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INTRODUCTION

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

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

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

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

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NOTICE OF PROPOSED AMENDMENT

1) **Heading of the Part:** Conditions of Employment

2) **Code Citation:** 80 Ill. Adm. Code 303

3) **Section Number:** 303.120  **Proposed Action:** New Section

4) **Statutory Authority:** Implementing and authorized by the Personnel Code [20 ILCS 415/8c(2), 20 ILCS 415/8e, 20 ILCS 415/9], Civil Administrative Code of Illinois [20 ILCS 405/405-10], and P.A. 96-45

5) **A Complete Description of the Subjects and Issues Involved:** This rulemaking sets forth a furlough program that agencies may implement when conditions require an agency to curtail its operations. This rulemaking defines a furlough program, employees that may be excluded from a furlough program, and the approval process for a furlough program.

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

7) **Will this rulemaking replace any emergency rulemaking currently in effect?** Yes

8) **Does this rulemaking contain an automatic repeal date?** No

9) **Does this rulemaking contain incorporations by reference?** No

10) **Are there any other proposed rulemakings pending on this Part?** No

11) **Statement of Statewide Policy Objectives:** This rulemaking neither creates nor expands any State mandate on units of local government, school districts or community college districts.

12) **Time, Place and Manner in which interested persons may comment on this proposed rulemaking:** 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
DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENT

217/785-1793

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance: Agencies will need to have employees report furlough time on timesheets and determine the value of furlough time for each employee. Agencies are required to track furlough time and the cost savings to the State.

C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the two most recent agendas because: it was not anticipated at the time of filing the regulatory agenda.

The full text of the Proposed Amendment is identical to the text of the Emergency Amendment and begins on page 12032 in this issue of the Illinois Register:
DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

1) **Heading of the Part:** Retailers' Occupation Tax

2) **Code Citation:** 86 Ill. Adm. Code 130

3) **Section Numbers:** Proposed Action:  
130.1954 New Section

4) **Statutory Authority:** 35 ILCS 120/2-54

5) **A Complete Description of the Subjects and Issues Involved:** The proposed rule implements Section 2-54 of the Retailers' Occupation Tax Act. 35 ILCS 120/2-54. Section 2-54 was enacted as part of PA 94-1021 effective July 12, 2006, and creates an exemption for building materials to be incorporated into real estate within a River Edge Redevelopment Zone. Each retailer that makes a qualified sale of building materials to be incorporated into real estate within a River Edge Redevelopment Zone in accordance with the River Edge Redevelopment Zone Act by remodeling, rehabilitating, or new construction may deduct receipts from those sales when calculating the tax imposed by the Retailers’ Occupation Tax Act. A "qualified sale" means a sale of building materials that will be incorporated into real estate as part of an industrial or commercial project for which a Certificate of Eligibility for Sales Tax Exemption has been issued by the corporate authorities of the municipality in which the building project is located.

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

7) **Will this rulemaking replace any emergency rulemaking currently in effect:** No

8) **Does this rulemaking contain an automatic repeal date:** No

9) **Does this rulemaking contain incorporations by reference:** No

10) **Are there any other proposed rulemakings pending on this Part:** Yes

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DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

11) **Statement of Statewide Policy Objective:** This rulemaking does not create a State mandate, nor does it modify any existing State mandates.

12) **Time, Place and Manner in which interested persons may comment on this proposed rulemaking:** Persons who wish to submit comments on this proposed rulemaking may submit them in writing by no later than 45 days after publication of this Notice to:

   Richard S. Wolters  
   Associate Counsel  
   Illinois Department of Revenue  
   Legal Services Office  
   101 West Jefferson  
   Springfield, Illinois  62794  

   217/782-2844

13) **Initial Regulatory Flexibility Analysis:**

   A) **Types of small businesses, small municipalities and not for profit corporations affected:** Retailers making qualified sales of tangible personal property for incorporation into a River Edge Redevelopment Zone.

   B) **Reporting, bookkeeping or other procedures required for compliance:** Minimal record keeping requirements.

   C) **Types of professional skills necessary for compliance:** None

14) **Regulatory Agenda on which this rulemaking was summarized:** January 2009

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

NOTICE OF PROPOSED AMENDMENT

TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUE

PART 130
RETAILERS' OCCUPATION TAX

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SUBPART S: SPECIFIC APPLICATIONS

Section 130.1954 River Edge Redevelopment Zones

a) River Edge Redevelopment Zone – In General

1) Effective July 12, 2006, each retailer that makes a qualified sale of building materials to be incorporated into real estate within a River Edge Redevelopment Zone in accordance with the River Edge Redevelopment Zone Act by remodeling, rehabilitating, or new construction may deduct receipts from those sales when calculating the tax imposed by the Act. (Section 2-54 of the Retailers' Occupation Tax Act [35 ILCS 120/2-54]).

2) A "qualified sale" means a sale of building materials that will be incorporated into real estate as part of an industrial or commercial project for which a Certificate of Eligibility for Sales Tax Exemption has been issued by the corporate authorities of the municipality in which the building project is located. (Section 2-54 of the Retailers' Occupation Tax Act [35 ILCS 120/2-54])

3) "Industrial project" means:
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A) a capital project, including one or more buildings and other structures, improvements, machinery and equipment, whether or not on the same site or sites, suitable for use by any manufacturing, industrial, research, transportation or commercial enterprise, including, but not limited to use as a factory, mill, processing plant, assembly plant, packaging plant, fabricating plant, ethanol plant, office building, industrial distribution center, warehouse, repair, overhaul or service facility, freight terminal, research facility, test facility, railroad facility, port facility, solid waste and wastewater treatment and disposal sites and other pollution control facilities, resource or waste reduction, recovery, treatment and disposal facilities:

i) the sites of any of the facilities listed in subsection (a)(3)(A)(i) and other rights in land for those facilities, whether improved or unimproved;

ii) site preparation and landscaping;

iii) all appurtenances and facilities incidental to the facilities listed in subsection (a)(3)(A)(i), such as utilities, access roads, railroad sidings, truck docking and similar facilities, parking facilities, dockage, wharfage, railroad roadbed, track, trestle, depot, terminal, switching and signaling equipment or related equipment, and other necessary or convenient improvements; or

B) any land, buildings, machinery or equipment comprising an addition to or renovation, rehabilitation or improvement of any existing capital project.

4) "Commercial project" means any project, including but not limited to one or more buildings and other structures, improvements, machinery and equipment, whether or not on the same site or sites, suitable for use by any retail or wholesale concern, distributorship or agency, any cultural facilities of a for-profit or not-for-profit type, including but not limited to educational, theatrical, recreational and entertainment, sports facilities, racetracks, stadiums, convention centers, exhibition halls, arenas, opera
houses and theaters, waterfront improvements, swimming pools, boat storage, moorage, docking facilities, restaurants, velodromes, coliseums, sports training facilities, parking facilities, terminals, hotels and motels, gymnasiums, medical facilities and port facilities.

5) Nothing in the definitions of "industrial project" or "commercial project" is meant to imply that the building materials exemption for an industrial project or commercial project may extend beyond the borders of the River Edge Redevelopment Zone or may extend beyond the exemption of sales of building materials incorporated into an industrial project or commercial project.

b) Building Materials Purchased for Physical Incorporation into Real Estate Located in a River Edge Redevelopment Zone

1) In order to qualify for the deduction, the materials being purchased must be building materials. That is, they must be purchased for physical incorporation into real estate. For example, gross receipts from sales of the following items can qualify for the deduction:

A) common building materials such as lumber, bricks, cement, windows, doors, insulation, roofing materials and sheet metal;

B) plumbing systems and components such as bathtubs, lavatories, sinks, faucets, garbage disposals, water pumps, water heaters, water softeners and water pipes;

C) heating systems and components such as furnaces, ductwork, vents, stokers, boilers, heating pipes and radiators;

D) electrical systems and components such as wiring, outlets and light fixtures that are physically incorporated into the real estate;

E) central air conditioning systems, ventilation systems and components that are physically incorporated into the real estate;

F) built-in cabinets and other woodwork that are physically incorporated into the real estate can qualify for the deduction;
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G) built-in appliances such as refrigerators, stoves, ovens and trash compactors that are physically incorporated into the real estate; and

H) floor coverings such as tile, linoleum and carpeting that are glued or otherwise permanently affixed to the real estate by use of tacks, staples, or wood stripping filled with nails that protrude upward (sometimes referred to as tacking strips or tack-down strips).

2) Items that are not physically incorporated into the real estate cannot qualify for the deduction. For example, gross receipts from sales of the following do not qualify:

A) tools, machinery, equipment, fuel, forms and other items that may be used by a construction contractor at a River Edge Redevelopment Zone site, but that are not physically incorporated into the real estate;

B) free-standing appliances such as stoves, oven, refrigerators, washing machines, portable ventilation units, window air conditioning units, lamps, clothes washers, clothes dryers, trash compactors and dishwashers that may be connected to and operate from a building's electrical or plumbing system but that do not become a component of those systems; and

C) floor coverings that are area rugs or that are attached to the structure using only two-sided tape.

3) Building materials incorporated into stand-alone residential homes, residential apartments, residential condominiums, residential townhouses, residential duplexes, residential buildings or residential structures do not qualify for the deduction. Building materials physically incorporated into a commercial project, a portion of which is dedicated for residential purposes, shall be allocated on a square-footage basis for common building materials (for example, lumber, cement, bricks, insulation, air conditioning and heating equipment serving an entire project and roofing materials) and directly allocated to either the commercial portion or residential portion when direct allocation of the building materials is possible (for example, bathtubs, sinks, lavatories, cabinets, built-in
appliances and air conditioning and heating equipment serving individually owned or leased units or space). Only the building materials allocated to the commercial portion of the project can qualify for the deduction.

c) Certificate of Eligibility for Sales Tax Exemption

1) To document the exemption, the retailer must obtain from the purchaser a copy of the Certificate of Eligibility for Sales Tax Exemption issued by the corporate authorities of the municipality in which the real estate into which the building materials will be incorporated is located. The Certificate of Eligibility for Sales Tax Exemption must be obtained by the retailer prior to the sale.

2) The Certificate of Eligibility for Sales Tax Exemption must contain all of the following:

A) a statement that the commercial or industrial project identified in the Certificate meets all the requirements of the jurisdiction in which the project is located;

B) the location or address of the building project; and

C) the signature of the chief executive officer of the municipality in which the building project is located, or the chief executive officer's delegate.

3) In order to properly document this exemption, prior to the sale the retailer must also obtain a certificate from the purchaser that contains all of the following:

A) a statement that the building materials are being purchased for incorporation into real estate located in a River Edge Redevelopment Zone included in a redevelopment project area in accordance with the River Edge Redevelopment Zone Act;

B) the location or address of the real estate into which the building materials will be incorporated;
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C) the name of the River Edge Redevelopment Zone in which the real estate is located;

D) a description of the building materials being purchased; and

E) the purchaser’s signature and date of purchase. [35 ILCS 120/2-54]

(Source: Added at 33 Ill. Reg. _____, effective ____________)
DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

1) **Heading of the Part:** Medical Payment

2) **Code Citation:** 89 Ill. Adm. Code 140

3) **Section Numbers:**
   - 140.16 Amendment
   - 140.44 New Section

4) **Statutory Authority:** Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]

5) **Effective Date of Amendments:** August 17, 2009

6) **Does this rulemaking contain an automatic repeal date?** No

7) **Does this rulemaking contain incorporations by reference?** No

8) A copy of the adopted amendments, 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:** August 29, 2008; 32 Ill. Reg. 14003

10) **Has JCAR issued a Statement of Objection to this rulemaking?** Yes
   - A) **Statement of Objection and Filing Prohibition:** April 3, 2009; 33 Ill. Reg. 5030
   - B) **Agency Response:** July 6, 2009; 33 Ill. Reg. 9465
   - C) **Date Agency Response Submitted for Approval to JCAR:** June 19, 2009

   Note that JCAR withdrew its filing prohibition in the July 31, 2009 Illinois Register at 33 Ill. Reg. 11358 contingent upon agency modification of the rule text.

11) **Differences Between Proposal and Final Version:** Upon agreement with JCAR, Second Notice changes deleted all proposed language to Section 140.14 from this rulemaking. In addition:

   - In Section 140.16, "subsection (b)" was stricken and subsection (c) was relabeled to "b)."
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In Section 140.44(c)(2), the phrase "the Illinois Administrative Code" was deleted and replaced with "89 Ill. Adm. Code: Chapter I".

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 other amendments pending on this Part? Yes

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15) Summary and Purpose of Amendments: The rulemaking establishes that HFS may suspend or terminate the eligibility of any person, firm, corporation, or other entity to participate as a provider if, after notice and opportunity for a hearing, HFS finds the provider, a person with management responsibility of a provider, an officer or person owning 5% or more of the shares of stock in a corporation, an owner of a sole proprietorship, or a partner in a partnership has been convicted of a felony offense related to murder or a Class X felony under the Criminal Code of 1961.

In addition, the rulemaking implements provisions that permit the Department to temporarily withhold payments, in whole or part, to a provider or alternate payee upon receipt of credible evidence that the payments involve fraud or willful misrepresentation. The Department must notify the provider or alternate payee of its intent to withhold and provide an opportunity for the provider or alternate payee to request a reconsideration of the withholding.

16) Information and questions regarding these adopted amendments shall be directed to:
NOTICE OF ADOPTED AMENDMENTS

Tamara Tanzillo Hoffman
Chief of Staff
Illinois Department of Healthcare and Family Services
201 South Grand Avenue E., 3rd Floor
Springfield IL  62763-0002

217/557-7157

The full text of the Adopted Amendments begins on the next page:
DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES
SUBCHAPTER d: MEDICAL PROGRAMS

PART 140
MEDICAL PAYMENT

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140.5 Covered Medical Services Under General Assistance
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140.7 Medical Assistance Provided to Individuals Under the Age of Eighteen Who Do Not Qualify for AFDC and Children Under Age Eight
140.8 Medical Assistance For Qualified Severely Impaired Individuals
140.9 Medical Assistance for a Pregnant Woman Who Would Not Be Categorically Eligible for AFDC/AFDC-MANG if the Child Were Already Born Or Who Do Not Qualify As Mandatory Categorically Needy
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(Recodified)

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SUBPART B: MEDICAL PROVIDER PARTICIPATION

Section 140.16 Termination or Suspension of a Vendor's Eligibility to Participate in the Medical Assistance Program

a) The Department may terminate or suspend a vendor's eligibility to participate in the Medical Assistance Program, or terminate or not renew a vendor's provider agreement, when it determines that, at any time:
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1) The Such vendor is not complying with the Department's policy or rules, or with the terms and conditions prescribed by the Department in any vendor agreement developed as a result of negotiations with the vendor category, or with the covenants contained in certifications bearing the vendor's signature on claims submitted to the Department by the vendor, or with restrictions on participation imposed pursuant to Section 140.32(f);

2) The Such vendor is not properly licensed or qualified, or the vendor's professional license, certificate or other authorization has not been renewed or has been revoked, suspended or otherwise terminated as determined by the appropriate licensing, certifying or authorizing agency;

3) The Such vendor violates records requirements.
   A) The Such vendor has failed to keep or make available for inspection, audit or copying (including photocopying), after receiving a written request from the Department:
      i) such records as are required to be maintained by the Department or as are necessary to fully disclose the extent of the services or supplies provided; or
      ii) such records as are required to be maintained by the Department regarding payments claimed for providing services.
   B) This subsection (a)(3) does not require vendors to make available medical records of patients for whom services are not reimbursed under the Illinois Public Aid Code;

4) The Such vendor has failed to furnish any information requested by the Department regarding payments for providing goods or services, or has failed to furnish all information required by the Department in connection with the rendering of services or supplies to recipients of public assistance by the vendor or his agent, employer or employee;

5) The Such vendor has knowingly made, or caused to be made, any false statement or representation of a material fact in connection with the administration of the Medical Assistance Program. For purposes of this
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subsection (a)(5) Section, statements or representations made "knowingly" shall include statements or representations made with actual knowledge that they were false as well as those statements made when the individual making the statement had knowledge of such facts or information as would cause one to be aware that the statements or representations were false when made;

6) The Such vendor has submitted claims for services or supplies that were not rendered or delivered by that vendor;

7) The Such vendor has furnished goods or services to a recipient that, when based upon competent medical judgment and evaluation, are determined to be:

   A) in excess of the recipient's needs,

   B) harmful to the recipient (for the purpose of this subsection (a)(7)(B) Section, "harmful" goods or services caused actual harm to a recipient or placed a recipient at risk of harm, or of adverse side effects, which outweighed the medical benefits sought to be provided), or

   C) of grossly inferior quality;

8) The Such vendor knew or should have known that a person with management responsibility for a vendor, an officer or person owning (directly or indirectly) 5% or more of the shares of stock or other evidences of ownership in a corporate vendor, an investor in the vendor, a technical or other advisor of the vendor, an owner of a sole proprietorship that is a vendor, or a partner in a partnership that is a vendor was previously terminated or barred from participation in the Medical Assistance Program;

9) The Such vendor engaged in practices prohibited by Federal or State law or regulation.

   A) The Such vendor, a person with management responsibility for a vendor, an officer or person owning (directly or indirectly) 5% or more of the shares of stock or other evidences of ownership in a
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corporate vendor, an owner of a sole proprietorship that is a vendor, or a partner in a partnership that is a vendor, either:

i) has engaged in practices prohibited by applicable Federal or State law or regulation; or

ii) was a person with management responsibility for a vendor at the time that the vendor engaged in practices prohibited by applicable Federal or State law or regulation; or

iii) was an officer, or person owning (directly or indirectly) 5% or more of the shares of stock or other evidences of ownership in a vendor at the time the vendor engaged in practices prohibited by applicable Federal or State law or regulation; or

iv) was an owner of a sole proprietorship or partner of a partnership that was a vendor at the time the vendor engaged in practices prohibited by applicable Federal or State law or regulation;

B) For purposes of this subsection (a)(9) of this Section "applicable Federal or State law or regulation" shall include licensing or certification standards contained in State or Federal law or regulations related to the Medical Assistance Program, any other licensing standards as they relate to the vendor's practice or business or any Federal or State laws or regulations related to the Medical Assistance Program;

C) For purposes of this subsection (a)(9) of this Section conviction or a plea of guilty to activities violative of applicable Federal or State law or regulation shall be conclusive proof that those activities were engaged in;

10) The vendor, a person with management responsibility for a vendor, an officer or person owning (directly or indirectly) 5% or more of the shares of stock or other evidences of ownership in a vendor, an owner of a sole proprietorship that is a vendor, or a partner in a partnership that

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partnership that which is a vendor, has been convicted in this or any other State, or in any Federal Court, of any felony not related to the Medical Assistance Program, if the felony constitutes grounds for disciplinary action under the licensing Act applicable to that individual or vendor;

11) The vendor, a person with management responsibility for a vendor, an officer or person owning (directly or indirectly) 5% or more of the shares of stock or other evidences of ownership in a corporate vendor, an owner of a sole proprietorship that is a vendor, or partner in a partnership that is a vendor, has been convicted in this or any other state, or in any Federal court, of murder or a Class X felony under the Illinois Criminal Code of 1961;

12+) The direct or indirect ownership of the vendor (including the ownership of a vendor that is a sole proprietorship, a partner's interest in a vendor that is a partnership, or ownership of 5% or more of the shares of stock or other evidences of ownership in a corporate vendor) has been transferred by an individual who is terminated or barred from participating as a vendor to the individual's spouse, child, brother, sister, parent, grandparent, grandchild, uncle, aunt, niece, nephew, cousin, or relative by marriage.

b) If any of the activities described in subsections (a)(1) through (a)(9) above were engaged in prior to December 1, 1977, they may be used as the basis for termination only if the vendor had actual or constructive knowledge of the requirements which applied to his conduct or activities.

be) The Department may suspend a vendor's eligibility to participate in the Medical Assistance Program if the vendor is not in compliance with State income tax requirements, child support payments in accordance with Article X of the Public Aid Code, or educational loans guaranteed by the Illinois Student Assistance Commission. The vendor may prevent suspension of eligibility by payment of past-due amounts in full or by entering into payment arrangements acceptable to the appropriate State agency.

(Source: Amended at 33 Ill. Reg. 11938, effective August 17, 2009)

Section 140.44 Withholding of Payments Due to Fraud or Misrepresentation
DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

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a) Payments on pending and subsequently submitted bills may be withheld, in whole or in part, to a provider or alternate payee, upon receipt by the Department of evidence from State or Federal law enforcement or Federal oversight agencies or from the results of a preliminary Department audit and determined by the Department to be credible, that the circumstances giving rise to the need for a withholding of payments may involve fraud or willful misrepresentation under the Illinois Medical Assistance Program. For purposes of this Section, "credible evidence" is defined as evidence that reasonable people would agree as being trustworthy and reliable. Payments may be withheld without first notifying the provider or alternate payee of its intention to withhold the payments.

b) The Department must send notice of its withholding within 5 days after taking that action. The notice must set forth the general allegations as to the nature of the withholding, but need not disclose any specific information concerning the ongoing investigation. The notice must also state the following:

1) The payments are being withheld in accordance with 305 ILCS 5/12-4.25 (K).

2) The withholding is for a temporary period; the notice shall cite the circumstances under which withholding will be terminated.

3) When appropriate, the type of claim for which withholding is effective.

4) The provider or alternate payee has the right to submit written evidence for reconsideration of the withholding of payments by the Department.

5) A written request may be made to the Department for full or partial release of withheld payments and the request may be made at any time after the Department first withholds the payments.

c) All withholding of payment actions under this Section shall be temporary and shall not continue after any of the following:

1) The Department or the prosecuting authorities determine that there is insufficient evidence of fraud or willful misrepresentation by the provider or alternate payee.
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2) Legal proceedings related to the provider's or alternate payee's alleged fraud, willful misrepresentation, or violations of Article V of the Illinois Public Aid Code [305 ILCS 5/Art. V] or violations of 89 Ill. Adm. Code: Chapter I are completed. If the Department commences an administrative proceeding that seeks the termination of the provider or revocation of the alternate payee, withholding will continue in conformance with 89 Ill. Adm. Code 104.272.

3) The withholding of payments for a period of 3 years.

d) The provider or alternate payee request for reconsideration of payment withholding, or request for full or partial release of payments withheld, must be in writing, set out the reasons for the request, and be sent to the Office of Inspector General at 404 North Fifth Street, Springfield, Illinois 62706, or by e-mail to oigwebmaster@illinois.gov. The request may include documentation that the allegations of fraud or willful misrepresentation involving the Medical Assistance Program did not take place.

e) Partial or full release of payments on pending and subsequently submitted bills may be granted, at the discretion of the Inspector General of the Department, when it is in the best interest of the recipients of medical assistance. This may include, but not be limited to, access to medical services for recipients or the potential movement of patients from long term care settings.

(Source: Added at 33 Ill. Reg. 11938, effective August 17, 2009)
POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

1) **Heading of the Part:** Permits and General Provisions

2) **Code Citation:** 35 Ill. Adm. Code 201

3) **Section Number:** Adopted Action:
   - 201.146 Amend

4) **Statutory Authority:** 415 ILCS 5/27 and 28

5) **Effective Date of Amendments:** August 6, 2009

6) **Does this rulemaking contain an automatic repeal date?** No

7) **Does this rulemaking contain incorporations by reference?** No

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the Board's Chicago office at the James R. Thompson Center, 100 W. Randolph, Suite 11-500, and is available for public inspection.

9) **Notice of Proposal Published in Illinois Register:** October 31, 2008; 32 Ill. Reg. 17035

10) **Has JCAR issued a Statement of Objection to this rulemaking?** No

11) **Differences between proposal and final version:** None

12) **Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements letter issued by JCAR?** Yes

13) **Will this rulemaking replace any emergency amendments currently in effect?** No

14) **Are there any amendments pending on this Part?** No

15) **Summary and Purpose of Amendment:** The amendments control NOx emissions from engines and turbines located at 100 ton per year sources located in the Chicago and Metro East/St. Louis nonattainment areas with a capacity of 500 brake horsepower (bhp) or 3.5 megawatts (MW). In first proposing the amendments, the Agency stated that the regulations would help Illinois to meet Clean Air Act (CAA) requirements for NOx reasonably available control technology (RACT) under the eight-hour National Ambient
POLLUTION CONTROL BOARD

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Air Quality Standard (NAAQS) for ozone and would also improve air quality by reducing precursors of fine particulate matter (PM$_{2.5}$).

In Part 201, the proposal substantively amends only a single exemption from state permit requirements in order to conform with amendments to Part 217 proposed in the same Board rulemaking docket.

16) Information and questions regarding this adopted amendment shall be directed to:

Tim Fox
Illinois Pollution Control Board
100 W. Randolph Suite 11-500
Chicago, IL 60601

312/814-6085

Copies of the Board's opinions and orders may be requested from the Clerk of the Board at the address listed in #8 above or by calling 312/814-3620. Please refer to the Docket number R07-19 in your request. The Board order is also available from the Board's Web site (www.ipcb.state.il.us)

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

NOTICE OF ADOPTED AMENDMENT

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

PART 201
PERMITS AND GENERAL PROVISIONS

SUBPART A: DEFINITIONS

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

SUBPART B: GENERAL PROVISIONS

Section 201.121 Existence of Permit No Defense
Section 201.122 Proof of Emissions
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SUBPART C: PROHIBITIONS

Section 201.141 Prohibition of Air Pollution
Section 201.142 Construction Permit Required
Section 201.143 Operating Permits for New Sources
Section 201.144 Operating Permits for Existing Sources
Section 201.146 Exemptions from State Permit Requirements
Section 201.147 Former Permits
Section 201.148 Operation Without Compliance Program and Project Completion Schedule
Section 201.149 Operation During Malfunction, Breakdown or Startups
Section 201.150 Circumvention
Section 201.151 Design of Effluent Exhaust Systems
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201.152 Contents of Application for Construction Permit
201.153 Incomplete Applications (Repealed)
201.154 Signatures (Repealed)
201.155 Standards for Issuance (Repealed)
201.156 Conditions
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201.164 Design Criteria
201.165 Hearings
201.166 Revocation
201.167 Revisions to Permits
201.168 Appeals from Conditions
201.169 Special Provisions for Certain Operating Permits
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201.181 Expiration and Renewal (Repealed)
201.187 Requirement for a Revised Permit (Repealed)

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201.210 Categories of Insignificant Activities or Emission Levels
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201.211 Application for Classification as an Insignificant Activity
201.212 Revisions to Lists of Insignificant Activities or Emission Levels

SUBPART G: EXPERIMENTAL PERMITS (Reserved)

SUBPART H: COMPLIANCE PROGRAMS AND PROJECT COMPLETION SCHEDULES

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201.242 Contents of Project Completion Schedule
201.243 Standards for Approval
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201.246 Records and Reports
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201.262 Standards for Granting Permission to Operate During a Malfunction, Breakdown or Startup
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201.282 Testing
201.283 Records and Reports

SUBPART K: RECORDS AND REPORTS

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SUBPART L: CONTINUOUS MONITORING

Section
201.401 Continuous Monitoring Requirements
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201.APPENDIX A Rule into Section Table
201.APPENDIX B Section into Rule Table
201.APPENDIX C Past Compliance Dates

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


SUBPART C: PROHIBITIONS
Section 201.146 Exemptions from State Permit Requirements

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

a) Air contaminant detectors or recorders, combustion controllers or combustion shutoffs;

b) Air conditioning or ventilating equipment not designed to remove air contaminants generated by or released from associated equipment;

c) Each fuel burning emission unit for indirect systems and for heating and reheating furnace systems used exclusively for residential, or commercial establishments using gas and/or fuel oil exclusively with a design heat input capacity of less than 14.6 MW (50 mmbtu/hr), except that a permit shall be required for any such emission unit with a design heat input capacity of at least 10 mmbtu/hr that was constructed, reconstructed or modified after June 9, 1989 and that is subject to 40 CFR 60, subpart D;

d) Each fuel burning emission unit other than those listed in subsection (c) of this Section for direct systems used for comfort heating purposes and indirect heating systems with a design heat input capacity of less than 2930 kW (10 mmbtu/hr);

e) Internal combustion engines or boilers (including the fuel system) of motor vehicles, locomotives, air craft, watercraft, lifttrucks and other vehicles powered by nonroad engines;

f) Bench scale laboratory equipment and laboratory equipment used exclusively for chemical and physical analysis, including associated laboratory fume hoods, vacuum producing devices and control devices installed primarily to address potential accidental releases;

g) Coating operations located at a source using not in excess of 18,925 l (5,000 gal) of coating (including thinner) per year;
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h) Any emission unit acquired exclusively for domestic use, except that a permit shall be required for any incinerator and for any fuel combustion emission unit using solid fuel with a design heat input capacity of 14.6 MW (50 mmbtu/hr) or more;

i) Any stationary internal combustion engine with a rated power output of less than 1118 kW (1500 bhp) or stationary turbine, except that a permit shall be required for the following:
   1) Any internal combustion engine with a rating at equal to or greater than 500 bhp output that is subject to the control requirements of 35 Ill. Adm. Code 217.388(a) or (b); or
   2) Any stationary gas turbine engine with a rated heat input at peak load of 10.7 gigajoules/hr (10 mmbtu/hr) or more that is constructed, reconstructed or modified after October 3, 1977 and that is subject to requirements of 40 CFR 60, subpart GG;

j) Rest room facilities and associated cleanup operations, and stacks or vents used to prevent the escape of sewer gases through plumbing traps;

k) Safety devices designed to protect life and limb, provided that a permit is not otherwise required for the emission unit with which the safety device is associated;

l) Storage tanks for liquids for retail dispensing except for storage tanks that are subject to the requirements of 35 Ill. Adm. Code 215.583(a)(2), 218.583(a)(2) or 219.583(a)(2);

m) Printing operations with aggregate organic solvent usage that never exceeds 2,839 l (750 gal) per year from all printing lines at the source, including organic solvent from inks, dilutents, fountain solutions and cleaning materials;

n) Storage tanks of:
   1) Organic liquids with a capacity of less than 37,850 l (10,000 gal), provided the storage tank is not used to store any material listed as a hazardous air pollutant pursuant to section 112(b) of the Clean Air Act, and provided the storage tank is not subject to the requirements of 35...
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Ill. Adm. Code 215.583(a)(2), 218.583(a)(2) or 219.583(a)(2);

2) Any size containing exclusively soaps, detergents, surfactants, waxes, glycerin, vegetable oils, greases, animal fats, sweetener, corn syrup, aqueous salt solutions or aqueous caustic solutions, provided an organic solvent has not been mixed with such materials; or

3) Any size containing virgin or re-refined distillate oil, hydrocarbon condensate from natural gas pipeline or storage systems, lubricating oil or residual fuel oils;

o) Threaded pipe connections, vessel manways, flanges, valves, pump seals, pressure relief valves, pressure relief devices and pumps;

p) Sampling connections used exclusively to withdraw materials for testing and analyses;

q) All storage tanks of Illinois crude oil with capacity of less than 151,400 l (40,000 gal) located on oil field sites;

r) All organic material-water single or multiple compartment effluent water separator facilities for Illinois crude oil of vapor pressure of less than 34.5 kPa absolute (5 psia);

s) Grain-handling operations, exclusive of grain-drying operations, with an annual grain through-put not exceeding 300,000 bushels;

t) Grain-drying operations with a total grain-drying capacity not exceeding 750 bushels per hour for 5% moisture extraction at manufacturer's rated capacity, using the American Society of Agricultural Engineers Standard 248.2, Section 9, Basis for Stating Drying Capacity of Batch and Continuous-Flow Grain Dryers;

u) Portable grain-handling equipment and one-turn storage space;

v) Cold cleaning degreasers that are not in-line cleaning machines, where the vapor pressure of the solvents used never exceeds 2 kPa (15 mmHg or 0.3 psi) measured at 38°C (100°F) or 0.7 kPa (5 mmHg or 0.1 psi) at 20°C (68°F);

w) Coin-operated dry cleaning operations;
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x) Dry cleaning operations at a source that consume less than 30 gallons per month of perchloroethylene;

y) Brazing, soldering, wave soldering or welding equipment, including associated ventilation hoods;

z) Cafeterias, kitchens, and other similar facilities, including smokehouses, used for preparing food or beverages, but not including facilities used in the manufacturing and wholesale distribution of food, beverages, food or beverage products, or food or beverage components;

aa) Equipment for carving, cutting, routing, turning, drilling, machining, sawing, surface grinding, sanding, planing, buffing, sand blast cleaning, shot blasting, shot peening, or polishing ceramic artwork, leather, metals (other than beryllium), plastics, concrete, rubber, paper stock, wood or wood products, where such equipment is either:

1) Used for maintenance activity;

2) Manually operated;

3) Exhausted inside a building; or

4) Vented externally with emissions controlled by an appropriately operated cyclonic inertial separator (cyclone), filter, electro-static precipitor or a scrubber;

bb) Feed mills that produce no more than 10,000 tons of feed per calendar year, provided that a permit is not otherwise required for the source pursuant to Section 201.142, 201.143 or 201.144;

cc) Extruders used for the extrusion of metals, minerals, plastics, rubber or wood, excluding:

1) Extruders used in the manufacture of polymers;

2) Extruders using foaming agents or release agents that contain volatile organic materials or Class I or II substances subject to the requirements of
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Title VI of the Clean Air Act; and

3) Extruders processing scrap material that was produced using foaming agents containing volatile organic materials or Class I or II substances subject to the requirements of Title VI of the Clean Air Act;

dd) Furnaces used for melting metals, other than beryllium, with a brim full capacity of less than 450 cubic inches by volume;

ee) Equipment used for the melting or application of less than 22,767 kg/yr (50,000 lbs/yr) of wax to which no organic solvent has been added;

ff) Equipment used for filling drums, pails or other packaging containers, excluding aerosol cans, with soaps, detergents, surfactants, lubricating oils, waxes, vegetable oils, greases, animal fats, glycerin, sweeteners, corn syrup, aqueous salt solutions or aqueous caustic solutions, provided an organic solvent has not been mixed with such materials;

gg) Loading and unloading systems for railcars, tank trucks, or watercraft that handle only the following liquid materials: soaps, detergents, surfactants, lubricating oils, waxes, vegetable oils, greases, animal fats, sweetener, corn syrup, aqueous salt solutions or aqueous caustic solutions, provided an organic solvent has not been mixed with such materials;

hh) Equipment used for the mixing and blending of materials at ambient temperatures to make water based adhesives, provided each material mixed or blended contains less than 5% organic solvent by weight;

ii) Die casting machines where a metal or plastic is formed under pressure in a die located at a source with a through-put of less than 2,000,000 lbs of metal or plastic per year, in the aggregate, from all die casting machines;

jj) Air pollution control devices used exclusively with other equipment that is exempt from permitting, as provided in this Section;

kk) An emission unit for which a registration system designed to identify sources and emission units subject to emission control requirements is in place, such as the registration system found at 35 Ill. Adm. Code 218.586 (Gasoline Dispensing Operations – Motor Vehicle Fueling Operations) and 35 Ill. Adm. Code 218,
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Subpart HH (Motor Vehicle Refinishing);

ll) Photographic process equipment by which an image is reproduced upon material sensitized to radiant energy;

mm) Equipment used for hydraulic or hydrostatic testing;

nn) General vehicle maintenance and servicing activities conducted at a source, motor vehicle repair shops, and motor vehicle body shops, but not including:

1) Gasoline fuel handling; and

2) Motor vehicle refinishing;

oo) Equipment using water, water and soap or detergent, or a suspension of abrasives in water for purposes of cleaning or finishing, provided no organic solvent has been added to the water;

pp) Administrative activities including, but not limited to, paper shredding, copying, photographic activities and blueprinting machines. This does not include incinerators;

qq) Laundry dryers, extractors, and tumblers processing that have been cleaned with water solutions of bleach or detergents that are:

1) Located at a source and process clothing, bedding and other fabric items used at the source, provided that any organic solvent present in such items before processing that is retained from cleanup operations shall be addressed as part of the VOM emissions from use of cleaning materials;

2) Located at a commercial laundry; or

3) Coin operated;

rr) Housekeeping activities for cleaning purposes, including collecting spilled and accumulated materials, including operation of fixed vacuum cleaning systems specifically for such purposes, but not including use of cleaning materials that contain organic solvent;
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ss) Refrigeration systems, including storage tanks used in refrigeration systems, but excluding any combustion equipment associated with such systems;

tt) Activities associated with the construction, on-site repair, maintenance or dismantlement of buildings, utility lines, pipelines, wells, excavations, earthworks and other structures that do not constitute emission units;

uu) Piping and storage systems for natural gas, propane and liquefied petroleum gas;

vv) Water treatment or storage systems, as follows:

1) Systems for potable water or boiler feedwater;

2) Systems, including cooling towers, for process water, provided that such water has not been in direct or indirect contact with process streams that contain volatile organic material or materials listed as hazardous air pollutants pursuant to section 112(b) of the Clean Air Act;

ww) Lawn care, landscape maintenance and grounds keeping activities;

xx) Containers, reservoirs or tanks used exclusively in dipping operations to coat objects with oils, waxes or greases, provided no organic solvent has been mixed with such materials;

yy) Use of consumer products, including hazardous substances as that term is defined in the Federal Hazardous Substances Act (15 USC 1261 et seq.), where the product is used at a source in the same manner as normal consumer use;

zz) Activities directly used in the diagnosis and treatment of disease, injury or other medical condition;

aaa) Activities associated with the construction, repair or maintenance of roads or other paved or open areas, including operation of street sweepers, vacuum trucks, spray trucks and other vehicles related to the control of fugitive emissions of such roads or other areas;

bbb) Storage and handling of drums or other transportable containers, where the containers are sealed during storage and handling;
Activities at a source associated with the maintenance, repair or dismantlement of an emission unit or other equipment installed at the source, not including the shutdown of the unit or equipment, including preparation for maintenance, repair or dismantlement, and preparation for subsequent startup, including preparation of a shutdown vessel for entry, replacement of insulation, welding and cutting, and steam purging of a vessel prior to startup;

Equipment used for corona arc discharge surface treatment of plastic with a power rating of 5 kW or less or equipped with an ozone destruction device;

Equipment used to seal or cut plastic bags for commercial, industrial or domestic use;

Each direct-fired gas dryer used for a washing, cleaning, coating or printing line, excluding:

1) Dryers with a rated heat input capacity of 2930 kW (10 mmbtu/hr) or more; and

2) Dryers for which emissions other than those attributable to combustion of fuel in the dryer, including emissions attributable to use or application of cleaning agents, washing materials, coatings or inks or other process materials that contain volatile organic material are not addressed as part of the permitting of such line, if a permit is otherwise required for the line;

Municipal solid waste landfills with a maximum total design capacity of less than 2.5 million Mg or 2.5 million m$^3$ that are not required to install a gas collection and control system pursuant to 35 Ill. Adm. Code 220 or 800 through 849 or Section 9.1 of the Act; and

Replacement or addition of air pollution control equipment for existing emission units in circumstances where:

1) The existing emission unit is permitted and has operated in compliance for the past year;

2) The new control equipment will provide equal or better control of the target pollutants;
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3) The new control device will not be accompanied by a net increase in emissions of any non-targeted criteria air pollutant;

4) Different State or federal regulatory requirements or newly proposed regulatory requirements will not apply to the unit; and BOARD NOTE: All sources must comply with underlying federal regulations and future State regulations.

5) Where the existing air pollution control equipment had required monitoring equipment, the new air pollution control equipment will be equipped with the instrumentation and monitoring devices that are typically installed on the new equipment of that type. BOARD NOTE: For major sources subject to Section 39.5 of the Act, where the new air pollution control equipment will require a different compliance determination method in the facility's CAAPP permit, the facility may need a permit modification to address the changed compliance determination method.

iii) Replacement, addition, or modification of emission units at facilities with federally enforceable State operating permits limiting their potential to emit in circumstances where:

1) The potential to emit any regulated air pollutant in the absence of air pollution control equipment from the new emission unit, or the increase in the potential to emit resulting from the modification of any existing emission unit, is less than 0.1 pound per hour or 0.44 tons per year;

2) The raw materials and fuels used or present in the emission unit that cause or contribute to emissions, based on the information contained in Material Safety Data Sheets for those materials, do not contain equal to or greater than 0.01 percent by weight of any hazardous air pollutant as defined under section 112(b) of the federal Clean Air Act;

3) The emission unit or modification is not subject to an emission standard or other regulatory requirement pursuant to section 111 of the federal Clean Air Act;

4) Potential emissions of regulated air pollutants from the emission unit or modification will not, in combination with emissions from existing units
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or other proposed units, trigger permitting requirements under Section 39.5, permitting requirements under section 165 or 173 of the federal Clean Air Act, or the requirement to obtain a revised federally enforceable State operating permit limiting the source's potential to emit; and

5) The source is not currently the subject of a Non-compliance Advisory, Clean Air Act Section 114 Request, Violation Notice, Notice of Violation, Compliance Commitment Agreement, Administrative Order, or civil or criminal enforcement action, related to the air emissions of the source;

jjj) Replacement, addition, or modification of emission units at permitted sources that are not major sources subject to Section 39.5 of the Act and that do not have a federally enforceable State operating permit limiting their potential to emit, in circumstances where:

1) The potential to emit of any regulated air pollutant in the absence of air pollution control equipment from the new emission unit, or the increase in the potential to emit resulting from the modification of any existing emission unit is either:

A) Less than 0.1 pound per hour or 0.44 tons per year; or

B) Less than 0.5 pound per hour, and the permittee provides prior notification to the Agency of the intent to construct or install the unit. The unit may be constructed, installed or modified immediately after the notification is filed;

2) The emission unit or modification is not subject to an emission standard or other regulatory requirement under section 111 or 112 of the federal Clean Air Act;

3) Potential emissions of regulated air pollutants from the emission unit or modification will not, in combination with the emissions from existing units or other proposed units, trigger permitting requirements under Section 39.5 of the Act or the requirement to obtain a federally enforceable permit limiting the source's potential to emit; and
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4) The source is not currently the subject of a Non-compliance Advisory, Clean Air Act Section 114 Request, Violation Notice, Notice of Violation, Compliance Commitment Agreement, Administrative Order, or civil or criminal enforcement action, related to the air emissions of the source.

kkk) The owner or operator of a CAAPP source is not required to obtain an air pollution control construction permit for the construction or modification of an emission unit or activity that is an insignificant activity as addressed by Section 201.210 or 201.211 of this Part. Section 201.212 of this Part must still be followed, as applicable. Other than excusing the owner or operator of a CAAPP source from the requirement to obtain an air pollution control construction permit for the emission units or activities, nothing in this subsection shall alter or affect the liability of the CAAPP source for compliance with emission standards and other requirements that apply to the emission units or activities, either individually or in conjunction with other emission units or activities constructed, modified or located at the source.

lll) Plastic injection molding equipment with an annual throughput not exceeding 5,000 tons of plastic resin in the aggregate from all plastic injection molding equipment at the source, and all associated plastic resin loading, unloading, conveying, mixing, storage, grinding, and drying equipment and associated mold release and mold cleaning agents.

(Source: Amended at 33 Ill. Reg. 11965, effective August 6, 2009)
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1) **Heading of the Part:** Definitions and General Provisions

2) **Code Citation:** 35 Ill. Adm. Code 211

3) **Section Number:** Adopted Action:
   - 211.1920 Amend

4) **Statutory Authority:** 415 ILCS 5/27 and 28

5) **Effective Date of Rulemaking:** August 6, 2009

6) Does this rulemaking contain an automatic repeal date? No

7) Does this amendment contain incorporations by reference? No

8) The adopted amendment, including any material incorporated by reference, is on file in the Board's Chicago office at the James R. Thompson Center, 100 W. Randolph, Suite 11-500 and is available for public inspection.

9) **Notice of Proposal Published in Illinois Register:** October 31, 2008; 32 Ill. Reg. 17055

10) Has JCAR issued a Statement of Objection to this rulemaking? No

11) **Differences between proposal and final version:** None

12) **Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements letter issued by JCAR?** Yes

13) **Will this rulemaking replace any emergency rulemaking currently in effect?** No

14) **Are there any amendments pending on this Part?** Yes

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211.2625  New Section  33 Ill. Reg. 6896; May 22, 2009
211.3100  New Section  33 Ill. Reg. 6896; May 22, 2009
211.3355  New Section  33 Ill. Reg. 6896; May 22, 2009
211.3475  New Section  33 Ill. Reg. 6896; May 22, 2009
211.4280  New Section  33 Ill. Reg. 6896; May 22, 2009
211.5195  New Section  33 Ill. Reg. 6896; May 22, 2009

15) Summary and Purpose of Amendment: The amendment controls NOx emissions from engines and turbines located at 100 ton per year sources located in the Chicago and Metro East/St. Louis nonattainment areas with a capacity of 500 brake horsepower (bhp) or 3.5 megawatts (MW). In first proposing the amendment, the Illinois Environmental Protection Agency stated that the regulations would help Illinois to meet Clean Air Act (CAA) requirements for NOx reasonably available control technology (RACT) under the eight-hour National Ambient Air Quality Standard (NAAQS) for ozone and would also improve air quality by reducing precursors of fine particulate matter (PM2.5).

In Part 211, the proposal substantively amends only a single definition, that of "Emergency or Standby Unit", in order to conform with amendments to Part 217 proposed in the same Board rulemaking docket.

16) Information and questions regarding this adopted amendment shall be directed to:

Tim Fox
Illinois Pollution Control Board
100 W. Randolph St., Suite11-500
Chicago, IL  60601

312/814-6085

Copies of the Board's opinions and orders may be requested from the Clerk of the Board at the address listed in #8 above or by calling 312/814-3620. Please refer to the Docket number R07-19 in your request. The Board order is also available from the Board's Web site (www.ipcb.state.il.us).

The full text of the Adopted Amendment begins on the next page:
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TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE B: AIR POLLUTION
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER c: EMISSION STANDARDS AND LIMITATIONS
FOR STATIONARY SOURCES

PART 211
DEFINITIONS AND GENERAL PROVISIONS

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211.101 Incorporations by Reference
211.102 Abbreviations and Conversion Factors

SUBPART B: DEFINITIONS

Section
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211.122 Definitions (Repealed)
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211.150 Accumulator
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211.3390  Liquid-Mounted Seal
211.3410  Liquid Service
211.3430  Liquids Dripping
211.3450  Lithographic Printing Line
211.3470  Load-Out Area
211.3480  Loading Event
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211.3483 Long Dry Kiln
211.3485 Long Wet Kiln
211.3487 Low-NOₓ Burner
211.3490 Low Solvent Coating
211.3500 Lubricating Oil
211.3510 Magnet Wire
211.3530 Magnet Wire Coating
211.3550 Magnet Wire Coating Line
211.3570 Major Dump Pit
211.3590 Major Metropolitan Area (MMA)
211.3610 Major Population Area (MPA)
211.3620 Manually Operated Equipment
211.3630 Manufacturing Process
211.3650 Marine Terminal
211.3660 Marine Vessel
211.3670 Material Recovery Section
211.3690 Maximum Theoretical Emissions
211.3695 Maximum True Vapor Pressure
211.3710 Metal Furniture
211.3730 Metal Furniture Coating
211.3750 Metal Furniture Coating Line
211.3770 Metallic Shoe-Type Seal
211.3780 Mid-Kiln Firing
211.3790 Miscellaneous Fabricated Product Manufacturing Process
211.3810 Miscellaneous Formulation Manufacturing Process
211.3830 Miscellaneous Metal Parts and Products
211.3850 Miscellaneous Metal Parts and Products Coating
211.3870 Miscellaneous Metal Parts or Products Coating Line
211.3890 Miscellaneous Organic Chemical Manufacturing Process
211.3910 Mixing Operation
211.3915 Mobile Equipment
211.3930 Monitor
211.3950 Monomer
211.3960 Motor Vehicles
211.3965 Motor Vehicle Refinishing
211.3970 Multiple Package Coating
211.3980 Nameplate Capacity
211.3990 New Grain-Drying Operation (Repealed)
211.4010 New Grain-Handling Operation (Repealed)
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211.4030 No Detectable Volatile Organic Material Emissions
211.4050 Non-Contact Process Water Cooling Tower
211.4055 Non-Flexible Coating
211.4065 Non-Heatset
211.4067 NOx Trading Program
211.4070 Offset
211.4090 One Hundred Percent Acid
211.4110 One-Turn Storage Space
211.4130 Opacity
211.4150 Opaque Stains
211.4170 Open Top Vapor Degreasing
211.4190 Open-Ended Valve
211.4210 Operator of a Gasoline Dispensing Operation or Operator of a Gasoline Dispensing Facility
211.4230 Organic Compound
211.4250 Organic Material and Organic Materials
211.4260 Organic Solvent
211.4270 Organic Vapor
211.4290 Oven
211.4310 Overall Control
211.4330 Overvarnish
211.4350 Owner of a Gasoline Dispensing Operation or Owner of a Gasoline Dispensing Facility
211.4370 Owner or Operator
211.4390 Packaging Rotogravure Printing
211.4410 Packaging Rotogravure Printing Line
211.4430 Pail
211.4450 Paint Manufacturing Source or Paint Manufacturing Plant
211.4470 Paper Coating
211.4490 Paper Coating Line
211.4510 Particulate Matter
211.4530 Parts Per Million (Volume) or PPM (Vol)
211.4550 Person
211.4590 Petroleum
211.4610 Petroleum Liquid
211.4630 Petroleum Refinery
211.4650 Pharmaceutical
211.4670 Pharmaceutical Coating Operation
211.4690 Photochemically Reactive Material
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211.4710 Pigmented Coatings
211.4730 Plant
211.4740 Plastic Part
211.4750 Plasticizers
211.4770 PM-10
211.4790 Pneumatic Rubber Tire Manufacture
211.4810 Polybasic Organic Acid Partial Oxidation Manufacturing Process
211.4830 Polyester Resin Material(s)
211.4850 Polyester Resin Products Manufacturing Process
211.4870 Polystyrene Plant
211.4890 Polystyrene Resin
211.4910 Portable Grain-Handling Equipment
211.4930 Portland Cement Manufacturing Process Emission Source
211.4950 Portland Cement Process or Portland Cement Manufacturing Plant
211.4960 Potential Electrical Output Capacity
211.4970 Potential to Emit
211.4990 Power Driven Fastener Coating
211.5010 Precoat
211.5015 Preheater Kiln
211.5020 Preheater/Precalcer Kiln
211.5030 Pressure Release
211.5050 Pressure Tank
211.5060 Pressure/Vacuum Relief Valve
211.5061 Pretreatment Wash Primer
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211.5070 Prime Coat
211.5080 Primer Sealer
211.5090 Primer Surfacer Coat
211.5110 Primer Surfacer Operation
211.5130 Primers
211.5150 Printing
211.5170 Printing Line
211.5185 Process Emission Source
211.5190 Process Emission Unit
211.5210 Process Unit
211.5230 Process Unit Shutdown
211.5245 Process Vent
211.5250 Process Weight Rate
211.5270 Production Equipment Exhaust System
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211.5310 Publication Rotogravure Printing Line
211.5330 Purged Process Fluid
211.5340 Rated Heat Input Capacity
211.5350 Reactor
211.5370 Reasonably Available Control Technology (RACT)
211.5390 Reclamation System
211.5410 Refiner
211.5430 Refinery Fuel Gas
211.5450 Refinery Fuel Gas System
211.5470 Refinery Unit or Refinery Process Unit
211.5480 Reflective Argent Coating
211.5490 Refrigerated Condenser
211.5500 Regulated Air Pollutant
211.5510 Reid Vapor Pressure
211.5530 Repair
211.5550 Repair Coat
211.5570 Repaired
211.5580 Repowering
211.5590 Residual Fuel Oil
211.5600 Resist Coat
211.5610 Restricted Area
211.5630 Retail Outlet
211.5640 Rich-Burn Engine
211.5650 Ringelmann Chart
211.5670 Roadway
211.5690 Roll Coater
211.5710 Roll Coating
211.5730 Roll Printer
211.5750 Roll Printing
211.5770 Rotogravure Printing
211.5790 Rotogravure Printing Line
211.5810 Safety Relief Valve
211.5830 Sandblasting
211.5850 Sanding Sealers
211.5870 Screening
211.5880 Screen Printing on Paper
211.5890 Sealer
211.5910 Semi-Transparent Stains
211.5930 Sensor
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| 211.5950  | Set of Safety Relief Valves |
| 211.5970  | Sheet Basecoat               |
| 211.5980  | Sheet-Fed                   |
| 211.5990  | Shotblasting                |
| 211.6010  | Side-Seam Spray Coat        |
| 211.6025  | Single Unit Operation       |
| 211.6030  | Smoke                       |
| 211.6050  | Smokeless Flare             |
| 211.6060  | Soft Coat                   |
| 211.6070  | Solvent                     |
| 211.6090  | Solvent Cleaning            |
| 211.6110  | Solvent Recovery System     |
| 211.6130  | Source                      |
| 211.6140  | Specialty Coatings          |
| 211.6145  | Specialty Coatings for Motor Vehicles |
| 211.6150  | Specialty High Gloss Catalyzed Coating |
| 211.6170  | Specialty Leather           |
| 211.6190  | Specialty Soybean Crushing Source |
| 211.6210  | Splash Loading              |
| 211.6230  | Stack                       |
| 211.6250  | Stain Coating               |
| 211.6270  | Standard Conditions         |
| 211.6290  | Standard Cubic Foot (scf)   |
| 211.6310  | Start-Up                    |
| 211.6330  | Stationary Emission Source  |
| 211.6350  | Stationary Emission Unit    |
| 211.6355  | Stationary Gas Turbine      |
| 211.6360  | Stationary Reciprocating Internal Combustion Engine |
| 211.6370  | Stationary Source           |
| 211.6390  | Stationary Storage Tank     |
| 211.6400  | Stencil Coat                |
| 211.6410  | Storage Tank or Storage Vessel |
| 211.6420  | Strippable Spray Booth Coating |
| 211.6430  | Styrene Devolatilizer Unit  |
| 211.6450  | Styrene Recovery Unit       |
| 211.6470  | Submerged Loading Pipe      |
| 211.6490  | Substrate                   |
| 211.6510  | Sulfuric Acid Mist          |
| 211.6530  | Surface Condenser           |
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211.6540 Surface Preparation Materials
211.6550 Synthetic Organic Chemical or Polymer Manufacturing Plant
211.6570 Tablet Coating Operation
211.6580 Texture Coat
211.6590 Thirty-Day Rolling Average
211.6610 Three-Piece Can
211.6620 Three or Four Stage Coating System
211.6630 Through-the-Valve Fill
211.6650 Tooling Resin
211.6670 Topcoat
211.6690 Topcoat Operation
211.6695 Topcoat System
211.6710 Touch-Up
211.6720 Touch-Up Coating
211.6730 Transfer Efficiency
211.6750 Tread End Cementing
211.6770 True Vapor Pressure
211.6790 Turnaround
211.6810 Two-Piece Can
211.6830 Under-the-Cup Fill
211.6850 Undertread Cementing
211.6860 Uniform Finish Blender
211.6870 Unregulated Safety Relief Valve
211.6880 Vacuum Metallizing
211.6890 Vacuum Producing System
211.6910 Vacuum Service
211.6930 Valves Not Externally Regulated
211.6950 Vapor Balance System
211.6970 Vapor Collection System
211.6990 Vapor Control System
211.7010 Vapor-Mounted Primary Seal
211.7030 Vapor Recovery System
211.7050 Vapor-Suppressed Polyester Resin
211.7070 Vinyl Coating
211.7090 Vinyl Coating Line
211.7110 Volatile Organic Liquid (VOL)
211.7130 Volatile Organic Material Content (VOMC)
211.7150 Volatile Organic Material (VOM) or Volatile Organic Compound (VOC)
211.7170 Volatile Petroleum Liquid
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211.7190 Wash Coat
211.7200 Washoff Operations
211.7210 Wastewater (Oil/Water) Separator
211.7230 Weak Nitric Acid Manufacturing Process
211.7250 Web
211.7270 Wholesale Purchase – Consumer
211.7290 Wood Furniture
211.7310 Wood Furniture Coating
211.7330 Wood Furniture Coating Line
211.7350 Woodworking
211.7400 Yeast Percentage

211.APPENDIX A Rule into Section Table
211.APPENDIX B Section into Rule Table

AUTHORITY: Implementing Sections 9, 9.1, 9.9 and 10 and authorized by Sections 27 and 28.5 of the Environmental Protection Act [415 ILCS 5/9, 9.1, 9.9, 10, 27 and 28.5].

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT


SUBPART B: DEFINITIONS

Section 211.1920 Emergency or Standby Unit

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

a) Supplies power for the source at which it is located but operates only when the normal supply of power has been rendered unavailable by circumstances beyond the control of the owner or operator of the source and only as necessary to assure the availability of the engine or turbine. An emergency or standby unit may not be operated to supplement a primary power source when the load capacity or rating of the primary power source has been reached or exceeded.

b) Operates exclusively for firefighting or flood control or both.

c) Operates in response to and during the existence of any officially declared disaster or state of emergency.

d) Operates for the purpose of testing, repair or routine maintenance to verify its readiness for emergency or standby use.
POLLUTION CONTROL BOARD

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   e) Notwithstanding any other subsection in this Section, emergency or standby units may operate an additional 50 hours per year in non-emergency situations.

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

(Source: Amended at 33 Ill. Reg. 11982, effective August 6, 2009)
POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Nitrogen Oxides Emissions

2) Code Citation: 35 Ill. Adm. Code 217

3) Section Numbers: Adopted Action:
   217.386   Amend
   217.388   Amend
   217.390   Amend
   217.392   Amend
   217.394   Amend
   217.396   Amend

4) Statutory Authority: 415 ILCS 5/27 and 28

5) Effective Date of Amendments: August 6, 2009

6) Does this rulemaking contain an automatic repeal date? No

7) Do these amendments contain incorporations by reference? No

8) The adopted amendments, including any material incorporated by reference, are on file in the Board's Chicago office at the James R. Thompson Center, 100 W. Randolph, Suite 11-500 and are available for public inspection.

9) Notice of Proposal Published in Illinois Register: 32 Ill. Reg. 17075; October 31, 2008

10) Has JCAR issued a Statement of Objection to these amendments? No

11) Differences between proposal and final version:

   In proceeding from the proposal to final adoption, the Board made a number of substantive changes proposed by the Agency in its first notice comments and based upon consultations and agreements with regulated entities. The Board adopts a number of nonsubstantive changes proposed by the Joint Committee on Administrative Rules.

   The Board's opinion provides a detailed section-by-section discussion of the second notice proposal. See In the Matter of: Section 27 Proposed Rules for Nitrogen Oxide (NOx) Emissions from Stationary Reciprocating Internal Combustion Engines and Turbines: Amendments to 35 Ill. Adm. Code Section 201.146 and Parts 211 and 217,
POLLUTION CONTROL BOARD

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R07-19, slip op. at 13-32 (May 21, 2009). Copies of the Board's opinions and orders may be requested from the Clerk of the Board at the address listed in #8 above or by calling 312/814-3620. Please refer to the docket number R07-19 in your request. The Board order is also available from the Board's Web site (www.ipcb.state.il.us).

On a section-by-section basis, the following are substantive amendments adopted by the Board during the course of this rulemaking. In addition, the Board adopted a number of non-substantive changes, including matters of organization.

1) In Section 217.386(b), the Board clarified an exemption from emission control requirements.

2) In Section 217.386(d), the Board clarified language providing that a unit at any time subject to the compliance requirements of Section 217.388 is always subject to demonstrating compliance if it meets the applicability criteria of Section 217.386(a).

3) In Section 217.388(a)(3), the Board clarified the "low usage" compliance option.

4) In Section 217.388(a)(3)(B), the Board clarified language regarding the types of units that must obtain federally enforceable permits with limits for low usage units.

5) The Board added a new Section 217.388(b) clarifying a change from one method of compliance to another.

6) In subsections (a)(1)(A)(i) and (ii) and (a)(1)(C) of Section 217.390, the Board clarified eligibility for emission averaging plans. The Board also amended Section 217.390(a)(2)(B) to be consistent with this amendment.

7) The Board added a new Section 217.390(a)(1)(D) to include low usage units in emissions averaging plans if they comply with specified requirements.

8) In Section 217.390(a)(2)(A), the Board clarified language regarding replacement units that may be included in an emissions averaging plan.

9) In Subsection (d) and (d)(3) of Section 217.390, the Board clarified language regarding amended or updated emissions averaging plans.
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10) In Section 217.390(g)(2), the Board clarified the key to an equation to calculate allowable emissions.

11) The Board added a new Section 217.390(g)(7) regarding the allowable emission rate for low usage units included in an emissions averaging equation.

12) In Section 217.392(a), the Board clarified language regarding compliance by units listed in Appendix G.

13) In Section 217.392(c), the Board clarified language regarding NOx trading programs.

14) The Board added a new Section 217.392(c)(1)(C) clarifying the use of NOx allowances in the event of anomalous or unforeseen operating scenarios.

15) The Board reorganized Section 217.392(c)(2) and added two new subsections clarifying the use of NOx allowances.

16) In Section 217.394(e), the Board clarified language regarding the use of continuous emissions monitoring systems.

17) In Section 217.394(f), the Board clarified requirements for low usage units in emissions averaging plans.

18) In Section 217.396(a), the Board clarified recordkeeping and reporting requirements for units in emissions averaging plans.

19) The Board added a new Section 217.396(e) clarifying the recordkeeping and reporting requirements for units with continuous emissions monitoring systems.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements letter issued by JCAR? Yes

13) Will these amendments replace any emergency amendments currently in effect? No

14) Are there any amendments pending on this Part? Yes

Section Numbers: Proposed Action: Illinois Register Citation:
217.751 New 33 Ill. Reg. 8880; June 26, 2009
POLLUTION CONTROL BOARD

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217.100 Amended 33 Ill. Reg. 6921; May 22, 2009
217.104 Amended 33 Ill. Reg. 6921; May 22, 2009
217.121 Repealed 33 Ill. Reg. 6921; May 22, 2009
217.141 Amended 33 Ill. Reg. 6921; May 22, 2009
217.150 New Section 33 Ill. Reg. 6921; May 22, 2009
217.152 New Section 33 Ill. Reg. 6921; May 22, 2009
217.154 New Section 33 Ill. Reg. 6921; May 22, 2009
217.155 New Section 33 Ill. Reg. 6921; May 22, 2009
217.156 New Section 33 Ill. Reg. 6921; May 22, 2009
217.157 New Section 33 Ill. Reg. 6921; May 22, 2009
217.158 New Section 33 Ill. Reg. 6921; May 22, 2009
217.160 New Section 33 Ill. Reg. 6921; May 22, 2009
217.162 New Section 33 Ill. Reg. 6921; May 22, 2009
217.164 New Section 33 Ill. Reg. 6921; May 22, 2009
217.165 New Section 33 Ill. Reg. 6921; May 22, 2009
217.166 New Section 33 Ill. Reg. 6921; May 22, 2009
217.180 New Section 33 Ill. Reg. 6921; May 22, 2009
217.182 New Section 33 Ill. Reg. 6921; May 22, 2009
217.184 New Section 33 Ill. Reg. 6921; May 22, 2009
217.185 New Section 33 Ill. Reg. 6921; May 22, 2009
217.186 New Section 33 Ill. Reg. 6921; May 22, 2009
217.200 New Section 33 Ill. Reg. 6921; May 22, 2009
217.202 New Section 33 Ill. Reg. 6921; May 22, 2009
217.204 New Section 33 Ill. Reg. 6921; May 22, 2009
217.220 New Section 33 Ill. Reg. 6921; May 22, 2009
217.222 New Section 33 Ill. Reg. 6921; May 22, 2009
217.224 New Section 33 Ill. Reg. 6921; May 22, 2009
217.240 New Section 33 Ill. Reg. 6921; May 22, 2009
217.242 New Section 33 Ill. Reg. 6921; May 22, 2009
217.244 New Section 33 Ill. Reg. 6921; May 22, 2009
217.340 New Section 33 Ill. Reg. 6921; May 22, 2009
217.342 New Section 33 Ill. Reg. 6921; May 22, 2009
217.344 New Section 33 Ill. Reg. 6921; May 22, 2009
217.345 New Section 33 Ill. Reg. 6921; May 22, 2009
217.APPENDIX H New Section 33 Ill. Reg. 6921; May 22, 2009

15) Summary and Purpose of Amendments: The amendments control NOx emissions from engines and turbines located at 100 ton per year sources located in the Chicago and Metro East/St. Louis nonattainment areas with a capacity of 500 brake horsepower (bhp) or 3.5
megawatts (MW). In first proposing the amendments, the Agency stated that the regulations would help Illinois to meet Clean Air Act (CAA) requirements for NO\textsubscript{x} reasonably available control technology (RACT) under the eight-hour National Ambient Air Quality Standard (NAAQS) for ozone and would also improve air quality by reducing precursors of fine particulate matter (PM2.5).

16) Information and questions regarding these adopted amendments shall be directed to:

Tim Fox  
Illinois Pollution Control Board  
100 W. Randolph St., Suite 11-500  
Chicago, IL  60601

312/814-6085  

Copies of the Board's opinions and orders may be requested from the Clerk of the Board at the address listed in #8 above or by calling 312/814-3620. Please refer to the Docket number R07-19 in your request. The Board order is also available from the Board's Web site (www.ipcb.state.il.us).

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

NOTICE OF ADOPTED AMENDMENTS

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

PART 217
NITROGEN OXIDES EMISSIONS

SUBPART A: GENERAL PROVISIONS

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

SUBPART B: NEW FUEL COMBUSTION EMISSION SOURCES

Section 217.121 New Emission Sources

SUBPART C: EXISTING FUEL COMBUSTION EMISSION SOURCES

Section 217.141 Existing Emission Sources in Major Metropolitan Areas

SUBPART K: PROCESS EMISSION SOURCES

Section 217.301 Industrial Processes

SUBPART O: CHEMICAL MANUFACTURE

Section 217.381 Nitric Acid Manufacturing Processes

SUBPART Q: STATIONARY RECIPROCATING
POLLUTION CONTROL BOARD

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INTERNAL COMBUSTION ENGINES AND TURBINES

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

SUBPART T: CEMENT KILNS

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

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

Section
217.450 Purpose
217.452 Severability
217.454 Applicability
217.456 Compliance Requirements
217.458 Permitting Requirements
217.460 Subpart U NOₓ Trading Budget
217.462 Methodology for Obtaining NOₓ Allocations
217.464 Methodology for Determining NOₓ Allowances from the New Source Set-Aside
217.466 NOₓ Allocations Procedure for Subpart U Budget Units
217.468 New Source Set-Asides for "New" Budget Units
217.470 Early Reduction Credits (ERCs) for Budget Units
217.472 Low-Emitter Requirements
217.474 Opt-In Units
217.476 Opt-In Process
217.478 Opt-In Budget Units: Withdrawal from NOₓ Trading Program
217.480 Opt-In Units: Change in Regulatory Status
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217.482 Allowance Allocations to Opt-In Budget Units

SUBPART V: ELECTRIC POWER GENERATION

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

SUBPART W: NOx TRADING PROGRAM FOR ELECTRICAL GENERATING UNITS

Section 217.750 Purpose
217.752 Severability
217.754 Applicability
217.756 Compliance Requirements
217.758 Permitting Requirements
217.760 NOx Trading Budget
217.762 Methodology for Calculating NOx Allocations for Budget Electrical Generating Units (EGUs)
217.764 NOx Allocations for Budget EGUs
217.768 New Source Set-Asides for "New" Budget EGUs
217.770 Early Reduction Credits for Budget EGUs
217.774 Opt-In Units
217.776 Opt-In Process
217.778 Budget Opt-In Units: Withdrawal from NOx Trading Program
217.780 Opt-In Units: Change in Regulatory Status
217.782 Allowance Allocations to Budget Opt-In Units

SUBPART X: VOLUNTARY NOx EMISSIONS REDUCTION PROGRAM

Section 217.800 Purpose
NOTICE OF ADOPTED AMENDMENTS

217.805 Emission Unit Eligibility
217.810 Participation Requirements
217.815 NO\textsubscript{x} Emission Reductions and the Subpart X NO\textsubscript{x} Trading Budget
217.820 Baseline Emissions Determination
217.825 Calculation of Creditable NO\textsubscript{x} Emission Reductions
217.830 Limitations on NO\textsubscript{x} Emission Reductions
217.835 NO\textsubscript{x} Emission Reduction Proposal
217.840 Agency Action
217.845 Emissions Determination Methods
217.850 Emissions Monitoring
217.855 Reporting
217.860 Recordkeeping
217.865 Enforcement

217.APPENDIX A Rule into Section Table
217.APPENDIX B Section into Rule Table
217.APPENDIX C Compliance Dates
217.APPENDIX D Non-Electrical Generating Units
217.APPENDIX E Large Non-Electrical Generating Units
217.APPENDIX F Allowances for Electrical Generating Units
217.APPENDIX G Existing Reciprocating Internal Combustion Engines Affected by the NO\textsubscript{x} SIP Call

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


SUBPART Q: STATIONARY RECIPROCATING INTERNAL COMBUSTION ENGINES AND TURBINES

Section 217.386 Applicability
POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

a) The provisions of this Subpart shall apply to all:

1) **Stationary** reciprocating internal combustion engines listed in Appendix G of this Part is subject to the requirements of this Subpart Q.

2) Stationary reciprocating internal combustion engines and turbines located at a source that emits or has the potential to emit NO\textsubscript{x} in an amount equal to or greater than 100 tons per year and is in either the area composed of the Chicago area counties of Cook, DuPage, Kane, Lake, McHenry, and Will, the Townships of Aux Sable and Goose Lake in Grundy County, and the Township of Oswego in Kendall County, or in the area composed of the Metro-East counties of Jersey, Madison, Monroe, and St. Clair, and the Township of Baldwin in Randolph County, where:

   A) The engine at nameplate capacity is rated at equal to or greater than 500 bhp output; or

   B) The turbine is rated at equal to or greater than 3.5 MW (4,694 bhp) output at 14.7 psia, 59°F and 60 percent relative humidity.

b) Notwithstanding subsection (a)(2) of this Section, an affected unit is not subject to the requirements of this Subpart Q if the engine or turbine is or has been:

1) Used as an emergency or standby unit as defined by 35 Ill. Adm. Code 211.1920;

2) Used for research or for the purposes of performance verification or testing;

3) Used to control emissions from landfills, where at least 50 percent of the heat input is gas collected from a landfill;

4) Used for agricultural purposes, including the raising of crops or livestock that are produced on site, but not for associated businesses like packing operations, sale of equipment or repair; or
POLLUTION CONTROL BOARD

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5) An engine with nameplate capacity rated at less than 1,500 bhp (1,118 kW) output, mounted on a chassis or skids, designed to be moveable, and moved to a different source at least once every 12 months.

c) If an exempt unit ceases to fulfill the criteria specified in subsection (b) of this Section, the owner or operator must notify the Agency in writing within 30 days after becoming aware that the exemption no longer applies and comply with the control requirements of this Subpart Q.

d) The requirements of this Subpart Q will continue to apply to any engine or turbine that has ever been subject to the requirements of Section 217.388, even if the affected unit or source ceases to fulfill the rating requirements of subsection (a) of this Section or becomes eligible for an exemption pursuant to subsection (b) of this Section.

e) Where a construction permit, for which the application was submitted to the Agency prior to the adoption of this Subpart, is issued that relies on decreases in emissions of NO\textsubscript{x} from existing emission units for purposes of netting or emissions offsets, such NO\textsubscript{x} decreases shall remain creditable notwithstanding any requirements that may apply to the existing emissions units pursuant to this Subpart.

(Source: Amended at 33 Ill. Reg. 11999, effective August 6, 2009)

Section 217.388 Control and Maintenance Requirements

a) On and after the applicable compliance date in Section 217.392, an owner or operator of an affected unit must inspect and maintain affected units as required by subsection (a)(4c) of this Section and comply with one of the following: either the applicable emissions concentration as set forth in subsection (a)(1) of this Section, or the requirements for an emissions averaging plan as specified in subsection (a)(2)(b) of this Section, or the requirements for operation as a low usage unit as specified in subsection (a)(3) of this Section.

1a) Limits: The owner or operator must limit the discharge from an affected unit into the atmosphere of any gases that contain NO\textsubscript{x} to no more than:

A+ 150 ppmv (corrected to 15 percent O\textsubscript{2} on a dry basis) for spark-ignited rich-burn engines;


B2) 210 ppmv (corrected to 15 percent O\textsubscript{2} on a dry basis) for spark-ignited lean-burn engines, except for existing spark-ignited Worthington engines that are not listed in Appendix G;

C) 365 ppmv (corrected to 15 percent O\textsubscript{2} on a dry basis) for existing spark-ignited Worthington engines that are not listed in Appendix G;

D) 660 ppmv (corrected to 15 percent O\textsubscript{2} on a dry basis) for diesel engines;

E) 42 ppmv (corrected to 15 percent O\textsubscript{2} on a dry basis) for gaseous fuel-fired turbines; and

F) 96 ppmv (corrected to 15 percent O\textsubscript{2} on a dry basis) for liquid fuel-fired turbines.

2b) Complies The owner or operator must comply with an emissions averaging plan as provided for in either subsection (a)(2)(A) or (a)(2)(B) of this Section:

A) For any affected unit identified by Section 217.386: The requirements of the applicable emissions averaging plan as set forth in Section 217.390, or.

B) For units identified in Section 217.386(a)(1)(B): The requirements of an emissions averaging plan adopted pursuant to any other Subpart of this Part. For such affected engines and turbines the applicable requirements of this Subpart apply, including, but not limited to, calculation of NO\textsubscript{x} allowable and actual emissions rates, compliance dates, monitoring, testing, reporting, and recordkeeping.

3c) Operates, for units not listed in Appendix G, the affected unit as a low usage unit pursuant to subsection (a)(3)(A) or (a)(3)(B) of this Section. Low usage units that are not part of an emissions averaging plan are not subject to the requirements of this Subpart Q except for the requirements to inspect and maintain the unit pursuant to subsection (a)(4) of this
Section, test as required by Section 217.394(f), and retain records pursuant to Section 217.396(b) and (d). Either the limitation in subsection (a)(3)(A) or (a)(3)(B) may be utilized at a source, but not both:

A) The potential to emit (PTE) is no more than 100 TPY NO\textsubscript{x} aggregated from all engines and turbines located at the source that are not otherwise exempt pursuant to Section 217.386(b), and not complying with the requirements of subsection (a)(1) or (a)(2) of this Section, and the NO\textsubscript{x} PTE limit is contained in a federally enforceable permit; or

B) The aggregate bhp-hrs/MW-hrs from all affected units located at the source that are not exempt pursuant to Section 217.386(b), and not complying with the requirements of subsection (a)(1) or (a)(2) of this Section, are less than or equal to the bhp-hrs and MW-hrs operation limit listed in subsections (a)(3)(B)(i) and (a)(3)(B)(ii) of this Section. The operation limits of subsections (a)(3)(B)(i) and (a)(3)(B)(ii) of this Section must be contained in a federally enforceable permit, except for units that drive a natural gas compressor located at a natural gas compressor station or storage facility. The operation limits are:

i) 8 mm bhp-hrs or less on an annual basis for engines; and

ii) 20,000 MW-hrs or less on an annual basis for turbines.

4) Inspects: The owner or operator must inspect and perform periodic maintenance on the affected unit, in accordance with a Maintenance Plan that documents:

A1) For a unit not located at natural gas transmission compressor station or storage facility, either:

iA) The manufacturer's recommended inspection and maintenance of the applicable air pollution control equipment, monitoring device, and affected unit; or

iiB) If the original equipment manual is not available or substantial modifications have been made that require an
alternative procedure for the applicable air pollution control device, monitoring device, or affected unit, the owner or operator must establish a plan for inspection and maintenance in accordance with what is customary for the type of air pollution control equipment, monitoring device, and affected unit.

B2) For a unit located at a natural gas compressor station or storage facility, the operator's maintenance procedures for the applicable air pollution control device, monitoring device, and affected unit.

b) Owners and operators of affected units may change the method of compliance with this Subpart, as follows:

1) When changing the method of compliance from subsection (a)(3) of this Section to subsection (a)(1) or (a)(2) of this Section, the owner or operator must conduct testing and monitoring according to the requirements of Section 217.394(a) through (e), as applicable. For this purpose, references to the "applicable compliance date" in Section 217.394(a)(2) and (a)(3) shall mean the date by which compliance with subsection (a)(1) or (a)(2) of this Section is to begin.

2) An owner or operator of an affected unit that is changing the method of compliance from subsection (a)(1) or (a)(2) of this Section to subsection (a)(3) of this Section must:

A) Continue to operate the affected unit's control device, if that unit relied upon a NO\textsubscript{x} emissions control device for compliance with the requirements of subsection (a)(1) or (a)(2) of this Section; and

B) Prior to changing the method of compliance to subsection (c) of this Section, complete any outstanding initial performance testing, subsequent performances testing or monitoring as required by Section 217.394(a), (b), (c), (d) or (e) for the affected unit. If the deadline for such testing or monitoring has not yet occurred (e.g., the five-year testing or monitoring sequence has not yet elapsed), the owner or operator must complete the test or monitoring prior to changing the method of compliance to subsection (a)(3) of this Section. After changing the method of compliance to subsection
(a)(3) of this Section, no additional testing or monitoring will be required for the affected unit while it is complying with subsection (a)(3) of this Section, except as provided for in Section 217.394(f).

(Source: Amended at 33 Ill. Reg. 11999, effective August 6, 2009)

Section 217.390 Emissions Averaging Plans

a) An owner or operator of certain affected units may comply through an emissions averaging plan.

1) The unit or units that commenced operation before January 1, 2002, may be included in only one emissions averaging plan, as follows:

A) Units

i) Located at a single source or at multiple sources in Illinois to address compliance for units identified in Section 217.386(a)(1), so long as the units are owned by the same company or parent company where the parent company has working control through stock ownership of its subsidiary corporations; or—A unit may be listed in only one emissions averaging plan.

ii) Located at a single source or at multiple sources in either the Chicago area counties or Metro-East area counties to address compliance for units identified in Section 217.386(a)(2), so long as the units are owned by the same company or parent company where the parent company has working control through stock ownership of its subsidiary corporations;

B) Units that have a compliance date later than the control period for which the averaging plan is being used for compliance;

C) Units that are not otherwise subject to this Subpart (so long as the units are owned by the same company or parent company where the parent company has working control through stock ownership of its subsidiary corporations) or that the owner or operator may
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claim as exempt pursuant to Section 217.386(b) but does not claim as exempt. For as long as such unit is included in an emissions averaging plan, it will be treated as an affected unit and subject to the applicable emission concentration, limits, testing, monitoring, recordkeeping and reporting requirements; and

D) Units that comply with the requirements for low usage units set forth in Section 217.388(a)(3), so long as the unit or units operate NO\textsubscript{x} emissions control technology. For as long as such unit is included in an emissions averaging plan, it will be subject to the applicable emission concentration limits in subsection (g)(7) of this Section, the applicable testing and monitoring requirements for affected units in Section 217.394(a) through (e), and the applicable recordkeeping and reporting requirements for affected and low usage units in Section 217.396(a) through (d).

2) The following types of units may not be included in an emissions averaging plan:

A) Units that commence operation after January 1, 2002, unless the unit or units replace a unit or units described in subsection (a)(1) of this Section, replaces an engine or turbine that commenced operation on or before January 1, 2002, or the unit or units replace a unit or units described in subsection (a)(1) of this Section, replaces an engine or turbine that replaced a unit or units described in subsection (a)(1) of this Section that commenced operation on or before January 1, 2002. The new unit must be used for the same purpose and have substantially equivalent or less process capacity or be permitted for less NO\textsubscript{x} emissions on annual basis than the actual NO\textsubscript{x} emissions of the replacement unit or units that are replaced. The owner or operator of a unit that is shut down and replaced must comply with the provisions of Section 217.396(ce)(3) before the replacement unit may be included in an emissions averaging plan.

B) Units that the owner or operator is claiming are exempt pursuant to Section 217.386(b).
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b) An owner or operator must submit an emissions averaging plan to the Agency by the applicable compliance date set forth in Section 217.392, or by May 1 of the year in which the owner or operator is using a new emissions averaging plan to comply.

1) The plan must include, but is not limited to:

A1) The list of affected units included in the plan by unit identification number and permit number.

B2) A sample calculation demonstrating compliance using the methodology provided in subsection (f) of this Section for both the ozone season and calendar year.

2) The plan will be effective as follows:

A) An initial plan for units required to comply by January 1, 2008 is effective January 1, 2008;

B) An initial plan for units required to comply by May 1, 2010 is effective May 1, 2010 for those units;

C) A new plan submitted pursuant to subsection (b) of this Section but not submitted by January 1, 2008 or May 1, 2010 is effective retroactively to January 1 of the applicable year;

D) An amended plan submitted pursuant to subsection (c) of this Section is effective retroactively to January 1 of the applicable year; or

E) An amended plan submitted pursuant to subsection (d) of this Section is effective on the date it is received by the Agency.

c) An owner or operator may amend an emissions averaging plan only once per calendar year. An amended plan must include the information from subsection (b)(1) and may change, but is not limited to changing, the group of affected units or reflecting changes in the operation of the affected units. An amended plan must be submitted to the Agency by May 1 of the applicable calendar year and is effective as set forth in subsection (b)(2) of this Section. If an amended plan is
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not received by the Agency by May 1 of the applicable calendar year, the previous year's plan will be the applicable emissions averaging plan.

d) Notwithstanding subsection (c) of this Section, an owner or operator, and the buyer or seller, if applicable:

1) Must submit an updated emissions averaging plan or plans to the Agency within 60 days if a unit that is listed in an emissions averaging plan is sold or taken out of service.

2) May amend its emissions averaging plan to include another unit within 30 days after discovering that the unit no longer qualifies as an exempt unit pursuant to Section 217.386(b) or as a low usage unit pursuant to Section 217.388(a)(3).

3) May submit an updated emissions averaging plan or plans to the Agency within 60 days after purchasing a new unit to include the new unit.

e) An owner or operator must:

1) Demonstrate compliance for both the ozone season (May 1 through September 30) and the calendar year (January 1 through December 31) by using the methodology and the units listed in the most recent emissions averaging plan submitted to the Agency pursuant to subsection (b), (c), or (d) of this Section; the higher of the monitoring or test data determined pursuant to Section 217.394; and the actual hours of operation for the applicable control period;

2) Notify the Agency by October 31 following the ozone season, if compliance cannot be demonstrated for that ozone season; and

3) Submit to the Agency by January 31 following each calendar year, a compliance report containing the information required by Section 217.396(c)(4).

f) The total mass of actual NOx emissions from the units listed in the emissions averaging plan must be equal to or less than the total mass of allowable NOx emissions for those units for both the ozone season and calendar year. The following equation must be used to determine compliance:
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\[ N_{act} \leq N_{all} \]

Where:

\[ N_{act} = \sum_{i=1}^{n} EM_{act(i)} \]

\[ N_{all} = \sum_{i=1}^{n} EM_{all(i)} \]

\[ N_{act} = \text{Total sum of the actual NO}_x \text{ mass emissions from units included in the averaging plan for each fuel used (lbs per ozone season and calendar year).} \]

\[ N_{all} = \text{Total sum of the allowable NO}_x \text{ mass emissions from units included in the averaging plan for each fuel used (lbs per ozone season and calendar year).} \]

\[ EM_{all(i)} = \text{Total mass of allowable NO}_x \text{ emissions in lbs for a unit as determined in subsection (g)(2) or (h)(2) of this Section.} \]

\[ EM_{act(i)} = \text{Total mass of actual NO}_x \text{ emissions in lbs for a unit as determined in subsection (g)(1) or (h)(1) of this Section.} \]

\[ i = \text{Subscript denoting an individual unit and fuel used.} \]

\[ n = \text{Number of different units in the averaging plan.} \]

g) For each unit in the averaging plan, and each fuel used by a unit, determine actual and allowable NO\textsubscript{x} emissions using the following equations, except as provided for in subsection (h) of this Section:

1) Actual emissions must be determined as follows:

\[ EM_{act(i)} = E_{act(i)} \times H_i \]
2) Allowable emissions must be determined as follows:

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

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

Where:

- \( E_{\text{act}(i)} \) = Total mass of actual NO\(_x\) emissions in lbs for a unit, except as provided for in subsections (g)(3) and (g)(5) of this Section.
- \( E_{\text{all}(i)} \) = Total mass of allowable NO\(_x\) emissions in lbs for a unit, except as provided for in subsection (g)(3) of this Section.
- \( E_{\text{act}} \) = Actual NO\(_x\) emission rate (lbs/mmBtu) calculated according to the above equation.
- \( E_{\text{all}} \) = Allowable NO\(_x\) emission rate (lbs/mmBtu) calculated according to the above equation, as applicable.
- \( H \) = Heat input (mmBtu/ozone season or mmBtu/year) calculated from fuel flow meter and the heating value of the fuel used.
- \( C_{d(\text{act)}} \) = Actual concentration of NO\(_x\) in lb/dscf (ppmv x 1.194 x 10\(^{-7}\)) on a dry basis for the fuel used. Actual concentration is determined on each of the most recent test runs or monitoring passes performed pursuant to Section 217.394, whichever is higher.
- \( C_{d(\text{all})} \) = Allowable concentration of NO\(_x\) in lb/dscf (allowable emission limit in ppmv specified in Section 217.388(a)(1), except as provided for in subsection (g)(4), (g)(5), or (g)(6), or (g)(7) of this Section, if applicable, multiplied by 1.194 x 10\(^{-7}\)) on a dry basis for the fuel used.
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\[
F_d = \text{The ratio of the gas volume of the products of combustion to the heat content of the fuel (dscf/mmBtu) as given in the table of F Factors included in 40 CFR 60, appendix A, Method 19 or as determined using 40 CFR 60, appendix A, Method 19.}
\]

\[
\%O_{2d} = \text{Concentration of oxygen in effluent gas stream measured on a dry basis during each of the applicable test or monitoring runs used for determining emissions, as represented by a whole number percent, e.g., for 18.7\%O_{2d}, 18.7 would be used.}
\]

\[
i = \text{Subscript denoting an individual unit and the fuel used.}
\]

\[
j = \text{Subscript denoting each test run or monitoring pass for an affected unit for a given fuel.}
\]

\[
m = \text{The number of test runs or monitoring passes for an affected unit using a given fuel.}
\]

3) For a replacement unit that is electric-powered, the allowable NO\textsubscript{x} emissions from the affected unit that was replaced should be used in the averaging calculations and the actual NO\textsubscript{x} emissions for the electric-powered replacement unit (EM_{\text{act elec}(i)}) are zero. Allowable NO\textsubscript{x} emissions for the electric-powered replacement are calculated using the actual total bhp-hrs generated by the electric-powered replacement unit on an ozone season and on an annual basis multiplied by the allowable NO\textsubscript{x} emission rate in lb/bhp-hr of the replaced unit. The allowable mass of NO\textsubscript{x} emissions from an electric-powered replacement unit (EM_{\text{all elec}(i)}) must be determined by multiplying the nameplate capacity of the unit by the hours operated during the ozone season or annually and the allowable NO\textsubscript{x} emission rate of the replaced unit (E_{\text{all rep}}) in lb/mmBtu converted to lb/bhp-hr. For this calculation the following equation should be used:

\[
EM_{\text{all elec}(i)} = bhp \times OP \times F \times E_{\text{all rep}(i)}
\]

Where:

\[
EM_{\text{all elec}(i)} = \text{Mass of allowable NO}_x\text{ emissions from the electric-powered replacement unit in pounds per ozone season or calendar year.}
\]
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bhp = Nameplate capacity of the electric-powered replacement unit in brake horsepower.

OP = Operating hours during the ozone season or calendar year.

F = Conversion factor of 0.0077 mmBtu/bhp-hr.

E_{all\ rep(i)} = Allowable NO\textsubscript{X} emission rate (lbs/mmBtu) of the replaced unit.

i = Subscript denoting an individual electric unit and the fuel used.

4) For a replacement unit that is not electric, the allowable NO\textsubscript{X} emissions rate used in the above equations set forth in subsection (g)(2) of this Section must be the higher of the actual NO\textsubscript{X} emissions as determined by testing or monitoring data or the applicable uncontrolled NO\textsubscript{X} emissions factor from Compilation of Air Pollutant Emission Factors: AP-42, Volume I: Stationary Point and Area Sources, as incorporated by reference in Section 217.104 for the unit that was replaced.

5) For a unit that is replaced with purchased power, the allowable NO\textsubscript{X} emissions rate used in the above equations set forth in subsection (g)(2) of this Section must be the emissions concentration as set forth in Section 217.388(a)(1) or subsection (g)(6) of this Section, when applicable, for the type of unit that was replaced. For owners or operators replacing units with purchased power, the annual hours of operations that must be used are the calendar year hours of operation for the unit that was shut down, averaged over the three-year period prior to the shutdown. The actual NO\textsubscript{X} emissions for the units replaced by purchased power (EM_{(i)act}) are zero. These units may be included in any emissions averaging plan for no more than five years beginning with the calendar year that the replaced unit is shut down.

6) For units that have a later compliance date than Appendices G units used in an emissions averaging plan, allowable emissions rate used in the above equations set forth in subsection (g)(2) of this Section must be:

A) Prior to the applicable compliance date pursuant to Section 217.392, the higher of the actual NO\textsubscript{X} emissions as determined by
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testing or monitoring data, or the applicable uncontrolled NOx emissions factor from Compilation of Air Pollutant Emission Factors: AP-42, Volume I: Stationary Point and Areas Sources, as incorporated by reference in Section 217.104; or

B) On and after the unit's applicable compliance date pursuant to Section 217.392, the applicable emissions concentration for that type of unit pursuant to Section 217.388(a)(1).

7) For a low usage unit complying with the requirements of Section 217.388(a)(3) and used in an emissions averaging plan, the allowable NOx emissions rate used in the above equations set forth in subsection (g)(2) of this Section must be the higher of the actual NOx emissions as determined by testing or monitoring data or the applicable uncontrolled NOx emissions factor from Compilation of Air Pollutant Emission Factors: AP-42, Volume I: Stationary Point and Area Sources, as incorporated by reference in Section 217.104.

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

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

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

\[
EM_{all(i)} = \sum_{j=1}^{m} (Cd_j \times flow_j \times 1.194 \times 10^{-7})
\]

\[
EM_{all(i)} = \sum_{j=1}^{m} (Cd_j \times flowstack_j \times 1.194 \times 10^{-7})
\]
Where:

\[ \text{EM}_{\text{all}(i)} = \text{Total mass of allowable NO}_x \text{ emissions in lbs for a unit.} \]

\[ \text{flow}_{i} = \text{Stack flow (dscf/hr) for a given stack.} \]

\[ \text{Cd}_{ij} = \text{Allowable concentration of NO}_x \text{ (ppmv) specified in Section 217.388(a)(1) of this subpart for a given stack.} \ (1.194 \times 10^{-7}) \text{ converts to lb/dscf).} \]

\[ j = \text{subscript denoting each hour operation of a given unit.} \]

\[ m = \text{Total number of hours of operation of a unit.} \]

\[ i = \text{Subscript denoting an individual unit and the fuel used.} \]

(Source: Amended at 33 Ill. Reg. 11999, effective August 6, 2009)

Section 217.392 Compliance

a) On and after January 1, 2008, an owner or operator of an affected engine listed in Appendix G may not operate the affected engine unless the requirements of this Subpart Q are met.

b) On and after May 1, 2010, an owner or operator of a unit identified by Section 217.386(a)(2), and that is not listed in Appendix G, may not operate the affected unit unless the requirements of this Subpart Q are met or the affected unit is exempt pursuant to Section 217.386(b).

c) Owners and operators of an affected unit may use NO\textsubscript{x} allowances to meet the compliance requirements in Section 217.388 as specified in this subsection (c). A NO\textsubscript{x} allowance is defined as an allowance used to meet the requirements of a NO\textsubscript{x} trading program in which the State of Illinois participates where one allowance is equal to one ton of NO\textsubscript{x} emissions.

1) NO\textsubscript{x} allowances may be used only under the following circumstances:

A) An anomalous or unforeseen operating scenario inconsistent with historical operations for a particular ozone season or calendar year that causes an exceedance of an emissions or operating hour limitation:
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B) To achieve compliance for no more than two events in any rolling five-year period;

C) If the anomalous or unforeseen operating scenario occurs during an ozone season, it counts as a single event for purposes of the calendar year even if there is an exceedance of both an ozone season emission limitation and an annual emissions limitation as a result of such operating scenario; and

D) For a unit that is not listed in Appendix G.

2) The owner or operator of the affected unit must surrender to the Agency a NO\textsubscript{X} allowance for each ton or portion of a ton of NO\textsubscript{X} by which actual emissions exceed allowed emissions, as follows:

A) Where a low usage limitation under Section 217.388(a)(3)(B) has been exceeded, the owner or operator of the affected unit must calculate the NO\textsubscript{X} emissions resulting from the number of hours that exceeded the operating hour low usage limit and surrender to the Agency one NO\textsubscript{X} allowance for each ton or portion of a ton of NO\textsubscript{X} that was calculated.

B) For noncompliance with a limitation in an emissions averaging plan that includes low usage units, the owner or operator of the affected low usage unit must calculate the NO\textsubscript{X} emissions using the applicable allowable emissions concentration from Section 217.388(a)(1).

C) For noncompliance with a seasonal limit in Section 217.388(a)(2), only a NO\textsubscript{X} ozone season allowance must be used.

D) For noncompliance with the emissions concentration limits in Section 217.388(a)(1), low usage limitations in Section 217.388(a)(3) or an annual limitation in an emissions averaging plan in Section 217.388(a)(2), only a NO\textsubscript{X} annual allowance may be used.

E) Notwithstanding the provisions of subsections (c)(2)(C) and (c)(2)(D) of this Section, if a NO\textsubscript{X} annual trading program does not
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exist, a NO\textsubscript{x} ozone season allowance may be used for noncompliance with the emissions concentration limits in Section 217.388(a)(1), low usage limitations in Section 217.388(a)(3) or an annual limitation in an emissions averaging plan in Section 217.388(a)(2).

3) The owner or operator must submit a report documenting the circumstances that required the use of NO\textsubscript{x} allowances and identify what actions will be taken in subsequent years to address these circumstances and must transfer the NO\textsubscript{x} allowances to the Agency's federal NO\textsubscript{x} retirement account. The report and the transfer of allowances must be submitted by October 31 for exceedances during the ozone season and March 1 for exceedances of the emissions concentration limits, the annual emissions averaging plan limits, or low usage limitations. The report must contain the NATS serial numbers of the NO\textsubscript{x} allowances.

(Source: Amended at 33 Ill. Reg. 11999, effective August 6, 2009)

Section 217.394 Testing and Monitoring

a) An owner or operator must conduct an initial performance test pursuant to subsection (c)(1) or (c)(2) of this Section as follows:

1) By January 1, 2008, for affected engines listed in Appendix G. Performance tests must be conducted on units listed in Appendix G, even if the unit is included in an emissions averaging plan pursuant to Section 217.388(a)(2)(b).

2) By the applicable compliance date set forth in Section 217.392, or within the first 876 hours of operation per calendar year, whichever is later:

A) For affected units not listed in Appendix G that operate more than 876 hours per calendar year; and

B) For units that are not affected units that are included in an emissions averaging plan and operate more than 876 hours per calendar year.
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3) Once within the five-year period after the applicable compliance date as set forth in Section 217.392:

   A) For affected units that operate fewer than 876 hours per calendar year; and

   B) For units that are not affected units that are included in an emissions averaging plan and that operate fewer than 876 hours per calendar year.

b) An owner or operator of an engine or turbine must conduct subsequent performance tests pursuant to subsection (b)(1), (b)(2), and (b)(3) of this Section as follows:

1) For affected engines listed in Appendix G and all units included in an emissions averaging plan, once every five years. Testing must be performed in the calendar year by May 1 or within 60 days after starting operation, whichever is later;

2) If the monitored data shows that the unit is not in compliance with the applicable emissions concentration or emissions averaging plan, the owner or operator must report the deviation to the Agency in writing within 30 days and conduct a performance test pursuant to subsection (c) of this Section within 90 days of the determination of noncompliance; and

3) When, in the opinion of the Agency or USEPA, it is necessary to conduct testing to demonstrate compliance with Section 217.388, the owner or operator of a unit must, at his or her own expense, conduct the test in accordance with the applicable test methods and procedures specified in this Section within 90 days after receipt of a notice to test from the Agency or USEPA.

c) Testing Procedures:

1) For an engine: The owner or operator must conduct a performance test using Method 7 or 7E of 40 CFR 60, appendix A, as incorporated by reference in Section 217.104. Each compliance test must consist of three separate runs, each lasting a minimum of 60 minutes. NOx emissions must
be measured while the affected unit is operating at peak load. If the unit combats more than one type of fuel (gaseous or liquid), including backup fuels, a separate performance test is required for each fuel.

2) For a turbine included in an emissions averaging plan: The owner or operator must conduct a performance test using the applicable procedures and methods in 40 CFR 60.4400, as incorporated by reference in Section 217.104.

d) Monitoring: Except for those years in which a performance test is conducted pursuant to subsection (a) or (b) of this Section, the owner or operator of an affected unit or a unit included in an emissions averaging plan must monitor NO\textsubscript{x} concentrations annually, once between January 1 and May 1 or within the first 876 hours of operation per calendar year, whichever is later. If annual operation is less than 876 hours per calendar year, each affected unit must be monitored at least once every five years. Monitoring must be performed as follows:

1) A portable NO\textsubscript{x} monitor utilizing method ASTM D6522-00, as incorporated by reference in Section 217.104, or a method approved by the Agency must be used. If the engine or turbine combusts both liquid and gaseous fuels as primary or backup fuels, separate monitoring is required for each fuel.

2) NO\textsubscript{x} and O\textsubscript{2} concentrations measurements must be taken three times for a duration of at least 20 minutes. Monitoring must be done at highest achievable load. The concentrations from the three monitoring runs must be averaged to determine whether the affected unit is in compliance with the applicable emissions concentration or emissions averaging plan, as specified in Section 217.388.

e) Instead of complying with the requirements of subsections (a), (b), (c) and (d) of this Section, an owner or operator may install and operate a CEMS on an affected unit that meets the applicable requirements of 40 CFR 60, subpart A, and appendix B, or 40 CFR 75, incorporated by reference in Section 217.104, and complies with the quality assurance procedures specified in 40 CFR 60, appendix F, or 40 CFR 75, as incorporated by reference in Section 217.104, or an alternate procedure as approved by the Agency or USEPA in a federally enforceable permit. The CEMS must be used to demonstrate compliance with the applicable
emissions concentration or emissions averaging plan only on an ozone season and annual basis.

f) The testing and monitoring requirements of this Section do not apply to affected units in compliance with the requirements of the low usage limitations pursuant to Section 217.388(a)(3) or low usage units using NOₓ allowances to comply with the requirements of this Subpart pursuant to Section 217.392(c), unless such units are included in an emissions averaging plan. Notwithstanding the above circumstances, when, in the opinion of the Agency or USEPA, it is necessary to conduct testing to demonstrate compliance with Section 217.388, the owner or operator of a unit must, at his or her own expense, conduct the test in accordance with the applicable test methods and procedures specified in this Section within 90 days after receipt of a notice to test from the Agency or USEPA.

(Source: Amended at 33 Ill. Reg. 11999, effective August 6, 2009)

Section 217.396 Recordkeeping and Reporting

a) Recordkeeping. The owner or operator of any unit included in an emissions averaging plan (e.g., affected units, nonsubject units, units that could be exempt pursuant to Section 217.386(b), and low usage units) or an affected unit that is not exempt pursuant to Section 217.386(b) and is not subject to the low usage exemption of Section 217.388(a)(3) of an Appendix G unit or a unit included in an emissions averaging plan must maintain records that demonstrate compliance with the requirements of this Subpart Q, which include, but are not limited to:

1) Identification, type (e.g., lean-burn, gas-fired), and location of each unit.

2) Calendar date of the record.

3) The number of hours the unit operated on a monthly basis, and during each ozone season.

4) Type and quantity of the fuel used on a daily basis.

5) The results of all monitoring performed on the unit and reported deviations.

6) The results of all tests performed on the unit.
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NOTICE OF ADOPTED AMENDMENTS

7) The plan for performing inspection and maintenance of the units, air pollution control equipment, and the applicable monitoring device pursuant to Section 217.388(a)(4)(c).

8) A log of inspections and maintenance performed on the unit's air emissions, monitoring device, and air pollution control device. These records must include, at a minimum, date, load levels and any manual adjustments, along with the reason for the adjustment (e.g., air to fuel ratio, timing or other settings).

9) If complying with the emissions averaging plan provisions of Sections 217.388(a)(2)(b) and 217.390, copies of the calculations used to demonstrate compliance with the ozone season and annual control period limits, noncompliance reports for the ozone season, and ozone and annual control period compliance reports submitted to the Agency.

10) Identification of time periods for which operating conditions and pollutant data were not obtained by either the CEMS or alternate monitoring procedures, including the reasons for not obtaining sufficient data and a description of corrective actions taken.

11) Any NOₓ allowance reconciliation reports submitted pursuant to Section 217.392(c)(3).

b) The owner or operator of an affected unit or unit included in an emissions averaging plan must maintain the records required by subsection (a) or (d) of this Section, as applicable, for a period of five years at the source at which the unit is located. The records must be made available to the Agency and USEPA upon request.

c) Reporting Requirements

1) The owner or operator must notify the Agency in writing 30 days and five days prior to testing pursuant to Section 217.394(a) and (b) and:

A) If, after the 30-days notice for an initially scheduled test is sent, there is a delay (e.g., due to operational problems) in conducting the performance test as scheduled, the owner or operator of the unit
POLLUTION CONTROL BOARD

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must notify the Agency as soon as possible of the delay in the original test date, either by providing at least seven days prior notice of the rescheduled date of the performance test, or by arranging a new test date with the Agency by mutual agreement;

B) Provide a testing protocol to the Agency 60 days prior to testing; and

C) Not later than 30 days after the completion of the test, submit the results of the test to the Agency.

2) Pursuant to the requirements for monitoring in Section 217.394(d), the owner or operator of the unit must report to the Agency any monitored exceedances of the applicable NOx concentration from Section 217.388(a)(1) or (a)(2)(b) within 30 days after performing the monitoring.

3) Within 90 days after permanently shutting down an affected unit or a unit included in an emissions averaging plan, the owner or operator of the unit must withdraw or amend the applicable permit to reflect that the unit is no longer in service.

4) If demonstrating compliance through an emissions averaging plan:

A) By October 31 following the applicable ozone season, the owner or operator must notify the Agency if he or she cannot demonstrate compliance for that ozone season; and

B) By January 31 following the applicable calendar year, the owner or operator must submit to the Agency a report that demonstrates the following:

i) For all units that are part of the emissions averaging plan, the total mass of allowable NOx emissions for the ozone season and for the annual control period;

ii) The total mass of actual NOx emissions for the ozone season and annual control period for each unit included in the averaging plan;
iii) The calculations that demonstrate that the total mass of actual NOₓ emissions are less than the total mass of allowable NOₓ emissions using equations in Sections 217.390(f) and (g); and

iv) The information required to determine the total mass of actual NOₓ emissions and the calculations performed in subsection (c)(4)(B)(iii) of this Section.

5) If operating a CEMS, the owner or operator must submit an excess emissions and monitoring systems performance report in accordance with the requirements of 40 CFR 60.7(c) and 60.13, or 40 CFR 75, incorporated by reference in Section 217.104, or an alternate procedure approved by the Agency or USEPA and included in a federally enforceable permit.

6) If using NOₓ allowances to comply with the requirements of Section 217.388, reconciliation reports as required by Section 217.392(c)(3).

d) The owner or operator of an affected unit that is complying with the low usage provisions of Section 217.388(a)(3) must:

1) For each unit complying with Section 217.388(a)(3)(A), maintain a record of the NOₓ emissions for each calendar year;

2) For each unit complying with Section 217.388(a)(3)(B), maintain a record of bhp or MW-hours operated each calendar year; and

3) For each unit utilizing NOₓ allowances for compliance pursuant to Section 217.392(c)(3), maintain and submit any NOₓ allowance reconciliation reports.

e) Instead of complying with the requirements of subsection (a) of this Section, subsection (b) of this Section, subsections (c)(1) through (c)(4) of this Section, and subsection (d) of this Section, an owner or operator of an affected unit complying with the requirements of Section 217.388(a)(1) and operating a CEMS on that unit may meet the applicable testing, monitoring, reporting and recordkeeping requirements for that CEMS of 40 CFR 75, as incorporated by reference in Section 217.107.
POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 33 Ill. Reg. 11999, effective August 6, 2009)
DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF EMERGENCY AMENDMENT

1) **Heading of the Part:** Conditions of Employment

2) **Code Citation:** 80 Ill. Adm. Code 303

3) **Section Number:** 303.120  **Emergency Action:** New Section

4) **Statutory Authority:** Authorized by the Personnel Code [20 ILCS 415/8c(2), 20 ILCS 415/8e, 20 ILCS 415/9], Civil Administrative Code of Illinois [20 ILCS 405/405-10], and P.A. 96-45

5) **Effective Date of Rulemaking:** August 7, 2009

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: This rulemaking has no earlier effective date specified and will expire at the end of 150 days or when permanent rules are adopted, whichever comes first.

7) **Date Filed with the Index Department:** August 7, 2009

8) A copy of the emergency rulemaking, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) **Reason for Emergency:** In the Emergency Budget Implementation Act of Fiscal Year 2010 [Public Act 96-45], the General Assembly found and declared that the State of Illinois is confronted with an unprecedented fiscal crisis. An emergency therefore exists constituting a threat to the public interest, safety, or welfare. In Section 1-20 of that Act, each State Agency is subject to contingency reserves and is authorized to promulgate emergency rules to limit, reduce, or adjust services.

10) **A Complete Description of the Subjects and Issues Involved:** This rulemaking sets forth a furlough program that agencies may implement when conditions require an agency to curtail its operation. This rulemaking defines a furlough program, employees that may be excluded from a furlough program, and the approval process for a furlough program.

11) **Are there any proposed rulemakings pending to this Part?** No

12) **Statement of Statewide Policy Objectives:** This rulemaking will not create a State mandate for units of local government.
13) Information and questions regarding this emergency rulemaking shall be directed to:

Jeff Shuck  
CMS Deputy General Counsel  
Bureau of Personnel  
720 Stratton Office Building, Floor 7  
Springfield, Illinois  62706  
217/782-5778

Or

Gina Wilson  
CMS Legal Offices  
720 Stratton Office Building  
Springfield, Illinois  62706  
217/785-1793

The full text of the Emergency Amendment begins on the next page:
DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF EMERGENCY AMENDMENT

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

PART 303
CONDITIONS OF EMPLOYMENT

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303.155 Leave to Take Exempt Position
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SUBPART D: UNDATED OR INCOMPLETE FORMS

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SUBPART E: EMPLOYEE SEPARATIONS

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DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

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303.385 Repayment of Benefit Time

SUBPART F: TUITION REIMBURSEMENT

Section
303.390 Tuition Reimbursement

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


SUBPART B: LEAVE OF ABSENCE
Section 303.120  Furlough Program

EMERGENCY

a)  Definition

1)  Furlough is a timekeeping status in which an employee is placed for a temporary period of leave without duties or pay because of conditions that require an agency to curtail its operations; a furlough program may be either voluntary or involuntary at the discretion of the agency head. Furlough is a tool to continue State services with minimal disruption and retain valuable employees at reduced cost. The employee's employment status shall not change because of the furlough. Furlough shall not change the employee's continuous or creditable service dates for the purpose of annual evaluations, retirement or longevity, the employee's health or life insurance coverage or the employee's accrual of vacation, sick or personal time. Employees on furlough shall not be at work or on standby or on-call duty and shall not perform State work during furlough time. Furlough shall not be used when permanent or temporary layoff or emergency shut-down is appropriate. Furlough shall not be used as a substitute for permanent part-time employment. Furlough shall not be a means or form of discipline. Employees on paid military leave or other unpaid leave shall not be scheduled for furlough during the leave and shall be scheduled upon return to work if the furlough program remains in effect.

"Employee" includes less than full-time, full-time, intermittent, per diem, temporary, emergency and provisional employees.

2)  Employees excluded, if any, from the furlough program shall be identified as "furlough-exempt". A uniform, narrow definition of "furlough-exempt" shall be applied throughout the furlough program by the agency head. Furlough-exempt employees may include employees:

A)  in 24/7 facilities, to ensure adequate service delivery and staff coverage and who would have to be replaced at a higher cost than the costs saved through furlough;
DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF EMERGENCY AMENDMENT

B) who perform critical functions of the agency, or protect the safety and health of employees, clients or patients of the agency or the public;

C) who are paid 100% by federal funds; and

D) who are in revenue-generating positions that generate more money than the costs that would be saved by furlough.

b) Program Approval – An agency head, with prior approval from the Office of the Governor and the Director of Central Management Services, may institute a furlough program. The agency shall provide advanced notification to affected employees as soon as practicable. An agency head shall indicate whether the furlough is for the entire agency or a designated division or program, the initial effective date of the program, the number of days that employees shall be on furlough and the end date of the furlough program. Agencies shall track which employees have taken furlough and the cost savings to the State.

c) Furlough Time – Furlough time shall be scheduled in a manner that is consistent with the operating needs of the agency. Furlough may be taken in full or one-half day increments only and may be nonconsecutive. Employees on schedules with shortened workweeks shall take furlough time on a prorated basis. Sick time, vacation time, personal time, accumulated Holiday time, Earned Equivalent Time (EET), and compensatory time shall not be used to remain in pay status while on furlough. Taking a furlough day before or after a holiday shall not result in loss of pay for the holiday. Furlough time shall not count toward overtime. Conflicts regarding scheduling furlough time shall be resolved based first on the operational needs of the agency and second by continuous service date. All furlough time shall be pre-approved. Previously charged unpaid time (unexcused absence, unauthorized absence, excused absence or suspension time) shall not be used to meet an employee's furlough obligation. An agency shall not mandate that an employee take a furlough day on a holiday.

d) Time Sheets – Furloughs shall be indicated by a daily entry of FD (Furlough Day) on an employee's time sheet.

e) Furlough Time Value – The value of a furlough day is worth exactly the same amount of money regardless of the number of days in the pay period and is computed by dividing the annualized rate of pay by the total number of days in a
NOTICE OF EMERGENCY AMENDMENT

Regularly recurring items such as longevity pay, shift differential, bilingual pay, and other premium pay items that are paid each month, are included in determining the regular monthly rate. Agencies shall not use temporary or interim assignment pay to determine the value for employees on temporary or interim assignment. The value of the deducted day will be subtracted from the semi-monthly rate. Employees taking furlough on a day when their scheduled number of work hours varies from the employing agency's normal work schedule on that day are only required to furlough the number of hours in that employing agency's normal schedule. For example, an employee who is scheduled to work 10 hours on a furlough day in an agency with a normal work schedule of 7.5 hours, will furlough 7.5 hours and either work the remaining 2.5 hours or utilize benefit time (vacation, personal, accumulated Holiday, EET or compensatory time) for the remaining 2.5 hours that day. The value of such furloughed hours is determined by computing the annualized hourly rate (i.e., annual salary divided by the hours in a regular annual work schedule, 1957.5, for example) and deducting the number of furloughed hours taken.

(Source: Added by emergency rulemaking at 33 Ill. Reg. 12032, effective August 7, 2009, for a maximum of 150 days)
DEPARTMENT OF AGRICULTURE

NOTICE OF PEREMPTORY AMENDMENT

1) **Heading of the Part:** Meat and Poultry Inspection Act

2) **Code Citation:** 8 Ill. Adm. Code 125

3) **Section Number:** 125.100  **Proposed Action:** Amendment

4) **Reference to the Specific State or Federal Court Order, Federal Rule or Statute that Requires this Peremptory Rulemaking:** The Meat and Poultry Inspection Act [225 ILCS 650]; the Federal Meat Inspection Act (21 USCA 661); the Federal Poultry Products Inspection Act (21 USCA 454); 74 FR 11463 and 74 FR 11837 (2009).

5) **Statutory Authority:** The Meat and Poultry Inspection Act [225 ILCS 650]

6) **Effective Date:** August 5, 2009

7) **A Complete Description of the Subjects and Issues Involved:** In order to maintain an "equal to" status with the federal meat and poultry products inspection program as required by the Federal Meat Inspection Act and the Federal Poultry Products Inspection Act and as required by Section 16 of the Meat and Poultry Inspection Act, the Department is adopting amendments to the federal meat and poultry products in its rules.

   The Food Safety and Inspection Service (FSIS) is amending the Federal meat inspection regulations to correct an inadvertent error in the recordkeeping provisions.

8) **Does this rulemaking contain an automatic repeal date?** No

9) **Date filed with the Index Department:** August 5, 2009

10) **A copy of the peremptory amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.**

11) **This peremptory amendment is in compliance with Section 5-150 of the Illinois Administrative Procedure Act.**

12) **Are there any other proposed rulemakings pending to this Part?** No

13) **Statement of Statewide Policy Objectives:** This peremptory amendment does not affect units of local government.
14) Information and questions regarding this peremptory amendment shall be directed to:

Linda Rhodes
Illinois Department of Agriculture
State Fairgrounds, P. O. Box 19281
Springfield, IL 62794-9281

217/785-5713
217/785-4505 (fax)

The full text of the Peremptory Amendment begins on the next page:
DEPARTMENT OF AGRICULTURE

NOTICE OF PEREMPTORY AMENDMENT

TITLE 8: AGRICULTURE AND ANIMALS
CHAPTER I: DEPARTMENT OF AGRICULTURE
SUBCHAPTER c: MEAT AND POULTRY INSPECTION ACT

PART 125
MEAT AND POULTRY INSPECTION ACT

SUBPART A: GENERAL PROVISIONS FOR BOTH
MEAT AND/OR POULTRY INSPECTION

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125.10 Definitions
125.20 Incorporation by Reference of Federal Rules
125.30 Application for License; Approval
125.40 Official Number
125.50 Inspections; Suspension or Revocation of License
125.60 Administrative Hearings; Appeals (Repealed)
125.70 Assignment and Authority of Program Employees
125.80 Schedule of Operations; Overtime
125.90 Official Marks of Inspection, Devices and Certificates
125.100 Records and Reports
125.110 Exemptions
125.120 Disposal of Dead Animals and Poultry
125.130 Reportable Animal and Poultry Diseases
125.140 Detention; Seizure; Condemnation
125.141 Sanitation Standard Operating Procedures (SOP's)
125.142 Hazard Analysis and Critical Control Point (HACCP) Systems
125.143 Imported Products
125.144 Preparation and Processing Operations
125.145 Control of Listeria Monocytogenes in Ready-to-Eat Meat and Poultry Products
125.146 Consumer Protection Standards: Raw Products
125.147 Rules of Practice
125.148 Quantity of Contents Labeling and Procedures and Requirements for Accurate Weights

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125.150 Livestock and Meat Products Entering Official Establishments
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NOTICE OF PEREMPTORY AMENDMENT

125.160 Equine and Equine Products
125.170 Facilities for Inspection
125.180 Sanitation (Repealed)
125.190 Ante-Mortem Inspection
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125.210 Disposal of Diseased or Otherwise Adulterated Carcasses and Parts
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125.230 Handling and Disposal of Condemned or Other Inedible Products at Official Establishment
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125.270 Entry into Official Establishment; Reinspection and Preparation of Product
125.280 Meat Definitions and Standards of Identity or Composition
125.290 Transportation
125.295 Imported Products (Repealed)
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SUBPART C: POULTRY INSPECTION

Section
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125.360 Post-Mortem Inspection; Disposition of Carcasses and Parts
125.370 Handling and Disposal of Condemned or Inedible Products at Official Establishments
125.380 Labeling and Containers
125.390 Entry of Articles Into Official Establishments; Processing Inspection and Other Reinspections; Processing Requirements
125.400 Definitions and Standards of Identity or Composition
125.410 Transportation; Sale of Poultry or Poultry Products

AUTHORITY: Implementing and authorized by the Meat and Poultry Inspection Act [225 ILCS 650] and Section 16 of the Civil Administrative Code of Illinois [20 ILCS 5/16].
DEPARTMENT OF AGRICULTURE

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DEPARTMENT OF AGRICULTURE

NOTICE OF PEREMPTORY AMENDMENT


SUBPART A: GENERAL PROVISIONS FOR BOTH MEAT AND/OR POULTRY INSPECTION

Section 125.100 Records and Reports

a) The Department incorporates by reference 9 CFR 320.1(b), 320.6(a), 320.7, 381.175(b), 381.180(a) and 381.181 (2004; 69 FR 1874, effective January 12, 2004; 74 FR 31829, effective July 6, 2009).

b) Access to the establishment, its premises, records and inventories shall be
DEPARTMENT OF AGRICULTURE

NOTICE OF PEREMPTORY AMENDMENT

provided to the Department in accordance with Section 14 of the Act and Section 125.70.

c) Each person who is required to be licensed in accordance with Section 3 of the Act shall keep records as stated in the incorporated language of 9 CFR 320.1(b) and 381.175(b), except that for custom slaughtering and custom processing transactions, the recordkeeping requirements shall be those set forth in Section 5(B)(2)(f) of the Act. Records shall be retained for 5 years after December 31 of the year in which the transaction to which the record relates has occurred. If a record must be retained for longer than 5 years because of an on-going investigation or litigation, the Department shall notify the licensee in writing as to which record is to be retained, the reasons for such retention and the retention period. The Department shall consider when determining the retention period the court date, if known, or the time needed to conclude the investigation (e.g., considering the type of disease being investigated, the number of animals involved, and laboratory testing procedures, if applicable).

d) The licensee of the official establishment shall maintain such records at the establishment. In the case of a broker, the records shall be maintained at the office listed on the application for license.

e) The Department shall request a licensee to submit an evaluation of the inspection program or of the inspector's performance when the Department is conducting a review of the effectiveness of the Meat and Poultry Inspection Program or when a complaint on the inspector's performance has been received.

(Source: Amended by peremptory rulemaking at 33 Ill. Reg. 12040, effective August 5, 2009)
SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of August 4, 2009 through August 10, 2009 and have been scheduled for review by the Committee at its August 18, 2009 and September 15, 2009 meetings. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rulemaking should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

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EXECUTIVE ORDER 2009-17

EXECUTIVE ORDER RESCINDING EXECUTIVE ORDER NUMBERS 06-09 AND 08-09

I, Pat Quinn, as Governor of the State of Illinois, do hereby order that Executive Order Number 6 (2009) and Executive Order 8 (2009) be revoked and rescinded, effective as of this date of issuance.

Issued by Governor: August 7, 2009
Filed with Secretary of State: August 7, 2009
WHEREAS, National Council of La Raza is the largest Hispanic civil rights and advocacy organization in the United States, and works to improve opportunities for millions of Hispanic Americans; and

WHEREAS, National Council of La Raza was founded in 1968, the same year President Lyndon B. Johnson began Hispanic Heritage Week to recognize the contributions of Hispanic Americans to the United States, and

WHEREAS, a non-profit organization, National Council of La Raza was founded to reduce poverty and fight discrimination against Hispanic Americans; and

WHEREAS, National Council of La Raza today serves the Hispanic population through its network of nearly 300 affiliated community-based organizations and more than 35,000 groups and individuals across the country;

WHEREAS, National Council of La Raza also assists Hispanic groups that are not formal affiliates through issue networks on health, education, housing and leadership; and

WHEREAS, National Council of La Raza staff work with organizations across the country on issues ranging from welfare reform to charter schools to civic engagement; and

WHEREAS, National Council of La Raza spearheads national projects to educate organizations about Hispanic needs and services; and

WHEREAS, as a member of the Leadership Conference on Civil Rights, the National Council of La Raza works with other Hispanic and civil rights organizations to advocate for increased opportunities for millions of Hispanic Americans; and

WHEREAS, the Land of Lincoln has a vibrant Hispanic culture, rich history and world-class attractions and is a fitting and proud host to the National Council of La Raza Annual Conference:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim July 28, 2009 as NATIONAL COUNCIL OF LA RAZA DAY in Illinois.

Issued by the Governor July 28, 2009
Filed by the Secretary of State August 7, 2009
WHEREAS, the people of Illinois are both entertained and inspired by demonstrations of athletic excellence and take great pride in the achievements of their favorite Major League Baseball teams; and,

WHEREAS, on July 23, 2009, Chicago White Sox Pitcher Mark Buehrle threw a perfect game for a 5-0 win against the defending American League Champion Tampa Bay Rays at U.S. Cellular Field in Chicago; and,

WHEREAS, with this accomplishment, Mark Buehrle became only the 18th pitcher in the history of Major League Baseball ever to pitch a perfect game; and,

WHEREAS, Mark Buehrle's achievement marks the first perfect game ever thrown in a Major League Baseball game in the State of Illinois; and,

WHEREAS, Mark Buehrle threw a no-hitter against the Texas Rangers at U.S. Cellular Field on April 18th, 2007; and,

WHEREAS, Mark Buehrle now joins Cy Young, Addie Joss, Jim Bunning, Sandy Koufax and Randy Johnson as the only pitchers in the history of Major League Baseball to have thrown both a perfect game and a no-hitter; and,

WHEREAS, in his perfect game, Mark Buehrle dominated in a 116-pitch outing over a mere 2 hours and 3 minutes before a cheering crowd of 28,036; and,

WHEREAS, other players of the Chicago White Sox exemplified the highest ideals of teamwork in contributing to Mark Buehrle's achievement, including Alexei Ramirez, who fielded the final out of the game; Josh Fields, who hit a grand slam home run in the second inning, and Dewayne Wise, who preserved the perfect game with a spectacular defensive play in the top of the ninth inning; and,

WHEREAS, sports fans throughout the world acknowledge Mark Buehrle's contributions to the Chicago White Sox, the State of Illinois, and the game of baseball; and

WHEREAS, Mark Buehrle's remarkable performance on Thursday, July 23, 2009, now takes its place among the most memorable moments in the storied history of our national pastime:
PROCLAMATIONS

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, commend and salute Mark Buehrle for his exemplary performance on the baseball diamond and do hereby proclaim July 30, 2009, as MARK BUEHRLE DAY in Illinois in recognition of this historic and extraordinary accomplishment.

Issued by the Governor July 30, 2009
Filed by the Secretary of State August 7, 2009.

2009-238
Breastfeeding Promotion Month

WHEREAS, human breastmilk is widely acknowledged to be the only substance that provides complete nutrition and immunologic protection to the infant; and

WHEREAS, breastfeeding promotes healthier mothers and babies, stronger family bonds, is economical, and benefits society through lower health care costs; and

WHEREAS, breastfeeding is recognized by many health organizations, such as the American Academy of Pediatrics, the American College of Obstetricians and Gynecologists, the American Academy of Family Physicians, the American Dietetic Association, and the National Association of WIC Directors as the preferred method of infant feeding, and they support breastfeeding throughout the early years of life; and

WHEREAS, the World Alliance for Breastfeeding has designated the first week of August as World Breastfeeding Week, with the theme "Breastfeeding – A Vital Emergency Response," to draw attention to the vital role that breastfeeding plays in emergencies as a life-saving intervention, while stressing the need for active protection and support of breastfeeding before and during emergencies; and

WHEREAS, in Illinois, the Department of Human Services continues to foster networking and collaboration between those with breastfeeding skills and breastfeeding advocates, communities, and health professionals on how they can actively support and promote breastfeeding; and

WHEREAS, the Illinois State Breastfeeding Task Force continues to work towards the vision that someday all families will live, work, and receive health care in a breastfeeding friendly culture, and that change will be created that results in breastfeeding as the cultural norm:
PROCLAMATIONS

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim August 2009 as BREASTFEEDING PROMOTION MONTH in Illinois, to increase public awareness, support and acceptance of breastfeeding.

Issued by the Governor August 2, 2009
Filed by the Secretary of State August 7, 2009.

2009-239
Child Support Awareness Month

WHEREAS, the Department of Healthcare and Family Services has been given the responsibility of providing child support services to all Illinois families; and

WHEREAS, Illinois recognizes that children need strong family support; and

WHEREAS, Illinois works to focus attention on the needs of children to have both parents involvement in their children's lives; and

WHEREAS, Illinois' focus on improving outcomes for families has resulted in record-breaking collections of more than $1.38 billion; and

WHEREAS, the Department of Healthcare and Family Services is working closely with the Departments of Human Services, Public Health, Children and Family Services, Employment Security, Corrections, Revenue, Natural Resources, the Secretary of State, and other state and county agencies, as well as community groups to increase the number of children for whom paternity is established and whose families receive child support services; and

WHEREAS, Illinois is playing a lead role in helping strengthen families in the Land of Lincoln through innovation and sound practices in child support services:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim August 2009 as CHILD SUPPORT AWARENESS MONTH in Illinois, to promote the importance of child support and to affirm the continued commitment of my administration to helping our children receive the love and care that is vital to their success and to the future welfare of Illinois.

Issued by the Governor August 3, 2009
Filed by the Secretary of State August 7, 2009.

2009-240
Sergeant Gerrick D. Smith
WHEREAS, on Wednesday, July 29, Sergeant Gerrick D. Smith of Sullivan, died at age 19 in Herat, Afghanistan, while serving in support of Operation Enduring Freedom; and

WHEREAS, Sergeant Smith was assigned to Headquarters and Headquarters Company, 2nd Battalion, 130th Infantry Regiment, Army National Guard, based in Marion, Illinois; and

WHEREAS, Sergeant Smith enlisted in the Illinois Army National Guard in February 2007 and graduated from Sullivan High School in 2008. This was his first deployment; and

WHEREAS, a funeral will be held on Saturday, August 8 for Sergeant Smith, who is survived by his mother and father and a sister:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby order all State facilities to fly their flags at half-staff from sunrise on August 6, 2009 until sunset on August 8, 2009 in honor and remembrance of Sergeant Smith, whose selfless service and sacrifice is an inspiration.

Issued by the Governor August 4, 2009
Filed by the Secretary of State August 7, 2009.
ILLINOIS ADMINISTRATIVE CODE
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