdays

All Fish	- 2 Pole and Line Fishing Only (1)
Large or Smallmouth Bass (14)	- 1 Fish Daily Creel Limit
Large or Smallmouth Bass	- 18" Minimum Length Limit
Striped, White, or Hybrid Striped Bass (16)	- 10 Creel/3 Fish 17" or Longer Daily (17)

Levings Lake, Rockford Park District
Winnebago County

All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 14" Minimum Length Limit
Large or Smallmouth Bass (14)	- 1 Fish Daily Creel Limit

Lincoln Log Cabin Pond, Lincoln Log Cabin Historical Site
Coles County

All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 15" Minimum Length Limit
Large or Smallmouth Bass (14)	- 1 Fish Daily Creel Limit

Lincoln Park North Lagoon, Chicago Park District
Cook County

All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 4 Fish Daily Creel Limit

Lincoln Park South Lagoon, Chicago Park District
Cook County

All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 4 Fish Daily Creel Limit

Lincoln Trail Lake, Lincoln Trail State Park
Clark County

All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 14-18" Slot Length Limit (14" to 18" protected)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Large or Smallmouth Bass (14) - 4 Creel/1 Fish >18" Daily (daily Catch Limit for large or smallmouth bass, singly or in the aggregate, shall not exceed 4 fish per day, no more than one of which shall be greater than 18" in length)

Litchfield City Lake, City of Litchfield
Montgomery County

Large or Smallmouth Bass (14) - 3 Fish Daily Creel Limit – 1 Fish 15" or Over and 2 Fish Under 15" Total Length (25)
White, Black or Hybrid Crappie (15) - 15 Fish Daily Creel Limit

Loami Reservoir, City of Loami
Sangamon County

All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass - 15" Minimum Length Limit

Lou Yeager Lake, City of Litchfield
Montgomery County

Large or Smallmouth Bass - 15" Minimum Length Limit
Large or Smallmouth Bass (14) - 3 Fish Daily Creel Limit

Lyerla Lake, Union County Conservation Area
Union County

All Fish - 2 Pole and Line Fishing Only (1)(5)
Channel Catfish - 6 Fish Daily Creel Limit

Mackinaw Ponds 1, 2, and 3, Mackinaw State Fish and Wildlife Area
Tazewell County

Large or Smallmouth Bass - 15" Minimum Length Limit
Large or Smallmouth Bass (14) - 1 Fish Daily Creel Limit

Macon County Conservation District Ponds (see also Rock Springs Pond and Rock Springs Bike Trail Pond), Macon County Conservation District

Macon County

All Fish - 2 Pole and Line Fishing Only (1)

[Mallard Lake, DuPage County Forest Preserve District](#)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

DuPage County

- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 3 Fish Daily Creel Limit
- Channel Catfish - 12" Minimum Length Limit
- Large or Smallmouth Bass - 15" Minimum Length Limit
- Large or Smallmouth Bass (14) - 3 Fish Daily Creel Limit
- Walleye, Sauger, or Hybrid Walleye - 16" Minimum Length Limit
- Walleye, Sauger, or Hybrid Walleye (14) - 3 Fish Daily Creel Limit
- White, Black, or Hybrid Crappie - 9" Minimum Length Limit
- White, Black, or Hybrid Crappie (15) - 15 Fish Daily Creel Limit

Maple Lake, Cook County Preserve District
Cook County

- All Fish - 2 Pole and Line Fishing Only (1) (36)
- Channel Catfish - 6 Fish Daily Creel Limit
- Large or Smallmouth Bass - 14" Minimum Length Limit

Marissa City Lake, City of Marissa
St. Clair County

- Channel Catfish - 6 Fish Daily Creel Limit

Marquette Park Lagoon, Chicago Park District
Cook County

- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 4 Fish Daily Creel Limit

Marshall County Conservation Area (Fishing Ditch), Marshall County Conservation Area (33)
Marshall County

- All Fish - 2 Pole and Line Fishing Only (1)

Marshall County Conservation Area – Sparland Unit (19)
Marshall County

Mascoutah Reservoir, City of Mascoutah
St. Clair County

- All Fish - 2 Pole and Line Fishing Only (1)
- Large or Smallmouth Bass - 15" Minimum Length Limit
- Large or Smallmouth Bass (14) - 3 Fish Daily Creel Limit

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Matthiessen Lake, Matthiessen State Park

LaSalle County

- | | |
|---------------------------------|---------------------------------------|
| All Fish | - 2 Pole and Line Fishing Only (1)(5) |
| Bluegill or Redear Sunfish (14) | - 10 Fish Daily Creel Limit |
| Channel Catfish | - 6 Fish Daily Creel limit |
| Large or Smallmouth Bass | - 14" Minimum Length Limit |

Mattoon Lake, City of Mattoon

Coles County

- | | |
|--------------------------|------------------------------------|
| All Fish | - 2 Pole and Line Fishing Only (1) |
| Large or Smallmouth Bass | - 14" Minimum Length Limit |

Mautino Fish and Wildlife Area, Mautino Fish and Wildlife Area

Bureau County

- | | |
|---------------------------------|---|
| All Fish | - 2 Pole and Line Fishing Only (1) (34) |
| Bluegill or Redear Sunfish (14) | - 10 Fish Daily Creel Limit |
| Channel Catfish | - 6 Fish Daily Creel Limit |
| Large or Smallmouth Bass | - 14" Minimum Length Limit |
| Large or Smallmouth Bass (14) | - 1 Fish Daily Creel Limit |

Mauvaise Terre/Morgan Lake, City of Jacksonville

Morgan County

- | | |
|--------------------------|----------------------------|
| Large or Smallmouth Bass | - 15" Minimum Length Limit |
|--------------------------|----------------------------|

Mazonia Lakes & Ponds (excluding Ponderosa Lake), Mazonia State Fish and Wildlife Area (33)

Grundy/Kankakee/Will Counties

- | | |
|-------------------------------------|------------------------------------|
| All Fish | - 2 Pole and Line Fishing Only (1) |
| Channel Catfish | - 6 Fish Daily Creel Limit |
| Large or Smallmouth Bass | - 15" Minimum Length Limit |
| Large or Smallmouth Bass (14) | - 3 Fish Daily Creel Limit |
| White, Black or Hybrid Crappie (15) | - 10 Fish Daily Creel Limit |

McCullom Lake, City of McHenry

McHenry County

- | | |
|---------------------------------|------------------------------------|
| All Fish | - 2 Pole and Line Fishing Only (1) |
| Bluegill or Redear Sunfish (14) | - 25 Fish Daily Creel Limit |
| Channel Catfish | - 6 Fish Daily Creel Limit |
| Large or Smallmouth Bass | - 15" Minimum Length Limit |
| Large or Smallmouth Bass (14) | - 1 Fish Daily Creel Limit |

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

McKinley Park Lagoon, Chicago Park District

Cook County

- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 4 Fish Daily Creel Limit

McLeansboro City Lakes, City of McLeansboro

Hamilton County

- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 6 Fish Daily Creel Limit
- Large or Smallmouth Bass - 14" Minimum Length Limit

Meredosia Lake – Cass County Portion Only (meandered waters only) (33)

Cass County

Meredosia Lake, Cass County Portion

Cass County

- Recreational Use Restrictions - Meandered waters only; All boat traffic is prohibited from operating on meandered waters (except non-motorized boats may be used to assist in the retrieval of waterfowl shot from private land) from the period from one week before waterfowl season opens until the season closes; hunting and/or any other activity is prohibited during the period from one week before waterfowl season opens until the season closes

Mermet State Lake, Mermet Lake Conservation Area (33)

Massac County

- All Fish - 2 Pole and Line Fishing Only (1) (5)
- Bluegill or Redear Sunfish - 8" Minimum Length Limit
- Bluegill or Redear Sunfish (14) - 10 Fish Daily Creel Limit
- Channel Catfish - 6 Fish Daily Creel Limit
- Large or Smallmouth Bass - 14" Minimum Length Limit
- White, Black, or Hybrid Crappie (15) - 25 Fish Daily Creel Limit

Middle Fork Forest Preserve Pond, Champaign County Forest Preserve

Champaign County

- All Fish - 2 Pole and Line Fishing Only (1)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Bluegill or Redear Sunfish (14)	- 25 Fish Daily Creel Limit
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 14" Minimum Length Limit

Middle Fork of the Vermilion River, Kickapoo State Park and Middle Fork Fishing Wildlife Area

Vermilion County

All Fish	- 2 Pole and Line Fishing Only (1)
----------	------------------------------------

Mill Creek Lake, Clark County Park District

Clark County

Recreational Use Restrictions	- All live bait in excess of 8" must be rigged with a quick set rig (43)
All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 12-15" Slot Length Limit (3)
Pure Muskellunge	- 42" Minimum Length Limit

Mill Pond, Pearl City Park District

Stephenson County

All Fish	- 2 Pole and Line Fishing Only (1)
Large or Smallmouth Bass	- 14" Minimum Length Limit
Large or Smallmouth Bass (14)	- 1 Fish Daily Creel Limit

Mill Race Ponds, Belvidere Park District

Boone County

Trout	- Spring Closed Season (11)
-------	-----------------------------

Miller Park Lake, City of Bloomington

McLean County

All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit
Trout	- Spring Closed Season (11)

Mineral Springs Park Lagoon, City of Pekin

Tazewell County

All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit
Trout	- Fall Closed Season (10)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Mississippi River Pools 16, 17, 18, 21, 22, 24, 25, 26 (19)
Multiple Counties

Mississippi River (between IL & IA), State of Illinois
Multiple Counties

- | | |
|---|---|
| Recreational Use Restrictions | <ul style="list-style-type: none"> - Any tagged sport fishing device may not be left unattended for more than 24 hours or must be completely removed - Tailwaters of Lock and Dam 12 (down to Mill Creek, an Iowa tributary located at River Mile 556.0) and tailwaters of Lock and Dam 13 (down to the downstream end of Stamp Island, River Mile 521.5) closed to all fishing from December 1 through March 15) |
| All Fish | <ul style="list-style-type: none"> - Anglers must not use more than 2 poles and each pole must not have more than 2 hooks or lures while trolling |
| Bluegill or Pumpkinseed Sunfish | <ul style="list-style-type: none"> - 25 Fish Daily Creel Limit singly or in aggregate |
| Large or Smallmouth Bass | <ul style="list-style-type: none"> - 14" Minimum Length Limit |
| Large or Smallmouth Bass (14) | <ul style="list-style-type: none"> - 5 Fish Daily Creel Limit |
| Northern Pike | <ul style="list-style-type: none"> - 5 Fish Daily Creel Limit |
| Paddlefish | <ul style="list-style-type: none"> - Snagging for paddlefish is permitted from January 1 through April 15 within a 500 yard downstream limit below locks and dams on the Mississippi River between Illinois and Iowa except the tailwaters of Lock and Dam 12 and 13 are closed to all fishing from December 1 through March 15; daily catch limit is 2 fish |
| Rock Bass | <ul style="list-style-type: none"> - 25 Fish Daily Creel Limit |
| Striped, White, Yellow or Hybrid Striped Bass | <ul style="list-style-type: none"> - 25 Fish Daily Creel Limit singly or in aggregate – statewide regulation limiting daily creel to 3 fish 17" or longer is not in effect on the Mississippi River between Illinois and Iowa |
| Walleye and Sauger (14) | <ul style="list-style-type: none"> - 6 Fish Daily Creel Limit with no more than 1 walleye greater than 27" in total length |
| Walleye | <ul style="list-style-type: none"> - 15" Minimum Length Limit with a 20-27" |

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

White, Black or Hybrid Crappie (15)	Protected Slot Length Limit (24) - 25 Fish Daily Creel Limit singly or in aggregate
Yellow Perch	- 25 Fish Daily Creel Limit
Mississippi River (between IL & MO), State of Illinois Multiple Counties	
Recreational Use Restrictions	- Boating prohibited on refuge area (Ellis Bay) immediately upstream of Melvin Price Lock and Dam 26 overflow dike from October 15-April 15 - Any tagged sport fishing device may not be left unattended for more than 24 hours or must be completely removed
All Nongame Species Combined (Excludes endangered and threatened species and the following game species: Crappie, Channel/Blue/Flathead Catfish, Rock Bass, Warmouth, White/Yellow/Striped/Hybrid Striped Bass, Trout, Largemouth/Smallmouth/Spotted Bass, Muskellunge, Northern Pike, Chain/Grass Pickerel, Walleye, Sauger, Paddlefish)	- 100 Total Fish Daily Creel Limit
Channel or Blue Catfish (14)	- 20 Fish Daily Creel Limit
Flathead Catfish	- 10 Fish Daily Creel Limit
Largemouth, Smallmouth, Spotted Bass	- 12" Minimum Length Limit or
Northern Pike	- 1 Fish Daily Creel Limit
Paddlefish	- Snagging for paddlefish is permitted from September 15 through December 15 and March 15 through May 15 within a 300 yard downstream limit below locks and dams on the Mississippi River between Illinois and Missouri; daily catch limit is 2 fish
Striped, White, Yellow or Hybrid Striped Bass	- 30 Fish Daily Creel Limit singly or in aggregate – statewide regulation limiting daily creel to 3 fish 17" or longer is not in

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

effect on the Mississippi River between
Illinois and Missouri

- Walleye and Sauger (14) - 8 Fish Daily Creel Limit
White, Black or Hybrid Crappie (15) - 30 Fish Daily Creel Limit

Monee Reservoir, Will County Forest Preserve District
Will County

- All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass (14) - 1 Fish Daily Creel Limit
Large or Smallmouth Bass - 15" Minimum Length Limit

Montrose Lake, City of Montrose
Cumberland County

- All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass - 14" Minimum Length Limit

Mt. Olive City Lakes (Old and New), City of Mt. Olive
Macoupin County

- All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass - 15" Minimum Length Limit
Large or Smallmouth Bass (14) - 3 Fish Daily Creel Limit

Mt. Pulaski Park District Lake, Mt. Pulaski Park District
Logan County

- All Fish - 2 Pole and Line Fishing Only (1)

Mt. Sterling Lake, City of Mt. Sterling
Brown County

- All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass - 12-15" Slot Length Limit (3)

Mt. Vernon City Park Lake, City of Mt. Vernon
Jefferson County

- All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass - 15" Minimum Length Limit

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Large or Smallmouth Bass (14) - 1 Fish Daily Creel Limit

Mt. Vernon Game Farm Pond, Mt. Vernon Game Farm

Jefferson County

All Fish - 2 Pole and Line Fishing Only (1)
 Trout - Fall Closed Season (10)
 Trout - Spring Closed Season (11)

Mundelein Park District Ponds , City of Mundelein

Lake County

All Fish - 2 Pole and Line Fishing Only (1)
 Channel Catfish - 6 Fish Daily Creel Limit
 Large or Smallmouth Bass - 15" Minimum Length Limit
 Large or Smallmouth Bass (14) - 3 Fish Daily Creel Limit

Nashville City Lake, City of Nashville

Washington County

All Fish - 2 Pole and Line Fishing Only (1)
 Channel Catfish - 6 Fish Daily Creel Limit
 Large or Smallmouth Bass - 18" Minimum Length Limit

Newton Lake, Newton Lake State Fish and Wildlife Area (41)

Jasper County

Recreational Use Restrictions - The cold water arm of Newton Lake shall be closed to all fishing and boat traffic except for legal waterfowl hunters during waterfowl season commencing with regular duck season through the close of the Canada goose and regular duck season

All Fish - 2 Pole and Line Fishing Only (1) (5)
 Large or Smallmouth Bass - 18" Minimum Length Limit
 Large or Smallmouth Bass (14) - 3 Fish Daily Creel Limit
 White, Black, or Hybrid Crappie (15) - 10 Fish Daily Creel Limit
 White, Black, or Hybrid Crappie - 10" Minimum Length Limit

Norris City Reservoir, City of Norris City

White County

All Fish - 2 Pole and Line Fishing Only (1)
 Channel Catfish - 6 Fish Daily Creel Limit
 Large or Smallmouth Bass - 15" Minimum Length Limit

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

North Marcum Campground Pond, U.S. Army Corps of Engineers

Franklin County

Recreational Use Restrictions	- Fishing permitted only by persons under 16 years of age
All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 14" Minimum Length Limit
Large or Smallmouth Bass (14)	- 3 Fish Daily Creel Limit

Oakford Conservation Area (Menard County) (19)

Menard County

Oakland City Lake, City Lake, City of Oakland

Coles County

All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 14" Minimum Length Limit

Oblong Lake, City of Oblong

Crawford County

All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 15" Minimum Length Limit
Large or Smallmouth Bass (14)	- 3 Fish Daily Creel Limit

Ohio River (between Illinois & Kentucky), State of Illinois

Multiple Counties (19)

Large or Smallmouth Bass	- 12" Minimum Length Limit
Northern Pike	- No Length or Creel Limit
Muskie or Tiger Muskie	- 2 Fish Daily Creel Limit
Muskie or Tiger Muskie	- 30" Minimum Length Limit
Walleye, Sauger, or Hybrid Walleye(14)	- 10 Fish Daily Creel Limit
White, Black, or Hybrid Crappie (15)	- 30 Fish Daily Creel Limit
Striped, White, Yellow or Hybrid	- 30 Creel/4 Fish 15" or Longer Daily (32)
Striped Bass	

Ohio River – Smithland Pool Tributary Streams (in Pope/Hardin/Gallatin Counties, excluding Wabash River and Saline River Above Route 1 Bridge) (19)

Multiple Counties

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Large and Smallmouth Bass	- 12" Minimum Length Limit
Old Kinmundy Reservoir, City of Kinmundy Marion County	
All Fish	- 2 Pole and Line Fishing Only (1)(5)
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 15" Minimum Length Limit
<u>Olsen</u> Olson Lake, Rock Cut State Park Winnebago County	
All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 14" Minimum Length Limit
Large or Smallmouth Bass (14)	- 1 Fish Daily Creel Limit
Omaha City Reservoir, City of Omaha Gallatin County	
All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 14" Minimum Length Limit
Otter Lake, Otter Lake Water Commission Macoupin County	
Recreational Use Restrictions	- All live bait in excess of 8" must be rigged with a quick set rig (43)
All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 15" Minimum Length Limit
Large or Smallmouth Bass (14)	- 3 Fish Daily Creel Limit
Striped, White, or Hybrid Striped Bass (16)	- 10 Creel/3 Fish 17" or Longer Daily (17)
Pure Muskellunge	- 48" Minimum Length Limit (40)
Palmyra – Modesto Water Commission Lake, Palmyra/Modesto Water Commission Macoupin County	
All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 15" Minimum Length Limit
Large or Smallmouth Bass (14)	- 3 Fish Daily Creel Limit

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Pana Lake, City of Pana

Shelby and Christian Counties

Recreational Use Restrictions

- All live bait in excess of 8" must be rigged
with a quick set rig (43)

All Fish

- 2 Pole and Line Fishing Only (1)

Bluegill or Redear Sunfish

- 8" Minimum Length Limit

Bluegill or Redear Sunfish (14)

- 10 Fish Daily Creel Limit

Channel Catfish

- 6 Fish Daily Creel Limit

Large or Smallmouth Bass

- 14" Minimum Length Limit

Paris East & West Lakes , City of Paris

Edgar County

All Fish

- 2 Pole and Line Fishing Only (1)

Channel Catfish

- 6 Fish Daily Creel Limit

Large or Smallmouth Bass

- 14" Minimum Length Limit

Peabody River King, Pit #3 Lakes and Ponds, River King State Conservation Area (see also Willow Lake for additional regulations)

St Clair County

All Fish

- 2 Pole and Line Fishing Only (1) (34)

Channel Catfish

- 6 Fish Daily Creel Limit

Large or Smallmouth Bass

- 15" Minimum Length Limit

Large or Smallmouth Bass (14)

- 3 Fish Daily Creel Limit

White, Black, or Hybrid Crappie (15)

- 25 Fish Daily Creel Limit

White, Black, or Hybrid Crappie

- 9" Minimum Length Limit

Pecatonica River and Tributaries, State of Illinois

Winnebago/Stephenson Counties

Smallmouth Bass

- 14" Minimum Length Limit

Pekin Lake

Tazewell County

Perry Farm Pond, Bourbonnais Park District

Kankakee County

All Fish

- 2 Pole and Line Fishing Only (1)

Channel Catfish

- 6 Fish Daily Creel Limit

Piasa (19)

Madison/Jersey Counties

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Pierce Lake, Rock Cut State Park

Winnebago County

Recreational Use Restrictions	- All live bait in excess of 8" must be rigged with a quick set rig (43)
All Fish	- 2 Pole and Line Fishing Only (1) (7)
Bluegill or Redear Sunfish	- 8" Minimum Length Limit
Bluegill or Redear Sunfish (14)	- 10 Fish Daily Creel Limit
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass (14)	- 1 Fish Daily Creel Limit
Large or Smallmouth Bass	- 14" Minimum Length Limit
Pure Muskellunge	- 48" Minimum Length Limit (40)
White, Black, or Hybrid Crappie (15)	- 25 Fish Daily Creel Limit

Pike County Conservation Area (19)

Pike County

Pinckneyville Lake, City of Pinckneyville

Perry County

Large or Smallmouth Bass	- 18" Minimum Length Limit
Large or Smallmouth Bass (14)	- 1 Fish Daily Creel Limit

Pine Creek

Ogle County

Trout	- Spring Closed Season (11)
-------	-----------------------------

Pine Creek (within the boundaries of White Pines Forest State Park)

Ogle County

All Fish	- 2 Pole and Line Fishing Only (1)
Trout	- Spring Closed Season (11)

Pine Lake, Village of University Park

Will County

All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit

Piscasaw Creek

McHenry County

Trout	- 9" Minimum Length Limit
Trout	- Spring Closed Season (11)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Pittsfield City Lake, City of Pittsfield

Pike County

All Fish	- 2 Pole and Line Fishing Only (1) (7)
Large or Smallmouth Bass	- 14" Minimum Length Limit
Striped, White, or Hybrid Striped Bass	- 17" Minimum Length
Striped, White, or Hybrid Striped Bass (16)	- 3 Fish Daily Creel Limit
White, Black, or Hybrid Crappie	- 9" Minimum Length Limit

Pocahontas Park Ponds, City of Pocahontas

Bond County

All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit

Ponderosa Lake, Mazonia State Fish and Wildlife Area (33)

Grundy County

All Fish	- 2 Pole and Line Fishing Only (1)
Bluegill or Redear Sunfish (14)	- 10 Fish Daily Creel Limit
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 15" Minimum Length Limit
Large or Smallmouth Bass (14)	- 3 Fish Daily Creel Limit
White, Black or Hybrid Crappie (15)	- 10 Fish Daily Creel Limit

Powerton Lake, Powerton Lake Fish and Wildlife Area (39)

Tazewell County

Recreational Use Restrictions	- Powerton Lake shall be closed to boat traffic except for legal waterfowl hunters from one week prior to regular waterfowl season to February 15, and closed to all unauthorized entry during regular Canada goose and duck season
All Fish	- 2 Pole and Line Fishing Only (1)
Channel or Blue Catfish (14)	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 18" Minimum Length Limit
Large or Smallmouth Bass (14)	- 1 Fish Daily Creel Limit
Striped, White, or Hybrid Striped Bass (16)	- 10 Creel/3 Fish 17" or Longer Daily (17)
Walleye, Sauger, or Hybrid Walleye (14)	- 3 Fish Daily Creel Limit
Walleye, Sauger, or Hybrid Walleye	- 18" Minimum Length Limit

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Prospect Pond, City of Moline
Rock Island County
Trout

- Fall Closed Season (10)

Pyramid State Park – Blue Wing Lake, Green Wing Lake and Goldeneye Lake, Pyramid State Park
Perry County

Recreational Use Restrictions

- Waterfowl Hunting Area (from October 28 through February 28 fishing is permitted in designated areas only, and fishing hours are from ½ hour before sunrise to 2 p.m.)

All Fish

- 2 Pole and Line Fishing Only (1)

Bluegill or Redear Sunfish (14)

- 25 Fish Daily Creel Limit

Channel Catfish

- 6 Fish Daily Creel Limit

Large or Smallmouth Bass

- 18" Minimum Length Limit

Large or Smallmouth Bass (14)

- 1 Fish Daily Creel Limit

White, Black, or Hybrid Crappie (15)

- 25 Fish Daily Creel Limit

Pyramid State Park – Captain, Denmark and Galum Areas – All Lakes and Ponds except Blue Wing Lake, Green Wing Lake and Goldeneye Lake, Pyramid State Park

Perry County

Recreational Use Restrictions

- Waterfowl Refuge or Hunting Area (all use other than waterfowl hunting prohibited from ~~October 28~~ ~~October 29~~ through ~~February 28~~ ~~March 1~~)

All Fish

- 2 Pole and Line Fishing Only (1)

~~Bluegill or Redear Sunfish~~

~~- 8" Minimum Length Limit~~

Bluegill or Redear Sunfish (14)

- ~~25~~ 10 Fish Daily Creel Limit

Channel Catfish

- 6 Fish Daily Creel Limit

Large or Smallmouth Bass

- 18" Minimum Length Limit

Large or Smallmouth Bass (14)

- 1 Fish Daily Creel Limit

~~White, Black, or Hybrid Crappie~~

~~- 9" Minimum Length Limit~~

White, Black, or Hybrid Crappie (15)

- ~~25~~ 10 Fish Daily Creel Limit

Pyramid State Park Lakes & Ponds (excluding Captain, Denmark and Galum Areas), Pyramid State Park

Perry County

All Fish

- 2 Pole and Line Fishing Only (1)

Channel Catfish

- 6 Fish Daily Creel Limit

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Ramsey Lake, Ramsey Lake State Park

Fayette County

All Fish	- 2 Pole and Line Fishing Only (1)
Bluegill or Redear Sunfish (14)	- 25 Fish Daily Creel Limit
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 14" Minimum Length Limit
White, Black, or Hybrid Crappie (15)	- 10 Fish Daily Creel Limit
White, Black, or Hybrid Crappie	- 9" Minimum Length Limit

Ramsey Lake State Park Ponds, Ramsey Lake State Park

Fayette County

All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 14" Minimum Length Limit

Randolph County Lake, Randolph County Conservation Area

Randolph County

All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 14" Minimum Length Limit
Large or Smallmouth Bass (14)	- 3 Fish Daily Creel Limit
Trout	- Fall Closed Season (10)

Red Hills Lake, Red Hills State Park

Lawrence County

All Fish	- 2 Pole and Line Fishing Only (1)
Bluegill or Redear Sunfish	- 8" Minimum Length Limit
Bluegill or Redear Sunfish (14)	- 10 Fish Daily Creel Limit
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 15" Minimum Length Limit

Red's Landing Wildlife Management Area (19)

Calhoun County

(Walk-in area closed to trespassing 7 days prior to duck season)

Redwing Slough / Deer Lake (33)

Lake County

Rend Lake, U.S. Army Corps of Engineers (22) (33)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Franklin and Jefferson Counties

- | | |
|--|--|
| Channel Catfish | - All jugs must be attended at all times while fishing (2) |
| Large or Smallmouth Bass | - 14" Minimum Length Limit |
| Striped, White, Yellow, or Hybrid Striped Bass (8) | - 20 Creel/3 Fish 17" or Longer Daily |
| White, Black or Hybrid Crappie (15) | - 25 Creel/5 Fish 10" or Longer Daily |

Rend Lake Project Ponds – Jackie Branch Pond, Ina N. Borrow Pit, Green Heron Pond, North Marcum Campground Pond, U.S. Army Corps of Engineers

Franklin and Jefferson Counties

- | | |
|---------------------------------|--|
| Recreational Use Restrictions | - See kids only fishing regulations for North Marcum Campground Pond |
| All Fish | - 2 Pole and Line Fishing Only (1) |
| Bluegill or Redear Sunfish (14) | - 10 Fish Daily Creel Limit |
| Channel Catfish | - 6 Fish Daily Creel Limit |
| Large or Smallmouth Bass | - 14" Minimum Length Limit |
| Large or Smallmouth Bass (14) | - 1 Fish Daily Creel Limit |

Rice Lake Fish and Wildlife Area (33)

Fulton County

Ridge Lake, Fox Ridge State Park

Coles County

- | | |
|-------------------------------|---|
| Recreational Use Restrictions | - Waterfowl Refuge or Hunting Area (19) |
| All Fish | - 2 Pole and Line Fishing Only (1) |
| Channel Catfish | - 14" Minimum Length Limit |
| Large or Smallmouth Bass | - 14" Minimum Length Limit |

Riis Park Lagoon, Chicago Park District

Cook County

- | | |
|-----------------|------------------------------------|
| All Fish | - 2 Pole and Line Fishing Only (1) |
| Channel Catfish | - 6 Fish Daily Creel Limit |

Riprap Landing (19)

Calhoun County

River Bend Forest Preserve Lakes (Sunset Lake and Shadow Lake), Champaign County Forest Preserve District

Champaign County

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

All Fish	- 2 Pole and Line Fishing Only (1)
Bluegill or Redear Sunfish	- 8" Minimum Length Limit
Bluegill or Redear Sunfish (14)	- 10 Fish Daily Creel Limit
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 15" Minimum Length Limit
Large or Smallmouth Bass (14)	- 1 Fish Daily Creel Limit

Riverside Park Lagoon, Moline Park District
Rock Island County

All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit

Rock Creek, State of Illinois
Kankakee County
Trout

- Spring Closed Season (11)

Rock River, from the Sears and Steel Dam downstream to confluence of the Mississippi River,
State of Illinois
Rock Island County

<u>Walleye</u>	<u>- 15" Minimum Length Limit with a 20-27" Protected Slot Length Limit (24)</u>
<u>Walleye and Sauger (14)</u>	<u>- 6 Fish Daily Creel Limit with no more than 1 walleye greater than 27" in total length</u>

Rock River, Wisconsin State Line downstream to confluence of the Mississippi River, including
tributaries, State of Illinois

Multiple Counties

Smallmouth Bass	- 14" Minimum Length Limit
-----------------	----------------------------

Rock Springs Bike Trail Pond, Macon County Conservation District

Macon County

All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 15" Minimum Length Limit
Large or Smallmouth Bass (14)	- 1 Fish Daily Creel Limit

Rock Springs Pond, Macon County Conservation District

Macon County

All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Large or Smallmouth Bass	- 15" Minimum Length Limit
Large or Smallmouth Bass (14)	- 1 Fish Daily Creel Limit
Trout	- Fall Closed Season (10) Spring Closed Season (11)
Roodhouse Park Lake, City of Roodhouse	
Green County	
All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit
Route 154 Day Use Pond, State of Illinois	
Randolph County	
All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 15" Minimum Length Limit
Large or Smallmouth Bass (14)	- 1 Fish Daily Creel Limit
Sag Quarry East, Cook County Forest Preserve District	
Cook County	
Rainbow Trout	- Spring Closed Season (11)
Sahara Woods Fish and Wildlife Area, State of Illinois	
Saline County	
All Fish	- 2 Pole and Line Fishing Only (1)
Bluegill or Redear Sunfish (14)	- 15 Fish Daily Creel Limit
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 18" Minimum Length Limit
Large or Smallmouth Bass (14)	- 1 Fish Daily Creel Limit
White, Black, or Hybrid Crappie (15)	- 15 Fish Daily Creel Limit
St. Elmo South Lake, City of St. Elmo	
Fayette County	
All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 14" Minimum Length Limit
Salem Reservoir, City of Salem	
Marion County	
All Fish	- 2 Pole and Line Fishing Only (1) (5)
Channel Catfish	- 6 Fish Daily Creel Limit

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- Large or Smallmouth Bass - 14" Minimum Length Limit
- Sam Dale Lake, Sam Dale Conservation Area
Wayne County
- All Fish - 2 Pole and Line Fishing Only (1)(5)
 - Channel Catfish - 6 Fish Daily Creel Limit
 - Large or Smallmouth Bass - 14" Minimum Length Limit
- Sam Dale Trout Pond, Sam Dale Conservation Area
Wayne County
- All Fish - 2 Pole and Line Fishing Only (1)
 - Channel Catfish - 6 Fish Daily Creel Limit
 - Large or Smallmouth Bass - 14" Minimum Length Limit
 - Trout - Fall Closed Season (10)
 - Trout - Spring Closed Season (11)
- Sam Parr Lake, Sam Parr State Park
Jasper County
- All Fish - 2 Pole and Line Fishing Only (1) (5)
 - Channel Catfish - 6 Fish Daily Creel Limit
 - Large or Smallmouth Bass - 14" Minimum Length Limit
- Sand Lake, Illinois Beach State Park
Lake County
- All Fish - 2 Pole and Line Fishing Only (1)
 - Channel Catfish - 6 Fish Daily Creel Limit
 - Large or Smallmouth Bass - 15" Minimum Length Limit
 - Large or Smallmouth Bass (14) - 1 Fish Daily Creel Limit
 - Trout - Fall Closed Season (10)
 - Trout - Spring Closed Season (11)
- Sanganois Conservation Area (33) (42)
Mason/Cass/Schuyler/Menard Counties
- Sangchris Lake, Sangchris Lake State Park
Christian/Sangamon Counties
- Recreational Use Restrictions - Posted waterfowl refuge closed to all boat traffic during waterfowl season. Bank fishing along the dam shall be permitted. Fishing shall be prohibited in the east and

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

west arms of the lake during the period from 10 days prior to the duck season through the end of the duck season. Fishing shall be prohibited in the west arm of the lake and the east arm of the lake south of the power lines during that portion of the Canada goose season that follows the duck season

- All Fish - 2 Pole and Line Fishing Only (1) (34)
- Large or Smallmouth Bass - 15" Minimum Length Limit
- Large or Smallmouth Bass (14) - 3 Fish Daily Creel Limit
- White, Black, or Hybrid Crappie (15) - 10 Fish Daily Creel Limit
- White, Black, or Hybrid Crappie - 10" Minimum Length Limit

Sangchris Lake Park Ponds, Sangchris Lake State Park
Sangamon County

- All Fish - 2 Pole and Line Fishing Only (1)

Schiller Pond, Cook County Forest Preserve District
Cook County

- All Fish - 2 Pole and Line Fishing Only (1) (36)
- Channel Catfish - 6 Fish Daily Creel Limit
- Large or Smallmouth Bass - 14" Minimum Length Limit

Schuy-Rush Lake, City of Rushville
Schuyler County

- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 6 Fish Daily Creel Limit
- White, Black or Hybrid Crappie - 9" Minimum Length Limit

Senior Citizen's Pond, Kankakee River State Park
Kankakee County

- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 6 Fish Daily Creel Limit

Sesser City Lake, City of Sesser
Franklin County

- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 6 Fish Daily Creel Limit
- Large or Smallmouth Bass - 18" Minimum Length Limit

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- Large or Smallmouth Bass (14) - 1 Fish Daily Creel Limit
- Shabbona Lake, Shabbona Lake State Park
DeKalb County
- Recreational Use Restrictions - All live bait in excess of 8" must be rigged with a quick set rig (43)
- All Fish - 2 Pole and Line Fishing Only (1) (7)
- Bluegill or Redear Sunfish (14) - 10 Fish Daily Creel Limit
- Channel Catfish - 6 Fish Daily Creel Limit
- Large or Smallmouth Bass (14) - 1 Fish Daily Creel Limit
- Large or Smallmouth Bass - 14" Minimum Length Limit
- Pure Muskellunge - 48" Minimum Length Limit (40)
- Striped, White, or Hybrid Striped Bass - 17" Minimum Length Limit
- Striped, White, or Hybrid Striped Bass (16) - 3 Fish Daily Creel Limit
- Walleye, Sauger, or Hybrid Walleye - 18" Minimum Length Limit
- White, Black, or Hybrid Crappie (15) - 10 Fish Daily Creel Limit
- Shawnee National Forest Lakes and Ponds less than 10 acres, U.S. Forest Service
Multiple Counties
- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 6 Fish Daily Creel Limit
- Largemouth, Smallmouth or Spotted Bass - 15" Minimum Length Limit
- Shawnee National Forest – Bay Creek Lake #5 and #8 (Sugar Creek Lake), U.S. Forest Service
Pope County
- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 6 Fish Daily Creel Limit
- Largemouth, Smallmouth and Spotted Bass - 15" Minimum Length Limit
- Shawnee National Forest – Dutchman Lake, U.S. Forest Service
Johnson County
- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 6 Fish Daily Creel Limit
- Largemouth, Smallmouth or Spotted Bass - 15" Minimum Length Limit
- Shawnee National Forest – Lake Glendale, U.S. Forest Service
Pope County
- All Fish - 2 Pole and Line Fishing Only (1)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Channel Catfish - 6 Fish Daily Creel Limit
Largemouth, Smallmouth or Spotted Bass - 15" Minimum Length Limit

Shawnee National Forest – Little Cache #1, U.S. Forest Service

Johnson County

All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit
Largemouth or Smallmouth Bass - 15" Minimum Length Limit

Shawnee National Forest – Little Cedar Lake, U.S. Forest Service

Jackson County

All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit
Largemouth, Smallmouth or Spotted Bass - 15" Minimum Length Limit

Shawnee National Forest – One Horse Gap Lake, U.S. Forest Service

Pope County

All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit
Largemouth, Smallmouth or Spotted Bass - 15" Minimum Length Limit

Shawnee National Forest – Pounds Hollow Lake, U.S. Forest Service

Gallatin County

All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit
Largemouth, Smallmouth or Spotted Bass - 15" Minimum Length Limit

Shawnee National Forest – Tecumseh Lake, U.S. Forest Service

Hardin County

All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit
Largemouth, Smallmouth or Spotted Bass - 15" Minimum Length Limit

Shawnee National Forest – Turkey Bayou, U.S. Forest Service

Jackson County

All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit
Largemouth, Smallmouth or Spotted Bass - 15" Minimum Length Limit

Shawnee National Forest – Whoopie Cat Lake, U.S. Forest Service

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Hardin Counties

- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 6 Fish Daily Creel Limit
- Largemouth, Smallmouth or Spotted Bass - 15" Minimum Length Limit

Sherman Park Lagoon, Chicago Park District

Cook County

- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 4 Fish Daily Creel Limit

Siloam Springs Lake, Siloam Springs State Park

Adams County

- All Fish - 2 Pole and Line Fishing Only (1) (7)
- Channel Catfish - 6 Fish Daily Creel Limit
- Large or Smallmouth Bass - 12-15" Slot Length Limit (3)
- Trout - Fall Closed Season (10)
- Trout - Spring Closed Season (11)

Siloam Springs State Park Buckhorn Unit Waters, Siloam Springs State Park

Brown County

- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 6 Fish Daily Creel Limit
- Bluegill or Redear Sunfish - 8" Minimum Length Limit
- Bluegill or Redear Sunfish (14) - 10 Fish Daily Creel Limit
- Large and Smallmouth Bass - 18" Minimum Length Limit
- Large and Smallmouth Bass (14) - 1 Fish Daily Creel Limit

Silver Lake, Dupage County Forest Preserve District

Dupage County

- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - ~~36~~ Fish Daily Creel Limit
- Channel Catfish - 12" Minimum Length Limit
- Larger or Smallmouth Bass - 15"14" Minimum Length Limit
- Large or Smallmouth Bass (14) - 3 Fish Daily Creel Limit
- Trout - Spring Closed Season (11)
- Walleye, Sauger, or Hybrid Walleye - 16" Minimum Length Limit
- Walleye, Sauger, or Hybrid Walleye (14) - 3 Fish Daily Creel Limit
- White, Black or Hybrid Crappie - 9" Minimum Length Limit
- White, Black or Hybrid Crappie (15) - 15 Fish Daily Creel Limit

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Silver Springs S.P. (Big Lake) & Ponds, Silver Springs State Fish and Wildlife Area
Kendall County

All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 15" Minimum Length Limit
Trout	- Fall Closed Season (10)
Trout	- Spring Closed Season (11)

Skokie Lagoons, Cook County Forest Preserve District

Cook County

All Fish	- 2 Pole and Line Fishing Only (1) (36)
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 14" Minimum Length Limit
Walleye, Sauger, or Hybrid Walleye	- 18" Minimum Length Limit

Small Pit Pond, Boone County Conservation District

Boone County

All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 14" Minimum Length Limit
Large or Smallmouth Bass (14)	- 1 Fish Daily Creel Limit

Snakeden Hollow State Fish and Wildlife Area – McMaster Lake & Other Site Waters, State of Illinois

Knox County

Recreational Use Restrictions	- Waterfowl Refuge or Hunting Area (all use other than waterfowl hunting prohibited from October 1 through the end of the Canada goose season)
	- All live bait in excess of 8" must be rigged with a quick set rig (43)
All Fish	- 2 Pole and Line Fishing Only (1)
Bluegill or Redear Sunfish (14)	- 10 Fish Daily Creel Limit
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 15" Minimum Length Limit
Large or Smallmouth Bass (14)	- 3 Fish Daily Creel Limit <u>with only one fish 15" or longer</u>
Pure Muskellunge	- 42" Minimum Length Limit
Walleye, Sauger, or Hybrid Walleye (14)	- 3 Fish Daily Creel Limit
White, Black, or Hybrid Crappie (15)	- 5 Fish Daily Creel Limit

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Sparta City Lakes, City of Sparta
Randolph County

- | | |
|--------------------------|------------------------------------|
| All Fish | - 2 Pole and Line Fishing Only (1) |
| Channel Catfish | - 6 Fish Daily Creel Limit |
| Large or Smallmouth Bass | - 15" Minimum Length Limit |

Sparta "T" Lake, City of Sparta
Randolph County

- | | |
|--------------------------------------|------------------------------------|
| All Fish | - 2 Pole and Line Fishing Only (1) |
| Bluegill or Redear Sunfish | - 8" Minimum Length Limit |
| Bluegill or Redear Sunfish (14) | - 15 Fish Daily Creel Limit |
| Channel Catfish | - 6 Fish Daily Creel Limit |
| Large or Smallmouth Bass | - 15" Minimum Length Limit |
| Large or Smallmouth Bass (14) | - 3 Fish Daily Creel Limit |
| White, Black, or Hybrid Crappie | - 9" Minimum Length Limit |
| White, Black, or Hybrid Crappie (15) | - 10 Fish Daily Creel Limit |

Spencer Lake, Boone County Conservation District
Boone County

- | | |
|-------------------------------|------------------------------------|
| All Fish | - 2 Pole and Line Fishing Only (1) |
| Channel Catfish | - 6 Fish Daily Creel Limit |
| Large or Smallmouth Bass | - 14" Minimum Length Limit |
| Large or Smallmouth Bass (14) | - 1 Fish Daily Creel Limit |

Sportsmans' Club Pond, Macon County Conservation DistrictMacon County

- | | |
|-----------------|---|
| <u>All Fish</u> | <u>- 2 Pole and Line Fishing Only (1)</u> |
| <u>Trout</u> | <u>- Spring Closed Season (11)</u> |

Spring Lake, City of Macomb
McDonough County

- | | |
|--|--|
| Recreational Use Restrictions | - All live bait in excess of 8" must be rigged with a quick set rig (43) |
| All Fish | - 2 Pole and Line Fishing Only (1) (5) |
| Channel Catfish | - 6 Fish Daily Creel Limit |
| Large or Smallmouth Bass | - 15" Minimum Length Limit |
| Large or Smallmouth Bass (14) | - 3 Fish Daily Creel Limit |
| Striped, White, or Hybrid Striped Bass | - 17" Minimum Length Limit |
| Striped, White, or Hybrid Striped Bass | - 3 Fish Daily Creel Limit |

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

(16)

Spring Lakes (North & South), Spring Lake Conservation Area (33)

Tazewell County

- | | |
|--------------------------------------|--|
| Recreational Use Restrictions | - All live bait in excess of 8" must be rigged with a quick set rig (43) |
| All Fish | - 2 Pole and Line Fishing Only (1) (7) |
| Channel Catfish | - 6 Fish Daily Creel Limit |
| Large or Smallmouth Bass | - 15" Minimum Length Limit |
| Large or Smallmouth Bass (14) | - 3 Fish Daily Creel Limit |
| Pure Muskellunge | - 48" Minimum Length Limit (40) |
| White, Black, or Hybrid Crappie (15) | - 25 Fish Daily Creel Limit |
| White, Black, or Hybrid Crappie | - 9" Minimum Length Limit |

Spring Pond, Flagg-Rochelle Park District

Ogle County

- | | |
|-------------------------------|------------------------------------|
| All Fish | - 2 Pole and Line Fishing Only (1) |
| Large or Smallmouth Bass | - 14" Minimum Length Limit |
| Large or Smallmouth Bass (14) | - 1 Fish Daily Creel Limit |

Starved Rock State Park (19)

LaSalle County

Staunton City Lake, City of Staunton

Macoupin County

- | | |
|-------------------------------|--|
| Recreational Use Restrictions | - All live bait in excess of 8" must be rigged with a quick set rig (43) |
| All Fish | - 2 Pole and Line Fishing Only (1) |
| Channel Catfish | - 6 Fish Daily Creel Limit |
| Large or Smallmouth Bass | - 15" Minimum Length Limit |
| Large or Smallmouth Bass (14) | - 3 Fish Daily Creel Limit |

Steven A. Forbes State Park (19) (see also Forbes State Lake and Forbes State Park Ponds)

Marion County

Sterling Lake, Lake County Forest Preserve District

Lake County

- | | |
|-------------------------------|--|
| Recreational Use Restrictions | - All live bait in excess of 8" must be rigged with a quick set rig (43) |
| All Fish | - 2 Pole and Line Fishing Only (1) |

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass (14)	- 1 Fish Daily Creel Limit
Large or Smallmouth Bass	- 15" Minimum Length Limit
Pure Muskellunge	- 48" Minimum Length Limit

Storm Lake, DeKalb Park District
DeKalb County

All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 14" Minimum Length Limit
Large or Smallmouth Bass	- 1 Fish Daily Creel Limit

Stump Lake Wildlife Management Area (33)
Jersey County

Tampier Lake, Cook County Forest Preserve District
Cook County

All Fish	- 2 Pole and Line Fishing Only (36)
Bluegill or Redear Sunfish	- 8" Minimum Length Limit
Bluegill or Redear Sunfish (14)	- 10 Fish Daily Creel Limit
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 14" Minimum Length Limit
Walleye, Sauger, or Hybrid Walleye	- 18" Minimum Length Limit

Taylorville Park District Pond, Taylorville Park District
Christian County

All Fish	- 2 Pole and Line Fishing Only (1)
<u>Trout</u>	- <u>Spring Closed Season (11)</u>

Ten Mile Creek Lakes, Ten Mile Creek State Fish and Wildlife Area
Hamilton/Jefferson Counties (19)

(Areas designated as refuge are closed to all access during the Canada goose season)

All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 14" Minimum Length Limit

Tilton City Lake, City of Tilton
Vermilion County

Large or Smallmouth Bass	- 15" Minimum Length Limit
Large or Smallmouth Bass (14)	- 1 Fish Daily Creel Limit

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Toledo Reservoir, City of Toledo
Cumberland County

- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 6 Fish Daily Creel Limit

Turkey Bluff Ponds, State of Illinois
Randolph County

- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 6 Fish Daily Creel Limit
- Large and Smallmouth Bass - 15" Minimum Length Limit
- Large and Smallmouth Bass (14) - 1 Fish Daily Creel Limit

Turner Lake, Chain O'Lakes State Park
Lake County

- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 6 Fish Daily Creel Limit
- Large or Smallmouth Bass (14) - 1 Fish Daily Creel Limit
- Large or Smallmouth Bass - 15" Minimum Length Limit

Tuscola City Lake, City of Tuscola
Douglas County

- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 6 Fish Daily Creel Limit
- Large or Smallmouth Bass - 14" Minimum Length Limit

Union County Conservation Area

Union County

(All fishing and boat traffic prohibited October 15-March 1)

Valley Lake, Wildwood Park District
Lake County

- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 6 Fish Daily Creel Limit
- Large or Smallmouth Bass - 15" Minimum Length Limit
- Large or Smallmouth Bass (14) - 3 Fish Daily Creel Limit

Valmeyer Lake, City of Valmeyer
Monroe County

- All Fish - 2 Pole and Line Fishing Only (1)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- Channel Catfish - 6 Fish Daily Creel Limit
- Large or Smallmouth Bass - 15" Minimum Length Limit
- Large or Smallmouth Bass (14) - 3 Fish Daily Creel Limit

Vanhorn Woods Pond, Plainfield Park District

Will County

- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 6 Fish Daily Creel Limit
- Large or Smallmouth Bass - 15" Minimum Length Limit
- Large or Smallmouth Bass (14) - 1 Fish Daily Creel Limit

Vernor Lake, City of Olney

Richland County

- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 6 Fish Daily Creel Limit
- Large or Smallmouth Bass - 14" Minimum Length Limit

Villa Grove East Lake, City of Villa Grove

Douglas County

- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 6 Fish Daily Creel Limit
- Large or Smallmouth Bass - 14" Minimum Length Limit

Villa Grove West Lake, City of Villa Grove

Douglas County

- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 6 Fish Daily Creel Limit
- Large or Smallmouth Bass - 14" Minimum Length Limit
- Trout - Fall Closed Season (10)

Virginia City Reservoir, City of Virginia

Cass County

- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 6 Fish Daily Creel Limit
- Large or Smallmouth Bass - 15" Minimum Length Limit

Waddams Creek

Stephenson County

- Trout - Spring Closed Season (11)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Walnut Point Lake, Walnut Point State Fish and Wildlife Area

Douglas County

- All Fish - 2 Pole and Line Fishing Only (1)
- Bluegill or Redear Sunfish - 8" Minimum Length Limit
- Bluegill or Redear Sunfish (14) - 10 Fish Daily Creel Limit
- Channel Catfish - 6 Fish Daily Creel Limit
- Large or Smallmouth Bass - 12-15" Slot Length Limit (3)

Walton Park Lake, City of Litchfield

Montgomery County

- All Fish - 2 Pole and Line Fishing Only (1)
- Bluegill or Redear Sunfish - 8" Minimum Length Limit
- Bluegill or Redear Sunfish (14) - 10 Fish Daily Creel Limit
- Channel Catfish - 6 Fish Daily Creel Limit
- Large or Smallmouth Bass - 15" Minimum Length Limit
- Large or Smallmouth Bass (14) - 3 Fish Daily Creel Limit

Wampum Lake, Cook County Forest Preserve District

Cook County

- All Fish - 2 Pole and Line Fishing Only (1) (36)
- Bluegill or Redear Sunfish - Catch and Release Only (9)
- Large or Smallmouth Bass - 14" Minimum Length Limit

Washington County Lake, Washington County Conservation Area

Washington County

- All Fish - 2 Pole and Line Fishing Only (1) (5)
- Channel Catfish - 6 Fish Daily Creel Limit
- Large or Smallmouth Bass - 14" Minimum Length Limit
- Striped, White, or Hybrid Striped Bass - 17" Minimum Length Limit
- Striped, White, or Hybrid Striped Bass - 3 Fish Daily Creel Limit
- (16)

Washington Park Lagoon, Chicago Park District

Cook County

- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 4 Fish Daily Creel Limit

Washington Park Pond, Springfield Park District

Sangamon County

- All Fish - 2 Pole and Line Fishing Only (1)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Channel Catfish	- 3 Fish Daily Creel Limit
Trout	- Fall Closed Season (10)
Trout	- Spring Closed Season (11)
Waverly Lake, City of Waverly	
Morgan County	
All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 15" Minimum Length Limit
Weinberg-King Pond, Weinberg-King State Park	
Schuyler County	
All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit
Weldon Springs Lake, Weldon Springs State Park	
DeWitt County	
All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 15" Minimum Length Limit
Large or Smallmouth Bass (14)	- 1 Fish Daily Creel Limit
West Frankfort New City Lake, City of West Frankfort	
Franklin County	
All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 15" Minimum Length Limit
Large or Smallmouth Bass (14)	- 3 Fish Daily Creel Limit
West Frankfort Old City Lake, City of West Frankfort	
Franklin County	
All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit
West Salem Reservoir, City of West Salem	
Edwards County	
All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 14" Minimum Length Limit

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

White Hall City Lake, City of White Hall

Greene County

- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 6 Fish Daily Creel Limit

| White Oaks Park Lake, City of Bloomington

McLean County

- All Fish - 2 Pole and Line Fishing Only (1)
- | Channel Catfish - 6 Fish Daily Creel Limit
- Large or Smallmouth Bass - 15" Minimum Length Limit
- Large or Smallmouth Bass (14) - 1 Fish Daily Creel Limit

Wilderness Pond, Fox Ridge State Park

Coles County

- Recreational Use Restrictions - Waterfowl Refuge or Hunting Area (19)
- All Fish - 2 Pole and Line Fishing Only (1)
- Bluegill or Redear Sunfish (14) - 5 Fish Daily Creel Limit
- Channel Catfish - 6 Fish Daily Creel Limit
- Large or Smallmouth Bass - 18" Minimum Length Limit
- Large or Smallmouth Bass (14) - 1 Fish Daily Creel Limit

Wildlife Prairie State Park, State of Illinois

Peoria County

- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 6 Fish Daily Creel Limit
- Large or Smallmouth Bass - 12-18" Protected Slot Length Limit (no possession allowed within the protected slot length limit)
- Large or Smallmouth Bass (14) - 3 Fish Daily Creel Limit
- Bluegill or Redear Sunfish (14) - 25 Fish Daily Creel Limit
- White, Black or Hybrid Crappie - 9" Minimum Length Limit
- White, Black or Hybrid Crappie (15) - 25 Fish Daily Creel Limit
- Pure or Hybrid Muskellunge - 42" Minimum Length Limit

William W. Powers Conservation Area (33)

Cook County

Willow Lake, Peabody River King State Conservation Area

St. Clair County

- All Fish - 2 Pole and Line Fishing Only (1)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 15" Minimum Length Limit
Large or Smallmouth Bass (14)	- 3 Fish Daily Creel Limit
White, Black, or Hybrid Crappie (15)	- 25 Fish Daily Creel Limit
White, Black, or Hybrid Crappie	- 9" Minimum Length Limit
Trout	- Fall Closed Season (10)

Wolf Lake, William W. Powers Conservation Area (33)

Cook County

All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 14" Minimum Length Limit

Woodford Co. Cons. Area (Fishing Ditch), Woodford County Conservation Area (33)

Woodford County

All Fish	- 2 Pole and Line Fishing Only (1)
----------	------------------------------------

Woodlawn Pond, Frankfort Square Park District

Will County

All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 15" Minimum Length Limit
Large or Smallmouth Bass (14)	- 1 Fish Daily Creel Limit

Wyman Lake, City of Sullivan

Moultrie County

All Fish	- 2 Pole and Line Fishing Only (1)
Channel Catfish	- 6 Fish Daily Creel Limit
Large or Smallmouth Bass	- 15" Minimum Length Limit
Large or Smallmouth Bass (14)	- 1 Fish Daily Creel Limit
Trout	- Spring Closed Season (11)

Yellow Creek

Stephenson County

Trout	- Spring Closed Season (11)
-------	-----------------------------

(Source: Amended at 29 Ill. Reg. 3955, effective February 24, 2005)

Section 810.70 Free Fishing Days

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

| During the period of June ~~10, 11, 12, 13, 2005~~~~11, 12, 13, 14, 2004~~, it shall be legal for any person to fish in waters wholly or in part within the jurisdiction of the State, including the Illinois portion of Lake Michigan, without possessing a sport fishing license, salmon stamp or inland trout stamp.

(Source: Amended at 29 Ill. Reg. 3955, effective February 24, 2005)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED RULES

- 1) Heading of the Part: Special Wildlife Funds Grant Program
- 2) Code Citation: 17 Ill. Adm. Code 3060
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
3060.10	New Section
3060.20	New Section
3060.30	New Section
3060.40	New Section
3060.50	New Section
3060.60	New Section
3060.70	New Section
3060.80	New Section
- 4) Statutory Authority: Implementing and authorized by Section 805-70 of the Civil Administrative Code [20 ILCS 805/805-70]; Sections 1.28, 1.29, 1.31 and 1.32 of the Wildlife Code [520 ILCS 5/1.28, 1.29, 1.31 and 1.32]; the Habitat Endowment Act [520 ILCS 25]; and the Illinois Non-Game Wildlife Protection Act [30 ILCS 155].
- 5) Effective Date of Rules: February 24, 2005
- 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 Department of Natural Resource's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: November 12, 2004; 28 Ill. Reg. 14769
- 10) Has JCAR issued a Statement of Objection to these rules? No
- 11) Differences between proposal and final version:

In Section 3060.20, added the following definition:

"Deadline" means the date stated in this Part or the next business day if the deadline date falls on a Saturday, Sunday or holiday.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED RULES

In the definition for "Project" following "or development", added ", including purchase, lease or other reasonable acquisition of equipment".

In Section 3060.30, made the following changes:

In subsection (b)(1), replaced "publicly announced by the Department" with "August 1".

In subsection (b)(2)(a), following "name", added "and address".

In subsection (c)(1), added "complete and timely" prior to "applications will be forwarded to" and removed "for funding recommendations".

In subsection (c)(2), removed "and prioritize", added "presented to it" following "application", removed "the following", added "such as" prior to the colon, removed "completed application,", replaced "for" with "of" following "priority", and added ", along with any dissent from the Committee's recommendation" following "Habitat Fund".

In Section 3060.40:

In subsection (b)(1), replaced "publicly announced by the Department" with "August 1".

In subsection (b)(2)(A), following "name", added "and address".

In Section 3060.50:

In subsection (a)(1), replaced the comma following "institutions" with "or", removed "or universities", and removed the period.

In subsection (b)(1), replaced "publicly announced by the Department" with "March 1".

In subsection (b)(2), added "and address" following "name".

In Section 3060.60:

In subsection (b)(1), replaced "publicly announced by the Department" with "January 1".

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED RULES

In subsection (b)(2), added "and address" following "name".

In Section 3060.70:

In subsection (b)(1), replaced "publicly announced by the Department" with "April 1".

In subsection (b)(2)(A), added "and address" following "name".

In subsection (c)(1), removed "postmarked no later than the application deadline date".

In Section 3060.80:

In subsection (a)(1), replaced "All grant recipients shall enter into an agreement in form and substance acceptable to the Department" with "Agreement".

Following subsection (a)(1), added subsections (A) through (B)(ix).

In subsection (a)(1)(4), replaced "a description of project accomplishments and the locations and dates where the project was accomplished and shall detail all obligations and expenditures made under the grant agreement. The Final Report is to be in the form and substance acceptable to the Department" with "all of the following required information:".

Following subsection (a)(4)(A), added subsections (i) through (ix).

In subsection (a)(4)(B), added "The" prior to "Annual", replaced "Reports" with "Report", and removed "The Annual Progress Report is to be in form and substance acceptable to the Department.".

In subsection (a)(4)(C), replaced "in a timely fashion" with "as required in subsection (a)(4)(A)".

In subsection (a)(5)(B), replaced "30-60" with "60".

In subsection (b)(6), replaced "a written log" with "an Equipment Use Report", replaced "any" with "all", and replaced "The written log shall be in form and substance acceptable to the Department. The written log shall include a

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED RULES

description of the location and type of habitat management accomplished, the cooperator's name and a quantitative measure of the equipment usage. This written log shall be submitted by December 31 during each of the first 5 years following the project award. These written logs shall suffice as the Annual Progress Reports required in subsection (a)(4)(b) if the equipment purchase was the only aspect of the project." with "The Equipment Use Report shall include all of the following required information:".

Following subsection (b)(6), added subsections (A), (B), and (C).

Added new subsection 3060.80(b)(7) and relabeled the following 2 subsections to (8) and (9).

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rules currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and purpose of rulemaking: This Part contains the administrative procedures for the Special Funds Grant Program. This grant program provides a variety of grants to managers of land, governmental entities, researchers, nonprofit organizations and individuals for the purpose of enhancing certain game and non-game wildlife habitat, land acquisition and education.
- 16) Information and questions regarding these adopted rules shall be directed to:

Jack Price, Legal Counsel
Department of Natural Resources
One Natural Resources Way
Springfield IL 62702-1271

217/782-1809

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

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED RULES

TITLE 17: CONSERVATION
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES
SUBCHAPTER g: GRANTSPART 3060
SPECIAL WILDLIFE FUNDS GRANT PROGRAM

Section

3060.10	Overview
3060.20	Definitions
3060.30	Illinois Habitat Fund Grant Program
3060.40	State Pheasant Fund Grant Program
3060.50	State Furbearer Fund Grant Program
3060.60	State Migratory Waterfowl Stamp Fund Grant Program
3060.70	Illinois Wildlife Preservation Fund Grant Program
3060.80	General Requirements

AUTHORITY: Implementing and authorized by Section 805-70 of the Civil Administrative Code [20 ILCS 805/805-70]; Sections 1.28, 1.29, 1.31 and 1.32 of the Wildlife Code [520 ILCS 5/1.28, 1.29, 1.31 and 1.32]; the Habitat Endowment Act [520 ILCS 25]; and the Illinois Non-Game Wildlife Protection Act [30 ILCS 155].

SOURCE: Adopted at 29 Ill. Reg. 4042, effective February 24, 2005.

Section 3060.10 Overview

- a) The Department of Natural Resources receives fees derived from the sale of State Habitat Stamps and State Migratory Waterfowl Stamps and through a voluntary check-off designation on State income tax return forms. These monies are deposited in several funds: Illinois Habitat Fund, State Pheasant Fund, State Furbearer Fund, State Migratory Waterfowl Stamp Fund and the Illinois Wildlife Preservation Fund. These funds are to be used by the Department in accordance with the statutes that establish the funds.
- b) The Special Wildlife Funds Grant Program provides a variety of grants from the Special Wildlife Funds to managers of land, governmental entities, researchers, nonprofit organizations and individuals for the purpose of enhancing game and non-game wildlife habitat; land acquisition; and education. Special Wildlife Funds may also be used in accordance with applicable statutes for projects and activities undertaken by the Department. This Part does not limit, affect or apply

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED RULES

to the authority of the Department to use the Special Wildlife Funds for its own projects and activities in accordance with applicable statutes.

Section 3060.20 Definitions

"Appropriate Not-For-Profit Organization" means a not-for-profit organization authorized to conduct affairs in Illinois with one of its purposes as stated in its Articles of Incorporation or Bylaws being the support, development, conservation or promotion of wild pheasants (State Pheasant Fund), wild waterfowl (State Migratory Waterfowl Stamp Fund) or wild fur-bearing mammals (State Furbearer Fund), or the management of habitat for future generations (Illinois Habitat Fund).

"Cooperator" means any landowner participating in the benefits from a Special Wildlife Funds grant. The cooperator may or may not be enrolled in a federal or State conservation program that is also to be receiving a benefit from a Special Wildlife Funds grant.

"Deadline" means the date stated in this Part or the next business day if the deadline date falls on a Saturday, Sunday or holiday.

"Department" means the Illinois Department of Natural Resources.

"Director" means the Director of the Department.

"Enhance" means to make better in quality or value.

"Farm Program" means any State or federal program that provides financial incentives to landowners who participate in conservation programs intended to reduce erosion, guard streams and rivers, restore and establish wildlife habitat and improve air and water quality, such as the U.S. Department of Agriculture's Conservation Reserve and Wetland Reserve Programs, the Department's Conservation Reserve Enhancement Program, etc.

"Grantee" means the successful applicant for funding of a project from one of the Special Wildlife Funds.

"Habitat" means all wetlands, woodlands, grasslands and agricultural lands, natural or altered, that support or have the potential to support populations of wild animals in any or all phases of their life cycles.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED RULES

"Manage" means to direct or control the use of.

"Managers of Land" means any appropriate not-for-profit organization or governmental agency that has the expertise, the equipment, adequate staff/workforce and permission from the landowner (if applicable) to develop and/or manage habitat.

"Mississippi Flyway" means the states of Minnesota, Wisconsin, Michigan, Ohio, Indiana, Illinois, Iowa, Missouri, Arkansas, Kentucky, Tennessee, Alabama, Mississippi and Louisiana and the Canadian provinces of Saskatchewan, Manitoba and Ontario.

"Non-Game Wildlife" means any wildlife species that are not commonly pursued, killed, or consumed either for sport or profit, except house sparrow, European starling, domestic pigeon and species not indigenous to the State of Illinois.

"North American Waterfowl Management Plan" is a coordinated effort by individuals, organizations and agencies of the three countries (Canada, U.S. and Mexico) to conserve wetlands and increase waterfowl and wetland bird populations. It promotes joint ventures that are partnerships that protect, restore and enhance wetlands, uplands and riparian areas; manage habitat for waterfowl, shorebirds, non-waterfowl migratory birds and endangered species; improve water quality through watershed protection; and seek profitable agriculture and abundant wildlife.

"Person" means any individual, group, organization or entity.

"Perpetuate" means to prolong the existence of non-game wildlife and/or native plant resources through direct activities or through educating members of the general public on protection and preservation of these life forms.

"Preserve" means to maintain in safety from injury, peril or harm and to keep in perfect or unaltered condition and maintain unchanged.

"Project" means a proposal and follow-up activity for a habitat acquisition or development, including purchase, lease or other reasonable acquisition of equipment or education project as described on the application for assistance from one of the Special Wildlife Funds.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED RULES

"Protect" means to keep from being damaged, attacked, stolen or injured.

"Public Access" means the right of the general public to approach, enter, exit or make use of.

"Public Use" means the right of the general public to utilize, with or without paying a fee.

"Special Wildlife Funds" means the Illinois Habitat Fund, State Pheasant Fund, State Furbearer Fund, State Migratory Waterfowl Stamp Fund or the Illinois Wildlife Preservation Fund.

"Wildlife" means any fauna living in a natural state without the direct care of man (i.e., captive, cultivated, etc.).

Section 3060.30 Illinois Habitat Fund Grant Program

- a) Eligibility Requirements
 - 1) Eligible recipients are limited to managers of land.
 - 2) Eligible projects are limited to those seeking to preserve, protect, acquire or manage habitat in Illinois.
- b) Application Procedures
 - 1) Grant applications for funding assistance under this program shall be submitted to the Department at One Natural Resources Way, Springfield, Illinois 62702-1271, Attention: Office of Resource Conservation. The application deadline will be August 1. Application forms and instructions are available through the Department. Applications received after the application deadline will be returned to the applicant and not considered by the Department.
 - 2) Applications shall contain all of the following required information:
 - A) the name and address of the applicant
 - B) the name of a contact person

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED RULES

- C) a daytime telephone number and e-mail address (if available) for a contact person
 - D) a comprehensive project description with justification, including:
 - i) wildlife to benefit from the project
 - ii) plan for implementation
 - iii) map of project area
 - iv) amount of habitat to be established or managed, including species to be planted or eliminated
 - v) if with cooperators, plat map showing each property to be developed and a copy of a farm program contract for each committed cooperator involved in the project or estimated acreage. (Committed cooperators will be given priority over estimated acreage.)
 - E) comprehensive plan for the operation and maintenance of the project, including supervision, estimated costs (including any and all fees) and storage location, if applicable
 - F) a comprehensive funding/budget summary, including:
 - i) actual cash contributions other than the grant amount
 - ii) documented purchase price of equipment or commodities
 - G) description of plan for general public access or use (or lack thereof)
 - H) signature of the applicant or authorized individual for applicant
- c) Project Evaluation and Procedures
- 1) All applications received on time and containing the information required by the application packet will be reviewed by Department staff. Incomplete applications will be returned to the applicant for completion

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED RULES

and resubmittal. Submitting an incomplete application does not extend the application deadline beyond the designated deadline date. All complete and timely applications will be forwarded to the Illinois Habitat Fund Advisory Committee.

- 2) The Illinois Habitat Fund Advisory Committee shall evaluate each application presented to it according to criteria such as: past grant performance of the applicant, eligibility, feasibility, adverse impacts, quality of the proposed habitat, priority of the Department, the applicant's cost-share match and the applicant's plan for general public access to and/or use of the proposed habitat development or equipment purchase. The Committee shall provide to the Director all applications and a prioritized list of recommended projects deemed to be consistent with the purposes of the Illinois Habitat Fund, along with any dissent from the Committee's recommendation.
- 3) The Director shall make the determination of what grants shall be awarded after considering the recommendations of the Illinois Habitat Fund Advisory Committee. Applicants shall be notified of the Director's decision.

Section 3060.40 State Pheasant Fund Grant Program

- a) Eligibility Requirements
 - 1) Eligible recipients are limited to appropriate not-for-profit organizations.
 - 2) Eligible projects are limited to projects with the purpose of wild pheasant conservation. The projects may include land acquisition, pheasant habitat improvement on public or private land, pheasant research or education of the public regarding pheasants and pheasant hunting.
- b) Application Procedures
 - 1) Grant applications for funding assistance under this program shall be submitted to the Department at One Natural Resources Way, Springfield, Illinois 62702-1271, Attention: Office of Resource Conservation. The application deadline will be August 1. Application forms and instructions are available through the Department. Applications received after the

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED RULES

deadline will be returned to the applicant and not considered by the Department.

- 2) Applications shall contain all of the following required information:
 - A) the name and address of the applicant
 - B) the name of a contact person
 - C) a daytime telephone number and e-mail address (if available) for a contact person
 - D) a comprehensive project description with justification, including:
 - i) plan for implementation
 - ii) map of project area
 - iii) number of acres to be improved
 - iv) amount of habitat to be established or managed, including species to be planted or eliminated
 - v) if with cooperators, plat map showing each property to be developed and copy of a farm program contract for each committed cooperator involved in the project or estimated acreage. (Committed cooperators will be given priority over estimated acreage.)
 - vi) target audience for education projects, with objectives, methodology, measurable outcomes and products resulting from the project that can be used after completion
 - E) comprehensive plan for the operation and maintenance of the project, including supervision, estimated costs (including any and all fees) and storage location, if applicable
 - F) a comprehensive funding/budget summary, including:
 - i) actual cash contributions other than the grant amount

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED RULES

- ii) documented purchase price of equipment or commodities
 - G) description of plan for general public access or use (or lack thereof)
 - H) signature of the applicant or authorized individual for applicant
- c) Project Evaluation and Procedures
 - 1) All applications received on time and containing the information required by the application packet will be reviewed by Department staff. Incomplete applications will be returned to the applicant for completion and resubmittal. Submitting an incomplete application does not extend the application deadline beyond the designated deadline date. All applications will be forwarded to the State Pheasant Committee for funding recommendations.
 - 2) The State Pheasant Committee shall evaluate and prioritize each application according to the following criteria: completed application, past grant performance of the applicant, eligibility, feasibility, adverse impacts, quality of the proposed habitat, priority for the Department, the applicant's cost-share match and the applicant's plan for general public access to and/or use of the proposed habitat development or equipment purchase. The Committee shall provide to the Director all applications and a prioritized list of recommended projects deemed to be consistent with the purposes of the State Pheasant Fund.
 - 3) The Director shall make the determination of what grants shall be awarded after considering the recommendations of the State Pheasant Committee. Applicants shall be notified of the Director's decision.

Section 3060.50 State Furbearer Fund Grant Program

- a) Eligibility Requirements
 - 1) Eligible recipients are limited to appropriate not-for-profit organizations, governmental entities, educational institutions or corporations.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED RULES

- 2) Eligible projects are limited to those that educate hunters and trappers of fur-bearing mammals within the State and the general public concerning the role that hunting and trapping has upon fur-bearing mammal management, concerning the laws associated with the harvesting of fur-bearing mammals; the techniques used in the hunting and trapping of fur-bearing mammals; the conservation, management and ecology of fur-bearing mammals; and the promotion of products made from wild fur-bearing mammals.
- b) Application Procedures
- 1) Grant applications for funding assistance under this program shall be submitted to the Department at One Natural Resources Way, Springfield, Illinois 62702-1271, Attention: Office of Resource Conservation. The application deadline will be March 1. Application forms and instructions are available through the Department. Applications received after the deadline will be returned to the applicant and not considered by the Department.
 - 2) Applications shall contain all of the following required information:
 - A) the name and address of the applicant
 - B) the name of a contact person
 - C) a daytime telephone number and e-mail address (if available) for a contact person
 - D) a comprehensive project description with justification, including:
 - i) furbearers to benefit from the project
 - ii) the target audience, with objectives, methodology, measurable outcomes and products resulting from the project that can be used after completion
 - E) a comprehensive funding/budget summary, including:
 - i) actual cash contributions other than the grant amount

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED RULES

- ii) documented purchase price of equipment or commodities
- F) signature of the applicant or authorized individual for applicant
- c) Project Evaluation and Procedures
 - 1) All applications received on time and containing the minimum required information will be reviewed by Department staff. Incomplete applications will be returned to the applicant for completion and resubmittal. Submitting an incomplete application does not extend the application beyond the application deadline. All applications will be forwarded to the State Furbearer Committee for funding recommendations.
 - 2) The State Furbearer Committee shall evaluate and prioritize each application according to the following criteria: completed application, past grant performance of the applicant, eligibility, feasibility, adverse impacts, priority for the Department and the applicant's cost-share match. The Committee shall provide to the Director all applications and a prioritized list of recommended projects deemed to be consistent with the purposes of the State Furbearer Fund.
 - 3) The Director shall make the determination of what grants shall be awarded after considering the recommendations of the State Furbearer Committee. Applicants shall be notified of the Director's decision.

Section 3060.60 State Migratory Waterfowl Fund Grant Program

- a) Eligibility Requirements
 - 1) Eligible recipients are limited to appropriate not-for-profit organizations.
 - 2) Eligible projects are limited to development of waterfowl propagation areas within the Dominion of Canada or the United States that specifically provide waterfowl for the Mississippi Flyway and projects to implement the North American Waterfowl Management Plan for the development of waterfowl areas within the Dominion of Canada or the United States that specifically provide waterfowl for the Mississippi Flyway.
- b) Application Procedures

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED RULES

- 1) Grant applications for funding assistance under this program shall be submitted to the Department at One Natural Resources Way, Springfield, Illinois 62702-1271, Attention: Office of Resource Conservation. The application deadline will be January 1. Application forms and instructions are available through the Department. Applications received after the deadline will be returned to the applicant and not considered by the Department.
- 2) Applications shall contain all of the following required information:
 - A) the name and address of the applicant
 - B) the name of a contact person
 - C) a daytime telephone number and e-mail address (if available) for a contact person
 - D) a comprehensive project description with justification, including:
 - i) waterfowl to benefit from the project
 - ii) plan for implementation
 - iii) map of project area
 - iv) number of acres to be improved
 - v) if with cooperators, plat map showing each property to be developed and copy of a farm program contract for each committed cooperator involved in the project or estimated acreage. (Committed cooperators will be given priority over estimated acreage.)
 - vi) evidence the project is acceptable to the appropriate governmental entity having jurisdiction over the lands and waters affected by the project

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED RULES

- E) comprehensive plan for the operation and maintenance of the project, including supervision, estimated costs (including any and all fees) and storage location, if applicable
 - F) a comprehensive funding/budget summary, including:
 - i) actual cash contributions other than the grant amount
 - ii) documented purchase price of equipment or commodities
 - G) description of plan for general public access or use (or lack thereof)
 - H) signature of the applicant or authorized individual for applicant
- c) Project Evaluation and Procedures
- 1) All applications received on time and containing the minimum required information will be reviewed by Department staff. Incomplete applications will be returned to the applicant for completion and resubmittal. Submitting an incomplete application does not extend the application beyond the application deadline. All applications will be forwarded to the State Duck Stamp Committee for funding recommendations.
 - 2) The State Duck Stamp Committee shall evaluate and prioritize each application according to the following criteria: completed application, past grant performance of the applicant, eligibility, feasibility, adverse impacts, quality of the proposed habitat, priority for the Department, the applicant's cost-share match and the applicant's plan for general public access to and/or use of the proposed habitat development or equipment purchase. The Committee shall provide to the Director all applications and a prioritized list of recommended projects deemed to be consistent with the purposes of the State Migratory Waterfowl Stamp Fund.
 - 3) The Director shall make the determination of what grants shall be awarded after considering the recommendations of the State Duck Stamp Committee. Applicants shall be notified of the Director's decision.

Section 3060.70 Illinois Wildlife Preservation Fund Grant Program

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED RULES

- a) Eligibility Requirements
 - 1) Eligible recipients are limited to persons.
 - 2) Eligible projects are limited to those seeking to preserve, protect, perpetuate or enhance non-game wildlife and/or native plant resources in Illinois through research, management or education.
 - 3) Grants shall be limited to a maximum of \$2,000.
- b) Application Procedures
 - 1) Grant applications for funding assistance under this program shall be submitted to the Department at One Natural Resources Way, Springfield, Illinois 62702-1271, Attention: Office of Resource Conservation. The application deadline will be April 1. Application forms and instructions are available through the Department. Applications received after the deadline will be returned to the applicant and not considered by the Department.
 - 2) Applications shall contain all of the following required information:
 - A) the name and address of the applicant
 - B) the name of a contact person
 - C) a daytime telephone number and e-mail address (if available) for a contact person
 - D) a comprehensive project description with justification, including:
 - i) species to be preserved, protected, perpetuated or enhanced
 - ii) plan for implementation, operation and maintenance
 - iii) property location and map of property and any neighboring habitat linkage, if applicable
 - iv) number of acres to be improved, preserved or protected

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED RULES

- E) a comprehensive funding/budget summary, including:
 - i) actual cash contributions other than the grant amount
 - ii) labor equity contributions
 - iii) documented price of equipment or commodities
 - F) signature of the applicant or authorized individual for applicant
- c) Project Evaluation and Procedures
- 1) All applications received on time, and containing the minimum required information will be reviewed by Department staff. Incomplete applications will be returned to the applicant for completion and resubmittal. Submitting an incomplete application does not extend the application beyond the application deadline. Department staff will select those projects that they determine best fit the purposes of the fund and prepare a prioritized list of projects recommended for funding. Staff will consider the following in making recommendations: completed application, deadline met, past grant performance of applicant, eligibility, feasibility, habitat quality on the property, adverse impacts and priority for the Department.
 - 2) The Director shall make the determination of what grants shall be awarded. Applicants shall be notified of the Director's decision.

Section 3060.80 General Requirements

- a) Grant Compliance
 - 1) Agreement
 - A) When a grant has been awarded, the grantee and the Director of the Department, or the Director's designee on behalf of the Department, shall execute an agreement. In order for the costs to be eligible for funding, the project must not be initiated and costs shall not be incurred prior to the time the Department approves the application.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED RULES

- B) The agreement shall contain substantive provisions including, but not limited to, the following:
- i) a recitation of legal authority pursuant to which the agreement is made
 - ii) an identification of the project scope and schedule and the work or services to be performed or conducted by the grantee
 - iii) an identification of the grant amount
 - iv) the condition and manner by which the Department shall pay the grant amount, subject at all times to annual appropriation by the General Assembly
 - v) the irrevocable promise by the grantee to pay the local match (if any) of the total project cost
 - vi) a promise by the grantee not to assign or transfer any of the rights, duties or obligations of the grantee without the written consent of the Department
 - vii) a promise by the grantee not to amend the agreement without the written consent of the Department; failure to do so will result in a cost disallowance; the project must be completed by the completion date on the notice of grant award unless a written request for an extension is submitted no later than 30 days prior to the award completion date
 - viii) a covenant that the grantee shall expend the grant award and any accrued interest only for the purposes of the project as stated in the application and approved by the Department
 - ix) a covenant that the grantee shall refrain from entering into any written or oral agreement or understanding with any party that might be construed as an obligation of the State of Illinois or the Department for the payment of any funds under the Special Wildlife Funds Grant Program

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED RULES

- 2) Grant funds for projects approved through the Special Wildlife Funds Grant Program may be made available for expenditure by a grantee for a period no longer than 2 years, except where such grant funds are disbursed in reimbursement of costs previously incurred by the grantee.
- 3) Acknowledgment of Funding Source
 - A) The grantee shall give proper credit to the appropriate Special Wildlife Fund and coordinate with the Department on any publication, written document, news article, television and radio release, interview or personal presentation, if initiated by the grantee, which refers to the project.
 - B) The grantee shall post a sign, include a logo or affix a decal, if practical and applicable, crediting the applicable Special Wildlife Fund. Signs and decals shall be supplied by the Department. The appropriate Advisory Committee will provide guidance to the grantee for posting of signs and decals on projects awarded under its Special Wildlife Fund.
- 4) Reporting Requirements
 - A) A grantee shall provide a written Final Report to the Department no later than 30 days following the ending date of the agreement. The Final Report shall include all of the following required information:
 - i) project information including:
 - grant agreement number
 - grantee name, address and telephone number
 - time-frame of the report
 - name and telephone number or e-mail address of grantee representative completing the report

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED RULES

- ii) project objective as described in the application and grant agreement
- iii) completed project description
- iv) summary of the project accomplishments involving habitat preserved, protected, acquired, managed or improved (if applicable) through the grant, including:
 - list of wildlife and/or native plant resources (by species) that benefitted from the project and how they benefitted
 - acres planted in cool season grasses, warm season grasses, forbs, legumes, shrubs, trees or other appropriate description, including whether the acres were new or replanted acres
 - acres sprayed or controlled through the use of herbicides
 - acres upon which controlled burns were undertaken
 - acres affected through woody vegetation and/or tree removal
 - acres planted, disked, mowed, sprayed, or burned, or trees/shrubs planted or removed with equipment purchased through the grant
 - number of cooperators involved in the project
- v) summary of the project accomplishments for the education of the general public (if applicable) through the grant, including:
 - list of wildlife and/or native plant resources (by species) that benefitted from the project and how they benefitted
 - specific audience affected
 - measurable outcomes achieved

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED RULES

list of products resulting from the project

- vi) summary of the project research accomplishments (if applicable) resulting from the grant, including:

list of wildlife and/or native plant resources (by species) that benefitted from the research undertaken in the project and how they benefitted

how such research can be implemented to benefit the targeted wildlife and/or native plant resources

- vii) total project expenditures itemized to include the following:

name and address of vendor

item description identifying details (if applicable) such as:

make, model, serial number of any equipment or commodities purchased

brand name, seed species/mix

quantity purchased

date item purchased

- viii) project expenditures paid by funds other than Special Wildlife Grant Funds

- ix) documentation to support summarized report including a complete list of landowner names and full address (note if absentee owner), acreage location and acres affected by the project. Multiple conservation practices on the same acreage does not multiply the acreage

- B) For multiple year projects, the Department may require the grantee to submit an Annual Progress Report for each year during which the project is active. The Annual Progress Report shall include the

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED RULES

same information listed in subsection (a)(4)(A) for the Final Report as pertains to the current year.

- C) Failure to provide the Final Report or Annual Progress Report as required in subsection (a)(4)(A) may render the grantee ineligible to receive payments under the current award or make them ineligible for future awards. Deadlines for reports may be extended for just cause when requests are submitted in writing at least 2 weeks prior to the deadline.
- 5) Financial Management
- A) The grantee shall keep adequate records relating to its administration of a project, particularly relating to all incurred costs. All assets acquired through Special Wildlife Funds shall be accounted for. These records shall be available for audit by appropriate personnel of the Department and the State Auditor General. All records shall be retained in accordance with State laws.
 - B) Any funds (including any interest earned) not expended or legally obligated at the completion of the project or at the end of the agreement, whichever is earlier, shall be returned to the Department within 45 days to be deposited in the applicable Special Wildlife Fund. If the purchase is initiated and documented by a written purchase order or invoice prior to the end of the term of the agreement and payment is made within 60 days, the expense is allowable.
 - C) Interest earned on funds received as an advance payment shall become part of the project principal and may only be used for eligible activities.
 - D) Any expenditure that does not comply with the grant agreement shall be disallowed and shall be returned to the Department for deposit into the applicable Special Wildlife Fund.
- 6) Whenever a grantee violates this Part, it shall be ineligible for further assistance for a period of 2 years.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED RULES

- b) Equipment
- 1) Equipment that specifically establishes habitat, such as native grass drills, tree planters, seeders, sprayers, tillers, disks, mowers and tractors are eligible to be purchased with Special Wildlife Funds. Vehicles such as trucks, all-terrain vehicles (ATVs), etc., are not eligible for Special Wildlife Funds.
 - 2) Grantees will be responsible for the maintenance of any equipment purchased through the Special Wildlife Funds Grant Program.
 - 3) Equipment is to be kept safe and secure by the grantee.
 - 4) Equipment is to be available for use by the general public for habitat development and management.
 - 5) The grantee may charge a fee for the use of the equipment. Rental fees shall not exceed \$3/acre for habitat development equipment such as native grass drills, tree planters, seeders, sprayers, tillers, disks, mowers, tractors or other planting equipment purchased with Special Wildlife Funds. Rental fees shall be disclosed with the application for funding assistance in purchasing the equipment. All monies collected as rental fees shall be used solely to maintain the equipment for which they are charged. The rental fees charged and received by the grantee shall also be disclosed on the reporting of the use of that equipment. No other fees beyond a rental fee may be charged by the grantee for use of the equipment.
 - 6) The grantee shall submit an Emergency Use Report on the use of all equipment purchased with Special Wildlife Funds. The Equipment Use Report shall include all of the following required information:
 - A) Details on the grant recipient including:
 - i) name and address of the grantee
 - ii) number of the grant agreement under which the equipment was purchased
 - iii) name and telephone number or e-mail address of the person completing the report

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED RULES

- iv) time period covered by the Equipment Use Report
- B) Details on the piece of equipment including:
- i) equipment type, model number and serial number
 - ii) storage location address
 - iii) acre or odometer meter reading at the beginning and ending of the reporting period
 - iv) contact person name and telephone number
 - v) rental rate charged and total fees collected for the use of the equipment
 - vi) description of any equipment maintenance and total expenditures for maintenance, supported by paid invoices
- C) Detailed information on the use of the equipment, including:
- i) date equipment was used
 - ii) location of equipment use, including county, township, range and section
 - iii) landowner name and full address (note if absentee owner)
 - iv) description of how equipment was used including:
 - management practice completed (planting, disking, mowing, herbicide application, prescribed burn)
 - materials planted, if applicable, including the quantity and species planted and details of seed mix contents

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED RULES

- acres established, enhanced, or otherwise affected and how affected (note when multiple practices are on the same acres)
- 7) The Equipment Use Report shall be submitted by December 31 during each of the first 5 years following the project award. The Equipment Use Report shall suffice as the Annual Progress Report required in subsection (a)(4)(B) if the equipment purchase was the only aspect of the project.
 - 8) Equipment purchased shall become the property and the responsibility of the grantee unless specified otherwise in the agreement.
 - 9) Whenever it has been determined by the grantee and the Department that equipment acquired with Special Wildlife Funds assistance is no longer needed for the project purpose, or that the grantee has other good cause, the equipment, with the approval of the Department, may be disposed of in accordance with one of the following methods:
 - A) Equipment may be transferred at no charge at any time with the approval of the Department to another governmental agency or not-for-profit organization to use in accordance with the original project purpose.
 - B) Equipment held more than 5 years may be retained, sold or otherwise disposed of with no further obligation to the Department.
 - C) When equipment is held less than 5 years and not transferred in accordance with subsection (b)(8)(A), the grantee shall forfeit its interest in the equipment and shall deliver the equipment to the Department.
- c) Habitat Development
- 1) On habitat development projects where other governmental or private funding programs are involved, the grantee is required to provide the following detailed information:
 - A) cooperator names and addresses and locations of the habitat affected (Township, Range, Section and County);

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED RULES

- B) number of acres enhanced by the grant;
 - C) type of eligible conservation practice completed;
 - D) the funding amount of other cost sharing provided and the name of the cost share provider;
 - E) a copy of any farm program contract or other pertinent document identifying the amount of cost-share being provided; and
 - F) length of time committed to maintain the developed habitat area.
- 2) The grantee cannot charge fees for service or require membership to participate in the benefits of a project funded through Special Wildlife Fund grants except as specifically authorized by this Part.
 - 3) Habitat development projects are to identify the species to be planted.
- d) Inspection and Auditing of Projects
- 1) The Department shall be authorized to enter and cross properties affected by the Special Wildlife Funds grant program to inspect progress and monitor grantee compliance, in accordance with the authorities granted it through the Civil Administrative Code of Illinois [20 ILCS 805/805-530].
 - 2) The Department shall develop a standardized inspection report for use by Department personnel when inspecting any project site. The inspection report shall become part of the public record.

DEPARTMENT OF PUBLIC AID

NOTICE OF ADOPTED RULES

- 1) Heading of the Part: Pharmaceutical Assistance Program
- 2) Code Citation: 89 Ill. Adm. Code 119
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
119.10	New Section
119.20	New Section
119.30	New Section
119.40	New Section
119.50	New Section
119.60	New Section
119.70	New Section
119.80	New Section
119.90	New Section
119.100	New Section
119.110	New Section
119.120	New Section
119.130	New Section
119.140	New Section
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13] and Executive Order 2004-3
- 5) Effective Date of Rules: February 25, 2005
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these rules contain incorporations by reference? No
- 8) A copy of the adopted rules, including any materials incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: October 15, 2004; 28 Ill. Reg. 13708
- 10) Has JCAR issued a Statement of Objection to these rules? No
- 11) Differences Between Proposal and Final Version: Throughout these rules, "this program" has been changed to "this Program" in some instances.

DEPARTMENT OF PUBLIC AID

NOTICE OF ADOPTED RULES

Throughout these rules, "beneficiary" has been changed to "Beneficiary" in some instances.

Section 119.20

The definition of "Card" has been revised to read:

"Card" means an identification card issued to a Beneficiary by the Department of Revenue prior to January 1, 2001, a Pharmaceutical Assistance Card issued to a Beneficiary by the Department of Revenue on and after January 1, 2001, and a Pharmaceutical Assistance Card issued to a Beneficiary by the Department on Aging on and after July 1, 2004.

In the definition of "Claim", both occurrences of "IDOR" have been deleted.

Section 119.30

In subsection (g)(1), "Alppha-Adrenergic" has been changed to "Alpha-Adrenergic".

In subsection (j), "January 1, 2001" has been changed to "January 1, 2004".

Section 119.40

The end of the first sentence has been changed from ". . .under that Act." to ". . .under the Medicare Modernization Act."

Section 119.50

In subsection (b)(2), "Section 119.50(d)(2)" has been changed to "Section 119.60(d)(2)".

Section 119.100

In subsection (a), "instrumentally" has been changed to "instrumentality".

Section 119.110

At the end of the Section, "requirement" has been changed to "requirements".

DEPARTMENT OF PUBLIC AID

NOTICE OF ADOPTED RULES

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will these rules replace emergency rules currently in effect? Yes
- 14) Are there any other rules pending on this Part? No
- 15) Summary and Purpose of Rules: This rulemaking establishes the Pharmaceutical Assistance Program, which is designed to enable low-income senior citizens and disabled persons to afford medication for the treatment of specified medical conditions. The Program, which was initially administered by the Department of Revenue, was transferred to the Department of Public Aid and the Department on Aging by Executive Order 2004-3, effective July 1, 2004. Under the Act, the Department has undertaken reimbursement-related activities, while the Department on Aging is responsible for screening and eligibility determinations. However, under Section 119.40, the Department may auto-enroll eligible beneficiaries with a Medicare discount card sponsor authorized under the federal Medicare Modernization Act of 2003 (Public Law 108-391) if the member is potentially eligible for Transitional Assistance under the Act. This will allow the coordination of the members' Medicare prescription drug benefit coverage with coverage under the Pharmaceutical Assistance Program.
- 16) Information and questions regarding these adopted rules shall be directed to:

Joanne Scattoloni
Office of the General Counsel, Rules Section
Illinois Department of Public Aid
201 South Grand Avenue East, Third Floor
Springfield, Illinois 62763-0002

(217) 524-0081

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

DEPARTMENT OF PUBLIC AID

NOTICE OF ADOPTED RULES

TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF PUBLIC AID
SUBCHAPTER b: ASSISTANCE PROGRAMSPART 119
PHARMACEUTICAL ASSISTANCE PROGRAM

Section

119.10	Purpose of the Pharmaceutical Assistance Program
119.20	Definitions
119.30	Covered Prescription Drugs
119.40	Automatic Enrollment of Program Beneficiaries
119.50	Fees and Co-Payments
119.60	Determination of Cost of Covered Prescription Drugs
119.70	Authorized Pharmacy Qualifications
119.80	Assignment and Coordination of Benefits
119.90	Payments to Authorized Pharmacies
119.100	Execution of Contracts
119.110	Limitation on Prescription Size
119.120	Inspection and Disclosure of Records
119.130	Establishment of Liens
119.140	Penalties

AUTHORITY: Implementing the Senior Citizens and Disabled Persons Property Tax Relief and Pharmaceutical Assistance Act [320 ILCS 25] and implementing and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13] and Executive Order 2004-3.

SOURCE: Adopted by emergency rulemaking at 28 Ill. Reg. 13816, effective October 1, 2004, for a maximum of 150 days; adopted at 29 Ill. Reg. 4069, effective February 25, 2005.

Section 119.10 Purpose of the Pharmaceutical Assistance Program

The Senior Citizens and Disabled Persons Property Tax Relief and Pharmaceutical Assistance Act (Act) [320 ILCS 25] provides for the establishment of a program of pharmaceutical assistance to be administered by the Department of Revenue. Executive Order 2004-3 transfers this Program to the Department on Aging and Department of Public Aid, effective July 1, 2004. The purpose for this program is to enable low-income senior citizens and disabled persons to afford medication for the treatment of heart disease and its related conditions, diabetes and arthritis; and, beginning January 1, 2001, cancer, Alzheimer's disease, Parkinson's disease,

DEPARTMENT OF PUBLIC AID

NOTICE OF ADOPTED RULES

glaucoma, lung disease and smoking related illnesses; and, beginning July 1, 2001, osteoporosis; and, beginning January 1, 2004, multiple sclerosis.

Section 119.20 Definitions

The following definitions apply to the terms used in this Part:

"Act" means the Senior Citizens and Disabled Persons Property Tax Relief and Pharmaceutical Assistance Act [320 ILCS 25].

"Additional resident" means any person who is not filing a separate claim for the same claim year under this Act and who is living in the same residence with a claimant and for whom the household has provided more than half of that person's total financial support for a claim year.

"Applicant" means a claimant, any person in a household who has requested pharmaceutical assistance benefits on a claim filed by a claimant and any additional resident who would become a beneficiary if the claim is approved by the Department on Aging.

"Beneficiary" means a person whose claim for pharmaceutical assistance benefits under the Act has been approved by the Department on Aging.

"Card" means an identification card issued to a Beneficiary by the Department of Revenue prior to January 1, 2001, and a Pharmaceutical Assistance Card issued to a Beneficiary by the Department of Revenue on and after January 1, 2001 and a Pharmaceutical Assistance Card issued to a Beneficiary by the Department on Aging on and after July 1, 2004.

"Claim" means an original paper application (Form No. IL-1363, possibly using Schedule A, Schedule B, and/or Schedule P), an amended paper application (Form No. IL-1363-X), or an electronic application filed by a verified Internet Filer for pharmaceutical assistance benefits under the Act.

"Claimant" means a person who has filed a claim for pharmaceutical assistance benefits under the Act [320 ILCS 25/3.01].

"Claim year" means the calendar year prior to the year in which an applicant files a claim for pharmaceutical assistance benefits.

DEPARTMENT OF PUBLIC AID

NOTICE OF ADOPTED RULES

"Coverage year" means the period of time during which a Beneficiary receives pharmaceutical assistance benefits for a claim year.

"Covered prescription drug" means any drug included in the categories listed in Section 119.30 for which the Department on Aging approves a claim for pharmaceutical assistance benefits.

"Current income" means household income for a claim year unless an applicant requests and is allowed by the Department on Aging to use projected income for a coverage year.

"Department" means the Illinois Department of Public Aid.

"Director" means the Director of the Illinois Department of Public Aid.

"Disabled person" means a person who is unable to engage in any substantial gainful activity by reason of medically determinable physical or mental impairment that can be expected to result in death or has lasted or can be expected to last for a continuous period of not less than 12 months. [320 ILCS 25/3.14]

"Disease" means a chronic and possibly recurrent illness of long duration, as distinguished from an acute illness that is of short duration with recovery due to limited medical treatment (such as in the case of colds, flu, pneumonia, bronchitis, or other similar illnesses).

"Electronic application" means the electronic document set forth in subsection (a) of 86 Ill. Adm. Code 530.305.

"Household" means a claimant or a claimant and his or her spouse living together in the same residence. [320 ILCS 25/3.05]

"Household income" means the combined income of the members of a household for a claim year. [320 ILCS 25/3.06]

"Program" means the Pharmaceutical Assistance Program provided for under the Act.

"Projected income" means household income expected to be received for a coverage year.

DEPARTMENT OF PUBLIC AID

NOTICE OF ADOPTED RULES

"Verified Internet Filer" means a person who meets the eligibility qualifications under 86 Ill. Adm. Code 530.310(b) and receives a confirmation number from the Department on Aging acknowledging transmission of a timely filed electronic application.

Section 119.30 Covered Prescription Drugs

- a) Drugs that fall within the following categories and are prescribed by a physician licensed to practice medicine in all of its branches pursuant to the Medical Practice Act [225 ILCS 60], physician assistant licensed pursuant to the Physician Assistant Practice Act [225 ILCS 95], or advanced practice nurse licensed pursuant to Title 15 of the Nursing and Advanced Practice Nursing Act [225 ILCS 65/Title 15] for treatment of heart disease and its related conditions, qualify for inclusion in the Pharmaceutical Assistance Program as covered prescription drugs:
- 1) Antihypertensives
 - 2) Antianginals
 - 3) Antiarrhythmics
 - 4) Antihyperlipidemics
 - 5) Beta Blockers
 - 6) Digitalis Glycosides
 - 7) Hypertension/Shock
 - 8) Diuretics
 - 9) Potassium
 - 10) Anticoagulants
- b) Drugs purchased on or after January 1, 1987, which fall within the following categories and are prescribed by a physician licensed to practice medicine in all of its branches pursuant to the Medical Practice Act, physician assistant licensed

DEPARTMENT OF PUBLIC AID

NOTICE OF ADOPTED RULES

pursuant to the Physician Assistant Practice Act, or advanced practice nurse licensed pursuant to Title 15 of the Nursing and Advanced Practice Nursing Act for the treatment of diabetes, qualify for inclusion in the Pharmaceutical Assistance Program as covered prescription drugs:

- 1) Insulin
 - 2) Insulin, Syringes and Needles
 - 3) Oral Hypoglycemics
 - 4) Pituitary Hormones
 - 5) Glucose Elevators
- c) Drugs purchased on or after January 1, 1987, which fall within the following categories and are prescribed by a physician licensed to practice medicine in all of its branches pursuant to the Medical Practice Act, physician assistant licensed pursuant to the Physician Assistant Practice Act, or advanced practice nurse licensed pursuant to Title 15 of the Nursing and Advanced Practice Nursing Act for the treatment of arthritis, qualify for inclusion in the Pharmaceutical Assistance Program as covered prescription drugs:
- 1) Hormones/Adrenal Cortical Steroids
 - 2) Analgesics/Antirheumatics
 - 3) Analgesics/Nonopiate Agonists
 - 4) Antiprotozoals
 - 5) Penicillamine
 - 6) Analgesics/Narcotic Antagonists: Gout
 - 7) Oncolytic/Antineoplastic: Antimetabolites
 - 8) Immunosuppressives

DEPARTMENT OF PUBLIC AID

NOTICE OF ADOPTED RULES

- d) Drugs purchased on or after January 1, 2001, which fall within the following categories and are prescribed by a physician licensed to practice medicine in all of its branches pursuant to the Medical Practice Act, physician assistant licensed pursuant to the Physician Assistant Practice Act, or advanced practice nurse licensed pursuant to Title 15 of the Nursing and Advanced Practice Nursing Act for the treatment of cancer, qualify for inclusion in the Pharmaceutical Assistance Program as covered prescription drugs:
- 1) Alkylating Agents
 - 2) Antimetabolites
 - 3) Antimitotic Agents
 - 4) Epipodophyllotoxins
 - 5) Antibiotics
 - 6) Hormones
 - 7) Enzymes
 - 8) Platinum Coordination Complexes
 - 9) Anthracenedione
 - 10) Substituted Ureas
 - 11) Methylhydrazine Derivatives
 - 12) Cytoprotective Agents
 - 13) DNA Topoisomerase Inhibitors
 - 14) Biological Response Modifiers
 - 15) Retinoids
 - 16) Monoclonal Antibodies

DEPARTMENT OF PUBLIC AID

NOTICE OF ADOPTED RULES

- 17) Miscellaneous Antineoplastics
 - 18) Narcotic Agonist Analgesics
 - 19) Narcotic Analgesic Combinations
 - 20) Anticonvulsants
- e) Cholinesterase Inhibitor drugs purchased on or after January 1, 2001, which are prescribed by a physician licensed to practice medicine in all of its branches pursuant to the Medical Practice Act, physician assistant licensed pursuant to the Physician Assistant Practice Act, or advanced practice nurse licensed pursuant to Title 15 of the Nursing and Advanced Practice Nursing Act for the treatment of Alzheimer's disease, qualify for inclusion in the Pharmaceutical Assistance Program as covered prescription drugs.
- f) Drugs purchased on or after January 1, 2001, which fall within the following categories and are prescribed by a physician licensed to practice medicine in all of its branches pursuant to the Medical Practice Act, physician assistant licensed pursuant to the Physician Assistant Practice Act, or advanced practice nurse licensed pursuant to Title 15 of the Nursing and Advanced Practice Nursing Act for the treatment of Parkinson's disease, qualify for inclusion in the Pharmaceutical Assistance Program as covered prescription drugs:
- 1) Anticholinergics
 - 2) Amantadine
 - 3) Bromocriptine Mesylate
 - 4) Carbidopa
 - 5) Levodopa
 - 6) Levodopa and Carbidopa
 - 7) Pergolide Mesylate
 - 8) Selegiline Hydrochloride

DEPARTMENT OF PUBLIC AID

NOTICE OF ADOPTED RULES

- 9) Entacapone
 - 10) Tolcapone
 - 11) Dopaminergics
 - 12) Clonazepam
- g) Drugs purchased on or after January 1, 2001, which fall within the following categories and are prescribed by a physician licensed to practice medicine in all of its branches pursuant to the Medical Practice Act, therapeutically certified optometrist licensed pursuant to the Illinois Optometric Practice Act [225 ILCS 80/15.1], physician assistant licensed pursuant to the Physician Assistant Practice Act, or advanced practice nurse licensed pursuant to Title 15 of the Nursing and Advanced Practice Nursing Act for the treatment of glaucoma, qualify for inclusion in the Pharmaceutical Assistance Program as covered prescription drugs:
- 1) Alpha-2 Adrenergic Agonists
 - 2) Sympathomimetics
 - 3) Alpha-Adrenergic Blocking Agents
 - 4) Beta-Adrenergic Blocking Agents
 - 5) Miotics, Direct Acting
 - 6) Miotics, Cholinesterase Inhibitors
 - 7) Carbonic Anhydrase Inhibitors
 - 8) Prostaglandin Agonists
 - 9) Miscellaneous Combinations
- h) Drugs purchased on or after January 1, 2001, which fall within the following categories and are prescribed by a physician licensed to practice medicine in all of its branches pursuant to the Medical Practice Act, physician assistant licensed pursuant to the Physician Assistant Practice Act, or advanced practice nurse

DEPARTMENT OF PUBLIC AID

NOTICE OF ADOPTED RULES

licensed pursuant to Title 15 of the Nursing and Advanced Practice Nursing Act for the treatment of lung disease and smoking related illnesses, qualify for inclusion in the Pharmaceutical Assistance Program as covered prescription drugs:

- 1) Sympathomimetic Bronchodilators
 - 2) Diluents
 - 3) Xanthine Derivatives
 - 4) Anticholinergic Bronchodilators
 - 5) Leukotriene Receptor Antagonists
 - 6) Leukotriene Formation Inhibitors
 - 7) Corticosteroid Respiratory Inhalants
 - 8) Mucolytics
 - 9) Mast Cell Stabilizers
 - 10) Respiratory Enzymes
 - 11) Digestive Enzymes
 - 12) Antiasthmatic Combinations
 - 13) Antituberculosal Agents
 - 14) Zyban
 - 15) Nicotine
- i) Drugs purchased on or after January 1, 2001, which fall within the following categories and are prescribed by a physician licensed to practice medicine in all of its branches pursuant to the Medical Practice Act of 1987, physician assistant licensed pursuant to the Physician Assistant Practice Act of 1987, or advanced practice nurse licensed pursuant to Title 15 of the Nursing and Advanced Practice

DEPARTMENT OF PUBLIC AID

NOTICE OF ADOPTED RULES

Nursing Act for the treatment of osteoporosis, qualify for inclusion in the Pharmaceutical Assistance Program as covered prescription drugs:

- 1) Bisphosphonates
 - 2) Selective Estrogen Receptor Modulator
 - 3) Calcitonin-Salmon
- j) Drugs purchased on or after January 1, 2004, that fall within the following categories and are prescribed by a physician licensed to practice medicine in all of its branches pursuant to the Medical Practice Act, physician assistant licensed pursuant to the Physician Assistant Practice Act, or advanced practice nurse licensed pursuant to Title 15 of the Nursing and Advanced Practice Nursing Act for the treatment of multiple sclerosis, qualify for inclusion in the Pharmaceutical Assistance Program as covered prescription drugs:
- 1) Corticosteroids
 - 2) Immunomodulatory Agents (including Interferon Beta-1a and Interferon Beta-1b)
 - 3) Immunosuppressants
 - 4) Antineoplastics
- k) A covered prescription drug must be approved by the Food and Drug Administration of the federal Department of Health and Human Services for the treatment of a specific disease category.
- l) The specific covered prescription drugs that fall within each category will be listed in a handbook to be prepared and disseminated on the internet Web site of the Department. Updates regarding changes in the categories and specific covered prescription drugs will be made as necessary.

Section 119.40 Automatic Enrollment of Program Beneficiaries

The Department may auto-enroll beneficiaries with a Medicare discount card sponsor authorized under the federal Medicare Modernization Act of 2003 (42 USC 1395w-101 et seq.) if the member is potentially eligible for Transitional Assistance under the Medicare Modernization Act

DEPARTMENT OF PUBLIC AID

NOTICE OF ADOPTED RULES

(42 USC 1395w-141). The Department shall enroll the eligible beneficiaries into the discount card program sponsored by the claims administrator for the Program in order to coordinate the members' Medicare prescription drug benefit coverage with coverage under the Program.

Section 119.50 Fees and Co-Payments

a) Fees

- 1) An applicant must pay a fee to the Department on Aging for a card as follows:
 - A) An applicant must pay \$5 for a card if his or her household income for a claim year is below the poverty line.
 - B) An applicant must pay \$25 for a card if his or her household income for a claim year is at or above the federal poverty line. (See 320 ILCS 25/4(f).)
- 2) The term "poverty line" means the official poverty line as defined by the Federal Office of Management and Budget at 42 USC 9902(2).
- 3) Fees paid for cards will not be prorated if coverage is valid for a longer or shorter period than one year as determined by the Department on Aging in converting coverage to a fiscal year basis.

b) Covered Prescription Drug Co-Payments

- 1) A Beneficiary must make co-payments to an authorized pharmacy for covered prescription drugs as follows:
 - A) A Beneficiary who pays \$5 for a card will pay no additional prescription costs until the accumulated total paid by this Program reaches \$2,000 for the State fiscal year, at which point the Beneficiary must pay a co-payment equal to 20 percent of the cost of each prescription paid for by this Program for the remainder of the State fiscal year.
 - B) A Beneficiary who pays \$25 for a card must pay \$3 for each prescription until the accumulated total paid by this Program reaches \$2,000 for the State fiscal year, at which point the

DEPARTMENT OF PUBLIC AID

NOTICE OF ADOPTED RULES

Beneficiary must continue to pay \$3 for each prescription plus a co-payment equal to 20 percent of the cost of each prescription paid for by this Program for the remainder of the State fiscal year. (See 320 ILCS 25/4(f).)

- 2) A Beneficiary also must pay to an authorized pharmacy an ancillary charge for any covered prescription drug that is a brand name product if the pharmacy is reimbursed at the generic price as provided in Section 119.60(d)(2).

Section 119.60 Determination of Cost of Covered Prescription Drugs

- a) The Department will pay an authorized pharmacy the reasonable cost of pharmaceutical services that such pharmacy provided to a Beneficiary pursuant to a physician's oral or written prescription authorization.
- b) Determination of Reasonable Cost. For contracts executed and in effect on or after July 1, 2002, the Department will determine the rate for the reasonable cost of covered prescription drugs for which payment will be made to an authorized pharmacy in an amount equal to:
 - 1) the lesser of:
 - A) the Average Wholesale Price (AWP) for the covered prescription drug minus 14 percent, based on the National Drug Code (NDC) number for the original package size from which such drug was dispensed (AWP is determined by the most current information provided by drug pricing services such as First DataBank or other source nationally recognized in the retail prescription drug industry selected by the Department's claims processing vendor); or
 - B) the Maximum Allowable Cost (MAC) for the covered prescription drug, based on the MAC list for this Program (MAC is determined by the Department's claims processing vendor); or
 - C) the usual and customary cost for the covered prescription drug; plus
 - 2) the professional dispensing fee; less

DEPARTMENT OF PUBLIC AID

NOTICE OF ADOPTED RULES

- 3) any applicable co-payments, deductibles, and ancillary charges.
- c) Professional Dispensing Fee. For contracts executed and in effect on or after July 1, 2002, the Department shall determine the professional dispensing fee to be charged by authorized pharmacies. The professional dispensing fee shall be in the amount of \$2.55 per prescription.
- d) Payment
 - 1) Payment to authorized pharmacies will be allowed for covered prescription drugs legally marketed in accordance with the rules and regulations of the Food and Drug Administration of the federal Department of Health and Human Services.
 - 2) Payment will be at the generic price as provided in subsection (b) unless the following conditions exist:
 - A) an oral prescription is filled, refilled, or renewed for a covered prescription drug that is a brand name product for which no generic equivalent is available; or
 - B) a written prescription is filled, refilled, or renewed for a covered prescription drug that is a brand name product for which no generic equivalent is available; or
 - C) beginning January 1, 2001, an oral prescription is filled, refilled, or renewed for a covered prescription drug that is a brand name product containing one or more ingredients defined as a narrow therapeutic index drug at 21 CFR 320.33 and the prescriber stipulates "brand medically necessary" and that substitution is not permitted; or
 - D) beginning January 1, 2001, a written prescription is filled, refilled, or renewed for a covered prescription drug that is a brand name product containing one or more ingredients defined as a narrow therapeutic index drug at 21 CFR 320.33 and indicates on its face "brand medically necessary" and that substitution is not permitted.
- e) Pharmacy's Cost of On-line Communications. Each authorized pharmacy participating in this Program shall pay all costs, charges and fees incurred by the

DEPARTMENT OF PUBLIC AID

NOTICE OF ADOPTED RULES

pharmacy that are related to on-line communication and the processing of claims or other information sent to or from the Department or the Department's claims processing vendor.

- f) The reasonable cost of covered prescription drugs available to beneficiaries in this Program shall not exceed the cost of such drugs when dispensed to the general public.
- g) In the event that generic equivalents for covered prescription drugs are available at lower cost, the Department shall establish the maximum allowable cost for such covered prescription drugs at the lower generic cost as provided in subsection (b).

Section 119.70 Authorized Pharmacy Qualifications

Only pharmacies that are registered in Illinois under the Pharmacy Practice Act [225 ILCS 85] are authorized pharmacies eligible to participate in this Program. (See 320 ILCS 25/6(d).)

Section 119.80 Assignment and Coordination of Benefits

- a) Where a Beneficiary is entitled to benefits from any private plan of assistance, including any insurance plan, public assistance program, or third party for covered prescription drugs under this Program, he or she must execute an assignment of those benefits to the Department. (See 320 ILCS 25/6(d)(4).)
- b) The Department shall charge or collect payments from any private plan of assistance, including any insurance plan, public assistance program, or third party for any claims assigned by a Beneficiary. (See 320 ILCS 25/4(f) and 6(d).)

Section 119.90 Payments to Authorized Pharmacies

Payments to authorized pharmacies under the Act shall be made in accordance with the State Prompt Payment Act [30 ILCS 540]. [320 ILCS 25/6(d)(7)]

Section 119.100 Execution of Contracts

- a) *The Director or his or her designee has the authority to enter into written contracts with any State agency, instrumentality or political subdivision, or a fiscal intermediary for the purpose of making payments to authorized pharmacies who participate in this Program and coordinating this program with other public assistance programs. [320 ILCS 25/6(d)]*

DEPARTMENT OF PUBLIC AID

NOTICE OF ADOPTED RULES

- b) *Contracts entered into by or on behalf of the Department and authorized pharmacies shall stipulate the terms and conditions for participation in this Program and the right of the Department to terminate participation for breach of contract or violation of federal or State law. [320 ILCS 25/6(d)(1)]*

Section 119.110 Limitation on Prescription Size

An authorized pharmacy may not provide a Beneficiary with more than a 34-day supply of any covered prescription drug in filling, refilling, or renewing a prescription, except as otherwise specified for medical or utilization control reasons in the handbook and this Part prepared and disseminated on the internet Web site of the Department. [320 ILCS 25/6(d)(2)] Such an exception is specified in the handbook for covered prescription drugs classified as maintenance drugs that are less expensive to dispense in greater quantities due to larger daily dose requirements.

Section 119.120 Inspection and Disclosure of Records

- a) In order to ensure compliance with the requirements of the Act and to prevent fraud, the Department, or its designee, shall have the right:
- 1) *to inspect the books and records of all authorized pharmacies [320 ILCS 25/6(d)(5)]; and*
 - 2) *to require disclosure of information on individuals who receive health coverage, pharmaceutical benefits, or related services as policyholders, subscribers, or plan participants from entities subject to the Illinois Insurance Code [215 ILCS 5], Comprehensive Health Insurance Plan Act [215 ILCS 105], Dental Service Plan Act [225 ILCS 25], Children's Health Insurance Program Act [215 ILCS 106], Health Care Purchasing Group Act [215 ILCS 123], Health Maintenance Organization Act [215 ILCS 125], Limited Health Service Organization Act [215 ILCS 130] Voluntary Health Services Plans Act [215 ILCS 165], and Worker's Compensation Act [820 ILCS 305].*
- b) *Information received by the Department or its designee shall be confidential except for official purposes and as otherwise provided in the Act. [320 ILCS 25/4.1]*

Section 119.130 Establishment of Liens

DEPARTMENT OF PUBLIC AID

NOTICE OF ADOPTED RULES

The Director is entitled to establish a lien on any and all causes of action which accrue to a Beneficiary as a result of injuries for which covered prescription drugs are directly or indirectly prescribed and for which payment was made under this program. [320 ILCS 25/6(d)(3)]

Section 119.140 Penalties

- a) *Any person who takes either of the following actions is guilty of a Class 4 felony for the first offense and a Class 3 felony for each subsequent offense:*
 - 1) *on behalf of an authorized pharmacy, files a fraudulent claim for payment;
or*
 - 2) *fraudulently uses a card to obtain covered prescription drugs. [320 ILCS 25/9]*
- b) *The Department, in cooperation with the Department on Aging, will recover from any beneficiary or authorized pharmacy any amount paid under this program on account of an erroneous or fraudulent claim, together with 6 percent interest per year.*
- c) *A prosecution for violation of the provisions of the Act may be undertaken at any time within three years after the commission of that violation. [320 ILCS 25/9]*

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF EMERGENCY AMENDMENTS

- 1) Heading of the Part: State Administration of the Federal Community Development Block Grant Program for Small Cities
- 2) Code Citation: 47 Ill. Adm. Code 110
- 3)

<u>Section Numbers</u> :	<u>Emergency Action</u> :
110.10	Amend
110.20	Amend
110.35	Amend
110.50	Amend
110.60	Amend
110.70	Amend
110.80	Amend
110.93	Amend
110.95	New Section
110.102	New Section
110.104	Amend
110.110	Amend
110.120	Amend
110.130	Amend
- 4) Statutory Authority: Implementing Sections 605-940 and 605-945 and authorized by Section 605-95 of the Civil Administrative Code of Illinois [20 ILCS 605/605-940, 605-945, 605-95] and Title 1 of the Housing and Community Development Act of 1974, as amended, 42 USC 5302 et seq.
- 5) Effective Date of Amendments: February 25, 2005
- 6) If this emergency rulemaking is to expire before the end of the 150-day period, please specify the date on which it is to expire: None
- 7) Date Filed with the Index Department: February 25, 2005
- 8) The Department maintains a copy of the adopted rule, including any reference materials, in its principal office in Springfield, Illinois that is available for public inspection.
- 9) Reason for Emergency: In December 2004, the United States Department of Housing and Urban Development approved the Department's proposed changes to the State of Illinois Consolidated Plan Action Plan for the program year 2005. Correspondingly, the 2005 State of Illinois Consolidated Plan Action Plan now includes a federally funded

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF EMERGENCY AMENDMENTS

non-competitive grant program to assist persons with disabilities in non-metropolitan areas of the State. Specifically, eligible units of local governments may apply for funds on behalf of their eligible residents with mobility impairments that without affordable accessible housing improvements would be at risk of becoming homelessness, forced into institutionalization or become completely unable to perform normal life activities in their current housing unit due to structural impediments.

- 10) A Complete Description of the Subjects and Issues Involved: Two new Sections were added to the Community Development Assistance Program, which develops a new non-competitive grant program to assist persons with disabilities in non-metropolitan areas of the State. Specifically, eligible units of local governments may apply for funds on behalf of their eligible residents with mobility impairments that without affordable accessible housing improvements would be at risk of becoming homelessness, forced into institutionalization or become completely unable to perform normal life activities in their current housing unit due to structural impediments. In addition to the two new Sections, the Department is taking this opportunity to make non-substantive “clean-up” changes to other Sections within the Community Development Assistance Program Subpart.
- 11) Are there any proposed amendments to this Part pending? No
- 12) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805].
- 13) Information and questions regarding these amendments shall be directed to:

Jolene Clarke
Rules Administrator
Department of Commerce and Economic Opportunity
620 East Adams Street
Springfield, IL 62701

Telephone: 217/557-1820
Fax: 217/782-0038
e-mail jolene-clarke@commerce.state.il.us

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

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF EMERGENCY AMENDMENTS

TITLE 47: HOUSING AND COMMUNITY DEVELOPMENT
CHAPTER I: DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITYPART 110
STATE ADMINISTRATION OF THE FEDERAL COMMUNITY DEVELOPMENT
BLOCK GRANT PROGRAM FOR SMALL CITIES

SUBPART A: COMMUNITY DEVELOPMENT ASSISTANCE PROGRAM

Section

110.10 Legislative Base

[EMERGENCY](#)

110.20 Purpose and Scope

[EMERGENCY](#)

110.30 Definitions

110.35 Incorporation by Reference

[EMERGENCY](#)

110.40 Federal/State Program Objectives

110.50 Eligible Applicants

[EMERGENCY](#)

110.60 Eligible/Ineligible Projects and Activities

[EMERGENCY](#)

110.70 Grant Application Process

[EMERGENCY](#)

110.80 Funding

[EMERGENCY](#)

110.90 Set-Aside for Emergency Public Facilities Component

110.91 General Economic Development Component

110.92 Competitive Public Facilities Construction and Design Engineering Component

110.93 Competitive Housing Rehabilitation Component

[EMERGENCY](#)

110.94 Competitive Planning Assistance Component

110.95 [Non-Competitive Mobility and Accessibility Rehabilitation Services Component](#)
~~Competitive Removal of Architectural Barriers Component~~
(Repealed)[EMERGENCY](#)110.100 Application Evaluation for Competitive Public Facilities and Competitive
Housing Rehabilitation Components (Repealed)

110.101 Application Evaluation for Competitive Planning Assistance Component

110.102 [Pre-Application Determination and Application Evaluation for Non-Competitive](#)

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF EMERGENCY AMENDMENTS

~~Mobility and Accessibility Rehabilitation Services Application Evaluation for
Competitive Removal of Architectural Barriers Component (Repealed)~~

EMERGENCY

110.103 Application Evaluation for Competitive Public Facilities Construction and Design
Engineering Component

110.104 Application Evaluation for Competitive Housing Rehabilitation Component

EMERGENCY

110.105 Small Business Financing Component (Repealed)

110.106 Demonstration Program: Set-Aside for Emergency Lead-Based Paint Abatement

110.110 Administrative Requirements

EMERGENCY

110.120 Nondiscrimination

EMERGENCY

110.130 Complaint Process

EMERGENCY

SUBPART B: REVOLVING FUNDS

Section

110.210	Purpose
110.220	Definitions
110.230	Recapture Strategy Requirements
110.240	Revolving Fund Administration
110.250	Use of Revolving Funds
110.260	Requirements for Revolving Fund Projects
110.270	Administrative Costs
110.280	Revolving Fund Fundability Analysis
110.290	Revolving Fund Financial Assistance Closings
110.300	Security
110.310	Disbursement of Revolving Funds
110.320	Revolving Fund Monitoring
110.330	Recordkeeping and Reporting
110.340	Department Monitoring
110.350	Evaluation of Performance
110.360	Program Income Subject to the Act

AUTHORITY: Implementing Sections 605-940 and 945, and authorized by Section 605-95, of the Civil Administrative Code of Illinois [20 ILCS 605/605-940, 605-945 and 605-95].

Authorized by Title I of the Housing and Community Development Act of 1974, as amended (42 USC 5302 et seq.).

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF EMERGENCY AMENDMENTS

SOURCE: Adopted and codified at 7 Ill. Reg. 2972, effective March 9, 1983; amended at 7 Ill. Reg. 7898, effective June 21, 1983; amended at 8 Ill. Reg. 16250, effective August 29, 1984; amended at 9 Ill. Reg. 7117, effective May 9, 1985; amended at 9 Ill. Reg. 10702, effective June 28, 1985; amended at 10 Ill. Reg. 10093, effective May 28, 1986; amended at 12 Ill. Reg. 2254, effective January 19, 1988; amended at 15 Ill. Reg. 4410, effective March 11, 1991; amended at 16 Ill. Reg. 20106, effective December 14, 1992; amended at 20 Ill. Reg. 7799, effective May 29, 1996; amended at 22 Ill. Reg. 1910, effective January 1, 1998; amended at 23 Ill. Reg. 8362, effective July 12, 1999; amended at 26 Ill. Reg. 11805, effective July 18, 2002; amended at 28 Ill. Reg. 13468, effective September 23, 2004; emergency amendment at 29 Ill. Reg. 4088, effective February 25, 2005, for a maximum of 150 days.

SUBPART A: COMMUNITY DEVELOPMENT ASSISTANCE PROGRAM

Section 110.10 Legislative Base**EMERGENCY**

- a) Federal
 - 1) On July 31, 1981, Congress passed the Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35). This Act established seven block grant programs, including the State Community Development Block Grant (CDBG) Program. These block grants replace a large number of programs previously administered by the Federal Government. Although the Housing and Community Development Act of 1974 provided since its inception for discretionary block grants to smaller communities, the Omnibus Budget Reconciliation Act of 1981 made a fundamental change to transfer to the States the power and decision making in awarding block grants to small communities.
 - 2) The State Community Development Block Grant Program funds are allocated to the State pursuant to Section 106(d) of Title I of the federal Housing and Community Development Act of 1974, as amended. The Act authorizes state administration of the program to units of general local governments in nonentitlement areas. Throughout this Part references are made to the provisions of 24 CFR 570. These HUD regulations were published November 9, 1992.
 - 3) While the States must follow the statutory requirements concerning the use of block grant funds, the Secretary of HUD will give maximum

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF EMERGENCY AMENDMENTS

feasible deference to a State's interpretation of such requirements consistent with the Secretary's obligation to enforce compliance with the intent of Congress.

- 4) Pursuant to 24 CFR 91, the State must submit annually to HUD a Consolidated Plan that serves as the planning document of the State and an application under any of the Community Planning and Development formula grants, including CDBG. The Consolidated Plan will include the application deadlines for the competitive funding components for the upcoming program year. A final statement and certifications are required to be submitted before March 31 during each year in which a State elects to administer the Community Development Block Grant funds for its nonentitlement areas.

b) State

- 1) On August 10, 1981, the Governor designated the Illinois Department of Commerce and Community Affairs, now known as the Illinois Department of Commerce and Economic Opportunity, as the State administrative agency for the Small Cities Community Development Block Grant Program. On March 23, 1982, the Governor officially notified the U.S. Department of Housing and Urban Development of the State's election to administer the Small Cities Program for nonentitlement communities within the State.
- 2) As a part of its application, with respect to the Community Development Assistance Program, the State must submit an annual State of Illinois Consolidated Plan Action Plan certified to HUD outlining the one year use of funds and certifying that it:
 - A) Engages or will engage in planning for community development activities;
 - B) Provides or will provide technical assistance to units of general local government in connection with community development programs; and
 - C) Through the public hearing requirement, ~~has~~Has consulted with local elected officials and interested parties/citizens from among units of general local government located in nonentitlement areas

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF EMERGENCY AMENDMENTS

of the State determining the method of distribution of CDBG funds.

(Source: Amended by emergency rulemaking at 29 Ill. Reg. 4088, effective February 25, 2005, for a maximum of 150 days)

Section 110.20 Purpose and Scope**EMERGENCY**

The purpose of this Part is to develop ~~administrative rules~~~~regulations and guidelines~~ for the administration of the Community Development Assistance Program (CDAP) within the State of Illinois. The promulgation of clear-cut program ~~administrative rules~~~~guidelines~~ for the Community Development Assistance Program will ensure the maximum and efficient use of funds for community and economic development programs in the State's nonentitlement areas.

(Source: Amended by emergency rulemaking at 29 Ill. Reg. 4088, effective February 25, 2005, for a maximum of 150 days)

Section 110.35 Incorporation by Reference**EMERGENCY**

Any incorporation by reference in this Part of the ~~administrative rules~~ ~~or federal~~~~and~~ regulations of any agency of the United ~~States~~~~State~~ or ~~the~~~~of~~ standards of a nationally recognized organization or association includes no new amendments or additions made after the date specified.

(Source: Amended by emergency rulemaking at 29 Ill. Reg. 4088, effective February 25, 2005, for a maximum of 150 days)

Section 110.50 Eligible Applicants**EMERGENCY**

- a) Only units of local government may apply for funding. Municipalities must be less than 50,000 in population. Counties and townships that are not participating in the Urban County Entitlement Program of the U.S. Department of Housing and Urban Development are also eligible to apply for block grant funds.
- b) Because of eligibility requirements and administrative capacity, certain unincorporated areas and special districts may not qualify for participation by themselves. In such instances, general purpose units of local government will be

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF EMERGENCY AMENDMENTS

allowed to submit applications on behalf of otherwise ineligible special districts and unincorporated areas provided the unit of general local government determines that the activity is meeting its needs in accordance with Section 106 (d)(2)(D) of the Housing and Community Development Act of 1974, as amended.

- c) In situations where 2 or more eligible local governments face a common problem, a joint application may be submitted under the following conditions:
- 1) ~~The~~ solution of the problem requires mutual action and is not intended for administrative convenience; and
 - 2) ~~The~~ eligible local governments involved have contacted the Department ~~of Commerce and Community Affairs~~ for prior approval of such an arrangement before actual application submission.
- d) An Application "on Behalf Of behalf of" or joint application may not be filed for an entitlement city or a city located in an entitlement county.
- e) In the event that either an Application "on Behalf Of behalf of" or joint application will be filed, the local governments involved must submit an executed cooperation agreement with its application for funds that define grantee responsibilities, should the application be successful.

(Source: Amended by emergency rulemaking at 29 Ill. Reg. 4088, effective February 25, 2005, for a maximum of 150 days)

Section 110.60 Eligible/Ineligible Projects and Activities**EMERGENCY**

- a) Eligible Projects and Activities – Eligible activities are detailed in 24 CFR 570.482 (2004). Activities assisted by this program may include the following:
- 1) Economic Development:— provision of assistance to private for-profit or not-for-profit businesses for such activities as land acquisition; public facilities and improvements in support of economic development (such as, water, sewer and utility lines); acquisition, construction, rehabilitation of commercial and industrial buildings/facilities; machinery and equipment; furnishings and fixtures; and working capital expenses.
 - 2) Public Facilities and Improvements:— acquisition, construction,

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF EMERGENCY AMENDMENTS

reconstruction, rehabilitation or installation of public facilities, and improvements e.g., water and sewer facilities, including storm sewers; flood retention and drainage facilities.

- 3) Housing Rehabilitation and Preservation:— provision of assistance in support of low to moderate-income housing, including rehabilitation, clearance, demolition, and/or removal of privately-owned buildings and provision of site improvements such as connection of residential structures to water or sewer lines; certain types of housing modernization; temporary relocation assistance; code enforcement; lead-based paint abatement; and structural improvements to privately-owned buildings to remove physical barriers that restrict the mobility and accessibility of elderly and disabled persons in order to comply with the Illinois Accessibility Code (71 Ill. Adm. Code 400), e.g., modifications to entrances and exits, parking improvements, modification of bathroom and kitchen facilities.
 - 4) Planning Assistance:— planning activities which focus on the needs of low- and moderate-income persons in the community, including feasibility studies, data gathering, analyses, preparation of plans, and identification of implementing actions.
 - 5) The remaining major eligible cost category under the Community Development Assistance Program is general program planning and administration. This area covers the local government operational costs of implementing a local program. It includes costs involved in preparing the environmental review; preliminary engineering, planning, and design fees for the project; the cost of the local program audit; and other contractual costs for professional services that are associated with the administration of the program. It excludes all pre-program costs, such as payment or reimbursement of application preparation fees, costs associated with conducting a local survey, etc. There is a 10% ceiling placed on general program planning and administration costs for any local program.
- b) Ineligible Projects and Activities
- 1) Generally, any type of activity not described or referred to in Section 110.60(a) is considered ineligible.
 - 2) The following is a selective list of examples of projects and activities that are generally ineligible: buildings used predominantly for the general

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF EMERGENCY AMENDMENTS

conduct of government (e.g., city halls, courthouses, jails, police stations, etc.). However, if the Illinois Historic Preservation Agency requires historic preservation renovations to a project, those renovations will be deemed eligible expenses. ~~This does not exclude historic preservation.~~ General government expenses; political activities; purchase of construction equipment and purchase of equipment, fixtures, motor vehicles, furnishings, or other personal property not an integral structural fixture is generally ineligible. However, CDAP funds may be used to purchase or to pay depreciation or use allowances for such items when necessary if the administration of activities was assisted with CDAP funds. The costs associated with operating and maintaining public facilities and services are generally ineligible. New housing construction is ineligible, except as provided under the last resort housing provision set forth in 49 CFR 24 (2004), or, when carried out by a subgrantee pursuant to 24 CFR 570.204(a)(2) (2004); income payments for housing or any other purpose (e.g., income maintenance, housing allowances, down payments, mortgage subsidies, etc.). All activities as listed in 24 CFR 570.482 (2004) and section 105(a) of the Act are eligible.

(Source: Amended by emergency rulemaking at 29 Ill. Reg. 4088, effective February 25, 2005, for a maximum of 150 days)

Section 110.70 Grant Application Process**EMERGENCY**

- a) Upon request, the Department ~~of Commerce and Economic Opportunity~~ will supply local governments with an application package. Eligible applicants ~~Applicants~~ shall complete and submit the application package in accordance with the instructions and the application schedule, which is annually established by the Department. Costs incurred in preparing the applications are not reimbursable.
- b) Pursuant to 24 CFR 570.486(5), eligible applicants must conduct ~~provide for~~ two public hearings, each at a different stage of the project to obtain citizen views.
 - 1) A minimum of one public meeting must be held prior to the submission of any application to the Department. This meeting, and its specific time, location, and topics must be published at least seven days in advance in the non-legal section of a newspaper that is in general circulation within the community. Subsequent to the meetings, a resolution of support from

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF EMERGENCY AMENDMENTS

the local governing body must be passed that authorizes the local government to apply for funds. If an eligible applicant plans to utilize grant funds as a financial assistance mechanism, ~~discussions~~discussion should be held at the public meeting to determine the planned uses of the recaptured funds.

- 2) Should an eligible applicant be awarded a grant, the applicant must provide documentation/evidence (i.e., newspaper clipping of notice hearing and a summary of comments presented at hearing) that one public hearing was conducted to review program performance under that grant.
- c) Eligible applicants~~Applicants~~ must submit a plan for minimizing displacement pursuant to section 104(d) of the Housing and Community Development Act of 1974, as amended, only if the project will result in the displacement or relocation of residents.

(Source: Amended by emergency rulemaking at 29 Ill. Reg. 4088, effective February 25, 2005, for a maximum of 150 days)

Section 110.80 Funding**EMERGENCY**

- a) Distribution of Funds: ~~Grant—Distribution of grant~~ awards will be made according to the application evaluation ~~processes~~process described in Sections 110.91, 110.92, 110.93, 110.94, 110.95, 110.101, 110.102, 110.103, and 110.106 of this Part.
- b) Other Funding Considerations
 - 1) Grant Ceilings: Grant ceilings for the various components establish the general grant award limits that an eligible applicant may ~~request~~request~~be requested~~. The Department shall ~~utilize~~employ the factors listed in subsection (b)(1)(D) of this Section in authorizing a higher grant ceiling for a particular project. ~~Grants~~Individual grants will only be funded ~~only~~ in amounts commensurate with the requirements of the proposed projects. The Department will set the following grant ceilings for eligible applicants:

A) Components

Grant Ceiling

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF EMERGENCY AMENDMENTS

i)	General Economic Development	\$750,000
ii)	Competitive Public Facilities <u>Construction</u>	\$400,000
iii)	Construction and Design Engineering	\$200,000 100,000
iv)	Competitive Housing Rehabilitation	\$400,000
v)	<u>Non-Competitive Mobility and Accessibility Rehabilitation Services Component</u>	<u>\$100,000</u>
v)	Additional Housing Rehabilitation Physically Disabled Persons	\$100,000
vi)	Set-Aside for Emergency Public Facilities	\$100,000
vii)	<u>Competitive</u> Planning Assistance	\$ 25,000
viii)	Set-Aside for Lead-based Paint	\$ 50,000

B) Eligible applicants~~Local governments~~ may only submit one application and may only receive ~~only one grant award~~ under the following program components: ~~of~~ Competitive Public Facilities Construction; ~~and~~ Design Engineering; ~~and~~ Competitive Housing Rehabilitation; and Competitive Planning Assistance in any one program year. Under the Non-Competitive Mobility and Accessibility Rehabilitation Services Component and subject to available funding, an eligible applicant may submit more than one application and may receive more than one grant, which will be awarded on a first come-first served basis. ~~They are limited to submitting one application under the Competitive Public Facilities Construction and Design Engineering and the Competitive Housing Rehabilitation components in any one program year.~~

C) On occasion, the Department will review the technical feasibility of a project. If the review requires non-Departmental expertise (e.g., water and sewer permits), the Department will coordinate with other agencies (e.g., Environmental Protection Agency

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF EMERGENCY AMENDMENTS

(EPA), Department of Public Health (DPH), USDA Rural Development) to review the technical feasibility of the project.

- D) In determining the appropriate ~~individual~~ grant award amount, ~~amounts~~ the Department shall consider the following:
- i) Project Need – Project need shall be determined using standards found in Sections 110.90(b)(3); 110.91(b)(3)(A), (C), (D), and (E); 110.92(b)(3); 110.93(b)(3); 110.94(b)(3); 110.95; 110.101(b); 110.102; and 110.103(b), as applicable.
 - ii) Ability to Carry Out the Project – Determination of the ability to successfully complete the proposed project shall be based upon elements such as previous program performance, experience, and scope of the proposed program.
 - iii) Proposed Activities – A review of the proposed activities shall be based on a determination of whether the program objectives will be met through the proposed activities as set out in Sections 110.90, 110.91, 110.92, 110.93, ~~and~~ 110.94, and 110.95.
- E) The Department may withdraw, suspend or terminate grant funding based on the following:
- i) If the Department approves an application, but prior to the execution of a Grant Agreement, it~~The Department~~ learns or has a reasonable belief that the project will not progress or is unlikely to be completed as originally anticipated, due to unforeseen facts and circumstances not previously known during or subsequent to the application process, it may withdraw its~~a~~ commitment of funds. If the Department withdraws its commitment of funds, it shall provide written notification to the applicant advising it of the same and setting forth the reasons for the withdrawal. ~~if it is determined that a project will not progress.~~
 - ii) If the Department approves an application and a Grant

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF EMERGENCY AMENDMENTS

Agreement has been executed, the Department may only suspend or terminate the Grant Agreement in accordance with the terms and~~The~~ conditions set forth in the Grant Agreement or the conditions described under which this shall occur are listed in 47 Ill. Adm. Code 1.110.

- 2) Standards for Program Category Allocation: The Department shall determine the amount of funds annually allocated to carry out activities in accordance with each of the community development assistance program categories. ~~Needs~~Need expressed by interested citizens and local elected officials pursuant to Section 110.10(b)(2)(C) of this Part, the amount of annual allocation, and a review of past program component usage shall be factors in determining the amount of funds annually allocated to carry out activities. The allocation of funds between program components shall be determined from the following allocation ranges:
 - A) Set-Aside for Emergency Public Facilities: ~~—~~ 1% - 20%
 - B) Competitive Housing Rehabilitation: ~~—~~ 15% - 70%
 - C) Competitive Public Facilities: ~~—~~ 40% - 60%
 - D) General Economic Development: ~~—~~ 10% - 40%
 - E) Planning Assistance: ~~—~~ up to 1%
 - F) Set-Aside for Lead-Based Paint Abatement: ~~—~~ up to 1%
 - G) Non-Competitive Mobility and Accessibility Rehabilitation Services Component: 1% - 10%
- 3) Environmental Clearances: Upon actual grant award, if required, a technical review of non-exempt activities must be completed, ~~if required~~, under 24 CFR 58 (1996). HUD has published Environmental Review Procedures for the Community Development Block Grant (24 CFR 58).
- 4) On-Site Visits: The Department's program staff may, contingent upon program resources or the need for on-site inspection, ~~to~~ verify eligibility, conduct field visits of potential grantees under the Competitive Public Facilities, ~~and~~ Competitive Housing Rehabilitation, and Non-Competitive

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF EMERGENCY AMENDMENTS

[Mobility and Accessibility Rehabilitation Services](#) components prior to final grant decisions.

(Source: Amended by emergency rulemaking at 29 Ill. Reg. 4088, effective February 25, 2005, for a maximum of 150 days)

Section 110.93 Competitive Housing Rehabilitation Component**EMERGENCY**

The competitive housing rehabilitation component targets projects proposing to rehabilitate existing housing stock. The purpose is to provide decent, safe, and sanitary housing in conformity with local housing codes for ~~low-low~~ to moderate-income persons, ~~and structural improvements to remove physical barriers that restrict mobility and accessibility of elderly and disabled persons~~. Applicants may apply for up to \$400,000 in Competitive Housing Rehabilitation funds ~~and up to \$100,000 additional funds to provide structural improvements to remove physical barriers that restrict mobility of elderly and disabled persons~~. Applicants must apply for Competitive Housing Rehabilitation funds in order to be eligible to apply for the ~~additional funds for the removal of barriers~~.

- a) Project Eligibility Criteria – For a project to be eligible for funding under this component, applicants must document the following:
 - 1) Program funds used in the rehabilitation of a residence will benefit 100% low- to moderate-income persons.
 - 2) At minimum, 20% of project costs will be paid from other non-Department funds. Examples of other funding sources may include USDA Rural Development, Illinois Housing Development Authority (IHDA), local (in-kind), or property owners, except for accessibility projects that will not be required to provide leverage.
 - 3) That a project plan is presented which documents selection of the area targeted for assistance.
 - 4) The project is ready to proceed and expend funds and the project addresses the identified problem.
- b) Application Review and Approval
 - 1) Applications will be accepted once a year on a due date established at the

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF EMERGENCY AMENDMENTS

beginning of the program year pursuant to Section 110.10(a)(4) of this Part.

- 2) Applications will be prepared and submitted to the Department as specified in Section 110.70 of this Part.
- 3) Applications will be reviewed in accordance with Section 110.104 of this Part.

(Source: Amended by emergency rulemaking at 29 Ill. Reg. 4088, effective February 25, 2005, for a maximum of 150 days)

**Section 110.95 Non-Competitive and Accessibility Rehabilitation Services
Component~~Competitive Removal of Architectural Barriers Component (Repealed)~~
EMERGENCY**

The Non-Competitive Mobility and Accessibility Rehabilitation Services (MARS) component targets projects to provide structural improvements to remove physical barriers that restrict mobility and accessibility of elderly and disabled persons. Eligible applicants may apply for up to \$100,000 in funds to provide structural improvements to remove physical barriers that restrict mobility of elderly and disabled persons.

- a) Project Eligibility Criteria: For a project to be eligible for funding under this component, applicants must document the following:
 - 1) Program funds will be used in the rehabilitation of a residence that will benefit 100% low- to moderate low-income persons; and
 - 2) The project is ready to proceed and expend funds and the project addresses the identified problem.
- b) Eligible Activities that include: Structural improvements to a privately owned building that are required to comply with the Illinois Accessibility Code (71 Ill. Adm. Code 400), which include, but are not limited to, modifications to entrances/exits, parking improvements, kitchen and bathroom modifications, etc.
- c) Pre-Application and Eligibility
 - 1) Pre-applications will be accepted on a first come-first served basis based upon the Department's receipt of the State's federal formula allocation for

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF EMERGENCY AMENDMENTS

the Small Cities Community Development Block Grant funds as described in Section 110.10(a)(4) of this Part.

2) Pre-applications will undergo an initial review to determine eligibility in four areas:

i) Compliance with the public hearing requirements;

ii) Certification of submission to the Illinois Historic Preservation Agency for clearance of identified housing units;

iii) Certification of eligibility for identified households; and

iv) Cost estimates for rehabilitation for each housing unit identified for assistance.

d) Application Review and Approval

1) After the Department determines that an applicant is eligible, it will forward an application to the eligible applicant, which shall be completed and submitted to the Department as required in Section 100.70 of this Part.

2) Applications will be funded after the Department verifies that the documents submitted are complete and accurate. The following is the information and documentation that the applicant must submit.

A) Local council resolution of support;

B) Submittal letter signed by the chief elected official stating that 100% of low- to moderate-income will benefit from the project;

C) Illinois Historic Preservation Agency clearance letters on the identified housing units;

D) A copy of all bids received for each housing unit with lowest responsive bid identified, including a statement of the lowest bidder's qualifications;

E) Verification of identified household eligibility;

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF EMERGENCY AMENDMENTS

- F) Application project information form;
- G) Housing fact sheet;
- H) Local government certifications;
- I) Grantee/recipient disclosure certification;
- J) Minority benefit/affirmation housing statement; and
- K) Housing project design.

(Source: Old Section repealed at 26 Ill. Reg. 11805, effective July 18, 2002; new Section added by emergency rulemaking at 29 Ill. Reg. 4088, effective February 25, 2005, for a maximum of 150 days)

Section 110.102 Pre-Application Determination and Application Evaluation for Non-Competitive Mobility and Accessibility Rehabilitation Services~~Application Evaluation for Competitive Removal of Architectural Barriers Component (Repealed)~~
EMERGENCY

- a) Pre-application:
Non-entitlement units of local government, after determining and identifying households needing MARS assistance, shall contact the Department's Housing Manager either by written correspondence or telephone to determine whether MARS funds are available. If sufficient funds are available for the potential projects, the Department shall forward a pre-application to the unit of local government. When the Department forwards the pre-application to the unit of local government, it will date-stamp the pre-application and advise the unit of local government that it has 30 calendar days to complete the pre-application and return it to the Department, together with the required forms and documentation. In the event the unit of local government fails to return the pre-application and the required documents within 30 days after of the date-stamp, the pre-application will be considered null and void and the unit of local government will have to reinstate the pre-application process as outlined in this Section.
- b) Submission of Pre-application:
When an eligible applicant submits its pre-application to the Department, the Department will date-stamp the pre-application and its attachments. Within 5 business days after receipt, the Department will review the pre-application for

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF EMERGENCY AMENDMENTS

compliance. Upon verifying compliance, the Department will send an application to the unit of local government and the requested funds will be temporarily earmarked for the project. Thereafter, the unit of local government will have 30 calendar days to complete and submit its application to the Department. In the event that the unit of local government fails to submit a sufficient pre-application, the Department will return the pre-application and allow the unit of local government 15 calendar days from the date of the Department's deficiency determination letter to cure any deficiencies and resubmit the pre-application. In the event the unit of local government fails to timely cure any and all deficiencies in its pre-application, the Department will deem the pre-application null and void and return it to the unit of local government. If the unit of local government chooses to reinitiate the pre-application process, it must follow the pre-application process as outlined in subsection (a).

- c) Submission of Application:
Within 5 business days after receipt of the application, the Department shall review the application for completeness and accuracy. If the application is deemed complete, the Department's Housing Manager shall approve the application and initiate the Department's grant award process. The grant award process includes a Grant Agreement prepared by the Department and sent to the unit of local government for review and execution. In the event the application is deemed insufficient, the unit of local government will have 15 calendar days from the date of the Department's deficiency determination letter to cure any and all deficiencies and resubmit the application before it is deemed null and void. If the application is deemed null and void, the MARS funds earmarked for the project will be released and the unit of local government will have to reinitiate the pre-application process as outlined in subsection (a) to be reconsidered for funding for the project.

(Source: Old Section repealed at 26 Ill. Reg. 11805, effective July 18, 2002; new Section added by emergency rulemaking at 29 Ill. Reg. 4088, effective February 25, 2005, for a maximum of 150 days)

Section 110.104 Application Evaluation for Competitive Housing Rehabilitation**Component****EMERGENCY**

- a) Explanation of Application Ranking System
- 1) Applicants will compete in a formalized ranking system. Applications will

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF EMERGENCY AMENDMENTS

undergo an initial review to determine eligibility in 2 areas: Benefit to Low- and Moderate-Income Persons and Leverage Funds. Upon meeting the minimum eligibility thresholds, applications will compete in a formalized ranking system.

- 2) Applications will be ranked in ~~45~~ areas: ~~Community Need~~, Project Need, Project Impact, Evidence of Coordination of Resources, and Project Readiness. The Department will then select projects for funding out of the top-ranking projects as determined under subsection (b)(2) until all available funds are expended.
- b) Criteria for Selection of Projects
- 1) The analysis will evaluate project need, according to its impact on program benefit and benefit to low- to moderate-income persons utilizing the ranking system contained in subsection (d).
 - 2) Comparative Assessment of Applications
 - A) The Department will screen and identify top ranking CDAP applications. Projects will be ranked in categories of maximum, moderate, minimum or no rating as described in subsection (d). Maximum ratings do not guarantee that a project will receive funding. The Department will then conduct intensive evaluations, leading to the CDAP grant award decisions. Department staff may conduct field visits and will analyze project characteristics, including:
 - i) ~~Aa~~ comparative assessment of projects – e.g., project impact, local contribution, community need, etc.;
 - ii) ~~Aa~~ verification of submitted application information;
 - iii) ~~Aa~~ thorough analysis of the project's readiness to proceed; and
 - iv) ~~Aa~~ determination of the applicant's previous efforts to address its problems.
 - B) Actual funding levels will relate closely to the competitiveness of

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF EMERGENCY AMENDMENTS

the proposed projects. Applications will be comparatively ranked according to the criteria described in this subsection (b) to determine the final funding levels. The Department reserves the right to negotiate the final funding figures.

c) Eligibility Thresholds

- 1) Benefit to Low- and Moderate-Income Persons: Applications must document that the project will benefit 100% low- to moderate-income persons. Applications which do not document benefit to low- to moderate-income persons will not be considered further.
- 2) Leverage Funds: Applications must provide evidence that at least 20% of non-administrative housing rehabilitation costs will be provided from non-CDAP sources, except accessibility projects, which will not be required to provide leverage.

d) Ranking Criteria

~~1) Community Need: This criterion is an objective measure of relative poverty and economic distress designed to give some priority to applicants with the highest level of need. The following 2 indicators will be equally weighted and given a numerical score:~~

~~A) Estimates of average unemployment in Illinois, by county, based upon Illinois Department of Employment Security data.~~

~~B) Percentage of people in poverty according to United States Census Bureau data.~~

1)2) Project Need

A) An application shall receive a maximum rating if it has fully:

- i) ~~Demonstrated~~demonstrated that the extent of housing deficiencies is widespread and serious and the percentage of substandard units occupied by low- to moderate-income persons is high relative to the total number of households in the area;

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF EMERGENCY AMENDMENTS

- ii) ~~Identified~~ specific local conditions that have contributed or are contributing to the deterioration or lack of affordable housing;
 - iii) ~~Described~~ previous efforts to address housing problems that have not resolved the housing deficiencies, including a description of why the efforts failed to solve the problem.
 - iv) ~~identified specific properties that are occupied or will be occupied by persons with physical disabilities and that are in need of rehabilitation to meet the Illinois Accessibility Code (71 Ill. Adm. Code 400).~~
- B) An application shall receive a moderate rating if the project only "moderately" addresses the criteria or does not fully meet any one of the criteria in subsection (d)(~~12~~)(A).
- C) An application shall receive a minimum rating if the project only "minimally" addresses the criteria or does not fully meet any one of the criteria in subsection (d)(~~12~~)(A).
- D) An application shall receive a "no rating" if it fails to fully meet the standards in subsection (d)(~~12~~)(A).
- ~~2)3)~~ Project Impact
- A) An application shall receive a maximum rating if it has fully:
- i) ~~Demonstrated~~ that a substantial number of the housing units in need of rehabilitation in the identified project area will be repaired;
 - ii) ~~Demonstrated~~ that the proposed housing rehabilitation project addresses the identified needs and deficiencies and moves to resolve the problems; and
 - iii) ~~Outlined~~ how the targeted need or area is clearly distinguished from the overall housing needs in the community.

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF EMERGENCY AMENDMENTS

- B) An application shall receive a moderate rating if the project only "moderately" addresses the criteria or does not fully meet any one of the criteria in subsection (d)(~~23~~)(A).
- C) An application shall receive a minimum rating if the project only "minimally" addresses the criteria or does not fully meet any one of the criteria in subsection (d)(~~23~~)(A).
- D) An application shall receive a "no rating" if it fails to fully meet the standards in subsection (d)(~~23~~)(A).

~~3)4~~ Evidence of Coordination of Resources

- A) An application shall receive a maximum rating if it has fully:
- i) ~~Explained~~~~explained~~ the use of all available resources including a description of local efforts to revitalize the area to achieve maximum impact upon the targeted need or area;
 - ii) ~~Described~~~~described~~ the extent to which the proposed project represents the most effective option for achieving maximum impact; and
 - iii) ~~Provided~~~~provided~~ evidence that the applicant has coordinated activities with a local social service provider regarding the identification of eligible households and housing units in need of rehabilitation to meet accessibility standards.
- B) An application shall receive a moderate rating if the project only "moderately" addresses the criteria or does not fully meet any one of the criteria in subsection (d)(~~34~~)(A).
- C) An application shall receive a minimum rating if the project only "minimally" addresses the criteria or does not fully meet any one of the criteria in subsection (d)(~~34~~)(A).
- D) An application shall receive a "no rating" if it fails to fully meet the standards in subsection (d)(~~34~~)(A).

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF EMERGENCY AMENDMENTS

~~4)5)~~ Project Readiness

- A) An application shall receive a maximum rating if it has fully:
- i) ~~Developed~~developed a preliminary list of qualified general contractors which have expressed an interest in, and are available to perform, the proposed rehabilitation activities;
 - ii) ~~Demonstrated~~demonstrated substantial homeowner interest in both loan and/or grant portions of the identified project;
 - iii) ~~Documented~~documented that operational procedures and administrative structure have been established at the local level;
 - iv) ~~Documented~~documented that qualifications of, and procedures for selection of, housing inspectors have been established;
 - v) ~~Identified~~identified the specific types of, and priorities given to, work to be performed, including cost estimates;
 - vi) ~~Established~~established clear and measurable rehabilitation standards and proposed a reasonable implementation schedule;
 - vii) ~~Included~~included a description of the local application process that identified how the targeted population will be notified and encouraged to apply; and
 - viii) ~~Developed~~developed preliminary financing plans, such as a commitment of leverage funds and a financing structure that considers residents' incomes.
- B) An application shall receive a moderate rating if the project only "moderately" addresses the criteria or does not fully meet any one of the criteria in subsection (d)~~(45)~~(A).
- C) An application shall receive a minimum rating if the project only

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF EMERGENCY AMENDMENTS

"minimally" addresses the criteria or does not fully meet any one of the criteria in subsection (d)(~~45~~)(A).

- D) An application shall receive a "no rating" if it fails to fully meet the standards in subsection (d)(~~45~~)(A).

(Source: Amended by emergency rulemaking at 29 Ill. Reg. 4088, effective February 25, 2005, for a maximum of 150 days)

Section 110.110 Administrative Requirements**EMERGENCY**

~~The~~For the purpose of this Part, administrative requirements detailed in this Section, as well as those enumerated specified in 47 Ill. Adm. Code 1, ~~and as follow~~ are applicable to any grant awarded with respect to this Part.

- a) Compensation:— The method of compensation shall be in accordance with the applicable State laws relative to such compensation by which the Department is governed. Payments to the grantee are subject to the receipt of electronic requests for fund transfers or expenditure summaries. The first payment for program initiation may be an advance and should be the amount necessary to meet the first month's non-administrative cost needs. Thereafter, the payments are dual purpose in that they will be sufficient to cover the non-administrative expenditures to date as well as the cash needs of the grantee for the next 30 days. Administrative costs may be drawn as described above, or the grantee may draw down administrative needs in equal, quarterly increments. Each request shall be certified to the effect that the grantee has performed in conformance with the Grant Agreement and that it is entitled to receive the amount requisitioned.
- b) Reporting:— An electronic reporting system or an Expenditure Summary and Payment Request form shall be submitted to the Department to request cash.
- c) Procurement:— Procurement shall be conducted in accordance with 24 CFR 85 (Administrative Requirements for Grants and Cooperative Agreements to State, Local and Federally Recognized Indian Tribal Governments) (2004).
- d) Records:— CDAP records shall be maintained in accordance with 24 CFR 85 of the Illinois Local Records Act [50 ILCS 205] and 24 CFR 570.490 (2004) and are subject to the Freedom of Information Act [5 ILCS 140].

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF EMERGENCY AMENDMENTS

| e) Financial Management:

- 1) Grantees shall comply with financial management procedures provided in OMB Circular A-87, "Cost Principles for State and Local Governments", published May 4, 1995, and standards promulgated by the American Institute of Certified Public Accountants (AICPA), Harborside Financial Center, 201 Plaza 3, Jersey City NJ 07311, June 2003, no later editions are incorporated.
- 2) Audits shall be conducted in accordance with the Comptroller General's Standards for Audits of Governmental Organizations, Programs, Activities, or Functions, and the General Accounting Office's Guidelines for Financial and Compliance Audits of Federally Assisted Programs available from U.S. Comptroller General Standards, U.S. General Accounting Office, 441 G Street NW, Washington, DC 20548.

| f) Bonding and Insurance:

- 1) Bonding:
 - A) Grantees: Grantees shall obtain a fidelity bond for each employee or official with access to project assets, accounting records, or checks. The bond (position or blanket) shall be in an amount at least to cover all CDAP funds contained in all bank accounts. The person with signature authority for the CDAP accounts must be bonded for this amount and his or her signature must appear on every check. The total bonding for each employee cannot be counted as a cumulative total. The cost of the fidelity bonds is a CDAP eligible administrative expense.
 - B) Grant Administrators: If the grant administrator processes payments on behalf of the grantee, the grant administrator shall obtain a fidelity bond for each employee with access to project assets, accounting records, or checks. The bond (position or blanket) shall be in the minimum amount of \$750,000. At least one of the persons with signature authority for the CDAP accounts must be bonded for this amount and his or her signature must appear on every check. The cost of the fidelity bonds is a CDAP eligible administrative expense.

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF EMERGENCY AMENDMENTS

- 2) Flood Insurance: Grantees shall comply with the flood insurance purchase requirements of Section 102(e) of the Flood Disaster Protection Act of 1973 (42 USC 4001).
- g) Expenditure of Project Funds:— No project costs may be incurred prior to authorization, and release of funds will not occur without a fully executed grant award document. Costs may be incurred as follows:
 - 1) CDAP administrative costs may be incurred as of the date of the grant award letter;
 - 2) Non-CDAP project costs (leverage funds) and CDAP-funded design engineering costs may be incurred only after receiving a grant award letter and meeting environmental review requirements; and
 - 3) CDAP-funded projects costs may be incurred only after all of the above conditions have been satisfied and all specific grant conditions have been met.

(Source: Amended by emergency rulemaking at 29 Ill. Reg. 4088, effective February 25, 2005, for a maximum of 150 days)

Section 110.120 Non-discrimination**EMERGENCY**

- a) Equal Employment Opportunity
 - 1) In carrying out any project under this Part~~the program~~, the grantee~~Grantee~~ shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The grantee~~Grantee~~ shall take affirmative action to insure that applicants for employment are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The grantee~~Grantee~~ shall post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause. The grantee~~Grantee~~ shall state that all qualified

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF EMERGENCY AMENDMENTS

applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin. The ~~grantee~~Grantee shall incorporate the foregoing requirements of this paragraph in all of its contracts for program work.

- 2) The ~~grantee~~Grantee shall cause or require to be inserted in full in any contract and subcontract for work, or modification thereof, all applicable ~~federal~~Federal and State Equal Employment Opportunity Provisions.
- b) Discrimination – The ~~grantee~~Grantee shall refrain from unlawful discrimination in employment and will undertake affirmative action to assure equality of employment opportunity and eliminate the effects of past discrimination in accordance with the Illinois Human Rights Act.

(Source: Amended by emergency rulemaking at 29 Ill. Reg. 4088, effective February 25, 2005, for a maximum of 150 days)

Section 110.130 Complaint Process**EMERGENCY**

In the event of ~~grantee~~Grantee complaint or a Department finding/determination, the ~~grantee and the~~ Department ~~shall~~will follow the procedures set forth~~outlined~~ in 56 Ill. Adm. Code 2605 (Administrative Hearing Rules).

(Source: Amended by emergency rulemaking at 29 Ill. Reg. 4088, effective February 25, 2005, for a maximum of 150 days)

ILLINOIS RACING BOARD

NOTICE OF EMERGENCY AMENDMENTS

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

<u>Section Numbers:</u>	<u>Emergency Action:</u>
603.60	Amend
603.75	New Section
- 4) Statutory Authority: 230 ILCS 5/9(b)
- 5) Effective Date of Amendments: February 25, 2005
- 6) If this emergency amendment is to expire before the end of the 150 day period, please specify the date on which it is to expire: N/A
- 7) Date Filed with the Index Department: February 25, 2005
- 8) A copy of the emergency amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection
- 9) Reason for Emergency: The emergency amendment must be in effect prior to the opening of the thoroughbred racing, February 25, 2005.
- 10) A Complete Description of the Subjects and Issues Involved: This rulemaking addresses subtrace levels of therapeutic drugs that are now detectable for days after administration, and minute traces of drugs that enter the horse's system by way of contamination.

On Thursday, February 17, 2005, the Board held a special meeting and took testimony from two scientists widely renown in drug testing of race horses, Dr Negrusz, Director of the IRB program and Professor of Forensic Science at UIC and Dr. Barker, Director of the Louisiana Drug Testing Laboratory and Professor of Veterinary Medicine and Toxicology. Both testified that advances in drug testing technology over the past five years have increased sensitivity of detection of substances over 1,000 fold. Testing capabilities are so sensitive as to detect drugs in parts per trillion concentration. Drugs are being identified in the horses system days and even weeks after a legal, therapeutic administration by a veterinarian, leaving the concept of "zero tolerance" unenforceable.

Additionally certain substances present in the environment as contaminates can now be detected in a horse's system at even lower trace levels. As a result, owners and trainers

ILLINOIS RACING BOARD

NOTICE OF EMERGENCY AMENDMENTS

risk being unreasonably punished for the legitimate use of therapeutics or the presence of trace levels of environmental contaminants that are beyond their control.

The Board voted to establish threshold levels for 3 nonsteroidal therapeutic drugs and restructured the penalty system for two environmental contaminants. Only the issue of establishing a threshold level for cocaine metabolites was controversial. Testimony taken by the Board showed that traces of cocaine can be found on almost every piece of US currency. Published studies have demonstrated that urine taken from humans handling money can test as high as 80 ng/ml concentration of BE (cocaine metabolite). The Federal Department of Health and Human Services as well as the World Health Organization have established the screening threshold for cocaine metabolites at 300 ng/ml in humans, with a confirmatory level of 150 ng/ml for BE. Dr. Negrusz and Dr. Barker are confident that a trace level of BE under 150 ng/ml is insignificant in the horse, having no pharmacological or behavioral effects and representative of an environmental contamination.

In adopting these regulatory action levels, the Board considered testimony of the scientific and veterinary experts, the horsemen's groups, racetrack operators and recommendations, reports and studies published by the National Horsemen's Benevolent & Protective Association (HBPA), the NTRA Racing Integrity and Drug Testing Task Force, the American Association of Equine Practitioners (AAEP), and the NTRA Racing Medication and Testing Consortium. The NTRA Medication Consortium represents a group of 26 industry organizations and has extensively researched the thresholds at issue.

The therapeutic drug thresholds conform to those adopted by several racing jurisdictions, including, California, Ohio, Iowa and Louisiana and conform to ARCI model rules. Ohio and Louisiana have adopted threshold levels of 150ng/ml for BE, with no action taken against a trainer.

This rulemaking does provide for penalties to the trainer if a horse tests under the 150ng level consistent with contamination. The penalties range from a fine of \$250 for the first violation up to \$1,000 for the third violation. The horse shall not be disqualified, however, and the purse is not redistributed.

Levels as low as 20 ng/ml to 50 ng/ml of BE have recently been reported by the UIC laboratory in horses racing at Illinois Tracks. Without establishing a threshold level for guidance, any cocaine found in a horse would result in a minimum penalty of 6 months suspension for the trainer and a loss of purse for the owner.

- 11) Are there any proposed amendments pending in this Part? Yes

ILLINOIS RACING BOARD

NOTICE OF EMERGENCY AMENDMENTS

<u>Section Numbers:</u>	<u>Proposed Action:</u>	<u>Ill. Reg. Citation</u>
603.50	Amend	28 Ill. Reg. 6015, 4/16/04
603.70	Amend	28 Ill. Reg. 16196, 12/17/04
603.70	Amend	29 Ill. Reg. 2779, 2/5/05

12) Statement of Statewide Policy Objectives: No local governmental units will be required to increase expenditures.

13) Information and questions regarding this emergency rulemaking 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:

ILLINOIS RACING BOARD

NOTICE OF EMERGENCY AMENDMENTS

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

PART 603
MEDICATION

Section

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

EMERGENCY

- 603.70 Furosemide
603.75 Environmental Contaminants

EMERGENCY

- 603.80 Needles, Syringes and Injectables
603.90 Drugs, Chemicals and Prescription Items
603.100 Detention Barn
603.110 Test Samples
603.120 Referee Samples
603.130 Laboratory Findings and Reports
603.140 Distribution of Purses and Retention of Samples
603.150 Post Mortems
603.160 Penalties
603.170 Veterinarian's Records
603.180 Carbon Dioxide Tests

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

SOURCE: Adopted at 21 Ill. Reg. 3232, effective March 4, 1997; amended at 22 Ill. Reg. 2217, effective January 1, 1998; amended at 22 Ill. Reg. 3594, effective February 1, 1998; amended at 25 Ill. Reg. 15611, effective December 1, 2001; amended at 26 Ill. Reg. 12360, effective August 1, 2002; amended at 27 Ill. Reg. 5027, effective March 7, 2003; amended at 27 Ill. Reg. 7331, effective April 15, 2003; amended at 28 Ill. Reg. 1374, effective January 19, 2004; amended at

ILLINOIS RACING BOARD

NOTICE OF EMERGENCY AMENDMENTS

28 Ill. Reg. 4751, effective March 1, 2004; emergency amendment at 28 Ill. Reg. 7565, effective May 11, 2004, for a maximum of 150 days; emergency expired October 7, 2004; amended at 28 Ill. Reg. 11250, effective August 1, 2004; amended at 28 Ill. Reg. 15790, effective December 1, 2004; emergency amendment at 29 Ill. Reg. 2779, effective February 22, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 4116, effective February 25, 2005.

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

- a) Non-Steroidal Anti-Inflammatories (NSAID): Threshold Levels
- 1) Only one non-steroidal anti-inflammatory drug (NSAID) may be present in a horse's body while it is participating in a race. The presence of more than one NSAID at any test level is forbidden.
 - 2) Subject to the prohibition contained in Section 603.40 (24 hour ban), the only foreign ~~substances that~~~~substance which~~ now ~~meet~~~~meets~~ the criteria established in Section 603.80 ~~are~~~~is~~ phenylbutazone (~~or its metabolite oxyphenylbutazone~~), flunixin, and ketoprofen. ~~One of the metabolites of phenylbutazone is oxyphenylbutazone.~~
 - 3) The test level of phenylbutazone shall not be in excess of ~~5.02-0~~ ~~micrograms (mcg)/milliliter (ml)~~~~mcg/ml~~ of serum or plasma. The test level for oxyphenylbutazone shall not be in excess of ~~5.02-0~~ mcg/ml of plasma.
 - A) ~~The first two times the laboratory reports that an amount of phenylbutazone or oxyphenylbutazone with respect to any horse or horses of a trainer is greater than 2.0 mcg/ml but less than or equal to 5.0 mcg/ml of serum or plasma, the trainer shall receive a written warning. An additional warning will be given to a trainer for every 150 horses that he has started in the present calendar year. After the trainer has received all requisite warnings, all subsequent violations in the concentration range of 2.0 mcg/ml to 5.0 mcg/ml shall be subject to a fine not to exceed \$500.~~
 - A)B) In the event a post-race sample from a horse contains an amount of phenylbutazone or oxyphenylbutazone greater than 5.0 mcg/ml but less than or equal to 8.0 mcg/ml of serum or plasma, the trainer shall be subject to a fine not to exceed \$500.

ILLINOIS RACING BOARD

NOTICE OF EMERGENCY AMENDMENTS

- ~~B)C)~~ In the event a post-race sample from a horse contains an amount of phenylbutazone or oxyphenylbutazone greater than 8.0 mcg/ml but less than or equal to 15.0 mcg/ml of serum or plasma, the trainer shall be subject to a fine not to exceed \$1000 and/or a suspension not to exceed 15 days (see subsection (a)(3)(F) below).
- ~~C)D)~~ In the event a post-race sample from a horse contains an amount of phenylbutazone or oxyphenylbutazone greater than 15.0 mcg/ml of serum or plasma, the trainer shall be subject to a fine not to exceed \$1000 and/or a suspension not to exceed 60 days and the purse shall be redistributed (see subsection (a)(3)(F) below).
- ~~D)E)~~ If the phenylbutazone or oxyphenylbutazone overage is due to the negligence of the veterinarian attending the horse, the veterinarian shall be subject to the same penalties as are set forth in subsections (a)(3)(A)-(D).
- ~~E)F)~~ Penalties for violations of this Section shall be based on the following criteria:
- i) previous warnings and rulings for violations of this Section;
 - ii) the age and experience of the violator;
 - iii) whether the violator has ever been the subject of a medication ruling in this or any other racing jurisdiction;
 - iv) what action, if any, was taken to avoid the violation;
 - v) the purse of the race.
- 4) The test level of flunixin shall not be in excess of 20.0 ng/ml of serum or plasma. To help horsemen determine the test levels of phenylbutazone and oxyphenylbutazone, the Board laboratory will test, without charge, all equine serum or plasma samples submitted to it which are accompanied by an affidavit indicating time, method, and route of administration of phenylbutazone.

ILLINOIS RACING BOARD

NOTICE OF EMERGENCY AMENDMENTS

- 5) The test level of ketoprofen shall not be in excess of 10.0 ng/ml of serum or plasma.
- 6) To help horsemen determine the test levels of phenylbutazone, oxyphenylbutazone, flunixin, and ketoprofen, the Board laboratory will test, for the actual cost of processing the sample, all equine serum or plasma samples submitted to it that are accompanied by an affidavit indicating time, method, and route of administration.
- b) The following foreign substances may be administered externally to a horse entered to a race: Leg paints and liniment which do not contain any "caine" derivatives, pharmacodynamic and/or chemotherapeutic agents, and which can be applied topically without penetrating the skin.
- c) Subject to the prohibition contained in Section 603.40 (24-hour ban), the following foreign substances, commonly referred to as anti-bacterial, ~~or~~ anti-fungal, or anti-ulcer drugs, may be present in the body of a horse participating in a race.
- 1) Anti-Bacterials
- Amikacin
 - Ampicillin
 - Ampicillin sodium
 - Azolsulfamide
 - Chloramphenicol
 - Doxycycline
 - Erythromycin sulfate
 - Gentamicin sulfate
 - Kanamycin sulfate
 - Methenamine
 - Levamisole (tetramisole)
 - Metronidazole
 - Neomycin sulfate
 - Nitrofurantoin
 - Oxytetracycline
 - Penicillin G. Benzathine
 - Penicillin G. Potassium
 - Sulfadimethazine

ILLINOIS RACING BOARD

NOTICE OF EMERGENCY AMENDMENTS

Sulfadimethoxine
Sulfamethoxazole
Sulfamethranidazole
Sulfapyridine
Sulfathiazole
Tetracycline
Trimethoprim

2) Anti-Fungals

Amphotericin B
Griseofulvin
Neomycin Undecylenate
Nystatin

3) Anti-Ulcers

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

- d) This listing of anti-bacterial, ~~and~~ anti-fungal, and anti-ulcer drugs is all inclusive and shall not include any other anti-bacterial, ~~or~~ anti-fungal, or anti-ulcer drug.
- e) A foreign substance of accepted therapeutic value may be administered as prescribed by a veterinarian when threshold levels and guidelines for its use have been approved by the Board and this Part has been duly amended. The Board shall give due consideration to threshold levels and guidelines that have been established by the Quality Assurance Program Committee of the Association of Racing Commissioners International when making additions to the permitted list.

(Source: Amended by emergency rulemaking at 29 Ill. Reg. 4116, effective February 25, 2005, for a maximum of 150 days)

Section 603.75 Environmental Contaminants
EMERGENCY

The following drugs are recognized as substances that unavoidably become part of the food supply or environment of the horse.

ILLINOIS RACING BOARD

NOTICE OF EMERGENCY AMENDMENTS

- a) Benzoyllecgonine (a metabolite of cocaine):
- 1) The first time the laboratory reports an amount of benzoyllecgonine below 150.0 nanograms (ng) per milliliter (ml) in urine, it shall be considered a violation of Section 603.50 and the trainer shall be fined \$250.
 - 2) The second time the laboratory reports a test result of an amount of benzoyllecgonine below 150.0 ng/ml in urine, it shall be considered a violation of Section 603.50 and the trainer shall be fined \$500.
 - 3) For a third or subsequent laboratory test result of an amount of benzoyllecgonine below 150.0 ng/ml in urine, it shall be considered a violation of Section 603.50 and the trainer shall be fined \$1,000.
 - 4) Laboratory reports of benzoyllecgonine, 150.0 ng/ml and greater, shall be treated as a Class 1 drug, as defined in the Association of Racing Commissioners International Uniform Classification Guidelines for Foreign Substances.
 - 5) The penalties set forth in subsections (a)(2) and (3) must occur within the Board's jurisdiction within 5 years after the penalty set forth in subsection (a)(1).
- b) Dimethyl Sulfoxide (DMSO):
Laboratory reports of DMSO, 500 mcg/ml in urine and greater, shall be considered a violation of Section 603.50 and the trainer shall receive a fine of not less than \$500 and the purse shall be redistributed.

(Source: Added by emergency rulemaking at 29 Ill. Reg. 4116, effective February 25, 2005, for a maximum of 150 days)

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENTS

- 1) Heading of the Part: Pay Plan
- 2) Code Citation: 80 Ill. Adm. Code 310
- 3) Section Numbers: 310.Appendix A Table W Peremptory Action: Amend
- 4) Reference to the Specific State or Federal Court Order, Federal Rule or Statute which Requires this Peremptory Rulemaking: The Department of Central Management Services is amending the Pay Plan 80 Ill. Adm. Code 310.Appendix A Table W to reflect the Memorandum of Understanding between the Department of Central Management Services and the American Federation of State, County and Municipal Employees signed January 24, 2005. The Public Information Officer III (formerly MC-05) and Public Information Officer IV (formerly MC-07) titles are paid in salary grades RC-062-19 and RC-062-21, respectively, effective December 16, 2004.
- 5) Statutory Authority: Authorized by Sections 8 and 8a of the Personnel Code [20 ILCS 415/8 and 8a].
- 6) Effective Date: February 23, 2005
- 7) A Complete Description of the Subjects and Issues Involved: Section 310.Appendix A, Table W is amended to reflect that the Public Information Officer III (Title Code 37003) and Public Information Officer IV (Title Code 37004) titles are paid in salary grades RC-062-19 and RC-062-21, respectively.
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Date filed with the Index Department: The Peremptory Amendments will be filed when the certificate is signed.
- 10) This and other Pay Plan amendments are available in the Division of Technical Services of the Bureau of Personnel.
- 11) Is this in compliance with Section 5-50 of the Illinois Administrative Procedure Act?
Yes
- 12) Are there any other proposed amendments pending on this Part?

Section NumbersProposed Action Ill. Reg. Citation

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENTS

<u>Section Numbers</u>	<u>Proposed Action</u>	<u>Ill. Reg. Citation</u>
310.Appendix A Table D	Amend	28 Ill. Reg. 13949, 10/29/04
310.Appendix A, Table E	Amend	28 Ill. Reg. 13949, 10/29/04
310.Appendix A, Table F	Amend	28 Ill. Reg. 13949, 10/29/04
310.80	Amend	28 Ill. Reg. 15937, 12/17/04
310.230	Amend	28 Ill. Reg. 15937, 12/17/04
310.410	Amend	28 Ill. Reg. 15937, 12/17/04
310.Appendix A, Table G	Amend	28 Ill. Reg. 15937, 12/17/04
310.Appendix A, Table H	Amend	28 Ill. Reg. 15937, 12/17/04
310.Appendix A, Table I	Amend	28 Ill. Reg. 15937, 12/17/04
310.Appendix A, Table J	Amend	28 Ill. Reg. 15937, 12/17/04
310.Appendix A, Table N	Amend	28 Ill. Reg. 15937, 12/17/04
310.Appendix A, Table O	Amend	28 Ill. Reg. 15937, 12/17/04
310.Appendix A, Table P	Amend	28 Ill. Reg. 15937, 12/17/04
310.Appendix A, Table R	Amend	28 Ill. Reg. 15937, 12/17/04
310.Appendix A, Table W	Amend	28 Ill. Reg. 15937, 12/17/04
310.Appendix A, Table X	Amend	28 Ill. Reg. 15937, 12/17/04
310.Appendix A, Table Y	Amend	28 Ill. Reg. 15937, 12/17/04
310.Appendix A, Table Z	Amend	28 Ill. Reg. 15937, 12/17/04
310.Appendix A, Table AA	Amend	28 Ill. Reg. 15937, 12/17/04
310.Appendix B	Amend	28 Ill. Reg. 15937, 12/17/04
310.210	Amend	29 Ill. Reg. 2105, 2/14/04
310.230	Amend	29 Ill. Reg. 2105, 2/14/04
310.280	Amend	29 Ill. Reg. 2105, 2/14/04
310.290	Amend	29 Ill. Reg. 2105, 2/14/04
310.Appendix A, Table L	Amend	29 Ill. Reg. 2105, 2/14/04
310.Appendix A, Table W	Amend	29 Ill. Reg. 2105, 2/14/04
310.Appendix A, Table Y	Amend	29 Ill. Reg. 2105, 2/14/04
310.100	Amend	29 Ill. Reg. 2884, 2/25/04
310.490	Amend	29 Ill. Reg. 2884, 2/25/04
310.Appendix A, Table W	Amend	29 Ill. Reg. 2884, 2/25/04

- 13) Statement of Statewide Policy Objectives: These amendments to the Pay Plan affect only the employees subject to the Personnel Code and do not set out any guidelines that affect local or other jurisdictions in the State.
- 14) Information and questions regarding these preemptory amendments shall be directed to:

Ms. Dawn DeFraties
Deputy Director

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENTS

Department of Central Management Services
503 William G. Stratton Building
Springfield IL 62706

217/524-8773
Fax: 217/558-4497

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

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENTS

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES
SUBTITLE B: PERSONNEL RULES, PAY PLANS, AND
POSITION CLASSIFICATIONS

CHAPTER I: DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

PART 310
PAY PLAN

SUBPART A: NARRATIVE

Section	
310.20	Policy and Responsibilities
310.30	Jurisdiction
310.40	Pay Schedules
310.50	Definitions
310.60	Conversion of Base Salary to Pay Period Units
310.70	Conversion of Base Salary to Daily or Hourly Equivalents
310.80	Increases in Pay
310.90	Decreases in Pay
310.100	Other Pay Provisions
310.110	Implementation of Pay Plan Changes for Fiscal Year 2005
310.120	Interpretation and Application of Pay Plan
310.130	Effective Date
310.140	Reinstitution of Within Grade Salary Increases (Repealed)
310.150	Fiscal Year 1985 Pay Changes in Schedule of Salary Grades, effective July 1, 1984 (Repealed)

SUBPART B: SCHEDULE OF RATES

Section	
310.205	Introduction
310.210	Prevailing Rate
310.220	Negotiated Rate
310.230	Part-Time Daily or Hourly Special Services Rate
310.240	Hourly Rate
310.250	Member, Patient and Inmate Rate
310.260	Trainee Rate
310.270	Legislated and Contracted Rate
310.280	Designated Rate
310.290	Out-of-State or Foreign Service Rate

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENTS

- 310.300 Educator Schedule for RC-063 and HR-010
- 310.310 Physician Specialist Rate
- 310.320 Annual Compensation Ranges for Executive Director and Assistant Executive Director, State Board of Elections
- 310.330 Excluded Classes Rate (Repealed)

SUBPART C: MERIT COMPENSATION SYSTEM

Section

- 310.410 Jurisdiction
- 310.420 Objectives
- 310.430 Responsibilities
- 310.440 Merit Compensation Salary Schedule
- 310.450 Procedures for Determining Annual Merit Increases
- 310.455 Intermittent Merit Increase
- 310.456 Merit Zone (Repealed)
- 310.460 Other Pay Increases
- 310.470 Adjustment
- 310.480 Decreases in Pay
- 310.490 Other Pay Provisions
- 310.495 Broad-Band Pay Range Classes
- 310.500 Definitions
- 310.510 Conversion of Base Salary to Pay Period Units (Repealed)
- 310.520 Conversion of Base Salary to Daily or Hourly Equivalents
- 310.530 Implementation
- 310.540 Annual Merit Increase Guidechart for Fiscal Year 2005
- 310.550 Fiscal Year 1985 Pay Changes in Merit Compensation System, effective July 1, 1984 (Repealed)

310.APPENDIX A Negotiated Rates of Pay

- 310.TABLE A HR-190 (Department of Central Management Services – State of Illinois Building – SEIU) (Repealed)
- 310.TABLE B HR-200 (Department of Labor – Chicago, Illinois – SEIU) (Repealed)
- 310.TABLE C RC-069 (Firefighters, AFSCME) (Repealed)
- 310.TABLE D HR-001 (Teamsters Local #726)
- 310.TABLE E RC-020 (Teamsters Local #330)
- 310.TABLE F RC-019 (Teamsters Local #25)
- 310.TABLE G RC-045 (Automotive Mechanics, IFPE)
- 310.TABLE H RC-006 (Corrections Employees, AFSCME)

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENTS

310.TABLE I	RC-009 (Institutional Employees, AFSCME)
310.TABLE J	RC-014 (Clerical Employees, AFSCME)
310.TABLE K	RC-023 (Registered Nurses, INA)
310.TABLE L	RC-008 (Boilermakers)
310.TABLE M	RC-110 (Conservation Police Lodge)
310.TABLE N	RC-010 (Professional Legal Unit, AFSCME)
310.TABLE O	RC-028 (Paraprofessional Human Services Employees, AFSCME)
310.TABLE P	RC-029 (Paraprofessional Investigatory and Law Enforcement Employees, IFPE)
310.TABLE Q	RC-033 (Meat Inspectors, IFPE)
310.TABLE R	RC-042 (Residual Maintenance Workers, AFSCME)
310.TABLE S	HR-012 (Fair Employment Practices Employees, SEIU) (Repealed)
310.TABLE T	HR-010 (Teachers of Deaf, IFT)
310.TABLE U	HR-010 (Teachers of Deaf, Extracurricular Paid Activities)
310.TABLE V	CU-500 (Corrections Meet and Confer Employees)
310.TABLE W	RC-062 (Technical Employees, AFSCME)
310.TABLE X	RC-063 (Professional Employees, AFSCME)
310.TABLE Y	RC-063 (Educators, AFSCME)
310.TABLE Z	RC-063 (Physicians, AFSCME)
310.TABLE AA	NR-916 (Department of Natural Resources, Teamsters)
310.TABLE AB	VR-007 (Plant Maintenance Engineers, Operating Engineers) (Repealed)
310.APPENDIX B	Schedule of Salary Grades – Monthly Rates of Pay for Fiscal Year 2005
310.APPENDIX C	Medical Administrator Rates for Fiscal Year 2005
310.APPENDIX D	Merit Compensation System Salary Schedule for Fiscal Year 2005
310.APPENDIX E	Teaching Salary Schedule (Repealed)
310.APPENDIX F	Physician and Physician Specialist Salary Schedule (Repealed)
310.APPENDIX G	Broad-Band Pay Range Classes Salary Schedule for Fiscal Year 2005

AUTHORITY: Implementing and authorized by Sections 8 and 8a of the Personnel Code [20 ILCS 415/8 and 8a].

SOURCE: Filed June 28, 1967; codified at 8 Ill. Reg. 1558; emergency amendment at 8 Ill. Reg. 1990, effective January 31, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 2440, effective February 15, 1984; emergency amendment at 8 Ill. Reg. 3348, effective March 5, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 4249, effective March 16, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 5704, effective April 16, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 7290, effective May 11, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 11299, effective June 25, 1984;

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENTS

emergency amendment at 8 Ill. Reg. 12616, effective July 1, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 15007, effective August 6, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 15367, effective August 13, 1984; emergency amendment at 8 Ill. Reg. 21310, effective October 10, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 21544, effective October 24, 1984; amended at 8 Ill. Reg. 22844, effective November 14, 1984; emergency amendment at 9 Ill. Reg. 1134, effective January 16, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 1320, effective January 23, 1985; amended at 9 Ill. Reg. 3681, effective March 12, 1985; emergency amendment at 9 Ill. Reg. 4163, effective March 15, 1985, for a maximum of 150 days; emergency amendment at 9 Ill. Reg. 9231, effective May 31, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 9420, effective June 7, 1985; amended at 9 Ill. Reg. 10663, effective July 1, 1985; emergency amendment at 9 Ill. Reg. 15043, effective September 24, 1985, for a maximum of 150 days; preemptory amendment at 10 Ill. Reg. 3325, effective January 22, 1986; amended at 10 Ill. Reg. 3230, effective January 24, 1986; emergency amendment at 10 Ill. Reg. 8904, effective May 13, 1986, for a maximum of 150 days; preemptory amendment at 10 Ill. Reg. 8928, effective May 13, 1986; emergency amendment at 10 Ill. Reg. 12090, effective June 30, 1986, for a maximum of 150 days; preemptory amendment at 10 Ill. Reg. 13675, effective July 31, 1986; preemptory amendment at 10 Ill. Reg. 14867, effective August 26, 1986; amended at 10 Ill. Reg. 15567, effective September 17, 1986; emergency amendment at 10 Ill. Reg. 17765, effective September 30, 1986, for a maximum of 150 days; preemptory amendment at 10 Ill. Reg. 19132, effective October 28, 1986; preemptory amendment at 10 Ill. Reg. 21097, effective December 9, 1986; amended at 11 Ill. Reg. 648, effective December 22, 1986; preemptory amendment at 11 Ill. Reg. 3363, effective February 3, 1987; preemptory amendment at 11 Ill. Reg. 4388, effective February 27, 1987; preemptory amendment at 11 Ill. Reg. 6291, effective March 23, 1987; amended at 11 Ill. Reg. 5901, effective March 24, 1987; emergency amendment at 11 Ill. Reg. 8787, effective April 15, 1987, for a maximum of 150 days; emergency amendment at 11 Ill. Reg. 11830, effective July 1, 1987, for a maximum of 150 days; preemptory amendment at 11 Ill. Reg. 13675, effective July 29, 1987; amended at 11 Ill. Reg. 14984, effective August 27, 1987; preemptory amendment at 11 Ill. Reg. 15273, effective September 1, 1987; preemptory amendment at 11 Ill. Reg. 17919, effective October 19, 1987; preemptory amendment at 11 Ill. Reg. 19812, effective November 19, 1987; emergency amendment at 11 Ill. Reg. 20664, effective December 4, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 20778, effective December 11, 1987; preemptory amendment at 12 Ill. Reg. 3811, effective January 27, 1988; preemptory amendment at 12 Ill. Reg. 5459, effective March 3, 1988; amended at 12 Ill. Reg. 6073, effective March 21, 1988; preemptory amendment at 12 Ill. Reg. 7783, effective April 14, 1988; emergency amendment at 12 Ill. Reg. 7734, effective April 15, 1988, for a maximum of 150 days; preemptory amendment at 12 Ill. Reg. 8135, effective April 22, 1988; preemptory amendment at 12 Ill. Reg. 9745, effective May 23, 1988; emergency amendment at 12 Ill. Reg. 11778, effective July 1, 1988, for a maximum of 150 days; emergency amendment at 12 Ill. Reg. 12895, effective July 18, 1988, for a maximum of 150 days; preemptory amendment at 12 Ill. Reg. 13306, effective July 27,

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENTS

1988; corrected at 12 Ill. Reg. 13359; amended at 12 Ill. Reg. 14630, effective September 6, 1988; amended at 12 Ill. Reg. 20449, effective November 28, 1988; preemptory amendment at 12 Ill. Reg. 20584, effective November 28, 1988; preemptory amendment at 13 Ill. Reg. 8080, effective May 10, 1989; amended at 13 Ill. Reg. 8849, effective May 30, 1989; preemptory amendment at 13 Ill. Reg. 8970, effective May 26, 1989; emergency amendment at 13 Ill. Reg. 10967, effective June 20, 1989, for a maximum of 150 days; emergency amendment expired on November 17, 1989; amended at 13 Ill. Reg. 11451, effective June 28, 1989; emergency amendment at 13 Ill. Reg. 11854, effective July 1, 1989, for a maximum of 150 days; corrected at 13 Ill. Reg. 12647; preemptory amendment at 13 Ill. Reg. 12887, effective July 24, 1989; amended at 13 Ill. Reg. 16950, effective October 20, 1989; amended at 13 Ill. Reg. 19221, effective December 12, 1989; amended at 14 Ill. Reg. 615, effective January 2, 1990; preemptory amendment at 14 Ill. Reg. 1627, effective January 11, 1990; amended at 14 Ill. Reg. 4455, effective March 12, 1990; preemptory amendment at 14 Ill. Reg. 7652, effective May 7, 1990; amended at 14 Ill. Reg. 10002, effective June 11, 1990; emergency amendment at 14 Ill. Reg. 11330, effective June 29, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 14361, effective August 24, 1990; emergency amendment at 14 Ill. Reg. 15570, effective September 11, 1990, for a maximum of 150 days; emergency amendment expired on February 8, 1991; corrected at 14 Ill. Reg. 16092; preemptory amendment at 14 Ill. Reg. 17098, effective September 26, 1990; amended at 14 Ill. Reg. 17189, effective October 2, 1990; amended at 14 Ill. Reg. 17189, effective October 19, 1990; amended at 14 Ill. Reg. 18719, effective November 13, 1990; preemptory amendment at 14 Ill. Reg. 18854, effective November 13, 1990; preemptory amendment at 15 Ill. Reg. 663, effective January 7, 1991; amended at 15 Ill. Reg. 3296, effective February 14, 1991; amended at 15 Ill. Reg. 4401, effective March 11, 1991; preemptory amendment at 15 Ill. Reg. 5100, effective March 20, 1991; preemptory amendment at 15 Ill. Reg. 5465, effective April 2, 1991; emergency amendment at 15 Ill. Reg. 10485, effective July 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 11080, effective July 19, 1991; amended at 15 Ill. Reg. 13080, effective August 21, 1991; amended at 15 Ill. Reg. 14210, effective September 23, 1991; emergency amendment at 16 Ill. Reg. 711, effective December 26, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 3450, effective February 20, 1992; preemptory amendment at 16 Ill. Reg. 5068, effective March 11, 1992; preemptory amendment at 16 Ill. Reg. 7056, effective April 20, 1992; emergency amendment at 16 Ill. Reg. 8239, effective May 19, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 8382, effective May 26, 1992; emergency amendment at 16 Ill. Reg. 13950, effective August 19, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 14452, effective September 4, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 238, effective December 23, 1992; preemptory amendment at 17 Ill. Reg. 498, effective December 18, 1992; amended at 17 Ill. Reg. 590, effective January 4, 1993; amended at 17 Ill. Reg. 1819, effective February 2, 1993; amended at 17 Ill. Reg. 6441, effective April 8, 1993; emergency amendment at 17 Ill. Reg. 12900, effective July 22, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 13409, effective July 29, 1993; emergency amendment at 17 Ill. Reg. 13789, effective

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENTS

August 9, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 14666, effective August 26, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 19103, effective October 25, 1993; emergency amendment at 17 Ill. Reg. 21858, effective December 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 22514, effective December 15, 1993; amended at 18 Ill. Reg. 227, effective December 17, 1993; amended at 18 Ill. Reg. 1107, effective January 18, 1994; amended at 18 Ill. Reg. 5146, effective March 21, 1994; preemptory amendment at 18 Ill. Reg. 9562, effective June 13, 1994; emergency amendment at 18 Ill. Reg. 11299, effective July 1, 1994, for a maximum of 150 days; preemptory amendment at 18 Ill. Reg. 13476, effective August 17, 1994; emergency amendment at 18 Ill. Reg. 14417, effective September 9, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 16545, effective October 31, 1994; preemptory amendment at 18 Ill. Reg. 16708, effective October 28, 1994; amended at 18 Ill. Reg. 17191, effective November 21, 1994; amended at 19 Ill. Reg. 1024, effective January 24, 1995; preemptory amendment at 19 Ill. Reg. 2481, effective February 17, 1995; preemptory amendment at 19 Ill. Reg. 3073, effective February 17, 1995; amended at 19 Ill. Reg. 3456, effective March 7, 1995; preemptory amendment at 19 Ill. Reg. 5145, effective March 14, 1995; amended at 19 Ill. Reg. 6452, effective May 2, 1995; preemptory amendment at 19 Ill. Reg. 6688, effective May 1, 1995; amended at 19 Ill. Reg. 7841, effective June 1, 1995; amended at 19 Ill. Reg. 8156, effective June 12, 1995; amended at 19 Ill. Reg. 9096, effective June 27, 1995; emergency amendment at 19 Ill. Reg. 11954, effective August 1, 1995, for a maximum of 150 days; preemptory amendment at 19 Ill. Reg. 13979, effective September 19, 1995; preemptory amendment at 19 Ill. Reg. 15103, effective October 12, 1995; amended at 19 Ill. Reg. 16160, effective November 28, 1995; amended at 20 Ill. Reg. 308, effective December 22, 1995; emergency amendment at 20 Ill. Reg. 4060, effective February 27, 1996, for a maximum of 150 days; preemptory amendment at 20 Ill. Reg. 6334, effective April 22, 1996; preemptory amendment at 20 Ill. Reg. 7434, effective May 14, 1996; amended at 20 Ill. Reg. 8301, effective June 11, 1996; amended at 20 Ill. Reg. 8657, effective June 20, 1996; amended at 20 Ill. Reg. 9006, effective June 26, 1996; amended at 20 Ill. Reg. 9925, effective July 10, 1996; emergency amendment at 20 Ill. Reg. 10213, effective July 15, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 10841, effective August 5, 1996; preemptory amendment at 20 Ill. Reg. 13408, effective September 24, 1996; amended at 20 Ill. Reg. 15018, effective November 7, 1996; preemptory amendment at 20 Ill. Reg. 15092, effective November 7, 1996; emergency amendment at 21 Ill. Reg. 1023, effective January 6, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 1629, effective January 22, 1997; amended at 21 Ill. Reg. 5144, effective April 15, 1997; amended at 21 Ill. Reg. 6444, effective May 15, 1997; amended at 21 Ill. Reg. 7118, effective June 3, 1997; emergency amendment at 21 Ill. Reg. 10061, effective July 21, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 12859, effective September 8, 1997, for a maximum of 150 days; preemptory amendment at 21 Ill. Reg. 14267, effective October 14, 1997; preemptory amendment at 21 Ill. Reg. 14589, effective October 15, 1997; preemptory amendment at 21 Ill. Reg. 15030, effective November 10, 1997; amended at 21 Ill. Reg. 16344, effective December 9, 1997; preemptory amendment at 21 Ill. Reg. 16465, effective

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENTS

December 4, 1997; preemptory amendment at 21 Ill. Reg. 17167, effective December 9, 1997; preemptory amendment at 22 Ill. Reg. 1593, effective December 22, 1997; amended at 22 Ill. Reg. 2580, effective January 14, 1998; preemptory amendment at 22 Ill. Reg. 4326, effective February 13, 1998; preemptory amendment at 22 Ill. Reg. 5108, effective February 26, 1998; preemptory amendment at 22 Ill. Reg. 5749, effective March 3, 1998; amended at 22 Ill. Reg. 6204, effective March 12, 1998; preemptory amendment at 22 Ill. Reg. 7053, effective April 1, 1998; preemptory amendment at 22 Ill. Reg. 7320, effective April 10, 1998; preemptory amendment at 22 Ill. Reg. 7692, effective April 20, 1998; emergency amendment at 22 Ill. Reg. 12607, effective July 2, 1998, for a maximum of 150 days; preemptory amendment at 22 Ill. Reg. 15489, effective August 7, 1998; amended at 22 Ill. Reg. 16158, effective August 31, 1998; preemptory amendment at 22 Ill. Reg. 19105, effective September 30, 1998; preemptory amendment at 22 Ill. Reg. 19943, effective October 27, 1998; preemptory amendment at 22 Ill. Reg. 20406, effective November 5, 1998; amended at 22 Ill. Reg. 20581, effective November 16, 1998; amended at 23 Ill. Reg. 664, effective January 1, 1999; preemptory amendment at 23 Ill. Reg. 730, effective December 29, 1998; emergency amendment at 23 Ill. Reg. 6533, effective May 10, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 7065, effective June 3, 1999; emergency amendment at 23 Ill. Reg. 8169, effective July 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 11020, effective August 26, 1999; amended at 23 Ill. Reg. 12429, effective September 21, 1999; preemptory amendment at 23 Ill. Reg. 12493, effective September 23, 1999; amended at 23 Ill. Reg. 12604, effective September 24, 1999; amended at 23 Ill. Reg. 13053, effective September 27, 1999; preemptory amendment at 23 Ill. Reg. 13132, effective October 1, 1999; amended at 23 Ill. Reg. 13570, effective October 26, 1999; amended at 23 Ill. Reg. 14020, effective November 15, 1999; amended at 24 Ill. Reg. 1025, effective January 7, 2000; preemptory amendment at 24 Ill. Reg. 3399, effective February 3, 2000; amended at 24 Ill. Reg. 3537, effective February 18, 2000; amended at 24 Ill. Reg. 6874, effective April 21, 2000; amended at 24 Ill. Reg. 7956, effective May 23, 2000; emergency amendment at 24 Ill. Reg. 10328, effective July 1, 2000, for a maximum of 150 days; emergency expired November 27, 2000; preemptory amendment at 24 Ill. Reg. 10767, effective July 3, 2000; amended at 24 Ill. Reg. 13384, effective August 17, 2000; preemptory amendment at 24 Ill. Reg. 14460, effective September 14, 2000; preemptory amendment at 24 Ill. Reg. 16700, effective October 30, 2000; preemptory amendment at 24 Ill. Reg. 17600, effective November 16, 2000; amended at 24 Ill. Reg. 18058, effective December 4, 2000; preemptory amendment at 24 Ill. Reg. 18444, effective December 1, 2000; amended at 25 Ill. Reg. 811, effective January 4, 2001; amended at 25 Ill. Reg. 2389, effective January 22, 2001; amended at 25 Ill. Reg. 4552, effective March 14, 2001; preemptory amendment at 25 Ill. Reg. 5067, effective March 21, 2001; amended at 25 Ill. Reg. 5618, effective April 4, 2001; amended at 25 Ill. Reg. 6655, effective May 11, 2001; amended at 25 Ill. Reg. 7151, effective May 25, 2001; preemptory amendment at 25 Ill. Reg. 8009, effective June 14, 2001; emergency amendment at 25 Ill. Reg. 9336, effective July 3, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 9846, effective July 23, 2001; amended at 25 Ill. Reg. 12087, effective September 6, 2001; amended at 25 Ill. Reg. 15560, effective November 20,

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENTS

2001; preemptory amendment at 25 Ill. Reg. 15671, effective November 15, 2001; amended at 25 Ill. Reg. 15974, effective November 28, 2001; emergency amendment at 26 Ill. Reg. 223, effective December 21, 2001, for a maximum of 150 days; amended at 26 Ill. Reg. 1143, effective January 17, 2002; amended at 26 Ill. Reg. 4127, effective March 5, 2002; preemptory amendment at 26 Ill. Reg. 4963, effective March 15, 2002; amended at 26 Ill. Reg. 6235, effective April 16, 2002; emergency amendment at 26 Ill. Reg. 7314, effective April 29, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 10425, effective July 1, 2002; emergency amendment at 26 Ill. Reg. 10952, effective July 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 13934, effective September 10, 2002; amended at 26 Ill. Reg. 14965, effective October 7, 2002; emergency amendment at 26 Ill. Reg. 16583, effective October 24, 2002, for a maximum of 150 days; emergency expired March 22, 2003; preemptory amendment at 26 Ill. Reg. 17280, effective November 18, 2002; amended at 26 Ill. Reg. 17374, effective November 25, 2002; amended at 26 Ill. Reg. 17987, effective December 9, 2002; amended at 27 Ill. Reg. 3261, effective February 11, 2003; expedited correction at 28 Ill. Reg. 6151, effective February 11, 2003; amended at 27 Ill. Reg. 8855, effective May 15, 2003; amended at 27 Ill. Reg. 9114, effective May 27, 2003; emergency amendment at 27 Ill. Reg. 10442, effective July 1, 2003, for a maximum of 150 days; emergency expired November 27, 2003; preemptory amendment at 27 Ill. Reg. 17433, effective November 7, 2003; amended at 27 Ill. Reg. 18560, effective December 1, 2003; preemptory amendment at 28 Ill. Reg. 1441, effective January 9, 2004; amended at 28 Ill. Reg. 2680, effective January 22, 2004; amended at 28 Ill. Reg. 6879, effective April 30, 2004; preemptory amendment at 28 Ill. Reg. 7323, effective May 10, 2004; amended at 28 Ill. Reg. 8842, effective June 11, 2004; preemptory amendment at 28 Ill. Reg. 9717, effective June 28, 2004; amended at 28 Ill. Reg. 12585, effective August 27, 2004; preemptory amendment at 28 Ill. Reg. 13011, effective September 8, 2004; preemptory amendment at 28 Ill. Reg. 13247, effective September 20, 2004; preemptory amendment at 28 Ill. Reg. 13656, effective September 27, 2004; emergency amendment at 28 Ill. Reg. 14174, effective October 15, 2004, for a maximum of 150 days; preemptory amendment at 28 Ill. Reg. 14689, effective October 22, 2004; preemptory amendment at 28 Ill. Reg. 15336, effective November 15, 2004; preemptory amendment at 28 Ill. Reg. 16513, effective December 9, 2004; preemptory amendment at 29 Ill. Reg. 726, effective December 15, 2004; amended at 29 Ill. Reg. 1166, effective January 7, 2005; preemptory amendment at 29 Ill. Reg. 1385, effective January 4, 2005; preemptory amendment at 29 Ill. Reg. 1559, effective January 11, 2005; preemptory amendment at 29 Ill. Reg. 2050, effective January 19, 2005; preemptory amendment at 29 Ill. Reg. 4125, effective February 23, 2005.

Section 310.APPENDIX A Negotiated Rates of Pay**Section 310.TABLE W RC-062 (Technical Employees, AFSCME)**

<u>Title</u>	<u>Salary Grade</u>	<u>Code</u>
--------------	---------------------	-------------

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENTS

Accountant	RC-062-14	00130
Accountant Advanced	RC-062-16	00133
Accounting and Fiscal Administration Career Trainee	RC-062-12	00140
Activity Therapist	RC-062-15	00157
Activity Therapist Coordinator	RC-062-17	00160
Actuarial Assistant	RC-062-16	00187
Actuarial Examiner	RC-062-16	00195
Actuarial Examiner Trainee	RC-062-13	00196
Actuarial Senior Examiner	RC-062-19	00197
Actuary I	RC-062-20	00201
Actuary II	RC-062-24	00202
Agricultural Market News Assistant	RC-062-12	00804
Agricultural Marketing Generalist	RC-062-14	00805
Agricultural Marketing Reporter	RC-062-18	00807
Agricultural Marketing Representative	RC-062-18	00810
Agriculture Land and Water Resource Specialist I	RC-062-14	00831
Agriculture Land and Water Resource Specialist II	RC-062-17	00832
Agriculture Land and Water Resource Specialist III	RC-062-20	00833
Aircraft Pilot I	RC-062-19	00955
Aircraft Pilot II	RC-062-22	00956
Appraisal Specialist I	RC-062-14	01251
Appraisal Specialist II	RC-062-16	01252
Appraisal Specialist III	RC-062-18	01253
Arts Council Associate	RC-062-12	01523
Arts Council Program Coordinator	RC-062-18	01526
Arts Council Program Representative	RC-062-15	01527
Assignment Coordinator	RC-062-20	01530
Bank Examiner I	RC-062-16	04131
Bank Examiner II	RC-062-19	04132
Bank Examiner III	RC-062-22	04133
Behavioral Analyst I	RC-062-17	04351
Behavioral Analyst II	RC-062-19	04352
Behavioral Analyst Associate	RC-062-15	04355
Business Administrative Specialist	RC-062-16	05810
Buyer	RC-062-18	05900
Carnival and Amusement Safety Inspector	RC-062-16	06550
Carnival and Amusement Safety Inspector Trainee	RC-062-10	06555
Chemist I	RC-062-16	06941
Chemist II	RC-062-19	06942
Chemist III	RC-062-21	06943

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENTS

Child Protective Associate Investigator	RC-062-15	07187
Child Protective Investigator	RC-062-17	07188
Child Protective Lead Investigator	RC-062-18	07189
Child Welfare Staff Development Coordinator I	RC-062-17	07201
Child Welfare Staff Development Coordinator II	RC-062-19	07202
Child Welfare Staff Development Coordinator III	RC-062-20	07203
Child Welfare Staff Development Coordinator IV	RC-062-22	07204
Child Welfare Specialist	RC-062-15	07211
Children and Family Service Intern – Option 1	RC-062-12	07241
Children and Family Service Intern – Option 2	RC-062-15	07242
Clinical Laboratory Technologist I	RC-062-18	08220
Clinical Laboratory Technologist II	RC-062-19	08221
Clinical Laboratory Technologist Trainee	RC-062-14	08229
Communications Systems Specialist	RC-062-23	08860
Community Management Specialist I	RC-062-15	08891
Community Management Specialist II	RC-062-17	08892
Community Management Specialist III	RC-062-19	08893
Community Planner I	RC-062-15	08901
Community Planner II	RC-062-17	08902
Community Planner III	RC-062-19	08903
Conservation Education Representative	RC-062-12	09300
Conservation Grant Administrator I	RC-062-18	09311
Conservation Grant Administrator II	RC-062-20	09312
Conservation Grant Administrator III	RC-062-22	09313
Construction Program Assistant	RC-062-12	09525
Correctional Counselor I	RC-062-15	09661
Correctional Counselor II	RC-062-17	09662
Correctional Counselor III	RC-062-19	09663
Corrections Academy Trainer	RC-062-17	09732
Corrections Apprehension Specialist	RC-062-19	09750
Corrections Industries Marketing Representative	RC-062-17	09803
Corrections Leisure Activities Specialist I	RC-062-15	09811
Corrections Leisure Activities Specialist II	RC-062-17	09812
Corrections Leisure Activities Specialist III	RC-062-19	09813
Corrections Parole Agent	RC-062-17	09842
Corrections Senior Parole Agent	RC-062-19	09844
Criminal Intelligence Analyst I	RC-062-18	10161
Criminal Intelligence Analyst II	RC-062-20	10162
Criminal Intelligence Analyst Specialist	RC-062-22	10165
Criminal Justice Specialist I	RC-062-16	10231

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENTS

Criminal Justice Specialist II	RC-062-20	10232
Curator of the Lincoln Collection	RC-062-16	10750
Day Care Licensing Representative I	RC-062-16	11471
Developmental Disabilities Council Program Planner I	RC-062-12	12361
Developmental Disabilities Council Program Planner II	RC-062-16	12362
Developmental Disabilities Council Program Planner III	RC-062-18	12363
Dietitian	RC-062-15	12510
Disability Appeals Officer	RC-062-22	12530
Disability Claims Adjudicator I	RC-062-15	12537
Disability Claims Adjudicator II	RC-062-17	12538
Disability Claims Analyst	RC-062-20	12540
Disability Claims Specialist	RC-062-18	12558
Disaster Services Planner	RC-062-19	12585
Document Examiner	RC-062-22	12640
Educator – Provisional	RC-062-12	13105
Employment Security Manpower Representative I	RC-062-12	13621
Employment Security Manpower Representative II	RC-062-14	13622
Employment Security Program Representative	RC-062-14	13650
Employment Security Program Representative – Intermittent	RC-062-14H	13651
Employment Security Service Representative	RC-062-16	13667
Employment Security Specialist I	RC-062-14	13671
Employment Security Specialist II	RC-062-16	13672
Employment Security Specialist III	RC-062-19	13673
Employment Security Tax Auditor I	RC-062-17	13681
Employment Security Tax Auditor II	RC-062-19	13682
Energy and Natural Resources Specialist I	RC-062-15	13711
Energy and Natural Resources Specialist II	RC-062-17	13712
Energy and Natural Resources Specialist III	RC-062-19	13713
Energy and Natural Resources Specialist Trainee	RC-062-12	13715
Environmental Health Specialist I	RC-062-14	13768
Environmental Health Specialist II	RC-062-16	13769
Environmental Health Specialist III	RC-062-18	13770
Environmental Protection Associate	RC-062-12	13785
Environmental Protection Specialist I	RC-062-14	13821
Environmental Protection Specialist II	RC-062-16	13822
Environmental Protection Specialist III	RC-062-18	13823
Environmental Protection Specialist IV	RC-062-22	13824
Financial Institution Examiner I	RC-062-16	14971
Financial Institution Examiner II	RC-062-19	14972

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENTS

Financial Institution Examiner III	RC-062-22	14973
Financial Institution Examiner Trainee	RC-062-13	14978
Flight Safety Coordinator	RC-062-21	15640
Forensic Scientist I	RC-062-18	15891
Forensic Scientist II	RC-062-20	15892
Forensic Scientist III	RC-062-22	15893
Forensic Scientist Trainee	RC-062-15	15897
Guardianship Representative	RC-062-17	17710
Habilitation Program Coordinator	RC-062-17	17960
Handicapped Services Representative I	RC-062-11	17981
Health and Safety Officer I	RC-062-14	18001
Health and Safety Officer II	RC-062-16	18002
Health and Safety Officer Trainee	RC-062-10	18006
Health Facilities Surveyor I	RC-062-16	18011
Health Facilities Surveyor II	RC-062-19	18012
Health Facilities Surveyor III	RC-062-20	18013
Health Planning Specialist I	RC-062-19	18154
Health Planning Specialist II	RC-062-22	18155
Health Services Investigator I – Opt. A	RC-062-19	18181
Health Services Investigator I – Opt. B	RC-062-20	18182
Health Services Investigator II – Opt. A	RC-062-22	18185
Health Services Investigator II – Opt. B	RC-062-22	18186
Health Services Investigator II – Opt. C	RC-062-23	18187
Health Services Investigator II – Opt. D	RC-062-23	18188
Historical Documents Conservator I	RC-062-13	18981
Historical Research Editor II	RC-062-14	19002
Human Relations Representative	RC-062-16	19670
Human Services Caseworker	RC-062-16	19785
Human Services Grants Coordinator I	RC-062-14	19791
Human Services Grants Coordinator II	RC-062-17	19792
Human Services Grants Coordinator III	RC-062-20	19793
Human Services Grants Coordinator Trainee	RC-062-12	19796
Human Services Sign Language Interpreter	RC-062-16	19810
Iconographer	RC-062-12	19880
Industrial Services Consultant I	RC-062-14	21121
Industrial Services Consultant II	RC-062-16	21122
Industrial Services Consultant Trainee	RC-062-11	21125
Industrial Services Hygienist	RC-062-19	21127
Industrial Services Hygienist Technician	RC-062-16	21130
Industrial Services Hygienist Trainee	RC-062-12	21133

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENTS

Information Technology/Communications Systems Specialist I	RC-062-19	21216
Information Technology/Communications Systems Specialist II	RC-062-24	21217
Instrument Designer	RC-062-18	21500
Insurance Analyst III	RC-062-14	21563
Insurance Analyst IV	RC-062-16	21564
Insurance Company Claims Examiner 2	RC-062-19	21602
Insurance Company Field Staff Examiner	RC-062-16	21608
Insurance Company Financial Examiner Trainee	RC-062-13	21610
Insurance Performance Examiner	RC-062-14	21671
Insurance Performance Examiner III	RC-062-20	21673
Intermittent Unemployment Insurance Representative	RC-062-12H	21689
Internal Auditor I	RC-062-17	21721
Labor Conciliator	RC-062-20	22750
Laboratory Equipment Specialist	RC-062-18	22990
Laboratory Quality Specialist I	RC-062-19	23021
Laboratory Quality Specialist II	RC-062-21	23022
Laboratory Research Specialist I	RC-062-19	23027
Laboratory Research Specialist II	RC-062-21	23028
Land Acquisition Agent I	RC-062-15	23091
Land Acquisition Agent II	RC-062-18	23092
Land Acquisition Agent III	RC-062-21	23093
Land Reclamation Specialist I	RC-062-14	23131
Land Reclamation Specialist II	RC-062-17	23132
Liability Claims Adjuster I	RC-062-14	23371
Library Associate	RC-062-12	23430
Life Sciences Career Trainee	RC-062-12	23600
Liquor Control Special Agent II	RC-062-15	23752
Local Historical Services Representative	RC-062-17	24000
Local Housing Advisor I	RC-062-14	24031
Local Housing Advisor II	RC-062-16	24032
Local Housing Advisor III	RC-062-18	24033
Local Revenue and Fiscal Advisor I	RC-062-15	24101
Local Revenue and Fiscal Advisor II	RC-062-17	24102
Local Revenue and Fiscal Advisor III	RC-062-19	24103
Lottery Sales Representative	RC-062-16	24515
Management Operations Analyst I	RC-062-18	25541
Management Operations Analyst II	RC-062-20	25542
Manpower Planner I	RC-062-14	25591

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENTS

Manpower Planner II	RC-062-17	25592
Manpower Planner III	RC-062-20	25593
Manpower Planner Trainee	RC-062-12	25597
Medical Assistance Consultant I	RC-062-13	26501
Medical Assistance Consultant II	RC-062-16	26502
Medical Assistance Consultant III	RC-062-19	26503
Mental Health Specialist I	RC-062-12	26924
Mental Health Specialist II	RC-062-14	26925
Mental Health Specialist III	RC-062-16	26926
Mental Health Specialist Trainee	RC-062-11	26928
Meteorologist	RC-062-18	27120
Methods and Procedures Advisor I	RC-062-14	27131
Methods and Procedures Advisor II	RC-062-16	27132
Methods and Procedures Career Associate I	RC-062-11	27135
Methods and Procedures Career Associate II	RC-062-12	27136
Methods and Procedures Career Associate Trainee	RC-062-09	27137
Metrologist Associate	RC-062-15	27146
Microbiologist I	RC-062-16	27151
Microbiologist II	RC-062-19	27152
Natural Resources Coordinator	RC-062-15	28831
Natural Resources Specialist	RC-062-18	28832
Natural Resources Advanced Specialist	RC-062-20	28833
Network Control Center Specialist	RC-062-21	28873
Network Control Center Technician I	RC-062-13	28875
Network Control Center Technician II	RC-062-16	28876
Network Control Center Technician Trainee	RC-062-10	28879
Paralegal Assistant	RC-062-14	30860
Police Training Specialist	RC-062-17	32990
Program Integrity Auditor I	RC-062-16	34631
Program Integrity Auditor II	RC-062-19	34632
Program Integrity Auditor Trainee	RC-062-12	34635
Property Consultant	RC-062-15	34900
Property Tax Analyst I	RC-062-12	34921
Property Tax Analyst II	RC-062-14	34922
Public Aid Appeals Advisor	RC-062-18	35750
Public Aid Family Support Specialist I	RC-062-17	35841
Public Aid Investigator	RC-062-19	35870
Public Aid Investigator Trainee	RC-062-14	35874
Public Aid Lead Casework Specialist	RC-062-17	35880
Public Aid Program Quality Analyst	RC-062-19	35890

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENTS

Public Aid Quality Control Reviewer	RC-062-17	35892
Public Aid Staff Development Specialist I	RC-062-15	36071
Public Aid Staff Development Specialist II	RC-062-17	36072
Public Health Educator Associate	RC-062-14	36434
Public Health Program Specialist I	RC-062-14	36611
Public Health Program Specialist II	RC-062-16	36612
Public Health Program Specialist Trainee	RC-062-12	36615
Public Information Officer I	RC-062-12	37001
Public Information Officer II	RC-062-14	37002
<u>Public Information Officer III</u>	<u>RC-062-19</u>	<u>37003</u>
<u>Public Information Officer IV</u>	<u>RC-062-21</u>	<u>37004</u>
Railroad Safety Specialist I	RC-062-19	37601
Railroad Safety Specialist II	RC-062-21	37602
Railroad Safety Specialist III	RC-062-23	37603
Railroad Safety Specialist IV	RC-062-25	37604
Real Estate Investigator	RC-062-19	37730
Recreation Worker I	RC-062-12	38001
Recreation Worker II	RC-062-14	38002
Rehabilitation Counselor	RC-062-17	38145
Rehabilitation Counselor Senior	RC-062-19	38158
Rehabilitation Counselor Trainee	RC-062-15	38159
Rehabilitation Services Advisor I	RC-062-20	38176
Rehabilitation Workshop Supervisor I	RC-062-12	38194
Rehabilitation Workshop Supervisor II	RC-062-14	38195
Reimbursement Officer I	RC-062-14	38199
Reimbursement Officer II	RC-062-16	38200
Research Economist I	RC-062-18	38207
Research Scientist I	RC-062-13	38231
Research Scientist II	RC-062-16	38232
Research Scientist III	RC-062-20	38233
Resource Planner I	RC-062-17	38281
Resource Planner II	RC-062-19	38282
Resource Planner III	RC-062-22	38283
Revenue Auditor I	RC-062-16	38371
Revenue Auditor II	RC-062-19	38372
Revenue Auditor III	RC-062-22	38373
Revenue Auditor Trainee	RC-062-12	38375
Revenue Collection Officer I	RC-062-15	38401
Revenue Collection Officer II	RC-062-17	38402
Revenue Collection Officer III	RC-062-19	38403

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENTS

Revenue Collection Officer Trainee	RC-062-12	38405
Revenue Senior Special Agent	RC-062-23	38557
Revenue Special Agent	RC-062-19	38558
Revenue Special Agent Trainee	RC-062-14	38565
Revenue Tax Specialist I	RC-062-12	38571
Revenue Tax Specialist II	RC-062-14	38572
Revenue Tax Specialist III	RC-062-17	38573
Revenue Tax Specialist Trainee	RC-062-10	38575
Site Interpretive Coordinator	RC-062-13	41093
Site Services Specialist I	RC-062-15	41117
Site Services Specialist II	RC-062-17	41118
Site Assistant Superintendent I	RC-062-15	41071
Site Assistant Superintendent II	RC-062-17	41072
Social Service Consultant I	RC-062-18	41301
Social Service Consultant II	RC-062-19	41302
Social Service Program Planner I	RC-062-15	41311
Social Service Program Planner II	RC-062-17	41312
Social Service Program Planner III	RC-062-20	41313
Social Service Program Planner IV	RC-062-22	41314
Social Services Career Trainee	RC-062-12	41320
Social Worker I	RC-062-16	41411
Staff Development Technician I	RC-062-12	41781
State Police Field Specialist I	RC-062-18	42001
State Police Field Specialist II	RC-062-20	42002
Statistical Research Specialist I	RC-062-12	42741
Statistical Research Specialist II	RC-062-14	42742
Statistical Research Specialist III	RC-062-17	42743
Storage Tank Safety Specialist	RC-062-18	43005
Substance Abuse Specialist I	RC-062-17	43251
Substance Abuse Specialist II	RC-062-19	43252
Substance Abuse Specialist III	RC-062-22	43253
Telecommunications Specialist	RC-062-15	45295
Telecommunications Systems Analyst	RC-062-17	45308
Telecommunications Systems Technician I	RC-062-10	45312
Telecommunications Systems Technician II	RC-062-13	45313
Unemployment Insurance Adjudicator I	RC-062-11	47001
Unemployment Insurance Adjudicator II	RC-062-13	47002
Unemployment Insurance Adjudicator III	RC-062-15	47003
Unemployment Insurance Revenue Analyst I	RC-062-15	47081
Unemployment Insurance Revenue Analyst II	RC-062-17	47082

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENTS

Unemployment Insurance Revenue Specialist	RC-062-13	47087
Unemployment Insurance Special Agent I	RC-062-15	47091
Unemployment Insurance Special Agent II	RC-062-17	47092
Veterans Educational Specialist I	RC-062-15	47681
Veterans Educational Specialist II	RC-062-17	47682
Veterans Educational Specialist III	RC-062-21	47683
Veterans Employment Representative I	RC-062-14	47701
Veterans Employment Representative II	RC-062-16	47702
Vocational Assessment Specialist	RC-062-18	48160
Volunteer Services Coordinator I	RC-062-13	48481
Volunteer Services Coordinator II	RC-062-16	48482
Wage Claims Specialist	RC-062-09	48770
Weatherization Specialist I	RC-062-14	49101
Weatherization Specialist II	RC-062-17	49102
Weatherization Specialist III	RC-062-20	49103
Weatherization Specialist Trainee	RC-062-12	49105

Effective July 1, 2003

S T E P S

	1c	1b	1a	1	2	3	4	5	6	7	8	Eff. 1/1/04 8
RC-062-09	2161	2214	2268	2324	2396	2474	2549	2630	2709	2836	2893	2921
RC-062-09a	2214	2268	2324	2382	2456	2536	2614	2700	2781	2913	2971	3000
RC-062-09m	2265	2320	2376	2433	2507	2588	2668	2753	2835	2968	3027	3057
RC-062-10	2229	2284	2341	2399	2486	2561	2645	2728	2814	2957	3016	3046
RC-062-10a	2284	2341	2399	2459	2549	2627	2714	2801	2889	3041	3102	3132
RC-062-10m	2335	2392	2451	2510	2600	2680	2768	2854	2945	3099	3161	3192
RC-062-11	2310	2367	2426	2487	2573	2656	2751	2842	2930	3085	3147	3178
RC-062-11a	2367	2426	2487	2550	2640	2727	2824	2919	3012	3174	3237	3269
RC-062-11m	2419	2478	2538	2601	2694	2780	2878	2974	3070	3231	3296	3328
RC-062-12	2400	2460	2522	2586	2681	2771	2874	2968	3077	3243	3308	3340
RC-062-12a	2460	2522	2586	2654	2752	2844	2954	3053	3166	3337	3404	3437
RC-062-12m	2512	2573	2638	2707	2806	2898	3010	3111	3224	3397	3465	3499
RC-062-12H	14.77	15.14	15.52	15.91	16.50	17.05	17.69	18.26	18.94	19.96	20.36	20.55

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENTS

RC-062-12Ha	15.14	15.52	15.91	16.33	16.94	17.50	18.18	18.79	19.48	20.54	20.95	21.15
RC-062-12Hm	15.46	15.83	16.23	16.66	17.27	17.83	18.52	19.14	19.84	20.90	21.32	21.53
RC-062-13	2487	2550	2616	2684	2783	2889	2998	3108	3223	3403	3471	3505
RC-062-13a	2550	2616	2684	2755	2857	2969	3085	3197	3316	3505	3575	3610
RC-062-13m	2601	2669	2738	2809	2912	3026	3143	3255	3376	3565	3636	3672
RC-062-14	2588	2656	2727	2800	2907	3020	3152	3267	3391	3588	3660	3696
RC-062-14a	2656	2727	2800	2875	2988	3108	3243	3364	3493	3696	3770	3807
RC-062-14m	2709	2780	2853	2930	3045	3165	3301	3423	3552	3755	3830	3868
RC-062-14H	15.93	16.34	16.78	17.23	17.89	18.58	19.40	20.10	20.87	22.08	22.52	22.74
RC-062-14Ha	16.34	16.78	17.23	17.69	18.39	19.13	19.96	20.70	21.50	22.74	23.20	23.43
RC-062-14Hm	16.67	17.11	17.56	18.03	18.74	19.48	20.31	21.06	21.86	23.11	23.57	23.80
RC-062-15	2688	2760	2834	2911	3038	3164	3288	3423	3550	3763	3838	3876
RC-062-15a	2760	2834	2911	2992	3125	3255	3386	3527	3656	3875	3953	3991
RC-062-15m	2813	2887	2966	3049	3183	3312	3447	3585	3715	3935	4014	4053
RC-062-16	2808	2883	2963	3047	3184	3324	3463	3607	3751	3973	4052	4092
RC-062-16a	2883	2963	3047	3136	3276	3424	3568	3714	3864	4092	4174	4215
RC-062-16m	2939	3020	3105	3193	3335	3484	3628	3774	3924	4151	4234	4276
RC-062-17	2932	3015	3102	3192	3340	3494	3642	3789	3943	4178	4262	4303
RC-062-17a	3015	3102	3192	3284	3440	3599	3750	3903	4061	4304	4390	4433
RC-062-17m	3072	3160	3250	3343	3501	3660	3811	3963	4120	4364	4451	4495
RC-062-18	3082	3171	3262	3359	3522	3686	3853	4011	4172	4421	4509	4554
RC-062-18a	3171	3262	3359	3460	3630	3797	3970	4133	4297	4553	4644	4690
RC-062-18m	3228	3320	3420	3518	3689	3857	4029	4192	4358	4612	4704	4750
RC-062-19	3244	3338	3437	3541	3722	3897	4079	4249	4427	4695	4789	4836
RC-062-19a	3338	3437	3541	3647	3833	4012	4202	4377	4561	4836	4933	4981
RC-062-19m	3398	3499	3602	3707	3894	4073	4261	4438	4621	4895	4993	5042
RC-062-20	3425	3529	3634	3742	3931	4114	4309	4496	4681	4967	5066	5116
RC-062-20a	3529	3634	3742	3854	4049	4238	4439	4630	4822	5117	5219	5271
RC-062-20m	3587	3694	3802	3914	4108	4297	4498	4690	4882	5175	5279	5330
RC-062-21	3616	3725	3837	3950	4153	4354	4558	4766	4964	5273	5378	5431

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENTS

RC-062-21a	3725	3837	3950	4068	4279	4484	4695	4908	5113	5432	5541	5595
RC-062-21m	3785	3897	4010	4130	4338	4544	4755	4968	5172	5491	5601	5656
RC-062-22	3822	3937	4056	4177	4394	4609	4827	5050	5261	5587	5699	5755
RC-062-22a	3937	4056	4177	4302	4526	4748	4971	5201	5419	5755	5870	5928
RC-062-22m	3997	4114	4237	4363	4584	4808	5029	5260	5480	5815	5931	5989
RC-062-23	4056	4177	4302	4430	4665	4904	5137	5374	5608	5959	6078	6138
RC-062-23a	4177	4302	4430	4565	4806	5052	5290	5534	5775	6137	6260	6321
RC-062-23m	4237	4363	4491	4624	4865	5111	5350	5594	5835	6197	6321	6383
RC-062-24	4315	4444	4577	4715	4966	5225	5476	5729	5988	6363	6490	6554
RC-062-24a	4444	4577	4715	4858	5116	5381	5641	5901	6167	6555	6686	6752
RC-062-24m	4504	4637	4775	4918	5174	5440	5700	5961	6228	6614	6746	6812
RC-062-25	4599	4737	4879	5025	5301	5580	5858	6137	6416	6828	6965	7033
RC-062-25a	4737	4879	5025	5175	5460	5746	6034	6322	6608	7032	7173	7243
RC-062-25m	4798	4938	5086	5235	5520	5805	6093	6381	6667	7092	7234	7305

Effective January 1, 2005

RC-062

S T E P S

	1c	1b	1a	1	2	3	4	5	6	7	8
09	2204	2258	2313	2370	2444	2523	2600	2683	2763	2893	2979
09a	2275	2330	2388	2448	2524	2606	2686	2774	2857	2993	3083
09m	2327	2384	2441	2500	2576	2659	2741	2829	2913	3050	3141
10	2274	2330	2388	2447	2536	2612	2698	2783	2870	3016	3107
10a	2347	2405	2465	2527	2619	2699	2789	2878	2968	3125	3218
10m	2399	2458	2518	2579	2672	2754	2844	2932	3026	3184	3280
11	2356	2414	2475	2537	2624	2709	2806	2899	2989	3147	3242
11a	2432	2493	2555	2620	2713	2802	2902	2999	3095	3261	3359
11m	2486	2546	2608	2673	2768	2856	2957	3056	3154	3320	3420
12	2448	2509	2572	2638	2735	2826	2931	3027	3139	3308	3407
12a	2528	2591	2657	2727	2828	2922	3035	3137	3253	3429	3532
12m	2581	2644	2711	2781	2883	2978	3093	3197	3313	3490	3595

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENTS

12H	15.06	15.44	15.83	16.23	16.83	17.39	18.04	18.63	19.32	20.36	20.97
12Ha	15.56	15.94	16.35	16.78	17.40	17.98	18.68	19.30	20.02	21.10	21.74
12Hm	15.88	16.27	16.68	17.11	17.74	18.33	19.03	19.67	20.39	21.48	22.12
13	2537	2601	2668	2738	2839	2947	3058	3170	3287	3471	3575
13a	2620	2688	2758	2831	2936	3051	3170	3285	3407	3601	3709
13m	2673	2742	2813	2886	2992	3109	3229	3345	3469	3663	3773
14	2640	2709	2782	2856	2965	3080	3215	3332	3459	3660	3770
14a	2729	2802	2877	2954	3070	3193	3332	3457	3589	3798	3912
14m	2783	2856	2931	3011	3129	3252	3392	3517	3650	3858	3974
14H	16.25	16.67	17.12	17.58	18.25	18.95	19.78	20.50	21.29	22.52	23.20
14Ha	16.79	17.24	17.70	18.18	18.89	19.65	20.50	21.27	22.09	23.37	24.07
14Hm	17.13	17.58	18.04	18.53	19.26	20.01	20.87	21.64	22.46	23.74	24.46
15	2742	2815	2891	2969	3099	3227	3354	3491	3621	3838	3954
15a	2836	2912	2991	3074	3211	3345	3479	3624	3757	3982	4101
15m	2890	2966	3048	3133	3271	3403	3542	3684	3817	4043	4164
16	2864	2941	3022	3108	3248	3390	3532	3679	3826	4052	4174
16a	2962	3044	3131	3222	3366	3518	3666	3816	3970	4205	4331
16m	3020	3103	3190	3281	3427	3580	3728	3878	4032	4265	4394
17	2991	3075	3164	3256	3407	3564	3715	3865	4022	4262	4389
17a	3098	3187	3280	3374	3535	3698	3853	4010	4173	4422	4555
17m	3156	3247	3339	3435	3597	3761	3916	4072	4233	4484	4619
18	3144	3234	3327	3426	3592	3760	3930	4091	4255	4509	4645
18a	3258	3352	3451	3555	3730	3901	4079	4247	4415	4678	4819
18m	3317	3411	3514	3615	3790	3963	4140	4307	4478	4739	4881
19	3309	3405	3506	3612	3796	3975	4161	4334	4516	4789	4933
19a	3430	3532	3638	3747	3938	4122	4318	4497	4686	4969	5118
19m	3491	3595	3701	3809	4001	4185	4378	4560	4748	5030	5181
20	3494	3600	3707	3817	4010	4196	4395	4586	4775	5066	5218

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENTS

20a	3626	3734	3845	3960	4160	4355	4561	4757	4955	5258	5416
20m	3686	3796	3907	4022	4221	4415	4622	4819	5016	5317	5477
21	3688	3800	3914	4029	4236	4441	4649	4861	5063	5378	5540
21a	3827	3943	4059	4180	4397	4607	4824	5043	5254	5581	5749
21m	3889	4004	4120	4244	4457	4669	4886	5105	5314	5642	5812
22	3898	4016	4137	4261	4482	4701	4924	5151	5366	5699	5870
22a	4045	4168	4292	4420	4650	4879	5108	5344	5568	5913	6091
22m	4107	4227	4354	4483	4710	4940	5167	5405	5631	5975	6154
23	4137	4261	4388	4519	4758	5002	5240	5481	5720	6078	6261
23a	4292	4420	4552	4691	4938	5191	5435	5686	5934	6306	6495
23m	4354	4483	4615	4751	4999	5252	5497	5748	5995	6367	6559
24	4401	4533	4669	4809	5065	5330	5586	5844	6108	6490	6685
24a	4566	4703	4845	4992	5257	5529	5796	6063	6337	6735	6938
24m	4628	4765	4906	5053	5316	5590	5857	6125	6399	6796	6999
25	4691	4832	4977	5126	5407	5692	5975	6260	6544	6965	7174
25a	4867	5013	5163	5317	5610	5904	6200	6496	6790	7225	7442
25m	4930	5074	5226	5379	5672	5965	6261	6556	6850	7287	7506

(Source: Amended by peremptory rulemaking at 29 Ill. Reg. 4125, effective February 23, 2005)

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICE RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of February 22, 2005 through February 28, 2005 and have been scheduled for review by the Committee at its March 15, 2005 meeting in Springfield. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rulemaking should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

<u>Second Notice Expires</u>	<u>Agency and Rule</u>	<u>Start Of First Notice</u>	<u>JCAR Meeting</u>
4/7/05	<u>Department of Labor</u> , Minimum Wage Law (56 Ill. Adm. Code 210)	12/27/04 28 Ill. Reg. 16445	3/15/05
4/9/05	<u>Pollution Control Board</u> , RCRA Permit Program (35 Ill. Adm. Code 703)	11/19/04 28 Ill. Reg. 15029	3/15/05
4/9/05	<u>Pollution Control Board</u> , Hazardous Waste Management System: General (35 Ill. Adm. Code 720)	11/19/04 28 Ill. Reg. 15038	3/15/05
4/9/05	<u>Pollution Control Board</u> , Identification and Listing of Hazardous Waste (35 Ill. Adm. Code 721)	11/19/04 28 Ill. Reg. 15068	3/15/05
4/9/05	<u>Pollution Control Board</u> , Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities (35 Ill. Adm. Code 724)	11/19/04 28 Ill. Reg. 15074	3/15/05
4/9/05	<u>Pollution Control Board</u> , Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities (35 Ill. Adm. Code 725)	11/19/04 28 Ill. Reg. 15093	3/15/05
4/9/05	<u>Pollution Control Board</u> , Land Disposal	11/19/04	3/15/05

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICE RECEIVED

	Restrictions (35 Ill. Adm. Code 728)	28 Ill. Reg. 15109	
4/9/05	<u>Pollution Control Board</u> , Standards for Universal Waste Management (35 Ill. Adm. Code 733)	11/19/04 28 Ill. Reg. 15119	3/15/05
4/9/05	<u>Department of Commerce and Economic Opportunity</u> , High Technology School-To-Work Program (14 Ill. Adm. Code 110)	8/13/04 28 Ill. Reg. 11634	3/15/05

JOINT COMMITTEE ON ADMINISTRATIVE RULES

MARCH AGENDA

SCHEDULED MEETING:

STRATTON OFFICE BUILDING
ROOM C-1
SPRINGFIELD, ILLINOIS
9:00 A.M.
MARCH 15, 2005

NOTICES: The scheduled date and time for the JCAR meeting are subject to change. Due to *Register* submittal deadlines, the Agenda below may be incomplete. Other items not contained in this published Agenda are likely to be considered by the Committee at the meeting and items from the list can be postponed to future meetings.

If members of the public wish to express their views with respect to a rulemaking, they should submit written comments to the Office of the Joint Committee on Administrative Rules at the following address:

*Joint Committee on Administrative Rules
700 Stratton Office Building
Springfield, Illinois 62706
Email: jcar@legis.state.il.us
Phone: 217/785-2254*

RULEMAKINGS CURRENTLY BEFORE JCAR**PROPOSED RULEMAKINGS**Agriculture

1. Meat and Poultry Inspection Act (8 Ill. Adm. Code 125)
 - First Notice Published: 28 Ill. Reg. 15893 – 12/17/04
 - Expiration of Second Notice: 3/18/05
2. Motor Fuel Standards Act (8 Ill. Adm. Code 850)
 - First Notice Published: 28 Ill. Reg. 15935 – 12/17/04
 - Expiration of Second Notice: 3/31/05

Central Management Services

3. Pay Plan (80 Ill. Adm. Code 310)

JOINT COMMITTEE ON ADMINISTRATIVE RULES

MARCH AGENDA

- First Notice Published: 28 Ill. Reg. 15937 – 12/17/04
- Expiration of Second Notice: 3/25/05

Commerce and Economic Opportunity

4. High Technology School-To-Work Program (14 Ill. Adm. Code 110)
 - First Notice Published: 28 Ill. Reg. 11634 – 8/13/04
 - Expiration of Second Notice: 4/9/05
5. Local Tourism and Convention Bureau Program (14 Ill. Adm. Code 550)
 - First Notice Published: 28 Ill. Reg. 16026 – 12/17/04
 - Expiration of Second Notice: 3/20/05
6. Local Tourism an Convention Bureau Program (Repeal) (14 Ill. Adm. Code 550)
 - First Notice Published: 28 Ill. Reg. 16050 – 12/17/04
 - Expiration of Second Notice: 3/20/05

Education

7. Procurement by the State Board of Education (44 Ill. Adm. Code 1100)
 - First Notice Published: 28 Ill. Reg. 14330 – 11/5/04
 - Expiration of Second Notice: 3/23/05
8. Student Records (23 Ill. Adm. Code 375)
 - First Notice Published: 28 Ill. Reg. 15382 – 12/3/04
 - Expiration of Second Notice: 4/7/05

Emergency Management Agency

9. Radioactive Materials Transportation (32 Ill. Adm. Code 341)
 - First Notice Published: 28 Ill. Reg. 15388 – 12/3/04
 - Expiration of Second Notice: 4/3/05
10. Transportation of Radioactive Material (Repeal) (32 Ill. Adm. Code 341)
 - First Notice Published: 28 Ill. Reg. 15396 – 12/3/04
 - Expiration of Second Notice: 4/3/05

Financial and Professional Regulation

(Division of Insurance)

JOINT COMMITTEE ON ADMINISTRATIVE RULES

MARCH AGENDA

11. Required Procedure for Filing and Securing Approval of Policy Forms for Life Insurance, Annuity and Accident and Health Insurance, Voluntary Health Service Plans, Dental Service Plans, Limited Health Service Organizations and Health Maintenance Organizations (50 Ill. Adm. Code 916)

-First Notice Published: 28 Ill. Reg. 5088 – 3/26/04

-Expiration of Second Notice: 3/25/05

Labor

12. Minimum Wage Law (56 Ill. Adm. Code 210)

-First Notice Published: 28 Ill. Reg. 16445 – 12/27/04

-Expiration of Second Notice: 4/7/05

Pollution Control Board

13. RCRA Permit Program (35 Ill. Adm. Code 703)

-First Notice Published: 28 Ill. Reg. 15029 – 11/19/04

-Expiration of Second Notice: 4/9/05

14. Hazardous Waste Management System: General (35 Ill. Adm. Code 720)

-First Notice Published: 28 Ill. Reg. 15038 – 11/19/04

-Expiration of Second Notice: 4/9/05

15. Identification and Listing of Hazardous Waste (35 Ill. Adm. Code 721)

-First Notice Published: 28 Ill. Reg. 15068 – 11/19/04

-Expiration of Second Notice: 4/9/05

16. Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities (35 Ill. Adm. Code 724)

-First Notice Published: 28 Ill. Reg. 15074 – 11/19/04

-Expiration of Second Notice: 4/9/05

17. Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities (35 Ill. Adm. Code 725)

-First Notice Published: 28 Ill. Reg. 15093 – 11/19/04

-Expiration of Second Notice: 4/9/05

18. Land Disposal Restrictions (35 Ill. Adm. Code 728)

-First Notice Published: 28 Ill. Reg. 15109 – 11/19/04

-Expiration of Second Notice: 4/9/05

JOINT COMMITTEE ON ADMINISTRATIVE RULES

MARCH AGENDA

19. Standards for Universal Waste Management (35 Ill. Adm. Code 733)
-First Notice Published: 28 Ill. Reg. 15119 – 11/19/04
-Expiration of Second Notice: 4/9/05

Public Aid

20. Hospital Services (89 Ill. Adm. Code 148)
-First Notice Published: 28 Ill. Reg. 15719 – 12/10/04
-Expiration of Second Notice: 4/7/05

Racing Board

21. Medication (11 Ill. Adm. Code 603)
-First Notice Published: 28 Ill. Reg. 16196 – 12/17/04
-Expiration of Second Notice: 3/19/05

Revenue

22. Income Tax (86 Ill. Adm. Code 100)
-First Notice Published: 28 Ill. Reg. 15740 – 12/10/04
-Expiration of Second Notice: 3/17/05

State Police Merit Board

23. Procedures of the Department of State Police Merit Board (80 Ill. Adm. Code 150)
-First Notice Published: 28 Ill. Reg. 16458 – 12/27/04
-Expiration of Second Notice: 3/30/05

EMERGENCY RULEMAKINGSPublic Aid

24. Practice in Administrative Hearings (89 Ill. Adm. Code 104)
-Notice Published: 29 Ill. Reg. 2735 – 2/18/05
25. Child Support Enforcement (89 Ill. Adm. Code 160)
-Notice Published: 29 Ill. Reg. 2743 – 2/18/05

Racing Board

JOINT COMMITTEE ON ADMINISTRATIVE RULES

MARCH AGENDA

26. Medication (11 Ill. Adm. Code 603)
-Notice Published: 29 Ill. Reg. 2779 – 2/18/05

Secretary of State

27. Issuance of Licenses (92 Ill. Adm. Code 1030)
-Notice Published: 29 Ill. Reg. 2469 – 2/14/05

PERMPTORY RULEMAKINGAgriculture

28. Meat and Poultry Inspection Act (8 Ill. Adm. Code 125)
-Notice Published: 29 Ill. Reg. 2479 – 2/14/05

EXEMPT RULEMAKINGPollution Control Board

29. Primary Drinking Water Standards (35 Ill. Adm. Code 611)
-Proposed Date: 10/29/04
-Adopted Date: 2/14/05

AGENCY RESPONSESHuman Services

30. Eligibility (89 Ill. Adm. Code 682; 28 Ill. Reg. 15183)
31. Service Planning and Provision (89 Ill. Adm. Code 684; 28 Ill. Reg. 15188)

PROPERTY TAX APPEAL BOARD

JANUARY 2005 REGULATORY AGENDA

a) Part (Heading and Code Citation): Practice and Procedure for Hearings Before the Property Tax Appeal Board, 86 Ill. Adm. Code 1910.

1) Rulemaking:

A) Description: The purpose of the proposed rulemaking is to revise and update various sections of Part 1910, Practice and Procedure for Hearings Before the Property Tax Appeal Board.

B) Statutory Authority: 35 ILCS 200/Art. 7 and 16-180 through 16-195

C) Scheduled meeting/hearing date: Not yet determined.

D) Date agency anticipates First Notice: May or June 2005

E) Effect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

James W. Chipman
Executive Director
Property Tax Appeal Board
402 Stratton Office Building
401 S. Spring St.
Springfield, Illinois 62706
217/782-6076

G) Related rulemaking and other pertinent information: None

PROCLAMATIONS

2005-48**Black History Awards Day**

WHEREAS, throughout the history of the United States, African Americans have made many significant sacrifices, achievements, and contributions to society; and

WHEREAS, in 1976, February was designated as African American History Month in order to honor and promote the history of African Americans. Illinois is proud to celebrate the heritage and achievements of African Americans during this month, as well as throughout the calendar year; and

WHEREAS, on February 28, 1999, Black History Awards Day was established in Memphis, Tennessee as a way to conclude African American History Month and honor the achievements of African Americans from each state, both past and present:

THEREFORE, I, Rod Blagojevich, Governor of the State of Illinois, do hereby proclaim February 28, 2005 as **BLACK HISTORY AWARDS DAY** in Illinois and encourage all citizens to learn about the important contributions that African Americans have made to our society.

Issued by the Governor February 22, 2005.

Filed by the Secretary of State February 22, 2005.

2005-49**Money Smart Week**

WHEREAS, the economic progress of our country is dependent upon the financial well-being of its citizens; and

WHEREAS, citizens have many choices on how they may manage their financial affairs, making it important that they educate themselves on the best options available; and

WHEREAS, becoming financially literate can be a long-term process that demands much discipline and intuition. Therefore, many people find it helpful to seek assistance outside of their own home; and

WHEREAS, educational and financial institutions, government entities and community-based organizations can work together to help consumers make informed choices about their personal finances; and

WHEREAS, improved financial literacy results in a higher standard of living for individuals, and greater community stability:

THEREFORE, I, Rod Blagojevich, Governor of the State of Illinois, do hereby proclaim May 23 – 28, 2005 as **MONEY SMART WEEK** in Illinois, and encourage all citizens to make an effort to increase their financial literacy.

Issued by the Governor February 24, 2005.

Filed by the Secretary of State February 24, 2005.

2005-50**American Red Cross Month**

PROCLAMATIONS

WHEREAS, in 1881, the efforts of Clara Barton led to the establishment of the American Red Cross as an organization focused on providing compassionate humanitarian care to all people; and

WHEREAS, since its inception, the American Red Cross has grown into an organization which is uniquely chartered by the United States Congress to act in times of need by providing assistance to persons afflicted by local, state, national or international disasters, as well as to assist American Military personnel and their families; and

WHEREAS, American Red Cross chapters in Illinois train residents on how to prepare for and respond to natural and man-made disasters by teaching the use of First Aid, CPR, and Automated External Defibrillators; and

WHEREAS, the American Red Cross is committed to assuring a safe and adequate blood supply for Illinois and the entire nation by performing blood drives where volunteers are asked to donate so that blood is readily available when needed by members of our communities; and

WHEREAS, through its work, the American Red Cross, an enduring American institution, restores hope at home and throughout the world every day. Furthermore, the vital services of this humanitarian organization would not be possible without generous contributions from the American people:

THEREFORE, I, Rod Blagojevich, Governor of the State of Illinois, do hereby proclaim March 2005 as **AMERICAN RED CROSS MONTH** in Illinois, and encourage all Illinois citizens to support the noble efforts of the American Red Cross by giving their time, money, or blood donations to this worthy organization so that it may continue to help our communities in time of need.

Issued by the Governor February 24, 2005.

Filed by the Secretary of State February 24, 2005.

2005-51**Chicago Business Opportunity Days**

WHEREAS, the 38th Annual Chicago Business Opportunity Fair will be held March 29-31, 2005; and

WHEREAS, this fair provides minority suppliers and purchasing personnel from major buying organizations the opportunity to meet and exchange information about mutual buying and selling needs; and

WHEREAS, the fair also assists in advancing the year-round efforts of its sponsor, the Chicago Minority Business Development Council, Inc., an organization devoted to stimulating minority purchasing in Chicago; and

WHEREAS, by promoting opportunities in business, the Chicago Business Opportunity Fair is playing a major role in revitalizing Illinois' economy; and

WHEREAS, the Minority Business Committee of the Chicago Minority Business Development Council will hold its 27th Annual Awards Program on March 29, 2005, in honor of representatives from both the public and private sector who have contributed significantly to the growth and development of minority suppliers:

PROCLAMATIONS

THEREFORE, I, Rod Blagojevich, Governor of the State of Illinois, do hereby proclaim March 29 - 31, 2005 as **CHICAGO BUSINESS OPPORTUNITY DAYS** in Illinois, and encourage all citizens to recognize the importance of supplier diversity in today's global business arena.

Issued by the Governor February 25, 2005.

Filed by the Secretary of State February 25, 2005.

2005-52**Great American Weigh In Day**

WHEREAS, obesity is one of the nation's fastest rising public health problems; and
WHEREAS, according to the Illinois Behavioral Risk Factor Surveillance System, over 37 percent of all Illinois citizens are overweight; and

WHEREAS, obesity has been linked to heart disease and diabetes for many years. Now, the American Cancer Society has found that obesity can also lead to an increased risk of cancer; and

WHEREAS, Weight Watchers International and the American Cancer Society joined forces in 2003 to establish the Great American Weigh In as a way to encourage people to eat healthy, become more active, and maintain a healthy weight to reduce their risk of obesity and cancer; and

WHEREAS, this year's Great American Weigh In will take place on March 2, at Weight Watchers locations nationwide. On this day, body mass index screenings and information on cancer prevention and weight control will be offered free of charge to the public:

THEREFORE, I, Rod Blagojevich, Governor of the State of Illinois, do hereby proclaim March 2, 2005 as **GREAT AMERICAN WEIGH IN DAY** in Illinois, and encourage all citizens to learn about the benefits of regular exercise and a healthy diet.

Issued by the Governor February 25, 2005.

Filed by the Secretary of State February 25, 2005.

2005-53**National Association of Women Business Owners Day**

WHEREAS, the National Association of Women Business Owners (NAWBO) maintain more than 90 chapters in the United States; and

WHEREAS, the Chicago Area Chapter is among the largest with more than 600 members representing businesses in all major industrial, service, and retail sectors; and

WHEREAS, since 1978, Chicago NAWBO has provided women business owners with leadership, education, procurement, and networking opportunities. It also serves as a voice for its members on economic, social, and public policy issues; and

WHEREAS, currently, there are over 450,000 women business owners in Illinois, with 70 percent of these businesses in the Chicagoland area; and

WHEREAS, NAWBO is an organization with a customer first philosophy that: strengthens the wealth creating capacity of its members and promotes economic development,

PROCLAMATIONS

creates innovative and effective changes in the business culture, builds strategic alliances, coalitions and affiliations, and transforms public policy and influences opinion makers; and

WHEREAS, NAWBO represents and gives women opportunities to expand and excel in the business world:

THEREFORE, I, Rod Blagojevich, Governor of the State of Illinois, do hereby proclaim April 21, 2005 as the **NATIONAL ASSOCIATION OF WOMEN BUSINESS OWNERS DAY** in Illinois, and encourage all citizens to commemorate its 27 years of service to all women entrepreneurs.

Issued by the Governor February 25, 2005.

Filed by the Secretary of State February 25, 2005.

2005-54**Women Veterans Recognition Month**

WHEREAS, throughout history, women have displayed their patriotism by courageously serving in the various branches of the United States Armed Forces; and

WHEREAS, although women did not officially receive permanent military status until President Harry Truman signed the Women's Armed Services Integration Act in 1948, they have served and distinguished themselves in times of peace as well as during every major conflict since the birth of our great nation; and

WHEREAS, prior to 1948, women served in numerous support roles both on and off the battlefields in such capacities as nurses, saboteurs, cooks, mechanics, clerks, telephone operators, and drivers; and

WHEREAS, today, there are approximately 350,000 women, or almost 15 percent of the active duty, reserve and guard units, enlisted in the various branches of the United States Armed Forces; and

WHEREAS, the State of Illinois is proud to participate in the "Salute to Women Veterans" throughout the month of March, to acknowledge the numerous sacrifices and accomplishments made by the brave women who have served their country through military service:

THEREFORE, I, Rod Blagojevich, Governor of the State of Illinois, do hereby proclaim March 2005 as **WOMEN VETERANS RECOGNITION MONTH** in Illinois, and encourage all citizens to honor those women veterans who have courageously served their country.

Issued by the Governor February 25, 2005.

Filed by the Secretary of State February 25, 2005.

2005-25 (Revised)**Financial Aid/Admissions Awareness Month**

WHEREAS, the State of Illinois places great emphasis on the importance of educating our young people. With that in mind, students who choose to further their education through secondary schooling are amongst the State's highest priorities; and

PROCLAMATIONS

WHEREAS, the Illinois Student Assistance Commission (ISAC) was created in 1957 to enable students in Illinois to realize their dreams of attending an institution of higher education, without having to worry about related financial burdens; and

WHEREAS, ISAC offers a comprehensive array of assistance, outreach, and informational programs that educate parents and students alike on the different kinds of assistance the state of Illinois offers; and

WHEREAS, one of their most popular financial aid programs is the Monetary Award Program (MAP) which offers grants to Illinois students that demonstrate financial need. ISAC also offers the College Illinois! program which allows parents to prepay tuition at current tuition rates; and

WHEREAS, ISAC, the Illinois Association of Student Financial Aid Administrators, Inc., and the Illinois Association for College Admission Counseling are conducting a series of informational programs to boost awareness, among both parents and students, concerning college admissions and financial aid resources. Throughout the month of February, these groups will be holding workshops that will focus on simplifying the financial aid process for current and prospective students. Counselors will be available to help fill out forms for a myriad of financial aid including the Free Application for Federal Student Aid (FAFSA), federal Pell Grants, and Illinois MAP grants; and

WHEREAS, my administration has taken great steps toward making tuition for higher education affordable for everyone, and we are proud to join ISAC in that ongoing mission. In 2003, I signed a law that made state universities lock in tuition rates for entering Illinois freshmen. This allows families to pay the same rate for all four years of college helping to keep the cost of higher education manageable:

THEREFORE, I, Rod Blagojevich, Governor of the State of Illinois, do hereby proclaim February 2005 as FINANCIAL AID/ADMISSIONS AWARENESS MONTH in Illinois, and encourage students and parents to take advantage of the great services ISAC provides to the people of Illinois.

Issued by the Governor February 28, 2005.

Filed by the Secretary of State February 28, 2005.

2005-55**ILLINOIS STATE DAY AT WASHINGTON NATIONAL CATHEDRAL**

WHEREAS, on September 29, 1907, construction began on what was to become one of the largest and most immaculate cathedrals in the United States. Although it opened for operation just a few years after the foundation was laid, it was not until 83 years later to the day that the final touches were put on the west towers, marking the official completion of the Washington National Cathedral; and

WHEREAS, the Washington National Cathedral was officially opened for services in 1912, and since then, daily services have been held for citizens in and around the nation's capitol, and for travelers from all across the globe; and

PROCLAMATIONS

WHEREAS, since it's inception, the Washington National Cathedral has opened its doors to people of all faiths as they have gathered to worship and pray, to mourn the passing of world leaders, and to confront the pressing moral and social issues of the day; and

WHEREAS, some significant events that have taken place at Washington National Cathedral throughout the years include: Reverend Dr. Martin Luther King's final Sunday sermon in 1968; President Dwight D. Eisenhower's funeral in 1969; and President George W. Bush's National Prayer and Remembrance service in 2001 honoring the victims of the September 11 terrorist attacks; and

WHEREAS, each month, the Washington National Cathedral takes time to pay tribute to the people and elected leadership of a particular state. This celebration affords all citizens the opportunity to recognize the many contributions the people of that state have made to the continued prosperity of the Cathedral, and to the nation as a whole; and

WHEREAS, for the month of March 2005, Illinois has been selected as the honored state, and on March 6, 2005, Illinois State Day will be held at the Cathedral to officially kick off the commemoration; and

WHEREAS, we here in Illinois are proud to be recognized by the Washington National Cathedral in this special way, and we are honored to join the National Cathedral Association in recognizing all of the great Illinoisans throughout history who have made significant contributions to this country in a wide variety of arenas:

THEREFORE, I, Rod Blagojevich, Governor of the State of Illinois, do hereby proclaim March 6, 2005 as ILLINOIS STATE DAY AT WASHINGTON NATIONAL CATHEDRAL, and encourage all citizens in Illinois and across the country to join in this vibrant and spirited celebration.

Issued by the Governor February 28, 2005.

Filed by the Secretary of State February 28, 2005.

2005-56**Extension Living Well Week**

WHEREAS, the health and well-being of the family unit is vitally important to the functioning of the nation in providing adults and youth the necessary skills and knowledge to help them achieve the best quality of life possible; and

WHEREAS, the University of Illinois Extension is part of the nationwide Cooperative Extension educational system of university researchers, educators, and staff dedicated to the education of all people; and

WHEREAS, Illinois Extension Association of Family and Consumer Sciences (IEAFCS) members provide educational programs in nutrition, healthy lifestyles, food safety, family life, parenting, financial well-being, and environmental health, which help enable Illinois citizens to lead full and productive lives; and

WHEREAS, proclaiming a week to honor IEAFCS professionals is a fitting tribute to the hard work and dedication of these men and women who provide education that is critical to the quality of life of the adults, youth, and families of Illinois:

THEREFORE, I, Rod Blagojevich, Governor of the State of Illinois, do hereby proclaim March 13 – 19, 2005 as **EXTENSION LIVING WELL WEEK** in Illinois, and encourage all citizens to take

PROCLAMATIONS

advantage of the educational opportunities that University of Illinois Extension researchers, educators and staff offer throughout the state.

Issued by the Governor February 28, 2005.

Filed by the Secretary of State February 28, 2005.

ILLINOIS ADMINISTRATIVE CODE

Issue Index - With Effective Dates

Rules acted upon in Volume 29, Issue 11 are listed in the Issues Index by Title number, Part number, Volume and Issue. Inquires about the Issue Index may be directed to the Administrative Code Division at (217) 782-7017/18.

PROPOSED RULES

44 - 5040	.....	3393
80 - 303	.....	3403
47 - 110	.....	3411
23 - 1	.....	3414
23 - 25	.....	3421
23 - 51	.....	3459
23 - 52	.....	3474
23 - 145	.....	3489
23 - 155	.....	3494
23 - 475	.....	3504
23 - 480	.....	3527
35 - 732	.....	3538
35 - 734	.....	3705
77 - 245	.....	3832
11 - 603	.....	3862
92 - 1030	.....	3865

ADOPTED RULES

68 - 1246	02/22/2005.....	3873
20 - 415	03/01/2005.....	3883
2 - 5001	02/22/2005.....	3900
56 - 100	02/28/2005.....	3909
17 - 525	02/24/2005.....	3919
17 - 710	02/24/2005.....	3935
17 - 810	02/24/2005.....	3955
17 - 3060	02/24/2005.....	4042
89 - 119	02/25/2005.....	4069

EMERGENCY RULES

47 - 110	02/25/2005.....	4088
11 - 603	02/25/2005.....	4116

PEREMPTORY RULES

80 - 310	02/23/2005.....	4125
----------	-----------------	------

EXECUTIVE ORDERS AND PROCLAMATIONS

05 - 50	02/24/2005.....	4157
05 - 49	02/24/2005.....	4157
05 - 48	02/22/2005.....	4157
05 - 51	02/25/2005.....	4158
05 - 53	02/25/2005.....	4159
05 - 52	02/25/2005.....	4159
05 - 25	02/28/2005.....	4160
05 - 54	02/25/2005.....	4160
05 - 55	02/28/2005.....	4161
05 - 56	02/28/2005.....	4162

REGULATORY AGENDA

86 - 1910	4156
-----------	-------	------

ORDER FORM

<input type="checkbox"/> Subscription to the Illinois Register (52 Issues) <input type="checkbox"/> New <input type="checkbox"/> Renewal	\$290.00 (annually)
<input type="checkbox"/> Electronic Version of the Illinois Register (E-mail Address Required) <input type="checkbox"/> New <input type="checkbox"/> Renewal	\$290.00 (annually)
<input type="checkbox"/> Back Issues of the Illinois Register (Current Year Only) Volume # _____ Issue# _____ Date _____	\$ 10.00 (each)
<input type="checkbox"/> Microfiche sets of the Illinois Register 1977 – 2001 Specify Year(s) _____	\$ 200.00 (per set)
<input type="checkbox"/> Cumulative/Sections Affected Indices 1990 - 2002 Specify Year(s) _____	\$ 5.00 (per set)
(Processing fee for credit cards purchases, if applicable.)	\$ 1.50
TOTAL AMOUNT OF ORDER \$ _____	

Check Make Checks Payable To: **Secretary of State**

VISA Master Card Discover (There is a \$1.50 processing fee for credit card purchases.)

Card #: _____ Expiration Date: _____

Signature: _____

Send Payment To: Secretary of State
 Department of Index
 Administrative Code Division
 111 E. Monroe
 Springfield, IL 62756

Fax Order To: (217) 524-0308

Name:	Attention:	ID #:
Address:		
City:	State:	Zip Code:
Phone:	Fax:	E-Mail:

Published by **JESSE WHITE** • Secretary of State
www.cyberdriveillinois.com