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RULES
OF GOVERNMENTAL
AGENCIES



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INTRODUCTION

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

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

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

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

ILLINOIS REGISTER PUBLICATION SCHEDULE FOR 2009

<u>Issue #</u>	<u>Rules Due Date</u>	<u>Date of Issue</u>
1	December 22, 2008	January 2, 2009
2	December 29, 2008	January 9, 2009
3	January 5, 2009	January 16, 2009
4	January 12, 2009	January 23, 2009
5	January 20, 2009	January 30, 2009
6	January 26, 2009	February 6, 2009
7	February 2, 2009	February 13, 2009
8	February 9, 2009	February 20, 2009
9	February 17, 2009	February 27, 2009
10	February 23, 2009	March 6, 2009
11	March 2, 2009	March 13, 2009
12	March 9, 2009	March 20, 2009
13	March 16, 2009	March 27, 2009
14	March 23, 2009	April 3, 2009
15	March 30, 2009	April 10, 2009
16	April 6, 2009	April 17, 2009
17	April 13, 2009	April 24, 2009
18	April 20, 2009	May 1, 2009
19	April 27, 2009	May 8, 2009
20	May 4, 2009	May 15, 2009
21	May 11, 2009	May 22, 2009
22	May 18, 2009	May 29, 2009

<u>Issue #</u>	<u>Rules Due Date</u>	<u>Date of Issue</u>
23	May 26, 2009	June 5, 2009
24	June 1, 2009	June 12, 2009
25	June 8, 2009	June 19, 2009
26	June 15, 2009	June 26, 2009
27	June 22, 2009	July 6, 2009
28	June 29, 2009	July 10, 2009
29	July 6, 2009	July 17, 2009
30	July 13, 2009	July 24, 2009
31	July 20, 2009	July 31, 2009
32	July 27, 2009	August 7, 2009
33	August 3, 2009	August 14, 2009
34	August 10, 2009	August 21, 2009
35	August 17, 2009	August 28, 2009
36	August 24, 2009	September 4, 2009
37	August 31, 2009	September 11, 2009
38	September 8, 2009	September 18, 2009
39	September 14, 2009	September 25, 2009
40	September 21, 2009	October 2, 2009
41	September 28, 2009	October 9, 2009
42	October 5, 2009	October 16, 2009
43	October 13, 2009	October 23, 2009
44	October 19, 2009	October 30, 2009
45	October 26, 2009	November 6, 2009
46	November 2, 2009	November 13, 2009
47	November 9, 2009	November 20, 2009
48	November 16, 2009	November 30, 2009
49	November 23, 2009	December 4, 2009
50	November 30, 2009	December 11, 2009
51	December 7, 2009	December 18, 2009
52	December 14, 2009	December 28, 2009

Editor's Note: The Secretary of State Index Department is providing this opportunity to remind you that the next filing period for your Regulatory Agenda will occur from October 13, 2009 to January 4th, 2010 by 4:30 pm, as January 1st is a holiday and the office will be closed.

DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Insect Pest and Plant Disease Act
- 2) Code Citation: 8 Ill. Adm. Code 240
- 3) Section Number: 240.140 Proposed Action: Amendment
- 4) Statutory Authority: The Insect Pest and Plant Disease Act [505 ILCS 90]
- 5) A Complete Description of the Subjects and Issues Involved: The Department is amending the fee for an original certificate from the current rate of \$50 per certificate to \$75 per certificate to more closely mirror the recent change to the fee associated with federal-issuance of such certificates. Beginning October 1, 2009, the fee for a federally-issued phytosanitary certificate became \$77 per certificate.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking does not affect units of local government.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: A 45-day written comment period will begin on the day the Notice of Proposed Amendment appears in the *Illinois Register*. Please mail written comments on the proposed rulemaking to the attention of:

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

DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED AMENDMENT

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

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: This rulemaking will impact small businesses that export agricultural products to foreign countries.
 - B) Reporting, bookkeeping or other procedures required for compliance: None beyond the current requirements.
 - C) Types of professional skills necessary for compliance: None beyond the current requirements
- 14) Regulatory agenda on which this rulemaking was summarized: This rulemaking was not included in either of the two most recent agendas because: the state was not certain that the federal government would increase certificate fees. Those plans have now become finalized and, effective October 1, 2009 the federal certificate rate became \$77. The federal fee is also scheduled to increase to \$104 on October 1, 2010 and \$106 on October 1, 2011 but no similar state adjustments are proposed beyond the increase to \$75 for state-issued phytosanitary certificates.

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

DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED AMENDMENT

TITLE 8: AGRICULTURE AND ANIMALS
CHAPTER I: DEPARTMENT OF AGRICULTURE
SUBCHAPTER h: PESTS AND PLANT DISEASESPART 240
INSECT PEST AND PLANT DISEASE ACTSUBPART A: NURSERY AND NURSERY STOCK;
INSPECTION; CERTIFICATES

Section	
240.10	Storage and Display of Nursery Stock
240.20	Inspection of Shipments of Nursery Stock in Transit
240.30	Infested or Infected Shipments of Nursery Stock; Disposal or Treatment
240.40	Listing of Other States' Certified Nurseries
240.50	Revocation of Certificates
240.60	Special Certification: Sales, Trades, and Auctions by Garden Clubs and Social Organizations
240.70	Special Certification: Plants and Nursery Stock Shipped by Individual Residents
240.80	Inspection of Private Premises, Public Grounds and Forest Preserves
240.90	Inspection of Native Trees for Resale
240.100	Refusal to Inspect Nursery
240.110	Sale of Nursery Stock Which is Infected Prohibited
240.120	Nursery Certificates Withheld or Qualified Certificates Issued
240.125	Firewood Importer Certificates
240.130	Inspection of Shipments for Foreign Countries
240.140	Fee Schedule
240.150	Use of the Department of Agriculture for Advertising (Repealed)
240.160	Administrative Rules (Formal Administrative Hearings; Contested Cases; Petitions; Administrative Procedures)

SUBPART B: QUARANTINE

Section	
240.250	Scope
240.260	Definitions
240.270	Restrictions and Regulated Articles
240.280	Movement of Regulated Articles
240.290	Issuance and Cancellation of Permits, Certificates of Inspection or Compliance

DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED AMENDMENT

- 240.300 Agreements
- 240.300 Attachment of Certificates, Permits or Agreements
- 240.310 Inspection and Disposal of Regulated Articles
- 240.320 Duration of Quarantine

AUTHORITY: Implementing and authorized by the Insect Pest and Plant Disease Act [505 ILCS 90].

SOURCE: Rules and Regulations Relating to the Insect Pest and Plant Disease Act, filed October 25, 1974, effective November 2, 1974; codified at 5 Ill. Reg. 10523; amended at 6 Ill. Reg. 3041, effective March 5, 1982; amended at 7 Ill. Reg. 1764, effective January 28, 1983; amended at 12 Ill. Reg. 8299, effective May 2, 1988; amended at 26 Ill. Reg. 14661, effective September 23, 2002; amended at 30 Ill. Reg. 133, effective January 1, 2006; amended at 33 Ill. Reg. 203, effective January 1, 2009; amended at 34 Ill. Reg. _____, effective _____.

SUBPART A: NURSERY AND NURSERY STOCK; INSPECTION; CERTIFICATES

Section 240.140 Fee Schedule

The Department shall charge and collect fees for inspection and issuance of certificates according to the following schedule:

- a) Nursery Inspection
 Nursery inspection fees shall be as follows:

1 acre or less	\$25.00
over 1 acre but less than or equal to 5 acres	\$30.00
over 5 acres but less than or equal to 10 acres	\$40.00
over 10 acres but less than or equal to 50 acres	\$50.00
over 50 acres but less than or equal to 100 acres	\$75.00
over 100 acres but less than or equal to 250 acres	\$150.00
over 250 acres but less than or equal to 500 acres	\$180.00
over 500 acres (per acre)	\$0.50

- b) Greenhouse Inspection
 Greenhouses that request inspection shall be charged the special inspection and certificate fees in subsection (d).

- c) Nursery Dealer Certificates

DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED AMENDMENT

- 1) Effective January 1, 2003 through December 31, 2005, the rate for a nursery dealer certificate shall be \$25.
 - 2) Effective January 1, 2006, the rate for a nursery dealer certificate shall be \$50.
- d) Special (Requested) Inspections
Effective January 1, 2003, the inspection rate charged for special inspections shall be \$25 per hour and the rate charged for individual certificates for special inspections shall be \$25 per certificate.
- e) Original certificates are required to accompany nursery stock and/or plants and plant products for shipment or sale verifying they are free of insect pests and plant diseases.
- 1) Effective January 1, 2003 through December 31, 2005, the rate for original certificates shall be \$25 each.
 - 2) Effective January 1, 2006 through June 30, 2010, the rate for original certificates shall be \$50 each.
 - 3) Effective July 1, 2010, the rate for original certificates shall be \$75 each.
- f) Firewood Importer Certificates
Effective January 1, 2009, the rate for a firewood importer certificate shall be \$25.

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

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Public Schools Evaluation, Recognition and Supervision
- 2) Code Citation: 23 Ill. Adm. Code 1
- 3)

<u>Section Numbers</u> :	<u>Proposed Action</u> :
1.30	Amendment
1.60	Amendment
1.245	Amendment
1.420	Amendment
1.440	Amendment
1.705	Amendment
- 4) Statutory Authority: 105 ILCS 5/2-3.6
- 5) A Complete Description of the Subjects and Issues Involved: Each of the proposed changes is summarized below by topic in the order in which they appear in the rulemaking.

Accountability (Subpart A): Due to direction from the U.S. Department of Education (USDE), the agency will be returning State test scores to districts sooner than it has in the past, particularly on the Prairie State Achievement Examination (PSAE), which is administered in April of each year. In order to do this, it is proposed that the time allowed for districts to make corrections to its data be reduced from 10 days to five days.

The racial categories listed in Section 1.60(a)(2) are being amended to conform to the categories used by USDE for reporting purposes, as the State's accountability system mirrors the federal system under the No Child Left Behind Act of 2001. These categories will be used starting with the 2010-11 school year.

Clarifications proposed in Section 1.60(c) match a change in Section 1.30 that recently took effect in that they specify that students with the "most" significant cognitive disabilities take the alternate assessment.

School Fee Waivers (Section 1.245): P.A. 96-360, effective September 1, 2009, amends Sections 10-20.13 and 34-21.6 (specific to Chicago) to allow school districts to verify a family's eligibility for waivers of school fees separate from the verification process used for free meals received under the federal National School Lunch program. Under the proposed amendments, when a school district using a separate application process for fee waivers makes a determination that a student no longer is eligible to receive a waiver due

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

to a change in the family's income or circumstances, it must prorate the amount of fees charged to the student based on the length of time remaining in the school year. How that proration is to be calculated must be set forth in the district's fee waiver policy.

General State Aid (Section 1.420(f)): Three public acts allow school districts to collect general state aid (GSA) under certain circumstances for which reimbursement was not allowed in the past. These public acts are PA 95-811, effective August 13, 2008; PA 96-634, effective August 25, 2009; and PA 96-689, effective August 25, 2009. Language is proposed in the rules to set forth the process to be used to claim GSA reimbursement for those circumstances.

Curricular Mandates: References are being added for new curricular mandates in Section 1.420, as listed below.

PA 96-629, effective January 1, 2010, adds to Section 27-21 of the School Code the study of the deportation of Mexican-Americans during the Depression (subsection (r)).

PA 96-99, effective July 1, 2009, adds Section 2-3.5 to the School Code, which requires students in grade 7 and any high school student enrolled in a U.S. history or a U.S. history/U.S. government course to view the Congressional Medal of Honor film, provided that there is no charge to school districts for the film (subsection (t)).

PA 96-191, effective January 1, 2010, adds Section 27-23.8 to the School Code, which requires that instruction regarding disability history and awareness be provided (subsection (t)).

The proposal also removes references to the Sex Education Act (1.420(n)) and "Motor Vehicle Code" (1.440(a)), both of which were repealed by PA 96-734, effective August 25, 2009.

Supervisor and Administrative Staff (Section 1.705): A change is being made to a cross-reference to Part 228 (Transitional Bilingual Education) to match a proposed amendment to those rules.

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

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

Shelley Helton
Agency Rules Coordinator
Illinois State Board of Education
100 North First Street (S-493)
Springfield, Illinois 62777

217/782-5270

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

rules@isbe.net

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: The majority of the proposed changes respond to recently enacted legislation; therefore notice of the proposed changes did not appear in either of the last two regulatory agendas.

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

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES

SUBTITLE A: EDUCATION

CHAPTER I: STATE BOARD OF EDUCATION

SUBCHAPTER a: PUBLIC SCHOOL RECOGNITION

PART 1

PUBLIC SCHOOLS EVALUATION, RECOGNITION AND SUPERVISION

SUBPART A: RECOGNITION REQUIREMENTS

Section

- 1.10 Public School Accountability Framework
- 1.20 Operational Requirements
- 1.30 State Assessment
- 1.40 Adequate Yearly Progress
- 1.50 Calculation of Participation Rate
- 1.60 Subgroups of Students; Inclusion of Relevant Scores
- 1.70 Additional Indicators for Adequate Yearly Progress
- 1.75 Student Information System
- 1.77 Educator Certification System
- 1.80 Academic Early Warning and Watch Status
- 1.85 School and District Improvement Plans; Restructuring Plans
- 1.88 Additional Accountability Requirements for Districts Serving Students of Limited English Proficiency Under Title III
- 1.90 System of Rewards and Recognition – The Illinois Honor Roll
- 1.95 Appeals Procedure
- 1.100 Waiver and Modification of State Board Rules and School Code Mandates

SUBPART B: SCHOOL GOVERNANCE

Section

- 1.210 Powers and Duties (Repealed)
- 1.220 Duties of Superintendent (Repealed)
- 1.230 Board of Education and the School Code (Repealed)
- 1.240 Equal Opportunities for all Students
- 1.242 Temporary Exclusion for Failure to Meet Minimum Academic or Attendance Standards
- 1.245 Waiver of School Fees
- 1.250 District to Comply with 23 Ill. Adm. Code 180 (Repealed)

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

- 1.260 Commemorative Holidays to be Observed by Public Schools (Repealed)
- 1.270 Book and Material Selection (Repealed)
- 1.280 Discipline
- 1.285 Requirements for the Use of Isolated Time Out and Physical Restraint
- 1.290 Absenteeism and Truancy Policies

SUBPART C: SCHOOL DISTRICT ADMINISTRATION

Section

- 1.310 Administrative Qualifications and Responsibilities
- 1.320 Evaluation of Certified Staff in Contractual Continued Service
- 1.330 Hazardous Materials Training

SUBPART D: THE INSTRUCTIONAL PROGRAM

Section

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

SUBPART E: SUPPORT SERVICES

Section

- 1.510 Transportation
- 1.515 Training of School Bus Driver Instructors
- 1.520 School Food Services (Repealed)
- 1.530 Health Services
- 1.540 Pupil Personnel Services (Repealed)

SUBPART F: STAFF CERTIFICATION REQUIREMENTS

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

Section

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

SUBPART G: STAFF QUALIFICATIONS

Section

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

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

- 1.APPENDIX F Criteria for Determination – Student Performance and School Improvement (Repealed)
- 1.APPENDIX G Criteria for Determination – State Assessment (Repealed)

AUTHORITY: Implementing Sections 2-3.25, 2-3.25g, 2-3.43, 2-3.44, 2-3.96, 10-17a, 10-20.14, 10-22.43a, 14C-8, 21-0.01, 26-13, 27-3.5, 27-12.1, 27-13.1, 27-20.3, 27-20.4, 27-20.5, 27-22, 27-23.3, and 27-23.8 and authorized by Section 2-3.6 of the School Code [105 ILCS 5/2-3.25, 2-3.25g, 2-3.43, 2-3.44, 2-3.96, 10-17a, 10-20.14, 10-22.43a, 14C-8, 21-0.01, 26-13, 27-3.5, 27-12.1, 27-13.1, 27-20.3, 27-20.4, 27-20.5, 27-22, 27-23.3, 27-23.8, and 2-3.6].

SOURCE: Adopted September 21, 1977; codified at 7 Ill. Reg. 16022; amended at 9 Ill. Reg. 8608, effective May 28, 1985; amended at 9 Ill. Reg. 17766, effective November 5, 1985; emergency amendment at 10 Ill. Reg. 14314, effective August 18, 1986, for a maximum of 150 days; amended at 11 Ill. Reg. 3073, effective February 2, 1987; amended at 12 Ill. Reg. 4800, effective February 26, 1988; amended at 14 Ill. Reg. 12457, effective July 24, 1990; amended at 15 Ill. Reg. 2692, effective February 1, 1991; amended at 16 Ill. Reg. 18010, effective November 17, 1992; expedited correction at 17 Ill. Reg. 3553, effective November 17, 1992; amended at 18 Ill. Reg. 1171, effective January 10, 1994; emergency amendment at 19 Ill. Reg. 5137, effective March 17, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 6530, effective May 1, 1995; amended at 19 Ill. Reg. 11813, effective August 4, 1995; amended at 20 Ill. Reg. 6255, effective April 17, 1996; amended at 20 Ill. Reg. 15290, effective November 18, 1996; amended at 22 Ill. Reg. 22233, effective December 8, 1998; emergency amendment at 24 Ill. Reg. 6111, effective March 21, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 12985, effective August 14, 2000; amended at 25 Ill. Reg. 8159, effective June 21, 2001; amended at 25 Ill. Reg. 16073, effective November 28, 2001; amended at 26 Ill. Reg. 1157, effective January 16, 2002; amended at 26 Ill. Reg. 16160, effective October 21, 2002; amended at 28 Ill. Reg. 8486, effective June 1, 2004; emergency amendment at 28 Ill. Reg. 13637, effective September 27, 2004, for a maximum of 150 days; amended at 29 Ill. Reg. 1891, effective January 24, 2005; amended at 29 Ill. Reg. 11811, effective July 13, 2005; amended at 29 Ill. Reg. 12351, effective July 28, 2005; amended at 29 Ill. Reg. 15789, effective October 3, 2005; amended at 29 Ill. Reg. 19891, effective November 23, 2005; amended at 30 Ill. Reg. 8480, effective April 21, 2006; amended at 30 Ill. Reg. 16338, effective September 26, 2006; amended at 30 Ill. Reg. 17416, effective October 23, 2006; amended at 31 Ill. Reg. 5116, effective March 16, 2007; amended at 31 Ill. Reg. 7135, effective April 25, 2007; amended at 31 Ill. Reg. 9897, effective June 26, 2007; amended at 32 Ill. Reg. 10229, effective June 30, 2008; amended at 33 Ill. Reg. 5448, effective March 24, 2009; amended at 33 Ill. Reg. 15193, effective October 20, 2009; amended at 34 Ill. Reg. _____, effective _____.

SUBPART A: RECOGNITION REQUIREMENTS

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

Section 1.30 State Assessment

The State Superintendent of Education shall develop and administer assessment instruments and other procedures in accordance with Section 2-3.64 of the School Code [105 ILCS 5/2-3.64]. In addition, school districts shall collaborate with the State Superintendent in the design and implementation of special studies.

- a) Development and Participation
 - 1) Assessment instruments and procedures shall meet generally accepted standards of validity and reliability as stated in "Standards for Educational and Psychological Testing" (1999), published by the American Educational Research Association, 1230 17th St., N.W., Washington, D.C. 20036. (No later amendments to or editions of these standards are incorporated.)
 - 2) Districts shall participate in special studies, tryouts, and/or pilot testing of these assessment procedures and instruments when one or more schools in the district are selected to do so by the State Superintendent.
 - 3) A school shall generally be selected for participation in these special studies, tryouts, and/or pilot testing no more than once every four years, except that participation may be required twice every four years in the case of the Illinois Alternate Assessment.
 - 4) *All pupils enrolled in a public or State-operated elementary school, secondary school, or cooperative or joint agreement with a governing body or board of control, a charter school operating in compliance with the Charter Schools Law [105 ILCS 5/Art. 27A], a school operated by a regional office of education under Section 13A-3 of the School Code [105 ILCS 5/13A-3], or a public school administered by a local public agency or the Department of Human Services shall be required to participate in the State assessment, whether by taking the regular assessment, with or without accommodations, or by participating in an alternate form of the assessment (Sections 2-3.25a and 2-3.64 of the School Code).*
 - A) Students who are served in any locked facility that has a State-assigned RCDTS (region/county/district/type/school) code,

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students who attend public university laboratory schools under Section 18-8.05(K) of the School Code, and students beyond the age of compulsory attendance (other than students with IEPs) whose programs do not culminate in the issuance of regular high school diplomas are not required to participate in the State assessment.

- B) It is the responsibility of each district or other affected entity to ensure that all students required to participate in the State assessment do so. See also Section 1.50 of this Part.
- 5) Each district or other affected entity shall ensure the availability of reasonable accommodations for participation in the State assessment by students with disabilities, as reflected in those students' IEPs or plans developed under Section 504 of the Rehabilitation Act of 1973 (29 USC 794), or limited English proficiency.
- b) Assessment Procedures
- 1) All assessment procedures and practices shall be based on fair testing practice, as described in "Code of Fair Testing Practices in Education" (2004), published by the Joint Committee on Testing Practices of the American Educational Research Association, American Psychological Association, and National Council on Measurement in Education, 750 First Avenue, N.E., Washington, D.C. 20002-4242. (No later amendments to or editions of this code are incorporated.)
 - 2) Districts and other affected entities shall protect the security and confidentiality of all assessment questions and other materials that are considered part of the approved State assessment, including but not necessarily limited to test items, reading passages, charts, graphs, and tables.
 - 3) Districts shall promptly report to the State Superintendent all complaints received by the district of testing irregularities. A district shall fully investigate the validity of any such complaint and shall report to the State Superintendent the results of its investigation.
- c) Accommodations

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Students who have been identified at the local level as having limited proficiency in English as provided in 23 Ill. Adm. Code 228.15, including students not enrolled in programs of bilingual education, may participate in an accommodated State assessment, subject to the limitations set forth in Section 2-3.64 of the School Code. A student with limited proficiency in English shall be afforded extra time for completion of the State assessment when, in the judgment of the student's teacher, extra time is necessary in order for the student's performance to reflect his or her level of achievement more accurately, provided that each test must be completed in one session. See also Section 1.60(b) of this Part.

- d) **Illinois Alternate Assessment**
Students with the most significant cognitive disabilities whose Individualized Education Programs identify the regular State assessment as inappropriate for them even with accommodations shall participate in the Illinois Alternate Assessment (IAA), based on alternate achievement standards, for all subjects tested. See also Section 1.60(c) of this Part.
- e) **Review and Verification of Information**
Each school district and each charter school shall have an opportunity to review and, if necessary, correct the preliminary data generated from the administration of the State assessment, including information about the participating students as well as the scores achieved.
 - 1) Within 10 days after the preliminary data for the Illinois Standards Achievement Test (ISAT) and the IAAa-particular assessment are made available and within five days after preliminary data for the Prairie State Achievement Examination (PSAE) are made available, each district or charter school shall make any necessary corrections to its demographic and score data and then use a means prescribed by the State Board to indicate either:
 - A) that both its demographic and preliminary data are correct; or
 - B) that it is requesting rescoring of some or all portions of the assessment for specific students.
 - 2) When districts request rescoring, staff of the State Board and/or its contractor shall have an additional period of 21 days within which to work

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with the affected district or charter school to make any resulting corrections.

- 3) At the end of the 21-day period discussed in subsection (e)(2) of this Section, all districts' and charter schools' data shall stand as the basis for the applicable school report cards and determination of status. Any inaccuracies that are believed to persist at that time shall be subject to the appeal procedure set forth in Section 1.95 of this Part.
- f) Reports of State Assessment Results
- 1) Following verification of the data under subsection (e) of this Section, the State Board shall send each school and district a report containing final information from the results of each administration of the State assessment.
 - A) The scores of students who are served by cooperatives or joint agreements, in Alternative Learning Opportunities Programs established under Article 13B of the School Code, by regional offices of education under Section 13A-3 of the School Code, by local agencies, or in schools operated by the Department of Human Services, scores of students who are served in any other program or school not operated by a school district and who are scheduled to receive regular high school diplomas, all scores of students who are wards of the State, and all scores of students who have IEPs, shall be reported to the students' respective districts of residence and to the schools within those districts that they would otherwise attend.
 - B) The scores of students enrolled in charter schools shall be reported to the chief administrator of the charter school and to any school district serving as a chartering entity for the charter school.
 - 2) Each report shall include, as applicable to the receiving entity:
 - A) results for each student to whom the State assessment was administered (excluding any scores deemed by the State Board to be invalid due to testing irregularities); and

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- B) summary data for the school and/or district and the State, including but not limited to raw scores, scale scores, comparison scores, including national comparisons when available, and distributions of students' scores among the applicable proficiency classifications (see subsection (h) of this Section).
- g) Each school district and each charter school shall receive notification from the State Board of Education as to the status of each affected school and the district based on the attainment or non-attainment of adequate yearly progress as reflected in the final data. These determinations shall be subject to the appeal process set forth in Section 1.95 of this Part.
- h) **Classification of Scores**
Each score achieved by a student on a regular or alternate State assessment shall be classified among a set of performance levels, as reflected in score ranges that the State Board shall disseminate at the time of testing, for the purpose of identifying scores that "demonstrate proficiency".
- 1) Each score achieved by a student on a regular State assessment (i.e., the ~~ISAT Illinois Standards Achievement Test (ISAT)~~ or the ~~PSAE Prairie State Achievement Exam (PSAE)~~) shall be classified as "academic warning", "below standards", "meets standards", or "exceeds standards". Among these scores, those identified as either meeting or exceeding standards shall be considered as demonstrating proficiency.
- 2) Each score achieved by a student on the ~~IAA Illinois Alternate Assessment~~ shall be classified as "entry", "foundational", "satisfactory", or "mastery". Among these scores, those identified as "satisfactory" or "mastery" shall be considered as demonstrating proficiency.
- i) **Scores Relevant to Adequate Yearly Progress**
For purposes of determining whether a district or a school has made adequate yearly progress, scores achieved on a State assessment in reading or mathematics shall be "relevant scores". For schools without grades higher than 2 (that is, for schools where no State assessment is administered), scores achieved by students in Grade 2 on the Terra Nova examination (CTB McGraw-Hill, 20 Ryan Ranch Road, Monterey CA 93940 (2001)) shall also be considered "relevant scores" for school years from 2002-03 through 2005-06. Beginning with the 2006-07 school year, the determination as to whether a school in this group has made adequate

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yearly progress shall be the determination applicable to the school where the largest number of students go on into the third grade.

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

Section 1.60 Subgroups of Students; Inclusion of Relevant Scores

A student's scores shall count among those for his or her school or district, as applicable, for a given year only if he or she was enrolled continuously in the district on or before May 1 of the previous academic year through State testing the following spring. Students who feed into another school within the same district during the summer based upon the district's progression of students among attendance centers based on grade level shall have their scores counted for the school and district. Any student who is continuously enrolled within the district but, for reasons not mandated by the district, changes to a new school within the district after May 1 will be counted at the district level but not at the school level. Nothing in this Section is intended to exempt a student from the requirement for participation in the State assessment, except as provided in subsection (b)(1) of this Section.

- a) Relevant scores shall be disaggregated by content area for any subgroup identified in this subsection (a) whose membership meets the minimum subgroup size. For purposes of this Section 1.60, "minimum subgroup size" shall mean 45 students across all the grades tested in the school or district, as applicable. Except as provided in subsection (b) of this Section, each student's scores shall be counted in each of the subgroups to which he or she belongs.
 - 1) Students with disabilities, i.e., students who have Individualized Education Programs (IEPs);
 - 2) For school years through 2009-10, racial~~Racial~~/ethnic groups:
 - A) White,
 - B) Black,
 - C) Hispanic,
 - D) American Indian or Alaskan Native,
 - E) Asian/Pacific Islander,

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- F) Multiracial/ethnic;
- 3) For school year 2010-11 and beyond, racial/ethnic groups:
- A) Hispanic or Latino of any race,
- B) For students who are not Hispanic or Latino:
- 1) American Indian or Alaska Native,
- 2) Asian,
- 3) Black or African American,
- 4) Native Hawaiian or Other Pacific Islander,
- 5) White,
- 6) Two or more races;
- 4) Students who have been identified at the local level as having limited proficiency in English as provided in 23 Ill. Adm. Code 228.15; and/or
- 5)4) Students who are eligible for free or reduced-price meals under the Child Nutrition Act of 1966 (42 USC 1771 et seq.) or the National School Lunch Act (42 USC 1751 et seq.).
- b) Special provisions shall apply to the treatment of scores achieved by students of limited English proficiency in certain circumstances.
- 1) An Illinois student who is in his or her first year of enrollment in school in the United States and who is identified as having limited proficiency in English may elect to participate in the State assessment in reading. Any such student who elects not to participate shall nevertheless be treated as having participated for purposes of calculating the participation rate.
- 2) The score achieved by a student who elects to participate in the regular State assessment in reading under subsection (b)(1) of this Section shall be

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counted for purposes of calculating the participation rate but not for purposes of calculating performance.

- 3) An Illinois student who is in his or her first year of enrollment in school in the United States and who is identified as having limited proficiency in English shall be required to participate in the State assessment in mathematics. The score achieved by such a student shall be counted for purposes of calculating the participation rate but not for purposes of calculating performance.
 - 4) A student who has previously been identified as having limited proficiency in English and whose scores have been attributed to that subgroup shall continue to have his or her scores attributed to that subgroup for the first two years after the last year when he or she was considered to have limited English proficiency. However, districts and schools shall not be required to count students to whom this subsection (b)(4) applies as part of the subgroup with limited English proficiency for purposes of determining whether the minimum subgroup size exists.
- c) All relevant scores of a district's students with disabilities who participate in the alternate form of the State assessment shall be included in the district's calculations for purposes of determining whether adequate yearly progress has been made.
- 1) The number of scores earned by students who participate in the alternate form of the State assessment that may be counted as demonstrating proficiency in a content area shall be no more than 1 percent of all scores achieved by the district's students in that subject. (See the regulations of the U.S. Department of Education at 34 CFR 200.6.)
 - 2) Except as provided in subsection (c)(3) of this Section, for purposes of calculating adequate yearly progress at the district level, each score that demonstrates proficiency but is in excess of the 1 percent maximum set forth in subsection (c)(1) of this Section shall be counted as not demonstrating proficiency and shall be included as such in the calculations for each subgroup of which the student is a member.
 - 3) A district may apply to the State Superintendent of Education for a one-year exception to the 1 percent maximum set forth in subsection (c)(1) of

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this Section, which may be renewed for one or more subsequent years if warranted. Using a format established by the State Superintendent, the district shall display information demonstrating that the prevalence of students for whom the alternate assessment is appropriate exceeds 1 percent of the total population. The district shall also supply a narrative explaining the disproportionate representation of such students in its population. The State Superintendent of Education shall approve a district's request for an exception if the district superintendent provides assurances that the district meets all the requirements of 34 CFR 200.6 and if the information supplied by the district demonstrates that:

- A) families of students with **the most** significant cognitive disabilities have been attracted to live in the district by the availability of educational, health, or community services that respond to their needs; or
 - B) the district's student population is so small that the presence of even a small number of students with **the most** significant cognitive disabilities causes the district to exceed the 1 percent threshold (e.g., in a population of 50 students, one student represents 2 percent); or
 - C) other circumstances exist such that the overrepresentation of students with **the most** significant cognitive disabilities is outside the control of the district, i.e., the overrepresentation is not a result of inappropriate decision-making as to the form of the State assessment that should be used for particular students.
- 4) When scores that demonstrate proficiency and were achieved by students on the IAA make up more than 1 percent of a district's scores in either reading or mathematics, and the district has not received approval for an exception to the 1 percent maximum pursuant to subsection (c)(3) of this Section, the district shall be required to identify the "proficient" scores on the IAA that will be counted as not demonstrating proficiency for purposes of calculating adequate yearly progress (AYP). In making this determination, a district may choose to identify:
- A) scores of students who belong to the fewest subgroups;

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- B) scores of students who belong to the largest subgroups;
 - C) scores of students who belong to the smallest subgroups;
 - D) scores of students who belong to the subgroups whose performance is farthest above the target applicable to the year in question; or
 - E) scores of students who belong to the subgroups whose performance is farthest below the target applicable to the year in question.
- 5) The State Superintendent of Education shall notify each district that is affected by the requirement to identify excess "proficient" scores on the IAA. The deadline set by the State Superintendent shall allow at least five business days for districts' responses. For any district that does not submit the requested information on this selection within the time allowed, the State Superintendent shall identify the scores that will be considered as not demonstrating proficiency for this purpose.
- d) Targets for scores demonstrating proficiency
- 1) In each subject and for each subgroup of students, the percentage of scores demonstrating proficiency that is required for AYP shall increase from the original baseline of 40 percent for the 2002-03 school year according to the following schedule:
 - A) For 2003-04, 40 percent;
 - B) For 2004-05 and for 2005-06, 47.5 percent;
 - C) For 2006-07, 55 percent;
 - D) For 2007-08, 62.5 percent;
 - E) For 2008-09, 70 percent;
 - F) For 2009-10, 77.5 percent;

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- G) For 2010-11, 85 percent;
 - H) For 2011-12 and for 2012-13, 92.5 percent;
 - I) For 2013-14, 100 percent.
- 2) In order to avoid penalizing schools and districts for the decision bias that is associated with a minimum subgroup size, a 95 percent "confidence interval" shall be applied to subgroups' data. (A confidence interval is a mathematical approach designed to compensate for the unreliability of data derived from consideration of small groups.)
- e) "Safe Harbor"
A school or a district in which one or more subgroups fail to achieve the required academic target for a particular year may nevertheless be considered as having made AYP for that year. Each subgroup in question must have attained the minimum subgroup size in the preceding year and, for each such subgroup, there must have been a decrease of at least ten percent in the proportion of scores that do not demonstrate proficiency in comparison to that subgroup's scores for the preceding year. In addition, if the school is a high school, the relevant subgroup's graduation rate must at least equal the target rate for that year, and, if the school is an elementary or a middle school, the relevant subgroup's attendance rate must at least equal the target rate for that year (see Section 1.70 of this Part). This "safe harbor" method for calculating AYP shall apply only to subgroups within schools or districts; it shall not be used for the aggregate scores of a school or a district as a whole.

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

SUBPART B: SCHOOL GOVERNANCE

Section 1.245 Waiver of School Fees

This Section provides the rules required by Section 2-3.96 of the School Code under which each school district is required to adopt a written policy for the waiver of school fees as required by Sections 10-20.13 and 34-21.6 of the School Code [105 ILCS 5/10-20.13 and 34-21.6].

- a) For the purposes of this Section "school fees" or "fees" means any monetary charge collected by a public school or public school district from a student or the

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parents or guardian of a student as a prerequisite for the student's participation in any curricular or extracurricular program of the school or school district. A school or school district does not impose a "fee" when it requires that a student provide his or her own ordinary supplies or materials (e.g., pencil, paper, notebooks), which are necessary to participate in any curricular or extracurricular program.

- 1) "School fees" include, but are not limited to, the following:
 - A) All charges for required textbooks and instructional materials.
 - B) All charges and deposits collected by a school for use of school property (e.g., locks, towels, laboratory equipment).
 - C) Charges for field trips made during school hours, or made after school hours if the field trip is a required or customary part of a class or extracurricular activity (e.g., annually scheduled trips to museums, concerts, places of business and industry or field trips related to instruction in social studies, the fine arts, career/vocational education or the sciences).
 - D) Charges or deposits for uniforms or equipment related to varsity and intramural sports, or to fine arts programs.
 - E) Charges for supplies required for a particular class (e.g., shop or home economics materials, laboratory or art supplies).
 - F) Graduation fees (e.g., caps, gowns).
 - G) School records fees.
 - H) School health services fees.
 - I) Driver's education fees assessed pursuant to Section ~~27-24.227-23~~ of the School Code [105 ILCS ~~5/27-24.25/27-23~~].
- 2) "School fees" do not include:
 - A) Library fines and other charges made for the loss, misuse, or

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- destruction of school property (e.g., musical instruments).
- B) Charges for the purchase of class rings, yearbooks, pictures, diploma covers or similar items.
 - C) Charges for optional travel undertaken by a school club or group of students outside of school hours (e.g., a trip to Spain by the Spanish club or a senior class trip).
 - D) Charges for admission to school dances, athletic events or other social events.
 - E) Optional community service programs for which fees are charged (e.g., preschool, before- and after-school child care, recreation programs).
- b) School boards that do not charge school fees must adopt a policy so stating. Parents must be notified of this policy as provided in this Section.
- c) School boards that charge school fees must adopt a policy and procedures containing at least the following elements:
- 1) Eligibility Criteria
 - A) Eligibility criteria must include a waiver of fees for all students who qualify for free lunches or breakfasts under the School Breakfast and Lunch Program Act [105 ILCS 125]. Students must meet the income requirements of the program but need not participate in order to receive a waiver of school fees.
 - B) Eligibility criteria must also include a description of other extenuating circumstances under which the district will grant a waiver of school fees. Examples include students who are eligible to receive reduced-price lunch or breakfast; very significant loss of income due to severe illness or injury in the family or unusual expenses such as fire, flood, or storm damage; or similar emergency situations that the district determines to include in its policy.

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- 2) Notification of parents
 - A) The district's policy for the waiver of school fees shall be communicated in writing to the parents of all students enrolling in the district for the first time. A fee waiver application form also may be included with this notice when it is sent to parents. The notification must be in English or the home language of the parents if it is needed to ensure their understanding of the district's policy (if translation of the notice is not feasible, the use of interpreters is permitted, e.g., other students or neighbors). The notice shall at least describe:
 - i) the district's policy, including the criteria and other circumstances under which the district will waive school fees;
 - ii) the fees subject to waiver under the district's policy;
 - iii) the procedure to be used by parents in applying for a waiver of school fees, including the availability of forms that may be used to request a fee waiver and the documents whose use is required by the school district in verifying income as permitted under subsection (d) of this Section; and
 - iv) the procedure to be used by parents in resolving disputes concerning the waiver of school fees.
 - B) The district's policy also shall provide that the first bill or notice of each school year sent to parents who owe fees shall state:
 - i) the district waives fees for persons unable to afford them in accordance with its policy; and
 - ii) the procedure for applying for a fee waiver, or the name, address and telephone number of the person to contact for information concerning a fee waiver.
- 3) Procedures for the resolution of disputes

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- A) The district's policy must provide that if it denies a request for a fee waiver, then it shall mail a copy of its decision to the parents within 30 calendar days after receipt of the request. The decision shall state the reason for the denial and shall inform the parents of their right to appeal, including the process and timelines for that action. The denial notice shall also include a statement informing the parents that they may reapply for a waiver any time during the school year, if circumstances change.
- B) An appeal shall be decided within 30 calendar days after the receipt of the parents' request for an appeal. Parents shall have the right to meet with the person who will decide the appeal in order to explain why the fee waiver should be granted. The person who decides the appeal shall not be the person who initially denied the fee waiver or a subordinate of this person. If the appeal is denied, then the district shall mail a copy of its decision to the parents. The decision shall state the reason for the denial.
- C) No fee shall be collected from any parent who is seeking a fee waiver in accordance with the district's policy until the district has acted on the initial request or appeal (if any is made), and the parents have been notified of its decision.
- d) A school district may make reasonable requirements for verifying a family's income (e.g., payroll stubs, tax returns, evidence of receipt of food stamps or Temporary Assistance for Needy Families) in accordance with the restrictions set forth in Sections 10-20.13 and 34-21.6 of the School Code~~in order to determine eligibility for a school fee waiver; however, for students approved for free or reduced-price meals under the School Breakfast Program (42 USC 1771 et seq.) and/or the National School Lunch Program (42 USC 1751 et seq.), verification shall be conducted within the limitations set forth in 42 USC 1758. If a student receiving a waiver of school fees is found to be no longer eligible during the school year, then the district shall charge the student a prorated amount based upon the number of school days remaining in the school year. The process for proration shall be set forth in the district's fee waiver policy adopted in accordance with subsection (c) of this Section.~~
- e) If the fee waiver policy and/or procedures are substantively amended, then parents

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of students enrolled in the district must be notified in writing within 30 calendar days following the adoption of the amendments.

- f) School records that identify individual students as applicants for or recipients of fee waivers are subject to the Illinois School Student Records Act [105 ILCS 10]. Information from such records is confidential and may be disclosed only as provided in the Act.
- g) *No discrimination or punishment of any kind, including the lowering of grades or exclusion from classes, may be exercised against a student whose parents or guardians are unable to purchase required textbooks or instructional materials or to pay required fees [105 ILCS 5/28-19.2(a)].*

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

SUBPART D: THE INSTRUCTIONAL PROGRAM

Section 1.420 Basic Standards

- a) Class schedules shall be maintained in the administrative office in each attendance center of a school district.
- b) Every school district shall have an organized plan for recording pupil progress and/or awarding credit, including credit for courses completed by correspondence, on line, or from other external sources, that can be disseminated to other schools within the State.
- c) Every school district shall:
 - 1) Provide curricula and staff inservice training to help eliminate unconstitutional and unlawful discrimination in our schools and society. School districts shall utilize the resources of the community in achieving the stated objective of elimination of discrimination and to enrich the instructional program.
 - 2) Include in its instructional program concepts designed to improve students' understanding of and their relationships with individuals and groups of different ages, sexes, races, national origins, religions, and socio-economic backgrounds.

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- d) Boards shall adopt and implement a policy for the distribution of teaching assignments, including study hall and extra class duties and responsibilities.
- e) Every school system shall conduct supervisory and inservice programs for its professional staff. The staff shall be involved in planning, conducting, and evaluating supervisory and inservice programs.
- f) Sections 10-19, 18-8.05, ~~and 18-12,~~ and 18-12.5 of the School Code [105 ILCS 5/10-19, 18-8.05, ~~and 18-12,~~ and 18-12.5] establish certain requirements regarding the school year and the school day. School districts shall observe these requirements when preparing their calendars and when calculating average daily attendance for the purpose of claiming general State financial aid.
 - 1) Section 18-8.05(F)(2)(c) of the School Code provides that, with the approval of the State Superintendent of Education, four or more clock-hours of instruction may be counted as a day of attendance when the regional superintendent certifies that, due to a condition beyond the control of the district, the district has been forced to use multiple sessions. The State Superintendent's approval will be granted when the district demonstrates that, due to a condition beyond the control of the district, its facilities are inadequate to house a program offering five clock-hours daily to all students.
 - A) The district superintendent's request to the State Superintendent shall be accompanied by an assurance that the local school board has approved the plan for multiple sessions, including the date of the meeting at which this occurred, and evidence of the approval of the responsible regional superintendent.
 - B) Each request shall include a description of the circumstances that resulted in the need for multiple sessions; information on the buildings and grades affected; the intended beginning and ending dates for the multiple sessions; a plan for remedying the situation leading to the request; and a daily schedule showing that each student will be in class for at least four clock-hours.
 - C) Approval for multiple sessions shall be granted for the school year to which the request pertains. Each request for renewed approval

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shall conform to the requirements of subsections (f)(1)(A) and (B) of this Section.

- D) Students who are in attendance for at least 150 minutes of school work but fewer than 240 minutes may be counted for a half day of attendance. Students in attendance for fewer than 150 minutes of school work shall not be counted for purposes of calculating average daily attendance.
- 2) Section 18-8.05(F)(2)(h) of the School Code allows for a determination under rules of the State Board regarding the necessity for a second year's attendance at kindergarten for certain students so they may be included in a district's calculation of average daily attendance. Districts may count such students when they determine through an assessment of their individual educational development that a second year of kindergarten is warranted.
- 3) A school district shall be considered to have conducted a legal school day, which is eligible to be counted for General State Aid, when the following conditions are met during a work stoppage.
- A) Fifty percent or more of the district's students are in attendance, based on the average daily attendance during the most recent full month of attendance prior to the work stoppage.
- B) Educational programs are available at all grade levels in the district, in accordance with the minimum standards set forth in this Part.
- C) All teachers hold certificates that are registered with the Regional Superintendent for their county of employment. Other than substitute teachers, certification appropriate to the grade level and subject area(s) of instruction is held by all teachers.
- 4) Sections 18-12 and 18-12.5 of the School Code set forth requirements for a school district to claim General State Aid in certain circumstances when one or more, but not all, of the district's school buildings are closed either for a full or partial day. A school district shall certify the reasons for the closure in an electronic format specified by the State Superintendent

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within 30 days from the date of the incident. In addition, the certification submitted for reasons of a public health emergency under Section 18-12.5 of the School Code shall be accompanied by a signed statement from the local health department to the State Superintendent that includes:

- A) the name of the building that is being recommended for closure;
- B) the specific public health emergency that warrants the closure; and
- C) the anticipated building closure dates recommended by the health department.

5) Attendance for General State Aid Purposes

- A) For purposes of determining average daily attendance on the district's General State Aid claim, students in full-day kindergarten and first grade may be counted for a full day of attendance only when they are in attendance for four or more clock hours of school work; provided, however, that students in attendance for more than two clock hours of school work but less than four clock hours may be counted for a half day of attendance. Students in attendance for fewer than two hours of school work shall not be counted for purposes of calculating average daily attendance.
- B) For purposes of determining average daily attendance on the district's General State Aid claim, students enrolled full time in grades 2 through 12 may be counted for a full day of attendance only when they are in attendance for five or more clock hours of school work; provided, however, that students in attendance for more than two and one-half clock hours of school work but less than five clock hours may be counted for a half day of attendance. Students in attendance for fewer than two and one-half hours of school work shall not be counted for purposes of calculating average daily attendance.
- C) For purposes of determining average daily attendance for General State Aid received under Sections 18-12 and 18-12.5 of the School Code, "immediately preceding school day" shall include school days in the previous school year in instances in which the building

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closure occurs before three or more days of instruction have been provided in the school year for which attendance is being counted.

D) For the purposes of determining average daily attendance for General State Aid under Section 10-29 of the School Code [105 ILCS 5/10-29], a school district operating a remote educational program shall document, and make available to the State Superintendent of Education or his or her designee upon request, a written or online record of instructional time for each student enrolled in the program that provides sufficient evidence of the student's active participation in the program (e.g., log in and log off process, electronic monitoring, adult supervision, two-way interaction between teacher and student, video cam).

- g) Each school board shall annually prepare a calendar for the school term, specifying the opening and closing dates and providing a minimum term of at least 185 days to ensure 176 days of actual pupil attendance, computable under Section 18-8.05 of the School Code (see Section 10-19 of the School Code).
- h) Local boards of education shall establish and maintain kindergartens for the instruction of children (see Sections 10-20.19a and 10-22.18 of the School Code [105 ILCS 5/10-20.19a and 10-22.18]).
- 1) School districts may establish a kindergarten of either half-day or full-day duration. If the district establishes a full-day kindergarten, it must also provide a half-day kindergarten for those students whose parents or guardians request a half-day program.
 - 2) If a school district that establishes a full-day kindergarten also has 20 or more students whose parents request a half-day program, the district must schedule half-day classes, separate and apart from full-day classes, for those children. If there are fewer than 20 children whose parents request a half-day program, those students may be enrolled in either the morning or afternoon session of a full-day program provided that the following conditions are met.
 - A) Distinctive curriculum plans for the half-day and full-day kindergarten programs must be developed by the school district, made available to parents to assist the parents in selecting the

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appropriate program for their child, and maintained in district files.

- B) A common core of developmental, readiness and academic activities must be made available to all kindergarten students in the district regardless of the amount of time they attend school.
 - C) All support services (e.g., health counseling and transportation) provided by the district must be equally available to full-day and half-day students.
- i) Career Education
 - 1) The educational system shall provide students with opportunities to prepare themselves for entry into the world of work.
 - 2) Every district shall initiate a Career Awareness and Exploration Program that should enable students to make more meaningful and informed career decisions. This program should be available at all grade levels.
 - j) Co-Curricular Activities
 - 1) Programs for extra classroom activities shall provide opportunities for all students.
 - 2) The desires of the student body in the area of co-curricular activities shall be of critical importance. At all times, activities of this nature shall be carefully supervised by a school-approved sponsor.
 - k) Consumer Education and Protection
 - 1) A program in consumer education shall include at least the topics required by Section 27-12.1 of the School Code [105 ILCS 5/27-12.1].
 - 2) The superintendent of each unit or high school district shall maintain evidence showing that each student has received adequate instruction in consumer education or has demonstrated proficiency by passing the Consumer Education Proficiency Test as required by law (see Section 27-12.1 of the School Code [105 ILCS 5/27-12.1]) prior to the completion of the 12th grade. Consumer education may be included in course content of

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other courses, or it may be taught as a separate required course.

- 3) The minimal time allocation shall not be less than nine weeks or the equivalent for grades 9-12 and shall include installment purchasing, budgeting, comparison of prices and an understanding of the roles of consumers interacting with agriculture, business, trade unions, and government in formulating and achieving the goals of the mixed free enterprise system.
 - 4) Teachers instructing in consumer education courses shall hold certification valid for the grade levels taught and have completed at least three semester hours in consumer education courses.
- l) Conservation of Natural Resources
Each district shall provide instruction on *current problems and needs in the conservation of natural resources, including, but not limited to, air pollution, water pollution, waste reduction and recycling, the effect of excessive use of pesticides, preservation of wilderness areas, forest management, protection of wildlife, and humane care of domestic animals* (Section 27-13.1 of the School Code [105 ILCS 5/27-13.1]).
 - m) Every school district has the responsibility to prepare students for full citizenship. To this end each school district should encourage student discussion and communication in areas of local, State, national and international concern.
 - n) Health Education
 - 1) Each school system shall provide a program in compliance with the Critical Health Problems and Comprehensive Health Education Act [105 ILCS 110].
 - A) There is no specific time requirement for grades K-6; however, health education shall be a part of the formal regular instructional program at each grade level.
 - B) The minimal time allocation shall not be less than one semester or equivalent during the middle or junior high experience.
 - C) The minimal time allocation shall not be less than one semester or

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equivalent during the secondary school experience.

- D) If health education is offered in conjunction with another course on a "block of time" basis in a middle school, a junior high school, or a high school, instruction may be offered in any combination of the grade levels in the school, provided that the total time devoted to health education is the equivalent of one full semester's work.
- 2) Nothing in this Section shall be construed as requiring or preventing the establishment of classes or courses in comprehensive sex education or family life education as authorized by Sections 27-9.1 and 27-9.2 of the School Code [105 ILCS 5/27-9.1 and 27-9.2] ~~or by the Sex Education Act [105 ILCS 130]~~.
- o) **Library Media Programs**

Each school district shall provide a program of library media services for the students in each of its schools. Each district's program shall meet the requirements of this subsection (o).

 - 1) **General**

The program shall include an organized collection of resources that circulate to students and staff in order to supplement classroom instruction, foster reading for pleasure, enhance information literacy, and support research, as appropriate to students of all abilities in the grade levels served. No later than the beginning of the 2014-15 school year, a district that relies solely upon the collection of a local public library shall maintain evidence that students receive instruction, direction, or assistance in locating and using resources that are applicable to these purposes from an individual who is qualified under Section 1.755 of this Part and who is acting on behalf of the school district.
 - 2) **Financial Resources**

Each district's annual budget shall include an identifiable allocation for resources and supplies for the program, except that a unit district serving fewer than 400 students or an elementary or high school district serving fewer than 200 students may demonstrate that it is meeting its students' needs through alternate means that the district has determined are adequate in light of local circumstances.

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3) Facilities

If there is no single location within a particular attendance center that is specifically devoted to a library media center, such as where classroom collections have been established instead, the district shall ensure that equitable access to library media resources is made available to students in all the grade levels served. If students' only access to library media resources is achieved by visiting a location outside their attendance center, the district shall maintain records demonstrating that all students' regular schedules include time for this purpose.

4) Staff

Nothing in this subsection (o)(4) shall be construed as prohibiting districts or schools from sharing the services of individuals qualified under Section 1.755 of this Part, and nothing in this subsection (o) shall be construed as permitting an individual who is not qualified as a library information specialist to assume that role. No later than the beginning of the 2009-10 school year, each district shall assign responsibility for overall direction of its program of library media services to an employee who holds an elementary, a secondary, a special K-12, a special preschool-age 21, an early childhood, or an administrative certificate. Except as otherwise provided in subsection (o)(4)(A) of this Section, the individual to whom this responsibility is assigned shall meet the requirements of Section 1.755 of this Part, and the individual to whom this responsibility is assigned shall not provide the services described in Section 1.755 of this Part unless he or she meets the requirements of that Section.

A) In the event that no employee of the district holds any of the qualifications enumerated in Section 1.755 of this Part, the individual to whom direction of the program is assigned shall be required to participate annually in professional development consisting of:

- i) undergraduate or graduate coursework in library science offered by a regionally accredited institution of higher education; or
- ii) one or more workshops, seminars, conferences, institutes, symposia, or other similar training events that are offered

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by the Illinois State Library, a regional library system, or another professional librarians' organization; or

- iii) one or more "library academies" if these are made available by or at the direction of the State Superintendent of Education.

- B) A district that is otherwise unable to fulfill the requirements of this subsection (o)(4) shall ensure that the overall direction of the library media program (e.g., selection and organization of materials, provision of instruction in information and technology literacy, structuring the work of library paraprofessionals) is accomplished with the advice of an individual who is qualified pursuant to Section 1.755 of this Part.

p) Physical Education

- 1) Appropriate activity related to physical education shall be required of all students each day unless otherwise permitted by Section 27-6 of the School Code [105 ILCS 5/27-6]. The time schedule shall compare favorably with other courses in the curriculum. Safety education as it relates to the physical education program should be incorporated.
- 2) There shall be a definite school policy regarding credit earned each semester in physical education with provisions for allowable variables in special cases.
- 3) If a district determines that it is difficult to implement a program of physical education that involves all students daily, the administration should consult one of the program service personnel from the State Board of Education for assistance in the development of an acceptable program.
- 4) *The physical education and training course offered in grades 5 through 10 may include health education* (Section 27-5 of the School Code [105 ILCS 5/27-5]).
- 5) *Special activities in physical education shall be provided for pupils whose physical or emotional condition, as determined by a person licensed under the Medical Practice Act [225 ILCS 60], prevents their participation in*

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the courses provided for normal children (Section 27-6 of the School Code).

- 6) Pursuant to Section 27-6 of the School Code, a student who presents an appropriate excuse from his or her parent or guardian or from a person licensed under the Medical Practice Act of 1987 shall be excused from participation in physical education. Each school board shall honor excuses signed by persons licensed under the Medical Practice Act of 1987 and shall establish a policy defining the types of parental excuses it will deem "appropriate" for this purpose, which shall include, but need not be limited to, reliance upon religious prohibitions. A board shall, however, have no authority to honor parental excuses based upon students' participation in athletic training, activities, or competitions conducted outside the auspices of the school district. For each type of excuse that will be considered "appropriate", the school board shall identify in its policy any evidence or support it will require. For example, a board may require a signed statement from a member of the clergy corroborating the religious basis of a request.
 - 7) In addition, pursuant to Section 27-6(b) of the School Code, each school board that chooses to excuse pupils enrolled in grades 9 through 12 from engaging in physical education courses under that subsection shall establish a policy to excuse pupils on an individual basis and shall have the policy on file in the local district office. The district shall maintain records showing that, in disposing of each request to be excused from physical education, the district applied the criteria set forth in Section 27-6 to the student's individual circumstances.
- q) Pupil Personnel Services
To assure provision of Pupil Personnel Services, the local district shall conduct a comprehensive needs assessment to determine the scope of the needs in the areas of:
- 1) Guidance and Counseling Needs;
 - 2) Psychological Needs;
 - 3) Social Work Needs;

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- 4) Health Needs.
- r) Social Sciences and History
Each school system shall provide history and social sciences courses that do the following:
- 1) analyze the principles of representative government, the Constitutions of both the United States and the State of Illinois, the proper use of the flag, and how these concepts have related and currently do relate in actual practice in our world (see Section 27-21 of the School Code [105 ILCS 5/27-21]);
 - 2) *include in the teaching of United States history the role and contributions of ethnic groups in the history of this country and the State* (Section 27-21 of the School Code);
 - 3) *include in the teaching of United States history the role of labor unions and their interaction with government in achieving the goals of a mixed free-enterprise system* (Section 27-21 of the School Code);
 - 4) *include the study of that period in world history known as the Holocaust* (Section 27-20.3 of the School Code [105 ILCS 5/27-20.3]);
 - 5) *include the study of the events of Black history, including the individual contributions of African-Americans and their collective socio-economic struggles* (Section 27-20.4 of the School Code [105 ILCS 5/27-20.4]); ~~and~~
 - 6) *include the study of the events of women's history in America, including individual contributions and women's struggles for the right to vote and for equal treatment* (Section 27-20.5 of the School Code [105 ILCS 5/27-20.5]); ~~and-~~
 - 7) *include the study of the events related to the forceful removal and illegal deportation of Mexican-American U.S. citizens during the Great Depression* (Section 27-21 of the School Code).
- s) Protective eye devices shall be provided to and worn by all students, teachers, and visitors when participating in or observing dangerous vocational arts and chemical-physical courses of laboratories as specified in Section 1 of the Eye

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Protection in School Act [105 ILCS 115/1]. Such eye protective devices shall meet the nationally accepted standards set forth in "Practice for Occupational and Educational Eye and Face Protection", ANSI Z87.1-2003, issued by the American National Standards Institute, Inc., 1819 L Street, NW, Suite 600, Washington, D.C. 20036. No later additions or amendments to these standards are incorporated by this Part.

- t) Each school district shall provide instruction as required by Sections 27-3.5, 27-13.2, 27-13.3, ~~and 27-23.3~~, and 27-23.8 of the School Code [105 ILCS 5/27-3.5, 27-13.2, 27-13.3, ~~and 27-23.3~~, and 27-23.8].

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

Section 1.440 Additional Criteria for High Schools

The School Code establishes differing requirements for the coursework that high schools must offer, the courses students must take, and the courses students must pass in order to graduate.

- a) Course Offerings. Each district shall provide a comprehensive curriculum that includes at least the following offerings. The time allotment, unless specified by the School Code or applicable rules, is the option of the local school district.
- 1) Language Arts
 - 2) Science
 - 3) Mathematics
 - 4) History of the United States
 - 5) Foreign Language
 - 6) Music
 - 7) Art
 - 8) Career and Technical Education – Orientation and Preparation
 - 9) Health Education

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- 10) Physical Education
 - 11) Consumer Education
 - 12) Conservation of Natural Resources
 - 13) Driver and Safety Education (see [the Driver Education Act \[105 ILCS 5/27-24 through 27-24.8\]](#)~~Section 27-23 of the School Code [105 ILCS 5/27-23]~~ and 23 Ill. Adm. Code 252)
- b) Required Participation
- 1) Each student shall be required to take one semester or the equivalent, i.e., at least 18 weeks, of health education during the secondary school experience.
 - 2) Each student shall be required to take physical education daily, except as provided in Section 27-6 of the School Code and Section 1.445 of this Part.
 - 3) Each student shall be required to take consumer education for 50 minutes per day for a period of nine weeks in any of grades 9-12, unless he or she has demonstrated proficiency pursuant to the provisions of Section 27-12.1 of the School Code [105 ILCS 5/27-12.1] and Section 1.462 of this Part.
 - 4) Each student shall be required to take a course covering *American patriotism and the principles of representative government, as enunciated in the American Declaration of Independence, the Constitution of the United States of America and the Constitution of the State of Illinois, and the proper use and display of the American flag for not less than one hour per week, or the equivalent.* (Sections 27-3 and 27-4 of the School Code)
- c) Specific Requirements for Graduation. A "unit" is the credit accrued for a year's study or its equivalent. A student may be permitted to retake a course that he or she has already successfully completed (for example, to earn a better grade). However, credit may not be awarded more than once for completion of the same course, and the same course may not be counted more than once toward

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fulfillment of the State requirements for graduation.

- 1) Each student shall be required to have accrued at least 16 units in grades 9-12 if graduating from a four-year school or 12 units in grades 10-12 if graduating from a three-year high school. In either case, one unit shall be in American History or American History and Government. (Section 27-22 of the School Code) *No student shall receive certification of graduation without passing an examination on the subjects discussed in subsection (b)(4) of this Section.*
- 2) Pursuant to Section 27-22 of the School Code, all students, except students with disabilities whose course of study is determined by an individualized education program, must successfully complete certain courses, depending upon the school year in which they enter the 9th grade and subject to the exceptions provided in Section 1.445 of this Part, as a prerequisite to receiving a high school diploma.
- 3) Credits earned by students prior to entry into Grade 9 as authorized by Section 27-22.10 of the School Code [105 ILCS 5/27-22.10] may be used to fulfill any of the requirements of subsection (c)(2) of this Section.
- d) School districts shall have on file in the local district office a description of all course offerings that may comply with the requirements of the law. A course will be accepted as meeting the relevant requirement for graduation if its description shows that its principal instructional activity is the development and application of knowledge and skills related to the applicable requirement.
 - 1) The course description for a "writing-intensive" course will be accepted for purposes of Section 27-22 of the School Code if:
 - A) a goal of the course is to use the writing that students do relative to the subject matter being presented as a vehicle for improving their writing skills;
 - B) writing assignments will be an integral part of the course's content across the time span covered by the course;

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- C) the written products students are required to prepare in order to receive credit for the course and the feedback students receive are such that:
- i) students' writing proficiency is evaluated against expectations that are appropriate to early or late high school and encompass all of the standards applicable to State Goals 3 and 5 (see the State Goals for Learning and the Illinois Learning Standards in Appendix D to this Part); and
 - ii) students receive information from the evaluation of their written products that will permit them to improve their writing skills in terms of correct usage; well-organized composition; communication of ideas for a variety of purposes; and locating, organizing, evaluating, and using information.
- 2) The writing-intensive study provided in at least one writing-intensive course must be designed to address and integrate the elements of the writing process and to refine or apply research skills.
- e) It is the responsibility of the school district's administration to provide parents and guardians timely and periodic information concerning graduation requirements for all students, particularly in cases where a student's eligibility for graduation may be in question.
- f) Additional requirements for graduation may be adopted by local boards of education. Boards of education may accept courses completed in a community college toward graduation.

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

SUBPART G: STAFF QUALIFICATIONS

Section 1.705 Requirements for Supervisory and Administrative Staff

- a) Each district superintendent shall hold an administrative certificate with a Superintendent's endorsement.

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- b) Each assistant superintendent, principal, or assistant principal shall hold an administrative certificate with a General Administrative or Superintendent's endorsement, except that a head teacher serving in place of a principal as permitted by Section 10-21.4a of the School Code [105 ILCS 5/10-21.4a] shall hold a teaching certificate endorsed for supervision.
- c) Each general administrator (e.g., director, assistant director, coordinator, administrative assistant, or general supervisor) in general education shall hold an administrative certificate with a General Supervisory, General Administrative, or Superintendent's endorsement.
- d) Each head of a general education department or supervisor for a specific subject shall hold either:
 - 1) an administrative certificate with a General Supervisory, General Administrative, or Superintendent's endorsement; or
 - 2) a teaching certificate endorsed for supervision in the area supervised.
- e) Each supervisory dean shall hold an administrative certificate with a General Supervisory, General Administrative, Director of Special Education's, or Superintendent's endorsement.
- f) Each dean of students shall hold:
 - 1) an administrative certificate with a General Supervisory, General Administrative, Director of Special Education's, or Superintendent's endorsement; or
 - 2) a teaching certificate (endorsed for supervision if the holder suspends students pursuant to Section 10-22.6 of the School Code); or
 - 3) a school service personnel certificate endorsed for any field other than school nursing (and for supervision if the holder disciplines or suspends students).
- g) Each special education director or assistant director shall meet the requirements of 23 Ill. Adm. Code 226.800(h)(2) and hold an administrative certificate endorsed for "Director of Special Education".

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- h) Each special education supervisor shall meet the requirements of 23 Ill. Adm. Code 226.800(h)(2) and hold either:
 - 1) an administrative certificate with a General Supervisory, General Administrative, Director of Special Education's, or Superintendent's endorsement and teaching qualifications in each area supervised; or
 - 2) a teaching certificate endorsed for each area supervised and for supervision.
- i) Each supervisor of more than one school service personnel area shall hold either:
 - 1) an administrative certificate and a General Administrative or Superintendent's endorsement; or
 - 2) a school service personnel certificate endorsed for supervision in each field supervised.
- j) Each supervisor of one school service personnel area shall hold:
 - 1) an administrative certificate with a General Supervisory, General Administrative, Director of Special Education's, or Superintendent's endorsement; or
 - 2) a school service personnel certificate endorsed for the field supervised and for supervision; or
 - 3) a teaching certificate endorsed for speech-language pathology and for supervision (if applicable).
- k) Each director of an area vocational center and each director or supervisor of more than one field in career and technical education (including regional system directors) shall hold an administrative certificate with a General Administrative or Superintendent's endorsement and have teaching qualifications in one of the five occupational areas and 2,000 hours of work experience outside the field of education.
- l) Each supervisor of one field in career and technical education shall hold either:

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- 1) an administrative certificate with a General Supervisory, General Administrative, or Superintendent's endorsement and teaching qualifications in one field of career and technical education, including 2,000 hours of work experience in the specific field outside of education; or
 - 2) teaching qualifications in the specific field supervised, including 2,000 hours of work experience in the specific field outside of education, and a supervisory endorsement.
- m) Each administrator in a bilingual education program shall meet the applicable requirements of 23 Ill. Adm. Code ~~228.35(d)~~~~228.30(e)~~.
- n) Each chief school business official shall hold an administrative certificate and a Chief School Business Official's endorsement.

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

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- 1) Heading of the Part: Driver Education
- 2) Code Citation: 23 Ill. Adm. Code 252
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
252.10	Amendment
252.25	Amendment
- 4) Statutory Authority: 105 ILCS 5/27-24 through 27-24.8
- 5) A Complete Description of the Subjects and Issues Involved: PA 96-734, effective August 25, 2009, repeals Section 27-23 of the School Code (Motor Vehicle Code) and places its relevant provisions into the Driver Education Act (Sections 27-24 through 27-24.8 of the School Code). As such, references to Section 27-23 must be removed from Part 252. It should be noted that this rulemaking contains only those Sections not being amended by the Driver Education amendments that recently took effect. Statutory citations to the repealed School Code Section in those adopted amendments were updated as part of the second notice changes requested by the Joint Committee on Administrative Rules.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking will not create or enlarge a State mandate.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Written comments may be submitted within 45 days of the publication of this Notice to

Shelley Helton

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Agency Rules Coordinator
Illinois State Board of Education
100 North First Street, S-493
Springfield, Illinois 62777-0001

217/782-5270

Comments may also be submitted electronically, addressed to:

rules@isbe.net

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: Not applicable
- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the two most recent regulatory agendas because: The changes are the result of recently enacted legislation signed into law after the July agenda was published.

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

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TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER I: STATE BOARD OF EDUCATION
SUBCHAPTER g: SPECIAL COURSES OF STUDYPART 252
DRIVER EDUCATION

Section	
252.10	Definitions
252.20	Administration and Procedures
252.25	Eligibility of Students
252.30	The Terms of Reimbursement for Public School Participation in the Course
252.40	Driver Education Personnel Requirements
252.50	Commercial Schools (Transferred)

AUTHORITY: Implementing and authorized by the Driver Education Act [105 ILCS 5/27-24 through 27-24.8].

SOURCE: Adopted September 4, 1975; codified at 8 Ill. Reg. 1585; emergency amendment at 9 Ill. Reg. 15558, effective October 1, 1985, for a maximum of 150 days; amended at 10 Ill. Reg. 12922, effective July 22, 1986; Section 252.50 transferred to 92 Ill. Adm. Code 1060.240 (Secretary of State) pursuant to Section 5-80(d) of the Illinois Administrative Procedure Act [5 ILCS 100/5-80(d)] and Section 6-411 of the Illinois Driver License Law [625 ILCS 5/6-411] at 11 Ill. Reg. 1631; amended at 18 Ill. Reg. 16307, effective October 25, 1994; amended at 22 Ill. Reg. 7577, effective April 17, 1998; amended at 26 Ill. Reg. 10476, effective July 1, 2002; amended at 28 Ill. Reg. 15481, effective November 22, 2004; amended at 29 Ill. Reg. 15936, effective October 3, 2005; amended at 32 Ill. Reg. 10922, effective July 7, 2008; amended at 33 Ill. Reg. 15273, effective October 20, 2009; amended at 34 Ill. Reg. _____, effective _____.

Section 252.10 Definitions

"Behind-The-Wheel Instruction" is that part of the driver education course that consists of individual practice driving with a driver education instructor who meets the requirements of Section 252.40 of this Part and provides learning experiences for the student as an operator of a dual-control car in traffic on public highways.

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"Classroom Instruction" is that part of the driver education course consisting of learning experiences centered in the classroom.

"Declaration of Intent" is a student's application for enrollment in a driver education course.

"Driver Education Course", as used in this Part, is any driver education course approved by the State Superintendent as meeting at least the minimum requirements of ~~Section 27-23 of the School Code [105 ILCS 5/27-23]~~, the Driver Education Act [105 ILCS 5/27-24 through 27-24.8] and this Part and consists of all those learning experiences provided by a school or school district for the purpose of helping students learn to use motor vehicles safely and efficiently. Driver education courses must include classroom and behind-the-wheel instruction as a unified course (see Section 252.20(c)(1) of this Part).

"Dual-Control Car" is a motor vehicle that has special safety and instructional equipment in addition to the regular legally prescribed equipment, which shall consist of a second foot brake positioned for use by the instructor, an outside rearview mirror on the right side of the vehicle, and a sign identifying the vehicle as a driver education car (see 625 ILCS 5/6-410).

"Eligible ~~Student~~student" is a student who meets the conditions of ~~Section Sections 27-23 and 27-24.2 of the School Code [105 ILCS 5/27-24.2]~~~~[105 ILCS 5/27-23 and 27-24.2]~~ for enrollment in a driver education course.

"Enrollment", for purposes of an approved driver education course, means the period of time beginning 30 days prior to the time a student begins classroom instruction through the conclusion of the driver education course.

"Observation Time" refers to that time during which a student is riding in the back seat of a dual-control car observing instructions of the teacher and procedures and techniques of the driver who is participating in behind-the-wheel instruction.

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

Section 252.25 Eligibility of Students

- a) Pursuant to ~~Section Sections 27-23 and 27-24.2 of the School Code~~, no student shall be permitted to enroll in a driver education course provided by a public

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school district or a nonpublic school unless he or she has either:

- 1) received a passing grade in at least eight courses (which may include courses completed in grade 8) during the previous two semesters or, in the case of block scheduling that reduces the number of courses taken per semester, in at least half the courses taken during the previous two semesters; or
 - 2) received a waiver of this requirement, pursuant to Section 27-24.2 of the School Code, from the superintendent of the public school district or the chief administrator of the nonpublic school in which the student is or will be enrolled full time during the semester for which enrollment in driver education is sought. A record of any waiver granted shall be entered into the affected student's temporary student record as defined in 23 Ill. Adm. Code 375.10, or its equivalent in the case of a nonpublic high school.
- b) Courses
- 1) For the purposes of this Section, a "course" means a sequence of instructional activities or unit of schoolwork for which a grade is given and listed in a student's academic transcript.
 - 2) For the purpose of determining eligibility under this Section, any coursework completed by a student during a summer term falling within the 12-month period immediately preceding the beginning of the semester for which enrollment in driver education is sought shall be counted towards the eight courses for which passing grades are needed.
- c) Verification of Eligibility
- 1) Each public school district or nonpublic school offering a driver education course shall be responsible for verifying the eligibility of all students seeking enrollment in such courses.
 - 2) Public school districts and nonpublic schools offering a driver education course shall establish procedures for verifying the eligibility of students enrolled there full time when eligibility is based upon the records created by, or transferred to, such schools. If the public school district or nonpublic school previously attended by a student fails to transfer records

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in time to permit the student's enrollment in driver education, then unofficial records or a signed statement from the parent or guardian of the student shall be used to certify eligibility.

- 3) When a student requests enrollment in a driver education course offered by an entity other than the school district or nonpublic school he or she attends, the school district or nonpublic school offering the course shall be responsible for requesting confirmation of the student's eligibility pursuant to this Section.
 - A) Confirmation may be obtained either in writing or via electronic means addressed to the official records custodian designated by the school pursuant to Section 4(a) of the Illinois School Student Records Act [105 ILCS 10/4(a)].
 - B) The response shall indicate only whether or not the student is eligible and shall not indicate what grades a student received or whether the student received a waiver.
 - C) Failure of a school district or nonpublic school to respond to a request for eligibility verification within 15 calendar days shall be construed as a positive response and the student in question shall be considered eligible for driver education. The requesting school district or nonpublic school shall inform the sending district or nonpublic school, in writing, of the attempts made to verify eligibility and the lack of response. This notification shall indicate that, in the absence of a response, the student is considered to be eligible provided that a signed statement by the student's parent or guardian is on file. A copy of the notification shall be placed in the student's temporary record.
 - D) A student enrolled in a home school who wishes to enroll in a driver education course offered by a public school district or nonpublic school shall present, and each such entity shall accept as verification of the student's eligibility, a signed statement stipulating:
 - i) that the student is enrolled in a home school;

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- ii) that he or she is eligible pursuant to subsection (a) of this Section; and
- iii) that the signature presented is that of the individual who administers the school attended by the student.

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

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Child Care
- 2) Code Citation: 89 Ill. Adm. Code 50
- 3)

<u>Section Number:</u>	<u>Proposed Action:</u>
50.260	New Section
- 4) Statutory Authority: Implementing Articles I through IXA and authorized by Sections 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. I through IXA and 12-13]
- 5) A Complete Description of the Subjects and Issues involved: This rulemaking is being proposed to establish that the Department will be able to provide payments to maintain a child care arrangement, for a period not to exceed 90 days, to allow parents who have been participating in the child care assistance program and lose their jobs to look for a new job. To qualify, the parent shall report a loss of employment within ten days of the date of the loss without exception. Families are eligible to receive child care assistance under these provisions one time in any 12-month period. Payments shall not be approved if the child does not attend care.
- 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? Yes

<u>Section Numbers:</u>	<u>Proposed Action:</u>	<u>Illinois Register Citation:</u>
50.230	Amendment	33 Ill. Reg. 7258; June 5, 2009
50.320	Amendment	33 Ill. Reg. 7258; June 5, 2009
- 11) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State mandate.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning these rules

DEPARTMENT OF HUMAN SERVICES

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within 45 days after the date of this issue of the *Illinois Register*. All requests and comments should be submitted in writing to:

Tracie Drew, Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
Harris Building, 3rd Floor
Springfield, Illinois 62762

217/785-9772

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory agenda on which this rulemaking was summarized: July 2009

The full text of the Proposed Amendment is identical to that of the Emergency for this rulemaking, and begins in this issue of the *Illinois Register* on page 16517:

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Authorizations
- 2) Code Citation: 89 Ill. Adm. Code 520
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
520.20	Amendment
520.30	Amendment
520.100	Amendment
- 4) Statutory Authority: Implementing Section 3(k) of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3(k)]
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking pertains to authorizations in the Division of Rehabilitation Services. The language is being amended to state that prior to the purchase of any service on the customer's Individualized Plan for Employment or Service Plan, a written authorization must be made to the vendor. If the written authorization would unreasonably delay services to the customer, a verbal authorization to the vendor may be made, with a written authorization immediately following. Other amendments include adding language regarding customer financial participation and customer informed choice, which may result in additional cost to the customer.
- 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 amendments pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State mandate.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning these rules

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

within 45 days of the date of this issue of the *Illinois Register*. All requests and comments should be submitted in writing to:

Tracie Drew, Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
Harris Building, 3rd Floor
Springfield, Illinois 62762

217/785-9772

- 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: State of Illinois fiscal procedures for authorizing the purchase of services
 - C) Types of professional skills necessary for compliance: VR counselors must have a Master's Degree
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2008

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

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER a: GENERAL PROGRAM PROVISIONSPART 520
AUTHORIZATIONS

Section

520.10	Timing of the Authorization
520.20	Issuance of Authorizations
520.30	Standards for the Issuance of Authorizations
520.100	Authorization for Purchased Services

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

SOURCE: Adopted at 8 Ill. Reg. 9104, effective June 15, 1984; amended at 13 Ill. Reg. 5149, effective March 31, 1989; recodified from the Department of Rehabilitation Services to the Department of Human Services at 21 Ill. Reg. 9325; amended at 25 Ill. Reg. 8758, effective July 2, 2001; amended at 34 Ill. Reg. _____, effective _____.

Section 520.20 Issuance of Authorizations

Prior to the purchase of any service on the customer's Individualized Plan for Employment (IPE) (89 Ill. Adm. Code 572) or Service Plan (89 Ill. Adm. Code 684), a written authorization must be made to the vendor. If the written authorization would unreasonably delay services to the customer, a verbal authorization to the vendor may be made, with a written authorization immediately following. ~~Written authorizations must be made prior to the purchase of services. However, oral authorizations shall be made prior to or simultaneously with the provision of services when a service has not been anticipated and included in the customer's Individualized Plan for Employment (IPE) (89 Ill. Adm. Code 572) or Service Plan (89 Ill. Adm. Code 684). The oral authorization must be followed by a written authorization to the vendor.~~

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

Section 520.30 Standards for the Issuance of Authorizations

In order for an authorization to be issued, the services must:

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- a) be essential to obtaining necessary diagnostic information, determining eligibility, or achieving the objectives listed in the IPE or Service Plan;
- 1) ~~the determination of eligibility (89 Ill. Adm. Code 553); or~~
 - 2) ~~the achievement of the objectives listed in the IPE or Service Plan by meeting one of the following:~~
 - A) ~~Prior Commitment: there was prior discussion and written or oral commitment by the counselor to the provider or to the customer, or both, to provide the service; or~~
 - B) ~~Supportive Service: the service is directly related to, and an integral part of, a service previously authorized and the supportive service is included in the customer's IPE or Service Plan (e.g., lab test or x-ray with an authorized exam, anesthesia for authorized surgery, books or supplies for authorized training); and~~
- b) when so required, be from a qualified vendor as specified in 89 Ill. Adm. Code: Chapter IV, Subchapter b (Vocational Rehabilitation) and Subchapter d (Home Services Program); ~~and~~
- c) be consistent with the Department of Human Services' (DHS) set rate of payments, exceptions being:
- 1) Services that are available from only one service provider;
 - 2) Services for vocational rehabilitation customers that are above set rates but still less expensive than the purchase of the same service at the set rate because of the need for support services, i.e., increased costs (89 Ill. Adm. Code 590.650) and transportation (89 Ill. Adm. Code 590.600); and
 - 3) Services for which set rates have not been established. In these cases, services will be authorized based upon best value, by comparative analysis of cost and quality of similar services.
 - 4) ~~extraordinary medical procedures or prescriptions requiring highly complex or skilled services for which established rates have not been set~~

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~~(these exceptions must be approved by a DHS' medical consultant);~~

- ~~2) services which are available from only one service provider or services which are above set rates but still less expensive than the purchase of the same service at the set rate because of the need for support services, i.e., maintenance (89 Ill. Adm. Code 590.650) and transportation (89 Ill. Adm. Code 590.600);~~
- ~~3) services for which set rates have not been established. In these cases, services will be authorized based upon best value, by comparative analysis of cost and quality of similar services.~~

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

Section 520.100 Authorization for Purchased Services

- a) In authorizing purchased services, it should be remembered that under Section 50-13 of the Illinois Procurement Code [30 ILCS 500/50-13] DHS cannot pay for services from some State employees, even if provided on their own time, without the granting of an exemption. If a proposed authorization is with a State employee, the DHS-~~DRSORS~~ supervisor shall submit the proposed authorization to the Department of Central Management Services (CMS) for review in compliance with Subpart P of 44 Ill. Adm. Code 1 (Standard Procedures – Ethics).
- b) Unless specified in subsection (c), amounts~~Amounts~~ authorized for purchased services shall constitute total charges and payment in full for those services. For vocational rehabilitation customers, such amounts shall be less comparable benefits (89 Ill. Adm. Code 567). Providers shall not charge ~~customers~~clients with fees or portions of fees for services authorized by DHS-DRS.
- c) Customer financial participation (89 Ill. Adm. Code 562.40) and customer informed choice (89 Ill. Adm. Code 557.20) may result in additional cost to the vocational rehabilitation customer.

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

DEPARTMENT OF LABOR

NOTICE OF PROPOSED RULES

- 1) Heading of the Part: State Construction Minority and Female Building Trades Act
- 2) Code Citation: 56 Ill. Adm. Code 270
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
270.100	New Section
270.110	New Section
270.200	New Section
- 4) Statutory Authority: The FY2010 Budget Implementation (Capital) Act [30 ILCS 577/Art. 35]
- 5) A Complete Description of the Subjects and Issues Involved: This proposed rulemaking implements provisions of Public Act 96-37, which creates the State Construction Minority and Female Building Trades Act (Act). The intent and purpose of the Act is to compile and provide information concerning the race, gender, ethnicity and national origin of individuals participating in construction apprenticeship programs throughout the State. The Act sets forth reporting requirements for construction apprenticeship programs. Section 35-10 of the Act gives the Department the authority to promulgate rules necessary to provide procedures for submission of apprenticeship reports.
- 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 proposed rulemaking does not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking:

DEPARTMENT OF LABOR

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Sara Scherer
Illinois Department of Labor
1 W. Old State Capitol Plaza, 3rd Floor
Springfield, Illinois 62701

217/558-1270
217/782-0596 (fax)

- 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: All labor organizations and other entities in Illinois that have construction apprenticeship programs are required to submit to the Department an annual report detailing the race, gender, ethnicity and national origin of all apprentices in their program.
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent agendas because: the State Construction Minority and Female Building Trades Act was created by Public Act 96-37 that became law on July 13, 2009. Therefore, the Department was unable to foresee the need for this rulemaking.

The full text of the Proposed Rules are identical to that of the Emergency Rules and can be found in this issue of the *Illinois Register* on page 16522:

DEPARTMENT OF LABOR

NOTICE OF PROPOSED RULES

- 1) Heading of the Part: Use of Illinois Resident Labor
- 2) Code Citation: 56 Ill. Adm. Code 330
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
330.100	New Section
330.110	New Section
330.120	New Section
330.200	New Section
- 4) Statutory Authority: Implementing and authorized by Sections 605-390, 805-350, 1905-12 and 2705-260 of the Civil Administrative Code; Section 10.17 of the Capital Development Board Act; and Section 4(z) of the Environmental Protection Act [20 ILCS 605/605-390, 805/805-350, 1905/1905-12 and 2705/2705-260; 20 ILCS 3105/10.17; and 415 ILCS 5/4(z)]
- 5) A Complete Description of the Subjects and Issues Involved: This proposed rulemaking implements provisions of Public Act 96-37 that require Illinois residents to perform at least 50% of the labor hours for State construction projects funded in whole or in part by capital bills enacted by the 96th General Assembly. Article 80 of the Act gives the Department the authority to promulgate rules necessary to provide for the enforcement of this requirement.
- 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 amendments pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This proposed rulemaking does not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].

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

Sara Scherer
Illinois Department of Labor
1 W. Old State Capitol Plaza, 3rd Floor
Springfield, Illinois 62701

217/558-1270
217/782-0596 (fax)

- 13) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: None
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None

- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because: the requirements for the use of Illinois resident labor in this rulemaking were created by Public Act 96-37, which became law on July 13, 2009. Therefore, the Department was unable to foresee the need for this rulemaking.

The full text of the Proposed Rules are identical to that of the Emergency Rules and can be found in this issue of the *Illinois Register* on page 16527:

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Commercial Fishing and Musseling in Certain Waters of the State
- 2) Code Citation: 17 Ill. Adm. Code 830
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
830.10	Amendment
830.13	Amendment
830.30	Amendment
830.40	Amendment
830.60	Amendment
830.70	Amendment
830.90	Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 1-60, 1-65, 1-120, 10-120, 15-35, 15-40, 20-35, and 25-5 of the Fish and Aquatic Life Code [515 ILCS 5/1-60, 1-65, 1-120, 10-120, 15-35, 15-40, 20-35, and 25-5]
- 5) A Complete Description of the Subjects and Issues Involved: This Part is being amended to make the rule consistent with the rules established by the State of Kentucky and is intended to will reduce confusion and improve compliance by establishing the areas of the Ohio River that are open to commercial fishing, adopt a restricted area, establish harvest seasons for the commercial harvest of shovelnose sturgeon and paddlefish and adopt season dates consistent with Kentucky's. Amendments are also being made to: require that commercial roe harvesters register their crews with DNR, establish the number of commercial roe harvest permits issued for each body of water open to commercial roe harvest and establish protocol for issuing the limited number of available permits; amend the times that nets must be attended when operating and taking or possessing roe-bearing species; modify gill net mesh sizes to be consistent with Kentucky's requirements; add dates when a roe harvester permit is required to take bowfin; establish length limits for paddlefish; and add language regarding the information required on catch reports submitted to the Department and add the penalty for non-compliance.
- 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

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- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed rulemaking may be submitted in writing for a period of 45 days following publication of this Notice to:

Stanley Yonkauski, Legal Counsel
Department of Natural Resources
One Natural Resources Way
Springfield IL 62702-1271

217/782-1809

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: Persons issued licenses by the Department for commercial harvest of fish and mussels.
- B) Reporting, bookkeeping or other procedures required for compliance:
- Commercial fishermen shall submit to the Department by January 31 of the following year, an accurate annual record of the undressed weights of the species of fish and/or crayfish harvested to the Department by January 31 of the following year, whether or not any fish and/or crayfish were harvested. They shall also keep an accurate record of their catch, including species, number of pounds of fish, type of device used, location taken and date of harvest. This information shall be open for inspection and must be retained for a period of two years.
- Commercial fishermen on the Ohio River shall submit to the Department an accurate monthly record of the undressed weights and species of fish harvested by the 10th of each month following harvest, whether or not any fish are harvested.

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Commercial roe harvesters shall submit to the Department by the 5th of the month following harvest, an accurate monthly record of the undressed weight of roe-bearing species, and the unprocessed weight of roe from these fishes to the Department by the 5th of the month following harvest. Submission of these reports is required whether or not roe-bearing species were harvested.

Commercial roe dealers shall submit to the Department by the 5th of the month following the harvest of these fishes, an accurate monthly record of the unprocessed and processed weight of roe purchased from commercial roe harvesters to the Department by the 5th of the month following the harvest of these fishes. These reports are required whether or not roe was purchased.

Holders of a commercial mussel harvest license shall submit an accurate record of the types and pounds of each species of mussel and/or relic mussel shells harvested or purchased on a monthly basis during the season by the 10th of each month following harvest, whether or not any mussels or mussel shells were harvested. Reports must be submitted on official Department of Natural Resources report forms.

Holders of a commercial mussel dealer's license shall submit an accurate record of the types and pounds of each species of mussel and/or relic mussel shells purchased on a monthly basis during the season by the 10th of each month following purchase, whether or not any mussels or mussel shells were purchased. Reports must be submitted on official Department of Natural Resources report forms.

C) Types of professional skills necessary for compliance: None

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

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

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

TITLE 17: CONSERVATION
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES
SUBCHAPTER b: FISH AND WILDLIFE

PART 830

COMMERCIAL FISHING AND MUSSELING IN CERTAIN WATERS OF THE STATE

Section

830.5	Definitions
830.10	Waters Open to Commercial Harvest of Fish
830.13	Special Regulations for the Commercial Harvest of Roe-Bearing Species
830.15	Waters Open to Commercial Harvest of Crayfish
830.20	Waters Open to Commercial Harvest of Mussels and Seasons
830.30	Special Regulations
830.40	Devices
830.50	Permission
830.60	Species
830.70	Size Limit
830.80	Commercial Fishing and Musseling in Additional Waters
830.90	Revocation and Suspension of Commercial Fishing and Musseling Privileges, Hearings and Appeals and Reporting Requirements

AUTHORITY: Implementing and authorized by Sections 1-60, 1-65, 1-120, 10-120, 15-35, 15-40, 20-35, and 25-5 of the Fish and Aquatic Life Code [515 ILCS 5/1-60, 1-65, 1-120, 10-120, 15-35, 15-40, 20-35, and 25-5].

SOURCE: Adopted at 5 Ill. Reg. 6809, effective June 16, 1981; codified at 5 Ill. Reg. 10648; emergency amendment at 6 Ill. Reg. 6468, effective May 18, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 10680, effective August 20, 1982; amended at 7 Ill. Reg. 2707, effective March 2, 1983; amended at 10 Ill. Reg. 6926, effective April 15, 1986; amended at 11 Ill. Reg. 9513, effective May 5, 1987; amended at 12 Ill. Reg. 11714, effective June 30, 1988; amended at 15 Ill. Reg. 8544, effective May 24, 1991; amended at 16 Ill. Reg. 5257, effective March 20, 1992; amended at 17 Ill. Reg. 3177, effective March 2, 1993; emergency amendments at 18 Ill. Reg. 4671, effective March 14, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 9985, effective June 21, 1994; amended at 19 Ill. Reg. 5250, effective March 27, 1995; recodified by changing the agency name from Department of Conservation to Department of Natural Resources at 20 Ill. Reg. 9389; amended at 21 Ill. Reg. 4700, effective April 1, 1997; amended at 22 Ill. Reg. 6697, effective March 30, 1998; amended at 24 Ill. Reg. 4945, effective March 13,

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2000; amended at 29 Ill. Reg. 6277, effective April 25, 2005; amended at 31 Ill. Reg. 13187, effective August 30, 2007; amended at 34 Ill. Reg. _____, effective _____.

Section 830.10 Waters Open to Commercial Harvest of Fish

- a) Mississippi River and connected public (wholly accessible by boat) backwaters, including that portion of the Kaskaskia River below the navigation lock and dam, except: ~~Quincy Bay, Quincy Bay Waterfowl Management Area, Spring Lake in the Upper Mississippi River Wildlife and Fish Refuge and Mark Twain U.S. Fish and Wildlife Service National Wildlife Refuge Waters (except by special permit):~~
- 1) Quincy Bay, including Quincy Bay Waterfowl Management Area;
 - 2) Spring Lake in the Upper Mississippi River Wildlife and Fish Refuge; and
 - 3) Mark Twain U.S. Fish and Wildlife Service National Wildlife Refuge Waters (except by special permit).
- b) Illinois River and connected public (wholly accessible by boat) backwaters from Route 89 highway bridge downstream, except for:
- 1) U.S. Fish and Wildlife National Wildlife Refuge waters;
 - 2) Donnelly/Depue Fish and Wildlife Area;
 - 3) Rice Lake Complex, including all of Big Lake;
 - 4) Meredosia Lake in Cass and Morgan Counties during the central zone duck season; ~~and~~
 - 5) Clear Lake in Mason County 7 days prior to and during the central zone duck season; ~~and-~~
 - 6) Route 89 highway bridge to Starved Rock Dam for the commercial removal of Asian carp only by a limited number of restricted period contracts.
- c) Wabash River.

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- d) Embarras River, except from Route 130 in Coles County upstream to Route 16 including Lake Charleston.
- e) Sangamon River, downstream of Belt Route 48 southwest of Decatur to mouth in Cass County.
- f) Kaskaskia River south of Route U.S. 50 Bridge to mouth in Randolph County.
- g) Little Wabash River.
- h) Big Muddy River south of State Route 14 highway bridge in Franklin County to mouth in Jackson County.
- i) Skillet Fork.
- j) Cache River from Route 51 downstream to the Mississippi River via Cache Diversion Channel but not including that portion of the Cache River between the Cache Diversion Channel Levee and the Ohio River.
- k) Saline River in Gallatin and Saline Counties.
- l) Ohio River, except for:-
 - 1) Lock and Dam 52 downstream to a line perpendicular with the end of the longest lock wall, including the circular cell portion;
 - 2) Lock and Dam 53 downstream to a line perpendicular with the end of the longest lock wall, including the circular cell portion;
 - 3) Smithland Dam downstream to a line perpendicular to the end of the outer lock wall; and
 - 4) Within 50 yards of the mouth of any tributary or stream.

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

Section 830.13 Special Regulations for the Commercial Harvest of Roe-Bearing Species

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- a) Shovelnose sturgeon may not be commercially harvested except in the Mississippi River (excluding the area from Lock and Dam 19 to the State Highway 9 Bridge in Niota), the Ohio River or the Wabash River. Shovelnose sturgeon may only be commercially harvested from October 1 through May 31 from the Mississippi and Wabash River and from October 15 through May 15 from the Ohio River inclusive.
- b) Paddlefish may not be commercially harvested except in the Ohio River, the Illinois River below Route 89, and the Mississippi River below Lock and Dam 19. Paddlefish may only be commercially harvested from October 1 through May 31 from the Mississippi and Illinois Rivers. Paddlefish may only be commercially harvested from November 1 through April 30 from the Ohio River.
- c) Shovelnose sturgeon X pallid sturgeon hybrids may not be commercially harvested from the Mississippi River downstream of Lock and Dam 26. Pallid sturgeon are federally and State listed endangered fish species that cannot be taken and must be immediately released unharmed back to the water. Any sturgeon belonging to the genus *Scaphirhynchus* that contains ~~any~~ one of the ~~two~~^{three} morphological characteristics listed below shall be considered shovelnose sturgeon X pallid sturgeon hybrid or a pallid sturgeon and cannot be taken and must be immediately released unharmed back to the water:
- 1) belly completely lacking in scales; or
 - 2) bases (point of insertion) of outer barbels located greater than 2 mm (width of outer barbels) distanceslightly farther behind (posterior) the bases of inner ~~barbels~~^{barbells} (point of insertion).~~;~~~~or~~
 - ~~3) length of inner barbels going at least 6.3 times into length of head.~~
- d) All commercial roe harvesters engaged in harvesting of roe-bearing species, including shovelnose sturgeon, paddlefish and bowfin, shall:
- 1) leave the roe of harvested shovelnose sturgeon, paddlefish and bowfin whole, intact and inside the body cavity of the fish while on the water or adjacent bank. However, the intact ovaries of paddlefish harvested from the Mississippi or Illinois Rivers may be removed while on the water with the carcasses of the fish the ovary is harvested from being retained for identification purposes;

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- 2) after complete retrieval of fishing tackle, commercial fishermen shall immediately remove all aquatic species that are not in compliance with size limits or are illegal species to take or possess and immediately return them without unnecessary injury to the waters from which taken, unless it is unsafe to remove fish where the net was pulled. In such case, fishermen shall immediately move to a shore area no more than ¼ mile from the location where the net was set, and then remove fish not legal for commercial fishermen to take. "Complete retrieval" means as soon as an individual piece of fishing tackle has been retrieved in whole to the fisherman's boat;-
 - 3) Not kill roe-bearing species to check for eggs. Commercial roe harvesters may use a 10 or 12 gauge needle to examine roe-bearing species for the presence of eggs.
- e) Commercial Roe Permit
- 1) Commercial Roe Harvest Permits shall be valid only on the water specified on the permit: the Mississippi River, the Illinois River, the Ohio River or the Wabash River. The Mississippi River will be further divided into two zones, from Lock and Dam 26 upstream to the Wisconsin border (Northern Zone) and from Lock and Dam 26 downstream to the mouth of the Ohio River (Southern Zone).
 - A) Commercial fisherman who harvest shovelnose sturgeon under a Mississippi River, Southern Zone, commercial roe harvest permit will also be required to become certified by the Illinois Department of Natural Resources in their ability to discern between lake, shovelnose and pallid sturgeon.
 - B) Resident commercial fisherman will be allowed to procure permits for additional water bodies at no further charge, once their initial commercial roe harvest permit has been issued, based on availability.
 - 2) Commercial Roe Harvest Permit holders shall provide an up-to-date listing of all helpers to IDNR on a form provided by IDNR (at the beginning of the commercial season prior to initiation of fishing activities

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and immediately during the commercial fishing season for any helper changes prior to initiation of fishing activities). An up-to-date helper list must be on file with IDNR prior to the initiation of fishing activities. A helper is defined as anyone aboard the boat of a commercial roe harvester.

3)2) ~~The~~ IDNR shall have the authority to restrict the number of permits issued for each body of water in order to establish a limited entry fishery to maintain a sustainable fishery for all caviar-bearing species based on the following criteria:

- A) The best biological information available pertaining to maintaining a sustainable level of harvest for target fish species based on the size, structure and abundance of each population of roe-bearing species.
- B) A determination of the potential impact of commercial fishing activities on other water-based recreational activities.
- C) Harvest Pressure. No more than the following number of permits, unless specifically authorized by IDNR by water area and type, may be issued in each commercial fishing season: Mississippi North – 30 paddlefish, sturgeon and bowfin permits; Mississippi South – 20 paddlefish and bowfin only permits and 10 sturgeon, paddlefish and bowfin permits; Ohio River – 10 paddlefish, sturgeon and bowfin permits; Wabash River – 25 sturgeon and bowfin only permits.

4)3) Application for permit (under a limited entry fishery)

- A) Illinois resident commercial fishermen may apply for a commercial roe harvest permit in June of each year. Applicants must have been issued a permit in at least one of the previous two years in order to be eligible to be issued one of the available permits. A second drawing for Illinois residents desiring a second permit will be held in July for any remaining unallocated permits and successful applicants will be issued a permit.
- B) Non-residents and Illinois residents who did not obtain a permit in the July drawing, or who desire permits for additional water

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bodies, may apply for a Commercial Roe Harvest Permit from the first business day in August until August 15. Applicants must have been issued a permit in at least one of the previous 2 years in order to be eligible to be issued one of the available permits. A second drawing will be held August 31, and successful applicants will be issued a permit.

- ~~5)4~~ Any commercial fisherman who is ~~found guilty~~convicted of taking any of the species listed in 17 Ill. Adm. Code 1010.30(a) or (b) shall be ineligible to obtain a Commercial Roe Harvest Permit for a period of 36 months from the date the commercial fisherman is found guilty~~of conviction~~.

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

Section 830.30 Special Regulations

- a) Commercial fishing and musseling will not be permitted in any streams, ditches, or tributaries connected to the backwaters of the waters listed in Section 830.10, 830.15 or 830.20.
- b) Any person harvesting mussels for commercial use may possess during the open season only those mussels identified in Section 830.60 of legal size as established by Section 830.70. Mussels smaller than the legal size and all mussels not identified in Section 830.60 must be immediately returned to the mussel bed or location from which they were taken.
- c) It shall be illegal to possess mussel shell more than 15 days after the close of the season without a mussel dealer license.
- d) Paddlefish may not be commercially harvested except in the Ohio River, the Illinois River below Route 89, and in the Mississippi River below Lock and Dam 19.
- e) Commercial fishing devices must be checked and emptied of catch at the following time intervals:
 - 1) Hoop nets and basket traps must be attended at least once every 72 hours during open water conditions. During ice cover conditions, hoop nets and basket traps must be attended at least once every 20 days.

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- 2) Trammel and gill nets must be attended at least every 24 hours during open water conditions, except when operating under a Commercial Roe Harvester Permit. When operating and taking or possessing roe-bearing species, nets must be attended from ~~109~~ a.m. to 4 p.m. CST and from ~~1140~~ a.m. to 5 p.m. DST. During ice cover conditions, trammel and gill nets must be attended at least every 96 hours.
- 3) Trotlines and other hook and line devices must be checked at least every 24 hours.
- 4) Seines and trammel or gill nets fished by driving or drifting methods must be constantly attended.
- 5) Commercial gear containing dead or moribund fish as a result of failure to check gear and empty catch shall be considered an illegal device.
- f) Washboard mussels may not be taken on the Mississippi River.
- g) Crayfish may be taken by licensed commercial fishermen with legal seine only on waters open to the commercial harvest of crayfish. Nothing in this Part shall prohibit a licensed commercial fisherman from using as bait legal species of crayfish taken and used by a commercial fisherman on those bodies of water open to the commercial harvest of crayfish.
- h) In accordance with Section 830.60(b), crayfish may be possessed and used as bait by licensed commercial fishermen while operating commercial gear on other bodies.

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

Section 830.40 Devices

- a) Commercial Fishing
 - 1) Devices used in the waters listed in Section 830.10 shall conform to all regulations as outlined in Article 15 of the Fish and Aquatic Life Code [515 ILCS 5/Art.15]. Hoop nets, basket traps, trot lines and dip nets may be used in all of the aforementioned waters.

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- 2) It shall be unlawful:
 - A) To use trammel nets and gill nets except in the Illinois River up to Route 89 Highway bridge, the Ohio River and the Mississippi River.
 - B) To use seines except in the Illinois, Mississippi, Ohio and Wabash Rivers (except seining will not be permitted in Boston Bay and its connected backwaters above the mouth of Boston Bay in Mercer County).
 - C) To use trammel nets or gill nets in the Ohio River with less than 4 inch bar mesh netting, except that, from May 1 through October 31, bar mesh size cannot be less than 4 inches or greater than 4.5 inches.
- b) Commercial Musseling
 - 1) Devices used in waters open to commercial musseling shall conform to all regulations as outlined in this subsection (b) and in Articles 1 and 15 of the Fish and Aquatic Life Code [515 ILCS 5/Arts. 1 and 15].
 - 2) It shall be unlawful:
 - A) To use hand forks.
 - B) To use basket dredges, mechanical devices and hand dredges in the taking of mussels.
 - C) To harvest mussels in the Ohio River except by using crowfoot bars.
 - D) To tether or hold mussels in any containment device. Mussels must be taken to the boat or released each day.
 - 3) Brail or crowfoot bars must be 20 feet or less in length. No more than 3 bars may be possessed in each boat.

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- c) Crayfish Harvest
Seines are the only commercial devices legal to use to commercially harvest crayfish in waters open to the commercial harvest of crayfish. They can be of any length, but not more than 6 feet in depth with a bag not more than 6 feet in height with a mesh no greater than ½ inch bar measurement.

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

Section 830.60 Species

- a) The following species of fish may be taken by licensed commercial fishermen:
- 1) Common Carp and Black Carp
 - 2) Buffalo
 - 3) Freshwater drum
 - 4) Catfishes (includes bullheads)
 - 5) Paddlefish (only in waters specified in Section 830.13); (roe harvester permit required)
 - 6) Carpsuckers
 - 7) Suckers (except Longnose Sucker)
 - 8) Redhorses (except River Redhorse and Greater Redhorse)
 - 9) Goldeye and Mooneye
 - 10) Gar (except alligator gar)
 - 11) Bowfin (~~roe only in waters specified in Section 830.13~~; roe harvester permit required from October 1 through May 31)
 - 12) American eel

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- 13) Shovelnose sturgeon (only in waters specified in Section 830.13) ~~;(roe harvester permit required)~~
- 14) Gizzard shad
- 15) White amur (grass carp)
- 16) Minnows
- 17) Goldfish
- 18) Bighead Carp and Silver Carp
- b) With the exception of the crayfish species listed in 17 Ill. Adm. Code 1010 (Illinois List of Endangered and Threatened Fauna) and the rusty crayfish, all crayfish species are legal to possess and may be taken by licensed commercial fishermen with legal commercial devices (seines only) and used, consumed or sold for bait.
- c) The following species of mussels may be taken by licensed commercial musselers:
- 1) Washboard (*Megalonaias nervosa*) (Ohio River Only)
 - 2) Threeridge (*Amblema plicata*)
 - 3) Mapleleaf (*Quadrula quadrula*)

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

Section 830.70 Size Limit

- a) No channel catfish, blue catfish, flathead catfish or white catfish under 15 inches in length, undressed, or 12 inches in length, dressed, or 10.7 inches when dressed with the first vertebrae (T bone) removed, may be taken except in the Ohio River.
- b) No shovelnose sturgeon under 24 inches or over 32 inches in length may be taken from the Mississippi River or the Ohio River. No shovelnose sturgeon under 25 inches in length may be taken from the Wabash River. All shovelnose sturgeon shall be measured using fork length, defined as: "the length from the most

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anterior part of the fish to the tip of the median caudal fin rays" (from tip of the snout to the fork of the tail).

- c) No paddlefish less than 28 inches in length may be taken from the Illinois or Mississippi Rivers, no paddlefish less than 32 inches may be taken from the Ohio River. All paddlefish shall be measured using the eye fork length, defined as "the length from the anterior edge of the eye to the fork of the tail" (from the front of the eye to the fork of the tail).
- d)e) There is no size limit on other species listed in Section 830.60(a).
- e)d) All washboard mussels shall measure not less than 4.0 inches. All relic (dead) Washboards shall measure not less than 4.0 inches.
- f)e) All mapleleaf mussels shall measure not less than 2.75 inches.
- g)f) All threeridge mussels shall measure not less than 3.0 inches.

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

Section 830.90 Revocation and Suspension of Commercial Fishing and Musseling Privileges, Hearings and Appeals and Reporting Requirements

- a) In accordance with Section 20-105 of the Fish and Aquatic Life Code [515 ILCS 5/20-105], failure to comply with the provisions of the Fish and Aquatic Life Code of Illinois pertaining to commercial fishing and/or musseling in Illinois waters and this Part will result in suspension or revocation of the commercial fishing and/or musseling licenses. The procedure by which suspensions and revocations are made, the rights of commercial fishermen and musselers to notice and hearing, and the procedures governing such hearings are set forth in 17 Ill. Adm. Code 2530 (Rules governing Department Formal Hearings Conducted for Rule-Making and Contested Cases).
- b) Where waters of the State are open to commercial fishing or musseling by contract, the contract will be revoked upon failure of the contractor to comply with all terms of the contract. Furthermore, any violation of a contract issued by the Director of the Department of Natural Resources or his agents shall be considered a violation of this Part and subject to the penalties as set forth in

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Sections 20-35 and 20-105 of the Fish and Aquatic Life Code [515 ILCS 5/20-35, 20-105].

- c) Commercial fishermen shall submit an accurate annual record of the undressed weights of the species of fish and/or crayfish harvested to the Department by January 31 of the following year, whether or not any fish and/or crayfish were harvested. Commercial fishermen shall keep an accurate record of their catch. This record, showing the species, number of pounds of fish, type of device used, location taken and date of harvest, shall be open for inspection by employees of the Department at all times and retained for a period of 2 years after submission of all associated reports.
- d) Commercial fishermen on the Ohio River shall submit to the Department an accurate monthly record of the undressed weights and species of fish harvested by the 10th of each month following harvest, whether or not any fish were harvested.
- e)d) Commercial roe harvesters shall submit an accurate monthly record containing the following information: the undressed weight of roe-bearing species, the unprocessed weight of roe from these fishes, and the name, address and date of sale to whom the roe was sold or given. This information shall be submitted to the Department by the 5th of the month following harvest. Submission of these reports is required whether or not roe-bearing species were harvested.
- f)e) Commercial roe dealers shall submit to the Department by the 5th of the month following harvest an accurate record containing the unprocessed and processed weights of roe purchased, the date of transaction and the name, address and license number of the commercial roe harvesters. These reports are required whether or not roe was purchased.
- g)f) Holders of a commercial mussel harvest license shall submit an accurate record of the types and pounds of each species of mussel and/or relic mussel shells harvested or purchased on a monthly basis during the season by the 10th of each month following harvest, whether or not any mussels or mussel shells were harvested. Reports must be submitted on official Department of Natural Resources report forms.
- h)g) Holders of a commercial mussel dealers license shall submit an accurate record of the types and pounds of each species of mussel and/or relic mussel shells purchased on a monthly basis during the season by the 10th of each month

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following purchase, whether or not any mussels or mussel shells were purchased. Reports must be submitted on official Department of Natural Resources report forms.

- i) Failure of licensed commercial mussel dealers, fishermen or musselers to submit the required reports in a manner and timeframe specified by the Department is a petty offense and shall be grounds for license suspension or revocation pursuant to 515 ILCS 5/20-35.

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

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- 1) Heading of the Part: Policy and Procedures Manual for Fire Protection Personnel
- 2) Code Citation: 41 Ill. Adm. Code 141
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
141.301	New
141.303	New
141.327	New
141.367	Amendment
141.369	New
141.370	Amendment
141.371	New
- 4) Statutory Authority: Sections 8 and 11 of the Illinois Fire Protection Training Act [50 ILCS 740/8 and 11] and the Peace Office Fire Investigation Act [20 ILCS 2910]
- 5) A Complete Description of Subjects and Issues Involved: This rulemaking provides for the inclusion of 2 new certifications for Basic and Advanced Technician Firefighter Certifications. The new certifications will replace the current Firefighter II and Firefighter III at the end of the 5 year phase in period. The amendments allow the rules to comply with the professional standards adopted by reference in these rules.
- 6) Published studies or reports, and sources of underlying data used to compose this rulemaking: The published studies and reports are contained in the Committee reports that support the NFPA Standards that are adopted herein for compliance with the professional Certifications.
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Do these proposed amendments contain incorporations by reference? Yes
- 10) Are there any other proposed amendments pending on this Part? No
- 11) Statement of Statewide Policy Objectives: These rules enable the firefighters in the state to accomplish the training and professional qualification to safely protect the lives and property of the citizens in their community.

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12) Time Place and Manner in which interested persons may comment on this proposal:

Mitzi Woodson, Director
Division of Personnel Standards and Education
Office of the State Fire Marshal
1035 Stevenson Dr.
Springfield, IL 62703-4259

Facsimile: 217/782-1062

13) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: Small businesses would not be effected and small municipalities and not for profit corporations would only be affected to the extent they voluntarily participate in the training program.
- B) Reporting, bookkeeping and other procedures required for compliance: To the extent that the fire departments provide training, records of the training and costs for providing the training must be maintained by the fire department for the duration of the firefighter's employment.
- C) Types of Professional Skills necessary for compliance: The professional skills required would be those contained in the standards and would be ensured through the training of the firefighters.

13) Regulatory Agenda on which this rulemaking was summarized: July 2008

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

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TITLE 41: FIRE PROTECTION
CHAPTER I: OFFICE OF THE STATE FIRE MARSHALPART 141
POLICY AND PROCEDURES MANUAL
FOR FIRE PROTECTION PERSONNEL

SUBPART A: GENERAL

Section	
141.10	Purpose
141.15	Definitions
141.20	Incorporations by Reference
141.30	Advisory Committees
141.40	Requirements for Participation in Training, Certification and Reimbursement
141.50	Appeal Process
141.60	Reciprocity

SUBPART B: TRAINING FACILITIES

Section	
141.100	Resources Required for Certification as a Provisionally Approved Training Facility
141.110	Resources Required for Certification as an Unlimited Training Facility or Regional Training Center
141.115	Course Approval
141.120	Course Approval Equivalency
141.125	Course Approval Standards

SUBPART C: EXAMINATION

Section	
141.200	State Examinations
141.210	Invalidation of a Student's State Examination Score
141.220	Certificates Earned by Bypass Examination
141.230	Examination Procedures for End-of-Course Examinations Not Administered by the Office
141.240	Bypass Examination

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SUBPART D: CERTIFICATION

Section	
141.300	Firefighter II
141.301	Basic Operations Firefighter
141.302	Airport Firefighter
141.303	Advanced Technician Firefighter
141.304	Firefighter III
141.306	Fire Apparatus Engineer
141.308	Fire Officer I
141.310	Fire Service Executive Support
141.312	Fire Department Incident Safety Officer
141.314	Fire Officer II
141.316	Fire Officer III
141.318	Fire Service Instructor I
141.320	Fire Service Instructor II
141.322	Fire Service Instructor III
141.324	Training Program Manager
141.326	Fire Prevention Officer
141.327	Fire Inspector I
141.328	Juvenile Firesetter Intervention Specialist
141.330	Public Fire and Life Safety Educator II
141.332	Public Fire and Life Safety Educator III
141.334	Fire Investigator
141.336	Arson Investigator
141.338	Fire Inspector II and Plan Examiner I
141.340	Fire Inspector III and Plan Examiner II
141.342	Hazardous Materials Awareness
141.344	Hazardous Materials First Responder – Operations
141.346	Hazardous Materials Technician
141.348	Hazardous Materials Incident Command
141.350	Technical Rescue Awareness
141.352	Rescue Specialist – Confined Space
141.354	Trench Operations
141.356	Trench Technician
141.358	Rescue Specialist – Vertical II
141.360	Structural Collapse Operations
141.362	Structural Collapse Technician
141.364	Vehicle and Machinery Operations

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141.366	Vehicle and Machinery Technician
141.367	Rope Operations
141.368	Motorsports Safety Technician
<u>141.369</u>	<u>High Angle Rope Operations</u>
141.370	Fire Service Vehicle Operator
<u>141.371</u>	<u>Rope Technician</u>
141.372	Water Operations
141.373	Ice Technician
141.374	Swiftwater Technician
141.375	Watercraft Technician
141.376	Dive Technician
141.377	Ice Dive Technician
141.380	Invalidation of Certification

SUBPART E: REIMBURSEMENT

Section	
141.400	Rules and Regulations for Reimbursement
141.405	Prerequisites for Participation for Reimbursement
141.410	Requirements
141.415	Claim Forms
141.420	Claim Deadline
141.425	Amount of Reimbursement
141.450	Appropriations
141.460	Advanced Training Programs

SUBPART F: FEES

Section	
141.500	Fees
141.505	Waiver of Fees

AUTHORITY: Implementing and authorized by Sections 8 and 11 of the Illinois Fire Protection Training Act [50 ILCS 740/8 and 11] and the Peace Officer Fire Investigation Act [20 ILCS 2910].

SOURCE: Adopted at 31 Ill. Reg. 8672, effective June 5, 2007; amended at 33 Ill. Reg. 5780, effective April 2, 2009; amended at 34 Ill. Reg. _____, effective _____.

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Section 141.301 Basic Operations Firefighter

An Illinois Basic Operations Firefighter program meets or exceeds the level identified in NFPA 1001. The term synonymous with Basic Operations Firefighter is Operative Firefighter and identifies the expected level of supervision. Individuals may certify as Firefighter II for 5 years, at which time the certification will no longer be offered and the individuals will be required to successfully complete the additional course work if they desire to qualify for certification as a Basic Operations Firefighter.

- a) Prerequisites
 - 1) Successful completion of the Basic Operations Firefighter course.
 - 2) Successful completion of a minimum of 180 instructional hours.
 - 3) Passage of the State written examination (see Section 141.200).
 - 4) Passage of the State practical skills examinations (see Section 141.200).
 - 5) Engagement in fire fighting in an organized Illinois fire department as a fire protection person according to the Act, as attested to by the employing Fire Chief of the individual seeking certification.
 - 6) Completion of the classroom portion for Vehicle Operator certification.
 - 7) Certification requirements completed for Hazardous Materials First Responder – Operations.
 - 8) Certification requirements completed for Technical Rescue Awareness.
 - 9) Required CPR/Basic First Aid. Training documentation shall be kept in fire department training files.
 - 10) Required NIMS 100 and 700. Training documentation shall be kept in fire department training files.
- b) Fire department or individual reimbursement may be available for training costs for Basic Operations Firefighter (see Subpart E).

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- c) The Fire Service Instructor must meet the requirements of Section 141.115(c).
- d) The course and facility must be approved by OSFM as provided in Sections 141.110 and 141.115.
- e) Credit for equivalent courses may be available in accordance with Section 141.120.
- f) Modular Training
Basic Operations Firefighter training can be taken in a series of modules or as a complete course. The State written examination (see Section 141.200) can be taken by module or by taking the complete examination. When an individual takes the examination by modules, the passed modules will be kept on file until all modules are passed. If an individual is training by module, and then enters a training facility or a college program that instructs through the complete program mode, any previously passed modules cannot be used to exempt any portion of the examination; the complete examination must be taken. If an individual fails the complete examination, he or she may elect to then test using the modular system. When an individual elects to be trained using the modular system, he or she may select the order of any module and its examination. (See Section 141.200.)

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

Section 141.303 Advanced Technician Firefighter

An Illinois Advanced Technician Firefighter program shall meet or exceed the level identified in NFPA 1001. The term synonymous with Advanced Technician Firefighter is Journeyman Firefighter. The term identifies the expected level of supervision. Individuals may certify as Firefighter III for 5 years, at which time the certification will no longer be offered and the individuals will be required to successfully complete the additional course work if they desire to qualify for certification as an Advanced Technical Firefighter.

- a) Prerequisites
 - 1) Certification as a Firefighter II or Basic Operations Firefighter (see Sections 141.300 and 141.301).
 - 2) Successful completion of the Advanced Technician Firefighter course.

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- 3) There shall be a minimum of 40 Instructional hours to safely and successfully complete the Advanced Technician Firefighter course (see Section 141.303).
 - 4) Passage of the State written examination (see Section 141.200).
 - 5) Passage of the State practical skills examinations (see Sections 141.200).
 - 6) Engagement in fire fighting in an organized Illinois fire department as a fire protection person according to the Act, as attested to by the employing Fire Chief of the individual seeking certification.
 - 7) Attainment of 3 years fire service experience beginning from the Basic Operations Firefighter/Firefighter II certification date.
 - 8) Fire Service Vehicle Operator certification.
 - 9) Vehicle and Machinery Operations certification.
 - 10) Required NIMS 200. Training documentation shall be kept in fire department training files.
- b) Fire department or individual reimbursement may be received for training costs for Advanced Technician Firefighter (see Subpart E).
 - c) The Fire Service Instructor must meet the requirements of Section 141.115(c).
 - d) The course and facility must be approved by OSFM as provided in Sections 141.110 and 141.115.
 - e) Credit for equivalent courses may be available in accordance with Section 141.120.
 - f) Modular Training
Advanced Technician Firefighter training can be taken in a series of modules or as a complete course. The State written examination (see Section 141.200) can be taken by module or by taking the complete examination. When an individual takes the examination by modules, the passed modules will be kept on file until all modules are passed. If an individual is training by module, and then enters a

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training facility or a college program that instructs through the complete program mode, any previously passed modules cannot be used to exempt any portion of the examination; the complete examination must be taken. If an individual fails the complete examination, he or she may elect to then test using the modular system. When an individual elects to be trained using the modular system, he or she may select the order of any module and its examination. (See Section 141.200.)

- g) Refresher Training
The Advanced Technician Firefighter is considered by OSFM to be the senior technical level in the fire suppression career ladder and, therefore, is not required to progress to another level in order to maintain certification. In order to insure that Advanced Technician personnel maintain their proficiency, they are encouraged to keep abreast of the state of the art by participating in refresher training reflecting applicable objectives.

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

Section 141.327 Fire Inspector I

The Fire Inspector I certification is designed to give a person serving in a fire department or allied agency whose primary duties are inspections of a variety of structures, and reporting inspection results of fire safety conditions, the basic knowledge and skills to safely perform his or her duties as defined by NFPA 1031 and 1035.

- a) Prerequisites
- 1) Successful course completion of Fire Prevention Principles.
 - 2) Attainment of a minimum of one year experience in fire prevention.
 - 3) Successful completion of a minimum of 40 instructional hours.
 - 4) Passage of the State written examination (see Section 141.200).
 - 5) Passage of the State practical skills examination (see Sections 141.200 and 141.300(g)).
- b) Fire department or individual reimbursement may be received for training costs for an Fire Inspector I (see Subpart E).

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- c) Special Instructor Requirements
- 1) Instructor of Record shall be certified as a Fire Service Instructor II (see Section 141.320) and Fire Prevention Officer (see Section 141.326).
 - 2) All other instructors on site shall be a minimum of a Fire Service Instructor I (see Section 141.318) and certified as Fire Inspector I (see Section 141.327).
- d) The course and facility must be approved by OSFM as provided in Sections 141.110 and 141.115.
- e) Credit for equivalent courses may be available in accordance with Section 141.120.

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

Section 141.367 Rope Operations

The Rope Operations certification is designed to give fire service personnel the basic knowledge and skills to safely perform rope rescues as defined by NFPA 1670.

- a) Prerequisites
- 1) Certification in Rescue Specialist/Confined Space/Trench Awareness or Technical Rescue Awareness (see Section 141.350).
 - 2) Successful completion of the Rope Operations course. Prerequisite for taking the Rope Operations course is successful completion of the Rescue Specialist/Confined Space/Trench Awareness or Technical Rescue Awareness course (see Section 141.350).
 - 3) Successful completion of a minimum of 40 instructional hours.
 - 43) Passage of the State written examination (see Section 141.200).
 - 54) Passage of the State practical skills examinations (see Sections 141.200 and 141.300(g)).

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- ~~65~~) Engagement in fire fighting in an organized Illinois fire department as a fire protection person according to the Act, as attested to by the employing Fire Chief of the individual seeking certification.
- b) Fire Department or individual reimbursement may be received for training costs for Rope Operations (see Subpart E).
- c) Special Instructor Requirements
- 1) Instructor of Record shall be certified as a Fire Service Instructor II (see Section 141.320) and Rope Operations.
 - 2) There shall be a minimum of two instructors per course, one of whom is an Instructor of Record. There shall be at least one instructor for each eight students.
 - 3) All other instructors on site shall be a minimum of a Fire Service Instructor II (see Section 141.318) and certified as Rope Operations.
- d) The course and facility must be approved by the Office as provided in Sections 141.110 and 141.115.
- e) Credit for equivalent courses may be available in accordance with Section 141.120.

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

Section 141.369 High Angle Rope Operations

The High Angle Rope Operations certification is designed to give fire service personnel the basic knowledge and skills to safely perform rope rescues as defined by NFPA 1670.

- a) Prerequisites
- 1) Successful completion of the High Angle Rope Operations course. Prerequisite for taking the High Angle Rope Operations course is successful completion of the Rope Operations course (see Section 141.367).

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- 2) Successful completion of a minimum of 40 instructional hours.
 - 3) Passage of the State written examination (see Section 141.200).
 - 4) Passage of the State practical skills examinations (see Sections 141.200 and 141.300(g)).
 - 5) Engagement in fire fighting in an organized Illinois fire department as a fire protection person according to the Act, as attested to by the employing Fire Chief of the individual seeking certification.
- b) Fire department or individual reimbursement may be received for training costs for High Angle Rope Operations (see Subpart E).
- c) Special Instructor Requirements
- 1) Instructor of Record shall be certified as a Fire Service Instructor II (see Section 141.320) and High Angle Rope Operations or Rescue Specialist-Vertical II/High Angle (see Section 141.358).
 - 2) There shall be a minimum of 2 instructors per course, one of whom is an Instructor of Record. There shall be at least one instructor for each 6 students.
 - 3) All other instructors on site shall be a minimum of a Fire Service Instructor I (see Section 141.318) and certified as High Angle Rope Operations or Rescue Specialist-Vertical II/High Angle (see Section 141.358).
- d) The course and facility must be approved by OSFM as provided in Sections 141.110 and 141.115.
- e) Credit for equivalent courses may be available in accordance with Section 141.120.

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

Section 141.370 Fire Service Vehicle Operator

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Fire Service Vehicle Operator is designed to give fire service personnel the basic knowledge and skills to safely perform fire service vehicle operations as defined by NFPA 1451.

a) Prerequisites

- 1) Certification as Firefighter II (see Section 141.300) for full certification. If individual is not certified as a Firefighter II, a provisional certification will be awarded until Firefighter II certification is achieved.
- 2) Successful completion of Fire Service Vehicle Operator course.
- 3) Successful completion of a minimum of 12 instructional hours.
- 43) Passage of the State written examination (see Sections 141.200).
- 54) Passage of the State practical skills examinations (see Sections 141.200 and 141.300(g)).
- 65) Completion of an additional 8 hours of documented driving of the vehicles in use by the employing authority having jurisdiction.
- 76) Engagement in firefighting in an organized Illinois fire department as a fire protection person according to the Act, as attested to by the employing Fire Chief of the individual seeking certification.

b) Fire department or individual reimbursement may be received for training costs for Fire Service Vehicle Operator (see Subpart E).c) Special Instructor Requirements

- 1) Instructor of Record shall be certified as a Fire Service Instructor I (see Section 141.318) and Fire Service Vehicle Operator.
- 2) There shall be a minimum of 2 instructors per course, one of whom is an Instructor of Record.

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- 3) All other instructors on site shall be a minimum of a Fire Service Vehicle Operator. An instructor of a Fire Service Vehicle course must meet the requirements of Section 141.115(e).
- d) The course and facility must be approved by OSFM as provided in Sections 141.110 and 141.115.
- e) Credit for equivalent courses may be available in accordance with Section 141.120.

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

Section 141.371 Rope Technician

The Rope Technician certification is designed to give fire service personnel the basic knowledge and skills to safely perform rope rescues as defined by NFPA 1670.

- a) Prerequisites
- 1) Successful completion of the Rope Technician course. Prerequisite for taking the Rope Technician course is successful completion of the High Angle Rope Operations course (see Section 141.369) or Rescue Specialist-Vertical II/High Angle (see Section 141.358).
 - 2) Successful completion of a minimum of 40 instructional hours.
 - 3) Passage of the State written examination (see Section 141.200).
 - 4) Passage of the State practical skills examinations (see Sections 141.200 and 141.300(g)).
 - 5) Engagement in fire fighting in an organized Illinois fire department as a fire protection person according to the Act, as attested to by the employing Fire Chief of the individual seeking certification.
- b) Fire department or individual reimbursement may be received for training costs for Rope Technician (see Subpart E).
- c) Special Instructor Requirements

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- 1) Instructor of Record shall be certified as a Fire Service Instructor II (see Section 141.320) and Rope Technician.
- 2) There shall be a minimum of 2 instructors per course, one of whom is an Instructor of Record. There shall be at least one instructor for each 6 students.
- 3) All other instructors on site shall be a minimum of a Fire Service Instructor I (see Section 141.318) and certified as a Rope Technician.
- d) The course and facility must be approved by OSFM as provided in Sections 141.110 and 141.115.
- e) Credit for equivalent courses may be available in accordance with Section 141.120.

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

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- 1) Heading of the Part: Storage, Transportation, Sale and Use of Petroleum and Other Regulated Substances
- 2) Code Citation: 41 Ill. Adm. Code 170
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
170.10	Repeal
170.11	Repeal
170.15	Repeal
170.80	Repeal
170.91	Repeal
170.110	Repeal
170.115	Repeal
170.120	Repeal
170.130	Repeal
170.140	Repeal
170.145	Repeal
170.150	Repeal
170.160	Repeal
170.180	Repeal
170.200	Repeal
170.210	Repeal
170.211	Repeal
170.212	Repeal
170.310	Repeal
170.400	Repeal
170.410	Repeal
170.411	Repeal
170.412	Repeal
170.420	Repeal
170.421	Repeal
170.422	Repeal
170.423	Repeal
170.424	Repeal
170.425	Repeal
170.426	Repeal
170.427	Repeal
170.428	Repeal
170.429	Repeal

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

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

- 4) Statutory Authority: Implementing and authorized by Section 2 of the Gasoline Storage Act [430 ILCS 15/2]
- 5) A Complete Description of the Subjects and Issues Involved: Repeals text of current Part 170 underground storage tank system (UST) rules.
- 6) Published Studies or Reports, and sources of underlying data used to compose this rulemaking: None
- 7) Will this proposed repealer replace any emergency repealer currently in effect? No
- 8) Does this repealer contain an automatic repeal date? No
- 9) Does this proposed repealer contain incorporations by reference? No

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- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: The requirements of these rules, as adopted after repeal in new Parts 174, 175 and 176, (41 Ill. Adm. Code 174, 175 and 176) could have a minor impact on local government to the extent that local government units might own or operate an UST system. See the Notices associated with proposed Parts 174, 175 and 176 for further information.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed repealer: Persons wishing to comment on this proposed repealer may submit comments no later than 45 days after the publication of this Notice to:

Shelly Bradley, Manager
Division of Petroleum and Chemical Safety
Office of the State Fire Marshal
1035 Stevenson Dr.
Springfield, IL 62703-4259

Phone: 217/557-3131
Facsimile: 217/524-9284

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: The requirements of these rules, as adopted after repeal in new Parts 174, 175, and 176, could have a minor impact on those small businesses, not for profit entities, and small municipalities that own and operate USTs. See the Notices associated with proposed Parts 174, 175 and 176 (41 Ill. Adm. Code 174, 175 and 176) for further information.
- B) Reporting, bookkeeping or other procedures required for compliance: UST installations and upgrades have various reporting and permitting requirements as described in new Parts 174, 175 and 176 (41 Ill. Adm. Code 174, 175 and 176). See the Notices associated with those Parts for further information.
- C) Types of professional skills necessary for compliance: Owners and operators of USTs must ensure that all persons installing and doing work on UST systems have been trained appropriately and licensed by the OSFM.

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

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

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TITLE 41: FIRE PROTECTION
CHAPTER I: OFFICE OF THE STATE FIRE MARSHALPART 170
STORAGE, TRANSPORTATION, SALE AND USE OF PETROLEUM
AND OTHER REGULATED SUBSTANCES (REPEALED)

SUBPART A: MISCELLANEOUS

Section	
170.10	Definitions
170.11	Incorporation of National Standards
170.15	Bulk Sales Prohibited
170.20	Storage Underground and Limited (Repealed)
170.30	Setting of Tanks (Repealed)
170.40	Clearance Required for Underground Tanks (Repealed)
170.41	Location (Repealed)
170.50	Material and Construction of Tanks (Repealed)
170.60	Venting of Tanks (Repealed)
170.65	Underground Tank Installations (Repealed)
170.70	Fill Pipes (Repealed)
170.71	Registration of Underground Storage Tanks and Payment of Annual Fee (Repealed)
170.72	Late Registration Fee (Repealed)
170.75	Abandonment of Underground Storage Tanks (Renumbered)
170.76	Leaking Underground Tanks (Repealed)
170.80	Unloading Operations
170.90	Pumps (Repealed)
170.91	Labeling of Containers and Pumps
170.100	Piping (Repealed)
170.105	Approval of Plans (Repealed)
170.106	Installer, Repairer or Remover of Underground Storage Tanks (Repealed)
170.107	Tester of Underground Storage Tanks and Cathodic Protection (Repealed)
170.108	Pressure Testing (Repealed)
170.110	Building
170.115	Safe Heat Required
170.120	No Flammable or Combustible Liquids Within Building – Exception
170.130	Greasing Pits
170.140	Wash and Greasing Rooms

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170.145	Fire Extinguishers
170.150	Self-Service – No Self-Service Without Permit; Procedures and Regulations
170.160	Care and Attendance
170.170	Fire Extinguishers (Repealed)
170.180	Sale of Fireworks
170.190	Approval of Plans (Repealed)
170.200	Defective Equipment
170.210	Deliveries from Portable Tanks Restricted
170.211	Dispensing or Delivery of Flammable or Combustible Motor Fuels from Tank Vehicles
170.212	Requirements for Permit to Fuel Motor Vehicles from Portable Tank Trucks and Tank Wagons
170.310	Unattended Self-Service Other Than Fleet Operations

SUBPART B: UNDERGROUND STORAGE TANKS – TECHNICAL REQUIREMENTS

Section	
170.400	Definitions
170.410	Incorporations by Reference
170.411	USTs Out of Service
170.412	Delegation of Authority to Enforce UST Rules and Regulations
170.420	Design, Construction, Installation, Upgrade Procedures and Notification of UST Systems
170.421	Piping
170.422	Clearance Required for Underground Storage Tanks
170.423	Pressure Testing of Existing Tanks or Lines
170.424	Venting of Tanks
170.425	Fill Pipes
170.426	Pumps
170.427	Defective or Non-Compliant Equipment
170.428	General Requirements for UST Fuel Dispensing Systems
170.429	Unloading Operations
170.430	Interior Lining and Lining Inspection of UST Systems
170.431	Limitation on Interior Lining of USTs (Repealed)
170.440	Notification Requirements for Purposes of UST Registration
170.441	Payment of 1988 Annual UST Fee
170.442	UST Registration Fees
170.450	Owner/Operator Spill and Overfill Release Control Responsibilities
170.460	Corrosion Protection

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170.470	UST Compatibility with Product Stored
170.480	Repairs Allowed
170.481	Emergency Repairs
170.490	Reporting and Recordkeeping
170.500	General Release Detection Requirements for All UST Systems
170.510	Release Detection Requirements for Petroleum UST Systems (Repealed)
170.520	Release Detection Requirements for Hazardous Substance UST Systems
170.530	Methods and Requirements of Release Detection for Tanks
170.540	Methods and Requirements of Release Detection for Piping
170.541	Installer, Repairer, Liner or Remover of USTs and Obtaining Permits
170.542	Site Plans
170.543	Notification and Establishment of Time Certain and Date Certain for Underground Storage Tank Activity
170.544	Tester of Underground Storage Tanks, Cathodic Protection and UST Equipment
170.545	USTs Inside or Under Buildings
170.546	UST Restrictions at Service Stations
170.550	Release Detection and Cathodic Protection Recordkeeping
170.560	Reporting of Suspected Releases
170.570	Investigation Due to Off-Site Impacts (Repealed)
170.580	Release Investigation Reporting, Site Assessment, Initial Response
170.590	Reporting and Cleanup of Spills and Overfills
170.600	Initial Response for UST Systems Containing Petroleum or Hazardous Substances (Repealed)
170.610	Initial Abatement Measures and Site Assessment
170.620	Temporary Out-of-Service Status for UST Systems (Repealed)
170.630	Change-in-Service of UST Systems
170.640	Assessing the Site at Removal of, Previously Removed, or Change-in-Service of, UST Systems
170.650	Applicability to Previously Removed UST Systems (Repealed)
170.660	Removal or Change-in-Service Records
170.670	Removal or Abandonment-in-Place of Underground Storage Tanks
170.672	Pre-'74 and Heating Oil USTs

SUBPART C: UNDERGROUND STORAGE TANKS –
FINANCIAL RESPONSIBILITY REQUIREMENTS

Section	
170.700	Definitions
170.705	Incorporation by Reference

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170.710	Applicability
170.720	Amount
170.730	Mechanisms of Financial Responsibility
170.740	Proof of Financial Responsibility
170.750	Substitution of Financial Responsibility Mechanisms by an Owner or Operator
170.760	Cancellation or Non-Renewal by a Provider of Financial Assurance
170.770	Reporting by Owner or Operator
170.780	Recordkeeping
170.790	Release from the Requirements
170.795	Bankruptcy or Other Incapacity of Owner or Operator, or Provider of Financial Assurance

SUBPART D: UNDERGROUND STORAGE TANKS –
ADMINISTRATIVE PROCEDURE RULES FOR ORDERS ISSUED BY
THE DIVISION OF PETROLEUM AND CHEMICAL SAFETY

Section	
170.800	Definitions
170.810	Grounds and Time for Appeal
170.820	Notice of Hearing
170.830	Appearances
170.840	Official Notice
170.850	Authority of Hearing Officer
170.860	Evidence to be Presented by the Owner to Object to the Denial or Revocation of the Registration of an Underground Storage Tank (UST) (Repealed)
170.870	Briefs
170.880	Transcripts
170.890	Order of the State Fire Marshal
170.900	Authority to Enforce Administrative Orders and Assess Fines
170.910	Suspension or Revocation of the License of a Contractor and Assessment of Fines Against a Contractor or Employee of a Contractor for Violations of Subpart B or E
170.920	Assessment of Fines Against Non-Contractors for Violations of Subpart B
170.930	Assessment of Fines Against an Owner, Operator or Provider for Violations of Subpart C
170.940	Hearing Officer Guidelines for Suspension, Revocation or Assessment of Fines

SUBPART E: LICENSING, CERTIFICATION AND IDENTIFICATION CARDS

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Section

170.1000	Definitions
170.1100	Contractor Licensing
170.1200	Contractor and Employee Certification
170.1300	Possession of OSHA Identification Cards by Certified Individual Contractors and Certified Employees of Contractors
170.APPENDIX A	Checklist for Underground Storage Tank Installation (Repealed)
170.APPENDIX B	Checklist for Underground Storage Tank Reline (Repealed)
170.APPENDIX C	Checklist for Underground Storage Tank Removals (Repealed)
170.APPENDIX D	Checklist for Abandonment-in-Place of Underground Storage Tanks (Repealed)
170.APPENDIX E	Guidelines for Marinas
170.APPENDIX F	Required Job Schedule for Cathodic Protection Upgrade (Repealed)
170.APPENDIX G	Required Job Schedule for Underground Piping Upgrade (Repealed)
170.APPENDIX H	Required Job Schedule for Underground Storage Tank Installation (Repealed)
170.APPENDIX I	Required Checklist for Underground Storage Tank System Upgrade (Repealed)
170.TABLE A	Schedule for Phase-In of Release Detection
170.TABLE B	Manual Tank Gauging: Weekly and Monthly Standards

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

SOURCE: Rules and Regulations Relating to Service Stations filed July 10, 1958; amended March 6, 1963 and April 4, 1977; codified at 5 Ill. Reg. 10692; emergency amendment at 7 Ill. Reg. 1477, effective January 26, 1983, for a maximum of 150 days; emergency expired June 25, 1983; emergency amendment at 8 Ill. Reg. 10058, effective June 29, 1984, for a maximum of 150 days; emergency expired November 26, 1984; amended at 9 Ill. Reg. 9514, effective October 1, 1985; emergency amendment at 10 Ill. Reg. 345, effective January 1, 1986, for a maximum of 150 days; emergency expired June 1, 1986; emergency amendment at 10 Ill. Reg. 12324, effective July 2, 1986, for a maximum of 150 days; emergency expired November 29, 1986; amended at 10 Ill. Reg. 19976, effective January 5, 1987; amended at 12 Ill. Reg. 8023, effective April 26, 1988; emergency amendments at 13 Ill. Reg. 1886, effective January 27, 1989, for a maximum of 150 days; emergency expired June 26, 1989; amended at 13 Ill. Reg. 5669, effective April 21, 1989; amended at 13 Ill. Reg. 7744, effective May 9, 1989; amended at 13 Ill. Reg. 8515, effective May 23, 1989; amended at 13 Ill. Reg. 8875, effective May 24, 1989; amended at 13 Ill. Reg. 14992, effective September 11, 1989; amended at 14 Ill. Reg. 5781,

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effective April 10, 1990; amended at 15 Ill. Reg. 7042, effective April 29, 1991; amended at 16 Ill. Reg. 4845, effective March 12, 1992; emergency amendment at 17 Ill. Reg. 1186, effective January 12, 1993, for a maximum of 150 days; emergency expired June 11, 1993; amended at 19 Ill. Reg. 5467, effective April 1, 1995; amended at 20 Ill. Reg. 4698, effective March 11, 1996; amended at 21 Ill. Reg. 8945, effective July 15, 1997; amended at 22 Ill. Reg. 21339, effective December 1, 1998; amended at 24 Ill. Reg. 12462, effective August 1, 2000; amended at 25 Ill. Reg. 9015, effective July 5, 2001; amended at 27 Ill. Reg. 8164, effective May 1, 2003; emergency amendment at 27 Ill. Reg. 8311, effective May 2, 2003, for a maximum of 150 days; emergency expired September 28, 2003; amended at 32 Ill. Reg. 1428, effective February 1, 2008; emergency amendment at 32 Ill. Reg. 15100, effective September 8, 2008, for a maximum of 150 days; emergency expired February 4, 2009; amended at 33 Ill. Reg. 6069, effective April 24, 2009; amended at 33 Ill. Reg. 6298, effective May 1, 2009; repealed at 34 Ill. Reg. _____, effective _____.

SUBPART A: MISCELLANEOUS

Section 170.10 Definitions

"ANSI" – American National Standards Institute.

"ASTM" – American Society for Testing and Materials.

Class I liquids – See Flammable Liquids.

Classes II and III liquids – See Combustible Liquids.

"Combustible Liquids" are defined in NFPA 30 (Flammable and Combustible Liquids Code) (1987), known as Class II and III liquids. They are further subdivided into Class II, IIIa and IIIb liquids in NFPA 30.

"Fire extinguisher ratings". Fire extinguisher ratings shall be determined by applying UL 711 (Fire Extinguishers, Rating and Testing of) (1987).

Flammable liquids are defined in NFPA 30 (Flammable and Combustible Liquids Code) (1987), and are divided into Class Ia, Ib and Ic liquids.

"NFPA" – National Fire Protection Association. The standard number will appear in context. The edition will be referenced in parentheses. Where no edition appears, the edition in effect will be the 1988 edition.

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"Service station" means any place of business where gasoline, fuel oil or any other volatile fuels for motor vehicles or internal combustion engines are sold or offered for retail sale, or dispensed into the fuel tanks of such motor vehicles, or into approved containers as defined in Section 170.150, except hobby shops and small engine repair facilities.

This definition shall include the private storage and dispensing of such products for the same purposes as those served by a service station, whether the storage is maintained for the use or benefit of the owner, lessee, agents or employees of either, or of any others.

The requirements covering service stations shall also govern underground storage maintained at general storage plants and places other than service stations, so far as applicable.

"UL" Underwriters Laboratories, Inc.

Section 170.11 Incorporation of National Standards

Where standards are incorporated by reference in this Part, the incorporated material does not include any later editions or amendments.

Section 170.15 Bulk Sales Prohibited

- a) No motor fuels shall be dispensed at any service station except directly into the fuel tanks of motor vehicles, when such tanks are connected with the carburetion systems of such vehicles, provided, however, that individual sales up to twelve (12) gallons may be made in metal or approved containers as defined in Section 170.150 (d)(7)(G), (H), and (I) when painted or colored red and labeled in full conformity with "An Act prescribing the color and label for gasoline or benzol receptacles," Illinois Red Can Gasoline Law, (Ill. Rev. Stat. 1983, ch. 127½, para. 151-152) such individual sales to be limited to twelve (12) gallons to any one person.
- b) Additional fuel tanks of 110 gallons aggregate capacity or less for Class I or II liquids may be added to ½ and ¾ ton (pickup) trucks or larger vehicles to provide added fuel capacity for said vehicles provided that:

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- 1) Any such tank is constructed of 18 gauge or heavier steel, or equivalent gauge aluminum.
 - 2) That such tank is securely fastened to either the truck bed or frame in such a manner that it will not separate from the vehicle in the event of a collision.
 - 3) That such tank is permanently connected to the carburetion system of the vehicle by tubing conforming to 49 CFR 571.301 (1983).
 - 4) That such tank is baffled to prevent the sudden shifting of liquid when the vehicle is moving.
 - 5) That such tank is electrically bonded to the vehicle frame.
 - 6) That each tank is clearly labeled with the name of the product it contains in letters at least 2" in height and a color contrasting with the background, or placarded in accordance with Illinois Department of Transportation Hazardous Materials rules. (92 Ill. Adm. Code: Subtitle C)
- c) When Class I or II liquids are to be transported for construction as described in Section 170.210, or agricultural (farm) use as defined in 41 Ill. Adm. Code 180.20(a)(2)(A), such transport shall consist of 110 gallons or less per vehicle and may be transported subject to the following conditions:
- 1) Containers shall be tanks constructed of 18 gauge or heavier steel or equivalent gauge aluminum.
 - 2) Tanks must be securely fastened to prevent separation from the vehicle in the event of a collision.
 - 3) Tanks must be electrically bonded to the frame of the vehicle.
 - 4) Tanks may not be drained by gravity. Top mounted pumps designed and labeled for use with flammable and combustible liquids may be used to transfer Class I, and II liquids from such tanks to other storage tanks or vehicle fuel tanks.
 - 5) Each tank is clearly labeled with the name of the product it contains in

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letters at least 2" in height with the letters to be white in color on a contrasting background, or placarded in accordance with Illinois Department of Transportation Hazardous Materials rules.

- 6) All tanks, regardless of class of liquid being transported shall be red in color.

Section 170.20 Storage Underground and Limited (Repealed)**Section 170.30 Setting of Tanks (Repealed)****Section 170.40 Clearance Required for Underground Tanks (Repealed)****Section 170.41 Location (Repealed)****Section 170.50 Material and Construction of Tanks (Repealed)****Section 170.60 Venting of Tanks (Repealed)****Section 170.65 Underground Tank Installations (Repealed)****Section 170.70 Fill Pipes (Repealed)****Section 170.71 Registration of Underground Storage Tanks and Payment of Annual Fee (Repealed)****Section 170.72 Late Registration Fee (Repealed)****Section 170.75 Abandonment of Underground Storage Tanks, or Change of Occupancy****Section 170.76 Leaking Underground Tanks (Repealed)****Section 170.80 Unloading Operations**

- a) Unloading hose from tank truck into underground tank shall have a static wire or its equivalent and shall be equipped with a non-ferrous nozzle or tight connection metal nipple.
- b) The driver, operator, or attendant of any tank vehicle shall not remain in the

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vehicle but shall not leave the vehicle unattended during the loading or unloading process. Delivery hose, when attached to a tank vehicle, shall be considered to be a part of the tank vehicle.

- c) Before unloading operations begin, the driver shall determine the quantity of product which can be unloaded into each tank without overflow of product and log the results with the station owner-manager.
- d) When transferring Class I liquids, motors of tank vehicles or motors of auxillary or portable pumps shall be shut down during making and breaking hose connections. If loading or unloading is done without requiring the use of the motor of the tank vehicle, the motor shall be shut down throughout the transfer operations of Class I liquids.
- e) Tank trucks and tank wagons used for the transport and delivery of Class I, II or III liquids shall not be parked for other than delivery purposes in residential districts, as defined in the Ill. Motor Vehicle Code (Ill. Rev. Stat. 1983, Ch. 95½ par. 1-172).
- f) When unloading product into underground tanks located at service stations which are equipped with tank vapor recovery equipment, the driver, operator, or attendant of the tank truck shall ensure that all vapor return paths are effectively made liquid and vapor tight to prevent the discharge of vapors at grade level.
- g) Smoking on or about any tank truck while unloading any flammable or combustible liquid is forbidden. Extreme care shall be taken during unloading operations to keep fire away and to prevent persons in the vicinity from smoking, lighting matches or carrying any flame or lighted cigar, pipe, or cigarette.

Section 170.90 Pumps (Repealed)**Section 170.91 Labeling of Containers and Pumps**

All portable containers for gasoline and kerosene and all devices used for drawing such products from underground storage containers at filling stations, garages or other places where such products are sold or offered for sale shall be marked or labeled in a conspicuous place with the name of such product.

- a) Portable containers for gasoline, benzol and naphtha shall conform to the

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requirements of Section 170.150(d)(7)(G) and (I).

- b) Portable containers for kerosene shall be blue with "KEROSENE" in ½ inch or larger letters on the container. Such containers shall be metal or other material approved by the Office of the State Fire Marshal.
- c) The Office shall approve containers which conform to Section 170.150(d)(7)(I).

Section 170.100 Piping (Repealed)**Section 170.105 Approval of Plans (Repealed)****Section 170.106 Installer, Repairer or Remover of Underground Storage Tanks (Repealed)****Section 170.107 Tester of Underground Storage Tanks and Cathodic Protection (Repealed)****Section 170.108 Pressure Testing (Repealed)****Section 170.110 Building**

No furnaces or heaters shall be located in service station basements.

Section 170.115 Safe Heat Required

- a) Heating systems in service stations that have rooms or stalls for greasing or servicing motor vehicles shall be of a type that will reduce the likelihood of gasoline vapor reaching the heaters. The following types are acceptable:
 - 1) Steam, hot water, or warm air furnaces, cut off from the balance of the building by eight-inch masonry walls. The ceiling shall be of two coats of cement plaster over metal lath or equivalent fire-resistive construction. The door to heater room shall open from the outside of the building. No openings shall be permitted on the inside walls except those necessary for passage of heat ducts. If warm air heat is used, no cold air return shall be closer than thirty inches from the level of the grease room floor.
 - 2) In some instances it is possible to have heater room door open from the office room, where heater room door is sufficiently distant from grease room door to make the travel of gasoline vapor to the heater room a

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remote possibility. Added safety is provided if the floor of the office is higher than the floor of the grease room, or if a six-inch concrete ledge is placed across the door opening at the floor in the grease room door or furnace room door, or both, as gasoline vapor is heavier than air and these features will tend to block its flow.

- b) The following types of heat are acceptable without enclosure:
- 1) Suspended, approved type, oil or gas fired, warm air furnaces. These shall be suspended from the ceiling joists and shall be not less than eight feet above the level of the grease room floor. Cold air returns shall be not less than thirty inches from the level of the grease room floor.
 - 2) Gas or oil fired unit heaters shall be mounted not less than eight feet above the level of the grease room floor.
 - 3) Electric heating units and equipment located within the possible path of vapor travel shall be designed and installed so as not to create an ignition hazard and shall conform with the 1981 Edition of the National Electrical Code, NFPA Standard No. 70 Chapter 5, as published by the National Fire Protection Association.
 - 4) In single stall stations that have stoves installed for the service stall area, such stoves may continue in use until November 1, 1985, provided the stove is mounted eighteen inches above the floor.
 - 5) Stoves may be used in the office section if they are cut off by partitions from the grease room and the stoves are mounted above the floor level.

Section 170.120 No Flammable or Combustible Liquids Within Building – Exception

- a) No gasoline, naphtha or other liquids of Class I, II, or III as defined in Section 170.10 shall be kept inside of a service station.
- b) No alcohol or other flammable anti-freeze solutions shall be kept inside of service station except in original sealed containers. No transfer of such liquids from these receptacles to other receptacles shall be made inside the service station.
- c) This rule does not preclude the use of parts cleaning devices using combustible

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liquids. The provisions of all such installations shall comply with NFPA #34 (1982).

Section 170.130 Greasing Pits

- a) Every existing greasing pit within a building, or enclosed by three or more walls, shall be ventilated by a vent duct not less than six inches in diameter (or equivalent cross-sectional area if a noncircular duct is used). Duct shall start within four inches of the floor and shall be extended on an upward diagonal or by an easy bend over to sidewall, thence straight up through roof to a height sufficient to draw off gasoline vapors which may accumulate in bottom of pit. Abrupt bends must be avoided and all joints must be tight. Floor of pit should pitch slightly toward corner where duct is located, to facilitate flow of vapors to duct.
- b) Flammable and combustible liquids shall never be used to clean out any pit, whether pit is located within a building or enclosure, or outside in the open.
- c) No sewer connection shall be permitted from any greasing pit, unless protected with a grease trap in conformity with the Illinois Plumbing Code (77 Ill. Adm. Code 890) which will effectively intercept greases and oils and prevent their entry into the sewer. Trap shall be kept cleaned out.
- d) If electrically lighted, globes shall be of vapor-proof construction and wiring shall be in conduit.

Section 170.140 Wash and Greasing Rooms

If sewer connection is permitted by the city, grease trap shall be provided to intercept greases and oils. The trap shall be cleaned out as required by applicable plumbing codes.

Section 170.145 Fire Extinguishers

- a) Each service station shall be equipped with at least two dry chemical or other type of fire extinguishers suitable for oil or gasoline fires. All such extinguishers shall have a rating of at least 4A:60BC. (See NFPA 10, (1981)).
- b) Fire extinguishers shall be installed, inspected, maintained, and tested in accordance with the requirements of NFPA #10 (1981).

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- c) Such fire extinguishers shall carry the testing and listing label of Underwriter's Laboratories, Factory Mutual Engineering, or the United States Coast Guard for their intended use.

Section 170.150 Self-Service – No Self-Service Without Permit; Procedures and Regulations

- a) Except at service stations which hold a current and valid self-service permit issued pursuant to subsection (c) of this Section by the State Fire Marshal, or a current and valid unattended self-service permit issued pursuant to Section 170.310 by the State Fire Marshal, no person other than an owner of a service station, or an employee of such owner, shall use or operate any motor fuel dispensing equipment at any service station. No owner of a service station shall permit any person to violate the provisions of this rule.
- b) Definitions – As used in this Part, the terms specified in this paragraph have the meanings ascribed to them in this paragraph:
 - 1) The term "service station" means any place of business where Class I, II or III liquids or other fuels are sold or offered for sale at retail, or dispensed into the fuel tanks of motor vehicles or internal combustion engines or portable containers.
 - 2) The term "self-service station" shall mean that portion of property of a service station where flammable and combustible liquids used as motor fuels are stored and subsequently dispensed from fixed dispensing equipment into the fuel tanks of motor vehicles by persons other than the service station attendant.
 - 3) The term "self-service dispensing device" means any device for the dispensing of Class I, II or III liquids into the fuel tanks of motor vehicles.
 - 4) The term "owner" shall mean any individual(s) or legal entity holding title, lease, license or any interest in a service station or self-service station. The legal name, residence, address and county of any individuals who are owners shall be filed with the Office of the State Fire Marshal.
 - 5) The term "attendant" shall mean the owner or any person who is employed

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by an owner of a service station to dispense motor fuel at such service station.

- c) Self-Service Station Permits
 - 1) Self-service station permits shall be issued by the Office of the State Fire Marshal, upon written application on forms established by the Office, accompanied by complete, detailed plans, in triplicate, for each service station sought to be used for self-service showing compliance with 41 Ill. Adm. Code 160, 170, 180 and 100. Such plans shall be drawn to scale, and shall include the following:
 - A) Lot lines and dimensions.
 - B) Building lines and dimensions.
 - C) Location and size of tanks and pump island.
 - D) Location of control station.
 - E) Type, make, model and location of dispensing devices or equipment.
 - F) Fire extinguisher locations.
 - G) Clearances.
 - 2) No construction of a self-service station or modification of an existing service station to conduct self-service business shall be commenced until such application and plans are given written approval by the Office of the State Fire Marshal. No such station shall open for business until inspected and approved by the Office of the State Fire Marshal, and until the Office of the State Fire Marshal issues a self-service station permit, which must be prominently displayed at all times at such self-service station. Approval for self-service will be granted upon compliance with all rules and regulations in 41 Ill. Adm. Code 100, 160, 170 and 180.
- d) The following rules shall be followed at all self-service stations, and violation of any said rules shall constitute good and just cause for suspension or revocation of

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a self-service station permit by the State Fire Marshal:

- 1) All self-service dispensing devices which are available for public use must be under the control of an attendant at all times except as allowed in subsection (d)(3) of this Section (Fleet Operations).
- 2) No new dwelling unit or sleeping facilities of any kind for the owner, attendant or any person shall be permitted at a self-service station. This does not include dormitory facilities for use of drivers at truck stops, provided that such dormitories are in compliance with the applicable provisions of 41 Ill. Adm. Code 100. If the building under which lies a basement, cellar or excavation is removed, the basement, cellar or excavation shall be filled in prior to construction of any new building over the basement, cellar or excavation.
- 3) Dispensing of Class I, II or III liquids at locations not open to the public does not require an attendant or supervisor. Such locations may be used by commercial, industrial, governmental or manufacturing establishments for fueling vehicles used in connection with their business (such as fueling of delivery trucks). However, this shall not include private fraternal clubs or associations. Vehicles served by these unattended self-service facilities must have common or corporate ownership with the service station and must be fueled by employees of the business owning such facility or vehicle to comply with this rule.
- 4) Dispensing devices for motor fuel shall not be installed, modified or used without prior written approval of the Office of the State Fire Marshal. Approval will be granted upon proof of meeting the requirements of this part. Dispensing devices may be modified provided that the modifications made are in compliance with this part. Modification proposals shall contain a description of the components to be used in the modification and the recommended methods of installation on specific dispensers and it must be made available to the Office of the State Fire Marshal prior to installation.
- 5) All dispensing of Class I, II or III liquids, by a person other than the service station attendant, must be under the supervision and control of an attendant. Unattended card, key, or code operated devices are prohibited at service stations open to the general public, and not designated as fleet

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self-service.

- A) The dispensing nozzle must be an automatic closing type which has been tested and meets the requirements of Underwriter's Laboratories Standard #842 (1982).
- B) Any self-service dispensing devices equipped with pre-pay capability in which the flow of product is normally stopped by means other than by the closure of the nozzle valve shall further comply with either one of the following:
 - i) The system shall be provided with equipment with a feature that causes or requires the closing of the nozzle valve before product flow may be resumed or before the nozzle can be replaced in its normal position in the dispenser, or
 - ii) the nozzle valve latch-open device shall be removed.
- 6) Rebuilt hose nozzles may be used on approved dispensing devices provided they meet UL 842 (1980).
- 7) It shall be the responsibility of the attendant:
 - A) To carefully observe the dispensing of Class I liquids into portable containers,
 - B) Control sources of ignition,
 - C) Immediately notify local fire authorities of any product spilled,
 - D) Eliminate ignition sources,
 - E) Take other appropriate actions to prevent ignition of accidental spills,
 - F) To refuse service to any customer who appears to lack the ability to properly and safely utilize the equipment (e.g., intoxication), inability to place the nozzle in the gas tank receptacle, inability to follow written or oral instructions of the attendant, and whether the

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person is too young to be aware of the hazards and safe dispensing of motor vehicle fuels,

- G) Inspect all portable containers for conformance to Illinois Statutes and these rules.
- i) All portable containers for gasoline or benzol used in the retail trade, shall be red and shall be labeled "gasoline" or "benzol" as the case may be, in letters of a height of not less than one-half inch, and it shall be unlawful in such retail trade, or anything pertaining thereto to put gasoline or benzol into portable containers of any other color than red and not labeled as required by these rules or to use portable containers not complying with these rules.
 - ii) No person shall put any other liquids or oils except gasoline or benzol in such containers used for gasoline or benzol, or such containers as are painted red.
 - iii) Kerosene must be placed in blue containers, and no other products may be placed in blue containers.
- H) When dispensing Class I, II, or III liquids into portable containers, the following precautions shall be observed:
- i) Containers shall not be filled while located inside the passenger compartment or trunk of a vehicle.
 - ii) Hose nozzle valves shall be manually held open during the dispensing operation and hold open devices shall not be used.
- I) An approved portable container for Class I liquids shall be any container which meets the specifications of Underwriters Laboratories Standard #30 (1983) or which has been tested and has met the test criteria of ANSI-ASTM D3435-83 (1983) and all other ANSI-ASTM tests referred to therein, documentation of such testing and the results thereof must be submitted by the manufacturer to the Office of the State Fire Marshal for approval,

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before such portable containers may be marketed or used in the State of Illinois.

- 8) Two 4A:60BC rated fire extinguishers shall be provided. One shall be located at or near the control station and the other readily available for emergencies. Such extinguishers shall be plainly marked, be protected from the weather, and be maintained in operable condition and available at all times when the self-service station is open to the public. Such fire extinguishers shall carry the testing and listing label of Underwriters Laboratories, Factory Mutual Engineering, or the United States Coast Guard for their intended use. All employees of the self-service station shall be thoroughly instructed as to the location and proper use of such extinguishers, and shall, upon request, demonstrate their ability to use the extinguishers to representatives of the Office of the State Fire Marshal.
- 9) Signs, giving instructions for the operation of gasoline equipment, must be conspicuously posted on each gasoline pump island where self-service is offered:
 - A) Self-Service Island "Warning";
 - B) "Stop Engine";
 - C) "No Smoking";
 - D) "It is unlawful and dangerous for anyone to dispense gasoline into unapproved containers";
 - E) "It is unlawful and dangerous to dispense gasoline without an attendant on duty".
- 10) The signs shall be made of all-weather rigid material and the lettering shall be not less than 1" high, the sign shall be not less than 6" high and 12" long, mounting and location of said sign shall be such as to be clearly visible to all self-service patrons.
- 11) All fuel dispensing units shall be mounted or protected against collision damage by means of islands, posts or an equivalent means.

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- 12) Every self-service station shall maintain a control station in a location readily accessible to the attendant, equipped in such manner that the flow of liquid fuel from any or all fuel dispensing units may be stopped from such control station.
 - A) The control station shall include a master electrical switch that can disconnect the electrical power to all of the pumps and the pump lighting at one time.
 - B) The master electrical switch may be located inside or outside and not more than 100 feet from the furthest pump.
 - C) The master electrical switch shall be in a position to give the attendant a clear, unobstructed view of the dispensing area; it shall be plainly marked and easily accessible.
 - D) The attendant shall at all times be able to communicate with persons in the dispensing area. For distances greater than 40 feet a communication system audible to each dispensing area shall be required between the control station and each pump island. The communications system applies only to stations without full service.
- 13) At all times when a self-service station is open for public use, not less than one attendant shall be on duty, and no motor fuel shall be dispensed at any time when such attendant is not at or near the control station or pump island. The attendant's primary duty shall be to supervise the dispensing of motor fuels, motor oils and services normally related to such dispensing. Such attendant shall refuse service to any person who is smoking or who appears to be unable to dispense fuel safely, and shall shut off the dispensing unit if a patron fails to follow instructions in compliance with the rules. (See 170.150(d)(7)(F) above.)
- 14) All attendants and other employees of the service station shall be instructed in the location, operation, and use of the communication system, the control station, and the fire extinguishing equipment, the operation of the dispensing units, and safety regulations for the dispensing of motor fuels. Failure to instruct employees in these rules shall be cause for revocation of the self-service permit. Failure of any employee to know

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location, operation, and use of the communication system, the control station, and fire extinguishing equipment, the operation of the dispensing units, and safety regulations for the dispensing of motor fuels, shall be grounds for revocation of the self-service permit.

- e) Applications for self-service permits shall be filed in the Office of the State Fire Marshal.
 - 1) Self-service permits shall be initially issued for a period of 6 months. Renewal permits shall be issued for a period of 24 months. An initial permit for a period of 12 months shall be granted to an owner who has at least two other self-service permits and for which no citations for violations of the rules and regulations of the State Fire Marshal's Office contained in 41 Ill. Adm. Code 100, 160, 170, 180, 200 have been issued in the past 24 months.
 - 2) The Office of the State Fire Marshal may, for failure to comply with these rules, for violation thereof, or for violation of any federal, state or local laws, statutes, ordinances, rules or regulations, refuse to issue, renew or suspend or revoke a self-service station permit. The Office of the State Fire Marshal shall serve notice of such refusal suspension or revocation on the applicant for or holder of such permit by personal service or by certified or registered mail. The applicant for on holder of such permit, may within 10 days after notice of such refusal, suspension or revocation is served, file in the Office of the State Fire Marshal written request for a hearing. Such hearings shall be governed by the Administrative Procedure Act [5 ILCS 100]. Any order or decision made by the Office of the State Fire Marshal based upon such hearing shall be an "administrative decision" within the meaning of the "Administrative Review Law" [735 ILCS 5/Art. 3].

Section 170.160 Care and Attendance

- a) No motor vehicle shall be serviced with Class I, II, or III fuel until motor and ignition have been shut off. In cases of recreational and similar vehicles or any vehicles designed to contain equipment or appliances utilizing pilot lights, arcing motors or similar devices, all such devices shall be shut off (in addition to motors and ignitions) before servicing the vehicle.

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- b) No smoking shall be permitted in the dispensing and vehicle service areas at any time.
- c) No open lights or flames shall be permitted about premises except in heating devices within station building.
- d) Premises shall be kept neat and clean, and free from rubbish or trash.
- e) Cleaning of station floors, or premises with gasoline, naphtha, or other liquids of Classes I, and II shall not be permitted.
- f) Accurate daily inventory records shall be maintained and reconciled on all liquid fuel storage tanks for indication of possible leakage from tanks or piping. The records shall be kept at the premises, available for inspection by the Office of the State Fire Marshal and local authority, and shall include, as a minimum, records showing by product, daily reconciliation between sales, use, receipts, and inventory on hand. If there is more than one system consisting of a tank(s) serving separate pump(s) or dispenser(s) for any product, the reconciliation shall be maintained separately for each tank system. The inventory records required by these rules shall be kept for three years.
- g) When dispensing liquids into motor vehicle fuel tanks, dispenser nozzles shall be either manually held open or may be held open by a latch-open device which is an integral part of the listed nozzle assembly.
- h) Temporary, portable or removeable hold-open devices including, but not limited to, plastic hooks, wires, wood blocks, gas caps and similar devices shall not be used on dispenser nozzles. No person firm or corporation shall market, expose for sale, sell or distribute by any means whatsoever, in the State of Illinois, any temporary, portable or readily removable device designed or intended to be used for the purpose of holding open flammable or combustible liquid dispensing nozzles during dispensing operations at service stations.

Section 170.170 Fire Extinguishers (Repealed)**Section 170.180 Sale of Fireworks**

The sale, use, explosion or handling of fireworks, including but not limited to sparklers, smoke balls, snakes, auto burglar alarms containing pyrotechnic components, toy pistols, toy canes, toy

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guns and toy pistol paper caps, and other novelty items which require ignition to produce an audible, or visual effect or display, is prohibited on any service station premises.

Section 170.190 Approval of Plans (Repealed)**Section 170.200 Defective Equipment**

Equipment which does not comply with these rules must be taken out of service until repaired or replaced.

Section 170.210 Deliveries from Portable Tanks Restricted

- a) All flammable and combustible liquid motor vehicle fuels must be stored underground at service stations and other locations where fuels are dispensed or delivered into fuel tanks of motor vehicles, except as provided in this Section and 41 Ill. Adm. Code 180. Occasional delivery of less than 6 gallons of fuel for emergencies (e.g., when a car or truck has run out of fuel) is allowed. Emergency deliveries of Class I, II and III liquid motor vehicle fuel shall be from approved containers as defined in Section 170.150(d)(7)(G) and (i).
- b) Dispensing or delivery of flammable or combustible motor vehicle fuels from tank trucks, tank wagons, or other portable tanks is prohibited except as follows:
 - 1) Agricultural use (farm use) as defined in Section 180.20;
 - 2) Construction sites for refueling construction equipment used only at the construction site (this exception does not apply to trucks or passenger cars which have license plates attached and may be driven to service stations);
 - 3) Emergency deliveries;
 - 4) Airports for fueling of aircraft as defined in 41 Ill. Adm. Code 180.23; and
 - 5) As provided in Sections 170.211 and 170.212.

Section 170.211 Dispensing or Delivery of Flammable or Combustible Motor Fuels from Tank Vehicles

Dispensing or delivery of flammable or combustible motor vehicle fuels from tank vehicles is

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allowed at sites used for the parking, operation, or maintenance of a commercial vehicle fleet under the following conditions:

- a) The site is located in a county with 3,000,000 or more inhabitants, or a county contiguous to a county with 3,000,000 or more inhabitants.
 - 1) The site is not normally accessible to the public and has been approved by the Office of the State Fire Marshal.
 - 2) The vehicles being fueled are part of a fleet of commercial vehicles that are normally parked, operated or maintained at the fueling site.
 - 3) An inspection of the fueling site has been made and approval granted in the form of a permit issued by the Office.
 - 4) Electrical devices and wiring in areas where fuel is dispensed must be in accordance with NFPA 70 National Electrical Code (1999 ed.).
 - 5) Dispensing locations must be at least 50 feet from structures or combustible storage, including structures or storage on adjacent properties.
 - 6) Signs must be posted prohibiting smoking or open flames within 25 feet of the fuel tanker and the point of fueling.
- b) The fuel tanker is owned and operated by a company licensed to perform mobile fueling by the Office of the State Fire Marshal.
- c) The fuel tanker complies with the requirements of NFPA 385 Standard for Tank Vehicles for Flammable and Combustible Liquids (2000 ed.) and has been approved by the Office.
- d) The fuel tanker displays a mobile-fueling sticker issued by the Office of the State Fire Marshal.
- e) The dispensing hose does not exceed 50 ft. in length.
- f) The dispensing nozzle is a listed automatic-closing type with a latch-open device.
- g) Nighttime deliveries shall only be made in adequately lighted areas.

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- h) The fuel tanker's flasher lights shall be in operation while dispensing.
- i) Fuel expansion space shall be left in each fuel tank to prevent overflow in the event of temperature increase.

Section 170.212 Requirements for Permit to Fuel Motor Vehicles from Portable Tank Trucks and Tank Wagons

- a) The person, company or other entity proposing to deposit fuel into tanks of motor vehicles from tanker trucks or wagons must first have a permit from the Office. A permit will be granted under the following circumstances.
 - 1) The person or other entity must apply for a permit giving the following information:
 - A) The name of business, proof of good standing if a corporation, proof of compliance with the Assumed Name Act if applicable and the principal address of the business.
 - B) Proof that the vehicles used for the fueling are in compliance with Section 170.211.
 - C) Evidence that employees have knowledge of the requirements contained in Section 170.211.
 - D) An annual fee of \$500 shall be charged from each person or entity engaging in fueling from portable tank trucks or wagons for the period from January 1 to December 31 of each calendar year.
 - 2) Each vehicle used for fueling must comply with Section 170.211.
 - A) Each vehicle shall be inspected and a decal or other evidence issued by the Office permanently attached to the vehicle.
 - B) Vehicles without a permit shall not be allowed to engage in such fueling.
 - C) If a vehicle is replaced or vehicles added they shall not engage in

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fueling until an inspection is made to determine compliance and new evidence of compliance for the vehicle issued.

D) An annual fee of \$100 shall be charged for each vehicle engaged in the fueling. Replacement vehicles shall be charged at the same rate. The evidence of compliance shall be for January 1 through December 31.

b) Each location where fueling from portable tankers is conducted, shall be inspected by the Office. No fueling from portable tankers shall take place until the location for the fueling is approved by the Office.

1) The owner/lessee or other person who has vehicles to be fueled by portable tanker shall pay the Office an annual fee for each location where the fueling will take place. Fees shall be based upon the following:

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

2) The locations shall be approved if they meet the requirements of Section 170.211.

3) The location must be approved annually.

Section 170.310 Unattended Self-Service Other Than Fleet Operations

Service stations which allow or permit the fueling of motor vehicles with Class I, II, or III liquids, by persons other than an owner or employee, without the presence of an attendant, are allowed only at locations which have a valid "Unattended Self-Service Permit" issued by the Office (except as allowed by 41 Ill. Adm. Code 180.22 at airport facilities). Unattended "Self Service Permits" shall be issued for one year initially, and renewals shall be issued for two year intervals thereafter. If a service station is to be operated as an unattended station during any portion of a day it will be deemed as requiring a permit for unattended operation and must meet such standards. Plans of the premises shall be submitted as required by Section 170.105.

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- a) Equipment required for an unattended self-service permit:
- 1) Dispenser control device (actuators and monitors) for use by customers to activate dispensing equipment.
 - A) Devices may use currency, coins, keys or cards to activate dispenser and pumps.
 - B) Card devices shall use magnetically coded, optically read or inductive coil cards to be inserted in a device to activate the pump.
 - C) All dispenser control devices must meet the standards of UL 1238 (1992) and shall be installed and maintained in accordance with the manufacturer's instructions. All wiring shall comply with NFPA 70 (1996), Chapter 5.
 - D) Motors of pumps to dispensing devices shall not have electrical current supplied to them unless and until the dispensing device is activated. The electric current to the motors of the pumps shall automatically terminate and not more than 3 minutes after the flow of product has ceased. Electrical current to the pump motors shall be off at all other times.
 - 2) Dispensing devices, remote pumps and hose nozzle valves must comply with this Part and the following rules:
 - A) Hose nozzles must meet the standards of UL 842 (1993) and:
 - i) Nozzles must be equipped with devices (e.g., wire or a spout anchor spring) designed to retain the nozzle spout in the vehicle fill pipe while refueling. Such devices must be in compliance with (UL) Standard 842 (1993), or be approved by Factory Mutual, as part of the nozzle assembly. The spout anchor spring shall be of the type recommended by the manufacturer of the hose nozzle valve and be installed and maintained in accordance with the manufacturer's recommendations. Vacuum assist and balanced type vapor recovery nozzles prohibited from having such wire or spout anchor springs as the result of

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their design shall be exempt from this requirement.

- ii) An automatic self-closing type nozzle with a latch hold open device must be installed as an integral part of the nozzle assembly, and must meet UL 842 (1993).
 - iii) Hose nozzle valves shall be of the type which will close automatically, independent of the latch-open device, upon loss of pressure in the dispensing system and in which the latch-open device may only be engaged when the dispensing system is under pressure.
 - iv) The nozzle must be designed and maintained to cease the flow of product if the nozzle falls from the fill pipe of the motor vehicle being fueled to the ground, as described in UL 842 (1993).
- B) Remote pumps serving dispensing devices shall meet the standards of UL 79 (1992) and shall be equipped with a leak detection device in accordance with paragraph 4-3.3 of NFPA 30A (1996) and shall be installed and maintained in accordance with the manufacturer's instructions.
- C) Dispensing devices shall meet the standards of UL 87 (1990) and the following rules:
- i) Devices shall be equipped with a secondary control means in accordance with Paragraph 4-2.3 of NFPA 30A (1996).
 - ii) Devices served by remote pumps shall be equipped with an emergency shut-off valve meeting the standards of UL 842 (1993) and which shall comply with paragraph 4-3.6 of NFPA 30A (1996).
 - iii) Devices shall be mounted or protected against collision damage by means of islands, posts or an equivalent means.
 - iv) Dispensing devices shall be bolted to their mounting surface in accordance with the manufacturer's instructions.

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- v) Devices shall be wired in accordance with Chapter 5 of NFPA 70 (1996) and shall be installed and maintained in accordance with the manufacturer's instructions.
 - vi) An emergency breakaway device shall be installed on each hose at all dispensing devices available for self service of Class I, II and III liquids. The breakaway device shall be designed to retain liquid on both sides of the breakway point, and shall be installed and maintained in accordance with the manufacturer's recommendations.
- 3) Emergency Electrical Controls shall be provided and shall comply with the following rules:
- A) A Master Electrical shut-off switch or circuit breaker shall be provided at a location not less than 20 feet from the nearest nor more than 100 feet from the farthest dispensing device for unattended self-service and shall:
 - i) Be visible from all unattended self-service dispensing device locations on the premises. If installation of a single switch or circuit breaker does not achieve compliance with this visibility requirement, duplicate switches or circuit breakers shall be required by the Office to achieve compliance.
 - ii) Terminate electric power to all dispensers, pumps and dispenser control devices on the premises, including neutral conductors and low voltage control wiring.
 - iii) Be of such a type or installed in such a way, that it may only be reset manually with a key which shall be kept in the custody of the unattended self-service station owner or an employee of the owner or, alternatively, the resetting device shall be kept in a secured area accessible only by key or other device which is kept solely in the custody of the owner or employee of the owner. (Club members, card holders and other persons utilizing the station may not have

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access to the mechanism necessary to the resetting of the master electrical control.)

- B) In addition to the Master Electrical Shut-off required in subsection (a)(3)(A) above, additional emergency electrical controls shall be provided at each group of dispensers or pumps served by a single dispenser control device. Such additional controls may, at the option of the owner be an integral part of the dispenser control device assembly. The device shall, when activated, terminate all electrical power to all dispensing devices or pumps which are served by that dispenser control device. Stations with only one island may elect to utilize only a master electrical control located at the dispenser control device meeting the requirements of subsection (a)(3)(A) above.
- C) The emergency electrical controls required by this section shall, at all times, be identified by a sign constructed of all weather material which shall state, in letters not less than 1" in height, "EMERGENCY SHUT OFF SWITCH". Lettering shall contrast with the background material of the sign. The sign shall be mounted in place with the bottom of the sign not less than 5 feet above the ground.
- D) Resetting the Master Electrical Shut-off required by this Section shall be accomplished only after the condition which caused it to be activated has been corrected.
- E) Power for illumination of dispensing areas required by this Section shall not be affected by activation of any of the Emergency Electrical Controls.
- F) Activation of a Master Electrical Shut-off shall transmit an alarm as required in subsection (a)(4)(A)(iii) and subsection (a)(4)(B)(iv) below.
- G) A sign shall be placed at or near the Master Electrical Shut-off stating that activation of the Master Electrical Shut-off "transmits a fire alarm to the fire department".

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- 4) Fire detection, control and suppression equipment must meet either (A) or (B) of the following (note: local governments may require option A or option B):
- A) Unattended dispensing areas for Class I, II and III liquid motor fuels utilizing this option shall be protected by an automatic fire suppression system(s) meeting the standards of UL 1254 (1992) and NFPA 17 (1994). If a fire suppression system meeting these requirements is installed, no fire extinguishers are required. In the event of a fire suppression system discharge, the fuel dispensing facility shall not be returned to service until the suppression system is recharged and fully operational in the area protected by the system. The fire suppression system shall:
- i) automatically activate the Master Electrical Shut-off.
 - ii) sound a local alarm notification device audible throughout the dispensing area and meet the standards of NFPA 72 (1996).
 - iii) automatically transmit an alarm signal to the fire department which provides fire protection service to the service station property. The method of alarm transmission to the fire department shall meet the standards of NFPA 72 (1996).
 - iv) include extinguishing agent discharge nozzles mounted above dispensers, and at or near ground level to discharge agent underneath vehicles being fueled. Suppression systems that are not listed by UL for ground level discharge should have ground level discharge nozzles installed by January 1, 1987; overhead nozzles shall be installed prior to issuance of a permit.
- B) Unattended dispensing areas for Class I, II and III motor vehicle fuels electing this option shall be equipped with portable fire extinguishers and a fire detection system located under a weather enclosure canopy (unless written documentation is submitted verifying that the detection system will operate properly without

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such a canopy).

- i) The system shall detect a fire in the dispensing area through the use of rate compensation, rate of rise or flame sensing detectors, and the installation must meet the requirements of NFPA 72 (1996).
 - ii) Activation of the system shall automatically activate the Master Electrical shut-off.
 - iii) Activation of the system shall cause the sounding of a local alarm notification device audible throughout the dispensing area and meeting the standards of NFPA 72 (1996).
 - iv) Activation of the system shall cause the automatic transmission of an alarm signal to the fire department which provides fire protection service to the service station property. The method of alarm transmission to the fire department shall meet the standards of NFPA 72 (1996). Fire extinguishers meeting the requirements of Section 170.145 shall be installed and maintained at each island and at the master electrical shut-off. Cabinets, or other enclosures for extinguishers, shall not require breaking of glass or other act(s) which could injure users attempting to access the extinguishers; doors, panels and local alarm systems may be provided at the owner's option.
- 5) At all times instructions shall be posted in all weather materials by each actuator. These instructions shall be mounted not less than four feet nor more than six feet six inches from the bottom of the sign to the ground, and give the following information in letters not less than 1" in height:
- A) No smoking.
 - B) Turn off engine.
 - C) Containers for gasoline must be red.
 - D) Containers for kerosene must be blue. It is dangerous and

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unlawful to fill unapproved containers with gasoline, diesel or kerosene. All containers must be metal or stamped with the marking "Conforms to or meets ANSI/ASTM D3435-83", or "UL" or "FM".

- E) In case of fire or spill use emergency shut-off (or stop) button located at (owner must insert the locations of the emergency shut-offs); Master Electrical Shut-off transmits fire alarm to fire department.
- b) Inventory records must be maintained and available for inspection by personnel of the Office. Applications for unattended self-service shall contain the name(s), address(s) and telephone number(s) of the person(s) the Office can contact for the inventory emergency reconciliations.
- 1) Emergency reconciliations shall be available on two hours notice by telephone or in person.
 - 2) Records must be maintained showing the date, time of purchase (or delivery), amount of product, type of product, and name (or account number which can identify a name) for other than coin and currency sales for each purchase or delivery of product. Records must be maintained for one year and be available in the same manner as inventory records. These records may be maintained electromagnetically, provided that the owner or operator can provide a printout when requested.
- c) Dispensing devices or actuators must limit the delivery of product in such a manner as to require the reactivation of the latch open (hold-open) device to the following:
- 1) Motor vehicle fuels (Class I, II and III)
 - A) Class I liquids (gasoline, gasahol, ethanol, motor fuel blends) – maximum 50 gallons.
 - B) Class II and III liquids (diesel fuel) - maximum 250 gallons.
 - 2) Kerosene (grade K-1 only) – 6 gallons.

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- 3) Other Class I, II and III liquids – 6 gallons.
- d) When kerosene is to be dispensed at unattended service stations, only grade K-1 kerosene shall be dispensed. All dispensing shall be from underground tanks. Kerosene dispensers shall not be located on the same island with other Class I, II or III liquids. Labeling of dispensers shall comply with the Space Heating Safety Act [425 ILCS 65].
- e) The Office of the State Fire Marshal shall, for failure to comply with these rules, for violation thereof, or for violation of any applicable federal, state or local laws, statutes, ordinances, rules or regulations, refuse to issue, refuse to renew or suspend or revoke an unattended self-service station permit. The Office of the State Fire Marshal shall revoke such permit for flagrant, repeated and/or serious violations of these rules. The Office of the State Fire Marshal shall serve notice of such refusal, suspension or revocation on the applicant for or holder of such permit by personal service or by certified or registered mail. The applicant for or holder of such permit may, within 10 days after notice of such refusal, suspension or revocation is served, file in the Office of the State Fire Marshal written request for a hearing. Such hearings shall be governed by Article 10 of the Illinois Administrative Procedure Act [5 ILCS 100/Art. 10]. Any order or decision made by the Office of the State Fire Marshal based upon such hearing shall be an "administrative decision" within the meaning of the Administrative Review Law [735 ILCS 5/Art. 3].

SUBPART B: UNDERGROUND STORAGE TANKS – TECHNICAL REQUIREMENTS

Section 170.400 Definitions

"Abandonment-in-place" is the permanent placement of a UST in an inoperative condition by filling it with inert material in accordance with Section 170.670.

"American suction" is any suction system other than European, and requires a tightness test every 3 years.

"Bulk storage" means the containment in a UST or aboveground storage tank of a regulated substance for direct transference for purposes of distribution into a tank vessel, pipeline, tank car, tank vehicle, portable tank or container – except that the minimum size of the "container" is required to be greater than the maximum allowed for "dispensing".

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"Cathodic protection" is a technique to prevent corrosion of a metal surface by making that surface the cathode of an electrochemical cell. For example, a tank system can be cathodically protected through the application of either galvanic anodes or impressed current.

"Cathodic protection tester" means a person who can demonstrate an understanding of the principles and measurement of all common types of cathodic protection systems as applied to buried or submerged metal piping and tank systems. This person shall have education and experience in soil resistivity, stray current, structure-to-soil potential and component electrical isolation measurements of buried metal piping and tank systems.

"Compatible" means the ability of two or more substances to maintain their respective physical properties upon contact with one another for the design life of the tank system under conditions likely to be encountered in the UST.

"Containment sump" means manufactured containments resistant to petroleum and chemical products that contain piping, electrical conduits, pumps and leak sensors.

"Contractor" is a licensed person, excluding employees of the contractor, who performs any UST activity.

"Corrosion expert" is a person who, by reason of thorough knowledge of the physical sciences and the principles of engineering and mathematics acquired by a professional education and related practical experience, is qualified to engage in the practice of corrosion control on buried or submerged metal piping systems and metal tanks. This person shall be accredited as being qualified by the National Association of Corrosion Engineers (NACE) or be a registered Professional Engineer with the State, who has certification or licensing that includes education and experience in corrosion control of buried or submerged metal piping systems and metal tanks.

"Days" means, when the reference is to 30 days, calendar days; any other reference to "days" will be considered working days unless otherwise stated.

"Dielectric material" is one that does not conduct direct electric current. Dielectric coatings are used to electrically isolate UST systems from the

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surrounding soil. Dielectric bushings are used to electrically isolate portions of the UST system (i.e., tank from piping).

"Dispensing" means the transference of a regulated substance from a UST or aboveground storage tank (AST) directly into the fuel tank of a motor vehicle operated by an internal combustion engine, for use by that motor vehicle. Also, "dispensing" is the transference of a regulated substance from a UST or AST directly into a portable container, as prescribed in 41 Ill. Adm. Code 170.150.

"Double-walled", in reference to tanks and piping, is a factory certified container consisting of an inner-wall and an outer-wall with an interstitial space between the inner-wall and outer-wall suitable for interstitial monitoring, and is designed, constructed and installed to:

contain regulated substances released from the tank system until they are detected and removed;

prevent the release of regulated substances to the environment at any time during the operational life of the UST system; and

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

"European suction" is a piping system that draws a liquid through the system by suction pump or vacuum pump located at the dispenser. This system shall have the piping sloped back to the tank and may have no more than one check valve, and it shall be located directly under the suction pump. This type of piping system never requires line leak detection.

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

"Existing tank system" means a tank system used to contain an accumulation of regulated substance or for which installation has commenced before April 21, 1989. Installation is considered to have commenced if the owner or operator has obtained all federal, State and local approvals or permits necessary to begin physical construction and installation of the tank system and the system is completed and brought into operation.

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"Farm" is a tract of land devoted to the production of crops or raising of animals, including fish. "Farm" includes all contiguous land and structures and other appurtenances and improvements; also, fish hatcheries, rangeland and nurseries with growing operations. "Farm" does not include agribusiness (as defined in 20 ILCS 3605/2(i)), laboratories where animals are raised, land used to grow timber and pesticide aviation operations. Moreover, this definition does not include retail stores or garden centers where the produce of nursery farms is marketed, but not produced.

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

"Flow-through process tank" is a tank that forms an integral part of a production process through which there is a steady, variable, recurring or intermittent flow of materials during the operation of the process. Flow-through process tanks do not include tanks used for the storage of materials prior to their introduction to the process or for the storage of finished products or by-products from the production process. When the process is shut down, flow-through process tanks do not store product to be used once the process is resumed and may contain no more than a de minimis amount of product.

"Gathering lines" are any pipeline, equipment, facility or building used in the transportation of oil or gas during oil or gas production or gathering operations.

"Hazardous substance" means any substance defined in section 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) of 1980 (42 USC 9601); but not including any substance regulated as a hazardous waste under subtitle C of the Resource Conservation and Recovery Act (RCRA) of 1976 (42 USC 6901 et seq.).

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

"Heating oil" means petroleum that is No. 1, No. 2, No. 4-light, No. 4-heavy, No. 5-light, No. 5-heavy or No. 6 technical grades of fuel oil; other residual fuel oils (including Navy Special Fuel Oil and Bunker C) and other fuels when used as substitutes for one of these fuel oils. Heating oil is typically used in the operation of heating equipment, boilers or furnaces.

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"Heating oil tank for consumptive use on the premises where stored" means heating oil consumed exclusively on the premises where the heating oil UST is located, for space-heating or water-heating purposes. It does not include using heating oil to heat from a boiler or furnace through direct conductivity any product or substance used in a manufacturing or production process or using heating oil as an ingredient in a manufacturing or production process. Heating oil used to heat grain dryers or kilns is used for consumptive use on the premises.

"Hydraulic lift tank" means a tank holding hydraulic fluid for a closed loop mechanical system that uses compressed air or hydraulic fluid to operate lifts, elevators or other similar devices.

"Interior liner" is a person who applies interior or internal lining.

"Interior or internal lining" means corrosion and chemical resistant materials that are sprayed, brushed or applied to the inside of a tank to protect the tank and its product from contamination by corrosion. Interior lining is applied by an interior liner.

"Interstitial monitoring" is a release detection method used to determine the presence of a regulated substance between the inner and outer barriers for a leak or release of regulated substances from the underground tank and/or piping and is designed, constructed and installed to detect a leak from any portion of the tank or piping that routinely contains product and meets any other applicable requirements of Section 170.530(g) and 40 CFR 280.43(g).

"Kerosene" is a refined petroleum distillate consisting of a homogeneous mixture of hydrocarbons essentially free of water, inorganic, acidic or basic compounds, and excessive amounts of particulate contaminants. Two classifications are recognized by ASTM D 3699-92, incorporated by reference in Section 170.410, as follows:

No. 1-K – A special low-sulfur grade kerosene suitable for use in nonflue-connected kerosene burner appliances and for use in wick-fed illuminating lamps; and

No. 2-K – A regular grade kerosene suitable for use in flue-connected burner appliances and for use in wick-fed illuminating lamps.

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"Liquid traps or associated gathering lines directly related to oil or gas production or gathering operations" refer to sumps, well cellars or other traps used in association with oil or gas production, gathering or extraction operations (including gas production plants), for the purpose of collecting oil, water or other liquids. Such liquid traps may temporarily collect liquids for subsequent disposition or reinjection into a production or pipeline stream or may collect and separate liquids from a gas stream.

"Motor fuel" means petroleum or a petroleum-based substance that is motor gasoline, aviation gasoline, No. 1 or No. 2 diesel fuel or any grade of gasohol and is typically used in the operation of a motor engine.

"New tank system" means a tank system that will be used to contain an accumulation of regulated substances and for which installation commenced on or after April 21, 1989. A new tank system may include a tank which has been installed, contained regulated substances, removed and re-certified.

"Noncommercial purposes" with respect to motor fuel means not for resale and shall be exclusively for farm or residential use.

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

"On the premises where stored" means tanks located on the same or contiguous property where the stored heating oil is used. "On the premises" is not limited to the building where the heating oil is stored. Thus, centralized heating units using heating oil that serve more than one building on the same property are included.

"Operation" or "use" in reference to underground storage tanks *means that the tank must have had input or output of petroleum, petroleum products, or hazardous substances, with the exception of hazardous wastes, during the regular course of its usage. "Operation" does not include:*

compliance with leak detection requirements as prescribed by rules and regulations of the Office of the State Fire Marshal; or

the mere containment or storage of petroleum products, or hazardous substances, with the exception of hazardous wastes. [430 ILCS 15/4]

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

"OSI" or "Operational Safety Inspection" is an inspection of removal, abandon-in-place, or any tank entry activity requiring an STSS on site.

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

"Overfill release" is a release that occurs when a tank is filled beyond its capacity, resulting in a discharge of the regulated substance to the environment.

"Owner" means:

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

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

"PAI" or "Performance Assurance Inspection" is an inspection of UST installation and upgrades, where an STSS is scheduled by Date and Time Certain job schedules.

"Person" means an individual, trust, firm, partnership, joint stock company, corporation, federal agency, state, municipality, commission, unit of local government or political subdivision of a state or any interstate body. "Person" also includes consortium, joint venture, commercial entity or the United States Government.

"Petroleum" (including crude oil or any fraction of crude oil that is liquid at standard conditions of temperature and pressure (60° F and 14.7 pounds per square inch absolute)), includes, but is not limited to, petroleum-based substances comprised of a complex blend of hydrocarbons derived from crude oil through processes of separation, conversion, upgrading or finishing, such as motor fuels, jet fuels, distillate fuel oils, residual fuel oils, lubricants, petroleum solvents or used oils.

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"Petroleum UST system" means an underground storage tank system that contains petroleum or a mixture of petroleum with de minimis quantities of hazardous substances. Such systems include those containing motor fuels, jet fuels, distillate fuel oils, residual fuel oils, lubricants, petroleum solvents or used oils.

"Pipe" or "piping" is any hollow cylinder or tubular conduit that is constructed of non-earthen materials.

"Pipeline facilities (including gathering lines)" include new or existing pipe rights-of-way and any equipment, facilities or buildings used in the transportation of gas (or hazardous liquids, which include petroleum or any other liquid designated by the United States Secretary of Transportation) or the treatment of gas or designated hazardous liquids during the course of transportation.

"Re-certification" of Removed USTs: A re-certified tank is any tank that has been internally and externally inspected. These inspections and re-certifications shall be conducted by a member of the Steel Tank Institute or Fiberglass Tank Institute, or original manufacturer. The re-certified tank must have a warranty remaining for at least 5 years and the warranty must be submitted in writing to OSFM.

"Regulated substance" means petroleum or hazardous substance as defined in this Section.

"Release" means any spilling, overfilling, leaking, emitting, discharging, escaping, leaching or disposing from a UST into groundwater, surface water or subsurface soils.

"Reliner" means "interior liner".

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

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

"Residential tank" is a motor fuel UST located on residential property used for noncommercial purposes by a single family and located on property on which that family's residence is located. For purposes of this definition, "residence" shall

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include a single-family dwelling or duplex.

"Secondary containment" means a release prevention and release detection system for underground tanks and/or piping consisting of an inner and outer barrier with a space suitable for interstitial monitoring, and is designed, constructed and installed to:

contain regulated substances released from the tank system until they are detected and removed;

prevent the release of regulated substances to the environment at any time during the operational life of the UST system; and

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

Secondary containment may include double-walled tanks and piping.

"Service stations" are defined as:

"Automotive service station". That portion of property where regulated substances used as motor fuels are stored and dispensed for retail sale (see Section 2 of the Use Tax Act [35 ILCS 105/2] for a definition of "retail sale") from fixed equipment into the fuel tanks of motor vehicles operated by internal combustion engines, for use by those motor vehicles.

"Marine service station" or "Marina". That portion of property where regulated substances used as motor fuels are stored and dispensed from fixed equipment on shore, piers, wharves or floating docks into the fuel tanks of self-propelled craft operated by internal combustion engines, for use by those self-propelled craft.

"Service station", whether automotive or marine, includes attended service station, attended self-service station and unattended self-service station.

"Site assessment" is sampling and analyzing the results of the sampling to determine if a release has occurred and if contamination is present on a site. In making this determination, consideration shall include, but not be limited to, the following factors: whether the site is within an area where it is likely that contamination may exist; nature of the stored substance; the type of initial alarm

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or cause for suspicion; the types of backfill; the depth of groundwater; and any other factors appropriate for identifying the presence and source of a release.

"Spill release" is a release that usually occurs at the fill pipe opening of a tank when a delivery truck's hose is disconnected from the fill pipe, while product continues to exit the hose, resulting in a discharge of the regulated substance to the environment.

"Storm-water" or "wastewater" collection system is all piping, pumps, conduit and any other equipment necessary to collect and transport the flow of surface water run-off resulting from precipitation or domestic, commercial or industrial wastewater to and from retention areas or areas where treatment is designated to occur. The collection of storm-water or wastewater does not include treatment, except where incidental to conveyance.

"STSS" means Storage Tank Safety Specialist.

"Surface impoundment" is a natural topographic depression, man-made excavation or diked area formed primarily of earthen materials (although it may be lined with man-made materials) that is not an injection well.

"Tank" is a stationary device designed to contain an accumulation of regulated substances and constructed of non-earthen materials (e.g., steel, fiberglass, concrete or plastic) that provides structural support.

"Tank containment sump" means containment located at the tank at the submersible pump or the entry point of American suction piping at the tank that will prevent leaks from the product piping from reaching soil or groundwater. Such containment must be liquid-tight on its sides, bottom, and at any penetrations; be compatible with the substance conveyed by the piping; and be accessible at grade and be monitored.

"Ten percent or more beneath the surface of the ground" with reference to a tank, means that its volume (including the volume of its connected underground piping) is 10 percent or more beneath the ground surface or otherwise covered with earthen materials. If a tank is in a vault, it is considered "beneath the surface of the ground", if it cannot be viewed from all sides and top and base.

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"Under-dispenser containment" or "UDC" means containment underneath a dispenser that will prevent leaks from the dispenser from reaching soil or groundwater. Such containment must be liquid-tight on its sides, bottom, and at any penetrations; be compatible with the substance conveyed by the piping; and allow for visual inspection and access to the components in the containment system and/or be monitored.

"Underground pipes connected thereto" means all underground piping, including valves, elbows, joints, flanges and flexible connectors attached to a tank system through which regulated substances flow. For the purpose of determining how much piping is connected to any individual UST system, the piping that joins two UST systems should be allocated equally between the systems. Where tanks are manifolded together with product piping, each tank is considered a separate UST system. Exempt tanks shall not be connected by piping to regulated tanks.

"Underground storage tank system" or "UST" means any one or combination of tanks (including underground pipes, ancillary equipment and cathodic protection connected thereto) used to contain an accumulation of regulated substances, and the volume of which (including the volume of underground pipes connected thereto) is 10 percent or more beneath the surface of the ground. A tank system classified as a UST may not be re-classified as being a non-UST unless there has been a change-in-service as provided in Section 170.630. A non-UST system tank used to store a non-regulated substance may not be converted to a UST system tank unless the tank has been re-certified and is in compliance with all applicable upgrade requirements. A UST system does include an emergency power generator tank that stores any classification of fuel for use exclusively, alternately or concurrently by an emergency power generator, except as otherwise excluded in this definition. The term "underground storage tank system" or "UST" does not include any pipes connected to any tank excluded from this definition. Underground storage tank system or UST does not include any tank system as follows:

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

Heating oil tank of any capacity used exclusively for storing heating oil for consumptive use on a farm or residence;

Septic tank;

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Pipeline facility (including gathering lines):

Regulated under the Natural Gas Pipeline Safety Act of 1968 (49 USC 1671 et seq.);

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

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

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

Surface impoundment, pit, pond or lagoon;

Storm-water or wastewater collection system;

Flow-through process tank;

Emergency spill protection tank or overflow tank that is emptied expeditiously following use;

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

Storage tank situated in an underground area (such as a basement, cellar, mineworking, drift, shaft or tunnel) if the storage tank is situated upon or above the surface of the floor and can be viewed from all sides and top and base;

Storage tank situated in a vault (whether underground or aboveground), if the storage tank is situated upon or above the surface of the floor or ground and can be viewed from all sides and top and base;

Tank abandoned-in-place by filling with inert material in compliance with Section 170.670 issued by the Office of the State Fire Marshal;

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Tank with a capacity of 110 gallons or less;

Any UST system holding hazardous wastes listed or identified under subtitle C of the Solid Waste Disposal Act (42 USC 3251 et seq.);

Tank that contains a de minimis concentration of regulated substances, except that such tank shall have been in such status as of April 21, 1989 and may not have been converted to a UST system tank on or after that date, unless the tank has been re-certified and is in compliance with applicable upgrade requirements; or

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

The following UST systems are deferred from the requirements of Sections 170.420 through 170.580 and 170.620 through 170.672 (whether single- or double-wall construction):

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

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

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

Airport hydrant fuel distribution system; and

Any field-constructed tank.

Although the systems deferred immediately above are exempt from the requirements in Sections 170.420 through 170.580 and 170.620 through 170.672, they are required to comply with Sections 170.590 through 170.610 and, by December 22, 1998, are required to comply with the following:

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Be constructed to prevent releases due to corrosion or structural failure for the operational life of the UST system;

Be cathodically protected against corrosion, constructed of non-corrodible material, steel clad with a non-corrodible material, or designed in a manner to prevent the release or threatened release of any stored substance;

Be constructed or lined with material that is compatible with the stored substance; and

An owner of a UST system with a field-constructed tank shall install a method for leak detection in accordance with written directives issued by the Office of the State Fire Marshal.

"UST activity" means a UST:

Installation – including retrofitting and cathodic protection installation;

Repair – including upgrade, which includes retrofitting and cathodic protection installation;

Removal – decommissioning, which includes abandonment-in-place;

Lining;

Lining inspections, lining touchup;

Tank entry;

Tank and/or line precision testing; or

Cathodic protection testing.

"Upgrade" is the addition or retrofit of some portion of a UST system, such as cathodic protection, leak detection, new dispenser islands, new piping, interior lining (lining) or spill and overfill controls, manway, flex connectors or new bungs, to improve the ability of the UST to prevent the release of product.

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

Section 170.410 Incorporations by Reference

- a) The following publications are incorporated by reference in this Subpart:

American National Standards Institute (ANSI). Available from the American National Standards Institute, 11 W. 42nd Street, New York NY 10036 (212)642-4900:

ANSI/ASME B31.3b 2000, "Chemical Plant and Petroleum Refinery Piping".

ANSI/ASME B31.4 1999, with addendum ANSI/ASME B31.4a – 1994, "Liquid Transportation Systems for Hydrocarbons, Liquid Petroleum Gas, Anhydrous Ammonia, and Alcohols".

ANSI Z117.1 1995, "Safety Requirements for Confined Spaces".

American Petroleum Institute (API). Available from the American Petroleum Institute, 1220 L Street, N.W., Washington, D.C. 20005 (202) 682-8375:

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

API Recommended Practice 1615, "Installation of Underground Petroleum Storage Systems", Fifth Edition, 1996.

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40 CFR 302.5 and 302.6 (2002).

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- c) This Section incorporates no later editions or amendments.
- d) Where the above-referenced publications conflict with Part 170, the State regulations shall take precedence.
- e) The following State of Illinois regulations are referenced in this Part:

35 Ill. Adm. Code 742, Appendix B.

Section 170.411 USTs Out of Service

USTs may remain non-operational, but shall meet the complete upgrade requirements specified in this Part and 40 CFR 280, and may continue in a state of nonuse provided the requirements of this Section are met. The tank must be removed within 60 days after a Notice of Violation is issued by the OSFM if, at any time after a UST is taken out of service, the tank is not maintained in compliance with 40 CFR 280 and the following requirements:

- a) The UST and product lines are empty, with no more than 1 inch of product remaining in the tank; if not, tank and line release detection must remain in operation and must be maintained.
- b) Cathodic protection shall be maintained and operational for all tanks and lines, and tested as required, to include flex/pipe connectors. This will include any monthly logs that need to be maintained.
- c) The Office of the State Fire Marshal receives a written request, within 30 days after the date the tanks was last used, requesting out of service status.
- d) Leave vent lines open and functioning.
- e) Within 7 days, the owner/operator shall cap and secure all product and electric lines, and secure all pumps, manways and ancillary equipment.
- f) A UST system may be put back in operation any time during the first 12 months, subject to the requirement that the OSFM be notified in writing at least 10 days prior to operation.
- g) If there is no ongoing incident cleanup specific to the tank or tanks that are the subject of the out of service request, a site assessment verifying the absence of a

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release shall be conducted at the end of one year from the date of non-use, and a report shall be submitted to the OSFM.

- h) Systems out of use for over 1 year may be put back in service provided that:
 - 1) Tanks and lines are to be precision tested and proven sufficient.
 - 2) Line leak detectors must be tested and proven sufficient.
 - 3) Tank and line release detection is tested and proven operational.
 - 4) Cathodic protection is tested and proven sufficient.
 - 5) Site assessment verifying the absence of a release was conducted at the end of the first year.
 - 6) All test results referenced in subsections (h)(1)-(5) must be performed not less than 30 days before placing the tank back in service and submitted to the Office of the State Fire Marshal 10 days prior to reopening so that a certification audit can be performed.
- i) The state of non-operations may continue for a period of 5 years from the first date of non-operational status provided that the requirements of this Section are met. After 5 years of non-operation, the tank system shall be removed within 60 days after the conclusion of the 5-year period.

Section 170.412 Delegation of Authority to Enforce UST Rules and Regulations

Pursuant to 430 ILCS 15/2, the Office of the State Fire Marshal has authority to delegate to the City of Chicago enforcement of its underground storage tank rules and regulations.

- a) The methods and procedures of this enforcement do not have to be identical with those of the Office; however, the Office has oversight concerning such enforcement.
- b) Subject to the terms of such a delegation agreement, where the Office of the State Fire Marshal is expressly authorized to initiate enforcement action, the City of Chicago has concurrent authority.

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- c) The rules and regulations of the City of Chicago shall not be less stringent than this Part.

Section 170.420 Design, Construction, Installation, Upgrade Procedures and Notification of UST Systems

- a) Tanks. Any newly installed or replaced underground tank shall be of double-wall construction and equipped with interstitial monitoring that meets the applicable requirements of Section 170.530(g) and 40 CFR 280.43(g) for all permits issued February 1, 2008 and after.
- b) Each tank shall be properly designed, constructed and installed, and any portion underground that routinely contains product shall be protected from corrosion, in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory, as follows:
 - 1) The tank is constructed of fiberglass-reinforced plastic. (The following industry codes, incorporated by reference in Section 170.410, may be used to comply with this subsection (b)(1): UL 1316; UL Canada Standard CAN4-S615; or ASTM D 4021-92.) To prevent penetration of the tank bottom, all non-metallic tanks shall be equipped with steel striker plates on the tank bottom immediately below any opening which might be used for taking dipstick measurements.
 - 2) The tank is constructed of steel and cathodically protected (The following codes and standards, incorporated by reference in Section 170.410, may be used to comply with this subsection (b)(2): STI-P3; UL Canada Standard CAN4-S603, CAN4-S603.1 and CAN4-S631; NACE RPO285; or UL 58.) in the following manner:
 - A) Metallic tanks shall be thoroughly coated on the outside with suitable rust-resisting dielectric material.
 - B) All field-installed cathodic protection systems shall be designed by a corrosion expert.
 - C) New impressed current systems shall be designed to allow determination of the systems' operating status by means of permanently installed lights and gauges as required in Section

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170.460. Existing impressed current systems must meet these requirements on or before November 1, 2003.

- D) Cathodic protection systems are operated and maintained in accordance with Section 170.460.
- 3) Steel tanks shall be set on firm foundations and surrounded with at least 12 inches of non-corrosive inert material such as clean sand or gravel, well-tamped in place. The tank shall be placed in the hole with care, since dropping or rolling the tank into the hole can break a weld, puncture or damage the tank or scrape off the protective coating of coated tanks.
- 4) Steel tanks shall be covered with a minimum of three feet of earth. USTs existing on October 1, 1985 shall have been buried so that the tops of the tanks will not be less than two feet below the surface of the ground or shall be under at least 12 inches of earth and a slab of reinforced concrete not less than four inches in thickness; the slab shall be set on a firm, well-tamped earth foundation and shall extend at least one foot beyond the outline of the tank in all directions. When asphaltic or reinforced paving is used as part of the protection, it shall extend at least one foot horizontally beyond the outline of the tank in all directions.
- 5) Either:
 - A) The tank is constructed of a steel-fiberglass-reinforced plastic composite (The following industry codes, incorporated by reference in Section 170.410, may be used to comply with this subsection (b)(5): Act-100 or UL 1746.); or
 - B) The tank construction and corrosion protection are determined by the Office of the State Fire Marshal to be designed to prevent the release or threatened release of any stored regulated substance in a manner that is no less protective of human health or the environment than subsections (b)(1) and (2) of this Section. Before the installation of any such tank, its construction and corrosion protection shall be submitted to the Office in writing and is subject to written approval by the Office.
- 6) Re-certified tanks may satisfy the requirements of subsections (b)(1) and

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(2) of this Section; however, written proof of such re-certification shall be submitted to the Office of the State Fire Marshal and STSS. Re-certified tanks must be reinstalled within 6 months after removal or re-certification, whichever is sooner. Re-certified tanks must have a warranty remaining for at least 5 years. Re-certifications must be conducted by a member of the Steel Tank Institute, Fiberglass Tank Institute, or the original tank manufacturer.

- c) Spill and overflow prevention equipment.
 - 1) To prevent spilling and overflowing associated with product transfer to the UST system, owners or operators shall use the following spill and overflow prevention equipment:
 - A) Spill prevention equipment that will prevent release of product to the environment when the transfer hose is detached from the fill pipe (e.g., a spill catch basin). New or replaced spill prevention equipment must have a minimum 5 gallon capacity and be maintained in a dry, clean state; and
 - B) Overflow prevention equipment that:
 - i) Automatically shuts off flow into the tank when the tank is no more than 95 percent full;
 - ii) Alerts the transfer operator when the tank is no more than 90 percent full by restricting the flow into the tank or triggering a high-level alarm; or
 - iii) Provides alternative methods that are no less restrictive than Subpart A or B and no less protective of human health or the environment, as approved in writing by the Office of the State Fire Marshal.
 - C) Float vent valves for overflow prevention shall not be allowed on any type suction system.
 - 2) Owners or operators are not required to use the spill and overflow prevention equipment specified in subsections (c)(1)(A) and (B), if:

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- A) Alternative equipment is used that is determined by the Office of the State Fire Marshal in writing to be no less protective of human health or the environment than the equipment specified in subsections (c)(1)(A) and (B).
 - B) The UST system is filled by transfers of no more than 25 gallons at one time, but shall have spill containment.
- d) Installation tank, piping and upgrade procedures.
- 1) Excavation for USTs shall be made with due care to avoid undermining of foundations of existing structures. All USTs under buildings shall be located with respect to existing building foundations and supports so that the loads carried by the latter cannot be transmitted to the tank.
 - 2) All tanks and piping shall be properly installed in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory and in accordance with the manufacturer's instructions. (Tank and piping system installation practices and procedures described in the following codes, incorporated by reference in Section 170.410, may be used to comply with this subsection (d)(2): API Recommended Practice 1615; PEI Publication RP100; or ANSI B31.3 and B31.4.)
 - 3) Metallic tanks shall not be surrounded or covered by cinders or other material of corrosive effect. Corrosion protection shall be provided in accordance with Section 2-3.3 of NFPA 30, incorporated by reference in Section 170.410, where soil resistivity is 10,000 ohm-centimeters or less. Such corrosion protection shall be in accordance with API 1615, incorporated by reference in Section 170.410.
 - 4) Secure proper permitting and job schedules for installation, piping or upgrades and obtain a stamped acknowledgement from the OSFM.
 - 5) Conduct on-site inspection to ensure accuracy of approved site plans, drawings and actual equipment being installed.

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- 6) Provide equipment with sufficient lifting capacity to unload and place USTs into the tank excavation. Tanks shall not be rolled, dropped or dragged.
- 7) Upon delivery at the installation site, tanks and piping shall be inspected to detect any evidence of damage to coatings or structure.
- 8) Upon discovery of any damage to tanks or piping, repairs shall be in accordance with manufacturer's instructions or supervision.
- 9) Prepare excavations to ensure safe movement of equipment and materials. Excavations shall provide adequate space for the installation of tanks, piping and ancillary equipment. Special attention shall be given to sloping, benching, stepping or shoring the sides of the excavation to make it stable.
- 10) Conduct Date and Time Certain inspection by OSFM personnel for testing USTs before installation, as per manufacturer's recommended procedures.
- 11) To prevent flotation of USTs as a result of high water table or flooding, approved anchorage methods or ballasting shall be installed.
- 12) Pipe trenches shall meet manufacturer's specifications and API 1615 Section 10.3.1 for depth, width, slope, spacing and placement of pipe within.
- 13) Pipe installation shall meet manufacturer's specifications and API 1615, Sections 9.3 and 9.4. Joint adhesive and thread sealant shall meet manufacturer's requirements for petroleum products, including ethanol or methanol blended gasoline.
- 14) OSFM personnel may conduct Date and Time Certain air test of pipe installation and examine any corrosion protection before backfilling of pipe trenches.
- 15) Wiring of electric pumps and all electrical equipment in connection therewith shall conform to NFPA 70.

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- 16) After all work has been completed and the system has been put into service, OSFM personnel may conduct a Date and Time Certain final inspection. This inspection will be conducted on the UST installation, leak detection equipment, spill and overfill equipment and the electrical system. The completed Notification of Underground Storage Tanks form will be ready to present to the OSFM STSS during the final inspection.
- 17) Contractors shall complete the manufacturer's installation checklist for USTs and piping and submit it to the manufacturer or owner as applicable. The contractor shall maintain a copy of the checklist.
- 18) There shall be a minimum of two manufactured slotted or perforated observation wells of at least 4" diameter installed in each new tank field of tanks larger than 1,000 gallons and one well for 1,000 gallon tanks or less and shall have two wells for fields with more than one tank. They shall be placed at opposite ends or opposite corners 1 foot below the invert elevation of lowest UST. Lids shall be securely protected against unauthorized activities. Only one well will be required if groundwater flow direction can be proven and such proof is supplied at the time of permitting and the well is then installed in the downstream location.
- 19) Containments – submersible and dispensers.
 - A) A tank containment sump must be installed at the tank on all new tanks with submersible pumps or American suction piping systems. European suction systems are not required to have this containment.
 - B) Under-dispenser containment must be installed on all new dispenser installations where there previously was no dispenser.
 - C) When an existing dispenser is removed and replaced with another dispenser and equipment used to connect the dispenser to the UST is replaced, under-dispenser containment is required. This equipment may include flex connectors or risers or other transitional components that are beneath the dispenser and connect the dispenser to the piping.

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- D) If more than 20' or 50% of a pipe run is replaced, the containments required in subsections (d)(19)(A) and (B) are required.
- E) If an OSFM STSS observes water in a sump and it is in contact with bare metal piping including flex connectors, then corrosion protection must be installed on the metal piping in accordance with Section 170.460 or the sump shall be replaced. In the event the sump is not replaced, the water shall be removed and the sump shall be made water-tight.
- F) A hydrostatic test will be performed on all containment installations as follows (hydrostatic testing does not apply to piping):
 - i) All penetrations must be completed prior to testing, including electrical.
 - ii) Containment is to be filled with water to a height that covers the highest penetration by 2".
 - iii) Containment is not to be backfilled (backfilling is allowed for support of containment sump, but not to be installed around the sides of the sump) prior to test.
 - iv) Test duration is 30 min. and performed under PAI Time and Date Certain requirements with no drop in water level.
- 20) All repairs, installations, upgrades and maintenance of UST systems shall be done in accordance with manufacturer's recommended procedures.
- 21) Any installation work performed in or around the excavation area must stop at sunset unless adequate lighting is provided.
- e) Certification of installation.
 - 1) Contractors shall certify on the UST notification form that:
 - A) The installer has been certified or licensed by the Office of the State Fire Marshal.

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- B) The installation has been approved by the Office of the State Fire Marshal.
- C) All work listed in the manufacturer's installation checklist has been completed, if applicable.
- D) All applicable Office of the State Fire Marshal installation requirements, as contained in this Part, have been completed. Upgrades are to follow the appropriate Section of the installation guidelines.
- E) Contractors shall certify on the UST notification form in accordance with Section 170.440(f) that the installer has been certified by the tank and piping manufacturers, if applicable.

Section 170.421 Piping

- a) Underground piping installed or replaced shall be of double-wall construction and equipped with interstitial monitoring that meets the applicable requirements of Section 170.530(g) and 40 CFR 280.43(g) for all permits issued February 1, 2008 and after. Any replaced piping that exceeds 20 feet or 50% of the total piping run shall require the entire pipe run to be replaced with double-wall, monitored piping. Where the site has multiple distinct pipe runs, only that piping run being replaced shall be required to be double-wall construction. Pressurized piping systems (including existing systems) shall also be equipped with automatic line leak detectors pursuant to Section 170.540(a).
- b) Piping, valves and fittings for flammable liquids shall be designed for the working pressures and structural stresses to which they may be subjected and approved for their intended use. The application of any material shall not interfere with the normal operation of the shear valves, fusible links or any equipment installed under the dispensers or submersibles. They shall be of steel or other materials suitable for use with the liquid being handled. Pipe-wall thicknesses being determined in accordance with ANSI B31, incorporated by reference in Section 170.410, shall be deemed to comply with this Section, except that carbon steel pipe shall not be thinner than standard wall thickness listed in ANSI B36, incorporated by reference in Section 170.410.

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- c) Non-metallic piping systems conforming to the requirements of ANSI B31, incorporated by reference in Section 170.410, for use with flammable and combustible liquids are permitted underground.
- d) After installation, pressurized piping shall be tested for 30 minutes at 1.5 times the working pressure or 50 PSI, whichever is higher. Suction and vent piping shall be tested at a minimum positive pressure of 7 psi or in accordance with the manufacturer's recommended procedures.
- e) Piping that routinely contains regulated substances and is in contact with the ground, backfill or water shall be properly designed, constructed and protected from corrosion in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory, as specified in this subsection, and all steel risers, vents, and fills in contact with the ground, backfill or water shall be dielectrically wrapped or coated:
 - 1) The piping is constructed of fiberglass-reinforced plastic (the following codes and standards, incorporated by reference in Section 170.410, may be used to comply with this subsection (e)(1): UL 567; UL Canada Subject C107C; or UL Canada Standard CAN4-S633);
 - 2) The piping is constructed of steel and cathodically protected in the following manner:
 - A) The piping is coated with a suitable dielectric material;
 - B) Field-installed cathodic protection systems are designed by a corrosion expert;
 - C) New impressed current systems are designed to allow determination of system operating status by means of permanently installed lights, amp, volts and hour gauges as required in Section 170.460 and existing impressed current systems must meet these requirements on or before November 1, 2003;
 - D) Cathodic protection systems are operated and maintained in accordance with Section 170.460 (the following codes and standards, incorporated by reference in Section 170.410, may be used to comply with this subsection (e)(2): NFPA 30; API

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Recommended Practice 1615; API Recommended Practice 1632; or NACE RPO285); or

- E) The piping construction and corrosion protection are determined by the Office of the State Fire Marshal to be designed to prevent the release or threatened release of any stored regulated substance, in a manner that is no less protective of human health and the environment than the requirements in subsections (c)(1) and (2). Before the installation of any such piping, its construction and corrosion protection shall be submitted to the Office in writing, and the Office shall issue written approval.
- f) UST wiring procedures. All wiring at UST locations shall be in accordance with NFPA 70, incorporated by reference in Section 170.410. Wiring within 20 feet of tanks, within 20 feet of dispenser pumps or run in the product line trenches shall be installed in rigid metallic conduit or threaded steel conduit (or any petroleum or product resistant conduit approved for that use). Electrical conduit shall maintain at least six inches of separation from product piping to avoid damage from abrasion or stray electrical current and shall be routed away from product piping. Minimum cover is required in accordance with Table 300-5 of NFPA 70, incorporated by reference in Section 170.410. Intrinsically safe wiring shall be in conduit when installed within Class I locations, as specified in NFPA 70, incorporated by reference in Section 170.410. Caution should be taken when grounding since it impairs cathodic protection of metallic tanks or piping. When locating electrical wiring in the same trench as the product lines, the conduit shall be positioned on either side of the product piping but not above or below the product piping. This electrical conduit shall cross over the top of any product piping whenever a cross-over is necessary. A six-inch separation shall be maintained at all times, even during a cross-over. All cross-overs shall be kept to a minimum. All electrical power shall be shut off at the immediate location where installations, repairs or upgrades are in progress. All electrical seal-offs are to be properly filled whether being used or for future use.
- g) All related wiring shall be inspected during UST final inspection.
- h) A positive shut off valve shall be installed on the product line at the submersible or at the tank for all suction systems on all new installations and when piping is replaced at existing sites and made accessible at grade. Extractor valve will be accepted on European suction instead of positive shut off valve.

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- i) Vent lines will be tested from the tank to grade level at the time of installation. This test will be done at 7 psi minimum or at the pressure recommended by the manufacturer. This test will be performed at the time of the line PAI test.
- j) The application of any material shall not interfere with the normal operation of the shear valves or fusible links, or any equipment installed under dispensers or submersibles.
- k) Any time product piping is broken for repairs, a precision line tightness test must be conducted before the piping is put back into service.

Section 170.422 Clearance Required for Underground Storage Tanks

- a) Distance to basements, etc.:
 - 1) Dispensing USTs shall be 20 or more feet from any basement, cellar, pit or below-grade excavation on or off the property.
 - 2) No new USTs not used for dispensing may be located under a building or less than 5 feet from a building.
- b) Distance to sewers, etc. Individual tanks and piping shall be buried so that the tops of the tanks and piping shall be lower than the bottom level of all sewers, manholes, catch-basins, cesspools, septic tanks, septic tank clean out stations, wells or cisterns within twenty feet, on or off the property, or tanks and piping shall maintain a full clearance of 20 feet. The term "sewer" includes sanitary and storm sewer lines out of service station buildings, provided, however, that these clearances shall not be required when a sewer line is constructed throughout of cast iron with lead joints or petroleum resistant o-rings.
- c) Distance to property lines. Individual tanks shall be at least twenty feet to property lines, provided, however, that these clearances on the side adjacent to a public street, alley or highway are waived by consent of the authority having immediate jurisdiction over the public street, alley or highway, provided that the required sewer clearances will be maintained.
- d) Distance to special classes of property. Tanks and pumps shall maintain a clearance of not less than 300 feet to any mine shaft, air or escape shaft for any

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mine and 85 feet to any school, institutional, public assembly or theater occupancy, as defined in NFPA 101, incorporated by reference in Section 170.410. The distance shall be measured from the nearest points of tanks and pumps to the nearest points of buildings or shafts.

- e) Where the site size makes compliance with these clearance requirements an impossibility or an imposition, as determined by the Office of the State Fire Marshal during a permit review, a double-wall tank or piping system or both with interstitial monitoring, shall be used and is subject to approval by the Office. Interstitial piping monitoring requirements will only be waived for Europeansuction piping systems . Hazardous substance UST systems shall be double-wall.
- f) Tanks in service on October 1, 1985 may maintain existing underground tank clearances. Existing service stations' basements less than 20 feet from a UST system shall be provided with mechanical ventilation, and only non-sparking explosion proof motors and compressors shall be permitted in such basements and proof of compliance shall be submitted to OSFM.
- g) The minimum setback distances indicated in this Section will be required, when upgrading existing systems, only for the portion of that system that is being upgraded, including tank replacement, island replacement or piping.

Section 170.423 Pressure Testing of Existing Tanks or Lines

Pressure testing, with air or other gases, of underground storage tanks or piping containing, or which have contained, flammable or combustible liquids is prohibited. Except, approved tank or line tightness testing with inert gasses (nitrogen and helium) may be utilized. Preliminary air tests may be used for tanks cleaned and vapor freed for the purposes of testing coverplates or gaskets.

Section 170.424 Venting of Tanks

This Section is applicable to motor fuel tanks located at service stations, unless otherwise noted.

- a) Each tank shall be provided with a separate normal working vent pipe, connected with the top of the tank and carried up to the outer air. Underground manifolding of normal working vents is prohibited. The pipe shall be arranged for proper drainage to the storage tank, and its lower end shall not extend through top of tank

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for a distance of more than one inch; it shall have no traps or pockets. Float vent valve overflow devices are not considered an extension of the standard vent. Manifolder normal vents installed on USTs located at facilities which were existing prior to April 1, 1995 may be left in place provided that the vents can be shown, by field verification, to comply with NFPA 30 vent requirements, incorporated by reference in Section 170.410.

- b) The upper end of the pipe shall be provided with an updraft vent device only, with 40 gauge screening, unless alterations are required by Stage II Vapor Recovery.
- c) The vent pipe shall be of sufficient cross-sectional area to permit escape of air and vapor during the filling operation and in compliance with NFPA 30, incorporated by reference in 170.410, and in no case less than one and one-fourth inches in diameter. If a power pump is used in filling the storage tank, and a tight connection is made to the fill pipe, the vent pipe shall not be smaller than the fill pipe.
- d) The vent pipe shall terminate outside buildings at a point one foot above the level of the highest remote fill or any fill from which the tank may be filled, not less than 12 feet above the adjacent ground level and not less than 5 feet, measured vertically and horizontally, from any window or other building opening, such as a basement, cellar, pit, ventilated soffit or any air intake of any building, and in a location which will not permit pocketing of vapor or liquid. The vent piping shall project above the canopy fascia no less than 4 feet.
- e) Underground manifolding of normal working vents is prohibited. Manifolding of special purpose vents, such as for vapor recovery, is allowed in accordance with NFPA 30 2-3.6.3, incorporated by reference in Section 170.410. Manifolding on normal working vents aboveground is allowed providing the following steps are followed:
 - 1) Manifolding will be installed no less than 3 feet above grade and no more than 5 feet aboveground.
 - 2) Each vent shall be capable of being separated and isolated from the manifold.
 - 3) Class II & III products cannot be attached to a manifold that includes Class I products.

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- 4) Final riser shall be of adequate sizing as specified by NFPA 30, as incorporated in Section 170.410.
- f) No vent piping is allowed inside buildings. Existing vent piping inside buildings may remain if approved by OSFM Division of Fire Prevention. It is recommended that Stage II Vapor Recovery vent piping be connected to an individual tank opening.
- g) Adequate collision protection to protect against physical damage shall be provided for vent piping.
- h) Hazardous substance tanks shall be vented in accordance with NFPA 30, incorporated by reference in Section 170.410 or as approved by the Office of the State Fire Marshal to be no less protective of human health or the environment.

Section 170.425 Fill Pipes

- a) Fill pipes shall be extended to a location outside of any building, as remote as possible from any doorway or other opening into any building and in no case closer than five feet from any such opening. Remote fills are subject to approval by the Office of the State Fire Marshal, on a case by case basis. Fill pipes for used oil tanks are permissible when located inside buildings.
- b) Location shall be in a place where there is a minimum danger of breakage from trucks or other vehicles.
- c) Each fill pipe shall be closed by a screw cap or other tight fitting cap of a type that can be locked. It is the responsibility of the owner/operator to maintain the security of the UST system.
- d) Each loading pipe or fill pipe riser shall be identified by color code or labeling to indicate the product contained in the tank.
- e) Adequate collision protection to protect against physical damage shall be provided for fill pipes which protrude above-grade.
- f) All remote fills shall be double walled and constructed of non-corrosive material or cathodically protected except for gravity flow waste oil.

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- g) All tanks shall be equipped with a drop tube that extends to within 6 inches of the bottom of the tank, with the exception of waste oil.
- h) Any new installation with a remote fill over 20 ft. in length shall have interstitial monitoring and an audible and visible overflow alarm. Remote fills shall be sloped back to the tank. Beginning February 1, 2008, on all new installations where non-metallic piping is used for a remote fill, a grounding station shall be installed and used during delivery.

Section 170.426 Pumps

- a) Petroleum and hazardous substances shall be transferred from tanks by means of fixed pumps so designed and equipped as to allow control of the flow and to prevent leakage or accidental discharge except that siphon bars meeting the requirements below shall be allowed between tanks. Siphon bars shall meet the requirements in subsection (a)(2) or be removed. Supplemental means shall be provided outside of the dispensing device whereby the source of power may be readily disconnected in the event of fire or other dangerous condition.
 - 1) All dispensing devices for petroleum and applicable hazardous substances shall be UL approved and meet the requirements of UL 842, incorporated by reference in Section 170.410. Liquid shall be withdrawn from tanks by means of pumps in conformity with NFPA 70, incorporated by reference in Section 170.410, and equipped with static wire hose and non-ferrous discharge nozzle, except that used oil tanks are not subject to the requirement of transfer by means of fixed pumps.
 - 2) Siphon bars between tanks that are used to transfer petroleum and hazardous substances between tanks by means of gravity or negative atmospheric pressure shall be permitted subject to the following requirements:
 - A) The height of the tops of the tanks shall be within 6 inches,
 - B) Piping shall meet the requirements of Section 170.421,
 - C) Release detection methods for tanks and piping shall be of a type approved for tanks connected by siphon bars in accordance with

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Section 170.530.

- b) No pump or dispensing device shall be located within a building. This does not include pump houses designed to house transfer pumps only; also, this does not include pump houses designed to house transfer pumps at refineries used in conjunction with pipeline product transfers or any refinery processing. Transfer pumps located at industrial or commercial facilities are excluded from the requirements of this Section. Dispensers located at industrial or commercial facilities that contain a regulated substance shall be approved by the Office of the State Fire Marshal.
- 1) Existing pumps and dispensing devices within garages, as of October 1, 1985, are permitted provided the dispensing area is:
 - A) Not below-grade;
 - B) Separated from motor vehicle repair areas, pits and basements;
 - C) Protected against physical damage from vehicles by mounting the dispensing unit on a concrete island or by equivalent means;
 - D) Located in a position where it cannot be struck by a vehicle descending a ramp or other slope out of control;
 - E) Provided with an approved mechanical or gravity ventilation system; and
 - F) Provided with a clearly identified switch, readily accessible in case of fire or physical damage to any dispensing units to shut off the power to dispensing units.
 - 2) Existing dispensing units located below-grade, as of October 1, 1985, shall have independent mechanical ventilation systems and the entire dispensing area shall be protected by an automatic sprinkler system conforming to the requirements of 41 Ill. Adm. Code 100.220.
 - A) The ventilation systems shall be electrically interlocked with the gasoline dispensing units, so that the dispensing units cannot be operated unless the ventilation fan motors are energized and

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operating.

- B) Existing dispensing units located below-grade within buildings shall also comply with subsection (b)(1) of this Section, as applicable.
- c) Curb pumps or pumps located in any portion of a public street are prohibited.
- d) Wiring of electric pumps and all electrical equipment in connection therewith shall conform to NFPA 70, incorporated by reference in Section 170.410.
- e) Devices which discharge by gravity are prohibited and were to have been removed by January 1, 1986. Gravity devices at service stations that are retained for their novelty or historical interest may be retained at the facility but shall be rendered non-functional.
- f) Systems which employ continuous air pressure on storage tanks in connection with gauging or vending devices are prohibited, with the exception of those systems utilized in Stage II Vapor Recovery.
- g) The use of aboveground storage tanks in connection with gauging or vending devices is prohibited, as clarified elsewhere in this Section. Retail sale from aboveground tanks is prohibited except as allowed in 41 Ill. Adm. Code 180.
- h) New installations of apparatus for dispensing petroleum into fuel tanks of vehicles shall not be connected to either aboveground or underground bulk storage tanks. This does not include cargo tanks mounted on tanker trucks for transporting purposes. Requests to install new bulk loadout terminals connected to new underground storage tanks located at either self-serve or unattended self-serve service stations must be reviewed and approved by both OSFM Division of Fire Prevention and Division of Petroleum and Chemical Safety. These requests will be evaluated for new installations and on a case-by-case basis only.
- i) Dispensing devices at an automotive service station shall be so located that all parts of the vehicle being served will be on the premises of the service station. For dispensing devices located inside buildings, openings beneath dispenser enclosures shall be sealed to prevent the flow of leaking fuel to lower building spaces. Pump houses designed to house transfer pumps only are not considered buildings, as per this Section.

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- j) Dispensing devices at marine service stations may be located on open piers, wharves, floating docks, on shore or on piers of the solid-fill type and shall be located away from other structures so as to provide room for safe ingress and egress of craft to be fueled. Openings beneath marina dispensing enclosures shall be sealed to prevent the flow of leaking fuel into the water beneath them. Spill containment shall be provided on docks adjacent to dispensers to contain spills that may occur during the filling of approved portable containers.
- k) Dispensing units existing prior to September 15, 1978, may be located inside buildings if specific written approval of the Office of the State Fire Marshal was granted by October 1, 1985, and proof of such was submitted by the applicant and verified by the Office. The dispensing area shall be separated from other areas by two-hour fire resistive construction, as defined in the ICC Building Code, incorporated by reference in Section 170.410. The dispensing area shall be provided with a mechanical or gravity ventilation system; all components of which shall comply with the requirements of NFPA 70, incorporated by reference in Section 170.410.
- l) Kerosene dispensers installed after April 1, 1995 shall not be located on the same island or within 20 ft. of any petroleum or hazardous substances. Labeling of dispensers shall comply with the Space Heating Safety Act [425 ILCS 65].
- m) Hoses at service stations shall not exceed 18 feet in length, as required in NFPA 30A, referenced in Section 170.410, except as permitted in subsection (n) of this Section.
- n) Mechanical retractable devices are required on dispenser hoses in excess of 18 feet in length. Hose length on mechanical retractors shall not exceed 50 feet and may only be installed with written approval of the Office of the State Fire Marshal.
- o) Dispenser pumps shall be located outside of buildings and not less than 5 feet from any building or less than 5 feet measured vertically and horizontally from any window or other building opening, such as a basement, cellar, pit, ventilated soffit or any air intake or exhaust of any building, and in a location that will not permit pocketing of vapor or liquid. The Office of the State Fire Marshal shall approve dispenser locations only where in its judgment a safety hazard does not exist. Location of new dispenser pumps shall be in accordance with the

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following:

- 1) Not below-grade;
- 2) Separated from motor vehicle repair areas, pits and basements;
- 3) Protected against physical damage from vehicles by mounting the dispensing unit on a concrete island or by equivalent means; and
- 4) Located in a position where it cannot be struck by a vehicle descending a ramp or other slope out of control.

Section 170.427 Defective or Non-Compliant Equipment

- a) Failed precision tank or line tests and defective tank or line leak detection equipment will require that particular tank system to be shut down until repaired and functioning properly. Another approved method of leak detection may be implemented if approved by OSFM on an interim basis.
- b) For defective or improperly operating equipment, such as, but not limited to, spill, overfill and cathodic protection, repairs shall commence, or the equipment shall be replaced, within 48 hours from the time of discovery. Failure to act within this time frame will require the tank system to be taken out of service until repairs are completed.

Section 170.428 General Requirements for UST Fuel Dispensing Systems

- a) Where tanks are at an elevation which produces a gravity head on the dispensing device, the tank outlet shall be equipped with a device, such as a solenoid valve, positioned downstream as close as possible to the tank, so installed and adjusted that liquid cannot flow by gravity from the tank.
- b) Where dispensing is from a floating structure, suitable lengths of approved flexible hose may be employed between the shore piping and the piping on the floating structure as made necessary by change in water level or shoreline.
- c) Where excessive stray currents are encountered, piping containing liquids at marine service stations shall be electrically insulated from the shore piping.

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- d) All piping shall be located so as to be protected from physical damage.
- e) A readily accessible valve to shut off the product supply from shore shall be provided in each pipeline at or near the approach to the pier and at the shore-end of each marine pipeline adjacent to the point where a flexible hose is attached.
- f) Each fill pipe for liquid storage shall be identified by color code or other marking to identify the product for which the tank is used. The color code or marking shall be maintained in legible condition throughout the life of the tank system.
- g) A clearly identified and easily accessible emergency shut-off switch shall be provided at a location remote from dispensing devices, to shut off the power to all dispensing devices in the event of an emergency. Emergency controls shall be installed at a location approved by the Office of the State Fire Marshal, but controls shall be at least 20 feet but not more than 100 feet from dispensers.
- h) All dispensing devices shall be protected against collision damage by suitable means. Dispensing devices shall be listed by an approved testing laboratory.
- i) A control shall be provided that will permit the pump to operate only when a dispensing nozzle is removed from its bracket or normal position with respect to the dispensing device, and the switch on this dispensing device is manually activated. This control shall also stop the pump when all nozzles have been returned, either to their brackets or normal non-dispensing position.
- j) A listed emergency breakaway device designated to retain liquid on both sides of the breakaway point shall be installed on each hose. Where hoses are attached to a hose-retrieving mechanism, the listed emergency breakaway device shall be installed between the point of attachment of the hose-retrieving mechanism to the hose and the hose nozzle valve.
- k) Pressurized piping systems require a listed rigidly anchored emergency shut-off valve installed in the supply line at the base of each individual dispenser. Such valve shall incorporate a fusible link or other thermally activated device, designed to close automatically in the event of severe impact or fire exposure.
- l) Listed automatic-closing type hose nozzle valves shall be provided on all dispensers. Dispensing nozzles used at marine service stations shall not be provided with a latch-open device.

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- m) Marine service stations shall be of the attended type only.

Section 170.429 Unloading Operations

- a) The unloading hose from a tank truck into an underground tank shall have a static wire or its equivalent and shall be equipped with a non-ferrous nozzle or tight connection metal nipple.
- b) The driver, operator, or attendant of any tank vehicle shall not remain in the vehicle but shall not leave the vehicle unattended during the loading or unloading process. Delivery hose, when attached to a tank vehicle, shall be considered to be a part of the tank vehicle.
- c) Before unloading operations begin, the depositor shall determine the following:
 - 1) The facility has a Green Tag, issued by the OSFM, that is current and valid and in plain view.
 - 2) Any fill or remote fill that has a Red Tag, issued by OSFM, attached. Depositing into the associated tank is prohibited.
 - 3) The depositor shall determine the quantity of product that can be unloaded into each tank (i.e., the tank ullage) without overflow of product. The volume shall be logged with the facility owner/operator. The log may consist of the bill of lading.
 - A) Any overriding or tampering with an overfill device that may result in the overfilling of any tank is prohibited.
 - B) The depositor shall inspect the fill device, prior to unloading, to assure that no tampering has occurred. Before unloading may begin into a remote fill, the depositor shall ensure that all fill caps are secure and tight.
- d) When transferring Class I liquids, motors of tank vehicles or motors of auxiliary or portable pumps shall be shut down during making and breaking hose connections. If loading or unloading is done without requiring the use of the

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motor of the tank vehicle, the motor shall be shut down throughout the transfer operations of Class I liquids.

- e) Tank trucks and tank wagons used for the transport and delivery of Class I, II or III liquids shall not be parked for other than delivery purposes in residential districts, as defined in the Illinois Vehicle Code [625 ILCS 5/1-172].
- f) When unloading product into underground tanks equipped with tank vapor recovery equipment, the driver, operator, or attendant of the tank truck shall ensure that all vapor return paths are liquid and vapor tight to prevent the discharge of vapors at grade level.
- g) Smoking on or about any tank truck while unloading any flammable or combustible liquid is forbidden. Extreme care shall be taken during unloading operations to keep fire away and to prevent persons in the vicinity from smoking, lighting matches or carrying any flame or lighted cigar, pipe, or cigarette.

Section 170.430 Interior Lining and Lining Inspection of UST Systems

- a) Tank lining requirements.
 - 1) Interior lining procedures. A tank may be lined as needed by following the steps outlined in this Section.
 - A) Tank Entry. Before entering tanks, the procedures described in API Publication 2015 and 2015A, incorporated by reference in Section 170.410, shall be complied with. This includes checking the oxygen content inside the tank with a properly calibrated oxygen monitor. At all times, personnel entering the tank shall be equipped with positive pressure air supplied equipment with full face enclosure and safety harness connected to a safety line held by an attendant outside the tank. Oil and water-resistant rubber or neoprene boots and gloves shall be worn. Clothing shall cover the arms, legs, torso and head of tank entry personnel. Disposable clothing, impervious to product, is preferred. Clothing saturated with product shall be removed immediately upon departure from the tank. All personnel working inside the tank shall be familiar with ANSI Z117.1, incorporated by reference in Section 170.410. Tests with the combustible gas indicator and oxygen monitor shall

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be performed periodically in the tank to ascertain that the tank vapors and oxygen content are in the safe range. It shall be recognized that if the tank is perforated, product or vapors that have leaked into the soil may re-enter the tank through a perforation. The vent line shall remain clear and unobstructed to allow continuous ventilation. All other lines and openings shall be plugged or capped off to insure no liquids or vapors may enter the tank during the lining operation.

- B) Application of Lining. Prior to the application of lining material, a ¼ inch steel reinforcing plate rolled to the contour of the tank and with minimum dimensions of 8 inches by 8 inches shall be installed under the fill (drop) tube and gauging tube. This plate shall be covered with fiberglass cloth embedded in resin. The blast-cleaned surface shall be coated within eight hours after blasting and before any visible rusting occurs. Only those lining materials meeting the specifications in API Publication 1631 and NLPA 631, incorporated by reference in Section 170.410, shall be used. Manufacturer's instructions are to be complied with on handling and mixing of resin compounds, and these compounds shall be applied to the entire interior surface of the tank by the manufacturer or the manufacturer's designated distributor following the specified method of application, to the designated thickness and at the recommended application temperature. If a heater is used to accelerate the curing process, all other work which might release flammable vapors shall be halted, and the heating unit shall be attended whenever it is in operation. The coating shall be cured thoroughly to the manufacturer's specifications and checked for air pockets and pinholes using a Holiday Detector. If any exceptions are found, they shall be repaired to manufacturer's specifications. The contractor shall protect the coated surfaces from contamination by foreign matter. The coating thickness shall be checked with an Elcometer Thickness Gauge or equivalent and tested for hardness using a Barcol Hardness Tester or equivalent to ensure compliance with manufacturer's specifications.
- C) Tank Closing. If a tank has been previously lined and passes its internal inspection, the following may be done in lieu of the

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manway requirements:

- i) A ¼ inch thick steel cover plate, rolled to the contour of the tank, shall be made to overlap the hole at least two inches on each side (e.g., should measure at least 26 inches by 26 inches, if manhole was cut 22 inches by 22 inches);
 - ii) The cover shall be used as a template to locate ¾ inch diameter holes not exceeding five inch centers, one inch from the edge of the cover;
 - iii) The cover plate shall be sandblasted to White Metal on both sides, and the entire inside surface shall be coated with coating material to act as a gasket;
 - iv) After being bolted to the tank, the coverplate and surrounding tank surface shall be properly sandblasted, coated with coating material and allowed to cure before backfilling the hole;
 - v) A precision test shall be performed any time an underground storage tank is entered to install a manway, install a coverplate after lining, or do an internal inspection of the tank. This shall be done within 3 days after backfilling and is the responsibility of the contractor.
- D) Tank closing after entry procedures. If a tank is being lined for the first time or subsequently is being totally lined, the following shall apply:
- i) Attach a manway no less than 18 inches in diameter that fits the contour of the tank. This manway shall be surrounded with self-supporting material and be accessible from surface grade.
 - ii) The manway shall be used as a template around which will be located ¾-inch diameter holes, 5 inches apart from center to center, one inch from the edge, and overlapping the entry hole at least 2 inches on each side, or welded in

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place if soil conditions will allow (no contamination is present). The lining material shall extend into the neck of the manway.

- E) Initial tank lining or subsequent total lining shall conform to NLPA Standard 631, incorporated by reference in Section 170.410. The inspection of the manway installation and internal lining shall be made by OSFM, STSS prior to installation of the manway lid.
 - F) After the STSS inspection, a tank precision test shall be performed. It shall be the responsibility of the contractor to have a precision test performed within 3 days after the lining procedure completion and submit the results within 10 days after completion of the test to the OSFM; test results that fail must be reported in writing on the prescribed form to the OSFM within 3 working days.
 - G) Within 10 years after lining, and every five years thereafter, the lined tank shall be internally inspected and found to be structurally sound with the lining still performing in accordance with original design specifications. An interior lining inspection permit must be obtained to do an internal inspection.
- 2) Internal lining combined with cathodic protection. A tank may be upgraded by both internal lining and cathodic protection if:
- A) The lining is installed in accordance with the requirements of subsection (b)(1) and Section 170.480; and
 - B) The cathodic protection system meets the requirements of Section 170.420(a)(2)(B) through (D). (The following codes and standards, incorporated by reference in Section 170.410, may be used to comply with this Section: API Recommended Practice 1631; NLPA Standard 631; NACE RPO285; or API Recommended Practice 1632.)

An interior inspection for an installation of internal lining combined with cathodic protection is required only once, provided an interior inspection was performed in compliance with subsection (3)(A) or (B) above.

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- b) Within 10 years after initial lining or total subsequent lining of a tank, a physical internal inspection shall be performed as follows:
- 1) The procedures for tank lining in subsection (a) shall be followed while entry is made into an existing UST has been interred for internal inspection purposes.
 - 2) Once a UST has been entered, a visual inspection of the lining shall be made. The lining shall be visually inspected for obvious evidence of peeling, blistering, surface wrinkling or roughing of the lining material. Repairs (touchup) to existing linings will be allowed up to 30% of the total surface area of the lining being inspected on a single tank.
 - A) Testing shall be done to check the thickness of the shell and heads of the tank. The average metal thickness shall be at least 75% of the original tank metal thickness. Ultrasonic testing shall be done in accordance with Chapter B7 of NLP Standard 631, incorporated by reference in Section 170.410.
 - i) Tanks not meeting the wall thickness requirements shall be condemned and not put back into service as referenced in Section 8.1 of NLP Standard 631, 1991 edition.
 - ii) No welding or cutting will be allowed inside the tank to repair holes or patch thin areas in any part of the tank.
 - B) After a lined tank passes both the visual and the tank wall thickness test, it must be tested for holidays (air pockets) in the lining material. This test shall be performed using a holiday detector with a silicon brush electrode or other acceptable instrument to ensure the integrity of the lining material. The internal inspection holiday test shall be conducted at a rate of at least 100 volts per mil of nominal lining thickness, but in no case less than 12,500 volts or more than 35,000 volts. Any holidays discovered during this internal inspection may be repaired as long as the repairs do not exceed 30% of the total surface area of a single tank. Tanks with over 30% repaired areas shall be condemned, and not put back into service. The repair contractor must certify to the OSFM that the coating materials used for repair

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are compatible to both the existing coating and the product being stored in the tank.

- C) If all previous testing ensures the integrity of the lining, it shall then be tested for hardness. Lining hardness test shall be performed using a Barcol Hardness Tester or another acceptable instrument to determine that the lining was properly cured when installed or that it has not been affected by the product stored. The overall hardness must meet the lining manufacturer's specifications for the product stored. In the event that some areas pass the hardness test and other areas fail the hardness test, the failed area may be removed and replaced as long as the failed area does not exceed 30% of the total surface area of a single tank. Tanks with over 30% repaired areas shall be condemned, and not put back into service. The repair contractor must certify to the OSFM that the coating materials used for repairs are compatible to both the existing coating and the product being stored in the tank.
- D) The final test to verify that an existing lining still meets the manufacturer's original specifications shall determine the thickness of the coating. The entire interior tank lining wall surface shall be no less than 100 mils thick with a nominal (i.e., approximate) thickness of 125 mils. If any areas of the existing coating do not meet the 100 mils minimum thickness requirement, those areas may be overlaid to build up the coating thickness to meet or exceed the minimum requirement. Newly overlaid areas may not exceed a total of 30% of the total surface area on a single tank. Tanks with over 30% of their coating needing overlay to meet the 100 mils minimum thickness requirement shall be condemned and not put back into service. The repair contractor must certify to the OSFM that the coating materials used for repairs are compatible with both the existing coating and the product being stored in the tank.
- E) Tanks that are condemned due to the 30% requirement in subsection (b)(2)(B), (C), and (D) of this Section can be lined if the tank meets recertification requirements and, if not, must be decommissioned within 6 months after condemnation.

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- F) Where applicable, interior inspections of lined fiberglass tanks shall be the same as lined steel tanks, except testing will not be required for tank thickness and for holidays in the lining material.
- G) The manufacturer shall certify compatibility of the lining material with product to be stored by submitting to OSFM the following data.
- i) Laboratory Data:
- Bonded Linings: When applied to properly prepared steel, concrete, fiberglass, and other tank surfaces, bonded linings shall maintain a minimum useful life of 10 years.
 - Coefficient of Thermal Expansion: The coefficient of thermal expansion of the lining shall not result in loss of bonding due to normal operating temperature changes.
 - Immersion Tests: Representative lining samples shall be tested to determine compatibility of the lining material with stored products. Samples shall be immersed in the liquids listed below at either 38° C (100° F) for periods of one, 3, 6 and 12 months. Upon completion of each immersion period, testing of the samples must verify that the lining and repair materials have not substantially deteriorated.
- ii) Test Data: The following tests, standards and equipment shall be conducted as indicated in the following:
- Bonding Strength, ASTM D4541 using Elecometer 106 with rating of 0-2000 lbs. per sq. inch
 - Flexural Strength, ASTM D790
 - Impact Resistance, ASTM D2794

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- Barcol Hardness, ASTM D2583 using Barber Coleman GYZJ 935-1
 - Film integrity ASTM D543 Procedure 1
- iii) Liquids for Immersion Testing shall follow ASTM Reference Fuel C, Unleaded Gasoline, Leaded Gasoline, No. 2 Fuel Oil or Diesel Fuel, Toluene, Xylene, Gasohol (10% Ethanol), Oxinol-50 (90.0% gasoline, 5.00% methanol and 5.00% GTBA) 85% methanol, 15% gasoline, and distilled water. Physical properties, after the final immersion period, shall be a minimum of 30% of the original physical properties before immersion with a stable trend indicating little or no further long-term deterioration for Toluene, Xylene, and distilled water; and 50% for all other listed material.
- 3) During the Operational Safety Inspection, the contractor will not be allowed to either cut a new access hole into the tank, nor break open an existing entrance patch until all the required testing equipment is on site. Also, a complete set of OSFM reporting forms must also be onsite before the entering process may begin.
- 4) In cases where the tank itself passes the 75% minimum steel thickness test, yet the lining is condemned, the total original lining may be removed and a new lining installed. This will require another lining permit. However, the tank thickness must be re-tested after lining has been removed to verify that it will still meet minimum thickness requirements of Chapter B of NLPA 631, incorporated by reference in Section 170.410.
- 5) The entrance manhole, hole or patch opening shall be closed and sealed. When a bolted manway is to be installed as a new access opening for future access use, an upgrade permit will be required to make this type of improvement to the tank. No upgrade permit will be required if a manway is installed in conjunction with a lining permit or lining inspection permit, with manholes bolted to the tank top only when in conjunction with an inspection as not to damage the existing lining.

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- 6) After all work is completed on the inspection process, the tank must be precision tested. This precision test is the responsibility of the contractor. Test results must be submitted to OSFM within 10 days after the test. In the event of a test failure, results must be submitted within 3 days.
 - 7) Written documentation of all inspection data must be submitted to the OSFM within 10 days after a passed inspection and within 10 days after repairs to the coating on a form approved by the OSFM.
 - 8) Every 5 years after the 10-year internal inspection, the tank must be re-inspected. This can be done by a physical inspection or by another method approved by OSFM.
 - 9) All interior inspections require an Internal Inspection Permit.
- c) UST lining, subsequent lining, and internal inspections shall meet the following OSFM requirements:
- 1) Secure proper permitting and obtain OSI schedule.
 - 2) Contractor shall present to OSFM inspector the OSHA Confined Space Entry permit for this job.
 - 3) All monitoring equipment shall be maintained according to manufacturer's specifications.
 - 4) Establish an exclusion zone within which smoking is prohibited. The use of spark producing/non-explosion proof equipment is prohibited in the vapor hazard area.
 - 5) USTs to be entered shall be isolated from all distribution lines, siphons, manifolds and manifold vent systems.
 - 6) Remove all liquids from the tank using explosion proof pumps or hand pumps.
 - 7) The tank atmosphere and the excavation area shall be regularly monitored, with a combustible gas indicator, for flammable or combustible vapor concentration. Monitoring of the UST shall be done at 3 levels in the

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tank: top, middle and bottom. Lower explosive limits (LEL) of 5% or less, or oxygen of 5% or less, shall be attained.

- 8) Vapor freeing shall be done in accordance with API 1631 Section 2.4. When vapor freeing the tank with compressed air or using inert gases under pressure, all devices shall be bonded to the tank, and the tank shall be grounded to a separated ground. When using inert gases, the cylinder shall be equipped with a pressure gauge, so that no more than 5 psi can be discharged into the tank during vapor freeing procedures. To ensure and maintain proper grounding and bonding, such connections shall be tested by the contractor for continuity. This testing shall be done with equipment designed for continuity testing.
- 9) OSFM personnel shall be on site before cutting and cleaning or entry operations may proceed.
- 10) If no access exists, an opening with the minimum dimensions of 18 inches by 18 inches shall be cut in the top of the UST using non-sparking equipment in preparation for a manway. Manways must be installed and be accessible from surface grade by way of a non-collapsible structure.
- 11) Personal protective equipment shall be in accordance with API 1631.
- 12) Cutting, cleaning and application of lining material shall be done in accordance with manufacturer's specifications and OSFM requirements.
- 13) It shall be the responsibility of the lining contractor to have a precision test performed within 3 days after backfilling and to submit the results to the OSFM within 10 days on forms prescribed by OSFM.
- 14) Tank owner shall file an amended Notification form prescribed by the OSFM within 30 days after the tank has been lined.
- 15) For performing internal inspections, once a tank has been reclassified as a non-hazardous confined space, a positive flow of fresh air must be supplied into the tank in lieu of supplied air and continuous monitoring must be performed during the operation.

Section 170.431 Limitation on Interior Lining of USTs (Repealed)

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Section 170.440 Notification Requirements for Purposes of UST Registration

- a) For any UST, with the exception of a UST containing heating oil not for consumptive use on the premises where stored:
 - 1) Any owner of an underground storage tank system in operation at any time after January 1, 1974, and in the ground as of September 24, 1987, shall submit immediately a notice of existence of such tank system to the Office of the State Fire Marshal, on the form prescribed by the Office.
 - 2) Any owner of an underground storage tank system brought into operation on or after April 21, 1989, shall submit, within 30 days after bringing such tank into operation, a notice of existence of such tank system to the Office of the State Fire Marshal, on the form prescribed by the Office. This applies even if the UST was subject to a change-in-service, pursuant to Section 170.630(a) or (b), within the 30-day time period.
 - 3) For the definition of UST, see Section 170.400.
 - 4) The Office of the State Fire Marshal shall use the information required to be submitted, pursuant to this subsection (a), to determine registrability of USTs.
- b) For a UST containing heating oil for consumptive use on the premises where stored:
 - 1) Any owner of a heating oil underground storage tank system greater than 1100 gallons in capacity and in the ground as of July 11, 1990, shall submit immediately a notice of existence of such tank system to the Office of the State Fire Marshal, on the form prescribed by the Office.
 - 2) Any owner of a heating oil underground storage tank system greater than 110 gallons and less than or equal to 1100 gallons in capacity and in the ground as of September 6, 1991, shall submit immediately a notice of existence of such tank system to the Office of the State Fire Marshal, on the form prescribed by the Office.
 - 3) Any owner of a heating oil underground storage tank system greater than

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110 gallons in capacity installed after September 6, 1991, shall submit, within 30 days after bringing such tank into operation, a notice of existence of such tank system to the Office of the State Fire Marshal, on the form prescribed by the Office. This applies even if the UST was subject to a change-in-service, pursuant to Section 170.630(a) or (b), within the 30-day time period.

- 4) Heating oil tanks used exclusively for storing heating oil for consumptive use on a farm or residence are exempt from being classified as a UST.
 - 5) The Office of the State Fire Marshal shall use the information required to be submitted, pursuant to this subsection (b), to determine registrability of USTs.
- c) Owners required to submit notices under subsection (a) or (b) above shall provide notice for each tank they own. Owners may provide notice for more than one tank using one notification form, but owners who own tanks located at more than one facility shall file a separate notification form for each separate facility.
- d) Owners shall provide all of the information referenced in subsections (a) and (b) above, as prescribed by the Office of the State Fire Marshal in the forms, including any certification required of the owner by this Part.
- e) Any owner of a new UST system shall certify in the notification form compliance with the following requirements:
- 1) Installation of tanks and piping under Sections 170.420 and 170.421;
 - 2) Cathodic protection of steel tanks and piping under Sections 170.420(a) and 170.421(d);
 - 3) Release detection under Section 170.510 or 170.520; and
 - 4) Financial responsibility in accordance with Subpart C.
- f) All owners and operators of UST systems, which have been installed, upgraded or relined at any time since January 1, 1989, shall make a reasonable effort to ensure that the contractor certifies in the notification form that the methods used to perform the UST activity comply with the requirements of Section 170.420(d),

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and the contractor shall complete the certification. Such notification form is to be submitted to the Office of the State Fire Marshal within 30 days after the completion of the activity requiring certification.

- g) Any change in information stated in the form as described in subsections (a) and (b) above is to be submitted to the Office of the State Fire Marshal on an amended form, as prescribed by the Office, within 30 days, commencing from the date of such change. This includes, but is not limited to, removal, abandonment-in-place and temporary out-of-service status. A change in ownership is considered a change in information and is the responsibility of each subsequent owner to so report.
- h) Commencing April 1, 1995, any person who sells a new or re-certified tank, intended to be used as an underground storage tank, shall notify the purchaser of such tank of the owner's notification obligations under subsections (a)(2) and (b)(3) of this Section. The notification form provided by the Office of the State Fire Marshal may be used to comply with this requirement.

Section 170.441 Payment of 1988 Annual UST Fee

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

Section 170.442 UST Registration Fees

- a) For USTs, with the exception of USTs containing heating oil for consumptive use on the premises where stored:
The owner of any petroleum or hazardous substance underground storage tank required to be registered with the Office of the State Fire Marshal prior to September 24, 1987, and who did not so register, shall do so and pay the Office a registration fee of \$500 per tank on or before 90 days from the date on the invoice requesting payment of the fee. The payment is to be by check or money order made payable to "Office of the State Fire Marshal." For purposes of this subsection (a), "owner" refers only to the last owner as of September 23, 1987.
- b) For USTs containing heating oil greater than 110 gallons for consumptive use on

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the premises where stored:

- 1) The owner of any heating oil underground storage tank in the ground as of September 6, 1991, and who first registered the tank with the Office of the State Fire Marshal prior to July 2, 1992, shall pay to the Office a registration fee of \$100 per tank on or before 90 days from the date on the invoice requesting payment of the fee. The payment is to be by check or money order made payable to "Office of the State Fire Marshal."
- 2) The owner of any heating oil underground storage tank in the ground as of September 6, 1991, and who first registered the tank with the Office of the State Fire Marshal on or after July 2, 1992 (never having been registered prior thereto), shall pay to the Office a registration fee of \$500 per tank on or before 90 days from the date on the invoice requesting payment of the fee. The payment is to be by check or money order made payable to "Office of the State Fire Marshal."
- 3) For purposes of subsections (1) and (2) above, the owner who first registers a heating oil UST is responsible for the fee, which shall be either \$100 or \$500, whichever is applicable, but not both.
- 4) The owner of any heating oil underground storage tank in the ground as of July 11, 1990, but removed prior to September 6, 1991, although regulated, is not required to pay a registration fee.
- 5) The owner of any heating oil underground storage tank installed in the ground on or after July 2, 1992, although regulated, is not required to pay a registration fee.

Section 170.450 Owner/Operator Spill and Overfill Release Control Responsibilities

- a) Owners or operators shall ensure that releases due to spilling or overfilling do not occur. The owners or operators shall ensure that the volume available in the tank is greater than the volume of product to be transferred to the tank before the transfer is made and that the transfer operation is monitored constantly to prevent overfilling and spilling. (The transfer procedures described in NFPA 385, incorporated by reference in Section 170.410, may be used to comply with this subsection. Further guidance on spill and overfill prevention appears in API Recommended Practice 1621 and NFPA Standard 30, incorporated by reference

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in Section 170.410.)

- b) Owners or operators shall report, investigate and clean up any spills and overfills in accordance with Section 170.580.

Section 170.460 Corrosion Protection

- a) Cathodic Protection. A tank may be upgraded by cathodic protection if the cathodic protection system meets the requirements of this Part, and the integrity of the tank is ensured using one of the following methods:
 - 1) To be suitable for upgrading by cathodic protection, the integrity of the tank must be ensured by one of the following methods:
 - A) For tanks installed for less than 10 years, the following methods apply:
 - i) The tank is internally inspected and assessed to ensure that the tank is structurally sound and free of corrosion holes prior to installing the cathodic protection system;
 - ii) The tank is monitored monthly for releases using a permanent method of leak detection as approved by OSFM. Monthly inventory control, manual tank gauging and SIR do not meet this requirement;
 - iii) Two tank precision tests must be conducted that meet the requirements of OSFM precision tank tightness testing. The first precision test shall be conducted prior to the installation of the cathodic protection system. The second precision test shall be conducted between 3 and 6 months following the first operation of the installed cathodic protection system. Both tests must indicate tightness of the tanks;
 - iv) Use of approved alternate methods approved by OSFM. These acceptable alternate methods are indicated in subsection (a)(1)(B) for tanks that are over 10 years old.

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- B) For tanks installed for more than 10 years, the following methods apply:
- i) An invasive inspection method that ensures the tank is internally inspected and assessed to ensure that the tank is structurally sound and free of corrosion holes prior to installing the cathodic system. The internal inspection procedures shall meet the requirements of NLPA 631, 1991 edition, Internal Inspection of Steel Tanks for Retrofit of Cathodic Protection. This standard for interior lining meets this requirement.
 - ii) An invasive remote video camera test is conducted prior to the installation of the cathodic protection system. The video system must be capable of recording a video survey of the interior surface of the tank with a suitable lighting source.
 - iii) A non-invasive tank life/corrosion model test is conducted to examine the soil environment in the immediate vicinity of the tank and the relationship of the metal UST to this environment. A statistical model is used to assess the relationship between the aggressiveness of the environment and the rate of corrosion and to predict the remaining life of the UST prior to corrosion failure. Some examples of non-invasive methods are Mean Time to Corrosion Failure (MTCF) and International Lubrication and Fuel Consultants (ILFC).
 - iv) The tanks are assessed for corrosion holes by other methods determined by OSFM, to prevent releases in a manner that is no less protective of human health and the environment than subsections (a)(1)(B)(i), (ii) and (iii).
- 2) OSFM requires a tank integrity assessment even if both cathodic protection and interior lining systems are being installed. If the cathodic protection and interior lining are installed at the same time, only one approved integrity assessment is required. Even if both systems have been

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installed, OSFM requires routine inspection and maintenance of both systems to continue.

- 3) In all situations, no matter which method is used to assess the integrity of the tank prior to addition of cathodic protection, the cathodic protection system being field installed in Illinois must be designed by a NACE certified corrosion expert. Those contractors installing the cathodic protection systems in Illinois must be licensed as cathodic protection installers. These contractors must successfully pass the International Code Council (ICC) certification exam module for cathodic protection.
- 4) If one of the non-invasive methods described in this Section has been used to assess tank integrity of a tank older than 10 years, the leak detection method used on these tanks after installing the cathodic protection system may not be either the monthly inventory control method, SIR, or manual tank gauging method of leak detection. Acceptable leak detection methods that can be used are as follows: automatic tank gauging, vapor monitoring, groundwater monitoring, interstitial monitoring, fiber optics or tracer elements.
- 5) For UST systems equipped with both interior lining and cathodic protection (sacrificial anodes or impressed current), the following maintenance procedures shall apply:
 - A) For those UST systems that have documentation, including original field notes from the initial lining, of an invasive method of initial tank integrity assessment that verifies that there were no holes in the tank, only the external cathodic protection system must be maintained and tested.
 - i) Sacrificial anodes must be tested every 3 years and records kept on site for 3 years.
 - ii) Impressed current records of operation must be recorded every 30 days and records kept on site for 3 years. The system must be tested yearly and records kept on site for 3 years.

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- iii) In the event that a reading of -875 millivolts or less is recorded, with testing being conducted above the structure, on any type of corrosion protection system, then yearly testing will be required thereafter. In the event that upgrading of the cathodic protection system results in readings greater than -875 millivolts with readings being conducted above the structure, then testing may be conducted every 3 years, unless the 6 month test after upgrading produces a reading of -875 millivolts or less, then yearly testing will be required thereafter.
 - B) For those UST systems where a non-invasive tank integrity assessment method was used or if there were any holes present in the tank, the interior lining must be maintained and inspected as described in OSFM lining requirements.
 - C) Nothing prohibits the maintenance of both systems.
 - D) Owners of UST systems with both interior lining and cathodic protection must submit a UST notification form and declare what system they intend to maintain.
- b) ACT-100 Tanks. Tank owners with these types of tanks may choose to use either type of protection on the tank. However, the tank owner must be able to produce ACT-100 warranty papers to prove that they actually do have ACT-100 tanks.
- c) Internal lining combined with cathodic protection. A tank may be upgraded by both internal lining and cathodic protection if:
 - 1) The lining is installed in accordance with the requirements of Section 170.430; and
 - 2) The cathodic protection system meets the requirements of Section 170.420(a)(2)(B) through (D). (The following codes and standards, incorporated by reference in Section 170.410, may be used to comply with this Section: API Recommended Practice 1631; NLP Standard 631; NACE RPO285; or API Recommended Practice 1632.)

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An interior inspection for an installation of internal lining combined with cathodic protection is required only once, provided an interior inspection was performed in compliance with subsection (d)(1) or (d)(2) of this Section and if performed within 90 days of each other.

- d) Piping corrosion protection requirements. All UST metal product piping that is in contact with backfill, ground or water shall be cathodically protected. All metal risers, vents and fills in contact with backfill, ground or water shall be dielectrically coated. Shrink-wrap or boots are not acceptable as a form of cathodic protection in a water environment.
- e) When installing, upgrading, or repairing a cathodic protection system, the following steps shall be taken.
 - 1) Secure proper permitting and provide required Cathodic Protection Upgrade Job Schedule to the OSFM and obtain the stamped receipt.
 - 2) Conduct on-site inspection to ensure accuracy of approved site plans, drawings and actual equipment being installed.
 - 3) OSFM personnel must conduct a Time Certain inspection of the corrosion protection installation before backfilling.
 - 4) Wiring of all associated electrical equipment shall conform to NFPA 70.
 - A) All wiring that is connected to any anode of an impressed current system shall be no less than No. 10 stranded, with jacketing that is suitable for direct burial and that is petroleum or hazard resistant (including but not limited to HMWPE). Such jacketing is to have a thickness sufficient to cause the wiring to have a diameter of at least $\frac{5}{16}$ - inch. Systems existing prior to May 1, 2003 may remain.
 - B) All wiring connected to any anode of a sacrificial anode system shall be suitable for direct burial and shall be petroleum and/or hazardous resistant.
 - C) All structural lead wiring of any cathodic protection system shall be suitable for direct burial and shall be petroleum and/or hazard resistant.

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- D) For installation of cathodic protection systems to existing facilities, anode wiring may be placed into pavement saw-cuts, provided that the following conditions are met:
- i) No part of the wiring is less than one inch below the finished pavement surface, and provided that the portion of the saw-cut groove above the wiring is filled with a combination of at least $\frac{3}{8}$ -inch of backerrod and at least $\frac{1}{2}$ -inch of self-leveling caulk suitable as a concrete filler.
 - ii) Structure lead wiring of impressed current systems shall consist of at least 2 separate leads. Such leads running from the junction box or rectifier to the UST system structures must be in separate saw-cuts, jumpering from one UST system structure to the next. One lead shall connect to the first structure to be protected and continue on to all structures in the UST system. The second lead will connect to the last structure to be protected. Such loop is to ensure that if one lead were to become cut or disconnected, the other lead would ensure the continued connection of the UST system structures and the junction box or rectifier.
 - iii) All wiring from anodes shall terminate and be identified (as to location per approved site plan), in strategically located junction boxes, placed in and around the protected field. This will facilitate the testing of each anode.
- E) For installation of cathodic protection systems to new facilities, all wiring running outside of manholes or sumps shall be located at least 12 inches below the finished grade, and installed in electrical PVC conduit approved for petroleum and/or hazardous installation. The conduit trenches shall be continuously marked with yellow plastic caution tape, and placed not less than 6 inches above the conduit.
- 5) After all work has been completed and the system has been put into service, OSFM personnel may conduct a two-hour Time Certain final inspection on the corrosion protection system and the electrical system.

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- 6) The completed Notification of Underground Storage Tanks form shall be ready to present to the OSFM STSS during the final inspection.
- f) Operation and Maintenance of Cathodic Protection. Owners or operators of steel UST systems with corrosion protection shall comply with the following requirements to ensure that releases due to corrosion are prevented for as long as the UST system is used to store regulated substances:
- 1) All corrosion protection systems shall be operated and maintained to continuously provide corrosion protection to the metal components of that portion of the tank and piping that routinely contain regulated substances and are in contact with the ground, backfill or water.
 - 2) All UST systems equipped with sacrificial anode cathodic protection systems shall be tested and inspected for proper operation, when being put into operation, by a certified ICC cathodic protection tester, or OSFM approved tester, in accordance with the following requirements:
 - A) Frequency. All cathodic protection systems shall be re-tested no less than 24 weeks and no more than 28 weeks from the date of installation or repairs. All sacrificial anode systems shall be tested every 3 years by a certified ICC tester or OSFM approved tester. In the event that a reading of -875 millivolts or less is recorded with testing being conducted above the structure, on any type of corrosion protection system, then yearly testing will be required thereafter. In the event that upgrading of the cathodic protection system results with readings greater than -875 millivolts with readings being conducted above the structure, then testing may be conducted every 3 years, unless the 6 month test after upgrading produces a reading of -875 millivolts or less, then yearly testing will be required thereafter.
 - B) Inspection criteria. The criteria that are used to determine that cathodic protection is adequate as required by this subsection (b) shall be in accordance with NACE Standard Recommended Practice RP0169-96 and RP0285-95. Subject to the technical applicability of such criteria given actual site conditions, one or more of the following criteria shall apply for adequacy of cathodic

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protection.

- i) A negative (cathodic) potential of at least 850 millivolts with cathodic protection applied. This potential is measured with respect to a saturated copper/copper sulfate reference electrode contacting the electrolyte.
 - ii) A minimum 100 millivolt of cathodic polarization between the structure and a saturated copper/copper sulfate reference electrode contacting the electrolyte. Such polarization shall be determined from the taking of a valid "instant-off" test, which, for each testing point, determines the voltage reading at the second drop in voltage following the interruption in cathodic protection being applied, and determines if such voltage reading is at least 100 millivolts higher than either the native reading or any other reading after the structure has had time to depolarize with no cathodic protection applied.
- 3) UST systems with impressed current cathodic protection systems shall also be tested and inspected, prior to being put into operation and every 30days thereafter, to ensure the equipment is running properly and the entire system must be tested yearly.
 - 4) For UST systems using cathodic protection, records of the operation of the cathodic protection shall be maintained to demonstrate compliance with the performance standards in this Section. These records shall provide the following:
 - A) The results of testing for sacrificial anode systems, the 6-month test and 3 year or yearly tests must be maintained on site for 3 years; and
 - B) For impressed current systems, a log of the 30-day inspections shall be kept for 3 years and the yearly system test shall be kept for 3 years and these records shall be kept on site. The inspection shall include date of inspection, initials of person inspecting, power status, volt, hour and amp readings.

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- 5) Alternative methods of corrosion protection may be used if approved in writing by the Office of the State Fire Marshal provided they are no less protective of human health or the environment.

Section 170.470 UST Compatibility with Product Stored

Owners or operators shall use a UST system made of, or lined with, materials that are compatible with the product stored in the UST system. (Owners and operators storing alcohol blends may use the following codes, incorporated by reference in Section 170.410, to comply with the requirements of this Section: API Recommended Practice 1626 and 1627.)

Section 170.480 Repairs Allowed

Owners and operators of UST systems shall ensure that repairs will prevent releases due to structural failure or corrosion as long as the UST system is used to store regulated substances. Any hole or penetration made into a tank such as is required for new bung openings or any entrance way established for interior lining inspection or repair shall be installed and closed as per this Section. The repairs must meet the following requirements:

- a) Repairs to UST systems shall be properly conducted in accordance with a code of practice developed by a nationally recognized association or an independent testing laboratory. (The following codes and standards, incorporated by reference in Section 170.410, may be used to comply with this subsection: NFPA 30; API Publication 2200; API Recommended Practice 1631; or NLPA Standard 631.)
- b) Repairs to fiberglass-reinforced plastic tanks shall be made by the manufacturer's authorized representative or a representative of any fiberglass tank manufacturer in accordance with NLPA 631, incorporated by reference in 170.410.
- c) Metal pipe sections and fittings that have released product as a result of corrosion or other damage shall be replaced. Fiberglass pipes and fittings may be repaired in accordance with the manufacturer's specifications.
- d) Repaired tanks and piping shall be tightness tested in accordance with Sections 170.530(c) and 170.540(b) within 30 days following the date of the completion of the repair except as provided in subsection (d)(1) through (3) of this Section .
 - 1) The repaired tank is internally inspected in accordance with Section 170.430;

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- 2) The repaired portion of the UST system is monitored monthly for releases in accordance with a method specified in Section 170.530(d) through (h);
or
 - 3) Another test method is used that is determined by the Office of the State Fire Marshal to be not less protective of human health and the environment than those listed in subsections (d)(1) and (2) of this Section; before the utilization of any such method, it shall be submitted to the Office in writing, and the Office shall issue written approval.
- e) Frequency. All cathodic protection systems shall be re-tested no less than 24 weeks and no more than 28 weeks from the date of installation or repairs. All sacrificial anode systems shall be tested every 3 years by a certified ICC tester or OSFM approved tester. In the event that a reading of -875 millivolts or less is recorded with testing being conducted above the structure, on any type of corrosion protection system, then yearly testing will be required thereafter. In the event that upgrading of the cathodic protection system results in readings greater than -875 millivolts with readings being conducted above the structure, then testing may be conducted every 3 years, unless the 6 month test after upgrading produces a reading of -875 millivolts or less, then yearly testing will be required thereafter.
 - f) UST system owners or operators shall maintain records of each repair for the remaining operating life of the UST system that demonstrate compliance with the requirements of this Section. The last 3 years of records shall be retained on site.
 - g) All materials used to make necessary repairs shall comply with Section 170.420.
 - h) When a tank is determined to be leaking, it can be permanently abandoned-in-place (subject to Section 170.670), removed (subject to Section 170.670), replaced (subject to Section 170.420) or repaired (subject to this Section).
 - i) Removal or abandonment-in-place of a leaking tank shall be in compliance with Section 170.670. Leaking piping shall be removed or abandoned-in-place in compliance with Section 170.670.
 - j) Storage tanks may be lined, provided that:

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- 1) Such repair and the proposed materials are compatible with the product to be stored in such repaired tank.
- 2) The manufacturers of materials used to line or repair leaking tanks for the storage of petroleum or hazardous substances shall register with the Office of the State Fire Marshal. The manufacturers shall provide and maintain a current annual list of installers of their particular methods and materials for lining and repairing tanks. Such lists shall only contain the names of installers who are certified by the respective manufacturers. This manufacturer's registration shall include the submission of evidence for materials and tank specifications as indicated in NLPA Standard 631, incorporated by reference in Section 170.410.

Section 170.481 Emergency Repairs

- a) An emergency consists of a defect in an underground storage tank system that is causing or threatens to cause harm to human health or the environment, or presents a threat to fire safety, and contact of the regulated substance with the defect cannot be prevented. In the event of a release, Section 170.580 and any other applicable Section in this Subpart shall be followed.
- b) If minor or temporary repairs are required to correct the defect, only the defective area can be repaired.
- c) Economic loss or the threat of economic loss does not constitute such an emergency.
- d) Minor or temporary repairs, as a result of an emergency, to tanks or piping may begin on weekends, holidays and after business hours, when the repairs would otherwise require a permit prior to being performed. Permit applications are required for any such UST activity and shall be submitted to the Office of the State Fire Marshal after-the-fact, on the next business day. All such repairs shall be inspected and tested prior to the repaired UST system being put back into operation unless otherwise directed by the Office.
- e) Contractor shall telephone OSFM and obtain authorization to proceed with the emergency repair. After obtaining authorization, the contractor shall fax a statement to the OSFM indicating what facility and what specific repair is being requested.

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Section 170.490 Reporting and Recordkeeping

- a) Reporting. Owners and operators must submit the following information to the Office of the State Fire Marshal:
 - 1) Notification for all UST systems (Section 170.440), which includes certification of installation for new UST systems (Section 170.420);
 - 2) Reports of all releases including suspected releases (Section 170.560), spills and overfills (Section 170.590), and confirmed releases (Section 170.580);
 - 3) Initial response, including leak abatement, site characterization, and fire and explosion mitigation (40 CFR 280, Subpart F, incorporated by reference in Section 170.410); and
 - 4) A notification before removal or change-in-service (40 CFR 280, Subpart F, incorporated by reference in Section 170.410).
- b) Recordkeeping. Owners and operators must maintain the following information:
 - 1) Documentation of operation of corrosion protection equipment (Section 170.460);
 - 2) Documentation of UST system repairs (Section 170.480);
 - 3) Recent compliance with release detection requirements (Section 170.550); and
 - 4) Results of the site investigation conducted at removal or change-in-service (Section 170.660).
- c) Availability and Maintenance of Records. Owners or operators shall keep the required records at the UST site or available to the OSFM inspector within 30 minutes or less via fax, email, or other transfer of information.
- d) Unmanned sites will be given prior notification of inspection/audit.

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Section 170.500 General Release Detection Requirements for All UST Systems

- a) Owners or operators of new and existing UST systems shall provide a method, or combination of methods, of release detection that:
 - 1) Can detect a release from the entire tank and any portion of the connected underground piping that routinely contains product;
 - 2) Is installed, calibrated, operated and maintained in accordance with the manufacturer's instructions, including routine maintenance and service checks for operability or running condition; and
 - 3) Meets the performance requirements in Sections 170.530 and 170.540, with any performance claims and their manner of determination described in writing by the equipment manufacturer or installer. In addition, methods used on or after December 22, 1990 (except for methods permanently installed prior to that date) shall be capable of detecting the leak rate or quantity specified for that method in Section 170.530 and 170.540 with a probability of detection of 0.95 and a probability of false alarm of 0.05.
 - 4) All leak detection equipment must be evaluated and be listed in the NWGLDE publication "List of Leak Detection Evaluations for Underground Storage Tank Systems", as referenced in Section 170.410.
- b) When a release detection method operated in accordance with the performance standards in Sections 170.530 and 170.540 indicates a release may have occurred, owners or operators shall notify the Illinois Emergency Management Agency in accordance with Sections 170.560, 170.590 and 170.580.

Section 170.510 Release Detection Requirements for Petroleum UST Systems (Repealed)**Section 170.520 Release Detection Requirements for Hazardous Substance UST Systems**

Owners or operators of hazardous substance UST systems shall provide release detection that meets the following requirements:

- a) Release detection at existing UST systems shall meet the requirements for petroleum UST systems in Section 170.510. All existing and new hazardous

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substance UST systems shall meet the release detection requirements for new systems in subsection (b) of this Section and comply with Sections 170.420(a), 170.421(a) and 170.530.

- b) Release detection for hazardous substance UST systems shall meet the following requirements:
- 1) Secondary containment systems shall be designed, constructed and installed to:
 - A) Contain regulated substances released from the tank system until they are detected and removed and must have interstitial monitoring capable of detecting a failure from the inner and outer wall;
 - B) Prevent the release of regulated substances to the environment at any time during the operational life of the UST system;
 - C) All interstitial monitoring must be checked every 30 days. This can be done by keeping reports from an ATG interstitial monitoring system status report tape showing a pass, normal, etc., or by keeping a log showing the date of inspection, initials of inspector, system status (pass, normal, etc.). The monthly records for the previous 3 years must be kept on site; and
 - D) Interstitial monitoring components shall be tested for operation every 3 years and the records for the previous 3 years must be kept on site. This testing shall be done by a person trained by the manufacturer or a licensed contractor.
 - 2) Double-wall tanks shall be designed, constructed and installed to:
 - A) Contain a release from any portion of the inner tank within the outer wall; and
 - B) Detect the failure of the inner wall.
 - 3) External liners (including vaults) shall be designed, constructed and installed to:

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- A) Contain 100 percent of the capacity of the largest tank within its boundary;
 - B) Prevent the interference of precipitation or groundwater intrusion with the ability to contain or detect a release of regulated substances;
 - C) Surround the tank completely (i.e., it is capable of preventing lateral as well as vertical migration of regulated substances); and
 - D) Detect the failure of the tanks and the external liner.
- 4) Underground piping shall be equipped with secondary containment that satisfies the requirements of subsections (b)(1) through (3) of this Section (e.g., trench liners, jacketing or double-walled pipe). In addition, underground piping that conveys regulated substances under pressure shall be equipped with an automatic line leak detector in accordance with Section 170.540(a) and an interstitial monitor in accordance with 170.530(g).
- 5) Other methods of release detection may be used if owners or operators:
- A) Demonstrate to the Office of the State Fire Marshal that an alternate method can detect a release of the stored substance as effectively as the method allowed in Section 170.530(g); written approval is required from the Office to use the alternate release detection method before the installation and operation of the new UST system; and
 - B) Provide written information to the Office of the State Fire Marshal on effective corrective action technologies, health risks and chemical and physical properties of the stored substance, and the characteristics of the UST site.

Section 170.530 Methods and Requirements of Release Detection for Tanks

Owners and operators of petroleum UST systems shall provide release detection on tanks. These tanks must be monitored at least every 30 days for releases using one or more of the methods

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listed below:

- a) Monthly inventory control.
 - 1) Product inventory control (or another test of equivalent performance) shall be conducted monthly to detect a release of at least 1.0 percent of the flow-through plus 130 gallons on a monthly basis in the following manner:
 - A) Inventory volume measurements for regulated substance inputs, withdrawals and the amount still remaining in the tank are recorded each operating day;
 - B) The equipment used is capable of measuring the level of product over the full range of the tank's height to the nearest one-eighth of an inch;
 - C) The regulated substance inputs are reconciled with delivery receipts by measurement of the tank inventory volume before and after delivery;
 - D) Deliveries are made through a drop tube that extends to within 6 inches of the tank bottom;
 - E) Product dispensing is metered and recorded pursuant to Section 8 of the Weights and Measures Act [225 ILCS 470/8];
 - F) The measurement of any water level in the bottom of the tank is made to the nearest one-eighth of an inch at least once a month (practices described in API Recommended Practice 1621, incorporated by reference in Section 170.410, may be used, where applicable, as guidance in meeting the requirements of this subsection (a));
 - G) To the extent the above measurements or recordkeeping are the responsibility of the UST owner, the owner or whoever performs those activities on the owner's behalf, shall be knowledgeable in such performance;

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- H) Monthly inventory control records for the previous 3 years must be kept on site;
 - I) This method can only be used for a period of 10 years from the date cathodic protection was installed on the tank. A precision tank test must be performed at 5 years and 10 years and these records kept on site for 10 years. At 10 years, another form of leak detection is required;
 - J) Inventory control will only be allowed on sites currently using this method until the 10-year time allowance expires. No new sites will be allowed to use this method after May 1, 2003;
 - K) Inventory control may not be used on systems with blending pumps or siphon tanks.
- 2) Monthly inventory control cannot be used as a method of release detection for any tank that, after passing only a noninvasive tank integrity assessment, was upgraded using the cathodic protection method.
- b) Manual tank gauging. Only tanks of 600 gallons or less nominal capacity may use the method described in this subsection as the sole method of release detection. For tanks of 601 to 2,000 gallons, this method may be used for a period of 10 years from the date cathodic protection was installed on the tank. For tanks over 2,000 gallons, this method shall not be used. Tanks 601 to 2,000 gallons must receive a precision tank test once every year. The monthly records required for manual tank gauging and the yearly tank tests must be kept for 3 years on site. At the end of 10 years, another form of tank leak detection is required for tanks 601 gallons to 2,000 gallons.
- 1) Manual tank gauging shall meet the following requirements:
 - A) Tank liquid level measurements are taken at the beginning and ending of a period of at least 36 hours during which no liquid is added to or removed from the tank;
 - B) Level measurements are based on an average of two consecutive stick readings at both the beginning and ending of the period;

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- C) The equipment used is capable of measuring the level of product over the full range of the tank's height to the nearest one-eighth of an inch;
 - D) A leak is suspected and subject to the requirements of Sections 170.560 through 170.610, if the variation between beginning and ending measurements exceeds the weekly or monthly standards in Table B;
 - E) The measurement of any water level in the bottom of the tank is made to the nearest one-eighth of an inch at least once a month (practices described in API Recommended Practice 1621, incorporated by reference in Section 170.410, may be used, where applicable, as guidance in meeting the requirements of this subsection (b)); and
 - F) To the extent the above measurements or recordkeeping are the responsibility of the UST owner, the owner or whoever performs those activities on the owner's behalf, shall be knowledgeable in such performance.
- 2) Manual tank gauging cannot be used as a method of release detection for any tank that, after passing only a noninvasive tank integrity assessment, was upgraded using the cathodic protection method.
 - 3) This method will not be allowed for tanks 601 to 2,000 gallons after May 1, 2003, except that, for those tanks for which this method was being used on May 1, 2003, the method may be used until the 10-year allowance expires.
- c) Precision tank tightness testing, as approved by the Office of the State Fire Marshal.
 - 1) Tank tightness testing (or another test of equivalent performance) shall be capable of detecting a 0.1 gallon per hour leak rate from any portion of the tank that routinely contains product while accounting for the effects of thermal expansion or contraction of the product, vapor pockets, tank deformation, evaporation or condensation, and the location of the water table. There are four types of precision testing:

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- A) 100 percent volumetric overfill;
 - B) Volumetric underfill with an approved ullage test of negative pressure or inert gas as approved by the Office of the State Fire Marshal;
 - C) A negative pressure; or
 - D) Other approved methods, in accordance with subsection (i).
- 2) In the case of a suspected release, tracer elements and ATGs are not an approved method of precision tank testing.
- d) Automatic tank gauging (ATG). Equipment for automatic tank gauging that tests for the loss of product and conducts inventory control shall meet the following requirements:
- 1) The automatic product level monitor test can detect a 0.2 gallon per hour leak rate from any portion of the tank that routinely contains product.
 - 2) The ATG must be third party evaluated by and listed in the NWGLDE publication "List of Leak Detection Evaluations for Underground Storage Tank Systems". The ATG must be installed, calibrated and in compliance with the protocol of the third party evaluation.
 - 3) All new or replacement ATG monitors shall be mounted no more than 6 feet from the floor and must remain unobstructed and accessible.
 - 4) All new ATG systems must be equipped with printers. Existing ATG systems must be equipped with printers by May 1, 2004. If a system has to be retrofitted, a permit will be required. Systems with remote printers will be accepted.
- e) Vapor monitoring. Testing or monitoring for vapors within the soil gas of the excavation zone shall meet the following requirements:
- 1) The materials used as a backfill are sufficiently porous (e.g., gravel, sand or crushed rock) to readily allow diffusion of vapor from releases into the

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excavation area;

- 2) The stored regulated substance or a tracer compound placed in the tank system is sufficiently volatile (e.g., gasoline) to result in a vapor level that is detectable by the monitoring devices located in the excavation zone in the event of a release from the tank;
- 3) The measurement of vapors by the monitoring device is not rendered inoperative by groundwater, rainfall, soil moisture or other known interferences so that a release could go undetected for more than 30 days;
- 4) The level of background contamination in the excavation zone will not interfere with the method used to detect releases from the tank;
- 5) The vapor monitors are designed and operated to detect any significant increase in concentration above the background of the regulated substance stored in the tank system, a component or components of that substance, or a tracer compound placed in the tank system; vapor monitor sensors must be permanently installed in the vapor monitor wells; a monthly inspection of the vapor monitoring system must be made and a log maintained showing the date of inspection, results, and initials of the party doing the inspection;
- 6) In the UST excavation zone, the site is assessed to ensure compliance with the requirements in subsections (e)(1) through (4) of this Section and to establish the number and positioning of monitoring wells that will detect releases within the excavation zone from any portion of the tank that routinely contains product;
- 7) Monitoring wells are clearly marked and secured to avoid unauthorized access and tampering;
- 8) Vapor monitoring wells shall be of sufficient design to allow vapors to be detected from any portion of the tank being monitored and shall be a minimum of four inches in diameter or as approved by the Office of the State Fire Marshal on the applicable permit; and
- 9) An adequate number of vapor monitoring wells shall be provided to ensure that a release can be detected from any portion of the tank.

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Adequacy of such wells is subject to approval of the Office of the State Fire Marshal on the applicable permit.

- f) Groundwater monitoring. Testing or monitoring for liquids on the groundwater shall meet the following requirements:
- 1) The regulated substance stored is immiscible in water and has a specific gravity of less than one;
 - 2) Groundwater is never more than 20 feet from the ground surface, the hydraulic conductivity of the soil between the UST system and the monitoring wells or devices is not less than 0.01 cm/sec (e.g., the soil should consist of gravels, coarse to medium sands, coarse silts or other permeable materials), and groundwater shall be present in the groundwater monitoring wells at all times;
 - 3) The slotted or perforated portion of the monitoring well casing shall be designed to prevent migration of natural soils or filter pack into the well and to allow entry of regulated substance on the water table into the well under both high and low groundwater conditions;
 - 4) Groundwater monitoring wells shall be sealed from the ground surface to the top of the filter pack;
 - 5) Monitoring wells or devices intercept the excavation zone or are as close to it as is technically feasible;
 - 6) The continuous monitoring devices or manual methods used can detect the presence of at least $\frac{1}{8}$ of an inch of free product on top of the groundwater in the monitoring wells.
 - A) The continuous monitoring devices must be fixed sensors mounted permanently inside the well or samples must be taken by a mechanical bailer capable of detecting the presence of at least $\frac{1}{8}$ -inch of free product on top of the groundwater in the monitoring wells.
 - B) Groundwater monitoring must be done monthly and a log of the inspection made showing the date of the inspection, initials of the

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person conducting the inspection, and results of the well sampling. This log must be done every 30 days and kept on-site, or available within 30 minutes, for 3 years.

- 7) Within and immediately below the UST system excavation zone, the site is assessed to ensure compliance with the requirements in subsections (f)(1) through (5) of this Section and to establish the number and positioning of monitoring wells or devices that will detect releases from any portion of the tank that routinely contains product;
 - 8) Monitoring wells are clearly marked and secured to avoid unauthorized access and tampering;
 - 9) The minimum diameter of groundwater monitoring wells shall be 8 inches or as approved by the Office of the State Fire Marshal on the applicable permit; and
 - 10) An adequate number of groundwater monitoring wells shall be provided to ensure that a release can be detected from any portion of the tank. Adequacy of such wells is subject to approval of the Office of the State Fire Marshal on the applicable permit. On new installations, there shall be two 8-inch diameter monitoring wells for the first tanks and 1 additional well for each additional tank installed. The wells will be of manufactured slotted or perforated type. They shall be at opposite ends and corners, one foot below the invert elevations of the lowest UST.
- g) Interstitial monitoring. Interstitial monitoring between the UST system and a secondary barrier immediately around or beneath it, or interstitial monitoring meeting the requirements of this Section as required by Sections 170.420(a) and 170.421(a), may be used but only if the system is designed, constructed and installed to detect a leak from any portion of the tank that routinely contains product. Existing interstitial monitoring systems and sensors shall be maintained and may not be removed irrespective of whether such leak detection is secondary or redundant to other forms of leak detection. If the interstitial monitoring is not functional or not operating properly, it shall promptly be repaired or replaced, and any necessary measures to prevent false positive and false negative readings shall be implemented. The monitoring must also meet one of the following requirements:

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- 1) For double-wall UST systems, the sampling or testing method can detect a release through the inner wall in any portion of the tank that routinely contains product; the provisions specified in STI, "Standard for Dual Wall Underground Storage Tank", incorporated by reference in Section 170.410, may be used as guidance for aspects of the design and construction of underground steel double-wall tanks.
- 2) For UST systems with a secondary barrier within the excavation zone, the sampling or testing method used can detect a release between the UST system and the secondary barrier.
 - A) The secondary barrier around or beneath the UST system consists of artificially constructed material that is sufficiently thick and impermeable (not in excess of 0.000001 cm/sec for the regulated substance stored) to direct a release to the monitoring point and permit its detection;
 - B) The barrier is compatible with the regulated substance stored so that a release from the UST system will not cause a deterioration of the barrier allowing a release to pass through undetected;
 - C) For cathodically protected tanks, the secondary barrier shall be installed so that it does not interfere with the proper operation of the cathodic protection system;
 - D) The groundwater, soil moisture or rainfall will not render the testing or sampling method used inoperative so that a release could go undetected for more than 30 days;
 - E) The site is assessed to ensure that the secondary barrier is always above the groundwater and not in a 25-year flood plain unless the barrier and monitoring designs are for use under such conditions;
 - F) Monitoring wells are clearly marked and secured to avoid unauthorized access and tampering; and
 - G) An adequate number of monitoring wells shall be provided to ensure that a release can be detected from any portion of the tank. Adequacy of the number of such wells is subject to the approval of

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the Office of the State Fire Marshal.

- 3) For tanks with an internally fitted liner, an automated device can detect a release between the inner wall of the tank and the liner, and the liner is compatible with the substance stored.
 - 4) The interstitial monitoring system must be tested every 3 years to verify its operation and records from the previous test must be kept on-site, or available within 30 minutes. Testing of the system sensors shall be done in such a way as to verify their function but not damage the sensors.
 - 5) Recordkeeping requirements for interstitial monitoring of tanks and lines requires an inspection once every 30 days and records for the previous 3 years must be kept on-site or available within 30 minutes. The records can be from an ATG system showing the interstitial monitors' status (pass/normal/other/) on a print out tape or by maintaining a log showing date of inspection, initials of inspector, status of system (pass/normal/other).
- h) Statistical Inventory Reconciliation (SIR).
- 1) The company that uses this method shall provide the Office of the State Fire Marshal a written affirmation that their data collection staff is trained in the data gathering procedures and that only trained staff will be utilized for data collection. Each tank monitored by SIR shall be identified to the Office in writing within 30 days of the commencement of such monitoring, specifying tank size, product stored, facility location and any other pertinent identification information necessary.
 - 2) SIR methods may only be used in conjunction with precision tank tightness testing conducted yearly.
 - 3) A precision tank tightness test, as approved by the Office of the State Fire Marshal, shall be mandatory, if any data analysis indicates a possible release or is inconclusive or indeterminate, or for any test result other than a pass.
 - 4) The measurement of any water level in the bottom of the tank is made to the nearest $\frac{1}{8}$ -inch at least once a month (practices described in API

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Recommended Practice 1621, incorporated by reference in Section 170.410, may be used, where applicable, as guidance in meeting the requirements of this subsection (h)).

- 5) SIR test records for the previous 3 years must be kept on-site (a lag time of 60 days will be allowed for on-site records) or available within 30 minutes.
 - 6) New requests to use SIR after May 1, 2003 will no longer be accepted. If SIR is discontinued at a site, it will not be allowed again.
 - 7) After January 1, 2006, SIR may not be used on systems with blending pumps or siphon tanks.
- i) Other methods. Any other type of release detection method or combination of methods, approved by the Office of the State Fire Marshal, may be used if the owner or operator can demonstrate that the method can detect a release as effectively as any of the methods allowed in subsections (c) through (h) of this Section. Demonstration of any such method shall be in writing submitted to the Office of the State Fire Marshal. In comparing methods, the Office shall consider the size of release that the method can detect and the frequency and reliability with which it can be detected. If the method is approved, the owner or operator shall comply with any conditions imposed by the Office on its use to ensure the protection of human health or the environment. Before the utilization of the method, the Office shall issue written approval.
 - j) One copy of each independent third-party evaluation and its protocol, for the release detection methods in subsections (c), (d), (e), (g), (h) and (i), shall be submitted to the Office of the State Fire Marshal as part of the permit application process. Any deviation from the third-party evaluation shall be included with the permit application submitted to OSFM for approval, along with an evaluation by a registered professional engineer finding that the release detection system as installed meets all required performance standards. These performance standards are 40 CFR 280 (2008); this Part; the List of Leak Detection Evaluations for Storage Tank Systems (incorporated in Section 170.410); and Standard Test Procedures for Evaluating Various Leak Detection Methods (EPA-530/UST-90/004 through 010 (March 1990), found at www.epa.gov/oust.
 - k) Only one approved method of primary release detection is required for each tank,

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although multiple methods are acceptable.

- 1) No method of release detection shall be used unless that method has been approved by the Office of the State Fire Marshal.

Section 170.540 Methods and Requirements of Release Detection for Piping

Owners and operators of petroleum UST systems shall provide release detection, for piping that was designed to contain regulated substances, by the following methods: for pressurized lines – subsections (a) and (b) or subsections (a) and (d); for suction lines – subsection (c).

- a) Line leak detectors for pressurized systems. Both existing and new pressurized piping installations shall be equipped with automatic line leak detectors. Mechanical and electronic line leak detectors which alert the operator to the presence of a leak by restricting or shutting off the flow of regulated substances through piping or triggering an audible or visual alarm may be used only if they detect leaks of three gallons per hour at 10 pounds per square inch line pressure within one hour. All line leak detectors must have a functionality test performed annually. One copy of an independent third-party evaluation and its protocol for each piping release detection method shall be submitted to the Office of the State Fire Marshal as part of the permit application process. Any deviation from the third-party evaluation shall be included with the permit application submitted to OSFM for approval, along with an evaluation by a registered professional engineer finding that the release detection system as installed meets all required performance standards (see Section 170.530(j)).
- b) Line tightness testing requirements may be met by one of the following methods:
 - 1) Pressurized lines must have an annual precision test that is capable of detecting a 0.1 gallon per hour leak rate at 1½ times the operating pressure for 30 minutes.
 - 2) Use of an inert gas to pressurize piping as approved by the OSFM is also acceptable.
 - 3) The use of electronic line leak detection that performs a 0.1 gallon per hour test annually is acceptable as the annual test if records can be supplied that confirm a test pass at the 0.1 rate. These records must be kept on site for 3 years, or available within 30 minutes.

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- 4) A method meeting the requirements of the NWGLDE publication "List of Leak Detection Evaluations for Underground Storage Tank Systems".
- c) Suction lines.
- 1) American suction shall be tested annually using any of the following methods in the NWGLDE publication "List of Leak Detection Evaluations for Underground Storage Tank Systems":
 - A) If using positive pressure, use at least 7 psi for 30 minutes.
 - B) The use of a monthly monitoring method.
 - 2) European suction does not require a test if it is designed and constructed to meet the following:
 - A) The below grade piping operates at less than atmospheric pressure;
 - B) The below grade piping is sloped so that the contents of the pipe will drain back into the storage tank if the suction is released;
 - C) Only one check valve is included in each suction line;
 - D) The check valve is located directly below and as close as practical to the suction pump; and
 - E) A method is provided that allows compliance with subsections (c)(2)(B), (D) and (E) of this Section to be readily determined.
- d) Applicable tank methods. Any of the methods in Section 170.530(e) through (g) and (i) may be used if they are designed to detect a release from any portion of the underground piping that routinely contains regulated substances, as approved by the Office of the State Fire Marshal. SIR is not acceptable as a form of line leak detection. Precision testing is not a stand-alone method for line leak detection. Interstitial piping leak detection systems that are third party approved and have an audible alarm or shut down the product flow can be used in place of annual precision line testing so long as used in conjunction with a mechanical line leak detector.

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- e) Existing interstitial monitoring systems and sensors shall be maintained and may not be removed irrespective of whether the leak detection is secondary or redundant to other forms of leak detection. If the interstitial monitoring is not functional or not operating properly, it shall promptly be repaired or replaced, and any necessary measures to prevent false positive and false negative readings shall be implemented.

Section 170.541 Installer, Repairer, Liner or Remover of USTs and Obtaining Permits

Any person who is an installer, repairer, liner or remover of underground storage tanks is a contractor. However, in order for a contractor to do lining inspections, lining touch up or cathodic protection, or install, repair, line, upgrade, abandon or remove any UST, the contractor is required to be licensed and obtain a permit for that activity, in compliance with the following:

- a) Pay \$200 per permitted activity to the Office of the State Fire Marshal for a permit to install, repair, or line, or perform lining touch up, lining inspections, cathodic protection, or abandonment, upgrade or removal of underground storage tanks.
 - 1) A separate fee is required for each type of activity.
 - 2) This fee is to be paid by check or money order made payable to "Office of the State Fire Marshal" and is to be from the installer, repairer, liner or remover.
 - 3) Only contractors licensed and certified in accordance with Subpart E (or their respective employees, who do not have to be licensed and certified), and not barred pursuant to Subpart D, may obtain permits. Contractors are required to be licensed and certified in the UST activity for which they are applying.
 - 4) Only contractors, their employees or subcontractors may perform the permitted UST activity in accordance with Subpart E.
 - 5) Only the most current permit application for the activity is to be submitted.
 - 6) Insufficient information submitted with the permit application or an

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illegible permit application submission is cause for return or denial.

- 7) Permits expire 6 months from the date they are issued. The applicant may apply for additional 6 month extensions. Permit extensions that circumvent newly adopted technical requirements will not be allowed. Each extension request must be submitted in writing before the permit lapses and must be accompanied by a \$200 fee.
- 8) Permit applications denied or rejected the second time will require a new application submission fee.
- 9) Permit applications and issued permits are not transferable.
- 10) Permit applications and issued permits may only be submitted and amended by contractors licensed and certified in the area of UST activity for which they are applying.
- 11) Amended permits. OSFM may approve minor amendments to granted permits only once in the office or in the field without a new application fee. Examples of minor amendments include very minor changes in the location of piping necessitated by field conditions learned during excavation, or, with regard to equipment, changes in the make and model number of alternative equipment to be installed that is equivalent, third-party listed and suitable for the permitted use. Additional amendments may be allowed with an additional permit application and \$200 fee. For all permit amendments, each change that requires a new contractor, a new site plan or another engineering review to determine acceptability will require a new permit application submission and \$200 fee. "As-built" drawings reflecting any amendment to the site plan shall be submitted to OSFM within 10 days after OSFM approval of the amendment. Permit amendments that circumvent newly adopted technical requirements will not be allowed.
- 12) A person who is the owner of a UST for which a permit is obtained shall be listed on the permit application as the owner.
- 13) In the event there is a delegation of authority to the City of Chicago to enforce UST rules and regulations, pursuant to 430 ILCS 15/2, subject to the terms of such an agreement, the City has the authority to modify this

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subsection (a) to issue the permits and collect the fees for its own use, regarding UST activities within the jurisdiction of the City.

- 14) A permit is closed:
 - A) When the work under the permit is completed and the required notification forms have been submitted to the OSFM; or
 - B) When the permit has lapsed, expired or been revoked.
- b) No permit may be issued when a current owner is listed on a permit application who owes fees pursuant to Section 170.441 or 170.442 until any such fee is paid in full.
- c) No UST activity requiring a permit may proceed without a granted permit in the possession of the contractor or representative of the contractor at the UST site, except pursuant to Section 170.481, and the permit shall be available upon request of an Office of the State Fire Marshal representative. Performance by a contractor of a UST activity in violation of this Section may result in the suspension or revocation of the license of that contractor to perform any UST activity. This does not preclude suspension or revocation for a violation of any other applicable Section.
- d) No UST owners or operators may perform any UST activity on their UST, unless the owner complies with the licensing and certification requirements of Subpart E.
- e) UST activity performed that is not in compliance with the conditions of a permit issued to a contractor is cause for permit revocation, or suspension or revocation of the license of that contractor to perform any UST activity. This does not preclude suspension or revocation for a violation of any other applicable Section.
- f) For purposes of this Section, the term "installer" includes "replacer" and "install" includes "replace"; the term "repairer" includes a person who upgrades and "repair" includes "upgrade"; and the term "remover" includes a person who "abandons-in-place" and "remove" includes "abandon-in-place" a UST.
- g) Actions requiring a permit.
 - 1) A permit is required to do any of the following to USTs:

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- A) remove;
 - B) abandon-in-place;
 - C) upgrade;
 - D) repair;
 - E) line;
 - F) inspect linings;
 - G) lining touch ups;
 - H) emergency repairs;
 - I) repair or install cathodic protection;
 - J) install manways (except in cases associated with a lining permit or lining inspection permit) with manholes bolted to the tank top, only when in conjunction with an inspection and in a manner that does not damage the existing lining;
 - K) install a UST and piping; or
 - L) any time a tank is entered.
- 2) Primary leak detection systems, corrosion protection, spill containment, overfill prevention, dispenser activity under Section 170.420(d)(19), and new dispenser islands also require permits.
- h) Actions not requiring a permit.
- 1) No permit is required to do routine maintenance on, or like-for-like replacements for, the following:
 - A) submersible pumps;

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- B) spill containment devices;
 - C) drop tube valves;
 - D) ball floats;
 - E) ATG probes;
 - F) mechanical line leak detectors;
 - G) electronic line leak detectors;
 - H) wireless electronic line leak detectors; or
 - I) rectifiers.
- 2) The exceptions listed in subsection (h)(1) are the only exceptions from the permit requirement. If the equipment is not present or another type of equipment is to be used, a permit shall be required. Any pipe or flex connector work requires a permit.
- 3) In the event that equipment is not installed like-for-like and/or equipment is installed without a permit, the owner/operator will be required to do the following:
- A) Hire an OSFM recognized contractor other than the contractor who did the unauthorized/non-permitted work.
 - B) OSFM Engineering Department will determine if the equipment is approved for this application.
 - C) Contractor will submit a Date and Time Certain job schedule to review the installation and determine that the equipment has been installed as per manufacturer's specifications.
 - D) Contractor will schedule a Date and Time Certain final inspection. The contractor will have a representative at the final inspection that is knowledgeable and able to work with this equipment. An amended notification form for this installation shall be available

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for the STSS. The representative will review the equipment with the STSS.

- 4) Replacing of any of the above equipment must be reported in writing, within 24 hours after the activity, to the OSFM, on an OSFM approved form, listing the make, model, and manufacturer of the equipment, indicating where the equipment is being installed.
- 5) When replacing an electronic line leak detector that is capable of detecting a release within 0.1gph with a mechanical line leak detector, notification must be made by the contractor to the OSFM in writing, within 8 working hours after replacement, on an approved OSFM form. An original replacement must be completed within 10 working days and notification of completion shall be submitted to the OSFM within 8 working hours after the replacement.
- 6) A valid permit does not remedy a violation until the work is completed and does not allow for any extensions of time for compliance.

Section 170.542 Site Plans

- a) Site plans showing setback distances shall be submitted in triplicate, by the contractor listed on the permit application, to the Office of the State Fire Marshal and are subject to approval by the Office before any new construction, addition or remodeling which alters building size, dispenser locations or locations or sizes of vehicle service area or storage tanks. Removals, lining and upgrades, which involve replacing equipment with that of identical manufacture and model, do not require the submission of site plans; however, permits are required in accordance with Section 170.541. Site plans shall be legible and sizes shall be 8½" x 11", 8½" x 14" or 11" x 17" only; blueprints are not acceptable as site plans. Separate permit application forms are provided for installation, removal, upgrade or repair, relining or abandonment-in-place. Drawings shall carry the name of the contractor proposing the installation, the location with reference to city, village or town, and shall show the following:
 - 1) The plot to be utilized and its immediate surroundings on all sides. All property lines are to be designated and adjacent streets and highways shall be named.

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- 2) The complete installation as proposed, including tanks and their capacities, class of liquids to be stored, pumps, buildings, drives and all UST equipment.
- 3) Clearance from tanks to property lines as required by Section 170.422.
- 4) Type of construction of service station building or buildings, clearly showing that there will be no new basement, cellar or excavation within 20 feet of any underground storage tank system.
- 5) Location of basements, cellars or pits of other buildings on the property or on adjacent property and location of tanks with reference thereto, as required by Section 170.422. If a building has no basement, cellar or pit, a notation to that effect should be made in the proper place. No basements are allowed within 20 feet of a UST system or its components at the time of site plan submittal or system installation.
- 6) If within the setback area, the location of sewers, manholes, catch basins, cesspools, septic tanks, wells or cisterns (whether on the property, adjacent property or in adjoining streets, highways or alleys), and location of tanks with reference thereto, as required by Section 170.422. If there is no sewer, manhole or catch basin in a street or alley or no sewer, cesspool, septic tank, well or cistern on a property, a notation to that effect should be made in the proper place.
- 7) Location of vent pipe and outlets as required by Section 170.424(d) and location of fill pipes, including remote fills, as required by Section 170.425.
- 8) Ventilation of greasing pits as required by Section 170.130, if greasing pit is located within a building or an enclosure.
- 9) Drawings shall be accompanied by an application for approval made out in triplicate on forms furnished by the Office of the State Fire Marshal.
- 10) Plans will be approved if they meet the requirements contained in this Subpart, and a written granted permit will be issued when the conditions are met.

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- b) In the event there is a delegation of authority to the City of Chicago to enforce UST rules and regulations, pursuant to 430 ILCS 15/2, subject to the terms of such an agreement, the City has the authority to modify this Section to change any reference to "Office of the State Fire Marshal," or variation thereof, to the appropriate City authority.

Section 170.543 Notification and Establishment of Time Certain and Date Certain for Underground Storage Tank Activity

- a) This subsection (a) applies to underground storage tank activity requiring a permit and consisting of removal, abandonment-in-place, repair, lining or any tank entry.
- 1) Notification:
Notice of UST activity shall be given to the Office of the State Fire Marshal, Division of Petroleum and Chemical Safety, in writing (the permit application, as specified in Section 170.541, shall constitute such writing) by the contractor and must be scheduled.
 - 2) Establishment of a Date Certain:
 - A) The contractor the permit was issued to or an employee of that contractor (this does not include a subcontractor) shall establish a date certain to perform the UST activity by contacting the Office of the State Fire Marshal, Division of Petroleum and Chemical Safety, by telephone between 8:30 a.m. and 3:00 p.m., at which time a mutually agreed upon date and time for the UST activity shall be scheduled.
 - B) No permitted removal, abandonment-in-place, repair, tank entry, interior lining, lining inspection or installation of manways (except in cases where manway installation is a part of a lining permit or lining inspection permit) is to be performed without an Office of the State Fire Marshal Storage Tank Safety Specialist (STSS) present, as deemed necessary by the Office (see appropriate Appendix).
 - 3) In the event there is a delegation of authority to the City of Chicago to enforce UST rules and regulations, pursuant to 430 ILCS 15/2, subject to the terms of such an agreement and to the extent the City is authorized to

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supervise the above-referenced activities, the City is authorized to substitute references in this Section to the Office of the State Fire Marshal or its agents or employees with comparable terminology.

- b) This subsection (b) applies to underground storage tank activity requiring a permit and consisting of installation and upgrade (including corrosion protection upgrades).
- 1) Notification and Establishment of Time Certain and Date Certain:
- A) After the approved permit is issued by the Office of the State Fire Marshal, Division of Petroleum and Chemical Safety (DPCS) and received by the contractor, a job schedule (see appropriate Appendix) shall be submitted for the installation or upgrade by transmitting it (by mail, express mail, package service, fax, or e-mail) to the Office of the State Fire Marshal, DPCS. Permitted activity will be scheduled no less than 5 working days from the approval date shown on the permit and no less than 2 working days from the submission date of the job schedule. Time Certain and Date Certain activities will only be scheduled on State working days. The DPCS will transmit a stamped acknowledgement receipt back to the contractor within one working day. A copy of this receipt, along with a copy of the permit, will be kept on the job site at all times. Work will not commence until the contractor obtains this receipt.
- B) Time Certain activities in reference to tank installation are air test on the tank prior to installation, air test on primary lines, hydrostatic test on containments prior to backfill, and final inspection. Date Certain activities are Tank Installation and Air Test on Secondary Containment. Time Certain activities will be scheduled for a period of at least two working hours and subsequent activities will not proceed until the time period is over.
- C) No permitted and scheduled Time Certain or Date Certain activity is to be performed outside the schedule without the prior notice to the Office of the State Fire Marshal, DPCS. Changes made to Time Certain and Date Certain schedules will occur a maximum of two times, except for new tank installations where two additional

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changes may be used for final inspection only. These changes must be received, using the appropriate form (by mail, express mail, package service, fax, or e-mail) a minimum of one working day or 8 working hours before the event is scheduled. A new Time Certain or Date Certain cannot be scheduled prior to 3 working days or 24 working hours from the submission date of the revised job schedule. The DPCS will transmit a stamped acknowledgement receipt of the revised job schedule back to the contractor within one working day. Time or Date Certain activities will not resume until the contractor obtains this receipt. A copy of the revised Job Schedule Receipt will be kept, along with the original Job Schedule Receipt and a copy of the permit, on site during all permitted activities.

- D) Time Certain and Date Certain activities may be cancelled, with consent of the OSFM Storage Tank Safety Specialist (STSS), without the one working day or 8 working hour notice, due to adverse natural occurrences or other emergency. A cancelled activity may be rescheduled, either inside or outside of the 3 working day/24working hour waiting period. These cancellations do not count as a scheduled Time Certain or Date Certain change under subsection (b)(1)(C).
 - E) A new permit and fee will be required when there is a failure to meet any of the Time and Date Certain schedules. This includes not showing for inspection, not being totally ready for inspection, allowing permit to expire before completing the final inspection, or not canceling job within the allowed time frame.
 - F) For spill or overfill final Time and Date Certain inspections, a contractor representative is not required to be on site, but the scheduling of the final inspection is required.
- 2) In the event authority is delegated to the City of Chicago to enforce UST rules and regulations under 430 ILCS 15/2, and subject to the terms of the delegation agreement and the City's authority to supervise the activities regulated by this subsection (b), the City may substitute, for references to the OSFM or its agents or employees, comparable references to the City or its agents or employees.

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- 3) There shall be no sale of product from a newly installed UST system until the OSFM Green Tag has been issued.
- 4) Any time an emergency repair permit is issued, the contractor shall schedule and complete the final inspection within 30 days after the issuing of the permit.

Section 170.544 Tester of Underground Storage Tanks, Cathodic Protection and UST Equipment

Any person who is a tester of underground storage tanks or its piping, cathodic protection, or other UST equipment for another, except a lessor for his or her lessee, is a contractor. Testers shall be licensed and certified in accordance with Subpart E, except they shall not be licensed if they are so barred pursuant to Subpart D.

- a) The following are the requirements for testers for UST systems:
 - 1) Cathodic protection. To qualify as a tester of cathodic protection, an individual must be ICC certified in the CP module or be approved by the OSFM.
 - 2) Precision tanks and piping. To qualify as a tester to perform precision tests on tanks or piping, an individual must be certified by ICC in the tank tightness testing module.
 - A) Tank tightness methods shall be evaluated by an independent third-party as contained in the NWGLDE publication "List of Leak Detection Evaluations for Underground Storage Tank Systems" and are subject to approval by the Office of the State Fire Marshal.
 - B) Tank tightness testers shall be trained by the manufacturer of the testing equipment relied upon to ensure proficiency in the tightness testing method.
 - 3) UST equipment (including all equipment other than that listed in subsections (a)(1) and (2) of this Section). To qualify as a tester, an individual must be an employee of an ICC certified contractor that has been trained in the testing of the equipment being evaluated for its

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operation in accordance with manufacturers' specifications.

- b) Test results shall be handled as follows:
 - 1) Test results that pass are to be issued to the facility and owner.
 - 2) Test results that fail must be reported to the OSFM within 3 working days.
 - 3) Test results required due to Notice of Violation must be reported to the OSFM within 10 working days.
 - 4) All test results must be reported on a form prescribed by the OSFM.
- c) For purposes of this Section, "license" (or any comparable variation of the term) is synonymous with "registration" (or any comparable variation of the term).

Section 170.545 USTs Inside or Under Buildings

- a) The floor level, under which a UST is located, shall be above-grade so as to prevent the flow of liquids or vapors into buildings, and the floors shall be of concrete or other fire resistant construction.
- b) No buildings, commencing April 1, 1995, shall be constructed over UST systems, in operation or out of operation (for any period of time); unless, they are exempted from removal pursuant to Section 170.670(a)(4) or (5). Any such UST system over which a building is constructed shall not subsequently be eligible for an abandonment-in-place permit, as issued pursuant to Section 170.670(d).
- c) No USTs or dispensers, containing motor fuel, shall be installed inside buildings, except as authorized pursuant to Section 170.426(k).
- d) Underground product piping connecting USTs or dispensers, containing motor fuel, shall not be routed under buildings whenever feasible, except used oil UST piping with an inside fill may be permitted subject to approval by the Office of the State Fire Marshal on the applicable permit.

Section 170.546 UST Restrictions at Service Stations

- a) Service station storage shall be underground and the capacity of any single

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compartment of an underground storage tank for petroleum shall not exceed 20,000 gallons unless approved by the OSFM.

- b) The total aggregate storage at service stations of petroleum shall be limited by the ability to achieve and maintain clearances to basements, sewers, property lines and special classes of property, in accordance with Sections 170.420 and 170.422, and clearance between tanks is a minimum of 24 inches for all tanks installed after May 1, 2003.

Section 170.550 Release Detection and Cathodic Protection Recordkeeping

UST system owners or operators shall maintain records in accordance with Section 170.490, demonstrating compliance with all applicable Sections of this Subpart. All records are to be kept on site or available within 30 minutes or less via fax, email, or other transfer of information. Failure to meet this 30 minute time frame at two separate facilities with the same registered ownership will then require the owner to maintain all records at all of that owner's sites thereafter; the 30 minute time frame will no longer be allowed. Multiple incidents of not complying with the 30 minute time frame at one site will also cause the owner to lose this time option. These records shall include the following:

- a) All written performance claims pertaining to any release detection system used and the manner in which these claims have been justified or tested by the equipment manufacturer or installer, shall be maintained for five years from the date of installation;
- b) The results of any sampling, testing or monitoring conducted or otherwise required shall be maintained for at least 3 years, except that the results of tank tightness testing conducted in accordance with Section 170.530(c) shall be retained until the next test is conducted;
- c) Written documentation of all calibration, maintenance and repair of release detection equipment permanently located on-site shall be maintained for at least 3 years after the servicing work is completed. Any schedules of required calibration and maintenance provided by the release detection equipment manufacturer shall be retained for five years from the date of installation; and
- d) At the time of a compliance inspection/audit, the following shall be accomplished:

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- 1) Corrosion Protection
 - A) Lined tanks must undergo a physical internal inspection 10 years after installation; and an internal inspection every 5 years thereafter; records must be kept on site for 5 years.
 - B) STIP 3 tanks are to be tested every 3 years for proper corrosion protection operation and records from the previous test must be kept on site. In the event that a reading of -875 millivolts or less is recorded from testing conducted above the structure, on any type of corrosion protection system, then yearly testing will be required thereafter. In the event that upgrading of the cathodic protection system results with readings greater than -875 millivolts with readings being be conducted above the structure, testing may be conducted every 3 years; however, if the 6 month test after upgrading produces a reading of -875 millivolts or less, then yearly testing will be required thereafter.
 - C) Tanks, lines and flex connectors with sacrificial anodes attached must be tested every 3 years to verify proper corrosion protection operation and records from the previous test must be kept on site. In the event that a reading of -875 millivolts or less is recorded with testing conducted above the structure, on any type of corrosion protection system, then yearly testing will be required thereafter. In the event that upgrading of the cathodic protection system results in readings greater than -875 millivolts with readings being conducted above the structure, testing may be conducted every 3 years; however, if the 6-month test after upgrading produces a reading of -875 millivolts or less, then yearly testing will be required thereafter.
 - D) Impressed current systems must be inspected every 30 days and reports or a log maintained that shows date of inspection, initials of inspector, hour, volt and amp readings and power on verification, with a minimum of 3 years of records kept on site. Also, a corrosion contractor must check the total system yearly from date of installation and results shall be kept on site for 3 years.

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- 2) Leak Detection Tanks
 - A) Manual tank gauging. Tanks up to 600 gallons require weekly inventory records and monthly reconciliation is allowed indefinitely. Tanks 601 through 2,000 gallons require a yearly tightness test and weekly inventory records, and monthly reconciliation is allowed for only 10 years from cathodic protection installation. Records are to be kept on site for 3 years minimum. Weekly and monthly standards are as follows: 600 gallons or less have a weekly maximum loss of 10 gal. and a monthly standard of 5 gal. averaged over 4 tests (weeks); for tanks 601 to 1,000 gal., 13 gal. weekly and 7 gal. 4 week average; tanks 1001 to 2,000 gal. weekly and 13 gal. 4 week average.
 - B) Interstitial monitoring of tanks must be done monthly and records kept on site for 3 years. The records can be a printed system status report from an ATG showing pass, normal, etc., or a log book showing date, initials of inspector, status of system pass, normal, etc. The interstitial system must be tested every 3 years to verify operation and previous test records must be kept on site.
 - C) Inventory control is allowed for 10 years only from date of corrosion protection installation. A precision tank tightness test must be performed at 5 years and 10 years prior to changing leak detection methods. Daily inventory control records and monthly reconciliation records (minimum 3 years worth) and tightness test records are to be kept on site for 5 years.
 - D) Automatic tank gauge. A print out tape of the tank leak test showing one pass per tank per month must be kept for 3 years minimum. If no tape is available from the unit, a log showing date, initials of person conducting the test, and leak results shall be maintained with a minimum of 3 years records kept on site.
 - E) SIR. A tank tightness test is required yearly from start date and the test results must be kept on site for 3 years. Also, the monthly SIR reports are to be saved and records for the previous 3 years must be kept on site.

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- F) Vapor and groundwater monitoring. A monthly record must be taken on a log showing date of inspection and status (pass or fail) for each monitoring well with a minimum of 3 years records kept on site.
- 3) Line Leak Detection
- A) American suction must have a line tightness test performed yearly and the test report must be kept on site for 3 years.
 - B) Mechanical line leak detector and lines must be tested yearly with records kept on site for 3 years.
 - C) Electronic line leak detectors must receive a 0.1 line test annually and 3 years worth of records must be kept, or they must be tested yearly along with their associated line and records must be kept on site for 3 years.
 - D) Interstitial monitoring of lines must be done monthly and comply with the same requirements as interstitial monitoring for tanks (see subsection (d)(2)(B)).

Section 170.560 Reporting of Suspected Releases

Owners or operators of UST systems shall report to Illinois Emergency Management Agency within 24 hours and follow the procedures in Section 170.580 for any of the following conditions:

- a) The discovery by owners, operators or others of released regulated substances at the UST site or in the surrounding area (such as the presence of free product or vapors in soils, basements, sewer or utility lines or nearby surface water);
- b) Unusual operating conditions observed by owners or operators (such as the erratic behavior of product dispensing equipment, the sudden loss of product from the UST system or an unexplained presence of water in the tank), unless system equipment is found to be defective but not leaking and is immediately repaired or replaced; or
- c) Monitoring results from a release detection method required under Section

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170.510 or 170.520 that indicate a release may have occurred, unless:

- 1) The monitoring device is found to be defective and is immediately repaired, recalibrated or replaced, and additional monitoring does not confirm the initial result; or
- 2) In the case of monthly inventory control, a second month of data does not confirm the initial result; however, the 24-hour reporting requirement remains in effect.

Section 170.570 Investigation Due to Off-Site Impacts (Repealed)**Section 170.580 Release Investigation Reporting, Site Assessment, Initial Response**

- a) Investigation Due to Off-Site Impact. When required in writing by OSFM, owners or operators of UST systems shall determine if the UST system is the source of off-site impacts. These impacts include the discovery of regulated substances, such as the presence of free product or vapors in soils, basements, sewer or utility lines or nearby surface or drinking water that have been observed by the OSFM or brought to its attention by another party.
- b) Release Investigations and Confirmation Steps. Unless corrective action is initiated, owners or operators shall investigate and confirm all suspected releases of regulated substances requiring reporting within 14 days, using the following procedures:
 - 1) Owners or operators shall repair, replace or upgrade the UST system and begin corrective action, if the test results for the system, tank or delivery piping indicate that a leak exists;
 - 2) Further investigation is not required if the test results for the tank system and delivery piping do not indicate that a leak exists and if environmental contamination is not the basis for suspecting a release; and
 - 3) Owners or operators shall conduct a site assessment if the test results for the system, tank and delivery piping do not indicate that a leak exists but environmental contamination is the basis for suspecting a release.

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- c) **Site Assessment.** Owners or operators shall measure for the presence of a release where contamination is most likely to be present at the UST site. In selecting sample types, locations and measurement methods, owners or operators shall consider the nature of the stored substance, the type of initial alarm or cause for suspicion, the types of backfill, the depth of groundwater and other factors appropriate for identifying the presence and source of the release.
- 1) If the test results for the excavation zone or the UST site indicate that a release has occurred, owners or operators shall begin initial response and initial abatement procedures.
 - 2) If the test results for the excavation zone or the UST site do not indicate that a release has occurred, further investigation is not required.
- d) **Initial Response.** Upon confirmation of a release or after a release from the UST system or hazardous substance is identified in any other manner, owners or operators shall perform the following initial response actions immediately:
- 1) Report the release to Illinois Emergency Management Agency, by way of telephone or electronic mail, within 24 hours;
 - 2) Take immediate action to prevent any further release of the regulated substance into the environment; and
 - 3) Identify and mitigate fire, explosion and vapor hazards.
- e) **Notification of Suspected Release.** The owner, operator or designated representative of the UST must notify the Illinois Emergency Management Agency of a suspected release, when directed to do so by the OSFM STSS. This is to be done at the time of discovery and the incident number shall be given to the STSS prior to his/her leaving the site.

Section 170.590 Reporting and Cleanup of Spills and Overfills

- a) Owners or operators of UST systems shall contain and immediately clean up a spill or overflow and report either release to Illinois Emergency Management Agency within 24 hours (if the product released is a hazardous substance, see Section 170.600 of this Part), and begin initial response and initial abatement in accordance with Sections 170.600 and 170.610, in the following cases:

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- 1) Spill or overfill of petroleum that results in a release to the environment that exceeds 25 gallons or that causes a sheen on nearby surface water; or
 - 2) Spill or overfill of a hazardous substance that results in a release to the environment that equals or exceeds its reportable quantity under 40 CFR 302.1 and 302.5, incorporated by reference in Section 170.410.
- b) Owners or operators of UST systems shall contain and immediately clean up a spill or overfill of petroleum that is 25 gallons or less and a spill or overfill of a hazardous substance that is less than the reportable quantity. In doing so, procedures specified in Section 170.610 (a) through (d) shall be complied with. If cleanup cannot be accomplished within 24 hours, owners or operators shall immediately notify Illinois Emergency Management Agency (IEMA). (Under 40 CFR 302.1, incorporated by reference in Section 170.410, a release of a hazardous substance equal to or in excess of its reportable quantity shall also be reported immediately (rather than within 24 hours) to the National Response Center (800/424-8800).) In addition, 35 Ill. Adm. Code 750.410 requires notification of IEMA (800/782-7860).

Section 170.600 Initial Response for UST Systems Containing Petroleum or Hazardous Substances (Repealed)**Section 170.610 Initial Abatement Measures and Site Assessment**

Unless directed in writing to do otherwise by the Office of the State Fire Marshal, owners or operators shall perform the following abatement measures:

- a) Remove as much of the regulated substance from the UST system as is necessary to prevent further release to the environment;
- b) Visually inspect any aboveground release or exposed belowground release and prevent further migration of the released substance into surrounding soils and groundwater;
- c) Continue to monitor and mitigate any additional fire and safety hazards posed by vapors or free product that have migrated from the UST excavation zone and entered into subsurface structures (such as sewers or basements);

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- d) Remedy hazards posed by contaminated soils that are excavated or exposed, as a result of release confirmation, site investigation, abatement or corrective action activities. If these remedies include treatment or disposal of soils, the owner or operator shall comply with applicable State and local requirements; and
- e) Measure for the presence of a release where contamination is most likely to be present at the UST site, unless the presence and source of the release have been confirmed in accordance with the site assessment required by Section 170.580(b) or the removal site assessment of Section 170.640(a). In selecting sample types, sample locations and measurement methods, the owner or operator shall consider the nature of the stored substance, the type of backfill, depth to groundwater and other factors as appropriate for identifying the presence and source of the release. See 35 Ill. Adm. Code 731 and 732.

Section 170.620 Temporary Out-of-Service Status for UST Systems (Repealed)**Section 170.630 Change-in-Service of UST Systems**

- a) **From a Regulated Substance to a Non-Regulated Substance:**
Continued use of a UST system to store a non-regulated substance (so that it is no longer classified as an UST system) is considered a change-in-service. Before a change-in-service, owners or operators shall empty and clean the tank by removing all liquid and accumulated sludge and conduct a site assessment. The minimum requirements for the site assessment will be two samples: one from each end of the tanks at opposite corners to a depth 2 feet below the invert elevation of the tank and one from under each dispenser. However, a change-in-service may only occur during the first two years, commencing with the date of installation of the tank.
- b) **From a Regulated Substance to a Regulated Substance:**
A change-in-service also consists of a conversion of a petroleum UST to a petroleum UST or a hazardous substance UST to a hazardous substance UST or a petroleum UST to a hazardous substance UST and vice versa. Before a change-in-service, owners or operators shall empty and clean the tank by removing all liquid and accumulated sludge and verify that the UST system meets the requirements of a hazardous material system if being changed over to a hazardous material substance.
- c) **From a Non-Regulated Substance to a Regulated Substance:**

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A non-UST system tank, which is used to store a non-regulated substance, may not be converted to a UST system tank unless the tank has been re-certified and is in compliance with all applicable upgrade requirements for new UST systems.

- d) A waste oil tank that is supplying fuel to a waste oil furnace and is taken out of series shall be no longer classified as a heating oil tank. If the tank does not meet all upgrade requirements for release detection, spill, overfill and corrosion protection, then the tank shall be removed.
- e) In all the above, the equipment must be compatible with the product being stored.

Section 170.640 Assessing the Site at Removal of, Previously Removed, or Change-in-Service of, UST Systems

- a) After removal is completed, the owner or operator shall:
 - 1) Perform a site assessment by measuring for the presence of a release where contamination is most likely to be present at the UST site. In selecting sample types, sample locations and measurement methods, the owner or operator shall consider the method of removal, the nature of the stored substance, the type of backfill, the depth to groundwater, and other factors appropriate for identifying the presence of a release. OSFM provides no additional guidance to performing a site assessment. This is the responsibility of the owner or operator.
 - 2) The owner or operator, or his or her designated representative, shall report a release or suspected release to the Illinois Emergency Management Agency and secure an incident number. The incident number shall be provided to the STSS at the conclusion of the removal and prior to the departure of the STSS.
 - 3) If contaminated soils, groundwater or free product as a liquid or vapor, resulting from a UST system release, is discovered, owners or operators shall begin initial response and initial abatement procedures in accordance with Section 170.580.
- b) When directed in writing by the Office of the State Fire Marshal, the owner or operator of a UST system removed before April 21, 1989 shall assess the excavation zone (including, if so ordered, re-excavating and assessing the site

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where the tank had been located) in accordance with Section 170.640. The OSFM direct removal if a release from the UST may, in the judgment of the OSFM, pose a current or potential threat to human health or the environment.

- c) A site assessment shall be performed, when ordered in writing by the OSFM, when a registered or unregistered regulated UST is removed without the required permit and STSS on site at time of removal. The site assessment shall include, at a minimum, 2 borings/samples from directly under the tank bottom at opposite ends, 2 from outside the tank field, one on each side of tank field, 1 under each dispenser, and 1 for every 20 feet of product piping. A drawing of the site, location of borings and results of testing shall be supplied to the OSFM. A report to IEMA shall be made and an incident number shall be obtained if any of the samples fall within reportable guidelines as detailed in 35 Ill. Adm. Code 742, Appendix B.

Section 170.650 Applicability to Previously Removed UST Systems (Repealed)**Section 170.660 Removal or Change-in-Service Records**

Owners or operators shall maintain records in accordance with Section 170.490 that are capable of demonstrating compliance with removal or change-in-service requirements under all applicable Sections of this Subpart. The results of the excavation zone assessment required in Section 170.640 shall be maintained for at least three years after completion of removal or change-in-service in one of the following ways:

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

Section 170.670 Removal or Abandonment-in-Place of Underground Storage Tanks

- a) Removal:
- 1) Remove all petroleum or hazardous substances and all accumulated sludges from the tank and connecting lines;

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- 2) Disconnect piping at all tank openings;
 - 3) Remove all sections of connecting lines that are not to be used further and cap or plug all tank openings. At least one plug or cap must have an $\frac{1}{8}$ -inch hole;
 - 4) Before removal and at any time thereafter, as determined by the OSFM, the tank shall be gas freed (vapors from the combustible or flammable liquid from the tank are not present in a concentration sufficient to support combustion) on the premises in accordance with API Recommended Practice 1604, incorporated by reference in Section 170.410;
 - 5) Remove tank from ground;
 - 6) At least 5 percent of the lower flammable limit shall be obtained before the tank is considered safe for removal, instead of 20 percent, as required in the above cited API Recommended Practice 1604. Dry ice shall not be allowed as a method of inerting tanks as referred to in API 1604;
 - 7) Compliance with this subsection (a) is the responsibility of the contractor.
- b) Disposal of Tanks:
If a tank is to be disposed of as salvage, it shall be retested for combustible or flammable vapors and, if necessary, rendered gas free. If the tank last contained leaded gasoline, an unknown petroleum product or a hazardous substance, it may only be scrapped as salvage or re-certified. If tanks are being re-certified, the contractor must give written notice to the OSFM on the removal permit as to the intent to re-certify and re-use the tanks being removed. The re-certified tank must be re-installed within 6 months from removal. Compliance with this subsection (b) is the responsibility of the contractor.
- c) Removal Procedures:
- 1) Secure proper permitting and provide required notice of removal to OSFM;
 - 2) All removal monitoring equipment shall be maintained according to manufacturer's specifications;

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- 3) Establish an exclusion zone within which smoking is prohibited. The use of spark producing/non-explosion proof equipment is prohibited in the vapor hazard area;
- 4) Excavate to the top of the tank, drain and remove all piping except the vent lines. Pipe trenches shall remain open for inspection by the OSFM Storage Tank Safety Specialist (STSS);
- 5) Remove all liquids from the tank using explosion-proof pumps or hand pumps. When suctioning product out of tanks, plastic pipes shall not be allowed as a suction tube;
- 6) The tank atmosphere and the excavation area shall be regularly monitored with a combustible gas indicator for flammable or combustible vapor concentration until the tank is removed from both the excavation and the site. Monitoring the UST shall be done at 3 levels in the tank: top, middle and bottom;
- 7) Monitor the tank to insure explosive conditions do not exist. Lower explosive limit (LEL) 5% or less, or oxygen 5% or less, shall be attained;
- 8) Vapor freeing shall be done in accordance with API 1604 Section 4.2. When vapor freeing the tank with compressed air or using inert gases under pressure, all devices shall be bonded to the tank, and the tank shall be grounded to a separate ground. When using inert gases the cylinder shall be equipped with a pressure gauge, so that no more than 5 psi can be discharged into the tank during vapor freeing procedures. To ensure and maintain proper grounding and bonding, such connections shall be tested by the contractor for continuity. This testing shall be done with equipment designed for continuity testing. When vapor freeing of tanks, plastic pipes shall not be allowed as a vent tube on eductors;
- 9) Plug and cap all accessible tank holes. One plug should have an 1/8-inch vent hole;
- 10) Excavate around the tank to prepare for removal. This shall include excavation along one side and one end, from top to bottom;

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- 11) OSFM STSS is to be on site before cutting and cleaning operations or tank removal can proceed;
- 12) Protective equipment for tank cleaning personnel shall be a minimum personal protection of:
 - A) supplied air with full face mask;
 - B) level B personal protective equipment with body harness and tag line;
 - C) protective booties;
 - D) continual monitoring of LEL and oxygen during cleaning;
 - E) attendant/observer;
 - F) confined space entry permit to include MSDS sheets;
 - G) positive flow of fresh air shall be supplied during the cleaning operations;
 - H) Requirements in this subsection (c)(12)(A)-(G) shall not apply in the event that no physical entry is made into the tank;
- 13) Equipment with sufficient lifting capacity shall be used to lift the tank from the excavation;
- 14) Any UST removed from the excavation zone shall be cleaned on site the day of the removal and removed from the site within 24 hours;
- 15) Tanks larger than 2,000 gallons in capacity shall have holes or openings no less than 3 ft. x 3 ft., one on each end or side, for cleaning. Tanks less than 2,000 gallons capacity shall have one entire side removed from end to end and shall be no less than 3 ft. wide;
- 16) Continuous spark producing equipment will only be allowed when proper inerting procedures have been followed according to API 1604 Section 4.2.3;

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- 17) Tank owner must file an amended Notification of Underground Tanks form with OSFM within 30 days after the tank removal. Any tank being removed without a State permit will be required to be put back in the excavation if it has not been removed from the site and covered with backfill until a permit and licensed contractor can remove it properly.
- d) Abandonment-in-Place:
- 1) Tanks, outside the jurisdiction of the City of Chicago, filled with inert material, as described in subsection (d)(2)(C) of this Section, prior to October 1, 1985, need not be removed; however, the owners shall provide documentation of fill material and date of fill, upon request by the Office of the State Fire Marshal. The documentation shall be a receipt or a written statement from the contractor who did the fill, a statement from the inspector who inspected the tank or a written statement from anyone designated by the State Fire Marshal or the Director of the Division of Petroleum and Chemical Safety. Tanks, inside the jurisdiction of the City of Chicago, which were abandoned-in-place prior to July 28, 1989 (the date of repeal of home rule by the City over USTs) in accordance with City laws, regulations or ordinances, need not be removed.
 - 2) Waiver of the removal requirement for a tank and piping, allowing them to be abandoned-in-place, shall be granted where it would be infeasible to remove the UST due to loss of adjacent or subjacent support of nearby structures, railroad tracks, streets (as defined in Section 1-201 of the Illinois Vehicle Code [625 ILCS 5/1-201]), other USTs or in unusual situations where removal is infeasible due to other reasons, as determined by the Office of the State Fire Marshal, or is infeasible because of inaccessibility, as determined by the Office. The following criteria shall be met:
 - A) A complete plan or diagram of the area shall be provided and show the location of tanks, fill pipes, vent lines, sewers, streets, product lines and buildings;
 - B) A Certification of Site Condition shall be provided, which includes but is not limited to, facility name and location, number and size of USTs involved and that the subject UST site is clean or

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contaminated. This certification of site condition shall be based on a professional site assessment from soil sampling and this site assessment must accompany the site certification form;

- C) The tank shall be filled with inert material such as sand, gravel, clay, bentonite or inert material mixed with portland cement to increase flowability. The portland cement concentration may not exceed 50 lbs. per cu. yd. of mixed material. The procedure for filling shall be in accordance with API Recommended Practice 1604, incorporated by reference in Section 170.410;
- D) When a UST is allowed to be abandoned-in-place, as specified in this subsection (d), the abandoned-in-place UST shall be removed when the condition for issuing the abandonment permit no longer exists. The removal procedures shall be followed and a removal permit is required;
- E) Compliance with this subsection (d) is the responsibility of the contractor;
- F) When a UST is abandoned-in-place, the owner of the UST shall keep a permanent record of the UST location, the date of abandonment-in-place and the procedure used for abandonment-in-place. Upon request by the Office of the State Fire Marshal, Division of Petroleum and Chemical Safety, the owner shall forward a copy of such record to the Office, within 14 days after receipt of a written request by the Office sent to the last known address by United States registered or certified mail;
- G) In the event there is a delegation of authority to the City of Chicago to enforce UST rules and regulations, pursuant to 430 ILCS 15/2, subject to the terms of such agreement, the City has the authority to modify subsection (d)(2) of this Section, to issue permits to abandon-in-place USTs located within the jurisdiction of the City and request records of abandonment-in-place; however, any such criteria for abandonment-in-place shall be as stringent as that of the Office of the State Fire Marshal;

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- H) For UST abandonment-in-place, the following steps shall be adhered to:
- i) Secure proper permitting and provide required notice of abandonment-in-place to OSFM;
 - ii) An on-site inspection shall be done to determine the accuracy of the Certification of Site Condition and the submitted site drawing. If the ability to abandon-in-place is questioned, a third-party professional structural engineer may be used to determine the feasibility of removal;
 - iii) All health and safety monitoring equipment shall be maintained according to manufacturer's specifications;
 - iv) Establish an exclusion zone within which smoking is prohibited. The use of spark producing/non-explosion proof equipment is prohibited in the vapor hazard area;
 - v) Excavate to the top of the tank, drain and remove all piping except the vent line. Any associated piping to be abandoned-in-place shall have prior approval by OSFM. Pipe trenches shall remain open for inspection by the OSFM Storage Tank Safety Specialist (STSS);
 - vi) Remove all liquids from the tank using explosion-proof pumps or hand pumps;
 - vii) The tank atmosphere and the excavation area shall be regularly monitored with a combustible gas indicator for flammable or combustible vapor concentration. Monitoring the UST shall be done at 3 levels in the tank: top, middle and bottom. Confined space entry permit and MSDS sheets will be required;
 - viii) Vapor freeing shall be done in accordance with API 1604. When vapor freeing the tank with compressed air or using inert gases under pressure, all devices shall be bonded to the tank and the tank shall be grounded to a separate

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

- ix) Monitor tank to insure explosive conditions do not exist. Lower explosive limits (LEL) 5% or less, or oxygen 5% or less, shall be attained.
- x) OSFM STSS shall be on site before cutting and cleaning operations of abandonment-in-place can proceed.
- xi) A sufficient number of holes or openings shall be made in the tank for abandonment-in-place procedures if existing openings are not adequate.
- xii) Cleaning procedures, as per API 2015, and protective respiratory equipment for tank cleaning personnel shall be the type that provides positive air pressure to a full-face mask throughout the breathing cycle, in accordance with API 2015;
- xiii) Proceed to introduce an approved, inert material through openings in the top of the tank to minimize any surface settling subsequent to disposal of the tank in place;
- xiv) After the tank is filled with inert material, all tank openings shall be plugged or capped unless it was necessary to cut open the tank top. Disconnect and cap or remove the vent line; and
- xv) Tank owner shall file an amended Notification of Underground Storage Tanks form with the OSFM within 30 days after the abandonment-in-place.

Section 170.672 Pre-'74 and Heating Oil USTs

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- a) Although USTs not in operation at any time after January 1, 1974 (commonly referred to as "pre-'74 USTs") are not registrable (see Section 170.440) and are not required to be removed, unless the Office of the State Fire Marshal has determined that a release from the USTs poses a current or potential threat to human health and the environment, they remain classified as USTs; consequently, they must be removed or abandoned-in-place. Permits are required, as well as compliance with all other applicable Sections in this Subpart.
- b) Heating oil USTs (for consumptive use on the premises where stored), regardless when last in operation, are not required to be removed, unless the Office of the State Fire Marshal has determined that a release from the USTs poses a current or potential threat to human health and the environment. However, they remain classified as USTs; consequently, if they are removed or abandoned-in-place, permits are required. Also, they are subject to the notification requirements, as well as compliance with all other applicable Sections in this Subpart.
- c) All USTs referenced in subsections (a) and (b) of this Section, which the Office of the State Fire Marshal has not determined are the source of a release that poses a current or potential threat to human health and the environment, remain classified as USTs and are subject to all applicable Sections in this Subpart.
- d) Heating oil USTs installed prior to April 1, 1995 are not required to meet the new tank performance standards or leak detection requirements contained in this Part. Heating oil USTs installed after April 1, 1995 must meet all current upgrade requirements outlined in this Part, including permitting.
- e) If any pre-'74 tank, heating oil or otherwise, discovered during any activity, is found to be damaged or is damaged at the time of discovery, it shall be removed. No structure shall be erected over pre-'74 tanks, heating oil or otherwise, and they must be removed by an approved contractor. All applicable permits apply.

SUBPART C: UNDERGROUND STORAGE TANKS –
FINANCIAL RESPONSIBILITY REQUIREMENTS

Section 170.700 Definitions

"Provider of financial assurance" means an entity that provides financial assurance to an owner or operator of an underground storage tank through one or

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more mechanisms listed in Section 170.730, including the fiduciary of a designated savings account.

"UST" means underground storage tank system.

Section 170.705 Incorporation by Reference

Code of Federal Regulations (CFR), available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20401 (202) 512-1800:

40 CFR 280.95, 280.96, 280.97, 280.98, 280.99 and 280.107(6).

Section 170.710 Applicability

- a) This Subpart applies to all owners or operators of USTs in the ground as of April 1, 1995.
- b) All owners or operators of hazardous substance USTs are excluded from regulations pursuant to this Subpart.
- c) Although the UST Fund assists certain petroleum UST owners in paying for corrective action or third-party liability [415 ILCS 5/57.9], for purposes of this Subpart, the UST Fund is not considered a mechanism for financial responsibility compliance, as required under this Subpart.
- d) None of the financial responsibility mechanisms, as specified in Section 170.730, are required by the Office of the State Fire Marshal to include a standby trust.

Section 170.720 Amount

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

- a) \$10,000 for corrective action; and
- b) \$10,000 for third-party liability for bodily injury or property damage (for definitions of "bodily injury" or "property damage", see 415 ILCS 5/57.2).

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Section 170.730 Mechanisms of Financial Responsibility

The permissible mechanisms for proof of financial responsibility are as follow:

- a) Commercial or private insurance, including risk retention groups (40 CFR 280.97, incorporated by reference in Section 170.705);
- b) Self-insurance (40 CFR 280.95, incorporated by reference in Section 170.705), if there is a net worth of at least \$200,000;
- c) Guarantee (40 CFR 280.96, incorporated by reference in Section 170.705);
- d) Surety bond (40 CFR 280.98, incorporated by reference in Section 170.705);
- e) Letter of credit (40 CFR 280.99 incorporated by reference in Section 170.705);
- f) Certificate of deposit;
- g) Designated savings account; or
- h) Any combination of the above mechanisms.

Section 170.740 Proof of Financial Responsibility

- a) Proof of financial responsibility for Section 170.730(a), (b), (c), (d) or (e), shall be maintained on the respective forms as located in 40 CFR 280, incorporated by reference in Section 170.705. These forms shall be modified to comply with applicable State laws and regulations (see Section 170.720). It is the responsibility of tank owners or operators to modify the forms.
- b) Proof of financial responsibility for Section 170.730(f) or (g) shall be documented by written proof from the appropriate financial institution.
- c) The forms referenced in subsection (a) of this Section shall be renewed on an annual basis.
- d) The forms referenced in subsections (a) and (b) of this Section shall include the name, address and facility identification no. for each facility, as applicable.

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Section 170.750 Substitution of Financial Responsibility Mechanisms by an Owner or Operator

- a) An owner or operator may substitute any alternate financial responsibility mechanism as specified in Section 170.730, provided that at all times the owner or operator maintains an effective financial responsibility mechanism or combination of mechanisms that satisfies the requirements of this Subpart.
- b) After obtaining alternate financial responsibility as specified in Section 170.730, an owner or operator may cancel the replaced financial responsibility mechanism by providing notice to the provider of financial assurance.

Section 170.760 Cancellation or Non-Renewal by a Provider of Financial Assurance

- a) Except as otherwise provided, a provider of financial assurance may cancel or fail to renew an assurance mechanism by sending notice of termination by certified mail to the owner or operator.
 - 1) Termination of a guarantee, surety bond or letter of credit may not occur until 120 days after the date on which the owner or operator receives the notice of termination as evidenced by the return receipt.
 - 2) Termination of commercial or private insurance or risk retention group coverage may not occur until 60 days after the date on which the owner or operator receives the notice of termination as evidenced by the return receipt.
- b) If a provider of financial assurance cancels or fails to renew an assurance mechanism, for reasons as specified in Section 170.795(c), the owner or operator must obtain alternative coverage as specified in Section 170.730 within 60 days after receipt of the notice of termination. If the owner or operator fails to obtain alternate coverage within 60 days after receipt of the notice of termination, the owner or operator shall notify the Office of the State Fire Marshal of such failure, in writing, by certified mail, within 10 days thereafter, and in the submission include:
 - 1) Name and address of the provider of financial assurance;
 - 2) Effective date of termination;

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- 3) Evidence of the financial responsibility mechanism subject to the termination, maintained in accordance with Section 170.780(b); and
- 4) Name, address and facility identification no. for each affected facility.

Section 170.770 Reporting by Owner or Operator

- a) An owner or operator shall certify compliance with the financial responsibility requirements in Section 170.730, as specified in the notification form, when notifying the Office of the State Fire Marshal of a new UST, in accordance with Section 170.440.
- b) An owner or operator shall notify the office of the State Fire Marshal on an amended notification form when there is a change in status of financial responsibility, in accordance with Section 170.440(g).
- c) The Office of the State Fire Marshal may require an owner or operator to submit evidence of financial responsibility as described in Section 170.780(b) or other information relevant to compliance with this Subpart at any time. Such a request shall be in writing, sent by United States registered or certified mail, to the facility or owner's address on the most recent notification form submitted to the Office.

Section 170.780 Recordkeeping

- a) Owners or operators shall maintain evidence of all financial responsibility mechanisms used to demonstrate financial responsibility (pursuant to this Subpart) for a UST until released from the requirements of this Subpart under Section 170.790. An owner or operator shall maintain such evidence at the UST site or the owner's or operator's principal place of business. Records maintained off-site shall be made available upon written request from the Office of the State Fire Marshal, sent by United States registered or certified mail, to the facility or owner's address on the most recent notification form submitted to the Office, and the recipient shall comply within 10 days after receipt.
- b) An owner or operator shall maintain a copy of the following types of evidence of financial responsibility:
 - 1) An owner or operator using a financial responsibility mechanism as

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specified in Section 170.730 shall maintain a copy of the instrument, worded as specified in Section 170.740.

- 2) An owner or operator using a financial test or guarantee shall maintain a copy of the chief financial officer's letter based on year-end financial statements for the most recent completed financial reporting year. Such evidence shall be on file no later than 120 days after the close of the financial reporting year.
- 3) An owner or operator using a commercial or private insurance policy or risk retention group coverage shall maintain a copy of the signed insurance policy or risk retention group coverage policy, with the endorsement or certificate of insurance and any amendments of the agreement.
- 4) An owner or operator using a financial responsibility mechanism as specified in Section 170.730, shall maintain an updated copy of a certification of financial responsibility as worded in 40 CFR 280.107(6), incorporated by reference in Section 170.705.

Section 170.790 Release from the Requirements

An owner or operator is no longer required to maintain financial responsibility pursuant to this Subpart for a UST after the UST has been removed or abandoned-in-place, in accordance with Section 170.670.

Section 170.795 Bankruptcy or Other Incapacity of Owner or Operator, or Provider of Financial Assurance

- a) Within 10 days after commencement of a voluntary or involuntary proceeding under Title 7 or 11 of the United States Bankruptcy Code (11 U.S.C. 701 et seq. and 1101 et seq.), naming an owner or operator as debtor, the owner or operator must notify the Office of the State Fire Marshal by certified mail of such commencement and submit the appropriate forms listed in Section 170.780(b), documenting current financial responsibility.
- b) Within 10 days after commencement of a voluntary or involuntary proceeding under Title 7 or 11 of the United States Bankruptcy Code (11 U.S.C. 701 et seq. and 1101 et seq.), naming a guarantor providing financial assurance as debtor,

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such guarantor must notify the owner or operator by certified mail of such commencement as required under the terms of the guarantee specified in 40 CFR 280.96, incorporated by reference in Section 170.700.

- c) An owner or operator who obtains financial assurance by a mechanism other than the financial test of self-insurance will be deemed to be without the required financial responsibility in the event of a bankruptcy or incapacity of its provider of financial assurance or a suspension or revocation of the authority of the provider of financial assurance to issue a guarantee, commercial or private insurance policy, risk retention group coverage policy, surety bond, letter of credit, certificate of deposit or act as fiduciary of a designated savings account. The owner or operator must obtain alternate financial assurance as specified in Section 170.730 within 30 days after receiving notice of such an event. If the owner or operator does not obtain alternate coverage within 30 days after such notification, the owner or operator shall notify the Office of the State Fire Marshal in writing, sent by certified mail, within 10 days thereafter.

SUBPART D: UNDERGROUND STORAGE TANKS –
ADMINISTRATIVE PROCEDURE RULES FOR ORDERS ISSUED
BY THE DIVISION OF PETROLEUM AND CHEMICAL SAFETY

Section 170.800 Definitions

"Contractor" is a licensed person, excluding employees, who performs any UST activity.

"Denial of the registration of an underground storage tank (UST)" means refusal to classify a UST as registered, when a notification form, as prescribed by OSFM, was submitted to register the UST.

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

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

"Operation" or "use" in reference to underground storage tanks *means that the tank must have had input or output of petroleum, petroleum products, or hazardous substances, with the exception of hazardous wastes, during the regular*

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course of its usage. "Operation" does not include (i) compliance with leak detection requirements as prescribed by rules and regulations of the Office of the State Fire Marshal or (ii) the mere containment or storage of petroleum, petroleum products, or hazardous substances, with the exception of hazardous wastes. [430 ILCS 15/4]

"Owner" means:

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

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

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

"Provider of financial assurance" means an entity that provides financial assurance to an owner or operator of an underground storage tank through one or more mechanisms listed in Section 170.730, including the fiduciary of a designated savings account.

"Revocation of the license of a contractor" means termination of a contractor's license to perform any activity the contractor was licensed to perform. Upon conclusion of the revocation period, a contractor whose license was revoked may perform any activity the contractor was licensed to perform only by re-licensing (assuming the applicant is not otherwise prohibited from re-licensing).

"Revocation of the registration of an underground storage tank (UST)" means termination of a UST being classified as registered.

"Suspension of the license of a contractor" means the prohibition of a contractor's performance of any activity the contractor was licensed to perform for a period of time not to exceed one year. If the period of suspension ends prior to the termination of any license period, the suspended contractor may resume

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performing that activity the contractor was licensed to perform for the remainder of any license period. If the period of suspension ends subsequent to the termination of any license period, the suspended contractor may not perform the activity the contractor was licensed to perform until the suspension period has ended and the contractor has been re-licensed (assuming the applicant is not otherwise prohibited from re-licensing).

"UST" means underground storage tank system.

"UST" activity means a UST:

Installation – including retrofitting and cathodic protection installation;

Repair – including upgrade, which includes retrofitting and cathodic protection installation;

Removal – decommissioning, which includes abandonment- in-place;

Relining;

Tank tightness testing; or

Cathodic protection testing.

Section 170.810 Grounds and Time for Appeal

An Administrative Order issued pursuant to the following statutory provisions may be appealed in accordance with this Subpart:

- a) UST registration denial or revocation. Section 2(3)(e) of the Gasoline Storage Act [430 ILCS 15/2(3)(e)].
- b) Any violation by a contractor; suspension or revocation of that contractor's license may result from any violation committed by the contractor. Section 2(3)(a), (b), (c) and (e) of the Gasoline Storage Act [430 ILCS 15/2(3)(a), (b), (c) and (e)].
- c) Emergency action. Section 6(c) of the Gasoline Storage Act [430 ILCS 15/6(c)].
- d) Violation of any regulation affecting a UST (Section 2(3)(e) of the Gasoline

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Storage Act [430 ILCS 15/2(3)(e)].

- e) An appeal of an Administrative Order issued pursuant to subsections (a) through (d) of this Section may only be requested in writing within 10 days after receipt (Section 2(3)(e) of the Gasoline Storage Act [430 ILCS 15/2(3)(e)]).
- f) For purposes of this Section, "license" is synonymous with "registration."

Section 170.820 Notice of Hearing

- a) Notice of the time and place for any hearing shall be given to any party concerned. If an attorney, through written communication, is known to represent any party to a hearing, then notice is to be given to that attorney at least 30 days prior to the hearing date. Notice sent to the last known address by United States registered or certified mail, addressed to all parties concerned or their attorneys, when applicable, is sufficient.
- b) Prior to the commencement of a hearing, a party to that hearing may be granted one continuance, for any reason, via written communication, no later than 10 working days prior to the hearing date. No other continuance prior to a hearing will be granted for other than illness or comparable emergency.
- c) Scheduling conflicts of an attorney constitute grounds for a continuance only when the conflict is with another judicial body.

Section 170.830 Appearances

At hearings before OSFM, parties to a proceeding may represent themselves or may be represented by individuals they so designate. The failure of a party to be represented by an attorney does not constitute grounds for a rehearing; likewise, the choice by parties to be represented by themselves or designated individuals does not constitute such grounds.

Section 170.840 Official Notice

The Hearing Officer may take official notice of all facts of which judicial notice may be taken and of other facts, of a technical nature, within the specialized knowledge and experience of OSFM.

Section 170.850 Authority of Hearing Officer

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The Hearing Officer shall:

- a) Administer oaths and affirmations;
- b) Preside over the hearings; regulate the course of hearings; set the time for filing documents; and provide for the taking of testimony by deposition, when necessary;
- c) Set the time and place for the continuance of a hearing once the hearing has commenced (Section 170.820 governs the continuance of a hearing prior to its commencement);
- d) Examine witnesses and direct witnesses to testify; limit the number of times any witness may testify; limit repetitious or cumulative testimony; and set reasonable limits on the amount of time each witness may testify;
- e) Receive evidence; rule upon objections to admissibility of evidence; and rule upon offers of proof;
- f) Sign and issue subpoenas that require attendance, testimony or the production of papers, books, documentary evidence or other tangible things;
- g) Dispose of procedural requests or similar matters;
- h) Render findings of fact, conclusions of law, opinions and recommendations for an Order of the State Fire Marshal;
- i) Enter any Order that expedites the purpose of this rule; and
- j) Generally conduct the hearing and all pre-hearing and post-hearing matters according to this Subpart.

Section 170.860 Evidence to be Presented by the Owner to Object to the Denial or Revocation of the Registration of an Underground Storage Tank (UST) (Repealed)

Section 170.870 Briefs

The parties may submit written briefs to the Hearing Officer within 10 days after the close of the

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hearing or such other reasonable time as the Hearing Officer shall determine, consistent with the responsibility of the State Fire Marshal for an expeditious decision.

Section 170.880 Transcripts

- a) The proceedings at hearings shall be:
 - 1) Recorded electronically by the Hearing Officer or OSFM and transcribed by either; or
 - 2) Recorded and transcribed by a hearing reporter (also known as a "court reporter").
- b) The method of recording and transcribing a hearing, as specified in subsections (a)(1) and (2) of the Section, shall be determined by OSFM.
- c) Transcripts of hearings prepared by a hearing reporter will not be provided by OSFM to any party.

Section 170.890 Order of the State Fire Marshal

- a) The Hearing Officer shall submit the findings, conclusions, opinions and recommendations to the Fire Marshal. The Hearing Officer's recommendations regarding duration of suspension or revocation of the license of a contractor or assessment of fines against a contractor or employee of a contractor, or other party will be included in the submissions to the Fire Marshal (see Section 170.910(a), (b) and (c)).
- b) The Fire Marshal shall review the submissions and issue an Order of the State Fire Marshal within a reasonable time to sustain, modify or revoke the Administrative Order; any suspension, denial, revocation or assessment of fines shall be included.
- c) The execution of a written Order of the State Fire Marshal will become effective immediately and will constitute a final administrative decision.
- d) The parties and their attorneys shall be notified as soon as reasonably possible by sending them a copy of the Order by United States registered or certified mail addressed to their last known address.

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Section 170.900 Authority to Enforce Administrative Orders and Assess Fines

- a) Contractor Licensing:
 - 1) Authority for the suspension or revocation of the license of a contractor is located in Section 7(b) of the Gasoline Storage Act [430 ILCS 15/7(b)].
 - 2) Authority to suspend or revoke the license of a contractor, located in Section 2(3)(e) of the Gasoline Storage Act [430 ILCS 15/2(3)(e)], requires the issuance of an Administrative Order to the contractor and compliance with the Illinois Administrative Procedure Act [5 ILCS 100].
- b) UST Registration:
 - 1) Authority for the denial or revocation of the registration of a UST is located in Section 2(3)(e) of the Gasoline Storage Act [430 ILCS 15/2(3)(e)].
 - 2) Authority to deny or revoke the registration of a UST, located in Section 2(3)(e) of the Gasoline Storage Act [430 ILCS 15/2(3)(e)], requires the issuance of an Administrative Order to the owner and compliance with the Illinois Administrative Procedure Act [5 ILCS 100].
 - 3) Authority to issue Administrative Orders, located in Section 2(3)(e) of the Gasoline Storage Act [430 ILCS 15/2(3)(e)], to owners or operators, employees of contractors or providers of financial assurance requires the issuance of an Administrative Order and compliance with the Illinois Administrative Procedure Act [5 ILCS 100].
 - 4) Authority to require emergency action, located in Section 6(c) of the Gasoline Storage Act [430 ILCS 15/6(c)], requires the issuance of an Administrative Order to the owner or operator to perform the emergency action and compliance with the Illinois Administrative Procedure Act [5 ILCS 100].
 - 5) Authority to assess fines against contractors or employees of contractors, owners or operators, or providers of financial assurance is located in Section 7(a) of the Gasoline Storage Act [430 ILCS 15/7(a)].

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- 6) For purposes of this Section, "license" is synonymous with "registration."

Section 170.910 Suspension or Revocation of the License of a Contractor and Assessment of Fines Against a Contractor or Employee of a Contractor for Violations of Subpart B or E

- a) The violation of a provision of 41 Ill. Adm. Code, Subpart B, including adopted standards, by a contractor, may result in a suspension or revocation of that contractor's license for the following durations:
- 1) For the first violation committed at any facility, the license of any contractor may be suspended or revoked up to one year.
 - 2) For the second violation committed at any facility, the license of any contractor may be suspended for any period of time up to one year or may be revoked up to two years.
 - 3) For the third violation, and any violation thereafter, committed at any facility, the license of any contractor may be suspended up to one year or revoked for any period of time.
- b) The violation of a provision of 41 Ill. Adm. Code, Subpart E, including adopted standards, by a contractor, may result in a suspension or revocation of that contractor's license for the following durations:
- 1) For the first violation, the license of any contractor may be suspended up to six months.
 - 2) For the second violation, the license of any contractor may be suspended or revoked up to one year.
 - 3) For the third violation, the license of any contractor may be suspended up to one year or revoked up to two years.
 - 4) For the fourth violation, and any violation thereafter, the license of any contractor may be revoked up to 5 years.
- c) Effects of Suspension or Revocation:

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- 1) A contractor whose license was suspended or revoked as a result of a violation involving one or more licensed activities, is also prohibited, in a like manner, for a like duration, from performing any other activity the contractor was licensed to perform.
 - 2) During the period of a suspension or revocation, the contractor whose license was suspended or revoked may not be licensed to perform any other activity.
 - 3) A contractor whose license was suspended or revoked, during such period of suspension or revocation, may not perform any activity requiring a license pursuant to a permit issued prior to the suspension or revocation; in such a case, the contractor is not entitled to a refund of the permit fee and is not entitled to amend the permit or permit application to list another contractor.
 - 4) A contractor whose license has been suspended or revoked may not be licensed under the name of a different contractor during such period of suspension or revocation.
 - 5) A contractor whose license has been suspended or revoked may not be employed as an agent or subcontractor of a licensed contractor to perform any activity for which a license is required.
 - 6) For purposes of this subsection (c), any officer of a corporation, or any owner or co-owner of any other business entity that is a contractor, is also identified as a contractor that is one and the same as the business entity at the time of the suspension or revocation.
- d) The violation of a provision of 41 Ill. Adm. Code 170, Subpart B or E, including adopted standards, by a contractor or an employee of a contractor, may result in the assessment of fines against that contractor or employee.

Section 170.920 Assessment of Fines Against Non-Contractors for Violations of Subpart B

The violation of a provision of 41 Ill. Adm. Code 170, Subpart B, by other than a contractor or employee of a contractor, may also result in the assessment of fines against that party.

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Section 170.930 Assessment of Fines Against an Owner, Operator or Provider for Violations of Subpart C

The violation of a provision of 41 Ill. Adm. Code 170, Subpart C, by an owner, operator or provider may result in the assessment of fines against that party.

Section 170.940 Hearing Officer Guidelines for Suspension, Revocation or Assessment of Fines

In determining if the license of a contractor shall be suspended or revoked or fines assessed against a contractor or the employee of a contractor, the Hearing Officer shall consider, in addition to Section 170.910(a) and (b), the following factors, giving equal weight to each:

- a) Threat to public health, safety or property, considering the nature, extent and gravity of violation;
- b) Harm to public health, safety or property, considering the nature, extent and gravity of violation;
- c) Time between the instant violation and any previous violation that resulted in suspension, revocation or assessment of fines (the lesser the period of time between violations, the more serious the penalty);
- d) Culpability of the violator;
- e) Recalcitrance toward the regulation violated;
- f) Number of previous UST violations resulting in a negative finding and not on appeal;
- g) Fraud or deceit in obtaining a license;
- h) Knowing, aiding or abetting the unauthorized installation, removal, abandonment-in-place, upgrade, repair, testing or relining of a UST system without certified supervisory personnel;
- i) Any negligence, incompetence or misconduct in the discharge of the duties required by Subpart B or E;

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- j) Conviction of a felony or misdemeanor related to the circumstances of a UST system installation, removal, abandonment-in-place, upgrade, repair, testing or relining; and
- k) Adjudication of mental incompetence by the courts.

SUBPART E: LICENSING, CERTIFICATION AND IDENTIFICATION CARDS

Section 170.1000 Definitions

"Certification" is the passage by an individual of the ICBO Certification Examination.

"Contractor" is a licensed person, excluding employees, who performs any UST activity.

"ICC" means International Code Council.

"Person" means an individual, trust, firm, partnership, joint stock company, corporation, federal agency, state, municipality, commission, unit of local government or political subdivision of a state or any interstate body. "Person" also includes consortium, joint venture, commercial entity or the United States Government.

"UST" means underground storage tank system.

"UST activity" means a UST:

Installation – including retrofitting and cathodic protection installation;

Repair – including upgrade, which includes retrofitting and cathodic protection installation;

Removal – decommissioning, which includes abandonment-in-place;

Lining (interior lining);

Tank tightness testing;

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Cathodic protection testing; or

Lining inspections, lining touch ups, installation of manways, and any tank entry.

Section 170.1100 Contractor Licensing

In order for a contractor to be considered licensed with the Office of the State Fire Marshal, it is necessary for the contractor to submit to the Office a current contractor license application form, as provided by the office, and comply with the following:

- a) Pay an annual licensing fee of \$100 per type of UST activity to the Office of the State Fire Marshal on or before 30 days from the date on the invoice requesting payment of the fee. The payment is to be by check or money order made payable to "Office of the State Fire Marshal".
- b) Each contractor shall provide a list of its certified individual contractors or certified employees to the Office of the State Fire Marshal, stating any UST activity in which the individual contractor or employee is certified, and sign an affidavit that 41 Ill. Adm. Code 170 (the rules of the OSFM promulgated pursuant to the Gasoline Storage Act [430 ILCS 14]) have been distributed to all certified individual contractors and certified employees of the contractor as a prerequisite to becoming licensed. This information shall be submitted on forms as prescribed by the Office. A contractor is required to have a certified individual contractor or certified employee certified in each area of UST activity for which it is applying to be licensed.
- c) Each person who is a contractor shall notify the Office of the State Fire Marshal on a form prescribed by the Office, within 10 days:
 - 1) After the termination of employment of a certified individual contractor or certified employee, of such termination;
 - 2) After the re-certification to perform a UST activity by a individual contractor or employee; or
 - 3) Upon certification to perform a UST activity by an individual contractor or employee not previously certified or not previously certified to perform that activity.

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- d) Each contractor shall maintain a general liability insurance policy of \$1,000,000 net, issued to the contractor, proof of which is to be submitted annually to the Office of the State Fire Marshal on a certificate of insurance issued by the insurer. This submission is required for a contractor to be licensed.
- e) Any registration or license will be valid for one year and will expire on its anniversary date.
- f) No contractor shall apply for a license who is otherwise barred pursuant to Subpart D.
- g) For purposes of this Section, "license" (or any comparable variation of the term) is synonymous with "registration" (or any comparable variation of the term).

Section 170.1200 Contractor and Employee Certification

- a) In order to be certified to perform a UST activity, the individual must receive a passing score on the ICC Certification Examination for that UST activity. The ICC can be contacted at 5360 Workman Mill Rd., Whittier CA 90601 or by calling Fire Service Division, Order Dept. at (800) 824-4406 or by accessing ICC's web site at www.icbo.org .
 - 1) Certification for lining is regulated under Section 170.430 .
 - 2) Certification for tank tightness testing is regulated by Section 170.544.
 - 3) Any contractor performing a tank entry must be certified by ICC in the decommissioning module.
- b) A contractor is considered certified in any UST activity in which an employee of that contractor is certified, except that if the contractor itself is an individual contractor, in order to be considered certified, the contractor shall meet the requirements of subsection (a).
- c) A contractor shall have at least one employee certified for the UST activity permitted, except, if the contractor itself is an individual contractor who is so certified, no such employee is required.

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- d) A contractor shall have at least one employee certified in the UST activity for which the permit was issued actively supervising the UST activity being performed on the job site, except, if the contractor itself is an individual who is so certified, no such employee is required, but the individual contractor shall so supervise. At all times during UST operations, there shall be such a certified employee or certified individual contractor on the job site; subcontractors are not employees.
- e) Certified individual contractors and certified employees shall possess ICC Identification Cards on UST job sites at all times, and such cards shall be available upon request by any Office of the State Fire Marshal representative.
- f) Certified individual contractors and certified employees shall possess OSHA Identification Cards (as described in Section 170.1300) on UST job sites at all times, and such cards shall be made available upon request by any Office of the State Fire Marshal representative.
- g) UST activities may be shut down by any Office of the State Fire Marshal representative if individual contractors or their employees are not in compliance with subsection (d) or (e) of this Section. Such work shall not resume until approval is granted by the Office.
- h) Individuals certified by ICC for UST activity, who passed the National Certification Examination in another state, are considered certified in this State; however, any such individual shall comply with State licensing requirements in Section 170.1100 and the requirements of this Section in order to perform any UST activity for which they are certified.

Section 170.1300 Possession of OSHA Identification Cards by Certified Individual Contractors and Certified Employees of Contractors

- a) Certified individual contractors, certified employees of contractors and subcontract excavation operators (involved in UST related operations) shall possess 40 hour General Site Worker Program Identification Cards and any valid Refresher Cards, which comply with Occupational Safety and Health Administration (OSHA) standards, on UST job sites at all times, and such cards shall be produced upon request by any Office of the State Fire Marshal representative. This is applicable only to UST installations, repairs, lining, removals, abandonments-in-place and physical interior inspections.

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Subcontractors, such as electricians, truck drivers, concrete masons, canopy erectors, or crane operators would not be required to have the Site Worker Program Identification Card but must comply with the standards established by the OSHA General Site Worker Program. During times when the certified contractor is present and performing work, compliance with these standards will be accomplished by direct (line of sight) supervision by the permit holding certified individual contractors and their employees of those people entering the work area. These OSHA standards are located in the document titled: "Occupational Safety and Health Standards and Interpretations", OSHA Standard 1910.120, "Hazardous Waste Operations and Emergency Response", 55 Fed. Reg. 14074, April 13, 1990 and 56 Fed. Reg. 15833, April 18, 1991, available from United States Department of Labor, OSHA, 230 South Dearborn Street, Room 3244, Chicago IL 60604, (312) 353-2220.

- b) UST activities may be shut down by any Office of the State Fire Marshal representative if individual contractors or their employees are not in compliance with this Section. Such work shall not resume until approval is granted by the Office.

Section 170.APPENDIX A Checklist for Underground Storage Tank Installation (Repealed)

Section 170.APPENDIX B Checklist for Underground Storage Tank Reline (Repealed)

Section 170.APPENDIX C Checklist for Underground Storage Tank Removals (Repealed)

Section 170.APPENDIX D Checklist for Abandonment-in-Place of Underground Storage Tanks (Repealed)

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Section 170.APPENDIX E Guidelines for Marinas

Due to the unique characteristics of the site at marina locations, it is necessary to obtain more specific information for permit reviews in most cases.

1. Application and Particulars

- a. All the usual application procedures shall be followed, paying particular attention to each function that any equipment will be performing.
- b. Manufacturer specifications or statements may be necessary to establish location or system components and to verify operation of equipment under certain conditions.
- c. Special notes and explanations shall be given where applicable.
- d. Additional statements are sometimes required to substantiate ownership or consent from authorities having jurisdiction over the waterway.

2. Site Plans and Drawings

- a. All the normal site plan information will be necessary showing tanks, piping, vents, dispensers, property lines, buildings, sewers and setback distances from the UST system along with the dock location and configuration and any pertinent site characteristics.
- b. Detailed drawings may be necessary to show length and width of dock, type of construction, dispenser location and dispensing area along with profiles of the UST system indicating differences in elevation between tanks, piping and dispensers showing all valves, manholes, sumps, location of leak detection equipment, anti-siphon devices, pressure relief valve, pipe chases, sewage lines, etc. High water, low water and normal pool elevations shall also be given in relation to tank, piping and dispensers.

3. Leak Detection

- a. Leak detection shall be designed to suit the particular installation.
- b. Double-wall piping with continuous monitoring is recommended in most

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situations; although, single-wall systems will be sufficient in cases where the characteristics of the system are not too extreme.

4. Piping

- a. Anti-siphon devices such as solenoid valves shall be required in cases where the piping slopes downward from the tank.
- b. A manual shut-off shall be required on shore where the piping approaches the dock.
- c. Floating docks shall require flexible lines from shore to dock. Any product supply hose shall have secondary containment. Rigid piping shall be required on the dock (flexible primary shall require rigid secondary containment piping). Flexible connectors shall be required at dock hinge points for rigid primary.
- d. All aboveground piping shall have proper hangers or mounts and shall be protected from physical damage.

5. Fueling Equipment

- a. Breakway couplings shall be required on dispensing hoses.
- b. A mechanical return reel shall be required for hose lengths in excess of 18 ft.
- c. Dispenser nozzles shall be of the automatic closing type and hold-open clips shall not be allowed.
- d. Shear valves shall be required under dispensers.
- e. Spill containment shall be required under dispensers.
- f. Collision barriers shall be installed for dispensers where necessary.

6. Other

Marine service stations shall be of the attended type only. Self-service is prohibited.

Section 170.APPENDIX F Required Job Schedule for Cathodic Protection Upgrade

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(Repealed)

Section 170.APPENDIX G Required Job Schedule for Underground Piping Upgrade (Repealed)

Section 170.APPENDIX H Required Job Schedule for Underground Storage Tank Installation (Repealed)

Section 170.APPENDIX I Required Checklist for Underground Storage Tank System Upgrade (Repealed)

Section 170.TABLE A Schedule for Phase-In of Release Detection

Year system was installed	Year when release detection is required (By December 22 of the year indicated)				
	1989	1990	1991	1992	1993
Before 1965 or date unknown	RD*	P			
1965-69		P/RD			
1970-74		P	RD		
1975-79		P		RD	
1980-88		P			RD

New tanks (on or after April 21, 1989) immediately upon installation.

*The first year when release detection is required for emergency power generator tanks is 1990. The first year when release detection is required for heating oil tanks for consumptive use on the premises where stored is 1998.

P = Shall begin release detection for all pressurized piping in accordance with Sections 170.510 (b) (1) and 170.520 (b) (4).

RD = Shall begin release detection for tanks and suction piping in accordance with Sections 170.510 (a) and (b) (2) and 170.520.

Section 170.TABLE B Manual Tank Gauging: Weekly and Monthly Standards

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Nominal tank capacity	Weekly standard (one test)	Monthly standard (average of four tests)
550 gallons or less.	10 gallons.....	5 gallons.
551-1,000 gallons.	13 gallons.....	7 gallons.
1,001-2,000 gallons.	26 gallons.....	13 gallons.

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

<u>Section Numbers</u> :	<u>Proposed Action</u> :
171.10	Repeal
171.50	Repeal
171.70	Repeal
171.90	Repeal
171.100	Repeal
171.110	Repeal
171.120	Repeal
171.150	Repeal
171.160	Repeal
171.180	Repeal
171.200	Repeal
- 4) Statutory Authority: Implementing and authorized by Sections 2 and 3.5 of the Gasoline Storage Act [430 ILCS 15/2 and 3.5]
- 5) A Complete Description of the Subjects and Issues Involved: Repeals text of current underground storage tank (UST) rules on compliance certification.
- 6) Published Studies or Reports, and sources of underlying data used to compose this rulemaking: None
- 7) Will this proposed repealer replace any emergency rulemaking currently in effect? No
- 8) Does this repealer contain an automatic repeal date? No
- 9) Does this proposed repealer contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: The requirements of these rules, as reorganized and adopted after repeal, could have a minor impact on local government to the extent that local government units might own or operate an a UST system. See the Notice associated with proposed Part 177 (41 Ill. Adm. Code 177) for further information.

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

Shelly Bradley, Manager
Division of Petroleum and Chemical Safety
Office of the State Fire Marshal
1035 Stevenson Dr.
Springfield, IL 62703-4259

Phone: 217/557-3131
Facsimile: 217/524-9284

- 13) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: The requirements of this Part, as reorganized and adopted after repeal, could have a minor impact on those small businesses, not for profit entities, and small municipalities that own and operate UST systems. See the Notice associated with proposed new Part 177 (41 Ill. Adm. Code 177) for further information.
- B) Reporting, bookkeeping or other procedures required for compliance: Both the repealed text and the text of proposed new Part 177 require compliance with technical requirements for USTs. UST installations and upgrades have various reporting and permitting requirements as described in the language of proposed new Parts 174, 175 and 176 (41 Ill. Adm. Code 174, 175 and 176). See the Notices associated with those Parts and for Part 177 (41 Ill. Adm. Code 177) for further information.
- C) Types of professional skills necessary for compliance: Must ensure that all persons installing and doing work on USTs have been trained appropriately and licensed by OSFM.

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

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

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

PART 171

COMPLIANCE CERTIFICATION FOR UNDERGROUND STORAGE TANKS (REPEALED)

Section

171.10	Definitions
171.50	Deposit Prohibited
171.70	Inspection of Motor Fuel Dispensing Facilities Facilities
171.90	Evidence of Compliance Status for Motor Fuel Dispensing
171.100	Inspection of Non-Motor Fuel Dispensing Facilities and Hazardous Substance UST Systems
171.110	Evidence of Compliance Status for Non-Motor Fuel Dispensing Facilities and Hazardous Substance UST Systems
171.120	Assumption of Compliance for Non-Motor Fuel Dispensing Facilities and Hazardous Substance UST Systems
171.150	Certificate of Exemption
171.160	Missing, Damaged or Destroyed Evidence of Compliance Status
171.180	Expiration of Certificates
171.200	Appeals

AUTHORITY: Implementing the Gasoline Storage Act [430 ILCS 15] and authorized by Section 3.5 of the Gasoline Storage Act [430 ILCS 15/3.5].

SOURCE: Adopted by emergency rulemaking at 22 Ill. Reg. 22411, effective December 21, 1998, for a maximum of 150 days; emergency expired May 19, 1999; adopted at 24 Ill. Reg. 277, effective December 22, 1999; repealed at 34 Ill. Reg. _____, effective _____.

Section 171.10 Definitions

"Deposit" means the act of placing in or filling of a UST system or directing the act of placing in or filling of a UST system with a regulated substance.

"Evidence of Compliance Status" means that a tag or decal issued by the OSFM is made visible to persons making delivery of petroleum, petroleum product, hazardous substances or regulated substances.

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"Hazardous Substance" means any substance defined in Section 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) of 1980 (42 USC 9601 et seq.), but not including any substance regulated as a hazardous waste under Subtitle C of the Resource Conservation and Recovery Act (RCRA) of 1976 (42 USC 6901 et seq.).

"Heating Oil" means petroleum that is No. 1, No. 2, No. 4-light, No. 4-heavy, No. 5-heavy or No. 6 technical grades of fuel oil; other residual fuel oils (including Navy Special Fuel Oil and Bunker C); and other fuels when used as substitutes for one of these fuel oils. Heating oil is typically used in the operation of heating equipment, boilers or furnaces.

"Motor Fuel" means petroleum or a petroleum-based substance that is motor gasoline, aviation gasoline, No. 1 or No. 2 diesel fuel or any grade of gasohol and is typically used in the operation of a motor engine.

"Motor Fuel Dispensing Facility" means a location where motor fuel is dispensed from a UST system.

"Non-Motor Fuel Dispensing Facility" means a location where petroleum or petroleum-based product other than motor fuel is dispensed from a UST system.

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

"Person" means a natural person, corporation, unit of local government, partnership, firm or other entity. Person as used in this Part means the natural person who physically deposits regulated substances into a UST system and the unit of local government, partnership, firm or other entity that directs the person who makes such a deposit.

"Petroleum" (including crude oil or any fraction of crude oil that is liquid at standard conditions of temperature and pressure (60° F and 14.7 pounds per square inch absolute)) includes, but is not limited to, petroleum-based substances comprised of a complex blend of hydrocarbons derived from crude oil through processes of separation, conversion, upgrading or finishing, such as motor fuels, jet fuels, distillate fuel oils, residual fuel oils, lubricants, petroleum solvents or used oils.

"Regulated Substances" means petroleum or hazardous substances as defined in

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this Section.

"Underground Storage Tank", "UST", or "UST System" has the same meaning as in 41 Ill. Adm. Code 170.400.

All other terms shall have the meaning ascribed to them or as defined in 41 Ill. Adm. Code 170.400.

Section 171.50 Deposit Prohibited

Beginning December 22, 1998, no person shall deposit petroleum, petroleum product, hazardous substances or regulated substances into any UST system unless evidence is displayed that such UST system is in compliance with the applicable rules of 35 Ill. Adm. Code 170, except as provided in this Part. Beginning December 22, 1998, no person shall deposit petroleum, petroleum product, hazardous substances or regulated substances into any UST system that displays evidence that such UST system is not in compliance with the applicable rules of the OSFM. A depositor may make one deposit of a regulated substance to a newly installed or newly relined tank to provide ballast.

Section 171.70 Inspection of Motor Fuel Dispensing Facilities

- a) The OSFM shall inspect motor fuel dispensing facilities for compliance with this Part and issue Evidence of Compliance Status.
- b) The OSFM may give priority to inspection of dispensing facilities where the owner or operator has provided to the OSFM information demonstrating compliance with the applicable rules. Facilities upgrading prior to December 22, 1998, may be inspected under this Section as part of the inspection at the time of upgrading.

Section 171.90 Evidence of Compliance Status for Motor Fuel Dispensing Facilities

- a) Evidence of Compliance Status for motor fuel dispensing facilities shall consist of a tag or decal issued by the OSFM. The tag or decal shall be either:
 - 1) Red: indicating non-compliance; or
 - 2) Green: indicating compliance; or

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- 3) Yellow: indicating exempt (see Section 171.150).
- b) Evidence of Compliance Status shall either be affixed to the window closest to the main entry of the motor fuel dispensing facility or, if such a window is not available, shall be affixed to the inside window of the dispenser cabinet.
- c) If more than one UST system is located at the facility, and some but not all UST systems are in compliance, the OSFM will issue a Green decal or tag, which shall be affixed as provided in subsection (b) above, and will issue individual Red decals or tags for each of the non-compliant UST systems, which shall be affixed directly onto the fill pipe of the non-compliant UST system or near the fill pipe of the non-compliant UST system at a location approved by the OSFM.
- d) Evidence of Compliance Status may also be a notice or letter issued by the OSFM indicating the facility status; such letter or notice shall be valid for 30 days from the date of the notice or letter.

Section 171.100 Inspection of Non-Motor Fuel Dispensing Facilities and Hazardous Substance UST Systems

- a) The OSFM shall inspect non-motor fuel dispensing facilities and hazardous substance UST systems for compliance with this Part and issue Evidence of Compliance Status.
- b) The OSFM may give priority to inspection of dispensing facilities where the owner or operator has provided to the Office information demonstrating compliance with the applicable rules. Facilities upgrading prior to December 22, 1998, may be inspected under this Section as part of the inspection at the time of upgrading.

Section 171.110 Evidence of Compliance Status for Non-Motor Fuel Dispensing Facilities and Hazardous Substance UST Systems

- a) Evidence of Compliance Status for non-motor fuel dispensing facilities and hazardous substance UST systems shall consist of a tag or decal issued by the OSFM. The tag or decal issued shall be either:
 - 1) Red: indicating non-compliance; or

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- 2) Green: indicating compliance; or
 - 3) Yellow: indicating exempt (see Section 171.150).
- b) Evidence of Compliance Status shall either be affixed to the fill pipe of the UST system or near the fill pipe at a location agreed to by the representative of the OSFM.
 - c) If the tag or decal affixed to the fill pipe is Red, the owner or operator of the UST system shall secure the fill pipe to avoid the product being accidentally deposited in the UST system.
 - d) Evidence of Compliance Status may also be a notice or letter issued by the OSFM indicating the facility status; such letter or notice shall be valid for 30 days from the date of the notice or letter.

Section 171.120 Assumption of Compliance for Non-Motor Fuel Dispensing Facilities and Hazardous Substance UST Systems

- a) Depositors of hazardous substances and petroleum and petroleum products, other than motor fuel, shall first ascertain if evidence of non-compliance, a Red decal or tag, is affixed to the UST system. If no Red decal or tag is present, the person may deposit into the UST system. After March 31, 1999, the person may not deposit into any UST system that does not display evidence of compliance status.
- b) Depositors of Heating Oil shall first ascertain if evidence of non-compliance, a Red decal or tag, is affixed to the UST system. If no Red decal or tag is present, the person may deposit into the UST system. After August 1, 2001, the person may not deposit into any UST system that does not display Evidence of Compliance Status.

Section 171.150 Certificate of Exemption

- a) Owners and operators of underground and above ground tanks not defined as UST systems may request a Certificate of Exemption from the requirements of this Part. The Certificate of Exemption may serve to avoid any confusion as to whether Evidence of Compliance Status is required for the UST system and, therefore, avoid unintended denial of a delivery of petroleum, petroleum product, regulated substances or hazardous substances.

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- b) The owner or operator must make a written request for a Certificate of Exemption to the Office. A representative of the OSFM may inspect the tank or tank system.

Section 171.160 Missing, Damaged or Destroyed Evidence of Compliance Status

- a) The owner or operator of a motor fuel dispensing facility, non-motor fuel dispensing facility or hazardous substance UST system may use an inspection form issued by the OSFM to establish Evidence of Compliance Status where the tag or decal is missing, damaged or destroyed.
- b) If the person depositing the petroleum, petroleum product, hazardous substance or regulated substance has knowledge that the facility or UST system has been issued a Green decal or tag, and the decal or tag is missing, damaged or destroyed, the person so delivering the substance should attempt to make reasonable inquiry to the owner or operator of the compliance status of the UST system. After making inquiry and receiving no information as to the non-compliance of the UST system, the person may deposit the substance but must notify the OSFM, in writing, of the delivery on the next business day and make inquiry into the status of the UST system receiving the delivery. Knowledge may be relied on under this subsection (b) by demonstrating that the depositor has observed a prior Green decal or tag and has no knowledge of the revocation of such decal or tag.
 - 1) A Green decal or tag was displayed at the time of a recent, prior delivery and a Red decal or tag was not affixed to the UST system receiving the current delivery; or
 - 2) Other personal knowledge as sufficient to satisfy this subsection (b), including possession of a copy of an inspection form issued by the OSFM.
- c) Owners or operators of a motor fuel dispensing facility, non-motor fuel dispensing facility or hazardous substance UST system shall report all missing, damaged or destroyed tags and decals on the next business day, in writing, following the discovery and shall return to the OSFM the damaged tag or decal. The OSFM will replace missing or damaged tags and decals as soon as practicable.

Section 171.180 Expiration of Certificates

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Certificates of compliance status without expiration dates shall expire on January 1, 2002 or on the next inspection interval. After January 1, 1999, certificates of compliance will be issued with expiration dates to expire on January 1 of the year shown on the Evidence of Compliance Status. Prior Evidence of Compliance Status shall be removed. After January 1, 1999, Evidence of Compliance Status shall be issued for three year intervals. After January 1, 1999, facilities not in compliance with the rules of the OSFM shall be issued Red tags for UST systems not in compliance and the previously issued Evidence of Compliance Status shall expire. The previously issued Evidence of Compliance Status shall remain in effect until any appeal or appeal period is concluded, after which the UST system shall have the appropriate Evidence of Compliance Status affixed and prior Evidence of Compliance Status removed.

Section 171.200 Appeals

Evidence of Compliance Status issued or not issued pursuant to this Part may be appealed, within 30 days after the date of receipt or denial, in accordance with 41 Ill. Adm. Code 170, Subpart D, Underground Storage Tanks – Administrative Procedure Rules for Orders Issued by the Division of Petroleum and Chemical Safety.

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NOTICE OF PROPOSED RULES

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

<u>Section Numbers:</u>	<u>Proposed Action:</u>
174.100	New
174.200	New
174.210	New
174.300	New
174.310	New
174.320	New
174.330	New
174.340	New
174.350	New
174.360	New
174.370	New
174.400	New
174.410	New
174.420	New
174.430	New
174.440	New
174.450	New
174.APPENDIX A	New
- 4) Statutory Authority: Implementing and authorized by Section 2 of the Gasoline Storage Act [430 ILCS 15/2]
- 5) A Complete Description of the Subjects and Issues Involved: Reorganizes and consolidates existing underground storage tank system (UST) rules concerning the storage, handling and use of flammable and combustible liquids, bulk handling, mobile fueling, incorporations by reference, and definitions for purpose of UST rules. Adopts NFPA 30 and 30A regarding the storage, handling and use for situations and issues not already addressed by existing UST rules. Subject to certain requirements, provides that a single bulk loadout may be connected to a single UST at a motor fuel dispensing facility. Increases the permit fee for UST installations and upgrades from \$200 to \$300. Makes non-substantive changes.

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- 6) Published Studies or Reports, and sources of underlying data used to compose this rulemaking: Standards adopted by the National Fire Protection Association for installation and use of flammable and combustible liquids available at <http://www.nfpa.org> and portions of federal regulations at 40 CFR 280. Also, portions of the federal Energy Policy Act of 2005, Public Law 109-58, and a US EPA guidance document entitled Grant Guidelines to States for Implementing the Secondary Containment Provision of the Energy Policy Act of 2005 (US EPA, Nov. 2006), were reviewed and in part relied upon in promulgating these amendatory rules. All of these are posted on the US EPA web site at www.epa.gov/oust and are also available in the Office of the State Fire Marshal, 1035 Stevenson Drive, Springfield, IL. 62703.
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? Yes. A variety of codes and standards developed by independent national associations and work groups have been incorporated and are available for public inspection at:
- Office of the State Fire Marshal
1035 Stevenson Dr.
Springfield, IL 62703-4259
- Facsimile: 217/524-9284
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This Part could have a minor impact on local government to the extent that local government units might own or operate an underground storage tank system.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Persons wishing to comment on this proposed rulemaking may submit comments no later than 45 days after the publication of this Notice to:

Shelly Bradley, Manager
Division of Petroleum and Chemical Safety
Office of the State Fire Marshal
1035 Stevenson Dr.

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Springfield, IL 62703-4259

217/557-3131

Facsimile: 217/524-9284

13) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: This rulemaking could have a minor impact on those small businesses, not for profit entities, and small municipalities that own and operate UST systems.
- B) Reporting, bookkeeping or other procedures required for compliance: UST system installations and upgrades have various reporting and permitting requirements as described in the reorganized and consolidated language of proposed new Parts 174, 175, and 176 (41 Ill. Adm. Code 174, 174, and 176). Typically the contractor obtains the permit on behalf of the owner/operator.
- C) Types of Professional skills necessary for compliance: Owners and operators of USTs must ensure that all persons installing and doing work on UST systems have been trained appropriately and licensed by OSFM.

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

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

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

PART 174

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

SUBPART A: DEFINITIONS

Section
174.100 Definitions

SUBPART B: INCORPORATION BY REFERENCE

Section
174.200 Incorporation of National Standards
174.210 Incorporations by Reference

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

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

SUBPART D: PORTABLE AND VEHICULAR DISPENSING

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

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174.450 Requirements for Permit to Fuel Motor Vehicles from Tank Vehicles

174.APPENDIX A Derivation Table

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

SOURCE: Adopted at 34 Ill. Reg. _____, effective _____.

SUBPART A: DEFINITIONS

Section 174.100 Definitions

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

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

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

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

"ANSI" means American National Standards Institute.

"API" means American Petroleum Institute.

"ASTM" means American Society for Testing and Materials.

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

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

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

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

"Cathodic Protection" is a technique to prevent corrosion of a metal surface by making that surface the cathode of an electrochemical cell. For example, a tank system can be cathodically protected through the application of either galvanic anodes or impressed current.

"Class I Liquids" – See Flammable Liquids.

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

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

"Compatible" means the ability of two or more substances to maintain their respective physical properties upon contact with one another for the design life of the tank system under conditions likely to be encountered in the UST.

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

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

"Corrosion Expert" is a person who, by reason of thorough knowledge of the physical sciences and the principles of engineering and mathematics acquired by a professional education and related practical experience, is qualified to engage in the practice of corrosion control on buried or submerged metal piping systems and metal tanks. This person shall be accredited as being qualified by the National

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Association of Corrosion Engineers (NACE) or be an Illinois Licensed Professional Engineer who has certification or licensing that includes education and experience in corrosion control of buried or submerged metal piping systems and metal tanks.

"Days" means calendar days unless otherwise stated.

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

"Dispensing" means the transfer of a regulated substance from a UST directly into the fuel tank of a motor vehicle operated by an internal combustion engine, for use by that motor vehicle. Also, "dispensing" is the transfer of a regulated substance from a UST directly into a portable container, safety can or portable fuel tank.

"Double-walled", in reference to tanks and piping, is a factory certified container consisting of an inner wall and an outer wall with an interstitial space between the inner wall and outer wall suitable for interstitial monitoring, and is designed, constructed and installed to:

contain regulated substances released from the tank system until they are detected and removed;

prevent the release of regulated substances to the environment at any time during the operational life of the UST; and

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

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

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

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

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

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

"Farm" or "Agricultural Site" is a tract of land devoted to the production of crops or raising of animals, including fish. "Farm" includes all contiguous land and structures and other appurtenances and improvements; also, fish hatcheries, rangeland and nurseries with growing operations. "Farm" does not include agribusiness (as defined in 20 ILCS 3501/801-10(z)), laboratories where animals are raised, land used to grow timber, and pesticide aviation operations. Moreover, this definition does not include retail stores or garden centers where the produce of nursery farms is marketed, but not grown.

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

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

"Flow-through Process Tank" is a tank that forms an integral part of a production process through which there is a steady, variable, recurring or intermittent flow of materials during the operation of the process. Flow-through process tanks do not include tanks used for the storage of materials prior to their introduction to the process or for the storage of finished products or by-products from the production process. When the process is shut down, flow-through process tanks do not store

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product to be used once the process is resumed and may contain no more than a de minimis amount of product.

"Gathering Lines" are any pipeline, equipment, facility or building used in the transportation of oil or gas during oil or gas production or gathering operations.

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

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

"Heating Oil" means petroleum that is No. 1, No. 2, No. 4-light, No. 4-heavy, No. 5-light, No. 5-heavy or No. 6 technical grades of fuel oil; other residual fuel oils (including Navy Special Fuel Oil and Bunker C) and other fuels when used as substitutes for one of these fuel oils. Heating oil is typically used in the operation of heating equipment, boilers or furnaces.

"Heating Oil Tank for Consumptive Use on the Premises Where Stored" means heating oil consumed exclusively on the same or contiguous property where the heating oil UST is located, for heating purposes. Thus, centralized heating units using heating oil that serve more than one building on the same property are included. It does not include using heating oil to heat from a boiler or furnace, through direct conductivity, any product or substance used in a manufacturing or production process or using heating oil as an ingredient in a manufacturing or production process. Heating oil used to heat grain dryers or kilns is used for consumptive use on the premises.

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

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

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"Hydraulic Lift Tank" means a tank holding hydraulic fluid for a closed loop mechanical system that uses compressed air or hydraulic fluid to operate lifts, elevators or other similar devices.

"ICC" means International Code Council.

"IEMA" means the Illinois Emergency Management Agency.

"Interior Lining" or "Internal Lining" means corrosion and chemical resistant materials that are sprayed, brushed or applied to the inside of a tank to protect the tank and its product from contamination by corrosion. Interior lining is applied by a contractor licensed by OSFM to conduct interior lining. The term "lining" includes initial lining, subsequent lining (relining) and repair of lining.

"Interstitial Monitoring" is a release detection method used to determine the presence of a regulated substance between the inner and outer barriers of a secondary containment system of a UST and/or piping system and is designed, constructed and installed to detect a leak from any portion of the UST or piping that routinely contains product and meets any other applicable requirements of 41 Ill. Adm. Code 175.630(g) and 40 CFR 280.43(g).

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

"Kerosene" is a refined petroleum distillate consisting of a homogeneous mixture of hydrocarbons essentially free of water, inorganic, acidic or basic compounds, and excessive amounts of particulate contaminants. Two classifications exist as follows:

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

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

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"Liquid Traps or Associated Gathering Lines Directly Related to Oil or Gas Production or Gathering Operations" refers to sumps, well cellars or other traps, used in association with oil or gas production, gathering or extraction operations (including gas production plants), for the purpose of collecting oil, water or other liquids. Liquid traps may temporarily collect liquids for subsequent disposition or reinjection into a production or pipeline stream or may collect and separate liquids from a gas stream.

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

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

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

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

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

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

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

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

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

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

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

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

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

"Motor Fuel Dispensing Facility Located Inside a Building" means that portion of a motor fuel dispensing facility having obtained permission by OSFM prior to 1985 to be located within the perimeter of a building or building structure that also contains other occupancies. The term also includes detached buildings separated by at least 20 feet from other buildings and used exclusively for dispensing of motor fuels in compliance with NFPA 30A, incorporated by reference in Section 174.210.

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

"NACE" means National Association of Corrosion Engineers.

"NFPA" means National Fire Protection Association.

"NLPA" means National Leak Prevention Association.

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

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

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

"Operation" or "Use" in reference to underground storage tanks *means that the tank must have had input or output of petroleum, petroleum products, or hazardous substances, with the exception of hazardous wastes, during the regular course of its usage. "Operation" does not include:*

compliance with leak detection requirements as prescribed by 41 Ill. Adm. Code 175; or

the mere containment or storage of petroleum, petroleum products, or hazardous substances, with the exception of hazardous wastes. [430 ILCS 15/4].

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

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

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

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

"Owner" means:

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

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

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

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

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

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

"Petroleum" (including crude oil or any fraction of crude oil that is liquid at standard conditions of temperature and pressure (60°F and 14.7 pounds per square inch absolute)), includes, but is not limited to, petroleum-based substances comprised of a complex blend of hydrocarbons derived from crude oil through processes of separation, conversion, upgrading or finishing, such as motor fuels,

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jet fuels, distillate fuel oils, residual fuel oils, lubricants, petroleum solvents or used oils.

"Petroleum UST" means an underground storage tank system that contains petroleum or a mixture of petroleum with de minimis quantities of other regulated substances. Petroleum USTs include those containing motor fuels, jet fuels, distillate fuel oils, residual fuel oils, lubricants, petroleum solvents or used oils.

"Pipe" or "Piping" is any hollow cylinder or tubular conduit that is constructed of non-earthen materials. Such piping includes any elbows, couplings, unions, valves or other in-line fixtures that contain and convey regulated substances from the underground tanks to the dispensers.

"Pipeline Facilities" (including gathering lines) includes new or existing pipe rights-of-way and any equipment, facilities or buildings used in the transportation of gas (or hazardous liquids, which include petroleum or any other liquid designated by the U.S. Secretary of Transportation) or the treatment of gas or designated hazardous liquids during the course of transportation.

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

"Regulated Substance" means petroleum or hazardous substance as defined in this Section.

"Release" means any spilling, overfilling, leaking, emitting, discharging, escaping, leaching or disposing from a UST into groundwater, surface water or subsurface soils.

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

"Reportable Quantity" means the extent of a hazardous substance release that requires notification under Section 176.305 or 176.330. The reportable quantity varies depending upon the substance involved and is determined under 40 CFR 302.1 through 302.6 and 355.40, incorporated by reference in 41 Ill. Adm. Code 174.210. A list of the reportable quantities for various hazardous substances can be found at <http://www.epa.gov/emergencies/tools.htm#lol>.

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

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

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

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

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

"Secondary Containment" means a release prevention and release detection system for USTs and/or piping, consisting of an inner and outer barrier with a space suitable for interstitial monitoring, designed, constructed and installed to:

contain regulated substances released from the tank system until they are detected and removed;

prevent the release of regulated substances to the environment at any time during the operational life of the UST; and

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

Secondary containment may include double-walled tanks and piping.

"Site Assessment" or "Phase II Environmental Assessment" is sampling and analyzing the results of the sampling to determine if a release has occurred and if contamination is present on a site, pursuant to 41 Ill. Adm. Code 176.320.

"STI" means Steel Tank Institute.

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"Stormwater Collection System" or "Wastewater Collection System" means all piping, pumps, conduit and any other equipment necessary to collect and transport the flow of surface water runoff resulting from precipitation or domestic, commercial or industrial wastewater to and from retention areas or areas where treatment is designated to occur. The collection of stormwater or wastewater does not include treatment, except when incidental to conveyance.

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

"Surface Impoundment" is a natural topographic depression, man-made excavation or diked area formed primarily of earthen materials (although it may be lined with man-made materials) that is not an injection well.

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

"Tank" is a stationary device designed to contain an accumulation of regulated substances and constructed of non-earthen materials (e.g., steel, fiberglass, concrete or plastic) that provides structural support.

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

"Tank Containment Sump" means a factory manufactured containment located at the tank at the submersible pump or the entry point of American suction piping at the tank that will prevent leaks from the product piping from reaching soil or groundwater.

"Ten Percent or More Beneath the Surface of the Ground", with reference to a tank, means that its volume (including the volume of its connected underground piping) is 10 percent or more beneath the ground surface or otherwise covered with earthen materials. If a tank is in a vault, it is considered "beneath the surface of the ground" if it cannot be viewed from all sides and top and base.

"Third Party", unless otherwise specified in the rule, when applied to a device or system, means an independent nationally recognized organization or independent professionally licensed individual that evaluates the device or system according to

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a nationally recognized practice. Examples include, but are not limited to, UL, UL CAN, ANSI, ASTM, NLPA, API or NWGLDE.

"UL" means Underwriters Laboratories, Inc.

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

"Under-dispenser Containment" or "UDC" means factory manufactured containment underneath a dispenser that will prevent leaks from the dispenser from reaching soil or groundwater. The containment must be liquid-tight on its sides, bottom and at any penetrations; be compatible with the substance conveyed by the piping; and allow for visual inspection and access to the components in the containment system and/or be monitored.

"Underground Storage Tank System" or "UST System" means any one or combination of tanks (including connected underground pipes, connected ancillary equipment and connected cathodic protection) used to contain an accumulation of regulated substances, the volume of which (including the volume of underground connected pipes) is 10 percent or more beneath the surface of the ground. A UST does include an emergency power generator tank system that stores any classification of fuel for use exclusively, alternately or concurrently by an emergency power generator, except as otherwise excluded in this definition. The term "underground storage tank system" or "UST System" does not include any pipes connected to any tank excluded from this definition. Underground storage tank system or UST system does not include any tank system as follows:

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

Heating oil tank of any capacity used exclusively for storing heating oil for consumptive use on a farm or residence;

Septic tank;

Pipeline facility (including gathering lines):

Regulated under the Natural Gas Pipeline Safety Act of 1968 (49 USC 1671 et seq., recodified at 49 USC 60101 et seq.);

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

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

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

Surface impoundment, pit, pond or lagoon;

Stormwater or wastewater collection system;

Flow-through process tank;

Emergency spill protection tank or overflow tank that is emptied expeditiously following use;

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

Storage tank situated in an underground area (such as a basement, cellar, mine working, drift, shaft or tunnel) if the storage tank is situated upon or above the surface of the floor and can be viewed from all sides and top and base;

Storage tank situated in a vault (whether underground or aboveground), if the storage tank is situated upon or above the surface of the floor or ground and can be viewed from all sides and top and base;

Tank abandoned-in-place by filling with inert material in compliance with 41 Ill. Adm. Code 175.840;

Tank with a capacity of 110 gallons or less;

Any UST holding hazardous wastes listed or identified under subtitle C of the Solid Waste Disposal Act (42 USC 3251 et seq.);

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Tank that contains a de minimis concentration of regulated substances, except that the tank shall have been in that status as of April 21, 1989 and may not have been converted to a UST tank on or after that date, unless the tank has been re-certified and is in compliance with applicable upgrade requirements; or

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

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

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

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

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

Airport hydrant fuel distribution system; and

Any field-constructed tank.

Although these systems are deferred (and therefore exempt from the requirements in 41 Ill. Adm. Code 172, 174, 175, 176 and 177) under 40 CFR 280.10(c) and 280.11, they are required to comply with release reporting, response and corrective actions requirements in 41 Ill. Adm. Code 176.305 and 176.320 through 176.340 and, by December 22, 1998, are required to comply with the following:

Be constructed to prevent releases due to corrosion or structural failure for the operational life of the UST;

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Be cathodically protected against corrosion, constructed of non-corrodible material, steel clad with a non-corrodible material, or designed in a manner to prevent the release or threatened release of any stored substance;

Be constructed or lined with material that is compatible with the stored substance; and

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

"UST Activity" means a UST:

Installation – including retrofitting and cathodic protection installation;

Repair – including upgrade, which includes retrofitting and cathodic protection installation;

Removal – decommissioning, which includes abandonment-in-place;

Lining;

Lining inspections;

Tank entry;

Precision testing of one or more tanks or lines; or

Cathodic protection testing.

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

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

SUBPART B: INCORPORATION BY REFERENCE

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Section 174.200 Incorporation of National Standards

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

Section 174.210 Incorporations by Reference

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

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

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

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

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

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

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

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

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

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

ICC Building Code (2009).

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

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

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

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

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

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

NFPA 72, "National Fire Alarm Code" (2007).

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

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

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

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

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

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

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

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

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

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

STI (F894.01) (ACT 100), "Specification for External Corrosion Protection of FRP Composite Steel Underground Storage Tanks", revised January 2009.

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

29 CFR 1926 (July 15, 2002)

40 CFR 280 (September 7, 1995)

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

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

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requirements are contained in, laws and rules enforced by agencies of the federal government.

- d) The following Illinois regulations are referenced in this Part:

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

Department of Transportation: 92 Ill. Adm. Code 172

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

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

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

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

- a) Any kind of loading or unloading activity, either to or from railroad tank cars and tank vehicles, or any other kind of loading or unloading into or out of USTs, shall require compliance with Section 174.300 and the following minimum requirements.
- 1) All electrical installations shall comply with the Edition of NFPA 70 in force at the time of installation of the electrical equipment at all hazardous (classified) locations, such as loading and unloading docks, to include vapor-proof lighting, wiring in sealed conduit, and explosion-proof switches. Equipment and installations shall further comply with the requirements of 41 Ill. Adm. Code 175.425.
 - 2) A person shall be present to actively supervise the product transfer during loading and unloading operations.
 - 3) When transferring Class I liquids, motors of tank vehicles and portable or auxiliary pumps shall be shut down during the making and breaking of hose connections. If loading or unloading is done without requiring the use

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of the motor of the tank vehicle, the motor shall be shut down throughout the transfer operations.

- 4) Before loading or unloading operations begin, the depositor shall determine the quantity of product that can be unloaded into each tank or tank vehicle (i.e., the tank ullage) without overflow of product. The volume shall be logged with the facility owner/operator. The log may consist of any bill of lading.
- 5) The driver, operator or attendant of any tank vehicle shall not remain in the vehicle, but shall not leave the vehicle unattended during the loading or unloading process. Delivery hose, when attached to a tank vehicle, shall be considered to be a part of the tank vehicle.
- 6) When loading or unloading product into or from underground tanks located at bulk facilities and motor fuel dispensing facilities equipped with tank vapor recovery equipment, the driver, operator or attendant of the tank truck shall ensure that all vapor return paths are effectively made liquid and vapor tight to prevent the discharge of vapors at grade level.
- 7) Smoking on or about any tank truck while loading or unloading any flammable or combustible liquid is forbidden. Extreme care shall be taken during unloading operations to keep fire away and to prevent persons in the vicinity from smoking, lighting matches or carrying any flame or lighted cigar, pipe or cigarette.
- 8) Tank trucks and tank wagons used for the transport and delivery of Class I, II or III liquids shall not be parked for other than delivery purposes in residential districts, as defined in the Illinois Vehicle Code [625 ILCS 5/1-172].
- 9) Owners or operators shall ensure that releases due to spilling or overfilling do not occur and that all transfer operations are monitored constantly to prevent overfilling and spilling.
- 10) The depositor shall report any release of a regulated substance into the environment according to the reporting requirements for owners/operators set forth in 41 Ill. Adm. Code 176.330. The depositor shall then also notify

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the UST owner/operator immediately. If the depositor fails to report, the facility shall report under 41 Ill. Adm. Code 176.330.

- 11) Owners or operators shall report, investigate and clean up any spills or overfills in accordance with 41 Ill. Adm. Code 176.300 through 176.340, including the required reporting of a release when not already reported by the depositor.
 - b) The unloading hose from a railroad tank car or tank vehicle into an underground tank shall have a static wire or its equivalent and shall be equipped with a non-ferrous nozzle or tight connection metal nipple.
 - c) Before unloading operations begin, the depositor shall determine the following:
 - 1) The facility has a green decal (facility operating permit), issued by OSFM, that is current and valid and in plain view.
 - 2) Any fill or remote fill that has a red tag, issued by OSFM, attached. Depositing into the associated tank is prohibited.
 - 3) The depositor shall inspect the fill device to assure that no tampering has occurred. Before unloading may begin into a remote fill, the depositor shall ensure that all fill caps are secure and tight. Any overriding or tampering with an overfill device that may result in the overfilling of any tank is prohibited (unless authorized by OSFM for the purpose of precision testing only).

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

- a) Dispensing from a bulk tank into the tank of a motor vehicle is prohibited.
- b) Bulk facilities (including any bulk storage, bulk plant or bulk load-out) located adjacent to or at a motor fuel dispensing facility shall be separated from public fuel dispensing areas by a fence or similar barrier from the area in which bulk operations are conducted.

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- c) Installations of piping to connect bulk storage to a UST at a motor fuel dispensing facility permitted prior to July 1, 1985 shall comply with 41 Ill. Adm. Code 160.15 and the following requirements:
- 1) Any alteration of a UST component at the bulk and motor fuel dispensing facilities shall require that UST component be upgraded to current design, operating and other technical requirements found in 41 Ill. Adm. Code 174, 175 and 176.
 - 2) Replacement of any UST piping shall require that all UST piping associated and interconnected with the bulk and motor fuel dispensing facilities and USTs be upgraded to current standards for new piping, including requirements for double-wall piping equipped with interstitial monitoring and all appropriate sumps (see 41 Ill. Adm. Code 174, 175 and 176).
 - 3) Replacement of USTs at bulk and motor fuel dispensing facilities shall require that the entire UST system related to the tank replacement be upgraded to standards for newly installed USTs (see 41 Ill. Adm. Code 174, 175 and 176).
- d) Existing Dual Purpose USTs permitted after May 1, 2003. Beginning May 1, 2003, connections between a single bulk load-out and a single UST at a motor fuel dispensing facility shall be allowed to remain if the UST and piping meets all technical standards at the time of installation. Existing dual purpose USTs shall have evidence of OSFM's written consent to operate.
- e) New Installations of and New Conversions to Dual Purpose USTs. As of the effective date of this Part, requests to connect new and existing bulk load-outs to new or existing USTs located at motor fuel dispensing facilities must be reviewed and approved by OSFM, and shall be limited to a single underground storage tank connected to one or more dispensers and a bulk load-out at the same time. Approval from OSFM shall require an OSFM permit issued under 41 Ill. Adm. Code 175.300 prior to construction or installation and shall be contingent upon, and require compliance with, subsections (a), (b) and (c) and 41 Ill. Adm. Code 160, 172, 174, 175, 176, 177 and 180 and the following requirements:

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- 1) All product piping extensions at the motor fuel dispensing facility shall be underground and be equipped with automatic line leak detectors (ALLDs) and meet all other release detection requirements for UST piping;
- 2) The UST connected to any bulk load-out shall be designed for the working pressures and volume of products to be transferred and for the specific use and location;
- 3) Individual tanks shall not be interconnected, siphoned or manifolded when serving as a dual purpose UST; e.g., a dual purpose UST may not at the same time be connected to any other tanks or USTs;
- 4) Product piping shall not be routed under buildings;
- 5) Dispensers shall not be connected, directly or indirectly, to any tank that is over 30,000 gallons capacity;
- 6) General Requirement that Dual Purpose USTs Meet Requirements for Newly Installed USTs
 - A) Dual purpose USTs shall meet all design and other UST technical requirements for newly installed USTs, including:
 - i) design requirements for tanks and piping (see 41 Ill. Adm. Code 175.Subpart D and 176.430(f));
 - ii) corrosion protection (see 41 Ill. Adm. Code 175.Subpart E); and
 - iii) release detection that also includes all underground product piping extensions (see 41 Ill. Adm. Code 175.Subpart F);
 - B) Dual purpose USTs shall also be compatible with the product stored (see 41 Ill. Adm. Code 175.415), and meet all required setbacks and separation distances (see 41 Ill. Adm. Code 175.Subpart D). When an existing UST to be connected to a bulk load-out does not meet current requirements for newly installed USTs, the UST must be upgraded to standards for new installations at the time the connection to a bulk loadout is made;

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- 7) Deliveries from the tank vehicle into vehicles at the motor fuel dispensing facility are prohibited;
- 8) The service station portion must comply with all requirements of 41 Ill. Adm. Code 174, 175, 176, 177 and 180 applicable to service stations;
- 9) The bulk facility portion shall comply with all applicable requirements of this Subpart and 41 Ill. Adm. Code 160, 174, 175, 176, 177 and 180;
- 10) An OSFM permit shall be obtained prior to connecting a new or existing bulk load-out to a new or existing UST at a motor fuel dispensing facility.

Section 174.330 Heating Systems

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

Section 174.340 Greasing Pits

Newly installed greasing pits in buildings where flammable and combustible liquids are stored, handled, used or dispensed shall comply with NFPA 30 and 30A, incorporated by reference in Section 174.210, as of the effective date of this Part. Greasing pits previously approved by OSFM or in compliance with former 41 Ill. Adm. Code 170 as of the effective date of this Part shall be allowed to remain.

Section 174.350 Fire Extinguishers

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

Section 174.360 Fireworks

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

Section 174.370 General Requirement to Maintain All Equipment

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

SUBPART D: PORTABLE AND VEHICULAR DISPENSING

Section 174.400 Dispensing Requirements at Motor Fuel Dispensing Facilities

- a) All dispensing of motor fuels at motor fuel dispensing facilities shall only be directly into the fuel tanks of motor vehicles when the tanks are connected with the fuel systems of the vehicles, or into safety cans, or portable containers, or portable tanks in compliance with Section 174.410.
- b) The capacity of any UST installed at a motor fuel dispensing facility shall not exceed 30,000 gallons.

Section 174.410 Portable Containers and Portable Fuel Tanks

Except as otherwise specified in OSFM rules, the storage, transfer, handling, dispensing and use of flammable and combustible liquids in portable containers and portable fuel tanks shall comply with NFPA 30 and 30A, incorporated by reference in Section 174.210, as of the effective date of this Part.

- a) All portable containers for gasoline and kerosene shall be marked or labeled in a conspicuous place with the name of the product.
- b) *All receptacles for gasoline or benzol, used in the retail trade, except tank wagons or trucks, shall be red and shall be labeled "gasoline" or "benzol" as the case may be. It shall be unlawful in such retail trade, or anything pertaining to retail trade, to put gasoline or benzol into any receptacle of any color other than red and not labeled as required in this subsection.* [430 ILCS 20/1] These cans shall be labeled in letters at least ½ high. It shall be unlawful to use portable

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

- c) No person shall put any liquids or oils other than gasoline or benzol in red containers labeled or marked containers for gasoline or benzol use.
- d) Safety cans and like portable containers for kerosene shall be blue with "KEROSENE" in ½" or larger letters on the container. These containers shall be metal or other material approved by OSFM. No person shall put any liquid or oil other than kerosene in blue containers labeled or marked for kerosene use.
- e) Portable containers for flammable or combustible liquids regulated under the Gasoline Storage Act shall be listed for their intended purpose. Except as otherwise provided by 41 Ill. Adm. Code 160, 174, 175, 176 and 180, portable containers for Class I and Class II liquids shall have been tested and meet the specifications and test criteria of ASTM F852 or ASTM F976 and all other ANSI-ASTM tests referred to in those standards. Documentation of compliance with ANSI-ASTM specifications must be submitted by the manufacturer to OSFM for approval, before such portable containers may be marketed or used in the State of Illinois.

Section 174.420 Deliveries from Portable Fuel Tanks and Tank Vehicles Restricted

- a) Dispensing or delivery of flammable or combustible motor vehicle fuels from tank vehicles, tank trucks, tank wagons or other portable tanks is prohibited except as follows:
 - 1) Agricultural sites for agricultural purposes (farm use);
 - 2) Construction sites for refueling construction equipment used only at the construction site (this exception does not apply to trucks or passenger cars that have license plates attached and may be driven to motor fuel dispensing facilities);
 - 3) Sites used for the refueling of police, fire or emergency medical services vehicles or other vehicles that are owned, leased or operated by (or operated under contract with) the State, a unit of local government, a

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school district, or any agency of the State and that are not normally accessible to the public;

- 4) sites used for the parking, operation or maintenance of a commercial vehicle fleet, but only if the site is located in a county with 3,000,000 or more inhabitants or a county contiguous to a county with 3,000,000 or more inhabitants and the site is not normally accessible to the public; and
 - 5) Airports for fueling of aircraft as defined in, and in compliance with, 41 Ill. Adm. Code 180.
- b) Under no circumstances shall the exceptions listed in subsections (a)(1) through (a)(5) be construed to allow retail sales to the public from tank vehicles, tank trucks, tank wagons or other portable tanks. Dispensing or delivery of flammable or combustible motor vehicle fuels to or from tank vehicles for the purposes set forth in subsections (a)(1) through (a)(4) shall comply with Sections 174.440 and 174.450, except that a permit shall not be required for fueling pursuant to subsections (a)(1) through (a)(3).
- c) Additional Exception to Ban on Mobile Fueling. In addition to the fueling described in subsections (a) and (b), when Class I or II liquids are to be transported for agriculture or construction as described in subsections (a)(1) and (a)(2), the party performing the fueling may also transport 119 gallons or less per vehicle subject to the following conditions:
- 1) Containers shall be tanks constructed of 18 gauge or heavier steel or equivalent gauge aluminum.
 - 2) Tanks shall be securely fastened to prevent separation from the vehicle in the event of a collision.
 - 3) Tanks shall be electrically bonded to the frame of the vehicle.
 - 4) Tanks shall be protected against leakage or damage in the event of a turnover.
 - 5) Tanks may not be drained by gravity. Only top mounted pumps designed and labeled for use with flammable and combustible liquids may be used to transfer Class I and II liquids from the tanks to other storage tanks or

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vehicle fuel tanks. No top mounted pump shall be higher than the highest point of the vehicle or permanently attached appurtenances (i.e., roll bars).

- 6) Flammable liquid petroleum products being transported on a single vehicle may not exceed 119 gallons.
- 7) Each tank is clearly labeled with the name of the product it contains in letters at least 2" in height with the letters to be white in color on a contrasting background, or placarded in accordance with Illinois Department of Transportation hazardous materials rules (92 Ill. Adm. Code 172).
- 8) Vehicles transporting regulated products under this subsection (c) shall also comply with the regulations of the Illinois Department of Transportation regarding that transport.

Section 174.430 Auxiliary Fuel Tanks for Vehicles over a Certain Size

- a) Auxiliary (additional) fuel tanks of 119 gallons aggregate capacity or less for Class I or II liquids may be added to $\frac{1}{2}$ and $\frac{3}{4}$ ton (pickup) trucks or larger vehicles to provide added fuel capacity, provided that the tank:
 - 1) is constructed of 18 gauge or heavier steel, or equivalent gauge aluminum;
 - 2) is securely fastened to either the truck bed or frame in such a manner that it will not separate from the vehicle in the event of a collision;
 - 3) is permanently connected to the fuel system of the vehicle in a manner required by any applicable USDOT rules and regulations;
 - 4) is baffled to prevent the sudden shifting of liquid when the vehicle is moving;
 - 5) is electrically bonded to the vehicle frame;
 - 6) is protected against leakage or damage in the event of a turnover;
 - 7) cannot be drained by gravity. Only top mounted pumps designed and labeled for use with flammable and combustible liquids may be used to

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transfer Class I and II liquids from the tanks to other storage tanks or vehicle fuel tanks. No top mounted pump shall be higher than the highest point of the vehicle or permanently attached appurtenances (i.e., roll bars).

- b) Flammable liquid petroleum products being transported on a single vehicle as allowed under this Section may not exceed 119 gallons.
- c) Vehicles transporting regulated products under this Section shall also comply with the regulations of the Illinois Department of Transportation regarding that transport.
- d) Each tank shall be clearly labeled with the name of the product it contains in letters at least 2" in height and a color contrasting with the background, or placarded in accordance with Illinois Department of Transportation hazardous materials rules (92 Ill. Adm. Code 172).

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

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

- a) The site is located in a county with 3,000,000 or more inhabitants or a county contiguous to a county with 3,000,000 or more inhabitants and:
 - 1) The site is not normally accessible to the public and has been approved by OSFM.
 - 2) The vehicles being fueled are part of a fleet of commercial vehicles that are normally parked, operated or maintained at the fueling site.
 - 3) An inspection of the fueling site has been made and approval granted in the form of a permit issued by OSFM. An inspection of the facility may be made at any time. The permit application may be found at www.state.il/OSFM/FirePrevention/PDFS/AppMobileFuelingSite.pdf.

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- 4) Electrical devices and wiring in areas where fuel is dispensed are in accordance with the edition of NFPA 70 in effect at the time the mobile fueling site was constructed.
 - 5) Dispensing locations are at least 50 feet from structures or combustible storage, including structures or storage on adjacent properties.
 - 6) Signs are posted prohibiting smoking or open flames within 25 feet of the fuel tanker and the point of fueling.
- b) The tank vehicle is owned and operated by a company licensed by OSFM to perform mobile fueling.
 - c) The tank vehicle complies with the requirements of NFPA 385, incorporated by reference in Section 174.210 and has been approved by OSFM.
 - d) The tank vehicle displays a mobile-fueling sticker issued by OSFM.
 - e) The dispensing hose does not exceed 50 feet in length.
 - f) The dispensing nozzle is a listed automatic-closing type with a latch-open device.
 - g) Nighttime deliveries are only be made in adequately lighted areas.
 - h) The tank vehicle's flasher lights are in operation while dispensing.
 - i) Fuel expansion space is left in each fuel tank to prevent overflow in the event of temperature increase.

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

- a) The person, company or other entity proposing to deposit fuel into tanks of motor vehicles from tank vehicles must first have a permit from OSFM. The application may be found at www.state.il.us/osfm/FirePrevention/PDFS/AppMobileFuelingContractor_1.pdf. A permit will be granted under the following circumstances.
 - 1) The person must apply for a permit by providing the following information:

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- A) The name of business, proof of good standing if a corporation, proof of compliance with the Assumed Name Act if applicable, and the principal address of the business.
 - B) Proof that the vehicles used for fueling are in compliance with Section 174.440.
 - C) Evidence that employees have knowledge of the requirements contained in Section 174.440.
- 2) An annual fee of \$500 shall be charged each person engaging in fueling from tank vehicles for the period from January 1 through December 31 of each calendar year.
- 3) Each vehicle used for fueling must comply with Section 174.440 and:
- A) OSFM approval shall consist of a decal or other evidence issued by OSFM attached to the vehicle. The application can be found at www.state.il.us/osfm/FirePrevention/PDFS/AppMobileFuelingVehicle.pdf. Tank vehicles shall be subject to periodic inspections.
 - B) Vehicles without a permit shall not be allowed to engage in tank vehicle fueling.
 - C) A replacement or added vehicle shall not engage in fueling until an inspection is made to determine compliance and evidence of compliance is issued.
 - D) An annual fee of \$100 shall be charged for each vehicle engaged in the fueling. Replacement vehicles shall be charged at the same rate. The evidence of compliance shall be for January 1 through December 31.
- b) Each location (site) where fueling from tank vehicles is conducted shall be inspected by OSFM. No fueling from tank vehicles shall take place until the location for the fueling is approved by OSFM.

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- 1) The owner/lessee or other person who has vehicles to be fueled by tank vehicle shall pay OSFM an annual fee for each location where the fueling will take place. Fees shall be as follows:

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

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

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Section 174.APPENDIX A Derivation Table

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

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

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

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

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

- 4) Statutory Authority: Implementing and authorized by Section 2 of the Gasoline Storage Act [430 ILCS 15/2]
- 5) A Complete Description of the Subjects and Issues Involved: Reorganizes and consolidates existing underground storage tank system (UST) rules concerning self-service motor fuel dispensing, permitting of new installations and upgrades to USTs, technical requirements for USTs, corrosion protection, release detection, UST repairs, and UST closure. Eliminates self-service permits. Requires attended, unattended, full service, fleet, and marine motor fuel dispensing facilities to comply with certain self-service and/or dispensing requirements, and requires all newly installed attended facilities to comply with now simplified rules for unattended facilities. For motor fuel dispensing facilities, increases the maximum underground tank size from 20,000 to 30,000 gallons. Regarding UST design, replaces various requirements to meet specified national design codes or standards with a requirement that UST components be listed by a national third party organization as acceptable for the intended use. Eliminates requirements for observation wells for newly installed USTs. Regarding compatibility of the product with the UST materials, allows a certification by a licensed professional engineer or annual inspections by a licensed contractor to substitute for the third party listing for petroleum products only. For fleet dispensing of Class II and III motor fuels only, allows dispensing inside detached buildings separated by at least 20 feet from other buildings when done in compliance with NFPA 30A. Phases out the use of tank lining as a method of corrosion protection by terminating new linings after January 1, 2011 but allowing existing linings to remain so long as they continue to pass routine lining inspections. Implements newly enacted federal requirements for USTs. Makes non-substantive changes.

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- 6) Published Studies or Reports, and sources of underlying data used to compose this rulemaking: Standards adopted by the National Fire Protection Association for installation and use of flammable and combustible liquids available at <http://www.nfpa.org> and portions of federal regulations at 40 CFR 280. Also, portions of the federal Energy Policy Act of 2005, Public Law 109-58, and a US EPA guidance document entitled *Grant Guidelines to States for Implementing the Secondary Containment Provision of the Energy Policy Act of 2005* (US EPA, Nov. 2006), were reviewed and in part relied upon in promulgating these amendatory rules. All of these are posted on the US EPA web site at www.epa.gov/oust and are also available in the Office of the State Fire Marshal, 1035 Stevenson Drive, Springfield, IL. 62703
- 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 proposed rulemaking contain incorporations by reference? Yes. A variety of codes and standards developed by independent national associations and work groups have been incorporated and are available for public inspection at:

Office of the State Fire Marshal
1035 Stevenson Dr.
Springfield, IL 62703-4259
Facsimile: 217-524-9284

- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This Part could have a minor impact on local government to the extent that local government units might own or operate an underground storage tank system.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Persons wishing to comment on this proposed rulemaking may submit comments no later than 45 days after the publication of this Notice to:

Shelly Bradley, Manager
Division of Petroleum and Chemical Safety
Office of the State Fire Marshal
1035 Stevenson Dr.
Springfield, IL 62703-4259

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217/557-3131

Facsimile: 217-524-9284

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: This rulemaking could have a minor impact on those small businesses, not for profit entities, and small municipalities that own and operate UST systems.
 - B) Reporting, bookkeeping or other procedures required for compliance: UST system installations and upgrades have various reporting and permitting requirements as described in the reorganized and consolidated language of proposed new Parts 174, 175, and 176 (41 Ill. Adm. Code 174, 174, and 176). Typically the contractor obtains the permit on behalf of the owner/operator.
 - C) Types of Professional skills necessary for compliance: Owners and operators of USTs must ensure that all persons installing and doing work on UST systems have been trained appropriately and licensed by OSFM.
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2009

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

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

PART 175

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

SUBPART A: DEFINITIONS

Section
175.100 Definitions

SUBPART B: MOTOR FUEL DISPENSING FACILITY REQUIREMENTS

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

SUBPART C: PERMITS, FEES AND SCHEDULING

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

SUBPART D: DESIGN, INSTALLATION AND CONSTRUCTION REQUIREMENTS

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

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175.420	Piping
175.425	UST Wiring Procedures
175.430	Clearance Required for USTs
175.435	Pressure Testing of Tanks or Lines
175.440	Venting of Tanks
175.445	Fill Pipes
175.450	Pumps, Dispensers and Other Product Transfer Equipment
175.455	USTs Inside or Under Buildings
175.460	Marinas
175.465	Additional Requirements for Installation and Upgrade of USTs

SUBPART E: CORROSION PROTECTION

Section

175.500	Interior Lining and Lining Inspection of USTs
175.510	Corrosion Protection

SUBPART F: RELEASE DETECTION

Section

175.600	Owner/Operator Spill and Overfill Release Control Responsibilities
175.610	General Release Detection Requirements for All USTs
175.620	Release Detection Requirements for Hazardous Substance USTs
175.630	Methods of and Requirements for Release Detection for Tanks
175.640	Methods of and Requirements for Release Detection for Piping
175.650	Release Detection and Cathodic Protection Recordkeeping

SUBPART G: REPAIRS TO UNDERGROUND STORAGE TANKS
AND DEFECTIVE EQUIPMENT

Section

175.700	Repairs Allowed
175.710	Emergency Repairs
175.720	Defective or Non-Compliant Equipment and Emergency Action by OSFM

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

Section

175.800	Removal or Change-in-Service Records
175.810	Temporary Closure

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175.820 Change-in-Service of USTs
175.830 Removal of USTs
175.840 Abandonment-in-Place

175.APPENDIX A UST Activity that Cannot Proceed Without an OSFM Inspector on Site
175.APPENDIX B The Type of OSFM Permit Required for Specific Permitted UST Activities
175.APPENDIX C Derivation Table

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

SOURCE: Adopted at 34 Ill. Reg. _____, effective _____.

SUBPART A: DEFINITIONS

Section 175.100 Definitions

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

SUBPART B: MOTOR FUEL DISPENSING FACILITY REQUIREMENTS

Section 175.200 General Requirements for Motor Fuel Dispensing Facilities

- a) Other than kerosene and except as otherwise provided in this Subpart B and 41 Ill. Adm. Code 180, all dispensing of flammable and combustible liquids at motor fuel dispensing facilities shall be from underground storage tanks (USTs).
- b) All motor fuel dispensing facilities must abide by the operating and other requirements of this Subpart B. As of the effective date of this Part, all newly installed motor fuel dispensing facilities shall meet requirements for unattended motor fuel dispensing facilities. Existing facilities may continue to operate pursuant to requirements for attended facilities under this Subpart, although those facilities may elect to comply with requirements for unattended facilities by submitting a written notification to OSFM on forms provided by OSFM at www.state.il/OSFM/PetroChemSaf.

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- c) No motor fuel dispensing facility shall open for business until inspected and approved by OSFM. Facilities operating under different classifications at any time shall meet the requirements for all respective classifications that apply to the facility. Approval for dispensing operations will be granted upon compliance with 41 Ill. Adm. Code 172, 174, 175, 176 and 177. No owner or other person or responsible entity shall permit any person to violate the provisions of this Subpart B. Violation of the requirements for motor fuel dispensing facilities of this Subpart B may subject the owner or operator to penalties that may include revocation of the facility operating permit (green decal).
- d) Storage and handling of LP gases at motor fuel dispensing facilities shall be in accordance with 41 Ill. Adm. Code 200.

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

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

- a) All electrical installations shall comply with the edition of NFPA 70 in effect at the time of installation of the electrical equipment and shall further comply with the applicable requirements of Section 175.425.
- b) Every self-service motor fuel dispensing facility shall maintain a control station in a location readily accessible to the attendant, equipped in such a manner that the flow of liquid fuel from all fuel dispensing units may be stopped from the control station.
- c) A method that does not require coins or currency to activate shall be provided for the attendant to contact the fire department.
- d) The control station shall include an emergency shutoff switch that shall be:
 - 1) clearly identified and easily accessible to the attendant;
 - 2) interconnected so that activation of one shutoff activates all the shutoffs;
 - 3) located in a position to allow all dispensing devices to be readily visible to the attendant, or as approved by OSFM; and

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- 4) Where the dispenser is located more than 100 feet from the emergency shutoff switch at the control station, additional electrical shutoffs are required and shall be clearly identified and easily accessible and located not closer than 20 feet nor further than 100 feet from the dispensing devices they serve, or at a location approved by OSFM.
- e) Power for illumination of dispensing areas required by this Subpart B shall not be affected by activation of any of the electrical shutoffs when the illumination is located outside of hazardous (classified) locations or is intrinsically safe.
- f) Resetting from an emergency electrical shutoff condition shall require manual intervention by the owner or attendant. Resetting the emergency shutoff switch shall be accomplished only after the condition that caused it to be activated has been corrected.
- g) All dispensing units shall be readily visible from the control station without assistive devices. However, as an alternative, in the event that the attendant's view of a dispenser is permanently obstructed, or if a dispenser is located so that activity at the dispenser is not readily visible, closed-circuit cameras that provide a view of each side of the dispensing unit and project an image on a screen at least 6 inches in diagonal located at the control station may be used. The cameras shall be allowed to sweep to provide a view of multiple dispensing locations, but must provide a view on the screen of each dispensing unit at least every 30 seconds. If a closed-circuit camera or viewing screen is inoperable and cannot provide surveillance of dispensing units to the attendant at the control station, self-service of fuel at these dispensers is prohibited.
- h) The attendant shall at all times be able to communicate with persons in the dispensing area. For distances greater than 40 feet between the control station and the dispenser, a communication system audible to each dispensing area shall be required that allows the attendant to give instruction or warning to the customer.
- i) All emergency shutoff switches and all shear valves shall be tested at least annually to ensure that they are functioning properly. Documentation of annual testing shall be kept at the motor fuel dispensing facility and available for examination by a representative of OSFM. If documentation of annual testing is not available, the facility shall be subject to demonstration of the equipment during inspection by OSFM.

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

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for the dispensing of motor fuels. Upon request, all attendants shall demonstrate to OSFM their ability to use this equipment. Facilities that fail to instruct employees in these requirements shall be in violation and subject to enforcement action.

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

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

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

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

- a) **Minimum Signage.** Signs shall be posted in all weather materials by each actuator (or at the dispenser if the actuator is an integral part of the dispenser). These instructions shall be mounted not less than 4 feet nor more than 6½ feet from the bottom of the sign to the ground, and include, at a minimum, the following information in letters not less than ⅞ inch in height:
- 1) "No smoking";
 - 2) "Turn off engine";

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- 3) "Containers for gasoline must be red";
 - 4) "Containers for kerosene must be blue";
 - 5) "It is dangerous and unlawful to fill unapproved containers with gasoline, diesel or kerosene";
 - 6) "In case of fire or spill use emergency shutoff (or stop) button located at..." (owner must insert the locations of the emergency shutoffs).
 - 7) If true, the signage shall also state: "Master electrical shutoff transmits fire alarm to fire department". If the facility elects not to have the emergency shutoff switch (also known as a Master electrical shutoff) transmit an alarm to the fire department, the facility shall ensure that the signage reflects this and also provides instructions for notifying the local fire department in the event of emergency.
- b) A method must be provided for the notification of the local fire department that does not require payment or the use of coin or currency and the notification mechanism shall be accessible to the public.
 - c) Conspicuously marked and easily accessible emergency shutoff switches must be provided at each dispensing island, in addition to the emergency shutoff switch that is required to be located at least 20 feet but not more than 100 feet from each dispenser. When more than one emergency shutoff switch is provided, all devices shall be interconnected. Stations with only one island may elect to utilize a single emergency shutoff switch located at least 20 feet but not more than 100 feet from each dispenser, or at a location approved by OSFM.
 - d) Actuators may use currency, coins, keys or cards to activate dispenser and pumps.
 - e) Dispensing devices or actuators must limit the delivery of product in a manner that requires reactivation of the latch open (hold-open) device for any dispensing beyond the following amounts:
 - 1) Motor vehicle fuels (Class I, II and III)
 - A) Class I liquids (gasoline, gasohol, ethanol, motor fuel blends) – maximum 50 gallons.

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- B) Class II and III liquids (diesel fuel) – maximum 250 gallons.
- 2) Kerosene (grade K-1 only) – 18 gallons.
- 3) Other Class I, II and III liquids – 6 gallons.
- f) Except for farms, when kerosene is to be dispensed at unattended motor fuel dispensing facilities, only grade K-1 kerosene shall be dispensed.
- g) Fire extinguishers shall be provided in accordance with 41 Ill. Adm. Code 174.350. Cabinets, or other enclosures for extinguishers, shall not require breaking of glass or other acts that could injure users attempting to access the extinguishers, though doors, panels and local alarm systems may be provided at the owner's option. Unattended motor fuel dispensing facilities that maintain fire suppression systems previously approved by OSFM shall not be required to provide portable fire extinguishers.

Section 175.230 Fleet Vehicle Motor Fuel Dispensing Facilities

Fleet vehicle motor fuel dispensing facilities shall comply with all of the requirements for unattended self-service motor fuel dispensing facilities in Section 175.220.

Section 175.240 Full Service Motor Fuel Dispensing Facilities and Islands

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

- a) A control station and audible communication system shall not be required at a full service motor fuel dispensing facility or island. The attendant shall, however, at all times be able to communicate with persons in the dispensing area. Facilities with dispensers that are not on a full-service island remain subject to the requirement for a control station and audible communication system for the dispensers that are not full-service.
- b) Minimum Signage. Signs shall be provided that are clearly visible to all self-service customers. The signs shall be mounted not less than 4 feet nor more than 6½ feet from the bottom of the sign to the ground and made of all-weather rigid

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material and the lettering shall be not less than $\frac{7}{8}$ inch high. The signs shall, at a minimum, include the wording "No dispensing by anyone other than the attendant".

Section 175.250 Marine Motor Fuel Dispensing Facilities

- a) Marine motor fuel dispensing facilities shall be of the attended type only. Self-service is prohibited.
- b) No vessel or marine craft shall be made fast to any other vessel or marine craft occupying a berth at a fuel dispensing location during fueling operations.
- c) Smoking materials, including matches and lighters, shall not be used within 20 feet of areas used for fueling, servicing fuel systems for internal combustion engines, or receiving or dispensing Class I liquids.
- d) The fuel delivery nozzle shall be put into contact with the vessel fill pipe before the flow of fuel commences and this bonding contact shall be continuously maintained until fuel flow has stopped to avoid possibility of electrostatic discharge.
- e) At all marinas, clearly identified emergency shutoff switches that are readily accessible in case of fire or physical damage at any dispensing unit shall be provided on each marine wharf and located at least 20 feet but not more than 100 feet from each dispenser, or at a location as approved by OSFM. The shutoffs shall be interlocked to shut off power to all pump motors from any individual location and shall be manually reset only from a master switch. Each emergency shutoff switch shall be identified by an approved sign on all-weather materials stating "MASTER ELECTRICAL SHUTOFF" in 2 inch red capital letters.
- f) **Minimum Signage.** A conspicuous sign shall be mounted not less than 4 feet nor more than $6\frac{1}{2}$ feet above the base of the dispenser on all-weather materials, visible in all directions, stating in prominent letters not less than $\frac{7}{8}$ inch in height "No dispensing by anyone other than the attendant".
- g) **Fire Extinguishers.** Fire extinguishers shall be provided in accordance with 41 Ill. Adm. Code 174.350.

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

Section 175.260 Miscellaneous General Operating Requirements

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

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

SUBPART C: PERMITS, FEES AND SCHEDULING

Section 175.300 Permitted UST Activity

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

- a) Permit Requirements
- 1) Prior to the onset of UST activity, a completed permit application, including fee payment of \$300 per permitted activity, shall be submitted to OSFM.
 - 2) A separate fee is required for each type of activity.
 - 3) This fee is to be paid by check or money order made payable to "Office of the State Fire Marshal" and is to be from the licensed contractor obtaining the permit.
 - 4) Only contractors currently licensed and certified in accordance with 41 Ill. Adm. Code 172 may obtain permits. Contractors are required to be OSFM licensed and have at least one employee doing the work who shall be certified under 41 Ill. Adm. Code 172 for the UST activity that is being performed. Contractor licensing applications and information can be found at www.state.il.us/osfm/forms/AppUSTContractorLicense.pdf and at www.state.il.us/osfm/PetroChemSaf/172%20Contractor%20Licensing%20Rules.pdf.
 - 5) Only contractors, their employees or subcontractors may perform the permitted UST activity in accordance with 41 Ill. Adm. Code 172.
 - 6) The current OSFM permit application forms for the given activity shall be submitted. Electronically reproduced forms shall be identical to the current OSFM-approved permit application forms at www.state.il.us/osfm/Techservices/application_forms.htm.

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- 7) Permit applications denied or rejected the second time will require a new permit application and submission of a new fee.
 - 8) Permit applications and issued permits are not transferable.
 - 9) The owner of the UST must be identified on the permit application.
 - 10) No permit may be issued when the current owner listed on the application owes fees pursuant to Section 175.330 or 41 Ill. Adm. Code 176.450 until the fees are paid in full.
 - 11) No permit may be issued for UST activity unrelated to correcting existing violations while the violations continue to exist on that same site.
- b) No UST activity requiring a permit may proceed without a granted permit in the possession of the contractor or representative of the contractor at the UST site, except pursuant to Section 175.710, and the permit shall be available to an OSFM representative, on request. For emergency repair procedures, see Section 175.710. Performance by a contractor of a UST activity in violation of this Section may result in the suspension or revocation of the license of that contractor to perform any UST activity pursuant to 41 Ill. Adm. Code 172.
 - c) No UST owners or operators may perform any UST activity, unless the owner complies with the licensing and certification requirements of 41 Ill. Adm. Code 172.
 - d) UST activity performed that is not in compliance with the conditions of a permit issued to a licensed contractor, or false information supplied to obtain a permit, is cause for permit revocation, or suspension or revocation of the license of the contractor to perform any UST activity.
 - e) For purposes of this Section, the following terms shall be considered interchangeable or equivalent: "installer" and "replacer"; "install" and "replace"; "repairer" and "a person who upgrades"; "repair" and "upgrade"; "remover" and "a person who abandons-in-place"; and "remove" and "abandon-in-place".
 - f) Actions Requiring a Permit. A permit is required to do any of the following to USTs:

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

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- 14) electronic enhancement of an automatic tank gauging (ATG) that requires work within the ATG control module;
 - 15) cleaning of interstitial spaces of tanks or piping after a release;
 - 16) connection of a new or existing bulk load-out to a new or existing UST at a motor fuel dispensing facility.
- g) Actions Not Requiring a Permit.
- 1) No permit is required to do like-for-like replacements for the following:
 - A) submersible pumps, if already equipped with a tank containment sump;
 - B) spill containment devices (replacements shall be at least 5 gallons capacity);
 - C) drop tube valves;
 - D) ball floats;
 - E) ATG probes;
 - F) mechanical line leak detectors;
 - G) electronic line leak detectors;
 - H) wireless electronic line leak detectors;
 - I) rectifiers; or
 - J) interstitial monitoring sensors.
 - 2) The exceptions listed in subsection (g)(1) are the only exceptions from the permit requirement. If the equipment is not present or another type of equipment is to be used, a permit shall be required. Any pipe or flex connector work requires a permit. However, merely disconnecting a fitting, coupling or union without replacing that fitting, coupling or union

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to accomplish the replacement of the like-for-like equipment on the list in subsection (g)(1) will not by itself trigger the requirement for a permit. Although a permit is not required for like-for-like replacements, the work must still be performed by a licensed contractor. When product piping is broken or disconnected to perform a like-for-like replacement, the piping line must be precision tested as tight prior to putting the piping line back into service. Replacing any of the equipment listed in subsection (g)(1) must be reported in writing, within 24 hours after the activity, to OSFM, on forms provided by OSFM at www.state.il.us/osfm/PetroChemSaf/LikeForLike.pdf, listing the make, model and manufacturer of the equipment, and indicating where the equipment is being installed. For a list of the types of OSFM permits required for specific permitted UST activities, see Appendix B.

- h) Expiration and Extension of Permits. Permits expire 6 months from the date they are issued. The applicant may apply for additional 6-month extensions. Permit extensions that circumvent newly adopted technical requirements will not be allowed. If a party submits evidence of non-cancelable contracts executed in reliance on the permit sought to be extended, or if work has commenced, a party will not be viewed as circumventing the technical requirement. Each extension request must be submitted in writing before the permit lapses and must be accompanied by a \$300 fee.
- i) Amended Permits. Granted permits may be amended only once without a new application fee. For all permit amendments, each change that requires a new contractor, more than minor changes to the site plan, or another engineering review to determine acceptability will require submission of a new permit application and \$300 fee. "As-built" drawings reflecting any amendment to the site plan shall be submitted to OSFM within 10 days after the amendment. Permit amendments that circumvent newly adopted technical requirements will not be allowed.
- j) Site plans showing setback distances shall be submitted in triplicate, by the contractor listed on the permit application, to OSFM. Site plans are subject to approval by OSFM before any new construction, addition or remodeling that alters building size, when encroachment on required setbacks would occur; dispenser locations; or locations or sizes of vehicle service area or storage tanks. Removals, lining and upgrades that involve replacing equipment with that of identical manufacture and model do not require submission of site plans.

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k) Miscellaneous

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

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action against the person who illegally installed the equipment without a permit.

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

Section 175.310 Site Plans

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

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

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

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

Section 175.320 Scheduling of UST Activity

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

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- c) OSI (Date Certain) Activity. OSI activity includes removal, abandonment-in-place, and any hot work. Any additional inspection in follow-up to tank penetration via hot work, including a final lining inspection and tank precision testing, shall be scheduled as a PAI inspection. For a listing of OSI activities, see Appendix A to this Part.
- 1) For OSI activity, the contractor shall have a granted permit in his or her possession before calling OSFM between 8:30 a.m. and 3:00 p.m. on State business days to establish a mutually agreed specific date and time for the permitted activity.
 - 2) Only the contractor or an employee of the contractor (this does not include subcontractors) may schedule the work with OSFM.
 - 3) For OSI activity, the work will not be allowed to be done unless an STSS is on site.
- d) PAI (Time and Date Certain) Activity. PAI permitted activity includes installation, upgrades, flex connector activity, repairs not involving hot work, or cathodic protection activity. PAI activities will be scheduled for a period of at least two working hours (between 10:00 a.m. and 3:30 p.m. on State business days) and subsequent activities that interfere with the ability to inspect will not proceed until the time period is over. Regarding tank installation, scheduled OSFM inspections are required for an air test on the tank prior to installation, air test on primary lines, hydrostatic test on containments prior to backfill, tank installation, air test on secondary containment, and final inspection. For tank installation only, the completed Notification of Underground Storage Tanks form (www.state.il.us/OSFM/PetroChemSaf/Notify.pdf) must be ready to present to the STSS during the final inspection. For all other activity, both OSI and PAI, the appropriate OSFM notification forms at www.state.il.us/osfm/PetroChemSaf/home.htm, under "downloadable applications shall be completed and submitted to OSFM within 30 days after completion of the permitted work. Although tank and line tightness testing and cathodic protecting testing are not permitted activities, they must still be scheduled with OSFM pursuant to subsection (d)(2). For a listing of OSI activities, see Appendix A.
- 1) Permitted PAI Activity. The contractor shall have a granted permit in his or her possession and shall transmit to OSFM, not less than 5 working

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days after the approval date on the permit and not less than 2 working days before the anticipated date of work, by U.S. Mail, express mail, package service, fax, or email, a completed OSFM-prescribed job schedule form www.state.il.us/osfm/PetroChemSaf/home.htm, under "downloadable applications"). The Division of Petroleum and Chemical Safety (DPCS) will transmit a stamped acknowledgement receipt back to the contractor within one working day. A copy of this receipt, along with a copy of the permit, will be kept on the job site at all times. Work shall not commence until the contractor obtains this receipt. Only the contractor or an employee of the contractor (this does not include subcontractors) may schedule the work with OSFM.

- 2) Non-permitted PAI Activity. The contractor or contractor's employee shall submit the OSFM-prescribed job schedule form (www.state.il.us/osfm/PetroChemSaf/home.htm, under "downloadable applications") at least 24 hours in advance of the anticipated work date. Only the contractor or an employee of the contractor (this does not include subcontractors) may schedule the work with OSFM.
 - 3) For spill or overfill prevention device final PAI (Time and Date Certain) inspections, a contractor representative is not required to be on site, but scheduling of the final inspection is required.
 - 4) Any time an emergency repair permit is issued, the contractor shall schedule and complete the final inspection within 10 days after issuance of the permit.
- e) There shall be no transfer or sale of product from a UST until the UST is in compliance with OSFM rules and any required final inspection has been completed. Any request to fill a required minimal amount of fuel necessary to perform compliance testing must be submitted in writing and approved by OSFM in advance. A depositor may make one deposit of a regulated substance to a newly installed or newly lined tank to provide ballast; that fuel shall not be sold or dispensed until the required decal is obtained.
- f) In the event there is a delegation of authority to the City of Chicago to enforce UST rules and regulations, pursuant to the Gasoline Storage Act [430 ILCS 15/2], subject to the terms of that agreement and to the extent the City is authorized to supervise the above-referenced activities, the City is authorized to substitute, for

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references in this Section to the OSFM or its agents or employees, comparable references to the City or its agents or employees.

Section 175.330 Payment of 1988 Annual UST Fee

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

SUBPART D: DESIGN, INSTALLATION AND CONSTRUCTION REQUIREMENTS

Section 175.400 Design and Construction of USTs

- a) Tanks. Any newly installed or replaced underground tank shall be of double-wall construction and equipped with interstitial monitoring that meets the applicable requirements of Section 175.630(g) and 40 CFR 280.43(g) for all permits issued on February 1, 2008 and after. Any release into the interstice of any double-wall tank shall require that the interstice be cleaned under accepted engineering practices before the tank can be put back into service. (See Sections 175.300(f) and 175.630(g).) If the interstice cannot be cleaned so as to allow proper functioning of the interstitial monitoring, then the tank shall be removed within 60 days. Third-party listed, factory manufactured, jacketed tanks having an interstitial space capable of being cleaned following any contamination shall be considered as meeting the double-wall requirement.
- b) Each newly installed, replaced and existing tank shall be properly designed, constructed and installed in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory and third-party listed for its intended use. Any portion underground that routinely contains product shall be protected from corrosion. In addition, each tank shall meet one of the following requirements:
 - 1) The tank is constructed of fiberglass-reinforced plastic.
 - 2) The tank is constructed of steel and protected in the following manner:

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- A) Metallic tanks installed on or after April 21, 1989 shall be thoroughly coated on the outside with suitable rust-resisting dielectric material; and
 - B) All steel tanks shall utilize a cathodic protection system designed by a corrosion expert certified by NACE in cathodic protection design or by an Illinois Licensed Professional Engineer who has certification or licensing that includes education and experience in corrosion control of buried or submerged metal piping systems and metal tanks. If an impressed current system is selected, it must also be designed to allow determination of the system's operating status by means of permanently installed lights and gauges as required in Section 175.510.
- 3) The tank is constructed of a steel-fiberglass-reinforced plastic composite.
 - 4) The tank construction and corrosion protection are determined by OSFM to be designed to prevent release or threatened release of any stored regulated substance in a manner that is no less protective of human health and the environment than this subsection (b). Before the installation of any tank, its construction and corrosion protection shall be submitted to OSFM, in writing, and is subject to written approval by OSFM.
- c) Re-certified tanks shall satisfy the requirements of subsection (b); however, written proof of re-certification shall be submitted to the OSFM. Re-certified tanks must be reinstalled within 6 months after removal or re-certification, whichever is sooner. Re-certified tanks must have a warranty remaining for at least 5 years. Re-certifications must be conducted by a Licensed Professional Engineer having expertise in UST design or the original tank manufacturer.

Section 175.405 Spill Containment and Overfill Prevention Equipment

- a) To prevent spilling and overfilling associated with product transfer to the UST, owners or operators shall use the following spill containment and overfill prevention equipment:
 - 1) Both:

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- A) Spill containment equipment that will prevent release of product to the environment when the transfer hose is detached from the fill pipe (e.g., a spill catch basin). As of May 1, 2003, new or replaced spill containment equipment must have a minimum 5 gallon capacity and be maintained in a dry, clean state; and
 - B) Overfill prevention equipment that:
 - i) Automatically shuts off flow into the tank when the tank is no more than 95 percent full; or
 - ii) Alerts the transfer operator when the tank is no more than 90 percent full by restricting the flow into the tank or triggering a high-level alarm; or
 - 2) Provides alternative methods that are no less restrictive than subsections (a)(1) and (a)(2) and no less protective of human health or the environment, as approved in writing by OSFM.
- b) Float vent valves for overfill prevention shall not be allowed on any type of suction system.
 - c) A UST that is filled by transfers of no more than 25 gallons at one time shall require spill containment but does not require overfill prevention.
 - d) In addition to the requirements of subsections (a), (b) and (c), waste oil tanks shall be equipped with spill containment devices at all fill and retrieval points.

Section 175.410 Containment Sumps

- a) On or after May 1, 2003, a tank containment sump must be installed at the tank on all new tanks with submersible pumps or American suction piping systems. All tank containment sumps must consist of a factory manufactured containment that is liquid-tight on its sides, bottom and at any penetrations and is compatible with the substance conveyed by the piping. European suction systems are not required to have this containment.

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- b) When an existing submersible is removed and replaced with another submersible, or when piping, flex connectors or other transitional components at the submersible are replaced, a tank containment sump must be installed.
- c) On or after May 1, 2003, under-dispenser containment must be installed on all new dispenser installations where there previously was no dispenser. European suction systems are not exempt from the requirement for under-dispenser containment.
- d) When an existing dispenser is removed and replaced with another dispenser and equipment at or below the shear valve used to connect the dispenser to the UST is replaced, under-dispenser containment is required. This equipment may include flex connectors or risers or other transitional components that are beneath the dispenser and connect the dispenser to the piping.
- e) If more than 20 feet or 50% of a pipe run is replaced, the appropriate containment required to make the associated interstitial monitoring functional (e.g., a tank containment sump, under-dispenser containment, or a junction sump) shall also be installed.
- f) Water in Sumps
 - 1) Sumps Without Monitoring Sensors. If water is in a sump and it is in contact with bare metal piping or metal, including flex connectors, then corrosion protection, using impressed current, spike anodes, or wristband anodes with proper electrolyte, must be installed on the metal piping in accordance with Section 175.510.
 - 2) Sumps with Monitoring Sensors. Water that could interfere with the operation of double-wall interstitial monitoring systems or that is in contact with bare metal piping or metal, including flex connectors, shall be permanently removed and the source of ingress repaired. The sump shall be maintained so that, other than internal condensation, there is no water in contact with bare metal.
 - 3) Requirement for All Sumps. In all cases, sumps shall be maintained and repaired using petroleum compatible materials as necessary so that, in the event of a release, product will not be leaked out of sumps via cracks, broken seals or other openings.

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- g) Field-installed Spray-on or Pour-on Materials in UST Containment Sumps. All required containments shall be factory manufactured containments resistant to petroleum and chemical products. The application of any material shall not interfere with the normal operation of the shear valves or fusible links, or any equipment installed under dispensers or submersible pumps.
- h) A hydrostatic test will be performed on all containment installations (including all submersible, piping and fill sumps) as follows:
 - 1) All penetrations, including electrical, must be completed prior to testing.
 - 2) Containment is to be filled with water to a height that covers the highest penetration by 2 inches.
 - 3) Minimal backfilling that may be necessary for support of the containment sump is allowed prior to the test.
 - 4) Test duration is 30 minutes and performed under PAI Time and Date Certain requirements with no drop in water level.

Section 175.415 UST Compatibility with Product Stored

- a) Owners and operators shall use a UST compatible with the product stored in the UST.
- b) All UST components shall be listed for compatibility with the product being stored by a nationally recognized independent third party organization (NWGLDE, for leak detection equipment). In the event the third party listing is unattainable for a UST component, for petroleum products only, OSFM may accept certification of the non-listed component by a Licensed Professional Engineer that the non-listed component is compatible with the product that will be stored.
- c) In the event third party listing and certification by a Licensed Professional Engineer are both unattainable for a leak detection device or dispenser, for petroleum products only, OSFM may permit the use of the non-listed and non-certified component if a licensed installation/retrofitting contractor inspects the

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component on an annual or more frequent basis and, after each inspection, certifies to OSFM on forms provided by OSFM at www.state.il.us/osfm/PetroChemSaf/home.htm, under "downloadable applications", that the component has been inspected and there is no visible evidence of product leakage or incompatibility. In the event that a listed component becomes available, facilities shall have 12 months to replace non-listed components with listed components.

- d) New installations or new conversions to blended fuel (as defined in 41 Ill. Adm. Code 174.100) shall comply with the following:
- 1) OSFM will permit a blended fuel to be stored in steel tanks, or any fiberglass tanks manufactured after 1991.
 - 2) The associated piping must be steel or fiberglass piping manufactured after 1991.
 - 3) As of the effective date of this Part, a blended fuel may not be stored in a lined tank.
- e) Existing USTs Previously Converted to a Blended Fuel (as defined in 41 Ill. Adm. Code 174.100). In those instances in which a blended fuel is being stored in an existing tank lined at any time, the lining material must be approved by OSFM based on information supplied by the manufacturer or a Licensed Professional Engineer, in accordance with the criteria identified in Section 175.500, as compatible with the blended fuel, or the owner/operator must remove the blended fuel from the tank.
- f) Blended Fuels and Compatibility. Materials and leak detection equipment that is listed as compatible with gasoline and/or petroleum diesel will be permitted to be used with gasoline/ethanol or diesel/biodiesel blends that are less than 21% ethanol or biodiesel blend, respectively. Materials and leak detection equipment that is listed as compatible with a certain percentage of product (i.e., E85, B30, B50) may be used with blends that are less than the blended fuel percentage listed. As an example, line leak detection equipment listed as compatible with E85 may be used with all E blends of 85% or less. The same is true for B blends. Line leak detection equipment listed as compatible with B50 may be used with all B blends of 50% or less.

Section 175.420 Piping

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- a) Piping that routinely contains regulated substances and is in contact with the ground, backfill or water shall be properly designed, constructed and protected from corrosion in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory, shall be third party listed for its intended use, and shall also meet the requirements of subsection (a)(1), (a)(2) or (a)(3):
- 1) The piping is constructed of fiberglass-reinforced plastic.
 - 2) The piping is constructed of steel and protected as follows:
 - A) The piping is coated with a suitable dielectric material, if installed on or after April 21, 1989; and
 - B) All steel piping utilizes a cathodic protection system designed by a corrosion expert certified by NACE in cathodic protection design or by an Illinois Licensed Professional Engineer who has certification or licensing that includes education and experience in corrosion control of buried or submerged metal piping systems and metal tanks. If an impressed current system is selected, it must also be designed to allow determination of system operating status by means of permanently installed lights, amp, volts and hour gauges as required in Section 175.510.
 - 3) The piping construction and corrosion protection are determined by OSFM to be designed to prevent release or threatened release of any stored regulated substance, in a manner that is no less protective of human health and the environment than the requirements in subsections (a)(1) and (a)(2). Before the installation of any such piping, its construction and corrosion protection shall be submitted to OSFM, in writing, and OSFM shall issue written approval.
- b) Installed underground piping shall be of double-wall construction and equipped with interstitial monitoring that meets the applicable requirements of Section 175.630(g) and 40 CFR 280.43(g) for all permits issued February 1, 2008 and after. When required to make interstitial monitoring functional, the appropriate containment (e.g., under-dispenser containment, tank containment sumps, or junction sumps) shall be installed. Any replaced piping that exceeds 20 feet or

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50% of the total piping run shall require the entire pipe run to be replaced with double-wall, monitored piping as required for newly installed piping. If the site has multiple distinct pipe runs, only that piping run being replaced shall be required to be double-wall construction with interested monitoring installed in compliance with this subsection (b). Any release into the interstice of any double-wall piping shall require that the interstice be cleaned under accepted engineering practices, under an OSFM permit, before the piping run can be put back into service. (See Sections 175.300(f) and 175.640.) If the interstice cannot be cleaned so as to allow proper functioning of the interstitial monitoring, then the piping shall be replaced. European suction systems are exempt from the requirement for having double-wall product piping, as well as from the requirement for having interstitial monitoring.

- c) Piping, valves and fittings for flammable liquids shall be designed for the working pressures and structural stresses to which they may be subjected and third party listed for their intended use. The application of any material shall not interfere with the normal operation of the shear valves, fusible links or any equipment installed under the dispensers or submersibles. They shall be of steel or other materials suitable for use with the liquid being handled.
- d) All piping shall be located so as to be protected from physical damage. Pipe trenches and pipe installation shall meet manufacturer's specifications for depth, width, slope, spacing and placement of pipe. Joint adhesive and thread sealant shall meet manufacturer's requirements for the regulated substance stored and/or transported by the pipe.
- e) Pressurized piping systems (including existing systems) shall also be equipped with automatic line leak detectors (see Section 175.640(a)). After installation, pressurized piping shall be tested for 30 minutes at 1.5 times the working pressure or 50 psi, whichever is higher. Suction and vent piping shall be tested at a minimum positive pressure of 7 psi or in accordance with the manufacturer's recommended procedures.
- f) All steel risers, vents and fills in contact with the ground, backfill or water shall be dielectrically wrapped or coated.
- h) Beginning May 1, 2003, a positive shut off valve shall be installed on the product line at the submersible or at the tank for all suction systems on all new installations and when piping is replaced at existing sites and made accessible at

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grade. An extractor valve will be accepted on European suction instead of a positive shutoff valve.

- i) Vent lines will be tested from the tank to grade level at the time of installation. This test will be done at 7 psi minimum or at the pressure recommended by the manufacturer. This test will be performed at the time of the line PAI test.
- j) The application of any material shall not interfere with the normal operation of the shear valves or fusible links, or any equipment installed under dispensers or submersibles.
- k) Any time product piping is broken for repairs, a precision line tightness test must be conducted before the piping is put back into service.
- l) Beginning May 1, 2003, the new installation or total upgrade of product piping shall be double-walled for the entire length of that product line, with the exception of European suction.

Section 175.425 UST Wiring Procedures

- a) Unless otherwise specified in this Section, all wiring at UST locations shall be in accordance with the Edition of NFPA 70 in force at the time of installation of the electrical equipment.
- b) Wiring within 20 feet of tanks and product piping, dispenser pumps or product lines shall be installed in rigid metallic conduit, threaded steel conduit, or any petroleum or product resistant rigid nonmetallic conduit listed and manufacturer-approved for that use. Rigid nonmetallic conduit must have written verification of its approval for petroleum or other product use. The approval must be via manufacturer's certification or third-party listing and must be kept on site and must be submitted with any applicable permit application. Electrical conduit shall maintain at least 6 inches of separation from product piping to avoid damage from abrasion or stray electrical current and shall be routed in compliance with subsection (e) when it becomes necessary to locate electrical wiring in the same trench as product piping.
- c) A minimum of 24 inches of cover is required over all UST wiring conduit. When rigid nonmetallic conduit is used, threaded rigid metal conduit or threaded steel

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intermediate metal conduit shall be used for the last 2 feet of the underground run to emergence or to the point of connection to the aboveground raceway.

- d) Intrinsically safe wiring shall be in conduit when installed within Class I locations, as specified in NFPA 70. Caution shall be taken when grounding not to impair cathodic protection of metallic tanks or piping.
- e) When locating electrical wiring in the same trench as the product lines, the conduit shall be positioned on either side of the product piping but not above or below the product piping. The electrical conduit shall cross over the top of any product piping whenever a crossover is necessary, unless all fittings in the conduit run are liquid-tight. A minimum 6-inch separation shall be maintained at all times, even during a crossover. All crossovers shall be kept to a minimum.
- f) All electrical power shall be shut off at the immediate location where installations, repairs or upgrades are in progress.
- g) All electrical seal-offs are to be properly filled whether being used or for future use.

Section 175.430 Clearance Required for USTs

- a) Distance to Basements. No UST shall be less than 20 feet from any basement, cellar, pit or below-grade excavation on or off the property.
- b) Distance to Sewers. Individual tanks and piping shall be buried so that the tops of the tanks and piping are lower than the bottom level of all sewers, manholes, catch-basins, cesspools, septic tanks, septic tank clean out stations, wells or cisterns within 20 feet, on or off the property, or tanks and piping shall maintain a full clearance of 20 feet. The term "sewer" includes sanitary and storm sewer lines out of motor fuel dispensing facilities and bulk facilities. These clearances shall not be required when a sewer line is constructed throughout of petroleum resistant piping.
- c) Distance to Property Lines. Individual tanks shall be at least 20 feet to property lines; provided, however, that these clearances on the side adjacent to a public street, alley or highway are waived by consent of the authority having immediate jurisdiction over the public street, alley or highway, provided that the required sewer clearances will be maintained.

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- d) Distance to Special Classes of Property. Tanks and dispensers shall maintain a clearance of not less than 300 feet to any mine shaft, air or escape shaft for any mine and 85 feet to any educational, health care or assembly occupancy, as defined in 41 Ill. Adm. Code 100. The distance shall be measured from the nearest points of tanks and pumps to the nearest points of buildings or shafts.
- e) Tanks in service on October 1, 1985 (or after October 1, 1985 if approved by OSFM) may maintain existing underground tank clearances. Basements at motor fuel dispensing facilities existing on October 1, 1985 less than 20 feet from a UST shall be provided with mechanical ventilation. Only non-sparking explosion proof motors and compressors shall be permitted in these basements. Proof of compliance shall be submitted to OSFM.

Section 175.435 Pressure Testing of Tanks or Lines

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

Section 175.440 Venting of Tanks

- a) Normal Venting
 - 1) Each tank shall be provided with a separate normal working vent pipe, connected with the top of the tank and carried up to the outer air. Underground manifolding of normal working vents is prohibited. The pipe shall be arranged for proper drainage to the storage tank, and its lower end shall not extend through the top of the tank for a distance of more than one inch; it shall have no traps or pockets. Float vent valve overfill devices are not considered an extension of the standard vent. Manifoldd normal vents existing and previously approved by OSFM prior to April 1, 1995 may be left in place, provided that the vents can be shown, by field verification, to comply with OSFM rules at the time of approval.
 - 2) The upper end of the pipe shall be provided with an updraft vent device only, with 40 gauge screening, unless alterations are required by Stage II

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Vapor Recovery requirements. A pressure vacuum vent will meet this requirement.

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

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- A) Manifolding will be installed no less than 3 feet above grade and no more than 5 feet aboveground.
- B) Each vent shall be capable of being separated and isolated from the manifold.
- C) Class II and III products cannot be attached to a manifold that includes Class I products.
- D) Final riser shall be of adequate sizing as specified by NFPA 30.

Section 175.445 Fill Pipes

- a) Fill pipes shall be extended to a location outside of any building, as remote as possible from any doorway or other opening into any building, and in no case closer than 5 feet from any such opening. Remote fills are subject to approval by OSFM, on a case by case basis. Fill pipes for used oil tanks are permissible when located inside buildings.
- b) Location shall be in a place where there is a minimum danger of breakage from trucks or other vehicles and adequate collision protection to protect against physical damage shall be provided.
- c) For new and existing facilities, each fill pipe shall be closed by a gasketed screw cap or other tight fitting gasketed cap of a type that can be locked. The cap shall be locked at all times when a filling or gauging process is not being performed. It is the responsibility of the owner/operator to maintain the security of the UST.
- d) Each loading pipe or fill pipe riser shall be identified by color code or labeling to indicate the product contained in the tank.
- e) All remote fills installed after May 1, 2003 shall be double-wall and constructed of noncorrosive material or cathodically protected, except for gravity flow waste oil.
- f) After May 1, 2003, any new installation with a remote fill over 20 feet in length shall have interstitial monitoring and an audible and visible overfill alarm. Remote fills shall be sloped back to the tank.

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- g) Beginning February 1, 2008, on all new installations where non-metallic piping is used for a remote fill, a grounding station shall be installed and used during delivery.
- h) Except for USTs holding waste oil, all tanks shall be equipped with a drop tube that extends to within 6 inches of the bottom of the tank.

Section 175.450 Pumps, Dispensers and Other Product Transfer Equipment

- a) Pumps. Petroleum and hazardous substances shall be transferred from tanks by means of fixed pumps designed and equipped to allow control of the flow and to prevent leakage or accidental discharge. Systems that employ continuous air pressure on storage tanks in connection with gauging or vending devices are prohibited, with the exception of those systems utilized in Stage II Vapor Recovery.
- b) Gravity Flow Prohibitions and Precautions
 - 1) Devices that discharge by gravity are prohibited and were to have been removed by January 1, 1986. The transfer of waste motor oil to or from USTs is not subject to the requirements for transfer by means of fixed pumps. Gravity transfer of waste motor oil is permitted. Gravity devices at motor fuel dispensing facilities, bulk facilities, motor vehicle repair shops and parking garages that are retained for their novelty or historical interest may be retained at the facility, but shall be rendered nonfunctional.
 - 2) Where tanks are at an elevation that produces a gravity head on the dispensing device, the tank outlet shall be equipped with a device, such as a solenoid valve, positioned downstream as close as possible to the tank, installed and adjusted so that liquid cannot flow by gravity from the tank.
- c) Siphon Bars. Siphon bars that are used to transfer petroleum and hazardous substances between tanks by means of gravity or negative atmospheric pressure shall be permitted subject to the following requirements:
 - 1) The height of the tops of all tanks connected by the siphon bars shall be within 6 inches of each other;
 - 2) Piping shall meet the requirements of Section 175.420; and

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- 3) Release detection methods for tanks and piping shall be of a type approved for tanks connected by siphon bars, in accordance with Section 175.630.
- d) Electrical Equipment and Requirements for Pumps and Dispensers. All pumps and dispensing devices for petroleum and hazardous substances and all connected electrical equipment shall be installed in accordance with Section 175.425. Dispenser discharge nozzles shall be constructed of nonferrous material or equipped with static wire hose.
- e) Dispensers. All dispensers shall be required to comply with the following:
 - 1) Under-dispenser Containment. Under-dispenser containment is required pursuant to Section 175.410.
 - 2) Labeling. All dispensing devices used for drawing regulated substances from USTs shall be labeled in a conspicuous place with the name of the product.
 - 3) Size Limits. Dispensers shall not be connected, directly or indirectly, to any tank that is over 30,000 gallons capacity.
 - 4) Hoses and Reels. Mechanical retractable devices are required on dispenser hoses in excess of 18 feet in length. Hose length on mechanical retractors shall not exceed 50 feet without written approval of OSFM. Detection of any of the following conditions indicates permanent damage and shall require that the hose be immediately removed from service:
 - A) hose cuts, abrasions or cracks in the hose cover that penetrates to the reinforcement;
 - B) blisters or loose cover;
 - C) soft spots in the hose, particularly adjacent to the coupling;
 - D) indication of coupling slippage or irregular coupling alignment; or
 - E) flattened or kinked hose resulting in permanent deformation.

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

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- B) All dispensing devices shall be equipped with two methods of controlling the flow of fuel:
- i) deactivation of the dispenser; and
 - ii) closing of the hand nozzle or some other secondary means to shut off flow.
- C) The nozzle must be designed and maintained to cease the flow of product if the nozzle falls to the ground from the fill pipe of the motor vehicle being fueled.
- D) A listed emergency breakaway device designed to retain liquid on both sides of the breakaway point shall be installed on each hose. If hoses are attached to a hose-retrieving mechanism, the listed emergency breakaway device shall be installed between the point of attachment of the hose-retrieving mechanism to the hose and the hose nozzle valve.
- E) A control shall be provided that will permit the pump to operate only when a dispensing nozzle is removed from its bracket or normal position with respect to the dispensing device, and the switch on the dispensing device is manually activated. This control shall also stop the pump when all nozzles have been returned, either to their brackets or normal nondispensing position.
- 10) Rebuilt Hose Nozzles. Rebuilt hose nozzles may be used if they are listed for that purpose.
- 11) Spout Anchor Springs. Nozzles must be equipped with devices (e.g., wire or a spout anchor spring) designed to retain the nozzle spout in the vehicle fill pipe while refueling. These devices must be part of the listed nozzle assembly. The spout anchor spring shall be of the type recommended by the manufacturer of the hose nozzle valve and be installed and maintained in accordance with the manufacturer's recommendations. Vacuum assist and balanced type vapor recovery nozzles prohibited from having wire or spout anchor springs as the result of their design shall be exempt from this requirement.

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- 12) Shear Valve. Pressurized piping systems require a listed rigidly anchored emergency shutoff (shear) valve installed in the supply line at the base of each individual dispenser. The valve shall incorporate a fusible link or other thermally activated device, designed to close automatically in the event of severe impact or fire exposure.
 - 13) Emergency Shutoff for Remote Pumps. Devices served by remote pumps shall be equipped with a listed emergency shutoff valve.
 - 14) Collision Protection for Dispensers. All fuel dispensers shall be mounted or protected against collision damage by means of islands, posts or an equivalent means.
 - 15) Secure Mounting of Dispensers. Dispensing devices shall be bolted to their mounting surface in accordance with the manufacturer's instructions.
 - 16) Under-dispenser containments shall be factory manufactured and shall comply with the design requirements of Section 175.410(g).
- f) Location of Pumps and Dispensers
- 1) Unless otherwise allowed under this Section or permitted at the time of installation, dispensers and pumps shall be located outside of buildings. Dispenser hoses shall not be able to reach to within 5 feet from any building or window or other building opening, such as a basement, cellar, pit, ventilated soffit or any air intake or exhaust of any building, and must be located to avoid pocketing of vapor or liquid. Dispensers installed after October 1, 1985 shall not be located below grade. A transfer pump is not considered a dispenser and may be located inside a pumphouse or industrial building. Bulk-load outs are not considered dispensing and shall comply with NFPA 30 (see Section 41 Ill. Adm. Code 174.310).
 - 2) However, detached buildings separated by at least 20 feet from other buildings and used exclusively for fleet dispensing of motor fuels may house dispensers and dispensing equipment for combustible liquids (Class II and III) so long as the buildings and equipment are in compliance with NFPA 30A, incorporated by reference in 41 Ill. Adm. Code 174.210.

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- 3) Indoor dispensing shall otherwise be allowed only if approved by OSFM in writing prior to October 1, 1985 and if the following requirements are met:
 - A) For dispensing units existing prior to September 15, 1978:
 - i) be separated from other areas by 2 hour fire resistive construction;
 - ii) be provided with a mechanical or gravity ventilation system electrically interlocked with the dispensing units so that the dispensing units cannot be operated, unless the ventilation fan motors are energized and operating. The system shall be upgraded to meet NFPA 30A not later than one year after the effective date of this Part; and
 - iii) have all openings beneath dispenser enclosures sealed to prevent the flow of leaking fuel to lower building spaces.
 - B) For dispensers existing as of October 1, 1985 and located within repair and parking garages:
 - i) be not below grade;
 - ii) be separated from motor vehicle repair areas, pits and basements by 2 hour fire resistive construction;
 - iii) be protected against physical damage from vehicles by mounting the dispensing unit on a concrete island or by equivalent means;
 - iv) be located in a position where the dispensers and pumps cannot be struck by an out-of-control vehicle descending a ramp or other slope;
 - v) be provided with an approved mechanical or gravity ventilation system, that shall be upgraded to meet NFPA 30A by not later than one year after the effective date of this Part; and

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- vi) be provided with a clearly identified emergency shutoff switch, readily accessible in case of fire or physical damage to any dispensing units to shut off the power to dispensing units.
- C) Existing dispensing units located below grade in repair and parking garages as of October 1, 1985 shall have independent mechanical ventilation systems and the entire dispensing area shall be protected by an automatic sprinkler system conforming to the requirements of NFPA 13, incorporated by reference in 41 Ill. Adm. Code 174.210. The sprinkler system shall be interconnected to an alarm system conforming to NFPA 72, incorporated by reference in 41 Ill. Adm. Code 174.210, and the sprinkler system shall be a wet system except in unheated areas.
- i) The ventilation systems shall be electrically interlocked with the gasoline dispensing units so that the dispensing units cannot be operated unless the ventilation fan motors are energized and operating, and shall be upgraded to meet NFPA 30A by not later than one year after the effective date of this Part.
 - ii) Existing dispensing units located below grade within buildings shall also comply with subsection (f)(3)(B), as applicable.
- 4) Curb pumps or pumps located in any portion of a public street are prohibited, except that devices at motor fuel dispensing facilities, bulk facilities, vehicle repair garages and parking garages that are retained for their novelty or historical interest may be retained at the facility if rendered nonfunctional.
- 5) Dispensing devices at a motor fuel dispensing facility shall be located so that all parts of the vehicle being served will be on the premises of the facility or garage.

Section 175.455 USTs Inside or Under Buildings

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

Section 175.460 Marinas

- a) Dispensing equipment at marine motor fuel dispensing facilities shall comply with the requirements of Section 175.450(e), with the additions or modifications specified in this Section. Marine motor fuel dispensing facilities shall also comply with Section 175.250.
 - 1) Dispensing devices at marine motor fuel dispensing facilities may be located on open piers, wharves or floating docks, on shore, or on piers of

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the solid-fill type and shall be located away from other structures to provide room for safe ingress and egress of craft to be fueled.

- 2) Under-dispenser containment shall be required for dispensers.
 - 3) A mechanical return reel shall be required for hose lengths in excess of 18 feet. All hose shall be secured and protected from damage and shall not be permitted to lie in the water or on the ground in a manner that is unprotected from accidental damage.
 - 4) Dispenser nozzles shall be of the automatic closing type; hold-open clips or devices shall not be allowed.
- b) Piping and Shutoff Valves
- 1) Anti-siphon devices such as solenoid valves shall be required when the piping slopes downward from the tank.
 - 2) Floating docks or structures shall require flexible lines from shore to dock. Suitable lengths of approved flexible hose may be employed between the shore piping and the piping on the floating structure, as made necessary by change in water level or shoreline. Any product supply line shall have secondary containment, and new installations must be double-wall after April 1, 1995. Flexible connectors shall be required at dock hinge points for rigid primary.
 - 3) All aboveground piping shall have proper hangers or mounts and shall be protected from physical damage.
 - 4) Where stray electrical currents are encountered, piping containing liquids at marine motor fuel dispensing facilities shall be electrically insulated from the shore piping.
 - 5) A readily accessible valve to shut off the product supply from shore shall be provided in each pipeline at or near the approach to the pier and at the shore end of each marine pipeline, adjacent to the point where a flexible hose is attached.
- c) Leak Detection

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- 1) All pressurized piping systems shall be equipped with line leak detectors pursuant to Section 175.640.
- 2) After April 1, 1995, all installations shall have double-wall piping with interstitial monitoring.

Section 175.465 Additional Requirements for Installation and Upgrade of USTs

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

- a) Excavation for USTs shall be made with due care to avoid undermining of foundations of existing structures.
- b) The UST site shall be prepared to ensure safe movement and installation of equipment and materials. Sloping, benching, stepping or shoring the sides of excavations shall be performed in compliance with OSHA requirements under 29 CFR 1926.
- c) Upon delivery at the installation site, tanks and piping shall be inspected to detect any evidence of damage to coatings or structure.
- d) Upon discovery of any damage to tanks or piping, repairs shall be made in accordance with 41 Ill. Adm. Code 172, 174, 175 and 176 and manufacturer's instructions.
- e) Equipment shall be provided with sufficient lifting capacity to unload and place USTs into the tank excavation. The tank shall be placed in the excavation with care, since dropping or rolling the tank into the excavation can break a weld, puncture or damage the tank, or scrape off the protective coating of coated tanks. Tanks shall not be rolled, dropped or dragged.
- f) Steel tanks shall be set on firm foundations and surrounded with at least 12 inches of noncorrosive inert material such as clean sand or gravel, well-tamped in place.

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- g) In areas subject to flooding or high groundwater, USTs shall be installed to safeguard against movement by anchoring or ballasting in accordance with manufacturer's instructions.
- h) Unless otherwise prescribed by the manufacturer's recommended installation procedures, steel tanks shall be covered with a minimum of 3 feet of earth. USTs existing on October 1, 1985 shall be buried so that the tops of the tanks will not be less than 2 feet below the surface of the ground or shall be under at least 12 inches of earth and a slab of reinforced concrete not less than 4 inches in thickness; the slab shall be set on a firm, well-tamped earth foundation and shall extend at least one foot beyond the outline of the tank in all directions. When asphaltic or reinforced paving is used as part of the protection, it shall extend at least one foot horizontally beyond the outline of the tank in all directions.
- i) Tank to tank separation distance shall be a minimum of 24 inches for all tanks installed after May 1, 2003.
- j) Metallic tanks and metallic piping shall not be backfilled with cinders or other material of corrosive effect. Corrosion protection shall be provided in accordance with Section 175.510.
- k) Any work performed in or around the excavation area must stop at sunset unless adequate lighting is provided.

SUBPART E: CORROSION PROTECTION

Section 175.500 Interior Lining and Lining Inspection of USTs

- a) **Tank Lining Requirements.** Lining of tanks shall no longer be allowed after January 1, 2011. Existing lined tanks shall be allowed to use lining as a primary method of corrosion protection only if the tanks continue to pass the lining inspections as provided in this Section. Tanks failing to pass the lining inspection criteria will not be allowed to be touched up, repaired, totally relined or put back into use and shall be decommissioned immediately and removed within 60 days after the lining inspection.
 - 1) The manufacturers of materials used to line or repair leaking tanks for the storage of petroleum or hazardous substances shall register with OSFM. The manufacturers shall provide and maintain a current annual list of

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installers of their particular methods and materials for lining and repairing tanks. The list shall only contain the names of installers who are certified by the respective manufacturers. This manufacturer's registration shall include the submission of evidence for materials and tank specifications indicated in NLPA Standard 631, incorporated by reference in 41 Ill. Adm. Code 174.210. The manufacturer shall also certify compatibility of the lining material with products to be stored by submitting to OSFM the following data as required by Section A4.6 of NLPA 631.

- A) Laboratory Data:
- i) Bonded Linings: When applied to properly prepared steel, concrete, fiberglass and other tank surfaces, bonded linings shall maintain a minimum useful life of 10 years.
 - ii) Coefficient of Thermal Expansion: The coefficient of thermal expansion of the lining shall not result in loss of bonding due to normal operating temperature changes.
 - iii) Immersion Tests: Representative lining samples shall be tested to determine compatibility of the lining material with stored products. Samples shall be immersed in the liquids listed below at either 38°C (100°F) for periods of one, 3, 6 and 12 months. Upon completion of each immersion period, testing of the samples must verify that the lining and repair materials have not substantially deteriorated.
- B) Test Data: The following tests, standards and equipment shall be conducted as indicated in Section A4.6 of NLPA 631 for the following:
- i) Bonding Strength, using Elecometer 106 with rating of 0-2000 lbs. per sq. inch
 - ii) Flexural Strength
 - iii) Impact Resistance

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- iv) Barcol Hardness, using Barber Coleman GYZJ 935-1
 - v) Film Integrity Procedure 1
- C) Lining sample testing shall require lining samples to be immersed for the required timeframes specified in Section A4.6 of NLPA 631, in each of the following liquids: Unleaded Gasoline, Leaded Gasoline, ASTM Reference Fuel C, No. 2 Fuel Oil or Diesel Fuel, Toluene, Xylene, Gasohol (10% Ethanol), Oxinol-50 (90% gasoline, 5% methanol and 5% GTBA) 85% methanol, 15% gasoline and distilled water. Physical properties, after the final immersion period, shall be a minimum of 30% of the original physical properties before immersion with a stable trend indicating little or no further long-term deterioration for Toluene, Xylene and distilled water, and 50% for all other listed material.
- 2) Interior Lining Procedures. Until January 1, 2011, any tank that has not previously been internally lined may be lined only once by following the steps outlined in this Section.
- A) Tank Entry. Before entering tanks, the procedures described in API 2015, incorporated by reference in 41 Ill. Adm. Code 174.210, shall be complied with, except that a maximum of 5% of the lower explosive limits (LEL), or 5% or less oxygen concentration, shall be attained before the tank is considered safe for entry. These requirements include checking the oxygen content inside the tank with a properly calibrated oxygen monitor. At all times, personnel entering the tank shall be equipped with positive pressure air supplied equipment with full face enclosure and safety harness connected to a safety line held by an attendant outside the tank. Oil and water-resistant rubber or neoprene boots and gloves shall be worn. Clothing shall cover the arms, legs, torso and head of tank entry personnel. Disposable clothing, impervious to product, is preferred. Clothing saturated with product shall be removed immediately upon departure from the tank. Tests with the combustible gas indicator and oxygen monitor shall be performed periodically in the tank to ascertain that the tank vapors and oxygen content are in the safe range. It shall be recognized that if the tank is perforated, product or vapors that have leaked into the soil

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may re-enter the tank through a perforation. The vent line shall remain clear and unobstructed to allow continuous ventilation. All other lines and openings shall be plugged or capped off to insure no liquids or vapors may enter the tank during the lining operation.

- B) Structural Criteria. Prior to the application of lining, a structural criteria inspection shall be performed and the results of that inspection documented, as to whether the tank or tanks to be lined meet each of the structural criteria to be eligible to be lined pursuant to NLPA 631, and this subsection (a)(2)(B). The records from the structural criteria inspection shall be retained by the owner/operator for the life of the tank. Lining of tanks shall not be allowed if:
- i) The shell or heads are more than 2% out of round;
 - ii) The shell or heads have one or more flat spots that have a cross measurement greater than the radius of the tank endcap;
 - iii) The shell or heads have any dent with a cross measurement greater than the radius of the tank endcap;
 - iv) The shell or heads have any dent that protrudes into the tank a distance greater than 1 inch for every foot of tank radius;
 - v) The shell or head has any seam split greater than $\frac{1}{2}$ inch wide or $\frac{1}{6}$ of the circumference of the tank in length;
 - vi) The unrepaired shell or head thickness is less than 75% of the original tank thickness;
 - vii) The number of perforations, not larger than $\frac{1}{2}$ inch, per 500 square feet of tank exceeds the limits in Table A10.4.2.4 of NLPA 631; or
 - viii) There are any welded repairs on the inside of the tank.

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- C) Application of Lining. Prior to the application of lining material, a ¼ inch steel reinforcing plate rolled to the contour of the tank and with minimum dimensions of 8 inches by 8 inches shall be installed under the fill (drop) tube and gauging tube. This plate shall be covered with fiberglass cloth embedded in resin. The blast-cleaned surface shall be coated within eight hours after blasting and before any visible rusting occurs. Only those lining materials meeting the specifications in API 1631 and NLP 631 shall be used. Manufacturer's instructions are to be complied with on handling and mixing of resin compounds, and these compounds shall be applied to the entire interior surface of the tank by the manufacturer or the manufacturer's designated distributor following the specified method of application, to the designated thickness and at the recommended application temperature. If a heater is used to accelerate the curing process, all other work which might release flammable vapors shall be halted, and the heating unit shall be attended whenever it is in operation. The coating shall be cured thoroughly to the manufacturer's specifications and checked for air pockets and pinholes using a holiday detector. If any exceptions are found, they shall be repaired to manufacturer's specifications. The contractor shall protect the coated surfaces from contamination by foreign matter. The coating thickness shall be checked with an Elcometer Thickness Gauge or equivalent and tested for hardness using a Barcol Hardness Tester or equivalent to ensure compliance with manufacturer's specifications.
- D) Tank Closing. If a tank has been previously lined and passes its internal inspection, the following may be done in lieu of the manway requirements of subsection (a)(2)(E) of this Section:
- i) A ¼ inch thick steel cover plate, rolled to the contour of the tank, shall be made to overlap the hole at least two inches on each side (e.g., should measure at least 26 inches by 26 inches, if manhole was cut 22 inches by 22 inches);
 - ii) The cover shall be used as a template to locate ¾ inch diameter holes not exceeding five inch centers, one inch from the edge of the cover;

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- iii) The cover plate shall be sandblasted to white metal on both sides, and the entire inside surface shall be coated with coating material to act as a gasket;
 - iv) After being bolted to the tank, the cover plate and surrounding tank surface shall be properly sandblasted, coated with coating material and allowed to cure before backfilling the hole;
- E) Tank Closing after Entry Procedures. When a tank is being lined the following shall apply:
- i) Attach a manway no less than 18 inches in diameter that fits the contour of the tank. This manway shall be surrounded with self-supporting material and be accessible from surface grade.
 - ii) The manway shall be used as a template around which will be located $\frac{3}{4}$ inch diameter holes, 5 inches apart from center to center, one inch from the edge, and overlapping the entry hole at least 2 inches on each side, or welded in place if soil conditions will allow (no contamination is present). The lining material shall extend into the neck of the manway.
- F) Tank Lining Shall Conform to NLPA Standard 631. Original field notes documenting that the pre-lining inspection and tank lining application process complied with the requirements of NLPA Standard 631 shall be kept by the owner/operator for the life of the tank. Completion of the forms provided by OSFM for tank linings at www.state.il/OSFM/PetroChemSaf/LiningForms.htm shall be considered as equivalent to the forms required under NLPA Standard 631.
- G) Within 10 years after lining, and every five years thereafter, the lined tank shall be internally inspected and found to be structurally sound with the lining still performing in accordance with original design specifications. An interior lining inspection permit under

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Section 175.300 must be obtained to do an internal inspection. The results and data from the lining inspection, including whether the tank passed or failed, shall be submitted to OSFM within 10 days after the lining inspection.

- 3) Internal Lining Combined with Cathodic Protection.
 - A) Until January 1, 2011, a tank may be upgraded by both internal lining and cathodic protection if:
 - i) The lining is installed in accordance with the requirements of subsection (a)(2) above and Section 175.700; and
 - ii) The cathodic protection system meets the requirements of Section 175.400(b)(2)(B) through (C) and 175.510.
 - B) An interior inspection for an installation of internal lining combined with cathodic protection is required only once, provided the installation of both was completed within 90 days of each other and a structural criteria inspection was performed and documented.
- b) Within 10 years after initial lining, or total subsequent lining of a tank performed prior to the effective date of these rules, a physical internal inspection shall be performed as follows:
 - 1) The procedures for tank lining in subsection (a) shall be followed while entry is made into an existing UST for internal inspection purposes.
 - 2) Once a UST has been entered, a visual inspection of the lining shall be made. The lining shall be visually inspected for obvious evidence of peeling, blistering, surface wrinkling or roughing of the lining material. No repairs of any kind to existing linings will be allowed.
 - A) Testing shall be done to check the thickness of the shell and heads of the tank. The average metal thickness shall be at least 75% of the original tank metal thickness. Ultrasonic testing shall be done in accordance with Chapter B7 of NLP Standard 631.

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- i) Tanks not meeting the wall thickness requirements shall be condemned and not put back into service as referenced in Section B8.1 of NLP 631.
 - ii) No welding or cutting will be allowed inside the tank to repair holes or patch thin areas in any part of the tank.
- B) After a lined tank passes both the visual and the tank wall thickness test, it must be tested for holidays (air pockets) in the lining material. This test shall be performed using a holiday detector with a silicon brush electrode or other acceptable instrument to ensure the integrity of the lining material. The internal inspection holiday test shall be conducted at a rate of at least 100 volts per mil of nominal lining thickness, but in no case less than 12,500 volts or more than 35,000 volts. Tanks needing repairs shall be condemned and not put back into service.
- C) If all previous testing ensures the integrity of the lining, it shall then be tested for hardness. Lining hardness test shall be performed using a Barcol Hardness Tester or another acceptable instrument to determine that the lining was properly cured when installed or that it has not been affected by the product stored. The overall hardness must meet the lining manufacturer's specifications for the product stored. In the event that some areas pass the hardness test and other areas fail the hardness test, the tank shall be condemned and not put back into service.
- D) The final test to verify that an existing lining still meets the manufacturer's original specifications shall determine the thickness of the coating. The entire interior tank lining wall surface shall be no less than 100 mils thick with a nominal (i.e., approximate) thickness of 125 mils. If any areas of the existing coating do not meet the 100 mils minimum thickness requirement, the tank shall be condemned and not put back into service.
- E) Where applicable, interior inspections of lined fiberglass tanks shall be the same as lined steel tanks, except testing will not be required for tank thickness and for holidays in the lining material.

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- 3) During the Operational Safety Inspection, the contractor will not be allowed to either cut a new access hole into the tank, nor break open an existing entrance patch until all the required testing equipment is on site. Also, a complete set of OSFM reporting forms found at www.state.il/OSFM/PetroChemSaf/LiningForms.htm must also be onsite before the entering process may begin.
 - 4) The entrance manhole, hole or patch opening shall be closed and sealed. When a bolted manway is to be installed as a new access opening for future access use, an upgrade permit will be required to make this type of improvement to the tank. No upgrade permit will be required if a manway is installed in conjunction with a lining permit or lining inspection permit, with manholes bolted to the tank top only in conjunction with an inspection, so as not to damage the existing lining.
 - 5) Written documentation generated from the lining of a tank, consisting of completed OSFM forms for tank linings found at www.state.il/OSFM/PetroChemSaf/LiningForms.htm, shall be submitted to OSFM no later than 10 days after the lining procedure completion.
 - 6) Every 5 years after the 10 year internal inspection, the tank must be reinspected. This can be done by a physical inspection or by another method approved by OSFM. The results and data from the lining inspection, including whether the tank passed or failed, shall be submitted to OSFM within 10 days after the lining inspection.
 - 7) All interior inspections require an Internal Inspection Permit.
- c) UST lining and internal inspections shall meet the following OSFM requirements:
- 1) Secure proper permitting and obtain OSI schedule.
 - 2) Contractor shall present to OSFM inspector the OSHA Confined Space Entry permit for this job at the time of tank entry.
 - 3) All monitoring equipment shall be maintained according to manufacturer's specifications.

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- 4) Establish an exclusion zone, approved by the on site STSS, within which any ignition source shall be prohibited. The use of spark producing/non-explosion proof equipment is prohibited in the vapor hazard area prior to attaining the LEL/oxygen levels required in subsection (c)(7).
- 5) USTs to be entered shall be isolated from all distribution lines, siphons, manifolds and manifold vent systems.
- 6) Remove all liquids from the tank using explosion proof pumps or hand pumps.
- 7) The tank atmosphere and the excavation area shall be regularly monitored, with a combustible gas indicator, for flammable or combustible vapor concentration. Monitoring of the UST shall be done at 3 levels in the tank: top, middle and bottom. Lower explosive limits (LEL) of 5% or less, or oxygen of 5% or less, shall be attained.
- 8) Except as otherwise provided in this Section, vapor freeing shall be done in accordance with API 1631 Section 2.4, incorporated by reference in 41 Ill. Adm. Code 174.210. Dry ice shall not be allowed as a method of inerting tanks. All inductors and diffusers must use metallic pipe. When vapor freeing the tank with compressed air or using inert gases under pressure, all devices shall be bonded to the tank, and the tank shall be grounded to a separated ground. When using inert gases, the cylinder shall be equipped with a pressure gauge, so that no more than 5 psi can be discharged into the tank during vapor freeing procedures. To ensure and maintain proper grounding and bonding, the connections shall be tested by the contractor for continuity. This testing shall be done with equipment designed for continuity testing.
- 9) The STSS shall be on site before venting, cutting, cleaning or entry operations may proceed.
- 10) If no access exists, an opening with the minimum dimensions of 18 inches by 18 inches shall be cut in the top of the UST using non-sparking equipment in preparation for a manway. All installed manways must be accessible from surface grade by way of a non-collapsible structure.
- 11) Personal protective equipment shall be in accordance with API 1631.

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- 12) Cutting, cleaning and application of lining material shall be done in accordance with manufacturer's specifications and OSFM requirements.
 - 13) Tank owner shall file an amended Notification on OSFM forms found at www.state.il/OSFM/PetroChemSaf/Notify.pdf with OSFM within 30 days after the tank has been lined.
 - 14) For performing internal inspections, once a tank has been reclassified as a non-hazardous confined space, a positive flow of fresh air must be supplied into the tank in lieu of supplied air and continuous monitoring must be performed during the operation
- d) The following testing and records requirements shall apply to all tank lining and lining inspections activity:
- 1) It shall be the responsibility of the lining contractor to have a precision test performed within 3 days after the lining or lining inspection procedure completion and before the tank is put back into use and to submit the results to OSFM within 10 days after, or within 3 days after a failed test, on forms provided by OSFM at www.state.il/OSFM/PetroChemSaf/LiningStatementPrecisionTightnessTest.pdf and at www.state.il/OSFM/PetroChemSaf/FailedUST.pdf. This precision test shall be performed any time a UST is entered to install a manway, install a cover plate after lining, do an internal inspection of the tank, or penetrate the tank for any lining or lining inspections purpose.
 - 2) Tank owner shall file an amended notification on OSFM forms found at www.state.il/OSFM/PetroChemSaf/Notify.pdf with OSFM within 30 days after the tank has been lined.
 - 3) Lining inspections records shall be maintained for the life of the UST, and the most recent inspection record shall be kept on site pursuant to Section 175.650(e). The results and data from the lining inspection, including whether the tank passed or failed, shall be submitted to OSFM within 10 days after all lining inspections.

Section 175.510 Corrosion Protection

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

- a) Cathodic Protection. A tank may be upgraded by cathodic protection if the cathodic protection system meets the requirements of 41 Ill. Adm. Code 174 through 176, and the integrity of the tank is ensured using one of the following methods:
 - 1) To be suitable for upgrading by cathodic protection, the integrity of the tank must be ensured by one of the following methods:
 - A) For tanks installed for less than 10 years, the following requirements apply:
 - i) The tank is internally inspected and assessed to ensure that the tank is structurally sound and free of corrosion holes prior to installing the cathodic protection system;
 - ii) The tank is monitored monthly for releases using a permanent method of leak detection as approved by OSFM. Monthly inventory control, manual tank gauging and Statistical Inventory Reconciliation (SIR) do not meet this requirement;
 - iii) Two tank precision tests must be conducted that meet the requirements of OSFM precision tank tightness testing. The first precision test shall be conducted prior to the installation of the cathodic protection system. The second precision test shall be conducted between 3 and 6 months following the first operation of the installed cathodic protection system. Both tests must indicate tightness of the tanks;

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- iv) Use of alternative methods approved by OSFM. These acceptable alternative methods are indicated in subsection (a)(1)(B) for tanks that are over 10 years old.
- B) For tanks installed for more than 10 years, the following methods apply:
- i) An invasive inspection method that ensures the tank is internally inspected and assessed to ensure that the tank is structurally sound and free of corrosion holes prior to installing the cathodic system. The internal inspection procedures shall follow the requirements of NLP 631.
 - ii) An invasive remote video camera test is conducted prior to the installation of the cathodic protection system. The video system must be capable of recording a video survey of the interior surface of the tank with a suitable lighting source.
 - iii) A non-invasive tank life/corrosion model test is conducted to examine the soil environment in the immediate vicinity of the tank and the relationship of the metal UST to this environment. A statistical model is used to assess the relationship between the aggressiveness of the environment and the rate of corrosion and to predict the remaining life of the UST prior to corrosion failure. An example of a noninvasive test method is Mean Time to Corrosion Failure (MTCF).
 - iv) The tanks are assessed for corrosion holes by other methods determined by OSFM, to prevent releases in a manner that is no less protective of human health and the environment than subsections (a)(1)(B)(i), (ii) and (iii).
- 2) OSFM requires a tank integrity assessment even if both cathodic protection and interior lining systems are being installed. If the cathodic protection and interior lining are installed at the same time, only one approved integrity assessment is required. Even if both systems have

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been installed, OSFM requires routine inspection and maintenance of both systems to continue.

- 3) If one of the non-invasive methods described in this Section has been used to assess tank integrity of a tank older than 10 years, the leak detection method used on these tanks after installing the cathodic protection system may not be the monthly inventory control method, SIR, or manual tank gauging method of leak detection. Acceptable leak detection methods that can be used are as follows: automatic tank gauging, vapor monitoring, groundwater monitoring, interstitial monitoring, fiber optics or tracer elements.
- 4) USTs equipped with both interior lining and cathodic protection (sacrificial anodes or impressed current).
 - A) The following maintenance procedures shall apply:
 - i) Sacrificial anodes must be tested according to the requirements of subsection (f).
 - ii) Impressed current records of operation must be recorded every 30 days and records kept on site for 3 years. The system must be tested annually and records kept on site for 3 years.
 - iii) As of the effective date of these rules, some facilities may exist that had been previously granted an OSFM waiver for the UST lining maintenance requirements based upon original field notes from the initial lining, of an invasive method of initial tank integrity assessment verifying that there were no holes in the tank. For these systems, only the external cathodic protection system must be maintained and tested.
 - B) For those USTs where a non-invasive tank integrity assessment method was used or if there were any holes present in the tank, regular interior lining inspections must continue as described in Section 175.500.

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- b) ACT-100 Tanks Installed with Sacrificial Anodes. Owners of ACT-100 tanks meeting STI F894.01, incorporated by reference in 41 Ill. Adm. Code 174.210, and able to produce ACT-100 warranty papers may choose the steel-FRP composite design as a sole method of corrosion protection instead of maintaining the sacrificial anodes.
- c) Upgrades to Combine Internal Lining with Cathodic Protection. Until January 1, 2011, a tank may be upgraded by both internal lining and cathodic protection if:
- 1) The lining is installed in accordance with the requirements of Section 175.500; and
 - 2) The cathodic protection system meets the requirements of Section 175.400(b)(2)(B) and 175.510.
- d) Piping Corrosion Protection Requirements. All UST metal product piping that is in contact with backfill, ground or water shall be cathodically protected. All metal risers, vents and fills in contact with backfill, ground or water shall be dielectrically coated. Shrink-wrap or boots are not acceptable as a form of cathodic protection in a water environment.
- e) Wiring of all associated electrical equipment shall conform to the requirements of Section 175.425 and shall also conform to the following requirements:
- 1) All wiring that is connected to any anode of an impressed current system shall be no less than No. 10 stranded, with jacketing that is suitable for direct burial and that is petroleum or hazard resistant for the product conveyed. Such jacketing is to have a thickness sufficient to cause the wiring to have a diameter of at least $\frac{5}{16}$ inch. Systems existing prior to May 1, 2003 may remain.
 - 2) All wiring connected to any anode of a sacrificial anode system shall be suitable for direct burial and shall be resistant to petroleum and/or hazardous substances.
 - 3) All structural lead wiring of any cathodic protection system shall be suitable for direct burial and shall be petroleum and/or hazard resistant.

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- 4) For installation of cathodic protection systems to facilities existing prior to May 1, 2003, anode wiring may be placed into pavement saw-cuts, provided that the following conditions are met:
 - A) No part of the wiring is less than one inch below the finished pavement surface, and provided that the portion of the saw-cut groove above the wiring is filled with a combination of at least $\frac{3}{8}$ inch of backerrod and at least $\frac{1}{2}$ inch of self-leveling caulk suitable as a concrete filler.
 - B) Structure lead wiring of impressed current systems shall consist of at least 2 separate leads. Such leads running from the junction box or rectifier to the UST structures must be in separate saw-cuts, jumpering from one UST structure to the next. One lead shall connect to the first structure to be protected and continue on to all structures in the UST. The second lead will connect to the last structure to be protected. Such loop is to ensure that if one lead were to become cut or disconnected, the other lead would ensure the continued connection of the UST structures and the junction box or rectifier.
 - C) All wiring from anodes shall terminate and be identified (as to location per approved site plan), in strategically located junction boxes, placed in and around the protected field. This will facilitate the testing of each anode.
- 5) Beginning May 1, 2003 for installation of cathodic protection systems, all wiring running outside of manholes or sumps shall be located at least 12 inches below the finished grade and installed in conduit approved for petroleum and/or hazardous installations.
- f) Operation and Maintenance of Cathodic Protection. Owners or operators of steel USTs with corrosion protection shall comply with the following requirements to ensure that releases due to corrosion are prevented for as long as the UST is used to store regulated substances:
 - 1) All corrosion protection systems shall be operated and maintained to continuously provide corrosion protection to the metal components of that portion of the tank and piping that routinely contain regulated substances

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and are in contact with the ground, backfill or water. STI-P3 tanks are to be tested every 3 years for proper corrosion protection operation.

- 2) All USTs equipped with sacrificial anode or impressed current cathodic protection systems shall be tested and inspected for proper operation, when being put into operation, by a contractor that has successfully passed the International Code Council (ICC) certification exam module for cathodic protection. Such testing shall be in accordance with the following requirements:
 - A) Frequency. All cathodic protection systems shall be re-tested no less than 24 weeks and no more than 28 weeks from the date of installation or repairs. All sacrificial anode systems shall be tested every 3 years by a tester that meets the qualifications of this subsection (f)(2). In the event that a reading of -875 millivolts or less is recorded with testing being conducted above the structure, on any type of corrosion protection system, then annual testing will be required thereafter. In the event that upgrading of the cathodic protection system results with readings greater than -875 millivolts with readings being conducted above the structure, then testing may be conducted every 3 years, unless the 6 month test after upgrading produces a reading of -875 millivolts or less, then annual testing will be required.
 - B) Inspection Criteria. The criteria that are used to determine that cathodic protection is adequate as required by this subsection (f)(2)(B) shall be in accordance with NACE RP0285 and SP0169, incorporated by reference in 41 Ill. Adm. Code 174.210. Subject to the technical applicability of these criteria given actual site conditions, one or more of the following criteria shall apply for adequacy of cathodic protection.
 - i) A negative (cathodic) potential of at least 850 millivolts with cathodic protection applied. This potential is measured with respect to a saturated copper/copper sulfate reference electrode contacting the electrolyte.
 - ii) A minimum 100 millivolt of cathodic polarization between the structure and a saturated copper/copper sulfate

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reference electrode contacting the electrolyte. Such polarization shall be determined from the taking of a valid "instant-off" test, that, for each testing point, determines the voltage reading at the second drop in voltage following the interruption in cathodic protection being applied, and determines if the voltage reading is at least 100 millivolts higher than either the native reading or any other reading after the structure has had time to depolarize with no cathodic protection applied.

- 3) USTs with impressed current cathodic protection systems shall also be tested and inspected, prior to being put into operation and every 30 days thereafter, to ensure the equipment is running properly and the entire system must be tested annually.
- 4) For USTs using cathodic protection, records of the operation of the cathodic protection shall be maintained to demonstrate compliance with the performance standards in this Section. These records shall provide the following:
 - A) The results of testing for sacrificial anode systems, the 6-month test and annual tests must be maintained on site for 3 years;
 - B) All records from an inspection by a qualified cathodic protection tester pursuant to a 3-year cycle must be maintained for 6 years so that the results of testing from the last 2 inspections are included in the records maintained on site; and
 - C) Impressed current systems must be inspected every 30 days and reports or a log maintained that shows date of inspection, initials of inspector, hour, volt and amp readings, and power on verification. A minimum of 3 years of records shall be kept on site. Also, a corrosion contractor must check the total system annually after the date of installation and results shall be kept on site for 3 years.
- 5) Alternative methods of corrosion protection may be used if approved in writing by OSFM, provided they are no less protective of human health or the environment.

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SUBPART F: RELEASE DETECTION

Section 175.600 Owner/Operator Spill and Overfill Release Control Responsibilities

- a) Owners or operators shall ensure that releases due to spilling or overfilling do not occur. The owners or operators shall ensure that the volume available in the tank is greater than the volume of product to be transferred to the tank before the transfer is made and that the transfer operation is monitored constantly to prevent overfilling and spilling.
- b) Owners or operators shall report, investigate and clean up any spills and overfills in accordance with 41 Ill. Adm. Code 176.300 through 176.340.

Section 175.610 General Release Detection Requirements for All USTs

- a) Owners or operators of new and existing USTs shall provide a method, or combination of methods, of release detection that:
 - 1) Can detect a release from the entire tank and any portion of the connected underground piping that routinely contains product;
 - 2) Is installed, calibrated, operated and maintained in accordance with the manufacturer's instructions, including routine maintenance and service checks for operability or running condition; and
 - 3) Meets the performance requirements in Sections 175.630 and 175.640. All performance claims and the manner of determining the claims shall be described in writing by the equipment manufacturer or installer. In addition, methods used on or after December 22, 1990 (except for methods permanently installed prior to that date) shall be capable of detecting the leak rate or quantity specified for that method in Section 175.630 and 175.640 with a probability of detection of 0.95 and a probability of false alarm of 0.05. Release detection for tanks and piping permitted on or after February 1, 2008 must also meet the interstitial monitoring requirements indicated in Sections 175.400 and 175.420.
- b) All leak detection equipment must be evaluated and be listed in the NWGLDE publication "List of Leak Detection Evaluations for Storage Tank Systems", as

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referenced in 41 Ill. Adm. Code 174.210, or, may be utilized if approved by OSFM.

- c) When a release detection method operated in accordance with the performance standards in Sections 175.630 and 175.640 indicates a release may have occurred, owners or operators shall notify the Illinois Emergency Management Agency in accordance with 41 Ill. Adm. Code 176.300 through 176.320.
- d) All leak detection equipment installed on a UST, whether required or not, shall be maintained.

Section 175.620 Release Detection Requirements for Hazardous Substance USTs

- a) Owners or operators of hazardous substance USTs, permitted prior to February 1, 2008, shall provide release detection that complies with Section 175.610 and 40 CFR 280.42, and shall be designed, constructed and installed to contain regulated substances released from the tank system until they are detected and removed, prevent the release of regulated substances to the environment at any time during the operational life of the UST, and be checked at least every 30 days for evidence of a release. Underground piping shall be equipped with secondary containment as allowed under subsections (a) and (b) and, if under pressure, be equipped with both an automatic line leak detector and interstitial monitoring meeting the requirements of Sections 175.640(a) and 175.630(g) and 40 CFR 280.
- b) The following existing systems installed before February 1, 2008 are allowed:
 - 1) Secondary containment systems with interstitial monitoring capable of detecting a failure from the inner and outer wall.
 - 2) Double-wall tanks which are able to detect the failure of the inner or outer wall.
 - 3) External liners (including vaults) that meet the requirements of 40 CFR 280.42.
 - 4) Other methods of release detection may be used if owners or operators:
 - A) Demonstrate to OSFM that an alternate method can detect a release of the stored substance as effectively as the method

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allowed in Section 175.630(g); written approval is required from OSFM to use the alternate release detection method before it can be used; and

- B) Provide written information to OSFM on effective corrective action technologies, health risks and chemical and physical properties of the stored substance, and the characteristics of the UST site.
- c) Hazardous substance USTs permitted on or after February 1, 2008 shall be double-wall and shall have interstitial monitoring in compliance with Section 175.630(g). All pressurized piping shall have automatic line leak detectors. Hazardous substance USTs shall not be permitted unless all UST components are listed by a nationally recognized independent third party organization as compatible with the product being stored.

Section 175.630 Methods of and Requirements for Release Detection for Tanks

Owners and operators of petroleum USTs shall provide release detection on tanks. Only one approved method of primary release detection is required for each tank although multiple methods are acceptable. If present, secondary release detection systems must be maintained. No method of release detection shall be used unless that method has been approved by OSFM. USTs must be monitored at least every 30 days for releases using one or more of the methods listed below:

- a) Monthly inventory control
 - 1) Product inventory control (or another test of equivalent performance) shall be conducted monthly to detect a release of at least 1.0 percent of the flow-through plus 130 gallons on a monthly basis in the following manner:
 - A) Inventory volume measurements for regulated substance inputs, withdrawals and the amount still remaining in the tank are recorded each operating day;
 - B) The equipment used is capable of measuring the level of product over the full range of the tank's height to the nearest $\frac{1}{8}$ inch;

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- C) The regulated substance inputs are reconciled with delivery receipts by measurement of the tank inventory volume before and after delivery;
 - D) Deliveries are made through a drop tube that extends to within 6 inches of the tank bottom;
 - E) Product dispensing is metered and recorded pursuant to Section 8 of the Weights and Measures Act [225 ILCS 470/8];
 - F) The measurement of any water level in the bottom of the tank is made to the nearest $\frac{1}{8}$ inch at least once a month;
 - G) All personnel involved in performing inventory control measurements, recordkeeping and related performance must be knowledgeable in that performance and activities;
 - H) Monthly inventory control records for the previous 3 years must be kept on site or available within 30 minutes;
 - I) This method can only be used for a period of 10 years after the date cathodic protection was first installed on the tank. A precision tank test must be performed at 5 years and 10 years and these records kept on site for 10 years. At the 10-year point, another form of leak detection is required;
 - J) No USTs installed after May 1, 2003 will be allowed to use this method.
 - K) Inventory control may not be used on systems with blending pumps or siphon tanks.
- 2) Monthly inventory control cannot be used as a method of release detection for any tank that, after passing only a noninvasive tank integrity assessment, was upgraded using the cathodic protection method.
- b) Manual tank gauging.

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- 1) Only tanks of 600 gallons or less nominal capacity may use the method described in this subsection as the sole method of release detection. Tanks over 2,000 gallons may not use this method of release detection. All owners or operators using manual tank gauging methods must conduct a monthly reconciliation and maintain those reconciliation records. The requirements for this type of release detection shall adhere to requirements listed in this subsection for the specific tank sizes noted:

Requirements

Nominal tank capacity	Whether use of manual tank gauging for release detection is allowed	Time limit on use of manual tank gauging for release detection
600 gallons or less	Allowed as sole method of release detection	Allowed indefinitely
601-2,000 gallons	Only in combination with annual tank precision testing	Only for the first 10 years after the date cathodic protection was first installed
Over 2,000 gallons	Not allowed even in combination with annual tank precision testing	Never allowed

- 2) Standards

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

Standards

Nominal tank capacity	Weekly standard (one test)	Monthly standard (average of four tests taken once weekly over a 4-week period)

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600 gallons or less	10 gallons	5 gallons
601-1,000 gallons	13 gallons	7 gallons
1,001-2,000 gallons	26 gallons	13 gallons

- B) A leak is suspected and subject to the requirements of 41 Ill. Adm. Code 176.300 through 176.350 if the variation between beginning and ending measurements exceeds the weekly or monthly standards as listed in this subsection (b). Weekly inventory records, monthly reconciliation records, annual tightness test results, and related records shall be maintained for 3 years in order to continue to be eligible to continue to use manual tank gauging.
- 3) Manual tank gauging shall also meet the following requirements:
- A) Tank liquid level measurements are taken at the beginning and ending of a period of at least 36 hours during which no liquid is added to or removed from the tank;
 - B) Level measurements are based on an average of two consecutive stick readings at both the beginning and ending of the period;
 - C) The equipment used is capable of measuring the level of product over the full range of the tank's height to the nearest $\frac{1}{8}$ inch;
 - D) The measurement of any water level in the bottom of the tank is made to the nearest $\frac{1}{8}$ inch at least once a month; and
 - E) All personnel involved in performing manual tank gauging measurements, recordkeeping and related performance must be knowledgeable in that performance and activities.
- 4) Manual tank gauging cannot be used as a method of release detection for any tank that, after passing only a noninvasive tank integrity assessment, was upgraded using the cathodic protection method.
- 5) This method will not be allowed for tanks 601 to 2,000 gallons after May 1, 2003, except that, for those tanks for which this method was being used

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on May 1, 2003, the method may be used until the 10-year allowance expires.

- c) In conjunction with monthly inventory control or manual tank gauging, precision tank tightness testing, as approved by OSFM (not a stand-alone method of release detection).
 - 1) Tank tightness testing (or another test of equivalent performance) shall be capable of detecting a 0.1 gallon per hour leak rate from any portion of the tank that routinely contains product while accounting for the effects of thermal expansion or contraction of the product, vapor pockets, tank deformation, evaporation or condensation, and the location of the water table. There are four types of precision testing:
 - A) 100 percent volumetric overfill;
 - B) Volumetric underfill with an approved ullage test of negative pressure or inert gas as approved by OSFM;
 - C) A negative pressure; or
 - D) Other approved methods, in accordance with subsection (i).
 - 2) In the case of a suspected release, tracer elements and automatic tank gauging (ATG) are not an approved method of precision tank testing.
- d) Automatic Tank Gauging (ATG). ATG equipment that tests for the loss of product and conducts inventory control shall meet the following requirements:
 - 1) The automatic product level monitor test can detect a 0.2 gallon per hour leak rate from any portion of the tank that routinely contains product;
 - 2) The ATG must be installed, calibrated and in compliance with the protocol of the third party evaluation;
 - 3) Beginning May 1, 2003, all new or replacement ATG monitors shall be mounted no more than 6 feet from the floor and must remain unobstructed and accessible;

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- 4) All ATG systems must be equipped with printers. If a system has to be retrofitted, a permit will be required. Systems with remote printers will be accepted.
- e) Vapor monitoring. Testing or monitoring for vapors within the soil gas of the excavation zone shall meet the following requirements:
- 1) The materials used as a backfill are sufficiently porous (e.g., gravel, sand or crushed rock) to readily allow diffusion of vapor from releases into the excavation area;
 - 2) The stored regulated substance or a tracer compound placed in the tank system is sufficiently volatile (e.g., gasoline) to result in a vapor level that is detectable by the monitoring devices located in the excavation zone in the event of a release from the tank;
 - 3) The measurement of vapors by the monitoring device is not rendered inoperative by groundwater, rainfall, soil moisture or other known interferences so that a release could go undetected for more than 30 days;
 - 4) The level of background contamination in the excavation zone will not interfere with the method used to detect releases from the tank;
 - 5) The vapor monitors are designed and operated to detect any significant increase in concentration above the background of the regulated substance stored in the tank system, a component or components of that substance, or a tracer compound placed in the tank system; vapor monitor sensors must be permanently installed in the vapor monitor wells; a monthly inspection of the vapor monitoring system must be made and a log maintained showing the date of inspection, results and initials of the party doing the inspection; all vapor sensors must be tested for functionality at least once every 3 years;
 - 6) In the UST excavation zone, the site is assessed to ensure compliance with the requirements in subsections (e)(1) through (4) and to establish the number and positioning of monitoring wells that will detect releases within the excavation zone from any portion of the tank that routinely contains product;

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- 7) Monitoring wells are clearly marked and secured to avoid unauthorized access and tampering;
 - 8) Vapor monitoring wells shall be of sufficient design to allow vapors to be detected from any portion of the tank being monitored and shall be a minimum of 4 inches in diameter or as approved by the OSFM on the applicable permit; and
 - 9) An adequate number of vapor monitoring wells shall be provided to ensure that a release can be detected from any portion of the tank. Adequacy of the wells is subject to approval of OSFM on the applicable permit.
- f) Groundwater monitoring. Testing or monitoring for liquids on the groundwater shall meet the following requirements:
- 1) The regulated substance stored is immiscible in water and has a specific gravity of less than one;
 - 2) Groundwater is never more than 20 feet from the ground surface, the hydraulic conductivity of the soil between the UST and the monitoring wells or devices is not less than 0.01 cm/sec (e.g., the soil should consist of gravels, coarse to medium sands, coarse silts or other permeable materials), and groundwater shall be present in the groundwater monitoring wells at all times;
 - 3) The slotted or perforated portion of the monitoring well casing shall be designed to prevent migration of natural soils or filter pack into the well and to allow entry of regulated substance on the water table into the well under both high and low groundwater conditions;
 - 4) Groundwater monitoring wells shall be sealed from the ground surface to the top of the filter pack;
 - 5) Monitoring wells or devices intercept the excavation zone or are as close to it as is technically feasible;

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- 6) The continuous monitoring devices or manual methods used can detect the presence of at least $\frac{1}{8}$ inch of free product on top of the groundwater in the monitoring wells.
 - A) The continuous monitoring devices must be fixed sensors mounted permanently inside the well or samples must be taken by a mechanical bailer capable of detecting the presence of at least $\frac{1}{8}$ inch of free product on top of the groundwater in the monitoring wells.
 - B) Groundwater monitoring must be done monthly and a log of the inspection made showing the date of the inspection, initials of the person conducting the inspection, and results of the well sampling;
 - 7) Within and immediately below the UST excavation zone, the site is assessed to ensure compliance with the requirements in subsections (f)(1) through (5) and to establish the number and positioning of monitoring wells or devices that will detect releases from any portion of the tank that routinely contains product;
 - 8) Monitoring wells are clearly marked and secured to avoid unauthorized access and tampering;
 - 9) As of the effective date of these rules, the minimum diameter of newly installed groundwater monitoring wells shall be 8 inches; and
 - 10) An adequate number of groundwater monitoring wells shall be provided to ensure that a release can be detected from any portion of the tank based upon the direction of groundwater flow and the tank placement. Adequacy of the wells is subject to approval of OSFM on the applicable permit. Beginning May 1, 2003, an adequate number of monitoring wells shall require a minimum of two 8-inch diameter monitoring wells for the first tank and 1 additional well for each additional tank installed. The wells will be of manufactured slotted or perforated type. They shall be at opposite ends and corners, one foot below the invert elevations of the lowest UST.
- g) Interstitial monitoring. Interstitial monitoring between the UST and a secondary barrier immediately around or beneath it, or interstitial monitoring as required by Sections 175.400(a) and 175.420(b) and meeting the requirements of this Section,

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may be used but only if the system is designed, constructed and installed to detect a leak from any portion of the tank that routinely contains product. All tanks permitted on or after February 1, 2008 must be equipped with interstitial monitoring sensors. When required to make tank or piping interstitial monitoring functional, the appropriate containment (e.g., under-dispenser containment, tank containment sumps or junction sumps) shall be installed. All existing interstitial monitoring systems and sensors shall be maintained and, beginning September 8, 2008, may not be removed irrespective of whether the leak detection is secondary or redundant to other forms of leak detection. If the interstitial monitoring is not functional or not operating properly it shall promptly be repaired or replaced and any necessary measures to prevent false positive and false negative readings shall be implemented.

- 1) Interstitial monitoring must also meet one of the following requirements:
 - A) For double-wall USTs, the sampling or testing method can detect a release through the inner wall in any portion of the tank that routinely contains product;
 - B) For USTs existing prior to February 1, 2008 and with a secondary barrier within the excavation zone, the sampling or testing method used can detect a release between the underground storage tank system and the secondary barrier.
 - i) The secondary barrier around or beneath the UST consists of artificially constructed material that is sufficiently thick and impermeable (not in excess of 0.000001 cm/sec for the regulated substance stored) to direct a release to the monitoring point and permit its detection;
 - ii) The barrier is compatible with the regulated substance stored so that a release from the UST will not cause a deterioration of the barrier allowing a release to pass through undetected;
 - iii) For cathodically protected tanks, the secondary barrier shall be installed so that it does not interfere with the proper operation of the cathodic protection system;

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- iv) The groundwater, soil moisture or rainfall will not render the testing or sampling method used inoperative so that a release could go undetected for more than 30 days;
 - v) The site is assessed to ensure that the secondary barrier is always above the groundwater and not in a 25-year flood plain unless the barrier and monitoring designs are for use under those conditions;
 - vi) Monitoring wells are clearly marked and secured to avoid unauthorized access and tampering; and
 - vii) An adequate number of monitoring wells shall be provided to ensure that a release can be detected from any portion of the tank. Adequacy of the number of the wells is subject to the approval of OSFM.
- C) For tanks with an internally fitted liner, an automated device can detect a release between the inner wall of the tank and the liner, and the liner is compatible with the substance stored.
- 2) The interstitial monitoring system must be tested every year to verify its operation and records from the previous test must be kept on-site, or available within 30 minutes. Testing of the system sensors shall be done in such a way as to verify their function but not damage the sensors. This testing shall be done by a licensed contractor. Interstitial monitoring must also comply with the requirements of Section 175.640.
- 3) The operability of the interstitial monitoring sensors shall be inspected and verified by the owner/operator every 30 days. Pursuant to Section 175.650(e), records for the previous 3 years must be kept on-site or available within 30 minutes.
- h) Statistical Inventory Reconciliation (SIR).
- 1) The company that uses this method shall provide OSFM a written affirmation that their data collection staff is trained in the data gathering procedures and that only trained staff will be utilized for data collection.

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Each tank monitored by SIR shall be identified to OSFM in writing within 30 days after the commencement of the monitoring, specifying tank size, product stored, facility location and any other pertinent identification information necessary. SIR data shall be compiled and analyzed once each month to determine if a release has occurred, and the results put into a monthly report that is maintained by the facility.

- 2) SIR methods may only be used in conjunction with precision tank tightness testing conducted annually, starting with the time that SIR is first used. An additional precision tank tightness test pursuant to subsection (c) shall be mandatory if any data analysis indicates a possible release or is inconclusive or indeterminate, or for any test result other than a pass.
 - 3) The measurement of any water level in the bottom of the tank is made to the nearest $\frac{1}{8}$ inch at least once a month.
 - 4) New requests to use SIR after May 1, 2003 will no longer be accepted. If SIR is discontinued on a UST, SIR will not be allowed again.
 - 5) After January 1, 2006, SIR may not be used on systems with blending pumps or siphon tanks.
- i) Other methods. Any other type of release detection method or combination of methods, approved by OSFM, may be used if the owner or operator can demonstrate that the method can detect a release as effectively as any of the methods allowed in subsections (c) through (g). Demonstration of any such method shall be in writing submitted to OSFM. In comparing methods, OSFM shall consider the size of release that the method can detect and the frequency and reliability with which it can be detected. If the method is approved, the owner or operator shall comply with any conditions imposed by OSFM on its use to ensure the protection of human health or the environment. Before the utilization of the method, OSFM shall issue written approval.
 - j) One copy of each independent third-party evaluation and its protocol, for the release detection methods in subsections (c), (d), (e), (g), (h) and (i), shall be submitted to OSFM as part of the permit application process. Any deviation from the third-party evaluation shall be submitted to OSFM for approval with the permit application, including, but not limited to, an evaluation by a licensed professional engineer finding that the release detection system as installed meets the

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performance requirements of 40 CFR 280 and this Part and the performance claims established by the independent third party evaluation and its protocol. For requirements regarding listing of components used with alternative or blended fuels, see Section 175.415.

Section 175.640 Methods of and Requirements for Release Detection for Piping

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

- a) Pressurized piping systems shall comply with the following requirements:
 - 1) Both new and existing pressurized piping installations shall be equipped with automatic line leak detectors.
 - 2) Every pressurized piping line installed after February 1, 2008 shall be equipped with interstitial monitoring sensors at all piping sumps, dispenser sumps, and piping junction sumps. As of the effective date of this Part, these sensors must immediately shut off the submersible pump supplying that line upon detection of a release. Pursuant to Section 175.630(g), testing of interstitial monitoring sensors shall be conducted annually, and the sensors inspected for operability at least once per month and a record of the inspection results generated.
 - 3) All new and existing sump sensors must be installed so as to detect liquid below the lowest contained entry point.
 - 4) Mechanical and electronic line leak detectors that alert the operator to the presence of a leak by restricting or shutting off the flow of regulated substances through piping or triggering an audible or visual alarm may be used only if they detect leaks of 3 gallons per hour at 10 pounds per square inch line pressure within one hour. All line leak detectors must have a functionality test performed annually.
 - 5) In addition to utilizing automatic line leak detectors, pressurized piping systems shall utilize either line tightness testing pursuant to this subsection (a)(5) or monthly monitoring pursuant to subsection (c) of this Section. Line tightness testing requirements may be met by one of the following methods:

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- A) Pressurized lines must have an annual precision test that is capable of detecting a 0.1 gallon per hour leak rate at 1.5 times the operating pressure for 30 minutes. Use of an inert gas to pressurize piping is also acceptable. Use of air to pressurize piping that contains product is prohibited.
 - B) The use of electronic line leak detection that is able to detect a 0.1 gallon per hour leak at 1.5 times the operating pressure in an annual test of the line, with the records of the 3 most recent annual tests kept on site or available within 30 minutes.
 - C) A method meeting the requirements of the NWGLDE publication "List of Leak Detection Evaluations for Storage Tank Systems", as referenced in 41 Ill. Adm. Code 174.210, or, if unavailable, as approved by OSFM.
- b) Suction lines and systems must comply with the following requirements:
- 1) American suction.
 - A) For all permit applications received as of the effective date of these rules, every American suction piping line shall be equipped with interstitial monitoring sensors at all piping sumps, dispenser sumps and piping junction sumps that will immediately shut off the supply of product at the dispenser upon the detection of a release. Testing of interstitial monitoring sensors shall be conducted annually pursuant to the requirements of Section 175.630(g). All interstitial monitoring sensors shall be inspected for operability at least once per month and a record of the inspection results generated.
 - B) All American suction lines shall be tested annually using positive pressure of at least 7 psi for 30 minutes, or, using a monthly monitoring method as approved by OSFM.
 - 2) European suction lines do not require line leak detection or a precision line test if they are designed and constructed to meet the following:

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- A) The below grade piping operates at less than atmospheric pressure;
 - B) The below grade piping is sloped so that the contents of the pipe will drain back into the storage tank if the suction is released;
 - C) Only 1 check valve is included in each suction line;
 - D) The check valve is located directly below and as close as practical to the suction pump; and
 - E) A method is provided that allows compliance with subsections (b)(2)(B), (C) and (D) to be readily determined as of the time of OSFM inspection.
- 3) Suction systems that do not meet the requirements of subsections (b)(2)(A) through (E) shall be classified as American suction and subject to the requirements of this subsection (b). European suction piping meeting the requirements of subsections (b)(2)(A) through (E) remains subject to requirements for under-dispenser containment pursuant to Section 175.410.
- c) Any of the methods in Section 175.630(e) through (g) and (i) may be used if they are designed to detect a release from any portion of the underground piping that routinely contains regulated substances, as approved by OSFM. SIR is not acceptable as a form of line leak detection. Precision testing is not a stand-alone method for line leak detection.
 - d) Existing interstitial monitoring systems and sensors shall be maintained and, beginning September 8, 2008, may not be removed irrespective of whether the leak detection is secondary or redundant to other forms of leak detection. If the interstitial monitoring is not functional or not operating properly it shall promptly be repaired or replaced and any necessary measures to prevent false positive and false negative readings shall be implemented.
 - e) One copy of an independent third-party evaluation and its protocol for each piping release detection method shall be submitted to OSFM as part of the permit application process. Any deviation from the third-party evaluation shall be submitted to OSFM for approval with the permit application, including but not limited to an evaluation by a licensed professional engineer finding that the

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release detection system as installed meets the performance requirements of 40 CFR 280 and this Part and the performance claims established by the independent third-party evaluation and its protocol. See also Section 175.415 regarding compatibility with product stored.

Section 175.650 Release Detection and Cathodic Protection Recordkeeping

UST owners or operators shall maintain records in accordance with 41 Ill. Adm. Code 176.430, demonstrating compliance with all applicable Sections of this Subpart F. Unless stated otherwise below, all records shall be maintained for at least the 3 most recent years and shall be kept on site or available within 30 minutes or less via fax, email or other transfer of information. The failure to maintain or produce the records required under this Section may result in OSFM's issuance of a red tag for the tank or tanks at issue pursuant to 41 Ill. Adm. Code 177 indicating non-compliance with the rules of OSFM and prohibiting any further deposit of regulated substances into the tank or tanks subject to a red tag. These records shall include the following:

- a) All written performance claims pertaining to any release detection system used and the manner in which these claims have been justified or tested by the equipment manufacturer or installer, shall be maintained for 5 years from the date of installation;
- b) The results of any sampling, testing or monitoring conducted or otherwise required shall be maintained for the required 3-year period, except that the results of tank tightness testing conducted in accordance with Section 175.630(c) shall be retained until the next test is conducted;
- c) Written documentation of all calibration, maintenance and repair of release detection equipment permanently located on-site shall be maintained for the required 3-year period after the servicing work is completed. Any schedules of required calibration and maintenance provided by the release detection equipment manufacturer shall be retained for 5 years from the date of installation;
- d) All records from an inspection by a qualified cathodic protection tester pursuant to a 3-year cycle must be maintained for 6 years so that the results of testing from the last 2 inspections are included in the records maintained on site; and
- e) At the time of a compliance inspection/audit, the following shall be verified:
 - 1) Corrosion Protection

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- A) Lining inspections records shall be maintained for the life of the UST, and the most recent inspection record shall be kept on site pursuant to Section 175.650(e).
 - B) All corrosion protection records must be maintained.
- 2) Tank Leak Detection
- A) Manual Tank Gauging. Weekly inventory records, monthly reconciliation records, annual tightness test results, and related records shall be maintained.
 - B) Interstitial Monitoring. Records of interstitial monitoring of tanks and testing of interstitial monitoring systems must be maintained. The records can be from an ATG system showing the interstitial monitor's status (pass/normal/other) on a print out tape or by maintaining a log showing date of inspection, initials of inspector and status of system (pass/normal/other).
 - C) Inventory Control. Pursuant to Section 175.630(a), a precision tank tightness test must be performed at 5 years and 10 years after corrosion protection installation and prior to changing leak detection methods. Daily inventory control records and monthly reconciliation records (minimum 3 years worth) and tightness test records are to be maintained for the 5 most recent years.
 - D) Automatic Tank Gauge. A print out tape of the tank leak test showing 1 pass per tank per month must be kept. If no tape is available from the unit, a log showing date, initials of person conducting the test and leak results shall be maintained.
 - E) SIR. Annual tank tightness test results and monthly SIR monitoring reports shall be maintained. At the commencement of SIR monitoring, a lag time of 60 days is allowed for the compilation of data and the generation of the monthly report for that data.

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- F) Vapor and Groundwater Monitoring. A monthly record must be taken on a log showing date of each monthly inspection, results/status (pass or fail), and the initials of the party doing the inspection for each vapor monitoring sensor or groundwater monitoring well with records maintained.
- 3) Line Leak Detection
 - A) Unless otherwise indicated herein, all line leak detection records, including any required line tightness testing results, shall be maintained.
 - B) Interstitial monitoring records for lines shall comply with the same requirements and be maintained in the same manner as interstitial monitoring for tanks.

SUBPART G: REPAIRS TO UNDERGROUND STORAGE TANKS
AND DEFECTIVE EQUIPMENT**Section 175.700 Repairs Allowed**

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

- a) Repairs to USTs shall be properly conducted in accordance with manufacturer's recommended procedures and 41 Ill. Adm. Code 174 through 176. For repairs involving tank penetration or tank entry, the vapor freeing and inerting procedures and related requirements of Sections 175.500(a) and (c) and 175.830(a) shall be followed.
- b) Repairs to fiberglass-reinforced plastic tanks shall be made by the manufacturer's authorized representative or a representative of any fiberglass tank manufacturer in accordance with NLP 631, incorporated by reference in 41 Ill. Adm. Code 174.210.
- c) Metal pipe sections and fittings that have released product as a result of corrosion or other damage shall be replaced. The entire pipe run shall be replaced upon

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finding a second corrosion-related piping leak in the wall of the same pipe run. Fiberglass pipes and fittings may be repaired in accordance with the manufacturer's specifications. All repairs shall comply with the requirements of Section 175.420.

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

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Section 175.710 Emergency Repairs

- a) An emergency consists of a defect in a UST that is causing or threatens to cause harm to human health or the environment, or presents a threat to fire safety, and contact of the regulated substance with the defect cannot be prevented. In the event of a release, release reporting, investigation and initial response shall be conducted pursuant to 41 Ill. Adm. Code 174, 175 and 176. All emergency repairs require a permit applied for after-the-fact on the next business day and require a final inspection scheduled pursuant to Section 175.320 within 10 days after issuance of the permit.
- b) If minor or temporary repairs are required to correct the defect, only the defective area can be repaired.
- c) Economic loss or the threat of economic loss does not constitute an emergency.
- d) Minor or temporary repairs, as a result of an emergency, to tanks or piping may begin on weekends, holidays and after business hours, when the repairs would otherwise require a permit prior to being performed. Permit applications are required for this UST activity and shall be submitted to OSFM after-the-fact, on the next business day. All repairs shall be inspected and tested prior to the repaired UST being put back into operation, unless otherwise directed by OSFM.
- e) When the emergency prompting the need for repairs occurs on a business day, the contractor shall contact OSFM and obtain authorization to proceed with the emergency repair. After obtaining authorization, the contractor shall fax a statement to OSFM indicating what facility and what specific repair is being requested.
- f) Repairs completed in violation of 41 Ill. Adm. Code 172, 174, 175, 176 and 177 may be required to be removed, exposed or replaced at the discretion of OSFM.

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

- a) Pursuant to Section 6 of the Gasoline Storage Act [430 ILCS 15/6], whenever necessary or appropriate to assure that the public health or safety is not threatened, OSFM shall have the authority to undertake emergency action

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whenever there is a release or substantial threat of a release of petroleum or regulated substances from a UST.

- b) Failed precision tank or line tests and defective tank or piping leak detection equipment will require that particular tank system to be shut down until repaired and functioning properly. Another approved method of leak detection may be implemented if approved by OSFM on an interim basis.

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

Section 175.800 Removal or Change-in-Service Records

Owners or operators shall maintain records in accordance with 41 Ill. Adm. Code 176.430 that are capable of demonstrating compliance with removal or change-in-service requirements under all applicable Sections of this Subpart H. The results of the excavation zone assessment required in 41 Ill. Adm. Code 176.350 shall be maintained for the time period specified in 41 Ill. Adm. Code 176.320 following completion of a removal or change-in-service in one of the following ways:

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

Section 175.810 Temporary Closure

- a) USTs may be put into a temporary closure status provided they meet the performance standards for new UST systems or the upgrading requirements specified in 41 Ill. Adm. Code 174 through 176 and 40 CFR 280, except that spill and overfill prevention equipment requirements do not have to be met. The USTs may continue in a temporary closure status for a period of 5 years from the date of last use provided they meet the following requirements:
 - 1) The tank and product lines shall be emptied immediately upon placing the UST in a temporary closure status, with no more than one inch of product remaining in the tank. Any UST placed in a temporary closure status, formerly known as out of service status, prior to the effective date of this

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Part and containing more than one inch of product may be allowed to continue in temporary closure status as long as release detection is maintained during its remaining temporary closure period.

- 2) Cathodic protection shall be maintained and operational for all tanks and lines, and tested as required, to include flex/pipe connectors. This will include any monthly logs that need to be maintained.
- 3) OSFM must receive a written request, within 30 days after the date the tank was last used, requesting temporary closure status. The request shall be submitted on forms provided by OSFM at www.state.il.gov/OSFM/PetroChemSaf/Notify.pdf.
- 4) Vent lines shall be left open and functioning.
- 5) Within 7 days, the owner/operator shall cap and secure all product lines and secure all pumps, manways and ancillary equipment.
- 6) A UST may be put back in operation any time during the first 12 months, without meeting the requirements of subsection (b), subject to the requirement that OSFM be notified in writing on OSFM forms at www.state.il.gov/OSFM/PetroChemSaf/Notify.pdf at least 10 days prior to operation.
- 7) If there is no ongoing incident cleanup related to the tanks that are the subject of the temporary closure request, a site assessment using the procedures of 41 Ill. Adm. Code 176.320 shall be conducted prior to bringing the UST back into service, and a report shall be submitted to OSFM.
- 8) The owner/operator shall inspect the UST for compliance with the temporary closure requirements of this subsection (a) every 6 months, and for each inspection, the owner/operator shall attest, under penalty of perjury and on a form provided by OSFM at www.state.il.us/osfm/PetroChemSaf/home.htm, under "downloadable applications", that the UST is in compliance with the temporary closure requirements of this subsection (a).

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- b) Failure to maintain corrosion protection at any point during the remaining 4-year temporary closure period referenced in subsection (c) shall require the removal of the tanks. Failure to maintain release detection on any UST placed in a temporary closure status, formerly known as an out of service status, prior to the effective date of this Part and containing more than one inch of product shall require the owner/operator to provide OSFM with a site assessment and passing results for tank and line precision testing within 30 days after issuance of an NOV in order for the tanks to remain in a temporary closure status. Immediately after tank and line testing the tanks shall be emptied to one inch or less. Release detection is not required as long as no more than 2.5 centimeters (one inch) of product remains in the UST.
- c) Systems that have been out of use for over one year but less than 5 years may be put back in service provided that the following additional requirements are met:
 - 1) Tanks and lines shall be precision tested and proven sufficient.
 - 2) Tank and line release detection is tested and proven operational.
 - 3) Cathodic protection is tested and proven sufficient.
 - 4) A site assessment is conducted prior to bringing the UST back into service.
 - 5) All tests referenced in subsections (c)(1) through (c)(3) must be performed not more than 90 days and not less than 30 days before placing the tank back in service and submitted to OSFM at least 10 days prior to reopening so that a certification audit can be performed.
- d) Single-wall USTs over 30 years old that have been in temporary closure, formerly known as out-of-service, more than one year shall be removed rather than placed back into service.
- e) If a UST is not placed back into service within 5 years from the date of last use, the tank system shall be removed within 60 days after the conclusion of the 5-year period.

Section 175.820 Change-in-Service of USTs

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- a) From a Regulated Substance to a Non-Regulated Substance. Continued use of a UST to store a non-regulated substance (so that it is no longer classified as a UST) is considered a change-in-service. Before a change-in-service, owners or operators shall empty and clean the tank by removing all liquid and accumulated sludge and conduct a site assessment. The minimum requirements for the site assessment will be the procedures and requirements of 41 Ill. Adm. Code 176.320. However, a change-in-service may only occur during the first two years, commencing with the date of installation of the tank. A tank system classified as a UST may not be re-classified as being a non-UST unless there has been a change-in-service as provided in this Section.
- b) From a Regulated Substance to a Regulated Substance. A change-in-service also consists of a conversion of a petroleum UST to a non-compatible petroleum UST or a hazardous substance UST to a non-compatible hazardous substance UST or a petroleum UST to a hazardous substance UST and vice versa. Before a change-in-service, owners or operators shall empty and clean the tank by removing all liquid and accumulated sludge in accordance with the requirements of Sections 175.500(a) and (c) and 175.830(a), including API 2015, incorporated by reference in 41 Ill. Adm. Code 174.210. The owner or operator shall verify that the UST meets the requirements of a hazardous material system if being changed over to a hazardous material substance, including requirements for secondary containment with interstitial monitoring after December 22, 1998. (See Section 175.415(c) and (d) regarding when an existing UST is converted to a blended or alternative fuel.)
- c) From a Non-Regulated Substance to a Regulated Substance. A non-UST, which is used to store a non-regulated substance, may not be converted to a UST unless the tank has been re-certified and is in compliance with all applicable upgrade requirements for newly installed USTs. A waste oil tank that is supplying fuel to a waste oil furnace and is taken out of service shall be no longer classified as a heating oil tank. If the tank does not meet all upgrade requirements for release detection, spill, overfill and corrosion protection, the tank shall be removed.
- d) Cleaning of tanks for any change-in-service shall require compliance with the vapor freeing and inerting procedures and related requirements of Sections 175.500(a) and (c) and 175.830(a) including compliance with API 2015. In addition, the equipment must be compatible with the product being stored and notification of change-in-service must be provided on OSFM forms at

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www.state.il/OSFM/PetroChemSaf/Notify.pdf to OSFM not less than 30 days prior to the change-in-service.

Section 175.830 Removal of USTs

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

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

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- 15) Protective Equipment and Tank Cleaning Requirements
 - A) Personal protection requirements for tank cleaning personnel shall, at a minimum, include the following;
 - i) supplied air with full face mask;
 - ii) level B personal protective equipment with body harness and tag line;
 - iii) protective booties;
 - iv) continual monitoring of LEL and oxygen during cleaning;
 - v) attendant/observer;
 - vi) positive flow of fresh air supplied during all cleaning operations.
 - B) Requirements in subsection (a)(15)(A) shall not apply in the event that no physical entry is made into the tank.
- 16) Any UST removed from the excavation zone shall be properly cleaned on site the day of the removal and removed from the site within 24 hours.
- 17) Tanks larger than 2,000 gallons in capacity shall have holes or openings no less than 3 feet x 3 feet, one on each end or side, for cleaning. Tanks less than 2,000 gallons capacity shall have one entire side removed from end to end and shall be no less than 3 feet wide.
- 18) The use of spark producing/non-explosion proof equipment is prohibited in the vapor hazard area prior to attaining the LEL/oxygen levels required in subsection (a)(9).
- 19) The tank owner must file an amended Notification of Underground Tanks on forms provided by OSFM at www.state.il/OSFM/PetroChemSaf/Notify.pdf with OSFM within 30 days after the tank removal.

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- 20) If an STSS has observed evidence of a release, the owner, operator or designated representative of the UST must notify the Illinois Emergency Management Agency. This is to be done at the site immediately following the field determination and the incident number shall be given to the STSS prior to his/her leaving the site.
 - 21) All tank removals require a site assessment pursuant to 41 Ill. Adm. Code 176.320.
 - 22) Any tank being removed without an OSFM permit will be required to be put back in the excavation if it has not been removed from the site and covered with backfill until a permit and licensed contractor can remove it properly.
- b) Disposal of Tanks:
- 1) If a tank is to be scrapped as junk, it shall be retested for combustible or flammable vapors and, if necessary, rendered gas free.
 - 2) If the tank last contained leaded gasoline, an unknown petroleum product or a hazardous substance, it may only be scrapped or junked, recertified, or discarded at a special waste or hazardous waste landfill as designated by Illinois EPA regulations. If tanks are being re-certified, the contractor must give written notice to the OSFM on the removal permit as to the intent to re-certify and re-use the tanks being removed. The re-certified tank must be re-installed within 6 months from removal.
 - 3) Removed tanks may not be reused for any purpose other than those allowed by OSFM rules (proper disposal at an approved landfill, scrapped or junked after proper cleaning, or recertified pursuant to OSFM rules).
 - 4) Compliance with this subsection (b) is the responsibility of the contractor.

Section 175.840 Abandonment-in-Place

- a) No tank or piping may be abandoned-in-place unless the permit applicant demonstrates eligibility for a waiver of the removal requirement for the tank and/or piping. The waiver shall be granted only in the following instances:

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- 1) where it would be infeasible to remove the UST due to loss of adjacent or subjacent support of nearby structures, such as railroad tracks, streets (as defined in Section 1-201 of the Illinois Vehicle Code [625 ILCS 5/1-201]), and other USTs;
 - 2) removal is infeasible because of inaccessibility, as determined by OSFM;
or
 - 3) in unusual situations where removal is infeasible due to other reasons, as determined by OSFM.
- b) In the event there is a delegation of authority to the City of Chicago to enforce UST rules and regulations, pursuant to the Gasoline Storage Act [430 ILCS 15/2], subject to the terms of such agreement, the City has the authority to modify subsection (d) of this Section, to issue permits to abandon in-place USTs located within the jurisdiction of the City and request records of abandonment-in-place; however, any criteria for abandonment-in-place shall be as stringent as that of the OSFM. Tanks, inside the jurisdiction of the City of Chicago, which were abandoned-in-place prior to July 28, 1989 (the date of repeal of home rule by the City over USTs) in accordance with City laws, regulations or ordinances, need not be removed so long as a condition under subsection (a) allowing abandonment continues to exist.
- c) Tanks, outside the jurisdiction of the City of Chicago, filled with inert material, as described in subsection (d)(14) of this Section, prior to October 1, 1985, need not be removed so long as a condition under subsection (a) allowing abandonment exists; however, the owners shall provide documentation of fill material and date of fill, upon request by OSFM. The documentation shall be a receipt or a written statement from the contractor who did the fill, a statement from the inspector who inspected the tank or a written statement from anyone designated by the State Fire Marshal or the Director of the Division of Petroleum and Chemical Safety.
- d) For UST abandonment-in-place, the following requirements and procedures shall be followed:
- 1) An on-site evaluation shall be done 1) by the owner or operator, or designated representative, to prepare an accurate Certification of Site Condition with site drawings. If the ability to abandon-in-place is questioned, a

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third-party professional structural engineer may be used to determine the feasibility of removal in order to verify that the tank is or is not eligible to be abandoned in place pursuant to subsection (a).

- 2) Except as otherwise provided in this Section, the procedures of API 1604 shall be followed for vapor freeing and inerting procedures.
- 3) Proper permitting shall be obtained.
 - A) A complete plan or diagram of the area shall be provided and show the location of tanks, fill pipes, vent lines, sewers, streets, product lines and buildings;
 - B) A Certification of Site Condition shall be provided, which includes, but is not limited to, facility name and location, number and size of USTs involved and that the subject UST site is clean or contaminated. This Certification of Site Condition shall be based on a professional site assessment from soil sampling and this site assessment must accompany the site certification form (www.state.il.us/osfm/Techservices/doc/TS101-Abandonment_In_Place_032008.Doc); and
 - C) A description of the specific inert material to be used shall be indicated on the permit application.
- 4) All health and safety monitoring equipment shall be maintained according to manufacturer's specifications.
- 5) An exclusion zone shall be established, within which smoking is prohibited. The exclusion zone shall include all hazardous (classified) locations/areas where work related to abandonment-in-place is being conducted. The use of spark producing/non-explosion proof equipment is prohibited in the vapor hazard area prior to removal of product and sludges and attaining the LEL/oxygen levels required in subsection (d)(10).
- 6) Upon excavating to the top of the tank, on-site personnel shall drain product into approved drums or other approved receptacles and remove all piping except the vent line. Any associated piping to be abandoned-in-

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place shall be properly secured or capped and have prior approval by OSFM. Pipe trenches shall remain open for inspection by OSFM Storage Tank Safety Specialist (STSS). Further excavation below the top of the tank is not allowed until STSS is present and has verified that tank conditions meet the LEL/oxygen criteria of subsection (d)(10).

- 7) All liquids shall be removed from the tank using explosion-proof pumps or hand pumps.
- 8) The tank atmosphere and the excavation area shall be regularly monitored with a combustible gas indicator for flammable or combustible vapor concentration. Monitoring the UST shall be done at 3 levels in the tank: top, middle and bottom.
- 9) Vapor freeing shall be done in accordance with API 1604, except that dry ice shall not be allowed as a method of inerting tanks. When vapor freeing the tank with compressed air or using inert gases under pressure, all devices shall be bonded to the tank and the tank shall be grounded to a separate ground. When using inert gases, the cylinder shall be equipped with a pressure gauge so that no more than 5 psi can be discharged into the tank during vapor freeing procedures. To ensure and maintain proper grounding and bonding, the connections shall be tested by the contractor for continuity. This testing shall be done with equipment designed for continuity testing. When vapor freeing a tank, plastic pipes shall not be allowed as a vent tube on eductors.
- 10) The tank shall be regularly monitored to insure that explosive conditions do not exist. A maximum of 5% of the LEL, or 5% or less oxygen concentration, shall be attained before the tank is considered safe for abandonment.
- 11) An STSS shall be on site before hot work can proceed.
- 12) A sufficient number of holes or openings shall be made in the tank for abandonment-in-place procedures if existing openings are not adequate.
- 13) Cleaning procedures shall be in accordance with API 2015, incorporated by reference in 41 Ill. Adm. Code 174.210. Protective respiratory equipment for tank cleaning personnel shall be the type that provides

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positive air pressure to a full-face mask throughout the breathing cycle, in accordance with API 2015.

- 14) After cleaning, on-site personnel shall proceed to introduce an OSFM-approved, inert material through openings in the top of the tank to minimize any surface settling subsequent to abandonment of the tank in place. Allowed inert material shall be limited to sand, gravel, clay, bentonite or inert material mixed with portland cement to increase flowability. The portland cement concentration may not exceed 50 lbs. per cubic yard of mixed material. Any other materials must be approved by OSFM during the permit process. The procedure for filling shall be in accordance with API 1604.
 - 15) After the tank is filled with inert material, all tank openings shall be plugged or capped unless it was necessary to cut open the tank top. The vent line shall be disconnected, capped and removed.
 - 16) The tank owner must file an amended Notification of Underground Tanks on OSFM forms at www.state.il/OSFM/PetroChemSaf/Notify.pdf with OSFM within 30 days after the abandonment-in-place.
 - 17) When a UST is abandoned-in-place, the owner of the UST shall keep a permanent record of the UST location, the date of abandonment-in-place and the procedure used for abandonment-in-place. Upon request by OSFM, Division of Petroleum and Chemical Safety, the owner shall forward a copy of the record to OSFM, within 14 days after receipt of a written request by OSFM sent to the last known address by U.S. registered or certified mail.
- e) When a UST is allowed to be abandoned-in-place, as specified in this Section, the abandoned-in-place UST shall be removed when the condition for issuing the abandonment permit no longer exists. The removal procedures shall be followed and a removal permit is required.
 - f) Compliance with Sections (d)(1) through (d)(15) is the responsibility of the contractor.

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

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

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

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

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

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

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

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conduct mobile fueling using tank vehicles to be used for the mobile fueling of commercial vehicle fleets (pursuant to Section 1(d)(C) of the Gasoline Storage Act [430 ILCS 15/2(1)(d)(C)])	41 Ill. Adm. Code 174.440 and 174.450)
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Section 175.APPENDIX C Derivation Table

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

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

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175.640170.540
175.650170.550
175.700170.480
175.710170.481
175.720170.200, 170.427
175.800170.660
175.810170.411
175.820170.630
175.830170.670(a), (b), (c)
175.840170.670(d)
175.APPENIDX A.....None
175.APPENDIX B.....None
175.APPENDIX C.....None

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

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

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176.535	New
176.540	New
176.545	New
176.550	New
176.555	New
176.560	New
176.565	New
176.570	New
176.575	New
176.580	New
176.585	New
176.590	New
176.595	New
176.APPENDIX A	New

- 4) Statutory Authority: Implementing and authorized by Section 2 of the Gasoline Storage Act [430 ILCS 15/2]
- 5) A Complete Description of the Subjects and Issues Involved: Reorganizes and consolidates existing underground storage tank system (UST) rules concerning State financial assurance requirements for USTs, release reporting and site assessment, UST recordkeeping, UST registration and notification, and hearing and enforcement procedures. Implements newly enacted federal requirements for USTs. Clarifies that UST site assessment procedures shall be equivalent to site assessment procedures for early action under 35 Ill. Adm. Code 734. Allows a certification from a licensed professional engineer with experience in UST installation to substitute for a certification that a UST installation or upgrade has been performed according to OSFM rules and the manufacturer's requirements. Requires that all UST components be listed by a national third party organization as acceptable for the intended use but allows a certification from an engineer with experience in UST installation or periodic inspections by qualified personnel according to an OSFM-approved schedule to substitute for the third-party listing. Requires that violations cited in an NOV be corrected within 30 days subject to a right to request one 30-day extension in specified circumstances. Clarifies certain hearing procedures. Makes non-substantive changes.
- 6) Published studies or reports, and sources of underlying data used to compose this rulemaking: Standards adopted by the National Fire Protection Association for installation and use of flammable and combustible liquids available at <http://www.nfpa.org> and portions of federal regulations at 40 CFR 280 were reviewed

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and in part relied upon in promulgating these amendatory rules. These are posted on the USEPA web site at www.epa.gov/oust and are also available in the Office of the State Fire Marshal, 1035 Stevenson Drive, Springfield, IL. 62703

- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? Yes. A variety of codes and standards developed by independent national associations and work groups have been incorporated and are available for public inspection at:

Office of the State Fire Marshal
1035 Stevenson Dr.
Springfield, IL 62703-4259
Facsimile: 217-524-9284

- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking could have a minor impact on local government to the extent that local government units might own or operate an underground storage tank system.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Persons wishing to comment on this proposed rulemaking may submit comments no later than 45 days after the publication of this Notice to:

Shelly Bradley, Manager
Division of Petroleum and Chemical Safety
Office of the State Fire Marshal
1035 Stevenson Dr.
Springfield, IL 62703-4259

217-557-3131
Facsimile: 217-524-9284

- 13) Initial Regulatory Flexibility Analysis:

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- A) Types of small businesses, small municipalities and not for profit corporations affected: This rulemaking could have a minor impact on those small businesses, not for profit entities, and small municipalities that own and operate UST systems.
- B) Reporting, bookkeeping or other procedures required for compliance: UST system installations and upgrades have various reporting and permitting requirements as described in the reorganized and consolidated language of proposed new Parts 174, 175, and 176 (41 Ill. Adm. Code 174, 174, and 176). Typically the contractor obtains the permit on behalf of the owner/operator.
- C) Types of professional skills necessary for compliance: Owners and operators of USTs must ensure that all persons installing and doing work on UST systems have been trained appropriately and licensed by OSFM.

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

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

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

PART 176

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

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Section
176.100 Definitions

SUBPART B: FINANCIAL ASSURANCE

Section
176.200 Definitions
176.205 Applicability
176.210 Amount
176.215 Mechanisms of Financial Responsibility
176.220 Proof of Financial Responsibility
176.225 Substitution of Financial Responsibility Mechanisms by an Owner or Operator
176.230 Cancellation or Non-Renewal by a Provider of Financial Assurance
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176.250 Bankruptcy or Other Incapacity of Owner, Operator or Provider of Financial Assurance

SUBPART C: RELEASE REPORTING AND SITE ASSESSMENT

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176.300 Reporting of Suspected Releases
176.305 Initial Response and Reporting of Confirmed and Actual Releases
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176.320 Procedures for Site Assessments
176.330 Reporting and Cleanup of Spills and Overfills
176.340 Initial Release Abatement Measures
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USTs

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

Section

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

SUBPART E: HEARINGS AND ENFORCEMENT PROCEDURES

Section

176.500	Definitions
176.505	Enforcement Action
176.510	Grounds and Time for Appeal
176.515	Notice of Hearing
176.520	Continuances
176.525	Appearances
176.530	Service of Papers and Computation of Time
176.535	Stipulations
176.540	Evidence
176.545	Official Notice
176.550	Authority of Hearing Officer
176.555	Default
176.560	Post-Hearing Submissions
176.565	Transcripts
176.570	Final Order
176.575	License Suspension or Revocation and Assessment of Fines Against a Contractor
176.580	Assessment of Penalties
176.585	Subpoena – Fees and Mileage of Witnesses
176.590	Paper Hearings
176.APPENDIX A	Derivation Table

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

SOURCE: Adopted at 34 Ill. Reg. _____, effective _____.

SUBPART A: DEFINITIONS

Section 176.100 Definitions

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

SUBPART B: FINANCIAL ASSURANCE

Section 176.200 Definitions

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

"IEMA" means the Illinois Emergency Management Agency.

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

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

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

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

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

"UST" means underground storage tank system.

Section 176.205 Applicability

- a) This Subpart B applies to all owners or operators of USTs in the ground as of April 1, 1995.
- b) All owners or operators of hazardous substance USTs are excluded from regulation under this Subpart B.
- c) Although the UST Fund assists certain petroleum UST owners in paying for corrective action or third-party liability (see 415 ILCS 5/57.9), for purposes of this Subpart the UST Fund is not considered a mechanism for the financial responsibility compliance required under this Subpart.
- d) None of the financial responsibility mechanisms specified in Section 176.215 are required by OSFM to include a standby trust.

Section 176.210 Amount

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

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

Section 176.215 Mechanisms of Financial Responsibility

The following are adequate proof of financial responsibility:

- a) Commercial or private insurance, including risk retention groups (40 CFR 280.97, incorporated by reference in 41 Ill. Adm. Code 174.210);

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

Section 176.220 Proof of Financial Responsibility

- a) Proof of financial responsibility for Section 176.215(a), (b), (c), (d) or (e) shall be maintained on the respective forms located in 40 CFR 280, incorporated by reference in 41 Ill. Adm. Code 174.210. These forms shall be modified to comply with Section 176.210. It is the responsibility of tank owners or operators to modify the forms.
- b) Proof of financial responsibility for Section 176.215(f) or (g) shall be documented by written proof from the appropriate financial institution on at least an annual basis.
- c) The forms referenced in subsection (a) of this Section shall be renewed on an annual basis.
- d) Copies of proof of all forms of financial responsibility required under this Subpart shall be sent to OSFM on an annual basis.
- e) The forms referenced in subsections (a) and (b) of this Section shall include the name, address and facility identification number for each facility, as applicable.

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

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

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

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

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- 3) Evidence of the financial responsibility mechanism subject to the termination, maintained in accordance with Section 176.240(b); and
- 4) Name, address and facility identification number for each affected facility.

Section 176.235 Reporting by Owner or Operator

- a) An owner or operator shall certify compliance with the financial responsibility requirements in Section 176.215, as specified in the notification form provided by OSFM at www.state.il/OSFM/PetroChemSaf/Notify.pdf, when notifying OSFM of any new or existing UST, in accordance with Section 176.440.
- b) An owner or operator shall notify OSFM on an amended notification form when there is a change in status of financial responsibility, in accordance with Section 176.440(g).
- c) OSFM may require an owner or operator to submit evidence of financial responsibility as described in Section 176.240(b) or other information relevant to compliance with this Subpart at any time. The request shall be in writing, sent by U.S. Mail, registered or certified, to the facility or owner's address on the most recent notification form submitted to OSFM.

Section 176.240 Recordkeeping

- a) Owners or operators shall maintain evidence of all financial responsibility mechanisms used to demonstrate financial responsibility (pursuant to this Subpart) for a UST until released from the requirements of this Subpart under Section 176.245. An owner or operator shall maintain that evidence at the UST site or the owner's or operator's principal place of business. Records maintained off-site shall be made available upon written request from OSFM, sent by U.S. Mail, registered or certified, to the facility or owner's address on the most recent notification form submitted to OSFM, and the recipient shall comply within 10 days after receipt.
- b) An owner or operator shall maintain a copy of the following types of evidence of financial responsibility:

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- 1) An owner or operator using a financial responsibility mechanism as specified in Section 176.215 shall maintain a copy of the instrument required under Section 176.220.
- 2) An owner or operator using a financial test or guarantee shall maintain a copy of the chief financial officer's letter based on year-end financial statements for the most recent completed financial reporting year. This evidence shall be on file no later than 120 days after the close of the financial reporting year.
- 3) An owner or operator using a commercial or private insurance policy or risk retention group coverage shall maintain a copy of the signed insurance policy or risk retention group coverage policy, with the endorsement or certificate of insurance and any amendments to the agreement.
- 4) An owner or operator using a financial responsibility mechanism as specified in Section 176.215 shall maintain an updated copy of a certification of financial responsibility (see 40 CFR 280.111(b)(11), incorporated by reference in 41 Ill. Adm. Code 174.210).

Section 176.245 Release from the Requirements

An owner or operator is no longer required to maintain financial responsibility pursuant to this Subpart for a UST after the UST has been removed or abandoned-in-place, in accordance with 41 Ill. Adm. Code 175.830 and 175.840.

Section 176.250 Bankruptcy or Other Incapacity of Owner, Operator or Provider of Financial Assurance

- a) Within 10 days after commencement of a voluntary or involuntary proceeding for relief under the United States Bankruptcy Code (11 USC 101 et seq.) naming an owner or operator as debtor, the owner or operator must notify OSFM by certified mail of that commencement and submit the appropriate forms listed in Section 176.240(b), documenting current financial responsibility.
- b) Within 10 days after commencement of a voluntary or involuntary proceeding for relief under the United States Bankruptcy Code naming a guarantor providing financial assurance as debtor, the guarantor must notify the owner or operator by

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certified mail of that commencement as required under the terms of the guarantee specified in 40 CFR 280.96, incorporated by reference in 41 Ill. Adm. Code 174.210.

- c) An owner or operator who obtains financial assurance by a mechanism other than the financial test of self-insurance will be deemed to be without the required financial responsibility in the event of a bankruptcy or incapacity of its provider of financial assurance or a suspension or revocation of the authority of the provider of financial assurance to issue a guarantee, commercial or private insurance policy, risk retention group coverage policy, surety bond, letter of credit or certificate of deposit or act as fiduciary of a designated savings account. The owner or operator must obtain alternative financial assurance as specified in Section 176.215 within 30 days after receiving notice of such an event. If the owner or operator does not obtain alternative coverage within 30 days after notification, the owner or operator shall notify OSFM in writing, sent by certified mail, within 10 days after receiving notice of the bankruptcy event.

SUBPART C: RELEASE REPORTING AND SITE ASSESSMENT

Section 176.300 Reporting of Suspected Releases

- a) Owners or operators of USTs shall immediately report to IEMA (from Illinois, 1-800-782-7860; from outside Illinois, 217/782-7860) and follow the procedures in Sections 176.305(b) and (c) and 176.310 in any of the following situations:
- 1) The discovery by owners, operators, product delivery drivers or others of released regulated substances at the UST site or in the surrounding area (such as the presence of free product or vapors in soils, basements, sewer or utility lines or nearby surface water);
 - 2) Unusual operating conditions observed by owners or operators (such as the erratic behavior of product dispensing equipment, the sudden loss of product from the UST or an unexplained presence of water in the tank), unless system equipment is found to be defective but not leaking and is immediately repaired or replaced; or
 - 3) Monitoring results from a release detection method required under 41 Ill. Adm. Code 175.620, 175.630 or 175.640 that indicate a release may have occurred, unless:

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- A) The monitoring device is found to be defective and is immediately repaired, recalibrated or replaced, and additional monitoring does not confirm the initial result; or
 - B) In the case of monthly inventory control, a second month of data does not confirm the initial result; however, the 24-hour reporting requirement of Section 176.310(d)(1) remains in effect.
- b) In addition to IEMA, the 911 call center shall immediately be called when a suspected release presents a hazard to life, for example, when observations demonstrate the presence of petroleum or hazardous substance vapors in sewers or basements or free product near utility lines, or where a sheen is present on a water body.
- c) Once a release has been identified or confirmed, the reporting procedures of Section 176.305 shall apply.

Section 176.305 Initial Response and Reporting of Confirmed and Actual Releases

Initial Response. Upon confirmation of a release of a regulated substance or after a release from the UST is identified in any manner, owners or operators shall perform the following initial response actions:

- a) Immediately report the release.
 - 1) The release shall be reported by calling the 911 call center and then IEMA in the following situations:
 - A) Spills and overfills of petroleum products over 25 gallons and spills and overfills of hazardous substances over a reportable quantity as defined in 41 Ill. Adm. Code 174.100.
 - B) Spills, overfills or confirmed releases that present a hazard to life, for example, when observations demonstrate the presence of petroleum or hazardous substance vapors in sewers or basements or free product near utility lines, or where a sheen is present on a water body.

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All other confirmed and actual releases shall be reported to the local authority having jurisdiction and to IEMA. A call to the fire department in whose jurisdiction the release occurred may be done in the absence of an available 911 emergency telephone number. IEMA may be reached at 1-800-782-7860 (from inside Illinois) or 217-782-7860 (from outside Illinois).

- 2) A release of a hazardous substance equal to or in excess of the reportable quantity shall be reported to the following entities in addition to those identified in subsection (a)(1):
 - A) to the Local Emergency Planning Committee (LEPC) that is likely to be affected by the release (found at <http://www.state.il.us/iema/disaster/LEPCCContactList.xls>); and
 - B) the National Response Center (800-424-8802);
- b) Take immediate action to prevent any further release of the regulated substance into the environment; and
- c) Immediately identify and mitigate fire, explosion and vapor hazards.

Section 176.310 Release Investigation Reporting and Site Assessment

- a) Investigation Due to Off-Site Impact. When required in writing by OSFM, owners or operators of USTs shall determine if the UST is the source of off-site impacts. These impacts include the discovery of regulated substances, such as the presence of free product or vapors in soils, basements, sewer or utility lines or nearby surface or drinking water that have been observed by OSFM or brought to its attention by another party.
- b) Release Investigations and Confirmation Steps. Unless corrective action is initiated, owners or operators shall immediately investigate and within 7 days shall confirm the presence or absence of all suspected releases of regulated substances requiring reporting, using the following procedures:
 - 1) System Test. Owners and operators must conduct tests (according to the requirements for tightness testing of 41 Ill. Adm. Code 175.630(c) and 175.640(a)(5)) that determine whether a leak exists in that portion of the

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tank that routinely contains product, or the attached delivery piping, or both. Owners or operators shall repair, replace or upgrade the UST and begin corrective action, if the test results for the system, tank or delivery piping indicate that a leak exists;

- 2) Further investigation is not required if the test results for the tank system and delivery piping do not indicate that a leak exists and if environmental contamination is not the basis for suspecting a release; and
 - 3) Owners or operators shall conduct a site assessment (utilizing the requirements of Section 176.320) if the test results for the system, tank and delivery piping do not indicate that a leak exists, but environmental contamination is the basis for suspecting a release.
- c) **Initial Site Assessment.** An initial site assessment shall follow the procedures and requirements identified in Section 176.320.
- 1) If the test results for the excavation zone or the UST site indicate that a release has occurred, owners or operators shall begin initial response and initial abatement procedures.
 - 2) If the test results for the excavation zone or the UST site do not indicate that a release has occurred, further investigation is not required.
- d) **Notification of Suspected Release at the Direction of STSS.** The owner, operator or designated representative of the UST must notify IEMA and any other entities required to be notified under Section 176.305 of a suspected release, when directed to do so by the storage tank safety specialist (STSS) employed by OSFM. This is to be done at the time of discovery and the incident number shall be given to the STSS prior to leaving the site.

Section 176.320 Procedures for Site Assessments

- a) All site assessments and related reports must be conducted or prepared under the supervision of a Licensed Professional Engineer or Licensed Professional Geologist.
- b) Owners or operators shall measure for the presence of a release where contamination is most likely to be present at the UST site. The minimum number

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of samples, the sampling locations, and the measurement methods shall be determined by reference to the provisions in 35 Ill. Adm. Code 734.210 and 734.415 for early action site activity. Field observations, methods, and records for soil borings shall meet the requirements for early action in 35 Ill. Adm. Code 734.425 and 734.415. For UST removals, samples shall be taken in native soil within 24 hours after removal of the tanks and piping. In selecting sample types, locations and measurement methods, owners or operators shall also consider the nature of the stored substance, the type of initial alarm or cause for suspicion, if any, the method of tank removal, the types of backfill, the depth of groundwater and other factors appropriate for identifying the presence and source of the release as specified in 35 Ill. Adm. Code 734.210. The indicator contaminants to be analyzed for, acceptable laboratory accreditation requirements, and acceptable analytical methods shall be determined by reference to the provisions in 35 Ill. Adm. Code 734.405, 734.415 and 734.420 for early action site activity.

- c) Within 45 days after receipt of lab results, owners or operators must designate and provide to OSFM, on OSFM forms found at www.state.il.us/osfm/PetroChemSaf/home.htm under "downloadable applications" a pass/fail result indicating whether a release has occurred. This determination shall be based upon a comparison of the lab analysis results to threshold standards for contamination, defined as Tier 1 remediation objectives for residential properties in 35 Ill. Adm. Code 742. A pass result for the UST (finding no contamination at or above thresholds and, therefore, no need to report to IEMA) must be certified by a licensed environmental engineer or licensed environmental geologist, competent and experienced in performing site assessments, using accepted practices for these assessments, consistent with the site characteristics and conditions.
- d) In the event that sampling or other site observations disclose evidence of a suspected release or site assessment lab results show site contamination at or above Tier 1 residential levels, the owner or operator shall immediately cease site assessment work and shall immediately notify IEMA and any other required entities of a suspected release, as required by Section 176.305, and begin corrective action pursuant to 35 Ill. Adm. Code 734.
- e) Records generated from site assessments and related activity shall be kept at the site (or available within 30 minutes) and may not be discarded or destroyed unless and until a No Further Remediation (NFR) letter is issued by IEPA pursuant to a completed site remediation under 35 Ill. Adm. Code 732 or 734 or until the site permanently ceases the activity involved in using the USTs and any site

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assessments required under OSFM or IEPA rules are completed and show no evidence of contamination at or above Tier 1 residential levels. Owners or operators claiming that required records were destroyed, discarded or lost prior to the effective date of these rules or by a prior owner of the subject UST property shall conduct a new site assessment when the assessment is required by OSFM rules for continued or future use of the USTs.

Section 176.330 Reporting and Cleanup of Spills and Overfills

- a) Owners or operators of USTs shall contain and immediately clean up a spill or overfill, immediately report either release to the 911 call center and then to IEMA, and begin initial response and initial abatement in accordance with Sections 176.305, 176.310 and 176.340, in the following situations:
 - 1) Spill or overfill of petroleum that results in a release to the environment that exceeds 25 gallons or that causes a sheen on nearby surface water; or
 - 2) Spill or overfill of a hazardous substance that results in a release to the environment that equals or exceeds the reportable quantity (see 41 Ill. Adm. Code 174.100). Under Section 176.305, this kind of release shall also be immediately reported to the Local Emergency Planning Committee and to the National Response Center.
- b) Owners or operators of USTs shall contain and immediately clean up a spill or overfill of petroleum that is 25 gallons or less and a spill or overfill of a hazardous substance that is less than the reportable quantity. In doing so, the owner or operator shall comply with procedures specified in Section 176.340. If cleanup cannot be accomplished within 24 hours, owners or operators shall immediately notify IEMA and the local authority having jurisdiction of the release.

Section 176.340 Initial Release Abatement Measures

Unless directed in writing to do otherwise by OSFM, owners or operators shall perform the following release abatement measures:

- a) Remove as much of the regulated substance from the UST as is necessary to prevent further release to the environment;

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- b) Visually inspect any aboveground release or exposed belowground release and prevent further migration of the released substance into surrounding soils and groundwater;
- c) Continue to monitor and mitigate any additional fire and safety hazards posed by vapors or free product that have migrated from the UST excavation zone and entered into subsurface structures (such as sewers or basements); and
- d) Remedy hazards posed by contaminated soils that are excavated or exposed as a result of release confirmation, site investigation, abatement or corrective action activities. If these remedies include treatment or disposal of soils, the owner or operator shall comply with applicable State and local requirements.

Section 176.350 Assessing the Site at Removal of, Previously Removed, or Change-in-Service of USTs

- a) Within 24 hours after removal is completed, or prior to a change in service from a regulated product to an unregulated product, the following procedures shall be conducted.
 - 1) The owner or operator shall perform a site assessment using the procedures and requirements of Section 176.320;
 - 2) The owner or operator, or his or her designated representative, shall immediately report a release or suspected release, based upon a visual observation by STSS or upon a site assessment showing the existence of a release (failure to meet Tier 1 remediation objectives found in 35 Ill. Adm. Code 742), to IEMA and any other entities required to receive notification under Section 176.305 and secure an incident number. If confirmation of the release is via a visual observation by STSS or otherwise confirmed while STSS is still on site, the incident number shall be provided to STSS at the conclusion of the removal and prior to the departure of STSS.
 - 3) If contaminated soils, groundwater or free product as a liquid or vapor, resulting from a UST release is discovered, the owner or operator shall begin initial response and initial abatement procedures in accordance with Sections 176.305, 176.310 and 176.340.

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- b) When directed in writing by OSFM, the owner or operator of a UST previously removed shall assess the excavation zone (including, if so ordered, re-excavating and assessing the site where the tank had been located) in accordance with Section 176.320.

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

Section 176.400 Delegation of Authority to Enforce UST Rules and Regulations

Pursuant to 430 ILCS 15/2, OSFM has authority to delegate to the City of Chicago enforcement of its UST rules and regulations.

- a) The methods and procedures of this enforcement do not have to be identical with those of OSFM; however, OSFM has oversight concerning this enforcement.
- b) Subject to the terms of a delegation agreement, when OSFM is expressly authorized to initiate enforcement action, the City of Chicago has concurrent authority.
- c) The rules and regulations of the City of Chicago shall not be less stringent than 41 Ill. Adm. Code 174 through 177.

Section 176.410 General Requirement to Maintain All Equipment

All equipment and other items shall be maintained in accordance with 41 Ill. Adm. Code 174 through 176 and manufacturer's instructions and otherwise shall be kept in good operating condition at all times.

Section 176.420 Requirement that UST Components Be Third Party Listed

All installed UST components and ancillary equipment shall be third party listed (see 41 Ill. Adm. Code 174.100) for their performance in the intended use, as well as installed and maintained according to the manufacturer's instructions. Replaceable subcomponents shall be of a type recommended by the manufacturer. In the event the third party listing is unattainable, OSFM may accept, from a Licensed Professional Engineer, certification that the non-listed component will perform as intended and will meet performance requirements under 40 CFR 280 and this Part when used as intended. In the event third party listing and certification by a licensed professional engineer are both unattainable, OSFM may permit use of the component if

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a licensed, installation/retrofitting contractor inspects the component on an annual or more frequent basis and, after each inspection, certifies to OSFM on forms provided by OSFM at www.state.il.us/osfm/PetroChemSaf/home.htm, under "downloadable applications", that the component has been inspected and there is no visible evidence of product leakage, incompatibility or other defect in performance. In the event a listed component becomes available, facilities shall have 12 months to replace non-listed components with listed components. For requirements regarding listing of components used with alternative or blended fuels and product compatibility requirements for hazardous substance USTs, see 41 Ill. Adm. Code 175.415 and 175.620.

Section 176.430 Reporting and Recordkeeping

- a) Reporting. Owners and operators must submit the following information to OSFM:
- 1) Notification for all USTs (Section 176.440);
 - 2) Certification of installation for USTs (Section 176.430(f));
 - 3) Reports of all releases, including suspected releases (Section 176.300), spills and overfills (Section 176.330), and confirmed releases (Section 176.305);
 - 4) Initial response, including leak abatement, site characterization, and fire and explosion mitigation (40 CFR 280, subpart F, incorporated by reference in 41 Ill. Adm. Code 174.210) when requested by OSFM;
 - 5) A notification related to removal or change-in-service (41 Ill. Adm. Code 175.820(d) and 175.830(a)(19));
 - 6) A pass/fail determination and notification (Section 176.320) (to be submitted to OSFM within 45 days after the receipt of laboratory data in connection with a site assessment); and
 - 7) Proof of financial responsibility on an annual basis (Section 176.220).
- b) Recordkeeping. Owners and operators must maintain the following information for the life of the UST (unless a shorter or longer period is provided in this subsection (b) or by the applicable Section cited or by other OSFM rule):

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- 1) Documentation of operation of corrosion protection equipment and methods (41 Ill. Adm. Code 175.500 and 175.510).
 - 2) Documentation of UST repairs (41 Ill. Adm. Code 175.700 and 175.710).
 - 3) All records required to show compliance with release detection requirements (41 Ill. Adm. Code 175.600 through 175.650), with all tank and piping precision test results kept for 3 years or at least until the next precision test, whichever is longer.
 - 4) All written performance claims pertaining to any release detection system used, and the manner in which these claims have been justified or tested by the equipment manufacturer or installer.
 - 5) Written documentation of all calibration, maintenance and repair of release detection equipment permanently located on site, including schedules of required calibration and maintenance provided by the release detection equipment manufacturer.
 - 6) The results of any sampling, testing or monitoring not specified in subsections (a), (b), (f) and (g) of this Section.
 - 7) Results of the site assessment conducted at removal or change-in-service (41 Ill. Adm. Code 175.800) and copies of the results of any other site assessment conducted pursuant to OSFM rules with all pass/fail determinations and notifications submitted to OSFM pursuant to Section 176.320.
 - 8) Proof of financial responsibility submitted under Section 176.220.
 - 9) Copies of all records submitted to OSFM under subsections (a), (f) and (g) of this Section.
- c) Availability and Maintenance of Records. Owners or operators shall keep the records required in subsection (b) at the UST site or available to the OSFM inspector within 30 minutes or less via fax, email or other transfer of information. Financial responsibility records may be maintained at the owner or operator's

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principal place of business and shall be produced within 10 days after OSFM request.

- d) Owners or operators of unmanned sites will be given prior notification of inspection/audit of those sites.
- e) Failure to maintain or produce the records required under this Section may result in OSFM's issuance of a red tag or revocation of a facility operating permit (green decal) for the tank or tanks or facility at issue (see 41 Ill. Adm. Code 177), prohibiting any further operation of the facility or further deposit of regulated substances into a tank subject to a red tag.
- f) Certification of UST Installation or Upgrade and Related Documentation
 - 1) Contractors shall certify, on the form provided by OSFM at www.state.il/OSFM/PetroChemSaf/Notify.pdf, that:
 - A) The installer has been certified or licensed by OSFM. If applicable, the contractor shall also certify that the installer has been certified by the tank and piping manufacturers.
 - B) The installation and/or upgrade has been performed in accordance with 41 Ill. Adm. Code 172 through 176.
 - C) All work listed in the manufacturer's installation checklist has been completed and submitted in accordance with this subsection (f), 41 Ill. Adm. Code 175.400 and 175.465, Section 176.420 (or compliance with applicable third-party standards or codes cited in OSFM rules as of the date of installation), and Section 176.440(f), if applicable.
 - 2) Contractors shall complete the manufacturer's installation checklist for USTs, which shall be available at the time of final inspection. The owner and operator shall maintain a copy of the checklist on-site for the life of the UST.
 - 3) In lieu of the contractor's certification, an owner or operator may provide OSFM with a certification from a licensed professional engineer with education and experience in UST installation stating that the UST

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installation or upgrade was inspected by that engineer and that the UST installation or upgrade was properly installed in accordance with manufacturer's recommendations and OSFM rules.

- 4) OSFM shall not issue a green decal pursuant to 41 Ill. Adm. Code 177.115 for the UST until OSFM has received the completed certification of UST installation or upgrade by the licensed contractor or the certification of proper installation or upgrade from a licensed professional engineer.
- g) Results from precision tank and piping testing, cathodic protection testing, and interior lining testing shall be handled as follows:
 - 1) All test results are to be issued to the facility and owner.
 - 2) Test results that fail must be reported to OSFM within 3 working days.
 - 3) All test results required due to Notice of Violation must be reported to OSFM within 3 working days.
 - 4) All test results required to be submitted to OSFM must be submitted with a form provided by OSFM at www.state.il/OSFM/PetroChemSaf, under "downloadable applications".

Section 176.440 Notification Requirements for Purposes of UST Registration

- a) For any UST, with the exception of a UST containing heating oil for consumptive use on the premises where stored:
 - 1) Any owner of a UST in operation at any time after January 1, 1974, and in the ground as of September 24, 1987, shall submit immediately a notice of existence of the tank system to OSFM, on the form provided by OSFM at www.state.il/OSFM/PetroChemSaf/Notify.pdf.
 - 2) Where no owner/operator can be determined and a non-owner elects to voluntarily undertake responsibility for removal and cleanup, the party electing to proceed under this Part and 35 Ill. Adm. Code 734.105 shall submit a written verification of the election to proceed as a third party.

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- 3) Any owner of a UST brought into operation on or after April 21, 1989 shall submit, within 30 days before bringing the tank into operation, a notice of existence of the tank system to OSFM, on the form provided by OSFM at www.state.il/OSFM/PetroChemSaf/Notify.pdf. This applies even if the UST was subject to a change-in-service under 41 Ill. Adm. Code 175.820(a) or (b) within the 30-day time period.
 - 4) OSFM shall use the information required to be submitted under subsection (a) to determine whether a UST must be registered.
- b) For a UST containing heating oil for consumptive use on the premises where stored:
- 1) Any owner of a heating oil UST greater than 1,100 gallons in capacity and in the ground as of July 11, 1990 shall submit immediately a notice of existence of the tank system to OSFM, on the form provided by OSFM at www.state.il/OSFM/PetroChemSaf/Notify.pdf.
 - 2) Any owner of a heating oil UST greater than 110 gallons and less than or equal to 1,100 gallons in capacity and in the ground as of September 6, 1991 shall submit immediately a notice of existence of the tank system to OSFM, on the form provided by OSFM at www.state.il/OSFM/PetroChemSaf/Notify.pdf.
 - 3) Any owner of a heating oil UST greater than 110 gallons in capacity installed after September 6, 1991 shall submit, within 30 days after bringing the tank into operation, a notice of existence of the tank system to OSFM, on the form provided by OSFM at www.state.il/OSFM/PetroChemSaf/Notify.pdf. This applies even if the UST was subject to a change-in-service under 41 Ill. Adm. Code 175.820(a) or (b) within the 30-day time period.
 - 4) A heating oil tank used exclusively for storing heating oil for consumptive use on a farm or residence is not classified as a UST.
 - 5) OSFM shall use the information required to be submitted by this subsection (b) to determine whether a UST must be registered.

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- c) Owners required to submit notices under subsection (a) or (b) shall provide notice for each tank they own. Owners may provide notice for more than one tank using one notification form, but owners who own tanks located at more than one facility shall file a separate notification form for each separate facility.
- d) Owners shall provide all of the information required in subsections (a) and (b), on forms provided by OSFM at www.state.il/OSFM/PetroChemSaf/Notify.pdf including any certification required of the owner by this Part.
- e) Any owner of a UST installed on or after April 21, 1989 shall certify in the notification form found at www.state.il/OSFM/PetroChemSaf/Notify.pdf compliance with the following requirements:
 - 1) Installation of tanks under 41 Ill. Adm. Code 175.400, 175.405, 175.410 and 175.465, Sections 176.420 (or compliance with applicable third-party standards or codes as cited in OSFM rules as of the date of installation) and 176.430(f) and installation of piping under 41 Ill. Adm. Code 175.420;
 - 2) Cathodic protection of steel tanks and piping under 41 Ill. Adm. Code 175.400(b), 175.420(a) and 175.510;
 - 3) Release detection under 41 Ill. Adm. Code 175.610, 175.620, 175.630 and 175.640; and
 - 4) Financial responsibility in accordance with Subpart B of this Part. The green decal (facility operating permit) shall not be issued for a new tank installation until the notification required by this Section has been received by OSFM.
- f) Beginning January 1, 1989, all owners and operators of USTs being installed, upgraded or lined shall ensure that the contractor certifies in the notification form that the methods used to perform the UST activity comply with the requirements of 41 Ill. Adm. Code 174 through 176, and the contractor shall complete the certification. The notification form found at www.state.il/OSFM/PetroChemSaf/Notify.pdf is to be submitted to OSFM within 30 days after completion of the activity requiring certification.

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- g) Any change in information stated in the form as described in subsections (a) and (b) is to be submitted to OSFM on an amended form found at www.state.il/OSFM/PetroChemSaf/Notify.pdf, within 30 days, commencing from the date of the change. This includes, but is not limited to, removal, abandonment-in-place and temporary out-of-service status. A change in ownership is considered a change in information and each subsequent owner is required to report that change.
- h) Commencing April 1, 1995, any person who sells a new or re-certified tank intended to be used as a UST shall notify the purchaser of the owner's notification obligations under this Section. The notification form provided by OSFM at www.state.il/OSFM/PetroChemSaf/Notify.pdf shall be used to comply with this requirement.

Section 176.450 UST Registration Fees

- a) For USTs, with the exception of USTs containing heating oil for consumptive use on the premises where stored, the owner of any petroleum or hazardous substance UST required to be registered with OSFM prior to September 24, 1987, and who did not do so, shall register and pay OSFM a registration fee of \$500 per tank within 90 days after the date on the invoice requesting payment of the fee. The payment is to be by check or money order made payable to Office of the State Fire Marshal. For purposes of this subsection, "owner" refers only to the last owner as of September 23, 1987.
- b) For USTs containing heating oil greater than 110 gallons for consumptive use on the premises where stored:
 - 1) The owner of any heating oil UST in the ground as of September 6, 1991 who first registered the tank with OSFM prior to July 2, 1992 shall pay to OSFM a registration fee of \$100 per tank within 90 days after the date on the invoice requesting payment of the fee. The payment is to be by check or money order made payable to Office of the State Fire Marshal.
 - 2) The owner of any heating oil UST in the ground as of September 6, 1991 who first registered the tank with OSFM on or after July 2, 1992 (never having been registered) shall pay to OSFM a registration fee of \$500 per tank within 90 days after the date on the invoice requesting payment of the

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fee. The payment is to be by check or money order made payable to Office of the State Fire Marshal.

- 3) The owner who first registers a heating oil UST is responsible for the fee under either subsection (b)(1) or (b)(2), whichever is applicable, but not both.
- 4) The owner of any heating oil UST in the ground as of July 11, 1990, but removed prior to September 6, 1991, although regulated, is not required to pay a registration fee.
- 5) The owner of any heating oil UST installed in the ground on or after July 2, 1992, although regulated, is not required to pay a registration fee.

Section 176.460 Pre-'74 and Heating Oil USTs

USTs not in operation at any time after January 1, 1974 (commonly referred to as "pre-'74 USTs"), and non-farm and non-residential heating oil USTs for consumptive use on the premises where stored, remain classified as USTs and require a permit to be abandoned-in-place or removed and are subject to all other applicable UST requirements, except for those requirements specifically exempted by this Section or by Section 176.440.

- a) Pursuant to Sections 2(3)(f) and 4(b)(1)(A) of the Gasoline Storage Act, pre-'74 USTs are not required to be registered and need not be removed, unless the OSFM has determined that a release from the USTs poses a current or potential threat to human health and the environment.
- b) In accordance with Section 57.5(g) of the Illinois Environmental Protection Act [415 ILCS 5/57.5(g)] and Section 4 of the Gasoline Storage Act, a heating oil UST for consumptive use on the premises where stored, regardless of when last in operation, is not required to be removed unless OSFM has determined that a release from the UST poses a current or potential threat to human health and the environment. However, the UST is subject to the notification requirements, as well as compliance with all other applicable Sections of 41 Ill. Adm. Code 175 and this Part.
- c) Heating oil USTs installed prior to April 1, 1995 are not required to meet the upgrade requirements for corrosion protection, spill and overfill prevention, and release detection in 41 Ill. Adm. Code 174 and 175 and this Part. Heating oil

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USTs installed after April 1, 1995 must meet all current upgrade requirements outlined in 41 Ill. Adm. Code 174 and 175 and this Part, including permitting.

- d) If any pre-'74 tank, heating oil or otherwise, discovered during any activity is found to be damaged or is damaged at the time of discovery, it shall be removed. No structure shall be erected over pre-'74 tanks, heating oil or otherwise, and they must be removed by an OSFM-licensed contractor. All applicable permits apply.

Section 176.470 Requirements for Conducting Precision Testing of Tanks and Piping, Cathodic Protection Testing, and Testing of Other UST Equipment

Persons conducting precision testing of tanks and piping, cathodic protection testing, and testing of other UST equipment shall be ICC certified in the appropriate module and be licensed by OSFM pursuant to 41 Ill. Adm. Code 172. All persons conducting precision testing must be certified by the manufacturer of the testing equipment being used.

- a) Tank tightness methods shall be evaluated and listed by an independent third-party. Proof of evaluation and listing shall be demonstrated by the methods being published in the NWGLDE publication "List of Leak Detection Evaluations for Storage Tank Systems", incorporated by reference in 41 Ill. Adm. Code 174.210(a). All tank tightness methods are subject to approval by OSFM.
- b) UST equipment (including all equipment other than that listed in subsections (a)(1) and (2)). To qualify as a tester under this subsection, an individual must be an employee of an OSFM-licensed contractor with at least one employee who is ICC certified in the appropriate module, with that ICC certified employee on site and actively supervising the work at all times. All testers must also be certified by the manufacturer in the testing of the equipment being evaluated for its operation in accordance with manufacturers' specifications.
- c) For purposes of this Section, "license" (or any comparable variation of the term) is synonymous with "registration" (or any comparable variation of the term).
- d) Each tester shall also abide by any other applicable requirements found in 41 Ill. Adm. Code 172.

SUBPART E: HEARINGS AND ENFORCEMENT PROCEDURES

Section 176.500 Definitions

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

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

Section 176.505 Enforcement Action

All enforcement action shall begin with the issuance of an NOV by OSFM. The violations cited on the NOV shall be corrected within 30 calendar days after the issuance of the NOV. Only one 30 day extension may be granted and only when a noncancelable contract for the permitted work has been executed and a permit for the required work has been applied for prior to the deadline for compliance with the NOV. For all other matters, compliance shall be achieved within the 30 calendar days after the issuance of the NOV. A copy of the NOV shall be left with any owner, employee or agent of the owner at the facility at the time of inspection.

Section 176.510 Grounds and Time for Appeal

An Administrative Order issued pursuant to the Gasoline Storage Act, the Petroleum Equipment Contractors Licensing Act [225 ILCS 729], or OSFM rules promulgated pursuant to those Acts may be appealed in accordance with this Subpart. An appeal of an Administrative Order issued pursuant to this Section may only be requested within 10 days after receipt and must be in writing. (See Section 2(3)(e) of the Gasoline Storage Act.)

Section 176.515 Notice of Hearing

Notice of the time and place for any hearing shall be given to any party concerned at least 30 days prior to the hearing date. If an attorney, through written communication, is known to represent any party to a hearing, then notice is to be given to that attorney. Notice sent to the last known address by U.S. Mail, registered or certified, addressed to all parties concerned or their attorneys, when applicable, is sufficient.

Section 176.520 Continuances

A hearing officer may, for good cause, grant a continuance at the request of a party or a continuance on the hearing officer's own motion. Good cause may include, but is not limited to, death or hospitalization of a party or assigned counsel, natural disasters prohibiting attendance, and other unforeseen circumstances. Requests by a party for continuances must be preceded by contacting the opposing party and asking for agreement to the continuance. At the direction of

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the hearing officer, a hearing may be adjourned to permit further testimony or argument when beneficial to the development of a clear and complete record. Scheduling conflicts of an attorney constitute grounds for a continuance only when the conflict is with another judicial body. Any grant by the Hearing Officer of a continuance sought by a party on less than two days notice prior to the assigned hearing date may be conditioned upon that party bearing any court reporting or other recording costs resulting from the continuance.

Section 176.525 Appearances

At hearings before OSFM, parties to a proceeding may represent themselves or may be represented by an attorney licensed to practice law in the State of Illinois. The failure of a party to be represented by an attorney does not constitute grounds for a rehearing; likewise, the choice by parties to be represented by themselves or designated individuals does not constitute such grounds. For each party to the hearing, a written appearance shall be filed at or before the start of the hearing.

Section 176.530 Service of Papers and Computation of Time

- a) Persons filing papers with OSFM shall simultaneously serve copies on all parties to the proceeding.
- b) If agreed between the parties, parties may serve copies of any filing on each other via email. Email service on the hearing officer is not permitted.
- c) Papers required to be filed with OSFM shall be accompanied by proof of service upon all those required to be served.
- d) All papers required to be filed with OSFM must be filed at its principal office at 1035 Stevenson Drive, Springfield, Illinois 62703, during business hours, or mailed to its principal office prior to the applicable deadline.
- e) If the deadline for a filing falls on a holiday, Saturday or Sunday, the deadline for filing will automatically be extended to the next business day.

Section 176.535 Stipulations

- a) It is the policy of OSFM that the parties to a proceeding should, to the fullest extent possible, stipulate all matters that are not, or fairly should not be, in dispute.

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- b) At the hearing, the parties may file a stipulation setting forth:
 - 1) All pertinent matters that are not in dispute;
 - 2) A list of all exhibits to which there are no objections;
 - 3) Matters that are in dispute.

Section 176.540 Evidence

- a) *Irrelevant, immaterial or unduly repetitious evidence shall be excluded. The rules of evidence and privilege as applied in civil cases in the circuit courts of Illinois shall be followed. However, evidence not admissible under such rules of evidence may be admitted (except where precluded by statute) if it is of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs. [5 ILCS 100/10-40]*
- b) When objection is made to the admissibility of evidence, the Hearing Officer shall either receive the disputed evidence subject to ruling at a later time, or may exclude the evidence at that time. A party offering evidence that is ruled inadmissible shall be permitted to make a brief offer of proof.
- c) Writings shall be legible and exhibits shall be plainly marked and identified. The hearing record shall reflect the identity of the party offering an exhibit and shall indicate whether it was admitted into evidence.

Section 176.545 Official Notice

The Hearing Officer may take official notice of all facts of which judicial notice may be taken, including facts of a technical nature within the specialized knowledge and experience of OSFM. This notice may include any of the content of any national technical code of practice that is by reference incorporated at 41 Ill. Adm. Code 174.210.

Section 176.550 Authority of Hearing Officer

The Hearing Officer shall have all powers necessary to conduct a hearing, avoid delay, maintain order, and insure the development of a clear and complete record, including the power to:

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- a) Administer oaths and affirmations;
- b) Preside over the hearings, regulate the course of hearings, set the time for filing documents, and provide for the taking of testimony by deposition, when necessary;
- c) Set the time and place for the continuance of a hearing once the hearing has commenced (Section 176.520 governs the continuance of a hearing prior to its commencement);
- d) Examine witnesses and direct witnesses to testify, limit the number of times any witness may testify, limit repetitious or cumulative testimony, and set reasonable limits on the amount of time each witness may testify and be cross-examined;
- e) Receive evidence, rule upon objections to admissibility of evidence, and rule upon offers of proof;
- f) Issue subpoenas that require attendance, testimony or the production of papers, books, documentary evidence or other tangible things;
- g) Dispose of procedural requests or similar matters;
- h) Require prior submission of testimony and exhibits in writing and set any deadlines for the filing of documents;
- i) Direct parties to appear and confer for the settlement or simplification of issues, and to otherwise conduct prehearing conferences;
- j) Reprimand or exclude from the hearing any person for indecorous or improper conduct committed in the presence of the Hearing Officer;
- k) Order the parties to submit briefs on issues of first impression. These briefs shall be limited to 15 pages, including proposed findings of fact and conclusions of law, and shall be submitted after the close of evidence and proofs pursuant to the procedures of Section 176.560;
- l) Render findings of fact, conclusions of law, opinions and recommendations for an Order of the State Fire Marshal;

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- m) Enter any Order that expedites the purpose of this Part; and
- n) Generally conduct the hearing and all pre-hearing and post-hearing matters according to this Subpart.

Section 176.555 Default

- a) Failure of a party to appear on the date set for hearing or failure to proceed as ordered by the State Fire Marshal shall constitute a default and the administrative order appealed from shall become final. Any court reporting costs incurred because of the failure to appear may be assessed against the party that failed to appear.
- b) Appeals, petitions, motions or other requests for relief that are not prosecuted diligently may be dismissed for want of prosecution.

Section 176.560 Post-Hearing Submissions

- a) Unless otherwise directed by the Hearing Officer, the parties may submit written proposed findings of fact and conclusions of law (proposed findings) to the Hearing Officer within 14 days after the close of the hearing or such other reasonable time as the Hearing Officer shall determine, consistent with the responsibility of the State Fire Marshal for an expeditious decision. Proposed findings shall not exceed 15 pages in length on regular 8½ by 11 inch paper with 1-inch margins. The proposed findings of fact and conclusions of law shall be separately stated.
- b) All parties who wish to submit proposed findings, or are ordered by the Hearing Officer to submit briefs also containing proposed findings, must submit the following by the applicable deadline:
 - 1) one original and two paper copies of the party's proposed findings of fact and conclusions of law. The two paper copies shall be identically compiled and stapled;
 - 2) an electronic text version of the brief, in a format compatible with Microsoft Word, on a disc or other computer file memory storage device that is labeled with the name of the party and that does not have to be returned to that party;

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- 3) a cover letter stating the party on whose behalf the brief is submitted.

Section 176.565 Transcripts

- a) The proceedings at hearings shall be recorded electronically by OSFM and transcribed at the request and expense of the requesting party.
- b) Any party can request a stenographer or court reporter at that party's expense. Upon agreement of the parties, the stenographer or court reporting costs may be divided equally. Parties who order copies of the transcript shall bear the cost of the copies.
- c) Transcripts of a hearing will not be provided by OSFM to any party.

Section 176.570 Final Order

- a) The execution of a written Order of OSFM will become effective immediately and will constitute a final administrative decision subject to the Administrative Review Law [735 ILCS 5/Art. III].
- b) The parties and their attorneys shall be notified as soon as reasonably possible by sending them a copy of the Order by U.S. Mail, registered or certified, addressed to their last known address.

Section 176.575 License Suspension or Revocation and Assessment of Fines Against a Contractor

- a) The violation by a contractor of a provision of 41 Ill. Adm. Code 175 or this Part, including standards incorporated by reference, may result in a suspension or revocation of that contractor's license for the following durations:
 - 1) For the first violation committed, the license of any contractor may be suspended or revoked for up to one year.
 - 2) For the second violation committed, the license of any contractor may be suspended for up to one year or may be revoked for up to two years.

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- 3) For the third violation, and any violation thereafter, the license of any contractor may be suspended for up to one year or revoked permanently.
- b) The violation by a contractor of a provision of 41 Ill. Adm. Code 172, including standards incorporated by reference, may result in a suspension or revocation of that contractor's license for the following durations:
- 1) For the first violation, the license of any contractor may be suspended for up to six months.
 - 2) For the second violation, the license of any contractor may be suspended or revoked for up to one year.
 - 3) For the third violation, the license of any contractor may be suspended for up to one year or revoked for up to two years.
 - 4) For the fourth violation, and any violation thereafter, the license of any contractor may be revoked for up to 5 years.
- c) Effects of Suspension or Revocation
- 1) A contractor whose license was suspended or revoked as a result of a violation involving one or more licensed activities is also prohibited, in a like manner, for a like duration, from performing any other activity the contractor was licensed to perform.
 - 2) During the period of a suspension or revocation, the contractor whose license was suspended or revoked may not be licensed to perform any other activity related to USTs.
 - 3) A contractor whose license is suspended or revoked, may not perform any activity requiring a license under a permit issued prior to the suspension or revocation. In such a case, the contractor is not entitled to a refund of the permit fee and is not entitled to amend the permit or permit application to list another contractor.
 - 4) A contractor whose license has been suspended or revoked may not continue to perform UST work requiring a license issued by OSFM during the period of suspension or revocation.

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- 5) A contractor whose license has been suspended or revoked may not be employed as an agent or subcontractor of a licensed contractor to perform any activity for which a license is required.
 - 6) Any officer of a corporation having a suspended or revoked license, or any owner or co-owner of any other business entity having a suspended or revoked license, shall not use alternative names or licenses to continue to do UST work requiring an OSFM issued license.
 - 7) Upon conclusion of the revocation period, a contractor whose license was revoked may perform any activity the contractor was licensed to perform only by re-licensing (assuming the applicant is not otherwise prohibited from re-licensing).
 - 8) If the period of suspension ends prior to the termination of any license period, the suspended contractor may resume performing the activity the contractor was licensed to perform for the remainder of any license period. If the period of suspension ends subsequent to the termination of any license period, the suspended contractor may not perform the activity the contractor was licensed to perform until the suspension period has ended and the contractor has been re-licensed (assuming the applicant is not otherwise prohibited from re-licensing).
- d) The violation by a contractor or an employee of a contractor of a provision of 41 Ill. Adm. Code 172, 174, 175, 176, 177, 160 or 180, including standards incorporated by reference, may result in the assessment of fines against that contractor or employee.

Section 176.580 Assessment of Penalties

Any person who violates any of the provisions of 41 Ill. Adm. Code 172, 174, 175, 176, 177, 160 and 180 shall be subject to penalties as determined by statute or OSFM.

Section 176.585 Subpoena – Fees and Mileage of Witnesses

Witness and Mileage Fees. The cost of service and witness and mileage fees shall be borne by the person requesting the subpoena. Witness and mileage fees shall be the same as are paid witnesses in the circuit courts of the State of Illinois.

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Section 176.590 Paper Hearings

Parties and staff participating in a proceeding may stipulate to the waiver of any rights they have to a hearing and may stipulate to having all matters in dispute being resolved on the basis of written pleadings and submissions that are verified or supported by affidavit and to OSFM entering a final order in the matter in reliance on those documents.

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Section 176.APPENDIX A Derivation Table

The following table indicates the Sections of 41 Ill. Adm. Code 170 that formerly stated requirements identical or related to those now located within this Part 176.

New Section	Old Section
176.100	170.10, 170.400
176.200	170.700
176.205	170.710
176.210	170.720
176.215	170.730
176.220	170.740
176.225	170.750
176.230	170.760
176.235	170.770
176.240	170.780
176.245	170.790
176.250	170.795
176.300	170.560
176.305	170.580
176.310	170.580
176.320	170.580(c), 170.610(e), 170.640(a), (c)
176.330	170.590
176.340	170.610
176.350	170.640
176.400	170.412
176.410	170.200, 170.427
176.420	170.150(d)(5), (6), 170.310(a)(2), 170.420(a), 170.421(a), (b), (d), 170.500(a)(3), 170.530(j), 170.540(a), (c)
176.430	170.420(e), 170.490, 170.544(b), 170.550, 170.660, 170.780
176.440	170.440
176.450	170.442
176.460	170.672
176.470	170.460(f), 170.480(e), 170.544
176.500	170.800
176.505	None
176.510	170.810
176.515	170.820(a)
176.520	170.820(b), (c)

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176.525	170.830
176.530	None
176.535	None
176.540	None
176.545	170.840
176.550	170.850
176.555	None
176.560	170.870
176.565	170.880
176.570	170.890
176.575	170.910
176.580	170.920, 170.930, 170.940
176.585	None
176.590	None
176.APPENDIX A.....	None

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- 1) Heading of the Part: Compliance Certification for Underground Storage Tanks
- 2) Code Citation: 41 Ill. Adm. Code 177
- 3)

<u>Section Numbers</u> :	<u>Proposed Action</u> :
177.100	New
177.105	New
177.110	New
177.115	New
177.120	New
177.125	New
177.130	New
177.APPENDIX A	New
- 4) Statutory Authority: Implementing and authorized by Sections 2 and 3.5 of the Gasoline Storage Act [430 ILCS 15/2 and 3.5]
- 5) A Complete Description of the Subjects and Issues Involved: Reorganizes and consolidates existing underground storage tank system (UST) rules concerning the compliance certification required to be issued by OSFM under Section 3.5 of the Gasoline Storage Act. Clarifies that a depositor may, prior to issuance of the green decal for a newly installed UST, make one deposit of a regulated substance to provide ballast, which fuel shall not be sold or dispensed until the required decal is obtained. Makes non-substantive changes.
- 6) Published Studies or Reports, and sources of underlying data used to compose this rulemaking: None
- 7) Will this proposed rule replace any emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this proposed rule contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: These rules could have a minor impact on local government to the extent that local government units might own or operate a UST system.

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

Shelly Bradley, Manager
Division of Petroleum and Chemical Safety
Office of the State Fire Marshal
1035 Stevenson Dr.
Springfield, IL 62703-4259

Phone: 217/557-3131
Facsimile: 217/524-9284

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: This rulemaking could have a minor impact on those small businesses, not for profit entities, and small municipalities that own and operate UST systems.
 - B) Reporting, bookkeeping or other procedures required for compliance: The text of this proposed Part 177 requires compliance with technical requirements for UST systems. UST system installations and upgrades have various reporting and permitting requirements as described in the reorganized language of proposed new Parts 174, 175 and 176 (41 Ill. Adm. Code 174, 175 and 176). Typically the contractor obtains the permit on behalf of the owner/operator.
 - C) Types of professional skills necessary for compliance: Owners and operators of USTs must ensure that all persons installing and doing work on underground storage tank systems have been trained appropriately and licensed by the OSFM.
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2009

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

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF PROPOSED RULES

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

PART 177

COMPLIANCE CERTIFICATION FOR UNDERGROUND STORAGE TANKS

Section

177.100	Definitions
177.105	Deposit Prohibited
177.110	Inspection of UST Facilities
177.115	Evidence of Compliance Status for UST Facilities
177.120	Certificate of Exemption
177.125	Missing, Damaged or Destroyed Evidence of Compliance Status
177.130	Expiration of Certificates
177.APPENDIX A	Derivation Table

AUTHORITY: Implementing the Gasoline Storage Act [430 ILCS 15] and authorized by Sections 2 and 3.5 of the Gasoline Storage Act [430 ILCS 15/2 and 3.5].

SOURCE: Adopted at 34 Ill. Reg. _____, effective _____.

Section 177.100 Definitions

"Deposit" means the act of placing in or filling of a UST or directing the act of placing in or filling of a UST with a regulated substance.

"Evidence of Compliance Status" means a tag or decal issued by OSFM that is visible to persons making delivery of petroleum, petroleum product, hazardous substances or regulated substances under to this Part.

"Non-Motor Fuel Dispensing Facility" means a location where petroleum or petroleum-based product other than motor fuel is dispensed from a UST.

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

All other terms shall have the meanings ascribed to them in 41 Ill. Adm. Code 174.100.

Section 177.105 Deposit Prohibited

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- a) Effect of Green Decal. Beginning December 22, 1998, no person shall deposit or arrange for or allow another person to deposit petroleum, petroleum product, hazardous substances or regulated substances into any UST unless evidence is displayed that the UST is in compliance with 41 Ill. Adm. Code 174, 175 and 176, except as provided in this Part.
- b) Effect of Red Tag. Beginning December 22, 1998, no person shall deposit or arrange for or allow another person to deposit petroleum, petroleum product, hazardous substances or regulated substances into any UST that displays evidence that the UST is not in compliance with the applicable rules of OSFM. A depositor may make one deposit of a regulated substance to a newly installed or newly lined tank to provide ballast. That regulated substance shall not be sold or dispensed until the required decal is obtained.

Section 177.110 Inspection of UST Facilities

OSFM shall inspect UST facilities for compliance with 41 Ill. Adm. Code 174, 175 and 176 and this Part and issue an evidence of compliance status.

Section 177.115 Evidence of Compliance Status for UST Facilities

- a) Evidence of compliance status for UST facilities shall consist of a tag or decal issued by OSFM. The tag or decal shall be either:
 - 1) Red: indicating non-compliance; or
 - 2) Green: indicating compliance; or
 - 3) Yellow: indicating exempt (see Section 177.120).
- b) Evidence of compliance status (green decal) shall be affixed as follows:
 - 1) for motor fuel dispensing facilities, to the window closest to the main entry of the motor fuel dispensing facility or, if such a window is not available, to the inside window of the dispenser cabinet;
 - 2) for non-motor fuel dispensing facilities, to the fill pipe of the UST or near the fill pipe at a location agreed to by the representative of OSFM.

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- c) If more than one UST is located at the facility, and some but not all USTs are in compliance, OSFM, in its discretion, may issue a green decal that shall be affixed as provided in subsection (b) and will issue individual red tags for each of the non-compliant USTs that shall be affixed directly onto the fill pipe of the non-compliant UST or near the fill pipe of the non-compliant UST at a location approved by OSFM.
- d) Evidence of compliance status may also be a notice or letter issued by OSFM indicating the facility status. The letter or notice shall be valid for 30 days from the date of the notice or letter.
- e) No decal or tag shall be removed by anyone other than an employee of OSFM. Upon reaching full compliance with the requirements of 41 Ill. Adm. Code 174, 175 and 176 and this Part, OSFM shall issue a green decal to a facility as soon as practicable. Upon reaching full compliance for a particular tank, OSFM shall remove any red tag prohibiting deposit into a particular UST as soon as practicable. Any request to fill a UST with a required minimal amount of fuel necessary to perform compliance testing must be submitted in writing and approved by OSFM in advance. A depositor may make one deposit of a regulated substance to a newly installed or newly lined tank to provide ballast. That regulated substance shall not be sold or dispensed until the required decal is obtained.

Section 177.120 Certificate of Exemption

- a) Owners and operators of underground and above ground tanks not defined as USTs may request a Certificate of Exemption (i.e., yellow tag) from the requirements of this Part. The yellow tag shall be affixed directly onto the fill pipe of the exempt UST or near the fill pipe of the exempt UST at a location approved by OSFM. The yellow tag shall serve to avoid any confusion as to whether evidence of compliance status is required for the UST and, therefore, avoid unintended denial of a delivery of petroleum, petroleum product, regulated substances or hazardous substances.
- b) The owner or operator must make a written request for a yellow tag to OSFM. A representative of OSFM may inspect the tank or tank system.

Section 177.125 Missing, Damaged or Destroyed Evidence of Compliance Status

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- a) The owner or operator of a UST may temporarily use a notice or letter issued pursuant to Section 177.115(d) by OSFM to establish evidence of compliance status when the green decal is missing, damaged or destroyed.
- b) If the person depositing the petroleum, petroleum product, hazardous substance or regulated substance has knowledge that the facility or UST has been issued a green decal, and the decal is missing, damaged or destroyed, the person delivering the substance should attempt to make reasonable inquiry to the owner or operator of the compliance status of the facility and UST. After making inquiry and receiving no information as to the non-compliance of the facility and UST, the person may deposit the substance but must notify OSFM, in writing, of the delivery on the next business day and make inquiry into the status of the UST receiving the delivery. Knowledge may be relied on under this subsection (b) by stating in writing that the depositor has observed a prior green decal and has no knowledge of the revocation of that decal. Examples include:
 - 1) A green decal was displayed at the time of a recent, prior delivery and a red tag was not affixed to the UST receiving the current delivery; or
 - 2) Other personal knowledge sufficient to satisfy this subsection (b), including possession of a copy of an inspection form issued by OSFM.
- c) Owners or operators of a UST shall report all missing, damaged or destroyed tags and decals on the next business day, in writing, following the discovery and shall return to OSFM the damaged tag or decal. OSFM will replace missing or damaged tags and decals as soon as practicable.

Section 177.130 Expiration of Certificates

Green decals shall be issued for a two-year period. Tanks not in compliance with 41 Ill. Adm. Code 174, 175 and 176 and this Part shall be issued red tags.

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Section 177.APPENDIX A Derivation Table

The following table indicates the Sections of 41 Ill. Adm. Code 170 or 171 that formerly stated requirements identical or related to those now located within this Part 177.

New Section	Old Section
177.100	170.400, 171.10
177.110	171.70(a), 171.100(a)
177.115	171.90, 171.110
177.120	171.150
177.125	171.160
177.130	171.180
177.APPENDIX A.....	None

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Organic Material Emission Standard and Limitations for the Chicago Area
- 2) Code Citation: 35 Ill. Adm. Code 218
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
218.106	Amended
218.204	Amended
218.205	Amended
218.207	Amended
218.210	Amended
218.211	Amended
218.212	Amended
218.218	New
- 4) Statutory Authority: Implementing Section 10 and authorized by Sections 27, 28 and 28.5 of the Environmental Protection Act [415 ILCS 5/10, 27, 28 and 28.5]
- 5) A Complete Description of the Subjects and Issues Involved: The proposed rulemaking is intended to satisfy Illinois' obligation to submit a State Implementation Plan addressing requirements under Sections 172 and 182 of the federal Clean Air Act, 42 USC 7401 et seq., for sources of volatile organic material (VOM) emissions in areas designated as nonattainment with respect to the ozone National Ambient Air Quality Standard. The United States Environmental Protection Agency (USEPA) issued Control Techniques Guidelines (CTGs) for the following Group III Consumer and Commercial Product Categories: Paper, Film, and Foil Coatings, Metal Furniture Coatings, and Large Appliance Coatings. In the CTGs, the USEPA recommended control measures that it believes constitute reasonably available control technology for those product categories. The Illinois EPA proposes amending Parts 218 to implement such recommendations for the Chicago nonattainment area. Generally, the proposal amends VOM content limitations and exclusions, requires that metal furniture and large appliance coating lines comply with application method limitations, and requires that subject coating lines implement specified work practices for cleaning materials and/or cleaning-related activities.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: The regulatory proposal included the Illinois EPA's Technical Support Document, which relied on several sources. Copies of the documents the Illinois EPA

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relied upon are available for review with the Pollution Control Board and are listed below:

Control Techniques Guidelines for Paper, Film, and Foil Coatings, United States Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, NC, September 2007.

Control Techniques Guidelines for Metal Furniture Coatings, United States Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, NC, September 2007.

Control Techniques Guidelines for Large Appliance Coatings, United States Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, NC, September 2007.

- 7) Will these proposed amendments replace any emergency rulemaking currently in effect?
No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Do these proposed amendments contain incorporations by reference? No
- 10) Are there any other proposed amendments pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This proposed rule does not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act. [30 ILCS 805/3(b) (2006)].
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may request copies of the Board's opinion and order by calling the Clerk's office at 312-814-3620, or may download copies from the Board's Web site at www.ipcb.state.il.us. The Board will accept written public comment on this proposal for 45 days after the date of publication in the *Illinois Register*. Comments should reference Docket R10-10 and be addressed to:

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

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312/814-3620

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

First hearing: Wednesday, December 9, 2009
10:00 AM
James R. Thompson Center
100 W. Randolph St.
Pollution Control Board Conference Room 11-512
Chicago, Illinois

Second hearing: Wednesday, January 6, 2010
(if necessary) 10:00 AM
Michael A. Bilandic Building
160 N. LaSalle Street
Room N-505
Chicago, Illinois

Third hearing: Wednesday, January 20, 2010
(if necessary) 10:00 AM
Michael A. Bilandic Building
160 N. LaSalle Street
Room N-505
Chicago, Illinois

A November 5, 2009 hearing officer order contains additional details concerning participation in the rulemaking. For more information contact Hearing Officer Tim Fox at 312-814-6085 or email at foxt@ipcb.state.il.us.

13) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: this rulemaking will impact any small business, small municipality, and not for profit corporation that falls within one of the Group III Product Categories and meets the applicability thresholds specified in the proposal.

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- B) Reporting, bookkeeping or other procedures required for compliance: the proposed rulemaking requires that the owner or operator of a subject source perform emissions monitoring, submit certifications, complete required tests, and maintain records and make reports as required.
- C) Types of Professional skills necessary for compliance: no professional skills beyond those currently required by the existing state and federal air pollution control regulations applicable to affected sources will be required.
- 14) Regulatory Agenda on which this rulemaking was summarized: July 2009

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

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TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE B: AIR POLLUTION
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER c: EMISSIONS STANDARDS AND
LIMITATIONS FOR STATIONARY SOURCESPART 218
ORGANIC MATERIAL EMISSION STANDARDS AND
LIMITATIONS FOR THE CHICAGO AREA

SUBPART A: GENERAL PROVISIONS

Section	
218.100	Introduction
218.101	Savings Clause
218.102	Abbreviations and Conversion Factors
218.103	Applicability
218.104	Definitions
218.105	Test Methods and Procedures
218.106	Compliance Dates
218.107	Operation of Afterburners
218.108	Exemptions, Variations, and Alternative Means of Control or Compliance Determinations
218.109	Vapor Pressure of Volatile Organic Liquids
218.110	Vapor Pressure of Organic Material or Solvent
218.111	Vapor Pressure of Volatile Organic Material
218.112	Incorporations by Reference
218.113	Monitoring for Negligibly-Reactive Compounds
218.114	Compliance with Permit Conditions

SUBPART B: ORGANIC EMISSIONS FROM STORAGE
AND LOADING OPERATIONS

Section	
218.119	Applicability for VOL
218.120	Control Requirements for Storage Containers of VOL
218.121	Storage Containers of VPL
218.122	Loading Operations
218.123	Petroleum Liquid Storage Tanks

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218.124	External Floating Roofs
218.125	Compliance Dates
218.126	Compliance Plan (Repealed)
218.127	Testing VOL Operations
218.128	Monitoring VOL Operations
218.129	Recordkeeping and Reporting for VOL Operations

SUBPART C: ORGANIC EMISSIONS FROM MISCELLANEOUS EQUIPMENT

Section	
218.141	Separation Operations
218.142	Pumps and Compressors
218.143	Vapor Blowdown
218.144	Safety Relief Valves

SUBPART E: SOLVENT CLEANING

Section	
218.181	Solvent Cleaning in General
218.182	Cold Cleaning
218.183	Open Top Vapor Degreasing
218.184	Conveyorized Degreasing
218.185	Compliance Schedule (Repealed)
218.186	Test Methods

SUBPART F: COATING OPERATIONS

Section	
218.204	Emission Limitations
218.205	Daily-Weighted Average Limitations
218.206	Solids Basis Calculation
218.207	Alternative Emission Limitations
218.208	Exemptions from Emission Limitations
218.209	Exemption from General Rule on Use of Organic Material
218.210	Compliance Schedule
218.211	Recordkeeping and Reporting
218.212	Cross-Line Averaging to Establish Compliance for Coating Lines
218.213	Recordkeeping and Reporting for Cross-Line Averaging Participating Coating Lines

POLLUTION CONTROL BOARD

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218.214	Changing Compliance Methods
218.215	Wood Furniture Coating Averaging Approach
218.216	Wood Furniture Coating Add-On Control Use
218.217	Wood Furniture Coating Work Practice Standards
<u>218.218</u>	<u>Work Practice Standards for Paper Coatings, Metal Furniture Coatings, and Large Appliance Coatings</u>

SUBPART G: USE OF ORGANIC MATERIAL

Section	
218.301	Use of Organic Material
218.302	Alternative Standard
218.303	Fuel Combustion Emission Units
218.304	Operations with Compliance Program

SUBPART H: PRINTING AND PUBLISHING

Section	
218.401	Flexographic and Rotogravure Printing
218.402	Applicability
218.403	Compliance Schedule
218.404	Recordkeeping and Reporting
218.405	Lithographic Printing: Applicability
218.406	Provisions Applying to Heatset Web Offset Lithographic Printing Prior to March 15, 1996
218.407	Emission Limitations and Control Requirements for Lithographic Printing Lines On and After March 15, 1996
218.408	Compliance Schedule for Lithographic Printing On and After March 15, 1996
218.409	Testing for Lithographic Printing On and After March 15, 1996
218.410	Monitoring Requirements for Lithographic Printing
218.411	Recordkeeping and Reporting for Lithographic Printing

SUBPART Q: SYNTHETIC ORGANIC CHEMICAL
AND POLYMER MANUFACTURING PLANT

Section	
218.421	General Requirements
218.422	Inspection Program Plan for Leaks
218.423	Inspection Program for Leaks

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218.424	Repairing Leaks
218.425	Recordkeeping for Leaks
218.426	Report for Leaks
218.427	Alternative Program for Leaks
218.428	Open-Ended Valves
218.429	Standards for Control Devices
218.430	Compliance Date (Repealed)
218.431	Applicability
218.432	Control Requirements
218.433	Performance and Testing Requirements
218.434	Monitoring Requirements
218.435	Recordkeeping and Reporting Requirements
218.436	Compliance Date

SUBPART R: PETROLEUM REFINING AND
RELATED INDUSTRIES; ASPHALT MATERIALS

Section	
218.441	Petroleum Refinery Waste Gas Disposal
218.442	Vacuum Producing Systems
218.443	Wastewater (Oil/Water) Separator
218.444	Process Unit Turnarounds
218.445	Leaks: General Requirements
218.446	Monitoring Program Plan for Leaks
218.447	Monitoring Program for Leaks
218.448	Recordkeeping for Leaks
218.449	Reporting for Leaks
218.450	Alternative Program for Leaks
218.451	Sealing Device Requirements
218.452	Compliance Schedule for Leaks
218.453	Compliance Dates (Repealed)

SUBPART S: RUBBER AND MISCELLANEOUS PLASTIC PRODUCTS

Section	
218.461	Manufacture of Pneumatic Rubber Tires
218.462	Green Tire Spraying Operations
218.463	Alternative Emission Reduction Systems
218.464	Emission Testing

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- 218.465 Compliance Dates (Repealed)
218.466 Compliance Plan (Repealed)

SUBPART T: PHARMACEUTICAL MANUFACTURING

- Section
218.480 Applicability
218.481 Control of Reactors, Distillation Units, Crystallizers, Centrifuges and Vacuum Dryers
218.482 Control of Air Dryers, Production Equipment Exhaust Systems and Filters
218.483 Material Storage and Transfer
218.484 In-Process Tanks
218.485 Leaks
218.486 Other Emission Units
218.487 Testing
218.488 Monitoring for Air Pollution Control Equipment
218.489 Recordkeeping for Air Pollution Control Equipment

SUBPART V: BATCH OPERATIONS AND AIR OXIDATION PROCESSES

- Section
218.500 Applicability for Batch Operations
218.501 Control Requirements for Batch Operations
218.502 Determination of Uncontrolled Total Annual Mass Emissions and Average Flow Rate Values for Batch Operations
218.503 Performance and Testing Requirements for Batch Operations
218.504 Monitoring Requirements for Batch Operations
218.505 Reporting and Recordkeeping for Batch Operations
218.506 Compliance Date
218.520 Emission Limitations for Air Oxidation Processes
218.521 Definitions (Repealed)
218.522 Savings Clause
218.523 Compliance
218.524 Determination of Applicability
218.525 Emission Limitations for Air Oxidation Processes
218.526 Testing and Monitoring
218.527 Compliance Date (Repealed)

SUBPART W: AGRICULTURE

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

Section
218.541 Pesticide Exception

SUBPART X: CONSTRUCTION

Section
218.561 Architectural Coatings
218.562 Paving Operations
218.563 Cutback Asphalt

SUBPART Y: GASOLINE DISTRIBUTION

Section
218.581 Bulk Gasoline Plants
218.582 Bulk Gasoline Terminals
218.583 Gasoline Dispensing Operations – Storage Tank Filling Operations
218.584 Gasoline Delivery Vessels
218.585 Gasoline Volatility Standards
218.586 Gasoline Dispensing Operations – Motor Vehicle Fueling Operations

SUBPART Z: DRY CLEANERS

Section
218.601 Perchloroethylene Dry Cleaners (Repealed)
218.602 Applicability (Repealed)
218.603 Leaks (Repealed)
218.604 Compliance Dates (Repealed)
218.605 Compliance Plan (Repealed)
218.606 Exception to Compliance Plan (Repealed)
218.607 Standards for Petroleum Solvent Dry Cleaners
218.608 Operating Practices for Petroleum Solvent Dry Cleaners
218.609 Program for Inspection and Repair of Leaks
218.610 Testing and Monitoring
218.611 Applicability for Petroleum Solvent Dry Cleaners
218.612 Compliance Dates (Repealed)
218.613 Compliance Plan (Repealed)

SUBPART AA: PAINT AND INK MANUFACTURING

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Section

218.620	Applicability
218.621	Exemption for Waterbase Material and Heatset-Offset Ink
218.623	Permit Conditions (Repealed)
218.624	Open-Top Mills, Tanks, Vats or Vessels
218.625	Grinding Mills
218.626	Storage Tanks
218.628	Leaks
218.630	Clean Up
218.636	Compliance Schedule
218.637	Recordkeeping and Reporting

SUBPART BB: POLYSTYRENE PLANTS

Section

218.640	Applicability
218.642	Emissions Limitation at Polystyrene Plants
218.644	Emissions Testing

SUBPART CC: POLYESTER RESIN PRODUCT MANUFACTURING PROCESS

Section

218.660	Applicability
218.666	Control Requirements
218.667	Compliance Schedule
218.668	Testing
218.670	Recordkeeping and Reporting for Exempt Emission Units
218.672	Recordkeeping and Reporting for Subject Emission Units

SUBPART DD: AEROSOL CAN FILLING

Section

218.680	Applicability
218.686	Control Requirements
218.688	Testing
218.690	Recordkeeping and Reporting for Exempt Emission Units
218.692	Recordkeeping and Reporting for Subject Emission Units

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SUBPART FF: BAKERY OVENS (REPEALED)

Section

218.720	Applicability (Repealed)
218.722	Control Requirements (Repealed)
218.726	Testing (Repealed)
218.727	Monitoring (Repealed)
218.728	Recordkeeping and Reporting (Repealed)
218.729	Compliance Date (Repealed)
218.730	Certification (Repealed)

SUBPART GG: MARINE TERMINALS

Section

218.760	Applicability
218.762	Control Requirements
218.764	Compliance Certification
218.766	Leaks
218.768	Testing and Monitoring
218.770	Recordkeeping and Reporting

SUBPART HH: MOTOR VEHICLE REFINISHING

Section

218.780	Emission Limitations
218.782	Alternative Control Requirements
218.784	Equipment Specifications
218.786	Surface Preparation Materials
218.787	Work Practices
218.788	Testing
218.789	Monitoring and Recordkeeping for Control Devices
218.790	General Recordkeeping and Reporting (Repealed)
218.791	Compliance Date
218.792	Registration
218.875	Applicability of Subpart BB (Renumbered)
218.877	Emissions Limitation at Polystyrene Plants (Renumbered)
218.879	Compliance Date (Repealed)
218.881	Compliance Plan (Repealed)
218.883	Special Requirements for Compliance Plan (Repealed)

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218.886 Emissions Testing (Renumbered)

SUBPART PP: MISCELLANEOUS FABRICATED PRODUCT
MANUFACTURING PROCESSES

Section

218.920 Applicability
218.923 Permit Conditions (Repealed)
218.926 Control Requirements
218.927 Compliance Schedule
218.928 Testing
218.929 Cementable and Dress or Performance Shoe Leather

SUBPART QQ: MISCELLANEOUS FORMULATION
MANUFACTURING PROCESSES

Section

218.940 Applicability
218.943 Permit Conditions (Repealed)
218.946 Control Requirements
218.947 Compliance Schedule
218.948 Testing

SUBPART RR: MISCELLANEOUS ORGANIC CHEMICAL
MANUFACTURING PROCESSES

Section

218.960 Applicability
218.963 Permit Conditions (Repealed)
218.966 Control Requirements
218.967 Compliance Schedule
218.968 Testing

SUBPART TT: OTHER EMISSION UNITS

Section

218.980 Applicability
218.983 Permit Conditions (Repealed)
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218.987 Compliance Schedule
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218.990 Exempt Emission Units
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218.APPENDIX H Baseline VOM Content Limitations for Subpart F, Section 218.212 Cross-Line Averaging

AUTHORITY: Implementing Section 10 and authorized by Sections 27, 28, and 28.5 of the Environmental Protection Act [415 ILCS 5/10, 27, 28, and 28.5].

SOURCE: Adopted at R91-7 at 15 Ill. Reg. 12231, effective August 16, 1991; amended in R91-24 at 16 Ill. Reg. 13564, effective August 24, 1992; amended in R91-28 and R91-30 at 16 Ill. Reg. 13864, effective August 24, 1992; amended in R93-9 at 17 Ill. Reg. 16636, effective September 27, 1993; amended in R93-14 at 18 Ill. Reg. 1945, effective January 24, 1994; amended in R94-12 at 18 Ill. Reg. 14973, effective September 21, 1994; amended in R94-15 at 18 Ill. Reg. 16392, effective October 25, 1994; amended in R94-16 at 18 Ill. Reg. 16950, effective November 15, 1994; amended in R94-21, R94-31 and R94-32 at 19 Ill. Reg. 6848, effective May 9, 1995; amended in R94-33 at 19 Ill. Reg. 7359, effective May 22, 1995; amended in R96-13 at 20 Ill. Reg. 14428, effective October 17, 1996; amended in R97-24 at 21 Ill. Reg. 7708, effective June 9, 1997; amended in R97-31 at 22 Ill. Reg. 3556, effective February 2, 1998; amended in R98-16 at 22 Ill. Reg. 14282, effective July 16, 1998; amended in R02-20 at 27 Ill. Reg. 7283, effective April 8, 2003; amended in R04-12/20 at 30 Ill. Reg. 9684, effective May 15, 2006; amended in R06-21 at 31 Ill. Reg. 7086, effective April 30, 2007; amended in R08-8 at 32 Ill. Reg. 14874, effective August 26, 2008; amended in R10-10 at 34 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

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Section 218.106 Compliance Dates

- a) Except as otherwise provided in this Section or as otherwise provided in a specific Subpart of this Part, compliance with the requirements of all rules is required by July 1, 1991, or September 1, 1991, for all sources located in Cook, DuPage, Kane, Lake, McHenry, or Will Counties, consistent with the appropriate provisions of Section 218.103 of this Subpart.
- b) Except as otherwise provided in this Section or as otherwise provided in a specific Subpart of this Part, compliance with the requirements of this Part is required by November 15, 1993, for all sources located in Aux Sable Township or Goose Lake Township in Grundy County, or in Oswego Township in Kendall County.
- c) All emission units which meet the applicability requirements of Sections 218.402(a)(2), 218.611(b), 218.620(b), 218.660(a), 218.680(a), 218.920(b), 218.940(b), 218.960(b) or 218.980(b) of this Part, including emission units at sources which are excluded from the applicability criteria of Sections 218.402(a)(1), 218.611(a), 218.620(a), 218.920(a), 218.940(a), 218.960(a), or 218.980(a) of this Part by virtue of permit conditions or other enforceable means, must comply with the requirements of Subparts H, Z, AA, CC, DD, PP, QQ, RR or TT of this Part, respectively, by March 15, 1995. Any owner or operator of an emission unit which has already met the applicability requirements of Sections 218.402(a)(1), 218.611(a), 218.620(a), 218.920(a), 218.940(a), 218.960(a) or 218.980(a) of this Part on or by the effective date of this subsection is required to comply with all compliance dates or schedules found in Sections 218.106(a) or 218.106(b), as applicable.
- d) Any owner or operator of a source with an emission unit subject to the requirements of Section 218.204(m)(2) or (m)(3) of this Part shall comply with those requirements by March 25, 1995.
- e) Any owner or operator of a source subject to the requirements of Section 218.204(c)(2), 218.204(g)(2), or 218.204(h)(2) of this Part shall comply with the applicable requirements in the applicable subsections, as well as all applicable requirements in Sections 218.205 through 218.214 and 218.218, by May 1, 2011.

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

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SUBPART F: COATING OPERATIONS

Section 218.204 Emission Limitations

Except as provided in Sections 218.205, 218.207, 218.208, 218.212, 218.215 and 218.216 of this Subpart, no owner or operator of a coating line shall apply at any time any coating in which the VOM content exceeds the following emission limitations for the specified coating. Except as otherwise provided in Section 218.204(c), 218.204(g), 218.204(h), and ~~Section~~ 218.204(i), compliance with the emission limitations marked with an asterisk in this Section is required on and after March 15, 1996, and compliance with emission limitations not marked with an asterisk is required until March 15, 1996. The following emission limitations are expressed in units of VOM per volume of coating (minus water and any compounds which are specifically exempted from the definition of VOM) as applied at each coating applicator, except where noted. Compounds which are specifically exempted from the definition of VOM should be treated as water for the purpose of calculating the "less water" part of the coating composition. Compliance with this Subpart must be demonstrated through the applicable coating analysis test methods and procedures specified in Section 218.105(a) of this Part and the recordkeeping and reporting requirements specified in Section 218.211(c) of this Subpart except where noted. (Note: The equation presented in Section 218.206 of this Part shall be used to calculate emission limitations for determining compliance by add-on controls, credits for transfer efficiency, emissions trades and cross-line averaging.) The emission limitations are as follows:

a)	Automobile or Light-Duty Truck Coating	kg/l	lb/gal
	1) Prime coat	0.14 0.14*	(1.2) (1.2)*
	2) Primer surface coat	1.81 1.81*	(15.1) (15.1)*

(Note: The primer surface coat limitation is in units of kg (lbs) of VOM per l (gal) of coating solids deposited. Compliance with the limitation shall be based on the daily-weighted average from an entire primer surfacer operation. Compliance shall be demonstrated in accordance with the topcoat protocol referenced in Section 218.105(b) and the recordkeeping and reporting requirements specified in Section 218.211(f). Testing to demonstrate compliance shall be performed in accordance with the topcoat protocol and a detailed testing proposal approved by the Agency and USEPA specifying the method of demonstrating compliance

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with the protocol. Section 218.205 does not apply to the primer surfacer limitation.)

3)	Topcoat	kg/l	lb/gal
		1.81	(15.1)
		1.81*	(15.1)*

(Note: The topcoat limitation is in units of kg (lbs) of VOM per l (gal) of coating solids deposited. Compliance with the limitation shall be based on the daily-weighted average from an entire topcoat operation. Compliance shall be demonstrated in accordance with the topcoat protocol referenced in Section 218.105(b) of this Part and the recordkeeping and reporting requirements specified in Section 218.211(f). Testing to demonstrate compliance shall be performed in accordance with the topcoat protocol and a detailed testing proposal approved by the Agency and USEPA specifying the method of demonstrating compliance with the protocol. Section 218.205 of this Part does not apply to the topcoat limitation.)

4)	Final repair coat	kg/l	lb/gal
		0.58	(4.8)
		0.58*	(4.8)*
b)	Can Coating	kg/l	lb/gal
1)	Sheet basecoat and overvarnish		
A)	Sheet basecoat	0.34	(2.8)
		0.26*	(2.2)*
B)	Overvarnish	0.34	(2.8)
		0.34	(2.8)*
2)	Exterior basecoat and overvarnish	0.34	(2.8)
		0.25*	(2.1)*
3)	Interior body spray coat		
A)	Two piece	0.51	(4.2)
		0.44*	(3.7)*

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B)	Three piece	0.51	(4.2)
		0.51*	(4.2)*
4)	Exterior end coat	0.51	(4.2)
		0.51*	(4.2)*
5)	Side seam spray coat	0.66	(5.5)
		0.66*	(5.5)*
6)	End sealing compound coat	0.44	(3.7)
		0.44*	(3.7)*
c)	Paper Coating	<u>kg/l</u>	<u>lb/gal</u>
		<u>0.35</u>	<u>(2.9)</u>
		<u>0.28*</u>	<u>(2.3)*</u>
1)	<u>Prior to May 1, 2011:</u>	<u>kg/l</u>	<u>lb/gal</u>
		<u>0.28</u>	<u>(2.3)</u>
2)	<u>On and after May 1, 2011:</u>	<u>kg VOM/kg</u>	<u>kg VOM/kg</u>
		<u>(lb VOM/lb)</u>	<u>(lb VOM/lb)</u>
		<u>solids</u>	<u>coatings</u>
		<u>applied</u>	<u>applied</u>
A)	<u>Pressure sensitive tape and</u> <u>label surface coatings</u>	<u>0.20</u>	<u>(0.067)</u>
B)	<u>All other paper coatings</u>	<u>0.40</u>	<u>(0.08)</u>

(Note: The paper coating limitation shall not apply to any owner or operator of any paper coating line on which flexographic or rotogravure printing is performed if the paper coating line complies with the emissions limitations in Section 218.401 of this Part. In addition, screen printing on paper is not regulated as paper coating, but is regulated under Subpart TT of this Part. On and after May 1, 2011, the paper coating limitation shall also not apply to coating performed on or in-line with any digital printing press, or to size presses and on-machine coaters on papermaking machines applying sizing or water-based clays.)

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d)	Coil Coating	kg/l 0.31 0.20*	lb/gal (2.6) (1.7)*
e)	Fabric Coating	0.35 0.28*	(2.9) (2.3)*
f)	Vinyl Coating	0.45 0.28*	(3.8) (2.3)*
g)	Metal Furniture Coating		
	<u>1) Prior to May 1, 2011:</u>		
		<u>kg/l</u>	<u>lb/gal</u>
	<u>A) Air dried</u>	<u>0.34</u>	<u>(2.8)</u>
	<u>B) Baked</u>	<u>0.28</u>	<u>(2.3)</u>
	<u>2) On and after May 1, 2011:</u>		
		<u>kg/l</u> <u>(lb/gal)</u>	<u>kg/l (lb/gal)</u> <u>solids applied</u>
	<u>A) General, One-Component</u>	<u>0.275</u> <u>(2.3)</u>	<u>0.40</u> <u>(3.3)</u>
	<u>B) General, Multi-Component</u>		
	<u>i) Air Dried</u>	<u>0.340</u> <u>(2.8)</u>	<u>0.55</u> <u>(4.5)</u>
	<u>ii) Baked</u>	<u>0.275</u> <u>(2.3)</u>	<u>0.40</u> <u>(3.3)</u>
	<u>C) Extreme High Gloss</u>		
	<u>i) Air Dried</u>	<u>0.340</u> <u>(2.8)</u>	<u>0.55</u> <u>(4.5)</u>
	<u>ii) Baked</u>	<u>0.360</u> <u>(3.0)</u>	<u>0.61</u> <u>(5.1)</u>

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<u>D)</u>	<u>Extreme Performance</u>		
	i) <u>Air Dried</u>	<u>0.420</u> <u>(3.5)</u>	<u>0.80</u> <u>(6.7)</u>
	ii) <u>Baked</u>	<u>0.360</u> <u>(3.0)</u>	<u>0.61</u> <u>(5.1)</u>
<u>E)</u>	<u>Heat Resistant</u>		
	i) <u>Air Dried</u>	<u>0.420</u> <u>(3.5)</u>	<u>0.80</u> <u>(6.7)</u>
	ii) <u>Baked</u>	<u>0.360</u> <u>(3.0)</u>	<u>0.61</u> <u>(5.1)</u>
<u>F)</u>	<u>Metallic</u>	<u>0.420</u> <u>(3.5)</u>	<u>0.80</u> <u>(6.7)</u>
<u>G)</u>	<u>Pretreatment Coatings</u>	<u>0.420</u> <u>(3.5)</u>	<u>0.80</u> <u>(6.7)</u>
<u>H)</u>	<u>Solar Absorbent</u>		
	i) <u>Air Dried</u>	<u>0.420</u> <u>(3.5)</u>	<u>0.80</u> <u>(6.7)</u>
	ii) <u>Baked</u>	<u>0.360</u> <u>(3.0)</u>	<u>0.61</u> <u>(5.1)</u>
1)	<u>Air dried</u>	<u>0.36</u> <u>0.34*</u>	<u>(3.0)</u> <u>(2.8)*</u>
2)	<u>Baked</u>	<u>0.36</u> <u>0.28*</u>	<u>(3.0)</u> <u>(2.3)*</u>

(Note: On and after May 1, 2011, these limitations shall not apply to stencil coatings, safety-indicating coatings, solid-film lubricants, electric-insulating and

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thermal-conducting coatings, touch-up and repair coatings, or coating applications utilizing hand-held aerosol cans.)

3) On and after May 1, 2011, an owner or operator of a coating line subject to the limitations in this subsection (g) shall apply all coatings using one or more of the following application methods:

A) Electrostatic spray;

B) High volume low pressure (HVLP) spray;

C) Flow coating. For the purposes of this subsection (g), flow coating means a non-atomized technique of applying coating to a substrate with a fluid nozzle with no air supplied to the nozzle;

D) Roll coating;

E) Dip coating, including electrodeposition. For purposes of this subsection (g), electrodeposition means a water-borne dip coating process in which opposite electrical charges are applied to the substrate and the coating. The coating is attracted to the substrate due to the electrochemical potential difference that is created; or

F) Another coating application method capable of achieving a transfer efficiency equal to or better than that achieved by HVLP spraying, if such method is approved in writing by the Agency.

h) Large Appliance Coating

1) Prior to May 1, 2011:

		<u>kg/l</u>	<u>lb/gal</u>
A)	<u>Air Dried</u>	<u>0.34</u>	<u>(2.8)</u>

B)	<u>Baked</u>	<u>0.28</u>	<u>(2.3)</u>
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2) On and after May 1, 2011:

		<u>kg/l</u>	<u>kg/l (lb/gal)</u>
		<u>(lb/gal)</u>	<u>solids</u>
			<u>applied</u>

A)	<u>General, One Component</u>	<u>0.275</u>	<u>0.40</u>
		<u>(2.3)</u>	<u>(3.3)</u>

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<u>B)</u>	<u>General, Multi-Component</u>		
	i) <u>Air Dried</u>	<u>0.340</u> <u>(2.8)</u>	<u>0.55</u> <u>(4.5)</u>
	ii) <u>Baked</u>	<u>0.275</u> <u>(2.3)</u>	<u>0.40</u> <u>(3.3)</u>
<u>C)</u>	<u>Extreme High Gloss</u>		
	i) <u>Air Dried</u>	<u>0.340</u> <u>(2.8)</u>	<u>0.55</u> <u>(4.5)</u>
	ii) <u>Baked</u>	<u>0.360</u> <u>(3.0)</u>	<u>0.61</u> <u>(5.1)</u>
<u>D)</u>	<u>Extreme Performance</u>		
	i) <u>Air Dried</u>	<u>0.420</u> <u>(3.5)</u>	<u>0.80</u> <u>(6.7)</u>
	ii) <u>Baked</u>	<u>0.360</u> <u>(3.0)</u>	<u>0.61</u> <u>(5.1)</u>
<u>E)</u>	<u>Heat Resistant</u>		
	i) <u>Air Dried</u>	<u>0.420</u> <u>(3.5)</u>	<u>0.80</u> <u>(6.7)</u>
	ii) <u>Baked</u>	<u>0.360</u> <u>(3.0)</u>	<u>0.61</u> <u>(5.1)</u>
<u>F)</u>	<u>Metallic</u>	<u>0.420</u> <u>(3.5)</u>	<u>0.80</u> <u>(6.7)</u>
<u>G)</u>	<u>Pretreatment Coatings</u>	<u>0.420</u> <u>(3.5)</u>	<u>0.80</u> <u>(6.7)</u>
<u>H)</u>	<u>Solar Absorbent</u>		
	i) <u>Air Dried</u>	<u>0.420</u> <u>(3.5)</u>	<u>0.80</u> <u>(6.7)</u>
	ii) <u>Baked</u>	<u>0.360</u>	<u>0.61</u>

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(3.0)

(5.1)

BOARD NOTE: These limitations~~The limitation~~ shall not apply to the use of quick-drying lacquers for repair of scratches and nicks that occur during assembly, provided that the volume of coating does not exceed 0.95 l (1 quart) in any one rolling eight-hour period. On and after May 1, 2011, these limitations shall also not apply to stencil coatings, safety-indicating coatings, solid-film lubricants, electric-insulating and thermal-conducting coatings, touch-up and repair coatings, or coating applications utilizing hand-held aerosol cans.)

3) On and after May 1, 2011, an owner or operator of a coating line subject to the limitations in this subsection (h) shall apply all coatings using one or more of the following application methods:

A) Electrostatic spray;

B) High volume low pressure (HVLP) spray;

C) Flow coating. For the purposes of this subsection (h), flow coating means a non-atomized technique of applying coating to a substrate with a fluid nozzle with no air supplied to the nozzle;

D) Roll coating;

E) Brush coating;

F) Dip coating, including electrodeposition. For purposes of this subsection (h), electrodeposition means a water-borne dip coating process in which opposite electrical charges are applied to the substrate and the coating. The coating is attracted to the substrate due to the electrochemical potential difference that is created; or

G) Another coating application method capable of achieving a transfer efficiency equal to or better than that achieved by HVLP spraying, if such method is approved in writing by the Agency.

i)	Magnet Wire Coating	kg/l	lb/gal
		0.20	(1.7)
		0.20*	(1.7)*

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j)	Miscellaneous Metal Parts and Products Coating		
	1) Clear coating	0.52	(4.3)
		0.52*	(4.3)*
	2) Extreme performance coating		
	A) Air dried	0.42	(3.5)
		0.42*	(3.5)*
	B) Baked	0.42	(3.5)
		0.40*	(3.3)*
	3) Steel pail and drum interior coating	0.52	(4.3)
		0.52*	(4.3)*
	4) All other coatings		
	A) Air Dried	0.42	(3.5)
		0.40*	(3.3)*
	B) Baked	0.36	(3.0)
		0.34*	(2.8)*
	5) Marine engine coating		
	A) Air Dried	0.42	(3.5)
		0.42*	(3.5)*
	B) Baked		
	i) Primer/Topcoat	0.42	(3.5)
		0.42*	(3.5)*
	ii) Corrosion resistant basecoat	0.42	(3.5)
		0.28*	(2.3)*
	C) Clear Coating	0.52	(4.3)
		0.52*	(4.3)*

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6) Metallic Coating

A)	Air Dried	0.42	(3.5)
		0.42*	(3.5)*
B)	Baked	0.36	(3.0)
		0.36	(3.0)*

7) Definitions

A) For purposes of subsection 218.204(j)(5) of this Section, the following terms are defined:

i) "Corrosion resistant basecoat" means, for purposes of subsection 218.204(j)(5)(B)(ii) of this Section, a water-borne epoxy coating applied via an electrodeposition process to a metal surface prior to spray coating, for the purpose of enhancing corrosion resistance.

ii) "Electrodeposition process" means, for purposes of subsection 218.204(j)(5) of this Section, a water-borne dip coating process in which opposite electrical charges are applied to the substrate and the coating. The coating is attracted to the substrate due to the electrochemical potential difference that is created.

iii) "Marine engine coating" means, for purposes of subsection 218.204(j)(5) of this Section, any extreme performance protective, decorative or functional coating applied to an engine that is used to propel watercraft.

B) For purposes of subsection 218.204(j)(6) of this Section, "metallic coating" means a coating which contains more than ¼ lb/gal of metal particles, as applied.

k)	Heavy Off-Highway Vehicle Products Coating	kg/l	lb/gal
1)	Extreme performance prime coat	0.42	(3.5)

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		0.42*	(3.5)*
2)	Extreme performance topcoat (air dried)	0.42	(3.5)
		0.42*	(3.5)*
3)	Final repair coat (air dried)	0.42	(3.5)
		0.42*	(3.5)*
4)	All other coatings are subject to the emission limitations for miscellaneous metal parts and products coatings in subsection (j) above.		
1)	Wood Furniture Coating		
1)	Limitations before March 15, 1998:	kg/l	lb/gal
	A) Clear topcoat	0.67	(5.6)
	B) Opaque stain	0.56	(4.7)
	C) Pigmented coat	0.60	(5.0)
	D) Repair coat	0.67	(5.6)
	E) Sealer	0.67	(5.6)
	F) Semi-transparent stain	0.79	(6.6)
	G) Wash coat	0.73	(6.1)

(Note: Prior to March 15, 1998, an owner or operator of a wood furniture coating operation subject to this Section shall apply all coatings, with the exception of no more than 37.8 l (10 gal) of coating per day used for touch-up and repair operations, using one or more of the following application systems: airless spray application system, air-assisted airless spray application system, electrostatic spray application system, electrostatic bell or disc spray application system, heated airless spray application system, roller coating, brush or wipe coating application system, dip coating application system or high volume low pressure (HVLP) application system.)

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- 2) On and after March 15, 1998, wood furniture sealers and topcoats must comply with one of the limitations specified in subsections (1)(2)(A) through (E), below:

		kg VOM/ kg solids	lb VOM/ lb solids
A)	Topcoat	0.8	(0.8)
B)	Sealers and topcoats with the following limits:		
i)	Sealer other than acid-cured alkyd amino vinyl sealer	1.9	(1.9)
ii)	Topcoat other than acid-cured alkyd amino conversion varnish topcoat	1.8	(1.8)
iii)	Acid-cured alkyd amino vinyl sealer	2.3	(2.3)
iv)	Acid-cured alkyd amino conversion varnish topcoat	2.0	(2.0)
C)	Meet the provisions of Section 218.215 of this Subpart for use of an averaging approach;		
D)	Achieve a reduction in emissions equivalent to the requirements of subsection (1)(2)(A) or (B) of this Section, as calculated using Section 218.216 of this Subpart; or		
E)	Use a combination of the methods specified in subsections (1)(2)(A) through (D) of this Section.		

- 3) Other wood furniture coating limitations on and after March 15, 1998:

	kg/l	lb/gal
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- | | | | |
|----|----------------------------|------|-------|
| A) | Opaque stain | 0.56 | (4.7) |
| B) | Non-topcoat pigmented coat | 0.60 | (5.0) |
| C) | Repair coat | 0.67 | (5.6) |
| D) | Semi-transparent stain | 0.79 | (6.6) |
| E) | Wash coat | 0.73 | (6.1) |
- 4) Other wood furniture coating requirements on and after March 15, 1998:
- A) No source subject to the limitations of subsection (1)(2) or (3) of this Section and utilizing one or more wood furniture coating spray booths shall use strippable spray booth coatings containing more than 0.8 kg VOM/kg solids (0.8 lb VOM/lb solids), as applied.
 - B) Any source subject to the limitations of subsection (1)(2) or (3) of this Section shall comply with the requirements of Section 218.217 of this Subpart.
 - C) Any source subject to the limitations of subsection (1)(2)(A) or (B) of this Section and utilizing one or more continuous coaters shall, for each continuous coater, use an initial coating which complies with the limitations of subsection (1)(2)(A) or (B) of this Section. The viscosity of the coating in each reservoir shall always be greater than or equal to the viscosity of the initial coating in the reservoir. The owner or operator shall:
 - i) Monitor the viscosity of the coating in the reservoir with a viscosity meter or by testing the viscosity of the initial coating and retesting the coating in the reservoir each time solvent is added;
 - ii) Collect and record the reservoir viscosity and the amount and weight of VOM per weight of solids of coating and solvent each time coating or solvent is added; and

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iii) Maintain these records at the source for a period of three years.

m)	Existing Diesel-Electric Locomotive Coating Lines in Cook County	kg/l	lb/gal
1)	Extreme performance prime coat	0.42 0.42*	(3.5) (3.5)*
2)	Extreme performance top-coat (air dried)	0.42 0.42*	(3.5) (3.5)*
3)	Final repair coat (air dried)	0.42 0.42*	(3.5) (3.5)*
4)	High-temperature aluminum coating	0.72 0.72*	(6.0) (6.0)*
5)	All other coatings	0.36 0.36*	(3.0) (3.0)*
n)	Plastic Parts Coating: Automotive/Transportation	kg/l	lb/gal
1)	Interiors		
A)	Baked		
i)	Color coat	0.49*	(4.1)*
ii)	Primer	0.46*	(3.8)*
B)	Air Dried		
i)	Color coat	0.38*	(3.2)*
ii)	Primer	0.42*	(3.5)*
2)	Exteriors (flexible and non-flexible)		

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A)	Baked		
	i) Primer	0.60*	(5.0)*
	ii) Primer non-flexible	0.54*	(4.5)*
	iii) Clear coat	0.52*	(4.3)*
	iv) Color coat	0.55*	(4.6)*
B)	Air Dried		
	i) Primer	0.66*	(5.5)*
	ii) Clear coat	0.54*	(4.5)*
	iii) Color coat (red & black)	0.67*	(5.6)*
	iv) Color coat (others)	0.61*	(5.1)*
3)	Specialty		
A)	Vacuum metallizing basecoats, texture base coats	0.66*	(5.5)*
B)	Black coatings, reflective argent coatings, air bag cover coatings, and soft coatings	0.71*	(5.9)*
C)	Gloss reducers, vacuum metallizing topcoats, and texture topcoats	0.77*	(6.4)*
D)	Stencil coatings, adhesion primers, ink pad coatings, electrostatic prep coatings, and resist coatings	0.82*	(6.8)*
E)	Headlamp lens coatings	0.89*	(7.4)*
o)	Plastic Parts Coating: Business Machine	kg/l	lb/gal

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1)	Primer	0.14*	(1.2)*
2)	Color coat (non-texture coat)	0.28*	(2.3)*
3)	Color coat (texture coat)	0.28*	(2.3)*
4)	Electromagnetic interference/radio frequency interference (EMI/RFI) shielding coatings	0.48*	(4.0)*
5)	Specialty Coatings		
	A) Soft coat	0.52*	(4.3)*
	B) Plating resist	0.71*	(5.9)*
	C) Plating sensitizer	0.85*	(7.1)*

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

Section 218.205 Daily-Weighted Average Limitations

No owner or operator of a coating line subject to the limitations of Section 218.204 of this Subpart and complying by means of this Section shall operate the subject coating line unless the owner or operator has demonstrated compliance with subsection (a), (b), (c), (d), (e), (f), (g), (h), ~~or (i), or (j)~~ of this Section (depending upon the category of coating) through the applicable coating analysis test methods and procedures specified in Section 218.105(a) of this Part and the recordkeeping and reporting requirements specified in Section 218.211(d) of this Subpart:

- a) No owner or operator of a coating line subject to only one of the limitations from among Section 218.204(a)(1), (a)(4), ~~(e)~~, (d), (e), (f), ~~or (i), or, prior to May 1, 2011, (c)~~ of this Subpart shall apply coatings on any such coating line, during any day, whose daily-weighted average VOM content exceeds the emission limitation to which the coatings are subject.
- b) No owner or operator of a miscellaneous metal parts and products coating line subject to the limitations of Section 218.204(j) of this Subpart shall apply coatings to miscellaneous metal parts or products on the subject coating line unless the

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requirements in subsection (b)(1) or (b)(2) of this Section are met.

- 1) For each coating line which applies multiple coatings, all of which are subject to the same numerical emission limitation within Section 218.204(j) during the same day (e.g., all coatings used on the line are subject to 0.42 kg/l (~~3.5 lbs/gal~~)), the daily-weighted average VOM content shall not exceed the coating VOM content limit corresponding to the category of coating used, or
 - 2) For each coating line which applies coatings subject to more than one numerical emission limitation in Section 218.204(j) of this Subpart, during the same day, the owner or operator shall have a site-specific proposal approved by the Agency and approved by the USEPA as a SIP revision. To receive approval, the requirements of USEPA's Emissions Trading Policy Statement (and related policy) 51 Fed. Reg. 43814 (December 4, 1986), must be satisfied.
- c) No owner or operator of a can coating line subject to the limitations of Section 218.204(b) of this Subpart shall operate the subject coating line using a coating with a VOM content in excess of the limitations specified in Section 218.204(b) of this Subpart unless all of the following requirements are met:
- 1) An alternative daily emission limitation shall be determined for the can coating operation, i.e. for all of the can coating lines at the source, according to subsection (c)(2) of this Section. Actual daily emissions shall never exceed the alternative daily emission limitation and shall be calculated by use of the following equation.

$$E_d = \sum_{i=1}^n V_i C_i$$

where:

E_d = Actual VOM emissions for the day in units of kg/day (lbs/day);

i = Subscript denoting a specific coating applied;

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- n = Total number of coatings applied in the can coating operation, i.e. all can coating lines at the source;
- V_i = Volume of each coating applied for the day in units of l/day (gal/day) of coating (minus water and any compounds which are specifically exempted from the definition of VOM);
- C_i = The VOM content of each coating as applied in units of kg VOM/l (lbs VOM/gal) of coating (minus water and any compounds which are specifically exempted from the definition of VOM).

- 2) The alternative daily emission limitation (A_d) shall be determined for the can coating operation, i.e. for all of the can coating lines at the source, on a daily basis as follows:

$$A_d = \sum_{i=1}^n V_i L_i \left(\frac{D_i - C_i}{D_i - L_i} \right)$$

where:

- A_d = The VOM emissions allowed for the day in units of kg/day (lbs/day);
- i = Subscript denoting a specific coating applied;
- n = Total number of surface coatings applied in the can coating operation;
- C_i = The VOM content of each surface coating as applied in units of kg VOM/l (lbs VOM/gal) of coating (minus water and any compounds which are specifically exempted from the definition of VOM);
- D_i = The density of VOM in each coating applied. For the purposes of calculating A_d , the density is 0.882 kg VOM/l VOM (7.36 lbs VOM/gal VOM);

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V_i = Volume of each surface coating applied for the day in units of l (gal) of coating (minus water and any compounds which are specifically exempted from the definition of VOM);

L_i = The VOM emission limitation for each surface coating applied as specified in Section 218.204(b) of this Subpart in units of kg VOM/l (lbs VOM/gal) of coating (minus water and any compounds which are specifically exempted from the definition of VOM).

- d) No owner or operator of a heavy off-highway vehicle products coating line subject to the limitations of Section 218.204(k) of this Subpart shall apply coatings to heavy off-highway vehicle products on the subject coating line unless the requirements of subsection (d)(1) or (d)(2) of this Section are met.
- 1) For each coating line which applies multiple coatings, all of which are subject to the same numerical emission limitation within Section 218.204(k) of this Subpart, during the same day (e.g., all coatings used on the line are subject to 0.42 kg/l (3.5 lbs/gal)), the daily-weighted average VOM content shall not exceed the coating VOM content limit corresponding to the category of coating used, or
 - 2) For each coating line which applies coatings subject to more than one numerical emission limitation in Section 218.204(k) of this Subpart, during the same day, the owner or operator shall have a site specific proposal approved by the Agency and approved by the USEPA as a SIP revision. To receive approval, the requirements of USEPA's Emissions Trading Policy Statement (and related policy) 51 Fed. Reg. 43814 (December 4, 1986), must be satisfied.
- e) No owner or operator of a wood furniture coating line subject to the limitations of Section 218.204(l)(1) or (l)(3) of this Subpart shall apply coatings to wood furniture on the subject coating line unless the requirements of subsection (e)(1) or subsection (e)(2) of this Section, in addition to the requirements specified in the note to Section 218.204(l)(1) of this Subpart, are met.
- 1) For each coating line which applies multiple coatings, all of which are subject to the same numerical emission limitation within Section 218.204(l)(1) or (l)(3) of this Subpart, during the same day (e.g., all

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coatings used on the line are subject to 0.67 kg/l (5.6 lbs/gal)), the daily-weighted average VOM content shall not exceed the coating VOM content limit corresponding to the category of coating used, or

- 2) For each coating line which applies coatings subject to more than one numerical emission limitation in Section 218.204(l)(1) or (l)(3) of this Subpart, during the same day, the owner or operator shall have a site specific proposal approved by the Agency and approved by the USEPA as a SIP revision. To receive approval, the requirements of USEPA's Emissions Trading Policy Statement (and related policy) 51 Fed. Reg. 43814 (December 4, 1986), must be satisfied.
- f) No owner or operator of an existing diesel-electric locomotive coating line in Cook County, subject to the limitations of Section 218.204(m) of this Subpart shall apply coatings to diesel-electric locomotives on the subject coating line unless the requirements of subsection (f)(1) or (f)(2) of this Section are met.
- 1) For each coating line which applies multiple coatings, all of which are subject to the same numerical emission limitation within Section 218.204(m) of this Subpart, during the same day (e.g., all coatings used on the line are subject to 0.42 kg/l (3.5 lbs/gal)), the daily-weighted average VOM content shall not exceed the coating VOM content limit corresponding to the category of coating used, or
 - 2) For each coating line which applies coatings subject to more than one numerical emission limitation in Section 218.204(m) of this Subpart, during the same day, the owner or operator shall have a site specific proposal approved by the Agency and approved by the USEPA as a SIP revision. To receive approval, the requirements of USEPA's Emissions Trading Policy Statement (and related policy) must be satisfied.
- g) No owner or operator of a plastic parts coating line, subject to the limitations of Section 218.204(n) or (o) of this Subpart shall apply coatings to business machine or automotive/transportation plastic parts on the subject coating line unless the requirements of subsection (g)(1) or (g)(2) of this Section are met:
- 1) For each coating line which applies multiple coatings, all of which are subject to the same numerical emission limitation within Section 218.204(n) or (o) of this Subpart, during the same day (e.g., all coatings

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used on the line are subject to 0.42 kg/l (3.5 lbs/gal)), the daily-weighted average VOM content shall not exceed the coating VOM content limit corresponding to the category of coating used; or

- 2) For each coating line which applies coatings subject to more than one numerical emission limitation in Section 218.204(n) or (o) of this Subpart, during the same day, the owner or operator shall have a site specific proposal approved by the Agency and approved by the USEPA as a SIP revision. To receive approval, the requirements of USEPA's Emissions Trading Policy Statement (and related policy) must be satisfied.
- h) No owner or operator of a metal furniture coating line, subject to the limitations of Section 218.204(g) of this Subpart shall apply coatings on the subject coating line unless the requirements of subsection (h)(1) or (h)(2) of this Section are met:
- 1) For each coating line which applies multiple coatings, all of which are subject to the same numerical emission limitation within Section 218.204(g) of this Subpart, during the same day (e.g., all coatings used on the line are subject to 0.34 kg/l (2.8 lbs/gal)), the daily-weighted average VOM content shall not exceed the coating VOM content limit corresponding to the category of coating used; or
 - 2) For each coating line which applies coatings subject to more than one numerical emission limitation in Section 218.204(g) of this Subpart, during the same day, the owner or operator shall have a site specific proposal approved by the Agency and approved by the USEPA as a SIP revision. To receive approval, the requirements of USEPA's Emissions Trading Policy Statement (and related policy) must be satisfied.
- i) No owner or operator of a large appliance coating line, subject to the limitations of Section 218.204(h) of this Subpart shall apply coatings on the subject coating line unless the requirements of subsection (i)(1) or (i)(2) of this Section are met:
- 1) For each coating line which applies multiple coatings, all of which are subject to the same numerical emission limitation within Section 218.204(h) of this Subpart, during the same day (e.g., all coatings used on the line are subject to 0.34 kg/l (2.8 lbs/gal)), the daily-weighted average VOM content shall not exceed the coating VOM content limit corresponding to the category of coating used, or

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- 2) For each coating line which applies coatings subject to more than one numerical emission limitation in Section 218.204(h) of this Subpart, during the same day, the owner or operator shall have a site specific proposal approved by the Agency and approved by the USEPA as a SIP revision. To receive approval, the requirements of USEPA's Emissions Trading Policy Statement (and related policy) must be satisfied.
- j) On and after May 1, 2011, no owner or operator of a paper coating line subject to the limitations of Section 218.204(c) of this Subpart shall apply coatings on the subject coating line unless the requirements in subsection (j)(1) or (j)(2) of this Section are met:
- 1) For each coating line that applies multiple coatings, all of which are subject to the same numerical emission limitation within Section 218.204(c) during the same day (e.g., all coatings used on the line are subject to 0.40 kg/kg solids (0.08 kg/kg coatings)), the daily-weighted average VOM content shall not exceed the coating VOM content limit corresponding to the category of coating used; or
 - 2) For each coating line that applies coatings subject to more than one numerical emission limitation in Section 218.204(c) during the same day, the owner or operator shall have a site-specific proposal approved by the Agency and approved by USEPA as a SIP revision. To receive approval, the requirements of USEPA's Emissions Trading Policy Statement (and related policy), 51 Fed. Reg. 43814 (December 4, 1986), must be satisfied.

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

Section 218.207 Alternative Emission Limitations

- a) Any owner or operator of a coating line subject to Section 218.204 of this Subpart may comply with this Section, rather than with Section 218.204 of this Subpart, if a capture system and control device are operated at all times the coating line is in operation and the owner or operator demonstrates compliance with subsections (c), (d), (e), (f), (g), (h), (i), (j), ~~(k)~~, or (l) of this Section (depending upon the source category) through the applicable coating analysis and capture system and control device efficiency test methods and procedures specified in Section 218.105 of this Part and the recordkeeping and reporting requirements specified in

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Section 218.211(e) of this Subpart; and the control device is equipped with the applicable monitoring equipment specified in Section 218.105(d) of this Part and the monitoring equipment is installed, calibrated, operated and maintained according to vendor specifications at all times the control device is in use. A capture system and control device, which does not demonstrate compliance with subsection (c), (d), (e), (f), (g), (h), (i), (j), ~~(k)~~, or (l) of this Section may be used as an alternative to compliance with Section 218.204 of this Subpart only if the alternative is approved by the Agency and approved by the USEPA as a SIP revision.

- b) Alternative Add-On Control Methodologies
- 1) The coating line is equipped with a capture system and control device that provides 81 percent reduction in the overall emissions of VOM from the coating line and the control device has a 90 percent efficiency, or
 - 2) The system used to control VOM from the coating line is demonstrated to have an overall efficiency sufficient to limit VOM emissions to no more than what is allowed under Section 218.204 of this Subpart. Use of any control system other than an afterburner, carbon adsorption, condensation, or absorption scrubber system can be allowed only if approved by the Agency and approved by the USEPA as a SIP revision. The use of transfer efficiency credits can be allowed only if approved by the Agency and approved by the USEPA as a SIP revision. Baseline transfer efficiencies and transfer efficiency test methods must be approved by the Agency and the USEPA. Such overall efficiency is to be determined as follows:
 - A) Obtain the emission limitation from the appropriate subsection in Section 218.204 of this Subpart;
 - B) Calculate "S" according to the equation in Section 218.206 of this Subpart;
 - C) Calculate the overall efficiency required according to Section 218.105(e) of this Part. For the purposes of calculating this value, according to the equation in Section 218.105(e)(2) of this Part, VOM_1 is equal to the value of "S" as determined above in subsection (b)(2)(B) of this Section.

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- c) No owner or operator of a coating line subject to only one of the emission limitations from among Section 218.204(a)(1), (a)(4), ~~(e)~~, (d), (e), (f), ~~or~~ (i), or, prior to May 1, 2011, (c) of this Subpart and equipped with a capture system and control device shall operate the subject coating line unless the requirements in subsection (b)(1) or (b)(2) of this Section are met. No owner or operator of a coating line subject to Section 218.204(a)(2) or 218.204(a)(3) and equipped with a capture system and control device shall operate the coating line unless the owner or operator demonstrates compliance with such limitation in accordance with the topcoat protocol referenced in Section 218.105(b).
- d) No owner or operator of a miscellaneous metal parts and products coating line thatwhich applies one or more coatings during the same day, all of which are subject to the same numerical emission limitation within Section 218.204(j) of this Subpart (e.g., all coatings used on the line are subject to 0.42 kg/l [3.5 lbs/gal]), and thatwhich is equipped with a capture system and control device shall operate the subject coating line unless the requirements in subsection (b)(1) or (b)(2) of this Section are met.
- e) No owner or operator of a heavy off-highway vehicle products coating line thatwhich applies one or more coatings during the same day, all of which are subject to the same numerical emission limitation within Section 218.204(k) of this Subpart (e.g., all coatings used on the line are subject to 0.42 kg/l [3.5 lbs/gal]), and thatwhich is equipped with a capture system and control device shall operate the subject coating line unless the requirements in subsection (b)(1) or (b)(2) of this Section are met.
- f) No owner or operator of an existing diesel-electric locomotive coating line in Cook County thatwhich applies one or more coatings during the same day, all of which are subject to the same numerical emission limitation within Section 218.204(m) of this Subpart (e.g., all coatings used on the line are subject to 0.42 kg/l [3.5 lbs/gal]), and thatwhich is equipped with a capture system and control device shall operate the subject coating line unless the requirements in subsection (b)(1) or (b)(2) of this Section are met.
- g) No owner or operator of a wood furniture coating line thatwhich applies one or more coatings during the same day, all of which are subject to the same numerical emission limitation within Section 218.204(l) of this Subpart (e.g., all coatings used on the line are subject to 0.67 kg/l [5.6 lbs/gal]), and thatwhich is equipped with a capture system and control device shall operate the subject coating line

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unless the requirements in subsection (b)(1) or (b)(2) of this Section are met. If compliance is achieved by meeting the requirements in subsection (b)(2) of this Section, then the provisions in the note to Section 218.204(1) of this Subpart must also be met.

- h) No owner or operator of a can coating line ~~that~~^{which} is equipped with a capture system and control device shall operate the subject coating line unless the requirements in subsection (h)(1) or (h)(2) of this Section are met.
- 1) An alternative daily emission limitation shall be determined for the can coating operation, i.e. for all of the can coating lines at the source, according to Section 218.205(c)(2) of this Subpart. Actual daily emissions shall never exceed the alternative daily emission limitation and shall be calculated by use of the following equation:

$$E_d = \sum_{i=1}^n V_i C_i \left(1 - F_i \right)$$

where:

- E_d = Actual VOM emissions for the day in units of kg/day (lbs/day);
- i = Subscript denoting the specific coating applied;
- n = Total number of surface coatings as applied in the can coating operation;
- V_i = Volume of each coating as applied for the day in units of l/day (gal/day) of coating (minus water and any compounds which are specifically exempted from the definition of VOM);
- C_i = The VOM content of each coating as applied in units of kg VOM/l (lbs VOM/gal) of coating (minus water and any compounds which are specifically exempted from the definition of VOM) and
- F_i = Fraction, by weight, of VOM emissions from the surface coating, reduced or prevented from being emitted to the

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ambient air. This is the overall efficiency of the capture system and control device.

- 2) The coating line is equipped with a capture system and control device that provide 75 percent reduction in the overall emissions of VOM from the coating line and the control device has a 90 percent efficiency.
- i) No owner or operator of a plastic parts coating line, ~~that which~~ applies one or more coatings during the same day, all of which are subject to the same numerical emission limitation within Section 218.204(n) or (o) of this Subpart (e.g., all coatings used on the line are subject to 0.42 kg/l (~~3.5~~ lbs/gal)), and ~~that which~~ is equipped with a capture system and control device shall operate the subject coating line unless the requirements in subsection (b)(1) or (b)(2) of this Section are met.
 - j) Prior to May 1, 2011, no owner or operator of a metal furniture coating line ~~that which~~ applies one or more coatings during the same day, all of which are subject to the same numerical emission limitation within Section 218.204(g) of this Subpart (e.g., all coatings used on the line are subject to 0.34 kg/l (~~2.8~~ lbs/gal)), and ~~that which~~ is equipped with a capture system and control device shall operate the subject coating line unless the requirements in subsection (b)(1) or (b)(2) of this Section are met.
 - k) Prior to May 1, 2011, no owner or operator of a large appliance coating line ~~that which~~ applies one or more coatings during the same day, all of which are subject to the same numerical emission limitation within Section 218.204(h) of this Subpart (e.g., all coatings used on the line are subject to 0.34 kg/l (~~2.8~~ lbs/gal)), and ~~that which~~ is equipped with a capture system and control device shall operate the subject coating line unless the requirements in subsection (b)(1) or (b)(2) of this Section are met.
 - l) On and after May 1, 2011, no owner or operator of a paper coating line, metal furniture coating line, or large appliance coating line that is equipped with a capture system and control device shall operate the subject coating line unless either:
 - 1) The capture system and control device provide at least 90 percent reduction in the overall emissions of VOM from the coating line; or

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- 2) The owner or operator complies with the applicable limitation set forth in Section 218.204 of this Subpart by utilizing a combination of low-VOM coatings and a capture system and control device.

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

Section 218.210 Compliance Schedule

Every owner or operator of a coating line (of a type included within Section 218.204 of this Subpart) shall comply with the requirements of Section 218.204, 218.205, 218.207 or 218.208 and Section 218.211 or Sections 218.212 and 218.213 of this Subpart in accordance with the appropriate compliance schedule as specified in subsection (a), (b), (c), (d), (e), ~~(f)~~, or (g) of this Section below:

- a) No owner or operator of a coating line that which is exempt from the limitations of Section 218.204 of this Subpart because of the criteria in Section 218.208(a) or (b) of this Subpart shall operate said coating line on or after a date consistent with Section 218.106 of this Part, unless the owner or operator has complied with, and continues to comply with, Section 218.211(b) of this Subpart.
- b) No owner or operator of a coating line complying by means of Section 218.204 of this Subpart shall operate said coating line on or after a date consistent with Section 218.106 of this Part, unless the owner or operator has complied with, and continues to comply with, Sections 218.204 and 218.211(c) of this Subpart.
- c) No owner or operator of a coating line complying by means of Section 218.205 of this Subpart shall operate said coating line on or after a date consistent with Section 218.106 of this Part, unless the owner or operator has complied with, and continues to comply with, Sections 218.205 and 218.211(d) of this Subpart.
- d) No owner or operator of a coating line complying by means of Section 218.207 of this Subpart shall operate said coating line on or after a date consistent with Section 218.106 of this Part, unless the owner or operator has complied with, and continues to comply with, Sections 218.207 and 218.211(e) of this Subpart.
- e) No owner or operator of a coating line subject to one or more of the emission limitations contained in Section 218.204 of this Subpart on or after March 15, 1996, choosing to comply by means of Section 218.204, 218.205 or 218.207 of this Subpart, shall operate said coating line on or after March 15, 1996, unless the

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owner or operator complies with and continues to comply with, respectively, the applicable requirements in Section 218.204, or the alternative control options in Section 218.205 or 218.207 and the requirements of Section 218.211.

- f) No owner or operator of a coating line subject to one or more of the emission limitations contained in Section 218.204 of this Subpart on or after March 15, 1996, choosing to comply by means of Section 218.212 of this Subpart, shall operate said coating line on or after March 15, 1996, unless the owner or operator complies with and continues to comply with the requirements of Sections 218.212 and 218.213 of this Subpart.
- g) No owner or operator of a coating line subject to the emission limitations in Section 218.204(c)(2), 218.204(g)(2), or 218.204(h)(2) of this Subpart shall operate that coating line on or after a date consistent with Section 218.106(e) of this Part, unless the owner or operator has complied with, and continues to comply with, Section 218.204(c)(2), 218.204(g)(2), or 218.204(h)(2), as applicable, or the alternative control options in Section 218.205 or 218.207, and all applicable requirements in Sections 218.211 and 218.218 of this Subpart.

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

Section 218.211 Recordkeeping and Reporting

- a) The VOM content of each coating and the efficiency of each capture system and control device shall be determined by the applicable test methods and procedures specified in Section 218.105 of this Part to establish the records required under this Section.
- b) Any owner or operator of a coating line ~~that~~^{which} is exempted from the limitations of Section 218.204 of this Subpart because of Section 218.208(a) or (b) of this Subpart shall comply with the following:
- 1) For sources exempt under Section 218.208(a) of this Subpart, by a date consistent with Section 218.106 of this Part, the owner or operator of a coating line or a group of coating lines referenced in subsection (b) of this Section shall certify to the Agency that the coating line or group of coating lines is exempt under the provisions of Section 218.208(a) of this Subpart. Such certification shall include:

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- A) A declaration that the coating line or group of coating lines is exempt from the limitations of Section 218.204 of this Subpart because of Section 218.208(a) of this Subpart; and
- B) Calculations ~~that which~~ demonstrate that the combined VOM emissions from the coating lines or group of coating lines never exceed 6.8 kg (15 lbs) per day before the application of capture systems and control devices. The following equation shall be used to calculate total VOM emissions:

$$T_e = \sum_{j=1}^m \sum_{i=1}^n (A_i B_i)$$

where:

- T_e = Total VOM emissions from coating lines each day before the application of capture systems and control devices in units of kg/day (lbs/day);
- m = Number of coating lines at the source that otherwise would be subject to the same subsection of Section 218.104 of this Part (because they belong to the same category, e.g., can coating);
- j = Subscript denoting an individual coating line;
- n = Number of different coatings as applied each day on each coating line;
- i = Subscript denoting an individual coating;
- A_i = Weight of VOM per volume of each coating (minus water and any compounds ~~that which~~ are specifically exempted from the definition of VOM) as applied each day on each coating line in units of kg VOM/l (lbs VOM/gal); and
- B_i = Volume of each coating (minus water and any compounds ~~that which~~ are specifically exempted from the definition of VOM) as applied each day on each coating line in units of l/day (gal/day). The instrument or method by which the owner or operator accurately measured or

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calculated the volume of each coating as applied on each coating line each day shall be described in the certification to the Agency.

- 2) For sources exempt under Section 218.208(b) of this Subpart, by March 15, 1998, or upon initial start-up, the owner or operator of a coating line or a group of coating lines referenced in subsection (b) of this Section shall certify to the Agency that the source is exempt under the provisions of Section 218.208(b) of this Subpart. Such certification shall include:
 - A) A declaration that the source is exempt from the limitations of Section 218.204(l) of this Subpart because of Section 218.208(b) of this Subpart; and
 - B) Calculations which demonstrate that the source meets the criteria for exemption because of Section 218.208(b) of this Subpart.
- 3) For sources exempt under Section 218.208(a) of this Subpart, on and after a date consistent with Section 218.106 of this Part, the owner or operator of a coating line or group of coating lines referenced in this subsection shall collect and record all of the following information each day for each coating line and maintain the information at the source for a period of three years:
 - A) The name and identification number of each coating as applied on each coating line; and
 - B) The weight of VOM per volume and the volume of each coating (minus water and any compounds which are specifically exempted from the definition of VOM) as applied each day on each coating line.
- 4) For sources exempt under Section 218.208(b) of this Subpart, on and after March 15, 1998, the owner or operator of a coating line or group of coating lines referenced in this subsection (b) shall collect and record all of the following information for each coating line and maintain the information at the source for a period of three years:
 - A) The name and identification number of each coating as applied on

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each coating line; and

- B) The weight of VOM per volume and the volume of each coating (minus water and any compounds which are specifically exempted from the definition of VOM) as applied on each coating line on a monthly basis.
- 5) On and after a date consistent with Section 218.106 of this Part, the owner or operator of a coating line or group of coating lines exempted from the limitations of Section 218.204 of this Subpart because of Section 218.208(a) of this Subpart shall notify the Agency of any record showing that total VOM emissions from the coating line or group of coating lines exceed 6.8 kg (15 lbs) in any day before the application of capture systems and control devices by sending a copy of such record to the Agency within 30 days after the exceedance occurs.
- 6) On and after March 15, 1998, any owner or operator of a source exempt from the limitations of Section 218.204(l) of this Subpart because of Section 218.208(b) of this Subpart shall notify the Agency if the source's VOM emissions exceed the limitations of Section 218.208(b) of this Subpart by sending a copy of calculations showing such an exceedance within 30 days after the change occurs.
- c) Any owner or operator of a coating line subject to the limitations of Section 218.204 of this Subpart other than Section 218.204(a)(2) or (a)(3) of this Subpart and complying by means of Section 218.204 of this Subpart shall comply with the following:
- 1) By a date consistent with Section 218.106 of this Part, or upon initial start-up of a new coating line, or upon changing the method of compliance from an existing subject coating line from Section 218.205, Section 218.207, Section 218.215, or Section 218.216 of this Subpart to Section 218.204 of this Subpart; the owner or operator of a subject coating line shall certify to the Agency that the coating line will be in compliance with Section 218.204 of this Subpart on and after a date consistent with Section 218.106 of this Part, or on and after the initial start-up date. [TheSuch](#) certification shall include:
- A) The name and identification number of each coating as applied on

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each coating line;

- B) The weight of VOM per volume of each coating (minus water and any compounds which are specifically exempted from the definition of VOM) as applied each day on each coating line; ~~and~~
 - C) On and after March 15, 1998, for coating lines subject to the limitations of Section 218.204(l)(2)(A) or (B) of this Subpart, the weight of VOM per weight of solids in each coating as applied each day on each coating line;:-
 - D) For coating lines subject to the limitations of Section 218.204(c)(2) of this Subpart, the weight of VOM per weight of solids (or the weight of VOM per weight of coatings, as applicable) in each coating as applied each day on each coating line; and
 - E) For coating lines subject to the limitations of Section 218.204(g)(2) or 218.204(h)(2) of this Subpart, the application methods used to apply coatings on the subject coating line and the weight of VOM per volume of each coating (or the weight of VOM per volume of solids in each coating, as applicable) as applied each day on each coating line.
- 2) On and after a date consistent with Section 218.106 of this Part, or on and after the initial start-up date, the owner or operator of a subject coating line shall collect and record all of the following information each day for each coating line and maintain the information at the source for a period of three years:
- A) The name and identification number of each coating as applied on each coating line;
 - B) The weight of VOM per volume of each coating (minus water and any compounds which are specifically exempted from the definition of VOM) as applied each day on each coating line;
 - C) On and after March 15, 1998, for coating lines subject to the limitations of Section 218.204(l)(2)(A) or (B) of this Subpart, the weight of VOM per weight of solids in each coating as applied

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each day on each coating line and certified product data sheets for each coating; ~~and~~

D) On and after March 15, 1998, for wood furniture coating spray booths subject to the limitations of Section 218.204(l)(4)(A) of this Subpart, the weight of VOM per weight of solids in each strippable spray booth coating as applied each day on each spray booth and certified product data sheets for each coating;

E) For coating lines subject to the limitations of Section 218.204(c)(2) of this Subpart, the weight of VOM per weight of solids (or the weight of VOM per weight of coatings, as applicable) in each coating as applied each day on each coating line, and certified product data sheets for each coating; and

F) For coating lines subject to the limitations of Section 218.204(g)(2) or 218.204(h)(2) of this Subpart, the weight of VOM per volume of each coating (or the weight of VOM per volume of solids in each coating, as applicable) as applied each day on each coating line, and certified product data sheets for each coating.

3) On and after a date consistent with Section 218.106 of this Part, the owner or operator of a subject coating line shall notify the Agency in the following instances:

A) Any record showing violation of Section 218.204 of this Subpart shall be reported by sending a copy of such record to the Agency within 30 days following the occurrence of the violation.

B) At least 30 calendar days before changing the method of compliance from Section 218.204 of this Subpart to Section 218.205 or Section 218.207 of this Subpart, the owner or operator shall comply with all requirements of subsection (d)(1) or (e)(1) of this Section below, respectively. Upon changing the method of compliance from Section 218.204 of this Subpart to Section 218.205 of this Subpart or Section 218.207 of this Subpart, the owner or operator shall comply with all requirements of subsection (d) or (e) of this Section, respectively.

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- d) Any owner or operator of a coating line subject to the limitations of Section 218.204 of this Subpart and complying by means of Section 218.205 of this Subpart shall comply with the following:
- 1) By a date consistent with Section 218.106 of this Part, or upon initial start-up of a new coating line, or upon changing the method of compliance for an existing subject coating line from Section 218.204 or Section 218.207 of this Subpart to Section 218.205 of this Subpart; the owner or operator of the subject coating line shall certify to the Agency that the coating line will be in compliance with Section 218.205 of this Subpart on and after a date consistent with Section 218.106 of this Part, or on and after the initial start-up date. ~~The Such~~ certification shall include:
 - A) The name and identification number of each coating line which will comply by means of Section 218.205 of this Subpart.
 - B) The name and identification number of each coating as applied on each coating line.
 - C) The weight of VOM per volume and the volume of each coating (minus water and any compounds which are specifically exempted from the definition of VOM) as applied each day on each coating line.
 - D) On and after March 15, 1998, for coating lines subject to the limitations of Section 218.204(1)(2)(A) or (B) of this Subpart, the weight of VOM per weight of solids in each coating as applied each day on each coating line.
 - E) For coating lines subject to the limitations of Section 218.204(c)(2) of this Subpart, the weight of VOM per weight of solids (or the weight of VOM per weight of coatings, as applicable) in each coating as applied each day on each coating line.
 - F) For coating lines subject to the limitations of Section 218.204(g)(2) or 218.204(h)(2) of this Subpart, the weight of VOM per volume of each coating (or the weight of VOM per volume of solids in each coating, as applicable) as applied each day on each coating line.

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- ~~GE~~) The instrument or method by which the owner or operator will accurately measure or calculate the volume of each coating as applied each day on each coating line.
- ~~HF~~) The method by which the owner or operator will create and maintain records each day as required in subsection (d)(2) of this Section.
- ~~IG~~) An example of the format in which the records required in subsection (d)(2) of this Section will be kept.
- 2) On and after a date consistent with Section 218.106 of this Part, or on and after the initial start-up date, the owner or operator of a subject coating line shall collect and record all of the following information each day for each coating line and maintain the information at the source for a period of three years:
- A) The name and identification number of each coating as applied on each coating line.
- B) The weight of VOM per volume and the volume of each coating (minus water and any compounds which are specifically exempted from the definition of VOM) as applied each day on each coating line.
- C) On and after March 15, 1998, for coating lines subject to the limitations of Section 218.204(l)(2)(A) or (B) of this Subpart, the weight of VOM per weight of solids in each coating as applied each day on each coating line.
- D) For coating lines subject to the limitations of Section 218.204(c)(2) of this Subpart, the weight of VOM per weight of solids (or the weight of VOM per weight of coatings, as applicable) in each coating as applied each day on each coating line.
- E) For coating lines subject to the limitations of Section 218.204(g)(2) or 218.204(h)(2) of this Subpart, the weight of VOM per volume of each coating (or the weight of VOM per volume of solids in

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each coating, as applicable) as applied each day on each coating line.

- ~~FD~~) The daily-weighted average VOM content of all coatings as applied on each coating line as defined in Section 218.104 of this Part.
- 3) On and after a date consistent with Section 218.106 of this Part, the owner or operator of a subject coating line shall notify the Agency in the following instances:
- A) Any record showing violation of Section 218.205 of this Subpart shall be reported by sending a copy of such record to the Agency within 30 days following the occurrence of the violation.
- B) At least 30 calendar days before changing the method of compliance with this Subpart from Section 218.205 of this Subpart to Section 218.204 or Section 218.207 of this Subpart, the owner or operator shall comply with all requirements of subsection (c)(1) or (e)(1) of this Section, respectively. Upon changing the method of compliance with this subpart from Section 218.205 to Section 218.204 or Section 218.207 of this Subpart, the owner or operator shall comply with all requirements of subsection (c) or (e) of this Section, respectively.
- e) Any owner or operator of a coating line subject to the limitations of Section 218.207 of this Subpart and complying by means of Section 218.207(c), (d), (e), (f), (g), ~~or~~ (h), or (i) of this Subpart shall comply with the following:
- 1) By a date consistent with Section 218.106 of this Part, or upon initial start-up of a new coating line, or upon changing the method of compliance for an existing coating line from Section 218.204 or Section 218.205 of this Subpart to Section 218.207 of this Subpart, the owner or operator of the subject coating line shall perform all tests and submit to the Agency the results of all tests and calculations necessary to demonstrate that the subject coating line will be in compliance with Section 218.207 of this Subpart on and after a date consistent with Section 218.106 of this Part, or on and after the initial start-up date.

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- 2) On and after a date consistent with Section 218.106 of this Part, or on and after the initial start-up date, the owner or operator of a subject coating line shall collect and record all of the following information each day for each coating line and maintain the information at the source for a period of three years:
 - A) The weight of VOM per volume of coating solids as applied each day on each coating line, if complying pursuant to Section 218.207(b)(2) of this Subpart.
 - B) Control device monitoring data.
 - C) A log of operating time for the capture system, control device, monitoring equipment and the associated coating line.
 - D) A maintenance log for the capture system, control device and monitoring equipment detailing all routine and non-routine maintenance performed including dates and duration of any outages.
- 3) On and after a date consistent with Section 218.106 of this Part, the owner or operator of a subject coating line shall notify the Agency in the following instances:
 - A) Any record showing violation of Section 218.207 of this Subpart shall be reported by sending a copy of such record to the Agency within 30 days following the occurrence of the violation.
 - B) At least 30 calendar days before changing the method of compliance with this Subpart from Section 218.207 of this Subpart to Section 218.204 or Section 218.205 of this Subpart, the owner or operator shall comply with all requirements of subsection (c)(1) or (d)(1) of this Section, respectively. Upon changing the method of compliance with this subpart from Section 218.207 of this Subpart to Section 218.204 or Section 218.205 of this Subpart, the owner or operator shall comply with all requirements of subsection (c) or (d) of this Section, respectively.
- f) Any owner or operator of a primer surfacer operation or topcoat operation subject

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to the limitations of Section 218.204(a)(2) or (a)(3) of this Subpart shall comply with the following:

- 1) By a date consistent with Section 218.106 of this Part, or upon initial start-up of a new coating operation, the owner or operator of a subject coating operation shall certify to the Agency that the operation will be in compliance with Section 218.204 of this Subpart on and after a date consistent with Section 218.106 of this Part, or on and after the initial start-up date. [TheSuch](#) certification shall include:
 - A) The name and identification number of each coating operation which will comply by means of Section 218.204(a)(2) and (a)(3) of this Subpart and the name and identification number of each coating line in each coating operation.
 - B) The name and identification number of each coating as applied on each coating line in the coating operation.
 - C) The weight of VOM per volume of each coating (minus water and any compounds which are specifically exempted from the definition of VOM) as applied each day on each coating line.
 - D) The transfer efficiency and control efficiency measured for each coating line.
 - E) Test reports, including raw data and calculations documenting the testing performed to measure transfer efficiency and control efficiency.
 - F) The instrument or method by which the owner or operator will accurately measure or calculate the volume of each coating as applied each day on each coating line.
 - G) The method by which the owner or operator will create and maintain records each day as required in subsection (f)(2) [of this Sectionbelow](#).
 - H) An example format for presenting the records required in subsection (f)(2) [of this Sectionbelow](#).

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- 2) On and after a date consistent with Section 218.106 of this Part, or on and after the initial start-up date, the owner or operator of a subject coating operation shall collect and record all of the following information each day for each operation and maintain the information at the source for a period of three years:
 - A) All information necessary to calculate the daily-weighted average VOM emissions from the coating operations in kg (lbs) per 1 (gal) of coating solids deposited in accordance with the proposal submitted, and approved pursuant to Section 218.204(a)(2) or (a)(3) of this Subpart including:
 - i) The name and identification number of each coating as applied on each coating operation.
 - ii) The weight of VOM per volume of each coating (minus water and any compounds which are specifically exempted from the definition of VOM) as applied each day on each coating operation.
 - B) If a control ~~device or devices are~~device(s) is used to control VOM emissions, control device monitoring data; a log of operating time for the capture system, control device, monitoring equipment and the associated coating operation; and a maintenance log for the capture system, control device and monitoring equipment, detailing all routine and non-routine maintenance performed including dates and duration of any outages.
- 3) On and after a date consistent with Section 218.106 of this Part or on and after the initial start-up date, the owner or operator of a subject coating operation shall determine and record the daily VOM emissions in kg (lbs) per 1 (gal) of coating solids deposited in accordance with the proposal submitted and approved pursuant to Section 218.204(a)(2) or (a)(3) of this Subpart within 10 days from the end of the month and maintain this information at the source for a period of three years.
- 4) On and after a date consistent with Section 218.106 of this Part, the owner or operator of a subject coating operation shall notify the Agency in the

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following instances:

- A) Any record showing a violation of Section 218.204(a)(2) or (a)(3) of this Subpart shall be reported by sending a copy of such record to the Agency within 15 days from the end of the month in which the violation occurred.
- B) The owner or operator shall notify the Agency of any change to the operation at least 30 days before the change is effected. The Agency shall determine whether or not compliance testing is required. If the Agency determines that compliance testing is required, then the owner or operator shall submit a testing proposal to the Agency within 30 days and test within 30 days of the approval of the proposal by the Agency and USEPA.
- g) On and after a date consistent with Section 218.106(e) of this Part, or on and after the initial startup date, whichever is later, the owner or operator of a coating line subject to the requirements of Section 218.218 of this Subpart shall comply with the following:
 - 1) By May 1, 2011, or upon initial startup, whichever is later, submit a certification to the Agency that includes a description of the practices and procedures that the source will follow to ensure compliance with the applicable requirements in Section 218.218 of this Subpart;
 - 2) Notify the Agency of any violation of Section 218.218 of this Subpart by providing a description of the violation and copies of records documenting the violation to the Agency within 30 days following the occurrence of the violation; and
 - 3) Maintain at the source all records required by this subsection (g) for a minimum of three years from the date the document was created and make those records available to the Agency upon request.

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

Section 218.212 Cross-Line Averaging to Establish Compliance for Coating Lines

- a) On and after March 15, 1996, any owner or operator of a coating line subject to

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the limitations set forth in Section 218.204 of this Subpart, except coating lines subject to the limitations in Section 218.204(c)(2), (g)(2), or (h)(2) of this Subpart, and with coating lines in operation prior to January 1, 1991 ("pre-existing coating lines"), may, for pre-existing coating lines only, elect to comply with the requirements of this Section, rather than complying with the applicable emission limitations set forth in Section 218.204, if an operational change of the type described below has been made after January 1, 1991, to one or more pre-existing coating lines at the source. An operational change occurs when a pre-existing coating line is replaced with a line using lower VOM coating for the same purpose as the replaced line ("replacement line"). A source electing to rely on this Section to demonstrate compliance with the requirements of this Subpart shall operate pursuant to federally enforceable permit conditions approved by the Agency and USEPA.

- b) An owner or operator of pre-existing coating lines subject to a VOM content limitation in Section 218.204 of this Subpart and electing to rely on this Section to demonstrate compliance with this Subpart must establish, by use of the equations in subsection (d) of this Section, that the calculated actual daily VOM emissions from all participating coating lines, as defined below, are less than the calculated daily allowable VOM emissions from the same group of coating lines. For any pre-existing coating line to be aggregated for the purposes of Section 218.212, 218.213, or 218.214 of this Subpart ("participating coating lines"), the source must establish that:
- 1) All coatings applied on the participating coating line shall, at all times, have a VOM content less than or equal to the applicable VOM content limitation for such coating listed in Appendix H of this Part; and
 - 2) On the date the source elects to rely on this Section to demonstrate compliance with this Subpart, all coatings applied on the participating coating line are not already in compliance with the VOM content limitation for such coating effective on or after March 15, 1996; or the participating coating line is a replacement line, as defined in subsection (a) of this Section with an operational change occurring on or after January 1, 1991.
- c) Notwithstanding subsection (a) of this Section, any owner or operator of a coating line subject to the limitations set forth in Section 218.204 of this Subpart and electing to rely on this Section to demonstrate compliance with this Subpart, may

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also include as a participating coating line, until December 31, 1999, only, any replacement line that satisfies all of the following conditions:

- 1) The replacement line is operated as a powder coating line;
 - 2) The replacement line was added after July 1, 1988; and
 - 3) The owner or operator also includes as a participating coating line one or more coating lines that satisfy the criteria of a replacement line, as described in subsection (a) of this Section.
- d) To demonstrate compliance with this Section, a source shall establish the following:
- 1) An alternative daily emission limitation shall be determined for all participating coating lines at the source according to subsection (d)(2) of this Section. All participating coating lines shall be factored in each day to demonstrate compliance. Provided compliance is established pursuant to the requirements in this subsection, nothing in this Section requires daily operation of each participating line. Actual daily emissions from all participating coating lines (E_d) shall never exceed the alternative daily emission limitation (A_d) and shall be calculated by use of the following equation:

$$E_d = \sum_{i=1}^n V_i C_i$$

where:

E_d = Actual daily VOM emissions from participating coating lines in units of kg/day (lbs/day);

i = Subscript denoting a specific coating applied;

n = Total number of coatings applied by all participating coating lines at the source;

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V_i = Volume of each coating applied for the day in units of l/day (gal/day) of coating (minus water and any compounds which are specifically exempted from the definition of VOM); and

C_i = The VOM content of each coating as applied in units of kg VOM/l (lbs VOM/gal) of coating (minus water and any compounds which are specifically exempted from the definition of VOM).

- 2) The alternative daily emission limitation (A_d) shall be determined for all participating coating lines at the source on a daily basis as follows:

$$A_d = A_l + A_p$$

where A_l and A_p are defined in subsections (d)(2)(A) and (d)(2)(B) of this Section.

- A) The portion of the alternative daily emissions limitation for coating operations at a source using non-powder coating (A_l) shall be determined for all such participating non-powder coating lines on a daily basis as follows:

$$A_l = \sum_{i=1}^n V_i L_i \left(\frac{D_i - C_i}{D_i - L_i} \right)$$

where:

A_l = The VOM emissions allowed for the day in units of kg/day (lbs/day);

i = Subscript denoting a specific coating applied;

n = Total number of coatings applied in the participating coating lines;

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C_i = The VOM content of each coating as applied in units of kg VOM/l (lbs VOM/gal) of coating (minus water and any compounds which are specifically exempted from the definition of VOM);

D_i = The density of VOM in each coating applied. For the purposes of calculating A_i , the density is 0.882 kg VOM/l VOM (7.36 lbs VOM/gal VOM);

V_i = Volume of each coating applied for the day in units of l (gal) of coating (minus water and any compounds which are specifically exempted from the definition of VOM); and

L_i = The VOM emission limitation for each coating applied, as specified in Section 218.204 of this Subpart, in units of kg VOM/l (lbs VOM/gal) of coating (minus water and any compounds which are specifically exempted from the definition of VOM).

- B) The portion of the alternative daily emission limitation for coating operations at a source using powdered coating (A_p) shall be determined for all such participating powder coating lines at the source on a daily basis as follows:

$$A_p = \sum_{h=1}^m \sum_{j=1}^n \frac{V_j L_j D_j K_h}{\Phi_j - L_j}$$

where:

A_p = The VOM emissions allowed for the day in units of kg/day (lbs/day);

h = Subscript denoting a specific powder coating line;

j = Subscript denoting a specific powder coating applied;

m = Total number of participating powder coating lines;

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- n = Total number of powder coatings applied in the participating coating lines;
- D_j = The assumed density of VOM in liquid coating, 0.882 kg VOM/l VOM (7.36 lbs VOM/gal VOM);
- V_j = Volume of each powder coating consumed for the day in units of l (gal) of coating; and
- L_j = The VOM emission limitation for each coating applied, as specified in Section 218.204 of this Subpart, in units of kg VOM/l (lbs VOM/gal) of coating (minus water and any compounds which are specifically exempted from the definition of VOM); and
- K = A constant for each individual coating line representing the ratio of the volume of coating solids consumed on the liquid coating system which has been replaced to the volume of powder coating consumed on the replacement line to accomplish the same coating job. This value shall be determined by the source based on tests conducted and records maintained pursuant to the requirements of Section 218.213 of this Subpart demonstrating the amount of coating solids consumed as both liquid powder. Test methods and recordkeeping requirements shall be approved by the Agency and USEPA and shall be contained in the source's operating permit as federally enforceable permit conditions, subject to the following restrictions:
- i) K cannot exceed 0.9 for non-recycled powder coating systems; or
 - ii) K cannot exceed 2.0 for recycled powder coating systems.

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

Section 218.218 Work Practice Standards for Paper Coatings, Metal Furniture Coatings, and Large Appliance Coatings

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- a) On and after May 1, 2011, every owner or operator of a source subject to the requirements of Section 218.204(c) of this Subpart shall:
- 1) Store all VOM-containing cleaning materials in closed containers;
 - 2) Ensure that mixing and storage containers used for VOM-containing materials are kept closed at all times except when depositing or removing those materials;
 - 3) Minimize spills of VOM-containing cleaning materials;
 - 4) Convey VOM-containing cleaning materials from one location to another in closed containers or pipes; and
 - 5) Minimize VOM emissions from the cleaning of storage, mixing, and conveying equipment.
- b) On and after May 1, 2011, every owner or operator of a source subject to the requirements of Section 218.204(g) or 218.204(h) of this Subpart shall:
- 1) Store all VOM-containing coatings, thinners, coating-related waste materials, cleaning materials, and used shop towels in closed containers;
 - 2) Ensure that mixing and storage containers used for VOM-containing coatings, thinners, coating-related waste materials, and cleaning materials are kept closed at all times except when depositing or removing those materials;
 - 3) Minimize spills of VOM-containing coatings, thinners, coating-related waste materials, and cleaning materials, and clean up spills immediately;
 - 4) Convey VOM-containing coatings, thinners, coating-related waste materials, and cleaning materials from one location to another in closed containers or pipes; and
 - 5) Minimize VOM emissions from the cleaning of storage, mixing, and conveying equipment.

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

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- 1) Heading of the Part: Organic Material Emission Standards and Limitations for the Metro East Area
- 2) Code Citation: 35 Ill. Adm. Code 219
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
219.106	Amended
219.204	Amended
219.205	Amended
219.207	Amended
219.210	Amended
219.211	Amended
219.212	Amended
219.218	New
- 4) Statutory Authority: Implementing Section 10 and authorized by Sections 27, 28 and 28.5 of the Environmental Protection Act [415 ILCS 5/10, 27, 28, and 28.5]
- 5) A Complete Description of the Subjects and Issues Involved: The proposed rulemaking intends to satisfy Illinois' obligation to submit a State Implementation Plan addressing requirements under Sections 172 and 182 of the federal Clean Air Act, 42 USC 7401 et seq., for sources of volatile organic material (VOM) emissions in areas designated as nonattainment with respect to the ozone National Ambient Air Quality Standard. The United States Environmental Protection Agency (USEPA) issued Control Techniques Guidelines (CTGs) for the following Group III Consumer and Commercial Product Categories: Paper, Film, and Foil Coatings, Metal Furniture Coatings, and Large Appliance Coatings. In the CTGs, the USEPA recommended control measures that it believes constitute reasonably available control technology for the product categories. The Illinois EPA proposes amending Part 219 to implement such recommendations for the Metro East nonattainment area. Generally, the proposal amends VOM content limitations and exclusions, requires that metal furniture and large appliance coating lines comply with application method limitations, and requires that subject coating lines implement specified work practices for cleaning materials and/or cleaning-related activities.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: The regulatory proposal included the Illinois EPA's Technical Support Document, which relied on several sources. Copies of the documents the Illinois EPA

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relied upon are available for review with the Pollution Control Board and are listed below:

Control Techniques Guidelines for Paper, Film, and Foil Coatings, United States Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, NC, September 2007.

Control Techniques Guidelines for Metal Furniture Coatings, United States Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, NC, September 2007.

Control Techniques Guidelines for Large Appliance Coatings, United States Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, NC, September 2007.

- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed amendments pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This proposed rulemaking does not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act. [30 ILCS 805/3(b) (2006)]
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may request copies of the Board's opinion and order by calling the Clerks office at 312/814-3620, or may download copies from the Board's Web site at www.ipcb.state.il.us. The Board will accept written public comment on this proposal for 45 days after the date of publication in the *Illinois Register*. Comments should refer to Docket R10-10 and be addressed to:

Clerk's Office
Illinois Pollution Control Board
100 W. Randolph St., Suite 11-500
Chicago, IL 60601
312/814-3620

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

First hearing: Wednesday, December 9, 2009
10:00 AM
James R. Thompson Center
100 W. Randolph St.
Pollution Control Board Conference Room 11-512
Chicago, Illinois

Second hearing: Wednesday, January 6, 2010
(if necessary) 10:00 AM
Michael A. Bilandic Building
160 N. LaSalle Street
Room N-505
Chicago, Illinois

Third hearing: Wednesday, January 20, 2010
(if necessary) 10:00 AM
Michael A. Bilandic Building
160 N. LaSalle Street
Room N-505
Chicago, Illinois

A November 5, 2009 hearing officer order contains additional details concerning participation in the rulemaking. For more information contact Hearing Officer Tim Fox at 312/814-6085 or email at foxt@ipcb.state.il.us.

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: This rulemaking will impact any small business, small municipality, and not-for-profit corporation that falls within one of the Group III Product Categories and meets the applicability thresholds specified in the proposal.
 - B) Reporting, bookkeeping or other procedures required for compliance: The proposed rulemaking requires that the owner or operator of a subject source

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perform emissions monitoring, submit certifications, complete required tests, and maintain records and make reports as required.

- C) Types of Professional skills necessary for compliance: No professional skills beyond those currently required by the existing State and federal air pollution control regulations applicable to affected sources will be required.

- 14) Regulatory Agenda on which this rulemaking was summarized: July 2009

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

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TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE B: AIR POLLUTION
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER c: EMISSIONS STANDARDS AND LIMITATIONS
FOR STATIONARY SOURCESPART 219
ORGANIC MATERIAL EMISSION STANDARDS AND LIMITATIONS
FOR THE METRO EAST AREA

SUBPART A: GENERAL PROVISIONS

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219.101	Savings Clause
219.102	Abbreviations and Conversion Factors
219.103	Applicability
219.104	Definitions
219.105	Test Methods and Procedures
219.106	Compliance Dates
219.107	Operation of Afterburners
219.108	Exemptions, Variations, and Alternative Means of Control or Compliance Determinations
219.109	Vapor Pressure of Volatile Organic Liquids
219.110	Vapor Pressure of Organic Material or Solvent
219.111	Vapor Pressure of Volatile Organic Material
219.112	Incorporations by Reference
219.113	Monitoring for Negligibly-Reactive Compounds

SUBPART B: ORGANIC EMISSIONS FROM STORAGE AND LOADING OPERATIONS

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219.119	Applicability for VOL
219.120	Control Requirements for Storage Containers of VOL
219.121	Storage Containers of VPL
219.122	Loading Operations
219.123	Petroleum Liquid Storage Tanks
219.124	External Floating Roofs
219.125	Compliance Dates

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- 219.126 Compliance Plan (Repealed)
- 219.127 Testing VOL Operations
- 219.128 Monitoring VOL Operations
- 219.129 Recordkeeping and Reporting for VOL Operations

SUBPART C: ORGANIC EMISSIONS FROM MISCELLANEOUS EQUIPMENT

Section

- 219.141 Separation Operations
- 219.142 Pumps and Compressors
- 219.143 Vapor Blowdown
- 219.144 Safety Relief Valves

SUBPART E: SOLVENT CLEANING

Section

- 219.181 Solvent Cleaning in General
- 219.182 Cold Cleaning
- 219.183 Open Top Vapor Degreasing
- 219.184 Conveyorized Degreasing
- 219.185 Compliance Schedule (Repealed)
- 219.186 Test Methods

SUBPART F: COATING OPERATIONS

Section

- 219.204 Emission Limitations
- 219.205 Daily-Weighted Average Limitations
- 219.206 Solids Basis Calculation
- 219.207 Alternative Emission Limitations
- 219.208 Exemptions From Emission Limitations
- 219.209 Exemption From General Rule on Use of Organic Material
- 219.210 Compliance Schedule
- 219.211 Recordkeeping and Reporting
- 219.212 Cross-Line Averaging to Establish Compliance for Coating Lines
- 219.213 Recordkeeping and Reporting for Cross-Line Averaging Participating Coating Lines
- 219.214 Changing Compliance Methods
- 219.215 Wood Furniture Coating Averaging Approach

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- 219.216 Wood Furniture Coating Add-On Control Use
219.217 Wood Furniture Coating Work Practice Standards
219.218 [Work Practice Standards for Paper Coatings, Metal Furniture Coatings, and Large Appliance Coatings](#)

SUBPART G: USE OF ORGANIC MATERIAL

Section

- 219.301 Use of Organic Material
219.302 Alternative Standard
219.303 Fuel Combustion Emission Units
219.304 Operations with Compliance Program

SUBPART H: PRINTING AND PUBLISHING

Section

- 219.401 Flexographic and Rotogravure Printing
219.402 Applicability
219.403 Compliance Schedule
219.404 Recordkeeping and Reporting
219.405 Lithographic Printing: Applicability
219.406 Provisions Applying to Heatset Web Offset Lithographic Printing Prior to March 15, 1996
219.407 Emission Limitations and Control Requirements for Lithographic Printing Lines On and After March 15, 1996
219.408 Compliance Schedule for Lithographic Printing On and After March 15, 1996
219.409 Testing for Lithographic Printing On and After March 15, 1996
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SUBPART Q: SYNTHETIC ORGANIC CHEMICAL AND
POLYMER MANUFACTURING PLANT

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- 219.421 General Requirements
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219.426	Report for Leaks
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SUBPART R: PETROLEUM REFINING AND
RELATED INDUSTRIES; ASPHALT MATERIALS

Section

219.441	Petroleum Refinery Waste Gas Disposal
219.442	Vacuum Producing Systems
219.443	Wastewater (Oil/Water) Separator
219.444	Process Unit Turnarounds
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219.447	Monitoring Program for Leaks
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219.450	Alternative Program for Leaks
219.451	Sealing Device Requirements
219.452	Compliance Schedule for Leaks
219.453	Compliance Dates (Repealed)

SUBPART S: RUBBER AND MISCELLANEOUS PLASTIC PRODUCTS

Section

219.461	Manufacture of Pneumatic Rubber Tires
219.462	Green Tire Spraying Operations
219.463	Alternative Emission Reduction Systems
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219.465	Compliance Dates (Repealed)
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SUBPART T: PHARMACEUTICAL MANUFACTURING

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219.481	Control of Reactors, Distillation Units, Crystallizers, Centrifuges and Vacuum Dryers
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SUBPART V: BATCH OPERATIONS AND AIR OXIDATION PROCESSES

Section	
219.500	Applicability for Batch Operations
219.501	Control Requirements for Batch Operations
219.502	Determination of Uncontrolled Total Annual Mass Emissions and Actual Weighted Average Flow Rate Values for Batch Operations
219.503	Performance and Testing Requirements for Batch Operations
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219.506	Compliance Date
219.520	Emission Limitations for Air Oxidation Processes
219.521	Definitions (Repealed)
219.522	Savings Clause
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SUBPART W: AGRICULTURE

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219.541 Pesticide Exception

SUBPART X: CONSTRUCTION

Section

219.561 Architectural Coatings
219.562 Paving Operations
219.563 Cutback Asphalt

SUBPART Y: GASOLINE DISTRIBUTION

Section

219.581 Bulk Gasoline Plants
219.582 Bulk Gasoline Terminals
219.583 Gasoline Dispensing Operations – Storage Tank Filling Operations
219.584 Gasoline Delivery Vessels
219.585 Gasoline Volatility Standards
219.586 Gasoline Dispensing Operations – Motor Vehicle Fueling Operations (Repealed)

SUBPART Z: DRY CLEANERS

Section

219.601 Perchloroethylene Dry Cleaners (Repealed)
219.602 Exemptions (Repealed)
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219.604 Compliance Dates (Repealed)
219.605 Compliance Plan (Repealed)
219.606 Exception to Compliance Plan (Repealed)
219.607 Standards for Petroleum Solvent Dry Cleaners
219.608 Operating Practices for Petroleum Solvent Dry Cleaners
219.609 Program for Inspection and Repair of Leaks
219.610 Testing and Monitoring
219.611 Exemption for Petroleum Solvent Dry Cleaners
219.612 Compliance Dates (Repealed)
219.613 Compliance Plan (Repealed)

SUBPART AA: PAINT AND INK MANUFACTURING

Section

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219.620	Applicability
219.621	Exemption for Waterbase Material and Heatset-Offset Ink
219.623	Permit Conditions
219.624	Open-Top Mills, Tanks, Vats or Vessels
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219.626	Storage Tanks
219.628	Leaks
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219.636	Compliance Schedule
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SUBPART BB: POLYSTYRENE PLANTS

Section	
219.640	Applicability
219.642	Emissions Limitation at Polystyrene Plants
219.644	Emissions Testing

SUBPART FF: BAKERY OVENS

Section	
219.720	Applicability (Repealed)
219.722	Control Requirements (Repealed)
219.726	Testing (Repealed)
219.727	Monitoring (Repealed)
219.728	Recordkeeping and Reporting (Repealed)
219.729	Compliance Date (Repealed)
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SUBPART GG: MARINE TERMINALS

Section	
219.760	Applicability
219.762	Control Requirements
219.764	Compliance Certification
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219.768	Testing and Monitoring
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SUBPART HH: MOTOR VEHICLE REFINISHING

Section

219.780	Emission Limitations
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219.784	Equipment Specifications
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219.789	Monitoring and Recordkeeping for Control Devices
219.790	General Recordkeeping and Reporting (Repealed)
219.791	Compliance Date
219.792	Registration
219.875	Applicability of Subpart BB (Renumbered)
219.877	Emissions Limitation at Polystyrene Plants (Renumbered)
219.879	Compliance Date (Repealed)
219.881	Compliance Plan (Repealed)
219.883	Special Requirements for Compliance Plan (Repealed)
219.886	Emissions Testing (Renumbered)

SUBPART PP: MISCELLANEOUS FABRICATED PRODUCT
MANUFACTURING PROCESSES

Section

219.920	Applicability
219.923	Permit Conditions
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SUBPART QQ: MISCELLANEOUS FORMULATION
MANUFACTURING PROCESSES

Section

219.940	Applicability
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SUBPART RR: MISCELLANEOUS ORGANIC CHEMICAL
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219.960	Applicability
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219.980	Applicability
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219.990	Exempt Emission Units
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219.APPENDIX A	List of Chemicals Defining Synthetic Organic Chemical and Polymer Manufacturing
219.APPENDIX B	VOM Measurement Techniques for Capture Efficiency (Repealed)
219.APPENDIX C	Reference Methods and Procedures
219.APPENDIX D	Coefficients for the Total Resource Effectiveness Index (TRE) Equation
219.APPENDIX E	List of Affected Marine Terminals
219.APPENDIX G	TRE Index Measurements for SOCFI Reactors and Distillation Units
219.APPENDIX H	Baseline VOM Content Limitations for Subpart F, Section 219.212 Cross-Line Averaging

AUTHORITY: Implementing Section 10 and authorized by Sections 27, 28 and 28.5 of the Environmental Protection Act [415 ILCS 5/10, 27, 28 and 28.5].

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SOURCE: Adopted in R91-8 at 15 Ill. Reg. 12491, effective August 16, 1991; amended in R91-24 at 16 Ill. Reg. 13597, effective August 24, 1992; amended in R91-30 at 16 Ill. Reg. 13883, effective August 24, 1992; emergency amendment in R93-12 at 17 Ill. Reg. 8295, effective May 24, 1993, for a maximum of 150 days; amended in R93-9 at 17 Ill. Reg. 16918, effective September 27, 1993 and October 21, 1993; amended in R93-28 at 18 Ill. Reg. 4242, effective March 3, 1994; amended in R94-12 at 18 Ill. Reg. 14987, effective September 21, 1994; amended in R94-15 at 18 Ill. Reg. 16415, effective October 25, 1994; amended in R94-16 at 18 Ill. Reg. 16980, effective November 15, 1994; emergency amendment in R95-10 at 19 Ill. Reg. 3059, effective February 28, 1995, for a maximum of 150 days; amended in R94-21, R94-31 and R94-32 at 19 Ill. Reg. 6958, effective May 9, 1995; amended in R94-33 at 19 Ill. Reg. 7385, effective May 22, 1995; amended in R96-2 at 20 Ill. Reg. 3848, effective February 15, 1996; amended in R96-13 at 20 Ill. Reg. 14462, effective October 28, 1996; amended in R97-24 at 21 Ill. Reg. 7721, effective June 9, 1997; amended in R97-31 at 22 Ill. Reg. 3517, effective February 2, 1998; amended in R04-12/20 at 30 Ill. Reg. 9799, effective May 15, 2006; amended in R06-21 at 31 Ill. Reg. 7110, effective April 30, 2007; amended in R10-10 at 34 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 219.106 Compliance Dates

- a) Except as provided in subsection (b) below, compliance with the requirements of this Part is required by May 15, 1992, consistent with the provisions of Section 219.103 of this Part.
- b) As this Part is amended from time to time, compliance dates included in the specific Subparts supersede the requirements of this Section except as limited by Section 219.101(b) of this Subpart.
- c) Any owner or operator of a source subject to the requirements of Section 219.204(c)(2), 219.204(g)(2), or 219.204(h)(2) of this Part shall comply with the applicable requirements in the applicable subsections, as well as all applicable requirements in Sections 219.205 through 219.214 and 219.218, by May 1, 2011.

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

SUBPART F: COATING OPERATIONS

Section 219.204 Emission Limitations

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Except as provided in Sections 219.205, 219.207, 219.208, 219.212, 219.215 and 219.216 of this Subpart, no owner or operator of a coating line shall apply at any time any coating in which the VOM content exceeds the following emission limitations for the specified coating. Except as otherwise provided in [Section 219.204\(c\)](#), [219.204\(g\)](#), [219.204\(h\)](#), and [Section 219.204\(i\)](#), compliance with the emission limitations marked with an asterisk in this Section is required on and after March 15, 1996, and compliance with emission limitations not marked with an asterisk is required until March 15, 1996. The following emission limitations are expressed in units of VOM per volume of coating (minus water and any compounds which are specifically exempted from the definition of VOM) as applied at each coating applicator, except where noted. Compounds which are specifically exempted from the definition of VOM should be treated as water for the purpose of calculating the "less water" part of the coating composition. Compliance with this Subpart must be demonstrated through the applicable coating analysis test methods and procedures specified in Section 219.105(a) of this Part and the recordkeeping and reporting requirements specified in Section 219.211(c) of this Subpart except where noted. (Note: The equation presented in Section 219.206 of this Part shall be used to calculate emission limitations for determining compliance by add-on controls, credits for transfer efficiency, emissions trades and cross-line averaging.) The emission limitations are as follows:

a)	Automobile or Light-Duty Truck Coating	kg/l	lb/gal
	1) Prime coat	0.14	(1.2)
		0.14*	(1.2)*
	2) Primer surface coat	1.81	(15.1)
		1.81*	(15.1)*

(Note: The primer surface coat limitation is in units of kg (lbs) of VOM per l (gal) of coating solids deposited. Compliance with the limitation shall be based on the daily-weighted average from an entire primer surface operation. Compliance shall be demonstrated in accordance with the topcoat protocol referenced in Section 219.105(b) and the recordkeeping and reporting requirements specified in Section 219.211(f). Testing to demonstrate compliance shall be performed in accordance with the topcoat protocol and a detailed testing proposal approved by the Agency and USEPA specifying the method of demonstrating compliance with the protocol. Section 219.205 does not apply to the primer surface limitation.)

3)	Topcoat	kg/l	lb/gal
		1.81	(15.1)
		1.81*	(15.1)*

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(Note: The topcoat limitation is in units of kg (lbs) of VOM per l (gal) of coating solids deposited. Compliance with the limitation shall be based on the daily-weighted average from an entire topcoat operation. Compliance shall be demonstrated in accordance with the topcoat protocol referenced in Section 219.105(b) of this Part and the recordkeeping and reporting requirements specified in Section 219.211(f). Testing to demonstrate compliance shall be performed in accordance with the topcoat protocol and a detailed testing proposal approved by the Agency and USEPA specifying the method of demonstrating compliance with the protocol. Section 219.205 of this Part does not apply to the topcoat limitation.)

	4)	Final repair coat	kg/l 0.58 0.58*	lb/gal (4.8) (4.8)*
b)		Can Coating	kg/l	lb/gal
	1)	Sheet basecoat and overvarnish		
		A) Sheet basecoat	0.34 0.26*	(2.8) (2.2)*
		B) Overvarnish	0.34 0.34	(2.8) (2.8)*
	2)	Exterior basecoat and overvarnish	0.34 0.25*	(2.8) (2.1)*
	3)	Interior body spray coat		
		A) Two piece	0.51 0.44*	(4.2) (3.7)*
		B) Three piece	0.51 0.51*	(4.2) (4.2)*
	4)	Exterior end coat	0.51 0.51*	(4.2) (4.2)*
	5)	Side seam spray coat	0.66	(5.5)

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		0.66*	(5.5)*
6)	End sealing compound coat	0.44	(3.7)
		0.44*	(3.7)*
c)	Paper Coating	kg/l	lb/gal
		0.35	(2.9)
		0.28*	(2.3)*
	<u>1) Prior to May 1, 2011:</u>	<u>kg/l</u>	<u>lb/gal</u>
		<u>0.28</u>	<u>(2.3)</u>
	<u>2) On and after May 1, 2011:</u>	<u>kg VOM/kg</u>	<u>kg VOM/kg</u>
		<u>(lb VOM/lb)</u>	<u>(lb VOM/lb)</u>
		<u>solids</u>	<u>coatings</u>
		<u>applied</u>	<u>applied</u>
	<u>A) Pressure sensitive tape and label surface coatings</u>	<u>0.20</u>	<u>(0.067)</u>
	<u>B) All other paper coatings</u>	<u>0.40</u>	<u>(0.08)</u>
<p>(Note: The paper coating limitation shall not apply to any owner or operator of any paper coating line on which flexographic or rotogravure printing is performed if the paper coating line complies with the emissions limitations in Section 219.401 of this Part. In addition, screen printing on paper is not regulated as paper coating, but is regulated under Subpart TT of this Part. <u>On and after May 1, 2011, the paper coating limitation shall also not apply to coating performed on or in-line with any digital printing press, or to size presses and on-machine coaters on papermaking machines applying sizing or water-based clays.</u>)</p>			
d)	Coil Coating	kg/l	lb/gal
		0.31	(2.6)
		0.20*	(1.7)*
e)	Fabric Coating	0.35	(2.9)
		0.28*	(2.3)*
f)	Vinyl Coating	0.45	(3.8)
		0.28*	(2.3)*

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g) Metal Furniture Coating

<u>1)</u>	<u>Prior to May 1, 2011:</u>	<u>kg/l</u>	<u>lb/gal</u>
	<u>A) Air Dried</u>	<u>0.34</u>	<u>(2.8)</u>
	<u>B) Baked</u>	<u>0.28</u>	<u>(2.3)</u>
<u>2)</u>	<u>On and after May 1, 2011:</u>	<u>kg/l</u>	<u>kg/l (lb/gal)</u>
		<u>(lb/gal)</u>	<u>solids applied</u>
	<u>A) General, One Component</u>	<u>0.275</u>	<u>0.40</u>
		<u>(2.3)</u>	<u>(3.3)</u>
	<u>B) General, Multi-Component</u>		
	<u>i) Air Dried</u>	<u>0.340</u>	<u>0.55</u>
		<u>(2.8)</u>	<u>(4.5)</u>
	<u>ii) Baked</u>	<u>0.360</u>	<u>0.61</u>
		<u>(3.0)</u>	<u>(5.1)</u>
	<u>C) Extreme High Gloss</u>		
	<u>i) Air Dried</u>	<u>0.340</u>	<u>0.55</u>
		<u>(2.8)</u>	<u>(4.5)</u>
	<u>ii) Baked</u>	<u>0.360</u>	<u>0.61</u>
		<u>(3.0)</u>	<u>(5.1)</u>
	<u>D) Extreme Performance</u>		
	<u>i) Air Dried</u>	<u>0.420</u>	<u>0.80</u>
		<u>(3.5)</u>	<u>(6.7)</u>
	<u>ii) Baked</u>	<u>0.360</u>	<u>0.61</u>
		<u>(3.0)</u>	<u>(5.1)</u>
	<u>E) Heat Resistant</u>		
	<u>i) Air Dried</u>	<u>0.420</u>	<u>0.80</u>
		<u>(3.5)</u>	<u>(6.7)</u>
	<u>ii) Baked</u>	<u>0.360</u>	<u>0.61</u>

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		<u>(3.0)</u>	<u>(5.1)</u>
F)	<u>Metallic</u>	<u>0.420</u> <u>(3.5)</u>	<u>0.80</u> <u>(6.7)</u>
G)	<u>Pretreatment Coatings</u>	<u>0.420</u> <u>(3.5)</u>	<u>0.80</u> <u>(6.7)</u>
H)	<u>Solar Absorbent</u>		
	i) <u>Air Dried</u>	<u>0.420</u> <u>(3.5)</u>	<u>0.80</u> <u>(6.7)</u>
	ii) <u>Baked</u>	<u>0.360</u> <u>(3.0)</u>	<u>0.61</u> <u>(5.1)</u>

(Note: On and after May 1, 2011, these limitations shall not apply to stencil coatings, safety-indicating coatings, solid-film lubricants, electric-insulating and thermal-conducting coatings, touch-up and repair coatings, or coating applications utilizing hand-held aerosol cans.)

3) On and after May 1, 2011, an owner or operator of a coating line subject to the limitations in this subsection (g) shall apply all coatings using one or more of the following application methods:

- A) Electrostatic spray;
- B) High volume low pressure (HVLP) spray;
- C) Flow coating. For the purposes of this subsection (g), flow coating means a non-atomized technique of applying coating to a substrate with a fluid nozzle with no air supplied to the nozzle;
- D) Roll coating;
- E) Dip coating, including electrodeposition. For purposes of this subsection (g), electrodeposition means a water-borne dip coating process in which opposite electrical charges are applied to the substrate and the coating. The coating is attracted to the substrate due to the electrochemical potential difference that is created; or

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F) Another coating application method capable of achieving a transfer efficiency equal to or better than that achieved by HVLP spraying, if such method is approved in writing by the Agency.

h) Large Appliance Coating

<u>1)</u>	<u>Prior to May 1, 2011:</u>	<u>kg/l</u>	<u>lb/gal</u>
	A) <u>Air Dried</u>	<u>0.34</u>	<u>(2.8)</u>
	B) <u>Baked</u>	<u>0.28</u>	<u>(2.3)</u>
<u>2)</u>	<u>On and after May 1, 2011:</u>	<u>kg/l</u>	<u>kg/l (lb/gal)</u>
		<u>(lb/gal)</u>	<u>solids applied</u>
	A) <u>General, One Component</u>	<u>0.275</u>	<u>0.40</u>
		<u>(2.3)</u>	<u>(3.3)</u>
	B) <u>General, Multi-Component</u>		
	i) <u>Air Dried</u>	<u>0.340</u>	<u>0.55</u>
		<u>(2.8)</u>	<u>(4.5)</u>
	ii) <u>Baked</u>	<u>0.275</u>	<u>0.40</u>
		<u>(2.3)</u>	<u>(3.3)</u>
	C) <u>Extreme High Gloss</u>		
	i) <u>Air Dried</u>	<u>0.340</u>	<u>0.55</u>
		<u>(2.8)</u>	<u>(4.5)</u>
	ii) <u>Baked</u>	<u>0.360</u>	<u>0.61</u>
		<u>(3.0)</u>	<u>(5.1)</u>
	D) <u>Extreme Performance</u>		
	i) <u>Air Dried</u>	<u>0.420</u>	<u>0.80</u>
		<u>(3.5)</u>	<u>(6.7)</u>
	ii) <u>Baked</u>	<u>0.360</u>	<u>0.61</u>
		<u>(3.0)</u>	<u>(5.1)</u>

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E)	<u>Heat Resistant</u>		
	i) <u>Air Dried</u>	<u>0.420</u> <u>(3.5)</u>	<u>0.80</u> <u>(6.7)</u>
	ii) <u>Baked</u>	<u>0.360</u> <u>(3.0)</u>	<u>0.61</u> <u>(5.1)</u>
F)	<u>Metallic</u>	<u>0.420</u> <u>(3.5)</u>	<u>0.80</u> <u>(6.7)</u>
G)	<u>Pretreatment Coatings</u>	<u>0.420</u> <u>(3.5)</u>	<u>0.80</u> <u>(6.7)</u>
H)	<u>Solar Absorbent</u>		
	i) <u>Air Dried</u>	<u>0.420</u> <u>(3.5)</u>	<u>0.80</u> <u>(6.7)</u>
	ii) <u>Baked</u>	<u>0.360</u> <u>(3.0)</u>	<u>0.61</u> <u>(5.1)</u>
1)	<u>Air dried</u>	<u>0.34</u> <u>0.34*</u>	<u>(2.8)</u> <u>(2.8)*</u>
2)	<u>Baked</u>	<u>0.34</u> <u>0.28*</u>	<u>(2.8)</u> <u>(2.3)*</u>

(Note: These limitations~~The limitation~~ shall not apply to the use of quick-drying lacquers for repair of scratches and nicks that occur during assembly, provided that the volume of coating does not exceed 0.95 l (1 quart) in any one rolling eight-hour period. On and after May 1, 2011, these limitations shall also not apply to stencil coatings, safety-indicating coatings, solid-film lubricants, electric-insulating and thermal-conducting coatings, touch-up and repair coatings, or coating applications utilizing hand-held aerosol cans.)

3) On and after May 1, 2011, an owner or operator of a coating line subject to the limitations in this subsection (h) shall apply all coatings using one or more of the following application methods:

A) Electrostatic spray;

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- B) High volume low pressure (HVLV) spray;
- C) Flow coating. For the purposes of this subsection (h), flow coating means a non-atomized technique of applying coating to a substrate with a fluid nozzle with no air supplied to the nozzle;
- D) Roll coating;
- E) Brush coating;
- F) Dip coating, including electrodeposition. For purposes of this subsection (h), electrodeposition means a water-borne dip coating process in which opposite electrical charges are applied to the substrate and the coating. The coating is attracted to the substrate due to the electrochemical potential difference that is created; or
- G) Another coating application method capable of achieving a transfer efficiency equal to or better than that achieved by HVLV spraying, if such method is approved in writing by the Agency.

i)	Magnet Wire Coating	kg/l	lb/gal
		0.20	(1.7)
		0.20*	(1.7)*
j)	Miscellaneous Metal Parts and Products Coating		
1)	Clear coating	0.52	(4.3)
		0.52*	(4.3)*
2)	Extreme performance coating		
A)	Air dried	0.42	(3.5)
		0.42*	(3.5)*
B)	Baked	0.42	(3.5)
		0.40*	(3.3)*
3)	Steel pail and drum interior coating	0.52	(4.3)
		0.52*	(4.3)*

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|----|--|-------|--------|
| 4) | All other coatings | | |
| | A) Air Dried | 0.42 | (3.5) |
| | | 0.40* | (3.3)* |
| | B) Baked | 0.36 | (3.0) |
| | | 0.34* | (2.8)* |
| 5) | Metallic Coating | | |
| | A) Air Dried | 0.42 | (3.5) |
| | | 0.42* | (3.5)* |
| | B) Baked | 0.36 | (3.0) |
| | | 0.36 | (3.0)* |
| 6) | For purposes of subsection 219.204(j)(5) of this Section, "metallic coating" means a coating which contains more than ¼ lb/gal of metal particles, as applied. | | |
| k) | Heavy Off-Highway Vehicle Products Coating | kg/l | lb/gal |
| | 1) Extreme performance prime coat | 0.42 | (3.5) |
| | | 0.42* | (3.5)* |
| | 2) Extreme performance topcoat (air dried) | 0.42 | (3.5) |
| | | 0.42* | (3.5)* |
| | 3) Final repair coat (air dried) | 0.42 | (3.5) |
| | | 0.42* | (3.5)* |
| | 4) All other coatings are subject to the emission limitations for miscellaneous metal parts and products coatings in subsection (j) above. | | |
| l) | Wood Furniture Coating | | |
| | 1) Limitations before March 15, 1998: | kg/l | lb/gal |
| | A) Clear topcoat | 0.67 | (5.6) |
| | B) Opaque stain | 0.56 | (4.7) |

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C)	Pigmented coat	0.60	(5.0)
D)	Repair coat	0.67	(5.6)
E)	Sealer	0.67	(5.6)
F)	Semi-transparent stain	0.79	(6.6)
G)	Wash coat	0.73	(6.1)

(Note: Prior to March 15, 1998, an owner or operator of a wood furniture coating operation subject to this Section shall apply all coatings, with the exception of no more than 37.8 l (10 gal) of coating per day used for touch-up and repair operations, using one or more of the following application systems: airless spray application system, air-assisted airless spray application system, electrostatic spray application system, electrostatic bell or disc spray application system, heated airless spray application system, roller coating, brush or wipe coating application system, dip coating application system or high volume low pressure (HVLV) application system.)

- 2) On and after March 15, 1998, wood furniture sealers and topcoats must comply with one of the limitations specified in subsections (1)(2)(A) through (E), below:

		kg VOM/kg solids	lb VOM/lb solids
A)	Topcoat	0.8	(0.8)
B)	Sealers and topcoats with the following limits:		
	i) Sealer other than acid-cured alkyd amino vinyl sealer	1.9	(1.9)
	ii) Topcoat other than acid-cured alkyd amino conversion varnish topcoat	1.8	(1.8)

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|------|---|-----|-------|
| iii) | Acid-cured alkyd amino vinyl sealer | 2.3 | (2.3) |
| iv) | Acid-cured alkyd amino conversion varnish topcoat | 2.0 | (2.0) |
- C) Meet the provisions of Section 219.215 of this Subpart for use of an averaging approach;
- D) Achieve a reduction in emissions equivalent to the requirements of Section 219.204(1)(2)(A) or (B) of this Subpart, as calculated using Section 219.216 of this Subpart; or
- E) Use a combination of the methods specified in Section 219.204(1)(2)(A) through (D) of this Subpart.
- 3) Other wood furniture coating limitations on and after March 15, 1998:
- | | | kg/l | lb/gal |
|----|----------------------------|------|--------|
| A) | Opaque stain | 0.56 | (4.7) |
| B) | Non-topcoat pigmented coat | 0.60 | (5.0) |
| C) | Repair coat | 0.67 | (5.6) |
| D) | Semi-transparent stain | 0.79 | (6.6) |
| E) | Wash coat | 0.73 | (6.1) |
- 4) Other wood furniture coating requirements on and after March 15, 1998:
- A) No source subject to the limitations of subsection (1)(2) or (3) of this Section and utilizing one or more wood furniture coating spray booths shall use strippable spray booth coatings containing more than 0.8 kg VOM/kg solids (0.8 lb VOM/lb solids), as applied.
- B) Any source subject to the limitations of subsection (1)(2) or (3) of this Section shall comply with the requirements of Section 219.217 of this Subpart.

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C) Any source subject to the limitations of subsection (1)(2)(A) or (B) of this Section and utilizing one or more continuous coaters, shall for each continuous coater, use an initial coating which complies with the limitations of subsection (1)(2)(A) or (B) of this Section. The viscosity of the coating in each reservoir shall always be greater than or equal to the viscosity of the initial coating in the reservoir. The owner or operator shall:

- i) Monitor the viscosity of the coating in the reservoir with a viscosity meter or by testing the viscosity of the initial coating and retesting the coating in the reservoir each time solvent is added;
- ii) Collect and record the reservoir viscosity and the amount and weight of VOM per weight of solids of coating and solvent each time coating or solvent is added; and
- iii) Maintain these records at the source for a period of three years.

m)	Plastic Parts Coating: Automotive/Transportation	kg/l	lb/gal
	1) Interiors		
	A) Baked		
	i) Color coat	0.49*	(4.1)*
	ii) Primer	0.46*	(3.8)*
	B) Air Dried		
	i) Color coat	0.38*	(3.2)*
	ii) Primer	0.42*	(3.5)*
	2) Exteriors (flexible and non-flexible)		
	A) Baked		
	i) Primer	0.60*	(5.0)*

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	ii)	Primer non-flexible	0.54*	(4.5)*
	iii)	Clear coat	0.52*	(4.3)*
	iv)	Color coat	0.55*	(4.6)*
	B)	Air Dried		
	i)	Primer	0.66*	(5.5)*
	ii)	Clear coat	0.54*	(4.5)*
	iii)	Color coat (red & black)	0.67*	(5.6)*
	iv)	Color coat (others)	0.61*	(5.1)*
3)		Specialty		
	A)	Vacuum metallizing basecoats, texture basecoats	0.66*	(5.5)*
	B)	Black coatings, reflective argent coatings, air bag cover coatings, and soft coatings	0.71*	(5.9)*
	C)	Gloss reducers, vacuum metallizing topcoats, and texture topcoats	0.77*	(6.4)*
	D)	Stencil coatings, adhesion primers, ink pad coatings, electrostatic prep coatings, and resist coatings	0.82*	(6.8)*
	E)	Head lamp lens coatings	0.89*	(7.4)*
n)		Plastic Parts Coating: Business Machine	kg/l	lb/gal
	1)	Primer	0.14*	(1.2)*
	2)	Color coat (non-texture coat)	0.28*	(2.3)*
	3)	Color coat (texture coat)	0.28*	(2.3)*

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4)	Electromagnetic interference/radio frequency interference (EMI/RFI) shielding coatings	0.48*	(4.0)*
5)	Specialty Coatings		
	A) Soft coat	0.52*	(4.3)*
	B) Plating resist	0.71*	(5.9)*
	C) Plating sensitizer	0.85*	(7.1)*

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

Section 219.205 Daily-Weighted Average Limitations

No owner or operator of a coating line subject to the limitations of Section 219.204 of this Subpart and complying by means of this Section shall operate the subject coating line unless the owner or operator has demonstrated compliance with subsection (a), (b), (c), (d), (e), (f), (g), ~~or~~ (h), or (i) of this Section (depending upon the category of coating) through the applicable coating analysis test methods and procedures specified in Section 219.105(a) of this Part and the recordkeeping and reporting requirements specified in Section 219.211(d) of this Subpart:

- a) No owner or operator of a coating line subject to only one of the limitations from among Section 219.204(a)(1), (a)(4), ~~(e)~~, (d), (e), (f), ~~or (i)~~, or, prior to May 1, 2011, (c) of this Subpart shall apply coatings on any such coating line, during any day, whose daily-weighted average VOM content exceeds the emission limitation to which the coatings are subject.
- b) No owner or operator of a miscellaneous metal parts and products coating line subject to the limitations of Section 219.204(j) of this Subpart shall apply coatings to miscellaneous metal parts or products on the subject coating line unless the requirements in subsection (b)(1) or (b)(2) of this Section are met.
 - 1) For each coating line ~~thatwhich~~ applies multiple coatings, all of which are subject to the same numerical emission limitation within Section 219.204(j) of this Subpart during the same day (e.g., all coatings used on the line are subject to 0.42 kg/l (3.5 lbs/gal), the daily-weighted average VOM content shall not exceed the coating VOM content limit corresponding to the category of coating used, or
 - 2) For each coating line ~~thatwhich~~ applies coatings subject to more than one

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numerical emission limitation in Section 219.204(j) of this Subpart, during the same day, the owner or operator shall have a site-specific proposal approved by the Agency and approved by the USEPA as a SIP revision. To receive approval, the requirements of USEPA's Emissions Trading Policy Statement (and related policy) 51 Fed. Reg. 43814 (December 4, 1986), must be satisfied.

- c) No owner or operator of a can coating line subject to the limitations of Section 219.204(b) of this Subpart shall operate the subject coating line using a coating with a VOM content in excess of the limitations specified in Section 219.204(b) of this Subpart unless all of the following requirements are met:
- 1) An alternative daily emission limitation for the can coating operation, i.e. for all of the can coating lines at the source, shall be determined according to subsection (c)(2) of this Section. Actual daily emissions shall never exceed the alternative daily emission limitation and shall be calculated by use of the following equation.

$$E_b = \sum_{i=1}^n V_i C_i$$

where:

E_d = Actual VOM emissions for the day in units of kg/day (lbs/day);

i = Subscript denoting a specific coating applied;

n = Total number of coatings applied in the can coating operation, i.e. all can coating lines at the source;

V_i = Volume of each coating applied for the day in units of l/day (gal/day) of coating (minus water and any compounds which are specifically exempted from the definition of VOM);

C_i = The VOM content of each coating as applied in units of kg VOM/l (lbs VOM/gal) of coating (minus water and any compounds which are specifically exempted from

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the definition of VOM).

- 2) The alternative daily emission limitation (A_d) shall be determined for the can coating operation, i.e. for all of the can coating lines at the source, on a daily basis as follows:

$$A_d = \sum_{i=1}^n V_i L_i \frac{C_i - L_i}{C_i - L_i}$$

where:

A_d = The VOM emissions allowed for the day in units of kg/day (lbs/day);

i = Subscript denoting a specific coating applied;

n = Total number of surface coatings applied in the can coating operation;

C_i = The VOM content of each surface coating as applied in units of kg VOM/l (lbs VOM/gal) of coating (minus water and any compounds which are specifically exempted from the definition of VOM);

D_i = The density of VOM in each coating applied. For the purposes of calculating A_d , the density is 0.882kg VOM/l VOM (7.36 lbs VOM/gal VOM);

V_i = Volume of each surface coating applied for the day in units of l (gal) of coating (minus water and any compounds which are specifically exempted from the definition of VOM);

L_i = The VOM emission limitation for each surface coating applied as specified in Section 219.204(b) of this Subpart in units of kg VOM/l (lbs VOM/gal) of coating (minus water and any compounds which are specifically exempted from the definition of VOM).

- d) No owner or operator of a heavy off-highway vehicle products coating line subject to the limitations of Section 219.204(k) of this Subpart shall apply coatings to heavy off-highway vehicle products on the subject coating line unless

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the requirements of subsection (d)(1) or (d)(2) of this Section are met.

- 1) For each coating line ~~that~~which applies multiple coatings, all of which are subject to the same numerical emission limitation within Section 219.204(k) of this Subpart, during the same day (e.g., all coatings used on the line are subject to 0.42 kg/l (3.5 lbs/gal), the daily-weighted average VOM content shall not exceed the coating VOM content limit corresponding to the category of coating used, or
 - 2) For each coating line ~~that~~which applies coatings subject to more than one numerical emission limitation in Section 219.204(k) of this Subpart, during the same day, the owner or operator shall have a site specific proposal approved by the Agency and approved by the USEPA as a SIP revision. To receive approval, the requirements of USEPA's Emissions Trading Policy Statement (and related policy) 51 Fed. Reg. 43814 (December 4, 1986), must be satisfied.
- e) No owner or operator of a wood furniture coating line subject to the limitations of Section 219.204(l)(1) or (l)(3) of this Subpart shall apply coatings to wood furniture on the subject coating line unless the requirements of subsection (e)(1) or (e)(2) of this Section, in addition to the requirements specified in the note to Section 219.204(l)(1) of this Subpart, are met.
- 1) For each coating line ~~that~~which applies multiple coatings, all of which are subject to the same numerical emission limitation within Section 219.204(l)(1) or (l)(3) of this Subpart, during the same day (e.g., all coatings used on the line are subject to 0.67 kg/l (5.6 lbs/gal), the daily-weighted average VOM content shall not exceed the coating VOM content limit corresponding to the category of coating used, or
 - 2) For each coating line ~~that~~which applies coatings subject to more than one numerical emission limitation in Section 219.204(l)(1) or (l)(3) of this Subpart, during the same day, the owner or operator shall have a site specific proposal approved by the Agency and approved by the USEPA as a SIP revision. To receive approval, the requirements of USEPA's Emissions Trading Policy Statement (and related policy) 51 Fed. Reg. 43814 (December 4, 1986), must be satisfied.
- f) No owner or operator of a plastic parts coating line subject to the limitations of

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Section 219.204(m) or (n) of this Subpart shall apply coatings to business machine or automotive/transportation plastic parts on the subject coating line unless the requirements of subsection (f)(1) or (f)(2) of this Section are met.

- 1) For each coating line ~~that~~which applies multiple coatings, all of which are subject to the same numerical emission limitation within Section 219.204(m) or (n) of this Subpart, during the same day (e.g., all coatings used on the line are subject to 0.42 kg/l (3.5 lbs/gal), the daily-weighted average VOM content shall not exceed the coating VOM content limit corresponding to the category of coating used, or
 - 2) For each coating line ~~that~~which applies coatings subject to more than one numerical emission limitation in Section 219.204(m) or (n) of this Subpart, during the same day, the owner or operator shall have a site specific proposal approved by the Agency and USEPA as a SIP revision. To receive approval, the requirements of USEPA's Emissions Trading Policy Statement (and related policy) must be satisfied.
- g) No owner or operator of a metal furniture coating line subject to the limitations of Section 219.204(g) of this Subpart shall apply coatings on the subject coating line unless the requirements of subsection (g)(1) or (g)(2) of this Section are met:
- 1) For each coating line ~~that~~which applies multiple coatings, all of which are subject to the same numerical emission limitation within Section 219.204(g) of this Subpart, during the same day (e.g., all coatings used on the line are subject to 0.34 kg/l (2.8 lbs/gal)), the daily-weighted average VOM content shall not exceed the coating VOM content limit corresponding to the category of coating used, or
 - 2) For each coating line ~~that~~which applies coatings subject to more than one numerical emission limitation in Section 219.204(g) of this Subpart, during the same day, the owner or operator shall have a site specific proposal approved by the Agency and USEPA as a SIP revision. To receive approval, the requirements of USEPA's Emissions Trading Policy Statement (and related policy) must be satisfied.
- h) No owner or operator of a large appliance coating line subject to the limitations of Section 219.204(h) of this Subpart shall apply coatings on the subject coating line unless the requirements of subsection (h)(1) or (h)(2) of this Section are met.

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- 1) For each coating line ~~that~~which applies multiple coatings, all of which are subject to the same numerical emission limitation within Section 219.204(h) of this Subpart, during the same day (e.g., all coatings used on the line are subject to 0.34 kg/l (2.8 lbs/gal)), the daily-weighted average VOM content shall not exceed the coating VOM content limit corresponding to the category of coating used, or
 - 2) For each coating line ~~that~~which applies coatings subject to more than one numerical emission limitation in Section 219.204(h) of this Subpart, during the same day, the owner or operator shall have a site specific proposal approved by the Agency and USEPA as a SIP revision. To receive approval, the requirements of USEPA's Emissions Trading Policy Statement (and related policy) must be satisfied.
- i) On and after May 1, 2011, no owner or operator of a paper coating line subject to the limitations of Section 219.204(c) of this Subpart shall apply coatings on the subject coating line unless the requirements in subsection (i)(1) or (i)(2) of this Section are met:
- 1) For each coating line that applies multiple coatings, all of which are subject to the same numerical emission limitation within Section 219.204(c) during the same day (e.g., all coatings used on the line are subject to 0.40 kg/kg solids (0.08 kg/kg coatings)), the daily-weighted average VOM content shall not exceed the coating VOM content limit corresponding to the category of coating used; or
 - 2) For each coating line that applies coatings subject to more than one numerical emission limitation in Section 219.204(c) during the same day, the owner or operator shall have a site-specific proposal approved by the Agency and approved by USEPA as a SIP revision. To receive approval, the requirements of USEPA's Emissions Trading Policy Statement (and related policy), 51 Fed. Reg. 43814 (December 4, 1986), must be satisfied.

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

Section 219.207 Alternative Emission Limitations

- a) Any owner or operator of a coating line subject to Section 219.204 of this Subpart

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may comply with this Section, rather than with Section 219.204 of this Subpart, if a capture system and control device are operated at all times the coating line is in operation and the owner or operator demonstrates compliance with subsection (c), (d), (e), (f), (g), (h), (i), ~~or (j)~~, or (k) of this Section (depending upon the source category) through the applicable coating analysis and capture system and control device efficiency test methods and procedures specified in Section 219.105 of this Part and the recordkeeping and reporting requirements specified in Section 219.211(e) of this Subpart; and the control device is equipped with the applicable monitoring equipment specified in Section 219.105(d) of this Part and the monitoring equipment is installed, calibrated, operated and maintained according to vendor specifications at all times the control device is in use. A capture system and control device, which does not demonstrate compliance with subsection (c), (d), (e), (f), (g), (h), (i), (j), or (k) of this Section may be used as an alternative to compliance with Section 219.204 of this Subpart only if the alternative is approved by the Agency and approved by the USEPA as a SIP revision.

b) Alternative Add-On Control Methodologies

- 1) The coating line is equipped with a capture system and control device that provides 81 percent reduction in the overall emissions of VOM from the coating line and the control device has a 90 percent efficiency, or
- 2) The system used to control VOM from the coating line is demonstrated to have an overall efficiency sufficient to limit VOM emissions to no more than what is allowed under Section 219.204 of this Subpart. Use of any control system other than an afterburner, carbon adsorption, condensation, or absorption scrubber system can be allowed only if approved by the Agency and approved by the USEPA as a SIP revision. The use of transfer efficiency credits can be allowed only if approved by the Agency and approved by the USEPA as a SIP revision. Baseline transfer efficiencies and transfer efficiency test methods must be approved by the Agency and the USEPA. Such overall efficiency is to be determined as follows:
 - A) Obtain the emission limitation from the appropriate subsection in Section 219.204 of this Subpart;
 - B) Calculate "S" according to the equation in Section 219.206 of this Subpart;

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- C) Calculate the overall efficiency required according to Section 219.105(e) of this Part. For the purposes of calculating this value, according to the equation in Section 219.105(e)(2) of this Part, VOM_1 is equal to the value of "S" as determined above in subsection (b)(2)(B) of this Section.
- c) No owner or operator of a coating line subject to only one of the emission limitations from among Section 219.204(a)(1), (a)(4), ~~(e)~~, (d), (e), (f), ~~or~~ (i), or, prior to May 1, 2011, (c) of this Subpart and equipped with a capture system and control device shall operate the subject coating line unless the requirements in subsection (b)(1) or (b)(2) of this Section are met. No owner or operator of a coating line subject to Section 219.204(a)(2) or (a)(3) of this Part and equipped with a capture system and control device shall operate the coating line unless the owner or operator demonstrates compliance with such limitation in accordance with the topcoat protocol referenced in Section 219.105(b) of this Part.
- d) No owner or operator of a miscellaneous metal parts and products coating line ~~thatwhich~~ applies one or more coatings during the same day, all of which are subject to the same numerical emission limitation within Section 219.204(j) of this Subpart (e.g., all coatings used on the line are subject to 0.42 kg/l ~~{3.5 lbs/gal}~~), and ~~thatwhich~~ is equipped with a capture system and control device shall operate the subject coating line unless the requirements in subsection (b)(1) or (b)(2) of this Section are met.
- e) No owner or operator of a heavy off-highway vehicle products coating line ~~thatwhich~~ applies one or more coatings during the same day, all of which are subject to the same numerical emission limitation within Section 219.204(k) of this Subpart (e.g., all coatings used on the line are subject to 0.42 kg/l ~~{3.5 lbs/gal}~~), and ~~thatwhich~~ is equipped with a capture system and control device shall operate the subject coating line unless the requirements in subsection (b)(1) or (b)(2) of this Section are met.
- f) No owner or operator of a wood furniture coating line ~~thatwhich~~ applies one or more coatings during the same day, all of which are subject to the same numerical emission limitation within Section 219.204(l) of this Subpart (e.g., all coatings used on the line are subject to 0.67 kg/l ~~{5.6 lbs/gal}~~), and ~~thatwhich~~ is equipped with a capture system and control device shall operate the subject coating line unless the requirements in subsection (b)(1) or (b)(2) of this Section are met. If compliance is achieved by meeting the requirements in subsection (b)(2) of this

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Section, then the provisions in the note to Section 219.204(1) of this Subpart must also be met.

- g) No owner or operator of a can coating line and equipped with a capture system and control device shall operate the subject coating line unless the requirements in subsection (g)(1) or (g)(2) of this Section are met.
- 1) An alternative daily emission limitation for the can coating operation, i.e. for all of the can coating lines at the source, shall be determined according to Section 219.205(c)(2) of this Subpart. Actual daily emissions shall never exceed the alternative daily emission limitation and shall be calculated by use of the following equation:

$$E_d = \sum_{i=1}^n V_i C_i (1 - F_i)$$

where:

E_d = Actual VOM emissions for the day in units of kg/day (lbs/day);

i = Subscript denoting the specific coating applied;

n = Total number of surface coatings as applied in the can coating operation;

V_i = Volume of each coating as applied for the day in units of l/day (gal/day) of coating (minus water and any compounds which are specifically exempted from the definition of VOM);

C_i = The VOM content of each coating as applied in units of kg VOM/l (lbs VOM/gal) of coating (minus water and any compounds which are specifically exempted from the definition of VOM) and

F_i = Fraction, by weight, of VOM emissions from the surface coating, reduced or prevented from being emitted to the ambient air. This is the overall efficiency of the capture

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system and control device.

- 2) The coating line is equipped with a capture system and control device that provide 75 percent reduction in the overall emissions of VOM from the coating line and the control device has a 90 percent efficiency.
- h) No owner or operator of a plastic parts coating line ~~that~~ which applies one or more coatings during the same day, all of which are subject to the same numerical emission limitation within Section 219.204(m) or (n) of this Subpart (e.g., all coatings used on the line are subject to 0.42 kg/l (~~3.5~~ lbs/gal)), and ~~that~~ which is equipped with a capture system and control device shall operate the subject coating line unless the requirements in subsection (b)(1) or (b)(2) of this Section are met.
 - i) Prior to May 1, 2011, no~~Ne~~ owner or operator of a metal furniture coating line ~~that~~ which applies one or more coatings during the same day, all of which are subject to the same numerical emission limitation within Section 219.204(g) of this Subpart (e.g., all coatings used on the line are subject to 0.34 kg/l (~~2.8~~ lbs/gal)), and ~~that~~ which is equipped with a capture system and control device shall operate the subject coating line unless the requirements in subsection (b)(1) or (b)(2) of this Section are met.
 - j) Prior to May 1, 2011, no~~Ne~~ owner or operator of a large appliance coating line ~~that~~ which applies one or more coatings during the same day, all of which are subject to the same numerical emission limitation within Section 219.204(h) of this Subpart (e.g., all coatings used on the line are subject to 0.34 kg/l (~~2.8~~ lbs/gal)), and ~~that~~ which is equipped with a capture system and control device shall operate the subject coating line unless the requirements in subsection (b)(1) or (b)(2) of this Section are met.
 - k) On and after May 1, 2011, no owner or operator of a paper coating line, metal furniture coating line, or large appliance coating line that is equipped with a capture system and control device shall operate the subject coating line unless either:
 - 1) The capture system and control device provide at least 90 percent reduction in the overall emissions of VOM from the coating line; or

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- 2) [The owner or operator complies with the applicable limitation set forth in Section 219.204 of this Subpart by utilizing a combination of low-VOM coatings and a capture system and control device.](#)

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

Section 219.210 Compliance Schedule

Every owner or operator of a coating line (of a type included within Section 219.204 of this Subpart) shall comply with the requirements of Section 219.204, 219.205, 219.207 or 219.208 and Section 219.211 or Sections 219.212 and 219.213 of this Subpart in accordance with the appropriate compliance schedule as specified in subsection (a), (b), (c), (d), (e), ~~(f)~~, [or \(g\) of this Section below](#):

- a) No owner or operator of a coating line ~~that~~ [which](#) is exempt from the limitations of Section 219.204 of this Subpart because of the criteria in Section 219.208(a) or (b) of this Subpart shall operate said coating line on or after a date consistent with Section 219.106 of this Part, unless the owner or operator has complied with, and continues to comply with, Section 219.211(b) of this Subpart.
- b) No owner or operator of a coating line complying by means of Section 219.204 of this Subpart shall operate said coating line on or after a date consistent with Section 219.106 of this Part, unless the owner or operator has complied with, and continues to comply with, Sections 219.204 and 219.211(c) of this Subpart.
- c) No owner or operator of a coating line complying by means of Section 219.205 of this Subpart shall operate said coating line on or after a date consistent with Section 219.106 of this Part, unless the owner or operator has complied with, and continues to comply with, Sections 219.205 and 219.211(d) of this Subpart.
- d) No owner or operator of a coating line complying by means of Section 219.207 of this Subpart shall operate said coating line on or after a date consistent with Section 219.106 of this Part, unless the owner or operator has complied with, and continues to comply with, Sections 219.207 and 219.211(e) of this Subpart.
- e) No owner or operator of a coating line subject to one or more of the emission limitations contained in Section 219.204 of this Subpart on or after March 15, 1996, choosing to comply by means of Section 219.204, 219.205 or 219.207 of this Subpart, shall operate said coating line on or after March 15, 1996, unless the

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owner or operator complies with and continues to comply with, respectively, the applicable requirements in Section 219.204, or the alternative control options in Sections 219.205 or 219.207 and the requirements of Section 219.211.

- f) No owner or operator of a coating line subject to one or more of the emission limitations contained in Section 219.204 of this Subpart on or after March 15, 1996, choosing to comply by means of Section 219.212 of this Subpart, shall operate said coating line on or after March 15, 1996, unless the owner or operator complies with and continues to comply with the requirements of Sections 219.212 and 219.213 of this Subpart.
- g) [No owner or operator of a coating line subject to the emission limitations in Section 219.204\(c\)\(2\), 219.204\(g\)\(2\), or 219.204\(h\)\(2\) of this Subpart shall operate that coating line on or after a date consistent with Section 219.106\(c\) of this Part, unless the owner or operator has complied with, and continues to comply with, Section 219.204\(c\)\(2\), 219.204\(g\)\(2\), or 219.204\(h\)\(2\), as applicable, or the alternative control options in Section 219.205 or 219.207, and all applicable requirements in Sections 219.211 and 219.218 of this Subpart.](#)

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

Section 219.211 Recordkeeping and Reporting

- a) The VOM content of each coating and the efficiency of each capture system and control device shall be determined by the applicable test methods and procedures specified in Section 219.105 of this Part to establish the records required under this Section.
- b) Any owner or operator of a coating line ~~that~~^{which} is exempted from the limitations of Section 219.204 of this Subpart because of Section 219.208(a) or (b) of this Subpart shall comply with the following:
- 1) For sources exempt from Section 219.208(a) of this Subpart, by a date consistent with Section 219.106 of this Part, the owner or operator of a coating line or group of coating lines referenced in subsection (b) of this Section shall certify to the Agency that the coating line or group of coating lines is exempt under the provisions of Section 219.208(a) of this Subpart. Such certification shall include:

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- A) A declaration that the coating line is exempt from the limitations of Section 219.204 of this Subpart because of Section 219.208(a) of this Subpart; and
- B) Calculations ~~that~~which demonstrate that the combined VOM emissions from the coating line and all other coating lines in the same category never exceed 6.8 kg (15 lbs) per day before the application of capture systems and control devices. The following equation shall be used to calculate total VOM emissions:

$$T_e = \sum_{j=1}^m \sum_{i=1}^n A_i B_i$$

where:

T_e = Total VOM emissions from coating lines each day before the application of capture systems and control devices in units of kg/day (lbs/day);

m = Number of coating lines at the source that otherwise would be subject to the same subsection of Section 219.104 of this Part (because they belong to the same category, e.g., can coating);

j = Subscript denoting an individual coating line;

n = Number of different coatings as applied each day on each coating line;

i = Subscript denoting an individual coating;

A_i = Weight of VOM per volume of each coating (minus water and any compounds which are specifically exempted from the definition of VOM) as applied each day on each coating line in units of kg VOM/l (lbs VOM/gal);

B_i = Volume of each coating (minus water and any compounds which are specifically exempted from the definition of VOM) as applied each day on each coating line in units of

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l/day (gal/day). The instrument or method by which the owner or operator accurately measured or calculated the volume of each coating as applied on each coating line each day shall be described in the certification to the Agency.

- 2) For sources exempt under Section 219.208(b) of this Subpart, by March 15, 1998, or upon initial start-up, the owner or operator of a coating line or a group of coating lines referenced in subsection (b) of this Section shall certify to the Agency that the source is exempt under the provisions of Section 219.208(b) of this Subpart. Such certification shall include:
 - A) A declaration that the source is exempt from the limitations of Section 219.204(l) of this Subpart because of Section 219.208(b) of this Subpart; and
 - B) Calculations which demonstrate that the source meets the criteria of exemption because of Section 219.208(b) of this Subpart.
- 3) For sources exempt under Section 219.208(a) of this Subpart, on and after a date consistent with Section 219.106 of this Part, the owner or operator of a coating line or group of lines referenced in this subsection shall collect and record all of the following information each day for each coating line and maintain the information at the source for a period of three years:
 - A) The name and identification number of each coating as applied on each coating line; and
 - B) The weight of VOM per volume and the volume of each coating (minus water and any compounds which are specifically exempted from the definition of VOM) as applied each day on each coating line.
- 4) For sources exempt under Section 219.208(b) of this Subpart, on and after March 15, 1998, the owner or operator of a coating line or group of coating lines referenced in this subsection (b) shall collect and record all of the following information for each coating line and maintain the information at the source for a period of three years:

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- A) The name and identification number of each coating as applied on each coating line; and
 - B) The weight of VOM per volume and the volume of each coating (minus water and any compounds which are specifically exempted from the definition of VOM) as applied on each coating line on a monthly basis.
- 5) On and after a date consistent with Section 219.106 of this Part, the owner or operator of a coating line or group of coating lines exempted from the limitations of Section 219.204 of this Subpart because of Section 219.208(a) of this Subpart shall notify the Agency of any record showing that total VOM emissions from the coating line or group of coating lines exceed 6.8 kg (15 lbs) in any day before the application of capture systems and control devices by sending a copy of such record to the Agency within 30 days after the exceedance occurs.
- 6) On and after March 15, 1998, any owner or operator of a source exempt from the limitations of Section 219.204(1) of this Subpart because of Section 219.208(b) of this Subpart shall notify the Agency if the source's VOM emissions exceed the limitations of Section 219.208(b) of this Subpart by sending a copy of calculations showing such an exceedance within 30 days after the change occurs.
- c) Any owner or operator of a coating line subject to the limitations of Section 219.204 of this Subpart other than Section 219.204(a)(2) and (a)(3) of this Subpart and complying by means of Section 219.204 of this Subpart shall comply with the following:
- 1) By a date consistent with Section 219.106 of this Part, or upon initial start-up of a new coating line, or upon changing the method of compliance from an existing subject coating line from Section 219.205, Section 219.207, Section 219.215, or Section 219.216 of this Subpart to Section 219.204 of this Subpart; the owner or operator of a subject coating line shall certify to the Agency that the coating line will be in compliance with Section 219.204 of this Subpart on and after a date consistent with Section 219.106 of this Part, or on and after the initial start-up date. [TheSuch](#) certification shall include:

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- A) The name and identification number of each coating as applied on each coating line;
 - B) The weight of VOM per volume of each coating (minus water and any compounds which are specifically exempted from the definition of VOM) as applied each day on each coating line; ~~and~~
 - C) On and after March 15, 1998, for coating lines subject to the limitations of Section 219.204(1)(2)(A) or (B) of this Subpart, the weight of VOM per weight of solids in each coating as applied each day on each coating line;:-
 - D) For coating lines subject to the limitations of Section 219.204(c)(2) of this Subpart, the weight of VOM per weight of solids (or the weight of VOM per weight of coatings, as applicable) in each coating as applied each day on each coating line; and
 - E) For coating lines subject to the limitations of Section 219.204(g)(2) or 219.204(h)(2) of this Subpart, the application methods used to apply coatings on the subject coating line and the weight of VOM per volume of each coating (or the weight of VOM per volume of solids in each coating, as applicable) as applied each day on each coating line.
- 2) On and after a date consistent with Section 219.106 of this Part, or on and after the initial start-up date, the owner or operator of a subject coating line shall collect and record all of the following information each day for each coating line and maintain the information at the source for a period of three years:
- A) The name and identification number of each coating as applied on each coating line;
 - B) The weight of VOM per volume of each coating (minus water and any compounds which are specifically exempted from the definition of VOM) as applied each day on each coating line;

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- C) On and after March 15, 1998, for coating lines subject to the limitations of Section 219.204(l)(2)(A) or (B) of this Subpart, the weight of VOM per weight of solids in each coating as applied each day on each coating line and certified product data sheets for each coating; ~~and~~
- D) On and after March 15, 1998, for wood furniture coating spray booths subject to the limitation of Section 219.204(l)(4)(A) of this Subpart, the weight of VOM per weight of solids in each strippable spray booth coating as applied each day on each spray booth and certified product data sheets for each coating;-
- E) For coating lines subject to the limitations of Section 219.204(c)(2) of this Subpart, the weight of VOM per weight of solids (or the weight of VOM per weight of coatings, as applicable) in each coating as applied each day on each coating line, and certified product data sheets for each coating; and
- F) For coating lines subject to the limitations of Section 219.204(g)(2) or 219.204(h)(2) of this Subpart, the weight of VOM per volume of each coating (or the weight of VOM per volume of solids in each coating, as applicable) as applied each day on each coating line, and certified product data sheets for each coating.
- 3) On and after a date consistent with Section 219.106 of this Part, the owner or operator of a subject coating line shall notify the Agency in the following instances:
- A) Any record showing violation of Section 219.204 of this Subpart shall be reported by sending a copy of such record to the Agency within 30 days following the occurrence of the violation.
- B) At least 30 calendar days before changing the method of compliance from Section 219.204 to Section 219.205 or Section 219.207 of this Subpart, the owner or operator shall comply with all requirements of subsection (d)(1) or (e)(1) below, respectively. Upon changing the method of compliance from Section 219.204 to Section 219.205 or Section 219.207 of this Subpart, the owner or

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operator shall comply with all requirements of subsection (d) or (e) of this Section, respectively.

- d) Any owner or operator of a coating line subject to the limitations of Section 219.204 of this Subpart and complying by means of Section 219.205 of this Subpart shall comply with the following:
- 1) By a date consistent with Section 219.106 of this Part, or upon initial start-up of a new coating line, or upon changing the method of compliance for an existing subject coating line from Section 219.204 or Section 219.207 to Section 219.205 of this Subpart; the owner or operator of the subject coating line shall certify to the Agency that the coating line will be in compliance with Section 219.205 on and after a date consistent with Section 219.106 of this Part, or on and after the initial start-up date. TheSuch certification shall include:
 - A) The name and identification number of each coating line which will comply by means of Section 219.205 of this Subpart.
 - B) The name and identification number of each coating as applied on each coating line.
 - C) The weight of VOM per volume and the volume of each coating (minus water and any compounds which are specifically exempted from the definition of VOM) as applied each day on each coating line.
 - D) On and after March 15, 1998, for coating lines subject to the limitations of Section 219.204(l)(2)(A) or (B) of this Subpart, the weight of VOM per weight of solids in each coating as applied each day on each coating line.
 - E) For coating lines subject to the limitations of Section 219.204(c)(2) of this Subpart, the weight of VOM per weight of solids (or the weight of VOM per weight of coatings, as applicable) in each coating as applied each day on each coating line.
 - F) For coating lines subject to the limitations of Section 219.204(g)(2) or 219.204(h)(2) of this Subpart, the weight of VOM per volume

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of each coating (or the weight of VOM per volume of solids in each coating, as applicable) as applied each day on each coating line.

GE) The instrument or method by which the owner or operator will accurately measure or calculate the volume of each coating as applied each day on each coating line.

HF) The method by which the owner or operator will create and maintain records each day as required in subsection (d)(2) of this Section.

IG) An example of the format in which the records required in subsection (d)(2) of this Section will be kept.

2) On and after a date consistent with Section 219.106 of this Part, or on and after the initial start-up date, the owner or operator of a subject coating line shall collect and record all of the following information each day for each coating line and maintain the information at the source for a period of three years:

A) The name and identification number of each coating as applied on each coating line.

B) The weight of VOM per volume and the volume of each coating (minus water and any compounds which are specifically exempted from the definition of VOM) as applied each day on each coating line.

C) On and after March 15, 1998, for coating lines subject to the limitations of Section 219.204(1)(2)(A) or (B) of this Subpart, the weight of VOM per weight of solids in each coating as applied each day on each coating line.

D) For coating lines subject to the limitations of Section 219.204(c)(2) of this Subpart, the weight of VOM per weight of solids (or the weight of VOM per weight of coatings, as applicable) in each coating as applied each day on each coating line.

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- E) For coating lines subject to the limitations of Section 219.204(g)(2) or 219.204(h)(2) of this Subpart, the weight of VOM per volume of each coating (or the weight of VOM per volume of solids in each coating, as applicable) as applied each day on each coating line.
- FD) The daily-weighted average VOM content of all coatings as applied on each coating line as defined in Section 219.104 of this Part.
- 3) On and after a date consistent with Section 219.106 of this Part, the owner or operator of a subject coating line shall notify the Agency in the following instances:
- A) Any record showing violation of Section 219.205 of this Subpart shall be reported by sending a copy of such record to the Agency within 30 days following the occurrence of the violation.
- B) At least 30 calendar days before changing the method of compliance with this Subpart from Section 219.205 to Section 219.204 or Section 219.207 of this Subpart, the owner or operator shall comply with all requirements of subsection (c)(1) or (e)(1) of this Section, respectively. Upon changing the method of compliance with this Subpart from Section 219.205 to Section 219.204 or Section 219.207 of this Subpart, the owner or operator shall comply with all requirements of subsection (c) or (e) of this Section, respectively.
- e) Any owner or operator of a coating line subject to the limitations of Section 219.207 and complying by means of Section 219.207(c), (d), (e), (f), (g), ~~(h)~~, or (k) of this Subpart shall comply with the following:
- 1) By a date consistent with Section 219.106 of this Part, or upon initial start-up of a new coating line, or upon changing the method of compliance for an existing coating line from Section 219.204 or Section 219.205 to Section 219.207 of this Subpart, the owner or operator of the subject coating line shall perform all tests and submit to the Agency the results of all tests and calculations necessary to demonstrate that the subject coating line will be in compliance with Section 219.207 of this Subpart on and

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after a date consistent with Section 219.106 of this Part, or on and after the initial start-up date.

- 2) On and after a date consistent with Section 219.106 of this Part, or on and after the initial start-up date, the owner or operator of a subject coating line shall collect and record all of the following information each day for each coating line and maintain the information at the source for a period of three years:
 - A) The weight of VOM per volume of coating solids as applied each day on each coating line, if complying pursuant to Section 219.207(b)(2) of this Subpart.
 - B) Control device monitoring data.
 - C) A log of operating time for the capture system, control device, monitoring equipment and the associated coating line.
 - D) A maintenance log for the capture system, control device and monitoring equipment detailing all routine and non-routine maintenance performed including dates and duration of any outages.
- 3) On and after a date consistent with Section 219.106 of this Part, the owner or operator of a subject coating line shall notify the Agency in the following instances:
 - A) Any record showing violation of Section 219.207 of this Subpart shall be reported by sending a copy of such record to the Agency within 30 days following the occurrence of the violation.
 - B) At least 30 calendar days before changing the method of compliance with this Subpart from Section 219.207 to Section 219.204 or Section 219.205 of this Subpart, the owner or operator shall comply with all requirements of subsection (c)(1) or (d)(1) of this Section, respectively. Upon changing the method of compliance with this Subpart Part from Section 219.207 to Section 219.204 or Section 219.205 of this Subpart, the owner or operator

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shall comply with all requirements of subsection (c) or (d) of this Section, respectively.

- f) Any owner or operator of a primer surfacer operation or topcoat operation subject to the limitations of Section 219.204(a)(2) or (a)(3) of this Subpart shall comply with the following:
- 1) By a date consistent with Section 219.106 of this Part, or upon initial start-up of a new coating operation, the owner or operator of a subject coating operation shall certify to the Agency that the operation will be in compliance with Section 219.204 of this Subpart on and after a date consistent with Section 219.106 of this Part, or on and after the initial start-up date. [TheSuch](#) certification shall include:
 - A) The name and identification number of each coating operation which will comply by means of Section 219.204(a)(2) and (a)(3) of this Subpart and the name and identification number of each coating line in each coating operation.
 - B) The name and identification number of each coating as applied on each coating line in the coating operation.
 - C) The weight of VOM per volume of each coating (minus water and any compounds which are specifically exempted from the definition of VOM) as applied each day on each coating line.
 - D) The transfer efficiency and control efficiency measured for each coating line.
 - E) Test reports, including raw data and calculations documenting the testing performed to measure transfer efficiency and control efficiency.
 - F) The instrument or method by which the owner or operator will accurately measure or calculate the volume of each coating as applied each day on each coating line.

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- G) The method by which the owner or operator will create and maintain records each day as required in subsection (f)(2) [of this Section below](#).
- H) An example format for presenting the records required in subsection (f)(2) [of this Section below](#).
- 2) On and after a date consistent with Section 219.106 of this Part, or on and after the initial start-up date, the owner or operator of a subject coating operation shall collect and record all of the following information each day for each topcoat or primer surfacer coating operation and maintain the information at the source for a period of three years:
- A) All information necessary to calculate the daily-weighted average VOM emissions from the coating operations in kg (lbs) per 1 (gal) of coating solids deposited in accordance with the proposal submitted, and approved pursuant to Section 219.204(a)(2) or (a)(3) of this Subpart including:
- i) The name and identification number of each coating as applied on each coating operation.
- ii) The weight of VOM per volume of each coating (minus water and any compounds which are specifically exempted from the definition of VOM) as applied each day on each coating operation.
- B) If a control [device or devices are](#)~~device(s) is~~ used to control VOM emissions, control device monitoring data; a log of operating time for the capture system, control device, monitoring equipment and the associated coating operation; and a maintenance log for the capture system, control device and monitoring equipment, detailing all routine and non-routine maintenance performed including dates and duration of any outages.
- 3) On and after a date consistent with Section 219.106 of this Part or on and after the initial start-up date, the owner or operator of a subject coating operation shall determine and record the daily VOM emissions in kg (lbs) per 1 (gal) of coating solids deposited in accordance with the proposal

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submitted and approved pursuant to Section 219.204(a)(2) or (a)(3) of this Subpart within 10 days from the end of the month and maintain this information at the source for a period of three years.

- 4) On and after a date consistent with Section 219.106 of this Part, the owner or operator of a subject coating operation shall notify the Agency in the following instances:
 - A) Any record showing a violation of Section 219.204(a)(2) or (a)(3) of this Subpart shall be reported by sending a copy of such record to the Agency within 15 days from the end of the month in which the violation occurred.
 - B) The owner or operator shall notify the Agency of any change to the operation at least 30 days before the change is effected. The Agency shall determine whether or not compliance testing is required. If the Agency determines that compliance testing is required, then the owner or operator shall submit a testing proposal to the Agency within 30 days and test within 30 days of the approval of the proposal by the Agency and USEPA.
- g) On and after a date consistent with Section 219.106(c) of this Part, or on and after the initial start-up date, whichever is later, the owner or operator of a coating line subject to the requirements of Section 219.218 of this Subpart shall comply with the following:
 - 1) By May 1, 2011, or upon initial start-up, whichever is later, submit a certification to the Agency that includes a description of the practices and procedures that the source will follow to ensure compliance with the applicable requirements in Section 219.218 of this Subpart;
 - 2) Notify the Agency of any violation of Section 219.218 of this Subpart by providing a description of the violation and copies of records documenting the violation to the Agency within 30 days following the occurrence of the violation; and
 - 3) Maintain at the source all records required by this subsection (g) for a minimum of three years from the date the document was created and make those records available to the Agency upon request.

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

Section 219.212 Cross-Line Averaging to Establish Compliance for Coating Lines

- a) On and after March 15, 1996, any owner or operator of a coating line subject to the limitations set forth in Section 219.204 of this Subpart, [except coating lines subject to the limitations in Section 219.204\(c\)\(2\), \(g\)\(2\), or \(h\)\(2\) of this Subpart](#), and with coating lines in operation prior to January 1, 1991 ("pre-existing coating lines"), may, for pre-existing coating lines only, elect to comply with the requirements of this Section, rather than complying with the applicable emission limitations set forth in Section 219.204, if an operational change of the type described below has been made after January 1, 1991, to one or more pre-existing coating lines at the source. An operational change occurs when a pre-existing coating line is replaced with a line using lower VOM coating for the same purpose as the replaced line ("replacement line"). A source electing to rely on this Section to demonstrate compliance with the requirements of this Subpart shall operate pursuant to federally enforceable permit conditions approved by the Agency and USEPA.
- b) An owner or operator of pre-existing coating lines subject to a VOM content limitation in Section 219.204 of this Subpart and electing to rely on this Section to demonstrate compliance with this Subpart must establish, by use of the equations in subsection (d) of this Section, that the calculated actual daily VOM emissions from all participating coating lines, as defined below, are less than the calculated daily allowable VOM emissions from the same group of coating lines. For any pre-existing coating line to be aggregated for the purposes of Section 219.212, 219.213, or 219.214 of this Subpart ("participating coating lines"), the source must establish that:
 - 1) All coatings applied on the participating coating line shall, at all times, have a VOM content less than or equal to the applicable VOM content limitation for such coating listed in Appendix H of this Part; and
 - 2) On the date the source elects to rely on this Section to demonstrate compliance with this Subpart, all coatings applied on the participating coating line are not already in compliance with the VOM content limitation for such coating effective on or after March 15, 1996; or the participating coating line is a replacement line, as defined in subsection (a)

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NOTICE OF PROPOSED AMENDMENTS

of this Section with an operational change occurring on or after January 1, 1991.

- c) Notwithstanding subsection (a) of this Section, any owner or operator of a coating line subject to the limitations set forth in Section 219.204 of this Subpart and electing to rely on this Section to demonstrate compliance with this Subpart, may also include as a participating coating line, until December 31, 1999, only, any replacement line that satisfies all of the following conditions:
- 1) The replacement line is operated as a powder coating line;
 - 2) The replacement line was added after July 1, 1988; and
 - 3) The owner or operator also includes as a participating coating line one or more coating lines that satisfy the criteria of a replacement line, as described in subsection (a) of this Section.
- d) To demonstrate compliance with this Section, a source shall establish the following:
- 1) An alternative daily emission limitation shall be determined for all participating coating lines at the source according to subsection (d)(2) of this Section. All participating coating lines shall be factored in each day to demonstrate compliance. Provided compliance is established pursuant to the requirements in this subsection, nothing in this Section requires daily operation of each participating line. Actual daily emissions from all participating coating lines (E_d) shall never exceed the alternative daily emission limitation (A_d) and shall be calculated by use of the following equation:

$$E_d = \sum_{i=1}^n V_i C_i$$

where:

E_d = Actual daily VOM emissions from participating coating lines in units of kg/day (lbs/day);

i = Subscript denoting a specific coating applied;

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- n = Total number of coatings applied by all participating coating lines at the source;
- V_i = Volume of each coating applied for the day in units of l/day (gal/day) of coating (minus water and any compounds which are specifically exempted from the definition of VOM); and
- C_i = The VOM content of each coating as applied in units of kg VOM/l (lbs VOM/gal) of coating (minus water and any compounds which are specifically exempted from the definition of VOM).

- 2) The alternative daily emission limitation (A_d) shall be determined for all participating coating lines at the source on a daily basis as follows:

$$A_d = A_l + A_p$$

where A_l and A_p are defined in subsections (d)(2)(A) and (d)(2)(B) of this subsection.

- A) The portion of the alternative daily emissions limitation for coating operations at a source using non-powder coating (A_l) shall be determined for all such participating non-powder coating lines on a daily basis as follows:

$$A_l = \sum_{i=1}^n V_i L_i \frac{Q_i - C_i}{Q_i - L_i}$$

where:

- A_l = The VOM emissions allowed for the day in units of kg/day (lbs/day);
- i = Subscript denoting a specific coating applied;
- n = Total number of coatings applied by all participating coating lines at the source;

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C_i = The VOM content of each coating as applied in units of kg VOM/l (lbs VOM/gal) of coating (minus water and any compounds which are specifically exempted from the definition of VOM);

D_i = The density of VOM in each coating applied. For the purposes of calculating A_i , the density is 0.882 kg VOM/l VOM (7.36 lbs VOM/gal VOM);

V_i = Volume of each coating applied for the day in units of l (gal) of coating (minus water and any compounds which are specifically exempted from the definition of VOM); and

L_i = The VOM emission limitation for each coating applied, as specified in Section 219.204 of this Subpart, in units of kg VOM/l (lbs VOM/gal) of coating (minus water and any compounds which are specifically exempted from the definition of VOM).

- B) The portion of the alternative daily emission limitation for coating operations at a source using powdered coating (A_p) shall be determined for all such participating powder coating lines at the source on a daily basis as follows:

$$A_p = \sum_{h=1}^m \sum_{j=1}^n \frac{V_j L_j D_j K_h}{\phi_j - L_j}$$

where:

A_p = The VOM emissions allowed for the day in units of kg/day (lbs/day);

h = Subscript denoting a specific powder coating line;

j = Subscript denoting a specific powder coating applied;

m = Total number of participating powder coating lines;

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- n = Total number of powder coatings applied in the participating coating lines;
- D_j = The assumed density of VOM in liquid coating, 0.882 kg VOM/l VOM (7.36 lbs VOM/gal VOM);
- V_j = Volume of each powder coating consumed for the day in units of l (gal) of coating;
- L_j = The VOM emission limitation for each coating applied, as specified in Section 219.204 of this Subpart, in units of kg VOM/l (lbs VOM/gal) of coating (minus water and any compounds which are specifically exempted from the definition of VOM); and
- K = A constant for each individual coating line representing the ratio of the volume of coating solids consumed on the liquid coating system which has been replaced to the volume of powder coating consumed on the replacement line to accomplish the same coating job. This value shall be determined by the source based on tests conducted and records maintained pursuant to the requirements of Section 219.213 of this Subpart demonstrating the amount of coating solids consumed as both liquid and powder. Tests methods and recordkeeping requirements shall be approved by the Agency and USEPA and contained in the source's operating permit as federally enforceable permit conditions, subject to the following restrictions:
- i) K cannot exceed 0.9 for non-recycled powder coating systems; or
 - ii) K cannot exceed 2.0 for recycled powder coating systems.

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

[Section 219.218 Work Practice Standards for Paper Coatings, Metal Furniture Coatings, and Large Appliance Coatings](#)

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- a) On and after May 1, 2011, every owner or operator of a source subject to the requirements of Section 219.204(c) of this Subpart shall:
- 1) Store all VOM-containing cleaning materials in closed containers;
 - 2) Ensure that mixing and storage containers used for VOM-containing materials are kept closed at all times except when depositing or removing those materials;
 - 3) Minimize spills of VOM-containing cleaning materials;
 - 4) Convey VOM-containing cleaning materials from one location to another in closed containers or pipes; and
 - 5) Minimize VOM emissions from the cleaning of storage, mixing, and conveying equipment.
- b) On and after May 1, 2011, every owner or operator of a source subject to the requirements of Section 219.204(g) or 219.204(h) of this Subpart shall:
- 1) Store all VOM-containing coatings, thinners, coating-related waste materials, cleaning materials, and used shop towels in closed containers;
 - 2) Ensure that mixing and storage containers used for VOM-containing coatings, thinners, coating-related waste materials, and cleaning materials are kept closed at all times except when depositing or removing those materials;
 - 3) Minimize spills of VOM-containing coatings, thinners, coating-related waste materials, and cleaning materials, and clean up spills immediately;
 - 4) Convey VOM-containing coatings, thinners, coating-related waste materials, and cleaning materials from one location to another in closed containers or pipes; and
 - 5) Minimize VOM emissions from the cleaning of storage, mixing, and conveying equipment.

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

DEPARTMENT OF HUMAN SERVICES

NOTICE OF EMERGENCY AMENDMENT

- 1) Heading of the Part: Child Care
- 2) Code Citation: 89 Ill. Adm. Code 50
- 3) Section Number: 50.260 Emergency Action:
New Section
- 4) Statutory Authority: Implementing Articles I through IXA and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. I through IXA and 12-13]
- 5) Effective date of amendment: November 1, 2009
- 6) If this emergency amendment is to expire before the end of the 150-day period, please specify the date on which they are to expire: This emergency amendment will expire at the end of the 150-day period, or upon adoption of permanent rules, whichever comes first.
- 7) Date filed with the Index Department: October 29, 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: This emergency rulemaking is being proposed to make use of American Recovery and Reinvestment (ARRA) funds. This rulemaking is the result of a sub-group of the Child Care Advisory Council that was formed to discuss and make recommendations to the Department on possible uses of ARRA funds. This rulemaking allows parents 90 days to continue to receive child care assistance while they look for a new job after they lose employment. Lack of continued child care assistance would threaten the welfare of eligible parents. This rulemaking addresses the threat by supporting parents who have suffered a loss of employment and may require more time to find a job during these difficult economic times.
- 10) A Complete Description of the Subject and Issues Involved: This rulemaking is being proposed to establish that the Department will be able to provide payments to maintain a child care arrangement, for a period not to exceed 90 days, to allow parents who have been participating in the child care assistance program and lose their jobs to look for a new job. To qualify, the parent shall report a loss of employment within ten days of the date of the loss without exception. Families are eligible to receive child care assistance

DEPARTMENT OF HUMAN SERVICES

NOTICE OF EMERGENCY AMENDMENT

under these provisions one time in any 12-month period. Payments shall not be approved if the child does not attend care.

- 11) Are there any other proposed rulemakings pending on this Part? Yes

<u>Section Numbers:</u>	<u>Proposed Action:</u>	<u>Illinois Register Citation:</u>
50.230	Amendment	33 Ill. Reg. 7258; June 5, 2009
50.320	Amendment	33 Ill. Reg. 7258; June 5, 2009

- 12) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State mandate.

- 13) Information and questions regarding this emergency amendment shall be directed to:

Tracie Drew, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
Harris Bldg., 3rd Floor
Springfield, Illinois 62762

217/785-9772

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

DEPARTMENT OF HUMAN SERVICES

NOTICE OF EMERGENCY AMENDMENT

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER a: GENERAL PROGRAM PROVISIONS

PART 50
CHILD CARE

SUBPART A: GENERAL PROVISIONS

- Section
50.101 Incorporation by Reference
50.110 Participant Rights and Responsibilities
50.120 Notification of Available Services
50.130 Child Care Overpayments and Recoveries

SUBPART B: APPLICABILITY

- Section
50.210 Child Care
50.220 Method of Providing Child Care
50.230 Child Care Eligibility
50.235 Income Eligibility Criteria
50.240 Qualified Provider
50.250 Additional Service to Secure or Maintain Child Care
50.260 Job Search
EMERGENCY

SUBPART C: PAYMENT FEES

- Section
50.310 Fees for Child Care Services
50.320 Maximum Monthly Income and Parent Fee by Family Size, Income Level and Number of Children Receiving Full-time Care

SUBPART D: CHILD CARE ABUSE AND NEGLECT

- Section
50.410 Provider Eligibility
50.420 Payment for Child Care Services

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SUBPART E: GREAT START PROGRAM

Section	
50.510	Great START Program
50.520	Method of Providing the Wage Supplement
50.530	Eligibility
50.540	Employer Responsibility
50.550	Notification of Eligibility
50.560	Phase-in of Wage Supplement Scale
50.570	Wage Supplement Scale
50.580	Evaluation

AUTHORITY: Implementing Articles I through IXA and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. I through IXA and 12-13].

SOURCE: Emergency rules adopted at 21 Ill. Reg. 9502, effective July 1, 1997, for a maximum of 150 days; adopted at 21 Ill. Reg. 14961, effective November 10, 1997; emergency amendment at 22 Ill. Reg. 12816, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 21037, effective November 27, 1998; emergency amendment at 23 Ill. Reg. 10875, effective August 20, 1999, for maximum of 150 days; amended at 24 Ill. Reg. 1058, effective January 10, 2000; emergency amendment at 24 Ill. Reg. 6604, effective April 5, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 13987, effective September 1, 2000; amended at 24 Ill. Reg. 15423, effective October 10, 2000; emergency amendment at 25 Ill. Reg. 2735, effective February 5, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 8176, effective June 23, 2001; emergency amendment at 25 Ill. Reg. 8443, effective July 1, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 14854, effective October 31, 2001; emergency amendment at 25 Ill. Reg. 16116, effective December 1, 2001, for a maximum of 150 days; amended at 26 Ill. Reg. 7113, effective April 25, 2002; amended at 27 Ill. Reg. 12090, effective July 14, 2003; amended at 27 Ill. Reg. 18411, effective November 24, 2003; amended at 28 Ill. Reg. 6895, effective April 23, 2004; emergency amendment at 28 Ill. Reg. 10121, effective July 1, 2004, for a maximum of 150 days; emergency expired November 27, 2004; amended at 29 Ill. Reg. 2687, effective February 4, 2005; emergency amendment at 29 Ill. Reg. 13253, effective August 11, 2005, for a maximum of 150 days; emergency expired January 7, 2006; amended at 30 Ill. Reg. 11190, effective June 6, 2006; amended at 31 Ill. Reg. 12584, effective August 20, 2007; emergency amendment at 31 Ill. Reg. 13350, effective September 10, 2007, for a maximum of 150 days; emergency expired February 6, 2008; amended at 32 Ill. Reg. 6048, effective March 31, 2008; emergency amendment at 32 Ill. Reg. 6652, effective April 1, 2008, for a maximum of 150 days; amended at 32 Ill. Reg. 9604, effective June 20, 2008; amended at 32 Ill. Reg. 14742,

DEPARTMENT OF HUMAN SERVICES

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effective August 28, 2008; amended at 33 Ill. Reg. 8195, effective June 8, 2009; emergency amendment at 33 Ill. Reg. 15889, effective November 1, 2009, for a maximum of 150 days; emergency amendment at 33 Ill. Reg. 16517, effective November 1, 2009, for a maximum of 150 days.

SUBPART B: APPLICABILITY

Section 50.260 Job Search
EMERGENCY

During the period of November 1, 2009 through September 30, 2011, or as long as American Recovery and Reinvestment Act (ARRA) funds are available, the Department will provide payments to maintain a child care arrangement for a period not to exceed 90 days to allow parents who have been participating in the child care assistance program and lose their jobs to look for a new job. To qualify, the parent shall report a loss of employment within ten days of the date of the loss without exception. Families are eligible to receive care under this Section one time in any 12-month period. Payments shall not be approved if the child does not attend care.

(Source: Added by emergency rulemaking at 33 Ill. Reg. 16517, effective November 1, 2009, for a maximum of 150 days)

DEPARTMENT OF LABOR

NOTICE OF EMERGENCY RULES

- 1) Heading of the Part: State Construction Minority and Female Building Trades Act
- 2) Code Citation: 56 Ill. Adm. Code 270
- 3)

<u>Section Numbers:</u>	<u>Emergency Action:</u>
270.100	New Section
270.110	New Section
270.200	New Section
- 4) Statutory Authority: Implementing and authorized by State Construction Minority and Female Building Trades Act [30 ILCS 577]
- 5) Effective Date of Rulemaking: November 3, 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 emergency rulemaking will expire at the end of 150-days, or upon adoption of permanent rules, whichever comes first.
- 7) Date Filed with the Index Department: November 3, 2009
- 8) A copy of the emergency rulemaking, including any material incorporated by reference, is on file in the Department's Springfield office and is available for public inspection.
- 9) Reason for Emergency: This emergency rulemaking is in response to Public Act 96-37, the FY2010 Budget Implementation (Capital) Act, effective July 13, 2009. Article 35 of Public Act 96-37 requires the Department to publish a report by March 1 of each year containing information submitted to the Department by construction apprenticeship programs. The purpose of this rulemaking is to provide guidance to programs on how they should submit the required information. In order to compile the data received and publish a report by March 1, 2010, the Department believes it is imperative to provide construction apprenticeship programs with this rulemaking as soon as possible.
- 10) A Complete Description of the Subjects and Issues Involved: This emergency rulemaking implements provisions of Public Act 96-37, which creates the State Construction Minority and Female Building Trades Act (Act). The intent and purpose of the Act is to compile and provide information concerning the race, gender, ethnicity and national origin of individuals participating in construction apprenticeship programs throughout the State. The Act sets forth reporting requirements for construction apprenticeship programs. Section 35-10 of the Act gives the Department the authority to

DEPARTMENT OF LABOR

NOTICE OF EMERGENCY RULES

promulgate rules necessary to provide procedures for submission of apprenticeship reports.

- 11) Are there any proposed amendments to this Part pending? No
- 12) Statement of Statewide Policy Objectives: This emergency rulemaking does not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- 13) Information and questions regarding this rulemaking shall be directed to:

Sara Scherer
Illinois Department of Labor
1 W. Old State Capitol Plaza, 3rd Floor
Springfield, Illinois 62701

217/558-1270
Facsimile: 217/782-0596

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

DEPARTMENT OF LABOR

NOTICE OF EMERGENCY RULES

TITLE 56: LABOR AND EMPLOYMENT
CHAPTER I: DEPARTMENT OF LABOR
SUBCHAPTER b: REGULATION OF WORKING CONDITIONS

PART 270

STATE CONSTRUCTION MINORITY AND FEMALE BUILDING TRADES ACT

SUBPART A: GENERAL PROVISIONS

Section

270.100 Purpose and Scope

EMERGENCY

270.110 Definitions

EMERGENCY

SUBPART B: SUBMISSION OF REPORTS

Section

270.200 Contents and Filing of a Report

EMERGENCY

AUTHORITY: Implementing and authorized by Article 35 of the FY2010 Budget Implementation (Capital) Act (PA 96-37) [30 ILCS 577/Art. 35].

SOURCE: Adopted by emergency rulemaking at 33 Ill. Reg. 16522, effective November 3, 2009, for a maximum of 150 days.

SUBPART A: GENERAL PROVISIONS

Section 270.100 Purpose and Scope

EMERGENCY

It is the purpose of this Part to prescribe rules outlining the procedures for submission of apprenticeship reports under the State Construction Minority and Female Building Trades Act.

Section 270.110 Definitions

EMERGENCY

DEPARTMENT OF LABOR

NOTICE OF EMERGENCY RULES

"Apprenticeship Report" means a report compiled by a labor organization or other entity that includes information regarding minority participation in the labor organization's or other entity's apprenticeship program.

"Act" means the State Construction Minority and Female Building Trades Act [30 ILCS 577/Art. 35].

"Construction" means any constructing, altering, reconstructing, repairing, rehabilitating, refinishing, refurbishing, remodeling, remediating, renovating, custom fabricating, maintenance, landscaping, improving, wrecking, painting, decorating, demolishing, and adding to or subtracting from any building, structure, highway, roadway, street, bridge, alley, sewer, ditch, sewage disposal plant, water works, parking facility, railroad, excavation or other structure, project, development, real property or improvement, or to do any part thereof, whether or not the performance of the work herein described involves the addition to, or fabrication into, any structure, project, development, real property or improvement herein described of any material or article of merchandise. Construction shall also include moving construction related materials on the job site or to or from the job site. (Section 35-5 of the Act)

"Department" means the Illinois Department of Labor.

"Labor Organization or Other Entity" means, for purposes of this Part, an organization or entity in Illinois with one or more apprenticeship programs for construction trades, whether or not recognized and certified by the United States Department of Labor, Bureau of Apprenticeship and Training.

"Under-represented Minority" means African-American, Hispanic, and Asian-American as those terms are defined in the Business Enterprise for Minorities, Females, and Persons with Disabilities Act [30 ILCS 575]. (Section 35-5 of the Act)

SUBPART B: SUBMISSION OF REPORTS

**Section 270.200 Contents and Filing of a Report
EMERGENCY**

DEPARTMENT OF LABOR

NOTICE OF EMERGENCY RULES

- a) By January 15 of each year, each labor organization or other entity must submit an apprenticeship report to the Illinois Department of Labor regarding all individuals participating in its construction apprenticeship program.
- b) The apprenticeship report must include the following information on apprentices in the apprenticeship program of that labor organization or other entity during the preceding calendar year:
 - 1) the official name of the apprenticeship program;
 - 2) contact information for an authorized representative of the apprenticeship program, including name, address, phone number and email address;
 - 3) a verification statement that the records are true and accurate; and
 - 4) the race, gender, ethnicity and national origin for each apprentice in the program.
- c) Each apprenticeship report shall be submitted on a form prescribed by the Department. This form is available on the Department's website.
- d) All apprenticeship reports shall be filed with the Department's Springfield office at 1 W. Old State Capitol Plaza, Room 300, Springfield IL 62701 and will be considered filed upon receipt.

DEPARTMENT OF LABOR

NOTICE OF EMERGENCY RULES

- 1) Heading of the Part: Use of Illinois Resident Labor
- 2) Code Citation: 56 Ill. Adm. Code 330
- 3)

<u>Section Numbers:</u>	<u>Emergency Action:</u>
330.100	New Section
330.110	New Section
330.120	New Section
330.200	New Section
- 4) Statutory Authority: Implementing and authorized by Sections 605-390, 805-350, 1905-12 and 2705-260 of the Civil Administrative Code; Section 10.17 of the Capital Development Board Act; and Section 4(z) of the Environmental Protection Act [20 ILCS 605/605-390, 805/805-350, 1905/1905-12 and 2705/2705-260; 20 ILCS 3105/10.17; and 415 ILCS 5/4(z)]
- 5) Effective Date of Rules: November 3, 2009
- 6) If this emergency rule is to expire before the end of the 150-day period, please specify the date on which it is to expire: This emergency rule will expire at the end of the 150-day period or upon adoption of permanent rules, whichever comes first.
- 7) Date Filed with the Index Department: November 3, 2009
- 8) A copy of the emergency rulemaking, including any material incorporated by reference, is on file in the Department's Springfield office and is available for public inspection.
- 9) Reason for Emergency: This emergency rule is in response to Public Act 96-37, which had an effective date of July 13, 2009.
- 10) A Complete Description of the Subjects and Issues Involved: This emergency rule implements provisions of Public Act 96-37, the FY10 Budget Implementation (Capital Act), that require Illinois residents perform at least 50% of the labor hours for State construction projects funded in whole or in part by capital bills enacted by the 96th General Assembly. Article 80 of the Act gives the Department the authority to promulgate rules necessary to provide for the enforcement of this requirement.
- 11) Are there any proposed amendments to this Part pending? No

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- 12) Statement of Statewide Policy Objectives: This emergency rule does not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- 13) Information and questions regarding this emergency rulemaking shall be directed to:

Sara Scherer
Illinois Department of Labor
1 W. Old State Capitol Plaza, 3rd Floor
Springfield, Illinois 62701

217/558-1270
Facsimile: 217/782-0596

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

DEPARTMENT OF LABOR

NOTICE OF EMERGENCY RULES

TITLE 56: LABOR AND EMPLOYMENT
CHAPTER I: DEPARTMENT OF LABOR
SUBCHAPTER b: REGULATION OF WORKING CONDITIONS

PART 330

USE OF ILLINOIS RESIDENT LABOR

SUBPART A: GENERAL PROVISIONS

Section

330.100 Purpose and Scope

EMERGENCY

330.110 Definitions

EMERGENCY

330.120 Application of the Act

EMERGENCY

SUBPART B: ENFORCEMENT

Section

330.200 Enforcement

EMERGENCY

AUTHORITY: Implementing and authorized by Section 605-390 of the Department of Commerce and Economic Opportunity Law [20 ILCS 605/605-390], Section 805-350 of the Department of Natural Resources (Conservation) Law [20 ILCS 805/805-350], Section 1905-12 of the Department of Natural Resources (Mines and Minerals) Law [20 ILCS 1905/1905-12], Section 2705-260 of the Department of Transportation Law [20 ILCS 2705/2705-260], Section 10.17 of the Capital Development Board Act [20 ILCS 3105/10.17] and Section 4 of the Environmental Protection Act [415 ILCS 5/4].

SOURCE: Adopted by emergency rulemaking at 33 Ill. Reg. 16527, effective November 3, 2009, for a maximum of 150 days.

SUBPART A: GENERAL PROVISIONS

Section 330.100 Purpose and Scope**EMERGENCY**

DEPARTMENT OF LABOR

NOTICE OF EMERGENCY RULES

It is the purpose of Article 80 of the FY2010 Budget Implementation (capital) Act (PA 96-37) and this Part to ensure that at least 50% of the total labor hours on State construction projects funded by capital infrastructure appropriations enacted by the 96th General Assembly are performed by actual residents of the State of Illinois.

**Section 330.110 Definitions
EMERGENCY**

"Act" means the FY2010 Budget Implementation (Capital) Act (PA 96-37).

"Actual Residents of the State of Illinois" means persons domiciled in the State of Illinois. [20 ILCS 605/605-390]

"Awarding Agencies" means the Department of Commerce and Economic Opportunity, the Department of Natural Resources, the Department of Transportation, the Capital Development Board and the Environmental Protection Agency.

"Domiciled" means the place where an individual has his/her permanent home or principal establishment to where, whenever he/she is absent, he/she has the intention of returning.

"State Construction Project" means a construction project that is funded in whole or in part by capital infrastructure appropriations enacted by the 96th General Assembly.

"Resident Labor Requirement" means that, on State construction projects, at least 50% of the total labor hours must be performed by actual residents of the State of Illinois.

**Section 330.120 Application of the Act
EMERGENCY**

To the extent permitted by any applicable federal law or regulation, any State construction project commenced on or after July 13, 2009 is covered under the Act.

SUBPART B: ENFORCEMENT

Section 330.200 Enforcement

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EMERGENCY

- a) For all State construction projects, it shall be the duty of the awarding agencies to include a provision in the contract, grant or other agreement between the parties requiring at least 50% of the labor hours to be performed by actual residents of the State of Illinois.
- b) The awarding agencies shall diligently monitor and enforce the resident labor requirements for all State construction projects.
- c) Complaints concerning violations of the Act shall be filed with the awarding agencies.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

JANUARY 2010 REGULATORY AGENDA

- a) Part: Pay Plan, 80 Ill. Admin. Code 310
- 1) Rulemaking:
- A) Description: Projected amendments to the Department of Central Management Services' Pay Plan include the following revisions to the following sections:
- In Section 310.280, designated rate changes in salaries, the addition of new positions and deletion of positions no longer utilized as approved by the Governor.
- In Section 310.Appendix A, negotiated rate table changes based on bargaining unit agreements that are signed before June 30, 2010.
- In Section 310.410, changes to include additional classification assignments to MS-salary ranges.
- In various sections, any pay policy changes and pay provisions in bargaining unit agreements currently in effect for the new fiscal year 2011.
- In various sections, changes to classifications either being established, revised or abolished with the approval of the Civil Service Commission.
- In various sections, changes to the format of the Pay Plan to reduce duplicate information and provide easier access to information contained within the Pay Plan.
- B) Statutory Authority: Implementing and authorized by Sections 8, 8a and 9(7) of the Personnel Code [20 ILCS 415/8, 20 ILCS 415/8a and 20 ILCS 415/9(7)] and by Sections 4, 6, 15 and 21 of the Illinois Public Labor Relations Act [5 ILCS 315/4, 5 ILCS 315/6, 5 ILCS 315/15 and 5 ILCS 315/21]
- C) Scheduled meeting/hearing dates: Interested persons may send specific criticisms, suggestions, and/or comments to the Department of Central Management Services in writing during the First Notice Period of the Pay Plan amendments.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

JANUARY 2010 REGULATORY AGENDA

D) Date agency anticipates First Notice:

Amendments to Section 310.280, Designated Rate, will be filed as the Governor approves changes throughout the year.

Peremptory amendments based on new memoranda of understanding or other bargaining unit agreements will be filed as negotiations are completed.

The proposed amendments to be effective July 1, 2010, during new fiscal year 2011, will be filed in early April, 2010.

Peremptory amendments based on new, revised or abolished classifications represented by the bargaining units, and proposed amendments based on new, revised, or abolished classifications not represented by the bargaining units, will be filed as the classification actions are approved by the Civil Service Commission.

E) Effect on small businesses, small municipalities or not for profit corporations: These amendments to the Pay Plan pertain only to state employees subject to the Personnel Code under the Governor. They do not set out guidelines that are to be followed by local or other jurisdictional bodies within the State.F) Agency contact person for information:

Mr. Jason Doggett
Manager
Compensation Section
Division of Technical Services and Agency Training and Development
Bureau of Personnel
Department of Central Management Services
504 William G. Stratton Building
Springfield IL 62706
Telephone: 217/782-7964
Fax: 217/524-4570
CMS.PayPlan@Illinois.gov

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

JANUARY 2010 REGULATORY AGENDA

- G) Related rulemakings and other pertinent information: Other amendments may be necessary based on emergent issues regarding State employee salary rates and policies.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PUBLIC HEARINGS ON PROPOSED AMENDMENTS

- 1) Heading of the Part: Medical Payment
- 2) Code Citation: 89 Ill. Adm. Code 140
- 3) Register Citation to Notice of Proposed Amendments: October 16, 2009; 33 Ill. Reg. 14269
- 4) Date, Time and Location of Public Hearing:
Tuesday, December 1, 2009
10:00 a.m. to 12:00 p.m.
Prescott Bloom Building,
Video Conference Room, Third Floor
201 South Grand Avenue East
Springfield, Illinois 62763
- 5) Other Pertinent Information: The Department is scheduling this public hearing in response to a request from METRO Counties of Illinois and the County Nursing Home Association of Illinois. The public hearing will be for the sole purpose of gathering public comments on the proposed amendments to Sections 140.526, 140.530, and 140.860. This change in reimbursement methodology for county-owned or operated nursing facilities will provide reimbursement for delivery of resident services consistent with other certified nursing facilities and will provide assistance with financial issues at the state and county levels of government.

Persons interested in presenting testimony at this hearing are advised that the Illinois Department of Healthcare and Family Services will adhere to the following procedures in the conduct of the hearing:

- a) No oral testimony shall exceed an aggregate of 10 minutes.
- b) Each person presenting oral testimony shall provide to the hearing officer a written (preferably typed) copy of such testimony at the time the oral testimony is presented. No oral testimony will be accepted without a written copy of the testimony being provided.
- c) No person will be recognized to speak for a second time until all persons wishing to testify have done so.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PUBLIC HEARINGS ON PROPOSED AMENDMENTS

- d) In order to provide for a balanced presentation of views and to facilitate the orderly conduct of the hearing, the hearing officer may impose such other rules of procedures, including the order of call of witnesses, as she/he deems necessary.
- 6) Name and Address of Agency Contact Person: Questions regarding these proposed amendments or the public hearing shall be directed to:

Jeanette Badrov
General Counsel
Department of Healthcare and Family Services
201 South Grand Avenue E., 3rd Floor
Springfield IL 62763

217/782-1233

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of November 2, 2009 through November 9, 2009 and have been scheduled for review by the Committee at its November 17, 2009 or December 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.

<u>Second Notice Expires</u>	<u>Agency and Rule</u>	<u>Start Of First Notice</u>	<u>JCAR Meeting</u>
12/16/09	<u>State Board of Education</u> , Voluntary Registration and Recognition of Nonpublic Schools (23 Ill. Adm. Code 425)	6/12/09 33 Ill. Reg. 7819	11/17/09
12/16/09	<u>State Employees' Retirement System of Illinois</u> , The Administration and Operation of the State Employees' Retirement System of Illinois (80 Ill. Adm. Code 1540)	8/28/09 33 Ill. Reg. 12084	11/17/09
12/17/09	<u>Secretary of State</u> , Issuance of Licenses (92 Ill. Adm. Code 1030)	9/18/09 33 Ill. Reg. 12685	12/15/09
12/17/09	<u>Secretary of State</u> , Cancellation, Revocation or Suspension of Licenses or Permits (92 Ill. Adm. Code 1040)	9/18/09 33 Ill. Reg. 12692	12/15/09
12/18/09	<u>Department of Revenue</u> , Income Tax (86 Ill. Adm. Code 100)	9/18/09 33 Ill. Reg. 12662	12/15/09
12/20/09	<u>Department of Human Services</u> , Food Stamps (89 Ill. Adm. Code 121)	7/31/09 33 Ill. Reg. 11198	12/15/09

DEPARTMENT OF INSURANCE

NOTICE OF MODIFICATION IN RESPONSE TO AN OBJECTION BY
THE JOINT COMMITTEE ON ADMINISTRATIVE RULES

- 1) Heading of the Part: Preferred Provider Programs
- 2) Code Citation: 50 Ill. Adm. Code 2051
- 3)

<u>Section Numbers:</u>	<u>Action:</u>
2051.200	Withdrawn
2051.210	Modify
2051.220	Modify
2051.230	Refusal to Modify or Withdraw
2051.240	Modify
2051.250	Modify
2051.260	Modify
2051.270	Refusal to Modify or Withdraw
2051.280	Modify
2051.290	Modify
2051.300	Modify
2051.310	Modify
2051.320	Modify
2051.330	Modify
2051.340	Modify
2051.350	Refusal to Modify or Withdraw
2051.360	Modify
2051.370	Refusal to Modify or Withdraw
2051.APPENDIX A	Modify
2051.APPENDIX B	Modify
2051.APPENDIX C	Modify
2051.APPENDIX D	Refusal to Modify or Withdraw
2051.APPENDIX E	Refusal to Modify or Withdraw
- 4) Date Notice of Proposed Rules Published in the Register: February 6, 2009; 33 Ill. Reg. 1927
- 5) Date JCAR Statement of Objection Published in the Register: October 2, 2009; 33 Ill. Reg. 13950
- 6) Summary of Action Taken by Agency: At its meeting on September 15, 2009, the Joint Committee on Administrative Rules objected to the Department of Insurance's rulemaking titled Preferred Provider Programs (50 Ill. Adm. Code 2051; 33 Ill. Reg.

DEPARTMENT OF INSURANCE

NOTICE OF MODIFICATION IN RESPONSE TO AN OBJECTION BY
THE JOINT COMMITTEE ON ADMINISTRATIVE RULES

1927) because "the rulemaking may have a significant negative economic impact on the affected industry." The Department respects, but does not concur with, JCAR's objection. The proposed rules largely restate in a more concise and clear manner existing State and Department standards. Under these standards, the affected industries have flourished and retained profit margins despite economic turbulence. However, consistent with JCAR's concern, and consistent with the Department's commitment to engaged and enlightened regulation, the Department invited all interested parties to participate in additional meetings. As it had previously on several occasions, the Department met and/or spoke with representatives of the health insurance industry, the medical provider community, the provider network industry, and the health care discount card industry. Following those meetings, and in reply to the JCAR objection, the Department intends to modify the proposed rules to further mitigate the perceived negative economic impact. These modifications include:

- Rescheduling of the administrator fee increases for a later date;
- Deletion of the prohibition on incentives where the beneficiary becomes financially responsible for over 50% of the cost of health care services;
- Exemption of private label marketers of health care discount cards from registration standards when under the authority of an authorized administrator;
- Permitting single entity registration when private labeling the network of an authorized administrator;
- Clarification of standards relating to assignment of provider networks from one administrator to another administrator;
- Clarification of standards relating to selling, leasing or assumption of provider networks from one administrator to another;
- Elimination of redundant disclosure by health care discount card providers; and
- Various technical corrections suggested by JCAR and interested parties.

The Department views these changes as responsive to JCAR's concerns and consistent with the Department's objective of consumer protection. The Department has and will continue to engage with all interested parties to ensure that its rules are implemented in a manner that promotes economic development without sacrificing the core objective of consumer protection. The Department trusts that we have adequately addressed the Committee's objection pursuant to Section 220.1300(a) of the Illinois Administrative Code. (1 Ill. Adm. Code 220.1300(a)).

ILLINOIS ADMINISTRATIVE CODE
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