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May 31, 2013 Volume 37, Issue 22

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INTRODUCTION

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

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

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

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

ILLINOIS REGISTER PUBLICATION SCHEDULE FOR 2013

Issue#	Rules Due Date	Date of Issue
1	December 26, 2012	January 4, 2013
2	December 31, 2012	January 11, 2013
3	January 7, 2013	January 18, 2013
4	January 14, 2013	January 25, 2013
5	January 22, 2013	February 1, 2013
6	January 28, 2013	February 8, 2013
7	February 4, 2013	February 15, 2013
8	February 11, 2013	February 22, 2013
9	February 19, 2013	March 1, 2013
10	February 25, 2013	March 8, 2013
11	March 4, 2013	March 15, 2013
12	March 11, 2013	March 22, 2013
13	March 18, 2013	March 29, 2013
14	March 25, 2013	April 5, 2013
15	April 1, 2013	April 12, 2013
16	April 8, 2013	April 19, 2013
17	April 15, 2013	April 26, 2013
18	April 22, 2013	May 3, 2013
19	April 29, 2013	May 10, 2013
20	May 6, 2013	May 17, 2013

21	May 13, 2013	May 24, 2013
22	May 20, 2013	May 31, 2013
23	May 28, 2013	June 7, 2013
24	June 3, 2013	June 14, 2013
25	June 10, 2013	June 21, 2013
26	June 17, 2013	June 28, 2013
27	June 24, 2013	July 5, 2013
28	July 1, 2013	July 12, 2013
29	July 8, 2013	July 19, 2013
30	July 15, 2013	July 26, 2013
31	July 22, 2013	August 2, 2013
32	July 29, 2013	August 9, 2013
33	August 5, 2013	August 16, 2013
34	August 12, 2013	August 23, 2013
35	August 19, 2013	August 30, 2013
36	August 26, 2013	September 6, 2013
37	September 3, 2013	September 13, 2013
38	September 9, 2013	September 20, 2013
39	September 16, 2013	September 27, 2013
40	September 23, 2013	October 4, 2013
41	September 30, 2013	October 11, 2013
42	October 7, 2013	October 18, 2013
43	October 15, 2013	October 25, 2013
44	October 21, 2013	November 1, 2013
45	October 28, 2013	November 8, 2013
46	November 4, 2013	November 15, 2013
47	November 12, 2013	November 22, 2013
48	November 18, 2013	December 2, 2013
49	November 25, 2013	December 6, 2013
50	December 2, 2013	December 13, 2013
51	December 9, 2013	December 20, 2013
52	December 16, 2013	December 27, 2013

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 May 1st through **Monday, July 1st, 2013.**

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Specialized Health Care Delivery Systems
- 2) Code Citation: 89 Ill. Adm. Code 146
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
146.800	New Section
146.810	New Section
146.820	New Section
146.830	New Section
146.840	New Section
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13] and Alternative Health Care Delivery Act [210 ILCS 3/35]
- 5) Complete Description of the Subjects and Issues Involved: The proposed rulemaking identifies participation requirements, record requirements, covered services and reimbursement for birth center facility services. Legislation passed in 2007 under the Alternative Healthcare Delivery Act that allowed a demonstration program for a limited number of birth centers statewide, and the Affordable Care Act affirmed birth centers as a valid place of service for delivery services.
- 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 rulemakings pending on this Part? Yes

<u>Section Numbers:</u>	<u>Proposed Action:</u>	<u>Illinois Register Citation:</u>
146.225	Amendment	36 Ill. Reg. 8106; June 1, 2012
146.255	Amendment	36 Ill. Reg. 8106; June 1, 2012
146.205	Amendment	36 Ill. Reg. 9681; July 6, 2012
- 11) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 12) Time, Place, and Manner in which Interested Persons may Comment on this Proposed Rulemaking: Any interested parties may submit comments, data, views or arguments concerning this proposed rulemaking. All comments must be in writing and should be addressed to:

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

217/782-1233
HFS.Rules@illinois.gov.

The Department requests the submission of written comments within 45 days after the publication of this Notice. The Department will consider all written comments it receives during the first notice period as required by Section 5-40 of the Illinois Administrative Procedure Act [5 ILCS 100/5-40].

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Medicaid funded Birth Centers
 - 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: January 2013

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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES

CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

SUBCHAPTER d: MEDICAL PROGRAMS

PART 146

SPECIALIZED HEALTH CARE DELIVERY SYSTEMS

SUBPART A: AMBULATORY SURGICAL TREATMENT CENTERS

Section

146.100	General Description
146.105	Definitions
146.110	Participation Requirements
146.115	Records and Data Reporting Requirements
146.125	Covered Ambulatory Surgical Treatment Center Services
146.130	Reimbursement for Services

SUBPART B: SUPPORTIVE LIVING FACILITIES

Section

146.200	General Description
146.205	Definitions
146.210	Structural Requirements
146.215	SLF Participation Requirements
146.220	Resident Participation Requirements
146.225	Reimbursement for Medicaid Residents
146.230	Services
146.235	Staffing
146.240	Resident Contract
146.245	Assessment and Service Plan and Quarterly Evaluation
146.250	Resident Rights
146.255	Discharge
146.260	Grievance Procedure
146.265	Records and Reporting Requirements
146.270	Quality Assurance Plan
146.275	Monitoring
146.280	Non-Compliance Action
146.285	Voluntary Surrender of Certification
146.290	Geographic Groups

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

146.295	Emergency Contingency Plan
146.300	Waivers
146.305	Reporting of Suspected Abuse, Neglect and Financial Exploitation
146.310	Facility Management of Resident Funds

SUBPART C: STATE HEMOPHILIA PROGRAM

Section	
146.400	Definitions
146.410	Patient Eligibility
146.420	Hemophilia Treatment Centers
146.430	Comprehensive Care Evaluation
146.440	Home Transfusion Arrangements
146.450	Obligations of the Department

SUBPART D: CHILDREN'S COMMUNITY-BASED HEALTH CARE CENTERS

Section	
146.500	General Description
146.510	Definitions
146.520	Participation Requirements
146.530	Records and Data Reporting Requirements
146.540	Covered Children's Community-Based Health Care Center Services
146.550	Reimbursement for Services
146.560	Individuals Eligible for Services Provided in a Children's Community-Based Health Care Center
146.570	Prior and Post Approval of Services

SUBPART E: SUPPORTIVE LIVING FACILITIES WITH DEMENTIA CARE UNITS

Section	
146.600	General Description
146.610	Structural Requirements
146.620	Participation Requirements
146.630	Resident Participation Requirements
146.640	Services
146.650	Reimbursement for Medicaid Residents
146.660	Staffing
146.670	Assessment and Service Plan and Quarterly Evaluation

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

146.680	Monitoring
140.690	Reporting Requirements
146.700	Resident Rights
146.710	Discharge

SUBPART F: BIRTH CENTERS

<u>146.800</u>	<u>General Description</u>
<u>146.810</u>	<u>Participation Requirements</u>
<u>146.820</u>	<u>Record Requirements</u>
<u>146.830</u>	<u>Covered Birth Center Services</u>
<u>146.840</u>	<u>Reimbursement of Birth Center Services</u>

AUTHORITY: Implementing and authorized by Articles III, IV, V, VI and Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V, VI and 12-13].

SOURCE: Old Part repealed at 14 Ill. Reg. 13800, effective August 15, 1990; new Part adopted at 20 Ill. Reg. 4419, effective February 29, 1996; emergency amendment at 21 Ill. Reg. 13875, effective October 1, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 4430, effective February 27, 1998; emergency amendment at 22 Ill. Reg. 13146, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 19914, effective October 30, 1998; amended at 23 Ill. Reg. 5819, effective April 30, 1999; emergency amendment at 23 Ill. Reg. 8256, effective July 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 13663, effective November 1, 1999; amended at 24 Ill. Reg. 8353, effective June 1, 2000; emergency amendment at 26 Ill. Reg. 14882, effective October 1, 2002, for a maximum of 150 days; amended at 27 Ill. Reg. 2176, effective February 1, 2003; emergency amendment at 27 Ill. Reg. 10854, effective July 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18671, effective November 26, 2003; emergency amendment at 28 Ill. Reg. 12218, effective August 11, 2004, for a maximum of 150 days; emergency amendment at 28 Ill. Reg. 14214, effective October 18, 2004, for a maximum of 150 days; amended at 29 Ill. Reg. 852, effective January 1, 2005; emergency amendment at 29 Ill. Reg. 2014, effective January 21, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 4360, effective March 7, 2005; expedited correction at 29 Ill. Reg. 14127, effective March 7, 2005; amended at 29 Ill. Reg. 6967, effective May 1, 2005; amended at 29 Ill. Reg. 14987, effective September 30, 2005; amended at 30 Ill. Reg. 8845, effective May 1, 2006; amended at 31 Ill. Reg. 5589, effective April 1, 2007; emergency amendment at 31 Ill. Reg. 5876, effective April 1, 2007, for a maximum of 150 days; amended at 31 Ill. Reg. 11681, effective August 1, 2007; amended at 33 Ill. Reg. 11803, effective August 1, 2009; emergency amendment at 36 Ill. Reg. 6751, effective April 13, 2012, for a maximum of 150 days; amended at 36 Ill. Reg. 13885, effective August 27, 2012; amended at 37 Ill. Reg. _____, effective _____.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

SUBPART F: BIRTH CENTERS**Section 146.800 General Description**

This Part sets forth the conditions that a birth center must meet in order to participate in medical programs administered by the Department. For the purposes of this Part, "birth center" means an alternative healthcare delivery model that is exclusively dedicated to serving the childbirth-related needs of women and their newborns and has no more than 10 beds. A birth center is a designated site in which births are planned to occur following a normal, uncomplicated, and low-risk pregnancy that is away from the mother's usual place of residence.

(Source: Added at 37 Ill. Reg. ____, effective _____)

Section 146.810 Participation Requirements

Effective May 1, 2013, to participate in medical programs administered by the Department, a birth center must:

- a) Meet all requirements for licensure established by the Illinois Department of Public Health at 77 Ill. Adm. Code 265.1250.
- b) Meet all requirements for enrollment and participation in medical programs administered by the Department as defined in Subpart B of 89 Ill. Adm. Code 140.

(Source: Added at 37 Ill. Reg. ____, effective _____)

Section 146.820 Record Requirements

In addition to Department record requirements in 89 Ill. Adm. Code 140, a birth center must maintain complete, comprehensive and accurate clinical records to ensure adequate patient care. These records include, but may not be limited to, the record requirements identified in the Illinois Department of Public Health's administrative rules at 77 Ill. Adm. Code 265.2200. The Department shall describe, by notice to providers, any other records that are to be maintained.

(Source: Added at 37 Ill. Reg. ____, effective _____)

Section 146.830 Covered Birth Center Services

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

- a) The Department shall pay a birth center for the provision of essential delivery services, not otherwise excluded or limited, that are provided by a birth center in compliance with birth center licensure standards (see 77 Ill. Adm. Code 265).
- b) The Department shall pay a birth center for observation services, the need for which must be documented in the medical record. The practitioner's orders must support the need for observation services and the corresponding nurses' notes must document that skilled observation services were furnished.
- c) The Department shall pay a transfer fee to a birth center when a birth center transfers a woman to a hospital due to complications arising prior to the delivery.

(Source: Added at 37 Ill. Reg. ____, effective _____)

Section 146.840 Reimbursement of Birth Center Services

- a) Facility services provided by a birth center will be reimbursed at the lower of billed charges or 75 percent of the statewide average facility payment rate made to a hospital for an uncomplicated vaginal birth.
- b) Observation services will be reimbursed at the lower of billed charges or at 75 percent of the rate established by the Department for the number of hours of observation billed pursuant to 89 Ill. Adm. Code 148.140(b)(1)(D).
- c) Transfer fees will be reimbursed at the lower of billed charges or 15 percent of the statewide average facility payment rate made to a hospital for an uncomplicated vaginal birth.

(Source: Added at 37 Ill. Reg. ____, effective _____)

HEALTH FACILITIES AND SERVICES REVIEW BOARD

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Health Facilities and Services Review Operational Rules

2) Code Citation: 77 Ill. Adm. Code 1130

<u>Section Numbers:</u>	<u>Proposed Action:</u>
1130.410	Amend
1130.990	Amend
1130.1030	Amend
1130.1080	Amend

4) Statutory Authority: Illinois Health Facilities Planning Act [20 ILCS 3960/12]

5) A Complete Description of the Subjects and Issues Involved:

The proposed amendments include the following:

- Subsection 1130.410(d) will be deleted to coincide with the recent repeal of Section 1130.544 – "Requirements for Exemption for the Addition of Dialysis Stations";
- Section 1130.990 clarifies the procedures related to public comment for proposed rulemaking;
- Section 1130.1030 clarifies the requirements for a waiver of an administrative hearing; and
- Section 1130.1080 identifies the person who shall appoint a new administrative judge to replace an administrative judge that is disqualified due to a conflict of interest.

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 rulemakings pending on this Part? No

HEALTH FACILITIES AND SERVICES REVIEW BOARD

NOTICE OF PROPOSED AMENDMENTS

- 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: Public Hearing to be conducted on Monday, June 24, 2013; 10:00 am – 12 Noon at 122 S. Michigan Avenue, Room 711, Chicago, IL 60603.

Interested persons may present their comments concerning this rulemaking within 45 days after the publication of this issue of the *Illinois Register* to:

Claire Burman
Rules Coordinator
122 S. Michigan Avenue, 7th Floor
Chicago, Illinois 60603

312/814-8814
e-mail: Claire.Burman@illinois.gov

- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not for profit corporations affected: Hospitals. Long-term Care facilities; Ambulatory Surgical Treatment Centers; ESRD facilities; Institutions, places, buildings, or rooms used for provisions of a health care category of service as defined by the Board, including, but not limited to, cardiac catheterization, and open heart surgery; and Institutions, places, buildings, or rooms used for provision of major medical equipment used in the direct clinical diagnosis or treatment of patients, and whose project cost is in excess of the capital expenditure minimum.
 - 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 rule was not included on the most recent Regulatory Agenda because the need for the rulemaking was not anticipated when the Regulatory Agenda was published.

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

HEALTH FACILITIES AND SERVICES REVIEW BOARD

NOTICE OF PROPOSED AMENDMENTS

TITLE 77: PUBLIC HEALTH

CHAPTER II: HEALTH FACILITIES AND SERVICES REVIEW BOARD

SUBCHAPTER b: OTHER BOARD RULES

PART 1130

HEALTH FACILITIES AND SERVICES REVIEW OPERATIONAL RULES

SUBPART A: AUTHORITY

Section

1130.110	Statutory Authority/Applicability
1130.120	Introduction
1130.130	Purpose
1130.140	Definitions
1130.150	Referenced and Incorporated Materials

SUBPART B: GENERAL REQUIREMENTS

Section

1130.210	Persons and Facilities Subject to the Act
1130.215	Health Care Facilities Subject to the Act
1130.220	Necessary Parties to the Application for Permit or Exemption
1130.230	Fees
1130.240	Reporting and Notification Requirements
1130.250	HFSRB Meetings

SUBPART C: PROJECTS OR TRANSACTIONS SUBJECT TO THE ACT

Section

1130.310	Projects or Transactions Subject to the Act
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SUBPART D: PROJECTS OR TRANSACTIONS ELIGIBLE FOR
EXEMPTION FROM PERMIT REQUIREMENTS

Section

1130.410	Projects or Transactions Exempt from Permit Requirement Requirements
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SUBPART E: OPERATIONAL REQUIREMENTS FOR EXEMPTIONS

HEALTH FACILITIES AND SERVICES REVIEW BOARD

NOTICE OF PROPOSED AMENDMENTS

Section

- 1130.500 General Requirements for Exemptions
- 1130.510 Requirements for Exemptions Involving the Acquisition of Major Medical Equipment (Repealed)
- 1130.520 Requirements for Exemptions Involving the Change of Ownership of a Health Care Facility
- 1130.530 Requirements for Exemptions Involving Health Maintenance Organizations (Repealed)
- 1130.531 Requirements for Exemptions for the Establishment or Expansion of Neonatal Intensive Care Service and Beds
- 1130.539 Requirements for Exemptions Involving the Establishment of Positron Emission Tomography (P.E.T.) Service (Repealed)
- 1130.540 Requirements for Exemptions Involving Discontinuation
- 1130.541 Requirements for Exemptions for Combined Facility Licensure (Repealed)
- 1130.542 Requirements for Exemptions for Temporary Use of Beds for Demonstration Programs (Repealed)
- 1130.543 Requirements for Exemption for Equipment to be Acquired By or on Behalf of a Health Care Facility (Repealed)
- 1130.544 Requirements for Exemption for the Addition of Dialysis Stations (Repealed)
- 1130.550 Agency Processing of an Application for Exemption
- 1130.560 State Board Action
- 1130.570 Validity of an Exemption and Reporting Requirements
- 1130.580 Relinquishment of an Exemption
- 1130.590 Revocation of an Exemption

SUBPART F: OPERATIONAL REQUIREMENTS FOR THE REVIEW
AND PROCESSING OF APPLICATIONS FOR PERMIT

Section

- 1130.610 Duration of the Review Period and Time Frames
- 1130.620 Technical Assistance, Classification, Completeness Review, Review Procedures and Application Processing Fee
- 1130.630 HFSRB Staff Actions During the Review Period
- 1130.635 Additional Information Provided During the Review Period
- 1130.640 Extension of the Review Period
- 1130.650 Modification of an Application
- 1130.655 HFSRB Consideration and Action
- 1130.660 Approval of an Application
- 1130.670 Intent to Deny an Application

HEALTH FACILITIES AND SERVICES REVIEW BOARD

NOTICE OF PROPOSED AMENDMENTS

1130.680 Denial of an Application

SUBPART G: PERMIT VALIDITY, REPORTING REQUIREMENTS AND REVOCATION

Section

1130.710 Validity of Permits
1130.720 Obligation
1130.730 Extension of the Obligation Period
1130.740 Permit Renewal
1130.750 Alteration of Post-Permit Projects
1130.760 Annual Progress Reports
1130.770 Project Completion, Final Realized Costs and Cost Overruns
1130.775 Relinquishment of a Permit
1130.780 Revocation of a Permit
1130.790 Penalties, Fines and Sanctions Mandated in the Illinois Health Facilities Planning Act for Non-compliance with the Act and HFSRB Rules

SUBPART H: DECLARATORY RULINGS

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SUBPART I: PUBLIC HEARING AND COMMENT PROCEDURES

Section

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1130.920 Notice of Review and Opportunity for Public Hearing and Comment on Applications for Permit
1130.930 Notice of Public Hearing on Applications for Permit
1130.940 Procedures for Public Hearing on Applications for Permit
1130.950 Written Comments on Applications for Permit
1130.960 Notice Procedures for Public Hearing on Applications for Certificate of Recognition (or Revocation of Recognition) (Repealed)
1130.970 Procedures for Public Hearing on Applications for Certificate of Recognition (or Revocation of Recognition) (Repealed)
1130.980 Procedures Concerning Public Hearing for Certificate of Exemption for Change of Ownership
1130.990 Procedures for Public Hearing and Comment on Proposed Rules
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HEALTH FACILITIES AND SERVICES REVIEW BOARD

NOTICE OF PROPOSED AMENDMENTS

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1130.1200	Copies of Pleadings to be Filed
1130.1210	Applicability

1130.APPENDIX A Capital Expenditure Minimums/Review Thresholds

AUTHORITY: Authorized by Section 12 of and implementing the Illinois Health Facilities Planning Act [20 ILCS 3960].

SOURCE: Adopted at 14 Ill. Reg. 7183, effective May 1, 1990; emergency amendment at 15 Ill. Reg. 4787, effective March 18, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 9731, effective June 17, 1991; emergency amendments at 16 Ill. Reg. 13153, effective August 4, 1992, for a maximum of 150 days; emergency expired January 1, 1993; amended at 17 Ill. Reg. 4448, effective March 24, 1993; amended at 17 Ill. Reg. 5882, effective March 26, 1993; amended at 19 Ill. Reg. 2972, effective March 1, 1995; expedited correction at 21 Ill. Reg. 3753, effective March 1, 1995; recodified at 20 Ill. Reg. 2597; emergency amendment at 21 Ill. Reg. 12671, effective September 2, 1997, for a maximum of 150 days; emergency expired January 30, 1998;

HEALTH FACILITIES AND SERVICES REVIEW BOARD

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amended at 23 Ill. Reg. 2911, effective March 15, 1999; emergency amendment at 23 Ill. Reg. 3835, effective March 15, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 7752, effective July 9, 1999; amended at 24 Ill. Reg. 6013, effective April 7, 2000; amended at 25 Ill. Reg. 10786, effective August 24, 2001; amended at 27 Ill. Reg. 2976, effective February 21, 2003; amended at 30 Ill. Reg. 14852, effective September 1, 2006; amended at 31 Ill. Reg. 15270, effective November 1, 2007; amended at 32 Ill. Reg. 12355, effective July 18, 2008; amended at 37 Ill. Reg. 6227, effective June 1, 2013; amended at 37 Ill. Reg. _____, effective _____.

SUBPART D: PROJECTS OR TRANSACTIONS ELIGIBLE FOR
EXEMPTION FROM PERMIT REQUIREMENTS**Section 1130.410 Projects or Transactions Exempt from Permit Requirement**

The following proposed projects and transactions are not subject to the requirement to obtain a permit, provided that an application for exemption is submitted that meets the requirements of this Subpart and Subpart E and an exemption is issued by HFSRB:

- a) the change of ownership of an existing health care facility. *This is not applicable to a healthcare facility that is licensed under the Nursing Home Care Act (with the exceptions of facilities operated by a county or Illinois Veterans Home) [20 ILCS 3960/3].*
- b) the discontinuation of an existing health care facility or of a category of service when that discontinuation is the result of:
 - 1) revocation of or denial of license renewal by a State or local regulatory agency;
 - 2) for facilities not subject to licensure, the loss of Medicare and/or Medicaid certification;
 - 3) discontinuation action taken by HFSRB;
 - 4) the voluntary surrender of a suspended license.
- c) the combination of two or more existing health care facilities into a single licensed health care facility, when:

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- 1) the existing facilities are located on the same site or on sites adjacent to one another;
- 2) the licensed person for the existing facilities is the same;
- 3) the combination is for the sole purpose of operating the existing facilities under a single license; and
- 4) the combination does not involve any cost, any change in scope of services provided, or any change in bed capacity.

~~d) a proposed project for the addition of dialysis stations to existing facilities located in planning areas where the Inventory indicates a need for additional stations, provided that the number of stations to be added does not exceed the planning area's need for additional stations, as calculated in the Inventory, and also provided that the number of stations to be added does not exceed the lesser of 10 stations or 50% of the facility's certified station capacity.~~

~~d)e) a proposed project limited to the establishment or expansion of a neonatal intensive care service or beds as specified in Subpart E.~~

(Source: Amended at 37 Ill. Reg. _____, effective _____)

SUBPART I: PUBLIC HEARING AND COMMENT PROCEDURES

Section 1130.990 Procedures for Public Hearing and Comment on Proposed Rules

- a) All proposed rulemaking is subject to the provisions of the IAPA.
- b) HFSRB will provide notice of the public comment period, together with the publication of the proposed rules in the Illinois Register, as part of the IAPA's First Notice requirements.
- c) HFSRB shall conduct public hearings on ~~all~~ proposed rules, if requested in writing within 10 business days following the publication of the proposed rules in the Illinois Register. Notice of public hearings will be posted on the HFSRB website (<http://hfsrb.illinois.gov>) and provide notice of public hearings as part of the IAPA first notice requirements.

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- d) Commentors participating at a public hearing shall also submit their testimony in writing.
- e) The entire proceedings of every HFSRB public hearing will be transcribed by a court reporter and this transcript will serve as the administrative record of the HFSRB public hearing.
- f) Written comments should be submitted in accordance with the First Notice~~first notice~~ requirements published in the Illinois Register.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

SUBPART J: PRACTICE AND PROCEDURE IN ADMINISTRATIVE HEARINGS

Section 1130.1030 Waiver of Hearing

An applicant's right to an administrative hearing on an application denied by HFSRB pursuant to Section 10 of the Act shall be waived by the submission of a modified application for permit for the project that was the subject of the application that was denied. If an administrative hearing is not requested within the required timeframe, the right to an administrative hearing is waived.

Any pending administrative hearing on an application for permit shall be dismissed by the administrative law judge upon the showing that a modified application was submitted by the applicant and the matter was referred to HFSRB. The waiver of a right to an administrative hearing on a denied application does not waive the right to an administrative hearing on the denial of the modified application.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 1130.1080 Disqualification of Administrative Law Judge

Prior to commencement of a hearing, a party may file a written motion to disqualify the administrative law judge supported by an affidavit setting forth the facts upon which the motion is made. The administrative law judge who is the subject of a motion to disqualify shall review the motion and affidavit and shall issue his or her report to HFSRB. The report shall include a proposed ruling on the motion and the reasons for the ruling. If HFSRB determines that bias or a conflict of interest exists, it shall grant the motion and the HFSRB Chairman~~Director of IDPH~~ shall appoint a new administrative law judge within 30 days after HFSRB's determination. *An adverse ruling, in and of itself, shall not constitute bias or conflict of interest* [5 ILCS 100/10-30].

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(Source: Amended at 37 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Gubernatorial Designation of Positions Excluded from Collective Bargaining
- 2) Code Citation: 80 Ill. Adm. Code 1300
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
1300.10	New Section
1300.20	New Section
1300.30	New Section
1300.40	New Section
1300.50	New Section
1300.60	New Section
1300.70	New Section
1300.80	New Section
1300.90	New Section
1300.100	New Section
1300.110	New Section
1300.120	New Section
1300.130	New Section
1300.140	New Section
1300.150	New Section
- 4) Statutory Authority: Authorized by Section 5(i) of the Illinois Public Labor Relations Act [5 ILCS 315/5(i)]
- 5) A Complete Description of the Subjects and Issues Involved: PA 97-1172 amended the Illinois Public Labor Relations Act [5 ILCS 315/16.1] to authorize the Governor to designate up to 3,580 State employment positions as excluded from collective bargaining as described in Section 6.1 until 4/5/14. Upon such designation of a state employment position by the Governor, Section 6.1 requires the Board to review and take action on such designation within 60 days after the date the designation was filed with the Board.
- 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

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- 9) Does this rulemaking contain incorporations by reference? Yes
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State mandate under 30 ILCS 805.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested person may submit comments in writing concerning this proposed rulemaking not later than 45 days after publication of this Notice in the *Illinois Register* to:
- Jerald S. Post
General Counsel
Illinois Labor Relations Board
160 N. LaSalle Street, Suite S-400
Chicago, Illinois 60601
- 312/793-6400
Jerald.Post@Illinois.Gov
- 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: Small businesses, small municipalities and not for profit corporations will not be affected.
- C) Types of Professional skills necessary for compliance: Small businesses, small municipalities and not for profit corporations will not be affected.
- 14) Regulatory Agenda on which this rulemaking was summarized: These rules were not included on either of the 2 most recent agendas because the legislation necessitating these rules was signed into law on April 5, 2013.

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

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TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES
SUBTITLE C: LABOR RELATIONS
CHAPTER IV: ILLINOIS LABOR RELATIONS BOARDPART 1300
GUBERNATORIAL DESIGNATION OF POSITIONS EXCLUDED
FROM COLLECTIVE BARGAINING

Section

1300.10	General Statement of Purpose
1300.20	Board Information and Business Hours
1300.30	Definitions
1300.40	Board's Jurisdiction
1300.50	Filing a Designation
1300.60	Processing and Investigation
1300.70	Hearing
1300.80	Authority of Administrative Law Judges
1300.90	Computation and Extensions of Time; Service
1300.100	Motions
1300.110	Subpoenas
1300.120	Representation of Parties
1300.130	Appeals Procedures, Board Review and Court Review
1300.140	Ex Parte Communications
1300.150	Variances and Suspensions of Rules

AUTHORITY: Implementing Section 6.1 of the Illinois Public Labor Relations Act [5 ILCS 315/6.1] and authorized by the Illinois Public Labor Relations Act [5 ILCS 315].

SOURCE: Adopted by emergency rulemaking at 37 Ill. Reg. 5901, effective April 22, 2013, for a maximum of 150 days; adopted at 37 Ill. Reg. _____, effective _____.

Section 1300.10 General Statement of Purpose

- a) This Part establishes:
 - 1) the procedures that the Board will use in determining whether designations made by the Governor of the State of Illinois or the Governor's agent under Section 6.1 of the Illinois Public Labor Relations Act [5 ILCS 315],

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excluding State employment positions from the self-organization and collective bargaining provisions of Section 6 of the Act, are lawful;

- 2) the procedures that the Governor of the State of Illinois or the Governor's agent shall use for designating State employment positions as excluded from the self-organization and collective bargaining provisions of Section 6 of the Act, as described in Section 6.1 of the Act;
 - 3) the procedures that employees and labor organizations shall use for conducting proceedings before the Board regarding gubernatorial designation of State employment positions as excluded from the self-organization and collective bargaining provisions of Section 6 of the Act, as described in Section 6.1 of the Act; and
 - 4) time limits and deadlines due to the nature of the proceedings at issue in this Part and the compressed timeline provided by Section 6.1 of the Act for resolution of gubernatorial designations.
- b) This Part shall not apply to any other charges or petitions filed with the Illinois Labor Relations Board pursuant to the Act.
 - c) The provisions of 80 Ill. Adm. Code 1200, 1210, 1220, 1230 and 1240 only apply to this Part when specifically invoked by reference.

Section 1300.20 Board Information and Business Hours

- a) The Springfield office of the Board is located at:

One Natural Resources Way
First Floor
Springfield, Illinois 62702
telephone: 217-785-3155
facsimile: 217-785-4146

- b) The Chicago office of the Board is located at:

160 North LaSalle Street
Suite S-400
Chicago, Illinois 60601

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telephone: 312-793-6400

facsimile: 312-793-6989

- c) The Board's website address is www.state.il.us/ilrb. For electronic filing purposes for this Part only, the electronic mail (e-mail) address for the Board is ILRB.Filing@illinois.gov.
- d) The official business hours of the Board are 8:30 a.m. to 5:00 p.m., Monday through Friday.

Section 1300.30 Definitions

This Part relies on the definitions contained in the Act, as well as other definitions set forth in this Section.

"Act" means the Illinois Public Labor Relations Act [5 ILCS 315].

"Administrative Law Judge" or "ALJ" means either the agency head or an attorney licensed to practice in Illinois.

"Administrative Law Judge's recommended decision and order" means findings of fact and conclusions of law and reasons for those findings and conclusions. It is not a final decision of the Board. A recommended decision and order will be reviewed by the Board upon the filing of exceptions or on the Board's own motion.

"Board" means the Illinois Labor Relations Board or State or Local Panel, individually as applicable, or an agent designated by the Board.

"Board Agent" means any Board employee who is designated by the Board to perform the acts and/or responsibilities outlined in the relevant Sections of this Part.

"Serve", unless otherwise limited by a specific rule, means to serve by U.S. Mail, by hand delivery or by e-mail at the served person's e-mail address. When service is made by e-mail, service shall be to the e-mail address indicated on the designation form.

Section 1300.40 Board's Jurisdiction

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The Board shall undertake the process of determining whether a gubernatorial designation of a State employment position as excluded from self-organization and collective bargaining comports with Section 6.1 of the Act upon filing of a designation with the Board. All proceedings conducted under this Part are subject to the jurisdiction of the Board's State Panel pursuant to Section 5(a-5) of the Act.

Section 1300.50 Filing a Designation

- a) When, pursuant to Section 6.1 of the Act, the Governor chooses to designate a position as excluded from the self-organization and collective bargaining provisions of Section 6 of the Act, the Governor or the Governor's agent must file a designation with the Board by e-mail by sending the designation to ILRB.Filing@illinois.gov. The Governor or the Governor's agent must also submit a hard copy of the designation to the Board at its Springfield office by U.S. Mail postmarked on the date that the designation was filed by e-mail or by hand delivery on the date that the designation was filed by e-mail. A designation shall be made on a form provided by the Board for this purpose and must provide the information required by Section 6.1(b) of the Act: the job title and job duties of the employment position; the name of the State employee currently in the employment position, if any; the name of the State agency employing the public employee; and the category under which the position qualifies for designation under Section 6.1(b) of the Act.
- 1) As provided in Section 6.1(a), the Governor may *designate up to 3,580 State employment positions collectively within State agencies directly responsible to the Governor, and, upon designation, those positions and employees in those positions, if any, are hereby excluded from the self-organization and collective bargaining provisions of Section 6 of the Act. Only those employment positions that have been certified in a bargaining unit on or after December 2, 2008 that have a pending petition for certification in a bargaining unit on April 5, 2013, or that neither have been certified in a bargaining unit on or after December 2, 2008 nor have a pending petition for certification in a bargaining unit on April 5, 2013 are eligible to be designated by the Governor under this Section. The Governor may not designate under this Section, however, more than 1,900 employment positions that have been certified in a bargaining unit on or after December 2, 2008.* [5 ILCS 315/6.1(a)]

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- 2) To qualify for designation under Section 6.1, the employment position must meet the requirements of at least one of the following categories:
- A) the position *must authorize an employee in that position to act as a legislative liaison* [5 ILCS 315/6.1(b)(1)];
 - B) the position *must have a title of, or authorize a person who holds that position to exercise substantially similar duties as an, Agency General Counsel, Agency Chief of Staff, Agency Executive Director, Agency Deputy Director, Agency Chief Fiscal Officer, Agency Human Resources Director, Senior Public Service Administrator, Public Information Officer, or Chief Information Officer* [5 ILCS 315/6.1(b)(2)];
 - C) the position *must be a Rutan-exempt, as designated by the employer, position and completely exempt from jurisdiction B of the Personnel Code* [20 ILCS 415/8(b)] [5 ILCS 315/6.1(b)(3)];
 - D) the position *must be a term appointed position pursuant to Section 8b.18 or 8b.19 of the Personnel Code* [5 ILCS 315/6.1(b)(4)]; or
 - E) the position *must authorize an employee in that position to have significant and independent discretionary authority as an employee* [5 ILCS 315/6.1(b)(5)]. *A person has significant and independent discretionary authority as an employee if he or she:*
 - i) *is engaged in executive and management functions of a State agency and charged with the effectuation of management policies and practices of a State agency or represents management interests by taking or recommending discretionary actions that effectively control or implement the policy of a State agency; or*
 - ii) *qualifies as a supervisor of a State agency as that term is defined under Section 152 of the National Labor Relations Act (29 USC 152) or any orders of the National Labor Relations Board interpreting that provision or decisions of courts reviewing decisions of the National Labor Relations Board.* [5 ILCS 315/6.1(c)]

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- b) Failure to fully complete the form could result in rejection of the filing of the designation by the Board.
- c) In cases in which a designation is made for a position having an incumbent employee who is not currently represented by a collective bargaining representative and is not the subject of a pending petition for representation, the Board shall serve the designation on each unrepresented incumbent employee whose position has been designated. In cases in which a designation is made for a position that is represented by a collective bargaining representative or, in cases in which a collective bargaining representative has a petition for certification that includes the designated position pending before the Board at the time of the filing of the designation, the Board will serve the designation on the appropriate collective bargaining representative and on each incumbent employee whose position has been designated.

Section 1300.60 Processing and Investigation

- a) Initial Processing
 - 1) Upon filing of the designation with the Board, the Board or its agent will verify that the designation includes all information required by Section 6.1(b) of the Act, as provided in Section 1300.50, and will verify that the designated position was not certified in a bargaining unit before December 2, 2008.
 - 2) After verification, the Board will provide a notice to the Governor or the Governor's agent to be posted at the workplace of the position that has been designated. Each affected employee's employing agency shall post the notice within 2 days after receipt of the notice by the Governor or the Governor's agent. The notice shall remain posted for 10 consecutive days. The employing agency or its agent shall certify, on a form provided by the Board, that the posting has been completed and shall return this form to the Board.
 - 3) In cases in which a position is represented or subject to a pending petition for representation, the collective bargaining representative or incumbent employee shall have 10 days from the date of service of the designation to object to the designation. In cases in which the position is not represented

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or subject to a pending petition for representation, the incumbent employee shall have 10 days from the date of service of the designation to object to the designation. Objections must be made in writing and received in the Board's Springfield or Chicago office within the 10-day period. An objecting party may submit objections via U.S. Mail, hand delivery or e-mail to the Board at ILRB.Filing@illinois.gov. If an objecting party chooses to submit objections via e-mail, the party must also submit those objections in hard copy via U.S. Mail postmarked on the date that the objections were submitted via e-mail or by hand delivery to the Board's Springfield or Chicago office within the 10-day period. If an objecting party chooses to submit objections by e-mail, the party shall attach the objections to the e-mail in Microsoft Word format (.doc or .docx) or in Portable Document Format (PDF) (.pdf). Objections shall set forth the party's position with respect to the matters asserted in the designation regarding the job duties and functions of the position that is the subject of a designation, shall specifically state the basis for the objection, and shall include supporting documentation. The objections shall be simultaneously served on other parties as follows:

- A) In cases in which an employee subject to the designation is not represented by a collective bargaining representative, an employee filing an objection under this Section shall serve a copy of the objection and copies of any supporting documentation upon the employer. If an objecting party chooses to serve objections by e-mail, the party shall attach the objections to the e-mail in Microsoft Word format or PDF.
- B) In cases in which an employee subject to the designation is represented by a collective bargaining representative or is the subject of a petition for representation that is pending before the Board at the time of the filing of the designation, an employee filing an objection under this Section shall serve the objection and any supporting documentation upon the employer at its address indicated on the designation form and upon the collective bargaining representative at its address indicated on the designation form. A collective bargaining representative filing an objection under this Section shall serve the objection and any supporting documentation upon the employer at its address as indicated on the designation form and upon each employee whose

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position is the subject of the objection at his or her work address. In all cases, if an objecting party chooses to serve objections by e-mail, the party shall attach the objections to the e-mail in Microsoft Word format or PDF.

- b) The Board may consolidate two or more gubernatorial designations or may sever gubernatorial designations that are filed together if the Board determines that the consolidation or severance would result in the efficient and expeditious resolution of designations.
- c) If no objection to a designation is filed within the time allowed and the designation appears otherwise proper, the designation shall be forwarded to the Executive Director for certification as a designated excluded position.
- d) Assignment to Administrative Law Judge
 - 1) If objections to a designation are filed within the time allowed, the designation and objections shall be assigned to an ALJ.
 - 2) The assigned ALJ will review the designation, any objections, and the documentation in support of such objections.
 - A) The ALJ may make a factual finding that the designation is proper based solely on the information submitted to the Board in cases in which the objections submitted fail to overcome the presumption that the designation is proper under Section 6.1 of the Act. In those cases, the ALJ will issue a recommended decision and order to the Board that such designation be certified.
 - B) If the ALJ finds that the objections submitted raise an issue of law or fact that might overcome the presumption that the designation is proper under Section 6.1 of the Act, the ALJ will order a hearing to be held to determine whether the designation is proper. After the hearing, the ALJ shall issue a recommended decision and order to the Board regarding the designation.

Section 1300.70 Hearing

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- a) Considering the nature of the designation and the representatives of the parties, the ALJ will, insofar as practicable, apply the rules of evidence applicable in Illinois courts. The ALJ may, upon proper objection, exclude evidence that is irrelevant, immaterial or unduly repetitious. Evidence may be presented in the form of testimony, exhibits, stipulations or affidavits.
- b) Any hearing conducted in accordance with this Part shall be recorded by stenographic or other means that adequately preserves the record. The ALJ or the Board may order that the recording be transcribed. Parties may order transcripts and shall bear the costs of any transcripts they order.
- c) Upon request, a party is entitled to a reasonable period at the close of the hearing for oral argument, which shall be made part of the record. Due to the nature of the proceedings at issue in this Part and the compressed timeline provided by Section 6.1 of the Act, the ALJ shall direct the filing of briefs only in extraordinary circumstances, when the filing is, in the opinion of the ALJ, warranted by the nature of the proceedings or the particular issues involved. All briefs shall be no more than a total of 50 double-spaced pages with margins of at least ½ inch, including attachments. All pages in excess of the 50 page limit will be rejected. The Board's General Counsel may grant approval of exceptions and briefs containing more than 50 pages only in extraordinary circumstances.
- d) Except in extraordinary circumstances, hearings regarding designations shall be held within 14 days after receipt of objections by the Board and shall be limited in duration to one day of hearing.
- e) Designation hearings shall be non-adversarial in nature. All parties may present evidence and make arguments, subject to the control of the ALJ. In designation hearings, the objecting party shall present its evidence first.
- f) If the objecting party fails to appear after proper service of Notice of Hearing, the ALJ may recommend that the designation be certified by the Board. If any party other than the objecting party fails to appear, the ALJ may proceed in its absence and issue a recommended decision and order.
- g) Pursuant to 80 Ill. Adm. Code 1200.40, the ALJ may schedule a pre-hearing conference when it appears to the ALJ that doing so would expedite the procedure.

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- h) Intermediate rulings of the ALJ shall not be subject to interlocutory appeal. Parties may raise objections to intermediate rulings in their exceptions to the ALJ's recommended decision.
- i) The ALJ shall file and serve on the parties a recommended decision and order as expeditiously as possible. Due to the nature of the proceedings at issue in this Part and the compressed timeline provided by Section 6.1 of the Act, the ALJ may issue a recommended decision and order before completion of a transcript of the proceedings.
- j) All exceptions to the ALJ's recommended decision and order shall be filed and served in accordance with Sections 1300.90 and 1300.130.

Section 1300.80 Authority of Administrative Law Judges

The ALJ shall have the duty to conduct fair proceedings, to take all necessary action to avoid delay, to maintain order and to ensure development of a clear and complete record. The ALJ shall have all powers necessary to achieve these ends, including, but not limited to, the discretionary authority to:

- a) Review the designation, any objections and any supporting documentation and determine whether a designation is proper based solely on the information submitted to the Board or whether a hearing is necessary to determine whether the designation is proper;
- b) Require the parties to participate in a pre-hearing conference before proceeding with a hearing;
- c) Require all parties to submit pre-hearing information, including, but not limited to:
 - 1) a detailed written statement of the issue to be resolved at hearing and its position;
 - 2) a list of witnesses each party intends to call, the nature of their testimony, the estimated time for each witness' testimony, and the estimated time for the party's case in chief;

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- 3) a list of exhibits to be offered by each party in its case in chief and a copy of each exhibit; and
- 4) all other information the ALJ requests;
- d) Regulate the proceedings of the case and the conduct of the parties and their counsel;
- e) Administer oaths and affirmations;
- f) Receive relevant testimony and evidence;
- g) Establish reasonable limits on the frequency and duration of the testimony of any witness and limit repetitious or cumulative testimony;
- h) Examine witnesses and direct witnesses to testify; however, this provision does not lessen any party's burden of proof;
- i) Issue subpoenas and rule upon motions to revoke subpoenas;
- j) Take administrative notice of generally recognized facts of which Illinois courts may take judicial notice and of other facts within the specialized knowledge and experience of the Board;
- k) Rule on objections, motions and questions of procedure;
- l) Hear closing argument and, in extraordinary circumstances, authorize the submission of briefs and set the time for their filing;
- m) Order a hearing reopened before the issuance of the ALJ's recommended decision and order;
- n) Render and serve the recommended decision and order on the parties to the proceeding; and
- o) Carry out the duties of the ALJ as provided or otherwise authorized by this Part or the Act.

Section 1300.90 Computation and Extensions of Time; Service

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- a) In computing any period of time prescribed by the Act or this Part, the designated period of time begins to run the day after the act, event or default and ends on the last day of the period so computed. If the last day falls on a Saturday, Sunday or legal holiday, the time period shall be automatically extended to the next day that is not a Saturday, Sunday or legal holiday.
- b) When a time period prescribed under the Act or this Part is less than 7 days, intervening Saturdays, Sundays or legal holidays shall not be included.
- c) Service of Documents
 - 1) Service of a document upon a party by mail shall be presumed complete 3 days after mailing, if proof of service shows the document was properly addressed. This presumption may be overcome by the addressee, with evidence establishing that the document was not delivered or was delivered at a later date. A party's failure to accept or claim a document served by mail shall not be grounds for overcoming the presumption.
 - 2) Service of a document upon a party by e-mail shall be presumed complete on the day that the document is transmitted via e-mail. This presumption may be overcome by the addressee, with evidence establishing that the document was not delivered, was delivered at a later date or was not accessible by the party. A party's failure or refusal to open a document served by e-mail shall not be grounds for overcoming the presumption.
- d) Due to the nature of the proceedings at issue in this Part and the compressed timeline provided by Section 6.1 of the Act, the Board may use U.S. Mail, hand delivery and e-mail as methods of transmitting and filing certain documents in processing gubernatorial designations.
 - 1) The original designation must be transmitted to the Board in its Springfield office as described in Section 1300.50.
 - 2) Service of designations by the Board may be accomplished by U.S. Mail, hand delivery or e-mail.
 - 3) Objections to designations must be transmitted to the Board in its Springfield or Chicago office and to other parties as described in Section

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1300.60. Objections to designations must be received by the Board in its Springfield or Chicago office within 10 days after the date of service of the designation on the objecting party.

- 4) The recommended decision and order of the ALJ will be served on the parties to the proceeding by e-mail only.
- 5) Exceptions to the recommended decision and order of the ALJ will be filed with the Board by e-mail only at ILRB.Filing@illinois.gov and will be served on all other parties via e-mail subject to the following:
 - A) In cases in which an employee subject to the designation is not represented by a collective bargaining representative, an employee filing exceptions under this Section shall serve the exceptions upon the employer at its e-mail address.
 - B) In cases in which an employee subject to the designation is represented by a collective bargaining representative or is the subject of a petition for representation that is pending before the Board at the time of the filing of the designation, an employee filing exceptions under this Section shall serve the exceptions upon the employer at its e-mail address and on the collective bargaining representative at its e-mail address. A collective bargaining representative filing exceptions under this Section shall serve the exceptions upon the employer at its e-mail address and on each employee whose position is the subject of the objection at his or her e-mail address.
- e) Requests for postponements of hearings shall be filed in accordance with Section 1300.100. Requests for postponements of other deadlines, as well as requests for extensions for the filing of briefs or exceptions, must be made before the then existing deadlines. Except for good cause shown, no request for postponement will be granted on any of the 3 days immediately preceding the date of a hearing. For purposes of this Section, good and sufficient cause may include a showing to the satisfaction of the Board or its agents that a postponement or extension will result in settlement of the case. Such a request will only be granted in extraordinary circumstances after consideration of its potential impact on the Board's ability to meet the time requirements of the Act and limited to the following circumstances:

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- 1) all requests must be in writing, directed to the Board agent responsible for the proceeding;
- 2) the grounds for the request must be set forth in detail;
- 3) the requesting party must specify alternative dates for scheduling the hearing or conference or for the due date of any documents;
- 4) the position of all parties concerning both the postponement or extension requested and the proposed alternative dates must be ascertained in advance by the requesting party and set forth in the request; and
- 5) the request is made for a continuance to a date and time certain; in no event shall an indefinite continuance be granted.

Section 1300.100 Motions

- a) In matters set for hearing, all motions must be filed with the assigned ALJ via e-mail to the e-mail address provided by the ALJ. Motions shall be simultaneously served on other parties via e-mail at the e-mail addresses specified by each party as follows:
 - 1) In cases in which an employee subject to the designation is not represented by a collective bargaining representative, an employee filing a motion under this Section shall serve the motion upon the employer at its e-mail address.
 - 2) In cases in which an employee subject to the designation is represented by a collective bargaining representative or is the subject of a petition for representation that is pending before the Board at the time of the filing of the designation, an employee filing a motion under this Section shall serve the motion upon the employer at its e-mail address and on the collective bargaining representative at its e-mail address. A collective bargaining representative filing a motion under this Section shall serve the motion upon the employer at its e-mail address and on each employee whose position is the subject of the motion at his or her e-mail address.

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- b) Once the ALJ's recommended decision and order has been issued, all motions shall be filed with the Board by e-mail at ILRB.Filing@illinois.gov and simultaneously served on other applicable parties as described in subsections (a)(1) and (2).
- c) Motions to postpone or extend a hearing must be made in writing via e-mail unless made during the hearing, at which time the motions may be made verbally, on the record. Motions must briefly state the grounds for the motion and any relief requested.
- 1) Motions to extend the time for the filing of documents must contain a statement that the moving party discussed the requested extension with the other parties. If no objections were raised, the moving party must certify that the other parties were consulted and authorized the moving party to represent that they have no objections. If objections were raised, the moving party must describe those objections and its response. Motions to extend time filed in conjunction with hearings on gubernatorial designation of positions as excluded from collective bargaining will be granted only in extraordinary circumstances.
 - 2) Motions for continuance must contain a statement that the moving party consulted with the other parties to determine whether they have any objection to the requested continuance. When there are no objections, the moving party must certify that it has consulted with the other parties and that they authorized the moving party to represent that they have no objections. When objections are raised, the moving party must describe those objections and its response. The motion for continuance must contain a statement that the moving party contacted the other parties to determine their availability for hearing on subsequent dates and it must indicate those dates in the motion. Motions for continuance filed in conjunction with hearings on gubernatorial designation of positions as excluded from collective bargaining will be granted only in extraordinary circumstances.
 - 3) At any time before the issuance of the recommended decision and order, a party may move to disqualify the ALJ on the grounds of bias or conflict of interest. The motion shall be in writing to the Board's General Counsel, with a copy to the ALJ, setting out the specific instances of bias or conflict of interest. An adverse decision or ruling, in and of itself, is not grounds

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for disqualification. The General Counsel may decline to disqualify the ALJ or may appoint another ALJ to hear the case.

- d) Responses and any other answering documents, including memoranda and affidavits, must be filed within 3 days after service of the motion, or as otherwise required by the ALJ or the Board. Responses must be filed with the assigned ALJ via e-mail to the e-mail address provided by the ALJ and will be served on all opposing parties via e-mail at the e-mail addresses specified by each party.
- e) Rulings on motions shall be made in writing and served on all parties to the proceeding. The ALJ may reserve ruling on any motion until the issuance of a recommended decision and order. Motions and responses shall not serve to postpone or delay the proceedings.
- f) Rulings on motions are not appealable to the Board, unless otherwise provided by the Board.

Section 1300.110 Subpoenas

Following a notice of hearing on a designated position or positions, the Board, upon the request of an ALJ or upon the written application of a party, shall have the power to issue subpoenas for witnesses and subpoenas for documents. Requests for subpoenas must be filed with the assigned ALJ via e-mail to the e-mail address provided by the ALJ and will be served on all opposing parties via e-mail at the e-mail addresses specified by each party.

- a) Subpoenas for Witnesses
 - 1) A party's written application for subpoenas for witnesses must be directed to the ALJ and must contain the following information:
 - A) the title and case number of the proceeding;
 - B) the name, address and phone number of the party requesting the subpoena and its representative;
 - C) the name of the person to be subpoenaed; and
 - D) the date, time and place of the appearance to be commanded.

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- 2) Applications must be filed with the ALJ and served on the other parties to the case at least 5 days before the hearing. The requested subpoenas may be picked up at the Board's office where the hearing will be held or at the office specified by the applicant in the subpoena request.
 - 3) The party requesting the subpoenas shall be responsible for serving the subpoenas on the witnesses at least 3 days before the hearing date. The party requesting the subpoenas shall also be responsible for payment of the witness fees for attendance, subsistence and mileage. Witnesses appearing at a hearing pursuant to subpoena are entitled to the same fees and mileage as are allowed witnesses in civil cases in the courts of the State of Illinois, pursuant to Section 4.3 of the Fees and Salaries Act [705 ILCS 35/4.3]. The requesting party must tender all fees with the subpoena. A witness appearing at the request of the Board shall submit the subpoena with a voucher when claiming reimbursement.
 - 4) Board employees shall not be subpoenaed to testify regarding matters that occurred during their employment with the Board.
 - 5) Subpoenas shall remain in effect throughout the course of the proceedings.
- b) Subpoenas for Documents (Subpoena Duces Tecum)
- 1) A party's written application for subpoenas for documents must be directed to the ALJ and must contain the following information:
 - A) the title and case number of the proceeding;
 - B) the name, address and phone number of the party requesting the subpoena and its representative;
 - C) a detailed description of the books, papers, documents or other objects to be produced pursuant to the subpoena;
 - D) the name of the person to be served with the subpoena; and
 - E) the date, time and place of production to be commanded.

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- 2) Applications must be filed with the ALJ and served on the other parties to the case at least 5 days before the hearing. The date and time for production of documents may be before the hearing. The requested subpoenas may be picked up at the Board's office where the hearing will be held or at the office specified by the applicant in the subpoena request.
 - 3) The party requesting the subpoenas shall be responsible for serving the subpoenas at least 3 days before the hearing date and 3 days before the date on which the documents are to be produced.
 - 4) Confidential Board documents as defined in 2 Ill. Adm. Code 2501.20(c) shall not be subpoenaed.
- c) **Motions to Revoke Subpoenas**
A person objecting to the subpoena may file a motion to revoke the subpoena. The motion must be filed at least one day before the hearing and shall be filed with the ALJ assigned to the case. Grounds for revocation shall include irrelevance, undue burden and privilege.

Section 1300.120 Representation of Parties

A party may be represented by counsel or any other representative of the party's choosing. The representative shall file a Notice of Appearance with the Board. Filing objections on behalf of a party shall be equivalent to filing a Notice of Appearance.

Section 1300.130 Appeals Procedures, Board Review and Court Review

- a) **ALJ's Recommended Decision and Order**
 - 1) Parties may file exceptions to the ALJ's recommended decision and order, and briefs in support of those exceptions, not later than 3 days after service of the recommended decision and order. All exceptions shall be filed and served in accordance with Section 1300.90. Each party shall serve its exceptions on the other parties. If the original exceptions are withdrawn, then all subsequent exceptions are moot. A party not filing timely exceptions waives its right to object to the ALJ's recommended decision and order.

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- 2) Exceptions shall specifically set forth the questions of procedure, fact, law or policy to which exception is taken, shall identify that part of the ALJ's recommended decision and order to which objection is made, shall state the grounds for the exceptions, and shall include the citation of authorities unless set forth in a supporting brief. Any exception to a ruling, finding, conclusion or recommendation that is not specifically urged shall be considered waived. Any exception that fails to comply with the foregoing requirements may be disregarded.
- 3) Any brief in support of exceptions shall be confined to the subjects raised in the exceptions and shall contain:
 - A) a clear and concise statement of the case containing all that is material to the consideration of the questions presented;
 - B) a specification of the questions involved and the issues to be argued; and
 - C) an argument presenting clearly the points of fact and law relied upon in support of the position taken on each question.
- 4) The Board will review the ALJ's recommended decision and order upon timely filing of exceptions or at any time on its own motion. The Board may adopt all, part or none of the recommended decision and order, depending on the extent to which it is consistent with the record and applicable law. The Board shall issue and serve on all parties its decision and order. If the gubernatorial designation is found to be proper by the Board in its decision and order, the Executive Director shall certify the position as a gubernatorial designation.
- 5) If no exceptions to the ALJ's recommended decision and order have been filed within the prescribed time period, the parties will be considered to have waived their exceptions. Unless the Board reviews the recommended decision and order upon its own motion, it will not be legal precedent and shall be final and binding only on the parties to that proceeding. The Board's General Counsel shall issue an order so providing. If the gubernatorial designation is found to be proper by the ALJ's recommended decision and order as supported by the General

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Counsel's order, the Executive Director shall certify the position as a gubernatorial designation.

- b) **Court Review of Board Orders**
A party aggrieved by a final order of the Illinois Labor Relations Board State Panel may obtain judicial review of that order in accordance with the Administrative Review Law [735 ILCS 5/Art. III], except that review shall be afforded directly in the Appellate Court for the district in which the party resides or does business, in accordance with Section 11(e) of the Act.

Section 1300.140 Ex Parte Communications

No party or other persons legally interested in the outcome of a hearing may communicate ex parte, either directly or indirectly, with an ALJ or with any member of the Board regarding matters pending before the Board.

Section 1300.150 Variances and Suspensions of Rules

The provisions of this Part may be waived or suspended by the Board or its ALJ when it finds that:

- a) the provision from which the variance is granted is not statutorily mandated;
- b) no party will be injured by the granting of the variance; and
- c) application of the rule from which the variance is granted would, in the particular case, be unreasonable or unnecessarily burdensome.

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- 1) Heading of the Part: The Illinois Explosives Act
- 2) Code Citation: 62 Ill. Adm. Code 200
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
200.10	Amendment
200.11	Amendment
200.12	Amendment
200.15	New
200.20	New
200.25	New
200.30	New
200.35	New
200.40	New
200.45	New
200.50	New
200.90	New
200.93	New
200.96	New
200.98	New
200.100	Repealed
200.101	Amendment
200.102	Amendment
200.103	Amendment
200.104	Amendment
200.105	Amendment
200.106	Amendment
200.107	Amendment
200.108	Amendment
200.200	Amendment
200.201	Amendment
200.205	Amendment
200.206	Amendment
200.300	Amendment
200.301	Amendment
200.302	Amendment
200.400	Amendment
200.401	Amendment
200.402	Amendment

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200.500	Amendment
200.501	Amendment
200.502	Amendment
200.504	Amendment
200.505	Amendment
200.600	Amendment
200.602	Amendment
200.603	Amendment
200.700	Amendment
200.701	Amendment
200.800	Amendment
200.802	Amendment
200.803	Amendment
200.804	Amendment
200.805	Amendment
200.806	Amendment
200.807	Amendment
200.808	Amendment
200.809	Amendment
200.810	Repealed
200.815	New
200.900	Repealed
200.901	Repealed
200.902	Repealed
200.903	Repealed
200.904	Repealed
200.905	Repealed
200.906	Repealed
200.907	Repealed
200.908	Repealed
200.909	Repealed
200.910	Repealed
200.911	Repealed
200.912	Repealed
200.913	Repealed
200.914	Repealed
200.915	New
200.920	New
200.925	New

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200.930	New
200.935	New
200.940	New
200.945	New
200.1000	New
200.1005	New
200.1010	New
200.1015	New
200.1020	New
200.1025	New
200.1030	New
200.1035	New
200.1040	New
200.1045	New
200.1050	New
200.1055	New
200.1060	New
200.1065	New
200.1070	New
200.1075	New
200.APPENDIX A	Amendment
200.APPENDIX C	New

- 4) Statutory Authority: Implementing and authorized by the Illinois Explosives Act [225 ILCS 210] and 49 CFR 173.50, 27 CFR 55.219, 26 CFR 181.109 and 49 CFR 170-189
- 5) A Complete Description of the Subjects and Issues Involved: Technical definitions and explosive classifications have been universally modified. These proposed amendments will establish consistency with industry standards as well as BATF and U.N. participatory entities. In addition, the proposed fee structure will help facilitate sustainability of the Division while not presenting an economic burden to the affected industries. These proposed amendments will clarify the scope, update definitions, modify technical references, update fee structures and modify administrative enforcement procedures.
- 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

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- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? Yes
- 10) Are there any other 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: Comments on the proposed rulemaking may be submitted in writing for a period of 45 days following publication of this Notice to:

Julia Lawrence, 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: A revised fee structure has been incorporated into the proposed rulemaking. Fee increases have been structured to negate potential adverse economic effects on small businesses. Small businesses, such as sporting goods stores keeping a limited amount of black powder in their inventory as a courtesy to limited market customers, will see little to no increases in fees.

Small municipalities will be affected by the rulemaking since a provision in the current rules that provides for a fee exemption for all governmental entities licensed or certified under the Part will be limited to agencies of the federal government and the State of Illinois and its political and civil subdivisions if the storage, acquisition, possession, use, transfer or disposal of explosive material is for emergency response functions.

It is unlikely that not for profit corporations will be affected by the proposed rule changes.

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- B) Reporting, bookkeeping or other procedures required for compliance: Statutory language regarding reporting, bookkeeping and other procedures has been amended for efficiency and clarification.
- C) Types of Professional skills necessary for compliance: Professional skills as demonstrated by experience or examination requirements have not been amended. However, the scope of the requirements for licensure have been amended to ensure all applicants possess a fundamental knowledge of the inherent dangers of explosive materials.
- 14) Regulatory Agenda on which this rulemaking was summarized: July 2012

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

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TITLE 62: MINING

CHAPTER I: DEPARTMENT OF NATURAL RESOURCES

PART 200

THE ILLINOIS EXPLOSIVES ACT

SUBPART A: SCOPE, AUTHORITY AND DEFINITIONS

Section

200.10	Scope and Authority
200.11	Definitions
200.12	Incorporated Materials
200.15	Computation of Time
200.20	Marking of Explosives
200.25	Information Required on Shipping Case
200.30	Records to be Maintained by Persons Transferring Explosive Materials
200.35	Exceptions to Sections 200.10 and 200.30(c)
200.40	Availability of Records
200.45	Exemption for Federal Personnel
200.50	Transportation on Same Motor Vehicle

SUBPART B: [EXPLOSIVES LICENSE APPLICATION](#)

Section

200.90	Scope
200.93	Notice to Local Authorities
200.96	Application for Original Licensure
200.98	Qualifications for Licensure
200.100	Application for Original Licensure (Repealed)
200.101	Contents of Application
200.102	Fingerprint Cards and Fingerprint-Based Data
200.103	Written Examination
200.104	Incomplete Application
200.105	Denial of Application
200.106	Refusal to Issue Individual Explosives License or Temporary Explosives License
200.107	Explosives License Renewal
200.108	Temporary Explosives License

SUBPART C: STORAGE CERTIFICATE APPLICATION

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- Section
- 200.200 Application for Original Storage Certificate
- 200.201 Contents of Application
- 200.202 Incomplete Application
- 200.203 Denial of Application
- 200.204 Magazine Inspection
- 200.205 Refusal to Issue
- 200.206 Renewal

SUBPART D: FEES

- Section
- 200.300 Fees
- 200.301 Proration of Fees
- 200.302 [Fee Exemption](#) ~~Waiver of Fees~~ – Government Agencies

SUBPART E: CLASSIFICATION OF MAGAZINES AND
GENERAL STORAGE REQUIREMENTS

- Section
- 200.400 General Storage Requirements
- 200.401 Classification of Magazines
- 200.402 Location of Magazines – Distances and Quantity

SUBPART F: MAGAZINE CONSTRUCTION STANDARDS

- Section
- 200.500 Construction of Magazines
- 200.501 Type 1 Magazine
- 200.502 Type 2 Magazine
- 200.503 Type 3 Magazine
- 200.504 Type 4 Magazine
- 200.505 Type 5 Magazine

SUBPART G: MAGAZINE OPERATIONS AND MAINTENANCE

- Section
- 200.600 Magazine Keeper

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200.601	Security Precautions
200.602	Safety Precautions – General
200.603	Safety Precautions – Handling and Storage
200.604	Magazine Maintenance and Repair

SUBPART H: TYPE 3 MAGAZINES AND VEHICLES AT BLAST AREAS

Section	
200.700	Requirements for Type 3 Magazines
200.701	On-Site Vehicles; Warning Signs

SUBPART I: RECORDKEEPING AND REPORTING

Section	
200.800	Possession of License
200.801	Posting of Storage Certificate
200.802	Report of Lost, Stolen or Destroyed Explosives License , Temporary Explosives License or Storage Certificate
200.803	Worn or Damaged License or Storage Certificate
200.804	Report of Changed Conditions; Cancellation or Modification of Storage Certificate
200.805	Report of Theft or Loss of Explosive Materials and Accidents, Injuries or Incidents
200.806	Records of Transactions – Explosives Licensees , Temporary Explosives Licensees and Storage Certificate Holders
200.807	Daily Summary of Magazine Transactions
200.808	Transactions – Black Powder
200.809	Record of Annual Physical Magazine Inventory
200.810	Inspections (Repealed)
200.815	Monitoring and Reporting

SUBPART J: [INSPECTION AND ENFORCEMENT](#)
[RULES OF PROCEDURE IN ADMINISTRATIVE HEARINGS](#)

Section	
200.900	Notice of Department's Intended Action; Contents and Service (Repealed)
200.901	Request for Hearing on Department's Intended Action; Contents and Service (Repealed)
200.902	Notice of Hearing (Repealed)

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200.903	Postponement or Continuance of Hearing (Repealed)
200.904	Hearing Officer; Powers and Duties (Repealed)
200.905	Pre-Hearing Conferences (Repealed)
200.906	Burden and Standard of Proof (Repealed)
200.907	Default (Repealed)
200.908	Evidence (Repealed)
200.909	Briefs (Repealed)
200.910	Hearing Officer's Decision (Repealed)
200.911	Final Administrative Decision (Repealed)
200.912	Administrative Fines (Repealed)
200.913	Immediate Suspension Without Notice of Hearing (Repealed)
200.914	Computation of Time (Repealed)
200.915	Inspections by the Department
200.920	Enforcement Actions
200.925	Notice of Violation
200.930	Office of Mines and Minerals Director's Decision
200.935	Process for Assessment of Fines
200.940	Immediate Suspension or Revocation of License or Storage Certificate
200.945	Disposal of Explosives; Surrender or Seizure of License or Certificate

SUBPART K: PROCEDURES FOR ADMINISTRATIVE HEARINGS

200.1000	Notice of Department's Intended Action; Contents and Service
200.1005	Request for Hearing on Department's Intended Action; Contents and Service
200.1010	Notice of Hearing
200.1015	Postponement or Continuance of Hearing
200.1020	Hearing Officer; Powers and Duties
200.1025	Subpoenas
200.1030	Record of Proceedings
200.1035	Pre-Hearing Conference
200.1040	Burden and Standard of Proof
200.1045	Default
200.1050	Evidence
200.1055	Brief
200.1060	Hearing Officer's Decision
200.1065	Final Administrative Decision
200.1070	Immediate Suspension Without Notice of Hearing
200.1075	Computation of Time

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<u>200.APPENDIX A</u>	American Table of Distances for Storage of Explosive Materials
<u>200.APPENDIX B</u>	Table of Separation Distances for Low Explosives
<u>200.APPENDIX C</u>	<u>Table of Separation Distances of Ammonium Nitrate and Blasting Agents from Explosives or Blasting Agents</u>

AUTHORITY: Implementing and authorized by the Illinois Explosives Act [225 ILCS 210] and 49 CFR 173.50, 27 CFR 555.219, 26 CFR 181.109 and 49 CFR 170 through 189.

SOURCE: Amended September 15, 1973; codified at 7 Ill. Reg. 12867; Part repealed, new Part adopted at 14 Ill. Reg. 3503, effective February 23, 1990; amended at 16 Ill. Reg. 11449, effective July 6, 1992; recodified from the Department of Mines and Minerals to the Department of Natural Resources at 21 Ill. Reg. 16192; amended at 37 Ill. Reg. _____, effective _____.

SUBPART A: SCOPE, AUTHORITY AND DEFINITIONS

Section 200.10 Scope and Authority

This Part implements the Illinois Explosives Act (~~the Act~~) [225 ILCS 210], ~~approved August 30, 1989 (P.A. 86-364)~~ and applies to all acquisition, storage, use, ~~acquisition, possession, disposal~~ and transfer and disposal of explosive materials except as otherwise provided in the Act. This Part is intended to supplement the requirements of any ~~federal~~ Federal or State law and regulations governing the storage, use, acquisition, possession, disposal and transfer of explosive materials, but shall be construed, wherever possible to avoid conflicting or duplicative requirements. Obtaining an explosives license, a temporary explosives license or storage certificate under this Part does not waive the requirements of any other federal, State or local law or ordinance regulating blasting and explosives. In the event of a conflict between this Part and the laws and rules enforced by agencies of the federal government including the Bureau of Alcohol, Tobacco and Firearms, the Mine Safety and Health Administration and the Occupational Safety and Health Administration, the laws and rules enforced by agencies of the federal government shall control; provided that provisions of this Part shall not be deemed to be in conflict on the basis that they are more specific than, more stringent than or impose requirements for which no like requirements are contained in laws and rules enforced by agencies of the federal government.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 200.11 Definitions

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The following definitions have the meanings specified, except when another meaning is provided in this Part~~For purposes of this Part the term:~~

"Acceptor" means a charge of explosives or blasting agent receiving an impulse from an exploding donor charge.

"Act" means the Illinois Explosives Act [225 ILCS 210].

"Ammonium Nitrate" means the ammonium salt of nitric acid represented by the formula NH_4NO_3 .

"ANFO" means an explosive material consisting of ammonium nitrate and fuel oil.

"Artificial Barricade" means an artificial mound or revetted wall of earth of a minimum thickness of three feet at the top of the mound or wall, or a mound or revetted wall of other material offering equivalent protection. Artificial barricades which are vegetated shall be of sufficient slope to enable mowing.

"ATF" means the Bureau of Alcohol, Tobacco, Firearms and Explosives, U.S. Department of Justice.

"Authorized Person" means a person holding a current Illinois Individual Explosives License or qualifying for an exemption pursuant to Section 200.90(c)(5).

"Barricaded" means the effective screening of a building containing explosives from a magazine or other building, railway, or highway by a natural or an artificial barrier. A straight line from the top of any sidewall of the building containing explosives to the eave line of any magazine or other building or to a point twelve feet above the center of a railway or highway shall pass through such barrier.

~~"BATF" means the Bureau of Alcohol, Tobacco, and Firearms, U.S. Department of Treasury.~~

"Black Powder" means a deflagrating or low explosive compound of an intimate mixture of sulfur, charcoal, and an alkali nitrate, usually potassium or sodium nitrate.

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"Blast" or "Blasting" means the firing of explosive materials for such purposes as breaking rock or other material, moving material, or generating seismic waves ~~and the~~. ~~The~~ assembly of explosive materials for such ~~purposes~~~~purpose~~.

"Blast Area" means the area of a blast within the influence of flying rock, missiles, ~~debris~~, ~~gases~~, and concussion.

"Blasting Agent" means any material or mixture consisting of a fuel and oxidizer intended for blasting, not otherwise defined as an explosive, provided that the finished product, as mixed and packaged for use or shipment, cannot be detonated by means of a No. 8 blasting cap, as defined by ~~ATF~~~~the Bureau of Alcohol, Tobacco and Firearms, U.S. Department of Treasury~~, when unconfined ~~and is classified as a Division 1.5 material under 49 CFR 173.50~~.

"Blasting Cap" means a detonator which is initiated by a safety fuse.

"Bulk Mix" means a mass of explosive material prepared for use in bulk form without packaging.

"Bulk Mix Truck or Delivery Equipment" means equipment (usually a motor vehicle with or without a mechanical delivery device) that transports explosive materials in bulk form for mixing or loading directly into blastholes, or both.

"Bullet-Resistant" means magazine walls or doors of construction resistant to penetration of a bullet of 150-grain M2 ball ammunition having a nominal muzzle velocity of 2700 feet per second fired from a .30 caliber rifle from a distance of 100 feet perpendicular to the wall or door. When a magazine ceiling or roof is required to be bullet-resistant, the ceiling or roof shall be constructed of materials comparable to the side walls or of other materials which will withstand penetration of the bullet described above when fired at an angle of 45 degrees from the perpendicular. Tests to determine bullet resistance shall be conducted on test panels or empty magazines which shall resist penetration of 5 out of 5 shots place independently of each other in an area at least 3 feet by 3 feet.

"Bullet-Sensitive Explosive Material" means explosive materials that can be detonated by 150-grain M2 ball ammunition having a nominal muzzle velocity of 2700 feet per second when the bullet is fired from a .30 caliber rifle at a distance of not more than 100 feet and the test material, at a temperature of 70 to 75 F, is

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placed against a backing material of 1/2 inch steel plate.

"Cap Sensitivity" means the sensitivity of an explosive to initiation by a detonator. An explosive material is considered to be cap sensitive if it detonates with a No. 8 Test Detonator.

"Certificate" means a storage certificate issued by the Department allowing for the proper storage of explosives in accordance with the Act.

"Deflagration" means an explosive reaction such as a rapid combustion that moves through an explosive material at a velocity less than the speed of sound in the material.

"Department" means Illinois Department of Natural Resources.

"Detonating Cord" means a flexible cord containing a center core of high explosive ~~and used to initiate other explosives.~~

"Detonation" means an explosive reaction that moves through an explosive material at a velocity greater than the speed of sound in the material.

"Detonator" means any device ~~that contain~~containing any initiating or primary explosive that is used for initiating detonation and is classified as a Division 1.1 or 1.4 material under 49 CFR 173.50 (August 14, 2003). A detonator may not contain more than 10 grams of total explosives by weight, excluding ignition or delay charges.

"Director" means Director of the Department of Natural Resources or his or her designee.

"Disposal", with respect to explosive materials, means to render inert pursuant to manufacturer's recommendations or commonly accepted industry standards.

"Donor" means an exploding charge producing an impulse that impinges upon an explosive "acceptor" charge.

"Emulsion" means an explosive material containing substantial amounts of oxidizers dissolved in water droplets, surrounded by an immiscible fuel.

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"Explosive" means any chemical compound, mixture or device, the primary or common purpose of which is to function by explosion, that is classified as a Division 1.1, 1.2 or 1.3 material under 49 CFR 173.5. The term ~~and~~ includes high ~~and~~ low explosives. This term does not include consumer fireworks, but does include display fireworks. ~~Manufactured articles, including, but not limited to, fixed ammunition for small arms, fire crackers, safety fuses, and matches are not explosives when the individual units contain explosives in such limited quantity and of such nature or in such packing that it is impossible to produce a simultaneous or a destructive explosion of such units which would be injurious to life, limb or property.~~

"Explosive materials" means explosives, blasting agents, and detonators.

"Fire-Resistant" means construction designed to offer reasonable protection against fire.

"Fireworks" means any composition or device designed for the purpose of producing a visible or an audible effect by combustion, deflagration or detonation, and that meets the definition of "consumer fireworks" or "display fireworks" as follows:

"Consumer fireworks" means any small fireworks device designed to produce visible effects by combustion and that must comply with the construction, chemical composition and labeling regulations of the U.S. Consumer Product Safety Commission (16 CFR 1500 and 1507). Some small devices designed to produce audible effects are included, such as whistling devices, ground devices containing 50 mg (0.77 grain) or less of explosive materials, and aerial devices containing 130 mg (2 grains) or less of explosive materials. Consumer fireworks are classified as Explosives, Class 1, Division 1.4, UN0336 or UN0337, by the U.S. Department of Transportation (USDOT) (see 49 CFR 172.101). This term also includes pyrotechnic devices for professional use that are classified as UN0431 or UN0432.

"Display fireworks" means large fireworks designed to produce visible or audible effects by combustion, deflagration or detonation. This term includes, but is not limited to, salutes containing more than 130 mg (2 grains) of explosive materials, aerial shells containing more than 40 grams (616 grains) of total pyrotechnic and explosive composition, and other

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display pieces that exceed the limits for classification as consumer fireworks. Display fireworks are classified as Explosives, Class 1, Division 1.1, 1.2 or 1.3, UN0333, UN0334 or UN0335, by USDOT (see 49 CFR 172.101).

"Grains" means a system of weight measurement where 7000 grains are equivalent to one standard 16-ounce pound (0.45 kg).

"Hardwood" means red oak, white oak, hard maple, ash or hickory, or material of equivalent structural integrity, free from loose knots, wind shakes, or similar defects.

"High Explosive" means explosives ~~that~~which are characterized by a very high rate of reaction, high pressure development, and the presence of a detonation wave in the explosive.

"Highway" means any public street, public ~~road~~highway, or public alley and includes privately financed, constructed or maintained roads that are regularly and openly traveled by the general public.

"Inhabited Building" means a building regularly occupied in whole or part as a habitation for human beings, or any church, schoolhouse, railroad station, store, or other structure where people are accustomed to assembly, except any building or structure occupied in connection with the manufacture, transportation, storage or use of explosive materials.

"Inventory" means a listing of all explosive materials stored in a magazine.

"License" means a license issued by the Department under Article 2 of the Act authorizing the holder to possess, use, purchase, transfer or dispose of, but not to store, explosive materials.

"Low Explosive" means explosives ~~which are~~ characterized by deflagration ~~or a low rate of reaction and the development of low pressure.~~

"Magazine" means any building or other structure or container, other than a factory building, used to store explosive materials. Where mobile or portable type 5 magazines are permissible and used, "magazine", for the purpose of obtaining certificates and calculating fees, means the site on which ~~thesueh~~ magazines are

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located.

"Magazine Keeper" means a qualified supervisory person licensed by the Department or otherwise exempted under Article 2 of the Act who is responsible for the acquisition, storage, use, possession, transfer and disposal of explosive materials, including inventory and transaction records, and person responsible for the inventory and safe storage of explosive materials, including ~~for the~~ proper maintenance of explosive materials, storage magazines and surrounding areas.

"Natural Barricade" means natural features of the ground, such as hills, or timber of sufficient density that the surrounding exposures ~~that~~which require protection cannot be seen from the magazine when the trees are bare of leaves.

"Nonsparking Metal" means a metal that will not produce a spark when struck with other tools, rock, or hard surfaces.

"Office of Mines and Minerals" or "Office" means the office of the Department of Natural Resources charged with regulating the storage, use, acquisition, possession, disposal and transfer of explosive materials pursuant to the Act.

"Person" means any individual, corporation, company, association, partnership, or other legal entity, except that, with reference to individual licenses or when the context otherwise requires, person means a natural person.

"Plywood" means exterior construction-grade plywood.

"Propagation" means the detonation of explosive charges by an impulse received from adjacent or nearby explosive charges.

"Propellant Powder" means an explosive of fine granulation that, through burning, produces gases at a controlled rate to provide the energy for propelling a projectile.

"Railway" means any public steam, electric or other railroad or rail system ~~that~~which carries passengers for hire, but shall not include auxiliary tracks, spurs and sidings installed and primarily used in serving any mine, quarry or plant.

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"Salute" means an aerial shell, classified as a display firework, that contains a charge of flash powder and is designed to produce a flash of light and a loud report as the pyrotechnic effect.

"Small Arms Primer" means a device for lighting the powder charge in a modern cartridge of ammunition.

"Softwood" means Douglas fir or other wood of equal bullet resistance and free from loose knots, wind shakes or similar defects.

"Steel" means general purpose (hot or cold rolled) low-carbon steel or equivalent.

"Theft-Resistant" means construction designed to deter illegal entry into facilities used for the storage of explosive materials.

"Transfer" of explosive materials means to sell, give, distribute or otherwise dispose of explosive materials.

"Unbarricaded" means the absence of a natural or artificial barricade around explosive storage areas of facilities.

"Use" of explosive materials means the detonation, ignition, deflagration, or any other means of initiating explosive materials.

"Weather-Resistant" means construction designed to offer reasonable protection against weather.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 200.12 Incorporated Materials

- a) The following documents federal and state regulations, standards are incorporated or referenced in various Sections sections of this Part:

- 1) The National Fire Protection Association (NFPA)
1 Batterymarch Park 1110 Vermont Ave., N.W., Suite 1210
P.O. Box 9101
Quincy MA 02269-9101 Washington, D.C. 20005,

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- A1) "The National Electrical Code" ~~—(2008/1987 Edition)—published by:~~
- B) "NFPA 1123 Code for Fireworks Display" (2010 Edition)
- C) "NFPA 1124 Code for the Manufacture, Transportation and Storage of Fireworks" (2006 Edition)
- 2) ~~"The Separation Distances of Ammonium Nitrate and Blasting Agents from Explosives or Blasting Agents"—(NFPA 495-1985 Edition) published by:~~
- ~~The National Fire Protection Association (NFPA)
1110 Vermont Ave., N.W., Suite 1210
Washington, D.C. 20005~~
- 23) Institute of Makers of Explosives
1120 19th Street N.W., Suite 310
Washington, ~~DC~~ 20036
- "The American Table of Distances" (Safety Library Publication No. 2, October 2011 Edition), and "Warnings and Instructions for Consumers in Transporting, Storing, Handling, and Using Explosive Materials" (Safety Library Publication. No. 4, October 2009~~June 1987~~ Edition)
- 34) Federal Regulations
- A) ~~"Table of Distances for Storage of Low Explosives", 27 CFR 555.219 (2010), "Table of distances for storage of low explosives" 55.219, regulations of the Bureau of Alcohol, Tobacco, and Firearms.~~
- B) 16 CFR 1500 (2010)
- C) 16 CFR 1507 (2010)
- D) 27 CFR 555.126 (2012)

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- E) [49 CFR 172 \(2012\)](#)
 - F) [49 CFR 173 \(2003\)](#)
 - G) [49 CFR 171 through 177 \(2012\)](#)
 - H) [49 CFR 178 through 180 \(2012\)](#)
- b) All incorporations by reference ~~in this Part of the standards of nationally recognized organizations~~ refer to the standards on the date specified and do not include any additions or deletions subsequent to the date specified.
- c) All materials incorporated by reference are available for inspection ~~and~~ copying at the [Department of Natural Resources, One Natural Resources Way, Springfield IL 62702-1271](#) ~~Department's General Office, 300 W. Jefferson, Suite 300, Springfield, Illinois 62791-0137.~~

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 200.15 Computation of Time

- a) Except as otherwise provided, computation of time under this Part is based upon calendar days.
- b) In computing any period of prescribed time, the day on which the designated period of time begins is not included. The last day of the period is included unless it is a Saturday, Sunday or legal holiday on which the Department is not open for business, in which event the period runs until the end of the next business day.
- c) Intermediate Saturdays, Sundays and legal holidays that fall within the prescribed time period are excluded from the computation of time when the prescribed time period is 7 days or less.
- d) A business day is any day the Department is open for business.

(Source: Added at 37 Ill. Reg. _____, effective _____)

Section 200.20 Marking of Explosives

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All explosive materials offered for acquisition, storage, use, possession, transfer and disposal in the State of Illinois shall be legibly identified by marking. The marks required by this Section shall identify the manufacturer and the location, date and shift of manufacture. The manufacturer shall place on each carton or other immediate container of explosive materials manufactured for sale or distribution the required mark, which shall also be placed on the outside container, if any, used for their packaging. With respect to explosive materials of small size not suitable for marking on the individual items (for example blasting caps), it shall only be necessary to place the identification on the container used for their packaging.

(Source: Added at 37 Ill. Reg. _____, effective _____)

Section 200.25 Information Required on Shipping Case

Each shipping case shall have marked on it the total weight of the explosive material it contains, the month and year of the explosives manufacture, and the length and diameter of the sticks, cartridges or individual packages in the shipping case.

(Source: Added at 37 Ill. Reg. _____, effective _____)

Section 200.30 Records to be Maintained by Persons Transferring Explosive Materials

Every person transferring any explosive material shall maintain:

- a) A record that enables him or her to trace the explosives to the recipient. The record shall consist of a:
 - 1) journal;
 - 2) book of records;
 - 3) invoice;
 - 4) inventory control record;
 - 5) federal form ATF F 5400.4 (Explosives Transaction Record; see 27 CFR 555.126) or other record that shows explosives delivered by manufacturer's name, count, weight, identification or other identifying mark that will enable the distributor to trace the explosives, and

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- 6) month and year of manufacture.
- b) The name, residence and business address of the recipient and the address to which the explosive material is to be delivered, if different from the business address.
- c) The name, address, social security number, driver's license identification number and brief physical description of the person taking the explosive material away.
- d) The type and license number of the vehicle by which the explosive material is to be transported.

(Source: Added at 37 Ill. Reg. _____, effective _____)

Section 200.35 Exceptions to Sections 200.10 and 200.30(c)

Sections 200.10 and 200.30(c) do not apply when the transaction is between the manufacturer of the explosive material and the manufacturer's employee or when the explosives involved in a transaction are being shipped by a common carrier direct from the manufacturer's place of business.

(Source: Added at 37 Ill. Reg. _____, effective _____)

Section 200.40 Availability of Records

- a) The journal or book of record, or other record made by any person selling or giving away explosives, shall be open at all times to inspection by any law enforcement official and any representative of the Department.
- b) All records related to the possession, use, purchase, transfer or storage of explosive material shall be maintained for 3 years.

(Source: Added at 37 Ill. Reg. _____, effective _____)

Section 200.45 Exemption for Federal Personnel

The Act and this Part do not apply to the possession, use, purchase, transfer, storage or disposal of explosive material by the United States military or other agencies of the United States, or to arsenals, navy yards, depots, or other establishments owned or operated by the United States.

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(Source: Added at 37 Ill. Reg. _____, effective _____)

Section 200.50 Transportation on Same Motor Vehicle

No blasting caps or detonators, regardless of type, may be transported on the same motor vehicle with other explosives, unless they are transported in accordance with 49 CFR 170 through 189.

(Source: Added at 37 Ill. Reg. _____, effective _____)

SUBPART B: EXPLOSIVES LICENSE APPLICATION**Section 200.90 Scope**

- a) The license requirements of this Subpart apply to all explosive materials unless otherwise excepted by Section 2000 of the Act.
- b) No person shall acquire, store, use, transfer or dispose of explosive materials unless licensed by the Department, except as otherwise provided by Section 2001 of the Act.
- c) The licensing provisions of the Act and this Subpart do not apply to:
 - 1) agricultural fertilizers, which might be of an explosive nature, when the use of the fertilizers is for agricultural or horticultural purposes;
 - 2) a common or contract carrier authorized to carry explosive materials pursuant to the Interstate Commerce Act of 1887 (49 USC 101) or the Illinois Commerce Commission;
 - 3) the purchase, receipt, possession or use by an individual of primers or propellant powder used in muzzleloader firearms, hand loading, reloading or custom loading ammunition for small arms for his or her own use or that of his or her immediate family;
 - 4) the possession or purchase from dealers, importers or manufacturers, by any person who holds a valid Illinois Firearm Owner's Identification card, of smokeless small arms propellant in quantities not to exceed 25 pounds, black powder not to exceed 5 pounds, and small arms primers or

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percussion caps for muzzleloading arms in containers provided by the manufacturer or containers generally recognized as being suitable for the transportation and storage of, or commerce in, these items at retail, or the transportation or use of the items by any such person in muzzleloading ammunition for small arms;

- 5) the acquisition, possession, use, transfer or disposal of explosive materials in connection with mine, quarry, construction, manufacturing or wholesale or retail dealership operations in the ordinary course of business, provided that:
- A) the operator has obtained a storage certificate from the Department in accordance with Subpart C;
 - B) the acquisition, possession, use, transfer or disposal of explosive materials is limited to the operator's business operation; and
 - C) the person or persons designated as "magazine keeper" satisfy the licensure requirements, other than an examination, of this Subpart.

(Source: Added at 37 Ill. Reg. _____, effective _____)

Section 200.93 Notice to Local Authorities

Within 10 days after the issuance of an original, temporary, replacement or renewed individual explosives license, the Department shall notify the appropriate law enforcement agency of the municipality or county of the issuance. (Section 2008 of the Act)

(Source: Added at 37 Ill. Reg. _____, effective _____)

Section 200.96 Application for Original Licensure

Any person who intends to possess, use, acquire, purchase, transfer or dispose of explosive materials, unless exempted under Section 1005, 2000 or 3000 of the Act, shall make application on forms provided by the Department. The application must be executed under penalties of perjury and accompanied by the required non-refundable fee.

(Source: Added at 37 Ill. Reg. _____, effective _____)

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Section 200.98 Qualifications for Licensure

- a) The Department will issue a license to an applicant who:
- 1) is at least 21 years of age;
 - 2) has not been convicted in any court of a crime punishable by imprisonment for a term exceeding one year;
 - 3) is not under indictment for a crime punishable by imprisonment for a term exceeding one year;
 - 4) is not a fugitive from justice;
 - 5) is not an unlawful user of or addicted to any controlled substance (as defined in Section 802 of the federal Controlled Substances Act) (21 USC 802);
 - 6) has not been adjudicated a mental defective;
 - 7) is a legal citizen of the United States; and
 - 8) has not been dishonorably discharged from the armed services.
- b) A person who has been granted a "relief from disabilities" regarding criminal convictions and indictments, pursuant to 18 USC 40.845, may receive a license provided all other qualifications under the Act are met.

(Source: Added at 37 Ill. Reg. _____, effective _____)

Section 200.100 Application for Original Licensure (Repealed)

~~Any person who intends to possess, use, purchase or transfer explosive materials, unless exempted under Section 1004 of the Act, shall make application on forms provided by the Department. The application must be executed under penalties of perjury and accompanied by the required fee.~~

(Source: Repealed at 37 Ill. Reg. _____, effective _____)

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Section 200.101 Contents of Application

The application for original licensure shall include:

- a) The applicant's full name and any aliases used by the applicant.
- b) The applicant's age, sex and date of birth.
- c) A physical description of the applicant, which shall include height, weight, color of hair and color of eyes.
- d) The applicant's social security number and, if applicable, driver's license number.
- e) The applicant's resident address and telephone number.
- f) A description of the purposes for which and the places where explosive materials are to be possessed or used.
- g) If explosive materials are to be possessed and used in connection with a business, the name of the business, the form of organization of the business, the applicant's relationship to the business and the address or addresses, and telephone number, of any offices in this State out of which the business operates.
- h) A recent passport size photograph taken within the preceding 3 years.
- i) A personal history statement containing information required under Section 2005 of the Act.
- j) A statement that the applicant is a legal citizen of the United States.
- k) Any other information the Department deems appropriate.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 200.102 Fingerprint Cards and Fingerprint-Based Data

An applicant for original licensure, except for an applicant who has previously submitted fingerprint fingerprint-based data to the Department, shall submit with the application

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fingerprint-based data, or other state of the art criminal identification data or ~~two (2)~~ sets of fingerprint cards on forms specified by the Department. The fingerprint cards shall be accompanied by the required non-refundable fee.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 200.103 Written Examination

- a) The written examination shall encompass but is not limited to the following subject matter:
- 1) Legal requirements for, and restrictions on, the possession, use, purchase, transfer, storage and disposal of explosive materials in Illinois.
 - 2) Safety principles in the transport, storage, handling and usage of explosive materials (as set forth in "Safety Library Publication No. 4", June 1987 edition of the Institute of Makers of Explosives.
- b) The passing grade shall be at least 80%.
- c) An applicant who fails the first examination may be rescheduled at any time for re-examination. After the second and each subsequent failure, the application is ineligible for further examination until the expiration of at least 60 days from the previous examination.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 200.104 Incomplete Application

If the application does not contain all of the information or documents required under Section 200.101 for evaluation of the application, or if the fingerprint cards or criminal history background check data as originally submitted cannot be processed, the Department shall notify the applicant in writing. The notification shall specify the additional information or documents necessary to an evaluation of the application, or state that substitute fingerprint cards must be submitted, as the case may be, and shall advise the applicant that the application will be deemed denied unless the information, documents or fingerprint-based data ~~fingerprints~~ are submitted within 60 days following the date of notification.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

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Section 200.105 Denial of Application

If the applicant fails to qualify for an original license by reason of age, or if the applicant fails to pass the examination within one year ~~after~~ of the date of application, or if the applicant fails to make complete application in accordance with Section 200.104 of this Part, or if the applicant fails to pass the criminal history background check, or if the applicant fails to meet any of the qualifications for licensure under Section 200.98, the Department ~~will~~ shall deny the application and notify the applicant in writing. The notice shall set forth the reasons for denial and instructions for making any reapplication.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 200.106 Refusal to Issue Individual Explosives License or Temporary Explosives License

If, after the Department's investigation of the application, the Department intends to refuse to issue a license, the Department shall notify the applicant in writing of the grounds upon which ~~the~~ such intended refusal is based and of the applicant's right to a hearing pursuant to Section ~~200.1000~~ 200.900 of this Part.

- a) The grounds for refusal to issue an individual explosives license or temporary explosives license or to renew an individual explosives license include, but are not limited to, the following:
- 1) Possession, use, acquisition, transfer, handling, disposal or storage of explosive materials in a manner that endangers the public health, safety or welfare. In making this determination, the Department will consider information in aggravation or mitigation of the occurrence, including, but not necessarily limited to, security precautions utilized, whether commonly accepted industry safety standards were followed, and whether the occurrence was due to conditions beyond the control of the licensee, such as a natural disaster, product defect or sabotage;
 - 2) Refusal to produce records or reports or permit any inspection lawfully requested by the Department;
 - 3) Failure to make, keep or submit any record or report required by the Act or this Part, or making, keeping or submitting a false record or report.

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b) Whenever the Department intends to refuse to issue an individual explosives license or a temporary explosives license, it shall give written notice to the applicant personally or by certified mail sent to the applicant's last known address. The notice shall include:

- 1) The specific grounds upon which the Department's refusal to issue the explosives license or temporary explosives license is based;
- 2) A statement that the applicant may request a hearing to contest the Department's intended action by filing a written request for hearing within 30 days after the date the Department's notice is mailed.

A) All requests for hearing shall be mailed or delivered to:

Illinois Department of Natural Resources
Office of Mines and Minerals
One Natural Resources Way
Springfield IL 62702-1271

B) Requests for hearing must be filed in accordance with Section 200.930(d)(3).

C) Filing of the request for hearing shall be deemed complete upon its receipt by the Department, as evidenced by the date upon which the Department's mail receipt stamp appears on the request for hearing;

- 3) A statement that the applicant's failure to make a written request for hearing in accordance with Section 200.930(d)(4) within 30 days after the Department's notice is mailed will constitute a waiver of the applicant's rights to contest that action and will result in the entry of a final administrative decision affirming the Department's refusal to issue the explosives license or temporary explosives license, which shall be conclusively presumed to be correct.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

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- a) ~~An explosives~~A license issued pursuant to this Subpart is valid for 3 years from the date of issuance.
- b) The holder of an explosives license may renew ~~that~~such license during the 60 day period preceding ~~its~~the expiration date ~~thereof~~ by submitting a renewal application on forms provided by the Department, together with the required fee (see Subpart D).
- c) Any explosives license ~~which is not~~ renewed within 30 days following its expiration will be cancelled. Any requests after that date to renew or restore will be treated as a new application.
- d) The extended renewal period under subsection (c) ~~above~~ does not allow an explosives licensee to engage in any conduct or activities for which a license is required during the 30 day period after the license has expired.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 200.108 Temporary Explosives License

- a) Any person not a resident of Illinois who intends to possess, use, purchase, acquire or transfer explosive materials in Illinois on a limited basis may make application on forms provided by the Department for a temporary explosives license. The application must be executed under penalties of perjury and accompanied by the required, non-refundable fee (see Subpart D).
- b) The application for temporary explosives licensure shall include the same information required for an original explosives license under Section 200.101 ~~of this Part~~ and in addition shall include:
 - 1) Evidence of a valid existing ~~explosives~~explosive license or storage permit issued by ~~ATF the Bureau of Alcohol, Tobacco and Firearms, U.S. Department of the Treasury, if the~~such federal license ~~is to be~~ of a classification appropriate to the activities to be conducted under the temporary explosives license.
 - 2) A complete description of the activities requiring the acquisition, storage use, ~~purchase or~~ transfer or disposal of explosive materials in Illinois,

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including the location and length of the project or activity.

3) A current and valid storage certificate, if applicable to the activity, issued under Subpart C of this Part.

c) A temporary explosives license issued pursuant to this Section shall entitle the holder to engage only in those activities for which the explosives license was issued and shall be valid only until the activities are completed, but in any event, no more than 3 months from the date of issuance.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

SUBPART C: STORAGE CERTIFICATE APPLICATION

Section 200.200 Application for Original Storage Certificate

Any person who intends to store explosive materials, or seeks a modification of a storage certificate, shall make application on forms provided by the Department. The application must be executed under penalties of perjury.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 200.201 Contents of Application

The application for an original storage certificate shall include:

- a) The full name and the business and residence addresses and telephone numbers of the person making the application.
- b) The full name and the business and residence addresses and telephone numbers of the ~~person having responsibility for the~~ magazine (~~the magazine~~ keeper), if different from the applicant.
- c) The location or proposed location of the magazine, including the township, section, range, global positioning satellite coordinates, county and, if the magazine is located in an unincorporated area, the name and distance from the nearest municipality.
- d) The kind and maximum quantity of explosive materials intended to be stored in

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the magazine at any one time.

- e) The distance or intended distance of the magazine from the nearest magazine building, railroad or highway, and whether the magazine is barricaded.
- f) A description of the purposes for which explosive materials are intended to be stored.
- g) The full names and explosive license numbers of all persons who will have access to and handle explosive materials, or a statement of the reasons for which an exemption from the individual license requirements is claimed under Section 1004 of the Act.

h) Any additional information the Department may require.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 200.205 Refusal to Issue

If, after the Department's investigation of the application, the Department intends to refuse to issue a storage certificate, the Department shall notify the applicant in writing of the grounds upon which ~~the~~^{such} intended refusal is based, and of the applicant's right to a hearing pursuant to Section ~~200.930(d)(3)200.900~~ ~~of this Part.~~

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 200.206 Renewal

A storage certificate issued under this Subpart shall expire on the last day of February of each year. The holder of a storage certificate may renew the certificate by submitting a renewal application on forms provided by the Department, together with the required fee (see Subpart D). The renewal application and fee shall be delivered to the Department prior to at the time of the annual inspection of the magazine during the 6 month period immediately preceding the expiration date of the storage certificate.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

SUBPART D: FEES

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Section 200.300 Fees

The following fees shall be paid to the Department for administration of the Act and are non-refundable.

- a) The fee for an application and to receive an explosives license is ~~\$100~~\$75.00 (plus the amount required under contract with the ~~Illinois Department of State Police~~ for processing and/or reprocessing the fingerprints).
- b) The fee for re-examination of an applicant is ~~\$50~~\$25.00.
- c) The renewal fee for an explosives license is ~~\$100~~\$75.00.
- d) The fee for a temporary explosives license is ~~\$150~~\$75.00.
- e) Except as provided in subsections (f) and (g) ~~below~~ pertaining to Type 5 magazine storage sites and detonatorseap magazines, the fee for an application and to receive a storage certificate is as follows:

Quantity of Explosive Materials	Fee
1 - 50 lbs	\$25
51 - 1,000 lbs	\$100 <u>\$50</u>
1,001 - 50,000 lbs	\$150 <u>\$100</u>
50,001 - 300,000 lbs	\$300 <u>\$200</u>

- f) The fee for an application and to receive a storage certificate for a Type 5 magazine storage site is as follows:

Quantity of Explosive Materials	Fee
1 - 50,000 lbs	\$150 <u>\$100</u>
50,001 - 300,000 lbs	\$300 <u>\$200</u>

- g) The fee for an application and to receive a storage certificate for the storage of blasting detonatorseaps is as follows:

Number of <u>DetonatorsCaps</u>	Fee
1 - 1,000	\$50 <u>\$25</u>
1,001 - 50,000	\$150 <u>\$100</u>

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over 50,000

\$~~300~~²⁰⁰

- h) The renewal fee for a storage certificate is the same as for an original certificate.
- i) The fee for a replacement explosives license, temporary explosives license or storage certificate (lost, stolen, destroyed) is ~~\$50~~^{25.00}.
- j) The fee for a duplicate original license or storage certificate (worn or damaged) is ~~\$25.00~~
- k) The fee for a modified storage certificate is \$25.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 200.301 Proration of Fees

An original storage certificate applied for and received during the 6 month renewal period ending the last day of February ~~28~~ shall be issued for the balance of the renewal period and the following full year, and the fee shall be calculated at 1½ times the fee specified in Section 200.300(e), (f) and (g) of this Part.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 200.302 Fee Exemption~~Waiver of Fees~~ – Government Agencies

Fees assessed in connection with explosives licenses, temporary explosives licenses and storage certificates will be waived for agencies of the federal government and the State of Illinois and its political and civil subdivisions if the storage, acquisition, possession, use, transfer or disposal of explosive material is for emergency response functions. ~~Fees will also be waived for officers and employees of such agencies if the agency submits a letter on its letterhead setting forth that the license or storage certificate is required in the discharge of the officer's or employee's duties.~~

(Source: Amended at 37 Ill. Reg. _____, effective _____)

SUBPART E: CLASSIFICATION OF MAGAZINES AND
GENERAL STORAGE REQUIREMENTS**Section 200.400 General Storage Requirements**

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- a) All explosive materials shall be stored in magazines ~~that~~which meet the requirements of this Subpart, unless they are:
- 1) In process of manufacture.
 - 2) Being used.
 - 3) Being loaded or unloaded into or from transportation vehicles or while in the course of transportation.
- b) When blasting agents are stored in the same magazine with explosives, the magazine shall be suitable for storage of high explosives.
- c) Detonators such as blasting caps, electric blasting caps, electronic or non-electric delay devices shall not be stored in the same magazine with other explosive materials.
- d) Explosive materials ~~that~~which are classified as high explosives, including display fireworks in USDOT Class 1, Division 1.1, shall be stored in Type 1 or 2~~Types 1, 2, or 3~~ magazines. Explosive materials ~~which are~~ classified as low explosives, including display fireworks in USDOT Class 1, Divisions 1.2 and 1.3, may be stored in Type~~Types~~ 1, 2, ~~3,~~ or 4 magazines. Explosive materials ~~which are~~ classified as blasting agents~~Blasting Agents~~ may be stored in Type~~Types~~ 1, 2, ~~3,~~ 4, or 5 magazines.
- e) Detonators shall be stored in Type 1 or 2~~Types 1, 2, or 3~~ magazines, except that electric blasting caps having leg wires at least four feet long (provided they are in the configuration ~~as~~ supplied by the manufacturer) may be stored in a Type 4 magazine.
- f) Detonating cord shall be stored in either a Type 1 or 2~~Type 1, 2, or 3~~ magazine and may be stored in these same type magazines with other explosive materials, except detonators.
- g) Explosive materials, including detonators, may be temporarily stored in a Type 3 magazine while the explosive materials are being transported or while attended.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

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Section 200.401 Classification of Magazines

- a) Type 1 Magazine. A permanent magazine for the storage of high explosives. Type 1 magazines are bullet resistant, fire resistant, theft resistant, and weather resistant.
- b) Type 2 Magazine. A portable or mobile magazine for outdoor or indoor storage of high explosives. Type 2 magazines are bullet resistant, fire resistant, theft resistant, and weather resistant.
- c) Type 3 Magazine. A portable magazine for the temporary storage of explosive materials while attended. An example is a "day box" at the site for blasting operations. Type 3 magazines are fire resistant, theft resistant, and weather resistant. A storage certificate is not required for a Type 3 magazine.
- d) Type 4 Magazine. A permanent, portable or mobile magazine for outdoor or indoor storage of low explosives. Type 4 magazines are fire resistant, theft resistant and weather resistant.
- e) Type 5 Magazine. A permanent, portable or mobile magazine for the storage of blasting agents. Type 5 magazines include tanks, tank trailers, tank trucks, semi-trailers, bulk mix trailers, bulk mix trucks and bins. Type 5 magazines are theft resistant, and outdoor Type 5 magazines are also weather resistant.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 200.402 Location of Magazines – Distances and Quantity

- a) All outdoor magazines except Type 3 shall be located as provided in the American Table of Distances (~~located in~~ Appendix A ~~of this Part~~) for magazines containing any amount of high explosives and the Table of Separation Distances for Low Explosives (~~located in~~ Appendix B ~~of this Part~~) for magazines containing low explosives when determining minimum distances ~~to~~ inhabited buildings, passenger railways, ~~and~~ public highways and other magazines.
- b) Separation Distances in the American Table of Distances, the Table of Separation Distances for Low Explosives and the ~~Table~~ of Separation Distances of Ammonium Nitrate and Blasting Agents from Explosives or Blasting Agents (Appendix C) shall be used in determining minimum separation of storage

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facilities for explosives, blasting agents, and ammonium nitrate. The American Table of Distances and the Table of Separation Distances for Low Explosives should be used to determine safe distances from inhabited dwellings, highways, passenger railways, and between explosive materials magazines. The ~~Table~~ Table of Separation Distances of Ammonium Nitrate and Blasting Agents from Explosives or Blasting Agents should be used to determine non-propagation distances to ANFO blasting agents and to ammonium nitrate. The greater of the distances shown in the American Table of Distances or the Table of Separation Distances for Low Explosives, whichever is applicable, and in the ~~Table~~ Table of Separation Distances of Ammonium Nitrate and Blasting Agents from Explosives or Blasting Agents should be used to determine the required separation between a magazine for storage of explosives and a magazine for storage of blasting agents.

- c) The storage of explosive materials in indoor magazines shall not exceed 50 pounds in any building or facility. No indoor magazine shall be located in a residence or dwelling. Indoor magazines shall be located on a floor ~~that~~ which has an exit at or ramp to exterior grade level ~~and~~. ~~Indoor magazines~~ shall be located not more than 10 feet from ~~that~~ such an exit. These requirements shall be waived by the Department if it is determined an alternative location offers improved safety and security. Magazines ~~Two magazines~~ may be located in the same building or facility when ~~magazines~~ one is used for detonators ~~are limited to only, in quantities not in excess of 5,000 detonators;~~ are limited to only, in quantities not in excess of 5,000 detonators; and when a distance of 10 feet is maintained between any detonator and explosive storage magazines. All indoor magazines must be on casters or wheels to facilitate removal from a building in an emergency. The local fire department shall be notified of the location of the magazines and of any change in location.
- d) A Type 3 magazine is not subject to the American Table of Distances nor the Table of Separation Distances for Low Explosives, but shall be located as far away as practicable from neighboring inhabited buildings, railways, highways, and any other magazines.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

SUBPART F: MAGAZINE CONSTRUCTION STANDARDS

Section 200.500 Construction of Magazines

- a) *The Director may authorize alternate construction for explosives storage*

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magazines when it is shown that the alternate magazine construction is substantially equivalent to the standards of safety and security contained in this subpart. Any person intending to use alternate magazine construction shall submit a letter of application to the Director, specifically describing the proposed magazine. Explosive materials may not be stored in alternate magazines before the applicant has been notified that the application has been approved. (Section 5013(b) of the Act)(Ill. Rev. Stat. 1991, ch. 96½, pars. 1-5013(b))

- b) Magazines constructed according to the following minimum specifications are approved as bullet-resistant as defined by Section 200.11 ~~of this Part~~ (all steel and wood dimensions are actual thickness; all concrete block and brick dimensions are nominal thicknesses):
- 1) Exterior of steel:
 - A) 5/8 inch steel with an interior lining of any type of non-sparking material.
 - B) 1/2 inch steel with an interior lining of not less than 3/8 inch plywood.
 - C) 3/8 inch steel with an interior lining of:
 - i) 2 inches of hardwood, or
 - ii) 3 inches of softwood, or
 - iii) 2¼ inches of plywood.
 - D) 1/4- inch steel with an interior lining of:
 - i) 2 inches of hardwood, or
 - ii) 5 inches of softwood, or
 - iii) 5¼ inches of plywood, or
 - iv) 1½ inches of plywood with an intermediate layer of 2 inches of hardwood.

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- E) 3/16- inch steel with an interior lining of:
- i) 4 inches of hardwood, or
 - ii) 7 inches of softwood, or
 - iii) 6³/₄ inches of plywood, or
 - iv) 3/4 inches of plywood with an intermediate layer of 3 inches of hardwood.
- F) 1/8- inch of steel with an interior lining of:
- i) 5 inches of hardwood, or
 - ii) 9 inches of softwood, or
 - iii) 3/4 inches of plywood with an intermediate layer of 4 inches of hardwood, or
 - iv) 3/4 inches of plywood with a first intermediate layer of 3/4 - inch plywood and a second intermediate layer of 3- 5/8 inches of well-tamped dry sand or sand and cement mixture.
- 2) Exterior of any type of fire-resistant material ~~that~~^{which} is structurally sound with:
- A) An interior lining of 1/2- inch plywood placed securely against an intermediate layer of:
- i) 4 inches solid concrete block, or
 - ii) 4 inches solid brick, or
 - iii) 4 inches solid concrete.
- B) An interior lining of 3/4 inches of plywood and a first intermediate

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- layer of $\frac{3}{4}$ - inch plywood, a second intermediate layer of $3\text{-}\frac{5}{8}$ - inch well-tamped dry sand or sand and cement mixture, a third intermediate layer of $\frac{3}{4}$ - inch plywood, and a four intermediate layer of 2 inches of hardwood or 14-gauge steel.
- C) An intermediate 6 inch space filled with well-tamped dry sand or well-tamped sand and cement mixture.
- 3) Masonry construction of:
- A) Standard 8- inch concrete block with voids filled with well-tamped dry sand or well-tamped sand and cement mixture, or
- B) Standard 8- inch solid brick, or
- C) 8- inch thick solid concrete.
- c) The ground around a magazine shall be graded in such a manner that water will not drain into the magazine.
- d) Battery-activated safety lights or battery-activated safety lanterns may be used in explosives storage magazines. Upon request, electric lighting systems for magazines will be authorized by the Department if they meet the standards prescribed by the National Electrical Code, for the conditions present in the magazine at any time. All electrical switches must be located outside of the magazine and also meet the standards prescribed by the National Electrical Code.
- e) Type 1, 2, 3 or 4 magazines constructed with masonry walls or with any ferrous metal must have such interior surfaces covered with a non-sparking lattice, paint, mastic, or equivalent lining to prevent direct contact with stored explosive materials.
- f) In a Type 5 magazine, ferrous metal may be exposed on the interior of the magazine provided it cannot rupture the packages of explosive materials.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 200.501 Type 1 Magazine

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A Type I magazine shall be a permanent structure, such as a building or an igloo, that is bullet-resistant, fire-resistant, theft-resistant, weather-resistant, and ventilated.

- a) Walls:
The walls shall be constructed according to any of the specifications listed in Section 200.500 ~~of this Part~~.
- b) Doors:
The doors shall be constructed according to any of the specifications listed in Section 200.500 ~~of this Part~~.
- c) Roof:
The roof shall be constructed of any type of structurally sound materials ~~that~~ which are or have been made ~~fire resistant~~ fire-resistant on the exterior.
- d) Roof or Ceiling:
Where the natural terrain around a Type I magazine makes it possible to shoot a bullet through the ceiling or roof at such an angle that a bullet could strike the explosive materials stored in the magazine, then either the roof or ceiling shall be of bullet-resistant construction. A bullet-resistant roof shall be constructed according to any of the specifications listed in Section 200.500 ~~of this Part~~. A bullet-resistant ceiling may be constructed at the eave line, covering the entire area of the magazine except the space necessary for ventilation. Examples of ceiling construction that are considered ~~bullet resistant~~ bullet-resistant are:
 - 1) A sand tray having a depth of not less than 4 inches of sand.
 - 2) Any construction meeting specifications of Section 200.500 ~~of this Part~~.
- e) Foundation:
The foundation may be of masonry, wood, or metal and shall be completely enclosed except for openings to provide cross-ventilation. A wooden foundation enclosure shall be covered on the exterior with a fire-resistant material.
- f) Floor:
The floor may be constructed of wood or other suitable materials. Floors constructed of materials that may cause sparks shall be covered with a surface of non-sparking materials or the packages of explosive materials shall be placed on pallets of non-sparking materials.

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- g) ~~Ventilation-~~
Ventilation shall be provided to prevent dampness and heating of stored explosive materials. Ventilating openings shall be screened to prevent the entrance of sparks. Ventilation openings in side walls and foundations shall be offset or shielded for bullet-resistant purposes. Magazines having foundation and roof ventilators with the air circulating between the side walls and the floors and between the side walls and the ceiling shall have a wooden lattice lining or equivalent to prevent the packages of explosive materials from being stacked against the side walls and blocking the air circulation.
- h) ~~Locks-~~
Each door shall be equipped with two mortise locks; or with two padlocks fastened in separate hasps and staples; or with a combination of a mortise lock and a padlock; or with a three point lock, or equivalent type of lock that secures a door to the frame at more than one point. Padlocks shall be steel having at least five tumblers and at least $\frac{3}{8}$ inch diameter case-hardened shackle. All padlocks shall be protected by $\frac{1}{4}$ inch steel hoods that are installed in such a manner as to discourage insertion of bolt cutters, saws, files, or levering devices. Doors that are secured by at least two substantial internal bolts or bars do not require additional locking devices. Hinges and hasps shall be of substantial theft-resistant construction and all locking hardware shall be rigidly secured and fastened by welding or through bolts ~~that~~which cannot be removed when the door is locked.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 200.502 Type 2 Magazine

A Type 2 magazine shall be a portable or mobile structure, such as a box, skid-magazine, trailer or semi-trailer, that is ~~bullet resistant~~bullet-resistant, ~~fire resistant~~fire-resistant, ~~theft resistant~~theft-resistant, ~~weather resistant~~weather-resistant, and ventilated, except that Type 2 indoor magazines need not be bullet or ~~weather resistant~~weather-resistant or ventilated. Any construction specified for a Type 1 magazine is acceptable for a Type 2 magazine.

- a) Type 2 Outdoor Magazines. Outdoor magazines shall be constructed according to the following specifications or to any of the specifications listed in Section 200.500 ~~of this Part~~.
- 1) The exterior and doors shall be constructed of not less than $\frac{1}{4}$ inch ~~$\frac{1}{4}$ inch~~

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steel and lined with at least two inches of hardwood. Magazines with top openings shall have lids with water-resistant seals or ~~that~~~~which~~ overlap the sides by at least one inch when in a closed position.

- 2) Floors covered of ferrous metal shall be covered with a surface of non-sparking material. Magazines with top openings shall have a lid that overlaps the sides by at least one inch when in closed position.
- 3) The magazine shall be supported in such a manner as to prevent the floor from having direct contact with the ground. Magazines less than one cubic yard in size shall be securely fastened to a fixed object to prevent theft of the entire magazine.
- 4) Hinges, hasps, locks, and locking hardware shall conform to the provisions for Type 1 magazines as specified in Section 200.501(h) ~~of this Part~~. When unattended, a vehicular magazine shall have wheels removed, or be locked with a kingpin locking device, or otherwise be effectively immobilized.

b) Type 2 Indoor Magazine

- 1) Type 2 indoor magazines constructed of wood shall have sides, bottoms, and lids or doors constructed of two ~~-~~inch wood and shall be well braced at corners. The magazines shall be covered with sheet metal of not less than 26-gauge. Nails exposed to the interior ~~of~~ such magazines shall be countersunk.
- 2) Type 2 indoor magazines constructed of metal shall have sides, bottoms ~~and~~, the lids or doors constructed of 12-gauge metal and shall be lined inside with a non-sparking material. Edges of metal lids shall overlap sides at least one inch.
- 3) Type 2 indoor magazines shall be provided with substantial wheels or casters to facilitate removal from a building in an emergency. The lid of ~~thesuch~~ magazines shall have substantial strap hinges and a means for locking with at least a five tumbler steel padlock having at least a $\frac{3}{8}$ inch diameter case-hardened shackle. The magazines shall be kept locked except during the placement or removal of explosive materials.

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- 4) Type 2 indoor magazines shall ~~be painted red and shall~~ bear contrasting lettering in white, on top, at least three inches high, reading "Explosives – Keep Fire Away-" or a similar warning.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 200.504 Type 4 Magazine

A Type 4 magazine shall be a permanent, portable, or mobile structure such as a building, igloo, box, semi-trailer or other mobile containers that is fire resistant~~fire-resistant~~, weather resistant~~weather-resistant~~, and ventilated, except that over-the-road trucks or semi-trailers used for temporary storage need not be ventilated or fire resistant~~fire-resistant~~.

- a) Type 4 Outdoor Magazine.
A Type 4 outdoor magazine shall be constructed of masonry, wood covered with metal, fabricated metal or a combination of these materials. Inside walls shall be constructed of non-sparking materials. The door shall be metal or wood covered with metal. The requirements of Section 200.501(e), (f) and (h) ~~of this Part~~ pertaining to foundations, floors, hinges, hardware and locks shall apply to permanent Type 4 outdoor magazines.
- b) Type 4 Indoor Magazine.
A Type 4 indoor magazines shall be constructed in accordance with the provisions for a Type 2 indoor magazine set forth in Section 200.502 ~~of this Part~~.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 200.505 Type 5 Magazine

A Type 5 magazine shall be a permanent, portable, or mobile structure, such as a building, igloo, box, bin, tank, semi-trailer, bulk trailer, tank trailer, bulk truck, tank truck or other mobile container, that is fire resistant~~fire-resistant~~, theft resistant~~theft-resistant~~, weather resistant~~weather-resistant~~, and ventilated, except that over-the-road trucks or semi-trailers used for temporary storage need not be fire resistant~~fire-resistant~~ or ventilated and indoor magazines need not be weather resistant~~weather-resistant~~ or ventilated. Interior of Type 5 magazines need not be covered with non-sparking material.

- a) Each door of a Type 5 magazine shall be locked with at least one steel case five-tumbler padlock having at least a $\frac{3}{8}$ inch diameter case-hardened shackle. A hood

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for the padlock is not required. Hinges and hasps shall be of substantial theft-resistant construction and all locking hardware shall be rigidly secured and fastened by welding or through bolts ~~that~~which cannot be removed when the door is locked.

- b) When unattended, a vehicular magazine shall have wheels removed, or be locked with a kingpin locking device, or otherwise be effectively immobilized.
- c) Where mobile or portable Type 5 magazines are permissible and used, "magazine", for the purpose of obtaining certificates and calculating fees, means the site on which the magazines are located. (Section 1003 of the Act)

(Source: Amended at 37 Ill. Reg. _____, effective _____)

SUBPART G: MAGAZINE OPERATIONS AND MAINTENANCE

Section 200.600 Magazine Keeper

- a) Magazines shall, at all times, be in the charge of a competent person, known as the ~~magazine keeper~~Magazine Keeper, who shall be at least 21 years of age, possess a valid Illinois explosives license, unless exempted under Section 2000 of the Act, and ~~is~~who shall be conversant with and will be responsible for the enforcement of all safety and security precautions. The current business and residence addresses and telephone numbers of the ~~magazine keeper~~Magazine Keeper shall be on file with the Department at all times.
- b) The ~~magazine keeper~~Magazine Keeper is responsible for seeing that the magazine is operated and maintained in accordance with this Part and that all reports and records are made and kept in accordance with Subpart I ~~of this Part~~. The holder of the certificate may designate additional magazine keepers~~some other individual meeting the requirements of (a) above as being responsible for the required reports and records, by notifying the Department of the business and residence addresses and telephone numbers of that designated responsible individual.~~

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 200.602 Safety Precautions – General

- a) Safety Rules-

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Safety rules (available from the Department) covering the operations of magazines shall be posted on the interior of the magazine door.

- b) ~~Warning Signs-~~
The premises upon which all outdoor magazines are located shall be posted with signs reading "Explosives – Keep Off"; or "Explosives – Magazine – Dangerous" or ~~bearing~~ other similar words of warning. Signs shall be located so that a bullet passing directly through the sign cannot strike the magazine.
- c) ~~Combustible, Sparking Materials, Equipment-~~
Magazines shall be used exclusively for the storage of explosive materials and blasting accessories. No metal tools other than nonferrous conveying equipment may be stored in the magazine unless protected by a non-sparking paint. Combustible materials shall not be stored within 50 feet of magazines.
- d) ~~Smoking, ~~Flames~~flames-~~
Smoking, matches, open flames, spark-producing devices, and firearms shall not be permitted inside of or within 50 feet of magazines, except that authorized persons may carry firearms within 50 feet of, but not inside, a magazine.
- e) ~~Unstable, Leaking Materials-~~
When explosive materials have deteriorated to an extent that they are in an unstable or dangerous condition, or any liquid leaks from any explosive material, then the person in possession of ~~thesueh~~ explosive material shall immediately proceed to deal with ~~thesueh~~ explosive material in accordance with the instructions of the manufacturer. Only ~~authorized~~~~experienced~~ persons shall direct the work of destroying explosive materials.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 200.603 Safety Precautions – Handling and Storage

- a) ~~Use of Stocks-~~
When explosive material is removed from a magazine for use, the oldest stocks shall be removed first. Where the certificate holder has adopted a quality control program that does not necessarily involve the removal of the oldest stock first, but ~~thatwhich~~ complies with Section 200.602(e) ~~of this Subpart~~, the requirements of this subsection shall be deemed to be met.

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- b) ~~Like Stocks Together-~~
Corresponding grades and brands shall be stored in a magazine together and in such a manner that brand and grade marks are visible. All stocks shall be stored so as to be easily counted and checked.
- c) ~~Stacking-~~
Containers of explosive materials shall be stacked in a stable manner to prevent shifting or falling. Rigid containers of explosive materials shall be laid flat, and cases shall be placed with top side up.
- d) ~~Ventilation-~~
Explosive materials shall be stored within a magazine so as not to interfere with required ventilation.
- e) ~~Black Powder-~~
Black powder, when stored in the same magazine with other explosive material, shall be stacked separately.
- f) ~~Containers-~~
Containers of explosive materials thatwhich have been opened shall be securely closed before being placed in a magazine. Only fiberboard containers may be opened in the magazine.
- g) ~~Damaged Containers-~~
Containers of damaged explosive materials shall not be unpacked or repacked in, or within 50 feet of, a magazine or in close proximity to other explosive materials.
- h) ~~Non-Sparking Tools-~~
Tools used for opening containers of explosive materials shall be constructed of non-sparking material, except that metal slitters may be used for opening fiberboard containers, provided that the metal slitter does not come into contact with any metallic fasteners thatwhich may be in or part of the case. Only a wooden wedge and a fiber, rubber, or wooden mallet shall be used for opening or closing wood containers of explosive materials.
- i) ~~Stained Floors-~~
Magazine floors stained with liquid shall be dealt with according to instructions of the manufacturer.

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(Source: Amended at 37 Ill. Reg. _____, effective _____)

SUBPART H: TYPE 3 MAGAZINES AND VEHICLES AT BLAST AREAS

Section 200.700 Requirements for Type 3 Magazines

- a) Type 3 magazines are intended only for the temporary storage of explosive materials and are authorized for storage only during transport to and use at the blast area. A storage certificate is not required for a Type 3 magazine.
- b) Type 3 magazines containing explosive materials must be attended at all times. For the purposes of this subsectionparagraph, "attended at all times" means that the magazine must at all times be within the line of sight of, and visible to a member of the work or blasting crew authorized to enter the magazine.
- c) Type 3 magazines must be locked during transport to and from the permanent magazine and blast area except during continuous drilling and loading at the site. The requirements that Type 3 magazines be locked as specified in this subsectionparagraph are in addition to the requirements that Type 3 magazines be attended at all times.
- d) Daily, at the conclusion of blasting operations, a all explosive materials shall be returned to a Type 1, 2, 4 or 5 magazine, a as appropriate, a for unattended storage.
- e) Type 3 magazines and blast areas shall be posted with warning signs in accordance with Section 200.602(b) of this Part.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 200.701 On-Site Vehicles; Warning Signs

- a) Every vehicle carrying explosive materials on mine, quarry, construction or other blast areas shall have the word "Explosiveexplosive" painted on or attached to all 4 sides of the vehicle ~~in white letters at least 8 inches in height against a red background.~~
- b) The requirements of subsection (a) ~~above~~ do not apply to any vehicle placarded in accordance with the Hazardous Materials Emergency Act [430 ILCS 50]"AN ACT to require labeling of equipment and facilities for the use, transportation,

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~~storage and manufacture of hazardous materials and to provide for a uniform response system to hazardous materials emergencies", as amended (Ill. Rev. Stat. 1987, ch. 127, pars. 1251 et. seq.).~~

- c) No individual shall approach, ride upon, drive, load or unload a vehicle carrying explosive material carelessly, recklessly or while smoking or under the influence of intoxicating liquor or narcotic drug.
- d) No individual shall place or carry, or cause to be placed or carried, in or upon a vehicle containing explosive material any metal tool, piece of metal, fire, or any match, exploder, detonator, blasting cap or other device for producing spark, flame or heat, except tools for the operation and repair of the vehicle and tools normally used for preparation of explosive materials for blasting.
- e) No passengers, other than authorized helpers, shall be carried in or upon a vehicle containing an explosive material.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

SUBPART I: RECORDKEEPING AND REPORTING

Section 200.800 Possession of License

- a) Licenses issued under Subpart B ~~of this Part~~ must be carried on the person at all times when the ~~original~~-licensee is purchasing, acquiring, possessing, using, ~~disposing of, or~~ transferring or otherwise handling explosive materials.
- b) Upon request, licensees must present their license to Department or law enforcement personnel, as required by the Department.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 200.802 Report of Lost, Stolen or Destroyed Explosives License, Temporary Explosives License or Storage Certificate

- a) Upon discovery that ~~an explosives~~ license, a temporary explosives license or storage certificate has been lost, stolen or destroyed, the holder must notify the Department immediately by phone within 5 business days.

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- b) ~~Written~~The ~~written~~ notice shall be sent to the Department within 5 days after the phone notification, shall be executed under penalties of perjury, and shall include a description of the time, location and circumstances surrounding the loss, theft or destruction of the license or certificate.
- c) Upon receipt of the notice, the Department will cancel the license or storage certificate, and, upon payment of the required fee (see Subpart D), will issue a new original license or storage certificate with a newly assigned license or certificate number.
- d) At any time a lost or stolen certificate is found or recovered, it must be returned to the Department.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 200.803 Worn or Damaged License or Storage Certificate

At any time an explosives license, a temporary explosives license ~~a license~~ or ~~storage~~ a storage certificate becomes worn or damaged to the extent that it is illegible in any respect, it must be returned to the Department. Upon receipt of the original license or storage certificate, and the required fee (see Subpart D), the Department will issue a duplicate original.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 200.804 Report of Changed Conditions; Cancellation or Modification of Storage Certificate

- a) The holder of a ~~certificate of~~ storage certificate shall notify the Department of any changed condition affecting the ~~certificate of~~ storage certificate. Changed conditions include, but are not limited to, the relocation of a magazine, the construction of additional magazines, and the construction and/or opening of an inhabited building, highways or railways affecting the distance requirements set forth in Section 200.402.
- b) Notification shall be in writing, and can also be by electronic submission at DNRExplosives.gov or by telephone, and shall be made as soon as practicably possible after discovery of the changed condition, but in any event no later than 5 business days prior to the intended relocation or addition of magazines, or the scheduled habitation or public opening of buildings, highways and railways.

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- c) In circumstances in which the holder had no notice of a changed condition affecting the storage certificate ~~of storage~~, the holder shall contact the Department immediately by telephone at (217)782-9976 or by email at DNRExplosives.gov upon discovery of the changed condition.
- d) Upon notification, the Department will conduct an inspection and will cancel or modify the storage certificate ~~of storage~~ as appropriate. Modification may include, but is not limited to, relocation, reduction of the quantity of explosive materials ~~that~~which may be stored, and the requirement of a barricade.
- e) When the Department issues a modified storage certificate, the fee specified in Subpart D shall be assessed for each storage certificate requiring modification.
- f) The certificate holder shall be allowed to relocate an approved magazine within the same geographic site without payment of additional fees, provided the new location will allow storage of the same amount of explosives indicated on the existing certificate. The Department must be notified in advance of the relocation. The relocation of a magazine in this manner does not constitute a modification.
- g) Storage certificates issued under the Act are not transferable. In the event of the lease, sale or other transfer of the business or operations covered by the certificate, the new owner, tenant or successor in interest must obtain the storage certificate required by this Part before storing explosive materials. (Section 3002(d) of the Act)

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 200.805 Report of Theft or Loss of Explosive Materials and Accidents, Injuries or Incidents

- a) An explosives license holder, temporary explosives license holder or storage certificate holder shall immediately report to the Office of Mines and Minerals by telephone at (217)782-9976 or by email at DNRExplosives.gov and in writing within 24 hours after any accident, injury or incident involving explosive materials that results in death, personal injury requiring medical attention or property damage.

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- ~~ba)~~ An explosives licensee, temporary explosives licensee or storage~~A licensee or~~ certificate holder shall report the theft or loss of explosive materials to the Office of Mines and Minerals immediately by telephone at (217)782-9976 or by email at DNRExplosives.gov~~Department~~ within 24 hours ~~after~~~~of~~ discovery. The explosives licensee, temporary explosives licensee or storage certificate holder shall also immediately notify local law enforcement of the theft or loss of explosive materials by telephone and in writing.
- ~~c)b)~~ The written notice shall be executed under penalties of perjury ~~on forms provided by the Department~~ and shall include a complete description of the explosive materials, including the manufacturer, brand name, any manufacturer marking, and quantity, and the circumstances surrounding the theft or loss. The written notice shall also identify local law enforcement agencies contacted by the explosives licensee~~licensee~~ or storage certificate holder.
- ~~e)~~ The requirements of subsection (b) above shall be satisfied, for any person holding a license or permit issued by BATF, by filing with the Department a copy of written notification to BATF.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 200.806 Records of Transactions – Explosives Licensees, Temporary Explosives Licensees and Storage Certificate Holders

- a) The requirements of this Section shall not apply to any explosives licensee~~licensee~~ or storage certificate holder who is a holder of an explosives license, a temporary explosives~~a~~ license or permit issued by ATF~~BATF~~ and who satisfies the recordkeeping requirements for transactions of explosive materials prescribed by ATF, except that, in all cases, the information required under subsection (b)(2) shall be recorded. Unless otherwise exempted by the Act, it shall be unlawful to sell explosives to a person who does not possess a valid Illinois explosives license or storage certificate. The Department shall be allowed to inspect all ATF records. Failure to produce the records or failure to keep complete records may be cause for enforcement action under Subpart J ~~BATF~~.
- b) An explosives licensee, a temporary explosives licensee or a~~A licensee and~~ holder of a storage certificate shall maintain a record of each transaction in which explosive materials are sold, purchased or otherwise transferred. The record shall be made on a sales slip, delivery ticket, invoice, ATF~~BATF~~ transaction record

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form, or other document and shall include:

- 1) the name and address of the seller or person from whom the explosive materials were procured;
 - 2) the name, address and Illinois explosives license, temporary explosives license or storage certificate number (with expiration date), if applicable, of the purchaser or person to whom the explosive materials were delivered;
 - 3) the date of purchase or delivery; and
 - 4) the quantity and description of the explosive materials.
- e) ~~In the case of a licensee the transactions record shall be kept with the explosive materials and shall be produced by the licensee upon request.~~
- cd) Records of transactions for each explosives license, temporary explosives license or storage certificate shall be kept and maintained for a minimum of three years one year from the date of the transaction. The transaction records shall be produced by the licensee or certificate holder upon request by the Department.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 200.807 Daily Summary of Magazine Transactions

- a) A record of the daily ~~inventory transactions~~ shall be kept for each magazine other than a Type 3 magazine. The record shall contain, by manufacturer or brand name, the total quantity of explosive materials received in and removed from the magazine, and the total remaining on hand at the end of the day. Any discrepancy ~~that~~which indicates a theft or loss of explosive materials must be reported in accordance with Section 200.805 ~~of this Part.~~ The daily inventory records shall be kept for at least three years.
- b) The requirements of this Section shall not apply to a storage certificate holder who is a holder of a license or permit issued by ~~ATFBATF~~ and who satisfies the requirements for making daily summaries of magazine transactions prescribed by ~~ATFBATF~~, but ~~such~~ compliance will not relieve the holder from making any reports under Section 200.805 ~~of this Part.~~ The Department shall be allowed to

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inspect the inventory records. Failure to produce the records or failure to keep complete records may be cause for enforcement action under Subpart J.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 200.808 Transactions – Black Powder

- a) In lieu of the requirements of Sections 200.806 and 200.807 ~~of this Part~~, a holder of a storage certificate who engages in the sale of black powder in quantities not exceeding 5 pounds for sporting and recreational uses shall maintain a record of each transaction. The record shall be made in a book or ledger kept for that purpose and shall include:
- 1) the name, address and storage certificate number of the seller;
 - 2) the name and address of the purchaser;
 - 3) the Firearm ~~Owner's~~ **Owners** Identification (FOID) card number of the purchaser if the purchaser is a resident of Illinois, or other positive identification if the purchaser is a non-resident;
 - 4) the date of purchase; and
 - 5) the quantity of black powder transacted.
- b) Records of transactions shall be kept in chronological order and maintained for a minimum of ~~three years~~ **one year** from the date of the transaction at the storage site.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 200.809 Record of Annual Physical Magazine Inventory

- a) The holder of a storage certificate shall conduct and make a complete record of the physical inventory of explosive materials annually during the 6 month renewal period. If the inventory is conducted at the time of or prior to the annual inspection provided for in Section 200.206, the record shall be made available to the Department at the annual inspection. If the inventory is conducted after the annual inspection is completed, the holder shall submit a copy to the Department

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prior to the last day of February.

- b) In addition, the holder of a storage certificate ~~of storage~~ shall conduct and make a complete record of the physical inventory whenever the Department or holder has reason to believe, based on a personal observation, a review of records, or information received from other persons, that explosive materials may be lost or stolen from a magazine or otherwise unaccounted for, or that the amount or type of explosives being stored is not in compliance with the storage certificate. The holder of a certificate of storage shall also conduct and make a complete record of the physical inventory upon the request of the Department, based on the same beliefs. A special inventory conducted and recorded under this subsection satisfies the annual inventory requirement if it is conducted and recorded during the 6 month renewal period.
- c) The annual inventory requirements of subsection (a) ~~above~~ shall not apply to a storage certificate holder who is a holder of an explosives license, a temporary explosives license ~~a license~~ or storage permit issued by ATFBATF and who satisfies the annual and special inventory requirements prescribed by ATFBATF, but ~~such~~ compliance will not relieve the holder of a storage certificate from the obligation of conducting special inventories in accordance with subsection (b) ~~above~~. The Department shall be allowed to inspect the inventory records and failure to produce the records or failure to keep complete records may be cause for enforcement action under Subpart J.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 200.810 Inspections (Repealed)

~~Licenses and certificate holders shall make all required records available to authorized representatives of the Department and shall permit their facilities to be inspected at reasonable times and in a reasonable manner by representatives of the Department.~~

(Source: Repealed at 37 Ill. Reg. _____, effective _____)

Section 200.815 Monitoring and Reporting

Pursuant to Section 4003(a) of the Act, the Department shall require the licensee to maintain any records pertaining to the possession, use, purchase, transfer and storage of explosive materials as the Department may prescribe and shall furnish the Department or its authorized representatives

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those records or other relevant information legally requested by the Department or its representatives. Explosives licensees and storage certificate holders shall maintain their records and other relevant information at a safe and secure location that is not in the immediate area where the explosives are stored.

(Source: Added at 37 Ill. Reg. _____, effective _____)

SUBPART J: INSPECTION AND ENFORCEMENT
RULES OF PROCEDURE IN ADMINISTRATIVE HEARINGS

Section 200.900 Notice of Department's Intended Action; Contents and Services
(Repealed)

~~Whenever the Department intends to refuse to issue or renew a license or certificate, to suspend or revoke a license or certificate, or to assess administrative fines against a holder of a license or certificate, the Department shall give written notice to the applicant or holder personally or by certified mail sent to the applicant or holder's last known address. The notice shall include:~~

- ~~a) The specific grounds upon which the Department's intended action is based.~~
- ~~b) The action the Department intends to take, including the amount of any fine the Department intends to impose.~~
- ~~c) A statement that the applicant or holder may request a hearing to appeal the Department's intended action by filing a written request within 15 days after receipt of notice of such action.~~
- ~~d) A statement that the applicant or holder's failure to make a written request for a hearing within 15 days after receipt of the notice of the Department's intended action will constitute a waiver of the applicant or holder's rights to contest such action and will result in the entry of a final administrative decision affirming the relief set forth, which shall be conclusively presumed to be correct.~~

(Source: Repealed at 37 Ill. Reg. _____, effective _____)

Section 200.901 Request for Hearing on Department's Intended Action; Contents and Service
(Repealed)

~~The request for a hearing shall be in writing, shall admit or deny matters alleged by the~~

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~~Department, and may also include any related explanatory information. The request for hearing shall be delivered personally or by mail sent to the Department at the address indicated in the notice.~~

(Source: Repealed at 37 Ill. Reg. _____, effective _____)

Section 200.902 Notice of Hearing (Repealed)

~~Written notice setting forth the date, time, place, nature of the hearing and the name and address of the hearing officer shall be mailed to an applicant or holder making a timely written request for hearing at least 14 days prior to the scheduled hearing date.~~

(Source: Repealed at 37 Ill. Reg. _____, effective _____)

Section 200.903 Postponement or Continuance of Hearing (Repealed)

~~A hearing may be postponed or continued for due cause by the Hearing Officer upon his own motion or upon the motion of a party to the hearing. A motion filed by a party to the hearing shall set forth facts attesting that the request for continuance is not for the purpose of delay. Except in the case of an emergency, motions requesting postponement or continuance shall be made in writing and shall be received by all parties to the hearing at least 3 business days prior to the scheduled hearing date. All parties involved in a hearing shall avoid undue delay caused by repetitive postponements or continuances so that the subject matter of the hearing may be resolved expeditiously.~~

(Source: Repealed at 37 Ill. Reg. _____, effective _____)

Section 200.904 Hearing Officer; Powers and Duties (Repealed)

- a) ~~The Hearing Officer designated to preside over a hearing shall take all necessary action to avoid delay, to maintain order, and to develop a clear and complete record, and shall have all powers necessary and appropriate to conduct a fair hearing, including the following:~~
- ~~1) To administer oaths and affirmations;~~
 - ~~2) To receive relevant evidence;~~
 - ~~3) To regulate the course of the hearing and the conduct of the parties and~~

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~~their counsel therein;~~

- ~~4) To consider and rule upon procedural requests;~~
 - ~~5) To hold conferences for the settlement or simplification of the issues; and~~
 - ~~6) To examine witnesses and direct witnesses to testify, limit the number of times any witness may testify, limit repetitive or cumulative testimony and set reasonable limits on the amount of time each witness may testify.~~
- ~~b) All participants in the hearing shall have the right to be represented by counsel, or by some other authorized representative.~~
 - ~~e) The Hearing Officer shall allow all parties to present statements, testimony, evidence and argument as may be relevant to the proceeding.~~

(Source: Repealed at 37 Ill. Reg. _____, effective _____)

Section 200.905 Pre-Hearing Conferences (Repealed)

- ~~a) Upon his own motion or the motion of a party, the Hearing Officer shall direct the parties or their counsel to meet with him for a conference in order to:~~
 - ~~1) Simplify the factual and legal issues presented by the hearing request;~~
 - ~~2) Receive stipulations, admissions of fact and of the contents and authenticity of documents;~~
 - ~~3) Exchange lists of all witnesses the parties intend to have testify and copies of all documents the parties intend to introduce into evidence at the hearing; and~~
 - ~~4) Discuss and resolve such other matters as may tend to expedite the disposition of the hearing request and to assure a just conclusion thereof.~~
- ~~b) Pre-hearing conferences may be held by telephone conference if such procedure is acceptable to all of the parties.~~

(Source: Repealed at 37 Ill. Reg. _____, effective _____)

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Section 200.906 Burden and Standard of Proof (Repealed)

~~The Department shall have the burden of proof at the hearing. The standard for decision shall be a preponderance of the evidence.~~

(Source: Repealed at 37 Ill. Reg. _____, effective _____)

Section 200.907 Default (Repealed)

~~If a party, after proper service of notice, fails to appear at a pre-hearing conference or at a hearing, and if no continuance is granted, the Department may then proceed and make its decision in the absence of such party. If the failure to appear at such pre-hearing conference or hearing is due to emergency situation beyond the party's control, and the Department is notified of such situation on or before the scheduled pre-hearing conference or hearing date, the pre-hearing conference or hearing will be continued or postponed pursuant to Section 200.903. Emergency situations include sudden unavailability of counsel, sudden illness of a party or his representative, or similar situations beyond the party's control.~~

(Source: Repealed at 37 Ill. Reg. _____, effective _____)

Section 200.908 Evidence (Repealed)

- a) ~~Admissibility: A party shall be entitled to present his case or defense by oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts. Any oral or documentary evidence may be received but a presiding Hearing Officer shall exclude evidence which is irrelevant, immaterial or unduly repetitious. The rules of evidence and privileges applied in civil cases in the courts of the State of Illinois shall be followed; however, evidence not admissible under such rules of evidence may be admitted, except where precluded by statute, if it is of a type commonly relied upon by reasonable, prudent men in the conduct of their affairs. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced, a Hearing Officer shall allow evidence to be received in written form.~~
- b) ~~Official Notice: Official notice may be taken of any material fact not appearing in evidence in the record if the circuit courts of this State could take judicial notice of such fact. In addition, notice may be taken of generally recognized technical or~~

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~~scientific facts within the Department's specialized knowledge.~~

(Source: Repealed at 37 Ill. Reg. _____, effective _____)

Section 200.909 Briefs (Repealed)

~~The Hearing Officer may require or allow parties to submit written briefs to the Hearing Officer within ten (10) days after the close of the hearing or within such other time as the Hearing Officer shall determine as being consistent with the Department's responsibility for an expeditious decision.~~

(Source: Repealed at 37 Ill. Reg. _____, effective _____)

Section 200.910 Hearing Officer's Decision (Repealed)

- ~~a) At the conclusion of all hearings conducted under this Subpart, the Hearing Officer shall issue proposed findings of fact, conclusions of law and a recommended final administrative decision for submittal to the Director.~~
- ~~b) In issuing his findings, conclusions and recommendation, the Hearing Officer shall not be strictly bound by the actions or relief set forth in the original notice of the Department's intended action. Such findings, conclusions and recommendation may include remedies in addition to or different from those originally sought if they are supported by the evidence.~~
- ~~c) The provisions of subsection (b) above shall not apply when the findings, conclusions and recommendation are issued after the applicant or holder fails to request a hearing or fails to appear at a properly scheduled hearing. In such cases the Department shall be bound by the actions or relief set forth in the original notice of the Department's intended action.~~

(Source: Repealed at 37 Ill. Reg. _____, effective _____)

Section 200.911 Final Administrative Decision (Repealed)

- ~~a) The Director shall issue a final administrative decision within 30 days after receiving the hearing officer's proposed findings of fact, conclusions of law and recommended final administrative decision.~~

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- b) ~~In issuing his final administrative decision, the Director shall not be strictly bound by the actions or relief set forth in the original notice of the Department's intended action. Such final administrative decision may include remedies in addition to or different from those originally sought if they are supported by the evidence.~~
- e) ~~The provisions of subsection (b) above shall not apply when the final administrative decision is issued after the applicant or holder fails to request a hearing or fails to appear at a properly scheduled hearing. In such cases the Department shall be bound by the actions or relief set forth in the original notice of the Department's intended action.~~

(Source: Repealed at 37 Ill. Reg. _____, effective _____)

Section 200.912 Administrative Fines (Repealed)

- a) ~~Administrative fines shall only be assessed against license and certificate holders for acts or omissions that constitute violations of the Act and of this Part. Administrative fines shall not be assessed against any applicant or holder of a license or certificate based solely upon a failure to satisfy the requirements for the issuance of a license or storage certificate.~~
- b) ~~The Department shall determine whether or not to assess administrative fines against license or certificate holders based upon the following factors:~~
- ~~1) the license or certificate holder's history of previous violations;~~
 - ~~2) the seriousness of the violation;~~
 - ~~3) the degree of culpability of the license or certificate holder; and~~
 - ~~4) evidence of any additional conditions or factors in aggravation or mitigation of the violation.~~
- e) ~~All fines assessed by the Department shall be computed as follows:~~
- ~~1) Administrative violations, including, but not limited to, the failure to properly keep records, failure to make required inspections, and failure to submit required reports to the Department in a timely fashion shall result in the assessment of a fine of up to \$100 for the first offense, up to \$250~~

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~~for the second offense and up to \$500 for the third and any subsequent offenses. Notwithstanding these limitations, if the violation resulted in a threat of serious and immediate injury to persons or property, and the Department makes a finding to that effect, then the provisions of subsection (c)(3) below shall apply.~~

- ~~2) Violations of the requirements for the possession, handling, use, storage, and transfer of explosive materials not involving a threat of serious or immediate injury to persons or property, including, but not limited to, failure to properly maintain and repair magazines and their premises, failure to properly transport explosive materials and failure to take proper security and safety precautions in the handling and storage of explosive materials, shall result in the assessment of a fine of up to \$250 for the first offense, up to \$500 for the second offense, and up to \$1,000 for the third and any subsequent offenses.~~
- ~~3) Violations of the requirements for the possession, handling, use, storage and transfer of explosive materials which result in a threat of immediate and serious injury to persons or property shall result in an assessment of a fine of up to \$1,000 for the first offense and up to \$5,000 for the second and any subsequent offense.~~
- ~~d) For violations described in subsection (c)(3) above, an administrative fine shall not be the exclusive disposition of any disciplinary action for the second and any subsequent violation.~~

(Source: Repealed at 37 Ill. Reg. _____, effective _____)

Section 200.913 Immediate Suspension Without Notice of Hearing (Repealed)

- ~~a) Whenever the Department finds, based upon reasonable belief from on-site observation, record inspection by Department personnel, information received from law enforcement personnel or information received from the public, that a license or certificate holder's violation of the Act or this Part may cause death or serious injury, the Department shall issue an order immediately suspending the license or certificate.~~
- ~~b) The Department shall serve its order of immediate suspension of a license or certificate under this Section by personal service. Such order shall also be sent by~~

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~~certified mail to the license or certificate holder's last known address.~~

- e) ~~The Department shall serve with the order of immediate suspension a notice containing the information set forth in Section 200.900(a) through (d) of this Part. The notice will also inform the license or certificate holder that the failure to request a hearing in accordance with Section 200.900(e) of this Part shall result in the automatic issuance of a final administrative decision revoking the license or certificate.~~
- d) ~~Any occurrence of a violation described in Section 200.912(e)(3) of this Part constitutes grounds for the immediate suspension of a license or certificate. A second or subsequent occurrence of a violation described in Section 200.912(e)(3) of this Part requires the Department to immediately suspend a license or certificate.~~

(Source: Repealed at 37 Ill. Reg. _____, effective _____)

Section 200.914 Computation of Time (Repealed)

- a) ~~Except as otherwise provided, computation of time under this Subpart is based upon calendar days.~~
- b) ~~In computing any period of prescribed time, the day on which the designated period of time begins is not included. The last day of the period is included unless it is a Saturday, Sunday, or legal holiday on which the Department is not open for business, in which event the period runs until the end of the next day which is not a Saturday, Sunday, or legal holiday.~~
- e) ~~Intermediate Saturdays, Sundays, and legal holidays are excluded from the computation of time when the prescribed time period is 7 days or less.~~
- d) ~~A business day is any day the Department is open for business.~~

(Source: Repealed at 37 Ill. Reg. _____, effective _____)

Section 200.915 Inspections by the Department

- a) Explosives licensees, temporary explosives licensees and storage certificate holders shall make all required records available to authorized representatives of

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the Department and shall permit their facilities to be inspected by representatives of the Department.

- b) The Department shall conduct inspections of explosives facilities as follows:
- 1) Upon receipt of an original, renewal or modification storage certificate application; or
 - 2) At such other times and conditions as the Department deems appropriate. Inspections may be conducted randomly without prior notice.
- c) All Department employees shall inform the person or the person's designated representative, if either is present, upon arrival at the inspection site.

(Source: Added at 37 Ill. Reg. _____, effective _____)

Section 200.920 Enforcement Actions

- a) Pursuant to Sections 2011, 3002, 3004 and 5001 of the Act, the Department is authorized to take the following enforcement actions:
- 1) refuse to issue or renew an explosives license, a temporary explosives license or a storage certificate, as set forth in Subparts B and C;
 - 2) suspend or revoke an explosives license, a temporary explosives license or a storage certificate with notice of a hearing;
 - 3) summarily suspend or revoke an explosives license, a temporary explosives license or a storage certificate without notice of a hearing wherever the Department finds that a condition or practice exists that could reasonably be expected to cause death, serious physical harm or property damage;
 - 4) cancellation of a storage certificate for storage of explosive materials in excess of the amount authorized by the certificate or change in physical conditions surrounding the magazine, as set forth in Subpart I;
 - 5) imposition of fines not to exceed \$5,000 per occurrence;

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- 6) issuance of a notice of violation;
 - 7) imposition of temporary or permanent conditions on a license or storage certificate; and
 - 8) any other disciplinary action the Department may deem proper.
- b) Term of Suspension or Revocation
In those instances in which the Department suspends or revokes a license or certificate, the term of the suspension or revocation shall not exceed 5 years.

(Source: Added at 37 Ill. Reg. _____, effective _____)

Section 200.925 Notice of Violation

- a) An authorized representative of the Department shall issue a notice of violation if it is determined that any person is in violation of the Act, this Part or any term or condition of any explosives license or storage certificate.
- b) A notice of violation issued under this Section shall be in writing, shall be signed by the authorized representative who issued it, and shall set forth with reasonable specificity:
 - 1) The nature of the violation;
 - 2) Statutory citations and/or administrative regulations violated;
 - 3) If any remedial action is required or possible, any interim steps;
 - 4) If remedial action is required, a reasonable time for abatement, including time for accomplishment of interim steps and for completion of all actions necessary to address the violation;
 - 5) A reasonable description of the statutory provisions to which the notice of violation applies.
- c) A notice of violation shall be served upon the person or an agent of the person, if either is present on site. If the person, or person's agent, is not present, the notice

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of violation shall be sent by certified mail to the person's address. The notice of violation shall be considered served when personally delivered or mailed.

- d) The person issued the notice of violation may provide the Department a written response to the violations within 14 days after the delivery or mailing of the notice. The written response may include a proposed alternative to the Department's specified remedial action, if any, needed to abate the violations. The Department shall consider any information submitted in determining the facts surrounding the violation and the amount of the penalty.

- 1) The written response shall be submitted to the:

Illinois Department of Natural Resources
Office of Mines and Minerals
Mine Safety and Training Division
One Natural Resources Way
Springfield IL 62702-1271

- 2) The response must be postmarked or hand delivered by the 14th day after delivery or mailing of the notice of violation.

- e) A notice of violation issued under this Section shall continue in effect until modified, vacated or terminated by the Department. Termination shall not affect the right of the Department to assess civil penalties for those violations in accordance with Section 200.930(b)(2). A notice of violation can only be terminated when all abatement action required by the Department has been completed.

- f) A notice of violation may be modified, vacated or terminated in writing by either:

- 1) An authorized representative of the Department; or
- 2) The issuance of a Decision by the Director, or designee, pursuant to Section 200.930(d); or
- 3) The issuance of a final administrative decision by the Director in accordance with Subpart K.

(Source: Added at 37 Ill. Reg. _____, effective _____)

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Section 200.930 Office of Mines and Minerals Director's Decision

- a) After the 14 day requirement in Section 200.925(d) has elapsed, the Director, or a designee, shall review the notice of violation and any response from the alleged violator and shall affirm, modify or vacate the notice of violation in writing.
- b) Modification of the notice of violation by the Director may include:
- 1) any different or additional remedial actions necessary to abate the violation and the time within which the violation must be abated;
 - 2) the assessment of civil penalties;
 - 3) probationary or permanent modification or conditions on the explosives license, temporary explosives license or storage certificate;
 - 4) the time set for abatement or for accomplishment of an interim step, which may be extended due to the existence of any additional conditions or factors in aggravation or mitigation of the violation, including information provided by the person, if the failure to meet the time previously set was not caused by lack of diligence on the part of the person to whom it was issued; and
 - 5) other disciplinary action, including suspension or revocation of the explosives license, temporary explosives license or storage certificate; and
 - 6) termination of the violation (when all abatement action required by the Department has been completed).
- c) Inability to Comply
- 1) No notice of violation issued under this Part may be vacated because of an inability to comply.
 - 2) Unless caused by lack of diligence, inability to comply may be considered only in mitigation of the amount of civil penalty under subsection (d).

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- d) The Director's Decision shall be served personally or mailed by certified mail, return receipt requested, to the violator's last known address within 60 days after the issuance of the notice of violation. The Director's Decision affirming, vacating or modifying the notice of violation shall be considered served when either served personally on the violator or received by certified mail, return receipt requested, to the person at his or her last known address. The Director's Decision shall include:
- 1) the specific grounds upon which the Director's Decision is based;
 - 2) the action the Department intends to take, including the amount of any fine the Department intends to impose;
 - 3) a statement that the recipient may request a hearing to contest the Department's action by filing a written request for hearing within 30 days after the decision is mailed. Filing of the request for hearing shall be deemed complete upon its receipt by the Department, as evidenced by the date upon which the Department's mail receipt stamp appears on the request for hearing;
 - 4) a statement that the person named in the notice has the right to request a hearing to contest the facts of the violations alleged by the Department within 30 days from the date he or she received the Director's Decision, and a statement that recipient's failure to make a written request for hearing within 30 days after the date the Director's Decision is mailed/personally served personally will constitute a waiver of the recipient's rights to contest the action and will result in the Director's Decision becoming a final administrative decision affirming the Department's action, which shall be conclusively presumed to be correct.
- e) A Director's Decision not contested within 30 days after service shall become a final administrative decision of the Department under Section 5008 of the Act. The filing of a request for hearing shall not operate as a stay of the Director's Decision.
- f) If the Director's Decision includes the assessment of a fine, and the person named in the Director's Decision does not request a hearing in accordance with subsection (e), the amount assessed shall be paid to the Department in full within 30 days after service of the Director's Decision. If a hearing is requested, any

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civil penalty assessment shall be paid within 30 days after the final administrative or judicial decision.

- g) All administrative fines assessed and paid to the Department shall be deposited in the Explosives Regulatory Fund.

(Source: Added at 37 Ill. Reg. _____, effective _____)

Section 200.935 Process for Assessment of Fines

- a) The Department may assess a penalty for each notice of violation. The civil penalty shall be determined as provided in this Section, considering the person's history of violations, plus the seriousness of the violation, plus the degree of culpability. All fines imposed under the Act and this Section shall be in accordance with this Part.
- 1) The Person's History of Previous Violations. For purposes of determining the history of violations, the Department shall consider only those violations that have a Department's final administrative decision or a final judicial decision affirming the final administrative decision occurring within a 10 year period.
- A) A violation shall not be counted if the notice or order is the subject of pending administrative review by the Department pursuant to Subpart K or if the time to request a review has not expired. Thereafter, it shall be counted for a 10 year period after the date of the Department's final administrative decision or a final judicial decision affirming the final administrative decision;
- B) No violation for which the notice has been vacated shall be counted;
- C) History of Violations
- i) First violation of the rule, assess \$100.
- ii) Second violation of the same rule within a 10 year period from the date of issuance of the first violation, assess \$250.

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- iii) Third and subsequent violations of the same rule within a 10 year period from the date of issuance of the first violation, assess \$500.
- 2) The Seriousness of the Violation
- A) If the violation caused or could have been expected to cause injury or damage to property, add \$0 to \$1,000.
- B) If the violation caused or could be expected to cause death, personal injury requiring medical attention or damage to property, add \$1,000 to \$3,500.
- 3) The Degree of Culpability of the Person
- A) If the violation occurred even though the person used reasonable care, add \$0.
- B) If the violation occurred due to the person's failure to use reasonable care, add \$0 to \$250.
- C) If the violation occurred as a result of the person's willful, reckless or deliberate conduct, add \$250 to \$1,000.
- b) When the Department issues a Notice of Violation for an incident or Violation with no determination of culpability, an administrative fine will not necessarily be assessed. The Department may impose any penalty that is authorized under law for any violation of the Act or this Part.

(Source: Added at 37 Ill. Reg. _____, effective _____)

Section 200.940 Immediate Suspension or Revocation of License or Storage Certificate

- a) Whenever the Department finds, based upon a reasonable belief from on-site observation, record inspection by Department personnel, information received from law enforcement personnel, information received from the public, or information obtained in any other manner, that a licensee's or certificate holder's violation of the Act or this Part may cause or could be expected to cause death or serious injury to persons or damage to property, the Department may issue an

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order immediately suspending or revoking the explosives license, temporary explosives license or storage certificate.

- b) The Department shall serve its order of immediate suspension or revocation of an explosives license, a temporary explosives license or a storage certificate under this Section either personally or by certified mail to the licensee's or certificate holder's last known address. The immediate suspension or revocation order shall be considered served when personally delivered or on the date that it was mailed.
- c) The Department shall serve, with the order of immediate suspension or revocation, a notice containing the following information:
- 1) The specific grounds upon which the explosives license, temporary explosives license or storage certificate suspension or revocation is based;
 - 2) The abatement action required, conditions or other disciplinary action imposed, including the assessment of fines pursuant to Section 200.920(a)(5);
 - 3) A statement that the recipient may request a hearing to contest the suspension or revocation by filing a written request for hearing in accordance with Section 200.930(f) within 30 days after the notice is mailed;
 - 4) A statement that the recipient's failure to make a written request for hearing within 30 days after the notice is mailed will constitute a waiver of the recipient's rights to contest the action. The suspension or revocation notice will then become the final administrative decision of the Department, affirming the Department's action.
- d) The filing of a request for hearing shall not operate as a stay of the order of immediate suspension or revocation.
- e) Any occurrence of a violation described in subsection (a) constitutes grounds for the immediate suspension or revocation of a license or certificate. A second or subsequent occurrence of such a violation within a one year period will require the Department to immediately suspend or revoke a license or certificate.

(Source: Added at 37 Ill. Reg. _____, effective _____)

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Section 200.945 Disposal of Explosives; Surrender or Seizure of License or Certificate

- a) Within 10 days after the cancellation, suspension or revocation of a storage certificate, all explosive materials shall be removed from the magazine covered by the storage certificate and disposed of in accordance with the manufacturer's instructions or relocated to an approved magazine with a valid storage certificate. Verification of the disposal or relocation shall be made to the Department within 24 hours after the action taken.
- b) Upon the suspension or revocation of any license or certificate, the holder shall immediately surrender the license or certificate to the Department. If the holder fails to do so, the Department has the right to seize the explosives license, temporary explosives license or storage certificate through its agents or local law enforcement personnel. If summary action under Section 5006 of the Act is taken by the Department, the Department shall have the right to seize the explosives license, temporary explosives license or storage certificate immediately upon issuance of its order.

(Source: Added at 37 Ill. Reg. _____, effective _____)

SUBPART K: PROCEDURES FOR ADMINISTRATIVE HEARINGS**Section 200.1000 Notice of Department's Intended Action; Contents and Service**

Whenever the Department intends to refuse to issue or renew, to suspend or revoke, or to assess administrative fines against a holder of an explosives license, a temporary explosives license or a storage certificate, the Department shall give written notice to the applicant or holder personally or by certified mail sent to the applicant's or holder's last known address.

(Source: Added at 37 Ill. Reg. _____, effective _____)

Section 200.1005 Request for Hearing on Department's Intended Action; Contents and Service

The request for a hearing shall be in writing, shall admit or deny matters alleged by the Department, and may include any related explanatory information. The request for hearing shall be delivered personally or by mail sent to the Department at the address indicated in the notice.

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(Source: Added at 37 Ill. Reg. _____, effective _____)

Section 200.1010 Notice of Hearing

- a) Written notice setting forth the date, time, place and nature of the hearing, and the name and address of the hearing officer, shall be mailed, by certified mail, to an applicant or holder making a timely written request for hearing at least 14 days prior to the scheduled hearing date.
- b) The hearing proceedings shall be commenced within 30 days after receipt of the request for hearing, unless the hearing is continued for good cause at the request of any party.

(Source: Added at 37 Ill. Reg. _____, effective _____)

Section 200.1015 Postponement or Continuance of Hearing

A hearing may be postponed or continued for due cause by the hearing officer upon his or her own motion or upon the motion of a party to the hearing. A motion filed by a party to the hearing shall set forth facts attesting that the request for continuance is not for the purpose of delay. Except in the case of an emergency, motions requesting postponement or continuance shall be made in writing and shall be received by all parties to the hearing at least 3 business days prior to the scheduled hearing date. All parties involved in a hearing shall avoid undue delay caused by repetitive postponements or continuances so that the subject matter of the hearing may be resolved expeditiously.

(Source: Added at 37 Ill. Reg. _____, effective _____)

Section 200.1020 Hearing Officer; Powers and Duties

The Illinois Code of Civil Procedure [735 ILCS 5] and the Illinois Supreme Court Rules apply to administrative hearings under this Part.

- a) The hearing officer designated to preside over a hearing shall take all necessary action to avoid delay, to maintain order, and to develop a clear and complete record, and shall have all powers necessary and appropriate to conduct a fair hearing, including to:
 - 1) administer oaths and affirmations;

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- 2) receive relevant evidence;
 - 3) regulate the course of the hearing and the conduct of the parties and their counsel;
 - 4) consider and rule upon procedural requests;
 - 5) hold conferences for the settlement or simplification of the issues;
 - 6) examine witnesses and direct witnesses to testify, limit the number of times any witness may testify, limit repetitive or cumulative testimony, and set reasonable limits on the amount of time each witness may testify; and
 - 7) authorize reasonable discovery by a party.
- b) All participants in the hearing shall have the right to be represented by counsel, and corporations shall be represented by an attorney. (See 705 ILCS 220.)
- c) The hearing officer shall allow all parties to present statements, testimony, evidence and argument as may be relevant to the proceeding.

(Source: Added at 37 Ill. Reg. _____, effective _____)

Section 200.1025 Subpoenas

- a) Any party to proceedings brought under Subpart J may apply for subpoenas to compel the attendance of witnesses and the production of relevant documents.
- b) The applicant shall submit the subpoena request to the Department's hearing officer. The subpoena request shall specifically identify the witness or relevant documents sought to be produced.
- c) The hearing officer shall issue subpoenas within 7 calendar days from the receipt of a request made in accordance with subsection (b) and deliver the subpoena to the applicant who shall serve all subpoenas issued by certified mail, return receipt requested, at least 7 days before the date set for the hearing. Any witness shall respond to any lawful subpoena of which he or she has actual knowledge, if

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payment of the witness fee and mileage applicable in the State circuit courts has been tendered. Service of a subpoena may be proved prima facie by a return receipt signed by the witness or his or her authorized agent and an affidavit showing that the mailing was prepaid and was addressed to the witness, restricted delivery, with a check or money order for the fee and mileage enclosed.

- d) Any party served with a subpoena under this Section may file with the hearing officer, and serve on all parties, a motion for an order quashing the subpoena, in whole or in part. All motions to quash filed under this subsection shall set forth a factual and/or legal basis for granting that relief.
- e) The hearing officer shall issue, and serve on all parties, a decision granting or denying the motion to quash within 7 calendar days from the receipt of the motion.

(Source: Added at 37 Ill. Reg. _____, effective _____)

Section 200.1030 Record of Proceedings

The Department or party requesting a hearing may provide a reporter to take down the testimony and preserve a record of all proceedings at any hearing conducted under this Part. The cost of the reporter shall be at the expense of the party requesting the reporter. Copies of the transcript may be purchased from the reporter and each party bears the cost to purchase a copy.

(Source: Added at 37 Ill. Reg. _____, effective _____)

Section 200.1035 Pre-Hearing Conference

- a) Upon his or her own motion or the motion of a party, the hearing officer shall direct the parties or their counsel to conduct a pre-hearing conference in order to:
- 1) Simplify the factual and legal issues presented by the hearing request;
 - 2) Receive stipulations and admissions of fact and of the contents and authenticity of documents;
 - 3) Exchange lists of all witnesses the parties intend to have testify and copies of all documents the parties intend to introduce into evidence at the hearing; and

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- 4) Discuss and resolve such other matters as may tend to expedite the disposition of the hearing request and to assure a just conclusion.
- b) Pre-hearing conferences may be held by telephone conference at the discretion of the hearing officer.

(Source: Added at 37 Ill. Reg. _____, effective _____)

Section 200.1040 Burden and Standard of Proof

The Department shall have the burden of proof at the hearing. The standard for decision shall be a preponderance of the evidence.

(Source: Added at 37 Ill. Reg. _____, effective _____)

Section 200.1045 Default

If a party, after proper service of notice, fails to appear at a pre-hearing conference or at a hearing, and if no continuance is granted, the Department may then proceed and make its decision in the absence of that party. If the failure to appear at the pre-hearing conference or hearing is due to an emergency situation beyond the party's control, and the Department is notified of the situation on or before the scheduled pre-hearing conference or hearing date, the pre-hearing conference or hearing will be continued or postponed. Emergency situations include sudden unavailability of counsel, sudden illness of a party or his or her representative, or similar situations beyond the party's control.

(Source: Added at 37 Ill. Reg. _____, effective _____)

Section 200.1050 Evidence

- a) Admissibility: A party shall be entitled to present his or her case or defense by oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts. Any oral or documentary evidence may be received, but a presiding hearing officer shall exclude evidence that is irrelevant, immaterial or unduly repetitious. The rules of evidence and privilege applied in civil cases in the courts of the State of Illinois shall be followed; however, evidence not admissible under those rules of evidence may be admitted, except when precluded by statute, if it is of a type

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commonly relied upon by reasonable, prudent men in the conduct of their affairs. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced, a hearing officer shall allow evidence to be received in written form.

- b) Official Notice: Official notice may be taken of any material fact not appearing in evidence in the record if the circuit courts of this State could take judicial notice of that fact. In addition, notice may be taken of generally recognized technical or scientific facts within the Department's specialized knowledge.

(Source: Added at 37 Ill. Reg. _____, effective _____)

Section 200.1055 Brief

The hearing officer may require or allow parties to submit written briefs within 10 days after the close of the hearing or within such other time the hearing officer determines is consistent with the Department's responsibility for an expeditious decision.

(Source: Added at 37 Ill. Reg. _____, effective _____)

Section 200.1060 Hearing Officer's Decision

- a) Within 45 days after default, failure to request a hearing or at the conclusion of all hearings conducted under this Subpart, the hearing officer shall issue proposed findings of fact, conclusions of law and a recommended final administrative decision for submittal to the Director.
- b) In issuing his or her findings, conclusions and recommendation, the hearing officer shall not be strictly bound by the actions or relief set forth in the original notice of the Department's intended action. The findings, conclusions and recommendation may include remedies in addition to or different from those originally sought if they are supported by the evidence.
- c) The provisions of subsection (b) shall not apply when the findings, conclusions and recommendation are issued after the applicant or holder fails to request a hearing or fails to appear at a properly scheduled hearing. In such cases, the Department shall be bound by the actions or relief set forth in the original notice of the Department's intended action.

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(Source: Added at 37 Ill. Reg. _____, effective _____)

Section 200.1065 Final Administrative Decision

- a) The Director shall issue a final administrative decision pursuant to Section 5008 of the Act within 30 days after receiving the hearing officer's proposed findings of fact, conclusions of law and recommended final administrative decision.
- b) In issuing his or her final administrative decision, the Director shall not be strictly bound by the actions or relief set forth in the original notice of the Department's intended action. The final administrative decision may include remedies in addition to or different from those originally sought if they are supported by the evidence.
- c) The provisions of subsection (b) shall not apply when the final administrative decision is issued after the applicant or holder fails to request a hearing or fails to appear at a properly scheduled hearing. In such cases, the Department shall be bound by the actions or relief set forth in the original notice of the Department's intended action.

(Source: Added at 37 Ill. Reg. _____, effective _____)

Section 200.1070 Immediate Suspension Without Notice of Hearing

- a) Whenever the Department finds, based upon reasonable belief from on-site observation, record inspection by Department personnel, information received from law enforcement personnel or information received from the public, that an explosives licensee's, a temporary explosives licensee's or a storage certificate holder's violation of the Act or this Part may cause death, serious injury or property damage, the Department shall issue an order immediately suspending the license or certificate.
- b) The Department shall serve its order of immediate suspension of a license or certificate under this Section by personal service. The order shall also be sent by certified mail to the licensee's or certificate holder's last known address.
- c) The Department shall serve an order of immediate suspension and a notice containing the information set forth in Section 200.1010. The notice will also inform the explosives license holder, the temporary explosives license holder or

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the storage certificate holder that the failure to request a hearing in accordance with Section 200.1005 of this Part shall result in the automatic issuance of a final administrative decision revoking the license or certificate.

- d) Any occurrence of a violation of this Part constitutes grounds for the immediate suspension of a license or certificate. A second or subsequent occurrence of a violation requires the Department to immediately suspend a license or certificate.

(Source: Added at 37 Ill. Reg. _____, effective _____)

Section 200.1075 Computation of Time

- a) Except as otherwise provided, computation of time under this Subpart is based upon calendar days.
- b) In computing any period of prescribed time, the day on which the designated period of time begins is not included. The last day of the period is included unless it is a Saturday, Sunday or legal holiday on which the Department is not open for business, in which event the period runs until the end of the next day that is not a Saturday, Sunday or legal holiday.
- c) Saturdays, Sundays and legal holidays that fall within the prescribed time period are excluded from the computation of time when the prescribed time period is 7 days or less.
- d) A business day is any day the Department is open for business.

(Source: Added at 37 Ill. Reg. _____, effective _____)

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Section 200.APPENDIX A American Table of Distances for Storage of Explosive Materials

QUANTITY OF EXPLOSIVE MATERIALS		DISTANCES IN FEET							
		Inhabited Buildings		Public Highways Class A to D		Passenger Railways – Public Highways with Traffic Volume of more than 3,000 Vehicles/Day		Separation of Magazines	
Pounds Over	Pounds Not Over	Barricaded	Unbarricaded	Barricaded	Unbarricaded	Barricaded	Unbarricaded	Barricaded	Unbarricaded
2	5	70	140	30	60	51	102	6	12
5	10	90	180	35	70	64	128	8	16
10	20	110	220	45	90	81	162	10	20
20	30	125	250	50	100	93	186	11	22
30	40	140	280	55	110	103	206	12	24
40	50	150	300	60	120	110	220	14	28
50	75	170	340	70	140	127	254	15	30
75	100	190	380	75	150	139	278	16	32
100	125	200	400	80	160	150	300	18	36
125	150	215	430	85	170	159	318	19	38
150	200	235	470	95	190	175	350	21	42
200	250	255	510	105	210	189	378	23	46
250	300	270	540	110	220	201	402	24	48
300	400	295	590	120	240	221	442	27	54
400	500	320	640	130	260	238	476	29	58
500	600	340	680	135	270	253	506	31	62
600	700	355	710	145	290	266	532	32	64
700	800	375	750	150	300	278	556	33	66
800	900	390	780	155	310	289	578	35	70
900	1,000	400	800	160	320	300	600	36	72
1,000	1,200	425	850	165	330	318	636	39	78
1,200	1,400	450	900	170	340	336	672	41	82
1,400	1,600	470	940	175	350	351	702	43	86
1,600	1,800	490	980	180	360	366	732	44	88
1,800	2,000	505	1,010	185	370	378	756	45	90
2,000	2,500	545	1,090	190	380	408	816	49	98
2,500	3,000	580	1,160	195	390	432	864	52	104
3,000	4,000	635	1,270	210	420	474	948	58	116
4,000	5,000	685	1,370	225	450	513	1,026	61	122
5,000	6,000	730	1,460	235	470	546	1,092	65	130
6,000	7,000	770	1,540	245	490	573	1,146	68	136
7,000	8,000	800	1,600	250	500	600	1,200	72	144
8,000	9,000	835	1,670	255	510	624	1,248	75	150
9,000	10,000	865	1,730	260	520	645	1,290	78	156
10,000	12,000	875	1,750	270	540	687	1,374	82	164
12,000	14,000	885	1,770	275	550	723	1,446	87	174
14,000	16,000	900	1,800	280	560	756	1,512	90	180
16,000	18,000	940	1,880	285	570	786	1,572	94	188
18,000	20,000	975	1,950	290	580	813	1,626	98	196
20,000	25,000	1,055	2,000	315	630	876	1,752	105	210
25,000	30,000	1,130	2,000	340	680	933	1,866	112	224
30,000	35,000	1,205	2,000	360	720	981	1,962	119	238
35,000	40,000	1,275	2,000	380	760	1,026	2,000	124	248

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40,000	45,000	1,340	2,000	400	800	1,068	2,000	129	258
45,000	50,000	1,400	2,000	420	840	1,104	2,000	135	270

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50,000	55,000	1,460	2,000	440	880	1,140	2,000	140	280
55,000	60,000	1,515	2,000	455	910	1,173	2,000	145	290
60,000	65,000	1,565	2,000	470	940	1,206	2,000	150	300
65,000	70,000	1,610	2,000	485	970	1,236	2,000	155	310
70,000	75,000	1,655	2,000	500	1,000	1,263	2,000	160	320
75,000	80,000	1,695	2,000	510	1,020	1,293	2,000	165	330
80,000	85,000	1,730	2,000	520	1,040	1,317	2,000	170	340
85,000	90,000	1,760	2,000	530	1,060	1,344	2,000	175	350
90,000	95,000	1,790	2,000	540	1,080	1,368	2,000	180	360
95,000	100,000	1,815	2,000	545	1,090	1,392	2,000	185	370
100,000	110,000	1,835	2,000	550	1,100	1,437	2,000	195	390
110,000	120,000	1,855	2,000	555	1,110	1,479	2,000	205	410
120,000	130,000	1,875	2,000	560	1,120	1,521	2,000	215	430
130,000	140,000	1,890	2,000	565	1,130	1,557	2,000	225	450
140,000	150,000	1,900	2,000	570	1,140	1,593	2,000	235	470
150,000	160,000	1,935	2,000	580	1,160	1,629	2,000	245	490
160,000	170,000	1,965	2,000	590	1,180	1,662	2,000	255	510
170,000	180,000	1,990	2,000	600	1,200	1,695	2,000	265	530
180,000	190,000	2,010	2,010	605	1,210	1,725	2,000	275	550
190,000	200,000	2,030	2,030	610	1,220	1,755	2,000	285	570
200,000	210,000	2,055	2,055	620	1,240	1,782	2,000	295	590
210,000	230,000	2,100	2,100	635	1,270	1,836	2,000	315	630
230,000	250,000	2,155	2,155	650	1,300	1,890	2,000	335	670
250,000	275,000	2,215	2,215	670	1,340	1,950	2,000	360	720
275,000	300,000	2,275	2,275	690	1,380	2,000	2,000	385	770

EXPLANATORY NOTES ESSENTIAL TO THE APPLICATION
OF THE AMERICAN TABLE OF DISTANCES FOR
STORAGE OF EXPLOSIVE MATERIALS

NOTE 1 – "Explosive materials" means explosives, blasting agents and detonators.

NOTE 2 – "Explosives" means any chemical compound, mixture, or device, the primary or common purpose of which is to function by explosion. A list of explosives determined to be within the coverage of "18 USC U.S.C. Chapter 40, Importation, Manufacturer, Distribution and Storage of Explosive Materials" is issued at least annually by the Director of the Bureau of Alcohol, Tobacco, ~~and~~ Firearms and Explosives of the U.S. Department of ~~Justice~~ the Treasury. For quantity and distance purposes, detonating cord of 50 grains per foot should be calculated as equivalent to 8 lbs. of high explosives per 1,000 feet. Heavier or lighter core loads should be rated proportionately.

NOTE 3 – "Blasting agents" means any material or mixture, consisting of fuel and oxidizer, intended for blasting, not otherwise defined as an explosive. ~~However, :-Provided, That~~ the finished product, as mixed for use or shipment, cannot be detonated by means of a No. 8 test blasting cap when unconfined.

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NOTE 4 – "Detonator" means any device containing any initiating or primary explosive that is used for initiating detonation. A detonator may not contain more than 10 grams of total explosives by weight, excluding ignition or delay charges. The term includes, but is not limited to, electric blasting caps of instantaneous and delay types, blasting caps for use with safety fuses, detonating cord delay connectors, and nonelectric instantaneous and delay blasting caps ~~that~~which use detonating cord, shock tube, or any other replacement for electric leg wires. All types of detonators in strengths through No. 8 cap should be rated at 1 $\frac{2}{3}$ lbs. of explosives per 1,000 caps. For strengths higher than No. 8 cap, consult the manufacturer.

NOTE 5 – "Magazine" means any building, structure, or container, other than an explosives manufacturing building, approved for the storage of explosive materials.

NOTE 6 – "Natural Barricade" means natural features of the ground, such as hills, or timber of sufficient density that the surrounding ~~exposures~~ that exposures which require protection cannot be seen from the magazine when the trees are bare of leaves.

NOTE 7 – "Artificial Barricade" means an artificial mound or revetted wall of earth of a minimum thickness of three feet.

NOTE 8 – "Barricaded" means the effective screening of a building containing explosive materials from the magazine or other building, railway, or highway by a natural or an artificial barrier. A straight line from the top of any sidewall of the building containing explosive materials to the eave line of any magazine or other building or to a point ~~12~~twelve feet above the center of a railway or highway shall pass through ~~the~~such barrier.

NOTE 9 – "Inhabited Building" means a building regularly occupied in whole or part as a habitation for human beings, or any church, schoolhouse, railroad station, store, or other structure where people are accustomed to assemble, except any building or structure occupied in connection with the manufacture, transportation, storage or use of explosive materials.

NOTE 10 – "Railway" means any steam, electric, or other railroad or railway ~~that~~which carries passengers for hire.

NOTE 11 – "Highway" means any public street, public alley, or public road. ~~"Public Highways Class A to D" are highways with average traffic volume of 3,000 or less vehicles per day as specified in "American Civil Engineering Practice" (Abbett, Vol. 1, Table 46, Sec. 3-74, 1956 Edition, John Wiley and Sons).~~

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NOTE 12 – When two or more storage magazines are located on the same property, each magazine must comply with the minimum distances specified from inhabited buildings, railways, and highways; and, in addition, they should be separated from each other by not less than the distances shown for "Separation of Magazines," except that the quantity of explosive materials contained in detonator magazines shall govern in regard to the spacing of ~~thosesaid~~ detonator magazines from magazines containing other explosive materials. If any two or more magazines are separated from each other by less than the specified "Separation of Magazines" distances, then ~~thosesuch two or more~~ magazines, as a group, must be considered as one magazine, and the total quantity of explosive materials stored in such group must be treated as if stored in a single magazine located on the site of any magazine of the group, and must comply with the minimum of distances specified from other magazines, inhabited buildings, railways, and highways.

NOTE 13 – Storage in excess of 300,000 lbs. of explosive materials; in one magazine is generally not required for commercial enterprises.

NOTE 14 – This Table applies only to the manufacture and permanent storage of commercial explosive materials. It is not applicable to transportation of explosives or any handling or temporary storage necessary or incident to the transportation, handling or storage thereto. It is not intended to apply to bombs, projectiles; or other heavily encased explosives.

NOTE 15 – When a manufacturing building on an explosive materials plant site is designed to contain explosive materials, the building shall be located away from inhabited buildings, public highways and passenger railways in accordance with the American Table of Distances based on the maximum quantity of explosive materials permitted to be in the building at one time.

(NOTE: The American Table of Distances ~~for~~~~For~~ Storage of Explosive Materials and accompanying Explanatory Notes are copyrighted materials reproduced with the permission of the Institute of Makers of Explosives. The notes contained in this Appendix are meant to supplement, and not supersede, the regulations contained in this Part. When wording differs between the regulations and these explanatory notes, the regulations shall govern for enforcement purposes.)

(Source: Amended at 37 Ill. Reg. _____, effective _____)

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Section 200.APPENDIX C Table of Separation Distances of Ammonium Nitrate and Blasting Agents From Explosives or Blasting Agents¹

<u>Donor weight</u>		<u>Minimum separation distance of receptor when barricaded² (ft.)</u>		<u>Minimum thickness of artificial barricades⁵ (in.)</u>
<u>Pounds over</u>	<u>Pounds not over</u>	<u>Ammonium nitrate³</u>	<u>Blasting agent⁴</u>	
	<u>100</u>	<u>3</u>	<u>11</u>	<u>12</u>
<u>100</u>	<u>300</u>	<u>4</u>	<u>14</u>	<u>12</u>
<u>300</u>	<u>600</u>	<u>5</u>	<u>18</u>	<u>12</u>
<u>600</u>	<u>1,000</u>	<u>6</u>	<u>22</u>	<u>12</u>
<u>1,000</u>	<u>1,600</u>	<u>7</u>	<u>25</u>	<u>12</u>
<u>1,600</u>	<u>2,000</u>	<u>8</u>	<u>29</u>	<u>12</u>
<u>2,000</u>	<u>3,000</u>	<u>9</u>	<u>32</u>	<u>15</u>
<u>3,000</u>	<u>4,000</u>	<u>10</u>	<u>36</u>	<u>15</u>
<u>4,000</u>	<u>6,000</u>	<u>11</u>	<u>40</u>	<u>15</u>
<u>6,000</u>	<u>8,000</u>	<u>12</u>	<u>43</u>	<u>20</u>
<u>8,000</u>	<u>10,000</u>	<u>13</u>	<u>47</u>	<u>20</u>
<u>10,000</u>	<u>12,000</u>	<u>14</u>	<u>50</u>	<u>20</u>
<u>12,000</u>	<u>16,000</u>	<u>15</u>	<u>54</u>	<u>25</u>
<u>16,000</u>	<u>20,000</u>	<u>16</u>	<u>58</u>	<u>25</u>
<u>20,000</u>	<u>25,000</u>	<u>18</u>	<u>65</u>	<u>25</u>
<u>25,000</u>	<u>30,000</u>	<u>19</u>	<u>68</u>	<u>30</u>
<u>30,000</u>	<u>35,000</u>	<u>20</u>	<u>72</u>	<u>30</u>
<u>35,000</u>	<u>40,000</u>	<u>21</u>	<u>76</u>	<u>30</u>
<u>40,000</u>	<u>45,000</u>	<u>22</u>	<u>79</u>	<u>35</u>

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<u>45,000</u>	<u>50,000</u>	<u>23</u>	<u>83</u>	<u>35</u>
<u>50,000</u>	<u>55,000</u>	<u>24</u>	<u>86</u>	<u>35</u>
<u>55,000</u>	<u>60,000</u>	<u>25</u>	<u>90</u>	<u>35</u>
<u>60,000</u>	<u>70,000</u>	<u>26</u>	<u>94</u>	<u>40</u>
<u>70,000</u>	<u>80,000</u>	<u>28</u>	<u>101</u>	<u>40</u>
<u>80,000</u>	<u>90,000</u>	<u>30</u>	<u>108</u>	<u>40</u>
<u>90,000</u>	<u>100,000</u>	<u>32</u>	<u>115</u>	<u>40</u>
<u>100,000</u>	<u>120,000</u>	<u>34</u>	<u>122</u>	<u>50</u>
<u>120,000</u>	<u>140,000</u>	<u>37</u>	<u>133</u>	<u>50</u>
<u>140,000</u>	<u>160,000</u>	<u>40</u>	<u>144</u>	<u>50</u>
<u>160,000</u>	<u>180,000</u>	<u>44</u>	<u>158</u>	<u>50</u>
<u>180,000</u>	<u>200,000</u>	<u>48</u>	<u>173</u>	<u>50</u>
<u>200,000</u>	<u>220,000</u>	<u>52</u>	<u>187</u>	<u>60</u>
<u>220,000</u>	<u>250,000</u>	<u>56</u>	<u>202</u>	<u>60</u>
<u>250,000</u>	<u>275,000</u>	<u>60</u>	<u>216</u>	<u>60</u>
<u>275,000</u>	<u>300,000</u>	<u>64</u>	<u>230</u>	<u>60</u>

NOTES TO TABLE OF RECOMMENDED SEPARATION DISTANCES
OF AMMONIUM NITRATE AND BLASTING AGENTS
FROM EXPLOSIVES OR BLASTING AGENTS

NOTE 1 – Recommended separation distances to prevent explosion of ammonium nitrate and ammonium nitrate-based blasting agents by propagation from nearby stores of high explosives or blasting agents referred to in the Table as the "donor". Ammonium nitrate, by itself, is not considered to be a donor when applying this Table. Ammonium nitrate, ammonium nitrate-fuel oil or combinations thereof are acceptors. If stores of ammonium nitrate are located within the sympathetic detonation distance of explosives or blasting agents, one-half the mass of the ammonium nitrate is to be included in the mass of the donor.

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NOTE 2 – When the ammonium nitrate and/or blasting agent is not barricaded, the distances shown in the Table shall be multiplied by six. These distances allow for the possibility of high velocity metal fragments from mixers, hoppers, truck bodies, sheet metal structures, metal containers, and the like that may enclose the donor. When storage is in bullet-resistant magazines recommended for explosives or when the storage is protected by a bullet-resistant wall, distances and barricade thicknesses in excess of those prescribed in the American Table of Distances (Appendix A) are not required.

NOTE 3 – The distances in the Table apply to ammonium nitrate that passes the insensitivity test prescribed in the definition of ammonium nitrate fertilizer promulgated by the Fertilizer Institute and ammonium nitrate failing to pass the test shall be stored at separation distances determined by competent persons and approved by the authority having jurisdiction.

NOTE 4 – These distances apply to blasting agents that pass the insensitivity test prescribed in regulations of USDOT and ATF.

NOTE 5 – Earth, or sand dikes, or enclosures filled with the prescribed minimum thickness of earth or sand are acceptable artificial barricades. Natural barricades, such as hills or timber of sufficient density that the surrounding exposures that require protection cannot be seen from the donor when the trees are bare of leaves, are also acceptable.

NOTE 6 – For determining the distances to be maintained from inhabited buildings, passenger railways and public highways, use the American Table of Distances for Storage of Explosive Materials (Appendix A).

(Source: Added at 37 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Air Quality Standards
- 2) Code Citation: 35 Ill. Adm. Code 243
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
243.101	Amend
243.102	Amend
243.103	Amend
243.104	Repeal
243.105	New
243.106	Repeal
243.107	Amend
243.108	Amend
243.120	Amend
243.122	Amend
243.123	Amend
243.124	Amend
243.125	Amend
243.126	Amend
243.APPENDIX A	Repeal
243.APPENDIX B	Repeal
243.APPENDIX C	Repeal
243.TABLE A	New
- 4) Statutory Authority: 415 ILCS 5/7.2, 10, and 27
- 5) A Complete Description of the Subjects and Issues Involved: The following briefly describes the subjects and issues involved in this rulemaking. A comprehensive description is contained in the Board's opinion and order of May 16, 2013, proposing amendments in R13-11 for public comment, which opinion and order is available from the address below. As is explained in that opinion, the Board will receive public comment on the proposed amendments for 45 days from the date they appear in the Illinois Register before proceeding to adopt amendments based on this proposal.

The R13-11 proceeding relates to the National Ambient Air Quality Standards (NAAQS) in 35 Ill. Adm. Code 243 of the Illinois air pollution control Part. These amendments would update the Illinois ambient air quality regulations to include all current federal NAAQS as adopted and amended by the United States Environmental Protection Agency (USEPA) through December 31, 2012. USEPA has codified the NAAQS in 40 C.F.R.

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50. As such, this proceeding embraces USEPA actions that span the period from April 30, 1971 through December 31, 2012.

Tables appear in the Board's opinion and order of May 16, 2013 in R13-11 that list numerous corrections and amendments that are not based on current federal amendments. The tables contain deviations from the literal text of the federal amendments underlying these amendments, as well as corrections and clarifications that the Board made in the base text involved. Persons interested in the details of those corrections and amendments should refer to the May 16, 2013 opinion and order in R13-11.

Section 10(H) of the Environmental Protection Act [415 ILCS 5/10(H)] provides that Section 5-35 of the Illinois Administrative Procedure Act [5 ILCS 100/5-35] does not apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the IAPA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules (JCAR).

- 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? Yes. The amendments incorporate a number of federal regulations pertaining to monitoring for the criteria pollutants of interest. The amendments further incorporate a USEPA document that lists all methods that USEPA has designated for use in the required monitoring.
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: These proposed amendments do not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act. [30 ILCS 805/3(b) (2012)].
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comment on this proposal for a period of 45 days after the date of this publication. Comments should reference R13-11 and be addressed to:

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John T. Therriault, Assistant Clerk
Illinois Pollution Control Board
State of Illinois Center, Suite 11-500
100 W. Randolph St.
Chicago, IL 60601

The Board will conduct one public hearing on the proposed amendments because they will ultimately result in submission to the United States Environmental Protection Agency of an amendment to the State implementation plan (SIP). Section 110(a)(2) of the Federal Clean Air Act (42 U.S.C. 7410(a)(2) (2011)) requires reasonable notice and hearing before a state undertakes an amendment to the SIP. The public hearing will occur at the following time and location:

11:00 a.m., June 26, 2013

Sangamo Building, Room 1119N
Illinois Pollution Control Board Hearing Room
1021 North Grand Avenue
Springfield, Illinois

Please direct inquiries to the following person and reference R13-11:

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

Phone: 312/814-6924
E-mail: michael.mccambridge@ipcb.state.il.us

Request copies of the Board's opinion and order at 312-814-3620, or download a copy from the Board's Website at <http://www.ipcb.state.il.us>.

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities, and not-for-profit corporations affected: This rulemaking may affect those small businesses, small municipalities and not-for-profit corporations that emit pollutants that could potentially affect

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ambient air quality in any area of Illinois. These proposed amendments do not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act. [30 ILCS 805/3(b) (2012)].

- B) Reporting, bookkeeping or other procedures required for compliance: The existing rules and proposed amendments require extensive reporting, bookkeeping and other procedures, including emissions monitoring, annual reports and maintenance of operating records. These proposed amendments do not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act. [30 ILCS 805/3(b) (2012)].
- C) Types of Professional skills necessary for compliance: Compliance with the existing rules and proposed amendments may require the services of an attorney, certified public accountant, chemist, and registered professional engineer. These proposed amendments do not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act. [30 ILCS 805/3(b) (2012)].
- 14) Regulatory Agenda on which this rulemaking was summarized: 36 Ill. Reg. 17947; Dec. 21, 2012

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 I: AIR QUALITY STANDARDS AND EPISODES

PART 243
 AIR QUALITY STANDARDS

SUBPART A: GENERAL PROVISIONS

Section	
243.101	Definitions
243.102	<u>Scope Preamble</u>
243.103	Applicability
243.104	Nondegradation <u>(Repealed)</u>
<u>243.105</u>	<u>Air Quality Monitoring Data Influenced by Exceptional Events</u>
243.106	Monitoring <u>(Repealed)</u>
243.107	Reference Conditions
243.108	Incorporations by Reference

SUBPART B: STANDARDS AND MEASUREMENT METHODS

Section	
243.120	PM ₁₀ and PM _{2.5}
243.121	Particulates (Repealed)
243.122	Sulfur Oxides (Sulfur Dioxide)
243.123	Carbon Monoxide
243.124	<u>Nitrogen Oxides</u> (Nitrogen Dioxide <u>as Indicator</u>)
243.125	8-Hour Ozone
243.126	Lead
243.APPENDIX A	Rule into Section Table <u>(Repealed)</u>
243.APPENDIX B	Section into Rule Table <u>(Repealed)</u>
243.APPENDIX C	Past Compliance Dates <u>(Repealed)</u>
<u>243.TABLE A</u>	<u>Schedule of Exceptional Event Flagging and Documentation Submission for New or Revised NAAQS</u>

AUTHORITY: Implementing Sections 7.2 and 10 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/7.2, 10 and 27].

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SOURCE: Adopted as Chapter 2: Air Pollution, Part III: Air Quality Standards, in R71-23, 4 PCB 191, filed and effective April 14, 1972; amended in R80-11, 46 PCB 125, at 6 Ill. Reg. 5804, effective April 22, 1982; amended in R82-12, at 7 Ill. Reg. 9906, effective August 18, 1983; codified at 7 Ill. Reg. 13630; amended in R91-35 at 16 Ill. Reg. 8185, effective May 15, 1992; amended in R09-19 at 35 Ill. Reg. 18857, effective October 25, 2011; amended in R13-11 at 37 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 243.101 Definitions

For the purposes of this Part, terms listed below will have the meanings attributed to them in this Section. As used in this Part, all terms not defined in this Section will have the meaning given them by the Act; the CAA, incorporated by reference in Section 243.108; or 35 Ill. Adm. Code 201.102.

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

"Agency" means the Illinois Environmental Protection Agency.

"Ambient air" means that portion of the atmosphere, external to buildings, to which the general public has access.

"Clean Air Act" or "CAA" means the federal Clean Air Act (42 USC 7401 et seq., as amended), incorporated by reference in Section 243.108.

"Exceedance of a NAAQS" means one occurrence of a measured or modeled concentration that exceeds the specified concentration level of NAAQS for the averaging period specified by the standard.

"Exceptional event" means an event that fulfills all of the following criteria:

The event affects air quality;

The event is not reasonably controllable or preventable;

The event is caused by human activity that is unlikely to recur at a particular location or a natural event; and

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The event is determined by USEPA in accordance with 40 CFR 50.14 to be an exceptional event.

An "exceptional event" does not include any of the following:

Stagnation of air masses or meteorological inversions;

A meteorological event involving high temperatures or lack of precipitation; or

Air pollution relating to source noncompliance.

"Federal equivalent method" or "FEM" means a method for measuring the concentration of an air pollutant in the ambient air that USEPA has designated as an equivalent method pursuant to 40 CFR 53 and that is included in the List of Designated Methods, including later updates, as incorporated by reference in Section 243.108; the term "federal equivalent method" does not include a method for which USEPA has cancelled or superseded an equivalent method designation in accordance with 40 CFR 53.11 or 53.16, as reflected in the incorporation by reference in Section 243.108.

BOARD NOTE: Derived from 40 CFR 50.1(f) (definition of "equivalent method"), 50.11(d)(2) (parenthetical definition of "FEM"), and 53.1 (definition of "federal equivalent method"). The clause "including later updates" in this definition is intended to exclude methods canceled by USEPA pursuant to 40 CFR 53.11 or 53.16 for which the cancellation is included in the updates to the List of Designated Methods incorporated by reference in Section 243.108. A federal designation of an FEM becomes effective upon publication of a notice in the Federal Register. A federal cancellation of an FEM becomes effective upon deletion from the listing of FEMs or from an appendix to 40 CFR 50.

"Federal reference method" or "FRM" means a method of sampling and analyzing the ambient air for an air pollutant that USEPA has specified as a reference method in an appendix to 40 CFR 50, incorporated by reference in Section 243.108, or a method that USEPA has designated as a reference method pursuant to 40 CFR 53 and that is included in the List of Designated Methods, including later updates, incorporated by reference in Section 243.108; the term "federal reference method" does not include a method for which USEPA has cancelled or

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superseded a reference method designation in accordance with 40 CFR 53.11 or 53.16, as reflected in the incorporation by reference in Section 243.108.

BOARD NOTE: Derived from 40 CFR 50.1(f) (definition of "reference method") and 53.1 (definition of "federal reference method"). The clause "including later updates" in this definition is intended to include methods canceled by USEPA pursuant to 40 CFR 53.11 or 53.16 for which the cancellation is included in the updates to [the List of Designated Methods](#) incorporated by reference in Section 243.108. A federal designation of an FRM becomes effective upon publication of a notice in the Federal Register. A federal cancellation of an FRM becomes effective upon deletion from the listing of FRMs or from an appendix to 40 CFR 50.

"Micrograms per cubic meter" or " $\mu\text{g}/\text{m}^3$ " means one millionth (10^{-6}) of a gram of a contaminant per cubic meter of ambient air, as measured and determined by the methods prescribed for that contaminant.

BOARD NOTE: The Board added this definition and that for "milligrams per liter".

"Milligrams per cubic meter" or " mg/m^3 " means one thousandth (10^{-3}) of a gram of a contaminant per cubic meter of ambient air, as measured and determined by the methods prescribed for that contaminant.

"National Ambient Air Quality Standard" or "NAAQS" means a standard established by USEPA that applies to outdoor air throughout the United States.

BOARD NOTE: The Board added this definition, derived from the definition in "Terms of Environment: Glossary, Abbreviations, and Acronyms" (December 1997), EPA 175-B-97-001, at p. 30. USEPA has codified the NAAQS at 40 CFR 50.

BOARD NOTE: The Board added this definition based on the definition in "Terms of Environment: Glossary, Abbreviations, and Acronyms" (December 1997), document number EPA 175-B-97-001, USEPA, Office of Communications, Education, and Public Affairs, at p. 30.

"Natural event" means an event in which human activity plays little or no direct causal role.

"Parts per billion" or "ppb" means the ratio of the parts of a specified contaminant to a billion parts of air by weight ($1:10^9$), as measured and determined by the methods prescribed for that contaminant.

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BOARD NOTE: The Board added this definition and that for "parts per million", derived from the parentheticals in 40 CFR 50.4(a) and (b) and 50.17(a) and the definition of "parts per billion (ppb)/parts per million (ppm)" in "Terms of Environment: Glossary, Abbreviations, and Acronyms" (December 1997), EPA 175-B-97-001, at p. 34.

"Parts per million" or "ppm" means the ratio of the parts of a specified contaminant to a million parts of air by weight ($1:10^{-6}$), as measured and determined by the methods prescribed for that contaminant.

BOARD NOTE: The Board added this definition, derived from the parentheticals in 40 CFR 50.4(a) and (b) and 50.17(a) and the definition of "parts per billion (ppb)/parts per million (ppm)" in "Terms of Environment: Glossary, Abbreviations, and Acronyms" (December 1997), EPA 175-B-97-001, at p. 34.

"PM₁₀" means particulate matter that has an aerodynamic diameter less than or equal to a nominal 10 micrometers (μm).

BOARD NOTE: The Board added this definition, derived from the parenthetical definition in 40 CFR 50.6(c).

"PM_{2.5}" means particulate matter that has an aerodynamic diameter less than or equal to a nominal 2.5 micrometers (μm).

BOARD NOTE: The Board added this definition, derived from the parenthetical definition in 40 CFR 50.7(a).

"Traceable" means that a local standard has been compared and certified either directly or via not more than one intermediate standard, to a primary standard, such as a National Bureau of Standards Standard Reference Material (NBS SRM), or a USEPA/NBS-approved Certified Reference Material (CRM).

"USEPA" means the United States Environmental Protection Agency.

BOARD NOTE: Derived from 40 CFR 50.1(c). The Board has used "USEPA" in text where USEPA has used "Administrator", where action by USEPA is clearly contemplated. Otherwise, the Board has retained the term "Agency" as defined in this Section.

BOARD NOTE: Derived from 40 CFR 50.1 (2012), except as otherwise more specifically indicated.

- a) ~~Except as stated in this Part and unless a different meaning of a term is clear from~~

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~~its context, the definitions of terms used in this Part shall be the same as those used in the Environmental Protection Act [415 ILCS 5] (Act).~~

- b) ~~All terms that appear in this Part have the definitions specified by 35 Ill. Adm. Code 201 or 211.~~

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 243.102 Scope Preamble

- a) ~~This Part sets forth the NAAQS adopted by USEPA under section 109 of the CAA (42 USC 7409) and incorporated into this Part pursuant to 415 ILCS 5/7.2 and 10(H).~~
- b) ~~National primary ambient air quality standards (primary NAAQS) define levels of air quality that USEPA has judged are necessary, with an adequate margin of safety, to protect the public health. National secondary ambient air quality standards (secondary NAAQS) define levels of air quality that USEPA has judged necessary to protect the public welfare from any known or anticipated adverse effects of a pollutant. **These standards** are subject to revision, and additional primary and secondary NAAQS may be promulgated as USEPA deems necessary to protect the public health and welfare.~~
- c) ~~The promulgation of primary and secondary NAAQS must not be considered in any manner to allow significant deterioration of existing air quality in any portion of this State.~~
- a) ~~Air quality standards are limits on atmospheric concentrations of air contaminants established for the purpose of protecting public health and welfare. The levels of air quality designated by the standards are designed to protect against injury to human, plant or animal life and they are further intended to allow maximum enjoyment of life and property consistent with the intent of the Act.~~
- b) ~~The first use of our air resources is to sustain life. Air entering the respiratory tract must not menace health. Therefore, the air quality standards set must, as a minimum, provide air which will not adversely affect, through acute or chronic symptoms, the health of the community. Adverse health effects include not only the possible production and aggravation of disease, but also interference with bodily functions. The standards have also taken into account soiling, corrosion,~~

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~~vegetation damage and other human effects.~~

- e) ~~Primary ambient air quality standards define levels of air quality which are necessary, with an adequate margin of safety, to protect the public health. Secondary ambient air quality standards define levels of air quality which are necessary to protect the public welfare from any known or anticipated adverse effects of a pollutant.~~
- d) ~~The standards are more than goals. They are legally enforceable limitations, and any person causing or contributing to a violation of the standards is subject to enforcement proceedings under the Act. The standards have also been designed for use as a basis for the development of implementation plans by State and local agencies for the abatement and control of pollutant emissions from existing sources, and for the determination of air contaminant emission limitations to insure that population and economic growth trends do not add to the region's air pollution problems.~~

BOARD NOTE: Derived from 40 CFR 50.2 (2012).

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 243.103 Applicability

The standards in this Part ~~apply~~are applicable throughout the State of Illinois, except as otherwise provided in this Part.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 243.104 Nondegradation (Repealed)

~~Existing ambient air quality that is better than the established ambient air quality standards at the date of their adoption will be maintained in its present high quality. Such ambient air quality shall not be lowered unless and until it is proved to the Illinois Environmental Protection Agency (Agency) that the change is justifiable as a result of necessary economic and social development and will not interfere with or become injurious to human health or welfare.~~

(Source: Repealed at 37 Ill. Reg. _____, effective _____)

Section 243.105 Air Quality Monitoring Data Influenced by Exceptional Events

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a) Requirements

- 1) The Agency may request USEPA to exclude from use in determinations data showing an exceedance of an NAAQS that is directly due to an exceptional event. The Agency must demonstrate to USEPA that the event caused a specific air pollution concentration at a particular air quality monitoring location.
- 2) A demonstration to justify data exclusion may include any reliable and accurate data, but must demonstrate a clear causal relationship between the measured exceedance of an NAAQS and the event in accordance with subsection (c)(3)(D).

b) Determinations by USEPA. USEPA has stated the criteria for making a determination to exclude data as follow:

- 1) Exceptional Events. USEPA has stated that it will exclude data from use in determinations of exceedance of an NAAQS when the Agency has demonstrated that an exceptional event caused a specific air pollution concentration in excess of one or more NAAQS at a particular air quality monitoring location, and the Agency otherwise satisfies the requirements of 40 CFR 50.14.
- 2) Fireworks Displays. USEPA has stated that it will exclude data from use in determinations of exceedance of an NAAQS when the Agency has demonstrated that emissions from fireworks displays caused a specific air pollution concentration in excess of one or more NAAQS at a particular air quality monitoring location, and the State otherwise satisfies the requirements of 40 CFR 50.14. USEPA has stated that this data will be treated in the same manner as exceptional events under subsection (b)(1), provided the Agency has demonstrated that the use of fireworks is significantly integral to traditional national, ethnic or other cultural events, including, but not limited to, July Fourth celebrations, that satisfy the requirements of 40 CFR 50.14.
- 3) Prescribed Fires. USEPA has stated that it will exclude data from use in determinations of exceedance of an NAAQS when the Agency has demonstrated that emissions from prescribed fires caused a specific air

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pollution concentration in excess of one or more NAAQS at a particular air quality monitoring location, and the Agency otherwise satisfies the requirements of 40 CFR 50.14, provided that the emissions are from prescribed fires that USEPA determines meets the definition of "exceptional event" in Section 243.101, and provided that the Agency has certified to USEPA that the State has adopted and is implementing a Smoke Management Program (SMP) or the State has ensured that the burner employed basic smoke management practices. If an exceptional event occurs using the basic smoke management practices approach, the Agency must undertake a review of the State's approach to ensure public health is being protected and must include consideration of development of an SMP.

BOARD NOTE: In each of corresponding 40 CFR 50.14(b)(1), (b)(2) and (b)(3), USEPA stated "EPA shall exclude data from use in determinations of exceedances and NAAQS violations." In the first person, "shall" is used more to express present intent or to commit to future action. The Board has changed "EPA shall" to "USEPA has stated that it will." Further, the Board has relied on the defined term "exceedance of an NAAQS".

c) Schedules and Procedures

- 1) Public Notification. The Agency or, when the Agency has delegated authority pursuant to Section 4(g) or (r) of the Act, or, the Agency's delegatee, must notify the public promptly whenever an event occurs or is reasonably anticipated to occur that may result in the exceedance of an NAAQS.
- 2) Flagging of Data
 - A) The Agency must notify USEPA of the State's intent to exclude one or more measured exceedances of an NAAQS as being due to an exceptional event by placing a flag in the appropriate field for the data record of concern that has been submitted to the federal air quality system (AQS) database.
 - B) Flags placed on data in accordance with this Section must be deemed informational only, and the data must not be excluded from determinations with respect to an exceedance of an NAAQS

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unless and until USEPA notifies the Agency of USEPA concurrence following the Agency's submittal of a demonstration pursuant to subsection (c)(3) by placing a concurrence flag in the appropriate field for the data record in the AQS database.

C) Flags placed on data as being due to an exceptional event, together with an initial description of the event, must be submitted to USEPA not later than July 1 of the calendar year following the year in which the flagged measurement occurred, except as allowed under subsection (c)(2)(D) or (c)(2)(E).

D) This subsection (c)(2)(D) corresponds with 40 CFR 50.14(c)(2)(iv), which has expired by its own terms. This statement maintains structural consistency with the federal regulations.

E) This subsection (c)(2)(E) corresponds with 40 CFR 50.14(c)(2)(v), which has expired by its own terms. This statement maintains structural consistency with the federal regulations.

F) USEPA has stated that, when USEPA sets an NAAQS for a new pollutant or revises the NAAQS for an existing pollutant, USEPA may revise or set a new schedule for flagging exceptional event data, providing initial data descriptions, and providing detailed data documentation in AQS for the initial designations of areas for those NAAQS. Table A of this Part provides the existing schedule for submission of flags with initial descriptions in AQS and detailed documentation. These schedules apply for those data that will or may influence the initial designation of areas for those NAAQS. USEPA has stated that it will revise the table upon which Table A is based as necessary to accommodate revised data submission schedules for new or revised NAAQS.

3) Submission of Demonstrations

A) When the Agency has flagged data as being due to an exceptional event and is requesting exclusion of the affected measurement data, the Agency must, after notice and opportunity for public comment, submit a demonstration to USEPA to justify data

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exclusion not later than the sooner of three years following the end of the calendar quarter in which the flagged concentration was recorded or 12 months prior to the date that a regulatory decision must be made by USEPA. The Agency must submit to USEPA the public comments it received, along with its demonstration.

- B) This subsection (c)(3)(B) corresponds with 40 CFR 50.14(b)(3)(ii), which pertains only to a reporting period and opportunity to demonstrate exceptions that has passed. This statement maintains structural consistency with the federal regulations.
- C) This subsection (c)(3)(C) corresponds with 40 CFR 50.14(b)(3)(iii), which pertains only to a reporting period and opportunity to demonstrate exceptional events that has passed in a provision that has expired by its own terms. This statement maintains structural consistency with the federal regulations.
- D) The demonstration to justify data exclusion must provide the following evidence:
- i) That the event satisfies the definition of "exceptional event" set forth in Section 243.101;
 - ii) That there is a clear causal relationship between the measurement under consideration and the event that is claimed to have affected the air quality in the area;
 - iii) That the event is associated with a measured concentration in excess of normal historical fluctuations, including background; and
 - iv) That there would have been no exceedance or violation but for the event.
- E) With the submission of the demonstration, the Agency must document that the public comment process was followed.

BOARD NOTE: Derived from 40 CFR 50.14 (2012).

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(Source: Added at 37 Ill. Reg. _____, effective _____)

Section 243.106 Monitoring (Repealed)

~~Pollution levels will be determined by fixed or mobile sampling stations beyond the premises on which a source is located. Stations will be located according to the guidelines for established monitoring networks as developed by the United States Environmental Protection Agency.~~

(Source: Repealed at 37 Ill. Reg. _____, effective _____)

Section 243.107 Reference Conditions

All measurements of air quality that are expressed as mass per unit volume (e.g., micrograms per cubic meter, other than for particulate matter (except-PM_{2.5}) standards contained in Section 243.120(b) and (c) and lead standards contained in Section 243.126(b), are corrected to a reference temperature of 25° C, and to a reference pressure of 760 millimeters of mercury (1013.2 millibars). Measurements of PM_{2.5}, for purposes of comparison to the standards contained in Section 243.120(b) and (c) and lead, measurements shall for purposes of comparison to the standards contained in Section 243.126(b), must be reported based upon the actual ambient air volume measured at the actual temperature and pressure at the monitoring site during the measurement period.

BOARD NOTE: Derived from 40 CFR 50.3 (2012).

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 243.108 Incorporations by Reference

The following materials are incorporated by reference. These incorporations do not include any later amendments or editions:

Government Printing Office (GPO), 732 Capitol Street NW, Washington DC 20401 (telephone: 202-512-1800 or 866-512-1800; website: www.gpo.gov).
The following documents incorporated by reference are available from this source:

Appendix A-1 to 40 CFR 50 (2012) (Reference Measurement Principle and Calibration Procedure for the Measurement of Sulfur Dioxide in the

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Atmosphere (Ultraviolet Fluorescence Method)), referenced in Section 243.122.

Appendix A-2 to 40 CFR 50 (2012) (Reference Method for the Determination of Sulfur Dioxide in the Atmosphere (Pararosaniline Method)), referenced in Section 243.122.

Appendix B to 40 CFR 50 (2012) (Reference Method for the Determination of Suspended Particulate Matter in the Atmosphere (High-Volume Method)), referenced in appendix G to 40 CFR 50.

Appendix C to 40 CFR 50 (2012) (Reference Measurement Principle and Calibration Procedure for the Measurement of Carbon Monoxide in the Atmosphere (Non-Dispersive Infrared Photometry)), referenced in Section 243.123.

Appendix D to 40 CFR 50 (2012) (Reference Measurement Principle and Calibration Procedure for the Measurement of Ozone in the Atmosphere), referenced in Section 243.125.

Appendix F to 40 CFR 50 (2012) (Reference Measurement Principle and Calibration Procedure for the Measurement of Nitrogen Dioxide in the Atmosphere (Gas Phase Chemiluminescence)), referenced in Section 243.124.

Appendix G to 40 CFR 50 (2012) (Reference Method for the Determination of Lead in Suspended Particulate Matter Collected from Ambient Air), referenced in Section 243.126.

Appendix H to 40 CFR 50 (2012) (Interpretation of the 1-Hour Primary and Secondary National Ambient Air Quality Standards for Ozone), referenced in Section 243.125.

Appendix I to 40 CFR 50 (2012) (Interpretation of the 8-Hour Primary and Secondary National Ambient Air Quality Standards for Ozone), referenced in Section 243.125.

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Appendix J to 40 CFR 50 (2012) (Reference Method for the Determination of Particulate Matter as PM₁₀ in the Atmosphere), referenced in Section 243.120.

Appendix K to 40 CFR 50 (2012) (Interpretation of the Primary and Secondary National Ambient Air Quality Standards for Particulate Matter), referenced in Section 243.120.

Appendix L to 40 CFR 50 (2012) (Reference Method for the Determination of Fine Particulate Matter as PM_{2.5} in the Atmosphere), referenced in Section 243.120.

Appendix N to 40 CFR 50 (2012) (Interpretation of the Primary and Secondary National Ambient Air Quality Standards for Particulate Matter), referenced in Section 243.120.

Appendix O to 40 CFR 50 (2012) (Reference Method for the Determination of Coarse Particulate Matter as PM_{10-2.5} in the Atmosphere), referenced in appendix Q to 40 CFR 50 and for use in federally required monitoring by the NCore system pursuant to 40 CFR 58.

Appendix P to 40 CFR 50 (2012) (Interpretation of the Primary and Secondary National Ambient Air Quality Standards for Ozone), referenced in Section 243.125.

Appendix Q to 40 CFR 50 (2012) (Reference Method for the Determination of Lead in Particulate Matter as PM₁₀ Collected from Ambient Air), referenced in appendix R to 40 CFR 50.

Appendix R to 40 CFR 50 (2012) (Interpretation of the National Ambient Air Quality Standards for Lead), referenced in Section 243.126.

Appendix S to 40 CFR 50 (2012) (Interpretation of the Primary National Ambient Air Quality Standards for Oxides of Nitrogen (Nitrogen Dioxide)), referenced in Section 243.124.

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[Appendix T to 40 CFR 58 \(2012\) \(Interpretation of the Primary National Ambient Air Quality Standards for Oxides of Sulfur \(Sulfur Dioxide\)\), referenced in Section 243.122.](#)

[Clean Air Act, 42 USC 7401 et seq. \(2011\) \(for definitions of terms only\), referenced in Section 243.102.](#)

[BOARD NOTE: Segments of the Code of Federal Regulations and the United States Code are available for free download as PDF documents from the GPO FDsys website: <http://www.gpo.gov/fdsys/>.](#)

[USEPA, National Exposure Research Laboratory, Human Exposure & Atmospheric Sciences Division \(MD-D205-03\), Research Triangle Park NC 27711. The following documents incorporated by reference are available from this source:](#)

["List of Designated Reference and Equivalent Methods" \(December 17, 2012\) \(referred to as "List of Designated Methods" and referenced in Sections 243.101, 243.120, 243.122, 243.123, 243.124, 243.125, and 243.126.](#)

[This reference includes the Federal Register notices subsequent to December 17, 2012 that updated the List of Designated Methods.](#)

[BOARD NOTE: This document is available for free download as a PDF document from the USEPA, Technology Transfer, Ambient Monitoring Technology Information Center website: <http://www.epa.gov/ttn/amtic/criteria.html>.](#)

- a) ~~Pararosaniline method, 40 CFR 50, appendix A (1982).~~
- b) ~~Non-dispersive infrared spectrometry technique, 40 CFR 50, appendix C (1982), 36 Fed. Reg. 22391, November 25, 1971.~~
- e) ~~Colorimetric method, 36 Fed. Reg. 22396, November 25, 1971.~~
- d) ~~Ozone-ethylene reaction method, 40 CFR 50, appendix D (1982), 36 Fed. Reg. 22392, November 25, 1971.~~
- e) ~~Lead, 40 CFR 50, appendix G (2008).~~

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- f) ~~Reference method for the determination of particulate matter as PM₁₀ in the atmosphere, 40 CFR 50, appendix J (1990).~~
- g) ~~Interpretation of the National Ambient Air Quality Standards (NAAQS) for particulate matter, 40 CFR 50, appendix K, 73 Fed. Reg. 61144 (October 17, 2006).~~
- h) ~~Reference method for the determination of particulate matter as PM_{2.5} in the atmosphere, 40 CFR 50, appendix L, 73 Fed. Reg. 61144 (October 17, 2006).~~
- i) ~~Interpretation of the NAAQS for PM_{2.5}, 40 CFR 50, appendix N, 73 Fed. Reg. 1497 (January 9, 2008).~~
- j) ~~Interpretation of the NAAQS for O₃, 40 CFR 50, appendix P, 73 Fed. Reg. 16436 (March 27, 2008).~~
- k) ~~The NAAQS for Lead; Final Rule, 40 CFR 50, 51, 53, and 58, 73 Fed. Reg. 66964 (November 12, 2008).~~
- l) ~~Interpretation of the NAAQS for Lead, 40 CFR 50, appendix R, 73 Fed. Reg. 66964 (November 12, 2008).~~

(Source: Amended at 37 Ill. Reg. _____, effective _____)

SUBPART B: STANDARDS AND MEASUREMENT METHODS

Section 243.120 PM₁₀ and PM_{2.5}

- a) 1987 Primary and Secondary 24-Hour NAAQS for PM₁₀
 - 1) The level of the 1987 primary and secondary 24-hour NAAQS for PM₁₀ is 150 µg/m³, 24-hour average concentration. The 1987 primary and secondary NAAQS for PM₁₀ is attained when the expected number of days per calendar year with a 24-hour average concentration above 150 µg/m³, as determined in accordance with appendix K to 40 CFR 50, incorporated by reference in Section 243.108, is equal to or less than one.

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- 2) This subsection (a)(2) corresponds with 40 CFR 51.6(b), a provision marked "reserved" by USEPA. This statement maintains structural consistency with the corresponding federal regulation.
- 3) For the purpose of determining attainment of the 1987 primary and secondary 24-hour NAAQS for PM₁₀, particulate matter must be measured in the ambient air as PM₁₀ by a method that fulfills either of the following requirements:
 - A) An FRM based on appendix J to 40 CFR 50, incorporated by reference in Section 243.108, and designated by USEPA and listed in the List of Designated Methods, incorporated by reference in Section 243.108; or
 - B) An FEM designated by USEPA and listed in the List of Designated Methods, incorporated by reference in Section 243.108.

BOARD NOTE: This subsection (a) is derived from 40 CFR 50.6 (2012). USEPA adopted 1997 primary NAAQS for PM₁₀ at 62 Fed. Reg. 38652 (July 18, 1997). As a result of a judicial vacatur, USEPA later removed the transitional provision relative to the 1987 NAAQS at 65 Fed. Reg. 80776 (Dec. 22, 2000) and the 1997 NAAQS at 69 Fed. Reg. 45595 (July 30, 2004). Thus, the 1987 primary and secondary NAAQS for PM₁₀ are included in this subsection (a).

- b) 1997 Primary and Secondary Annual Average and 24-Hour NAAQS for PM_{2.5}
 - 1) The 1997 primary and secondary annual average NAAQS for PM_{2.5} is 15.0 µg/m³, annual arithmetic mean concentration, and the 1997 primary and secondary 24-hour NAAQS for PM_{2.5} is 65 µg/m³, 24-hour average concentration, measured in the ambient air as PM_{2.5} by a method that fulfills either of the following requirements:
 - A) An FRM based on appendix L of 40 CFR 50, incorporated by reference in Section 243.108, and designated by USEPA and listed in the List of Designated Methods, incorporated by reference in Section 243.108; or
 - B) An FEM designated by USEPA and listed in the List of Designated Methods, incorporated by reference in Section 243.108.

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- 2) The 1997 primary and secondary annual average NAAQS for PM_{2.5} is met when the annual arithmetic mean concentration, as determined in accordance with appendix N of 40 CFR 50, incorporated by reference in Section 243.108, is less than or equal to 15.0 µg/m³.
- 3) The 1997 primary and secondary 24-hour NAAQS for PM_{2.5} is met when the 98th percentile 24-hour concentration, as determined in accordance with appendix N of 40 CFR 50, incorporated by reference in Section 243.108, is less than or equal to 65 µg/m³.

BOARD NOTE: This subsection (b) is derived from 40 CFR 50.7 (2012). The 2006 primary and secondary annual average and 24-hour NAAQS for PM_{2.5} differs from the 1997 standards in that the 24-hour average concentration required by the 2006 standard is substantially lower (more stringent) than that for the 1997 standard. The Board has retained the 1997 standard in this subsection (b) because USEPA has retained the 1997 standard in 40 CFR 50.6.

c) 2006 Primary and Secondary Annual Average and 24-Hour NAAQS for PM_{2.5}

- 1) The 2006 primary and secondary annual average NAAQS for PM_{2.5} is 15.0 µg/m³, annual arithmetic mean concentration, and the 2006 primary and secondary 24-hour NAAQS for PM_{2.5} is 35 µg/m³, 24-hour average concentration, measured in the ambient air as PM_{2.5} by a method that fulfills either of the following requirements:
 - A) An FRM based on appendix L of 40 CFR 50, incorporated by reference in Section 243.108, and designated by USEPA and listed in the List of Designated Methods, incorporated by reference in Section 243.108; or
 - B) An FEM designated by USEPA and listed in the List of Designated Methods, incorporated by reference in Section 243.108.
- 2) The 2006 primary and secondary annual average NAAQS for PM_{2.5} is met when the annual arithmetic mean concentration, as determined in accordance with appendix N of 40 CFR 50, incorporated by reference in Section 243.108, is less than or equal to 15.0 µg/m³.

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- 3) The 2006 primary and secondary 24-hour NAAQS for PM_{2.5} is met when the 98th percentile 24-hour concentration, as determined in accordance with appendix N of 40 CFR 50, incorporated by reference in Section 243.108, is less than or equal to 35 µg/m³.

BOARD NOTE: This subsection (c) is derived from 40 CFR 50.13 (2012).

- a) ~~Standards. The primary and secondary ambient air quality standards for PM₁₀ are a maximum 24-hour average concentration of 150 µg/m³. The standards are attained when the expected number of days per calendar year with a 24-hour average concentration above 150 µg/m³ is equal to or less than one, as measured and determined in accordance with subsection (b).~~
- b) ~~Measurement Method. For determining conformance with the PM₁₀ ambient air quality standards, PM₁₀ shall be measured by the method described in 40 CFR 50, appendix J or an equivalent method designated pursuant to 40 CFR 53 (incorporated by reference in Section 243.108). The standards are attained when the expected number of days per calendar year with a 24-hour average concentration above 150 µg/m³ is equal to or less than one, as determined in accordance with 40 CFR 50, appendix K (incorporated by reference in Section 243.108).~~
- e) ~~Standards. The primary and secondary ambient air quality standards for PM_{2.5} are:~~
- 1) ~~An annual arithmetic mean concentration of 15.0 µg/m³ and as measured and determined in conformance with subsection (d).~~
 - 2) ~~A maximum 24-hour concentration of 35 µg/m³, at the 98th percentile value, and as measured and determined in conformance with subsection (d).~~
- d) ~~Measurement Method for PM_{2.5}. For determining conformance with the PM_{2.5} ambient air quality standards, PM_{2.5} shall be measured by the method described in 40 CFR 50, appendix L or an equivalent method designated pursuant to 40 CFR 53 (incorporated by reference in Section 243.108). Compliance with the standards is determined using the methods and procedures described in 40 CFR 50, appendix N (incorporated by reference in Section 243.108).~~

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- 1) ~~The annual primary and secondary PM_{2.5} standards are met when the annual arithmetic mean concentration, as determined in accordance with 40 CFR 50, appendix N, is less than or equal to 15.0 µg/m³.~~
- 2) ~~The 24-hour primary and secondary PM_{2.5} standards are met when the 98th percentile 24-hour concentration, as determined in accordance with 40 CFR 50, appendix N, is less than or equal to 35 µg/m³.~~

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 243.122 Sulfur Oxides (Sulfur Dioxide)

- a) 1971 Primary Annual Average and 24-Hour NAAQS for Sulfur Oxides (as Sulfur Dioxide (SO₂))
 - 1) The level of the 1971 primary annual average NAAQS for sulfur oxides is 0.030 ppm, not to be exceeded in a calendar year. The annual arithmetic mean must be rounded to three decimal places (fractional parts equal to or greater than 0.0005 ppm must be rounded up).
 - 2) The level of the 1971 primary 24-hour NAAQS for sulfur oxides is 0.14 ppm, not to be exceeded more than once per calendar year. The 24-hour averages must be determined from successive non-overlapping 24-hour blocks starting at midnight each calendar day and must be rounded to two decimal places (fractional parts equal to or greater than 0.005 ppm must be rounded up).
 - 3) Sulfur oxides must be measured in the ambient air as SO₂ by the FRM described in appendix A-2 to 40 CFR 50, incorporated by reference in Section 243.108, or by an FEM designated by USEPA and listed in the List of Designated Methods, incorporated by reference in Section 243.108.
 - 4) To demonstrate attainment, the annual arithmetic mean and the second-highest 24-hour averages must be based upon hourly data that are at least 75 percent complete in each calendar quarter. A 24-hour block average must be considered valid if at least 75 percent of the hourly averages for the 24-hour period are available. In the event that only 18-, 19-, 20-, 21-, 22-, or 23-hour averages are available, the 24-hour block average must be computed as the sum of the available hourly averages using the number of

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hours (i.e., 18, 19, etc.) as the divisor. If less than 18-hour averages are available, but the 24-hour average would exceed the level of the standard when zeros are substituted for the missing values, subject to the rounding rule of subsection (b), this must be considered a valid 24-hour average. In this case, the 24-hour block average must be computed as the sum of the available hourly averages divided by 24.

- 5) The 1971 primary annual average and 24-hour NAAQS for sulfur oxides set forth in this subsection (a) remain applicable to all areas notwithstanding the promulgation of the 2010 primary one-hour NAAQS for sulfur oxides in subsection (c). The Board will delete the 1971 primary annual average and 24-hour NAAQS for sulfur oxides set forth in this subsection (a) after fulfillment of the conditions recited by USEPA in corresponding 40 CFR 50.4(e).

BOARD NOTE: Corresponding 40 CFR 50.4(e) recites that the 1971 primary NAAQS for sulfur oxides remains effective in two types of areas for which USEPA has not yet approved an implementation plan for attainment with the 2010 primary one-hour NAAQS for sulfur oxides. The first type of area is one that USEPA had designated as non-attainment for that standard as of the effective date of the 2010 primary one-hour NAAQS for the 1971 primary NAAQS for sulfur oxides as of the effective date of the 2010 NAAQS. That date was August 23, 2010. See 75 Fed. Reg. 35520 (June 22, 2010). As of that date, USEPA had not designated any area in Illinois as non-attainment. See 40 CFR 81.314 (2010). The Board is unaware of any USEPA SIP call for any area of Illinois relative to the 1971 primary NAAQS for sulfur oxides. As of December 31, 2012, USEPA had not yet designated the attainment status of areas in Illinois. See 40 CFR 81.314 (2012). The Agency recommended that USEPA designate limited areas of Illinois as non-attainment with the 2010 primary one-hour NAAQS. See letter of June 2, 2011 from Laurel Kroack, Chief, Bureau of Air, Agency, to Cheryl A. Newton, Director, Office of the Air and Radiation Division, USEPA Region 5 (available at http://www.epa.gov/so2designations/reclletters/R5_IL_rec_wtechanalysis.pdf). When the conditions of this subsection (a)(5) have been fulfilled, or USEPA has removed 40 CFR 50.4, the Board will remove the standard of this subsection (a) as obsolete.

- b) 1971 Secondary Three-Hour NAAQS for Sulfur Oxides (as SO₂)

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- 1) The level of the 1971 secondary three-hour NAAQS for sulfur oxides is 0.5 ppm, not to be exceeded more than once per calendar year. The three-hour averages must be determined from successive non-overlapping three-hour blocks starting at midnight each calendar day and must be rounded to one decimal place (fractional parts equal to or greater than 0.05 ppm must be rounded up).
- 2) Sulfur oxides must be measured in the ambient air as SO₂ by the FRM described in appendix A-2 to 40 CFR 50, incorporated by reference in Section 243.108, or by an FEM designated by USEPA and listed in the List of Designated Methods, incorporated by reference in Section 243.108.
- 3) To demonstrate attainment, the second-highest three-hour average must be based upon hourly data that are at least 75 percent complete in each calendar quarter. A three-hour block average must be considered valid only if all three hourly averages for the three-hour period are available. If only one or two hourly averages are available, but the three-hour average would exceed the level of the standard when zeros are substituted for the missing values, subject to the rounding rule of subsection (b)(1), this must be considered a valid three-hour average. In all cases, the three-hour block average must be computed as the sum of the hourly averages divided by three.

BOARD NOTE: This subsection (b) is derived from 40 CFR 50.5 (2012).

c) 2010 Primary One-Hour NAAQS for Sulfur Oxides (as SO₂)

- 1) The level of the 2010 primary one-hour NAAQS for sulfur oxides is 75 ppb, measured in the ambient air as SO₂.
- 2) The 2010 one-hour primary NAAQS for sulfur oxides is met at an ambient air quality monitoring site when the three-year average of the annual (99th percentile) of the daily maximum one-hour average concentrations is less than or equal to 75 ppb, as determined in accordance with appendix T of 40 CFR 50, incorporated by reference in Section 243.108.
- 3) The level of the 2010 one-hour primary NAAQS for sulfur oxides must be measured by an FRM based on appendix A-1 or A-2 of 40 CFR 50,

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incorporated by reference in Section 243.108, or by an FEM designated by USEPA and listed in the List of Designated Methods, incorporated by reference in Section 243.108.

BOARD NOTE: This subsection (c) is derived from 40 CFR 50.17 (2012). The 1971 primary NAAQS for SO₂ remains in effect until the federal conditions of 40 CFR 50.4(e) have been fulfilled, as outlined in subsection (a)(5) and the appended Board note.

- a) ~~Primary Standards. The primary ambient air quality standards for sulfur oxides measured as sulfur dioxide are:~~
- ~~1) An annual arithmetic mean concentration of 80 $\mu\text{g}/\text{m}^3$ (0.03 ppm); and~~
 - ~~2) A maximum 24-hour concentration, not to be exceeded more than once per year, of 365 $\mu\text{g}/\text{m}^3$ (0.14 ppm).~~
- b) ~~Secondary Standard. The secondary ambient air quality standard for sulfur oxides measured as sulfur dioxide is a maximum 3-hour concentration not to be exceeded more than once per year of 1,300 $\mu\text{g}/\text{m}^3$ (0.5 ppm).~~
- e) ~~Measurement Method. For determining conformance with sulfur oxide air quality standards, sulfur oxides shall be measured as sulfur dioxide by the pararosaniline method described in 40 CFR 50, appendix A (incorporated by reference in Section 243.108), or by an equivalent method of proof approved by the Agency.~~

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 243.123 Carbon Monoxide

- a) The 1971 eight-hour and one-hour primary NAAQS for carbon monoxide are as follows:
- 1) An eight-hour average concentration of 9 ppm (10 mg/m^3), not to be exceeded more than once per year; and
 - 2) A one-hour average concentration of 35 ppm (40 mg/m^3), not to be exceeded more than once per year.

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- b) The levels of carbon monoxide in the ambient air must be measured by a method that fulfills either of the following requirements:
- 1) An FRM based on appendix C of 40 CFR 50, incorporated by reference in Section 243.108, and designated by USEPA and listed in the List of Designated Methods, incorporated by reference in Section 243.108; or
 - 2) An FEM designated by USEPA and listed in the List of Designated Methods, incorporated by reference in Section 243.108.
- c) An eight-hour average concentration must be considered valid if at least 75 percent of the hourly average for the eight-hour period is available. In the event that only six-hour (or seven-hour) averages are available, the eight-hour average must be computed on the basis of the hours available using six (or seven) as the divisor.
- d) When summarizing data for comparison with the standards, averages must be stated to one decimal place. Comparison of the data with the levels of the standards in ppm must be made in terms of integers with fractional parts of 0.5 or greater rounded up.

BOARD NOTE: This Section is derived from 40 CFR 50.8 (2012).

- a) ~~Standards. The ambient air quality standards for carbon monoxide are:~~
- 1) ~~A maximum 8-hour concentration not to be exceeded more than once per year of 10 milligrams per cubic meter (9 ppm); and,~~
 - 2) ~~A maximum 1-hour concentration not to be exceeded more than once per year of 40 milligrams per cubic meter (35 ppm).~~
- b) ~~Measurement Method. For determining conformance with the carbon monoxide air quality standard, carbon monoxide shall be measured by the nondispersive infrared spectrometry technique as described in 40 CFR 50, App. C (1982), 36 Fed. Reg. 22,391, November 25, 1971, or by an equivalent method approved by the Agency.~~

(Source: Amended at 37 Ill. Reg. _____, effective _____)

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Section 243.124 Nitrogen Oxides (Nitrogen Dioxide as Indicator)

- a) The level of the 1971 primary annual average NAAQS for nitrogen oxides is 53 ppb, annual average concentration, measured in the ambient air as nitrogen dioxide (NO₂).
- b) The level of the 2010 primary one-hour NAAQS for nitrogen oxides is 100 ppb, one-hour average concentration, measured in the ambient air as NO₂.
- c) The level of the 1971 secondary annual average NAAQS for nitrogen oxides is 0.053 ppm (100 µg/m³), annual arithmetic mean concentration, measured in the ambient air as NO₂.
- d) The levels of the standards in subsections (a) through (c) must be measured by:
 - 1) An FRM based on appendix F to 40 CFR 50, incorporated by reference in Section 243.108, and designated by USEPA and listed in the List of Designated Methods, incorporated by reference in Section 243.108; or
 - 2) By a federal FEM designated by USEPA and listed in the List of Designated Methods, incorporated by reference in Section 243.108.
- e) The 1971 primary annual average NAAQS for nitrogen oxides in subsection (a) is met when the annual average concentration in a calendar year is less than or equal to 53 ppb, as determined in accordance with appendix S of 40 CFR 50, incorporated by reference in Section 243.108, for the annual standard.
- f) The 2010 one-hour primary NAAQS for nitrogen oxides in subsection (b) is met when the three-year average of the annual 98th percentile of the daily maximum one-hour average concentration is less than or equal to 100 ppb, as determined in accordance with appendix S of 40 CFR 50, incorporated by reference in Section 243.108, for the 1-hour standard.
- g) The 1971 secondary annual average NAAQS for nitrogen oxides in subsection (c) is attained when the annual arithmetic mean concentration in a calendar year is less than or equal to 0.053 ppm, rounded to three decimal places (fractional parts equal to or greater than 0.0005 ppm must be rounded up). To demonstrate attainment, an annual mean must be based upon hourly data that are at least 75

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percent complete or upon data derived from manual methods that are at least 75 percent complete for the scheduled sampling days in each calendar quarter.

- a) ~~Standard. The ambient air quality standard for nitrogen dioxide is an annual arithmetic mean concentration of 100 micrograms per cubic meter (0.05 ppm).~~
- b) ~~Measurement Method. For determining conformance with the nitrogen dioxide air quality standard, nitrogen dioxide shall be measured by the colorimetric method as described in 36 Fed. Reg. 22,396, November 25, 1971, or by an equivalent method approved by the Agency.~~

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 243.125 ~~8-Hour~~ Ozone

- a) 1979 Primary and Secondary One-Hour NAAQS for Ozone
 - 1) The level of the 1979 primary and secondary one-hour NAAQS for ozone measured by an FRM based on appendix D to 40 CFR 50, incorporated by reference in Section 243.108, and designated by USEPA and listed in the List of Designated Methods, incorporated by reference in Section 243.108, is 0.12 ppm (235 µg/m³). The NAAQS is attained when the expected number of days per calendar year with maximum hourly average concentrations above 0.12 ppm (235 µg/m³) is equal to or less than 1, as determined by appendix H to 40 CFR 50, incorporated by reference in Section 243.108.
 - 2) The 1979 primary and secondary one-hour NAAQS for ozone set forth in this subsection (a) will remain applicable to all areas notwithstanding the promulgation of the 2008 eight-hour primary and secondary NAAQS for ozone set forth in subsection (b). USEPA has stated in corresponding 40 CFR 50.9(b) that the one-hour primary and secondary NAAQS for ozone set forth in this subsection (a) will no longer apply to an area one year after the effective date of the designation of that area by USEPA pursuant to 42 USC 7407 for the 2008 eight-hour primary and secondary NAAQS for ozone. USEPA has codified the area designations and classifications with respect to the primary and secondary 1997 one-hour NAAQS and the 2008 primary and secondary NAAQS for ozone in 40 CFR 81.314.

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BOARD NOTE: This subsection (a) is derived from 40 CFR 50.9 (2012). USEPA revoked the 1979 primary and secondary one-hour NAAQS for ozone for all areas in Illinois effective June 15, 2005. See 40 CFR 81.314 (table for one-hour NAAQS for ozone, note 3; 70 Fed. Reg. 44470, 75 (Aug. 3, 2005). USEPA's state implementation plan (SIP) regulations, however, provide that the State may first apply for modification of the SIP for the 1997 primary and secondary one-hour NAAQS for ozone eight years after the revocation, which is on or after June 15, 2013. See 40 CFR 51.905(e). Since there is no indication that USEPA has approved such a SIP modification, the Board has retained the 1979 primary and secondary one-hour NAAQS for ozone of 50 CFR 50.9.

b) 1997 Primary and Secondary Eight-Hour NAAQS for Ozone

- 1) The 1997 hour primary and secondary eight-hour NAAQS for ozone, measured by an FRM based on appendix D to 40 CFR 50, incorporated by reference in Section 243.108, and designated by USEPA and listed in the List of Designated Methods, incorporated by reference in Section 243.108, is 0.08 ppm, daily maximum eight-hour average.
- 2) The 1997 primary and secondary eight-hour NAAQS for ozone is met at an ambient air quality monitoring site when the average of the annual fourth-highest daily maximum eight-hour average ozone concentration is less than or equal to 0.08 ppm, as determined in accordance with appendix I to 40 CFR 50, incorporated by reference in Section 243.108.
- 3) USEPA has stated in corresponding 40 CFR 50.10(c) that the 1997 primary and secondary eight-hour NAAQS for ozone set forth in subsection (b)(1) will no longer apply to an area for transportation conformity purposes one year after the effective date of USEPA designation of that area pursuant to 42 USC 7407 for the 2008 primary and secondary eight-hour NAAQS set forth for ozone in subsection (c)(1). The 1997 primary and secondary eight-hour NAAQS for ozone set forth in this subsection (b) will remain applicable to all areas for all other purposes notwithstanding the 2008 primary and secondary eight-hour NAAQS for ozone set forth in subsection (c) or the USEPA designation of areas for that 2008 primary and secondary eight-hour NAAQS for ozone.

BOARD NOTE: USEPA has codified area designations and classifications with respect to the 1997 and 2008 primary and secondary

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NAAQS for ozone in 40 CFR 81.314. When USEPA has taken action and the conditions of subsection (b)(3) have been fulfilled, or USEPA has removed 40 CFR 50.9 or 50.10, the Board will remove obsolete 1997 primary and secondary one-hour or eight-hour NAAQS for ozone from subsections (a) and (b).

BOARD NOTE: This subsection (b) is derived from 40 CFR 50.10 (2012).

c) 2008 Primary and Secondary Eight-Hour NAAQS for Ozone

- 1) The 2008 primary and secondary eight-hour NAAQS for ozone is 0.075 ppm, daily maximum eight-hour average, measured by an FRM based on appendix D to 40 CFR 50, incorporated by reference in Section 243.108, and designated by USEPA and listed in the List of Designated Methods, incorporated by reference in Section 243.108, or an FEM designated by USEPA and listed in the List of Designated Methods, incorporated by reference in Section 243.108.
- 2) The 2008 primary and secondary eight-hour NAAQS for ozone ambient air quality standards are met at an ambient air quality monitoring site when the three-year average of the annual fourth-highest daily maximum eight-hour average ozone concentration is less than or equal to 0.075 ppm, as determined in accordance with appendix P to 40 CFR 50, incorporated by reference in Section 243.108.

BOARD NOTE: This subsection (c) is derived from 40 CFR 50.15 (2012).

- a) ~~Standard. The primary and secondary ambient air quality standards for ozone are 0.075 ppm (parts per million) daily maximum 8-hour average concentration, measured and determined in accordance with subsection (b).~~
- b) ~~Measurement Method. Ozone shall be measured by a reference method based on 40 CFR 50, appendix D and designated in accordance with 40 CFR 53 (incorporated by reference in Section 243.108) or an equivalent method designated in accordance with 40 CFR 53. The primary and secondary ambient air quality standards are met when the average of the annual fourth highest daily maximum 8-hour average ozone concentration is less than or equal to 0.075 ppm, as determined using, 40 CFR 50, appendix P (incorporated by reference in Section 243.108).~~

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(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 243.126 Lead**a) 1978 Primary and Secondary Quarterly Average NAAQS for Lead**

- 1) The 1978 primary and secondary quarterly average NAAQS for lead and its compounds, measured as elemental lead by an FRM based on appendix G to 40 CFR 50, incorporated by reference in Section 243.108, and designated by USEPA and listed in the List of Designated Methods, incorporated by reference in Section 243.108, or by an FEM designated by USEPA and listed in the List of Designated Methods, incorporated by reference in Section 243.108, is 1.5 $\mu\text{g}/\text{m}^3$, maximum arithmetic mean averaged over a calendar quarter.
- 2) The 1978 primary and secondary quarterly average NAAQS for lead set forth in this subsection (a) will remain applicable to all areas notwithstanding the 2008 primary and secondary quarterly average NAAQS for lead in subsection (b). The 1978 primary and secondary quarterly average NAAQS for lead set forth in this subsection (a) will no longer apply to an area one year after the effective date of the designation of that area by USEPA pursuant to 42 USC 7407 for the 2008 primary and secondary three-month average NAAQS for lead set forth in subsection (b); except that, for areas designated nonattainment for the 1978 primary and secondary quarterly average NAAQS for lead set forth in this subsection (a) as of January 12, 2009, the 1978 primary and secondary NAAQS for lead set forth in this subsection (a) will apply until USEPA has approved an implementation plan for that area pursuant to 42 USC 7514 providing for attainment or maintenance of the 2008 primary and secondary three-month average NAAQS for lead set forth in subsection (b).

BOARD NOTE: The Board substituted "January 12, 2009" for the open-ended language in corresponding 40 CFR 50.12(b) relative to the effective date of 40 CFR 50.16. January 12, 2009 is the effective date recited at 73 Fed. Reg. 66964 (Nov. 12, 2008). USEPA designated Granite City as nonattainment with the 2008 primary and secondary three-month average NAAQS for lead in 2010 and an area of Chicago in 2011. USEPA

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designated all other areas of Illinois for the 2008 primary and secondary three-month average NAAQS for lead in 2012. See 40 CFR 81.314 (area designations in Illinois); 76 Fed. Reg. 72097, 108 (Nov. 22, 2011) (effective December 31, 2011); 75 Fed. Reg. 71033, 42 (Nov. 22, 2010) (effective December 31, 2010). Thus, this subsection (a) has been obsolete since December 31, 2012.

BOARD NOTE: This subsection (a) is derived from 40 CFR 50.12 (2012).

- b) 2008 Primary and Secondary Three-Month Average NAAQS for Lead
- 1) The 2008 primary and secondary three-month average NAAQS for lead and its compounds is 0.15 $\mu\text{g}/\text{m}^3$, arithmetic mean concentration over a three-month period, measured in the ambient air as lead by either of the following:
 - A) An FRM based on appendix G of 40 CFR 50, incorporated by reference in Section 243.108, and designated by USEPA and listed in the List of Designated Methods, incorporated by reference in Section 243.108; or
 - B) An FEM designated by USEPA and listed in the List of Designated Methods, incorporated by reference in Section 243.108.
 - 2) The 2008 primary and secondary three-month average NAAQS for lead are met when the maximum arithmetic three-month mean concentration for a three-year period, as determined in accordance with appendix R of 40 CFR 50, incorporated by reference in Section 243.108, is less than or equal to 0.15 $\mu\text{g}/\text{m}^3$.

BOARD NOTE: This subsection (b) is derived from 40 CFR 50.16 (2012).

- a) Standard. The primary and secondary ambient air quality standards for lead and its compounds measured as elemental lead are 0.15 $\mu\text{g}/\text{m}^3$, maximum rolling three month average measured and determined over a three year period.
- b) Measurement Method. For determining conformance with the ambient air quality standards for lead and its compounds, lead and its compounds shall be measured as elemental lead by reference method based on 40 CFR 50, appendix G and

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~~designated in accordance with 40 CFR 53, or by an equivalent method designated in accordance with 40 CFR 53 (incorporated by reference in Section 243.108). Compliance with the primary and secondary ambient air quality standards shall be determined in accordance with 40 CFR 50, appendix R (incorporated by reference in Section 243.108).~~

(Source: Amended at 37 Ill. Reg. _____, effective _____)

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Section 243.APPENDIX A Rule into Section Table (Repealed)

<u>RULE</u>	<u>SECTION</u>
301	243.102
302	243.103
303	243.104
304	Appendix C
305	243.106
306	243.107
307	243.121
308	243.122
309	Repealed
310	243.123
311	243.124
312	243.125
313	243.126

(Source: Repealed at 37 Ill. Reg. _____, effective _____)

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Section 243.APPENDIX B Section into Rule Table (Repealed)

<u>SECTION</u>	<u>RULE</u>
243.101	—
243.102	301
243.103	302
243.104	303
243.106	305
243.107	306
243.121	307
243.122	308
243.123	310
243.124	311
243.125	312
243.126	313

(Source: Repealed at 37 Ill. Reg. _____, effective _____)

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| **Section 243.APPENDIX C Past Compliance Dates (Repealed)**

| ~~Except as otherwise noted, compliance with this Part was required June 26, 1973.~~

(Source: Repealed at 37 Ill. Reg. _____, effective _____)

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Section 243.TABLE A Schedule of Exceptional Event Flagging and Documentation Submission for New or Revised NAAQS

<u>NAAQS (Level) Regulatory Citations</u>	<u>Air quality data collected for calendar year</u>	<u>Event flagging & initial description deadline</u>	<u>Detailed documentation submission deadline</u>
<u>2006 24-hour PM_{2.5} (35 µg/m³) Section 243.120(c)(1) 40 CFR 50.13(a) 71 Fed. Reg. 61144 (Oct. 17, 2006)</u>	<u>2004-2006</u>	<u>October 1, 2007</u>	<u>April 15, 2008</u>
<u>2008 eight-hour ozone (0.075 ppm) Section 243.125(c)(1) 40 CFR 50.15(a) 73 Fed. Reg. 16436 (Mar. 27, 2008)</u>	<u>2005-2007 2008 2009</u>	<u>June 18, 2009 June 18, 2009 60 days after the end of the calendar quarter in which the event occurred or February 5, 2010, whichever date occurred first</u>	<u>June 18, 2009 June 18, 2009 60 days after the end of the calendar quarter in which the event occurred or February 5, 2010, whichever date occurred first</u>
<u>2010 one-hour nitrogen oxides (as NO₂) (100 ppb) Section 243.124(b) 40 CFR 50.11(b) 75 Fed. Reg. 6474 (Feb. 9, 2010)</u>	<u>2008 2009 2010</u>	<u>July 1, 2010 July 1, 2010 April 1, 2011</u>	<u>January 22, 2011 January 22, 2011 July 1, 2010</u>

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<u>2010 one-hour sulfur oxides (as SO₂) (75 ppb)</u>	<u>2008</u>	<u>October 1, 2010</u>	<u>June 1, 2011</u>
<u>Section 243.122(c)(1)</u>	<u>2009</u>	<u>October 1, 2010</u>	<u>June 1, 2011</u>
<u>40 CFR 17(a)</u>	<u>2010</u>	<u>June 1, 2011</u>	<u>June 1, 2011</u>
<u>75 Fed. Reg. 35520 (June 22, 2010)</u>	<u>2011</u>	<u>60 days after the end of the calendar quarter in which the event occurred or March 31, 2012, whichever date occurred first</u>	<u>60 days after the end of the calendar quarter in which the event occurred or March 31, 2012, whichever date occurred first</u>

BOARD NOTE: Derived from table 1 to 40 CFR 50.14(c) (2012). USEPA noted that the information in this table of revised deadlines only applies to data that USEPA will use to establish the final initial designations for new or revised NAAQS. USEPA stated that the general schedule in this table applies for all other purposes, most notably, for data that USEPA will use for redesignations to attainment. Corresponding table 1 to 40 CFR 50.14(c)(2) cites the 2010 one-hour NAAQS for nitrogen oxides as "80-100 ppb, final level TBD" and the 2010 one-hour NAAQS for sulfur oxides as "80-100 ppb, final level TBD". The adopted 2010 one-hour NAAQS for NO_x at 40 CFR 50.11(f) is 100 ppb and the adopted 2010 one-hour NAAQS for SO₂ is 75 ppb. The Board has used the actual NAAQS for these contaminants in this Table A. Further, corresponding table 1 to 40 CFR 50.14(c) includes endnotes "a" and "b" indicating whether dates for NO₂ and SO₂ are changed or unchanged, which the Board has omitted, since endnotes will serve no purpose in the Illinois regulations.

(Source: Added at 37 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: New Teacher Induction and Mentoring
- 2) Code Citation: 23 Ill. Adm. Code 65
- 3)

<u>Section Numbers</u> :	<u>Proposed Action</u> :
65.20	Amendment
65.130	Amendment
- 4) Statutory Authority: 105 ILCS 5/Art. 21A
- 5) A Complete Description of the Subjects and Issues Involved: P.A. 97-607, effective August 26, 2011, changes the current system of teacher, administrator and school service personnel certification set forth in Article 21 of the School Code to a licensure system (Article 21B of the School Code). References to certification and related terms are being changed to align this Part to the licensure system, which will become effective July 1, 2013.
- 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 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
Agency Rules Coordinator
Illinois State Board of Education
100 North First Street, S-493
Springfield, Illinois 62777-0001

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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: None
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2013

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

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NOTICE OF PROPOSED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES

SUBTITLE A: EDUCATION

CHAPTER I: STATE BOARD OF EDUCATION

SUBCHAPTER b: PERSONNEL

PART 65

NEW TEACHER INDUCTION AND MENTORING

SUBPART A: GENERAL PROVISIONS

Section

- 65.10 Purpose and Scope
65.20 Requirements of the Plan; Program Specifications

SUBPART B: BEGINNING TEACHER INDUCTION GRANT PROGRAM

Section

- 65.110 Purpose and Applicability
65.120 Eligible Applicants
65.130 Program Specifications
65.140 Initial Application Procedure
65.150 Criteria for the Review of Initial Applications
65.155 Application Content and Approval for Continuation Programs
65.160 Allocation of Funds
65.170 Terms of the Grant

- 65.APPENDIX A Illinois Standards of Quality and Effectiveness for Beginning Teacher Induction Programs
65.APPENDIX B Illinois Induction Program Continuum

AUTHORITY: Implementing Article 21A of the School Code [105 ILCS 5/Art. 21A] and authorized by Section 21A-35 of the School Code [105 ILCS 5/21A-35].

SOURCE: Emergency rules adopted at 30 Ill. Reg. 11783, effective June 26, 2006, for a maximum of 150 days; adopted at 30 Ill. Reg. 17425, effective October 23, 2006; amended at 33 Ill. Reg. 15258, effective October 20, 2009; amended at 36 Ill. Reg. 16098, effective October 25, 2012; amended at 37 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

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Section 65.20 Requirements of the Plan; Program Specifications

- a) When State funding is available to support new proposals for any initiative under Article 21A of the School Code, the State Superintendent of Education shall issue application materials in order to solicit applications from eligible entities. As used in this Part, a "proposal" or "application" means relevant portions of a plan for an induction and mentoring program that meets the requirements of Section 21A-20 of the School Code [105 ILCS 5/21A-20], accompanied by the additional materials applicants will be required to submit, as described in Subpart B of this Part.
 - 1) When the level of funding is insufficient to provide grants to each eligible entity in the State, a Request for Proposals (RFP) will be issued to solicit applications from eligible entities, and applications will be considered for funding based on the extent to which they meet the criteria set forth in Section 65.150 of this Part.
 - 2) When the level of funding is sufficient to fund all eligible entities in the State, a request for applications will be issued and each school district whose plan meets the requirements of Article 21A of the School Code and this Part will receive a grant in an amount equal to at least the amount specified in Section 21A-25 of the School Code.
- b) In accordance with Section 21A-20 of the School Code, each plan approved for a beginning teacher induction grant shall:
 - 1) *assign a mentor teacher to each beginning teacher for a period of at least 2 school years, providing sufficient time for the beginning teacher and mentor to engage in mentoring activities;*
 - 2) *align with the Illinois Professional Teaching Standards, content area standards and the employing entity's existing local school improvement and professional development plans, if any.* In order to demonstrate the alignment required by this subsection (b)(2), each plan shall discuss the relationship among the services and experiences that will be available to beginning teachers, the content-area standards applicable to their respective fields of ~~certification or licensure endorsement, as applicable,~~ or assignment (see 23 Ill. Adm. Code [20](#), [21](#), 26 and 27), and the Illinois Professional Teaching Standards (see 23 Ill. Adm. Code 24);

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- 3) *address all of the following elements and how they will be provided:*
- A) *mentoring and support of the beginning teacher;*
 - B) *professional development specifically designed to ensure the growth of the beginning teacher's knowledge and skills and accelerate the beginning teacher's practice; and*
 - C) *formative assessment designed to ensure feedback and reflection, which must not be used in any evaluation of the beginning teacher; and*
- 4) *describe the role of mentor teachers, the criteria and process for their selection, and how they will be trained, provided that each mentor teacher shall demonstrate the best practices in teaching his or her respective field of practice. A mentor teacher may not directly or indirectly participate in the evaluation of a new teacher pursuant to Article 24A of the School Code or the evaluation procedure of the public school.*
- c) Each plan shall meet the Illinois Standards of Quality and Effectiveness for Beginning Teacher Induction Programs set forth in Appendix A of this Part and further amplified in Section 65.150 of this Part.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

SUBPART B: BEGINNING TEACHER INDUCTION GRANT PROGRAM

Section 65.130 Program Specifications

- a) Each program supported with grant funds under this Subpart B shall incorporate:
- 1) mentoring for beginning teachers that is provided by experienced teachers who have received training to equip them for this role;
 - 2) professional development for recipient teachers, mentors, and administrators who have roles in the program;
 - 3) formative assessment of beginning teachers' practice with respect to the Illinois Professional Teaching Standards and the content-area standards relevant to their respective fields of assignment; and

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- 4) the Illinois Standards of Quality and Effectiveness for Beginning Teacher Induction Programs. (See Appendix A of this Part.)
- b) Each program shall serve no fewer than 10 beginning teachers. If fewer than 10 teachers are proposed to be served, the applicant may either:
- 1) participate in a beginning teacher induction program as part of a joint application; or
 - 2) provide in its application a specific rationale for the reduction that demonstrates that the applicant has sufficient resources, in addition to funding received under this Subpart B, and adequate personnel to continue the program and provide each beginning teacher with adequate attention and support comparable to what would be provided in a larger program.
- c) Each beginning teacher shall have, at the time he or she begins the program, less than two years' teaching experience and hold ~~an initial or a provisional early childhood, elementary, secondary, special K-12, or special preschool-age 21 certificate issued pursuant to Article 21 of the School Code [105 ILCS 5/Art. 21]~~ or a professional educator license ~~endorsed for early childhood, elementary, secondary, special K-12, or special preschool-age 21~~ issued pursuant to Article 21B of the School Code [105 ILCS 5/Art. 21B], as applicable. An individual seeking a professional educator license under the provisions of Section 21B-35 of the School Code [105 ILCS 5/21B-35] and holding an educator license with stipulations endorsed for provisional educator in early childhood, elementary, secondary, special K-12, or special preschool-age 21 also may participate if he or she has less than two years' teaching experience.
- d) Subject to the exceptions of this subsection (d), each program shall be designed to ensure that each beginning teacher spends no less than 40 hours with the mentor assigned, including both classroom observation of the beginning teacher by the mentor and other interactions between these individuals.
- 1) During a teacher's first year of the program, at least 30 hours of contact between the teacher and mentor shall be face to face, either one on one or in another configuration, and the remaining interactions may be through electronic means, such as web-based applications, telephone or video.

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- 2) During a teacher's second year of the program, a minimum of 30 hours of contact is required, of which at least 20 hours shall be face to face.

- e) Each program shall provide for the development of an individual learning plan for each beginning teacher served and for the provision of professional development that is directly related to the needs identified in the individual learning plan.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Agricultural Education Program
- 2) Code Citation: 23 Ill. Adm. Code 75
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
75.40	Amendment
75.210	Amendment
75.220	Amendment
75.260	Amendment
75.300	Amendment
75.310	Amendment
75.320	Amendment
- 4) Statutory Authority: 105 ILCS 5/2-3.80 and 2-3.80a
- 5) A Complete Description of the Subjects and Issues Involved: PA 97-607, effective August 26, 2011, changes the current system of teacher, administrator and school service personnel certification set forth in Article 21 of the School Code to a licensure system (Article 21B of the School Code). References to certification and related terms are being changed to align this Part to the licensure system, which will become effective July 1, 2013.
- 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 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:

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Shelley Helton
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: None
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2013

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

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NOTICE OF PROPOSED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES

SUBTITLE A: EDUCATION

CHAPTER I: STATE BOARD OF EDUCATION

SUBCHAPTER b: PERSONNEL

PART 75

AGRICULTURAL EDUCATION PROGRAM

SUBPART A: INCENTIVE GRANTS FOR AGRICULTURAL
SCIENCE TEACHER EDUCATION

Section

- 75.10 Purpose and Applicability
- 75.20 Eligible Applicants
- 75.30 Application Procedure
- 75.40 Program Specifications; Allowable Expenditures
- 75.50 Criteria for the Review of Proposals; Allocation of Funds

SUBPART B: INCENTIVE GRANTS FOR SECONDARY AGRICULTURAL EDUCATION

Section

- 75.200 Purpose and Applicability
- 75.210 Eligible Applicants
- 75.220 Program Goals and Minimum Standards
- 75.230 Quality Indicators
- 75.240 Determination of Individual Grant Allocations
- 75.250 Application Procedure
- 75.260 Terms of the Grant

SUBPART C: INCENTIVE GRANTS FOR AGRICULTURAL
TEACHER PREPARATION PROGRAMS

Section

- 75.300 Purpose and Eligible Applicants
- 75.310 Program Goals and Minimum Standards
- 75.320 Quality Indicators
- 75.330 Determination of Individual Grant Allocations
- 75.340 Application Procedure
- 75.350 Terms of the Grant

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SUBPART D: FACILITATING THE COORDINATION OF AGRICULTURAL EDUCATION

Section

75.400	Purpose and Objectives
75.410	Eligible Applicants
75.420	Application Procedure for Initial Proposals
75.430	Criteria for the Review of Initial Proposals; Allocation of Funds
75.435	Application Content and Approval for Continuation Programs
75.440	Terms of the Grant

AUTHORITY: Implementing Sections 2-3.80 and 2-3.80a of the School Code and authorized by Section 2-3.6 of the School Code [105 ILCS 5/2-3.80, 2-3.80a and 2-3.6].

SOURCE: Adopted at 32 Ill. Reg. 19170, effective November 26, 2008; amended at 35 Ill. Reg. 16839, effective September 29, 2011; amended at 36 Ill. Reg. 18903, effective December 17, 2012; amended at 37 Ill. Reg. _____, effective _____.

SUBPART A: INCENTIVE GRANTS FOR AGRICULTURAL
SCIENCE TEACHER EDUCATION**Section 75.40 Program Specifications; Allowable Expenditures**

Funds provided pursuant to this Subpart A may be expended only for activities and initiatives conducted in accordance with Section 2-3.80a(b) of the School Code and this Section.

- a) For purposes of this Subpart A, "teacher education candidate recruitment and retention initiatives" include:
 - 1) the identification of students in grades 11 and 12 who may be interested in pursuing agricultural education as a profession; and
 - 2) activities and strategies that are designed to attract these and other students to teaching in agricultural education, including, but not limited to:
 - A) introducing the students to multiple aspects of agricultural work and agricultural education in Illinois;

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- B) providing mentors or other forms of personal support to the students as they determine whether to pursue careers as agricultural education teachers and as they progress through the teacher preparation program; and
 - C) providing scholarships, stipends, or other forms of financial or in-kind support that will make completion of a teacher preparation program in agricultural education more affordable and accessible to students from a broad range of backgrounds.
- b) Each institution that elects to deliver professional development experiences for new teachers shall first seek approval as a provider of professional development for teachers in this field under the applicable provisions of the rules of the State Board of Education for [Educator Licensure Certification](#) (see 23 Ill. Adm. Code 25.855 and 25.872).
- c) For purposes of this Subpart A:
- 1) a "master teacher" is a teacher with no fewer than six years of teaching experience, ending no more than ten years prior to submission of an application under this Subpart A, in the field of agricultural education, exclusive of teaching experience on [an educator license with stipulations endorsed for either career and technical educator or a provisional career and technical educator vocational or temporary provisional vocational certificate](#); and
 - 2) a "practitioner" is an individual who, as demonstrated by the institution's proposal narrative:
 - A) is currently engaged, or has been engaged within the previous 10 years, in an agricultural occupation requiring knowledge and skills in agricultural science, agricultural mechanization, agricultural business, horticulture, or agricultural resources; or
 - B) holds [an educator license with stipulations endorsed for a provisional career and technical educator vocational certificate endorsed](#) for a skill area related to agricultural education and is currently teaching, or has taught within the previous 10 years, in a position requiring that [educator license certificate](#).

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- d) A university shall expend no more than 5 percent of the grant funds received for professional development for the staff of its agricultural education teacher preparation program.
- e) Activities shall be supported by funding under this Subpart A only to the extent that they do not duplicate or supplant efforts already conducted by or under the auspices of the community college or university. The use of grant funds for administrative expenditures shall be limited to amounts demonstrably necessary for the implementation or coordination of additional activities under this Subpart A.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

SUBPART B: INCENTIVE GRANTS FOR SECONDARY AGRICULTURAL EDUCATION

Section 75.210 Eligible Applicants

Eligible applicants under this Subpart B shall be as specified in Section 2-3.80 of the School Code. For purposes of eligibility, an "approved agricultural education program" is one that:

- a) offers a series of courses that are sequential in one or more fields of study listed at <http://www.agriculturaleducation.org/Ag-Ed%20Programs/Course-Career%20Pathways> and includes:
 - 1) at least one introductory course and one higher level course for which no less than two credits, as defined in 23 Ill. Adm. Code 1.440(c) (Additional Criteria for High Schools), are awarded for the successful completion of the course sequence; and
 - 2) courses with content that aligns with the courses approved by the State Board of Education and listed at <http://www.agriculturaleducation.org/Ag-Ed%20Programs/Course-Career%20Pathways>;
- b) unless otherwise exempt under the provisions of Section 2-3.80 of the School Code, includes a State and nationally affiliated chapter of the National FFA Organization;

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- c) provides for supervised agricultural experiences (also see Section 75.220(d) of this Part); and
- d) employs qualified instructional staff, each of whom either:
- 1) holds a current and valid professional educator license endorsed for teaching-~~certificate~~ for grades 6 through 12 ~~and~~endorsed for agricultural education as set forth in 23 Ill. Adm. Code 1 (Public Schools Evaluation, Recognition and Supervision) and has 2,000 hours of work experience in a field related to agriculture, food or natural resources; or
 - 2) holds an educator license with stipulations endorsed for career and technical educator ~~ora~~ provisional career and technical educator-~~temporary provisional or part-time provisional vocational certificate~~ issued pursuant to 23 Ill. Adm. Code 25 (Educator Licensure Certification) and endorsed for a skill area related to agricultural education. (See 23 Ill. Adm. Code 25.70 or; 25.72-~~or~~ 25.75, respectively.)

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 75.220 Program Goals and Minimum Standards

This Section presents the goals and the accompanying minimum standards of each goal that are associated with high-quality agricultural education programs offered in high school settings.

- a) Goal 1: Teachers are qualified and licensed~~certified~~ by the State Board of Education to teach the programs and courses assigned.

Minimum Standards: Each of the teaching staff is appropriately licensed~~certified~~ for the coursework in which he or she is providing instruction under the agricultural education program during the grant year.

- b) Goal 2: Support services are available to all students in agricultural programs.

Minimum Standards:

- 1) The agricultural education teacher shall meet at least annually with each student enrolled in the agricultural education program to provide advice and counseling relative to the student's career objectives.

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- 2) The agricultural education teacher shall meet annually with the school's guidance counselor to review information at <http://www.agriculturaleducation.org> regarding career opportunities, scholarships, course offerings and other pertinent information that will assist students in meeting postsecondary and career objectives.
- c) Goal 3: The instructional programs in agriculture are competency-based and include skills, knowledge and attitudes required for gainful employment in the occupations identified in the career pathways and are sequentially structured.

Minimum Standards:

- 1) The program shall offer a balance of classroom, laboratory, field-based and industry-based agricultural experiences (also see subsection (d) of this Section).
- 2) Written lesson plans shall contain clearly stated goals, objectives, activities and experiences that relate to the school's School Improvement Plan.
- d) Goal 4: Each agricultural education teacher uses an ongoing supervised agricultural experience program as part of the instructional program.

Minimum Standards: Each program shall include a supervised agricultural experience program that requires students to apply the lessons presented in the classroom or laboratory instruction to activities and projects beyond the classroom.

- e) Goal 5: The National FFA Organization is an integral part of the instructional program in agriculture.

Minimum Standards: The program shall incorporate into the curriculum opportunities to develop leadership skills through local, State and national FFA chapters in the agricultural education program.

- f) Goal 6: Each school conducting an agricultural education program provides adequate facilities, learning laboratories, equipment and supplies for effective operation of the program.

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Minimum Standards: The facilities, equipment and supplies available to students shall enable them to have hands-on experiences that replicate up-to-date, realistic situations similar to what is occurring in the agriculture careers for which training is provided.

- g) Goal 7: The program of instruction in agricultural education is advised by a committee that is representative of all agricultural interests of the community.

Minimum Standards: The school shall establish an agricultural advisory committee whose membership shall consist of representatives of the agriculture industries operating in the community. The committee shall meet at least once a year to advise the school on the program being offered.

- h) Goal 8: The agricultural education teacher is involved in assessing the areas needed for literacy and agricultural education for the prekindergarten through adult audiences and provides or assists in providing programs to meet the needs identified in the community.

Minimum Standards: The agricultural education teacher assists in the coordination of agricultural education awareness and agriculture literacy activities for prekindergarten through adult audiences.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 75.260 Terms of the Grant

- a) The grantee shall maintain on file documentation specific to its achievement of each quality indicator set forth on the application for funding; the documentation shall be made available for programmatic review and auditing purposes. Up to 10 percent of grantees receiving funding under this Subpart B in each fiscal year may be selected for an on-site review and/or audit.
- b) In the event that the grantee closes its agricultural education department, all instructional materials, tools and equipment purchased with funds provided under this Subpart B shall be relocated by the grantee's Education for Employment Regional Delivery System to other agricultural education programs located in that system upon approval of the State Superintendent of Education or designee.

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- c) No subcontracting will be allowed without the prior written approval of the State Superintendent of Education.
- d) Each grantee shall complete electronically a final performance report that summarizes the grant activities completed during the term of the grant and the accomplishments achieved. The report shall be completed no later than 90 days after the end of the grant period. Funding in any subsequent grant period shall not be approved until the performance report is received.
- e) A grantee that employs any teacher who holds an educator license with stipulations endorsed for a temporary provisional career and technical educator/vocational certificate shall ensure that the teacher submits documentation to the State Board of Education of his or her completion, during the validity period of the license grant year of the coursework that is required under 23 Ill. Adm. Code 25.72 (Endorsement for Temporary Provisional Career and Technical Educator/Vocational Certificate).

(Source: Amended at 37 Ill. Reg. _____, effective _____)

SUBPART C: INCENTIVE GRANTS FOR AGRICULTURAL
TEACHER PREPARATION PROGRAMS

Section 75.300 Purpose and Eligible Applicants

This Subpart C establishes the application procedure and criteria for the allocation of grant funds under Section 2-3.80 of the School Code to regionally accredited institutions of higher education or not-for-profit entities that offer teacher preparation programs in agricultural education approved pursuant to 23 Ill. Adm. Code 25 (Educator Licensure Certification).

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 75.310 Program Goals and Minimum Standards

This Section presents the goals for teacher preparation programs in agricultural education and the accompanying minimum standards of each that are associated with high-quality preparation programs.

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- a) Goal 1: A continuing program of recruitment is undertaken to ensure that a sufficient number of competent agricultural education teachers are prepared to meet the demand for new teachers in Illinois.

Minimum Standards:

- 1) A program is offered in which students may transfer credit earned in agricultural education coursework from other postsecondary institutions.
- 2) Each student who progresses to student teaching must have a 3.5 grade point average on a 5.0 scale or a 2.5 grade point average on a 4.0 scale.
- 3) A minimum of one faculty member of the program is responsible for recruitment of students, including women and minorities, for the agricultural education teacher preparation program, as outlined in a written recruitment plan developed in conjunction with the program advisory committee.

- b) Goal 2: Practicing professionals and outstanding undergraduate students in agriculture are identified, selected and supported to develop their leadership potential through master's and, when appropriate, doctoral study in numerous areas of need in agriculture.

Minimum Standards: Graduate-level credit is awarded to students seeking advanced degrees in agricultural education through courses and/or workshops taught by agricultural education faculty.

- c) Goal 3: The agricultural education faculty have regular contact with students majoring in agricultural education to ensure that they are progressing in their degree program and toward obtaining teacher [licensure certification](#); faculty answer questions and solve problems of currently enrolled students and provide counsel to prospective students for a degree program in agricultural education.

Minimum Standards: All students enrolled in agricultural education are advised by agricultural education faculty.

- d) Goal 4: Students preparing to teach agriculture are knowledgeable about a variety of teaching methods prior to beginning the student teaching experience. Teacher

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quality is demonstrated by technical and professional competence. Teacher preparation graduates must possess a well-developed repertoire of teaching skills.

Minimum Standards:

- 1) A methods course in teaching agriculture is required prior to beginning the student teaching experience.
 - 2) A minimum of 12 weeks is spent student teaching under the guidance of a cooperating teacher who meets the requirements set forth in Section 75.210(d) of this Part [and 23 Ill. Adm. Code 25.620 \(Student Teaching\)](#).
 - 3) Adult education principles are taught as a part of a required agricultural education course.
- e) Goal 5: Students preparing to teach agriculture are technically competent in their specialty teaching area.

Minimum Standards:

- 1) All agricultural education graduates must complete at least 40 hours of agricultural courses.
 - 2) Chemistry and biology courses are required for agricultural education students.
- f) Goal 6: The agricultural education staff provides a clearinghouse and counseling service for graduating seniors and other newly qualified agricultural education teachers to ensure that the highest proportion of newly trained teachers are placed in agricultural teaching positions.

Minimum Standards: One agricultural education faculty member is responsible for coordinating activities for placing agricultural education teachers into jobs; these activities include maintaining an up-to-date list of agricultural education teacher positions in Illinois in cooperation with other teacher preparation institutions offering agricultural education.

- g) Goal 7: Professional development activities are available for all agricultural education students and faculty as an integral part of their academic program.

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Minimum Standards:

- 1) An agricultural education student organization is integrated into the instructional program and is available to all students majoring in agricultural education.
 - 2) Faculty are involved in scholarly and professional activities and/or participate in organizations related to teacher training leadership, technical training and/or dissemination of research results.
- h) Goal 8: Agricultural education students understand the importance of and are able to assist high school students in developing and carrying out supervised agricultural experience programs (including maintaining records).

Minimum Standards:

- 1) All student teachers receive instruction about the requirements for obtaining the employment certification that a student may need to perform specific workplace learning activities.
 - 2) All agricultural education students receive instruction in planning, developing, implementing and evaluating supervised agricultural experiences, which include record-keeping methods, in a required agricultural education course.
- i) Goal 9: Agricultural education students are knowledgeable about the National FFA Organization and its use as an integral part of a complete agricultural education program, as well as the role of the FFA advisor.

Minimum Standards:

- 1) Agricultural education students participate in at least two FFA events prior to the completion of their student teaching.
- 2) All students develop a program of activities for an FFA chapter prior to the completion of their student teaching.

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- 3) All students assist in completing FFA degree and award applications prior to the completion of student teaching.
- 4) Agricultural education faculty attend the State and national FFA conventions.
- j) Goal 10: Students in agricultural education programs understand the role of and gain experience in leading an agricultural advisory committee.

Minimum Standards:

- 1) Methods and strategies for organizing and using advisory committees is part of the instruction offered in a course required for agricultural education.
- 2) All student teachers observe and participate in at least one agricultural advisory committee during their student teaching.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 75.320 Quality Indicators

Each quality indicator is intended to measure an applicant's achievement of the goal to which it applies. (See Section 75.310 of this Part.) The application for funding required under Section 75.340 of this Part shall list the specific quality indicators to be considered in a given funding cycle and their values, which shall range from 0 to 10. The total value of an individual application shall be considered on a 100 percent basis. That is, the percentage of the total represented by any quality indicator will be such that the total percentages of all quality indicators equal 100 percent.

- a) Goal 1: Not to exceed 15 percent of the total value available. Include, at a minimum, provision of scholarships for agricultural teacher preparation programs; communication with teachers in high schools and community colleges (e.g., newsletters, website, brochures); speaking engagements involving representatives of the agricultural teacher preparation program and high school students; on-campus recruitment activities for high school students; and receipt of a grant under Subpart A of this Part.

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- b) Goal 2: Not to exceed 10 percent of the total value available. Include, at a minimum, graduate assistantships for students specializing in teacher preparation; enrollment of students in the graduate agricultural education program; graduate courses (other than online courses) that complement schedules of secondary teachers of agriculture; master's of education program and additional coursework leading to an endorsement in agricultural education; and online coursework in agricultural education that is available to graduate students.
- c) Goal 3: Not to exceed 10 percent of the total value available. Include, at a minimum, assignment to each agricultural education faculty of no more than 25 undergraduates; interview conducted by a panel prior to each student beginning his or her student teaching; and qualification of graduates being eligible for dual endorsements (i.e., in agriculture and another subject area) due to the faculty providing candidates with information about endorsement options and requirements.
- d) Goal 4: Not to exceed 25 percent of the total value available. Include, at a minimum, requiring student teachers to develop a minimum of one lesson plan a week, provide instruction to at least one adult education class, and participate in at least three cooperative learning experiences during their student teaching component; faculty observation and evaluation of student's teaching, with results shared with the student teacher (three half-day visits to the site required); developing teaching skills related to online and other electronic learning; information about the structure of Illinois' agricultural education system integrated into a required agricultural education course; and activities available to all students related to assessing community needs, developing lesson plans for cooperative teaching with nonagricultural education staff, and designing a sequential course of study in an agricultural field.
- e) Goal 5: Not to exceed 10 percent of the total value available. Include, at a minimum, completion of at least one course in each technical agricultural education field (i.e., agronomy, animal science, horticulture, agricultural business and agricultural mechanics technology); credit provided for technical internships in agriculture; and completion by graduates of requirements necessary to obtain an endorsement on a professional educator licenseteaching certificate for agricultural education and for a related science or mathematics field of study, as identified in the application for funding.

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- f) Goal 6: Not to exceed 10 percent of the total value available. Include, at a minimum, conferences at least annually for supervisors of student teachers focused on their roles and responsibilities; requiring students to develop professional portfolios; maintaining placement records of graduates in the agricultural education files; and placement of at least 40 percent of graduates in teaching positions at secondary or postsecondary institutions.
- g) Goal 7: Not to exceed 25 percent of the total value available. Include, at a minimum, ensuring agricultural education students are members of the Illinois Association of Vocational Agriculture Teachers (IAVAT) Student Branch, and that they demonstrate commitment to professionalism, as evidenced by their participation in various professional activities (e.g., IAVAT Student Branch conference, Central States Research Conference, Alpha Tau Alpha Student Teacher Conference, Intra-University Student Teacher Exchange); faculty members also attend and participate in professional conferences and meetings (i.e., IAVAT annual conference, Central States Research Conference and Illinois Team Ag Ed meetings) and connect to instruction at the secondary level.
- h) Goal 8: Not to exceed 15 percent of the total value available. Include, at a minimum, that student teachers, during their student teaching, conduct supervised agricultural experience visits (e.g., outside of the school), provide instruction relative to supervised agricultural experience record-keeping, plan and develop a school-based supervised agricultural experience for their students, and participate in National FFA Organization proficiency award judging beyond the local chapter level; instruction about agricultural-based supervised agricultural experiences is integrated into a required agricultural education course at the postsecondary level.
- i) Goal 9: Not to exceed 15 percent of the total value available. Include, at a minimum, student teachers' attendance at State and national FFA conventions and at least three leadership and/or career development events; agricultural education students' completion of award applications specified in the application for funding; students' membership in Collegiate FFA and/or National Postsecondary Agricultural Student Organization.
- j) Goal 10: Not to exceed 10 percent of the total value available. Include, at a minimum, an advisory committee of the agricultural teacher preparation program that meets at least two times a year and has representation of agricultural organizations, agricultural business and industry, teachers and a student teacher,

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and produces an annual report that includes recommendations to be given to the teacher preparation program and presented at the annual IAVAT conference.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Calculation of Excess Cost under Section 18-3 of the School Code
- 2) Code Citation: 23 Ill. Adm. Code 140
- 3) Section Number: 140.30 Proposed Action: Amendment
- 4) Statutory Authority: 105 ILCS 5/18-3
- 5) A Complete Description of the Subjects and Issues Involved: P.A. 97-607, effective August 26, 2011, changes the current system of teacher, administrator and school service personnel certification set forth in Article 21 of the School Code to a licensure system (Article 21B of the School Code). References to certification and related terms are being changed to align this Part to the licensure system, which will become effective July 1, 2013.
- 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 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
Agency Rules Coordinator
Illinois State Board of Education
100 North First Street, S-493
Springfield, Illinois 62777-0001

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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: None
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2013

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

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NOTICE OF PROPOSED AMENDMENT

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

PART 140

CALCULATION OF EXCESS COST UNDER SECTION 18-3 OF THE SCHOOL CODE

Section

140.10	Purpose and Applicability
140.20	Allowable Costs
140.30	Requirements for Submission of Claims
140.40	Calculation of Reimbursement

AUTHORITY: Implementing and authorized by Section 18-3 of the School Code [105 ILCS 5/18-3].

SOURCE: Adopted at 23 Ill. Reg. 7882, effective July 1, 1999; amended at 25 Ill. Reg. 14122, effective October 22, 2001; amended at 26 Ill. Reg. 8100, effective May 20, 2002; amended at 33 Ill. Reg. 9418, effective June 22, 2009; amended at 36 Ill. Reg. 18908, effective December 17, 2012; amended at 37 Ill. Reg. _____, effective _____.

Section 140.30 Requirements for Submission of Claims

Each school district shall certify to the State Superintendent of Education, using a format specified by the State Superintendent, its report of claims for tuition payments no later than July 15. (Section 18-3 of the School Code) Claims shall reflect the costs incurred by the school district for the regular school term.

- a) When a district files a claim for excess costs relative to individual students who are served in an off-site program, the claim must include:
 - 1) a description of the regular program for which the district also claims reimbursement under Section 18-3 of the School Code that includes:
 - A) The name and address of the off-site program;
 - B) The total number of students who received any services in the regular program;

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- C) The total days of attendance of all the students claimed;
 - D) The total number of days for which the program was in session;
 - E) The amount of instruction time offered daily;
 - F) The name, educator license certificate number, and assignment of each professional staff member who served the students being claimed; and
 - G) A brief description of the curriculum and support services that are offered in the regular program;
- 2) a report of the expenditures incurred by the district for the regular off-site program described pursuant to subsection (a)(1) of this Section, on forms supplied by the State Superintendent of Education;
 - 3) the number of students in average daily attendance in the regular off-site program described in subsection (a)(1) of this Section during the term to which the claim applies;
 - 4) a record for each student with respect to whom excess cost is being claimed, indicating:
 - A) the student's name and date of birth;⁵
 - B) the services provided to the student that are not included in or that exceed the level provided in the regular off-site program;⁵
 - C) the amount, intensity, and/or frequency of the services;⁵
 - D) the total hours of service provision;⁵ and
 - E) the total cost of the services.
- b) When a district files a claim for excess costs relative to students who are served in the district's on-site programs, the claim must include:

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- 1) a description of the services provided that exceed those otherwise provided to students served in the regular program within the attendance center in question, e.g., services not provided to the other students in that attendance center or services provided for more time than to other students within that attendance center; and
 - 2) a record for each student containing the information specified in subsection (a)(4) of this Section.
- c) Each district shall submit any additional information the State Superintendent of Education may require for the purposes of clarifying the basis for its claim.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Illinois Hope and Opportunity Pathways through Education Program
- 2) Code Citation: 23 Ill. Adm. Code 210
- 3)

<u>Section Numbers</u> :	<u>Proposed Action</u> :
210.40	Amendment
210.60	Amendment
210.70	Amendment
210.100	Amendment
- 4) Statutory Authority: 105 ILCS 5/2-3.66b
- 5) A Complete Description of the Subjects and Issues Involved: P.A. 97-607, effective August 26, 2011, changes the current system of teacher, administrator and school service personnel certification set forth in Article 21 of the School Code to a licensure system (Article 21B of the School Code). References to certification and related terms are being changed to align Part this to the licensure system, which will become effective July 1, 2013.
- 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 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

STATE BOARD OF EDUCATION

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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: None
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2013

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 e: INSTRUCTIONPART 210
ILLINOIS HOPE AND OPPORTUNITY PATHWAYS
THROUGH EDUCATION PROGRAM

SUBPART A: PROGRAM APPROVAL

Section	
210.10	Purpose
210.20	Program Components
210.30	Requirements for Student Participation
210.35	Enrollment of Students with Individualized Education Programs
210.40	Program Requirements
210.50	Individual Instructional Plan
210.60	Supplemental Services and Instructional Time
210.70	Content of IHOPE Plan
210.75	Program Approval Criteria
210.80	Application for Program Continuation
210.90	Program Funding
210.100	Suspension and Revocation of Program Approval
210.110	Terms and Conditions of Approval

SUBPART B: INCENTIVE GRANTS

210.200	Purpose
210.210	Eligible Applicants
210.220	Funding Formula
210.230	Application Procedures

AUTHORITY: Implementing and authorized by Section 2-3.66b of the School Code [105 ILCS 5/2-3.66b].

SOURCE: Adopted at 34 Ill. Reg. 11554, effective July 26, 2010; amended at 37 Ill. Reg. _____, effective _____.

SUBPART A: PROGRAM APPROVAL

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Section 210.40 Program Requirements

Each IHOPE program approved by the State Board of Education shall conform to the following program requirements.

- a) The program of instruction of an IHOPE program shall be consistent with State standards set forth in 23 Ill. Adm. Code 1. Appendix D (State Goals for Learning) and provide innovative and varied instructional strategies designed to facilitate the student's receipt of a high school diploma.
 - 1) In consultation with the student's school district of residence, the IHOPE program must award academic credit in accordance with that district's policy developed pursuant to 23 Ill. Adm. Code 1.420(b).
 - 2) If the instructional program is provided by a non-profit entity, then that entity shall be recognized by the State Board of Education. A recognized entity is one that:
 - A) is established by the State to provide education-related services or instruction (e.g., regional offices of education, intermediate service centers, public community colleges or universities); or
 - B) is a nonpublic elementary or secondary school recognized by the State Board of Education under 23 Ill. Adm. Code 425 (Voluntary Registration and Recognition of Nonpublic Schools); or
 - C) is designated for operation through a standardized approval process administered by the State Board of Education (i.e., public university laboratory schools, alternative schools, charter schools, area vocational centers, Alternative Learning Opportunities Programs); or
 - D) meets the requirements of a national or regional accrediting body (e.g., private colleges and universities, other nonpublic elementary or secondary schools).

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- b) Support services shall be provided for each student enrolled in the IHOPE program. The particular services provided shall be those that are determined to be necessary for the student's academic success.
- c) An individual instructional plan shall be developed for each student enrolled in the IHOPE program in accordance with Section 210.50 of this Part.
- d) Progress reports for students enrolled in the IHOPE program shall be provided at least in the same manner and with the same frequency as progress reports are sent to parents and guardians of students enrolled in the school district from which the student will receive his or her diploma. A student's parent or guardian may request a meeting anytime during the school year to review the student's progress, in accordance with procedures developed by the IHOPE program.
- e) The IHOPE program shall employ staff who are appropriately qualified.
 - 1) Teachers shall hold a valid and active Illinois professional educator license endorsed for elementary, secondary, special K-12 or special preschool-age ~~21 Illinois teaching certificate~~ required for the grade levels to which they will be assigned, except that staff employed in dual credit programs must meet the requirements set forth in 110 ILCS 27/20.
 - 2) Professional personnel who provide other services for students enrolled in the program shall hold the type of educator licenses/certificates appropriate to their roles pursuant to State Board of Education rules for Educator Licensure Certification (23 Ill. Adm. Code 25), except that:
 - A) personnel providing professional nursing services shall meet the requirements of Section 10-22.23 of the School Code [105 ILCS 5/10-22.23];
 - B) personnel providing school counseling services shall meet the requirements of Section 10-22.24b of the School Code [105 ILCS 5/10-22.24b];
 - C) personnel providing noninstructional services shall meet the requirements of Section 10-22.34 of the School Code [105 ILCS 5/10-22.34];

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- D) personnel providing school psychological services shall meet the requirements of Section 14-1.09.1 of the School Code [105 ILCS 5/14-1.09.1]; and
- E) personnel providing school social work services shall meet the requirements of Section 14-1.09.2 of the School Code [105 ILCS 5/14-1.09.2].

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 210.60 Supplemental Services and Instructional Time

In order to receive general State aid, an IHOPE program shall develop a plan in accordance with Section 2-3.66b(c) of the School Code and Section 210.70 of this Part that proposes a calendar for the program that is in conformance with the requirements of Section 2-3.66b(e) of the School Code. A calendar that varies in the length of the instructional day (i.e., 5 clock-hours of school work) from those requirements shall be approved under the following conditions.

- a) The calendar meets all of the following exceptions:
 - 1) The IHOPE plan submitted under Section 210.70 of this Part establishes that a program providing the required minimum daily hours of school work would not serve the needs of the program's students.
 - 2) Each day of attendance shall provide no fewer than 3 clock-hours of school work, as defined under Section 18-8.05(F)(1) of the School Code [105 ILCS 5/18-8.05(F)(1)].
 - 3) Each day of attendance that provides fewer than 5 clock-hours of school work also shall provide supplementary services, including, without limitation, work-based learning, student assistance programs, counseling, case management, life-skills or conflict resolution training, career counseling, or service learning (e.g., activities that combine academics and community service), in order to provide a total daily program to the student of 5 clock-hours. A program may claim general State aid for up to 2 clock-hours of the time each day that a student is receiving supplementary services.

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- 4) Each program shall provide no fewer than 176 days of actual pupil attendance during the school term.
- b) The supplemental services provided pursuant to subsection (a) of this Section that are noninstructional in nature (e.g., student assistance programs, counseling services, case management, life skills or conflict resolution training, career counseling) shall be:
- 1) directly linked to a need identified in the student's individual instructional plan developed pursuant to Section 210.50 of this Part and necessary for the student to successfully advance in the instructional program and meet the requirements for receipt of a high school diploma set forth in Section 2-3.66b(b) of the School Code;
 - 2) provided by qualified personnel with the experience and skills appropriate to the service being provided; and
 - 3) monitored by IHOPE program staff to ensure that the services provided are effective in improving the student's academic achievement, as specified in his or her individual instructional plan.
- c) Activities that are instructional in nature (e.g., work-based learning activities, service learning) shall not be considered supplemental services for the purposes of this Section. These shall be considered to be part of the 5 clock-hours of school work required under Section 18-8.05 of the School Code, provided that:
- 1) the activity is an integral and regular part of the academic instruction that the student is receiving and is tied to one or more of the State Goals for Learning (23 Ill. Adm. Code 1.Appendix D);
 - 2) the student receives academic credit upon successful completion of the activity, in accordance with the policies of the student's district of residence that will be issuing the high school diploma; and
 - 3) the activity is provided under the direction of a ~~certified~~ teacher who holds the type of educator license appropriate to his or her assignment (see Section 210.40(e) of this Part).

(Source: Amended at 37 Ill. Reg. _____, effective _____)

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Section 210.70 Contents of IHOPE Plan

The plan for each IHOPE program shall be approved by the State Superintendent of Education in accordance with criteria set forth under Section 2-3.66b(c) of the School Code and Section 210.75 of this Part.

- a) The State Superintendent of Education shall annually notify regional offices of education and CPS of the opportunity to submit an IHOPE plan for approval, specifying the information that shall be included in the plan and requiring that the plan be submitted no later than the date specified in the notification.
- b) Each application shall be reviewed for completeness and conformance to the requirements of Section 2-3.66b of the School Code and this Part.
 - 1) Incomplete plans shall be returned to the regional office of education or CPS, as applicable, specifying the additional information that is needed, which shall be submitted within 15 calendar days after receiving the request.
 - 2) Based on the criteria contained in Section 210.75 of this Part, plans that do not meet the requirements of Section 2-3.66b of the School Code and this Part shall be returned to the regional office of education or CPS, as applicable, specifying the reasons why the plan was not acceptable.
- c) Each plan for an IHOPE program shall be submitted in a format specified by the State Superintendent of Education and shall contain the following elements:
 - 1) A description of the planning process conducted to determine the type of IHOPE program to be established and a list of the participants in that process to at least include those entities specified in Section 2-3.66b(c) of the School Code.
 - 2) An organizational chart that reflects the governance, administrative, educational and support structures of the proposed IHOPE program and describes the responsibilities of each entity involved in the program.
 - 3) Evidence that the plan for the IHOPE program includes each of the components enumerated in Section 2-3.66b(g) of the School Code.

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- A) Programs that exceed the enrollment limits set forth under Section 2-3.66b(g)(1) of the School Code shall provide a justification for a larger program and a description of the steps to be taken to ensure that the program will meet the needs of each student to be enrolled in an effective manner.
- B) In order to demonstrate compliance with Section 2-3.66b(g)(3) of the School Code, the plan shall include a description of the experiences, competency, and qualifications of ~~licensed~~~~certified~~ and ~~nonlicensed~~~~non-certificated~~ staff that emphasizes their individual and collective abilities to work successfully with students who have dropped out of school. (Also see Section 210.40(e) of this Part.)
- C) In order to demonstrate compliance with Section 2-3.66b(g)(6) of the School Code, the plan shall include a schedule of support services that will be available to students as part of their instructional program, including the procedures for accessing a student's need for services on an as-needed basis.
- D) In order to demonstrate compliance with Section 2-3.66b(g)(9), the plan shall address how instruction will incorporate "action into study" to include but not be limited to the following elements: observation and interaction, laboratory and field experiences, applying what is learned in the classroom to real-life situations or problems, or students being active participants in their learning.
- 4) The specific curriculum to be used (see Section 210.40(a) of this Part), to at least include a description of how work experience and the instructional program will be integrated. If a non-profit entity will be providing instructional services, then the regional office of education or CPS, as applicable, shall identify the entity and provide evidence that it meets the requirements of Section 210.40(a)(2) of this Part.
- 5) The process for admitting dropouts to the program, which shall address factors to be considered to enroll students. These factors shall be nondiscriminatory and shall not take into consideration the needs of individual students for specific services, such as special education or

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bilingual services. If there are more eligible applicants for enrollment in an IHOPE program than there are spaces available, students shall be selected either on a first come, first served basis or by lottery.

- 6) A list of any cooperative and intergovernmental agreements and subcontracts that identifies the entity with which the agreement or subcontract is entered and includes a description of the need and purpose of the agreement or subcontract; measurable and time-specific services to be provided, as applicable; associated costs, i.e., the amounts to be paid, as applicable; and the projected number of participants to be served.
- 7) An agreement with each school district from which an IHOPE student will graduate and receive a diploma in accordance with Section 2-3.66b(b) of the School Code.
- 8) If any of the students enrolled require special education services, then the cooperative agreement with the school district of residence of each student that addresses responsibility for at least, but not limited to, the evaluation process, provision of services, dispute resolution, child count, and receipt of State special education funds.
- 9) The procedures to be used to review student progress on a regular basis, which shall at least conform with the requirements of Section 210.40(d) of this Part.
- 10) A summary of the program's student discipline policy, to address the procedures to be used for a student's suspension or expulsion from the program due to gross disobedience or misconduct.
- 11) The proposed calendar for the program, providing evidence that it is in conformance with the requirements of Section 2-3.66b(e) of the School Code and Section 210.60 of this Part.
- 12) A description of how the IHOPE program's professional development plan will address instruction of students who have dropped out of school.
- 13) A detailed program budget that includes the sources of funding to be used in conjunction with general State aid and/or any incentive grant received

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pursuant to Subpart B of this Part and a plan for allocating costs to those funds.

- A) The budget plan shall outline how any local, State or federal funds will be coordinated to ensure the efficient and effective delivery of the program.
 - B) The budget shall describe sources of revenue other than general State aid or an incentive grant that the regional office of education or CPS, as applicable, will allocate to the program.
 - C) The budget shall include an estimate of the total cost per student for the program and an estimate of any gap between existing revenue available for the program and the total cost of the program.
- 14) A plan for evaluating the effectiveness of the program in improving academic performance of the students working towards meeting State and local requirements for receipt of a high school diploma. The plan shall include:
- A) the methods to be used to conduct the evaluation;
 - B) the data to be collected, which shall include at least the indicators outlined in Section 2-3.66b(h) of the School Code, as applicable to the program;
 - C) the specific procedures for how achievement levels of individual students enrolled in the program will be assessed to ensure that each student is making anticipated progress, as stipulated in his or her individual instructional program;
 - D) the specific procedures for how achievement levels of students with IEPs will be assessed, if these students are enrolled in the program;
 - E) how the evaluation will measure the extent to which the program overall is an effective strategy for assisting dropouts in completing their high school education and receiving a diploma; and

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- F) how the evaluation results will be used to improve the program.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 210.100 Suspension and Revocation of Program Approval

- a) The State Superintendent of Education shall investigate an IHOPE program when any of the following occurs:
- 1) the program fails to receive approval to continue operating, in accordance with the requirements of Section 210.80 of this Part;
 - 2) a parent or guardian files a written complaint with the regional superintendent of education or CPS, as applicable, or the State Superintendent of Education alleging that the program meets one or more of the following conditions:
 - A) A failure to meet educational outcomes as enumerated in the approved IHOPE plan for a period of two or more consecutive years;
 - B) A failure to comply with all applicable laws as specified in Section 2-3.66b of the School Code and this Part;
 - C) A failure to comply with the terms and conditions of an IHOPE incentive grant received pursuant to Subpart B of this Part; or
 - D) A failure to maintain financial records according to Generally Accepted Accounting Procedures or, in the case of CPS, 23 Ill. Adm. Code 100;
 - 3) the State Superintendent otherwise receives information or becomes aware of allegations that the program meets one or more of the conditions set forth in subsection (a)(2) of this Section.
- b) If the State Superintendent of Education, at the conclusion of the investigation, identifies deficiencies in the program that meet any of the conditions specified in subsection (a) of this Section, then he or she shall provide to the regional office of

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education that established the program, or to CPS, as applicable, written notification of the specific deficiencies found.

- 1) The regional office of education or CPS, as applicable, shall submit to the State Superintendent of Education, within 30 calendar days after receiving the notification, a time-specific plan that addresses the specific steps to be taken and staff responsible to remedy each of the deficiencies cited. In no case shall the time needed to correct deficiencies exceed 120 days.
 - 2) The State Superintendent shall approve the plan no later than 15 days after receiving the plan if it meets all of the following requirements.
 - A) The timeframe is reasonable to correct the cited deficiencies.
 - B) The proposed steps to be taken to remedy the problems have a high likelihood of correcting the cited deficiencies.
 - C) A sufficient number of staff are proposed to implement the plan, and their expertise relates to the areas in which the deficiencies were found.
 - 3) The regional office of education or CPS, as applicable, shall provide a copy of the deficiencies and of the approved plan to any entity with which it has entered into a cooperative agreement, intergovernmental agreement, contract or subcontract in order to operate the program or to provide services for students enrolled, as well as to any school district with which it has agreements to issue high school diplomas.
 - 4) If the regional office of education or CPS, as applicable, provides evidence that it has corrected the deficiencies within the timeframe specified in the plan approved pursuant to subsection (b)(2) of this Section, then no change in the program's approved status shall be made.
- c) If the regional office of education or CPS, as applicable, is unable to correct all of the deficiencies within the timeframe specified in its plan, even after the provision of technical assistance by State Board of Education staff, then it may submit to the State Superintendent an amended plan.

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- 1) The amended plan shall be submitted no later than 30 calendar days prior to the time the affected deficiencies were to be corrected.
- 2) The amended plan shall identify the deficiencies that are still unresolved, specifying the reasons for the delay and describing the steps to be taken to remedy the problems and the timeline for completing each. In no case shall the time needed to correct the remaining deficiencies exceed 30 additional calendar days.
- 3) The State Superintendent of Education will accept the amended plan, provided the remaining deficiencies can be corrected within 30 calendar days and that none of the deficiencies:
 - A) presents an immediate health hazard or danger to students and staff;
 - B) severely affects the program's ability to provide a program appropriate to the needs of the students enrolled (i.e., addresses the State Goals for Learning, employs licensed staff, provides the services identified as necessary to assist students to earn a high school diploma); and
 - C) represents prolonged or repeated problems to a degree that indicates the program's intention not to correct the deficiencies.
- d) If the regional office of education or CPS, as applicable, fails to demonstrate that all of the deficiencies have been corrected within the timeframe specified in the amended plan, or fails to submit an amended plan that meets the requirements of subsection (c) of this Section, then approval to operate the program shall be suspended upon written notification from the State Superintendent of Education.
 - 1) The program may serve the students enrolled in the program during the time of its suspension, provided it continues to make progress as specified in its plan and no additional students are enrolled in the program.
 - 2) The regional office of education or CPS, as applicable, shall provide a copy of the notice of suspension to any entity with which it has entered into a cooperative agreement, intergovernmental agreement, contract or subcontract in order to operate the program or to provide services for

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students enrolled, as well as to any school district with which it has agreements to issue high school diplomas.

- 3) If the regional office of education or CPS, as applicable, fails to correct all remaining deficiencies within 30 calendar days after receiving the notice of suspension, then approval to operate the program shall be revoked.
- e) Notification to revoke program approval shall be sent by certified mail, return receipt requested to the regional office of education that established the program or to CPS, as applicable. A regional office of education or CPS, as applicable, shall have 10 calendar days after receipt of the notice of revocation to submit a written request for a hearing pursuant to the Illinois Administrative Procedure Act [5 ILCS 100] and the State Board of Education's rules for Contested Cases and Other Formal Hearings (23 Ill. Adm. Code 475). The receipt of notification shall be determined by the date of receipt shown on the return receipt form.
- f) Once approval for a program has been revoked:
- 1) a regional office of education or CPS, as applicable, shall be ineligible to file any claim upon the Common School Fund with regard to the program;
 - 2) the State Superintendent of Education shall recover grant funds from a regional office of education or CPS, as applicable, in accordance with the provisions of the Illinois Grant Funds Recovery Act [30 ILCS 705]; and
 - 3) all students (and their parents or guardians, as applicable) enrolled in the program shall be informed in writing of the revocation no later than 10 school days following receipt of the notification that approval has been revoked.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Transitional Bilingual Education
- 2) Code Citation: 23 Ill. Adm. Code 228
- 3)

<u>Section Numbers</u> :	<u>Proposed Action</u> :
228.5	Amendment
228.10	Amendment
228.15	Amendment
228.20	Amendment
228.25	Amendment
228.27	Amendment
228.30	Amendment
228.35	Amendment
228.40	Amendment
228.50	Amendment
228.60	Amendment
- 4) Statutory Authority: 105 ILCS 5/2-3.39(1) and 14C
- 5) A Complete Description of the Subjects and Issues Involved: PA 97-305, effective January 1, 2012, directed the Illinois Advisory Council on Bilingual Education (IACBE) to address the following questions:
 1. whether and how the 20 child per attendance center minimum in Section 14C-3 of the School Code should be modified;
 2. whether and how educator certification requirements in Article 14C of the School Code and applicable State Board of Education rules should be modified;
 3. whether and how bilingual education requirements in Article 14C and applicable State Board of Education rules should be modified to address differences between elementary and secondary schools; and
 4. whether and how to allow school districts to administer alternative bilingual education programs instead of transitional bilingual education programs.

In the report prepared pursuant to PA 97-305, IACBE recommended revising the criteria used to place students into part-time transitional bilingual education (TBE) programs (i.e., questions 1 and 3). The primary changes being proposed in Part 228 are based on IACBE's recommendations, as discussed in the report issued to the Governor and General Assembly.

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Section 14C-3 of the School Code requires schools that enroll 20 or more English learners (ELs) who are of the same language classification to provide instruction for these students in their native language in addition to instruction in English. These programs are called transitional bilingual education programs. Students who are placed in full-time TBE programs receive native language and English instruction in all core subject areas, in addition to English as a second language instruction. Under the current rules (see Section 228.30(c)(3)), any student who has a minimum proficiency in English may be placed in part-time TBE programs if the student's proficiency level indicates that he or she would benefit from the part-time placement.

Based on the recommendations of the IACBE, this rulemaking proposes additional criteria that districts may use, in lieu of English proficiency, to place students in part-time TBE programs. New Section 228.30(c)(3)(B) lists these criteria, which address multiple student characteristics for school districts to consider when determining whether a student needs native language instruction in all core subject areas and, if not, whether the student would benefit from a part-time TBE placement. Provisions already stated in the law and rules concerning parental notification and agreeing to the placement will apply to districts choosing a part-time option for any student. As proposed, the Section 228.30(c)(3)(B) will provide school districts with additional flexibility in making part-time placements.

Staff also is proposing that the term "limited English proficient (LEP)", as currently used in Part 228, be changed to "English learners". LEP is no longer the term used generally among educators and researchers in the field of English language acquisition. The term "English learners" is considered to be a more sensitive term to indicate that students are in the process of learning English.

Additionally, new provisions put in place by P.A. 97-915, effective January 1, 2013, regarding bilingual parent advisory committees have resulted in several minor changes to Section 228.30(c)(4).

Other technical changes also are being proposed throughout the rulemaking. These include:

- incorporating the "2012 Amplification of the English Language Development Standards Kindergarten-Grade 12", which is the most updated version of these standards available;
- fixing a cross-reference to rules governing Early Childhood Block Grants for noncertified personnel;
- updating terminology to reflect the educator licensure system;

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- clarifying when annual assessment scores may be used in place of scores obtained from a screening instrument for newly enrolled students; and
- correcting the due date for submission of the final expenditure report.

As required by law, the draft amendments were shared on April 30, 2013 with the IACBE. No comments were received from members of the IACBE.

- 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? Yes; see Sections 228.25(b)(1), 228.30(b)(4), 228.30(c)(1)(C), and 228.30(d)(2)(A).
- 10) Are there any other 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
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:

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- 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: January 2013

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 f: INSTRUCTION FOR SPECIFIC STUDENT POPULATIONS

PART 228
TRANSITIONAL BILINGUAL EDUCATION

Section

228.5	Purpose and Applicability
228.10	Definitions
228.15	Identification of Eligible Students
228.20	Student Language Classification Data
228.25	Program Options, Placement, and Assessment
228.27	Language Acquisition Services for Certain Students Exiting the Program
228.30	Establishment of Programs
228.35	Personnel Qualifications; Professional Development
228.40	Students' Participation; Records
228.50	Program Plan Approval and Reimbursement Procedures
228.60	Evaluation

AUTHORITY: Implementing Article 14C and authorized by Section 2-3.39(1) of the School Code [105 ILCS 5/Art. 14C and 2-3.39(1)].

SOURCE: Adopted May 28, 1976; codified at 8 Ill. Reg. 5176; Part repealed, new Part adopted at 11 Ill. Reg. 5969, effective March 23, 1987; amended at 17 Ill. Reg. 104, effective December 18, 1992; amended at 26 Ill. Reg. 898, effective January 15, 2002; amended at 27 Ill. Reg. 9996, effective June 20, 2003; amended at 30 Ill. Reg. 17434, effective October 23, 2006; amended at 34 Ill. Reg. 11581, effective July 26, 2010; amended at 35 Ill. Reg. 3735, effective February 17, 2011; amended at 35 Ill. Reg. 16870, effective September 29, 2011; amended at 37 Ill. Reg. _____, effective _____.

Section 228.5 Purpose and Applicability

- a) This Part establishes requirements for school districts' provision of services to students in preschool through grade 12 who have been identified as **limited English learners** **proficient** in accordance with Article 14C of the School Code [105 ILCS 5/14C] and this Part.

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- b) The requirements of Article 14C of the School Code and this Part shall apply to every school district in Illinois, regardless of whether the district chooses to seek funding pursuant to Section 228.50 of this Part.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 228.10 Definitions

"English as a Second Language" or "ESL" means specialized instruction designed to assist students whose home language is other than English in attaining English language proficiency. ESL instruction includes skills development in listening, speaking, reading, and writing. (ESL is not to be confused with English language arts as taught to students whose home language is English.)

"English Language Proficiency Assessment" means the ACCESS for ELLs[®] (World-class Instructional Design and Assessment Consortium, Wisconsin Center for Education Research (WCER), University of Wisconsin-Madison, 1025 West Johnson Street, MD#23, Madison WI 53706 (2006)).

"English Learners" means any student in preschool, kindergarten or any of grades 1 through 12, whose home language background is a language other than English and whose proficiency in speaking, reading, writing, or understanding English is not yet sufficient to provide the student with:

the ability to meet the State's proficient level of achievement on State assessments;

the ability to successfully achieve in classrooms where the language of instruction is English; or

the opportunity to participate fully in the school setting.

For the purposes of this Part, the terms "limited English proficient student" and "students with limited English proficiency", as used in Article 14C of the School Code, are understood to be "English learners".

"Home Language" means that language normally used in the home by the student and/or by the student's parents or legal guardians.

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"Language Background other than English" means that the home language of a student in preschool, kindergarten or any of grades 1 through 12, whether born in the United States or born elsewhere, is other than English or that the student comes from a home where a language other than English is spoken by the student, or by his or her parents or legal guardians, or by anyone who resides in the student's household.

"Preschool Program" means instruction provided to children who are ages 3 up to but not including those of kindergarten enrollment age as defined in Section 10-20.12 of the School Code [105 ILCS 5/10-20.12] in any program administered by a school district, regardless of whether the program is provided in an attendance center or a non-school-based facility.

"Prescribed Screening Instrument" means the:

WIDA ACCESS Placement Test (W-APT™) (2006 or 2007) for students entering or in the second semester of grade 1 or in grades 2 through 12 (World-class Instructional Design and Assessment Consortium, Wisconsin Center for Education Research (WCER), University of Wisconsin-Madison, 1025 West Johnson Street, MD#23, Madison WI 53706);

Measure of Developing English Language (MODEL™) (2008) for students entering kindergarten or the first semester of grade 1 (World-class Instructional Design and Assessment Consortium, Wisconsin Center for Education Research (WCER), University of Wisconsin-Madison, 1025 West Johnson Street, MD#23, Madison, WI 53706).

"Prescribed Screening Procedures" means the procedures that a school district determines to be appropriate to assess a preschool student's level of English language proficiency (minimally in the domains of speaking and listening), in order to determine whether the student is eligible to receive bilingual education services. The procedures may include, without limitation, established screening instruments or other procedures provided that they are research-based. Further, screening procedures shall at least:

Be age and developmentally appropriate;

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Be culturally and linguistically appropriate for the children being screened;

Include one or more observations using culturally and linguistically appropriate tools;

Use multiple measures and methods (e.g., home language assessments; verbal and nonverbal procedures; various activities, settings, and personal interactions);

Involve family by seeking information and insight to help guide the screening process without involving them in the formal assessment or interpretation of results; and

Involve staff who are knowledgeable about preschool education, child development, and first and second language acquisition.

"Sheltered Content Instruction" means instruction that is generally intended for English learners who demonstrate intermediate or advanced English proficiency and consists of adapting the language used in the particular subject to the student's English proficiency level to assist the student in understanding the content of the subject area and acquiring the knowledge and skills presented.

"Students of Limited English Proficiency" means students in preschool, kindergarten or any of grades 1 through 12, whether born in the United States or born elsewhere, whose home language background is a language other than English and whose difficulties in speaking, reading, writing, or understanding English may be sufficient to deny them:

the ability to meet the State's proficient level of achievement on State assessments;

the ability to successfully achieve in classrooms where the language of instruction is English; or

the opportunity to participate fully in the school setting.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

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Section 228.15 Identification of Eligible Students

- a) Each school district shall administer a home language survey with respect to each student in preschool, kindergarten or any of grades 1 through 12 who is entering the district's schools or any of the district's preschool programs for the first time, for the purpose of identifying students who have a language background other than English. The survey should be administered as part of the enrollment process or, for preschool programs, by the first day the student commences participation in the program. The survey shall include at least the following questions, and the student shall be identified as having a language background other than English if the answer to either question is yes:
 - 1) Whether a language other than English is spoken in the student's home and, if so, which language; and
 - 2) Whether the student speaks a language other than English and, if so, which language.
- b) The home language survey shall be administered in English and, if feasible, in the student's home language.
- c) The home language survey form shall provide spaces for the date and the signature of the student's parent or legal guardian.
- d) The completed home language survey form shall be placed into the student's temporary record as defined in 23 Ill. Adm. Code 375 (Student Records).
- e) The district shall screen the English language proficiency of each student identified through the home language survey as having a language background other than English by using the prescribed screening instrument applicable to the student's grade level (i.e., kindergarten or any of grades 1 through 12) or the prescribed screening procedures identified by the preschool program. This screening shall take place within 30 days either after the student's enrollment in the district or, for preschool programs, after the student commences participation in the program, for the purpose of determining the student's eligibility for bilingual education services and, if eligible, the appropriate placement for the student. For kindergarten, all students identified through the home language survey, including students previously screened when enrolled in preschool, must be screened using the prescribed screening instrument for kindergarten.

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- 1) The prescribed screening instrument does not need to be administered to a student who, in his or her previous school district:
 - A) has been screened and identified as English language proficient as required in this subsection (e); or
 - B) has met the State exit requirements as described in Section 228.25(b)(2) of this Part; or
 - C) has met all of the following criteria:
 - i) resides in a home where a language other than English is spoken, and
 - ii) has not been screened or identified as ~~ana-student with limited~~ English ~~leaner~~proficiency, and
 - iii) has been enrolled in the general program of instruction in the school he or she has previously attended, and
 - iv) has been performing at or above grade level as evidenced by having met or exceeded the Illinois Learning Standards in reading and math on the student's most recent State assessment administered pursuant to Section 2-3.64 of the School Code [105 ILCS 5/2-3.64] or, for students for whom State assessment scores are not available, a nationally normed standardized test, provided that either assessment was not administered with accommodations for ~~students of limited~~English ~~leaners~~proficiency. This provision applies only to a student who had been enrolled in any of the grades in which the State assessment is required to be administered in accordance with Section 2-3.64 of the School Code.
- 2) For purposes of eligibility and placement, a district must rely upon a student's score attained on the English language proficiency assessment prescribed under Section 228.25(b) of this Part, if available from another school district or another state, provided that the score was achieved no

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~~sooner than the school year previous to the student's enrollment in the district no more than 12 months prior to the district's need to assess the student's proficiency in English.~~

- 3) If results are not available pursuant to subsection (e)(2) of this Section, then a district must rely upon a student's score on the prescribed screening instrument if available from another school district or another state for the purposes of eligibility and placement for students entering any of grades 1 through 12, if the student's score on the prescribed screening instrument was achieved no more than 12 months prior to the district's need to assess the student's proficiency in English.
- 4) Each student whose score on the prescribed screening instrument or procedures, as applicable, is identified as not "proficient" as defined by the State Superintendent of Education shall be considered to ~~be an~~ have limited English ~~learner~~ proficiency and therefore to be eligible for, and shall be placed into a program of, bilingual education services.
 - A) For preschool programs using a screening procedure other than an established assessment tool where "proficiency" is defined as part of the instrument, "proficiency" is the point at which performance identifies a child as proficient in English, as set forth in the program's proposed screening process.
 - B) For any preschool student who scores at the "proficient" level, the school district may consider additional indicators such as teachers' evaluations of performance, samples of a student's work, or information received from family members and school personnel in order to determine whether the student's proficiency in English is limited and the student is eligible for services.
- f) Each district shall ensure that any accommodations called for in the Individualized Education Programs of students with disabilities are afforded to those students in the administration of the screening instrument or procedures, as applicable, discussed in this Section and the English language proficiency assessment prescribed under Section 228.25(b) of this Part.
- g) The parent or guardian of any child resident in a school district who has not been identified as an having limited English learner proficiency may request the district

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to determine whether the child should be considered for placement in a bilingual education program, and the school district shall make that determination upon request, using the process described in this Section.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 228.20 Student Language Classification Data

In order to meet the requirements of Section 14C-3 of the School Code, every school district shall update its individual student records in the Student Information System (SIS) authorized under 23 Ill. Adm. Code 1.75 (Public Schools Evaluation, Recognition and Supervision) *no later than the first day in March of each year* to reflect the following information [105 ILCS 5/14C-3]:

- a) whether the student has a language background other than English, as identified via the home language survey;
- b) whether the student has been identified as ~~an~~*having limited* English ~~learner~~*proficiency* based on the results of the prescribed screening instrument or procedures, as applicable, or the English language proficiency assessment discussed in Section 228.15(e) or Section 228.25(b) of this Part; and
- c) the home language, birth date, and grade or achievement level of the student identified as ~~an~~*having limited* English ~~learner~~*proficiency*.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 228.25 Program Options, Placement, and Assessment

- a) Program Options and Placement
 - 1) *When an attendance center has an enrollment of 20 or more English learners~~limited English proficient students~~ of the same language classification the school district must establish a transitional bilingual education (TBE) program for each language classification represented by those students. (Section 14C-3 of the School Code) ~~(See; also see~~ Section 228.30(c) of this Part.) A further assessment of those students to determine their specific programmatic needs or for placement in either a full-time or a part-time program may be conducted. This subsection (a)(1) applies*

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only to students enrolled in kindergarten or any of grades 1 through 12 in an attendance center.

2) *When an attendance center has an enrollment of 19 or fewer ~~English learners~~students of limited English proficiency of any single language classification other than English, the school district shall conduct an individual student language assessment to determine each student's need for home language instruction and may provide a transitional bilingual program in the languages other than English common to these students. If the district elects not to provide a transitional bilingual program, the district shall provide a locally determined transitional program of instruction (TPI) for those students. (Section 14C-3 of the School Code) ~~(See; also see~~ Section 228.30(d) of this Part.) This subsection (a)(2) applies only to students enrolled in kindergarten or any of grades 1 through 12 in an attendance center.*

3) *When a preschool program of the school district has an enrollment of 20 or more ~~students of limited~~ English ~~learners~~proficiency of any single language classification other than English in an attendance center or a non-school-based facility, the school district shall establish a TBE program for each language classification represented by the students. If the preschool program of an attendance center or non-school-based facility has 19 or fewer ~~students of limited~~ English ~~learners~~proficiency of any single language classification other than English, then the school district shall meet the requirements of subsection (a)(2) of this Section when determining placement and the program to be provided.*

b) English Language Proficiency Assessment

1) *School districts must annually assess the English language proficiency, including aural comprehension (listening), speaking, reading, and writing skills, of all ~~English learners~~children of limited English-speaking ability in kindergarten and any of grades 1 through 12 (Section 14C-3 of the School Code) using the English language proficiency assessment prescribed by the State Superintendent of Education. This assessment shall be administered during a testing window designated by the State Superintendent, for the purpose of determining individual students' continuing need and eligibility for bilingual education services. The annual assessment shall be based on the 2012 Amplification of the English*

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Language Development Standards Kindergarten-Grade 12"English Language Proficiency Standards for English Language Learners in PreKindergarten through Grade 12" (20122007), published by the Board of Regents of the University of Wisconsin System on behalf of the WIDA Consortium, University of Wisconsin-Madison, 1025 West Johnson Street, MD #23, Madison WI 53706, and posted at <http://wida.us/standards/eld.aspx><http://www.wida.us/standards/elp.aspx>. No later amendments to or editions of these standards are incorporated by this Section.

- 2) The State Superintendent shall determine and post on the State Board's website no later than September 1, 2010 the composite score and the literacy score that will be used to determine whether a student is identified as "proficient". Should the minimum scores be modified, the State Superintendent shall inform school districts no later than July 1 of the scores to be used and modify the State Board's website accordingly.
 - A) Each student whose score on the English language proficiency assessment is identified as "proficient" shall exit the program of bilingual education services, subject to the provisions of Section 14C-3 of the School Code [105 ILCS 5/14C-3].
 - B) Each student whose score is identified as "proficient" in accordance with subsection (b)(2)(A) of this Section shall no longer be identified as anlimited English learnerprofieient.
- 3) Each student who is not enrolled in a program under this Part but who has been identified as anhaving limited English learnerproficiency shall be required to participate in the assessment each year until he or she achieves a "proficient" score.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 228.27 Language Acquisition Services for Certain Students Exiting the Program

In accordance with Section 1703(f) of the Equal Educational Opportunities Act (EEOA), a school district must provide services that will enable limited-English learnersprofieient students to "overcome barriers that impede equal participation by these students in the district's instructional programs" (see 20 USC 1703). Section 14C-3 of the School Code, however,

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authorizes school districts to discontinue services to students who have been enrolled and participated in the TBE or TPI program for three consecutive years. In instances where a school district chooses to discontinue TBE or TPI program services as permitted under Section 14C-3 of the School Code for those students who have not achieved English proficiency as determined by the process set forth in Section 228.25(b) of this Part, the district shall submit a plan to the State Superintendent that describes the actions it will take to meet its obligations under Section 1703(f) of the EEOA. Any amendments to the plan shall be submitted to the State Superintendent no later than 30 days following adoption of the changes. The plan shall at least include:

- a) the process and criteria the district will use to make a determination of when to exit eligible students from the TBE or TPI program (e.g., after a certain amount of time in the program, once a prescribed academic or proficiency level is achieved);
- b) The language acquisition services and methods to be provided, including how the services and methods differ from the general program of instruction in content, instructional goals, and the use of English and home language instruction;
- c) How the program will meet the educational needs of the students and build on their academic strengths;
- d) How the program will specifically help the students learn English and meet academic achievement standards for grade promotion and graduation;
- e) The names and qualifications of the staff who will implement the program; and
- f) How sufficient resources, including equipment and instructional materials, shall be made available to support the program.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 228.30 Establishment of Programs

- a) Administrative Provisions
 - 1) Program Facilities – Other than for preschool education programs, TBE and TPI programs *shall be located in regular public school facilities rather than in separate facilities.* (Section 14C-6 of the School Code [105 ILCS 5/14C-6]) If such a location is not feasible, the substitute location shall be comparable to those made available to a majority of the district's

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students with respect to space and equipment. If housed in a facility other than a public school (including a charter school), the school district shall provide a written explanation in its annual application to the State Superintendent of Education as to why the use of a public school building is not feasible.

- 2) Course Credit – Students enrolled in approved programs shall receive full credit for courses taken in these programs, which shall count toward promotion and fulfillment of district graduation requirements. Courses in ESL shall count toward English requirements for graduation. Students who change attendance centers or school districts shall do so without loss of credit for coursework completed in the program.
- 3) *Extracurricular Activities – Each district shall ensure that students enrolled in programs shall have the opportunity to participate fully in the extracurricular activities of the public schools in the district. (Section 14C-7 of the School Code [105 ILCS 5/14C-7])*
- 4) Inclusion of Students Whose First or Home Language is English – Students whose first or home language is English may be included in a program under this Part provided that all ~~students of limited~~ English ~~learners~~ proficiency are served.
- 5) Joint Programs – A school district may join with one or more other school districts to provide joint programs or services in accordance with the provisions of Section 10-22.31a of the School Code [105 ILCS 5/10-22.31a]. The designated administrative agent shall adhere to the procedures contained in 23 Ill. Adm. Code 100 (Requirements for Accounting, Budgeting, Financial Reporting, and Auditing) as they pertain to cooperative agreements.
- 6) Preschool and Summer School – *A school district may establish preschool and summer school programs for English learners~~students of limited English proficiency~~; or join with other school districts in establishing thesesueh programs. Summer school programs shall not replace programs required during the regular school year. (Section 14C-11 of the School Code [105 ILCS 5/14C-11]) A school district that offers a summer school program or preschool program shall provide transitional bilingual education programs or transitional programs of instruction for students*

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~~having limited~~ English ~~learners~~ proficiency in accordance with Article 14C and this Part.

b) Instructional Specifications

- 1) Student-Teacher Ratio – The student-teacher ratio in the ESL and home language components of programs serving students in kindergarten or any of grades 1 through 12 as of September 30 of each school year shall not exceed 90% of the average student-teacher ratio in general education classes for the same grades in that attendance center. Decreases in the ratio for general education during the course of a school year due to students' mobility shall not require corresponding adjustments within the bilingual program. Further, additional students may be placed into bilingual classes during the course of a school year, provided that no bilingual classroom may exhibit a student-teacher ratio that is greater than the average for general education classes in that grade and attendance center as a result of these placements. Preschool programs established pursuant to Section 2-3.71 of the School Code [105 ILCS 5/2-3.71] that provide bilingual education services shall meet the requirements of 23 Ill. Adm. Code ~~235.30~~235.30(d) (Early Childhood Block Grant) rather than the requirements of this subsection (b)(1).
- 2) Grade-Level Placement – *Students enrolled in a program of transitional bilingual education shall be placed in classes with students of approximately the same age or grade level, except as provided in subsection (b)(3) of this Section. (Section 14C-6 of the School Code)*
- 3) Multilevel Grouping – *If students of different age groups or educational levels are combined in the same class, the school district shall ensure that the instruction given each student is appropriate to his/her age or grade level. (Section 14C-6 of the School Code)* Evidence of compliance with this requirement shall be:
 - A) individualized instructional programs; or
 - B) grouping of students for instruction according to grade level.
- 4) Beginning with the 2012-13 school year, instruction in Spanish language arts, where provided under subsection (c) or (d) of this Section, shall be

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aligned to the standards that are appropriate to the ages or grade levels of the students served, which are set forth in the document titled "World-Class Instructional Design and Assessment: Spanish Language Arts Standards" (2005), published by the Board of Regents of the University of Wisconsin System on behalf of the WIDA Consortium, [University of Wisconsin-Madison, 1025 West Johnson Street, MD #23, Madison WI 53706](http://www.wida.us/standards/sla.aspx), and posted at <http://www.wida.us/standards/sla.aspx>. No later amendments to or editions of these standards are incorporated by this Section.

- 5) Language Grouping – School districts may place ~~students of limited English learners~~ students of limited English proficiency who have different home languages in the same class, provided that, in classes taught in the home language:
 - A) instructional personnel or assistants representing each of the languages in the class are used; and
 - B) the instructional materials are appropriate for the languages of instruction.
- 6) Program Integration – *In courses of subjects in which language is not essential to an understanding of the subject matter, including, but not necessarily limited to, art, music, and physical education, English learners ~~students of limited English proficiency~~ shall participate fully with their English-speaking classmates.* (Section 14C-7 of the School Code)
- c) Specific Requirements for Transitional Bilingual Education (TBE) Programs
 - 1) Each full-time TBE program shall consist of at least the following components (Section 14C-2 of the School Code):
 - A) *Instruction in subjects which are either required by law (see 23 Ill. Adm. Code 1) or by the student's school district, to be given in the student's home language and in English; core subjects such as math, science and social studies must be offered in the student's home language, except as otherwise provided in subsection (c)(3) of this Section;*
 - B) *Instruction in the language arts in the student's home language;*

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C) *Instruction in English as a second language*, which must align to the 2012 Amplification of the English Language Development Standards Kindergarten-Grade 12 "English Language Proficiency Standards for English Language Learners in PreKindergarten through Grade 12" (20122007), published by the Board of Regents of the University of Wisconsin System on behalf of the WIDA Consortium, University of Wisconsin-Madison, 1025 West Johnson Street, MD #23, Madison WI 53706, and posted at <http://wida.us/standards/eld.aspx>~~<http://www.wida.us/standards/elp.aspx>~~. No later amendments to or editions of these standards are incorporated by this Section; *and*

D) *Instruction in the history and culture of the country, territory, or geographic area which is the native land of the students or of their parents and in the history and culture of the United States.*

2) Programs may also include other services, modifications, or activities such as counseling, tutorial assistance, learning settings, or special instructional resources that will assist ~~students of limited~~ English ~~learners proficiency~~ in meeting the Illinois Learning Standards (see 23 Ill. Adm. Code 1, Appendix D) and for preschool programs established pursuant to Section 2-3.71 of the School Code ~~and for kindergarten levels~~, the Illinois Early Learning and Development Standards – Children Age 3 to Kindergarten Enrollment Age~~Illinois Early Learning Standards~~ (see 23 Ill. Adm. Code 235, Appendix A).

3) Beginning September 1, 2013, students~~Students~~ may be placed into a part-time program, or students previously placed in a full-time program may be placed in a part-time program in accordance with the requirements of this subsection (c)(3).

A) ~~If~~ an assessment of the student's English language skills has been performed in accordance with the provisions of either Section 228.15(e) or Section 228.25(b) of this Part and the assessment results indicate that the student has sufficient proficiency in English to benefit from a part-time program.

iA) ~~Evidence~~Beginning July 1, 2011, evidence of sufficient

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proficiency shall be achievement of the minimum score to be used for this purpose set by the State Superintendent either on the prescribed screening instrument required in Section 228.15(e) of this Part or the English language proficiency assessment required in Section 228.25(b). The State Superintendent shall inform districts of the minimum score to be used for the prescribed screening instrument or the English language proficiency assessment, and post the minimum score on the State Board's website. Should the minimum score be modified, the State Superintendent shall inform school districts no later than July 1 of the scores to be used and modify the State Board's website accordingly.

iiB) Preschool programs shall use as evidence of sufficient proficiency either a minimum score for an established screening instrument or a minimum level of performance documented through established screening procedures.

B) If the student's score either on the prescribed screening instrument required in Section 228.15(e) of this Part or the English language proficiency assessment required in Section 228.25(b) is below the minimum identified pursuant to subsection (c)(3)(A) of this Section, the student may be placed in a part-time program only if one of the following conditions is met.

- i) Native Language Proficiency
A native language proficiency test documents that the student has minimal or no proficiency in the home language and a parent provides written confirmation that English is the primary language spoken in the home.
- ii) Academic Performance in Subjects Taught in English
Any student whose student grades, teacher recommendations and State or local assessment results in the previous school year indicate that the student has performed at or above grade level in one or more core subject areas (i.e., reading, English language arts, mathematics, physical sciences, social sciences) that were taught exclusively in English.

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- iii) Academic Performance
Any student in a departmentalized setting whose student grades, teacher recommendations and State or local assessment results in the previous school year indicate that the student has performed at or above grade level in at least two core subject areas that were taught in a U.S. school in the student's native language or via sheltered instruction in English.
- iv) Students with Disabilities
Any student with a disability whose Individualized Education Program developed in accordance with 23 Ill. Adm. Code 226.Subpart C identifies a part-time transitional bilingual education program as the least restrictive environment for the student.
- v) Limited Native Language Instruction
The limited use of native language instruction is permissible for a student whose native language has no written component, such as, but not limited to, Piraha (Paupa New Guinea), Sentinelese (India), Mosou (Mongolia/Tibet), Massalit (Dafur), or one for which written instructional materials are not available.
- ~~C)~~ ~~District staff also shall consider the student's score and his or her proficiency in the home language; prior performance, if any, in coursework taught exclusively in English; current academic performance; and other relevant factors such as age, disability, and cultural background in order to determine whether a full-time or a part-time program is appropriate.~~
- C4) A part-time program shall consist of components of a full-time program that are selected for a particular student based upon an assessment of the student's educational needs. Each student's part-time program shall provide daily instruction in English and in the student's home language as determined by the student's needs.
- 45) *Parent and Community Participation – Each district or cooperative*~~or~~

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cooperative shall establish a parent advisory committee consisting of parents, legal guardians, transitional bilingual education teachers, counselors, and community leaders. This committee shall participate in the planning, operation, and evaluation of programs. The majority of committee members shall be parents or legal guardians of students enrolled in these programs. Membership on this committee shall be representative of the languages served in programs to the extent possible ~~*This committee shall participate in the planning, operation, and evaluation of programs. The majority of committee members shall be parents or legal guardians of students enrolled in these programs. Membership on this committee shall be representative of the languages served in programs to the extent possible.*~~ (Section 14C-10 of the School Code [105 ILCS 5/14C-10])

- A) The committee shall:
- i) meet at least four times per year;
 - ii) maintain on file with the school district minutes of these meetings; ~~and~~
 - iii) review the district's annual program application to the State Superintendent of Education; ~~and-~~
 - iv) *autonomously carry out their affairs, including the election of officers and the establishment of internal rules, guidelines, and procedures.* (Section 14C-10 of the School Code)
- B) Each district or cooperative shall ensure that training is provided annually to the members of its parent advisory committee. This training shall be conducted in language that the parent members can understand and shall encompass, but need not be limited to, information related to instructional approaches and methods in bilingual education; the provisions of State and federal law related to students' participation and parents' rights; and accountability measures relevant to students in bilingual programs.
- d) Specific Requirements for Transitional Program of Instruction (TPI)

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- 1) Program Structure – The level of a student's proficiency in English, as determined by an individual assessment of the student's language skills on the basis of either the prescribed screening instrument or procedures, as applicable, required in Section 228.15(e) of this Part or the English language proficiency assessment required in Section 228.25(b) of this Part in conjunction with other information available to the district regarding the student's level of literacy in his or her home language, will determine the structure of the student's instructional program.
- 2) Program Components – A transitional program of instruction must include instruction or other assistance in the student's home language to the extent necessary, as determined by the district on the basis of the prescribed screening instrument or procedures, as applicable required in Section 228.15(e) of this Part or the English language proficiency assessment required in Section 228.25(b) of this Part, to enable the student to keep pace with his/her age or grade peers in achievement in the core academic content areas. A transitional program of instruction may include, but is not limited to, the following components:
 - A) instruction in ESL, which must align to the [2012 Amplification of the English Language Development Standards Kindergarten-Grade 12"English Language Proficiency Standards for English Language Learners in PreKindergarten through Grade 12"](#) (20122007), published by the Board of Regents of the University of Wisconsin System on behalf of the WIDA Consortium, [University of Wisconsin-Madison, 1025 West Johnson Street, MD #23, Madison WI 53706](#), and posted at <http://wida.us/standards/eld.aspx> <http://www.wida.us/standards/elp.aspx>. No later amendments to or editions of these standards are incorporated by this Section;
 - B) language arts in the students' home language; and
 - C) instruction in the history and culture of the country, territory, or geographic area that is the native land of the students or of their parents and in the history and culture of the United States.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

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Section 228.35 Personnel Qualifications; Professional Development

- a) Each individual assigned to provide instruction in a student's home language shall meet the requirements for bilingual education teachers set forth in 23 Ill. Adm. Code 25 (~~Educator Licensure Certification~~) and 23 Ill. Adm. Code 1 (Public Schools Evaluation, Recognition and Supervision), as applicable.
- b) Each individual assigned to provide instruction in ESL shall meet the requirements for ESL or English as a New Language teachers set forth in 23 Ill. Adm. Code 25 and 23 Ill. Adm. Code 1, as applicable.
- c) **Preschool Programs**
 - 1) Each individual assigned to provide instruction to students in a preschool program shall meet the requirements of 23 Ill. Adm. ~~235.20(c)~~235.20(e)(8)(A) (Application Procedure and Content for New or Expanding Programs~~Early Childhood Block Grant~~).
 - 2) By July 1, 2014, each individual assigned to provide instruction to students in a preschool program also shall meet the applicable requirements of subsection (a) or (b) of this Section, depending on the assignment.
 - 3) Staff who are~~Nonecertificated staff~~ employed to assist in instruction in a preschool program but do not hold a professional educator license shall meet the requirements of 23 Ill. Adm. ~~235.20(c)~~235.20(e)(8)(B).
- d) **Administrators**

Beginning July 1, 2014, each individual assigned to administer a program under this Part shall meet the applicable requirements of this subsection (d).

 - 1) Except as provided in subsections (d)(2) and (3) of this Section, any person designated to administer either a TBE or a TPI program must hold a valid administrative ~~certificate~~ or a supervisory endorsement issued on a professional educator license~~an initial or standard teaching certificate~~ by the State Board of Education in accordance with applicable provisions of 23 Ill. Adm. Code 25 (~~Educator Licensure Certification~~) and 23 Ill. Adm. Code 1 (Public Schools Evaluation, Recognition and Supervision) and

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must meet the requirements of 23 Ill. Adm. Code 1.783 (Requirements for Administrators of Bilingual Education Programs), as applicable.

- 2) A person designated to administer a TBE or TPI program in a district with fewer than 200 TBE/TPI students shall be exempt from all but the requirement for an administrative ~~certificate~~ or a supervisory endorsement issued on a ~~professional educator license~~ ~~an initial or standard teaching certificate~~, provided that he or she annually completes ~~a minimum of two hours of professional development specifically designed to address the needs of students with limited English proficiency. Beginning in the 2012-13 school year,~~ a minimum of eight hours of professional development ~~shall be required~~. An assurance that this requirement has been met shall be provided annually in a school district's application submitted pursuant to Section 228.50 of this Part. Documentation for this professional development activity shall be made available to a representative of the State Board of Education upon request.
 - 3) A person who has been assigned to administer a TPI program in a district that experiences such growth in the number of students eligible for bilingual education that a TBE program is required shall become subject to the requirements of subsection (d)(1) of this Section at the beginning of the fourth school year of the TBE program's operation. A person who has been assigned to administer a program under subsection (d)(2) of this Section in a district where the number of students eligible for bilingual education reaches 200 shall become subject to the requirements of subsection (d)(1) of this Section at the beginning of the fourth school year in which the eligible population equals or exceeds 200 or more students. That is, each individual may continue to serve for the first three school years on the credentials that qualified him or her to administer the program previously operated.
- e) Professional Development for Staff
- 1) Each school district having a program shall annually plan professional development activities for the ~~licensed~~ ~~certificated~~ and ~~nonlicensed~~ ~~noncertificated~~ personnel involved in the education of ~~students of limited~~-English ~~learners~~ ~~proficiency~~. This plan shall be included in the district's annual application and shall be approved by the State

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Superintendent of Education if it meets the standards set forth in subsections (e)(2) and (e)(3) of this Section.

- 2) Program staff beginning their initial year of service shall be involved in training activities that will develop their knowledge of the requirements for the program established under this Part and the employing district's relevant policies and procedures.
- 3) Training activities shall be provided to all bilingual program staff at least twice yearly and shall address at least one of the following areas:
 - A) current research in bilingual education;
 - B) content-area and language proficiency assessment of ~~students with limited~~ English learners proficiency;
 - C) research-based methods and techniques for teaching ~~students with limited~~ English learners proficiency;
 - D) research-based methods and techniques for teaching ~~students with limited~~ English learners proficiency who also have disabilities; and
 - E) the culture and history of the United States and of the country, territory or geographic area that is the native land of the students or of their parents.
- 4) In addition to any other training required under this subsection (e), each individual who is responsible for administering the prescribed screening instrument referred to in Section 228.15(e) of this Part or the annual English language proficiency assessment discussed in Section 228.25(b) of this Part shall be required to complete on-line training designated by the State Superintendent of Education and to pass the test embedded in that material.
- 5) Beginning in the 2012-13 school year, each district that operates either a TBE or a TPI program for students of Spanish language background in kindergarten and any of grades 1 through 12 shall provide annually at least one training session related to the implementation of the Spanish language arts standards required under Section 228.30(b)(4) of this Part for staff

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members of that program who are providing instruction in the Spanish language arts.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 228.40 Students' Participation; Records

- a) Notice of Enrollment and Withdrawal
- 1) *Notice of Enrollment – No later than 30 days after the beginning of the school year or 14 days after the enrollment of any student in a transitional bilingual education program in the middle of a school year, the school district shall notify by mail the parents or legal guardians of the student that their child has been enrolled in a transitional bilingual education program ~~or a transitional program of instruction~~ ~~or a transitional program of instruction~~. The notice shall be in English and in the home language of the student ~~and shall convey~~ ~~and shall convey~~, in simple, nontechnical language, all of the information called for in Section 14C-4 of the School Code [105 ILCS 5/14C-4].*
 - 2) *Withdrawal by Parents – Any parent or legal guardian whose child has been enrolled in a program shall have the absolute right to withdraw the child from the program immediately by submitting a written notice of his or her desire to withdraw the child to the school authorities of the school in which the child is enrolled or to the school district in which the child resides. (Section 14C-4 of the School Code)*
- b) Unless terminated as set forth in subsection (a)(2) of this Section, the duration of a student's participation in a program under this Part shall be as set forth in Section 14C-3 of the School Code.
- 1) If a student participates in a TBE or TPI in preschool or kindergarten, then that participation does not count towards the three-year total specified in Section 14C-3 of the School Code.
 - 2) If a student exits a program after three years and is not proficient in English, then the school district shall meet the requirements of Section 228.27 of this Part.

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- c) Maintenance of Records and Reporting Procedures
- 1) Report Cards – The school shall send progress reports to parents or legal guardians of students enrolled in programs in the same manner and with the same frequency as progress reports are sent to parents or legal guardians of other students enrolled in the school district.
 - A) Progress reports shall indicate the student's progress in the program and in the general program of instruction.
 - B) Progress reports shall indicate when the student has successfully completed requirements for transition from the program into the general program of instruction if that information has not been reported separately in writing to the parents or legal guardian.
 - C) Progress reports for all students enrolled in a program under this Part shall be written in English and in the student's home language unless a student's parents or legal guardian agrees in writing to waive this requirement. The parents' waiver shall be kept on file in accordance with subsection (c)(3) of this Section.
 - 2) Annual Student Reports – Each district must submit electronically the information requested by the State Superintendent using the Student Information System (see 23 Ill. Adm. Code 1.75) no later than June 30 of each year. Each district also must complete the Program Delivery Report, provided by the State Superintendent of Education, in which information on each program is compiled.
 - 3) Records – School districts shall maintain records of each student enrolled in programs in the manner prescribed in 23 Ill. Adm. Code 375 (Student Records). These records shall include program entry/exit information, annual English language proficiency assessment scores and results from the prescribed screening instrument for students in kindergarten and any of grades 1 through 12 or the results from the prescribed screening procedures for students in preschool programs; other student information (e.g., language, grade level, and attendance); the rationale for a student's placement into a part-time program, where applicable, including documentation of the criteria, as set forth in Section 228.30(c)(3) of this Part, used to determine factors indicating that a part-time program would

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be appropriate; and documentation of conferences and written communication with parents or legal guardians. Parents and legal guardians of students enrolled in programs shall have access to their students' records, as specified in 23 Ill. Adm. Code 375.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 228.50 Program Plan Approval and Reimbursement Procedures

- a) Reimbursement for programs provided by school districts pursuant to the provisions of Article 14C of the School Code and this Part is contingent upon the submission and approval of a program plan and request for reimbursement in accordance with the requirements of Section 14C-12 of the School Code and this Section.
- b) Program Plan Submission and Approval
 - 1) Applications for program approval shall be submitted, on forms provided by the State Superintendent of Education, at least 60 calendar days prior to the start of the proposed initial or continuing program.
 - 2) The State Superintendent of Education will waive the requirement in subsection (b)(1) of this Section only when an application is accompanied by a statement of facts showing that the waiver will enable the district to begin serving a student or students sooner than would otherwise be the case.
 - 3) School districts shall be granted at least 45 calendar days to complete and submit applications to the State Superintendent of Education. A district's failure to submit a completed application by the date specified on the form will delay its receipt of reimbursement pursuant to subsection (c) of this Section.
 - 4) Applications for a Transitional Bilingual Education Program and/or a Transitional Program of Instruction must contain at least the following information:
 - A) The number of students to be served by grade or grade equivalent and language group in a full-time or part-time program.

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- B) A summary description of the number and types of personnel who will provide services in the program.
- C) A description of the full-time and/or part-time program to be provided to the students identified pursuant to subsection (b)(4)(A) of this Section in relation to the applicable program standards set forth in Section 228.30 of this Part.
- D) Additional requirements for programs offering instruction in Spanish language arts in kindergarten and any of grades 1 through 12 ~~to include:~~ⁱ⁾ ~~For the 2011-12 school year only, a description of the steps the district will take to align its curriculum in the Spanish language arts with the standards required under Section 228.30(b)(4) this Part; and~~ⁱⁱ⁾ ~~For 2012-13 and each subsequent school year,~~ a description of the methods by which the district will measure and monitor its students' progress with respect to the standards required under Section 228.30(b)(4) of this Part.
- E) A budget summary containing a projection of the program expenditures (e.g., instruction, support services, administration and transportation) and offsetting revenues for the upcoming fiscal year, and a detailed budget breakdown, including allowable program expenditures for which reimbursement is sought, other program expenditures, and total program costs. *At least 60 percent of the funding received from the State must be used for instructional costs* [105 ILCS 5/14C-12]. "Instructional costs" are limited to any of the costs described under Account Number 1000, as set forth in 23 Ill. Adm. Code 100.Appendix D (Expenditure Accounts).
- F) In the case of a TBE program, an assurance that the district's Bilingual Parent Advisory Committee established pursuant to Section 14C-10 of the School Code and Section 228.30(c)(5) of this Part has had an opportunity to review the application.
- G) Inclusion of certifications, assurances and program-specific terms of the grant, as the State Board of Education may require, to be

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signed by the applicant that is a party to the application and submitted with the application.

- 5) Applications that, upon review by the State Superintendent of Education staff, are found to contain the information required pursuant to this Section shall be recommended for approval by the State Superintendent of Education. If the application is found to be incomplete, State Board staff will send a written notice to applicants requesting that they supply the needed information. In order to permit accurate allocation of funds for the program among eligible recipients, the State Superintendent may establish a deadline by which applicants must supply the requested information.
 - 6) The State Superintendent of Education will approve applications that demonstrate compliance with Article 14C of the School Code and this Part, except that the State Superintendent shall invoke subsection (b)(5) of this Section with respect to any requested information that is missing from any application submitted for approval.
- c) Account of Expenditures and Reimbursement Procedures
- 1) An account of each district's expenditures pursuant to Article 14C of the School Code and this Part shall be maintained as required in Section 14C-12 of the School Code. Accounting procedures shall be in accordance with applicable requirements of 23 Ill. Adm. Code 100 (Requirements for Accounting, Budgeting, Financial Reporting, and Auditing).
 - 2) The final annual report of district expenditures, which shall include the information specified in Section 14C-12 of the School Code, shall be submitted on forms provided by the State Superintendent of Education no later than July ~~2034~~ of each year.
 - 3) School districts shall submit claims for reimbursement of programs approved in accordance with this Part on forms provided by the State Superintendent of Education and in accordance with Section 14C-12 of the School Code, as limited by subsection (b)(4)(E) of this Section. No State reimbursement shall be available with respect to any student served for fewer than five class periods per week.
 - 4) In the event that funds appropriated by the General Assembly are

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insufficient to cover the districts' excess costs, the funds will be distributed on a pro rata basis and in accordance with the timelines specified in Section 14C-12 of the School Code.

- 5) A request to amend a district's approved budget shall be submitted on forms provided by the State Superintendent of Education whenever a district determines that there is a need to increase or decrease an approved line item expenditure by more than \$1,000 or 20 percent, whichever is larger. A budget amendment must also be submitted for approval when a grantee proposes to use funds for allowable expenditures not identified in the approved budget. An amendment shall not be approved if it results in instructional costs comprising less than 60 percent of the total reimbursement requested.
- 6) Budget amendment requests will be approved if the rationale provided for each amendment includes facts demonstrating that:
 - A) there is a need (e.g., a change in the number of students served or personnel needed); and
 - B) the altered expenditures and their related program services will be in compliance with the requirements of Article 14C of the School Code and this Part.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 228.60 Evaluation

- a) Each school district's compliance with the requirements of Article 14C of the School Code and this Part shall be evaluated by State Board of Education staff, who shall use the criteria set forth in Article 14C of the School Code and this Part to determine compliance.
- b) Each school district's progress with regard to the academic achievement of ~~students having limited~~ English ~~learners~~ **proficiency** shall be evaluated annually in accordance with the provisions of 23 Ill. Adm. Code 1.40 (Adequate Yearly Progress).

(Source: Amended at 37 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Wages
- 2) Code Citation: 56 Ill. Adm. Code 2730
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
2730.105	Amend
2730.130	Amend
- 4) Statutory Authority: Implementing and authorized by Sections 234, 235, 245, 1700 and 1701 of the Unemployment Insurance Act [820 ILCS 405/234, 235, 245, 1700 and 1701]
- 5) Effective Date of the Rulemaking: May 14, 2013
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain an incorporation by reference? No
- 8) A copy of the adopted rulemaking, including any material incorporated by reference, is on file in the agency's principal office, and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: December 28, 2012; 36 Ill. Reg. 18065
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: No substantive changes were made.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? Yes
- 14) Are there any other amendments pending on this Part? No
- 15) Summary and Purpose of the Rulemaking: The amendments make technical changes to conform with the monthly reporting requirements of the Save Medicaid Access and Resources Together (SMART) Act, P.A. 97-689.
- 16) Information and questions regarding this adopted rulemaking shall be directed to:

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Gregory J. Ramel, Deputy Legal Counsel
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The full text of the Adopted Amendments begins on the next page:

DEPARTMENT OF EMPLOYMENT SECURITY

NOTICE OF ADOPTED AMENDMENTS

TITLE 56: LABOR AND EMPLOYMENT
 CHAPTER IV: DEPARTMENT OF EMPLOYMENT SECURITY
 SUBCHAPTER b: COVERAGE OF UNEMPLOYMENT INSURANCE ACT

PART 2730
 WAGES

SUBPART B: OTHER REMUNERATION TREATED AS WAGES

Section

2730.100	Money Value of Board And Lodging, Etc.
2730.105	Reporting Gratuities
2730.130	Exceptions to Liability of Certain Third Party Payors for Contributions and Reporting of Certain Payments on Account of Sickness and Accident Disability
2730.150	Payments Under A Cafeteria Plan
2730.155	Payments Under A Plan Authorized By Section 401(k) of the Internal Revenue Code of 1986

AUTHORITY: Implementing and authorized by Sections 234, 235, 245, 1700 and 1701 of the Unemployment Insurance Act [820 ILCS 405/234, 235, 245, 1700 and 1701].

SOURCE: Illinois Department of Labor, Bureau of Employment Security, Rule 1 filed as amended June 27, 1952, effective July 7, 1952; Regulation 30 filed as amended September 12, 1977, effective September 22, 1977; rules repealed by operation of law October 1, 1984; new rules adopted at 9 Ill. Reg. 18924, effective November 25, 1985; amended at 12 Ill. Reg. 15072, effective September 8, 1988; amended at 15 Ill. Reg. 16964, effective November 12, 1991; amended at 18 Ill. Reg. 14958, effective September 27, 1994; emergency amendment at 36 Ill. Reg. 18928, effective December 17, 2012 through June 30, 2013; amended at 37 Ill. Reg. 7432, effective May 14, 2013.

SUBPART B: OTHER REMUNERATION TREATED AS WAGES

Section 2730.105 Reporting Gratuities

- a) ~~Each Prior to January 1, 1986, each employer who employs individuals who customarily receive gratuities from persons other than the employer in the course of their work with the employer shall inform, either orally or in writing, all those individuals of their right to report currently the amount of gratuities to the~~

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~~employer, and post a notice, issued by the Director, which may be conveniently read (such as on the employer's bulletin board) by all such individuals. The notice shall be procured by an employer from the Director.~~ b) Beginning January 1, 1986, each employer who employs individuals who customarily receive gratuities from persons other than the employer in the course of their work with the employer shall inform, either orally or in writing, all those individuals of their duty to report currently the amount of the gratuities to the employer, and post a notice, issued by the Director, which may be conveniently read (such as on the employer's bulletin board) by all such individuals. The notice shall be procured by an employer from the Director.

- e) ~~Prior to January 1, 1986, each individual who customarily receives gratuities in the course of his work from persons other than his employer shall on the day he is paid his wages for such period by the employer, or not later than the next succeeding pay day, have the right to submit a written statement or form, in duplicate, to his employer concerning the amount of the gratuities he desires to report during the pay period.~~
- b)d) ~~Each~~ Beginning January 1, 1986, each individual who customarily receives gratuities in the course of his or her work from persons other than his or her employer shall, on the day he or she is paid ~~his~~ wages for a pay period by his or her employer, or not later than the next succeeding pay day, submit a written statement or form, in duplicate, to his or her employer concerning the amount of gratuities received during the pay period.
- c)e) The statement or form referred to by ~~subsections (e) or (bd)~~ shall contain the information required to be listed under Section 6053(a) of the Internal Revenue Code of 1954 (26 ~~USCU.S.C.~~ 1 et seq.). Each employer shall acknowledge the receipt of the statement or form on the duplicate copy and return the copy to the individual, who shall retain it as evidence of the fact that he or she has reported ~~his~~ gratuities in accordance with the requirements of this Section. The employer shall retain each original statement or form for a period of three years.
- d)f) Each employer shall include in its regular monthly or quarterly reports, as the case may be, to the Director the amount of gratuities reported to it by each individual under ~~subsections (e) and (bd)~~; provided, however, that in the event the employer shall deem the amount so reported by the individual to be in excess of the amount of gratuities actually received by the individual, the employer shall

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attach to its monthly or quarterly report a statement indicating the amount reported by the individual, the amount reported by the employer, the difference between those amounts, and the basis for the employer's belief that the differences were not actually received by the individual.

- e) If, for any reason, the employer fails to obtain from the individuals in its employ the amount of gratuities received by such individuals, the employer shall estimate the amounts of such gratuities. The employer shall estimate the amount of ~~the~~ such gratuities as the greater of 8% of the gross receipts for service provided by the individual or the applicable federal minimum wage (29 USC.S.C. 206 et seq.) times the number of hours worked by the individual.

(Source: Amended at 37 Ill. Reg. 7432, effective May 14, 2013)

Section 2730.130 Exceptions ~~to~~ Liability of Certain Third Party Payors ~~for~~ For Contributions ~~and~~ Reporting of Certain Payments ~~on~~ On Account ~~of~~ Of Sickness ~~and~~ Accident Disability

- a) Section 235 of the Act ~~[820 ILCS 405/235]~~ (Ill. Rev. Stat. 1987, ch. 48, par. 345) provides, in pertinent part, that the term "wages" does not include:

The amount of any payment (including any amount ~~paid~~ provided by an employer for insurance or annuities, or into a fund, to provide for any such ~~payment~~ payments), made to, or on behalf of, an individual or any of his dependents under a plan or system established by an employer which makes provision generally for individuals performing services for him (or for such individuals generally and their dependents) or for a class or classes of such individuals (or for a class or classes of individuals and their dependents), on account of ~~---~~ sickness or accidental disability, or --- ~~medical or hospitalization expenses in connection with sickness or accident disability.~~

- b) For purposes of this exclusion:
- 1) The plan or system must provide generally for individuals performing services for the employer, or for such individuals and their dependents, or for a class or classes of such individuals and their dependents (plan has a definite basis for determining who is eligible, such as length of service, occupation or salary classification);

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- 2) A payment is made on account of sickness or accident disability if it constitutes remuneration or a payment in lieu of remuneration for any period during which the individual is absent from work (unable to perform services) on account of sickness or personal injuries;
 - 3) A dependent of an individual is the individual's husband or wife, children, and any other member of the individual's immediate family as defined in 18 ~~USCU.S.C.A.~~ 115(c)(2);
 - 4) Payments made under a workers' compensation law are excluded from the term "wages";
 - 5) If an individual receives a payment on account of sickness or accident disability which is not initially made under a workers' compensation law but ~~that~~ which must later be repaid to the employer because the individual receives a workers' compensation award with respect to the same period of absence from work, ~~thesueh~~ payment shall be considered "wages".
- c) Payments made by third parties not excluded by this Part or the Act are to be included as "wages" and the third party is to be considered the employer, unless the requirements ~~in this subsection (c)~~ below are met.
- 1) The last employer for whom the individual worked prior to becoming sick or disabled or for whom the individual was working at the time ~~thesueh~~ individual became sick or disabled shall be deemed to be the employer for whom the personal services are performed, provided that ~~thesueh~~ employer made contributions on behalf of ~~thesueh~~ individual to the plan or system under which the individual is paid.
 - 2) The absence of an agreement between the third party payor and the employer that the employer will be required to report the wages and pay the contributions will render the third party as the employer, and, as such, the third party will be required to report the wages and pay the contributions as applicable.
 - 3) The Agency will consider the employer for whom the personal services are performed to be the employer for the purposes of reporting wages paid to workers, pursuant to 56 Ill. Adm. Code 2760.125, and the payment of

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contributions if all of the following requirements are met:

- A) The third party and the employer for whom the personal services are performed agree that the employer (not the third party) will be treated as the employer with respect to ~~thesueh~~ wages; and;
 - B) The third party notifies the employer at least six working days prior to the end of the month following the preceding calendar quarter ~~(or the preceding month in the case of an employer subject to 56 Ill. Adm. Code 2760.125(a)(1))~~; of the Social Security account ~~numbersnumber(s)~~, employee ~~namesname(s)~~, and the amount of sickness or accident disability ~~paymentspayment(s)~~ made during the ~~month or~~ calendar quarter, ~~as the case may be.~~
 - i) For the purposes of determining timeliness of the notice, the provisions of 56 Ill. Adm. Code 2765.60 shall apply;
 - ii) A notification that contains the required information and that has been made by a third party to an employer, as required by the Federal Insurance Contributions Act (26 ~~USCU.S.C.~~ 1501 et seq.) will be sufficient notification under this Part.
 - 4) The employer reports ~~thesueh~~ wages pursuant to ~~Section56-III-Adm-Code 2760.125~~, and includes ~~thesueh~~ wages in the calculation and payment of contributions.
- d) A third party making a payment on account of sickness or accident disability to an individual as agent for the employer or making such a payment directly to the employer shall not be treated as the employer with respect to ~~thesueh~~ payments unless the agency agreement so provides. The determining factor as to whether a third party is an agent of the employer is whether the third party bears any insurance risk.
- 1) If the third party bears no insurance risk and is reimbursed on a cost plus fee basis, the third party is an agent of the employer even if the third party is responsible for making determinations of eligibility of the individual employees of the employer for payments on account of sickness and accident disability.

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- 2) If the third party is paid an insurance premium and not reimbursed on a cost plus fee basis, the third party is not an agent of the employer, but the third party is treated as the employer, as provided in subsection (c).

(Source: Amended at 37 Ill. Reg. 7432, effective May 14, 2013)

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- 1) Heading of the Part: Employment
- 2) Code Citation: 56 Ill. Adm. Code 2732
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
2732.200	Amend
2732.306	Amend
- 4) Statutory Authority: Implementing and authorized by Sections 205, 206, 206.1, 211.5, 212, 212.1, 215, 217, 218, 225, 1700 and 1701 of the Unemployment Insurance Act [820 ILCS 405/205, 206, 206.1, 211.5, 212, 212.1, 215, 217, 218, 225, 1700 and 1701]
- 5) Effective Date of the Rulemaking: May 14, 2013
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain an incorporation by reference? No
- 8) A copy of the adopted rulemaking, including any material incorporated by reference, is on file in the agency's principal office, and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: December 28, 2012; 36 Ill. Reg. 18067
- 10) Has JCAR issued a Statement of Objection to this Rulemaking? No
- 11) Differences between Proposal and Final Version: No substantive changes were made.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? Yes
- 14) Are there any other rulemakings pending on this Part? No
- 15) Summary and Purpose of the Rulemaking: This rulemaking adds references to monthly wage reporting.
- 16) Information and questions regarding this adopted rulemaking shall be directed to:

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

DEPARTMENT OF EMPLOYMENT SECURITY

NOTICE OF ADOPTED AMENDMENTS

TITLE 56: LABOR AND EMPLOYMENT
 CHAPTER IV: DEPARTMENT OF EMPLOYMENT SECURITY
 SUBCHAPTER c: RIGHTS AND DUTIES OF EMPLOYERS

PART 2732
 EMPLOYMENT

SUBPART A: COVERAGE

Section
 2732.125 Requirement That "Four Or More" Employees Of A Nonprofit Organization Perform Services Within This State

SUBPART B: SERVICES IN EMPLOYMENT

Section
 | 2732.200 Section 212 ~~of the~~~~Of The~~ Act – Services ~~in~~~~In~~ Employment
 2732.203 The Effect Of Regulation By A Governmental Entity On "Direction Or Control" Under Section 212 Of The Act
 2732.205 Owner-Operators Of Motorized Vehicles
 2732.210 Mandatory Jury Service
 | 2732.215 Exemption From The Definition Of Employment For Participants In ~~The~~~~the~~ Americorps Program
 2732.220 Exemption From The Definition Of Employment For Direct Sellers Of Consumer Goods
 2732.225 Exemption From The Definition Of Employment For Freelance Editorial Or Photographic Work
 2732.227 Exemption For The Delivery Or Distribution Of Newspapers Or Shopping News To The Ultimate Consumer
 2732.230 Domestic Service
 2732.235 Effect Of Section 218 Of The Act On The Employment Status Of Certain Relatives

SUBPART C: DETERMINING THE EMPLOYER

Section
 2732.305 Employee Leasing Companies (Repealed)
 | 2732.306 Employee Leasing Company – Obligation to Report the Identities of ~~its~~~~Its~~ Clients

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AUTHORITY: Implementing and authorized by Sections 205, 206, 206.1, 211.5, 212, 212.1, 215, 217, 218, 225, 1700 and 1701 of the Unemployment Insurance Act [820 ILCS 405/205, 206, 206.1, 211.5, 212, 212.1, 215, 217, 218, 225, 1700 and 1701].

SOURCE: Adopted at 13 Ill. Reg. 8864, effective May 30, 1989; amended at 14 Ill. Reg. 673, effective January 2, 1990; amended at 15 Ill. Reg. 11423, effective July 30, 1991; amended at 16 Ill. Reg. 8173, effective May 18, 1992; amended at 16 Ill. Reg. 12159, effective July 20, 1992; amended at 17 Ill. Reg. 8809, effective June 2, 1993; amended at 17 Ill. Reg. 17947, effective October 4, 1993; amended at 18 Ill. Reg. 16355, effective October 24, 1994; amended at 21 Ill. Reg. 9456, effective July 2, 1997; emergency amendment at 24 Ill. Reg. 14788, effective September 22, 2000, for a maximum of 150 days; amended at 25 Ill. Reg. 2003, effective January 18, 2001; amended at 33 Ill. Reg. 9646, effective July 1, 2009; emergency amendment at 36 Ill. Reg. 18936, effective December 17, 2012 through June 30, 2013; amended at 37 Ill. Reg. 7440, effective May 14, 2013.

SUBPART B: SERVICES IN EMPLOYMENT

Section 2732.200 Section 212 of the Act – Services in Employment

- a) In determining whether servicesservice performed by an individual for an employing unit areis employment, as defined by Section 212 of the Unemployment Insurance Act (the Act) ~~[820 ILCS 405/212](Ill. Rev. Stat. 1987, ch. 48, par. 322)~~, the Agency shall, when applicable to a particular factual situation:
 - 1) Review written agreements between the individual and the employing unit;
 - 2) Interview the individual or employing unit;
 - 3) Obtain statements of other persons with relevant information;
 - 4) Examine regulatory statutes governing the organization, trade or business;
 - 5) Examine the books and records of the employing unit; and
 - 6) Make any other investigation necessary to make a determination.
- b) The Agency will apply the exceptions specified in the Act to the facts as they

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exist, and the designation or description which the parties apply to their relationship is not controlling.

- c) The mechanics of compensation are not controlling and the fact that an individual is compensated by commission or any payment other than salary does not preclude a determination that the individual is in employment under the Act.
- d) The exceptions in Section 212 of the Act are conjunctive, and all three must be proven by the employer to establish the exemption.
- e) "Engaged in an independently established trade, occupation, or business" within the meaning of Section 212(C) of the Act means that the individual has a proprietary interest in the business that which he or she can sell, give away or operate without hinderance from any other party. While no one factor will determine if an individual is engaged in an independently established trade, occupation, profession or business as set out in Section 212(C) of the Act, the business reality or totality of circumstances will determine the presence of this condition. The following types of factors indicate that the individual is engaged in an independently established trade, occupation, profession, or business, as set out in Section 212(C) of the Act:
 - 1) The individual's interest in the business is not subject to cancellation or destruction upon severance of the relationship;
 - 2) The individual has an investment of capital and owns the capital goods of the business enterprise;
 - 3) The individual gains the profits and bears the losses of the business enterprise;
 - 4) The individual makes his or her services available to the general public or the business community on a continuing basis;
 - 5) The individual includes the individual's services on a Federal Income Tax Schedule as an independent business or profession;
 - 6) The individual performs services for the employing unit under his or her own business name;

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- 7) The individual has a shop or office of his or her own;
 - 8) The employing unit does not represent the individual as an employee of the firm to its customers;
 - 9) The individual hires his or her own helpers or employees, without the employing unit's approval, pays them without reimbursement from the employing unit, and reports their income to the Internal Revenue Service;
 - 10) The individual has an account number with the Agency and reports the wages of his or her workers monthly or quarterly, as the case may be, to the Agency;
 - 11) The individual has the right to perform similar services for others on whatever basis and whenever he or she chooses;
 - 12) The individual maintains a business listing in the telephone directory or in appropriate trade journals;
 - 13) If the services require a license, the individual has obtained and paid for the license in his or her own name.
- f) The two factors in Section 212(B) of the Act are in the alternative. Section 212(B) of the Act is satisfied if the service is either outside the usual course of business of the employing unit or performed outside of all the places of business of the employing unit:
- 1) Services ~~that~~which merely render the place of business more pleasant or are not necessary to the employing unit's business are outside the usual course of business.

EXAMPLEExample: The services of a window washer engaged by an employing unit whose business is selling woolens are outside the usual course of the business of the employing unit.
 - 2) Because services are performed outside the employing unit's premises does not preclude an individual from being found to be in employment. This decision is based upon the occupation and the factual context in which the services are performed.

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- A) EXAMPLEExample: The homes of typists who are typing manuscripts for an employing unit are places of business of the employing unit.
- B) EXAMPLEExample: Any territory in which a salesman represents his or her employing unit's interests is the employing unit's place of business.
- g) "Direction or control" within the meaning of Section 212(A) of the Act means that an employing unit has the right to control and direct the worker, not only as to the work to be done but also as to how it should be done, whether or not that control is exercised. The following are illustrative of the types of questions the Department will examine to determine whether "direction or control" exists. The type of business subject to review and the relationship being examined will determine which questions are asked in any given review under this Section. No one question or answer or combination of questions and answers will determine whether direction or control exists but rather the business reality or totality of circumstances will determine if direction or control exists:
- 1) Does the employing unit issue assignments or schedule work, set quotas or time requirements;
 - 2) Does the employing unit have the right to change the methods used by the worker in performing his or her services;
 - 3) Does the employing unit require the worker to follow a routine or schedule;
 - 4) Does the employing unit require the worker to report to a specific location and/or at regular intervals;
 - 5) Does the employing unit require the worker to furnish a record of his or her time to the firm;
 - 6) Does the employing unit require the worker to perform services a specific number of hours per day or per week;
 - 7) Does the employing unit engage the worker on a permanent basis;

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- 8) Does the employing unit reimburse the worker for expenses incurred;
- 9) Is the worker eligible for a pension, a bonus, paid vacation, or sick pay;
- 10) Does the employing unit carry workers' compensation ~~Workers'~~ ~~Compensation~~ insurance on the worker;
- 11) Does the employing unit deduct Social Security tax from the worker's compensation;
- 12) Does the employing unit report the worker's income to the Internal Revenue Service on Form W-2;
- 13) Does the employing unit bond the worker;
- 14) Does the employing unit furnish the worker with materials and supplies, tools or equipment;
- 15) Does the employing unit furnish the worker with transportation, samples, a drawing account, business cards, an expense account, or order blanks;
- 16) Does the employing unit allow the worker to sell noncompetitive lines, or engage in other employment;
- 17) Does the employing unit restrict the worker in terms and conditions of sale, and choice of customers;
- 18) Does the employing unit assign or limit the territory in which the individual performs;
- 19) Does the employing unit set the price and credit terms for the products or service;
- 20) Does the employing unit reserve the right to approve orders or contracts;
- 21) Does the employing unit have a right to discharge;
- 22) Does the employing unit require attendance at meetings or training

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courses;

- 23) Does the employing unit have the right to appoint the individual's supervisors;
- 24) Does the employing unit have the right to set rules and regulations;
- 25) Does the employing unit purport to guarantee the product or service performed;

(Source: Amended at 37 Ill. Reg. 7440, effective May 14, 2013)

SUBPART C: DETERMINING THE EMPLOYER

Section 2732.306 Employee Leasing Company – Obligation to Report the Identities of ~~its~~ Clients

- a) A report submitted to the Department in the manner provided for in subsection (e), with the contents required by subsection (b), will satisfy the reporting requirement in Section 206.1(B)(4) of the Act for each month or calendar quarter, as the case may be, ending on or after the date of the report's submission. The report will also satisfy the reporting requirements for the month or calendar quarter ending immediately prior to its submission ~~when~~ where the employee leasing company's contract with the client took effect in that month or quarter and either:
 - 1) the report is submitted within 30 days after the effective date of the contract; or
 - 2) the last day of the month or quarter is a day on which the Department is closed and the report is submitted on the first succeeding day on which the Department is open.

EXAMPLE: Employee Leasing Company A contracts with Client B to lease employees to Client B, effective July 1, 2001. Client B has a contribution rate of 1.0% for 2001. Employee Leasing Company A has a contribution rate of 4.0% for 2001 and its relationship with Client B meets the conditions set forth in Section 206.1(B)(1), (2) and (3) of the Act. Beginning with the report due for the third quarter of 2001, Employee

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Leasing Company A reports the leased employees on its wage reports and pays contributions on those wages at its contribution rate. Client B terminates its liability as of July 1, 2001 and stops filing any wage reports. However, the Employee Leasing Company does not report the leasing relationship to the Director until February 1, 2002. As a result, Employee Leasing Company A cannot report the workers in question for the third and fourth quarters of 2001 as its employees. The workers must be reported by Client B. Since timely wage reports were not filed nor were contributions paid by Client B, penalties will be assessed and interest charged. Waiver of such penalty and interest can be granted only for the reasons set forth in 56 Ill. Adm. Code 2765. Employee Leasing Company A may amend its wage reports to remove the workers and then file for a refund or adjustment as provided in Section 2201 of the Act.

- b) Contents of Report
 - 1) In order to satisfy the reporting requirement in Section 206.1(B)(4) of the Act, a report must contain:
 - A) the name of the client;
 - B) a general description of the client's business and business locations;
 - C) the client's unemployment insurance account number (if any); and
 - D) the effective date of the employee leasing company's contract with the client.
 - 2) The report shall be accompanied by either a power of attorney to represent the client or a certification by an officer or employee of the employee leasing company that the information contained in the report is true and correct to the best of his or her knowledge.
- c) Whenever the employee leasing relationship between an employee leasing company and its client is terminated, the employee leasing company must report the name of the client, the client's unemployment insurance account number (if any) and the effective date of the termination within 30 days after that date.

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- d) The terms used in this Section shall have the meanings set forth for them in Section 206.1 of the Act.
- e) The notices required by this Section shall be mailed or sent by facsimile transmission to the Illinois Department of Employment Security, Revenue Division, 33 S. State St., 10th Floor, Chicago IL 60603, Attn: Employer Services (FAX No.: 312-793-6296). A facsimile transmission is subject to [56 Ill. Adm. Code Section](#) 2712.1 with respect to the risk of nontransmission and the effect of the dates imprinted by the Department's and sender's respective telefax machines.
- f) ~~A report submitted to the Department in the manner provided for in subsection (e), with the contents required by subsection (b), but after the deadline established in subsection (a), will satisfy the reporting requirement in Section 206.1(B)(4) of the Act for either or both of the third and fourth calendar quarters of 2000 if it is filed on or before April 2, 2001, and the employee leasing company indicates in writing that it intends for the report to do so.~~

(Source: Amended at 37 Ill. Reg. 7440, effective May 14, 2013)

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- 1) Heading of the Part: Notices, Records, Reports
- 2) Code Citation: 56 Ill. Adm. Code 2760
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
2760.100	Amend
2760.110	Amend
2760.120	Amend
2760.125	Amend
2760.130	Amend
2760.135	Amend
2760.140	Amend
2760.145	Amend
2760.150	Amend
- 4) Statutory Authority: Implementing and authorized by Sections 204, 234, 245, 300, 302, 700, 1400, 1400.2, 1401, 1402, 1404, 1405, 1507, 1700, 1701, 1706, 1800, 1801, 2201 and 2208 of the Unemployment Insurance Act [820 ILCS 405/204, 234, 245, 300, 302, 700, 1400, 1400.2, 1401, 1402, 1404, 1405, 1507, 1700, 1701, 1706, 1800, 1801, 2201 and 2208]
- 5) Effective Date of the Rulemaking: May 14, 2013
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain an incorporation by reference? Yes
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office, and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: December 28, 2012; 36 Ill. Reg. 18069
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: No substantive changes were made.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

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- 13) Will this rulemaking replace any emergency rulemaking currently in effect? Yes
- 14) Are there any other rulemakings pending on this Part? No
- 15) Summary and Purpose of the Rulemaking: This rulemaking reduces the threshold for mandatory electronic wage reporting and also provides for monthly wage reporting.
- 16) Information and questions regarding this rulemaking shall be directed to:

Gregory J. Ramel, Deputy Legal Counsel
Illinois Department of Employment Security
33 South State Street – Room 937
Chicago, Illinois 60603

312/793-2333
gregory.ramel@illinois.gov

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

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TITLE 56: LABOR AND EMPLOYMENT
CHAPTER IV: DEPARTMENT OF EMPLOYMENT SECURITY
SUBCHAPTER c: RIGHTS AND DUTIES OF EMPLOYERSPART 2760
NOTICES, RECORDS, REPORTS

SUBPART A: GENERAL OBLIGATIONS

Section

- 2760.1 Posting And Maintaining Notices
2760.5 Identification Of Workers Covered By The Act
2760.10 Filing By Mail

SUBPART B: REPORTS AND RECORDS

Section

- 2760.100 Reports and ~~the Report~~~~Combined Returns~~ for Household Employers
2760.105 Reports Of Employing Units As To Their Status
2760.110 Employing Unit Terminating Business
2760.115 Records With Respect To Employment
2760.120 Employer's Contribution ~~and Wage~~ Report and ~~Report~~~~Combined Return~~ for Household Employers
2760.125 Employer's Wage Report
2760.128 Wage Report Filing for Employers that Employ Household Workers and Elect to Report Their Wages on an Annual Basis
2760.130 Reporting "Excess" Wages
2760.135 Remittance of Contributions Due and Use of Transmittal Form
2760.140 Use ~~of~~~~Of~~ Electronic Data Processing Media ~~for~~~~For~~ ~~Monthly or~~ Quarterly Reporting
2760.145 Correcting the Employer's Contribution and Wage Report or ~~Report~~~~Combined Return~~ for Household Employers
2760.150 Consequences of an Error in the Preparation of the Employer's Contribution and Wage Report or ~~Report~~~~Combined Return~~ for Household Employers

AUTHORITY: Implementing and authorized by Sections 204, 234, 245, 300, 302, 700, 1400, 1400.2, 1401, 1402, 1404, 1405, 1507, 1700, 1701, 1706, 1800, 1801, 2201 and 2208 of the Unemployment Insurance Act [820 ILCS 405/204, 234, 245, 300, 302, 700, 1400, 1400.2, 1401, 1402, 1404, 1405, 1507, 1700, 1701, 1706, 1800, 1801, 2201 and 2208].

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SOURCE: Department of Labor, Bureau of Employment Security Regulations 4, 7 and 8, filed as amended May 3, 1977, effective May 13, 1977; Regulation 11 filed as amended May 4, 1977, effective May 14, 1977; Regulations 5 and 32 filed as amended June 23, 1977, effective July 3, 1977; Regulations 6 and 12 filed as amended September 12, 1977, effective September 12, 1977; rules repealed by operation of law on October 1, 1984; new rules adopted at 10 Ill. Reg. 6939, effective April 15, 1986; emergency amendment at 12 Ill. Reg. 222, effective January 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 13604, effective August 4, 1988; amended at 12 Ill. Reg. 16070, effective September 23, 1988; amended at 16 Ill. Reg. 3993, effective February 27, 1992; emergency amendment at 17 Ill. Reg. 13798, effective August 4, 1993, for a maximum of 150 days; amended at 18 Ill. Reg. 261, effective December 27, 1993; emergency amendment at 18 Ill. Reg. 2631, effective February 3, 1994, for a maximum of 150 days; emergency amendment modified at 18 Ill. Reg. 7492; emergency expired July 3, 1994; amended at 18 Ill. Reg. 14942, effective September 27, 1994; amended at 29 Ill. Reg. 1917, effective January 24, 2005; emergency amendment at 29 Ill. Reg. 6783, effective April 25, 2005, for a maximum of 150 days; emergency expired September 25, 2005; amended at 33 Ill. Reg. 9652, effective July 1, 2009; amended at 35 Ill. Reg. 6136, effective March 25, 2011; emergency amendment at 36 Ill. Reg. 18947, effective December 17, 2012 through June 30, 2013; amended at 37 Ill. Reg. 7451, effective May 14, 2013.

SUBPART B: REPORTS AND RECORDS

Section 2760.100 Reports and the ReportCombined>Returns for Household Employers

- a) Subject to the provisions of Sections 2760.105 through 2760.150, each employing unit shall make such reports as are prescribed, on forms issued by and required to be returned to the Director. Each employing unit shall complete the forms in accordance with the instructions accompanying the report forms, and return the completed forms to the address specified on the form. Failure to complete a report form in accordance with instructions shall be treated as a failure to complete the form.
- b) For purposes of this Part, the ReportCombined-Return for Household Employers (~~form UI-WIT~~) refers to the report filed pursuant to Section 1400.2 of the Act [820 ILCS 405/1400.2].

(Source: Amended at 37 Ill. Reg. 7451, effective May 14, 2013)

Section 2760.110 Employing Unit Terminating Business

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- a) Any employing unit that terminates business (including dissolution of a partnership), for any reason whatsoever, or transfers or sells substantially all of the assets of the organization, trade or business or a severable portion of those assets to another or changes the trade name of such business shall, within 10 days after such termination, transfer or change of name, give notice in writing of that fact to the Director.
- 1) If an employer dies, written notice of his death shall be given to the Director by the executor or administrator or other legal representative of his estate within 90 days after the date of death.
 - 2) In the case of bankruptcy or receivership proceedings for the relief of a debtor who is an employing unit, the trustees in bankruptcy, receiver or person designated by order of the court as in control of the assets of the debtor shall give written notice to the Director of such proceedings within 90 days after the commencement of such proceedings.
- b) The notice required under this Section shall be mailed to the Department of Employment Security, Revenue Division, 33 S. South State St. Street, 10th Floor, Chicago IL, Illinois 60603. Forms for such notice shall be sent out by the Division upon request or are available on the Department's website, www.ides.illinois.gov; they are also included in the quarterly packet sent to all employers.
- c) Notwithstanding the requirements of subsections (a) and (b), an employing unit shall cease to be an employer as of the last day of a calendar quarter in which it ceases to pay wages for services in employment and ceases to have any individual performing services for it if, based on all available evidence, the Director determines that, as of the last day of that quarter, the employing unit has permanently ceased to pay wages for services in employment and permanently ceased to have any individual performing services for it. A termination of coverage under this subsection (c) shall be rescinded as of the date that the employing unit begins, later in the same calendar year or in the succeeding calendar year, to have any individual performing services for it on any part of any day. Any Determination and Assessment issued against the employing unit shall be null and void to the extent it pertains to any quarter during which the employing unit paid no wages for services in employment and had no one performing services for it, as long as that quarter is subsequent to the quarter as of

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the end of which the employing unit's coverage was terminated pursuant to this subsection (c) and prior to the date, if any, as of which the termination was rescinded or as of which the employing unit otherwise again became an employer.

- 1) **EXAMPLE**~~Example~~: Employer A (a sole proprietor) employed B (his only employee) as a word processor. B left A's employ in September 2003 and A did not hire anyone else thereafter. A filed a contribution and wage report for the third quarter of 2004, but did not file a contribution and wage report for the fourth quarter of that year. He did not file a notice requesting termination of coverage or otherwise inform the Department that he had ceased to pay wages and no longer had any individual performing services for him. In March 2004, the Department issued a Determination and Assessment against A based upon estimated wages for the fourth quarter of 2003. A failed to file a timely protest and petition for hearing to the Determination and Assessment. In June 2004, A presented evidence to the Department that, since September 2003, he had no one performing services for him and had not paid any wages. With no evidence to suggest otherwise, the Department treated the Determination and Assessment as null and void.
- 2) **EXAMPLE**~~Example~~: Employer C (a sole proprietor) employed D (her only employee) as a word processor. In September 2003, C decided that D would continue the word processing work, but as an "independent contractor". C did not report D's wages to the Department, nor pay contributions on those wages, with respect to periods after the third quarter of 2003 and did not file a notice requesting termination of coverage. In March 2004, the Department issued a Determination and Assessment against C based upon estimated wages for the fourth quarter of 2003. C failed to file a timely protest and petition for hearing to the Determination and Assessment, but in June 2004, wrote the Director explaining that D was now working as an "independent contractor". As D was still performing services for C during the fourth quarter, the Director lacked the authority to terminate C's coverage. By not timely protesting the Determination and Assessment, C allowed it to become final and waived her opportunity to reach the merits of whether D was an independent contractor during the fourth quarter.

(Source: Amended at 37 Ill. Reg. 7451, effective May 14, 2013)

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Section 2760.120 Employer's Contribution and Wage Report and Report Combined Return for Household Employers

- a) Except for employers that file the Report a Combined Return for Household Employers, as provided in Sections 2760.125 and 2760.128 and employers subject to Section 2760.140, each quarter the Department agency shall provide each employer subject to the Unemployment Insurance Act, including employers electing to make payments in lieu of paying contributions under Section 302, 1404, or 1405 or 302 of the Act [820 ILCS 405/302, 1404, or 1405, 302], with a preprinted packet that includes a form Employer's Contribution and Wage Report or, with respect to employers subject to Section 2760.140, a form Quarterly Electro-Magnetic Filing Notice, in part, for filing its quarterly unemployment insurance contribution report. Subject to the provisions of Section 2760.140, unless the employer was held subject to the Act within the one year period prior to the due date of this form and had not yet been assigned an Illinois account number, the employer must use the left side of the preprinted form provided for filing its report. Except as provided in the previous sentence, The the use of a blank (not preprinted for the employer) form will be considered an incomplete submission and be returned to the employer for resubmission. Replacement preprinted forms are available upon request (see Section 2760.125(a)(64) for extensions of the time for filing).
- 1) In the event that an employer files a petition in bankruptcy under the Bankruptcy Code (USC Title 11), the employer shall file two Employer's Contribution and Wage Reports or two Reports Combined Returns for Household Employers, as the case may be, for the quarter in which the petition is filed. An employer subject to the mandatory electronic reporting requirement of Section 2760.140 shall file two contribution reports for the quarter in which the petition is filed and two reports pursuant to Section 2760.125(a)(1) for the third month of the quarter in which the petition is filed. One report shall address the period beginning on the first day of the quarter to, and including, the day prior to the date of the filing of the petition. The other report shall address the period beginning on the date of the filing of the petition to, and including, the last day of the calendar quarter.

EXAMPLE 1: Corporation A, which is not subject to the mandatory electronic reporting requirement of Section 2760.140, files a petition in bankruptcy on August 15, 20131994. Corporation

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A is required to file two Employer's Contribution and Wage Reports for the third quarter of ~~2013~~1994, both due October 31, ~~2013~~1994. One will cover the period to and including August 14, ~~2013~~1994, and Corporation A will calculate contributions due for that period. The other report will cover the period beginning August 15, ~~2013~~1994 to, and including, September 30, ~~2013~~1994 and will reflect the contributions due for that period.

EXAMPLE 2: Employer A, which is a household annual filer, files a petition in bankruptcy on August 15, ~~2013~~2008. Employer A is required to file two ~~reports~~Combined Returns for Household Employers, both due April 15, ~~2014~~2009. One will cover the period to and including August 14, ~~2013~~2008, and Employer A will calculate contributions due for that period. The other report will cover the period beginning August 15, ~~2013~~2008 to, and including, December 31, ~~2013~~2008 and will reflect the contributions due for that period.

- 2) In the event that an employer transfers substantially all of its employing enterprises to another employing unit but continues to be a liable employer, the employer shall file two Employer's Contribution and Wage Reports for the calendar quarter in which the transfer occurs. An employer subject to the mandatory electronic reporting requirement of Section 2760.140 shall file two contribution reports for the quarter in which the transfer occurs and two reports pursuant to Section 2760.125(a)(1) for the third month of the quarter in which the transfer occurs. One report shall address the period beginning on the first day of the quarter to, and including, the date of transfer. The other report shall address the period beginning on the first day after the date of transfer to, and including, the last day of the calendar quarter.

EXAMPLE: On August 15, 1994, Corporation A, which owns a retail establishment named the XYZ Store, and is not subject to the mandatory electronic reporting requirement of Section 2760.140, sells the entire business except the name "XYZ Store" to Corporation B. The officers of Corporation A continue to perform services and are paid wages after the transfer. Corporation A is required to file two Employer's Contribution and Wage Reports for the third quarter of 1994, both due October 31, 1994. One will

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cover the period to, and including, August 15, 1994, and Corporation A will calculate contributions due for that period. The other report will cover the period beginning August 16, 1994 to, and including, September 30, 1994, and will reflect the contributions due for that period.

- 3) The employer may obtain a second imprinted Employer's Contribution and Wage Report form or Report Combined Return for Household Employers upon request (see Section 2760.125(a)(~~64~~) for extensions of time for filing).
- 4) In the event the employer files only one report for a quarter for which two reports are required under subsection (a)(1) or (a)(2) and provides the total and taxable wages for the entire quarter in the report, or filed only one report return for a year for which two reports returns are required, and provides the total and taxable wages for the entire year in the report return, the report or return, as the case may be, will be deemed to be insufficient as provided in Section 1402 of the Act. The employer must file, within 30 days after the mailing of a notice to it of insufficiency, the two reports or returns as required in either subsection (a)(1) or (a)(2) as applicable, or the penalties provided in Section 1402 of the Act shall apply.
- 5) Except as otherwise provided in this subsection (a)(5), with respect to an employer not subject to the mandatory electronic reporting requirement of Section 2760.140, the penalties provided for in Section 1402 of the Act regarding each report or return required under subsection (a)(1) or (a)(2) of this Section shall be calculated on the basis of the total wages paid and contributions due for the period to which that report or return applies. Regardless of whether the employer fails to timely file one or both of the reports or returns, the total penalty for that such failure shall not exceed \$5,000 and the minimum penalty for the such failure shall be \$50. The minimum penalty for willful failure to pay any contribution, or part of any contribution thereof, with intent to defraud the Director, shall be \$400, regardless of whether the employer fails to make the payment for both or only one of the periods.

EXAMPLE: An employer not subject to the mandatory electronic reporting requirement of Section 2760.140 timely files a report representing the part of the quarter prior to the date of filing of the

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petition in bankruptcy. He or she is late in filing the report for the part of the quarter including the date the petition is filed. The penalty will be calculated only on the amount of wages paid as reflected in the report for the period including the date the petition in bankruptcy is filed.

- b) In addition to the employer providing its name, address, account number and Federal Employer Identification Number ~~the identifying information~~ on the Employer's Contribution and Wage Report or Report~~Combined Return~~ for Household Employers, the employer must provide the total wages paid during the quarter, the taxable wages paid during the quarter and the number of employees during the pay period that includes the 12th day of each month of that quarter. For purposes of this subsection (b), when an employer is required to file two reports ~~or returns~~ pursuant to subsection (a)(1) or (a)(2), "quarter" shall mean the period required to be addressed by the report ~~or return~~.

(Source: Amended at 37 Ill. Reg. 7451, effective May 14, 2013)

Section 2760.125 Employer's Wage Report

- a) Filing Wage Reports
- 1) Except as provided in subsection (a)(4), an employer subject to the mandatory electronic reporting requirement of Section 2760.140 shall, for each of the first two months of each calendar quarter, report, in addition to the employer's name, account number and Federal Employer Identification Number (FEIN), the name and Social Security Number of each covered worker, the total wages paid to each covered worker (except as provided in Section 2760.130), and the total wages paid to all covered workers combined. Except as provided in subsection (a)(4), an employer subject to the mandatory electronic reporting requirement of Section 2760.140 shall, for the third month of each calendar quarter, submit a report (or reports if so required under Section 2760.120(a)(1) or (2)) containing the same information for the entire calendar quarter as is required pursuant to subsection (a)(2). The report required under this subsection (a)(1) for each month shall be filed on or before the last day of the calendar month next following the close of the month.

EXAMPLE: In 2011 and 2012, Employer A had more than 250 employees

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for the calendar year, as determined in accordance with Section 2760.140(b). Therefore, for each of January and February of 2013, Employer A is required to report its name, account number and FEIN; and also report the name, Social Security Number and total wages for the month of each covered worker (except as provided in Section 2760.130), and the total wages for the month of all covered workers combined.

A) For the purpose of calculating the monthly wages to determine any penalty for the third month of each quarter, the wages reported for the first and second months of the quarter shall be deducted from the quarterly wages reported by the employer for the third month of the quarter.

i) **EXAMPLE:** Employer A reports \$5,000 in wages for January and \$4,000 in wages for February. On the report for March, Employer A then reports \$17,000 in wages for the entire first quarter. The Department will calculate March wages as follows: $\$17,000 - (\$5,000 + \$4,000) = \$8,000$.

ii) **EXAMPLE:** Employer A timely reports wages of \$7,000 for July 2013 and \$8,000 for August 2013. On November 3, 2013, Employer A files its wage report for September of 2013, reporting a total of \$15,000 in wages paid for the quarter. Employer A will be assessed a minimum penalty of \$50 for September 2013 because it filed its report for the month late, even though it apparently paid no wages for the month of September.

B) If the employer fails to file its monthly wage reports for the first two months of a quarter, for the purpose of determining the penalty to be assessed, the Department shall use the Employer's quarterly reported wages and divide by three.

EXAMPLE: Employer X fails to report monthly wages for April and May of 2013, but Employer X reports quarterly wages of \$6,000 for the second quarter of 2013. The Department shall estimate monthly wages of \$2,000 for April and \$2,000 for May.

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- 21) Except as provided in subsection (a)(~~43~~), every employer subject to the Unemployment Insurance Act, and not subject to the electronic reporting requirement of Section 2760.140, including employers electing to make payments in lieu of paying contributions under Section ~~302~~, 1404, or 1405 ~~or 302~~ of the Act [820 ILCS 405/~~302~~, 1404, or 1405, ~~302~~], shall file a report, or reports if so required under Section 2760.120(a)(1) or (2), each calendar quarter, listing the name and Social Security Number of each covered worker and, except as provided in Section 2760.130, the total wages paid to each worker. Except as provided in Section 2760.140, the reports shall be made on the ~~right side of the~~ form designated Employer's Contribution and Wage Report, which is part of a preprinted packet provided each quarter by the Department of Employment Security (Agency) to every employer subject to the Unemployment Insurance Act and shall be filed on or before the last day of the calendar month next following the close of the calendar quarter.
- 32) Except as provided in subsection (a)(~~43~~), forecommencing with the quarter in which an employing unit becomes an employer, including employers electing to make payments in lieu of paying contributions under Sections ~~302~~, 1404, and 1405 ~~and 302~~ of the Act, it shall file the form designated by the Director as Employer's Contribution and Wage Report (listing the information required by subsection (a)(~~21~~)), with respect to each calendar quarter beginning with the calendar quarter for which it is considered to be an employer. The reports due under this subsection (a)(32) shall be filed on or before whichever of the following dates is later:
- A) The 30th day following the date upon which the form designated by the Director as the Employer's Contribution and Wage Report ~~(or, in the case of an employer subject to Section 2760.135(e), the Transmittal Form)~~ is mailed to the employing unit for completion; or
- B) The last day of the calendar month next following the calendar quarter in which the employing unit becomes an employer.
- 43) For employers who have elected to file annually pursuant to Section 1400.2 of the Act, with respect to the first quarter for which the employing unit has made the election and each quarter thereafter for which the

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election remains in effect, it shall file the form designated as the Report Combined Return for Household Employers listing the information required by subsection (a)(~~24~~). The report return due under this subsection (a)(~~43~~) shall be filed on or before whichever of the following dates is later:

- A) The 30th day following the date upon which the form designated as the Report Combined Return for Household Employers (~~or, in the case of an employer subject to Section 2760.135(c), the Transmittal Form~~) is mailed to the employing unit for completion; or
- B) April 15 of the calendar year immediately following the close of the quarter to which the report applies.

54) The information with respect to each worker required by subsection (a)(~~24~~) may be submitted on a form other than that designated by the Director as the Employer's Contribution and Wage Report, or the Report Combined Return for Household Employers, provided that the Director has approved the use of the substitute form. ~~The Director will approve the substitute form if it provides the same information in the same format on the same size paper.~~

65) Upon written request filed with the Director prior to the due date of the report, the Director shall, for any reasonable cause shown, grant in writing an extension of a maximum of 15 days for the filing of any report required on a monthly basis under subsection (a)(1) and 30 days for the filing of any report required under subsection (a)(~~24~~), (a)(~~32~~) or (a)(~~43~~). A reasonable cause is when an employer cannot meet a due date through no fault of its own or because of circumstances beyond its control.

- A) The request shall make a full explanation of the reasons for the request and shall state the date to which the extension is desired.
- B) If an employer that has been granted an extension of time pursuant to this subsection (a)(~~65~~) fails to file the report on or before the extended due date, the penalty referred to in subsection (b) shall accrue from the original due date as if no extension had been granted.

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- b) Any employer, including an employer electing to make payments in lieu of paying contributions under Section ~~302, 1404, or 1405~~ ~~or 302~~ of the Act, which, during any calendar quarter (or any calendar month, in the case of an employer subject to the mandatory electronic reporting requirement of Section 2760.140), has paid wages to any of its workers and which fails to file reports of those wages on or before the dates they are due under the provisions of this Section, shall pay penalties as set forth in Section 1402 of the Act and 56 Ill. Adm. Code 2765.
- c) An extension in the period of time for filing a wage report does not extend the deadline for making payment of any required contributions.

(Source: Amended at 37 Ill. Reg. 7451, effective May 14, 2013)

Section 2760.130 Reporting "Excess" Wages

Pursuant to Section 2760.125, the employer shall enter on the wage reporting portion of its Employer's Contribution and Wage Report or ~~Report Combined Return~~ for Household Employers, or on its monthly report of wages in the case of an employer subject to Section 2760.125(a)(1), the amount of wages (whether or not subject to the payment of contributions) paid during the calendar quarter, or month as the case may be, to each listed worker. However, in the case of an employer subject to Section 2760.125(a)(1), with regard to either of the first 2 months of the calendar quarter, if the wages paid by the employer during the month to any worker are in excess of \$15,000, the employer may report only \$15,000 for the worker with respect to that month. ~~If~~ ~~However~~, if the wages paid by the employer during ~~at~~ the calendar quarter to any worker are in excess of ~~\$45,000~~ ~~\$15,000~~, the employer may report only ~~\$45,000~~ ~~\$15,000~~ for the worker with respect to that calendar quarter; provided, that the employer shall enter on its Report or Return a sum total of all excess wages and shall identify such sum as "Excess Wages Not Allocated".

(Source: Amended at 37 Ill. Reg. 7451, effective May 14, 2013)

Section 2760.135 Remittance of Contributions Due and Use of Transmittal Form

- a) Except in the case of an employer subject to Section 2760.140 ~~as provided in subsection (e)~~, each quarter, or once a year for employers who file the ~~Report Combined Return~~ for Household Employers, the Agency will provide each employer subject to the Unemployment Insurance Act with a preprinted packet that includes a Transmittal Form that is to be returned with a check for any unemployment insurance contributions due for the quarter covered by that packet.

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- 1) The Transmittal Form and check must be sent to the address indicated in the packet.
 - 2) A separate check, made payable to the Director of Employment Security, must accompany each Transmittal Form and the Employer's Illinois Account Number should be written on the face of the check.
- b) Failure of the employer to submit a check to the address indicated on the packet will result in a return of that check to the employer for resubmission. If the resubmitted check is received at the proper address after the due date provided in Section 1400 of the Act, interest shall accrue as provided in Section 1401 of the Act. The Director shall not grant waiver for any interest so accrued.
- e) ~~Notwithstanding the provisions of subsection (a) and Section 2760.125(a), any employer that has filed its Employer's Contribution and Wage Report for the previous quarter, or its Combined Return for Household Employers by use of an internet filing option provided by the Agency will receive only the Transmittal Form part of the pre-printed packet.~~
- cd) Notwithstanding any other provisions to the contrary, an employer may remit payments other than by check in accordance with instructions provided on the Agency's website, www.ides.state.il.us.

(Source: Amended at 37 Ill. Reg. 7451, effective May 14, 2013)

Section 2760.140 Use ~~of~~ Electronic Data Processing Media ~~for~~ For Monthly or Quarterly Reporting

- a) Except as provided in subsections (g) and (h) ~~of this Section~~, effective with the reports due for the first ~~month~~quarter of ~~2013~~1994, the reports required by Sections 2760.120 and 2760.125 must be filed by the use of an electronic data processing medium that meets the approval of the Director. The Director shall approve the use of electronic data processing media for reporting if he finds that:
- 1) All of the data required ~~on the forms provided~~ by the Director for monthly or quarterly reporting, as the case may be, are also provided by the employer ~~in the same format~~ on the electronic data processing medium; and

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2) The employer's electronically data processed reports are compatible and readable by the electronic data processing equipment used by the Director without the need for any programming adjustment by the Director.

3) In addition to any other requirements regarding electronic filing pursuant to this Section,

A) reports submitted pursuant to this Section for any quarter ending after December 31, 2012, shall be submitted only through a file transfer protocol or through manual entry or a file import or upload onto an online system used by the Department; and

B) reports submitted pursuant to this Section for any month after December 31, 2012, shall be submitted only through a file upload onto an online system used by the Department.

b) Subsection (a) shall only apply to an employer for a calendar year if the employer had 25250 or more individuals in its employ (though not necessarily at the same time) during the prior calendar year.

EXAMPLEExample: During 20121993, the employer has no more than 20225 individuals in its employ at any one time. However, during the year, 725 of these individuals leave the employ of the employer and are replaced by 725 other individuals. Though the employer's labor force never exceeds 20225 individuals at any one time, the employer had 27250 individuals in its employ during 20121993 and, therefore, is subject to subsection (a) for 20131994.

c) The~~Except as otherwise provided for in this subsection (c), the~~ failure of an employer that is subject to subsection (a) to report in the manner required by that subsection shall subject the employer to the penalties set forth in Section 1402 of the Act.

EXAMPLEExample: An employer subject to the reporting requirements of subsection (a) beginning in 20132004 files a report only in compliance with SectionSections 2760.120 and 2760.125, but not in compliance with this Section, for Julythe fourth quarter of that year on August 20, 2013January 20, 2005, and also remits the contributions then due for that

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~~quarter~~. On ~~September 1, 2013~~~~February 1, 2005~~, if that employer has not yet complied with subsection (a), it is delinquent in the filing of its ~~July 2013~~~~fourth quarter of 2004~~ report, the penalty set forth in Section 1402 of the Act shall be imposed, and ~~any~~~~its~~ payment ~~it ultimately submits for the third quarter of 2013~~ shall be reallocated in accordance with Section 2765.45 to reflect the payment of the penalty and a delinquency in contributions due. If the requirements of subsection (a) have still not been complied with before ~~October 1, 2013~~~~March 1, 2005~~ and the maximum penalty has not yet been imposed, the penalty will be increased on that date and the employer's payment again reallocated to reflect payment of the increased penalty and an additional delinquency.

- d) ~~When~~~~Where~~ not required by subsection (a), the reports required by Sections 2760.120 and 2760.125 may be made by the use of an electronic data processing medium that meets the prior ~~written~~ approval of the Director. The Director shall approve the use of an electronic data processing medium for reporting if it meets the requirements of ~~subsections~~~~subsections (a)(1) and (a)(2)~~ of this Section and if the employer agrees to file both reports by the use of an electronic data processing medium.
- e) Any employer that was authorized by the Director, before December 27, 1993, to submit both of its quarterly reports on an electronic data processing medium may continue to do so without further approval by the Director, on the condition that the medium continues to meet the requirements of ~~subsections~~~~subsections (a)(1) and (a)(2)~~ of this Section. The employer is, however, subject to the requirements of subsection (f) of this Section.
- f) The first report submitted electronically pursuant to this Section for any calendar year must be accompanied by a certification, on a form provided for this purpose by the Director, signed by the owner, partner or authorized officer or official, that the information submitted is true and correct to the best of his knowledge and belief and that no part of the contribution reported was or is to be deducted from the worker's wages. This subsection (f) does not apply if the method of electronic submission being used includes the certification described in this subsection (f) as part of the report.
- g) The Director shall waive the reporting requirements of this Section for an employer with respect to reports covering the subsequent calendar year when the employer demonstrates that the Commissioner of the Internal Revenue Service:

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- 1) Has waived the electronic reporting requirements of Treasury Regulation 301.6011-2 (26 CFR 301.6011-2), as in effect on January 1, 2013, for the employer with respect to documents covering a calendar year; or
 - 2) Would have waived those requirements for the employer had they otherwise been applicable.
- g) ~~Where the employer demonstrates that the Commissioner of the Internal Revenue Service has waived the electronic reporting requirements of Treasury Regulation 301.6011-2 (26 CFR 301.6011-2), or its successor, for the employer with respect to documents covering a calendar year, the Director shall waive the reporting requirements of this Section for that employer with respect to reports covering the subsequent calendar year.~~

~~EXAMPLE~~Example: In ~~February 2013~~December 2004, the Commissioner of the Internal Revenue Service notifies an employer that the requirements of Treasury Regulation 301.6011-2 (26 CFR 301.6011-2), ~~or its successor~~, have been waived with respect to Form W-2 data covering calendar year ~~2012~~2004, meaning that the employer will not be required to submit the data electronically in ~~2013~~2005. If the employer demonstrates the waiver to the Director, the Director will waive the requirements of subsection (a) with respect to reports covering ~~2013~~2005.

EXAMPLE: The electronic reporting requirements of Treasury Regulation 301.6011-2 do not apply to the employer because the employer had fewer than 250 individuals in its employ in the prior year. If the employer believes, however, that it would otherwise qualify for a waiver of the Regulation's requirements, the employer may apply for a waiver from the Director, who will grant the waiver if the Director determines that the conditions for granting a waiver under the Regulation have been met.

- h) ~~When~~Where an employer was not subject to the mandatory electronic reporting requirements of this Section for any month or quarter of the prior calendar year but is subject to those requirements for the current calendar year, the employer may, for any period through the ~~first and second~~ quarter~~quarters~~ of the current calendar year, file its ~~quarterly~~ reports in compliance with Sections 2760.120 and 2760.125.

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Example: The employer had, in total, 240 individuals in its employ during calendar year ~~2011~~¹⁹⁹³. In calendar year ~~2012~~¹⁹⁹⁴, the employer had, in total, 260 individuals in its employ. The employer will not be required to report electronically for any period through the ~~first or~~ second quarter of calendar year ~~2013~~¹⁹⁹⁵ but will be required to report electronically for at least all months during the third and fourth quarters of that year.

(Source: Amended at 37 Ill. Reg. 7451, effective May 14, 2013)

Section 2760.145 Correcting the Employer's Contribution and Wage Report or Report Combined Return for Household Employers

- a) Should an employer make an error in the reporting of total or taxable wages paid during a quarter or in the calculation of its contributions due, it shall correct that error by preparation of the form Employer's Correction Report For The Quarter Ending _____. This same form shall be used to correct errors in reporting wages of individual workers. This form requires the same information as the original ~~Employer's Contribution and Wage Report or Combined Return for Household Employers, as the case may be,~~ in addition to the corrected information and an explanation of the change.
- b) When an employer incorrectly reports the name or Social Security Number of a worker on the wage report portion of the Employer's Contribution and Wage Report or Report Combined Return for Household Employers, or, in the case of an employer subject to the mandatory electronic reporting requirement of Section 2760.140, on the report for the third month of the quarter as the case may be, a correction shall be made by the use of form Social Security Number And Name Change Notice. This form requires the original information reported on the wage report portion of the Employer's Contribution and Wage Report or Combined Return for Household Employers and the corrected information.

(Source: Amended at 37 Ill. Reg. 7451, effective May 14, 2013)

Section 2760.150 Consequences of an Error in the Preparation of the Employer's Contribution and Wage Report or Report Combined Return for Household Employers

- a) If an error in the preparation of the Employer's Contribution and Wage Report or Report Combined Return for Household Employers results in an underreporting of contributions due, the employer shall be liable for any penalty and the delinquent

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contributions plus interest, calculated in accordance with Section 1401 of the Act [820 ILCS 405/1401], from the date that the original report was due.

- b) Except as provided in subsection (c), if an error in the preparation of the Employer's Contribution and Wage Report or ~~Report~~~~Combined Return~~ for Household Employers resulted in an overpayment of contributions, the employer may file a claim for an adjustment or refund. The claim must be filed within the period provided in Section 2201 of the Act. The request shall be filed on a form entitled Employer's Claim for Adjustment/Refund. The forms may be obtained by writing to the Department of Employment Security, Revenue Division, 33 ~~S. South State St. Street, 10th Floor,~~ Chicago IL 60603 or on-line from the Agency's website, www.ides.state.il.us. On the form, the employer must provide certain identifying information (name, account number, address and telephone number), its computation of the amount of its claim and the basis for its claim. This form must be signed by the owner, a partner, an officer of a corporation or its authorized agent who states that the information contained in the form is true and correct to the best knowledge and belief of the signer.
- c) In the event that the employer is mailed a Statement of Account that indicates the employer's account has a credit balance and the employer wishes to obtain a cash refund, the employer may file for the refund within the period provided in Section 2201 of the Act, on the form, ~~Employer Request for Refund – Statement of Account~~. The form may be obtained and shall be completed in the same manner as provided in subsection (b).

(Source: Amended at 37 Ill. Reg. 7451, effective May 14, 2013)

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- 1) Heading of the Part: Payment Of Unemployment Contributions, Interest and Penalties
- 2) Code Citation: 56 Ill. Adm. Code 2765
- 3) Section Number: 2765.62 Adopted Action:
New
- 4) Statutory Authority: Implementing and authorized by Sections 212, 302, 500, 601, 602, 603, 612, 701, 1400, 1400.2, 1401, 1402, 1403, 1404, 1405, 1502.1, 1503, 1507, 1508, 1509, 1700, 1701 and 2600 of the Unemployment Insurance Act [820 ILCS 405/212, 302, 500, 601, 602, 603, 612, 701, 1400, 1400.2, 1401, 1402, 1403, 1404, 1405, 1502.1, 1503, 1507, 1508, 1509, 1700, 1701 and 2600]
- 5) Effective Date of the Rulemaking: May 14, 2013
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain an incorporation by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office, and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: December 28, 2012; 36 Ill. Reg. 18072
- 10) Has JCAR issued a Statement of Objection to this Rulemaking? No
- 11) Differences between Proposal and Final Version: No substantive changes were made.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? Yes
- 14) Are there any other rulemakings pending on this Part? No
- 15) Summary and Purpose of the Rulemaking: This rulemaking provides additional time for smaller employers to comply with the requirement that they report wages on a monthly basis.

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

Gregory J. Ramel, Deputy Legal Counsel
Illinois Department of Employment Security
33 South State Street – Room 937
Chicago, Illinois 60603

312/793-2333
gregory.ramel@illinois.gov

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

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NOTICE OF ADOPTED AMENDMENT

TITLE 56: LABOR AND EMPLOYMENT
CHAPTER IV: DEPARTMENT OF EMPLOYMENT SECURITY
SUBCHAPTER c: RIGHTS AND DUTIES OF EMPLOYERS

PART 2765

PAYMENT OF UNEMPLOYMENT CONTRIBUTIONS, INTEREST AND PENALTIES

SUBPART A: GENERAL PROVISIONS

Section

- 2765.1 Unemployment Contributions Not Deductible From Wages
- 2765.5 Definitions
- 2765.10 Payment Of Contributions
- 2765.11 Employers Who Employ Household Workers and Pay Contributions on an Annual Basis
- 2765.15 Liability For The Entire Year
- 2765.18 Liability Of A Third Party Purchaser Or Transferee For The Due And Unpaid Contributions, Interest And Penalties Of The Seller Or Transferor's Seller or Transferor
- 2765.20 Contributions Of Employers By Election
- 2765.25 Payments In Lieu Of Contributions
- 2765.30 When Payments In Lieu Of Contributions Payable
- 2765.35 Payments When Reimbursable Employer Becomes Contributory
- 2765.40 Payments When Contributory Employer Becomes Reimbursable
- 2765.44 Fee For Not Sufficient Funds (NSF) Checks
- 2765.45 Application Of Payment
- 2765.50 Accrual Of Interest
- 2765.55 Imposition Of Penalty
- 2765.56 Imposition of Late Reporting Penalty for Employers Who Employ Household Workers and Elect to File Reports on an Annual Basis
- 2765.60 Payment Or Filing By Mail
- 2765.61 Waiver of Interest and Penalty for Employers Who Employ Household Workers and Who File Reports and Pay Contributions on an Annual Basis (Repealed)
- 2765.62 Temporary Waivers of Penalty for Employers with More than 25 but Fewer than 250 Individuals in Their Employ
- 2765.63 When Payment Due And Consequences Of Upward Revision In Employer's Contribution Rate
- 2765.64 Consequences Where An Employee Leasing Company Has Erroneously Reported Wages And Paid Contributions Which Wages Should Have Been Reported And

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- Contributions Paid By Its Client
- 2765.65 Waiver Of Interest Or Penalty
- 2765.66 Waiver Of Interest Accruing Because Of Certain Types Of Employees For
Periods Prior To January 1, 1988
- 2765.67 Partial Waiver Of Interest Where An Employer Has Erroneously Reported Wages
To The Wrong State
- 2765.68 Waiver Of Penalty For Certain Employers For 1987 And Thereafter Wage
Reports
- 2765.69 Partial Waiver Of Interest Where An Employer Has Erroneously Paid Its Federal
Unemployment Tax Act (FUTA) Tax In Full But Has Failed To Pay Its Illinois
Unemployment Insurance Contributions
- 2765.70 Waiver Of Interest For Certain Nonprofit Organizations or Local Governmental
Entities
- 2765.71 Waiver of Interest Accruing Due To A Delay In The Issuance Of A Decision On
A Protested Determination And Assessment
- 2765.73 Waiver Of Interest For Certain Nonprofit Hospitals
- 2765.74 Time For Paying Or Filing Delayed Payment Or Report
- 2765.75 Application for Waiver
- 2765.80 Approval Of Application For Waiver
- 2765.85 Insufficient Or Incomplete Application
- 2765.90 Disapproval Of Application Conclusive
- 2765.95 Appeal And Hearing

SUBPART B: EXPERIENCE RATING

- Section
- 2765.200 Effect Of A Successor Employing Unit's Failure To Notify The Director Of Its
Succession
- 2765.210 Prohibition On Withdrawal Of Joint Application For Partial Transfer Of
Experience Rating Record
- 2765.220 Determination Of Benefit Wage And Benefit Ratio
- 2765.225 Requirement For Privity In Order To Have A Predecessor Successor Relationship
- 2765.228 No Requirement For Continuous Operation In Order For A Predecessor Successor
Relationship To Exist
- 2765.230 Effect Of A Transfer Of Physical Assets On A Finding That A Predecessor
Successor Relationship Exists

SUBPART C: BENEFIT CHARGES

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Section	
2765.325	Application Of "30 Day" Requirement For Determining The Chargeable Employer Pursuant To Section 1502.1 Of The Act
2765.326	Requirement For A Separation Or A Reduction In The Work Offered In Determining The Chargeable Employer Pursuant To Section 1502.1 Of The Act
2765.328	What Constitutes A Day For Purposes Of The "30 Day" Requirement In Section 1502.1 Of The Act
2765.329	Application Of "30 Day" Requirement For Determining The Chargeable Employer Pursuant To Section 1502.1 Of The Act For Benefit Years Beginning On Or After January 1, 1993
2765.330	Chargeability Where The Individual Is Discharged As A Result Of His Incarceration
2765.332	Effect Of Ineligibility Under Section 602(B) On Chargeability Under Section 1502.1 Of The Act
2765.333	Effect Of Ineligibility Under Section 612 On Chargeability Under Section 1502.1 Of The Act
2765.334	Effect Of Ineligibility Under Section 614 On Chargeability Under Section 1502.1 Of The Act
2765.335	Procedural Requirements And Right Of Appeal

AUTHORITY: Implementing and authorized by Sections 212, 302, 500, 601, 602, 603, 612, 701, 1400, 1401, 1402, 1403, 1404, 1405, 1502.1, 1503, 1507, 1508, 1509, 1700, 1701 and 2600 of the Unemployment Insurance Act [820 ILCS 405/212, 302, 500, 601, 602, 603, 612, 701, 1400, 1401, 1402, 1403, 1404, 1405, 1502.1, 1503, 1507, 1508, 1509, 1700, 1701 and 2600].

SOURCE: Adopted at 6 Ill. Reg. 3863, effective March 31, 1982; amended at 7 Ill. Reg. 13266, effective September 28, 1983; recodified at 8 Ill. Reg. 15027; amended at 11 Ill. Reg. 3972, effective February 23, 1987; amended at 11 Ill. Reg. 11743, effective June 26, 1987; amended at 11 Ill. Reg. 12882, effective July 22, 1987; emergency amendment at 12 Ill. Reg. 225, effective January 1, 1988, for a maximum of 150 days; emergency expired May 30, 1988; amended at 12 Ill. Reg. 11740, effective July 5, 1988; amended at 12 Ill. Reg. 17342, effective October 12, 1988; amended at 12 Ill. Reg. 20484, effective November 28, 1988; emergency amendment at 13 Ill. Reg. 11911, effective July 1, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 17410, effective October 30, 1989; amended at 14 Ill. Reg. 6218, effective April 16, 1990; amended at 14 Ill. Reg. 19886, effective November 29, 1990; amended at 15 Ill. Reg. 185, effective December 28, 1990; amended at 15 Ill. Reg. 11122, effective July 19, 1991; amended at 16 Ill. Reg. 2131, effective January 27, 1992; amended at 16 Ill. Reg. 12165, effective July 20, 1992; amended at 17 Ill. Reg. 308, effective December 28, 1992; amended at 17 Ill. Reg. 614, effective January 4, 1993; amended at 17 Ill. Reg. 10275, effective June 29, 1993; emergency

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amendment at 17 Ill. Reg. 13801, effective August 20, 1993, for a maximum of 150 days; emergency expired January 1, 1994; amended at 18 Ill. Reg. 14952, effective September 27, 1994; emergency amendment at 19 Ill. Reg. 16113, effective November 13, 1995, for a maximum of 150 days; amended at 20 Ill. Reg. 4307, effective February 29, 1996; amended at 25 Ill. Reg. 2011, effective January 18, 2001; emergency amendment at 29 Ill. Reg. 6788, effective April 25, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 13988, effective September 1, 2005; amended at 33 Ill. Reg. 9658, effective July 1, 2009; emergency amendment at 36 Ill. Reg. 18968, effective December 17, 2012 through June 30, 2013; emergency amendment at 37 Ill. Reg. 2506, effective February 11, 2013 through June 30, 2013; amended at 37 Ill. Reg. 7471, effective May 14, 2013.

Section 2765.62 Temporary Waivers of Penalty for Employers with More than 25 but Fewer than 250 Individuals in Their Employ

- a) For January and February of 2013 and for April and May of 2013, subject to subsection (d), the penalties set forth in Section 1402 of the Act shall be conditionally waived for an employer who had 25 or more but fewer than 250 individuals in its employ in 2012, as determined in accordance with 56 Ill. Adm. Code 2760.140(b).
- 1) EXAMPLE: During 2012, the employer had 250 or more individuals in its employ, as determined in accordance with 56 Ill. Adm. Code 2760.140(b). The employer is not eligible for a conditional waiver pursuant to this subsection (a).
- 2) EXAMPLE: During 2012, the employer had 125 individuals in its employ, as determined in accordance with 56 Ill. Adm. Code 2760.140(b). The penalties set forth in Section 1402 of the Act are conditionally waived for January and February of 2013 and for April and May of 2013.
- b) For July and August of 2013 and for October and November of 2013, subject to subsection (d), the penalties set forth in Section 1402 of the Act shall be conditionally waived for an employer who had 25 or more but fewer than 100 individuals in its employ in 2012, as determined in accordance with 56 Ill. Adm. Code 2760.140(b).
- 1) EXAMPLE: During 2012, the employer had 125 individuals in its employ, as determined in accordance with 56 Ill. Adm. Code 2760.140(b). The

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employer is not eligible for a conditional waiver pursuant to this subsection (b).

- 2) EXAMPLE: During 2012, the employer had 90 individuals in its employ, as determined in accordance with 56 Ill. Adm. Code 2760.140(b). The penalties set forth in Section 1402 of the Act are conditionally waived for July and August of 2013 and for October and November of 2013.
- c) For January and February of 2014 and for April and May of 2014, subject to subsection (d), the penalties set forth in Section 1402 of the Act shall be conditionally waived for an employer who had 25 or more but fewer than 50 individuals in its employ in 2012, as determined in accordance with 56 Ill. Adm. Code 2760.140(b).
 - 1) EXAMPLE: During 2012, the employer had 52 individuals in its employ, as determined in accordance with 56 Ill. Adm. Code 2760.140(b). The employer is not eligible for a conditional waiver pursuant to this subsection (c).
 - 2) EXAMPLE: During 2012, the employer had 25 individuals in its employ, as determined in accordance with 56 Ill. Adm. Code 2760.140(b). The penalties set forth in Section 1402 of the Act are conditionally waived for January and February of 2014 and for April and May of 2014.
- d) The Director shall waive a penalty that has been conditionally waived for the first 2 months of a calendar quarter pursuant to subsection (a), (b) or (c), if the employer timely submits the report required pursuant to 56 Ill. Adm. Code 2760.125(a)(1) for the third month of the quarter in compliance with 56 Ill. Adm. Code 2760.140. It is not necessary for the employer to apply for a waiver pursuant to this subsection (d).
 - 1) EXAMPLE: Employer Smith had 27 individuals in its employ during 2012, as determined in accordance with 56 Ill. Adm. Code 2760.140(b). Employer Smith fails to file its required reports for January or February 2013. Employer Smith, however, files its required report for March 2013 prior to May 1, 2013, in an electronic form approved by the Director. Employer Smith does not have to apply for a waiver of penalties for January or February 2013, and the Director shall waive all late reporting

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penalties for those months as long as Employer Smith's report for March 2013 is in accordance with 56 Ill. Adm. Code 2760.125(a)(1).

- 2) EXAMPLE: Employer Jones had 27 individuals in its employ during 2012, as determined in accordance with 56 Ill. Adm. Code 2760.140(b). Employer Jones fails to file its required reports for January or February 2013. Employer Jones fails to file its required report for March 2013 prior to May 1, 2013, in an electronic form approved by the Director. Employer Jones is subject to the penalties set forth in Section 1402 of the Act for failing to file the January, February and March 2013 reports as required. The minimum penalty for failing to file timely is \$50 for each of the 3 months.

(Source: Added at 37 Ill. Reg. 7471, effective May 14, 2013)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Administrative Procedures for General Professional Regulation under the Administrative Code
- 2) Code Citation: 68 Ill. Adm. Code 1130
- 3) Section Number: 1130.200 Adopted Action:
New Section
- 4) Statutory Authority: Implementing the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15(i)]
- 5) Effective Date of Rulemaking: May 31, 2013
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Date Notice of Proposal Published in the *Illinois Register*: February 22, 2013; 37 Ill. Reg. 2405
- 10) Has JCAR issued a Statement of Objection to this Rulemaking: No
- 11) Differences between Proposal and Final Version: No substantive differences
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? No changes were made.
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: The various licensing Acts administered by the Department authorize the Department to impose disciplinary sanctions against the licenses of licensees found to have violated their respective licensing Acts. This adopted rulemaking establishes factors to be used in aggravation and mitigation to determine the

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appropriate sanction and provides licensees and reviewing courts with notice of the Department's decision making process.

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

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

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

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENT

TITLE 68: PROFESSIONS AND OCCUPATIONS
CHAPTER VII: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION
SUBCHAPTER a: ADMINISTRATIVE RULESPART 1130
ADMINISTRATIVE PROCEDURES FOR GENERAL PROFESSIONAL REGULATION
UNDER THE ADMINISTRATIVE CODE

SUBPART A: GENERAL

Section
1130.10 Definitions

SUBPART B: NON-BINDING, ADVISORY OPINIONS ON CRIMINAL CONVICTIONS

Section
1130.20 Request for Non-Binding, Advisory Opinion
1130.30 Board Review
1130.40 Confidentiality of Records

SUBPART C: PERMANENT REVOCATIONS

Section
1130.100 Notice of Intent to Issue Permanent Revocation Order
1130.110 Licensed Health Care Worker
1130.120 Forcible Felony
1130.130 Chaperone Orders

SUBPART D: DISCIPLINARY SANCTIONS

Section
1130.200 Disciplinary Sanctions

1130.APPENDIX A Notice of Order Requiring Chaperone

AUTHORITY: Implementing Section 2105-15 of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15].

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENT

SOURCE: Adopted at 35 Ill. Reg. 7956, effective May 20, 2011; amended at 37 Ill. Reg. 1192, effective February 1, 2013; amended at 37 Ill. Reg. 7479, effective May 31, 2013.

SUBPART D: DISCIPLINARY SANCTIONSSection 1130.200 Disciplinary Sanctions

Upon a finding by the Department that a person has committed a violation of any licensing Act administered by the Department with regard to licenses, certificates or authorities of persons exercising their respective professions, trades or occupations, the Department may revoke, suspend, refuse to renew, place on probationary status, fine, or take any other disciplinary action as authorized in any licensing Act administered by the Department with regard to those licenses, certificates or authorities. When making a determination of the appropriate disciplinary sanction to be imposed, the Department shall consider, but is not limited to, the following factors in aggravation and mitigation:

- a) Factors in Aggravation
 - 1) The seriousness of the offenses;
 - 2) The presence of multiple offenses;
 - 3) Prior disciplinary history, including actions taken by other agencies in this State or by other states or jurisdictions, hospitals, healthcare facilities, residency programs, employers, insurance providers, or any of the armed forces of the United States or any state;
 - 4) The impact of the offenses on any injured party;
 - 5) The vulnerability of any injured party when considering such elements as, but not limited to, the injured party's age, disability or mental illness;
 - 6) The motive for the offense;
 - 7) The lack of contrition for the offenses;
 - 8) Financial gain as a result of committing the offenses; and

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- 9) The lack of cooperation with the Department or other investigative authorities.
- b) Factors in Mitigation
 - 1) The lack of prior disciplinary action by the Department or by other agencies in this State or by other states or jurisdictions, hospitals, healthcare facilities, residency programs, employers, insurance providers, or any of the armed forces of the United States or any state;
 - 2) Contrition for the offenses;
 - 3) Cooperation with the Department or other investigative authorities;
 - 4) Restitution to injured parties;
 - 5) Self-reporting of the misconduct; and
 - 6) Any voluntary remedial actions taken.

(Source: Added at 37 Ill. Reg. 7479, effective May 31, 2013)

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- 1) Heading of the Part: Permit Fees for National Pollutant Discharge Elimination System Permits and Domestic Sewage Sludge Generator or Sludge User Permits
- 2) Code Citation: 35 Ill. Adm. Code 325
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
325.205	Amended
325.410	Amended
325.430	Amended
- 4) Statutory Authority: Implementing and authorized by Section 12.5 of the Environmental Protection Act [415 ILCS 5/12.5]
- 5) Effective Date of Amendments: June 1, 2013
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the Illinois Environmental Protection Agency's principal office located at 1021 North Grand Avenue East, P.O. Box 19276 Springfield, Illinois 62794-9276 and is available for public inspection.
- 9) Notice of Proposal Published in the *Illinois Register*: December 14, 2012; 36 Ill. Reg. 17297.
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: The final version adds the year 2012 to the end of CFR citations in Section 325.205(b)(10) and adds the word "Section" below Subpart E in the Table of Contents.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will these amendments replace any emergency rulemaking currently in effect? No
- 14) Are there any rulemakings pending on this Part? No

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

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- 15) Summary and Purpose of Amendments: This rulemaking updates Section 325.205 to reflect new, statutorily created National Pollutant Discharge Elimination System (NPDES) permit fees for Concentrated Animal Feeding Operations (CAFOs). Public Act 97-962, which amends the Environmental Protection Act [415 ILCS 5/12.5(e)] creates fee categories for large, medium and small CAFOs. The Illinois EPA adds these fee categories to Section 325.205 to ensure consistency with the statute. The Agency also modifies Section 325.430 to require a permit holder to sign permit termination or modification requests. The remaining amendments to Sections 325.410 and 325.430 are non-substantive clean up amendments.
- 16) Information and questions regarding this adopted rulemaking shall be directed to:

Joanne Olson
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19726
Springfield, Illinois 62794-9276

217/782-5544

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

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF ADOPTED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE C: WATER POLLUTION
CHAPTER II: ENVIRONMENTAL PROTECTION AGENCY

PART 325
PERMIT FEES FOR NATIONAL POLLUTANT DISCHARGE ELIMINATION
SYSTEM PERMITS AND DOMESTIC SEWAGE SLUDGE
GENERATOR OR SLUDGE USER PERMITS

SUBPART A: GENERAL

Section	
325.100	Purpose
325.105	Applicability
325.110	Definitions
325.115	Relation to Other Fees and Fee Systems
325.120	Severability

SUBPART B: PROCEDURES FOR DETERMINATION AND PAYMENT OF FEES FOR
NPDES PERMITS AND SLUDGE GENERATOR OR SLUDGE USER PERMITS

Section	
325.205	Amount of the Fee
325.210	Proration of Fees
325.215	One Time Annual Fee Payments for Construction Site Stormwater Discharges
325.220	Manner of Payment
325.230	Deposit of Fee Payments
325.235	Refunds

SUBPART C: PROCEDURES FOR PROCESSING PERMIT APPLICATIONS AND
NOTICES OF INTENT FOR WHICH FEES APPLY

Section	
325.310	Notices of Intent to Pursue Coverage Under General NPDES Permits Not Containing the Entire Fee
325.315	Modifications to Notices of Intent for General NPDES Permits
325.320	Modifications to NPDES Permits and Sludge Generator or Sludge User Permits

SUBPART D: NOTICES, TERMINATIONS AND TRANSFER OF OWNERSHIP

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Section

325.410	Annual Fee Notices for Existing Permits and Permit Renewals
325.420	Initial Annual Fee Notices for New Permits
325.425	Due Dates
325.430	Terminations of NPDES Permits and Sludge Generator and Sludge User Permits
325.435	Transfer of Ownership and Fees

SUBPART E: ~~RESOLUTION~~ RESOLUTION OF DISPUTES

Section

325.510	Request for Reconsideration
325.520	Agency Response
325.530	Appeal of Final Agency Action

SUBPART F: FAILURE TO COMPLY WITH SECTION 12.5 OF THE ACT

Section

325.605	Failure to Pay Annual NPDES and Sludge Generator or Sludge User Discharge Fees
325.610	Interest on Unpaid Fees
325.620	Collection Procedures for Unpaid Fees

AUTHORITY: Implementing and authorized by Section 12.5 of the Environmental Protection Act [415 ILCS 5/12.5].

SOURCE: Adopted at 34 Ill. Reg. 10056, effective June 29, 2010; amended at 37 Ill. Reg. 7484, effective June 1, 2013.

SUBPART B: PROCEDURES FOR DETERMINATION AND PAYMENT OF FEES FOR NPDES PERMITS AND SLUDGE GENERATOR OR SLUDGE USER PERMITS

Section 325.205 Amount of the Fee

- a) Except when no fee is due pursuant to Section 325.215 for construction site stormwater discharges, each permit holder or applicant subject to this Part pursuant to Section 325.105 shall pay an annual fee to the Agency for any discharge that requires an NPDES permit pursuant to Section 12(f) of the Act and

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for all activities requiring a sludge generator or sludge user permit pursuant to Section 12(b) of the Act.

- 1) *The initial annual fee for discharges under a new NPDES permit or for activity under a new individual sludge generator or sludge user permit must be remitted to the Agency prior to the issuance of the permit. [415 ILCS 5/12.5(c)]*
 - 2) *The initial annual fee for discharges or other activity under a general NPDES permit must be remitted to the Agency as part of the application for coverage under that general permit. [415 ILCS 5/12.5(c)]*
- b) *The annual fees applicable to discharges under NPDES permits are as follows:*
- 1) *For NPDES permits for publicly owned treatment works, other facilities for which the wastewater being treated and discharged is primarily domestic sewage, and wastewater discharges from the operation of public water supply treatment facilities, the fee is:*
 - A) *\$500 for facilities with a Design Average Flow rate of less than 100,000 gallons per day;*
 - B) *\$2,500 for facilities with a Design Average Flow rate of at least 100,000 gallons per day but less than 500,000 gallons per day;*
 - C) *\$7,500 for facilities with a Design Average Flow rate of at least 500,000 gallons per day but less than 1,000,000 gallons per day;*
 - D) *\$15,000 for facilities with a Design Average Flow rate of at least 1,000,000 gallons per day but less than 5,000,000 gallons per day;*
 - E) *\$30,000 for facilities with a Design Average Flow rate of at least 5,000,000 gallons per day but less than 10,000,000 gallons per day; and*
 - F) *\$50,000 for facilities with a Design Average Flow rate of 10,000,000 gallons per day or more. [415 ILCS 5/12.5(e)(1)]*

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- 2) *For NPDES permits for treatment works or sewer collection systems that include combined sewer overflow outfalls, in addition to the fees in subsection (b)(1) of this Section, the fee is:*
 - A) *\$1,000 for systems serving a tributary population of 10,000 or less;*
 - B) *\$5,000 for systems serving a tributary population that is greater than 10,000 but not more than 25,000; and*
 - C) *\$20,000 for systems serving a tributary population that is greater than 25,000. [415 ILCS 5/12.5(e)(2)]*
- 3) *For NPDES permits for mines, the fee is \$5,000. [415 ILCS 5/12.5(e)(3) and (4)]*
- 4) *For NPDES permits for industrial activity, other than mines, where toxic substances are not regulated, the fee is:*
 - A) *\$1,000 for a facility with a Design Average Flow rate that is not more than 10,000 gallons per day;*
 - B) *\$2,500 for a facility with a Design Average Flow rate that is more than 10,000 gallons per day but not more than 100,000 gallons per day; and*
 - C) *\$10,000 for a facility with a Design Average Flow rate that is more than 100,000 gallons per day. [415 ILCS 5/12.5(e)(5)]*
- 5) *For NPDES permits for industrial activity, other than mines, where toxic substances are regulated, the fee is:*
 - A) *\$15,000 for a facility with a Design Average Flow rate that is not more than 250,000 gallons per day; and*
 - B) *\$20,000 for a facility with a Design Average Flow rate that is more than 250,000 gallons per day. [415 ILCS 5/12.5(e)(6)]*

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- 6) For NPDES permits for industrial activity classified by USEPA as a major discharge, other than mines, the fee is:
- A) *\$30,000 for a facility where toxic substances are not regulated; and*
 - B) *\$50,000 for a facility where toxic substances are regulated. [415 ILCS 5/12.5(e)(7)]*
- 7) *For NPDES permits for municipal separate storm sewer systems, the fee is \$1,000. [415 ILCS 5/12.5(e)(8)]*
- 8) *For NPDES permits for industrial storm water, the fee is \$500. [415 ILCS 5/12.5(e)(9)]*
- 9) *For NPDES permits for construction site storm water, the fee:*
- A) *for applications received before January 1, 2010 is \$500;*
 - B) *for applications received on or after January 1, 2010 is:*
 - i) *\$250 if less than 5 acres are disturbed; and*
 - ii) *\$750 if 5 or more acres are disturbed. [415 ILCS 5/12.5(e)(10)]*
- 10) *For NPDES permits for a Concentrated Animal Feeding Operation (CAFO), the fee is:*
- A) *\$750 for a Large CAFO as defined in 40 CFR 122.23(b)(4) (2012);*
 - B) *\$350 for a Medium CAFO as defined in 40 CFR 122.23(b)(6) (2012); and*
 - C) *\$150 for a Small CAFO as defined in 40 CFR 122.23(b)(9) (2012). [415 ILCS 5/12.5(e)(11)]*
- c) *The annual fee for activities under a permit that authorizes applying sludge on land is:*

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- 1) \$2,500 for a sludge generator permit.
- 2) \$5,000 for a sludge user permit. [415 ILCS 5/12.5(f)]

(Source: Amended at 37 Ill. Reg. 7484, effective June 1, 2013)

SUBPART D: NOTICES, TERMINATIONS AND TRANSFER OF OWNERSHIP

Section 325.410 Annual Fee Notices for Existing Permits and Permit Renewals

- a) Each year *the Agency shall send a fee notice by mail to each existing permit holder subject to a fee under this Part at his or her address of record. The notice shall state the amount of the applicable annual fee and the date by which payment is required.* [415 ILCS 5/12.5(b)] The address of record is the address provided on the permit application or a billing address provided on a subsequent address correction form submitted to the Agency.
- b) *Except as provided in Section 325.420 with respect to initial fees under new permits and as provided in Section 325.320 for certain modifications of existing permits, fees payable under this Part are due by the date specified in the fee notice, which shall be no less than 30 days after the date the fee notice is mailed by the Agency.* [415 ILCS 5/12.5(b)]
- c) The Agency may send second notices for unpaid fees and interest prior to initiating referral to the Comptroller's Offset System pursuant to 15 ILCS 405/10.05, referral to the Department of Revenue's Debt Collection Bureau pursuant to 30 ILCS 210 or other collection procedures.
- d) In the event the Agency inadvertently sends a fee notice to a permit holder whose NPDES, sludge generator or sludge user permit has expired and is not lawfully administratively continued because the NPDES permit holder did not apply for renewal not less than within 180 days prior to of the permit expiration date or the sludge generator or sludge user permit holder did not apply for renewal not less than within 90 days prior to of the permit expiration date, payment of a fee by the recipient of the notice will not be construed as indicia of possession of a valid NPDES or sludge generator or sludge user permit.

(Source: Amended at 37 Ill. Reg. 7484, effective June 1, 2013)

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Section 325.430 Terminations of NPDES Permits and Sludge Generator and Sludge User Permits

- a) It shall be the obligation of every permit holder required to pay a fee pursuant to this Part to notify the Agency, in writing, of the cessation of or reduction in operation at the facility or completion or termination of the permitted activity and to request modification or termination of all appropriate permits.
- b) Termination and permit modification~~Notifications and~~ requests ~~under this Section~~ shall be on forms prescribed by the Agency and signed by the permit holder. All termination requests and permit modifications must be sent to:
- Illinois Environmental Protection Agency
Division of Water Pollution Control
P. O. Box 19276
Springfield, Illinois 62794-9276
- c) The permit holder remains liable for annual discharge fees provided in the fee notice billing statement mailed by the Agency until the expiration date specified in the permit unless a request for termination of the facility's permit or permits is made in writing ~~asto the address~~ provided in subsection (b) of this Section prior to the due date contained in the annual fee notice.
- d) Submittal~~Timely submittal~~ of a termination request before the due date contained in the annual fee notice will stay the accrual of interest while the termination request is under review by the Agency.

(Source: Amended at 37 Ill. Reg. 7484, effective June 1, 2013)

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- 1) Heading of the Part: Water Quality Standards
- 2) Code Citation: 35 Ill. Adm. Code 302
- 3) Section Number: 302.208 Adopted Action: Amend
- 4) Statutory Authority: Implementing Sections 5, 10, 13, 21, 22, 22.01, and 22.2 and authorized by Sections 27 of the Environmental Protection Act [415 ILCS 5/5, 10, 13, 21, 22, 22.01, 22.2, and 27]
- 5) Effective Date of Rulemaking: May 16, 2013
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? Yes
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the Board's Chicago office at the James R. Thompson Center, 100 W. Randolph Street, Suite 11-500, and is available there for public inspection.
- 9) Notice of Proposal Published in the *Illinois Register*: February 22, 2013; 37 Ill. Reg. 2436
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: These differences are limited to technical corrections noticed by the Agency, JCAR, and the Board. The differences occur in Section 302.208(e) of Title 35 of the Board's regulations. First, during the First Notice comment period, the Agency requested that an equal sign ("=") in the formulas for acute and chronic Numeric Water Quality Standards for Lead (dissolved) be replaced with a plus sign ("+"). Second, after acceptance of the Second Notice, JCAR commented that a division symbol ("/") in the formula for the acute Numeric Water Quality Standard for Lead (dissolved) should be replaced with the number one ("1"). Finally, in making the aforementioned change, the Board noticed an inconsistency between the hardness notation of the formulas for the acute and chronic standards for cadmium (dissolved) and those formulas for lead (dissolved). To correct this scrivener's error, a set of parenthesis was added to the hardness notations in the formulas for the acute and chronic standards for lead (dissolved), changing the hardness notation from " $\ln H$ " to " $\ln(H)$ ".

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- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements letter issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Amendment: This subdocket was opened for the limited purpose of making two technical changes to Section 302.208(b) and (e), to correct scrivener's errors that occurred during the rulemaking process. The errors occurred in the reporting requirements for the water quality standards for fluoride (errant appearance of the word "metals" which should have been stricken throughout the section) and manganese (omission of the word "dissolved"). Additional scrivener's errors were corrected, as discussed above. A more detailed description of this rulemaking is contained in the Board's first notice opinion and order in this Technical Corrections to Triennial Review of Water Quality Standards Amendments for Fluoride and Manganese: Amendments to 35 Ill. Adm. Code 302.208(b) and (e), R11-18(B) (Feb. 7, 2013).
- 16) Information and questions regarding this adopted rulemaking shall be directed to:

Chad Kruse
Illinois Pollution Control Board
100 W. Randolph Street, Suite 11-500
Chicago, IL 60601

312/814-5053
Chad.Kruse@illinois.gov

Copies of the Board's opinions and orders may be requested from the Clerk of the Board at the address listed in #8 above or by calling 312/814-3620. Please refer to the docket number R11-18(b) in your request. The Board order is also available from the Board's Web site (www.ipcb.state.il.us).

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

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TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE C: WATER POLLUTION
CHAPTER I: POLLUTION CONTROL BOARDPART 302
WATER QUALITY STANDARDS

SUBPART A: GENERAL WATER QUALITY PROVISIONS

Section	
302.100	Definitions
302.101	Scope and Applicability
302.102	Allowed Mixing, Mixing Zones and ZIDs
302.103	Stream Flows
302.104	Main River Temperatures
302.105	Antidegradation

SUBPART B: GENERAL USE WATER QUALITY STANDARDS

Section	
302.201	Scope and Applicability
302.202	Purpose
302.203	Offensive Conditions
302.204	pH
302.205	Phosphorus
302.206	Dissolved Oxygen
302.207	Radioactivity
302.208	Numeric Standards for Chemical Constituents
302.209	Fecal Coliform
302.210	Other Toxic Substances
302.211	Temperature
302.212	Total Ammonia Nitrogen
302.213	Effluent Modified Waters (Ammonia) (Repealed)

SUBPART C: PUBLIC AND FOOD PROCESSING WATER SUPPLY STANDARDS

Section	
302.301	Scope and Applicability
302.302	Algicide Permits

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302.303	Finished Water Standards
302.304	Chemical Constituents
302.305	Other Contaminants
302.306	Fecal Coliform
302.307	Radium 226 and 228

SUBPART D: SECONDARY CONTACT AND
INDIGENOUS AQUATIC LIFE STANDARDS

Section	
302.401	Scope and Applicability
302.402	Purpose
302.403	Unnatural Sludge
302.404	pH
302.405	Dissolved Oxygen
302.406	Fecal Coliform (Repealed)
302.407	Chemical Constituents
302.408	Temperature
302.409	Cyanide
302.410	Substances Toxic to Aquatic Life

SUBPART E: LAKE MICHIGAN BASIN WATER QUALITY STANDARDS

Section	
302.501	Scope, Applicability, and Definitions
302.502	Dissolved Oxygen
302.503	pH
302.504	Chemical Constituents
302.505	Fecal Coliform
302.506	Temperature
302.507	Thermal Standards for Existing Sources on January 1, 1971
302.508	Thermal Standards for Sources Under Construction But Not In Operation on January 1, 1971
302.509	Other Sources
302.510	Incorporations by Reference
302.515	Offensive Conditions
302.520	Regulation and Designation of Bioaccumulative Chemicals of Concern (BCCs)
302.521	Supplemental Antidegradation Provisions for Bioaccumulative Chemicals of Concern (BCCs)

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302.525	Radioactivity
302.530	Supplemental Mixing Provisions for Bioaccumulative Chemicals of Concern (BCCs)
302.535	Ammonia Nitrogen
302.540	Other Toxic Substances
302.545	Data Requirements
302.550	Analytical Testing
302.553	Determining the Lake Michigan Aquatic Toxicity Criteria or Values – General Procedures
302.555	Determining the Tier I Lake Michigan Acute Aquatic Toxicity Criterion (LMAATC): Independent of Water Chemistry
302.560	Determining the Tier I Lake Michigan Basin Acute Aquatic Life Toxicity Criterion (LMAATC): Dependent on Water Chemistry
302.563	Determining the Tier II Lake Michigan Basin Acute Aquatic Life Toxicity Value (LMAATV)
302.565	Determining the Lake Michigan Basin Chronic Aquatic Life Toxicity Criterion (LMCATC) or the Lake Michigan Basin Chronic Aquatic Life Toxicity Value (LMCATV)
302.570	Procedures for Deriving Bioaccumulation Factors for the Lake Michigan Basin
302.575	Procedures for Deriving Tier I Water Quality Criteria and Values in the Lake Michigan Basin to Protect Wildlife
302.580	Procedures for Deriving Water Quality Criteria and Values in the Lake Michigan Basin to Protect Human Health – General
302.585	Procedures for Determining the Lake Michigan Basin Human Health Threshold Criterion (LMHHTC) and the Lake Michigan Basin Human Health Threshold Value (LMHHTV)
302.590	Procedures for Determining the Lake Michigan Basin Human Health Nonthreshold Criterion (LMHHNC) or the Lake Michigan Basin Human Health Nonthreshold Value (LMHHNV)
302.595	Listing of Bioaccumulative Chemicals of Concern, Derived Criteria and Values

SUBPART F: PROCEDURES FOR DETERMINING WATER QUALITY CRITERIA

Section	
302.601	Scope and Applicability
302.603	Definitions
302.604	Mathematical Abbreviations
302.606	Data Requirements
302.612	Determining the Acute Aquatic Toxicity Criterion for an Individual Substance –

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	General Procedures
302.615	Determining the Acute Aquatic Toxicity Criterion – Toxicity Independent of Water Chemistry
302.618	Determining the Acute Aquatic Toxicity Criterion – Toxicity Dependent on Water Chemistry
302.621	Determining the Acute Aquatic Toxicity Criterion – Procedure for Combinations of Substances
302.627	Determining the Chronic Aquatic Toxicity Criterion for an Individual Substance – General Procedures
302.630	Determining the Chronic Aquatic Toxicity Criterion – Procedure for Combinations of Substances
302.633	The Wild and Domestic Animal Protection Criterion
302.642	The Human Threshold Criterion
302.645	Determining the Acceptable Daily Intake
302.648	Determining the Human Threshold Criterion
302.651	The Human Nonthreshold Criterion
302.654	Determining the Risk Associated Intake
302.657	Determining the Human Nonthreshold Criterion
302.658	Stream Flow for Application of Human Nonthreshold Criterion
302.660	Bioconcentration Factor
302.663	Determination of Bioconcentration Factor
302.666	Utilizing the Bioconcentration Factor
302.669	Listing of Derived Criteria
302.APPENDIX A	References to Previous Rules
302.APPENDIX B	Sources of Codified Sections
302.APPENDIX C	Maximum total ammonia nitrogen concentrations allowable for certain combinations of pH and temperature
302.TABLE A	pH-Dependent Values of the AS (Acute Standard)
302.TABLE B	Temperature and pH-Dependent Values of the CS (Chronic Standard) for Fish Early Life Stages Absent
302.TABLE C	Temperature and pH-Dependent Values of the CS (Chronic Standard) for Fish Early Life Stages Present
302.APPENDIX D	Section 302.206(d): Stream Segments for Enhanced Dissolved Oxygen Protection

AUTHORITY: Implementing Section 13 and authorized by Sections 11(b) and 27 of the Environmental Protection Act [415 ILCS 5/13, 11(b), and 27].

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SOURCE: Filed with the Secretary of State January 1, 1978; amended at 2 Ill. Reg. 44, p. 151, effective November 2, 1978; amended at 3 Ill. Reg. 20, p. 95, effective May 17, 1979; amended at 3 Ill. Reg. 25, p. 190, effective June 21, 1979; codified at 6 Ill. Reg. 7818; amended at 6 Ill. Reg. 11161, effective September 7, 1982; amended at 6 Ill. Reg. 13750, effective October 26, 1982; amended at 8 Ill. Reg. 1629, effective January 18, 1984; peremptory amendments at 10 Ill. Reg. 461, effective December 23, 1985; amended at R87-27 at 12 Ill. Reg. 9911, effective May 27, 1988; amended at R85-29 at 12 Ill. Reg. 12082, effective July 11, 1988; amended in R88-1 at 13 Ill. Reg. 5998, effective April 18, 1989; amended in R88-21(A) at 14 Ill. Reg. 2899, effective February 13, 1990; amended in R88-21(B) at 14 Ill. Reg. 11974, effective July 9, 1990; amended in R94-1(A) at 20 Ill. Reg. 7682, effective May 24, 1996; amended in R94-1(B) at 21 Ill. Reg. 370, effective December 23, 1996; expedited correction at 21 Ill. Reg. 6273, effective December 23, 1996; amended in R97-25 at 22 Ill. Reg. 1356, effective December 24, 1997; amended in R99-8 at 23 Ill. Reg. 11249, effective August 26, 1999; amended in R01-13 at 26 Ill. Reg. 3505, effective February 22, 2002; amended in R02-19 at 26 Ill. Reg. 16931, effective November 8, 2002; amended in R02-11 at 27 Ill. Reg. 166, effective December 20, 2002; amended in R04-21 at 30 Ill. Reg. 4919, effective March 1, 2006; amended in R04-25 at 32 Ill. Reg. 2254, effective January 28, 2008; amended in R07-9 at 32 Ill. Reg. 14978, effective September 8, 2008; amended in R11-18 at 36 Ill. Reg. 18871, effective December 12, 2012; amended in R11-18(b) at 37 Ill. Reg. 7493, effective May 16, 2013.

SUBPART B: GENERAL USE WATER QUALITY STANDARDS

Section 302.208 Numeric Standards for Chemical Constituents

- a) The acute standard (AS) for the chemical constituents listed in subsection (e) shall not be exceeded at any time except for those waters for which a zone of initial dilution (ZID) has been approved by the Agency pursuant to Section 302.102.
- b) The chronic standard (CS) for the chemical constituents listed in subsection (e) shall not be exceeded by the arithmetic average of at least four consecutive samples collected over any period of at least four days, except for those waters in which the Agency has approved a mixing zone or in which mixing is allowed pursuant to Section 302.102. The samples used to demonstrate attainment or lack of attainment with a CS must be collected in a manner that assures an average representative of the sampling period. For the chemical constituents that have water quality based standards dependent upon hardness, the chronic water quality standard will be calculated according to subsection (e) using the hardness of the water body at the time the sample was collected. To calculate attainment status of chronic ~~metals~~ standards, the concentration of the chemical constituent in each

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sample is divided by the calculated water quality standard for the sample to determine a quotient. The water quality standard is attained if the mean of the sample quotients is less than or equal to one for the duration of the averaging period.

- c) The human health standard (HHS) for the chemical constituents listed in subsection (f) shall not be exceeded when the stream flow is at or above the harmonic mean flow pursuant to Section 302.658 nor shall an annual average, based on at least eight samples, collected in a manner representative of the sampling period, exceed the HHS except for those waters in which the Agency has approved a mixing zone or in which mixing is allowed pursuant to Section 302.102.
- d) The standard for the chemical constituents of subsections (g) and (h) shall not be exceeded at any time except for those waters in which the Agency has approved a mixing zone or in which mixing is allowed pursuant to Section 302.102.
- e) Numeric Water Quality Standards for the Protection of Aquatic Organisms

Constituent	AS ($\mu\text{g/L}$)	CS ($\mu\text{g/L}$)
Arsenic (trivalent, dissolved)	$360 \times 1.0^* = 360$	$190 \times 1.0^* = 190$
Boron (total)	40,100	7,600
Cadmium (dissolved)	$e^{A+B\ln(H)} \times \left\{ 1.138672 - \left[\frac{1.138672 - 1.101672}{[(\ln(H))(0.041838)]} \right] \right\}^*$	$e^{A+B\ln(H)} \times \left\{ 1.101672 - \left[\frac{1.101672 - 1.041838}{[(\ln(H))(0.041838)]} \right] \right\}^*$
	where $A = -2.918$ and $B = 1.128$	where $A = -3.490$ and $B = 0.7852$
Chromium (hexavalent, total)	16	11

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Chromium (trivalent, dissolved)	$e^{A+B \ln(H)} \times 0.316^*$ where $A = 3.688$ and $B = 0.8190$	$e^{A+B \ln(H)} \times 0.860^*$ where $A = 1.561$ and $B = 0.8190$
Copper (dissolved)	$e^{A+B \ln(H)} \times 0.960^*$ where $A = -1.464$ and $B = 0.9422$	$e^{A+B \ln(H)} \times 0.960^*$ where $A = -1.465$ and $B = 0.8545$
Cyanide**	22	5.2
Fluoride (total)	$e^{A+B \ln(H)}$ where $A = 6.7319$ and $B = 0.5394$	$e^{A+B \ln(H)}$, but shall not exceed 4.0 mg/L where $A = 6.0445$ and $B = 0.5394$
Lead (dissolved)	$e^{A+B \ln(H)} \times$ $\left\{ \frac{1.46203 -}{[(\ln(H))(0.145712)]} \right\}^*$ $\frac{e^{A+B \ln(H)} \times}{e^{A+B \ln(H)} \times}$ $\left\{ \frac{1.46203 -}{[(\ln(H))(0.1457 / 2)]} \right\}^*$ where $A = -1.301$ and $B = 1.273$	$e^{A+B \ln(H)} \times$ $\left\{ \frac{1.46203 -}{[(\ln(H))(0.145712)]} \right\}^*$ $\frac{e^{A+B \ln(H)} \times}{e^{A+B \ln(H)} \times}$ $\left\{ \frac{1.46203 -}{[(\ln(H))(0.145712)]} \right\}^*$ where $A = -2.863$ and $B = 1.273$
Manganese <u>(dissolved)</u>	$e^{A+B \ln(H)} \times 0.9812^*$ where $A = 4.9187$ and $B = 0.7467$	$e^{A+B \ln(H)} \times 0.9812^*$ where $A = 4.0635$ and $B = 0.7467$
Mercury (dissolved)	$2.6 \times 0.85^* = 2.2$	$1.3 \times 0.85^* = 1.1$

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Nickel (dissolved)	$e^{A+B \ln(H)} \times 0.998 *$	$e^{A+B \ln(H)} \times 0.997 *$
	where $A = 0.5173$ and $B = 0.8460$	where $A = -2.286$ and $B = 0.8460$
TRC	19	11
Zinc (dissolved)	$e^{A+B \ln(H)} \times 0.978 *$	$e^{A+B \ln(H)} \times 0.986 *$
	where $A = 0.9035$ and $B = 0.8473$	where $A = -0.4456$ and $B = 0.8473$
Benzene	4200	860
Ethylbenzene	150	14
Toluene	2000	600
Xylene(s)	920	360

where:

- $\mu\text{g/L}$ = microgram per liter
- e^x = base of natural logarithms raised to the x-power
- $\ln(H)$ = natural logarithm of Hardness
- *
- ** = conversion factor multiplier for dissolved metals
- ** = standard to be evaluated using either of the following USEPA approved methods, incorporated by reference at 35 Ill. Adm. Code 301.106: Method OIA-1677, DW: Available Cyanide by Flow Injection, Ligand Exchange, and Amperometry, January 2004, Document Number EPA-821-R-04-001 or Cyanide Amenable to Chlorination, Standard Methods 4500-CN-G (40 CFR 136.3)

f) Numeric Water Quality Standard for the Protection of Human Health

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Constituent	($\mu\text{g/L}$)
Mercury (total)	0.012
Benzene	310

where:

$\mu\text{g/L}$ = micrograms per liter

- g) Single-value standards apply at the following concentrations for these substances:

Constituent	Unit		Standard
Barium (total)	mg/L		5.0
Chloride (total)	mg/L		500
Iron (dissolved)	mg/L	01046	1.0
Phenols	mg/L		0.1
Selenium (total)	mg/L		1.0
Silver (total)	$\mu\text{g/L}$		5.0

where:

mg/L = milligram per liter and

$\mu\text{g/L}$ = microgram per liter

- h) Water quality standards for sulfate are as follows:
- 1) At any point where water is withdrawn or accessed for purposes of livestock watering, the average of sulfate concentrations must not exceed 2,000 mg/L when measured at a representative frequency over a 30 day period.
 - 2) The results of the following equations provide sulfate water quality standards in mg/L for the specified ranges of hardness (in mg/L as CaCO_3) and chloride (in mg/L) and must be met at all times:

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- A) If the hardness concentration of receiving waters is greater than or equal to 100 mg/L but less than or equal to 500 mg/L, and if the chloride concentration of waters is greater than or equal to 25 mg/L but less than or equal to 500 mg/L, then:

$$C = [1276.7 + 5.508 (\text{hardness}) - 1.457 (\text{chloride})] * 0.65$$

where:

C = sulfate concentration

- B) If the hardness concentration of waters is greater than or equal to 100 mg/L but less than or equal to 500 mg/L, and if the chloride concentration of waters is greater than or equal to 5 mg/L but less than 25 mg/L, then:

$$C = [-57.478 + 5.79 (\text{hardness}) + 54.163 (\text{chloride})] * 0.65$$

where:

C = sulfate concentration

- 3) The following sulfate standards must be met at all times when hardness (in mg/L as CaCO₃) and chloride (in mg/L) concentrations other than specified in (h)(2) are present:
- A) If the hardness concentration of waters is less than 100 mg/L or chloride concentration of waters is less than 5 mg/L, the sulfate standard is 500 mg/L.
- B) If the hardness concentration of waters is greater than 500 mg/L and the chloride concentration of waters is 5 mg/L or greater, the sulfate standard is 2,000 mg/L.
- C) If the combination of hardness and chloride concentrations of existing waters are not reflected in subsection (h)(3)(A) or (B), the sulfate standard may be determined in a site-specific rulemaking pursuant to section 303(c) of the Federal Water Pollution Control

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Act of 1972 (Clean Water Act), 33 USC 1313, and Federal
Regulations at 40 CFR 131.10(j)(2).

(Source: Amended at 37 Ill. Reg. 7493, effective May 16, 2013)

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- 1) Heading of the Part: Tiered Approach to Corrective Action Objectives
- 2) Code Citation: 35 Ill. Adm. Code 742
- 3)

<u>Section Numbers</u> :	<u>Adopted Action</u> :
742.105	Amend
742.110	Amend
742.115	Amend
742.200	Amend
742.210	Amend
742.220	Amend
742.222	New
742.225	Amend
742.227	New
742.305	Amend
742.310	Amend
742.312	New
742.405	Amend
742.500	Amend
742.505	Amend
742.510	Amend
742.515	New
742.600	Amend
742.605	Amend
742.610	Amend
742.700	Amend
742.705	Amend
742.710	Amend
742.712	New
742.715	Amend
742.717	New
742.805	Amend
742.810	Amend
742.812	New
742.900	Amend
742.920	Amend
742.925	Amend
742.935	New
742.1000	Amend

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742.1010	Amend
742.1015	Amend
742.1105	Amend
742.1200	New
742.1205	New
742.1210	New
742.Appendix A	
742.TABLE A	Amend
742.TABLE E	Amend
742.TABLE F	Amend
742.TABLE J	New
742.TABLE K	New
742.Appendix B	
742.TABLE G	New
742.TABLE H	New
742.TABLE I	New
742.Appendix C	
742. 742.TABLE A	Amend
742. 742.TABLE B	Amend
742. 742.TABLE E	Amend
742. 742.TABLE F	Amend
742. 742.TABLE L	New
742. 742.TABLE M	New
742.Appendix F	Amend

- 4) Statutory Authority: Authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/27]
- 5) Effective Date of Amendments: July 15, 2013
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? Yes
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the Board's Chicago office at the James R. Thompson Center, 100 W. Randolph Street, Suite 11-500, and is available there for public inspection.
- 10) Notice of Proposal Published in the *Illinois Register*: May 18, 2012; 36 Ill. Reg. 7340

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- 11) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: First, the Tier 1 and Tier 2 remediation objectives (ROs) for the indoor inhalation exposure route apply *only* when the existing or potential building at issue has a full concrete slab-on-grade or a full concrete basement floor and walls. *See, e.g.*, Sections 742.505(b)(2)(C), 742.600(1)(1). Second, an institutional control must be placed on the property whenever the indoor inhalation ROs applied at the site rely upon the assumed presence of a building with a full concrete slab-on-grade or a full concrete basement floor and walls (*e.g.*, Tier 1 and Tier 2 ROs). *See* Section 742.1000(a)(9). Third, in the event of a building control technology (BCT) being rendered inoperable at a school, the final amendments require the "school administrator" (rather than the "site owner/operator") to provide notification, and when doing so, to notify not only the Illinois Environmental Protection Agency, but also the school board and every parent or legal guardian for all enrolled students. The final amendments specify that the requirement to provide notification of BCT inoperability is triggered by the BCT being rendered inoperable for a period of five consecutive calendar days during the school year when school is in session. "School administrator" is defined as "the school's principal, or similar administrator responsible for the school's operations, or his or her designee." *See* Section 742.1200(e)(3).
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements letter issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Amendments: The final amendments include the addition of a new exposure route under the Tiered Approach to Corrective Action Objectives (TACO): the indoor inhalation exposure route. To protect building occupants, this exposure route addresses the potential for vapors to migrate into buildings from underlying volatile chemicals in soil or groundwater, a process commonly known as "vapor intrusion." The amendments also reflect the addition of 13 chemicals to the TACO tables based upon the Board's latest amendments to the groundwater quality standards, Proposed Amendments to Groundwater Quality Standards (35 Ill. Adm. Code 620), R08-18. Further, the amendments to TACO update physical and chemical parameters and revise toxicity values in accordance with the latest United States Environmental Protection Agency hierarchy for selecting human health toxicity values.

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

Richard McGill
Illinois Pollution Control Board
100 W. Randolph Street, Suite 11-500
Chicago, IL 60601

312/814-6983
richard.mcgill@illinois.gov

Copies of the Board's opinions and orders may be requested from the Clerk of the Board at the address listed in #8 above or by calling 312/814-3620. Please refer to the docket number R11-09 in your request. The Board order is also available from the Board's Web site (www.ipcb.state.il.us).

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

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TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE G: WASTE DISPOSAL
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER f: RISK BASED CLEANUP OBJECTIVES

PART 742

TIERED APPROACH TO CORRECTIVE ACTION OBJECTIVES

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- 742.315 Soil Ingestion Exposure Route
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SUBPART F: TIER 2 GENERAL EVALUATION

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Model Ordinance

742.APPENDIX H

Memorandum of Understanding

AUTHORITY: Implementing Sections 22.4, 22.12, Title XVI, and Title XVII and authorized by Sections 27 and 58.5 of the Environmental Protection Act [415 ILCS 5/22.4, 22.12, 27, and 58.5 and Title XVI and Title XVII].

SOURCE: Adopted in R97-12(A) at 21 Ill. Reg. 7942, effective July 1, 1997; amended in R97-12(B) at 21 Ill. Reg. 16391, effective December 8, 1997; amended in R97-12(C) at 22 Ill. Reg. 10847, effective June 8, 1998; amended in R00-19(A) at 25 Ill. Reg. 651, effective January 6, 2001; amended in R00-19(B) at 25 Ill. Reg. 10374, effective August 15, 2001; amended in R00-19(C) at 26 Ill. Reg. 2683, effective February 5, 2002; amended in R06-10 at 31 Ill. Reg. 4063, effective February 23, 2007; amended in R11-09 at 37 Ill. Reg. 7506, effective July 15, 2013.

SUBPART A: INTRODUCTION

Section 742.105 Applicability

- a) Any person, including a person required to perform an investigation pursuant to the Illinois Environmental Protection Act [415 ILCS 5] (Act), may elect to proceed under this Part to the extent allowed by State or federal law and regulations and the provisions of this Part and subject to the exceptions listed in subsection (h) below. A person proceeding under this Part may do so to the extent such actions are consistent with the requirements of the program under which site remediation is being addressed.
- b) This Part is to be used in conjunction with the procedures and requirements applicable to the following programs:
 - 1) Leaking Underground Storage Tanks (35 Ill. Adm. Code 731, and 734);
 - 2) Site Remediation Program (35 Ill. Adm. Code 740); and
 - 3) RCRA Part B Permits and Closure Plans (35 Ill. Adm. Code 724 and 725).
- c) The procedures in this Part may not be used if their use would delay response action to address imminent and substantial threats to human health and the environment. This Part may only be used after actions to address such threats have been completed.

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- d) This Part may be used to develop remediation objectives to protect surface waters, sediments or ecological concerns, when consistent with the regulations of other programs, and as approved by the Agency.
- e) A no further remediation determination issued by the Agency prior to July 1, 1997 pursuant to Section 4(y) of the Act or one of the programs listed in subsection (b) of this Section that approves completion of remedial action relative to a release shall remain in effect in accordance with the terms of that determination.
- f) Site specific groundwater remediation objectives determined under this Part for contaminants of concern may exceed the groundwater quality standards established pursuant to the rules promulgated under the Illinois Groundwater Protection Act [415 ILCS 55] as long as done in accordance with Sections 742.805 and 742.900(c)(9). (See 415 ILCS 5/58.5(d)(4))
- g) Where contaminants of concern include polychlorinated byphenyls (PCBs), a person may need to evaluate the applicability of regulations adopted under the Toxic Substances Control Act (15 ~~USCU.S.C.~~ 2601).
- h) This Part may not be used in lieu of the procedures and requirements applicable to landfills under 35 Ill. Adm. Code 807 or 811 through 814.
- i) An evaluation of the indoor inhalation exposure route under this Part addresses the potential of contaminants present in soil gas or groundwater to reach human receptors within buildings. This Part does not address the remediation or mitigation of any contamination within a building from a source other than soil gas or groundwater, such as the building structure itself and products within the building.

(Source: Amended at 37 Ill. Reg. 7506, effective July 15, 2013)

Section 742.110 Overview of Tiered Approach

- a) This Part presents an approach for developing remediation objectives (see Appendix A, Illustrations A and B) that include an option for exclusion of pathways from further consideration, use of area background concentrations as remediation objectives and three tiers for selecting applicable remediation objectives. An understanding of human exposure routes is necessary to properly

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conduct an evaluation under this approach. In some cases, applicable human exposure ~~routes~~route(s) can be excluded from further consideration prior to any tier evaluation. Selecting which tier or combination of tiers to be used to develop remediation objectives is dependent on the site-specific conditions and remediation goals. Tier 1 evaluations and Tier 2 evaluations are not prerequisites to conducting Tier 3 evaluations.

- b) A Tier 1 evaluation compares the concentration of contaminants detected at a site to the corresponding remediation objectives for residential and industrial/commercial properties contained in Appendix B, Tables A, B, C, D, ~~and E~~, G, H and I. To complete a Tier 1 evaluation, the extent and concentrations of the contaminants of concern, the groundwater class, the land use classification, human exposure routes at the site, and, if appropriate, soil pH, must be known. If remediation objectives are developed based on industrial/commercial property use, then institutional controls under Subpart J are required. For the indoor inhalation exposure route, institutional controls under Subpart J are required to use remediation objectives in Appendix B, Table H or Table I.
- c) A Tier 2 evaluation uses the risk based equations from the Soil Screening Level (SSL) ~~model~~, and Risk Based Corrective Action (RBCA) model and modified Johnson and Ettinger (J&E) model documents listed in Appendix C, Tables A, ~~and C~~ and L, respectively. In addition to the information that is required for a Tier 1 evaluation, site-specific information is used to calculate Tier 2 remediation objectives. As in Tier 1, Tier 2 evaluates residential and industrial/commercial properties only. If remediation objectives are developed based on industrial/commercial property use, then institutional controls under Subpart J are required. For the indoor inhalation exposure route, institutional controls under Subpart J are required to develop remediation objectives pursuant to Appendix C, Table L.
- d) A Tier 3 evaluation allows alternative parameters and factors, not available under a Tier 1 or Tier 2 evaluation, to be considered when developing remediation objectives. Remediation objectives developed for conservation and agricultural properties can only be developed under Tier 3.
- e) Remediation objectives may be developed using area background concentrations or any of the three tiers if the evaluation is conducted in accordance with applicable requirements in Subparts D through I. When contaminant concentrations do not exceed remediation objectives developed under one of the

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tiers or area background procedures under Subpart D, further evaluation under any of the other tiers is not required.

(Source: Amended at 37 Ill. Reg. 7506, effective July 15, 2013)

Section 742.115 Key Elements

To develop remediation objectives under this Part, the following key elements shall be addressed.

- a) Exposure Routes
 - 1) This Part identifies the following as potential exposure routes to be addressed:
 - A) ~~Outdoor inhalation~~Inhalation;
 - B) Indoor inhalation;
 - ~~C)B)~~ Soil ingestion;
 - ~~D)E)~~ Groundwater ingestion; and
 - ~~E)D)~~ Dermal contact with soil.
 - 2) The evaluation of exposure routes under subsections (a)(1)(A), (a)(1)(B), ~~and (a)(1)(C) and (a)(1)(D) of this Section~~ is required for all sites when developing remediation objectives or excluding exposure pathways. Evaluation of the dermal contact exposure route is required for use of RBCA equations in Appendix C, Table C or use of formal risk assessment under Section 742.915.
 - 3) The groundwater ingestion exposure route is comprised of two components:
 - A) Migration from soil to groundwater (soil component); and
 - B) Direct ingestion of groundwater (groundwater component).

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- 4) The outdoor inhalation route is comprised of two components:
 - A) Migration from soil through soil gas to outdoor air (soil component); and
 - B) Migration from soil gas to outdoor air (soil gas component).
- 5) The indoor inhalation exposure route is comprised of two components:
 - A) Migration from soil gas to indoor air (soil gas component); and
 - B) Migration from groundwater through soil gas to indoor air (groundwater component).

b) Contaminants of Concern

The contaminants of concern to be remediated depend on the following:

- 1) The materials and wastes managed at the site;
- 2) The extent of the no further remediation determination being requested from the Agency pursuant to a specific program; and
- 3) The requirements applicable to the specific program, as listed at Section 742.105(b) under which the remediation is being performed.

c) Land Use

The present and post-remediation uses of the site where exposures may occur shall be evaluated. The land use of a site, or portion thereof, shall be classified as one of the following:

- 1) Residential property;
- 2) Conservation property;
- 3) Agricultural property; or
- 4) Industrial/commercial property.

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d) Environmental Media of Concern
This Part provides procedures for developing remediation objectives for the following environmental media:

- 1) Soil;
- 2) Soil gas;
- 3) Groundwater.

(Source: Amended at 37 Ill. Reg. 7506, effective July 15, 2013)

SUBPART B: GENERAL

Section 742.200 Definitions

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

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

"ADL" means Acceptable Detection Limit, which is the detectable concentration of a substance that is equal to the lowest appropriate Practical Quantitation Limit (PQL) as defined in this Section.

"Agency" means the Illinois Environmental Protection Agency.

"Agricultural Property" means any real property for which its present or post-remediation use is for growing agricultural crops for food or feed either as harvested crops, cover crops or as pasture. This definition includes, but is not limited to, properties used for confinement or grazing of livestock or poultry and for silviculture operations. Excluded from this definition are farm residences, farm outbuildings and agrichemical facilities.

"Aquifer" means *saturated (with groundwater) soils and geologic materials which are sufficiently permeable to readily yield economically useful quantities of water to wells, springs, or streams under ordinary hydraulic gradients.* (Illinois Groundwater Protection Act [415 ILCS 55/3(a)])

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"Area Background" means *concentrations of regulated substances that are consistently present in the environment in the vicinity of a site that are the result of natural conditions or human activities, and not the result solely of releases at the site.* [415 ILCS 5/58.2]

"ASTM" means the American Society for Testing and Materials.

"Board" means the Illinois Pollution Control Board.

"Building" means a man-made structure with an enclosing roof and enclosing walls (except for windows and doors) that is fit for any human occupancy for at least six consecutive months.

"Building Control Technology" means any technology or barrier that affects air flow or air pressure within a building for purposes of reducing or preventing contaminant migration to the indoor air.

"Cancer Risk" means a unitless probability of an individual developing cancer from a defined exposure rate and frequency.

"Cap" means a barrier designed to prevent the infiltration of precipitation or other surface water, or impede the ingestion or inhalation of contaminants.

"Capillary Fringe" means the zone above the water table in which water is held by surface tension. Water in the capillary fringe is under a pressure less than atmospheric.

"Carcinogen" means *a contaminant that is classified as a category A1 or A2 carcinogen by the American Conference of Governmental Industrial Hygienists; a category 1 or 2A/2B carcinogen by the World Health Organization's International Agency for Research on Cancer; a "human carcinogen" or "anticipated human carcinogen" by the United States Department of Health and Human Service National Toxicological Program; or a category A or B1/B2 carcinogen or as "carcinogenic to humans" or "likely to be carcinogenic to humans" by the United States Environmental Protection Agency in the integrated risk information system or a final rule issued in a Federal Register notice by the USEPA.* [415 ILCS 5/58.2]

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"Class I Groundwater" means groundwater that meets the Class I: Potable Resource Groundwater criteria set forth in 35 Ill. Adm. Code 620.

"Class II Groundwater" means groundwater that meets the Class II: General Resource Groundwater criteria set forth in 35 Ill. Adm. Code 620.

"Conservation Property" means any real property for which present or post-remediation use is primarily for wildlife habitat.

"Construction Worker" means a person engaged on a temporary basis to perform work involving invasive construction activities including, but not limited to, personnel performing demolition, earth-moving, building, and routine and emergency utility installation or repair activities.

"Contaminant of Concern" or "Regulated Substance of Concern" means *any contaminant that is expected to be present at the site based upon past and current land uses and associated releases that are known to the person conducting a remediation based upon reasonable inquiry.* [415 ILCS 5/58.2]

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

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

"Engineered Barrier" means a barrier designed or verified using engineering practices that limits exposure to or controls migration of the contaminants of concern.

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

"Exposure Route" means the transport mechanism by which a contaminant of concern reaches a receptor.

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"Federally Owned Property" means real property owned in fee by the United States of America on which institutional controls are sought to be placed in accordance with this Subpart.

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

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

"GIS" means Geographic Information System.

"GPS" means Global Positioning System.

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

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

"Hazard Quotient" means the ratio of a single substance exposure level during a specified time period to a reference dose for that substance derived from a similar exposure period.

"Highway" means any public way for vehicular travel which has been laid out in pursuance of any law of this State, or of the Territory of Illinois, or which has been established by dedication, or used by the public as a highway for 15 years, or which has been or may be laid out and connect a subdivision or platted land with a public highway and which has been dedicated for the use of the owners of the land included in the subdivision or platted land where there has been an acceptance and use under such dedication by such owners, and which has not been vacated in pursuance of law. The term "highway" includes rights of way, bridges, drainage structures, signs, guard rails, protective structures and all other structures and appurtenances necessary or convenient for vehicular traffic. A highway in a rural area may be called a "road", while a highway in a

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municipal area may be called a "street". (Illinois Highway Code [605 ILCS 5/2-202])

"Highway Authority" means *the Department of Transportation with respect to a State highway; the Illinois State Toll Highway with respect to a toll highway; the County Board with respect to a county highway or a county unit district road if a discretionary function is involved and the County Superintendent of Highways if a ministerial function is involved; the Highway Commissioner with respect to a township or district road not in a county unit road district; or the corporate authorities of a municipality with respect to a municipal street.* (Illinois Highway Code [605 ILCS 5/2-213])

"Human Exposure Pathway" means a physical condition which may allow for a risk to human health based on the presence of all of the following: contaminants of concern; an exposure route; and a receptor activity at the point of exposure that could result in contaminant of concern intake.

"Industrial/Commercial Property" means any real property that does not meet the definition of residential property, conservation property or agricultural property.

"Infiltration" means the amount of water entering into the ground as a result of precipitation.

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

"Intrusive activities" means activities that would affect potential flow of contaminants into a building (e.g., breaching the integrity of a foundation due to repairs or installation of utilities).

"Land Use Control Memoranda of Agreement" mean agreements entered into between one or more agencies of the United States and the Illinois Environmental Protection Agency that limit or place requirements upon the use of Federally Owned Property for the purpose of protecting human health or the environment.

"Man-Made Pathways" means *constructed physical conditions that may allow for the transport of regulated substances including, but not limited to, sewers, utility lines, utility or elevator vaults, building foundations, basements, crawl spaces, drainage ditches, ~~or~~ previously excavated and filled areas or sumps.* [415 ILCS

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5/58.2]

"Natural Pathways" means *natural* physical conditions that may allow for the transport of regulated substances including, but not limited to, soil, groundwater, sand seams and lenses, and gravel seams and lenses. [415 ILCS 5/58.2]

"Person" means an *individual, trust, firm, joint stock company, joint venture, consortium, commercial entity, corporation (including a government corporation), partnership, association, state, municipality, commission, political subdivision of a state, or any interstate body including the United States government and each department, agency, and instrumentality of the United States.* [415 ILCS 5/58.2]

"Point of Human Exposure" means the points at which human exposure to a contaminant of concern may reasonably be expected to occur. The point of human exposure is at the source, unless an institutional control limiting human exposure for the applicable exposure route has been or will be in place, in which case the point of human exposure will be the boundary of the institutional control. Point of human exposure may be at a different location than the point of compliance.

"Populated Area" means:

an area within the boundaries of a municipality that has a population of 10,000 or greater based on the year 2000 or most recent census; or

an area less than three miles from the boundary of a municipality that has a population of 10,000 or greater based on the year 2000 or most recent census.

"Potable" means *generally fit for human consumption in accordance with accepted water supply principles and practices.* (Illinois Groundwater Protection Act [415 ILCS 55/3(h)])

"PQL" means practical quantitation limit or estimated quantitation limit, which is the lowest concentration that can be reliably measured within specified limits of precision and accuracy for a specific laboratory analytical method during routine laboratory operating conditions in accordance with "Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods", EPA Publication No. SW-846,

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incorporated by reference in Section 742.210. When applied to filtered water samples, PQL includes the method detection limit or estimated detection limit in accordance with the applicable method revision in: "Methods for the Determination of Organic Compounds in Drinking Water", Supplement II", EPA Publication No. EPA/600/4-88/039; "Methods for the Determination of Organic Compounds in Drinking Water, Supplement III", EPA Publication No. EPA/600/R-95/131, all of which are incorporated by reference in Section 742.210.

"Q_{soil}" means the volumetric flow rate of soil gas from the subsurface into the enclosed building space.

"RBCA" means Risk Based Corrective Action as defined in ASTM E-1739-95, as incorporated by reference in Section 742.210.

"RCRA" means the Resource Conservation and Recovery Act of 1976 (42 USC 6921).

"Reference Concentration" or "RfC" means an estimate of a daily exposure, in units of milligrams of chemical per cubic meter of air (mg/m³), to the human population (including sensitive subgroups) that is likely to be without appreciable risk of deleterious effects during a portion of a lifetime (up to approximately seven years, subchronic) or for a lifetime (chronic).

"Reference Dose" or "RfD" means an estimate of a daily exposure, in units of milligrams of chemical per kilogram of body weight per day (mg/kg/d), to the human population (including sensitive subgroups) that is likely to be without appreciable risk of deleterious effects during a portion of a lifetime (up to approximately seven years, subchronic) or for a lifetime (chronic).

"Regulated Substance" means *any hazardous substance as defined under Section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (P.L. 96-510) and petroleum products including crude oil or any fraction thereof, natural gas, natural gas liquids, liquefied natural gas, or synthetic gas usable for fuel (or mixtures of natural gas and such synthetic gas).* [415 ILCS 5/58.2]

"Rendered inoperable" means having become unable to operate effectively, including, but not limited to, being shut down as part of routine maintenance or

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due to a malfunction, power failure, or vandalism.

"Residential Property" means any real property that is used for habitation by individuals, or where children have the opportunity for exposure to contaminants through ~~soil~~ ingestion or inhalation (indoor or outdoor) at educational facilities, health care facilities, child care facilities or ~~outdoor~~ recreational areas. [415 ILCS 5/58.2]

"Right of Way" means *the land, or interest therein, acquired for or devoted to a highway.* (Illinois Highway Code [605 ILCS 5/2-217])

"Saturated Zone" means a subsurface zone in which all the interstices or voids are filled with water under pressure greater than that of the atmosphere.

"Similar-Acting Chemicals" are chemical substances that have toxic or harmful effect on the same specific organ or organ system (see Appendix A.Tables E and F for a list of similar-acting chemicals with noncarcinogenic and carcinogenic effects).

"Site" means *any single location, place, tract of land or parcel of property, or portion thereof, including contiguous property separated by a public right-of-way.* [415 ILCS 5/58.2]

"Slurry Wall" means a man-made barrier made of geologic material which is constructed to prevent or impede the movement of contamination into a certain area.

"Soil Gas" means the air existing in void spaces in the soil between the groundwater table and the ground surface.

"Soil Saturation Limit" or " C_{sat} " means the contaminant concentration at which the absorptive limits of the soil particles, the solubility limits of the available soil moisture, and saturation of soil pore air have been reached. Above the soil saturation concentration, the assumptions regarding vapor transport to air and/or dissolved phase transport to groundwater (for chemicals that are liquid at ambient soil temperatures) do not apply, and alternative modeling approaches are required ~~the contaminant concentration at which soil pore air and pore water are saturated with the chemical and the adsorptive limits of the soil particles have been reached.~~

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"Soil Vapor Saturation Limit" or " C_v^{sat} " means the maximum vapor concentration that can exist in the soil pore air at a given temperature and pressure.

"Solubility" means a chemical specific maximum amount of solute that can dissolve in a specific amount of solvent (groundwater) at a specific temperature.

"SPLP" means Synthetic Precipitation Leaching Procedure (Method 1312) as published in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods", USEPA Publication No. SW-846, as incorporated by reference in Section 742.210.

"SSL" means Soil Screening Levels as defined in USEPA's Soil Screening Guidance: User's Guide and Technical Background Document, as incorporated by reference in Section 742.210.

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

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

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

"TCLP" means Toxicity Characteristic Leaching Procedure (Method 1311) as published in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods", USEPA Publication No. SW-846, as incorporated by reference in Section 742.210.

"Toll ~~Highway~~highway" means toll highway as defined in the Illinois Highway Code [605 ILCS 5].

"Total Petroleum Hydrocarbon" or "TPH" means the additive total of all petroleum hydrocarbons found in an analytical sample.

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

"Unconfined Aquifer" means an aquifer whose upper surface is a water table free to fluctuate under atmospheric pressure.

"Volatile Chemicals" means chemicals with a Dimensionless Henry's Law Constant of greater than 1.9×10^{-2} or a vapor pressure greater than 0.1 Torr (mmHg) at 25°C. For purposes of the indoor inhalation exposure route, elemental mercury is included in this definition.

~~"Volatile Organic Compounds" or "VOCs" means organic chemical analytes identified as volatiles as published in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods", USEPA Publication No. SW-846 (incorporated by reference in Section 742.210), method numbers 8011, 8015B, 8021B, 8031, 8260B, 8315A, and 8316. For analytes not listed in any category in those methods, those analytes which have a boiling point less than 200°C and a vapor pressure greater than 0.1 Torr (mm Hg) at 20°C.~~

"Water Table" means the top water surface of an unconfined aquifer at atmospheric pressure.

(Source: Amended at 37 Ill. Reg. 7506, effective July 15, 2013)

Section 742.210 Incorporations by Reference

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

Agency for Toxic Substances and Disease Registry (ATSDR) Minimal Risk Levels (MRLs), U.S. Environmental Protection Agency, 1600 Clifton Road, Mailstop F32, Atlanta, Georgia 30333, (770)488-3357 (November 2007).

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

ASTM D 2974-00, Standard Test Methods for Moisture, Ash and Organic Matter of Peat and Other Organic Soils, approved August 10, 2000.

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ASTM D 2488-00, Standard Practice for Description and Identification of Soils (Visual-Manual Procedure), approved February 10, 2000.

ASTM D 1556-00, Standard Test Method for Density and Unit Weight of Soil in Place by the Sand-Cone Method, approved March 10, 2000.

ASTM D 2167-94, Standard Test Method for Density and Unit Weight of Soil in Place by the Rubber Balloon Method, approved March 15, 1994.

ASTM D 2922-01, Standard Test Methods for Density of Soil and Soil-Aggregate in Place by Nuclear Methods (Shallow Depth), approved June 10, 2001.

ASTM D 2937-00e1, Standard Test Method for Density of Soil in Place by the Drive-Cylinder Method, approved June 10, 2000.

ASTM D 854-02, Standard Test Methods for Specific Gravity of Soil Solids by Water Pycnometer, approved July 10, 2002.

ASTM D 2216-98, Standard Test Method for Laboratory Determination of Water (Moisture) Content of Soil and Rock by Mass, approved February 10, 1998.

ASTM D 4959-00, Standard Test Method for Determination of Water (Moisture) Content of Soil by Direct Heating, approved March 10, 2000.

ASTM D 4643-00, Standard Test Method for Determination of Water (Moisture) Content of Soil by the Microwave Oven Method, approved February 10, 2000.

ASTM D 5084-03, Standard Test Methods for Measurement of Hydraulic Conductivity of Saturated Porous Materials Using a Flexible Wall Permeameter, approved November 1, 2003.

ASTM D 422-63 (2002), Standard Test Method for Particle-Size Analysis of Soils, approved November 10, 2002.

ASTM D 1140-00, Standard Test Methods for Amount of Material in Soils Finer than the No. 200 (75 μm) Sieve, approved June 10, 2000.

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ASTM D 3017-01, Standard Test Method for Water Content of Soil and Rock in Place by Nuclear Methods (Shallow Depth), approved June 10, 2001.

ASTM D 4525-90 (2001), Standard Test Method for Permeability of Rocks by Flowing Air, approved May 25, 1990.

ASTM D 2487-00, Standard Classification of Soils for Engineering Purposes (Unified Soil Classification System), approved March 10, 2000.

[ASTM D 1945-03, Standard Test Method for Analysis of Natural Gas by Gas Chromatography, approved May 10, 2003.](#)

[ASTM D 1946-90, Standard Practice for Analysis of Reformed Gas by Gas Chromatography, approved June 1, 2006.](#)

ASTM E 1527-00, Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process, approved May 10, 2000. Vol. 11.04.

ASTM E 1739-95 (2002), Standard Guide for Risk-Based Corrective Action Applied at Petroleum Release Sites, approved September 10, 1995.

[ASTM E 2121-09, Standard Practice for Installing Radon Mitigation Systems in Existing Low-Rise Residential Buildings, approved November 1, 2009.](#)

[ASTM E 2600-10, Standard Practice for Assessment for Vapor Intrusion into Structures on Property Involved in Real Estate Transactions, approved June 2010.](#)

[API. American Petroleum Institute, 1220 L Street, NW, Washington DC 20005-4070 \(202\)682-8000.](#)

[BIOVAPOR-A 1-D Vapor Intrusion Model with Oxygen-Limited Aerobic Biodegradation, Version 2.0 \(January 2010\).](#)

Barnes, Donald G. and Dourson, Michael. (1988). Reference Dose (RfD):

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Description and Use in Health Risk Assessments. Regulatory Toxicology and Pharmacology. 8, 471-486.

EPRI. Electric Power Research Institute. 3420 Hillview Avenue, Palo Alto, California 94304. (650)855-2121.

Polycyclic Aromatic Hydrocarbons (PAHs) in Surface Soil in Illinois: Background PAHs, EPRI, Palo Alto CA, We Energies, Milwaukee WI and IEPA, Springfield IL: 2004. 1011376.

Reference Handbook for Site-Specific Assessment of Subsurface Vapor Intrusion to Indoor Air, Electric Power Research Institute (EPRI), Inc., Program No. 1008492 (March 2005).

GPO. Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20401, (202)783-3238.

USEPA Guidelines for Carcinogenic Risk Assessment, 51 Fed. Reg. 33992-34003 (September 24, 1986).

"Test Methods for Evaluating Solid Waste, Physical/Chemical Methods", USEPA Publication number SW-846 (Third Edition, Final Update IIIA, April 1998), as amended by Updates I, IIA, III, and IIIA (Document No. 955-001-00000-1).

"Methods for the Determination of Organic Compounds in Drinking Water", EPA Publication No. EPA/600/4-88/039 (December 1988 (Revised July 1991)).

"Methods for the Determination of Organic Compounds in Drinking Water, Supplement I", EPA Publication No. EPA/600/4-90/020 (July 1990).

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

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

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1995).

"Guidance for Data Quality Assessment, Practical Methods for Data Analysis, EPA QA/G-9, QAOO Update," EPA/600/R-96/084 (July 2000). Available at www.epa.gov/quality/qs-docs/g9-final.pdf.

"Assessment of Vapor Intrusion in Homes Near the Raymark Superfund Site Using Basement and Sub-Slab Air Samples", EPA Publication No. EPA/600/R-05/147 (March 2006).

"Model Standards and Techniques for Control of Radon in New Residential Buildings" EPA Publication No. EPA/402/R-94/009 (March 1994).

"Radon Reduction Techniques for Existing Detached Houses: Technical Guidance (Third Edition) for Active Soil Depressurization Systems", EPA Publication No. EPA/625/R-93/011 (October 1993).

Illinois Environmental Protection Agency, 1021 N. Grand Ave East, Springfield IL 62701, (217)785-0830.

"A Summary of Selected Background Conditions for Inorganics in Soil", Publication No. IEPA/ENV/94-161 (August 1994).

IRIS. Integrated Risk Information System, National Center for Environmental Assessment, U.S. Environmental Protection Agency, 26 West Martin Luther King Drive, MS-190, Cincinnati, OH 45268, (513)569-7254.

"Reference Dose (RfD): Description and Use in Health Risk Assessments", Background Document 1A (March 15, 1993).

"EPA Approach for Assessing the Risks Associated with Chronic Exposures to Carcinogens", Background Document 2 (January 17, 1992).

Johnson, Paul C. (2005). Identification of Application Specific Critical Inputs for the 1991 Johnson and Ettinger Vapor Intrusion Algorithm. Ground Water Monitoring and Remediation. 25(1), 63-78.

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Nelson, D.W., and L.E. Sommers (1982). Total carbon, organic carbon, and organic matter. In: A.L. Page (ed.), Methods of Soil Analysis. Part 2. Chemical and Microbiological Properties. 2nd Edition, pp. 539-579, American Society of Agronomy. Madison, WI.

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

"Calculating Upper Confidence Limits for Exposure Point Concentrations at Hazardous Waste Sites," USEPA Office of Emergency and Remedial Response, OSWER 9285.6-10 (December 2002), PB 2003-104982.

"Evaluating the Vapor Intrusion to Indoor Air Pathway from Groundwater and Soils", OSWER Draft Guidance. EPA Publication No. EPA/530D-02/004 (November 2002).

"Exposures Factors Handbook, Vol. I: General Factors", EPA Publication No. EPA/600/P-95/002Fa (August 1997).

"Exposures Factors Handbook, Vol. II: Food Ingestion Factors", EPA Publication No. EPA/600/P-95/002Fb (August 1997).

"Exposures Factors Handbook, Vol. III: Activity Factors", EPA Publication No. EPA/600/P-95/002Fc (August 1997).

"Risk Assessment Guidance for Superfund, Vol. I: Human Health Evaluation Manual, Supplemental Guidance: Standard Default Exposure Factors", OSWER Directive 9285.6-03 (March 1991).

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

"Risk Assessment Guidance for Superfund, Volume I: Human Health Evaluation Manual (Part A)", Interim Final, EPA Publication No.

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~~EPA/540/1-89/002 (December 1989).~~

~~"Risk Assessment Guidance for Superfund, Volume I: Human Health Evaluation Manual, Supplemental Guidance, Dermal Risk Assessment Interim Guidance", Draft (August 18, 1992).~~

"Risk Assessment Guidance for Superfund, Vol. I: Human Health Evaluation Manual (Part E, Supplemental Guidance for Dermal Risk Assessment) ~~Final~~ Interim", EPA Publication No. EPA/540/R/99/005 (~~July 2004~~ September 2001).

"Risk Assessment Guidance for Superfund, Vol. 1: Human Health Evaluation Manual (Part F, Supplemental Guidance for Inhalation Risk Assessment) Final", EPA Publication No. 540-R-070-002 (January 2009).

"Soil Screening Guidance: Technical Background Document", EPA Publication No. EPA/540/R-95/128, PB 96-963502 (May 1996).

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

"Superfund Exposure Assessment Manual", EPA Publication No. EPA/540/1-88/001 (April 1988).

"Supplemental Guidance for Developing Soil Screening Levels for Superfund Sites", OSWER Directive 9355.4-24 (December 2002).

"Users Guide for Evaluating Subsurface Vapor Intrusion into Buildings", EPA Publication No. EPA/68/W-02/33 (February 2004).

Polynuclear Aromatic Hydrocarbon Background Study, City of Chicago, Illinois, Tetra Tech Em Inc., 200 E. Randolph Drive, Suite 4700, Chicago, IL 60601, February 24, 2003.

~~Polycyclic Aromatic Hydrocarbons (PAHs) in Surface Soil in Illinois: Background PAHs, EPRI, Palo Alto, CA, We Energies, Milwaukee, WI, and IEPA, Springfield, IL: 2004. 1011376. EPRI, 3412 Hillview Avenue, Palo Alto, CA 94304, (800) 313-3774.~~

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40 CFR 761 (1998).

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

(Source: Amended at 37 Ill. Reg. 7506, effective July 15, 2013)

Section 742.220 Determination of Soil Saturation Limit

- a) For any organic contaminant that has a melting point below 30°C, the remediation objective for the outdoor inhalation exposure route developed under Tier 2 shall not exceed the soil saturation limit, as determined under subsection (c) ~~of this Section~~.
- b) For any organic contaminant that has a melting point below 30°C, the remediation objective under Tier 2 for the soil component of the groundwater ingestion exposure route shall not exceed the soil saturation limit, as determined under subsection (c) ~~of this Section~~.
- c) The soil saturation limit shall be:
- 1) The value listed in Appendix A, Table A for that specific contaminant;
 - 2) A value derived from Equation S29 in Appendix C, Table A; or
 - 3) A value derived from another method approved by the Agency.

(Source: Amended at 37 Ill. Reg. 7506, effective July 15, 2013)

Section 742.222 Determination of Soil Vapor Saturation Limit

- a) For any volatile chemical, the soil gas remediation objective for the indoor and outdoor inhalation exposure routes developed under Tier 2 shall not exceed the soil vapor saturation limit, as determined under subsection (b).
- b) The soil vapor saturation limit shall be:
- 1) The value listed in Appendix A, Table K for that specific contaminant;
 - 2) A value derived from Equation J&E5 in Appendix C, Table L; or

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3) A value derived from another method approved by the Agency.

(Source: Added at 37 Ill. Reg. 7506, effective July 15, 2013)

Section 742.225 Demonstration of Compliance with Soil and Groundwater Remediation Objectives

Compliance with soil and groundwater remediation objectives is achieved if each sample result does not exceed that respective remediation objective unless a person elects to proceed under subsections (c), (d) and (e) ~~of this Section~~.

- a) Compliance with groundwater remediation objectives developed under Subparts D through F and H through I shall be demonstrated by comparing the contaminant concentrations of discrete samples at each sample point to the applicable groundwater remediation objective. Sample points shall be determined by the program under which remediation is performed.
- b) Unless the person elects to composite samples or average sampling results as provided in subsections (c) and (d) ~~of this Section~~, compliance with soil remediation objectives developed under Subparts D through G and I shall be demonstrated by comparing the contaminant concentrations of discrete samples to the applicable soil remediation objective.
 - 1) Except as provided in subsections (c) and (d) ~~of this Section~~, compositing of samples is not allowed.
 - 2) Except as provided in subsections (c) and (d) ~~of this Section~~, averaging of sample results is not allowed.
 - 3) Notwithstanding subsections (c) and (d) ~~of this Section~~, compositing of samples and averaging of sample results is not allowed for the construction worker population.
 - 4) The number of sampling points required to demonstrate compliance is determined by the requirements applicable to the program under which remediation is performed.
- c) If a person chooses to composite soil samples or average soil sample results to

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demonstrate compliance relative to the soil component of the groundwater ingestion exposure route, the following requirements apply:

- 1) A minimum of two sampling locations for every 0.5 acre of contaminated area is required, with discrete samples at each sample location obtained at every two feet of depth, beginning at six inches below the ground surface for surface contamination and at the upper limit of contamination for subsurface contamination and continuing through the zone of contamination. Alternatively, a sampling method may be approved by the Agency based on an appropriately designed site-specific evaluation. Samples obtained at or below the water table shall not be used in compositing or averaging.
 - 2) For contaminants of concern other than volatile ~~chemicals~~organic contaminants:
 - A) Discrete samples from the same boring may be composited; or
 - B) Discrete sample results from the same boring may be averaged.
 - 3) For volatile ~~chemicals~~organic contaminants:
 - A) Compositing of samples is not allowed.
 - B) Discrete sample results from the same boring may be averaged.
 - 4) Composite samples may not be averaged. An arithmetic average may be calculated for discrete samples collected at every two feet of depth through the zone of contamination as specified in subsection (c)(1)-~~of this Section~~.
- d) If a person chooses to composite soil samples or average soil sample results to demonstrate compliance relative to the ~~outdoor inhalation~~inhalation exposure route or ingestion exposure route, the following requirements apply:
- 1) A person shall submit a sampling plan for Agency approval, based upon a site-specific evaluation;
 - 2) For volatile ~~chemicals~~organic compounds, compositing of samples is not

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allowed;

- 3) All samples shall be collected within the contaminated area;
- 4) Composite samples may not be averaged. Procedures specified in "Calculating Upper Confidence Limits for Exposure Point Concentrations at Hazardous Waste Sites", USEPA Office of Emergency and Remedial Response, OSWER 9285.6-10 (December 2002), as incorporated by reference in Section 742.210, or an alternative procedure approved by the Agency, shall be used to determine sample averages.
- e) When averaging under this Section, if no more than 15% of sample results are reported as "non-detect", "no contamination", "below detection limits", or similar terms, such results shall be included in the averaging calculations as one-half the reported analytical detection limit for the contaminant. However, when performing a test for normal or lognormal distribution for the purpose of calculating a 95% Upper Confidence Limit of the mean for a contaminant, a person may substitute for each non-detect value a randomly generated value between, but not including, zero and the reported analytical detection limit. If more than 15% of sample results are "non-detect", procedures specified in "Guidance for Data Quality Assessment, Practical Methods for Data Analysis, EPA QA/G-9, QA00 Update", EPA/600/R-96/084 (July 2000), as incorporated by reference in Section 742.210, or an alternative procedure approved by the Agency shall be used to address the non-detect values, or another statistically valid procedure approved by the Agency may be used to determine an average.
- f) All soil samples collected after August 15, 2001, shall be reported on a dry weight basis for the purpose of demonstrating compliance, with the exception of the TCLP and SPLP and the property pH.

(Source: Amended at 37 Ill. Reg. 7506, effective July 15, 2013)

Section 742.227 Demonstration of Compliance with Soil Gas Remediation Objectives for the Outdoor and Indoor Inhalation Exposure Routes

- a) For purposes of the outdoor inhalation exposure route and the indoor inhalation exposure route, compliance with soil gas remediation objectives developed under any tier shall be demonstrated in accordance with this Section by comparing the

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contaminant concentrations of discrete samples at each sample point to the applicable soil gas remediation objective.

- b) This Section applies to exterior soil gas samples for the outdoor inhalation exposure route, near-slab soil gas samples collected outside of an existing building for the indoor inhalation exposure route, and exterior soil gas samples collected at the footprint of a potential building for the indoor inhalation exposure route. Proposals to use sub-slab soil gas data for the indoor inhalation exposure route shall follow Section 742.935(c).
- c) Sample points shall be determined by the program under which remediation is performed.
- d) When collecting soil gas samples:
- 1) Use rigid-wall tubing made of nylon or Teflon[®] or other material approved by the Agency;
 - 2) Use gas-tight, inert containers to hold the sample. For light sensitive or halogenated volatile chemicals, these containers shall be opaque or dark-colored;
 - 3) Purge three volumes before obtaining each discrete soil gas sample;
 - 4) Use a helium tracer or other leak apparatus detection system approved by the Agency; and
 - 5) Limit the flow rate to 200 ml/min.
- e) Soil gas samples shall be analyzed using a National Environmental Laboratory Accreditation Program (NELAP) certified laboratory.
- f) Soil gas remediation objectives shall be compared to concentrations of soil gas collected at a depth at least 3 feet below ground surface and above the saturated zone.

(Source: Added at 37 Ill. Reg. 7506, effective July 15, 2013)

SUBPART C: EXPOSURE ROUTE EVALUATIONS

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Section 742.305 Contaminant Source and Free Product Determination

No exposure route shall be excluded from consideration relative to a contaminant of concern unless the following requirements are met:

- a) The sum of the concentrations of all organic contaminants of concern shall not exceed the attenuation capacity of the soil as determined under Section 742.215;
- b) The concentrations of any organic contaminants of concern remaining in the soil shall not exceed the soil saturation limit as determined under Section 742.220;
- c) Any soil which contains contaminants of concern shall not exhibit any of the characteristics of reactivity for hazardous waste as determined under 35 Ill. Adm. Code 721.123;
- d) Any soil which contains contaminants of concern shall not exhibit a pH less than or equal to 2.0 or greater than or equal to 12.5, as determined by SW-846 Method 9040B: pH Electrometric for soils with 20% or greater aqueous (moisture) content or by SW-846 Method 9045C: Soil pH for soils with less than 20% aqueous (moisture) content as incorporated by reference in Section 742.210;
- e) Any soil which contains contaminants of concern in the following list of inorganic chemicals or their salts shall not exhibit any of the characteristics of toxicity for hazardous waste as determined by 35 Ill. Adm. Code 721.124: arsenic, barium, cadmium, chromium, lead, mercury, selenium or silver; **and**
- f) If contaminants of concern include polychlorinated biphenyls (PCBs), the concentration of any PCBs in the soil shall not exceed 50 parts per million as determined by SW-846 Methods; **and-**
- g) The concentration of any contaminant of concern in soil gas shall not exceed 10% of its Lower Explosive Limit (LEL) as measured by a hand held combustible gas indicator that has been calibrated to manufacturer specifications.

(Source: Amended at 37 Ill. Reg. 7506, effective July 15, 2013)

Section 742.310 Outdoor Inhalation Exposure Route

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The outdoor inhalation exposure route may be excluded from consideration if:

- a) The requirements in subsection (a)(1) or (a)(2) are met:
 - 1) An approved engineered barrier is in place that meets the requirements of Subpart K; or
 - 2) The only contaminants of concern are benzene, toluene, ethylbenzene, and total xylenes, and a demonstration of active biodegradation has been made for benzene, toluene, ethylbenzene, and total xylenes such that no outdoor inhalation exposure will occur. This demonstration shall be submitted to the Agency for review and approval;
- b)a) The requirements of Sections 742.300 and 742.305 are met;
- b) ~~An approved engineered barrier is in place that meets the requirements of Subpart K;~~
- c) Safety precautions for the construction worker are taken if the Tier 1 construction worker remediation objectives are exceeded; and
- d) An institutional control, in accordance with Subpart J, will be placed on the property.

(Source: Amended at 37 Ill. Reg. 7506, effective July 15, 2013)

Section 742.312 Indoor Inhalation Exposure Route

The indoor inhalation exposure route may be excluded from consideration if:

- a) None of the contaminants of concern are listed on Appendix A, Table J and none of the contaminants of concern are volatile chemicals, as defined in Section 742.200; or
- b) The requirements in subsections (b)(1)(A), (B) or (C) and (b)(2) and (b)(3) are met:
 - 1) Exclusion options when the contaminants of concern are volatile chemicals:

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- A) No building or man-made pathway exists or will be placed above contaminated soil gas or groundwater exceeding Tier 1 remediation objectives for residential property (Appendix B, Table H), provided, however, that there is also no soil or groundwater contamination exceeding Tier 1 remediation objectives for residential property (Appendix B, Table A) or Class I groundwater (Appendix B, Table E) located 5 feet or less, horizontally, from any existing or potential building or man-made pathway; or
- B) An approved building control technology is in place or will be placed that meets the requirements of Subpart L; or
- C) If the contaminants of concern are benzene, toluene, ethylbenzene, and total xylenes only, a demonstration of active biodegradation has been made for benzene, toluene, ethylbenzene, and total xylenes such that no indoor inhalation exposure will occur. This demonstration shall be submitted to the Agency for review and approval;
- 2) The requirements of Sections 742.300 and 742.305 are met; and
- 3) An institutional control, in accordance with Subpart J, will be placed on the property.

(Source: Added at 37 Ill. Reg. 7506, effective July 15, 2013)

SUBPART D: DETERMINING AREA BACKGROUND

Section 742.405 Determination of Area Background for Soil

- a) Soil sampling results shall be obtained for purposes of determining area background levels in accordance with the following procedures:
- 1) For volatile ~~chemicals~~organic contaminants, sample results shall be based on discrete samples;
 - 2) Unless an alternative method is approved by the Agency, for contaminants other than volatile ~~chemicals~~organic contaminants, sample results shall be

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based on discrete samples or composite samples. If a person elects to use composite samples, each 0.5 acre of the area to be sampled shall be divided into quadrants and 5 aliquots of equal volume per quadrant shall be composited into 1 sample;

- 3) Samples shall be collected from similar depths and soil types, which shall be consistent with the depths and soil types in which maximum levels of contaminants are found in the areas of known or suspected releases; and
 - 4) Samples shall be collected from areas of the site or adjacent to the site that are unaffected by known or suspected releases at or from the site. If the sample results show an impact from releases at or from the site, then the sample results shall not be included in determining area background levels under this Part.
- b) Area background shall be determined according to one of the following approaches:
- 1) Statewide Area Background Approach:
 - A) The concentrations of inorganic chemicals in background soils listed in Appendix A, Table G may be used as the upper limit of the area background concentration for the site. The first column to the right of the chemical name presents inorganic chemicals in background soils for counties within Metropolitan Statistical Areas. Counties within Metropolitan Statistical Areas are identified in Appendix A, Table G, Footnote a. Sites located in counties outside Metropolitan Statistical Areas shall use the concentrations of inorganic chemicals in background soils shown in the second column to the right of the chemical name.
 - B) Soil area background concentrations determined according to this statewide area background approach shall be used as provided in Section 742.415(b) of this Part. For each parameter whose sampling results demonstrate concentrations above those in Appendix A, Table G, the person shall develop appropriate soil remediation objectives in accordance with this Part, or may determine area background in accordance with subsection (b)(2) ~~of this Section.~~

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- 2) A statistically valid approach for determining area background concentrations appropriate for the characteristics of the data set, and approved by the Agency.

(Source: Amended at 37 Ill. Reg. 7506, effective July 15, 2013)

SUBPART E: TIER 1 EVALUATION

Section 742.500 Tier 1 Evaluation Overview

- a) A Tier 1 evaluation compares the concentration of each contaminant of concern detected at a site to the baseline remediation objectives provided in Appendix B, Tables A, B, C, D, ~~and E~~, G, H and I. Use of Tier 1 remediation objectives requires only limited site-specific information: concentrations of contaminants of concern, groundwater classification, land use classification, and, if appropriate, soil pH. (See Appendix B, Illustration A.)
- b) Although Tier 1 allows for differentiation between residential and industrial/commercial property use of a site, an institutional control under Subpart J is required where remediation objectives are based on an industrial/commercial property use.
- c) For the indoor inhalation exposure route:
 - 1) Appendix B, Tables H and I apply only when the existing or potential building has a full concrete slab-on-grade or a full concrete basement floor and walls; and
 - 2) Institutional controls under Subpart J are required to use remediation objectives in Appendix B, Table H or Table I.
- d)e) Any given exposure route is not a concern if the concentration of each contaminant of concern detected at the site is below the Tier 1 value of that given route. In such a case, no further evaluation of that route is necessary.

(Source: Amended at 37 Ill. Reg. 7506, effective July 15, 2013)

Section 742.505 Tier 1 Soil, Soil Gas and Groundwater Remediation Objectives

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a) Soil

1) Outdoor Inhalation Exposure Route

A) The Tier 1 soil remediation objectives for this exposure route based upon residential property use are listed in Appendix B, Table A.

B) The Tier 1 soil remediation objectives for this exposure route based upon industrial/commercial property use are listed in Appendix B, Table B. Soil remediation objective determinations relying on this table require use of institutional controls in accordance with Subpart J.

C) For this exposure route, it is acceptable to determine compliance by meeting either the soil or soil gas remediation objectives.

2) Ingestion Exposure Route

A) The Tier 1 soil remediation objectives for this exposure route based upon residential property use are listed in Appendix B, Table A.

B) The Tier 1 soil remediation objectives for this exposure route based upon industrial/commercial property use are listed in Appendix B, Table B. Soil remediation objective determinations relying on this table require use of institutional controls in accordance with Subpart J.

3) Soil Component of the Groundwater Ingestion Route

A) The Tier 1 soil remediation objectives for this exposure route based upon residential property use are listed in Appendix B, Table A.

B) The Tier 1 soil remediation objectives for this exposure route based upon industrial/commercial property use are listed in Appendix B, Table B.

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- C) The pH-dependent Tier 1 soil remediation objectives for identified ionizable organics or inorganics for the soil component of the groundwater ingestion exposure route (based on the total amount of contaminants present in the soil sample results and groundwater classification) are provided in Appendix B, Tables C and D.
 - D) Values used to calculate the Tier 1 soil remediation objectives for this exposure route are listed in Appendix B, Table F.
- 4) Evaluation of the dermal contact with soil exposure route is not required under Tier 1.

b) Soil Gas

1) Outdoor Inhalation Exposure Route

- A) The Tier 1 soil gas remediation objectives for this exposure route based upon residential property use are listed in Appendix B, Table G.
- B) The Tier 1 soil gas remediation objectives for this exposure route based upon industrial/commercial property use, including the construction worker population, are listed in Appendix B, Table G. Soil gas remediation objective determinations relying on an industrial/commercial scenario require use of institutional controls in accordance with Subpart J.
- C) For this exposure route, it is acceptable to determine compliance by meeting either the soil or soil gas remediation objectives.

2) Indoor Inhalation Exposure Route

- A) The Tier 1 soil gas remediation objectives for this exposure route are listed in Appendix B, Tables H and I.
- B) The Tier 1 soil gas remediation objectives for this exposure route are based on a default water-filled soil porosity value of 0.15

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cm³/cm³ and the assumed presence of a building with a 10-cm thick, full concrete slab-on-grade.

- C) Appendix B, Table H shall be used when any soil or groundwater contamination is located 5 feet or less, vertically or horizontally, from the existing or potential building or man-made pathway. In this scenario, the mode of contaminant transport is both diffusion and advection, which sets the Q_{soil} value at 83.33 cm³/sec. Appendix B, Table H applies only when the existing or potential building has a full concrete slab-on-grade or a full concrete basement floor and walls. Pursuant to Section 742.1000(a)(9), soil gas remediation objective determinations relying on Appendix B, Table H require the use of institutional controls in accordance with Subpart J.
- D) Appendix B, Table I may be used only when all soil and groundwater contamination is located more than 5 feet, vertically and horizontally, from the existing or potential building or man-made pathway. In this scenario, the mode of contaminant transport is diffusion only, which sets the Q_{soil} value at 0.0 cm³/sec. Appendix B, Table I applies only when the existing or potential building has a full concrete slab-on-grade or a full concrete basement floor and walls. Pursuant to Section 742.1000(a)(7) and (a)(9), soil gas remediation objective determinations relying on Appendix B, Table I require the use of institutional controls in accordance with Subpart J. As an alternative to using Appendix B, Table I, it is permissible to use Appendix B, Table H.
- E) To determine whether the Q_{soil} value can be set at 0.0 cm³/sec, the site evaluator shall demonstrate that all soil and groundwater located 5 feet or less, vertically or horizontally, from the existing or potential building or man-made pathway meets the Tier 1 remediation objectives for residential property listed in Appendix B, Table A, and the Tier 1 remediation objectives for Class I groundwater listed in Appendix B, Table E, respectively.

c)b) Groundwater

- 1) The Tier 1 groundwater remediation objectives for the groundwater

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component of the groundwater ingestion route are listed in Appendix B, Table E.

- 2) The Tier 1 groundwater remediation objectives for this exposure route are given for Class I and Class II groundwaters, respectively.
- 3) The evaluation of 35 Ill. Adm. Code 620.615 regarding mixtures of similar-acting chemicals shall be considered satisfied for Class I groundwater at the point of human exposure if:
 - A) No more than one similar-acting noncarcinogenic chemical as listed in Appendix A, Table E is detected in the groundwater at the site; and
 - B) No carcinogenic contaminant of concern as listed in Appendix A, Table I is detected in any groundwater sample associated with the site, using analytical procedures capable of achieving either the 1 in 1,000,000 cancer risk concentration or the ADL, whichever is greater.
- 4) If the conditions of subsection ~~(c)(3)(b)(3)~~ of this Section are not met, the Class I groundwater remediation objectives set forth in Appendix B, Table E shall be corrected for the cumulative effect of mixtures of similar-acting chemicals using the following methodologies:
 - A) For noncarcinogenic chemicals, the methodologies set forth at Section 742.805(c) or Section 742.915(h) shall be used; and
 - B) For carcinogenic chemicals, the methodologies set forth at Section 742.805(d) or Section 742.915(h) shall be used.
- 5) For the groundwater component of the indoor inhalation exposure route, the Tier 1 groundwater remediation objectives are listed in Appendix B, Tables H and I.
 - A) The Tier 1 groundwater remediation objectives for this exposure route are based on a default water-filled soil porosity value of 0.15 cm³/cm³ and the assumed presence of a building with a 10-cm thick, full concrete slab-on-grade.

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- B) Appendix B, Table H shall be used when soil or groundwater contamination is located 5 feet or less, vertically or horizontally, from the existing or potential building or man-made pathway. In this scenario, the mode of contaminant transport is both diffusion and advection, which sets the Q_{soil} value at $83.33 \text{ cm}^3/\text{sec}$. Appendix B, Table H applies only when the existing or potential building has a full concrete slab-on-grade or a full concrete basement floor and walls. Pursuant to Section 742.1000(a)(9), groundwater remediation objective determinations relying on Appendix B, Table H require the use of institutional controls in accordance with Subpart J.
- C) Appendix B, Table I may be used only when all soil and groundwater contamination is located more than 5 feet, vertically and horizontally, from the existing or potential building or man-made pathway. In this scenario, the mode of contaminant transport is diffusion only, which sets the Q_{soil} value at $0.0 \text{ cm}^3/\text{sec}$. Appendix B, Table I applies only when the existing or potential building has a full concrete slab-on-grade or a full concrete basement floor and walls. Pursuant to Section 742.1000(a)(7) and (a)(9), groundwater remediation objective determinations relying on Appendix B, Table I require the use of institutional controls in accordance with Subpart J. As an alternative to using Appendix B, Table I, it is permissible to use Appendix B, Table H.
- D) To determine whether the Q_{soil} value can be set at $0.0 \text{ cm}^3/\text{sec}$, the site evaluator shall demonstrate that all soil and groundwater located 5 feet or less, vertically or horizontally, from the existing or potential building or man-made pathway meets the Tier 1 remediation objectives for residential property listed in Appendix B, Table A, and the Tier 1 remediation objectives for Class I groundwater listed in Appendix B, Table E, respectively.

(Source: Amended at 37 Ill. Reg. 7506, effective July 15, 2013)

Section 742.510 Tier 1 Remediation Objectives Tables for the Ingestion, Outdoor Inhalation and Soil Component of the Groundwater Ingestion Exposure Routes

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- a) Soil remediation objectives are listed in Appendix B, Tables A, B, C and D.
- 1) Appendix B, Table A is based upon residential property use.
 - A) The first column to the right of the chemical name lists soil remediation objectives for the soil ingestion exposure route.
 - B) The second column lists the soil remediation objectives for the outdoor inhalation exposure route.
 - C) The third and fourth columns list soil remediation objectives for the soil component of the groundwater ingestion exposure route for the respective classes of groundwater:
 - i) Class I groundwater; and
 - ii) Class II groundwater.
 - D) The final column lists the Acceptable Detection Limit (ADL), only when~~where~~ applicable.
 - 2) Appendix B, Table B is based upon industrial/commercial property use.
 - A) The first and third columns to the right of the chemical name list the soil remediation objectives for the soil ingestion exposure route based on two receptor populations:
 - i) Industrial/commercial; and
 - ii) Construction worker.
 - B) The second and fourth columns to the right of the chemical name list the soil remediation objectives for the outdoor inhalation exposure route based on two receptor populations:
 - i) Industrial/commercial; and
 - ii) Construction worker.

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- C) The fifth and sixth columns to the right of the chemical name list the soil remediation objectives for the soil component of the groundwater ingestion exposure route for two classes of groundwater:
- i) Class I groundwater; and
 - ii) Class II groundwater.
- D) The final column lists the acceptable detection limit (ADL), only when applicable.
- 3) Appendix B, Tables C and D set forth pH specific soil remediation objectives for inorganic and ionizing organic chemicals for the soil component of the groundwater ingestion route.
- A) Table C sets forth remediation objectives based on Class I groundwater and Table D sets forth remediation objectives based on Class II groundwater.
 - B) The first column in Tables C and D lists the chemical names.
 - C) The second through ninth columns to the right of the chemical names list the pH based soil remediation objectives.
- 4) For the inorganic chemicals listed in Appendix B, Tables A and B, the soil component of the groundwater ingestion exposure route shall be evaluated using TCLP (SW-846 Method 1311) or SPLP (SW-846 Method 1312), incorporated by reference at Section 742.210 unless a person chooses to evaluate the soil component on the basis of the total amount of contaminant in a soil sample result in accordance with subsection (a)(5) of this Section.
- 5) For those inorganic and ionizing organic chemicals listed in Appendix B, Tables C and D, if a person elects to evaluate the soil component of the groundwater ingestion exposure route based on the total amount of contaminant in a soil sample result (rather than TCLP or SPLP analysis), the person shall determine the soil pH at the site and then select the appropriate soil remediation objectives based on Class I and Class II

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groundwaters from Tables C and D, respectively. If the soil pH is less than 4.5 or greater than 9.0, then Tables C and D cannot be used.

- 6) Unless one or more exposure routes are excluded from consideration under Subpart C, the most stringent soil remediation objective of the exposure routes (i.e., soil ingestion exposure route, outdoor inhalation exposure route, and soil component of the groundwater ingestion exposure route) shall be compared to the concentrations of soil contaminants of concern measured at the site. When using Appendix B, Table B to select soil remediation objectives for the ingestion exposure route and outdoor inhalation exposure ~~routes~~route, the remediation objective shall be the more stringent soil remediation objective of the industrial/commercial populations and construction worker populations.
 - 7) Confirmation sample results may be averaged or soil samples may be composited in accordance with Section 742.225.
 - 8) If a soil remediation objective for a chemical is less than the ADL, the ADL shall serve as the soil remediation objective.
- b) Groundwater remediation objectives for the groundwater component of the groundwater ingestion exposure route are listed in Appendix B, Table E. However, Appendix B, Table E must be corrected for cumulative effect of mixtures of similar-acting noncarcinogenic chemicals as set forth in Section 742.505(~~cb~~)(3) and (c)(4).
- 1) The first column to the right of the chemical name lists groundwater remediation objectives for Class I groundwater, and the second column lists the groundwater remediation objectives for Class II groundwater.
 - 2) To use Appendix B, Table E of this Part, the 35 Ill. Adm. Code 620 classification for groundwater at the site shall be determined. The concentrations of groundwater contaminants of concern at the site are compared to the applicable Tier 1 groundwater remediation objectives for the groundwater component of the groundwater ingestion exposure route in Appendix B, Table E.
- c) Soil gas remediation objectives for the outdoor inhalation exposure route are listed in Appendix B, Table G.

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- 1) The first column to the right of the chemical name lists the soil gas remediation objectives for residential populations.
 - 2) The second and third columns to the right of the chemical names list the soil gas remediation objectives for the outdoor inhalation exposure route based on two receptor populations:
 - A) Industrial/commercial; and
 - B) Construction worker.
- d)e) For contaminants of concern not listed in Appendix B, Tables A, B, ~~and E~~, and G, a person may request site-specific remediation objectives from the Agency or propose site-specific remediation objectives in accordance with 35 Ill. Adm. Code 620, Subpart I of this Part, or both.

(Source: Amended at 37 Ill. Reg. 7506, effective July 15, 2013)

Section 742.515 Tier 1 Remediation Objectives Tables for the Indoor Inhalation Exposure Route

- a) For the indoor inhalation exposure route:
 - 1) Appendix B, Tables H and I apply only when the existing or potential building has a full concrete slab-on-grade or a full concrete basement floor and walls; and
 - 2) Institutional controls under Subpart J are required to use remediation objectives in Appendix B, Table H or Table I.
- b) When the mode of contaminant transport is both diffusion and advection as described in Section 742.505 (i.e., any soil or groundwater contamination is located 5 feet or less, vertically or horizontally, from the existing or potential building or man-made pathway), the remediation objectives for soil gas or groundwater listed in Appendix B, Table H shall be used.
 - 1) The first column to the right of the chemical name lists the soil gas remediation objectives for residential receptors.

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- 2) The second column lists the soil gas remediation objectives for industrial/commercial receptors.
 - 3) The third column lists the groundwater remediation objectives for residential receptors.
 - 4) The fourth column lists the groundwater remediation objectives for industrial/commercial receptors.
- c) Only when the mode of contaminant transport is diffusion only as described in Section 742.505 (i.e., all soil and groundwater contamination is located more than 5 feet, vertically and horizontally, from the existing or potential building or man-made pathway), the remediation objectives for soil gas and groundwater listed in Appendix B, Table I may be used.
- 1) The first column to the right of the chemical name lists the soil gas remediation objectives for residential receptors.
 - 2) The second column lists the soil gas remediation objectives for industrial/commercial receptors.
 - 3) The third column lists the groundwater remediation objectives for residential receptors.
 - 4) The fourth column lists the groundwater remediation objectives for industrial/commercial receptors.
- d) If using Appendix B, Table H, compliance is determined by meeting either the soil gas remediation objectives or the groundwater remediation objectives.
- e) If using Appendix B, Table I, compliance is determined by meeting both the soil gas remediation objectives and the groundwater remediation objectives.
- f) For volatile chemicals not listed in Appendix B, Table H or I, a person may request site-specific remediation objectives from the Agency or propose site-specific remediation objectives in accordance with Subpart I, or both.

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- g) As an alternative to using Appendix B, Table I pursuant to subsection (c), it is permissible to use Appendix B, Table H pursuant to subsection (b).

(Source: Added at 37 Ill. Reg. 7506, effective July 15, 2013)

SUBPART F: TIER 2 GENERAL EVALUATION

Section 742.600 Tier 2 Evaluation Overview

- a) Tier 2 remediation objectives are developed through the use of equations which allow site-specific data to be used. (See Appendix C, Illustrations A and B.) The equations identified in Appendix C, Tables A, ~~C~~, C and L may be used to develop Tier 2 remediation objectives.
- b) Tier 2 evaluation is only required for contaminants of concern and corresponding exposure routes (except where excluded from further consideration under Subpart C) exceeding the Tier 1 remediation objectives. When conducting Tier 2 evaluations, the values used in the calculations must have the appropriate units of measure as identified in Appendix C, Tables B, ~~D~~, D and M.
- c) Any development of remediation objectives using site-specific information or equations outside the Tier 2 framework shall be evaluated under Tier 3.
- d) Any development of a remediation objective under Tier 2 shall not use a target hazard quotient greater than one at the point of human exposure or a target cancer risk greater than 1 in 1,000,000 at the point of human exposure.
- e) In conducting a Tier 2 evaluation, the following conditions shall be met:
- 1) For each discrete sample, the total soil contaminant concentration of either a single contaminant or multiple contaminants of concern shall not exceed the attenuation capacity of the soil as provided in Section 742.215.
 - 2) Remediation objectives for noncarcinogenic compounds which affect the same target organ, organ system or similar mode of action shall meet the requirements of Section 742.720.
 - 3) The soil remediation objectives based on the outdoor inhalation exposure route ~~inhalation~~ and the soil component of the groundwater ingestion

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exposure routes shall not exceed the soil saturation limit as provided in Section 742.220.

- 4) The soil gas remediation objectives based on the indoor and outdoor inhalation exposure routes shall not exceed the soil vapor saturation limit provided pursuant to Section 742.222.
- f) Tier 2 remediation objectives for the indoor inhalation exposure route shall be calculated for either soil gas or groundwater if a Q_{soil} value of $83.33 \text{ cm}^3/\text{sec}$ is used.
- g) Tier 2 remediation objectives for the indoor inhalation exposure route shall be calculated for both soil gas and groundwater if a Q_{soil} value of $0.0 \text{ cm}^3/\text{sec}$ is used.
- h) If the calculated Tier 2 soil remediation objective for an applicable exposure route is more stringent than the corresponding Tier 1 remediation objective, then the Tier 1 remediation objective applies.
- i) If the calculated Tier 2 soil remediation objective for an exposure route is more stringent than the Tier 1 soil remediation ~~objectives~~ objective(s) for the other exposure routes, then the Tier 2 calculated soil remediation objective applies and Tier 2 soil remediation objectives for the other exposure routes are not required.
- j) If the calculated Tier 2 soil remediation objective is less stringent than one or more of the soil remediation objectives for the remaining exposure routes, then the Tier 2 values are calculated for the remaining exposure ~~routes~~ route(s) and the most stringent Tier 2 calculated value applies.
- k) If a contaminant has both carcinogenic and noncarcinogenic effects for any applicable exposure route or receptor, remediation objectives shall be calculated for each effect and the more stringent remediation objective shall apply. The toxicological-specific information is described in Section 742.705(d).
- l) For the indoor inhalation exposure route:
 - 1) Appendix C, Table L applies only when the existing or potential building has a full concrete slab-on-grade or a full concrete basement floor and walls; and
 - 2) Institutional controls under Subpart J are required to develop remediation

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objectives pursuant to Appendix C, Table L.

(Source: Amended at 37 Ill. Reg. 7506, effective July 15, 2013)

Section 742.605 Land Use

- a) Present and post-remediation land use is evaluated in a Tier 2 evaluation. Acceptable exposure factors for the Tier 2 evaluation for residential, industrial/commercial, and construction worker populations are provided in the far right column of Appendix C, Tables B, ~~and D,~~ and M. Use of exposure factors different from those in Appendix C, Tables B, ~~and D,~~ and M must be approved by the Agency as part of a Tier 3 evaluation.
- b) If a Tier 2 evaluation is based on an industrial/commercial property use, then:
 - 1) Construction worker populations shall also be evaluated, except for the indoor inhalation exposure route; and
 - 2) Institutional controls are required in accordance with Subpart J.
- c) For the indoor inhalation exposure route, institutional controls under Subpart J are required to develop remediation objectives pursuant to Appendix C, Table L.

(Source: Amended at 37 Ill. Reg. 7506, effective July 15, 2013)

Section 742.610 Chemical and Site Properties

- a) **Physical and Chemical Properties of Contaminants**

Tier 2 evaluations require information on the physical and chemical properties of the contaminants of concern. The physical and chemical properties used in a Tier 2 evaluation are contained in Appendix C, Table E. If the site has contaminants not included in this table, a person may request the Agency to provide the applicable physical and chemical input values or may propose input values under Subpart I. If a person proposes to apply values other than those in Appendix C, Table E, or those provided by the Agency, the evaluation shall be considered under Tier 3.
- b) **Soil and Groundwater Parameters**

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- 1) A Tier 2 evaluation requires examination of soil and groundwater parameters. The parameters that may be varied, and the conditions under which these parameters are determined as part of Tier 2, are summarized in Appendix C, Tables B, ~~and D~~, and M. If a person proposes to vary site-specific parameters outside of the framework of these tables, the evaluation shall be considered under Tier 3.
- 2) To determine site-specific physical soil parameters, a minimum of one boring per 0.5 acre of contamination shall be collected. This boring must be deep enough to allow the collection of the required field measurements. The site-specific physical soil parameters must be determined from the portion of the boring representing the stratigraphic ~~unit~~unit(s) being evaluated. For example, if evaluating the soil component of the groundwater ingestion exposure route, two samples from the boring will be required:
 - A) A sample of the predominant soil type for the vadose zone; and
 - B) A sample of the predominant soil type for the saturated zone.
- 3) A site-specific SSL dilution factor (used in developing soil remediation objectives based upon the protection of groundwater) may be determined by substituting site information in Equation S22 in Appendix C, Table A. To make this demonstration, a minimum of three monitoring wells shall be used to determine the hydraulic gradient. As an alternative, the default dilution factor value listed in Appendix C, Table B may be used. If monitoring wells are used to determine the hydraulic gradient, the soil taken from the borings shall be visually inspected to ensure there are no significant differences in the stratigraphy. If there are similar soil types in the field, one boring shall be used to determine the site-specific physical soil parameters. If there are significant differences, all of the borings shall be evaluated before determining the site-specific physical soil parameters for the site.
- 4) Not all of the parameters identified in Appendix C, Tables B, ~~and D~~, and M need to be determined on a site-specific basis. A person may choose to collect partial site-specific information and use default values as listed in Appendix C, Tables B, ~~and D~~, and M for the rest of the parameters.

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(Source: Amended at 37 Ill. Reg. 7506, effective July 15, 2013)

SUBPART G: TIER 2 SOIL AND SOIL GAS EVALUATION**Section 742.700 Tier 2 Soil Evaluation Overview**

- a) Tier 2 remediation objectives are developed through the use of models which allow site-specific data to be considered. Appendix C, Tables A~~2~~, ~~C~~, and L list equations that shall be used under a Tier 2 evaluation to calculate soil remediation objectives prescribed by the SSL~~2~~, ~~and~~ RBCA, and modified J&E models, respectively. (See also Appendix C, Illustration A.)
- b) Appendix C, Table A lists equations that are used under the SSL model. (See also Appendix C, Illustration A.) The SSL model has equations to evaluate the following human exposure routes:
 - 1) Soil ingestion exposure route;
 - 2) Outdoor Inhalation exposure route; ~~and for:~~
 - A) ~~Organic contaminants;~~
 - B) ~~Fugitive dust; and~~
 - 3) Soil component of the groundwater ingestion exposure route.
- c) Evaluation of the dermal exposure route is not required under the SSL model.
- d) Appendix C, Table C lists equations that are used under the RBCA model. (See also Appendix C, Illustration A.) The RBCA model has equations to evaluate human exposure based on the following:
 - 1) The combined exposure routes of outdoor inhalation of vapors and particulates, soil ingestion and dermal contact with soil;
 - 2) The outdoor inhalation exposure~~ambient vapor inhalation (outdoor)~~ route from subsurface soils;
 - 3) Soil component of the groundwater ingestion exposure route; and

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4) Groundwater ingestion exposure route.

e) Appendix C, Table L lists equations that are used under the modified J&E model. The modified J&E model has equations to evaluate human exposure by the indoor inhalation exposure route. The modified model allows for the development of soil gas remediation objectives. For the indoor inhalation exposure route:

1) Appendix C, Table L applies only when the existing or potential building has a full concrete slab-on-grade or a full concrete basement floor and walls; and

2) Institutional controls under Subpart J are required to develop soil gas remediation objectives pursuant to Appendix C, Table L.

f)e) The equations in either Appendix C, Table ~~A₂~~ or C₂ or L may be used to calculate remediation objectives for each contaminant of concern under Tier 2, if the following requirements are met:

1) The Tier 2 soil or soil gas remediation objectives for the ingestion and outdoor inhalation exposure routes shall use the applicable equations from the same approach (i.e., SSL equations in Appendix C, Table C). For the indoor inhalation exposure route, only the J&E equations can be used.

2) The equations used to calculate soil remediation objectives for the soil component of the groundwater ingestion exposure route are not dependent on the approach utilized to calculate soil remediation objectives for the other exposure routes. For example, it is acceptable to use the SSL equations for calculating Tier 2 soil remediation objectives for the ingestion and outdoor inhalation exposure routes, and the RBCA equations for calculating Tier 2 soil remediation objectives for the soil component of the groundwater ingestion exposure route.

3) Combining equations from Appendix C, Tables ~~A₂~~ and C₂ and L to form a new model is not allowed. In addition, Appendix C, Tables ~~A₂~~ and C₂ and L must use their own applicable parameters identified in Appendix C, Tables ~~B₂~~ and D₂ and M, respectively.

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- ~~g)~~ In calculating soil or soil gas remediation objectives for industrial/commercial property use, applicable calculations shall be performed twice: once using industrial/commercial population default values and once using construction worker population default values. The more stringent soil or soil gas remediation objectives derived from these calculations must be used for further Tier 2 evaluations. The indoor inhalation exposure route does not apply to the construction worker population.
- ~~h)~~ Tier 2 data sheets provided by the Agency shall be used to present calculated Tier 2 remediation objectives, if required by the particular program for which remediation is being performed.
- ~~i)~~ The RBCA equations which rely on the parameter Soil Water Sorption Coefficient (k_s) can only be used for ionizing organics and inorganics by substituting values for k_s from Appendix C, Tables I and J, respectively. This will also require the determination of a site-specific value for soil pH.
- ~~j)~~ For the outdoor inhalation exposure route, it is acceptable to use either Section 742.710 to develop a soil remediation objective or Section 742.712 to develop a soil gas remediation objective to determine compliance with the pathway.

(Source: Amended at 37 Ill. Reg. 7506, effective July 15, 2013)

Section 742.705 Parameters for Soil Remediation Objective Equations

- a) Appendix C, Tables ~~B₂~~ and D₂ and M list the input parameters for the ~~SSL₂~~ and RBCA₂ and J&E equations, respectively. The first column lists each symbol as it is presented in the equation. The next column defines the parameters. The third column shows the units for the parameters. The fourth column identifies where information on the parameters can be obtained (i.e., field measurement, applicable ~~equation~~equation(s), reference source, or default value). The last column identifies how the parameters can be generated.
- b) Default Values
Default values are numerical values specified for use in the Tier 2 equations. The fourth column of Appendix C, Tables ~~B₂~~ and D₂ and M denotes if the default values are from the SSL model, RBCA model, modified J&E model or some other source. The last column of Appendix C, Tables ~~B₂~~ and D₂ and M lists the numerical values for the default values used in the ~~SSL₂~~ and RBCA₂ and J&E

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equations, respectively.

c) Site-specific Information

Site-specific information is a parameter measured, obtained, or determined from the site to calculate Tier 2 remediation objectives. The fourth column of Appendix C, Tables B, ~~and D~~, and M identifies those site-specific parameters that may require direct field measurement. For some parameters, numerical default inputs have been provided in the last column of Appendix C, Tables B, ~~and D~~, and M to substitute for site-specific information. In some cases, information on the receptor or soil type is required to select the applicable numerical default inputs. Site-specific information includes:

- 1) Physical soil parameters identified in Appendix C, Table F. The second column identifies the location where the sample is to be collected. Acceptable methods for measuring or calculating these soil parameters are identified in the last column of Appendix C, Table F;
- 2) Institutional controls or engineered barriers, pursuant to Subparts J and K, describe applicable institutional controls and engineered barriers under a Tier 2 evaluation; and
- 3) Land use classification

d) Toxicological-specific Information

- 1) Toxicological-specific information is used to calculate Tier 2 remediation objectives for the following parameters, if applicable:
 - A) Oral Chronic Reference Dose (RfD_o , expressed in mg/kg-d);
 - B) Oral Subchronic Reference Dose (RfD_s , expressed in mg/kg-d, shall be used for construction worker remediation objective calculations);
 - C) Oral Slope Factor (SF_o , expressed in $(\text{mg/kg-d})^{-1}$);
 - D) Inhalation Unit Risk Factor (URF expressed in $(\mu\text{g}/\text{m}^3)^{-1}$);
 - E) Inhalation Chronic Reference Concentration (RfC , expressed in

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mg/m³);

- F) Inhalation Subchronic Reference Concentration (RfC_s, expressed in mg/m³, shall be used for construction worker remediation objective calculations);
- G) Inhalation Chronic Reference Dose (RfD_i, expressed in mg/kg-d);
- H) Inhalation Subchronic Reference Dose (RfD_{is}, expressed in mg/kg-d, shall be used for construction worker remediation objective calculations); and
- I) Inhalation Slope Factor (SF_i, expressed in (mg/kg-d)⁻¹);

2) Toxicological information can be obtained by following the guidelines in OSWER Directive 9285.7-53 ~~from IRIS~~, as incorporated by reference in Section 742.210, or the program under which the remediation is being performed.

- e) Chemical-specific Information
Chemical-specific information used to calculate Tier 2 remediation objectives is listed in Appendix C, Table E.
- f) Calculations
Calculating numerical values for some parameters requires the use of equations listed in Appendix C, ~~Tables Table A₂ or C, and L.~~ The parameters that are calculated are listed in Appendix C, ~~Tables B₂ and D, and M.~~

(Source: Amended at 37 Ill. Reg. 7506, effective July 15, 2013)

Section 742.710 SSL Soil Equations

- a) This Section sets forth the equations and parameters used to develop Tier 2 soil remediation objectives for the three exposure routes using the SSL approach.
- b) Soil Ingestion Exposure Route
 - 1) Equations S1 through S3 form the basis for calculating Tier 2 remediation objectives for the soil ingestion exposure route using the SSL approach.

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Equation S1 is used to calculate soil remediation objectives for noncarcinogenic contaminants. Equations S2 and S3 are used to calculate soil remediation objectives for carcinogenic contaminants for residential populations and industrial/commercial and construction worker populations, respectively.

- 2) For Equations S1 through S3, the SSL default values cannot be modified with site-specific information.

- c) Outdoor Inhalation Exposure Route

- 1) Equations S4 through S16, S26 and S27 are used to calculate Tier 2 soil remediation objectives for the outdoor inhalation exposure route using the SSL approach. To address this exposure route, organic contaminants and mercury must be evaluated separately from fugitive dust using their own equations set forth in subsections (c)(2) and (c)(3) ~~of this Section~~, respectively.

- 2) Organic Contaminants

- A) Equations S4 through S10 are used to calculate Tier 2 soil remediation objectives for organic contaminants and mercury based on the outdoor inhalation exposure route. Equation S4 is used to calculate soil remediation objectives for noncarcinogenic organic contaminants in soil for residential and industrial/commercial populations. Equation S5 is used to calculate soil remediation objectives for noncarcinogenic organic contaminants and mercury in soil for construction worker populations. Equation S6 is used to calculate soil remediation objectives for carcinogenic organic contaminants in soil for residential and industrial/commercial populations. Equation S7 is used to calculate soil remediation objectives for carcinogenic organic contaminants in soil for construction worker populations. Equations S8 through S10, S27 and S28 are used for calculating numerical values for some of the parameters in Equations S4 through S7.

- B) For Equation S4, a numerical value for the Volatilization Factor (VF) can be calculated in accordance with subsection (c)(2)(F) ~~of~~

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~~this Section~~. The remaining parameters in Equation S4 have either SSL default values listed in Appendix C, Table B or toxicological-specific information (i.e., RfC), which can be obtained by following the guidelines in OSWER Directive 9285.7-53, as incorporated by reference in Section 742.210~~from IRIS~~ or requested from the program under which the remediation is being performed.

- C) For Equation S5, a numerical value for the Volatilization Factor adjusted for Agitation (VF') can be calculated in accordance with subsection (c)(2)(G)~~of this Section~~. The remaining parameters in Equation S5 have either SSL default values listed in Appendix C, Table B or toxicological-specific information (i.e., RfC), which can be obtained by following the guidelines in OSWER Directive 9285.7-53, as incorporated by reference in Section 742.210~~from IRIS~~ or requested from the program under which the remediation is being performed.
- D) For Equation S6, a numerical value for VF can be calculated in accordance with subsection (c)(2)(F)~~of this Section~~. The remaining parameters in Equation S6 have either default values listed in Appendix C, Table B or toxicological-specific information (i.e., URF), which can be obtained by following the guidelines in OSWER Directive 9285.7-53, as incorporated by reference in Section 742.210~~from IRIS~~ or requested from the program under which the remediation is being performed.
- E) For Equation S7, a numerical value for VF' can be calculated in accordance with subsection (c)(2)(G)~~of this Section~~. The remaining parameters in Equation S7 have either default values listed in Appendix C, Table B or toxicological-specific information (i.e., URF), which can be obtained by following the guidelines in OSWER Directive 9285.7-53, as incorporated by reference in Section 742.210~~from IRIS~~ or requested from the program under which the remediation is being performed.
- F) The VF can be calculated for residential and industrial/commercial populations using one of the following equations based on the information known about the contaminant source and receptor

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population:

- i) Equation S8, in conjunction with Equation S10, is used to calculate VF assuming an infinite source of contamination; or
 - ii) If the area and depth of the contaminant source are known or can be estimated reliably, mass limit considerations may be used to calculate VF using Equation S26.
- G) The VF' can be calculated for the construction worker populations using one of the following equations based on the information known about the contaminant source:
- i) Equation S9 is used to calculate VF' assuming an infinite source of contamination; or
 - ii) If the area and depth of the contaminant source are known or can be estimated reliably, mass limit considerations may be used to calculate VF' using Equation S27.

3) Fugitive Dust

- A) Equations S11 through S16 are used to calculate Tier 2 soil remediation objectives using the SSL fugitive dust model for the outdoor inhalation exposure route. Equation S11 is used to calculate soil remediation objectives for noncarcinogenic contaminants in fugitive dust for residential and industrial/commercial populations. Equation S12 is used to calculate soil remediation objectives for noncarcinogenic contaminants in fugitive dust for construction worker populations. Equation S13 is used to calculate soil remediation objectives for carcinogenic contaminants in fugitive dust for residential and industrial/commercial populations. Equation S14 is used to calculate soil remediation objectives for carcinogenic contaminants in fugitive dust for construction worker populations. Equations S15 and S16 are used for calculating numerical quantities for some of the parameters in Equations S11 through S14.

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- B) For Equation S11, a numerical value can be calculated for the Particulate Emission Factor (PEF) using Equation S15. This equation relies on various input parameters from a variety of sources. The remaining parameters in Equation S11 have either SSL default values listed in Appendix C, Table B or toxicological-specific information (i.e., RfC), which can be obtained by following the guidelines in OSWER Directive 9285.7-53, as incorporated by reference in Section 742.210 from IRIS or requested from the program under which the remediation is being performed.
- C) For Equation S12, a numerical value for the Particulate Emission Factor for Construction Worker (PEF') can be calculated using Equation S16. The remaining parameters in Equation S12 have either SSL default values listed in Appendix C, Table B or toxicological-specific information (i.e., RfC), which can be obtained by following the guidelines in OSWER Directive 9285.7-53, as incorporated by reference in Section 742.210 from IRIS or requested from the program under which the remediation is being performed.
- D) For Equation S13, a numerical value for PEF can be calculated using Equation S15. The remaining parameters in Equation S13 have either default values listed in Appendix C, Table B or toxicological-specific information (i.e., URF), which can be obtained by following the guidelines in OSWER Directive 9285.7-53, as incorporated by reference in Section 742.210 from IRIS or requested from the program under which the remediation is being performed.
- E) For Equation S14, a numerical value for PEF' can be calculated using Equation S16. The remaining parameters in Equation S14 have either default values listed in Appendix C, Table B or toxicological-specific information (i.e., URF), which can be obtained by following the guidelines in OSWER Directive 9285.7-53, as incorporated by reference in Section 742.210 from IRIS or requested from the program under which the remediation is being performed.

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- d) Soil Component of the Groundwater Ingestion Exposure Route
The Tier 2 remediation objective for the soil component of the groundwater ingestion exposure route can be calculated using one of the following equations based on the information known about the contaminant source and receptor population:
- 1) Equation S17 is used to calculate the remediation objective assuming an infinite source of contamination.
 - A) The numerical quantities for four parameters in Equation S17, the Target Soil Leachate Concentration (C_w), Soil-Water ~~Partition~~ Partition Coefficient (K_d) for non-ionizing organics, Water-Filled Soil Porosity θ_w and Air-Filled Soil Porosity θ_a , are calculated using Equations S18, S19, S20 and S21, respectively. Equations S22, S23, S24 and S25 are also needed to calculate numerical values for Equations S18 and S21. The pH-dependent K_d values for ionizing organics can be calculated using Equation S19 and the pH-dependent K_{oc} values in Appendix C, Table I.
 - B) The remaining parameters in Equation S17 are Henry's Law Constant (H'), a chemical specific value listed in Appendix C, Table E and Dry Soil Bulk Density (ρ_b), a site-specific based value listed in Appendix C, Table B.
 - C) The default value for GW_{obj} is the Tier 1 groundwater objective. For chemicals for which there is no Tier 1 groundwater remediation objective, the value for GW_{obj} shall be the concentration determined according to the procedures specified in 35 Ill. Adm. Code 620, Subpart F. As an alternative to using Tier 1 groundwater remediation objectives or concentrations determined according to the procedures specified in 35 Ill. Adm. Code 620, Subpart F, GW_{obj} may be developed using Equations R25 and R26, if approved institutional controls are in place as required in Subpart J.
 - 2) If the area and depth of the contaminant source are known or can be estimated reliably, mass limit considerations may be used to calculate the remediation objective for this exposure route using Equation S28. The

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parameters in Equation S28 have default values listed in Appendix C, Table B.

(Source: Amended at 37 Ill. Reg. 7506, effective July 15, 2013)

Section 742.712 SSL Soil Gas Equation for the Outdoor Inhalation Exposure Route

- a) This Section sets forth the equation and parameters used to develop Tier 2 soil gas remediation objectives for the outdoor inhalation exposure route using the SSL approach.
- b) Equation S30 is used to calculate Tier 2 soil gas remediation objectives for the outdoor inhalation exposure route for residential, industrial/commercial, and construction worker populations.
- c) Equations S4 through S16, S26 and S27, which calculate Tier 2 soil remediation objectives as described in Section 742.710(c), form the basis for developing the Tier 2 soil gas remediation objectives for the outdoor inhalation exposure route using the SSL model.
- d) The remaining parameters used to calculate Equation S30 are listed in Appendix C, Table B, except for Dimensionless Henry's Law Constant (25°C), a chemical specific value listed in Appendix C, Table E.

(Source: Added at 37 Ill. Reg. 7506, effective July 15, 2013)

Section 742.715 RBCA Soil Equations

- a) This Section presents the RBCA model and describes the equations and parameters used to develop Tier 2 soil remediation objectives.
- b) Ingestion, Outdoor Inhalation, and Dermal Contact
 - 1) The two sets of equations in subsections (b)(2) and (b)(3) ~~of this Section~~ shall be used to generate Tier 2 soil remediation objectives for the combined ingestion, outdoor inhalation, and dermal contact with soil exposure routes.
 - 2) Combined Exposure Routes of Soil Ingestion, Outdoor Inhalation of

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Vapors and Particulates, and Dermal Contact with Soil

- A) Equations R1 and R2 form the basis for deriving Tier 2 remediation objectives for the set of equations that evaluates the combined exposure routes of soil ingestion, outdoor inhalation of vapors and particulates, and dermal contact with soil using the RBCA approach. Equation R1 is used to calculate soil remediation objectives for carcinogenic contaminants. Equation R2 is used to calculate soil remediation objectives for noncarcinogenic contaminants. Soil remediation objectives for the outdoor inhalation exposure~~ambient vapor inhalation (outdoor)~~ route from subsurface soils must also be calculated in accordance with the procedures outlined in subsection (b)(3) of this Section and compared to the values generated from Equations R1 or R2. The smaller value (i.e., R1 and R2 compared to R7 and R8, respectively) from these calculations is the Tier 2 soil remediation objective for the combined exposure routes of soil ingestion, outdoor inhalation, and dermal contact with soil.
- B) In Equation R1, numerical values are calculated for two parameters:
- i) The volatilization factor for surficial soils (VF_{ss}) using Equations R3 and R4; and
 - ii) The volatilization factor for ~~surficial~~subsurface soils regarding particulates (VF_p) using Equation R5.
- C) VF_{ss} uses Equations R3 and R4 to derive a numerical value. Equation R3 requires the use of Equation R6. Both equations must be used to calculate the VF_{ss} . The lowest calculated value from these equations must be substituted into Equation R1.
- D) The remaining parameters in Equation R1 have either default values listed in Appendix C, Table D or toxicological-specific information (i.e., SF_o , SF_i), which can be obtained by following the guidelines in OSWER Directive 9285.7-53, as incorporated by reference in Section 742.210~~from IRIS~~ or requested from the program under which the remediation is being performed.

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- E) For Equation R2, the parameters VF_{ss} and VF_p are calculated. The remaining parameters in Equation R2 have either default values listed in Appendix C, Table D or toxicological-specific information (i.e., RfD_o , RfD_i), which can be obtained by following the guidelines in OSWER Directive 9285.7-53, as incorporated by reference in Section 742.210 from IRIS or requested from the program under which the remediation is being performed.
- F) For chemicals other than inorganics which do not have default values for the dermal absorption factor (RAF_d) in Appendix C, Table D a dermal absorption factor of 0.5 shall be used for Equations R1 and R2. For inorganics, dermal absorption may be disregarded (i.e., $RAF_d = 0$).
- 3) Outdoor Inhalation Exposure Route~~Ambient Vapor Inhalation (outdoor) route~~ from Subsurface Soils (soil below one meter)
- A) Equations R7 and R8 form the basis for deriving Tier 2 remediation objectives for the outdoor inhalation exposure~~ambient vapor inhalation (outdoor)~~ route from subsurface soils using the RBCA approach. Equation R7 is used to calculate soil remediation objectives for carcinogenic contaminants. Equation R8 is used to calculate soil remediation objectives for noncarcinogenic contaminants.
- B) For Equation R7, the carcinogenic risk-based screening level for air ($RBSL_{air}$) and the volatilization factor for soils below one meter to ambient air (VF_{samb}) have numerical values that are calculated using Equations R9 and R11, respectively. Both equations rely on input parameters from a variety of sources.
- C) The noncarcinogenic risk-based screening level for air ($RBSL_{air}$) and the volatilization factor for soils below one meter to ambient air (VF_{samb}) in Equation R8 have numerical values that can be calculated using Equations R10 and R11, respectively.
- c) Soil Component of the Groundwater Ingestion Exposure Route

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- 1) Equation R12 forms the basis for deriving Tier 2 remediation objectives for the soil component of the groundwater ingestion exposure route using the RBCA approach. The parameters, groundwater at the source (GW_{source}) and Leaching Factor (LF_{sw}), have numerical values that are calculated using Equations R13 and R14, respectively.
- 2) Equation R13 requires numerical values that are calculated using Equation R15.
- 3) Equation R14 requires numerical values that are calculated using Equations R21, R22, and R24. For non-ionizing organics, the Soil Water Sorption Coefficient (k_s) shall be calculated using Equation R20. For ionizing organics and inorganics, the values for (k_s) are listed in Appendix C, Tables I and J, respectively. The pH-dependent k_s values for ionizing organics can be calculated using Equation R20 and the pH dependent K_{oc} values in Appendix C, Table I. The remaining parameters in Equation R14 are field measurements or default values listed in Appendix C, Table D.
- d) The default value for GW_{comp} is the Tier 1 groundwater remediation objective. For chemicals for which there is no Tier 1 groundwater remediation objective, the value for GW_{comp} shall be the concentration determined according to the procedures specified in 35 Ill. Adm. Code 620, Subpart F. As an alternative to using the above concentrations, GW_{comp} may be developed using Equations R25 and R26, if approved institutional controls are in place as may be required in Subpart J.

(Source: Amended at 37 Ill. Reg. 7506, effective July 15, 2013)

Section 742.717 J&E Soil Gas Equations for the Indoor Inhalation Exposure Route

- a) This Section sets forth the equations and parameters to be used to develop Tier 2 soil gas remediation objectives for the indoor inhalation exposure route using the modified J&E model.
- b) Equations J&E1 and J&E2 calculate, for carcinogens and noncarcinogens, respectively, an acceptable concentration of the contaminant of concern in indoor air that adequately protects humans who inhale this air. Equation J&E3 converts

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indoor air concentrations from parts per million volume to milligrams per cubic meter.

- c) Equation J&E4 calculates an acceptable concentration of the contaminant of concern in the soil gas at the source of contamination. This calculation is made using:
- 1) an attenuation factor developed in accordance with Equations J&E7 through 18; and
 - 2) the acceptable concentration of the contaminant of concern in indoor air calculated in accordance with Equation J&E1 (for carcinogens) or J&E2 (for noncarcinogens).
- d) The attenuation factor (Equation J&E7 or J&E8) accounts for the following processes:
- 1) Migration of contaminants from the source upwards through the vadose zone;
 - 2) Migration of contaminants through the earthen filled cracks in the building's full concrete slab-on-grade or full concrete basement floor and walls; and
 - 3) Mixing of the contaminants with air inside the building.
- e) Equation J&E7 must be used when the mode of contaminant transport is both diffusion and advection. In this scenario, the Q_{soil} value equals $83.33 \text{ cm}^3/\text{sec}$ as described in Section 742.505.
- f) Equation J&E8 may be used only when the mode of contaminant transport is diffusion only. In this scenario, Q_{soil} value equals $0.0 \text{ cm}^3/\text{sec}$ as described in Section 742.505. As an alternative to using Equation J&E8 pursuant to this subsection, it is permissible to use Equation J&E7, in which case Q_{soil} value equals $83.33 \text{ cm}^3/\text{sec}$ as described in Section 742.505.
- g) Equations J&E9a through J&E18 calculate input parameters for either Equation J&E7 or J&E8 (the equations used to calculate an attenuation factor). These equations assume there are "n" different soil layers between the source of the

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contamination and the floor of the building. Equations J&E11, 16, 17 and 18 shall be used to calculate the needed parameters for each of the n layers (the general soil layer is referred to as soil layer "i" and $i = 1, 2, \dots, n$). Equations J&E16, 17, and 18 shall also be used to calculate needed parameters for the soil in the cracks of the building's full concrete slab-on-grade or full concrete basement floor and walls (it is through these cracks that contaminated soil gas is assumed to flow from the subsurface into the building). As reflected in Equation J&E14, the only crack assumed to be present is the floor-wall seam gap. To calculate the surface area of the enclosed space at or below grade, Equation J&E12a shall be used for a building with a full concrete slab-on-grade and Equation J&E12b shall be used for a building with a full concrete basement floor and walls.

- h) The default representative subsurface temperature for Henry's Law Constant is 13°C. This value shall be used, as appropriate, in all calculations needed to represent the system by which contaminants migrate through the subsurface.
- i) The calculated soil gas remediation objective shall be compared with the soil vapor saturation limit (C_v^{sat} , Equation J&E5) for each volatile chemical. The calculated C_v^{sat} shall use the default representative subsurface temperature specified in subsection (h). If the calculated soil gas remediation objective is greater than C_v^{sat} , then C_v^{sat} is used as the soil gas remediation objective.
- j) The calculated soil gas remediation objective shall be compared to concentrations of soil gas collected at a depth at least 3 feet below ground surface and above the saturated zone. If a valid sample cannot be collected, a soil gas sampling plan shall be approved by the Agency under Tier 3.

(Source: Added at 37 Ill. Reg. 7506, effective July 15, 2013)

SUBPART H: TIER 2 GROUNDWATER EVALUATION

Section 742.805 Tier 2 Groundwater Remediation Objectives

- a) To develop a groundwater remediation objective under this Section that exceeds the applicable Tier 1 groundwater remediation objective, or for which there is no Tier I groundwater remediation objective, a person may request approval from the Agency if the person has performed the following:

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- 1) Identified the horizontal and vertical extent of groundwater for which the Tier 2 groundwater remediation objective is sought;
- 2) Taken corrective action, to the maximum extent practicable to remove any free product;
- 3) Using Equation R26 in accordance with Section 742.810, demonstrated that the concentration of any contaminant of concern in groundwater will meet:
 - A) The applicable Tier 1 groundwater remediation objective at the point of human exposure; or
 - B) For any contaminant of concern for which there is no Tier 1 groundwater remediation objective, the concentration determined according to the procedures specified in 35 Ill. Adm. Code 620 at the point of human exposure. A person may request the Agency to provide these concentrations or may propose these concentrations under Subpart I;
- 4) Using Equation R26 in accordance with Section 742.810, demonstrated that the concentration of any contaminant of concern in groundwater within the minimum or designated maximum setback zone of an existing potable water supply well will meet the applicable Tier 1 groundwater remediation objective or, if there is no Tier 1 groundwater remediation objective, the concentration determined according to the procedures specified in 35 Ill. Adm. Code 620. A person may request the Agency to provide these concentrations or may propose these concentrations under Subpart I;
- 5) Using Equation R26 in accordance with Section 742.810, demonstrated that the concentration of any contaminant of concern in groundwater discharging into a surface water will meet the applicable water quality standard under 35 Ill. Adm. Code 302;
- 6) Demonstrated that the source of the release is not located within the minimum or designated maximum setback zone or within a regulated recharge area of an existing potable water supply well; and

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- 7) If the selected corrective action includes an engineered barrier as set forth in Subpart K to minimize migration of ~~contaminant~~~~secontaminant~~ of concern from the soil to the groundwater, demonstrated that the engineered barrier will remain in place for post-remediation land use through an institutional control as set forth in Subpart J.
- b) A groundwater remediation objective that exceeds the water solubility of that chemical (refer to Appendix C, Table E for solubility values) is not allowed.
- c) The contaminants of concern for which a Tier 1 remediation objective has been developed shall be included in any mixture of similar-acting chemicals under consideration in Tier 2. The evaluation of 35 Ill. Adm. Code 620.615 regarding mixtures of similar-acting chemicals shall be considered satisfied for Class I groundwater at the point of human exposure if either of the following requirements are achieved:
- 1) Calculate the weighted average using the following equations:

$$W_{\text{ave}} = \frac{x_1}{CUO_{x_1}} + \frac{x_2}{CUO_{x_2}} + \frac{x_3}{CUO_{x_3}} + \dots + \frac{x_a}{CUO_{x_a}}$$

where:

W_{ave} = Weighted Average

x_1 through x_a = Concentration of each individual contaminant at the location of concern. Note that, depending on the target organ, the actual number of contaminants will range from 2 to 33.

CUO_{x_a} = A Tier 1 or Tier 2 remediation objective must be developed for each x_a .

- A) If the value of the weighted average calculated in accordance with the equations above is less than or equal to 1.0, then the remediation objectives are met for those chemicals.
- B) If the value of the weighted average calculated in accordance with the equations above is greater than 1.0, then additional

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remediation must be carried out until the level of contaminants remaining in the remediated area has a weighted average calculated in accordance with the equation above less than or equal to one; or

- 2) Divide each individual chemical's remediation objective by the number of chemicals in that specific target organ group that were detected at the site. Each of the contaminant concentrations at the site is then compared to the remediation objectives that have been adjusted to account for this potential additivity.
- d) The evaluation of 35 Ill. Adm. Code 620.615 regarding mixtures of similar-acting chemicals ~~is~~are considered satisfied if the cumulative risk from any ~~contaminant~~contaminant(s) of concern listed in Appendix A, Table I, plus any other ~~contaminant~~contaminant(s) of concern detected in groundwater and listed in Appendix A, Table F as affecting the same target organ/organ system as the ~~contaminant~~contaminant(s) of concern detected from Appendix A, Table I, does not exceed 1 in 10,000.
- e) Groundwater remediation objectives for the indoor inhalation exposure route shall be developed in accordance with Section 742.812. For the indoor inhalation exposure route:
 - 1) Appendix C, Table L applies only when the existing or potential building has a full concrete slab-on-grade or a full concrete basement floor and walls; and
 - 2) Institutional controls under Subpart J are required to develop groundwater remediation objectives pursuant to Appendix C, Table L.

(Source: Amended at 37 Ill. Reg. 7506, effective July 15, 2013)

Section 742.810 RBCA Calculations to Predict Impacts from Remaining Groundwater Contamination

- a) Equation R26 predicts the contaminant concentration along the centerline of a groundwater plume emanating from a vertical planar source in the aquifer (dimensions S_w wide and S_d deep). This model accounts for both three-dimensional dispersion (x is the direction of groundwater flow, y is the other

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horizontal direction, and z is the vertical direction) and biodegradation.

1) The parameters in this equation are:

- X = distance from the planar source to the location of concern, along the centerline of the groundwater plume (i.e., $y = 0$, $z = 0$)
- C_x = the concentration of the contaminant at a distance X from the source, along the centerline of the plume
- C_{source} = the greatest potential concentration of the contaminant of concern in the groundwater at the source of the contamination, based on the concentrations of contaminants in groundwater due to the release and the projected concentration of the contaminant migrating from the soil to the groundwater. As indicated above, the model assumes a planar source discharging groundwater at a concentration equal to C_{source} .
- α_x = dispersivity in the x direction (i.e., Equation R16)
- α_y = dispersivity in the y direction (i.e., Equation R17)
- α_z = dispersivity in the z direction (i.e., Equation R18)
- U = specific discharge (i.e., actual groundwater flow velocity through a porous medium; takes into account the fact that the groundwater actually flows only through the pores of the subsurface materials) where the aquifer hydraulic conductivity (K), the hydraulic gradient (I) and the total soil porosity θ_T must be known (i.e., Equation R19)
- λ = first order degradation constant obtained from Appendix C, Table E or from measured groundwater data
- S_w = width of planar groundwater source in the y direction
- S_d = depth of planar groundwater source in the z direction

2) The following parameters are determined through field measurements: U , K , I , θ_T , S_w , S_d .

- A) The determination of values for U , K , I and θ_T can be obtained through the appropriate laboratory and field techniques;
- B) From the immediate down-gradient edge of the source of the groundwater contamination values for S_w and S_d shall be

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determined. S_w is defined as the width of groundwater at the source which exceeds the Tier 1 groundwater remediation objective. S_d is defined as the depth of groundwater at the source which exceeds the Tier 1 groundwater remediation objective; and

- C) Total soil porosity can also be calculated using Equation R23.
- b) Once values are obtained for all the input parameters identified in subsection (a) of this Section, the contaminant concentration C_x along the centerline of the plume at a distance X from the source shall be calculated so that X is the distance from the down-gradient edge of the source of the contamination at the site to the point where the contaminant concentration is equal to the Tier 1 groundwater remediation objective or concentration determined according to the procedures specified in 35 Ill. Adm. Code 620, Subpart F.
- 1) If there are any potable water supply wells located within the calculated distance X , then the Tier 1 groundwater remediation objective or concentration shall be met at the edge of the minimum or designated maximum setback zone of the nearest potable water supply down-gradient of the source. To demonstrate that a minimum or maximum setback zone of a potable water supply well will not be impacted above the applicable Tier 1 groundwater remediation objective or concentration determined according to the procedures specified in 35 Ill. Adm. Code 620, Subpart F, X shall be the distance from the C_{source} location to the edge of the setback zone.
 - 2) To demonstrate that no surface water is adversely impacted, X shall be the distance from the down-gradient edge of the source of the contamination site to the nearest surface water body. This calculation must show that the contaminant in the groundwater at this location (C_x) does not exceed the applicable water quality standard.

(Source: Amended at 37 Ill. Reg. 7506, effective July 15, 2013)

Section 742.812 J&E Groundwater Equations for the Indoor Inhalation Exposure Route

Groundwater remediation objectives for the indoor inhalation exposure route are calculated using the modified J&E model as described in Section 742.717, except as follows:

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- a) In Equation J&E9a, the total number of layers of soil that contaminants migrate through from the source to the building shall include a capillary fringe layer.
- b) The thickness of the capillary fringe layer is 37.5 cm.
- c) The volumetric water content of the capillary fringe shall be 90% of the total porosity of the soil that comprises the capillary fringe.
- d) Equations J&E7 and J&E8 calculate an acceptable groundwater remediation objective.
- 1) This calculation is made using:
- A) the soil gas remediation objective calculated in accordance with Equation J&E4; and
- B) the assumption that this gas is in equilibrium with any contamination in the groundwater.
- 2) Equation J&E7 must be used when the mode of contaminant transport is both diffusion and advection. In this scenario, the Q_{soil} value equals 83.33 cm^3/sec as described in Section 742.505.
- 3) Equation J&E8 may be used only when the mode of contaminant transport is diffusion only. In this scenario, the Q_{soil} value equals 0.0 cm^3/sec as described in Section 742.505. As an alternative to using Equation J&E8 pursuant to this subsection, it is permissible to use Equation J&E7, in which case the Q_{soil} value equals 83.33 cm^3/sec as described in Section 742.505.
- e) A groundwater remediation objective that exceeds the water solubility of that chemical (refer to Appendix C, Table E for solubility values) is not allowed. If the calculated groundwater remediation objective is greater than the water solubility of that chemical, then the solubility is used as the groundwater remediation objective.

(Source: Added at 37 Ill. Reg. 7506, effective July 15, 2013)

SUBPART I: TIER 3 EVALUATION

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Section 742.900 Tier 3 Evaluation Overview

- a) Tier 3 sets forth a flexible framework to develop remediation objectives outside of the requirements of Tiers 1 and 2. Although Tier 1 and Tier 2 evaluations are not prerequisites to conduct Tier 3 evaluations, data from Tier 1 and Tier 2 can assist in developing remediation objectives under a Tier 3 evaluation.
- b) The level of detail required to adequately characterize a site depends on the particular use of Tier 3. Tier 3 can require additional investigative efforts beyond those described in Tier 2 to characterize the physical setting of the site. However, in situations where remedial efforts have simply reached a physical obstruction additional investigation may not be necessary for a Tier 3 submittal.
- c) Situations that can be considered for a Tier 3 evaluation include, but are not limited to:
 - 1) Modification of parameters not allowed under Tier 2;
 - 2) Use of models different from those used in Tier 2;
 - 3) Use of additional site data, such as results of indoor air sampling, to improve or confirm predictions of exposed receptors to contaminants of concern;
 - 4) Analysis of site-specific risks using formal risk assessment, probabilistic data analysis, and sophisticated fate and transport models (e.g., requesting a target hazard quotient greater than 1 or a target cancer risk greater than 1 in 1,000,000);
 - 5) Requests for site-specific remediation objectives because an assessment indicates further remediation is not practical;
 - 6) Incomplete human exposure pathways~~pathway(s)~~ not excluded under Subpart C;
 - 7) Use of toxicological-specific information not available from the sources listed in Tier 2;

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- 8) Land uses which are substantially different from the assumed residential or industrial/commercial property uses of a site (e.g., a site will be used for recreation in the future and cannot be evaluated in Tier 1 or 2); ~~and~~
- 9) Requests for site-specific remediation objectives that exceed Tier 1 groundwater remediation objectives so long as the following is demonstrated:
- A) *To the extent practical, the exceedance of the groundwater quality standard has been minimized and beneficial use appropriate to the groundwater that was impacted has been returned; and*
- B) *Any threat to human health or the environment has been minimized.* [415 ILCS 5/58.5(d)(4)(A)]; ~~and~~
- 10) Use of building control technologies, other than those described in Subpart L, to prevent completion of the indoor inhalation exposure route.
- d) For requests of a target cancer risk ranging between 1 in 1,000,000 and 1 in 10,000 at the point of human exposure or a target hazard quotient greater than 1 at the point of human exposure, the requirements of Section 742.915 shall be followed. Requests for a target cancer risk exceeding 1 in 10,000 at the point of human exposure are not allowed.
- e) Requests for approval of a Tier 3 evaluation must be submitted to the Agency for review under the specific program under which remediation is performed. When reviewing a submittal under Tier 3, the Agency shall consider *whether the interpretations and conclusions reached are supported by the information gathered.* [415 ILCS 58.7(e)(1)]. The Agency shall approve a Tier 3 evaluation if the person submits the information required under this Part and establishes through such information that public health is protected and that specified risks to human health and the environment have been minimized.
- f) If contaminants of concern include polychlorinated biphenyls (PCBs), requests for approval of a Tier 3 evaluation must additionally address the applicability of 40 CFR 761.

(Source: Amended at 37 Ill. Reg. 7506, effective July 15, 2013)

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Section 742.920 Impractical Remediation

Any request for site-specific remediation objectives due to impracticality of remediation shall be submitted to the Agency for review and approval. Any request for site-specific remediation objectives due to impracticality of remediation that involves the indoor inhalation exposure route shall follow Section 742.935 in lieu of this Section. A submittal under this Section shall include the following information:

- a) The ~~reasons~~reason(s) why the remediation is impractical;
- b) The current extent and modeled migration of contamination;
- c) Geology, including soil types and parameters;
- d) The potential impact to groundwater;
- e) Results and locations of sampling events;
- f) Map of the area, including all utilities and structures; and
- g) Present and post-remediation uses of the area of contamination, including human receptors at risk.

(Source: Amended at 37 Ill. Reg. 7506, effective July 15, 2013)

Section 742.925 Exposure Routes

Technical information may demonstrate that there is no actual or potential impact of contaminants of concern to receptors from a particular exposure route. In these instances, a demonstration excluding an exposure route shall be submitted to the Agency for review and approval. A demonstration that involves the indoor inhalation exposure route shall follow Section 742.935 in lieu of this Section. A submittal under this Section shall include the following information:

- a) A description of the route evaluated;
- b) A description of the site and physical site characteristics;
- c) A discussion of the result and possibility of the route becoming active in the

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future; and

- d) Technical support that may include, but is not limited to, the following:
- 1) a discussion of the natural or man-made barriers to that exposure route;
 - 2) calculations and modeling;
 - 3) physical and chemical properties of contaminants of concern; and
 - 4) contaminant migration properties.

(Source: Amended at 37 Ill. Reg. 7506, effective July 15, 2013)

Section 742.935 Indoor Inhalation Exposure Route

- a) Exclusion of Exposure Route
Site information may demonstrate that there is no actual or potential impact of contaminants of concern to receptors from the indoor inhalation exposure route. In these instances, a demonstration excluding the exposure route shall be submitted to the Agency for review and approval. A submittal under this Section shall include the following information:
- 1) A description of the site, physical site characteristics, existing and planned buildings, and existing and planned man-made pathways; and
 - 2) A discussion of the possibility of the route becoming active in the future.
- b) Exclusion of Exposure Route Using Building Control Technologies
Any proposals to use building control technologies as a means to prevent or mitigate human exposures under the indoor inhalation exposure route that differ from the requirements of Subpart L shall be submitted to the Agency for review and approval. A submittal under this Section shall include the following information:
- 1) A description of the site and physical site characteristics;
 - 2) The current extent and modeled migration of contamination;

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- 3) Geology, including soil types and parameters;
 - 4) Results and locations of sampling events;
 - 5) Scaled map of the area, including all buildings and man-made pathways;
 - 6) A description of building characteristics and methods of construction, including a description of man-made pathways;
 - 7) Present and post-remediation uses of the land that are at issue due to the area of contamination, including human receptors at risk;
 - 8) A description of any building control technologies currently in place or proposed for installation that can reduce or eliminate the potential for completion of the exposure route, including design and construction specifications;
 - 9) Information regarding the effectiveness of any building control technologies currently in place or proposed for installation and a schedule for performance testing to show the effectiveness of the control technology. For buildings not yet constructed, an approved building control technology shall be in place and operational prior to human occupancy;
 - 10) Identification of documents reviewed and the criteria used in the documents for determining whether building control technologies are effective and how those criteria compare to existing or potential buildings or man-made pathways at the site; and
 - 11) A description as to how the effectiveness of the building control technologies will be operated and maintained for the life of the buildings and man-made pathways, or until soil gas and groundwater contaminant concentrations have reached remediation objectives that are approved by the Agency. This includes provisions for potential extended system inoperability due to power failure or other disruption.
- c) Calculations and Modeling Used to Establish Soil Gas Remediation Objectives
The calculations and modeling shall account for contaminant transport through the mechanisms of diffusion and advection. Proposals to use soil gas data,

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including sub-slab samples, to establish remediation objectives for the indoor inhalation exposure route that differ from the requirements of Section 742.227 shall be submitted to the Agency for review and approval. A submittal under this Section shall include the following information:

- 1) Scaled map of the area, showing all buildings and man-made pathways (current and planned);
- 2) The current extent and modeled migration of contamination;
- 3) Geology, including soil types and parameters;
- 4) Depth to groundwater (including seasonal variation) and flow direction;
- 5) Location of soil gas sampling points;
- 6) A discussion of soil gas sampling procedures that, at a minimum, addresses the following:
 - A) sampling equipment;
 - B) soil gas collection protocol, including field tests and weather conditions; and
 - C) laboratory analytical methods.

d) Calculations and Modeling Used to Establish Soil Remediation Objectives
The calculations and modeling shall account for contaminant transport through the mechanisms of diffusion and advection. Any proposals to use soil data in lieu of soil gas data to establish remediation objectives for the indoor inhalation exposure route shall be submitted to the Agency for review and approval. A submittal under this Section shall include the following information:

- 1) Scaled map of the area, showing all buildings and man-made pathways (current and planned);
- 2) The current extent and modeled migration of contamination;
- 3) Geology, including soil types and parameters;

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- 4) Location of soil sampling points;
 - 5) A discussion of soil sampling procedures that, at a minimum, addresses the following:
 - A) sampling equipment;
 - B) soil collection protocol, including field tests and weather conditions; and
 - C) laboratory analytical methods;
 - 6) Mathematical and technical justification for the model proposed; and
 - 7) Demonstration that the model was correctly applied.
- e) Calculations and Modeling Used to Establish Groundwater Remediation Objectives
The calculations and modeling shall account for contaminant transport through the mechanisms of diffusion and advection. Proposals to use groundwater data to establish remediation objectives for the indoor inhalation exposure route that differ from the requirements of Sections 742.805 and 742.812 shall be submitted to the Agency for review and approval. A submittal under this Section shall include the following information:
- 1) Scaled map of the area, showing all buildings and man-made pathways (current and planned);
 - 2) The current extent and modeled migration of contamination;
 - 3) Geology, including soil types and parameters and the thickness of the capillary fringe;
 - 4) Depth to groundwater (including seasonal variation) and flow direction;
 - 5) Results and locations of groundwater sampling events;
 - 6) Mathematical and technical justification for the model proposed; and

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7) Demonstration that the model was correctly applied.

(Source: Added at 37 Ill. Reg. 7506, effective July 15, 2013)

SUBPART J: INSTITUTIONAL CONTROLS

Section 742.1000 Institutional Controls

- a) Institutional controls in accordance with this Subpart must be placed on the property when remediation objectives are based on any of the following assumptions:
- 1) Industrial/Commercial property use;
 - 2) Target cancer risk greater than 1 in 1,000,000;
 - 3) Target hazard quotient greater than 1;
 - 4) Engineered barriers;
 - 5) The point of human exposure is located at a place other than at the source;
 - 6) Exclusion of exposure routes; ~~or~~
 - 7) A diffusion only mode of contaminant transport for the indoor inhalation exposure route;
 - 8) Use of an indoor inhalation building control technology;
 - 9) For the indoor inhalation exposure route, the presence of a building with a full concrete slab-on-grade or a full concrete basement floor and walls; or
 - 10) ~~7)~~ Any combination of the above.
- b) The Agency shall not approve any remediation objective under this Part that is based on the use of institutional controls unless the person has proposed institutional controls meeting the requirements of this Subpart and the requirements of the specific program under which the institutional control is

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proposed. A proposal for approval of institutional controls shall provide identification of the selected institutional controls from among the types recognized in this Subpart.

- c) The following instruments may be institutional controls subject to the requirements of this Subpart J and the requirements of the specific program under which the institutional control is proposed:
- 1) No Further Remediation Letters;
 - 2) Environmental Land Use Controls;
 - 3) Land Use Control Memoranda of Agreement;
 - 4) Ordinances adopted and administered by a unit of local government;
 - 5) Agreements between a property owner (or, in the case of a petroleum leaking underground storage tank, the owner or operator of the tank) and a highway authority with respect to any contamination remaining under highways; and
 - 6) Agreements between a highway authority that is also the property owner (or, in the case of a petroleum leaking underground storage tank, the owner or operator of the tank) and the Agency with respect to any contamination remaining under the highways.
- d) No Further Remediation Letters and Environmental Land Use Controls that meet the requirements of this Subpart and the recording requirements of the program under which remediation is being performed are transferred with the property.

(Source: Amended at 37 Ill. Reg. 7506, effective July 15, 2013)

Section 742.1010 Environmental Land Use Controls

- a) An Environmental Land Use Control (ELUC) is an institutional control that may be used under this Part to impose land use limitations or requirements related to environmental contamination. ELUCs are only effective when approved by the Agency in accordance with this Part. Activities or uses that may be limited or required include, but are not limited to, prohibition of use of groundwater for

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potable purposes, restriction to industrial/commercial uses, operation or maintenance of engineered barriers, indoor inhalation building control technologies, or worker safety plans. ELUCs may be used in the following circumstances:

- 1) When No Further Remediation Letters are not available, including but not limited to when contamination has migrated off-site or outside the remediation site; or
 - 2) When No Further Remediation Letters are not issued under the program for which a person is undergoing remediation.
- b) Recording requirements:
- 1) An ELUC approved by the Agency pursuant to this Section must be recorded in the Office of the Recorder or Registrar of Titles for the county in which the property that is the subject of the ELUC is located. A copy of the ELUC demonstrating that it has been recorded must be submitted to the Agency before the Agency will issue a no further remediation determination.
 - 2) An ELUC approved under this Section will not become effective until officially recorded in the chain of title for the property that is the subject of the ELUC in accordance with subsection (b)(1) of this Section.
 - 3) Reference to the recorded ELUC must be made in the instrument memorializing the Agency's no further remediation determination. Recording of the no further remediation determination and confirmation of recording must be in accordance with the requirements of the program under which the determination was issued.
 - 4) The requirements of this Section do not apply to Federally Owned Property for which the Federal Landholding Entity does not have the authority under federal law to record land use limitations on the chain of title.
 - 5) The requirements of this Section apply only to those sites for which a request for a no further remediation determination has not yet been made to the Agency by January 6, 2001.

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- c) Duration:
- 1) Except as provided in this subsection (c), an ELUC shall remain in effect in perpetuity.
 - 2) *At no time shall any site for which an ELUC has been imposed as a result of remediation activities under this Part be used in a manner inconsistent with the land use limitation unless attainment of objectives appropriate for the new land use is achieved and a new no further remediation determination has been obtained and recorded in accordance with the program under which the ELUC was first imposed or the Site Remediation Program (35 Ill. Adm. Code 740)- [415 ILCS 58.8(c)].* In addition, the appropriate release or modification of the ELUC must be prepared by the Agency and filed on the chain of title for the property that is the subject of the ELUC.
 - A) For a Leaking Underground Storage Tank (LUST) site under 35 Ill. Adm. Code 731-~~or 732~~ or 734 or a Site Remediation Program site under 35 Ill. Adm. Code 740, an ELUC may be released or modified only if the NFR Letter is also modified under the Site Remediation Program to reflect the change;
 - B) For a RCRA site under 35 Ill. Adm. Code 721-730, an ELUC may be released or modified only if there is also an amended certification of closure or a permit modification.
 - 3) In addition to any other remedies that may be available, a failure to comply with the limitations or requirements of an ELUC may result in avoidance of an Agency no further remediation determination in accordance with the program under which the determination was made. The failure to comply with the limitations or requirements of an ELUC may also be grounds for an enforcement action pursuant to Title VIII of the Act.
- d) An ELUC submitted to the Agency must match the form and contain the same substance, except for variable elements (e.g., name of property owner), as the model in Appendix F and must contain the following elements:

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- 1) Name of property owners and declaration of property ownership;
- 2) Identification of the property to which the ELUC applies by common address, legal description, and Real Estate Tax Index/Parcel Index Number;
- 3) A reference to the Bureau of Land LPC numbers or 10-digit identification numbers under which the remediation was conducted;
- 4) A statement of the reason for the land use limitation or requirement relative to protecting human health and the surrounding environment from soil, groundwater, and/or other environmental contamination;
- 5) The language instituting such land use limitations or requirements;
- 6) A statement that the limitations or requirements apply to the current owners, occupants, and all heirs, successors, assigns, and lessees;
- 7) A statement that the limitations or requirements apply in perpetuity or until:
 - A) The Agency determines that there is no longer a need for the ELUC;
 - B) The Agency, upon written request, issues to the site that received the no further remediation determination that relies on the ELUC a new no further remediation determination approving modification or removal of the limitations or requirements;
 - C) The new no further remediation determination is filed on the chain of title of the site subject to the no further remediation determination; and
 - D) A release or modification of the land use limitation is filed on the chain of title for the property that is the subject of the ELUC;
- 8) Scaled site maps showing:
 - A) The legal boundary of the property to which the ELUC applies;

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- B) The horizontal and vertical extent of contaminants of concern above applicable remediation objectives for soil, ~~and~~ groundwater, and soil gas to which the ELUC applies;
 - C) Any physical features to which an ELUC applies (e.g., engineered barriers, monitoring wells, caps, indoor inhalation building control technologies); and
 - D) The nature, location of the source, and direction of movement of the contaminants of concern;
- 9) A statement that any information regarding the remediation performed on the property for which the ELUC is necessary may be obtained from the Agency through a request under the Freedom of Information Act [5 ILCS 140] and rules promulgated thereunder; and
- 10) The dated, notarized signatures of the property owners or authorized agent.

(Source: Amended at 37 Ill. Reg. 7506, effective July 15, 2013)

Section 742.1015 Ordinances

- a) An ordinance adopted by a unit of local government that effectively prohibits the installation of potable water supply wells (and the use of such wells) may be used as an institutional control to meet the requirements of Section 742.320(d) or 742.805(a)(3) if the requirements of this Section are met. A model ordinance is found in Appendix G. Ordinances prohibiting the installation of potable water supply wells (and the use of such wells) that do not expressly prohibit the installation of potable water supply wells (and the use of such wells) by units of local government may be acceptable as institutional controls if the requirements of this Section are met and a Memorandum of Understanding (MOU) is entered into under subsection (i) of this Section. For purposes of this Section, a unit of local government is considered to be expressly prohibited from installing and using potable water supply wells only if the unit of local government is included in the prohibition provision by name. The prohibition required by this Section shall satisfy the following requirements at a minimum:

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- 1) The prohibition shall not allow exceptions for potable water well installation and use other than for the adopting unit of local government;
 - 2) The prohibition shall apply at all depths and shall not be limited to particular aquifers or other geologic formations;
 - 3) If the prohibition does not apply everywhere within the boundaries of the unit of local government, the limited area to which the prohibition applies shall be easily identifiable and clearly defined by the ordinance (e.g., narrative descriptions accompanied by maps with legends or labels showing prohibition boundaries, or narrative descriptions using fixed, common reference points such as street names). Boundaries of prohibitions limited by area shall be fixed by the terms of the ordinance and shall not be subject to change without amending the ordinance in which the prohibition has been adopted (e.g., no boundaries defined with reference to zoning districts or the availability of the public water supply); and
 - 4) The prohibition shall not in any way restrict or limit the Agency's approval of the use of the ordinance as an institutional control pursuant to this Part (e.g., no restrictions based on remediation program participation, or no restrictions on persons performing remediation within the prohibition area who may use the ordinance).
- b) A request for approval of a local ordinance as an institutional control shall provide the following:
- 1) A copy of the ordinance restricting groundwater use certified by an official of the unit of local government in which the site is located that it is a true and accurate copy of the ordinance, unless the Agency and the unit of local government have entered an agreement under subsection (i) of this Section, in which case the request may alternatively reference the MOU. The ordinance must demonstrate that potable use of groundwater from potable water supply wells is prohibited;
 - 2) A scaled ~~map or maps~~map(s) delineating the area and extent of groundwater contamination modeled above the applicable remediation objectives including any measured data showing concentrations of contaminants of concern in which the applicable remediation objectives

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are exceeded;

- 3) A scaled map delineating the boundaries of all properties under which groundwater is located ~~that~~which exceeds the applicable groundwater remediation objectives;
- 4) Information identifying the current ~~owner~~owner(s) of each property identified in subsection (b)(3)~~-of this Section~~; and
- 5) A copy of the proposed written notification to the unit of local government that adopted the ordinance and to the current owners identified in subsection (b)(4)~~-of this Section~~ that includes the following information:
 - A) The name and address of the unit of local government that adopted the ordinance;
 - B) The ordinance's citation;
 - C) A description of the property being sent notice by adequate legal description, reference to a plat showing the boundaries of the property, or accurate street address;
 - D) Identification of the party requesting to use the groundwater ordinance as an institutional control, and a statement that the party has requested approval from the Agency to use the ordinance as an institutional control;
 - E) A statement that use of the ordinance as an institutional control allows contamination above groundwater ingestion remediation objectives to remain in groundwater beneath the affected properties, and that the ordinance strictly prohibits human and domestic consumption of the groundwater;
 - F) A statement as to the nature of the release and response action with the site name, site address, and Agency site number or Illinois inventory identification number; and
 - G) A statement that more information about the remediation site may be obtained by contacting the party requesting the use of the

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groundwater ordinance as an institutional control or by submitting a FOIA request to the Agency.

- c) Written notification proposed pursuant to subsection (b)(5) ~~of this Section~~ must be sent to the unit of local government that adopted the ordinance, as well as to all current property owners identified in subsection (b)(4). Written proof that the notification was sent to the unit of local government and the property owners shall be submitted to the Agency within 45 days from the date the Agency's no further remediation determination is recorded. Such proof may consist of the return card from certified mail, return receipt requested, a notarized certificate of service, or a notarized affidavit.
- d) Unless the Agency and the unit of local government have entered into a MOU under subsection (i) ~~of this Section~~, the current owner or successors in interest of a site who have received approval of use of an ordinance as an institutional control under this Section shall:
 - 1) Monitor activities of the unit of local government relative to variance requests or changes in the ordinance relative to the use of potable groundwater at properties identified in subsection (b)(3) ~~of this Section~~; and
 - 2) Notify the Agency of any approved variance requests or ordinance changes within 30 days after the date such action has been approved.
- e) The information required in subsections (b)(1) through (b)(5) ~~of this Section~~ and the Agency letter approving the groundwater remediation objective shall be submitted to the unit of local government. Proof that the information has been filed with the unit of local government shall be provided to the Agency.
- f) Any ordinance or MOU used as an institutional control pursuant to this Section shall be recorded in the Office of the Recorder or Registrar of Titles of the county in which the site is located together with the instrument memorializing the Agency's no further remediation determination pursuant to the specific program within 45 days after receipt of the Agency's no further remediation determination.
- g) An institutional control approved under this Section shall not become effective until officially recorded in accordance with subsection (f) ~~of this Section~~. The person receiving the approval shall obtain and submit to the Agency within 30

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days after recording a copy of the institutional control demonstrating that it has been recorded.

- h) The following shall be grounds for voidance of the ordinance as an institutional control and the instrument memorializing the Agency's no further remediation determination:
- 1) Modification of the ordinance by the unit of local government to allow potable use of groundwater;
 - 2) Approval of a site-specific request, such as a variance, to allow potable use of groundwater at a site identified in subsection (b)(3) ~~of this Section~~;
 - 3) Violation of the terms of an institutional control recorded under Section 742.1005 or Section 742.1010; or
 - 4) Failure to provide notification and proof of such notification pursuant to subsection (c) ~~of this Section~~.
- i) The Agency and a unit of local government may enter into a MOU under this Section if the unit of local government has adopted an ordinance satisfying subsection (a) ~~of this Section~~ and if the requirements of this subsection are met. The MOU submitted to the Agency must match the form and contain the same substance as the model in Appendix H and shall include the following:
- 1) Identification of the authority of the unit of local government to enter the MOU;
 - 2) Identification of the legal boundaries, or equivalent, under which the ordinance is applicable;
 - 3) A certified copy of the ordinance;
 - 4) A commitment by the unit of local government to notify the Agency of any variance requests or proposed ordinance changes at least 30 days prior to the date the local government is scheduled to take action on the request or proposed change;
 - 5) A commitment by the unit of local government to maintain a registry of all

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sites within the unit of local government that have received no further remediation determinations pursuant to specific programs; and

- 6) If the ordinance does not expressly prohibit the installation of potable water supply wells (and the use of such wells) by units of local government, a commitment by the unit of local government:
 - A) To review the registry of sites established under subsection (i)(5) ~~of this Section~~ prior to siting potable water supply wells within the area covered by the ordinance;
 - B) To determine whether the potential source of potable water may be or has been affected by contamination left in place at those sites; and
 - C) To take whatever steps are necessary to ensure that the potential source of potable water is protected from the contamination or treated before it is used as a potable water supply.
- j) A groundwater ordinance may not be used to exclude the indoor inhalation exposure route.

(Source: Amended at 37 Ill. Reg. 7506, effective July 15, 2013)

SUBPART K: ENGINEERED BARRIERS

Section 742.1105 Engineered Barrier Requirements

- a) Natural attenuation, access controls, and point of use treatment shall not be considered engineered barriers. Engineered barriers may not be used to prevent direct human exposure to groundwater without the use of institutional controls.
- b) For purposes of determining remediation objectives under Tier 1, engineered barriers are not recognized.
- c) The following engineered barriers are recognized for purposes of calculating remediation objectives that exceed residential remediation objectives:
 - 1) For the soil component of the groundwater ingestion exposure route, the

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following engineered barriers are recognized if they prevent completion of the exposure pathway:

- A) Caps or walls constructed of compacted clay, asphalt, concrete or other material approved by the Agency; and
 - B) Permanent structures such as buildings and highways.
- 2) For the soil ingestion exposure route, the following engineered barriers are recognized if they prevent completion of the exposure pathway:
- A) Caps or walls constructed of compacted clay, asphalt, concrete, or other material approved by the Agency;
 - B) Permanent structures such as buildings and highways; and
 - C) Soil, sand, gravel, or other geologic materials that:
 - i) Cover the contaminated media;
 - ii) Meet the soil remediation objectives under Subpart E for residential property for contaminants of concern; and
 - iii) Are a minimum of three feet in depth.
- 3) For the outdoor inhalation exposure route, the following engineered barriers are recognized if they prevent completion of the exposure pathway:
- A) Caps or walls constructed of compacted clay, asphalt, concrete, or other material approved by the Agency;
 - B) Permanent structures such as buildings and highways; and
 - C) Soil, sand, gravel, or other geologic materials that:
 - i) Cover the contaminated media;
 - ii) Meet the soil remediation objectives under Subpart E for

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residential property for contaminants of concern; and

- iii) Are a minimum of ten feet in depth and not within ten feet of any manmade pathway.
- 4) For the ingestion of groundwater exposure route, the following engineered barriers are recognized if they prevent completion of the exposure pathway:
 - A) Slurry walls; and
 - B) Hydraulic control of groundwater.
- d) Unless otherwise prohibited under Section 742.1100, any other type of engineered barrier may be proposed if it will be as effective as the options listed in subsection (c) ~~of this Section~~.

(Source: Amended at 37 Ill. Reg. 7506, effective July 15, 2013)

SUBPART L: BUILDING CONTROL TECHNOLOGIES

Section 742.1200 Building Control Technologies

- a) Any person who develops remediation objectives under this Part based on building control technologies shall meet the requirements of this Subpart and the requirements of Subpart J relative to institutional controls.
- b) The Agency shall not approve any remediation objective under this Part that is based on the use of building control technologies unless the person has proposed building control technologies meeting the requirements of the following:
 - 1) This Subpart L or Subpart I; and
 - 2) Subpart J relative to institutional controls.
- c) The use of building control technologies can be recognized in determining remediation objectives only if the building control technologies are intended for use as part of the final corrective action.

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- d) An approved building control technology shall be in place and operational prior to human occupancy.
- e) Any no further remediation determination based upon the use of building control technologies shall require effective maintenance of the building control technology. The maintenance requirements shall be included in an institutional control under Subpart J. This institutional control shall address provisions for inoperability by requiring the following if the building control technology is rendered inoperable:
- 1) The site owner/operator shall notify building occupants and workers in advance of intrusive activities. The notification shall enumerate the contaminant of concern known to be present;
 - 2) The site owner/operator shall require building occupants and workers to implement protective measures consistent with good industrial hygiene practice; and
 - 3) For a school, the school administrator shall notify the Agency, the school board, and every parent or legal guardian for all enrolled students when a building control technology is rendered inoperable for a period of five consecutive calendar days during the school year when school is in session. For purposes of the preceding sentence, any occurrence of inoperability, regardless of its duration, results in the date of the occurrence constituting a day of inoperability. For purposes of this subsection (e)(3), the term "school" means any public educational facility in Illinois, including grounds and/or campus, consisting of students, comprising one or more grade groups or other identifiable groups, organized as one unit with one or more teachers to give instruction of a defined type. Public educational facility includes, but is not limited to, primary and secondary (kindergarten-12th grade), charter, vocational, alternative, and special education schools. Public educational facility does not include junior colleges, colleges, or universities. For purposes of this subsection (e)(3), the term "school administrator" means the school's principal, or similar administrator responsible for the school's operations, or his or her designee.
- f) Failure to install or maintain a building control technology in accordance with a no further remediation determination shall be grounds for avoidance of the

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determination and the instrument memorializing the Agency's no further remediation determination.

(Source: Added at 37 Ill. Reg. 7506, effective July 15, 2013)

Section 742.1205 Building Control Technology Proposals

A proposal to use a building control technology under this Subpart shall include the following information:

- a) A description of the site and physical site characteristics;
- b) The current extent and modeled migration of contamination;
- c) Geology, including soil types and parameters;
- d) Results and locations of sampling events;
- e) Scaled map of the area, including all buildings and man-made pathways;
- f) A description of building characteristics and methods of construction, including a description of man-made pathways; and
- g) Present and post-remediation uses of the land that are at issue due to the area of contamination, including human receptors at risk.

(Source: Added at 37 Ill. Reg. 7506, effective July 15, 2013)

Section 742.1210 Building Control Technology Requirements

- a) Natural attenuation, access controls, and point of use treatment shall not be considered building control technologies.
- b) For purposes of determining compliance with remediation objectives under Tier 1, building control technologies are not recognized.
- c) The following building control technologies are recognized for purposes of pathway exclusion under Section 742.312.

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- 1) Sub-slab depressurization (SSD) systems meeting the following requirements:
 - A) A suction pit is installed that is at least two cubic feet and extends at least 6 inches below the slab (larger suction pits may be excavated as needed to achieve the performance criteria in subsection (c)(1)(B)):
 - B) A PVC pipe of at least 3 inches in diameter extends from the suction pit to the intake side of an in-line fan capable of achieving a static vacuum of at least 0.25 inches water column (wc) at the suction point and measureable vacuum at the farthest edges of the area served by the suction pit under worst case conditions (all exhaust fans and heating systems running, during cold weather) as determined by a differential pressure reading of at least -0.003 inches wc below the slab or visible downward flow of air at test holes using chemical or smoke sticks;
 - C) All visible cracks and joints in the slab (including the place where the pipe exits the slab) and foundation walls are sealed;
 - D) The pipe exhausts outside the building at least 10 feet above ground and at least 10 feet from any door or window; and
 - E) Additional suction pits meeting the requirements of subsection (c)(1)(A) shall be installed as necessary to achieve measureable vacuum below the slab in all areas, including in any area where subsurface or foundation conditions (e.g., a sub-slab grade beam) prevent adequate suction field extension.
- 2) Sub-membrane depressurization (SMD) systems meeting the following requirements:
 - A) A non-woven geotextile is installed on the exposed earthen material;
 - B) A cross-laminated polyethylene membrane liner at least 0.10 mm (or 4 mil) thick is placed over the geotextile and sealed to foundation walls using a low volatile adhesive that is

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recommended by the liner manufacturer (e.g., acrylic latex adhesive);

- C) A 3 inch diameter PVC pipe extends from a hole cut in the liner to the intake side of an in-line fan capable of achieving a static vacuum of at least 0.25 inches water column (wc) at the riser pipe and measureable vacuum at the farthest edges of the liner under worst case conditions (all exhaust fans running during cold weather) as determined by a differential pressure reading of at least -0.003 inches wc below the liner or visible downward flow of air in test holes using chemical or smoke sticks;
 - D) The pipe is sealed to the liner;
 - E) The pipe exhausts outside the building at least 10 feet above ground and at least 10 feet from any door or window; and
 - F) No leaks based on smoke stick tests along the entire perimeter of the liner (i.e., at all sealed edges) with the fan running. Where leaks are identified, appropriate repairs are undertaken and smoke stick testing repeated until no leaks are detected.
- 3) Membrane barrier systems when placed below concrete slabs meeting the following requirements:
- A) The membrane is impermeable to volatile chemicals and is not less than 1.5 mm (or 60 mil) thick;
 - B) The membrane is sealed to foundation walls and any penetrating pipes according to membrane manufacturer/installer recommendations;
 - C) The membrane is installed in accordance with the manufacturer's requirements and by an applicator trained and approved by the manufacturer;
 - D) A smoke test of the membrane system (where smoke is injected below the installed liner prior to slab installation), in accordance with the manufacturer's requirements, is performed to ensure no

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leaks exist. Where leaks are identified, appropriate repairs are undertaken and smoke testing repeated until no leaks are detected;

E) The membrane is puncture resistant to slab installation construction activities and protected by sand layers or geotextiles as recommended by the manufacturer; and

F) Construction activities following membrane installation do not damage, puncture or tear the membrane or otherwise compromise its ability to prevent the migration of volatile chemicals.

4) Vented raised floors meeting the following requirements:

A) An interconnected void system below the slab sufficient to allow free movement of air and communication of negative pressures to all points below the slab;

B) Sealing of all construction joints, open cracks, and penetrations through the slab (e.g., for utilities and riser pipes) with a low volatile caulk; and

C) At least one 3 inch diameter riser pipe venting to the atmosphere above the roof line (at least 10 feet from any doors or windows) for each 5000 square feet of membrane area, with the capability of converting passively vented floor systems to actively vented or SSD systems meeting the performance requirements of subsection (c)(1).

(Source: Added at 37 Ill. Reg. 7506, effective July 15, 2013)

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Section 742.APPENDIX A General

Section 742.TABLE A Soil Saturation Limits (C_{sat}) for Chemicals Whose Melting Point is Less than 30°C

<u>CAS No.</u>	<u>Chemical Name</u>	<u>For the Outdoor Inhalation Exposure Route^a C_{sat} (mg/kg)</u>	<u>For the Soil Component of the Groundwater Ingestion Exposure Route^b C_{sat} (mg/kg)</u>
<u>67-64-1</u>	<u>Acetone</u>	<u>1.00E+05</u>	<u>2.00E+05</u>
<u>71-43-2</u>	<u>Benzene</u>	<u>8.00E+02</u>	<u>5.80E+02</u>
<u>111-44-4</u>	<u>Bis(2-chloroethyl)ether</u>	<u>3.00E+03</u>	<u>3.90E+03</u>
<u>117-81-7</u>	<u>Bis(2-ethylhexyl)phthalate</u>	<u>2.00E+02</u>	<u>6.80E+01</u>
<u>75-27-4</u>	<u>Bromodichloromethane (Dichlorobromomethane)</u>	<u>2.80E+03</u>	<u>2.00E+03</u>
<u>75-25-2</u>	<u>Bromoform</u>	<u>2.00E+03</u>	<u>1.20E+03</u>
<u>71-36-3</u>	<u>Butanol</u>	<u>1.00E+04</u>	<u>1.60E+04</u>
<u>78-93-3</u>	<u>2-Butanone (MEK)</u>	<u>2.50E+04</u>	<u>4.50E+04</u>
<u>85-68-7</u>	<u>Butyl benzyl phthalate</u>	<u>1.00E+03</u>	<u>3.40E+02</u>
<u>75-15-0</u>	<u>Carbon disulfide</u>	<u>8.50E+02</u>	<u>5.20E+02</u>
<u>56-23-5</u>	<u>Carbon tetrachloride</u>	<u>1.20E+03</u>	<u>5.60E+02</u>
<u>108-90-7</u>	<u>Chlorobenzene (Monochlorobenzene)</u>	<u>6.20E+02</u>	<u>2.90E+02</u>
<u>124-48-1</u>	<u>Chlorodibromomethane (Dibromochloromethane)</u>	<u>1.40E+03</u>	<u>8.90E+02</u>
<u>67-66-3</u>	<u>Chloroform</u>	<u>3.40E+03</u>	<u>2.50E+03</u>

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<u>CAS No.</u>	<u>Chemical Name</u>	<u>For the Outdoor Inhalation Exposure Route^a C_{sat} (mg/kg)</u>	<u>For the Soil Component of the Groundwater Ingestion Exposure Route^b C_{sat} (mg/kg)</u>
<u>95-57-8</u>	<u>2-Chlorophenol^c (ionizable organic)</u>	<u>1.00E+04</u>	<u>7.10E+03</u>
<u>75-99-0</u>	<u>Dalapon</u>	<u>1.20E+05</u>	<u>1.90E+05</u>
<u>96-12-8</u>	<u>1,2-Dibromo-3-chloropropane</u>	<u>6.90E+02</u>	<u>4.30E+02</u>
<u>106-93-4</u>	<u>1,2-Dibromoethane (Ethylene dibromide)</u>	<u>1.60E+03</u>	<u>1.20E+03</u>
<u>84-74-2</u>	<u>Di-<i>n</i>-butyl phthalate</u>	<u>2.60E+03</u>	<u>8.80E+02</u>
<u>95-50-1</u>	<u>1,2-Dichlorobenzene (o-Dichlorobenzene)</u>	<u>5.60E+02</u>	<u>2.10E+02</u>
<u>75-71-8</u>	<u>Dichlorodifluoromethane</u>	<u>8.70E+02</u>	<u>4.30E+02</u>
<u>75-34-3</u>	<u>1,1-Dichloroethane</u>	<u>1.70E+03</u>	<u>1.40E+03</u>
<u>107-06-2</u>	<u>1,2-Dichloroethane (Ethylene dichloride)</u>	<u>1.90E+03</u>	<u>2.10E+03</u>
<u>75-35-4</u>	<u>1,1-Dichloroethylene</u>	<u>1.40E+03</u>	<u>9.10E+02</u>
<u>156-59-2</u>	<u><i>cis</i>-1,2-Dichloroethylene</u>	<u>1.30E+03</u>	<u>1.00E+03</u>
<u>156-60-5</u>	<u><i>trans</i>-1,2-Dichloroethylene</u>	<u>3.00E+03</u>	<u>2.10E+03</u>
<u>78-87-5</u>	<u>1,2-Dichloropropane</u>	<u>1.20E+03</u>	<u>8.70E+02</u>
<u>542-75-6</u>	<u>1,3-Dichloropropene (1,3-Dichloropropylene, <i>cis</i> + <i>trans</i>)</u>	<u>1.00E+03</u>	<u>8.50E+02</u>
<u>84-66-2</u>	<u>Diethyl phthalate</u>	<u>2.20E+03</u>	<u>9.20E+02</u>
<u>105-67-9</u>	<u>2,4-Dimethylphenol</u>	<u>1.00E+04</u>	<u>4.70E+03</u>
<u>117-84-0</u>	<u>Di-<i>n</i>-octyl phthalate</u>	<u>1.60E+01</u>	<u>5.20E+00</u>
<u>123-91-1</u>	<u>p-Dioxane</u>	<u>1.00E+05</u>	<u>2.00E+05</u>

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

<u>CAS No.</u>	<u>Chemical Name</u>	<u>For the Outdoor Inhalation Exposure Route^a C_{sat} (mg/kg)</u>	<u>For the Soil Component of the Groundwater Ingestion Exposure Route^b C_{sat} (mg/kg)</u>
<u>100-41-4</u>	<u>Ethylbenzene</u>	<u>3.50E+02</u>	<u>1.50E+02</u>
<u>77-47-4</u>	<u>Hexachlorocyclopentadiene</u>	<u>1.30E+02</u>	<u>4.40E+01</u>
<u>78-59-1</u>	<u>Isophorone</u>	<u>3.00E+03</u>	<u>3.00E+03</u>
<u>98-82-8</u>	<u>Isopropylbenzene (Cumene)</u>	<u>9.40E+02</u>	<u>4.00E+02</u>
<u>7439-97-6</u>	<u>Mercury (elemental)</u>	<u>3.10E+00</u>	<u>N/A</u>
<u>74-83-9</u>	<u>Methyl bromide (Bromomethane)</u>	<u>3.10E+03</u>	<u>3.60E+03</u>
<u>1634-04-4</u>	<u>Methyl tertiary-butyl ether</u>	<u>8.40E+03</u>	<u>1.10E+04</u>
<u>75-09-2</u>	<u>Methylene chloride (Dichloromethane)</u>	<u>2.50E+03</u>	<u>3.00E+03</u>
<u>98-95-3</u>	<u>Nitrobenzene</u>	<u>7.10E+02</u>	<u>5.90E+02</u>
<u>621-64-7</u>	<u>n-Nitrosodi-n-propylamine</u>	<u>1.90E+03</u>	<u>2.30E+03</u>
<u>100-42-5</u>	<u>Styrene</u>	<u>6.30E+02</u>	<u>2.60E+02</u>
<u>127-18-4</u>	<u>Tetrachloroethylene (Perchloroethylene)</u>	<u>8.00E+02</u>	<u>3.10E+02</u>
<u>108-88-3</u>	<u>Toluene</u>	<u>5.80E+02</u>	<u>2.90E+02</u>
<u>120-82-1</u>	<u>1,2,4-Trichlorobenzene</u>	<u>3.40E+02</u>	<u>1.20E+02</u>
<u>71-55-6</u>	<u>1,1,1-Trichloroethane</u>	<u>1.30E+03</u>	<u>6.70E+02</u>
<u>79-00-5</u>	<u>1,1,2-Trichloroethane</u>	<u>1.80E+03</u>	<u>1.30E+03</u>
<u>79-01-6</u>	<u>Trichloroethylene</u>	<u>1.20E+03</u>	<u>6.50E+02</u>
<u>75-69-4</u>	<u>Trichlorofluoromethane</u>	<u>1.80E+03</u>	<u>8.90E+02</u>
<u>108-05-4</u>	<u>Vinyl acetate</u>	<u>2.60E+03</u>	<u>4.20E+03</u>

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

<u>CAS No.</u>	<u>Chemical Name</u>	<u>For the Outdoor Inhalation Exposure Route^a C_{sat} (mg/kg)</u>	<u>For the Soil Component of the Groundwater Ingestion Exposure Route^b C_{sat} (mg/kg)</u>
<u>75-01-4</u>	<u>Vinyl chloride</u>	<u>2.60E+03</u>	<u>2.90E+03</u>
<u>108-38-3</u>	<u>m-Xylene</u>	<u>4.10E+02</u>	<u>1.60E+02</u>
<u>95-47-6</u>	<u>o-Xylene</u>	<u>3.70E+02</u>	<u>1.50E+02</u>
<u>106-42-3</u>	<u>p-Xylene</u>	<u>3.30E+02</u>	<u>1.40E+02</u>
<u>1330-20-7</u>	<u>Xylenes (total)</u>	<u>2.80E+02</u>	<u>1.10E+02</u>

^a Soil Saturation Limits calculated using an f_{oc} of 0.006 g/g and a system temperature of 25°C.

^b Soil Saturation Limits calculated using an f_{oc} of 0.002 g/g and a system temperature of 25°C.

^c C_{sat} for pH of 6.8. If soil pH is other than 6.8, a site-specific C_{sat} should be calculated using equations S19 and S29 and the pH-specific K_{oc} values in Appendix C, Table I.

<u>CAS No.</u>	<u>Chemical Name</u>	<u>C_{sat} (mg/kg)</u>
<u>67-64-1</u>	<u>Acetone</u>	<u>100,000</u>
<u>71-43-2</u>	<u>Benzene</u>	<u>870</u>
<u>111-44-4</u>	<u>Bis(2-chloroethyl)ether</u>	<u>3,300</u>
<u>117-81-7</u>	<u>Bis(2-ethylhexyl)phthalate</u>	<u>31,000</u>
<u>75-27-4</u>	<u>Bromodichloromethane (Dichlorobromomethane)</u>	<u>3,000</u>
<u>75-25-2</u>	<u>Bromoform</u>	<u>1,900</u>
<u>71-36-3</u>	<u>Butanol</u>	<u>10,000</u>
<u>85-68-7</u>	<u>Butyl benzyl phthalate</u>	<u>930</u>
<u>75-15-0</u>	<u>Carbon disulfide</u>	<u>720</u>
<u>56-23-5</u>	<u>Carbon tetrachloride</u>	<u>1,100</u>
<u>108-90-7</u>	<u>Chlorobenzene (Monochlorobenzene)</u>	<u>680</u>
<u>124-48-1</u>	<u>Chlorodibromomethane (Dibromochloromethane)</u>	<u>1,300</u>

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

67-66-3	Chloroform	2,900
96-12-8	1,2-Dibromo-3-chloropropane	1,400
106-93-4	1,2-Dibromoethane (Ethylene dibromide)	2,800
84-74-2	Di- <i>n</i> -butyl phthalate	2,300
95-50-1	1,2-Dichlorobenzene (<i>o</i> -Dichlorobenzene)	560
75-34-3	1,1-Dichloroethane	1,700
107-06-2	1,2-Dichloroethane (Ethylene dichloride)	1,800
75-35-4	1,1-Dichloroethylene	1,500
156-59-2	<i>cis</i> -1,2-Dichloroethylene	1,200
156-60-5	<i>trans</i> -1,2-Dichloroethylene	3,100
78-87-5	1,2-Dichloropropane	1,100
542-75-6	1,3-Dichloropropene (1,3-Dichloropropylene, <i>cis</i> + <i>trans</i>)	1,400
84-66-2	Diethyl phthalate	2,000
117-84-0	Di- <i>n</i> -octyl phthalate	10,000
100-41-4	Ethylbenzene	400
77-47-4	Hexachlorocyclopentadiene	2,200
78-59-1	Isophorone	4,600
74-83-9	Methyl bromide (Bromomethane)	3,200
1634-04-4	Methyl tertiary-butyl ether	8,800
75-09-2	Methylene chloride (Dichloromethane)	2,400
98-95-3	Nitrobenzene	1,000
100-42-5	Styrene	1,500
127-18-4	Tetrachloroethylene (Perchloroethylene)	240
108-88-3	Toluene	650
120-82-1	1,2,4-Trichlorobenzene	3,200
71-55-6	1,1,1-Trichloroethane	1,200
79-00-5	1,1,2-Trichloroethane	1,800
79-01-6	Trichloroethylene	1,300
108-05-4	Vinyl acetate	2,700
75-01-4	Vinyl chloride	1,200
108-38-3	<i>m</i> -Xylene	420
95-47-6	<i>o</i> -Xylene	410
100-42-3	<i>p</i> -Xylene	460
1330-20-7	Xylenes (total)	320
	Ionizable Organics	
92-57-8	2-Chlorophenol	53,000

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 37 Ill. Reg. 7506, effective July 15, 2013)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

Section 742.APPENDIX A General**Section 742.TABLE E Similar-Acting Noncarcinogenic Chemicals****Adrenal Gland**Isopropylbenzene**Cholinesterase Inhibition**AldicarbCarbofuran**Circulatory System**AlachlorAntimony (ingestion only)BenzeneCobalt (ingestion only)2,4-Dcis-1,2-Dichloroethylene (ingestion only)2,4-Dimethylphenol2,4-Dinitrotoluene2,6-DinitrotolueneEnzosulfanFluorantheneFluoreneMethylene Chloride (inhalation only)Nickel (Res. & I/C only) (inhalation only)Nitrate as NNitrobenzene (ingestion only)SeleniumSimazineStyrene (ingestion only)1,3,5-TrinitrobenzeneZinc**Decreased Body Weight Gain**AtrazineBis(2-chloroethyl)etherCyanide1,2-Dichlorobenzene (inhalation only)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

Diethyl phthalate (ingestion only)
Enzosulfan
2-Methylphenol (o-cresol)
Naphthalene (ingestion only)
Nickel (ingestion only)
n-Nitrosodiphenylamine
Phenol (ingestion only)
Simazine
Tetrachloroethylene (ingestion only)
1,1,1-Trichloroethane (ingestion only)
Vinyl acetate (ingestion only)
Xylenes (Res. & I/C only) (ingestion only)

Endocrine System

Cyanide
1,2-Dibromoethane (ingestion only)
Di-n-octyl phthalate (ingestion only)
Nitrobenzene
1,2,4-Trichlorobenzene (ingestion only)

Eye

2,4-Dinitrophenol
n-Nitrosodiphenylamine
Polychlorinated biphenyls (PCBs)
Trichloroethylene

Gastrointestinal System

Beryllium (ingestion only)
Copper
1,3-Dichloropropene (*cis + trans*) (ingestion only)
Endothall
Fluoride
Hexachlorocyclopentadiene (ingestion only)
Iron
Methyl bromide (ingestion only)
Methyl tertiary-butyl ether (ingestion only)

Immune System

4-Chloroaniline

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

2,4-Dichlorophenol

Mercury (ingestion only)

Polychlorinated biphenyls (PCBs)

Kidney

Acetone (ingestion only)

Aldrin (CW only)

Barium

Bromodichloromethane (ingestion only)

Cadmium

2,4-D

Dalapon

1,1-Dichloroethane

1,2-Dichloroethane (CW only) (ingestion only)

Enzosulfan

Ethylbenzene (ingestion only)

Fluoranthene

gamma-HCH (gamma-BHC)

Hexachloroethane (ingestion only)

Isopropylbenzene

Mecoprop (MCP)

Methyl tertiary-butyl ether (inhalation only)

Pentachlorophenol

Pyrene

Toluene (ingestion only)

2,4,5-Trichlorophenol

Vinyl acetate (ingestion only)

Liver

Acenaphthene

Aldrin (Res. & I/C only)

Bis(2-ethylhexyl)phthalate (Res.& I/C only) (ingestion only)

Bromoform

Butyl Benzyl Phthalate (ingestion only)

Carbon Tetrachloride

Chlordane

Chlorobenzene (ingestion only)

Chlorodibromomethane (ingestion only)

Chloroform

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

2,4-DDDT1,2-Dibromoethane (ingestion only)1,2-Dichlorobenzene (CW only) (ingestion only)1,4-DichlorobenzeneDichlorodifluoromethane1,2-Dichloroethane (inhalation only)1,1-Dichloroethylenetrans-1,2-Dichloroethylene1,2-Dichloropropane (ingestion only)Dieldrin (Res. & I/C only)2,4-Dinitrotoluene2,6-DinitrotolueneDi-n-octyl phthalate (ingestion only)p-DioxaneEndrinEthylbenzene (ingestion only)FluorantheneHeptachlorHeptachlor epoxideHexachlorobenzenealpha-HCH (alpha-BHCgamma-HCH (gamma-BHC)High Melting Explosive, Octogen (HMX)Isophorone (inhalation only)Methyl tertiary-butyl etherMethylene Chloride (ingestion only)PentachlorophenolPhenol (inhalation only)PicloramStyrene (ingestion only)Tetrachloroethylene (ingestion only)Toxaphene (CW only)2,4,5-TP (Silvex)1,2,4-Trichlorobenzene (inhalation only)1,1,1-Trichloroethane (inhalation only)1,1,2-Trichloroethane (ingestion only)2,4,5-Trichlorophenol2,4,6-Trinitrotoluene (TNT)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

Vinyl Chloride**Mortality**Di-n-butyl phthalate (ingestion only)Xylenes (Res. & I/C only) (ingestion only)**Nervous System**Butanol (ingestion only)Carbon disulfide (inhalation only)CyanideDieldrin (CW only)2,4-Dimethylphenol2,4-Dinitrotoluene2,6-DinitrotolueneEndrinHexachloroethane (inhalation only) (CW only)ManganeseMercury (inhalation only)2-Methylphenol (o-cresol)Phenol (inhalation only)SeleniumStyrene (inhalation only)Tetrachloroethylene (inhalation only)Toluene (inhalation only)TrichloroethyleneXylenes (CW only) (ingestion only)Xylenes (inhalation only)**Reproductive System**Arsenic (inhalation only)Bis(2-ethylhexyl)phthalate (CW only) (ingestion only)Boron2-ButanoneCarbofuranCarbon disulfide (ingestion only)2-Chlorophenol1,2-Dibromo-3-chloropropane1,2-Dibromoethane (ingestion only)Dicamba

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

DinosebEthylbenzene (inhalation only)Isophorone (inhalation only)MethoxychlorRoyal Demolition Explosive, Cyclonite (RDX)2,4,6-Trichlorophenol**Respiratory System**Antimony (inhalation only)Benzoic Acid (inhalation only)Beryllium (inhalation only)Cadmium (inhalation only)Chromium (hex) (inhalation only)Cobalt (inhalation only)1,2-Dibromoethane (inhalation only)trans-1,2-Dichloroethylene (inhalation only)1,2-Dichloropropane (inhalation only)1,3-Dichloropropene (cis + trans) (inhalation only)Hexachlorocyclopentadiene (inhalation only)Methyl bromide (inhalation only)Naphthalene (inhalation only)Nickel (inhalation only)Nitrobenzene (inhalation only)Vinyl acetate (inhalation only)**Skin**Arsenic (ingestion only)Polychlorinated biphenyls (PCBs)SeleniumSilver**Spleen**1,3-Dinitrobenzene1,3,5-Trinitrobenzene**Notes:**Res. = Residential receptorI/C = Industrial/Commercial receptorCW = Construction Worker receptor

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

Adrenal Gland

Nitrobenzene

1,2,4-Trichlorobenzene (Ingestion only)

Kidney

Acetone (Ingestion only)

Cadmium (Ingestion only)

Chlorobenzene

Dalapon

1,1-Dichloroethane

Di-n-octyl phthalate (Ingestion only)

Endosulfan

Ethylbenzene

Fluoranthene

Methyl tertiary-butyl ether (Inhalation only)

Nitrobenzene

Pyrene

Toluene (Ingestion only)

2,4,5-Trichlorophenol

Vinyl acetate (Ingestion only)

Liver

Acenaphthene

Acetone (Ingestion only)

Butylbenzyl phthalate (Ingestion only)

Chlorobenzene (Ingestion only)

1,1-Dichloroethylene (Ingestion only)

Di-n-octyl phthalate (Ingestion only)

Endrin

Ethylbenzene

Fluoranthene

Methyl tertiary-butyl ether (Inhalation only)

Nitrobenzene

Picloram

Styrene (Ingestion only)

2,4,5-TP (Silvex)

Toluene (Ingestion only)

1,2,4-Trichlorobenzene (Inhalation only)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

2,4,5-TrichlorophenolCentral Nervous SystemButanol (Ingestion only)Cyanide (amenable)2,4-DimethylphenolEndrinManganese2-MethylphenolMercury (Inhalation only)Styrene (Inhalation only)Toluene (Inhalation only)Xylenes (Ingestion only)Circulatory SystemAntimonyBarium (Ingestion only)2,4-Dcis-1,2-Dichloroethylene (Ingestion only)Nitrobenzenetrans-1,2-Dichloroethylene (Ingestion only)2,4-DimethylphenolFluorantheneFluoreneStyrene (Ingestion only)ZincGastrointestinal SystemBeryllium (Ingestion only)EndothallHexachlorocyclopentadiene (Ingestion only)Methyl bromide (Ingestion only)Methyl tertiary-butyl ether (Ingestion only)Immune System2,4-Dichlorophenolp-ChloroanilineMercury (Ingestion only)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

Reproductive SystemBarium (Inhalation only)Boron (Ingestion only)Carbon disulfide2-Chlorophenol (Ingestion only)1,2-Dibromo-3-Chloropropane (Inhalation only)DinosebEthylbenzene (Inhalation only)MethoxychlorPhenolRespiratory System1,2-Dichloropropane (Inhalation only)1,3-Dichloropropylene (Inhalation only)Hexachlorocyclopentadiene (Inhalation only)Methyl bromide (Inhalation only)Napthalene (Inhalation only)Toluene (Inhalation only)Vinyl acetate (Inhalation only)Cholinesterase InhibitionAldicarbCarbofuranDecreased Body Weight Gains and Circulatory System EffectsAtrazineSimazine

(Source: Amended at 37 Ill. Reg. 7506, effective July 15, 2013)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

Section 742.APPENDIX A General**Section 742.TABLE F Similar-Acting Carcinogenic Chemicals****Bladder**

1,3-Dichloropropene (*cis + trans*) (ingestion only)

n-Nitrosodiphenylamine

Circulatory System

Benzene

1,2-Dibromoethane

1,2-Dichloroethane

Pentachlorophenol

2,4,6-Trichlorophenol

Gall Bladder

p-Dioxane (inhalation only)

Gastrointestinal System

Benzo(a)anthracene (ingestion only)

Benzo(b)fluoranthene (ingestion only)

Benzo(k)fluoranthene (ingestion only)

Benzo(a)pyrene (ingestion only)

Bromoform

Chrysene (ingestion only)

Dibenzo(a,h)anthracene (ingestion only)

1,2-Dibromoethane (ingestion only)

Indeno(1,2,3-cd)pyrene (ingestion only)

Kidney

Bromodichloromethane (ingestion only)

Chloroform (ingestion only)

1,2-Dibromo-3-chloropropane (ingestion only)

Nitrobenzene

Liver

Aldrin

Bis(2-chloroethyl)ether

Bis(2-ethylhexyl)phthalate

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

Carbazole
Carbon Tetrachloride
Chlordane
Chloroform
DDD
DDE
DDT
1,2-Dichloropropane
Dieldrin
2,4-Dinitrotoluene
2,6-Dinitrotoluene
p-Dioxane
Heptachlor
Heptachlor epoxide
Hexachlorobenzene
alpha-HCH (alpha-BHC)
gamma-HCH (gamma-BHC)
Methylene Chloride
Nitrobenzene
n-Nitrosodiphenylamine (inhalation only)
n-Nitrosodi-n-propylamine
Pentachlorophenol
Polychlorinated biphenyls (PCBs)
Tetrachloroethylene
Toxaphene
Trichloroethylene
Vinyl Chloride (I/C & CW)
Vinyl Chloride (Res.)

Mammary Gland

3,3'-Dichlorobenzidine
2,4-Dinitrotoluene
2,6-Dinitrotoluene

Respiratory System

Arsenic (inhalation only)
Benzo(a)anthracene (inhalation only)
Benzo(b)fluoranthene (inhalation only)
Benzo(k)fluoranthene (inhalation only)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

Benzo(a)pyrene (inhalation only)
Beryllium
Cadmium
Chromium (hexavalent ion)
Chrysene (inhalation only)
Cobalt
Dibenzo(a,h)anthracene (inhalation only)
1,2-Dibromo-3-chloropropane (inhalation only)
1,2-Dibromoethane (inhalation only)
1,3-Dichloropropene (cis + trans) (inhalation only)
p-Dioxane (inhalation only)
Trichloroethylene

Notes:

Res. = Residential receptor

I/C = Industrial/Commercial receptor

CW = Construction Worker receptor

Kidney

~~Bromodichloromethane (Ingestion only)~~
~~Chloroform (Ingestion only)~~
~~1,2-Dibromo-3-chloropropane (Ingestion only)~~
~~2,4-Dinitrotoluene~~
~~2,6-Dinitrotoluene~~
~~Hexachlorobenzene~~

Liver

~~Aldrin~~
~~Bis(2-chloroethyl)ether~~
~~Bis(2-ethylhexyl)phthalate (Ingestion only)~~
~~Carbazole~~
~~Carbon tetrachloride~~
~~Chlordane~~
~~Chloroform (Inhalation only)~~
~~DDD~~
~~DDE~~
~~DDT~~
~~1,2-Dibromo-3-chloropropane (Ingestion only)~~
~~1,2-Dibromoethane (Ingestion only)~~

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

~~3,3'-Dichlorobenzidine~~
~~1,2-Dichloroethane~~
~~1,2-Dichloropropane (Ingestion only)~~
~~1,3-Dichloropropylene (Ingestion only)~~
~~Dieldrin~~
~~2,4-Dinitrotoluene~~
~~2,6-Dinitrotoluene~~
~~Heptachlor~~
~~Heptachlor-epoxide~~
~~Hexachlorobenzene~~
~~alpha-HCH~~
~~gamma-HCH (Lindane)~~
~~Methylene chloride~~
~~N-Nitrosodiphenylamine~~
~~N-Nitrosodi-n-propylamine~~
~~Pentachlorophenol~~
~~Tetrachloroethylene~~
~~Trichloroethylene~~
~~2,4,6-Trichlorophenol~~
~~Toxaphene~~
~~Vinyl chloride~~

~~Circulatory System~~

~~Benzene~~
~~2,4,6-Trichlorophenol~~

~~Gastrointestinal System~~

~~Benzo(a)anthracene~~
~~Benzo(b)fluoranthene~~
~~Benzo(k)fluoranthene~~
~~Benzo(a)pyrene~~
~~Chrysene~~
~~Dibenzo(a,h)anthracene~~
~~Indeno(1,2,3-c,d)pyrene~~
~~Bromodichloromethane (Ingestion only)~~
~~Bromoform~~
~~1,2-Dibromo-3-chloropropane (Ingestion only)~~
~~1,2-Dibromoethane (Ingestion only)~~
~~1,3-Dichloropropylene (Ingestion only)~~

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

| Lung

~~Arsenic (Inhalation only)~~
~~Beryllium (Inhalation only)~~
~~Cadmium (Inhalation only)~~
~~Chromium, hexavalent (Inhalation only)~~
~~1,3-Dichloropropylene (Inhalation only)~~
~~Methylene chloride (Inhalation only)~~
~~N-Nitrosodi-n-propylamine~~
~~Nickel (Inhalation only)~~
~~Vinyl chloride~~

| Nasal Cavity

~~1,2-Dibromo-3-chloropropane (Inhalation only)~~
~~1,2-Dibromoethane (Inhalation only)~~
~~N-Nitrosodi-n-propylamine~~

| Bladder

~~3,3'-Dichlorobenzidine~~
~~1,3-Dichloropropylene (Ingestion only)~~
~~N-Nitrosodiphenylamine~~

(Source: Amended at 37 Ill. Reg. 7506, effective July 15, 2013)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

Section 742.APPENDIX A General**Section 742.TABLE J List of TACO Volatile Chemicals for the Indoor Inhalation Exposure Route**

<u>CAS No.</u>	<u>Chemical</u>
<u>67-64-1</u>	<u>Acetone</u>
<u>71-43-2</u>	<u>Benzene</u>
<u>111-44-4</u>	<u>Bis(2-chloroethyl)ether</u>
<u>75-27-4</u>	<u>Bromodichloromethane</u>
<u>75-25-2</u>	<u>Bromoform</u>
<u>71-36-3</u>	<u>Butanol</u>
<u>78-93-3</u>	<u>2-Butanone (MEK)</u>
<u>75-15-0</u>	<u>Carbon disulfide</u>
<u>56-23-5</u>	<u>Carbon tetrachloride</u>
<u>108-90-7</u>	<u>Chlorobenzene</u>
<u>124-48-1</u>	<u>Chlorodibromomethane</u>
<u>67-66-3</u>	<u>Chloroform</u>
<u>95-57-8</u>	<u>2-Chlorophenol</u>
<u>75-99-0</u>	<u>Dalapon</u>
<u>96-12-8</u>	<u>1,2-dibromo-3-chloropropane</u>
<u>106-93-4</u>	<u>1,2-Dibromoethane</u>
<u>95-50-1</u>	<u>1,2-Dichlorobenzene</u>
<u>106-46-7</u>	<u>1,4-Dichlorobenzene</u>
<u>75-71-8</u>	<u>Dichlorodifluoromethane</u>
<u>75-34-3</u>	<u>1,1-Dichloroethane</u>
<u>107-06-2</u>	<u>1,2-Dichloroethane</u>
<u>75-35-4</u>	<u>1,1-Dichloroethylene</u>
<u>156-59-2</u>	<u>cis-1,2-Dichloroethylene</u>
<u>156-60-5</u>	<u>trans-1,2-Dichloroethylene</u>
<u>78-87-5</u>	<u>1,2-Dichloropropane</u>
<u>542-75-6</u>	<u>1,3-Dichloropropylene (cis + trans)</u>
<u>123-91-1</u>	<u>p-Dioxane</u>
<u>100-41-4</u>	<u>Ethylbenzene</u>
<u>76-44-8</u>	<u>Heptachlor</u>
<u>118-74-1</u>	<u>Hexachlorobenzene</u>
<u>77-47-4</u>	<u>Hexachlorocyclopentadiene</u>
<u>67-72-1</u>	<u>Hexachloroethane</u>

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<u>CAS No.</u>	<u>Chemical</u>
<u>78-59-1</u>	<u>Isophorone</u>
<u>98-82-8</u>	<u>Isopropylbenzene (Cumene)</u>
<u>7439-97-6</u>	<u>Mercury</u>
<u>74-83-9</u>	<u>Methyl bromide</u>
<u>1634-04-4</u>	<u>Methyl tertiary-butyl ether</u>
<u>75-09-2</u>	<u>Methylene chloride</u>
<u>93-65-2</u>	<u>2-Methylnaphthalene</u>
<u>95-48-7</u>	<u>2-Methylphenol (o-cresol)</u>
<u>91-20-3</u>	<u>Naphthalene</u>
<u>98-95-3</u>	<u>Nitrobenzene</u>
<u>621-64-7</u>	<u>n-Nitrosodi-n-propylamine</u>
<u>108-95-2</u>	<u>Phenol</u>
<u>1336-36-3</u>	<u>Polychlorinated biphenyls (PCBs)</u>
<u>100-42-5</u>	<u>Styrene</u>
<u>127-18-4</u>	<u>Tetrachloroethylene</u>
<u>108-88-3</u>	<u>Toluene</u>
<u>120-82-1</u>	<u>1,2,4-Trichlorobenzene</u>
<u>71-55-6</u>	<u>1,1,1-Trichloroethane</u>
<u>79-00-5</u>	<u>1,1,2-Trichloroethane</u>
<u>79-01-6</u>	<u>Trichloroethylene</u>
<u>75-69-4</u>	<u>Trichlorofluoromethane</u>
<u>108-05-4</u>	<u>Vinyl acetate</u>
<u>75-01-4</u>	<u>Vinyl chloride</u>
<u>108-38-3</u>	<u>m-Xylene</u>
<u>95-47-6</u>	<u>o-Xylene</u>
<u>106-42-3</u>	<u>p-Xylene</u>
<u>1330-20-7</u>	<u>Xylenes (total)</u>

(Source: Added at 37 Ill. Reg. 7506, effective July 15, 2013)

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Section 742.APPENDIX A General**Section 742.TABLE K Soil Vapor Saturation Limits (C_v^{sat}) for Volatile Chemicals**

<u>CAS No.</u>	<u>Chemical Name</u>	<u>C_v^{sat} (mg/m³)</u>
<u>67-64-1</u>	<u>Acetone</u>	<u>7.50E+05</u>
<u>71-43-2</u>	<u>Benzene</u>	<u>4.20E+05</u>
<u>111-44-4</u>	<u>Bis(2-chloroethyl)ether</u>	<u>1.20E+04</u>
<u>75-27-4</u>	<u>Bromodichloromethane</u>	<u>4.50E+05</u>
<u>75-25-2</u>	<u>Bromoform</u>	<u>7.80E+04</u>
<u>71-36-3</u>	<u>Butanol</u>	<u>2.90E+04</u>
<u>78-93-3</u>	<u>2-Butanone (MEK)</u>	<u>3.80E+05</u>
<u>75-15-0</u>	<u>Carbon disulfide</u>	<u>1.50E+06</u>
<u>56-23-5</u>	<u>Carbon tetrachloride</u>	<u>1.00E+06</u>
<u>108-90-7</u>	<u>Chlorobenzene</u>	<u>7.40E+04</u>
<u>124-48-1</u>	<u>Chlorodibromomethane</u>	<u>5.70E+04</u>
<u>67-66-3</u>	<u>Chloroform</u>	<u>1.30E+06</u>
<u>95-57-8</u>	<u>2-Chlorophenol (ionizable organic)</u>	<u>1.70E+04</u>
<u>75-99-0</u>	<u>Dalapon</u>	<u>1.50E+03</u>
<u>96-12-8</u>	<u>1,2-Dibromo-3-chloropropane</u>	<u>7.80E+03</u>
<u>106-93-4</u>	<u>1,2-Dibromoethane</u>	<u>1.40E+05</u>
<u>95-50-1</u>	<u>1,2-Dichlorobenzene</u>	<u>1.10E+04</u>
<u>106-46-7</u>	<u>1,4-Dichlorobenzene</u>	<u>8.40E+03</u>
<u>75-71-8</u>	<u>Dichlorodifluoromethane</u>	<u>3.30E+07</u>
<u>75-34-3</u>	<u>1,1-Dichloroethane</u>	<u>1.30E+06</u>
<u>107-06-2</u>	<u>1,2-Dichloroethane</u>	<u>4.40E+05</u>

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<u>CAS No.</u>	<u>Chemical Name</u>	<u>C_v^{sat} (mg/m³)</u>
<u>75-35-4</u>	<u>1,1-Dichloroethylene</u>	<u>3.30E+06</u>
<u>156-59-2</u>	<u>cis-1,2-Dichloroethylene</u>	<u>1.10E+06</u>
<u>156-60-5</u>	<u>trans-1,2-Dichloroethylene</u>	<u>1.80E+06</u>
<u>78-87-5</u>	<u>1,2-Dichloropropane</u>	<u>3.20E+05</u>
<u>542-75-6</u>	<u>1,3-Dichloropropylene (cis + trans)</u>	<u>2.10E+05</u>
<u>123-91-1</u>	<u>p-Dioxane</u>	<u>1.90E+05</u>
<u>100-41-4</u>	<u>Ethylbenzene</u>	<u>5.90E+04</u>
<u>76-44-8</u>	<u>Heptachlor</u>	<u>8.30E+00</u>
<u>118-74-1</u>	<u>Hexachlorobenzene</u>	<u>2.80E-01</u>
<u>77-47-4</u>	<u>Hexachlorocyclopentadiene</u>	<u>9.10E+02</u>
<u>67-72-1</u>	<u>Hexachloroethane</u>	<u>2.80E+03</u>
<u>78-59-1</u>	<u>Isophorone</u>	<u>3.40E+03</u>
<u>98-82-8</u>	<u>Isopropylbenzene (Cumene)</u>	<u>3.00E+04</u>
<u>7439-97-6</u>	<u>Mercury (elemental)</u>	<u>2.20E+01</u>
<u>74-83-9</u>	<u>Methyl bromide</u>	<u>8.60E+06</u>
<u>1634-04-4</u>	<u>Methyl tertiary-butyl ether</u>	<u>1.20E+06</u>
<u>75-09-2</u>	<u>Methylene chloride</u>	<u>2.00E+06</u>
<u>93-65-2</u>	<u>2-Methylnaphthalene</u>	<u>5.30E+02</u>
<u>1634-04-4</u>	<u>2-Methylphenol (o-cresol)</u>	<u>1.80E+03</u>
<u>91-20-3</u>	<u>Naphthalene</u>	<u>6.20E+02</u>
<u>98-95-3</u>	<u>Nitrobenzene</u>	<u>1.70E+03</u>
<u>621-64-7</u>	<u>n-Nitrosodi-n-propylamine</u>	<u>9.50E+02</u>
<u>108-95-2</u>	<u>Phenol</u>	<u>1.50E+03</u>

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<u>CAS No.</u>	<u>Chemical Name</u>	<u>C_v^{sat} (mg/m³)</u>
<u>1336-36-3</u>	<u>Polychlorinated biphenyls (PCBs)</u>	<u>9.00E+00</u>
<u>100-42-5</u>	<u>Styrene</u>	<u>3.40E+04</u>
<u>127-18-4</u>	<u>Tetrachloroethylene</u>	<u>1.80E+05</u>
<u>108-88-3</u>	<u>Toluene</u>	<u>1.40E+05</u>
<u>120-82-1</u>	<u>1,2,4-Trichlorobenzene</u>	<u>4.30E+03</u>
<u>71-55-6</u>	<u>1,1,1-Trichloroethane</u>	<u>8.70E+05</u>
<u>79-00-5</u>	<u>1,1,2-Trichloroethane</u>	<u>1.70E+05</u>
<u>79-01-6</u>	<u>Trichloroethylene</u>	<u>5.30E+05</u>
<u>75-69-4</u>	<u>Trichlorofluoromethane</u>	<u>6.30E+06</u>
<u>108-05-4</u>	<u>Vinyl acetate</u>	<u>4.30E+05</u>
<u>75-01-4</u>	<u>Vinyl chloride</u>	<u>1.10E+07</u>
<u>108-38-3</u>	<u>m-Xylene</u>	<u>5.20E+04</u>
<u>95-47-6</u>	<u>o-Xylene</u>	<u>4.10E+04</u>
<u>106-42-3</u>	<u>p-Xylene</u>	<u>5.50E+04</u>
<u>1330-20-7</u>	<u>Xylenes (total)</u>	<u>4.90E+04</u>

(Source: Added at 37 Ill. Reg. 7506, effective July 15, 2013)

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Section 742.APPENDIX B Tier 1 Illustrations and Tables**Section 742.TABLE G Tier 1 Soil Gas Remediation Objectives for the Outdoor Inhalation Exposure Route^a**

<u>CAS No.</u>	<u>Chemical Name</u>	<u>Residential (mg/m³)</u>	<u>Industrial/Commercial (mg/m³)</u>	<u>Construction Worker (mg/m³)</u>
<u>67-64-1</u>	<u>Acetone</u>	<u>750,000^e</u>	<u>750,000^e</u>	<u>750,000^e</u>
<u>71-43-2</u>	<u>Benzene</u>	<u>420^c</u>	<u>800^c</u>	<u>1,100^c</u>
<u>111-44-4</u>	<u>Bis(2-chloroethyl)ether</u>	<u>1.3^c</u>	<u>2.4^c</u>	<u>3.4^c</u>
<u>75-27-4</u>	<u>Bromodichloromethane</u>	<u>450,000^e</u>	<u>450,000^e</u>	<u>450,000^e</u>
<u>75-25-2</u>	<u>Bromoform</u>	<u>1,800^c</u>	<u>3,500^c</u>	<u>4,900^c</u>
<u>71-36-3</u>	<u>Butanol</u>	<u>29,000^e</u>	<u>29,000^e</u>	<u>29,000^e</u>
<u>78-93-3</u>	<u>2-Butanone (MEK)</u>	<u>380,000^e</u>	<u>380,000^e</u>	<u>15,000^b</u>
<u>75-15-0</u>	<u>Carbon disulfide</u>	<u>1,500,000^e</u>	<u>1,500,000^e</u>	<u>48,000^b</u>
<u>56-23-5</u>	<u>Carbon tetrachloride</u>	<u>290^c</u>	<u>550^c</u>	<u>770^c</u>
<u>108-90-7</u>	<u>Chlorobenzene</u>	<u>36,000^b</u>	<u>57,000^b</u>	<u>3,700^b</u>
<u>124-48-1</u>	<u>Chlorodibromomethane</u>	<u>57,000^e</u>	<u>57,000^e</u>	<u>150^b</u>
<u>67-66-3</u>	<u>Chloroform</u>	<u>110^c</u>	<u>200^c</u>	<u>290^c</u>
<u>95-57-8</u>	<u>2-Chlorophenol</u>	<u>17,000^e</u>	<u>17,000^e</u>	<u>17,000^e</u>
<u>75-99-0</u>	<u>Dalapon</u>	<u>1,500^e</u>	<u>1,500^e</u>	<u>1,500^e</u>
<u>96-12-8</u>	<u>1,2-Dibromo-3-chloropropane</u>	<u>0.14^c</u>	<u>0.27^c</u>	<u>0.38^c</u>
<u>106-93-4</u>	<u>1,2-Dibromoethane</u>	<u>2.9^c</u>	<u>5.6^c</u>	<u>7.9^c</u>
<u>95-50-1</u>	<u>1,2-Dichlorobenzene</u>	<u>11,000^e</u>	<u>11,000^e</u>	<u>6,700^b</u>
<u>106-46-7</u>	<u>1,4-Dichlorobenzene</u>	<u>8,400^e</u>	<u>8,400^e</u>	<u>6,400^b</u>
<u>75-71-8</u>	<u>Dichlorodifluoromethane</u>	<u>890,000^b</u>	<u>1,400,000^b</u>	<u>92,000^b</u>
<u>75-34-3</u>	<u>1,1-Dichloroethane</u>	<u>870,000^b</u>	<u>1,300,000^e</u>	<u>90,000^b</u>
<u>107-06-2</u>	<u>1,2-Dichloroethane</u>	<u>67^c</u>	<u>130^c</u>	<u>180^c</u>
<u>75-35-4</u>	<u>1,1-Dichloroethylene</u>	<u>520,000^b</u>	<u>820,000^b</u>	<u>5,300^b</u>
<u>156-59-2</u>	<u>cis-1,2-Dichloroethylene</u>	<u>1,100,000^e</u>	<u>1,100,000^e</u>	<u>1,100,000^e</u>
<u>156-60-5</u>	<u>trans-1,2-Dichloroethylene</u>	<u>120,000^b</u>	<u>190,000^b</u>	<u>12,000^b</u>
<u>78-87-5</u>	<u>1,2-Dichloropropane</u>	<u>240^c</u>	<u>470^c</u>	<u>110^c</u>
<u>542-75-6</u>	<u>1,3-Dichloropropylene (cis + trans)</u>	<u>1,900^c</u>	<u>3,700^c</u>	<u>1,400^c</u>
<u>123-91-1</u>	<u>p-Dioxane</u>	<u>16^c</u>	<u>30^c</u>	<u>42^c</u>

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<u>CAS No.</u>	<u>Chemical Name</u>	<u>Residential (mg/m³)</u>	<u>Industrial/Commercial (mg/m³)</u>	<u>Construction Worker (mg/m³)</u>
<u>100-41-4</u>	<u>Ethylbenzene</u>	<u>59,000^e</u>	<u>59,000^e</u>	<u>8,500^b</u>
<u>76-44-8</u>	<u>Heptachlor</u>	<u>0.40^c</u>	<u>0.76^c</u>	<u>1.1^c</u>
<u>118-74-1</u>	<u>Hexachlorobenzene</u>	<u>0.26^c</u>	<u>0.28^c</u>	<u>0.28^c</u>
<u>77-47-4</u>	<u>Hexachlorocyclopentadiene</u>	<u>85^b</u>	<u>140^b</u>	<u>440^b</u>
<u>67-72-1</u>	<u>Hexachloroethane</u>	<u>2,800^e</u>	<u>2,800^e</u>	<u>2,800^e</u>
<u>78-59-1</u>	<u>Isophorone</u>	<u>3,400^e</u>	<u>3,400^e</u>	<u>1,500^b</u>
<u>98-82-8</u>	<u>Isopropylbenzene (Cumene)</u>	<u>30,000^e</u>	<u>30,000^e</u>	<u>30,000^e</u>
<u>7439-97-6</u>	<u>Mercury^f</u>	<u>22^e</u>	<u>22^e</u>	<u>0.62^b</u>
<u>74-83-9</u>	<u>Methyl bromide</u>	<u>12,000^b</u>	<u>19,000^b</u>	<u>2,400^b</u>
<u>1634-04-4</u>	<u>Methyl tertiary-butyl ether</u>	<u>1,200,000^e</u>	<u>1,200,000^e</u>	<u>23,000^b</u>
<u>75-09-2</u>	<u>Methylene chloride</u>	<u>6,100^c</u>	<u>12,000^c</u>	<u>5,100^b</u>
<u>91-57-6</u>	<u>2-Methylnaphthalene</u>	<u>530^c</u>	<u>530^c</u>	<u>530^c</u>
<u>95-48-7</u>	<u>2-Methylphenol (o-cresol)</u>	<u>1,800^e</u>	<u>1,800^e</u>	<u>410^b</u>
<u>91-20-3</u>	<u>Naphthalene</u>	<u>560^b</u>	<u>620^e</u>	<u>5.8^b</u>
<u>98-95-3</u>	<u>Nitrobenzene</u>	<u>6.5^c</u>	<u>12^c</u>	<u>10^b</u>
<u>621-64-7</u>	<u>n-Nitrosodi-n-propylamine</u>	<u>0.056^c</u>	<u>0.11^c</u>	<u>0.15^c</u>
<u>108-95-2</u>	<u>Phenol</u>	<u>1,500^e</u>	<u>1,500^e</u>	<u>79^b</u>
<u>1336-36-3</u>	<u>Polychlorinated biphenyls (PCBs)</u>	<u>---^d</u>	<u>---^d</u>	<u>---^d</u>
<u>100-42-5</u>	<u>Styrene</u>	<u>34,000^e</u>	<u>34,000^e</u>	<u>16,000^b</u>
<u>127-18-4</u>	<u>Tetrachloroethylene</u>	<u>360^c</u>	<u>690^c</u>	<u>970^c</u>
<u>108-88-3</u>	<u>Toluene</u>	<u>140,000^e</u>	<u>140,000^e</u>	<u>50,000^b</u>
<u>120-82-1</u>	<u>1,2,4-Trichlorobenzene</u>	<u>1,000^b</u>	<u>1,600^b</u>	<u>110^b</u>
<u>71-55-6</u>	<u>1,1,1-Trichloroethane</u>	<u>870,000^e</u>	<u>870,000^e</u>	<u>89,000^b</u>
<u>79-00-5</u>	<u>1,1,2-Trichloroethane</u>	<u>170,000^e</u>	<u>170,000^e</u>	<u>170,000^e</u>
<u>79-01-6</u>	<u>Trichloroethylene</u>	<u>1,700^c</u>	<u>3,300^c</u>	<u>1,500^b</u>
<u>75-69-4</u>	<u>Trichlorofluoromethane</u>	<u>2,100,000^b</u>	<u>3,400,000^b</u>	<u>220,000^b</u>
<u>108-05-4</u>	<u>Vinyl acetate</u>	<u>160,000^b</u>	<u>250,000^b</u>	<u>1,600^b</u>
<u>75-01-4</u>	<u>Vinyl chloride</u>	<u>780^c</u>	<u>3,000^c</u>	<u>3,000^b</u>
<u>108-38-3</u>	<u>m-Xylene</u>	<u>52,000^e</u>	<u>52,000^e</u>	<u>3,100^b</u>
<u>95-47-6</u>	<u>o-Xylene</u>	<u>41,000^e</u>	<u>41,000^e</u>	<u>2,600^b</u>
<u>106-42-3</u>	<u>p-Xylene</u>	<u>55,000^e</u>	<u>55,000^e</u>	<u>3,300^b</u>

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<u>CAS No.</u>	<u>Chemical Name</u>	<u>Residential (mg/m³)</u>	<u>Industrial/Commercial (mg/m³)</u>	<u>Construction Worker (mg/m³)</u>
<u>1330-20-7</u>	<u>Xylenes (total)</u>	<u>49,000^e</u>	<u>49,000^e</u>	<u>2,900^b</u>

Chemical Name and Remediation Objective Notations

- ^a For the outdoor inhalation exposure route, it is acceptable to determine compliance by meeting either the soil or soil gas remediation objectives. The soil remediation objectives for the outdoor inhalation route are located in Appendix B, Tables A and B.
- ^b Calculated values correspond to a target hazard quotient of 1.
- ^c Calculated values correspond to a cancer risk level of 1 in 1,000,000.
- ^d PCBs are a mixture of different congeners. The appropriate values to use for the physical/chemical and toxicity parameters depend on the congeners present at the site. Persons remediating sites should consult with IEPA Bureau of Land (BOL) if calculation of Tier 2 or 3 remediation objectives is desired.
- ^e The value shown is the C_v^{sat} value of the chemical in soil gas. The C_v^{sat} of the chemical becomes the remediation objective if the calculated value exceeds the C_v^{sat} value or if there are no toxicity criteria available for the inhalation route of exposure.
- ^f Value for the inhalation exposure route is based on Reference Concentration for elemental Mercury (CAS No. 7439-97-6). Inhalation remediation objectives only apply at sites where elemental Mercury is a contaminant of concern.

(Source: Added at 37 Ill. Reg. 7506, effective July 15, 2013)

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Section 742.APPENDIX B Tier 1 Illustrations and Tables**Section 742.TABLE H Tier 1 Soil Gas and Groundwater Remediation Objectives for the Indoor Inhalation Exposure Route – Diffusion and Advection¹** Q_{soil} equals 83.33 cm³/sec^a

<u>CAS No.</u>	<u>Chemical Name</u>	<u>Soil Gas</u>		<u>Groundwater</u>	
		<u>Residential (mg/m³)</u>	<u>Industrial/ Commercial (mg/m³)</u>	<u>Residential (mg/L)</u>	<u>Industrial/ Commercial (mg/L)</u>
<u>67-64-1</u>	<u>Acetone</u>	<u>750,000^f</u>	<u>750,000^f</u>	<u>1,000,000^g</u>	<u>1,000,000^g</u>
<u>71-43-2</u>	<u>Benzene</u>	<u>0.37^c</u>	<u>2.8^c</u>	<u>0.11^c</u>	<u>0.41^c</u>
<u>111-44-4</u>	<u>Bis(2-chloroethyl)ether</u>	<u>0.014^c</u>	<u>0.087^c</u>	<u>0.083^c</u>	<u>0.43^c</u>
<u>75-27-4</u>	<u>Bromodichloromethane</u>	<u>450,000^f</u>	<u>450,000^f</u>	<u>6,700^g</u>	<u>6,700^g</u>
<u>75-25-2</u>	<u>Bromoform</u>	<u>11^c</u>	<u>52^c</u>	<u>3.1^c</u>	<u>12^c</u>
<u>71-36-3</u>	<u>Butanol</u>	<u>29,000^f</u>	<u>29,000^f</u>	<u>74,000^g</u>	<u>74,000^g</u>
<u>78-93-3</u>	<u>2-Butanone (MEK)</u>	<u>6,400^b</u>	<u>40,000^b</u>	<u>10,000^b</u>	<u>48,000^b</u>
<u>75-15-0</u>	<u>Carbon disulfide</u>	<u>780^b</u>	<u>5,300^b</u>	<u>67^b</u>	<u>210^b</u>
<u>56-23-5</u>	<u>Carbon tetrachloride</u>	<u>0.21^c</u>	<u>1.5^c</u>	<u>0.020^c</u>	<u>0.076^c</u>
<u>108-90-7</u>	<u>Chlorobenzene</u>	<u>69^b</u>	<u>420^b</u>	<u>26^b</u>	<u>82^b</u>
<u>124-48-1</u>	<u>Chlorodibromomethane</u>	<u>57,000^f</u>	<u>57,000^f</u>	<u>2,600^g</u>	<u>2,600^g</u>
<u>67-66-3</u>	<u>Chloroform</u>	<u>0.11^c</u>	<u>0.92^c</u>	<u>0.07ⁱ</u>	<u>0.15^c</u>
<u>95-57-8</u>	<u>2-Chlorophenol</u>	<u>17,000^f</u>	<u>17,000^f</u>	<u>22,000^g</u>	<u>22,000^g</u>
<u>75-99-0</u>	<u>Dalapon^c</u>	<u>1,500^f</u>	<u>1,500^f</u>	<u>900,000^g</u>	<u>900,000^g</u>
<u>96-12-8</u>	<u>1,2-Dibromo-3-chloropropane^c</u>	<u>0.0012^c</u>	<u>0.0062^c</u>	<u>0.00065^c</u>	<u>0.0027^c</u>
<u>106-93-4</u>	<u>1,2-Dibromoethane</u>	<u>0.0078^c</u>	<u>0.048^c</u>	<u>0.0035^c</u>	<u>0.014^c</u>
<u>95-50-1</u>	<u>1,2-Dichlorobenzene</u>	<u>290^b</u>	<u>1,700^b</u>	<u>140^b</u>	<u>160^g</u>
<u>106-46-7</u>	<u>1,4-Dichlorobenzene</u>	<u>1,200^b</u>	<u>6,800^b</u>	<u>79^g</u>	<u>79^g</u>
<u>75-71-8</u>	<u>Dichlorodifluoromethane</u>	<u>270^b</u>	<u>1,700^b</u>	<u>3.0^b</u>	<u>9.2^b</u>
<u>75-34-3</u>	<u>1,1-Dichloroethane</u>	<u>690^b</u>	<u>4,200^b</u>	<u>180^b</u>	<u>580^b</u>
<u>107-06-2</u>	<u>1,2-Dichloroethane</u>	<u>0.099^c</u>	<u>0.81^c</u>	<u>0.054^c</u>	<u>0.22^c</u>
<u>75-35-4</u>	<u>1,1-Dichloroethylene</u>	<u>240^b</u>	<u>1,600^b</u>	<u>24^b</u>	<u>74^b</u>
<u>156-59-2</u>	<u>cis-1,2-Dichloroethylene</u>	<u>1,100,000^f</u>	<u>1,100,000^f</u>	<u>3,500^g</u>	<u>3,500^g</u>
<u>156-60-5</u>	<u>trans-1,2-Dichloroethylene</u>	<u>85^b</u>	<u>510^b</u>	<u>16^b</u>	<u>51^b</u>
<u>78-87-5</u>	<u>1,2-Dichloropropane</u>	<u>0.31^c</u>	<u>2.3^c</u>	<u>0.12^c</u>	<u>0.48^c</u>

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<u>542-75-6</u>	<u>1,3-Dichloropropylene (<i>cis + trans</i>)</u>	<u>0.90^c</u>	<u>6.2^c</u>	<u>0.14^c</u>	<u>0.52^c</u>
<u>123-91-1</u>	<u>p-Dioxane</u>	<u>0.22^c</u>	<u>2.3^c</u>	<u>2.9^c</u>	<u>25^c</u>
<u>100-41-4</u>	<u>Ethylbenzene</u>	<u>1.3^c</u>	<u>9.3^c</u>	<u>0.37^c</u>	<u>1.4^c</u>
<u>76-44-8</u>	<u>Heptachlor</u>	<u>0.0063^c</u>	<u>0.032^c</u>	<u>0.0025^c</u>	<u>0.0096^c</u>
<u>118-74-1</u>	<u>Hexachlorobenzene</u>	<u>0.0087^c</u>	<u>0.057^c</u>	<u>0.0059^c</u>	<u>0.0062^g</u>
<u>77-47-4</u>	<u>Hexachlorocyclopentadiene</u>	<u>0.58^b</u>	<u>2.6^b</u>	<u>0.084^b</u>	<u>0.26^b</u>
<u>67-72-1</u>	<u>Hexachloroethane</u>	<u>2,800^f</u>	<u>2,800^f</u>	<u>50^g</u>	<u>50^g</u>
<u>78-59-1</u>	<u>Isophorone</u>	<u>2,900^b</u>	<u>3,400^f</u>	<u>12,000^g</u>	<u>12,000^g</u>
<u>98-82-8</u>	<u>Isopropylbenzene (Cumene)</u>	<u>600^b</u>	<u>3,500^b</u>	<u>2.7^b</u>	<u>8.4^b</u>
<u>7439-97-6</u>	<u>Mercury^h</u>	<u>0.42^b</u>	<u>2.5^b</u>	<u>0.053^b</u>	<u>0.060^g</u>
<u>74-83-9</u>	<u>Methyl bromide</u>	<u>6.9^b</u>	<u>42^b</u>	<u>1.5^b</u>	<u>4.8^b</u>
<u>1634-04-4</u>	<u>Methyl tertiary-butyl ether</u>	<u>3,700^b</u>	<u>24,000^b</u>	<u>1,900^b</u>	<u>6,800^b</u>
<u>75-09-2</u>	<u>Methylene chloride</u>	<u>5.6^c</u>	<u>45^c</u>	<u>2.1^c</u>	<u>8.2^c</u>
<u>91-57-6</u>	<u>2-Methylnaphthalene</u>	<u>530^f</u>	<u>530^f</u>	<u>25^g</u>	<u>25^g</u>
<u>95-48-7</u>	<u>2-Methylphenol (o-cresol)</u>	<u>600^b</u>	<u>1,800^f</u>	<u>26,000^g</u>	<u>26,000^g</u>
<u>91-20-3</u>	<u>Naphthalene</u>	<u>0.11^c</u>	<u>0.75^c</u>	<u>0.075^c</u>	<u>0.32^c</u>
<u>98-95-3</u>	<u>Nitrobenzene</u>	<u>0.077^c</u>	<u>0.57^c</u>	<u>0.34^c</u>	<u>2.0^c</u>
<u>621-64-7</u>	<u>n-Nitrosodi-n-propylamine</u>	<u>0.0016^c</u>	<u>0.012^c</u>	<u>0.044^c</u>	<u>0.27^c</u>
<u>108-95-2</u>	<u>Phenol</u>	<u>140^b</u>	<u>1,300^b</u>	<u>28,000^b</u>	<u>83,000^g</u>
<u>1336-36-3</u>	<u>Polychlorinated biphenyls (PCBs)</u>	<u>---^d</u>	<u>---^d</u>	<u>---^d</u>	<u>---^d</u>
<u>100-42-5</u>	<u>Styrene</u>	<u>1,400^b</u>	<u>8,500^b</u>	<u>310^g</u>	<u>310^g</u>
<u>127-18-4</u>	<u>Tetrachloroethylene</u>	<u>0.55^c</u>	<u>4.0^c</u>	<u>0.091^c</u>	<u>0.34^c</u>
<u>108-88-3</u>	<u>Toluene</u>	<u>6,200^b</u>	<u>40,000^b</u>	<u>530^g</u>	<u>530^g</u>
<u>120-82-1</u>	<u>1,2,4-Trichlorobenzene</u>	<u>5.4^b</u>	<u>25^b</u>	<u>1.8^b</u>	<u>5.9^b</u>
<u>71-55-6</u>	<u>1,1,1-Trichloroethane</u>	<u>6,600^b</u>	<u>41,000^b</u>	<u>1,000^b</u>	<u>1,300^g</u>
<u>79-00-5</u>	<u>1,1,2-Trichloroethane</u>	<u>170,000^f</u>	<u>170,000^f</u>	<u>4,400^g</u>	<u>4,400^g</u>
<u>79-01-6</u>	<u>Trichloroethylene</u>	<u>1.5^c</u>	<u>12^c</u>	<u>0.34^c</u>	<u>1.3^c</u>
<u>75-69-4</u>	<u>Trichlorofluoromethane</u>	<u>860^b</u>	<u>5,600^b</u>	<u>26^b</u>	<u>82^b</u>
<u>108-05-4</u>	<u>Vinyl acetate</u>	<u>250^b</u>	<u>1,600^b</u>	<u>160^b</u>	<u>550^b</u>
<u>75-01-4</u>	<u>Vinyl chloride</u>	<u>0.29^c</u>	<u>4.8^c</u>	<u>0.028^c</u>	<u>0.21^c</u>
<u>108-38-3</u>	<u>m-Xylene</u>	<u>140^b</u>	<u>850^b</u>	<u>43^b</u>	<u>130^b</u>
<u>95-47-6</u>	<u>o-Xylene</u>	<u>120^b</u>	<u>790^b</u>	<u>40^b</u>	<u>130^b</u>
<u>106-42-3</u>	<u>p-Xylene</u>	<u>130^b</u>	<u>820^b</u>	<u>38^b</u>	<u>120^b</u>

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<u>1330-20-7</u>	<u>Xylenes (total)^c</u>	<u>140^b</u>	<u>840^b</u>	<u>30^b</u>	<u>93^b</u>
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Chemical Name and Remediation Objective Notations

- ^a Compliance is determined by meeting either the soil gas remediation objectives or the groundwater remediation objectives. See Sections 742.505 and 742.515.
- ^b Calculated values correspond to a target hazard quotient of 1.
- ^c Calculated values correspond to a cancer risk level of 1 in 1,000,000.
- ^d PCBs are a mixture of different congeners. The appropriate values to use for the physical/chemical and toxicity parameters depend on the congeners present at the site. Persons remediating sites should consult with BOL if calculation of Tier 2 or 3 remediation objectives is desired.
- ^e Groundwater remediation objective calculated at 25°C. For Dalapon and 1,2-Dibromo-3-chloropropane, the critical temperature (T_c) and enthalpy of vaporization at the normal boiling point ($H_{v,b}$) are not available. For Xylenes (total), the enthalpy of vaporization at the normal boiling point ($H_{v,b}$) is not available.
- ^f The value shown is the C_v^{sat} value of the chemical in soil gas. The C_v^{sat} of the chemical becomes the remediation objective if the calculated value exceeds the C_v^{sat} value or if there are no toxicity criteria available for the inhalation route of exposure.
- ^g The value shown is the solubility of the chemical in water. The solubility of the chemical becomes the remediation objective if the calculated value exceeds the solubility or if there are no toxicity criteria available for the ingestion route of exposure.
- ^h Value for the inhalation exposure route is based on Reference Concentration for elemental Mercury (CAS No. 7439-97-6). Inhalation remediation objectives only apply at sites where elemental Mercury is a contaminant of concern.
- ⁱ The value shown is the Groundwater Remediation Objective listed in Appendix B, Table E.
- ^j Calculated values for the remediation objectives in this table are based on the assumption that the existing or potential building has a full concrete slab-on-grade, though the remediation objectives in this table are also considered protective of occupants of buildings with full concrete basement floors and walls. This table applies only when the existing or potential

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building has a full concrete slab-on-grade or a full concrete basement floor and walls. Institutional controls under Subpart J are required to use remediation objectives in this table. This table does not apply when the existing or potential building has neither a full concrete slab-on-grade nor a full concrete basement floor and walls, such as a building with an earthen crawl space, an earthen floor, a stone foundation, a partial concrete floor, or a sump. In such cases, site evaluators have the option of excluding the indoor inhalation exposure route under Section 742.312, meeting the building control technology requirements under Subpart L, or proposing an alternative approach under Tier 3.

(Source: Added at 37 Ill. Reg. 7506, effective July 15, 2013)

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Section 742.APPENDIX B Tier 1 Illustrations and Tables**Section 742.TABLE I Tier 1 Soil Gas and Groundwater Remediation Objectives for the Indoor Inhalation Exposure Route – Diffusion Only^j**Q_{soil} equals 0.0 cm³/sec^{a,b}

CAS No.	Chemical Name	Soil Gas		Groundwater	
		Residential (mg/m ³)	Industrial/ Commercial (mg/m ³)	Residential (mg/L)	Industrial/ Commercial (mg/L)
<u>67-64-1</u>	<u>Acetone</u>	<u>750,000^g</u>	<u>750,000^g</u>	<u>1,000,000^h</u>	<u>1,000,000^h</u>
<u>71-43-2</u>	<u>Benzene</u>	<u>41^d</u>	<u>300^d</u>	<u>0.41^d</u>	<u>2.6^d</u>
<u>111-44-4</u>	<u>Bis(2-chloroethyl)ether</u>	<u>1.9^d</u>	<u>14^d</u>	<u>6.6^d</u>	<u>48^d</u>
<u>75-27-4</u>	<u>Bromodichloromethane</u>	<u>450,000^g</u>	<u>450,000^g</u>	<u>6,700^h</u>	<u>6,700^h</u>
<u>75-25-2</u>	<u>Bromoform</u>	<u>1,800^d</u>	<u>13,000^d</u>	<u>170^d</u>	<u>1,300^d</u>
<u>71-36-3</u>	<u>Butanol</u>	<u>29,000^g</u>	<u>29,000^g</u>	<u>74,000^h</u>	<u>74,000^h</u>
<u>78-93-3</u>	<u>2-Butanone (MEK)</u>	<u>380,000^g</u>	<u>380,000^g</u>	<u>220,000^h</u>	<u>220,000^h</u>
<u>75-15-0</u>	<u>Carbon disulfide</u>	<u>81,000^c</u>	<u>500,000^c</u>	<u>170^c</u>	<u>820^c</u>
<u>56-23-5</u>	<u>Carbon tetrachloride</u>	<u>24^d</u>	<u>180^d</u>	<u>0.052^d</u>	<u>0.31^d</u>
<u>108-90-7</u>	<u>Chlorobenzene</u>	<u>8,300^c</u>	<u>51,000^c</u>	<u>130^c</u>	<u>470^h</u>
<u>124-48-1</u>	<u>Chlorodibromomethane</u>	<u>57,000^g</u>	<u>57,000^g</u>	<u>2,600^h</u>	<u>2,600^h</u>
<u>67-66-3</u>	<u>Chloroform</u>	<u>12^d</u>	<u>87^d</u>	<u>0.17^d</u>	<u>1.1^d</u>
<u>95-57-8</u>	<u>2-Chlorophenol</u>	<u>17,000^g</u>	<u>17,000^g</u>	<u>22,000^h</u>	<u>22,000^h</u>
<u>75-99-0</u>	<u>Dalapon^f</u>	<u>1,500^g</u>	<u>1,500^g</u>	<u>900,000^h</u>	<u>900,000^h</u>
<u>96-12-8</u>	<u>1,2-Dibromo-3-chloropropane^f</u>	<u>0.17^d</u>	<u>1.3^d</u>	<u>0.029^d</u>	<u>0.21^d</u>
<u>106-93-4</u>	<u>1,2-Dibromoethane</u>	<u>1.1^d</u>	<u>7.9^d</u>	<u>0.073^d</u>	<u>0.52^d</u>
<u>95-50-1</u>	<u>1,2-Dichlorobenzene</u>	<u>11,000^g</u>	<u>11,000^g</u>	<u>160^h</u>	<u>160^h</u>
<u>106-46-7</u>	<u>1,4-Dichlorobenzene</u>	<u>8,400^g</u>	<u>8,400^g</u>	<u>79^h</u>	<u>79^h</u>
<u>75-71-8</u>	<u>Dichlorodifluoromethane</u>	<u>32,000^c</u>	<u>200,000^c</u>	<u>6.8^c</u>	<u>33^c</u>
<u>75-34-3</u>	<u>1,1-Dichloroethane</u>	<u>81,000^c</u>	<u>500,000^c</u>	<u>750^c</u>	<u>4,100^c</u>
<u>107-06-2</u>	<u>1,2-Dichloroethane</u>	<u>10^d</u>	<u>76^d</u>	<u>0.50^d</u>	<u>3.5^d</u>
<u>75-35-4</u>	<u>1,1-Dichloroethylene</u>	<u>27,000^c</u>	<u>160,000^c</u>	<u>61^c</u>	<u>300^c</u>
<u>156-59-2</u>	<u>cis-1,2-Dichloroethylene</u>	<u>1,100,000^g</u>	<u>1,100,000^g</u>	<u>3,500^h</u>	<u>3,500^h</u>
<u>156-60-5</u>	<u>trans-1,2-Dichloroethylene</u>	<u>10,000^c</u>	<u>63,000^c</u>	<u>58^c</u>	<u>310^c</u>
<u>78-87-5</u>	<u>1,2-Dichloropropane</u>	<u>36^d</u>	<u>260^d</u>	<u>0.67^d</u>	<u>4.5^d</u>

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CAS No.	Chemical Name	Soil Gas		Groundwater	
		Residential (mg/m ³)	Industrial/ Commercial (mg/m ³)	Residential (mg/L)	Industrial/ Commercial (mg/L)
<u>542-75-6</u>	<u>1,3-Dichloropropylene (cis + trans)</u>	<u>110^d</u>	<u>830^d</u>	<u>0.42^d</u>	<u>2.6^d</u>
<u>123-91-1</u>	<u>p-Dioxane</u>	<u>15^d</u>	<u>110^d</u>	<u>140^d</u>	<u>1,000^d</u>
<u>100-41-4</u>	<u>Ethylbenzene</u>	<u>150^d</u>	<u>1,100^d</u>	<u>1.3^d</u>	<u>8.1^d</u>
<u>76-44-8</u>	<u>Heptachlor</u>	<u>0.97^d</u>	<u>7.1^d</u>	<u>0.058^d</u>	<u>0.18^h</u>
<u>118-74-1</u>	<u>Hexachlorobenzene</u>	<u>0.28^g</u>	<u>0.28^g</u>	<u>0.0062^h</u>	<u>0.0062^h</u>
<u>77-47-4</u>	<u>Hexachlorocyclopentadiene</u>	<u>86^c</u>	<u>530^c</u>	<u>0.29^c</u>	<u>1.5^c</u>
<u>67-72-1</u>	<u>Hexachloroethane</u>	<u>2,800^g</u>	<u>2,800^g</u>	<u>50^h</u>	<u>50^h</u>
<u>78-59-1</u>	<u>Isophorone</u>	<u>3,400^g</u>	<u>3,400^g</u>	<u>12,000^h</u>	<u>12,000^h</u>
<u>98-82-8</u>	<u>Isopropylbenzene (Cumene)</u>	<u>30,000^g</u>	<u>30,000^g</u>	<u>6.2^c</u>	<u>30^c</u>
<u>7439-97-6</u>	<u>Mercuryⁱ</u>	<u>22^g</u>	<u>22^g</u>	<u>0.060^h</u>	<u>0.060^h</u>
<u>74-83-9</u>	<u>Methyl bromide</u>	<u>830^c</u>	<u>5,100^c</u>	<u>6.1^c</u>	<u>33^c</u>
<u>1634-04-4</u>	<u>Methyl tertiary-butyl ether</u>	<u>420,000^c</u>	<u>1,200,000^g</u>	<u>30,000^c</u>	<u>51,000^h</u>
<u>75-09-2</u>	<u>Methylene chloride</u>	<u>590^d</u>	<u>4,400^d</u>	<u>12^d</u>	<u>84^d</u>
<u>91-57-6</u>	<u>2-Methylnaphthalene</u>	<u>530^g</u>	<u>530^g</u>	<u>25^h</u>	<u>25^h</u>
<u>95-48-7</u>	<u>2-Methylphenol (o-cresol)</u>	<u>1,800^g</u>	<u>1,800^g</u>	<u>26,000^h</u>	<u>26,000^h</u>
<u>91-20-3</u>	<u>Naphthalene</u>	<u>14^d</u>	<u>100^d</u>	<u>1.8^d</u>	<u>13^d</u>
<u>98-95-3</u>	<u>Nitrobenzene</u>	<u>9.0^d</u>	<u>66^d</u>	<u>23^d</u>	<u>170^d</u>
<u>621-64-7</u>	<u>n-Nitrosodi-n-propylamine</u>	<u>0.18^d</u>	<u>1.3^d</u>	<u>3.3^d</u>	<u>24^d</u>
<u>108-95-2</u>	<u>Phenol</u>	<u>1,500^g</u>	<u>1,500^g</u>	<u>83,000^h</u>	<u>83,000^h</u>
<u>1336-36-3</u>	<u>Polychlorinated biphenyls (PCBs)</u>	<u>---^c</u>	<u>---^c</u>	<u>---^c</u>	<u>---^c</u>
<u>100-42-5</u>	<u>Styrene</u>	<u>34,000^g</u>	<u>34,000^g</u>	<u>310^h</u>	<u>310^h</u>
<u>127-18-4</u>	<u>Tetrachloroethylene</u>	<u>66^d</u>	<u>490^d</u>	<u>0.26^d</u>	<u>1.6^d</u>
<u>108-88-3</u>	<u>Toluene</u>	<u>140,000^g</u>	<u>140,000^g</u>	<u>530^h</u>	<u>530^h</u>
<u>120-82-1</u>	<u>1,2,4-Trichlorobenzene</u>	<u>800^c</u>	<u>4,300^g</u>	<u>35^h</u>	<u>35^h</u>
<u>71-55-6</u>	<u>1,1,1-Trichloroethane</u>	<u>770,000^c</u>	<u>870,000^g</u>	<u>1,300^h</u>	<u>1,300^h</u>
<u>79-00-5</u>	<u>1,1,2-Trichloroethane</u>	<u>170,000^g</u>	<u>170,000^g</u>	<u>4,400^h</u>	<u>4,400^h</u>
<u>79-01-6</u>	<u>Trichloroethylene</u>	<u>180^d</u>	<u>1,300^d</u>	<u>1.1^d</u>	<u>6.7^d</u>
<u>75-69-4</u>	<u>Trichlorofluoromethane</u>	<u>97,000^c</u>	<u>600,000^c</u>	<u>62^c</u>	<u>300^c</u>
<u>108-05-4</u>	<u>Vinyl acetate</u>	<u>28,000^c</u>	<u>170,000^c</u>	<u>2,500^c</u>	<u>15,000^c</u>
<u>75-01-4</u>	<u>Vinyl chloride</u>	<u>30^d</u>	<u>440^d</u>	<u>0.065^d</u>	<u>0.75^d</u>

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<u>CAS No.</u>	<u>Chemical Name</u>	<u>Soil Gas</u>		<u>Groundwater</u>	
		<u>Residential (mg/m³)</u>	<u>Industrial/ Commercial (mg/m³)</u>	<u>Residential (mg/L)</u>	<u>Industrial/ Commercial (mg/L)</u>
<u>108-38-3</u>	<u>m-Xylene</u>	<u>17,000^d</u>	<u>52,000^c</u>	<u>160^e</u>	<u>160^h</u>
<u>95-47-6</u>	<u>o-Xylene</u>	<u>14,000^d</u>	<u>41,000^c</u>	<u>170^e</u>	<u>180^h</u>
<u>106-42-3</u>	<u>p-Xylene</u>	<u>16,000^d</u>	<u>55,000^c</u>	<u>140^e</u>	<u>160^h</u>
<u>1330-20-7</u>	<u>Xylenes (total)^f</u>	<u>17,000^d</u>	<u>49,000^c</u>	<u>96^e</u>	<u>110^h</u>

Chemical Name and Remediation Objective Notations

- ^a Compliance is determined by meeting both the soil gas remediation objectives and the groundwater remediation objectives. See Sections 742.505 and 742.515.
- ^b Remediation objectives relying on this table require use of institutional controls in accordance with Subpart J.
- ^c Calculated values correspond to a target hazard quotient of 1.
- ^d Calculated values correspond to a cancer risk level of 1 in 1,000,000.
- ^e PCBs are a mixture of different congeners. The appropriate values to use for the physical/chemical and toxicity parameters depend on the congeners present at the site. Persons remediating sites should consult with BOL if calculation of Tier 2 or 3 remediation objectives is desired
- ^f Groundwater remediation objective calculated at 25°C. For Dalapon and 1,2-Dibromo-3-chloropropane, the critical temperature (T_c) and enthalpy of vaporization at the normal boiling point (H_{v,b}) are not available. For Xylenes (total), the enthalpy of vaporization at the normal boiling point (H_{v,b}) is not available.
- ^g The value shown is the C_v^{sat} value of the chemical in soil gas. The C_v^{sat} of the chemical becomes the remediation objective if the calculated value exceeds the C_v^{sat} value or if there are no toxicity criteria available for the inhalation route of exposure.
- ^h The value shown is the solubility of the chemical in water. The solubility of the chemical becomes the remediation objective if the calculated value exceeds the solubility or if there are no toxicity criteria available for the inhalation route of exposure.

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ⁱ Value for the inhalation exposure route is based on Reference Concentration for elemental Mercury (CAS No. 7439-97-6). Inhalation remediation objectives only apply at sites where elemental Mercury is a contaminant of concern.

ⁱ Calculated values for the remediation objectives in this table are based on the assumption that the existing or potential building has a full concrete slab-on-grade, though the remediation objectives in this table are also considered protective of occupants of buildings with full concrete basement floors and walls. This table applies only when the existing or potential building has a full concrete slab-on-grade or a full concrete basement floor and walls. Institutional controls under Subpart J are required to use remediation objectives in this table. This table does not apply when the existing or potential building has neither a full concrete slab-on-grade nor a full concrete basement floor and walls, such as a building with an earthen crawl space, an earthen floor, a stone foundation, a partial concrete floor, or a sump. In such cases, site evaluators have the option of excluding the indoor inhalation exposure route under Section 742.312, meeting the building control technology requirements under Subpart L, or proposing an alternative approach under Tier 3.

(Source: Added at 37 Ill. Reg. 7506, effective July 15, 2013)

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Section 742.APPENDIX C Tier 2 Illustrations and Tables

Section 742.TABLE A SSL Equations

Equations for Soil Ingestion Exposure Route	Remediation Objectives for Noncarcinogenic Contaminants (mg/kg)	$\frac{THQ \cdot BW \cdot AT \cdot 365 \frac{d}{yr}}{\frac{1}{RfD_o} \cdot 10^{-6} \frac{kg}{mg} \cdot EF \cdot ED \cdot IR_{soil}}$	S1
	Remediation Objectives for Carcinogenic Contaminants – Residential (mg/kg)	$\frac{TR \cdot AT_c \cdot 365 \frac{d}{yr}}{SF_o \cdot 10^{-6} \frac{kg}{mg} \cdot EF \cdot IF_{soil-adj}}$	S2
	Remediation Objectives for Carcinogenic Contaminants – Industrial/Commercial, Construction Worker (mg/kg)	$\frac{TR \cdot BW \cdot AT_c \cdot 365 \frac{d}{yr}}{SF_o \cdot 10^{-6} \frac{kg}{mg} \cdot EF \cdot ED \cdot IR_{soil}}$	S3
Equations for Inhalation Exposure Route (Organic Contaminants and Mercury)	Remediation Objectives for Noncarcinogenic Contaminants – Residential, Industrial/Commercial (mg/kg)	$\frac{THQ \cdot AT \cdot 365 \frac{d}{yr}}{EF \cdot ED \cdot \left(\frac{1}{RFC} \cdot \frac{1}{VF} \right)}$	S4
	Remediation Objectives for Noncarcinogenic Contaminants – Construction Worker (mg/kg)	$\frac{THQ \cdot AT \cdot 365 \frac{d}{yr}}{EF \cdot ED \cdot \left(\frac{1}{RfC} \cdot \frac{1}{VF'} \right)}$	S5
	Remediation Objectives for Carcinogenic Contaminants – Residential, Industrial/Commercial (mg/kg)	$\frac{TR \cdot AT_c \cdot 365 \frac{d}{yr}}{URF \cdot 1000 \frac{\mu g}{mg} \cdot EF \cdot ED \frac{1}{VF}}$	S6
	Remediation Objectives for Carcinogenic Contaminants – Construction Worker (mg/kg)	$\frac{TR \cdot AT_c \cdot 365 \frac{d}{yr}}{URF \cdot 1000 \frac{\mu g}{mg} \cdot EF \cdot ED \frac{1}{VF'}}$	S7

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	Equation for Derivation of the Volatilization Factor – Residential, Industrial/Commercial, VF (m ³ /kg)	$VF = \frac{Q}{C} \cdot \frac{(3.14 \cdot D_A \cdot T)^{1/2}}{(2 \cdot \rho_b \cdot D_A)} \cdot 10^{-4} \frac{m^2}{cm^2}$	S8
	Equation for Derivation of the Volatilization Factor – Construction Worker, VF' (m ³ /kg)	$VF' = \frac{VF}{10}$	S9
	Equation for Derivation of Apparent Diffusivity, D _A (cm ² /s)	$D_A = \frac{(\theta_a^{3.33} \cdot D_i \cdot H') + (\theta_w^{3.33} \cdot D_w)}{\eta^2} \cdot \frac{1}{(\rho_b \cdot K_d)} + \theta_w + (\theta_a \cdot H')$	S10
Equations for Inhalation Exposure Route (Fugitive Dusts)	Remediation Objectives for Noncarcinogenic Contaminants – Residential, Industrial/Commercial (mg/kg)	$\frac{THQ \cdot AT \cdot 365 \frac{d}{yr}}{EF \cdot ED \cdot \left(\frac{1}{RfC} \cdot \frac{1}{PEF} \right)}$	S11
	Remediation Objectives for Noncarcinogenic Contaminants – Construction Worker (mg/kg)	$\frac{THQ \cdot AT \cdot 365 \frac{d}{yr}}{EF \cdot ED \cdot \left(\frac{1}{RfC} \cdot \frac{1}{PEF'} \right)}$	S12
	Remediation Objectives for Carcinogenic Contaminants – Residential, Industrial/Commercial (mg/kg)	$\frac{TR \cdot AT_c \cdot 365 \frac{d}{yr}}{URF \cdot 1000 \frac{\mu g}{mg} \cdot EF \cdot ED \frac{1}{PEF}}$	S13
	Remediation Objectives for Carcinogenic Contaminants – Construction Worker (mg/kg)	$\frac{TR \cdot AT_c \cdot 365 \frac{d}{yr}}{URF \cdot 1000 \frac{\mu g}{mg} \cdot EF \cdot ED \frac{1}{PEF'}}$	S14
	Equation for Derivation of Particulate Emission Factor, PEF (m ³ /kg)	$PEF = \frac{Q}{C} \cdot \frac{3,600 \frac{s}{hr}}{0.036 \cdot (1-V) \cdot \left(\frac{U_m}{U_t} \right)^3 \cdot F(x)}$	S15

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	Equation for Derivation of Particulate Emission Factor, PEF' – Construction Worker (m ³ /kg)	$PEF' = \frac{PEF}{10}$ <p>NOTE: PEF must be the industrial/commercial value</p>	S16
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Equations for the Soil Component of the Groundwater Ingestion Exposure Route	Remediation Objective (mg/kg)	$C_w \cdot \left[K_d + \frac{(\theta_w + \theta_a \cdot H')}{\rho_b} \right]$ <p>NOTE: This equation can only be used to model contaminant migration not in the water bearing unit.</p>	S17
	Target Soil Leachate Concentration, C_w (mg/L)	$C_w = DF \cdot GW_{obj}$	S18
	Soil-Water Partition Coefficient, K_d (cm ³ /g)	$K_d = K_{oc} \cdot f_{oc}$	S19
	Water-Filled Soil Porosity, θ_w (L _{water} /L _{soil})	$\theta_w = \eta \cdot \left(\frac{I}{K_2} \right)^{1/(2b+3)}$	S20
	Air-Filled Soil Porosity, θ_a (L _{air} /L _{soil})	$\theta_a = \eta - \theta_w$	S21
	Dilution Factor, DF (unitless)	$DF = 1 + \frac{K \cdot i \cdot d}{I \cdot L}$	S22
	Groundwater Remediation Objection for Carcinogenic Contaminants, GW_{obj} (mg/L)	$\frac{TR \cdot BW \cdot AT_c \cdot 365 \frac{d}{yr}}{SF_o \cdot IR_2 \cdot EF \cdot ED}$	S23
	Total Soil Porosity, η (L _{pore} /L _{soil})	$\eta = 1 - \frac{\rho_b}{\rho_s}$	S24
	Equation for Estimation of Mixing Zone Depth, d (m)	$d = (0.0112 \cdot L^2)^{0.5} + d_a \left[1 - \exp \left(\frac{-L \cdot 1}{K \cdot i \cdot d_a} \right) \right]$	S25
Mass-Limit Equations for Inhalation Exposure Route and Soil Component of the Groundwater Ingestion Exposure Route	Mass-Limit Volatilization Factor for the Inhalation Exposure Route – Residential, Industrial/Commercial VF (m ³ /kg)	$VF_{M-L} = \frac{Q}{C} \cdot \frac{\left[T_{M-L} \cdot \left(3.15 \cdot 10^7 \frac{s}{yr} \right) \right]}{\rho_b \cdot d_s \cdot 10^6 \frac{cm^3}{m^3}}$ <p>NOTE: This equation may be used when vertical thickness of contamination is known or can be estimated reliably.</p>	S26
	Mass-Limit Volatilization Factor for the Inhalation Exposure Route – Construction Worker, VT' – (m ³ /kg)	$VF'_{M-L} = \frac{VF_{M-L}}{10}$	S27

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	Mass-Limit Remediation Objective for Soil Component of the Groundwater Ingestion Exposure Route (mg/kg)	$\frac{(C_w \cdot I_{M-L} \cdot ED_{M-L})}{\rho_b \cdot d_s}$ <p>NOTE: This equation may be used when vertical thickness is known or can be estimated reliably.</p>	S28
Equation for Derivation of the Soil Saturation Limit, C_{sat}		$C_{sat} = \frac{S}{\rho_b} \cdot [(K_d \cdot \rho_b) + \theta_w + (H' \cdot \theta_a)]$	S29
<u>Equation for the soil gas component of the Outdoor Inhalation Exposure Route</u>		$RO_{soil-gas} = \frac{RO_{soil} \times H \times \rho_b \times 1000}{H' \times \theta_a + \theta_w + K_d \times \rho_b}$	<u>S30</u>

(Source: Amended at 37 Ill. Reg. 7506, effective July 15, 2013)

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Section 742.APPENDIX C Tier 2 Illustrations and Tables**Section 742.TABLE B SSL Parameters**

Symbol	Parameter	Units	Source	Parameter Value(s)
AT	Averaging Time for Noncarcinogens in Ingestion Equation	yr		Residential = 6 Industrial/Commercial = 25 Construction Worker = 0.115
AT	Averaging Time for Noncarcinogens in Inhalation Equation	yr		Residential = 30 Industrial/Commercial = 25 Construction Worker = 0.115
AT _c	Averaging Time for Carcinogens	yr	SSL	70
BW	Body Weight	kg		Residential = 15, noncarcinogens 70, carcinogens Industrial/Commercial = 70 Construction Worker = 70
C _{sat}	Soil Saturation Concentration	mg/kg	Appendix A, Table A or Equation S29 in Appendix C, Table A	Chemical-Specific or Calculated Value
C _w	Target Soil Leachate Concentration	mg/L	Equation S18 in Appendix C, Table A	Groundwater Standard, Health Advisory concentration, or Calculated Value
d	Mixing Zone Depth	m	SSL or Equation S25 in Appendix C, Table A	2 m or Calculated Value
d _a	Aquifer Thickness	m	Field Measurement	Site-Specific
d _s	Depth of Source (Vertical thickness of contamination)	m	Field Measurement or Estimation	Site-Specific
Symbol	Parameter	Units	Source	Parameter Value(s)
D _A	Apparent Diffusivity	cm ² /s	Equation S10 in Appendix C, Table A	Calculated Value
D _i	Diffusivity in Air	cm ² /s	Appendix C, Table E	Chemical-Specific
D _w	Diffusivity in Water	cm ² /s	Appendix C, Table E	Chemical-Specific
DF	Dilution Factor	unitless	Equation S22 in Appendix C, Table A	20 or Calculated Value
ED	Exposure Duration for Ingestion of Carcinogens	yr		Industrial/Commercial = 25 Construction Worker = 1
ED	Exposure Duration for Inhalation of Carcinogens	yr		Residential = 30 Industrial/Commercial = 25 Construction Worker = 1
ED	Exposure Duration for Ingestion of Noncarcinogens	yr		Residential = 6 Industrial/Commercial = 25 Construction Worker = 1
ED	Exposure Duration for	yr		Residential = 30

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	Inhalation of Noncarcinogens			Industrial/Commercial = 25 Construction Worker = 1
ED	Exposure Duration for the Direct Ingestion of Groundwater	yr		Residential = 30 Industrial/Commercial = 25 Construction Worker = 1
ED _{M-L}	Exposure Duration for Migration to Groundwater Mass-Limit Equation S28	yr	SSL	70
EF	Exposure Frequency	d/yr		Residential = 350 Industrial/Commercial = 250 Construction Worker = 30
F(x)	Function dependent on U_m/U_t	unitless	SSL	0.194
f _{oc}	Organic Carbon Content of Soil	g/g	SSL or Field Measurement (See Appendix C, Table F)	Surface Soil = 0.006 Subsurface soil = 0.002, or Site-Specific
GW _{obj}	Groundwater Remediation Remediation Objective	mg/L	Appendix B, Table E, 35 IAC 620.Subpart F, or Equation S23 in Appendix C, Table A	Chemical-Specific or Calculated
H'	Henry's Law Constant	unitless	Appendix C, Table E	Chemical-Specific
i	Hydraulic Gradient	m/m	Field Measurement (See Appendix C, Table F)	Site-Specific
I	Infiltration Rate	m/yr	SSL	0.3
I _{M-L}	Infiltration Rate for Migration to Groundwater Mass-Limit Equation S28	m/yr	SSL	0.18
IF _{soil-adj} (residential)	Age Adjusted Soil Ingestion Factor for Carcinogens	(mg-yr)/(kg-d)	SSL	114
IR _{soil}	Soil Ingestion Rate	mg/d		Residential = 200 Industrial/Commercial = 50 Construction Worker = 480
IR _w	Daily Water Ingestion Rate	L/d		Residential = 2 Industrial/Commercial = 1
K	Aquifer Hydraulic Conductivity	m/yr	Field Measurement (See Appendix C, Table F)	Site-Specific
K _d (Non-ionizing organics)	Soil-Water Partition Coefficient	cm ³ /g or L/kg	Equation S19 in Appendix C, Table A	Calculated Value
K _d (Ionizing organics)	Soil-Water Partition Coefficient	cm ³ /g or L/kg	Equation S19 in Appendix C, Table A	Chemical and pH-Specific (see Appendix C, Table I)
K _d (In-organics)	Soil-Water Partition Coefficient	cm ³ /g or L/kg	Appendix C, Table J	Chemical and pH-Specific
K _{oc}	Organic Carbon Partition Coefficient	cm ³ /g or L/kg	Appendix C, Table E or Appendix C, Table I	Chemical-Specific
K _s	Saturated Hydraulic	m/yr	Appendix C, Table K	Site-Specific

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	Conductivity		Appendix C, Illustration C	
L	Source Length Parallel to Groundwater Flow	m	Field Measurement	Site-Specific
PEF	Particulate Emission Factor	m ³ /kg	SSL or Equation S15 in Appendix C, Table A	Residential = $1.32 \cdot 10^9$ or Site-Specific Industrial/Commercial = $1.24 \cdot 10^9$ or Site-Specific
PEF'	Particulate Emission Factor adjusted for Agitation (construction worker)	m ³ /kg	Equation S16 in Appendix C, Table A using PEF (industrial/commercial)	$1.24 \cdot 10^8$ or Site-Specific
Q/C (used in VF equations)	Inverse of the mean concentration at the center of a square source	(g/m ² -s)/ (kg/m ³)	Appendix C, Table H	Residential = 68.81 Industrial/Commercial = 85.81 Construction Worker = 85.81
Q/C (used in PEF equations)	Inverse of the mean concentration at the center of a square source	(g/m ² -s)/ (kg/m ³)	SSL or Appendix C, Table H	Residential = 90.80 Industrial/Commercial = 85.81 Construction Worker = 85.81
RfC	Inhalation Reference Concentration	mg/m ³	<u>Illinois EPA:</u> http://www.epa.state.il.us/land/taco/toxicity-values.xls EPA (IRIS/HEAST ^a)	Toxicological-Specific (Note: for Construction Workers use subchronic reference concentrations)
RfD _o	Oral Reference Dose	mg/(kg-d)	<u>Illinois EPA:</u> http://www.epa.state.il.us/land/taco/toxicity-values.xls EPA (IRIS/HEAST ^a)	Toxicological-Specific (Note: for Construction Workers use subchronic reference doses)
<u>RO_{soil}</u>	<u>Soil remediation objective</u>	<u>mg/kg</u>	<u>Equation S30 in Appendix C, Table A</u>	<u>Calculated value</u>
<u>RO_{soil gas}</u>	<u>Soil gas remediation objective</u>	<u>mg/m³</u>	<u>Equation S30 in Appendix C, Table A</u>	<u>Calculated value</u>
S	Solubility in Water	mg/L	Appendix C, Table E	Chemical-Specific
SF _o	Oral Slope Factor	(mg/kg-d) ⁻¹	<u>Illinois EPA:</u> http://www.epa.state.il.us/land/taco/toxicity-values.xls EPA (IRIS/HEAST ^a)	Toxicological-Specific
T	Exposure Interval	s		Residential = $9.5 \cdot 10^8$ Industrial/Commercial = $7.9 \cdot 10^8$ Construction Worker = $3.6 \cdot 10^6$
T _{M-L}	Exposure Interval for Mass-Limit Volatilization Factor Equation S26	yr	SSL	30
THQ	Target Hazard Quotient	unitless	SSL	1
TR	Target Cancer Risk	unitless		Residential = 10^{-6} at the point of human exposure

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				Industrial/Commercial = 10^{-6} at the point of human exposure Construction Worker = 10^{-6} at the point of human exposure
U_m	Mean Annual Windspeed	m/s	SSL	4.69
URF	Inhalation Unit Risk Factor	$(\mu\text{g}/\text{m}^3)^{-1}$	<u>Illinois EPA:</u> http://www.epa.state.il.us/land/taco/toxicity-values.xls <u>EPA (IRIS/HEAST^a)</u>	Toxicological-Specific
U_t	Equivalent Threshold Value of Windspeed at 7 m	m/s	SSL	11.32
V	Fraction of Vegetative Cover	unitless	SSL or Field Measurement	0.5 of Site-Specific
VF	Volatilization Factor	m^3/kg	Equation S8 in Appendix C, Table A	Calculated Value
VF'	Volatilization Factor adjusted for Agitation	m^3/kg	Equation S9 in Appendix C, Table A	Calculated Value
VF _{M-L}	Mass-Limit Volatilization Factor	m^3/kg	Equation S26 in Appendix C, Table A	Calculated Value
VF' _{M-L}	Mass-Limit Volatilization Factor adjusted for Agitation	m^3/kg	Equation S27 in Appendix C, Table A	Calculated Value
η	Total Soil Porosity	$L_{\text{pore}}/L_{\text{soil}}$	SSL or Equation S24 in Appendix C, Table A	0.43, or Gravel = 0.25 Sand = 0.32 Silt = 0.40 Clay = 0.36, or Calculated Value
θ_a	Air-Filled Soil Porosity	$L_{\text{air}}/L_{\text{soil}}$	SSL or Equation S21 in Appendix C, Table A	Surface Soil (top 1 meter) = 0.28 Subsurface Soil (below 1 meter) = 0.13, or Gravel = 0.05 Sand = 0.14 Silt = 0.24 Clay = 0.19, or Calculated Value
θ_w	Water-Filled Soil Porosity	$L_{\text{water}}/L_{\text{soil}}$	SSL or Equation S20 in Appendix C, Table A	Surface Soil (top 1 meter) = 0.15 Subsurface Soil (below 1 meter) = 0.30, or Gravel = 0.20 Sand = 0.18

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				Silt = 0.16 Clay = 0.17, or Calculated Value
ρ_b	Dry Soil Bulk Density	kg/L or g/cm^3	SSL or Field Measurement (See Appendix C, Table F)	1.5, or Gravel = 2.0 Sand = 1.8 Silt = 1.6 Clay = 1.7, or Site-Specific
ρ_s	Soil Particle Density	g/cm^3	SSL or Field Measurement (See Appendix C, Table F)	2.65, or Site-Specific
ρ_w	Water Density	g/cm^3	SSL	1
$1/(2b+3)$	Exponential in Equation S20	unitless	Appendix C, Table K Appendix C, Illustration C	Site-Specific

~~^aHEAST = Health Effects Assessment Summary Tables. USEPA, Office of Solid Waste and Emergency Response. EPA/SQO/R-95/036. Updated Quarterly.~~

(Source: Amended at 37 Ill. Reg. 7506, effective July 15, 2013)

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Section 742.APPENDIX C Tier 2 Illustrations and Tables

Section 742.TABLE E Default Physical and Chemical Parameters

CAS No.	Chemical	Solubility in Water (S) (mg/L)	Diffusivity in Air (D _a) (cm ² /s)	Diffusivity in Water (D _w) (cm ² /s)	Dimensionless Henry's Law Constant (H') (25°C)	Dimensionless Henry's Law Constant (H') (13°C) For the indoor inhalation exposure route	Organic Carbon Partition Coefficient (K _{oc}) (L/kg)	First Order Degradation Constant (λ)(d ⁻¹)	Vapor Pressure (mm/Hg)
Neutral Organics									
83-32-9	Acenaphthene	3.60E+00	4.76E-02	7.69E-06	6.60E-03	----- ^b	6.30E+03	3.40E-03	2.50E-03
67-64-1	Acetone	1.00E+06	1.24E-01	1.14E-05	1.60E-03	9.73E-04	7.80E-01	4.95E-02	2.30E+02
15972-60-8	Alachlor	2.40E+02	2.13E-02	5.28E-06	3.40E-06	----- ^b	3.20E+03	No Data	2.20E-05
116-06-3	Aldicarb	6.03E+03	3.18E-02	7.24E-06	5.90E-08	----- ^b	1.29E+01	1.09E-03	3.47E-05
309-00-2	Aldrin	1.70E-02	1.96E-02	4.86E-06	7.00E-03	----- ^b	2.50E+05	5.90E-04	6.00E-06
120-12-7	Anthracene	4.30E-02	3.85E-02	7.74E-06	2.70E-03	----- ^b	2.50E+04	7.50E-04	2.70E-06
1912-24-9	Atrazine	7.00E+01	2.59E-02	6.67E-06	9.68E-08	----- ^b	3.63E+02	No Data	2.70E-07
71-43-2	Benzene	1.80E+03	8.80E-02	1.02E-05	2.30E-01	1.34E-01	5.00E+01	9.00E-04	9.50E+01
56-55-3	Benzo(a)anthracene	9.40E-03	5.10E-02	9.00E-06	1.39E-04	----- ^b	4.00E+05	5.10E-04	1.10E-07
205-99-2	Benzo(b)fluoranthene	1.50E-03	2.23E-02	5.56E-06	4.55E-03	----- ^b	1.05E+06	5.70E-04	5.00E-07
207-08-9	Benzo(k)fluoranthene	8.00E-04	2.23E-02	5.56E-06	3.40E-05	----- ^b	1.00E+06	1.60E-04	2.00E-09
65-85-0	Benzoic Acid	3.40E+03	7.02E-02	7.97E-06	1.56E-06	----- ^b	1.21E+00 ^d	No Data	7.00E-04
50-32-8	Benzo(a)pyrene	1.60E-03	4.30E-02	9.49E-06	4.50E-05	----- ^b	7.90E+05	6.50E-04	5.50E-09
111-44-4	Bis(2-chloroethyl) ether	1.72E+04	4.13E-02	7.53E-06	7.40E-04	2.94E-04	1.26E+01	1.90E-03	1.55E+00
117-81-7	Bis(2-ethylhexyl)phthalate	3.40E-01	3.51E-02	3.66E-06	4.10E-06	----- ^b	1.00E+05	1.80E-03	6.80E-08
75-27-4	Bromodichloromethane	6.70E+03	5.61E-02	1.06E-05	6.60E-02	3.71E-02	5.00E+01	No Data	5.00E+01

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<u>75-25-2</u>	<u>Bromoform</u>	<u>3.10E+03</u>	<u>1.49E-02</u>	<u>1.03E-05</u>	<u>2.19E-02</u>	<u>1.06E-02</u>	<u>9.12E+01</u>	<u>1.90E-03</u>	<u>5.51E+00</u>
<u>71-36-3</u>	<u>Butanol</u>	<u>7.40E+04</u>	<u>8.00E-02</u>	<u>9.30E-06</u>	<u>3.61E-04</u>	<u>1.55E-04</u>	<u>6.00E+00</u>	<u>1.28E-02</u>	<u>7.00E+00</u>
<u>78-93-3</u>	<u>2-Butanone (MEK)</u>	<u>2.20E+05</u>	<u>8.08E-02</u>	<u>9.8E-06</u>	<u>2.30E-03</u>	<u>1.32E-03</u>	<u>2.00E+00</u>	<u>4.95E-02</u>	<u>9.50E+01</u>
<u>85-68-7</u>	<u>Butyl Benzyl Phthalate</u>	<u>2.70E+00</u>	<u>1.99E-02</u>	<u>4.89E-06</u>	<u>5.30E-05</u>	----- ^b	<u>6.30E+04</u>	<u>3.85E-03</u>	<u>8.30E-06</u>
<u>86-74-8</u>	<u>Carbazole</u>	<u>1.20E+00</u>	<u>4.17E-02</u>	<u>7.45E-06</u>	<u>3.60E-06</u>	----- ^b	<u>4.00E+03</u>	No Data	<u>7.00E-04</u>
<u>1563-66-2</u>	<u>Carbofuran</u>	<u>3.20E+02</u>	<u>2.37E-02</u>	<u>5.95E-06</u>	<u>1.27E-07</u>	----- ^b	<u>1.91E+02</u>	No Data	<u>4.85E-06</u>
<u>75-15-0</u>	<u>Carbon Disulfide</u>	<u>1.20E+03</u>	<u>1.04E-01</u>	<u>1.00E-05</u>	<u>1.23E+00</u>	<u>8.06E-01</u>	<u>6.30E+01</u>	No Data	<u>3.60E+02</u>
<u>56-23-5</u>	<u>Carbon Tetrachloride</u>	<u>7.90E+02</u>	<u>7.80E-02</u>	<u>8.80E-06</u>	<u>1.23E+00</u>	<u>7.48E-01</u>	<u>2.00E+02</u>	<u>1.90E-03</u>	<u>1.20E+02</u>
<u>57-74-9</u>	<u>Chlordane</u>	<u>5.60E-02</u>	<u>1.79E-02</u>	<u>4.37E-06</u>	<u>2.00E-03</u>	----- ^b	<u>2.50E+05</u>	<u>2.50E-04</u>	<u>9.80E-06</u>
<u>106-47-8</u>	<u>p-Chloroaniline</u>	<u>5.30E+03</u>	<u>6.99E-02</u>	<u>1.01E-05</u>	<u>4.76E-05</u>	----- ^b	<u>6.31E+01</u>	No Data	<u>1.23E-02</u>
<u>108-90-7</u>	<u>Chlorobenzene</u>	<u>4.70E+02</u>	<u>7.30E-02</u>	<u>8.70E-06</u>	<u>1.50E-01</u>	<u>7.93E-02</u>	<u>2.00E+02</u>	<u>2.30E-03</u>	<u>1.20E+01</u>
<u>124-48-1</u>	<u>Chlorodibromomethane</u>	<u>2.60E+03</u>	<u>3.66E-02</u>	<u>1.05E-05</u>	<u>3.20E-02</u>	<u>2.07E-02</u>	<u>6.92E+01</u>	<u>3.85E-03</u>	<u>4.90E+00</u>
<u>67-66-3</u>	<u>Chloroform</u>	<u>7.90E+03</u>	<u>1.04E-01</u>	<u>1.00E-05</u>	<u>1.50E-01</u>	<u>9.18E-02</u>	<u>5.00E+01</u>	<u>3.90E-04</u>	<u>2.00E+02</u>
<u>95-57-8</u>	<u>2-Chlorophenol</u>	<u>2.20E+04</u>	<u>6.61E-02</u>	<u>9.46E-06</u>	<u>1.60E-02</u>	<u>7.28E-03</u>	<u>5.93E+01^d</u>	No Data	<u>2.34E+00</u>
<u>218-01-9</u>	<u>Chrysene</u>	<u>6.30E-03</u>	<u>2.44E-02</u>	<u>6.21E-06</u>	<u>3.90E-03</u>	----- ^b	<u>4.00E+05</u>	<u>3.50E-04</u>	<u>6.20E-09</u>
<u>94-75-7</u>	<u>2,4-D</u>	<u>6.77E+02</u>	<u>5.88E-02</u>	<u>6.49E-06</u>	<u>4.18E-07</u>	----- ^b	<u>5.75E+02</u>	<u>3.85E-03</u>	<u>6.00E-07</u>
<u>72-54-8</u>	<u>4,4'-DDD</u>	<u>9.00E-02</u>	<u>2.27E-02</u>	<u>5.79E-06</u>	<u>1.60E-04</u>	----- ^b	<u>7.90E+05</u>	<u>6.20E-05</u>	<u>6.70E-07</u>
<u>72-55-9</u>	<u>4,4'-DDE</u>	<u>1.20E-01</u>	<u>2.38E-02</u>	<u>5.87E-06</u>	<u>8.60E-04</u>	----- ^b	<u>4.00E+05</u>	<u>6.20E-05</u>	<u>6.00E-06</u>
<u>50-29-3</u>	<u>4,4'-DDT</u>	<u>2.50E-02</u>	<u>1.99E-02</u>	<u>4.95E-06</u>	<u>3.30E-04</u>	----- ^b	<u>2.00E+06</u>	<u>6.20E-05</u>	<u>1.60E-07</u>
<u>75-99-0</u>	<u>Dalapon</u>	<u>9.00E+05</u>	<u>6.08E-02</u>	<u>9.45E-06</u>	<u>2.64E-06</u>	NA	<u>4.80E+00</u>	<u>5.78E-03</u>	<u>1.90E-01</u>
<u>53-70-3</u>	<u>Dibenzo(a,h)anthracene</u>	<u>2.50E-03</u>	<u>2.11E-02</u>	<u>5.24E-06</u>	<u>6.10E-07</u>	----- ^b	<u>2.50E+06</u>	<u>3.70E-04</u>	<u>1.00E-10</u>
<u>96-12-8</u>	<u>1,2-Dibromo-3-chloropropane</u>	<u>1.20E+03</u>	<u>2.68E-02</u>	<u>7.02E-06</u>	<u>6.20E-03^c</u>	NA	<u>7.90E+01</u>	<u>1.93E-03</u>	<u>5.80E-01</u>
<u>106-93-4</u>	<u>1,2-Dibromoethane</u>	<u>4.00E+03</u>	<u>4.37E-02</u>	<u>8.44E-06</u>	<u>3.00E-02</u>	<u>1.54E-02</u>	<u>5.00E+01</u>	<u>5.78E-03</u>	<u>1.30E+01</u>
<u>84-74-2</u>	<u>Di-n-butyl Phthalate</u>	<u>1.10E+01</u>	<u>4.38E-02</u>	<u>7.86E-06</u>	<u>7.40E-05</u>	----- ^a	<u>4.00E+04</u>	<u>3.01E-02</u>	<u>7.30E-05</u>

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<u>1918-00-9</u>	<u>Dicamba</u>	<u>4.50E+03</u>	<u>2.37E-02</u>	<u>5.95E-06</u>	<u>2.18E-09</u>	<u>-----^a</u>	<u>2.95E+00</u>	<u>No Data</u>	<u>3.38E-05</u>
<u>95-50-1</u>	<u>1,2-Dichlorobenzene</u>	<u>1.56E+02</u>	<u>6.90E-02</u>	<u>7.90E-06</u>	<u>7.79E-02</u>	<u>3.56E-02</u>	<u>5.75E+02</u>	<u>1.90E-03</u>	<u>1.36E+00</u>
<u>106-46-7</u>	<u>1,4-Dichlorobenzene</u>	<u>7.90E+01</u>	<u>6.90E-02</u>	<u>7.90E-06</u>	<u>9.80E-02</u>	<u>4.69E-02</u>	<u>7.90E+02</u>	<u>1.90E-03</u>	<u>1.00E+00</u>
<u>91-94-1</u>	<u>3,3-Dichlorobenzidine</u>	<u>3.10E+00</u>	<u>2.59E-02</u>	<u>6.74E-06</u>	<u>1.60E-07</u>	<u>-----^a</u>	<u>2.82E+03</u>	<u>1.90E-03</u>	<u>3.71E-08</u>
<u>75-71-8</u>	<u>Dichlorodifluoromethane</u>	<u>2.80E+02</u>	<u>7.60E-02</u>	<u>1.08E-05</u>	<u>1.41E+01</u>	<u>8.14E+00</u>	<u>6.17E+01</u>	<u>1.92E-03</u>	<u>4.85E+03</u>
<u>75-34-3</u>	<u>1,1-Dichloroethane</u>	<u>5.10E+03</u>	<u>7.42E-02</u>	<u>1.05E-05</u>	<u>2.30E-01</u>	<u>1.42E-01</u>	<u>3.20E+01</u>	<u>1.90E-03</u>	<u>2.30E+02</u>
<u>107-06-2</u>	<u>1,2-Dichloroethane</u>	<u>8.50E+03</u>	<u>1.04E-02</u>	<u>9.90E-06</u>	<u>4.00E-02</u>	<u>2.29E-02</u>	<u>2.00E+01</u>	<u>1.90E-03</u>	<u>7.90E+01</u>
<u>75-35-4</u>	<u>1,1-Dichloroethylene</u>	<u>2.30E+03</u>	<u>9.00E-02</u>	<u>1.04E-05</u>	<u>1.10E+00</u>	<u>7.10E-01</u>	<u>5.00E+01</u>	<u>5.30E-03</u>	<u>6.00E+02</u>
<u>156-59-2</u>	<u>cis-1,2-Dichloroethylene</u>	<u>3.50E+03</u>	<u>8.86E-02</u>	<u>1.13E-05</u>	<u>1.70E-01</u>	<u>1.00E-01</u>	<u>4.00E+01</u>	<u>2.40E-04</u>	<u>2.00E+02</u>
<u>156-60-5</u>	<u>trans-1,2-Dichloroethylene</u>	<u>6.30E+03</u>	<u>7.03E-02</u>	<u>1.19E-05</u>	<u>3.90E-01</u>	<u>2.43E-01</u>	<u>5.00E+01</u>	<u>2.40E-04</u>	<u>3.30E+02</u>
<u>120-83-2</u>	<u>2,4-Dichlorophenol</u>	<u>4.50E+03</u>	<u>4.89E-02</u>	<u>8.77E-06</u>	<u>1.30E-04</u>	<u>-----^a</u>	<u>7.32E+02^d</u>	<u>2.70E-04</u>	<u>6.70E-02</u>
<u>78-87-5</u>	<u>1,2-Dichloropropane</u>	<u>2.80E+03</u>	<u>7.82E-02</u>	<u>8.73E-06</u>	<u>1.10E-01</u>	<u>6.52E-02</u>	<u>5.00E+01</u>	<u>2.70E-04</u>	<u>5.20E+01</u>
<u>542-75-6</u>	<u>1,3-Dichloropropylene (cis + trans)</u>	<u>2.80E+03</u>	<u>6.26E-02</u>	<u>1.00E-05</u>	<u>7.40E-01</u>	<u>3.98E-01</u>	<u>2.00E+01</u>	<u>6.10E-02</u>	<u>3.40E+01</u>
<u>60-57-1</u>	<u>Dieldrin</u>	<u>2.00E-01</u>	<u>1.92E-02</u>	<u>4.74E-06</u>	<u>6.2E-04</u>	<u>-----^a</u>	<u>2.50E+04</u>	<u>3.20E-04</u>	<u>5.9E-06</u>
<u>84-66-2</u>	<u>Diethyl Phthalate</u>	<u>1.10E+03</u>	<u>2.49E-02</u>	<u>6.35E-06</u>	<u>1.80E-05</u>	<u>-----^a</u>	<u>3.20E+02</u>	<u>6.19E-03</u>	<u>1.60E-03</u>
<u>105-67-9</u>	<u>2,4-Dimethylphenol</u>	<u>7.90E+03</u>	<u>6.43E-02</u>	<u>8.69E-06</u>	<u>8.20E-05</u>	<u>-----^a</u>	<u>2.00E+02</u>	<u>4.95E-02</u>	<u>9.80E-02</u>
<u>75-71-8</u>	<u>1,3-Dinitrobenzene</u>	<u>8.60E+02</u>	<u>4.55E-02</u>	<u>8.46E-06</u>	<u>2.30E-07</u>	<u>-----^a</u>	<u>3.20E+01</u>	<u>1.92E-03</u>	<u>9.00E-04</u>
<u>51-28-5</u>	<u>2,4-Dinitrophenol</u>	<u>2.79E+03</u>	<u>2.73E-02</u>	<u>9.06E-06</u>	<u>1.82E-05</u>	<u>-----^a</u>	<u>3.24E+01</u>	<u>1.32E-03</u>	<u>5.10E-03</u>
<u>121-14-2</u>	<u>2,4-Dinitrotoluene</u>	<u>2.70E+02</u>	<u>2.03E-01</u>	<u>7.06E-06</u>	<u>3.80E-06</u>	<u>-----^a</u>	<u>8.90E+01</u>	<u>1.92E-03</u>	<u>1.47E-04</u>
<u>606-20-2</u>	<u>2,6-Dinitrotoluene</u>	<u>1.82E+02</u>	<u>3.70E-02</u>	<u>7.76E-06</u>	<u>3.06E-05</u>	<u>-----^a</u>	<u>4.90E+01</u>	<u>1.92E-03</u>	<u>5.67E-04</u>
<u>88-85-7</u>	<u>Dinoseb</u>	<u>5.20E+01</u>	<u>2.45E-02</u>	<u>6.25E-06</u>	<u>1.87E-05</u>	<u>-----^a</u>	<u>9.17E+01^d</u>	<u>2.82E-03</u>	<u>7.50E-05</u>
<u>117-84-0</u>	<u>Di-n-octyl Phthalate</u>	<u>2.00E-02</u>	<u>1.73E-02</u>	<u>4.17E-06</u>	<u>2.74E-03</u>	<u>-----^a</u>	<u>1.30E+05</u>	<u>1.90E-03</u>	<u>2.60E-06</u>
<u>123-91-1</u>	<u>p-Dioxane</u>	<u>1.00E+06</u>	<u>2.29E-01</u>	<u>1.02E-05</u>	<u>1.97E-04</u>	<u>1.07E-04</u>	<u>7.20E-01</u>	<u>1.92E-03</u>	<u>3.81E+01</u>
<u>115-29-7</u>	<u>Endosulfan</u>	<u>5.10E-01</u>	<u>1.85E-02</u>	<u>4.55E-06</u>	<u>4.51E-04</u>	<u>-----^a</u>	<u>5.00E+03</u>	<u>7.63E-02</u>	<u>1.00E-05</u>

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<u>145-73-3</u>	<u>Endothall</u>	<u>2.10E+04</u>	<u>2.91E-02</u>	<u>8.07E-06</u>	<u>1.58E-14</u>	<u>-----^a</u>	<u>7.59E+01</u>	<u>No Data</u>	<u>1.57E-10</u>
<u>72-20-8</u>	<u>Endrin</u>	<u>2.50E-01</u>	<u>1.92E-02</u>	<u>4.74E-6</u>	<u>3.08E-04</u>	<u>-----^a</u>	<u>3.20E+04</u>	<u>3.20E-04</u>	<u>3.00E-06</u>
<u>100-41-4</u>	<u>Ethylbenzene</u>	<u>1.70E+02</u>	<u>7.50E-02</u>	<u>7.80E-06</u>	<u>3.24E-01</u>	<u>1.64E-01</u>	<u>3.20E+02</u>	<u>3.00E-03</u>	<u>9.60E+00</u>
<u>206-44-0</u>	<u>Fluoranthene</u>	<u>2.06E-01</u>	<u>2.51E-02</u>	<u>6.35E-06</u>	<u>6.60E-04</u>	<u>-----^a</u>	<u>7.40E+04</u>	<u>1.90E-04</u>	<u>1.23E-08</u>
<u>86-73-7</u>	<u>Fluorene</u>	<u>2.00E+00</u>	<u>4.40E-02</u>	<u>7.88E-06</u>	<u>2.62E-03</u>	<u>-----^a</u>	<u>1.30E+04</u>	<u>6.91E-04</u>	<u>6.30E-04</u>
<u>76-44-8</u>	<u>Heptachlor</u>	<u>1.80E-01</u>	<u>2.23E-02</u>	<u>5.69E-06</u>	<u>6.07E-02</u>	<u>1.73E-02</u>	<u>3.00E+03</u>	<u>1.30E-01</u>	<u>4.00E-04</u>
<u>1024-57-3</u>	<u>Heptachlor epoxide</u>	<u>2.00E-01</u>	<u>2.19E-02</u>	<u>5.57E-06</u>	<u>3.90E-04</u>	<u>-----^a</u>	<u>2.00E+05</u>	<u>6.30E-04</u>	<u>1.90E-05</u>
<u>118-74-1</u>	<u>Hexachlorobenzene</u>	<u>6.20E-03</u>	<u>5.42E-02</u>	<u>5.91E-06</u>	<u>5.33E-02</u>	<u>1.35E-02</u>	<u>2.00E+04</u>	<u>1.70E-04</u>	<u>1.80E-05</u>
<u>319-84-6</u>	<u>Alpha-HCH (alpha-BHC)</u>	<u>2.00E+00</u>	<u>2.04E-02</u>	<u>5.04E-06</u>	<u>4.51E-04</u>	<u>-----^a</u>	<u>5.00E+03</u>	<u>2.50E-03</u>	<u>4.50E-05</u>
<u>58-89-9</u>	<u>Gamma-HCH (Lindane)</u>	<u>7.30E+00</u>	<u>2.75E-02</u>	<u>7.34E-06</u>	<u>5.74E-04</u>	<u>-----^a</u>	<u>3.00E+03</u>	<u>2.90E-03</u>	<u>4.10E-04</u>
<u>2691-41-0</u>	<u>High Melting Explosive, Octogen (HMX)</u>	<u>5.00E+00</u>	<u>2.69E-02</u>	<u>7.15E-06</u>	<u>8.67E-10</u>	<u>3.55E-08</u>	<u>1.40E+00</u>	<u>No Data</u>	<u>3.30E-14</u>
<u>77-47-4</u>	<u>Hexachlorocyclopentadiene</u>	<u>1.80E+00</u>	<u>2.79E-02</u>	<u>7.21E-06</u>	<u>1.11E+00</u>	<u>4.22E-01</u>	<u>1.20E+04</u>	<u>1.20E-02</u>	<u>5.96E-02</u>
<u>67-72-1</u>	<u>Hexachloroethane</u>	<u>5.00E+01</u>	<u>2.50E-03</u>	<u>6.80E-06</u>	<u>1.59E-01</u>	<u>7.26E-02</u>	<u>1.50E+03</u>	<u>1.92E-03</u>	<u>2.10E-01</u>
<u>193-39-5</u>	<u>Indeno(1,2,3-c,d)pyrene</u>	<u>2.20E-05</u>	<u>2.25E-02</u>	<u>5.66E-06</u>	<u>6.56E-05</u>	<u>-----^a</u>	<u>3.10E+06</u>	<u>4.70E-04</u>	<u>1.00E-10</u>
<u>78-59-1</u>	<u>Isophorone</u>	<u>1.20E+04</u>	<u>6.23E-02</u>	<u>6.76E-06</u>	<u>2.72E-04</u>	<u>1.12E-04</u>	<u>2.50E+01</u>	<u>1.24E-02</u>	<u>4.38E-01</u>
<u>98-82-8</u>	<u>Isopropylbenzene (Cumene)</u>	<u>6.10E+01</u>	<u>6.50E-02</u>	<u>7.10E-06</u>	<u>4.92E+01</u>	<u>2.10E+01</u>	<u>1.02E+03</u>	<u>4.33E-02</u>	<u>4.50E+00</u>
<u>93-65-2</u>	<u>Mecoprop (MCPP)</u>	<u>8.95E+02</u>	<u>2.40E-02</u>	<u>6.05E-06</u>	<u>7.70E-09</u>	<u>-----^a</u>	<u>1.84E+01^d</u>	<u>3.85E-03</u>	<u>2.44E-05</u>
<u>7439-97-6</u>	<u>Mercury</u>	<u>6.00E-02</u>	<u>7.14E-02</u>	<u>3.01E-05</u>	<u>4.51E-01</u>	<u>1.59E-01</u>	<u>8.70E+03</u>	<u>No Data</u>	<u>2.00E-03</u>
<u>72-43-5</u>	<u>Methoxychlor</u>	<u>4.50E-02</u>	<u>1.84E-02</u>	<u>4.46E-06</u>	<u>6.56E-04</u>	<u>-----^a</u>	<u>5.00E+04</u>	<u>1.90E-03</u>	<u>6.00E-07</u>
<u>74-83-9</u>	<u>Methyl Bromide</u>	<u>1.50E+04</u>	<u>7.28E-02</u>	<u>1.21E-05</u>	<u>2.56E-01</u>	<u>1.79E-01</u>	<u>1.00E+01</u>	<u>1.82E-02</u>	<u>1.62E+03</u>
<u>1634-04-4</u>	<u>Methyl tertiary-butyl ether</u>	<u>5.10E+04</u>	<u>8.59E-02</u>	<u>1.10E-05</u>	<u>2.42E-02</u>	<u>1.50E-02</u>	<u>1.00E+01</u>	<u>No Data</u>	<u>2.50E+02</u>
<u>75-09-2</u>	<u>Methylene Chloride</u>	<u>1.30E+04</u>	<u>1.01E-01</u>	<u>1.17E-05</u>	<u>9.02E-02</u>	<u>5.70E-02</u>	<u>1.30E+01</u>	<u>1.20E-02</u>	<u>4.30E+02</u>
<u>93-65-2</u>	<u>2-Methylnaphthalene</u>	<u>2.50E+01</u>	<u>5.22E-02</u>	<u>7.75E-06</u>	<u>2.10E-02</u>	<u>6.95E-03</u>	<u>1.60E+03</u>	<u>No Data</u>	<u>6.80E-02</u>

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<u>95-48-7</u>	<u>2-Methylphenol (o-cresol)</u>	<u>2.60E+04</u>	<u>7.40E-02</u>	<u>8.30E-06</u>	<u>4.92E-05</u>	<u>2.00E-05</u>	<u>4.20E+01</u>	<u>4.95E-02</u>	<u>2.99E-01</u>
<u>91-20-3</u>	<u>Naphthalene</u>	<u>3.10E+01</u>	<u>5.90E-02</u>	<u>7.50E-06</u>	<u>1.97E-02</u>	<u>8.29E-03</u>	<u>5.00E+02</u>	<u>2.70E-03</u>	<u>8.50E-02</u>
<u>98-95-3</u>	<u>Nitrobenzene</u>	<u>2.09E+03</u>	<u>7.60E-02</u>	<u>8.60E-06</u>	<u>9.84E-04</u>	<u>3.99E-04</u>	<u>4.00E+01</u>	<u>1.76E-03</u>	<u>2.40E-01</u>
<u>86-30-6</u>	<u>N-Nitrosodiphenylamine</u>	<u>3.50E+01</u>	<u>2.83E-02</u>	<u>7.19E-06</u>	<u>2.10E-04</u>	----- ^a	<u>1.00E+03</u>	<u>1.00E-02</u>	<u>6.70E-04</u>
<u>621-64-7</u>	<u>N-Nitrosodi-n-propylamine</u>	<u>9.89E+03</u>	<u>5.87E-02</u>	<u>8.17E-06</u>	<u>9.20E-05</u>	<u>5.48E-05</u>	<u>1.45E+01</u>	<u>1.90E-03</u>	<u>1.30E-01</u>
<u>87-86-5</u>	<u>Pentachlorophenol</u>	<u>2.00E+03</u>	<u>5.60E-02</u>	<u>6.10E-06</u>	<u>9.84E-07</u>	----- ^a	<u>2.77E+03^d</u>	<u>4.50E-04</u>	<u>3.20E-05</u>
<u>108-95-2</u>	<u>Phenol</u>	<u>8.30E+04</u>	<u>8.20E-02</u>	<u>9.10E-06</u>	<u>1.64E-05</u>	<u>6.67E-06</u>	<u>2.00E+01</u>	<u>9.90E-02</u>	<u>2.80E-01</u>
<u>1918-02-1</u>	<u>Picloram</u>	<u>4.30E+02</u>	<u>2.26E-02</u>	<u>5.64E-06</u>	<u>2.19E-12</u>	----- ^a	<u>2.00E+00</u>	<u>No Data</u>	<u>7.21E-11</u>
<u>1336-36-3</u>	<u>Polychlorinated biphenyls (PCBs)</u>	----- ^a	----- ^a	----- ^a					
<u>129-00-0</u>	<u>Pyrene</u>	<u>1.40E+00</u>	<u>2.77E-02</u>	<u>7.24E-06</u>	<u>4.51E-04</u>	----- ^a	<u>6.31E+04</u>	<u>1.80E-04</u>	<u>4.60E-06</u>
<u>121-82-4</u>	<u>Royal Demolition Explosive, Cyclonite (RDX)</u>	<u>5.97E+01</u>	<u>3.11E-02</u>	<u>8.49E-06</u>	<u>2.01E-11</u>	----- ^a	<u>7.20E+00</u>	<u>No Data</u>	<u>4.10E-09</u>
<u>122-34-9</u>	<u>Simazine</u>	<u>6.20E+00</u>	<u>2.48E-02</u>	<u>6.28E-06</u>	<u>3.80E-08</u>	----- ^a	<u>1.32E+02</u>	<u>No Data</u>	<u>2.21E-08</u>
<u>100-42-5</u>	<u>Styrene</u>	<u>3.10E+02</u>	<u>7.10E-02</u>	<u>8.00E-06</u>	<u>1.11E-01</u>	<u>5.48E-03</u>	<u>3.16E+02</u>	<u>3.30E-03</u>	<u>6.10E+00</u>
<u>93-72-1</u>	<u>2,4,5-TP (Silvex)</u>	<u>7.10E+01</u>	<u>2.30E-02</u>	<u>5.83E-06</u>	<u>3.71E-07</u>	----- ^a	<u>5.50E+03</u>	<u>No Data</u>	<u>9.97E-06</u>
<u>127-18-4</u>	<u>Tetrachloroethylene</u>	<u>2.00E+02</u>	<u>7.20E-02</u>	<u>8.20E-06</u>	<u>7.38E-01</u>	<u>4.00E-01</u>	<u>6.31E+02</u>	<u>9.60E-04</u>	<u>1.90E+01</u>
<u>108-88-3</u>	<u>Toluene</u>	<u>5.30E+02</u>	<u>8.70E-02</u>	<u>8.60E-06</u>	<u>2.71E-01</u>	<u>1.49E-01</u>	<u>1.58E+02</u>	<u>1.10E-02</u>	<u>2.80E+01</u>
<u>8001-35-2</u>	<u>Toxaphene</u>	<u>7.40E-01</u>	<u>2.16E-02</u>	<u>5.51E-06</u>	<u>2.46E-04</u>	----- ^a	<u>5.01E+04</u>	<u>No Data</u>	<u>9.80E-07</u>
<u>120-82-1</u>	<u>1,2,4-Trichlorobenzene</u>	<u>3.50E+01</u>	<u>3.00E-02</u>	<u>8.23E-06</u>	<u>5.74E-02</u>	<u>2.38E-02</u>	<u>1.58E+03</u>	<u>1.90E-03</u>	<u>4.30E-01</u>
<u>71-55-6</u>	<u>1,1,1-Trichloroethane</u>	<u>1.30E+03</u>	<u>7.80E-02</u>	<u>8.80E-06</u>	<u>6.97E-01</u>	<u>4.21E-01</u>	<u>1.26E+02</u>	<u>1.30E-03</u>	<u>1.20E+02</u>
<u>79-00-5</u>	<u>1,1,2-Trichloroethane</u>	<u>4.40E+03</u>	<u>7.80E-02</u>	<u>8.80E-06</u>	<u>3.73E-02</u>	<u>1.98E-02</u>	<u>5.01E+01</u>	<u>9.50E-04</u>	<u>2.30E+01</u>
<u>79-01-6</u>	<u>Trichloroethylene</u>	<u>1.50E+03</u>	<u>7.90E-02</u>	<u>9.10E-06</u>	<u>4.10E-01</u>	<u>2.41E-01</u>	<u>1.00E+02</u>	<u>4.20E-04</u>	<u>7.30E+01</u>
<u>75-69-4</u>	<u>Trichlorofluoromethane</u>	<u>1.10E+03</u>	<u>8.70E-02</u>	<u>9.70E-06</u>	<u>3.98E+00</u>	<u>2.69E+00</u>	<u>1.30E+02</u>	<u>9.63E-04</u>	<u>8.00E+02</u>
<u>95-95-4</u>	<u>2,4,5-Trichlorophenol</u>	<u>1.20E+03</u>	<u>2.91E-02</u>	<u>7.03E-06</u>	<u>1.78E-04</u>	----- ^a	<u>2.68E+03^d</u>	<u>3.80E-04</u>	<u>2.40E-02</u>

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88-06-2	2,4,6-Trichlorophenol	8.00E+02	2.61E-02	6.36E-06	3.53E-04	----- ^a	8.78E+02 ^d	3.80E-04	2.00E-02
108-05-4	Vinyl Acetate	2.00E+04	8.50E-02	9.20E-06	2.09E-02	1.18E-02	4.57E+00	No Data	9.00E+01
99-35-4	1,3,5-Trinitrobenzene	2.80E+02	2.41E-02	6.08E-06	3.30E-10	----- ^a	1.60E+01	No Data	6.40E-06
118-96-7	2,4,6-Trinitrotoluene (TNT)	1.24E+02	2.94E-02	7.90E-06	4.87E-09	----- ^a	3.72E+01	1.92E-03	2.02E-06
57-01-4	Vinyl Chloride	8.80E+03	1.06E-01	1.23E-06	1.11E+00	8.14E-01	1.58E+01	2.40E-04	3.00E+03
108-38-3	m-Xylene	1.60E+02	7.00E-02	7.80E-06	2.99E-01	1.52E-01	3.98E+02	1.90E-03	8.50E+00
95-47-6	o-Xylene	1.80E+02	8.70E-02	1.00E-05	2.13E-01	1.07E-01	3.16E+02	1.90E-03	6.60E+00
106-42-3	p-Xylene	1.60E+02	7.69E-02	8.44E-06	3.16E-01	1.59E-01	3.16E+02	1.90E-03	8.90E+00
1330-20-7	Xylenes (total)	1.10E+02	7.35E-02	9.23E-06	2.71E-01	NA	3.98E+02	1.90E-03	8.00E+00

Chemical Abstracts Service (CAS) registry number. This number in the format xxx-xx-x, is unique for each chemical and allows efficient searching on computerized data bases.

^a Soil remediation objectives are determined pursuant to 40 CFR 761, as incorporated by reference at Section 742.210(b) (the USEPA "PCB Spill Cleanup Policy"), for most sites; persons remediating sites should consult with BOL if calculation of Tier 2 or 3 remediation objectives is desired. PCBs are a mixture of different congeners. The appropriate values to use for the physical/chemical parameters depend on congeners present at the site.

^b Dimensionless Henry's Law Constant at 13°C is not calculated because the chemical is not volatile and does not require evaluation under the indoor inhalation exposure route.

^c Dimensionless Henry's Law Constant = 20°C

^d These chemicals are ionizing and its K_{oc} value will change with pH. The K_{oc} values listed in this table is the effective K_{oc} at pH of 6.8. If the site-specific pH is values other than 6.8, the K_{oc} value listed Appendix C, Table I should be used.

^e The values in this table were taken from the following sources (in order of preference): SCDMS online database (<http://www.epa.gov/superfund/sites/npl/hrsres/tools/scdm.htm>); CHEMFATE online database (<http://www.srcinc.com/what-we-do/databaseforms.aspx?id=381>); PhysProp online database (<http://www.srcinc.com/what-we-do/databaseforms.aspx?id=386>); Water (<http://www.epa.gov/ttn/chief/software/water/>) for

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diffusivity values; and Handbook of Environmental Degradation Rates by P.H. Howard (1991) for first order degradation constant values.

CAS No.	Chemical	Solubility in Water (S) (mg/L)	Diffusivity in Air (Di) (cm ² /s)	Diffusivity in Water (D _w) (cm ² /s)	Dimensionless Henry's Law Constant (H ¹) (25°C)	Organic Carbon Partition Coefficient (K _{oc}) (L/kg)	First Order Degradation Constant (λ) (d ⁻¹)
83-32-9	Acenaphthene	4.24	0.0421	7.69E-6	0.00636	7,080	0.0034
67-64-1	Acetone	1,000,000	0.124	1.14E-5	0.00159	0.575	0.0495
15972-60-8	Alachlor	242	0.0198	5.69E-6	0.00000132	394	No Data
116-06-3	Aldicarb	6,000	0.0305	7.19E-6	0.0000000574	12	0.00109
309-00-2	Aldrin	0.18	0.0132	4.86E-6	0.00697	2,450,000	0.00059
120-12-7	Anthracene	0.0434	0.0324	7.74E-6	0.00267	29,500	0.00075
1912-24-9	Atrazine	70	0.0258	6.69E-6	0.00000005	451	No Data
71-43-2	Benzene	1,750	0.088	9.80E-6	0.228	58.9	0.0009
56-55-3	Benzo(a)anthracene	0.0094	0.0510	9.00E-6	0.000137	398,000	0.00051
205-99-2	Benzo(b)fluoranthene	0.0015	0.0226	5.56E-6	0.00455	1,230,000	0.00057
207-08-9	Benzo(k)fluoranthene	0.0008	0.0226	5.56E-6	0.000034	1,230,000	0.00016
65-85-0	Benzoic Acid	3,500	0.0536	7.97E-6	0.0000631	0.600	No Data
50-32-8	Benzo(a)pyrene	0.00162	0.043	9.00E-6	0.0000463	1,020,000	0.00065
111-44-4	Bis(2-chloroethyl)ether	17,200	0.0692	7.53E-6	0.000738	15.5	0.0019
117-81-7	Bis(2-ethylhexyl)phthalate	0.34	0.0351	3.66E-6	0.00000418	15,100,000	0.0018
75-27-4	Bromodichloromethane	6,740	0.0298	1.06E-5	0.0656	55.0	No Data
75-25-2	Bromoform	3,100	0.0149	1.03E-5	0.0219	87.1	0.0019
71-36-3	Butanol	74,000	0.0800	9.30E-6	0.000361	6.92	0.01283
85-68-7	Butyl-Benzyl Phthalate	2.69	0.0174	4.83E-6	0.0000517	57,500	0.00385
86-74-8	Carbazole	7.48	0.0390	7.03E-6	0.000000626	3,390	No Data
1563-66-2	Carbofuran	320	0.0249	6.63E-6	0.00377	37	No Data
75-15-0	Carbon Disulfide	1,190	0.104	1.00E-5	1.24	45.7	No Data
56-23-5	Carbon Tetrachloride	793	0.0780	8.80E-6	1.25	174	0.0019

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57-74-9	Chlordane	0.056	0.0118	4.37E-6	0.00199	120,000	0.00025
106-47-8	p-Chloroaniline	5,300	0.0483	1.01E-5	0.0000136	66.1	No Data
108-90-7	Chlorobenzene	472	0.0730	8.70E-6	0.152	219	0.0023
124-48-1	Chlorodibromomethane	2,600	0.0196	1.05E-5	0.0321	63.1	0.00385
67-66-3	Chloroform	7,920	0.104	1.00E-5	0.15	39.8	0.00039
95-57-8	2-Chlorophenol	22,000	0.0501	9.46E-6	0.016	388	No Data
218-01-9	Chrysene	0.0016	0.0248	6.21E-6	0.00388	398,000	0.00035
94-75-7	2,4-D	680	0.0231	7.31E-6	0.00000041	451	0.00385
72-54-8	4,4'-DDD	0.09	0.0169	4.76E-6	0.000164	1,000,000	0.000062
72-55-9	4,4'-DDE	0.12	0.0144	5.87E-6	0.000861	4,470,000	0.000062
50-29-3	4,4'-DDT	0.025	0.0137	4.95E-6	0.000332	2,630,000	0.000062
75-99-0	Dalapon	900,000	0.0414	9.46E-6	0.00000264	5.8	0.005775
53-70-3	Dibenzo(a,h)anthracene	0.00249	0.0202	5.18E-6	0.000000603	3,800,000	0.00037
96-12-8	1,2-Dibromo-3-	1,200	0.0212	7.02E-6	0.00615	182	0.001925
106-93-4	1,2-Dibromoethane	4,200	0.0287	8.06E-6	0.0303	93	0.005775
84-74-2	Di-n-butyl-Phthalate	11.2	0.0438	7.86E-6	0.0000000385	33,900	0.03013
95-50-1	1,2-Dichlorobenzene	156	0.0690	7.90E-6	0.0779	617	0.0019
106-46-7	1,4-Dichlorobenzene	73.8	0.0690	7.90E-6	0.0996	617	0.0019
91-94-1	3,3-Dichlorobenzidine	3.11	0.0194	6.74E-6	0.000000164	724	0.0019
75-34-3	1,1-Dichloroethane	5,060	0.0742	1.05E-5	0.23	31.6	0.0019
107-06-2	1,2-Dichloroethane	8,520	0.104	9.90E-6	0.0401	17.4	0.0019
75-35-4	1,1-Dichloroethylene	2,250	0.0900	1.04E-5	1.07	58.9	0.0053
156-59-2	cis-1,2-Dichloroethylene	3,500	0.0736	1.13E-5	0.167	35.5	0.00024
156-60-5	trans-1,2-Dichloroethylene	6,300	0.0707	1.19E-5	0.385	52.5	0.00024
120-83-2	2,4-Dichlorophenol	4,500	0.0346	8.77E-6	0.00013	147	0.00027
78-87-5	1,2-Dichloropropane	2,800	0.0782	8.73E-6	0.115	43.7	0.00027
542-75-6	1,3-Dichloropropylene (cis + trans)	2,800	0.0626	1.00E-5	0.726	45.7	0.061
60-57-1	Dieldrin	0.195	0.0125	4.74E-6	0.000619	21,400	0.00032
84-66-2	Diethyl-Phthalate	1,080	0.0256	6.35E-6	0.0000185	288	0.00619
105-67-9	2,4-Dimethylphenol	7,870	0.0584	8.69E-6	0.000082	209	0.0495

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51-28-5	2,4-Dinitrophenol	2,790	0.0273	9.06E-6	0.0000182	0.01	0.00132
121-14-2	2,4-Dinitrotoluene	270	0.203	7.06E-6	0.0000038	95.5	0.00192
606-20-2	2,6-Dinitrotoluene	182	0.0327	7.26E-6	0.0000306	69.2	0.00192
88-85-7	Dinoseb	52	0.0215	6.62E-6	0.0000189	1,120	0.002817
117-84-0	Di-n-octyl-Phthalate	0.02	0.0151	3.58E-6	0.00274	83,200,000	0.0019
115-29-7	Endosulfan	0.51	0.0115	4.55E-6	0.000459	2,140	0.07629
145-73-3	Endothall	21,000	0.0291	8.07E-6	0.0000000107	0.29	No Data
72-20-8	Endrin	0.25	0.0125	4.74E-6	0.000308	12,300	0.00032
100-41-4	Ethylbenzene	169	0.0750	7.80E-6	0.323	363	0.003
206-44-0	Fluoranthene	0.206	0.0302	6.35E-6	0.00066	107,000	0.00019
86-73-7	Fluorene	1.98	0.0363	7.88E-6	0.00261	13,800	0.000691
76-44-8	Heptachlor	0.18	0.0112	5.69E-6	60.7	1,410,000	0.13
1024-57-3	Heptachlor-epoxide	0.2	0.0132	4.23E-6	0.00039	83,200	0.00063
118-74-1	Hexachlorobenzene	6.2	0.0542	5.91E-6	0.0541	55,000	0.00017
319-84-6	alpha-HCH (alpha-BHC)	2.0	0.0142	7.34E-6	0.000435	1,230	0.0025
58-89-9	gamma-HCH (Lindane)	6.8	0.0142	7.34E-6	0.000574	1,070	0.0029
77-47-4	Hexachlorocyclopentadiene	1.8	0.0161	7.21E-6	1.11	200,000	0.012
67-72-1	Hexachloroethane	50	0.0025	6.80E-6	0.159	1,780	0.00192
193-39-5	Indeno(1,2,3-c,d)pyrene	0.000022	0.0190	5.66E-6	0.0000656	3,470,000	0.00047
78-59-1	Isophorone	12,000	0.0623	6.76E-6	0.000272	46.8	0.01238
7439-97-6	Mercury	—	0.0307	6.30E-6	0.467	—	No Data
72-43-5	Methoxychlor	0.045	0.0156	4.46E-6	0.000648	97,700	0.0019
74-83-9	Methyl-Bromide	15,200	0.0728	1.21E-5	0.256	10.5	0.01824
1634-04-4	Methyl-tertiary-butyl-ether	51,000	0.102	1.10E-5	0.0241	11.5	No Data
75-09-2	Methylene-Chloride	13,000	0.101	1.17E-5	0.0898	11.7	0.012
95-48-7	2-Methylphenol	26,000	0.0740	8.30E-6	0.0000492	91.2	0.0495
91-20-3	Naphthalene	31.0	0.0590	7.50E-6	0.0198	2,000	0.0027
98-95-3	Nitrobenzene	2,090	0.0760	8.60E-6	0.000984	64.6	0.00176
86-30-6	N-Nitrosodiphenylamine	35.1	0.0312	6.35E-6	0.000205	1,290	0.01
621-64-7	N-Nitrosodi-n-propylamine	9,890	0.0545	8.17E-6	0.0000923	24.0	0.0019

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87-86-5	Pentachlorophenol	1,950	0.0560	6.10E-6	0.000001	592	0.00045
108-95-2	Phenol	82,800	0.0820	9.10E-6	0.0000163	28.8	0.099
1918-02-1	Picloram	430	0.0255	5.28E-6	0.00000000166	1.98	No Data
1336-36-3	Polychlorinated biphenyls	0.7	_____*	_____*	_____*	309,000	No Data
129-00-0	Pyrene	0.135	0.0272	7.24E-6	0.000451	105,000	0.00018
122-34-9	Simazine	5	0.027	7.36E-6	0.0000000133	133	No Data
100-42-5	Styrene	310	0.0710	8.00E-6	0.113	776	0.0033
93-72-1	2,4,5-TP (Silvex)	31	0.0194	5.83E-6	0.0000000032	5,440	No Data
127-18-4	Tetrachloroethylene	200	0.0720	8.20E-6	0.754	155	0.00096
108-88-3	Toluene	526	0.0870	8.60E-6	0.272	182	0.011
8001-35-2	Toxaphene	0.74	0.0116	4.34E-6	0.000246	257,000	No Data
120-82-1	1,2,4-Trichlorobenzene	300	0.0300	8.23E-6	0.0582	1,780	0.0019
71-55-6	1,1,1-Trichloroethane	1,330	0.0780	8.80E-6	0.705	110	0.0013
79-00-5	1,1,2-Trichloroethane	4,420	0.0780	8.80E-6	0.0374	50.1	0.00095
79-01-6	Trichloroethylene	1,100	0.0790	9.10E-6	0.422	166	0.00042
95-95-4	2,4,5-Trichlorophenol	1,200	0.0291	7.03E-6	0.000178	1,600	0.00038
88-06-2	2,4,6-Trichlorophenol	800	0.0318	6.25E-6	0.000319	381	0.00038
108-05-4	Vinyl Acetate	20,000	0.0850	9.20E-6	0.021	5.25	No Data
57-01-4	Vinyl Chloride	2,760	0.106	1.23E-6	1.11	18.6	0.00024
108-38-3	m-Xylene	161	0.070	7.80E-6	0.301	407	0.0019
95-47-6	o-Xylene	178	0.087	1.00E-5	0.213	363	0.0019
106-42-3	p-Xylene	185	0.0769	8.44E-6	0.314	389	0.0019
1330-20-7	Xylenes (total)	186	0.0720	9.34E-6	0.25	260	0.0019

Chemical Abstracts Service (CAS) registry number. This number in the format xxx-xx-x, is unique for each chemical and allows efficient searching on computerized data bases.

^a—Soil Remediation objectives are determined pursuant to 40 CFR 761, as incorporated by reference at Section 732.104 (the USEPA "PCB Spill Cleanup Policy"), for most sites; persons remediating sites should consult with BOL if calculation of Tier 2 soil remediation objectives is desired.

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(Source: Amended at 37 Ill. Reg. 7506, effective July 15, 2013)

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Section 742.APPENDIX C Tier 2 Illustrations and Tables

Section 742.TABLE F Methods for Determining Physical Soil Parameters

Methods for Determining Physical Soil Parameters		
Parameter	Sampling Location ^a	Method
ρ_b (soil bulk density)	Surface	ASTM-D 1556-90 Sand Cone Method ^b
		ASTM-D 2167-94 Rubber Balloon Method ^b
		ASTM-D 2922-91 Nuclear Method ^b
	Subsurface	ASTM-D 2937-94 Drive Cylinder Method ^b
ρ_s (soil particle density)	Surface or Subsurface	ASTM-D 854-92 Specific Gravity of Soil ^b
w (moisture content)	Surface or Subsurface	ASTM-D 4959-89 (Reapproved 1994) Standard ^b
		ASTM-D D 4643-93 Microwave Oven ^b
		ASTM-D D2216-92 Laboratory Determination ^b
		ASTM-D D3017-88 (Reapproved 1993) Nuclear Method ^b
		Equivalent USEPA Method (e.g., sample preparation procedures described in methods 3541 or 3550)
f_{oc} (fraction organic carbon content)	Surface or Subsurface	ASTM-D 2974-00 Moisture, Ash, and Organic Matter ^b appropriately adjusted to estimate the fraction of organic carbon as stated in Nelson and Sommers (1982) ^b
η or θ_T (total soil porosity)	Surface or Subsurface (calculated)	Equation S24 in Appendix C, Table A for SSL Model, or Equation R23 in Appendix C, Table C for RBCA Model, <u>or Equation J&E16 in Appendix C, Table L for J&E Model</u>

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θ_a or θ_{as} (air-filled soil porosity)	Surface or Subsurface (calculated)	Equation S21 in Appendix C, Table A for SSL Model, or Equation R21 in Appendix C, Table C for RBCA Model, <u>or Equation J&E18 in Appendix C, Table L for J&E Model</u>
θ_w or θ_{ws} (water-filled soil porosity)	Surface or Subsurface (calculated)	Equation S20 in Appendix C, Table A for SSL Model, or Equation R22 in Appendix C, Table C for RBCA Model, <u>or Equation J&E17 in Appendix C, Table L for J&E Model</u>
K (hydraulic conductivity)	Surface or Subsurface	ASTM-D 5084-90 Flexible Wall Permeameter ^b
		Pump Test
		Slug Test
i (hydraulic gradient)	Surface or Subsurface	Field Measurement

^a This is the location where the sample is collected

^b As incorporated by reference in Section 742.120.

(Source: Amended at 37 Ill. Reg. 7506, effective July 15, 2013)

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Section 742.APPENDIX C Tier 2 Tables**Section 742.TABLE L J&E Equations^a**

<u>Indoor air remediation objectives (mg/m³)</u>	<u>For carcinogenic contaminants</u>	$RO_{indoor-air} = \frac{TR \times AT_c \times 365 \text{ days/yr}}{ED \times EF \times URF \times 1000 \frac{\mu\text{g}}{\text{mg}}}$	<u>J&E1</u>
	<u>For noncarcinogenic contaminants</u>	$RO_{indoor-air} = \frac{THQ \times AT_{nc} \times 365 \text{ days/yr} \times RFC}{ED \times EF}$	<u>J&E2</u>
<u>To convert mg/m³ from parts per million volume</u>		$\text{mg/m}^3 = \frac{\text{ppmv} \times MW}{24.45}$ <p><u>Note: 24.45 equals the molar volume of air in liters at normal temperature (25°C) and pressure (760 mmHg).</u></p>	<u>J&E3</u>
<u>Soil gas remediation objective (mg/m³)</u>		$RO_{soil-gas} = \frac{RO_{indoor-air}}{\alpha}$	<u>J&E4</u>
<u>Soil Vapor Saturation Limit (mg/m³-air)</u>		$C_v^{sat} = \frac{P \times MW}{R \times T} \times 10^6$	<u>J&E5</u>
<u>Groundwater remediation objectives</u>		$RO_{gw} = \frac{RO_{soil-gas}}{H'_{TS} \times 1000 \frac{L_3}{m}}$	<u>J&E6</u>

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<p><u>Attenuation factor</u></p>	<p><u>Attenuation factor when the mode of contaminant transport is both diffusion and advection</u></p> <p>$Q_{soil} = 83.33$ cm^3/sec</p>	$\alpha = \frac{\left[\left(\frac{D_T^{eff} \times A_B}{Q_{bldg} \times L_T} \right) \times \exp\left(\frac{Q}{D_c} \right) \right]}{\exp\left(\frac{Q_{soil} \times L_{crack}}{D_{crack}^{eff} \times A_{crack}} \right) + \left(\frac{D_T^{eff} \times A_B}{Q_{bldg} \times L_T} \right) + \left(\frac{D_T^{eff}}{Q_{soil}} \right)}$	<p>J&E7</p>
	<p><u>Attenuation factor when the mode of contaminant transport is diffusion only</u></p> <p>$Q_{soil} = 0$ cm^3/sec</p>	$a = \frac{(D_T^{eff} \times A_B)}{1 + \left(\frac{D_T^{eff} \times A_B}{Q_{bldg} \times L_T} \right) + \left(\frac{D_T^{eff} \times A_B \times L_{crack}}{L_T \times D_{crack}^{eff} \times A_{crack}} \right)}$	<p>J&E8</p>
<p><u>Total overall effective diffusion coefficient for vapor transport in porous media for multiple soil layers</u> (cm^2/s)</p>		$D_T^{eff} = \frac{L_T}{\sum_{i=1}^n L_i D_i^{eff}}$	<p>J&E9a</p>
	<p><u>In Equation J&E9a, the following condition must be satisfied:</u></p>	$\sum_{i=1}^n L_i = L_T$	<p>J&E9b</p>
<p><u>Source to building separation</u> (cm)</p>		$L_T = D_{source} - L_F$	<p>J&E10</p>
<p><u>Effective diffusion coefficient for each soil layer</u> (cm^2/s)</p>		$D_i^{eff} = \left(\frac{\theta^{3.33_{a,i}}}{\theta^{2_{T,i}}} \right) + \left(\frac{D_w}{H_{TS}} \right) \left(\frac{\theta^{3.33_{wi}}}{\theta^{2_{T,i}}} \right)$	<p>J&E11</p>

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<u>Surface area of enclosed space at or below grade (cm²)</u>	<u>For a building with a full concrete slab-on-grade</u>	$\underline{A_B = (L_B \times W_B)}$	<u>J&E12</u> <u>a</u>
<u>Surface area of enclosed space at or below grade (cm²)</u>	<u>For a building with a full concrete basement floor and walls</u>	$\underline{A_B = (L_B \times W_B) + (2 \times L_F \times L_B) + (2 \times L_F \times W_B)}$	<u>J&E12</u> <u>b</u>
<u>Building ventilation rate (cm³/s)</u>		$\underline{Q_{bldg} = \frac{L_B \times W_B \times H_B \times ER}{3600 \text{sec/hr}}}$	<u>J&E13</u>
<u>Area of total cracks (cm²)</u>		$\underline{A_{crack} = 2 \times (L_B + W_B) \times w}$	<u>J&E14</u>
<u>Effective diffusion coefficient through the cracks (cm²/s)</u>		$\underline{D^{eff_{crack}} = D_i \left(\frac{\theta^{3.33_{a.crack}}}{\theta^{2_{T.crack}}} \right) + \left(\frac{D_w}{H_{TS}} \right) \left(\frac{\theta^{3.33_{w.crack}}}{\theta^{2_{T.crack}}} \right)}$	<u>J&E15</u>
<u>Total porosity</u>		$\underline{\theta_{Ti} = 1 - \frac{\rho_{bi}}{\rho_s}}$	<u>J&E16</u>
<u>Water-filled soil porosity</u>		$\underline{\theta_w = W \times \frac{\rho_b}{\rho_w}}$	<u>J&E17</u>
<u>Air-filled soil porosity</u>		$\underline{\theta_a = \theta_T - \theta_w}$	<u>J&E18</u>

^a This table contains equations based on the assumption that the existing or potential building has a full concrete slab-on-grade or a full concrete basement floor and walls. This table

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applies only when the existing or potential building has a full concrete slab-on-grade or a full concrete basement floor and walls. Institutional controls under Subpart J are required to develop remediation objectives pursuant to this table. This table does not apply when the existing or potential building has neither a full concrete slab-on-grade nor a full concrete basement floor and walls, such as a building with an earthen crawl space, an earthen floor, a stone foundation, a partial concrete floor, or a sump. In such cases, site evaluators have the option of excluding the indoor inhalation exposure route under Section 742.312, meeting the building control technology requirements under Subpart L, or proposing an alternative approach under Tier 3.

(Source: Added at 37 Ill. Reg. 7506, effective July 15, 2013)

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Section 742.APPENDIX C Tier 2 Tables**Section 742.TABLE M J&E Parameters**

<u>Symbol</u>	<u>Parameter</u>	<u>Units</u>	<u>Source</u>	<u>Tier 1 or Calculated Value</u>
A_B	<u>Surface area of enclosed space at or below grade</u>	cm^2	<u>Equation J&E 12a or 12b, Appendix C, Table L</u>	<u>Residential = 1×10^6 Industrial/Commercial = 4.0×10^6</u>
A_{crack}	<u>Area of total cracks</u>	cm^2	<u>Equation J&E 14, Appendix C, Table L</u>	<u>Calculated Value</u>
AT_c	<u>Averaging time for carcinogens</u>	<u>year</u>	<u>SSL, May 1996</u>	<u>70</u>
AT_{nc}	<u>Averaging time for noncarcinogens</u>	<u>year</u>	<u>$AT_{nc} = ED$</u>	<u>Residential = 30 Industrial/Commercial = 25</u>
C_v^{sat}	<u>Soil vapor saturation limit</u>	mg/m^3 -air	<u>Equation J&E 5, Appendix C, Table L</u>	<u>Chemical-Specific or Calculated Value</u>
D_{crack}^{eff}	<u>Effective diffusion coefficient through the cracks</u>	cm^2/s	<u>Equation J&E 15, Appendix C, Table L</u>	<u>Calculated Value</u>
D_i	<u>Diffusivity in air</u>	cm^2/s	<u>Appendix C, Table E</u>	<u>Chemical-Specific</u>
D_i^{eff}	<u>Effective diffusion coefficient for each soil layer</u>	cm^2/s	<u>Equation J&E 11, Appendix C, Table L</u>	<u>Calculated Value</u>
D_{source}	<u>Distance from ground surface to top of contamination</u>	<u>cm</u>	<u>Field Measurement</u>	<u>Soil Gas Contamination = 152.4 Groundwater Contamination = 304.8 Site-Specific</u>
D_T^{eff}	<u>Total overall effective diffusion coefficient</u>	cm^2/s	<u>Equation J&E 9a, Appendix C, Table L</u>	<u>Calculated Value</u>
D_w	<u>Diffusivity in water</u>	cm^2/s	<u>Appendix C, Table E</u>	<u>Chemical-Specific</u>
<u>ED</u>	<u>Exposure duration</u>	<u>year</u>	<u>Residential: SSL, May 1996 Industrial/Commercial: SSL 2002</u>	<u>Residential = 30 Industrial/Commercial = 25</u>
<u>EF</u>	<u>Exposure frequency</u>	<u>day/year</u>	<u>Residential: SSL, May 1996 Industrial/Commercial: SSL 2002</u>	<u>Residential = 350 Industrial/Commercial = 250</u>

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<u>ER</u>	<u>Air exchange rate</u>	<u>exchanges per hour</u>	<u>Illinois EPA</u>	<u>Residential = 0.53</u> <u>Industrial/ Commercial = 0.93</u>
<u>f_{oc}</u>	<u>Fraction organic carbon content</u>	<u>g/g</u>	<u>SSL, May 1996, or Field Measurement Appendix C, Table F</u>	<u>0.002 or Site-Specific</u>
<u>H_B</u>	<u>Height of building</u>	<u>cm</u>	<u>Illinois EPA</u>	<u>Slab-on-Grade Residential = 244</u> <u>Industrial/ Commercial = 305 or Site-Specific in Tier 3</u> <u>Basement Residential = 427</u> <u>Industrial/ Commercial = 488 or Site-Specific in Tier 3</u>
<u>H'_{TS}</u>	<u>Dimensionless Henry's law constant at the system (soil) temperature 13°C</u>	<u>unitless</u>	<u>Appendix C, Table E</u>	<u>Chemical-Specific</u>
<u>L_B</u>	<u>Length of building</u>	<u>cm</u>	<u>Illinois EPA</u>	<u>Residential = 1000</u> <u>Industrial/Commercial = 2000 or Site-Specific in Tier 3</u>
<u>L_{crack}</u>	<u>Slab thickness</u>	<u>cm</u>	<u>USEPA, Users Guide, 2004</u>	<u>10</u>
<u>L_F</u>	<u>Distance from ground surface to bottom of slab</u>	<u>cm</u>	<u>USEPA, Users Guide, 2004</u>	<u>10 (slab on grade) 200 (basement)</u>
<u>L_i</u>	<u>Thickness of soil layer i</u>	<u>cm</u>	<u>Field Measurement for Capillary Fringe, USEPA, 2004</u>	<u>Site-Specific</u> <u>For Capillary Fringe, 37.5 cm</u>
<u>L_T</u>	<u>Distance from bottom of slab to top of contamination</u>	<u>cm</u>	<u>Field Measurement or Equation J&E 10, Appendix C, Table L</u>	<u>142.4 or Site-Specific</u>
<u>MW</u>	<u>Molecular weight</u>	<u>g/mole</u>	<u>Illinois EPA</u>	<u>Chemical-Specific</u>
<u>n</u>	<u>Total number of layers of different types of soil vapors migrate through from source to building (if source is groundwater,</u>	<u>unitless</u>	<u>Field Measurement</u>	<u>Site-Specific</u>

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	<u>include a capillary fringe layer of 37.5 cm as one of the layers)</u>			
<u>P</u>	<u>Vapor Pressure</u>	<u>atm</u>	<u>Appendix C, Table E</u>	<u>Chemical-Specific</u>
<u>Q_{bldg}</u>	<u>Building ventilation rate</u>	<u>cm³/s</u>	<u>Equation J&E 13, Appendix C, Table L</u>	<u>Slab-on-Grade</u> <u>Residential = 3.59 x 10⁴</u> <u>Industrial/ Commercial = 3.15 x 10⁵</u> <u>or Site-Specific in Tier 3</u> <u>Basement</u> <u>Residential = 6.28 x 10⁴</u> <u>Industrial/Commercial = 5.04 x 10⁵</u> <u>or Site-Specific in Tier 3</u>
<u>Q_{soil}</u>	<u>Volumetric flow rate of soil gas into the enclosed space</u>	<u>cm³/s</u>	<u>USEPA, Users Guide for Evaluating Subsurface Vapor Intrusion into Buildings, 2004</u>	<u>If L_T is less than 5 feet (152 cm),</u> <u>Q_{soil} equals 83.33.</u> <u>If L_T is 5 feet (152 cm) or greater, Q_{soil} equals zero.</u> <u>An input value of zero requires an institutional control. See Section 742.505(b) and (c).</u>
<u>R</u>	<u>Ideal gas constant</u>	<u>atm-L/mol-K</u>	<u>USEPA, Users Guide, 2004</u>	<u>0.08206</u>
<u>RfC</u>	<u>Reference concentration</u>	<u>µg/m³</u>	<u>Illinois EPA:</u> <u>http://www.epa.state.il.us/land/taco/toxicity-values.xls</u>	<u>Toxicological-Specific</u>
<u>RO_{gw}</u>	<u>Groundwater remediation objective</u>	<u>mg/L</u>	<u>Appendix B, Table E, or Equation J&E 6, Appendix C, Table L</u>	<u>Chemical-Specific or Calculated Value</u>
<u>RO_{indoor-air}</u>	<u>Indoor air remediation objective</u>	<u>mg/m³</u>	<u>Equations J&E 1 and 2, Appendix C, Table L</u>	<u>Calculated Value</u>
<u>RO_{soilgas}</u>	<u>Soil gas remediation objective</u>	<u>mg/m³</u>	<u>Equation J&E 4, Appendix C, Table L</u>	<u>Calculated Value</u>
<u>S</u>	<u>Solubility in water</u>	<u>mg/L</u>	<u>Appendix C, Table E</u>	<u>Chemical-Specific</u>

POLLUTION CONTROL BOARD

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<u>T</u>	<u>Temperature</u>	<u>°K</u>	<u>USEPA, Users Guide, 2004</u>	<u>286 (converted from 13°C)</u>
<u>THQ</u>	<u>Target hazard quotient for a chemical</u>	<u>unitless</u>	<u>SSL, May 1996</u>	<u>1</u>
<u>TR</u>	<u>Target risk or the increased chance of developing cancer over a lifetime due to exposure to a chemical</u>	<u>unitless</u>	<u>SSL, May 1996</u>	<u>Residential = 10⁻⁶ at the point of human exposure Industrial/Commercial = 10⁻⁶ at the point of human exposure</u>
<u>URF</u>	<u>Unit risk factor</u>	<u>(µg/m³)⁻¹</u>	<u>Illinois EPA: http://www.epa.state.il.us/land/taco/toxicity-values.xls</u>	<u>Toxicological- Specific</u>
<u>w</u>	<u>Floor-wall seam gap</u>	<u>cm</u>	<u>USEPA, Users Guide, 2004</u>	<u>0.1</u>
<u>W</u>	<u>Moisture content</u>	<u>g of water/g of soil</u>	<u>Field Measurement, Appendix C, Table F</u>	<u>Site-Specific</u>
<u>W_B</u>	<u>Width of building</u>	<u>cm</u>	<u>Illinois EPA</u>	<u>Residential = 1000 Industrial/ Commercial = 2000 or Site-Specific in Tier 3</u>
<u>α</u>	<u>Attenuation factor</u>	<u>unitless</u>	<u>Equations J&E 7 or 8, Appendix C, Table L</u>	<u>Site-Specific</u>
<u>θ_a</u>	<u>Air-filled soil porosity</u>	<u>cm³/cm³</u>	<u>SSL, May 1996 or Equation J&E 18, Appendix C, Table L</u>	<u>0.28 or Calculated Value</u>
<u>θ_{a,crack}</u>	<u>Air-filled porosity for soil in cracks</u>	<u>cm³/cm³</u>	<u>SSL, May 1996 or Equation J&E 18, Appendix C, Table L</u>	<u>0.13</u>
<u>θ_{a,i}</u>	<u>Air-filled porosity of soil layer i</u>	<u>cm³/cm³</u>	<u>SSL, May 1996 or Equation J&E 18, Appendix C, Table L</u>	<u>0.13 or Calculated Value For capillary fringe, θ_{a,i} ≡ 0.1 θ_{T,i}</u>
<u>θ_{T,crack}</u>	<u>Total porosity for soil in cracks</u>	<u>cm³/cm³</u>	<u>SSL, May 1996 or Equation J&E 16, Appendix C, Table L</u>	<u>0.43</u>
<u>θ_{T,i}</u>	<u>Total porosity of soil layer i</u>	<u>cm³/cm³</u>	<u>SSL, May 1996 or Equation J&E 16, Appendix C, Table L</u>	<u>0.43 or Calculated Value</u>
<u>θ_w</u>	<u>Water-filled soil porosity</u>	<u>cm³/cm³</u>	<u>SSL, May 1996 or Equation J&E 17, Appendix C, Table L</u>	<u>0.15 or Calculated Value</u>

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$\theta_{w,crack}$	<u>Water-filled porosity for soil in cracks</u>	cm^3/cm^3	<u>SSL, May 1996 or Equation J&E 17, Appendix C, Table L</u>	<u>0.15</u>
$\theta_{w,i}$	<u>Water-filled porosity of soil layer i</u>	cm^3/cm^3	<u>SSL, May 1996 or Equation J&E 17, Appendix C, Table L For capillary fringe, US EPA, Users Guide 2004</u>	<u>0.15 or Calculated Value For capillary fringe = 0.375 or 0.9 $\theta_{T,i}$</u>
θ_b	<u>Dry soil bulk density</u>	g/cm^3	<u>SSL, May 1996 or Field Measurement, Appendix C, Table F</u>	<u>1.5 or Calculated Value</u>
$\theta_{s,i}$	<u>Soil particle density</u>	g/cm^3	<u>SSL, May 1996 or Field Measurement, Appendix C, Table F</u>	<u>2.65 or Calculated Value</u>
θ_w	<u>Density of water</u>	g/cm^3	<u>Illinois EPA</u>	<u>1</u>

(Source: Added at 37 Ill. Reg. 7506, effective July 15, 2013)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

Section 742.APPENDIX F Environmental Land Use Control

PREPARED BY:

Name: _____

Address: _____

RETURN TO:

Name: _____

Address: _____

THE ABOVE SPACE FOR RECORDER'S OFFICE

Model Environmental Land Use Control

THIS ENVIRONMENTAL LAND USE CONTROL ("ELUC"), is made this _____ day of _____, 20__ by _____, ("Property Owner") of the real property located at the common address _____ ("Property").

WHEREAS, 415 ILCS 5/58.17 and 35 Ill. Adm. Code 742 provide for the use of an ELUC as an institutional control in order to impose land use limitations or requirements related to environmental contamination so that persons conducting remediation can obtain a No Further Remediation determination from the Illinois Environmental Protection Agency ("IEPA"). The reason for an ELUC is to ensure protection of human health and the environment. The limitations and requirements contained herein are necessary in order to protect against exposure to contaminated soil, ~~or~~ groundwater, or ~~soil gas~~~~both~~, that may be present on the property as a result of [VARIABLE] activities. Under 35 Ill. Adm. Code 742, the use of risk-based, site-specific remediation objectives may require the use of an ELUC on real property, and the ELUC may apply to certain physical features (e.g., engineered barriers, indoor inhalation building control technologies, monitoring wells, caps, etc.).

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

WHEREAS, _____ **[the party performing remediation]** _____ intends to request risk-based, site specific soil, ~~and~~ groundwater, or soil gas remediation objectives from IEPA under 35 Ill. Adm. Code 742 to obtain risk-based closure of the site, identified by Bureau of Land _____ **[10-digit LPC or Identification number]** _____, utilizing an ELUC.

NOW, THEREFORE, the recitals set forth above are incorporated by reference as if fully set forth herein, and the Property Owner agrees as follows:

Date: _____ By: _____
Director

Section One. Property Owner does hereby establish an ELUC on the real estate, situated in the County of _____, State of Illinois and further described in Exhibit A attached hereto and incorporated herein by reference (the "Property").

Attached as Exhibit B are site maps that show the legal boundary of the Property, any physical features to which the ELUC applies, the horizontal and vertical extent of the contaminants of concern above the applicable remediation objectives for soil, ~~or~~ groundwater, or soil gas ~~both~~, and the nature, location of the source, and direction of movement of the contaminants of concern, as required under 35 Ill. Adm. Code 742.

Section Two. Property Owner represents and warrants **he/she** is the current owner of the Property and has the authority to record this ELUC on the chain of title for the Property with the Office of the Recorder or Registrar of Titles in _____ County, Illinois.

Section Three. The Property Owner hereby agrees, for **himself/herself**, and **his/her** heirs, grantees, successors, assigns, transferees and any other owner, occupant, lessee, possessor or user of the Property or the holder of any portion thereof or interest therein, that **[INSERT RESTRICTION (e.g., the groundwater under the Property shall not be used as a potable supply of water, and any contaminated groundwater or soil that is removed, excavated, or disturbed from the Property described in Exhibit A herein must be handled in accordance with all applicable laws and regulations)]**.

Section Four. This ELUC is binding on the Property Owner, **his/her** heirs, grantees, successors, assigns, transferees and any other owner, occupant, lessee, possessor or user of the Property or the holder of any portion thereof or interest therein. This ELUC shall apply in perpetuity against the Property and shall not be released until the IEPA determines there is no longer a need for this ELUC as an institutional control; until the IEPA, upon written request,

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

issues to the site that received the no further remediation determination a new no further remediation determination approving modification or removal of the limitation(s) or requirement(s); the new no further remediation determination is filed on the chain of title of the site subject to the no further remediation determination; and until a release or modification of the land use limitation or requirement is filed on the chain of title for the Property.

Section Five. Information regarding the remediation performed on the Property may be obtained from the IEPA through a request under the Freedom of Information Act [5 ILCS 140] and rules promulgated thereunder by providing the IEPA with the 10-digit LPC or identification number listed above.

Section Six. The effective date of this ELUC shall be the date that it is officially recorded in the chain of title for the Property to which the ELUC applies.

WITNESS the following signatures:

Property Owner(s)

By: _____

Its: _____

Date: _____

STATE OF ILLINOIS)
) SS:
_____)
COUNTY OF _____)

I, _____ the undersigned, a Notary Public for said County and State, DO HEREBY CERTIFY, that _____ and _____, personally known to me to be the Property Owner(s) of _____, and personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that in said capacities they signed and delivered the said instrument as their free and voluntary act for the uses and purposes therein set forth.

Given under my hand and official seal, this _____ day of _____, 20 ____.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

PIN NO. XX-XX-XXX-XXX-XXXX
(Parcel Index Number)

Exhibit A

The subject property is located in the City of _____, _____ County, State of Illinois, commonly known as _____, _____, Illinois and more particularly described as:

LIST THE COMMON ADDRESS;

LEGAL DESCRIPTION; AND

REAL ESTATE TAX INDEX OR PARCEL #

(PURSUANT TO SECTION 742.1010(d)(2))

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

PIN NO. XX-XX-XXX-XXX-XXXX

Exhibit B

IN ACCORDANCE WITH SECTION 742.1010(d)(8)(A) through- (D), PROVIDE ALL THE FOLLOWING ELEMENTS. ATTACH SEPARATE SHEETS, LABELED AS EXHIBIT B, WHERE NECESSARY.

- (A) A scaled map showing the legal boundary of the property to which the ELUC applies.
- (B) Scaled maps showing the horizontal and vertical extent of contaminants of concern above the applicable remediation objectives for soil, ~~and~~ groundwater, and soil gas to which the ELUC applies.
- (C) Scaled maps showing the physical features to which an ELUC applies (e.g., engineered barriers, indoor inhalation building control technologies, monitoring wells, caps, etc.).
- (D) Scaled maps showing the nature, location of the source, and direction of movement of the contaminants of concern.

(Source: Amended at 37 Ill. Reg. 7506, effective July 15, 2013)

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 May 14, 2013 through May 20, 2013. The rulemakings are scheduled for review at the Committee's June 11, 2013 meeting. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rulemaking should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

<u>Second Notice Expires</u>	<u>Agency and Rule</u>	<u>Start Of First Notice</u>	<u>JCAR Meeting</u>
6/27/13	<u>Department of Veterans' Affairs</u> , Payment of Maintenance Charges and Income Management at the Illinois Veterans' Homes (95 Ill. Adm. Code 108)	2/22/13 37 Ill. Reg. 2471	6/11/13
6/27/13	<u>Department of Veterans' Affairs</u> , MIA/POW Scholarship (95 Ill. Adm. Code 116)	2/8/13 37 Ill. Reg. 1591	6/11/13
6/27/13	<u>Department of Veterans' Affairs</u> , Veterans' Scratch-Off Lottery Grant Program (95 Ill. Adm. Code 125)	2/1/13 37 Ill. Reg. 1184	6/11/13
6/28/13	<u>Department of Central Management Services</u> , Pay Plan (80 Ill. Adm. Code 310)	3/29/13 37 Ill. Reg. 3462	6/11/13
6/29/13	<u>State Board of Education</u> , Mentoring Program for New Principals (23 Ill. Adm. Code 35)	2/8/13 37 Ill. Reg. 1550	6/11/13
6/29/13	<u>State Board of Education</u> , Student Records (23 Ill. Adm. Code 375)	2/8/13 37 Ill. Reg. 1556	6/11/13

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

6/29/13	<u>Department of Natural Resources</u> , Consultation Procedures for assessing Impacts of Agency Actions on Endangered and Threatened Species and Natural Areas (17 Ill. Adm. Code 1075)	3/22/13 37 Ill. Reg. 3390	6/11/13
6/29/13	<u>Department of Natural Resources</u> , Designation of Restricted Waters in the State of Illinois (17 Ill. Adm. Code 2030)	3/22/13 37 Ill. Reg. 3397	6/11/13
7/3/13	<u>Comptroller</u> , Illinois Funeral or Burial Funds Act (38 Ill. Adm. Code 610)	2/22/13 37 Ill. Reg. 2382	6/11/13
7/3/13	<u>Comptroller</u> , Claim Eligible to be Offset (74 Ill. Adm. 285)	2/22/13 37 Ill. Reg. 2393	6/11/13
7/3/13	<u>Secretary of State</u> , Cancellation, Revocation or Suspension of License or Permits (92 Ill. Adm. Code 1040)	3/29/13 37 Ill. Reg. 3635	6/11/13
7/3/13	<u>Illinois Gaming Board</u> , Riverboat Gambling (86 Ill. Adm. Code 3000)	2/15/13 37 Ill. Reg. 1837	6/11/13

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLYSTATEMENT OF OBJECTION
TO PROPOSED RULEMAKING

DEPARTMENT OF PUBLIC HEALTH

Heading of the Part: Animal Population Control Code

Code Citation: 77 Ill. Adm. Code 996

Section Numbers: 996.100 996.400 996.700 996.1000
996.200 996.500 996.800
996.300 996.600 996.900

Date Originally Published in the Illinois Register: 1/18/13
37 Ill. Reg. 521

At its meeting on 5/14/13, the Joint Committee on Administrative Rules issued an Objection with respect to the Department of Public Health's rulemaking titled Animal Population Control Code (77 Ill. Adm. Code 996; 37 Ill. Reg. 521), because the Department has been operating this program without rules since 2007. This rulemaking was proposed almost 8 years after PA 94-639 became effective and almost 6 years after DPH initiated the program.

Failure of the agency to respond within 90 days after receipt of the Statement of Objection shall constitute withdrawal of this proposed rulemaking. The agency's response will be placed on the JCAR agenda for further consideration.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLYSTATEMENT OF OBJECTION
TO PROPOSED RULEMAKING

DEPARTMENT OF REVENUE

Heading of the Part: Retailers' Occupation Tax

Code Citation: 86 Ill. Adm. Code 130

Section Numbers: 130.410 130.415

Date Originally Published in the Illinois Register: 5/25/12
36 Ill. Reg. 7971

At its meeting on 5/14/13, the Joint Committee on Administrative Rules issued an Objection to the Department of Revenue's rulemaking titled Retailers' Occupation Tax (86 Ill. Adm. Code 130; 36 Ill. Reg. 7971) because the Department is changing Illinois' position with respect to the taxability of shipping and handling charges for delivery of a purchase to a customer without explicit statutory authority to do so. This is a major change in policy that is likely to have an economic impact on retailers and their customers and should be initiated, if warranted, through legislation.

Failure of the agency to respond within 90 days after receipt of the Statement of Objection shall constitute withdrawal of this proposed rulemaking. The agency's response will be placed on the JCAR agenda for further consideration.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

STATEMENT OF OBJECTION
TO PROPOSED RULEMAKING

DEPARTMENT OF REVENUE

Heading of the Part: Service Occupation Tax

Code Citation: 86 Ill. Adm. Code 140

Section Numbers: 140.301

Date Originally Published in the Illinois Register: 5/25/12
36 Ill. Reg. 7990

At its meeting on 5/14/13, the Joint Committee on Administrative Rules issued an Objection to the Department of Revenue's rulemaking titled Service Occupation Tax (86 Ill. Adm. Code 140; 36 Ill. Reg. 7990) because the Department is changing Illinois' position with respect to the taxability of shipping and handling charges for delivery of a purchase to a customer without explicit statutory authority to do so. This is a major change in policy that is likely to have an economic impact on retailers and their customers and should be initiated, if warranted, through legislation.

Failure of the agency to respond within 90 days after receipt of the Statement of Objection shall constitute withdrawal of this proposed rulemaking. The agency's response will be placed on the JCAR agenda for further consideration.

POLLUTION CONTROL BOARD

NOTICE OF PUBLIC INFORMATION ON PROPOSED AMENDMENT

NOTICE OF PUBLIC HEARING AND COMMENT PERIOD
PURSUANT TO 415 ILCS 5/10(H) and 1 ILCS 100/5-70(b)Notice of Public Comment Period and Public Hearing for
State Implementation Plan (SIP) Submittals for Ozone

The Pollution Control Board (Board) is accepting public comments and will conduct a public hearing on a prospective carbon monoxide, lead, nitrogen oxides, ozone, particulate matter, and sulfur oxides SIP submittal or submittals to the U.S. Environmental Protection Agency (USEPA). The Board will accept written comments on the proposed rule that will form the basis for the SIP proposal until 45 days after the date of this issue of the *Illinois Register*, and a public hearing will occur in Springfield and Chicago on June 26, 2013. The Board presently anticipates adoption of Illinois ambient air quality standards that are identical-in-substance to federal National Ambient Air Quality Standards (NAAQS) on July 25, 2013.

Section 10(H) of the Act [415 ILCS 5/10(H)], as added by P.A. 97-945 (eff. Aug. 10, 2012)), mandates this rulemaking requiring the Board to "adopt ambient air quality standards specifying the maximum permissible short-term and long-term concentrations of various contaminants in the atmosphere; those standards shall be identical in substance to the national ambient air quality standards promulgated by . . . the United States Environmental Protection Agency in accordance with Section 109 of the Clean Air Act [(42 U.S.C. 7409)]." 415 ILCS 5/10(H). In addition, Section 9.1(e) of the Act requires the Board to conduct this rulemaking pursuant to Section 7.2(b) of the Act [415 ILCS 5/7.2(b) (2012)] for adopting rules that are "identical in substance" to the federal requirements.

On May 16, 2013, the Board adopted a proposal for public comment in docket R13-11 to initiate adoption of the NAAQS using the identical-in-substance procedure. This in initial identical-in-substance proceeding embraces federal NAAQS adopted between April 30, 1971 and December 31, 2012. A Notice of Proposed Amendment appears in today's issue of the *Illinois Register* relative to the docket R13-11 proposal.

The Board expects that the Illinois Environmental Protection Agency (Agency) will submit the present amendments as a revision to the Illinois SIP for ozone pursuant to section 110 of the federal Clean Air Act (42 U.S.C. 7410(a) (2010) and the implementing USEPA regulations. See 40 C.F.R. 51.102 and appendix V (2010).

Section 10(H) of the Act [415 ILCS 5/10(H)] requires the Board to "provide for notice, a hearing if required by [USEPA], and public comment before adopted rules are filed with the Secretary of State." As USEPA will require the State to have conducted a hearing on the NAAQS involved in

POLLUTION CONTROL BOARD

NOTICE OF PUBLIC INFORMATION ON PROPOSED AMENDMENT

this proceeding pursuant to 42 U.S.C. 4210(a) and 40 C.F.R. § 51.102, the Board has scheduled a public hearing in this matter to occur by teleconference at two locations, as follows:

11:00 a.m., June 26, 2013

Sangamo Building, Room 1119N
Illinois Pollution Control Board Hearing Room
1021 North Grand Avenue
Springfield, Illinois

The Board invites public comment on the proposed amendments. The Board will receive public comments until at least 45 days after a notice of these proposed amendments appears in the *Illinois Register*. Anyone may file a public comment with the Board at:

Office of the Clerk
Pollution Control Board
James R. Thompson Center
100 W. Randolph Street, Suite 11-500
Chicago, Illinois 60601

All comments relating to this rulemaking should clearly refer to docket number R13-11.

The record in this docket will include all documents pertaining to this proceeding. All documents in the record are publicly available for inspection and copying as provided in 2 Ill. Adm. Code 2175 (2012) by contacting the Office of the Clerk. The documents are also freely available online at the Board's webpage: www.ipcb.state.il.us.

The record will not include a copy of the following documents, which are all otherwise publicly available:

- The various *Federal Register* notices that prompted this action (referenced in the Board's May 16, 2013 opinion and order proposing amendments);
- Federal statutes and regulations referenced in the Board's May 16, 2013 opinion and order; and
- Illinois statutes and regulations referenced in the Board's May 16, 2013 opinion and order.

The Board requests that interested persons direct questions to the following person:

POLLUTION CONTROL BOARD

NOTICE OF PUBLIC INFORMATION ON PROPOSED AMENDMENT

Michael J. McCambridge, Staff Attorney
Pollution Control Board
100 West Randolph Street, Room 11-500
Chicago, Illinois 60601
219-814-6924
mccambm@ipcb.state.il.us

The Board requests that interested persons request documents from or submit documents to the following person:

John T. Therriault, Assistant Clerk of the Board
Pollution Control Board
100 West Randolph Street, Room 11-500
Chicago, Illinois 60601
219-814-3629
therriaj@ipcb.state.il.us

After the hearing and conclusion of the public comment period, the Board will promptly issue an opinion and order adopting final rule amendments. The Board presently anticipates adoption of the amendments on July 25, 2013. The Board will then file the amendments with the Office of the Secretary of State, and a Notice of Adopted Amendments will appear in the *Illinois Register*. Any Agency submission of the associated SIP revision to USEPA will follow that Notice.

PROCLAMATIONS

2013-194**Illinois Flag Display Act (Captain Cyr)**

WHEREAS, all citizens owe a tremendous debt of gratitude to the men and women of the armed forces who selflessly serve to protect our lives and keep our families safe; and,

WHEREAS, every day these men and women face great risks and in many cases put their safety on the line to perform their duties; and,

WHEREAS, on the afternoon of Saturday, April 27, 2013 United States Air Force Captain Brandon L. Cyr was abruptly taken from us at the age of 28 during a military exercise in Afghanistan; and,

WHEREAS, Captain Cyr was stationed at Scott Air Force Base in Illinois; and,

WHEREAS, Captain Cyr is a native of Oswego, Illinois; and,

WHEREAS, Captain Cyr was a loving son, and important member of his community who will always be remembered for the countless lives he impacted; and,

WHEREAS, Captain Cyr spent much of his free time volunteering and had a true passion for mentoring young people; and,

WHEREAS, Captain Cyr was a decorated pilot who received the Meritorious Service Medal, five Air Medals and an Achievement Medal; and,

WHEREAS, throughout his career as a proud member of the United States Air Force, Captain Cyr represented the State of Illinois admirably; and,

WHEREAS, a funeral will be held on Thursday, May 9, 2013 for Captain Cyr, who is survived by his parents, sister and many loving family members and friends; and,

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby order all persons or entities governed by the Illinois Flag Display Act to fly their flags at half-staff from sunrise on Tuesday, May 7, 2013 until sunset on Thursday, May 9, 2013 in honor and remembrance of Captain Brandon Cyr, whose selfless service and sacrifice is an inspiration.

Issued by the Governor May 1, 2013

Filed by the Secretary of State May 20, 2013

2013-195

PROCLAMATIONS

NAWBO Chicago Day

WHEREAS, the National Association of Women Business Owners - Chicago Area Chapter, known as NAWBO Chicago, will present its 30th Annual Celebration of Achievement Luncheon on May 7, 2013; and,

WHEREAS, the luncheon will honor nine outstanding business women from the banking, financial services, airline, legal, media, and marketing industries; and,

WHEREAS, hedge fund co-founder, author, and CNBC "Fast Money " contributor Karen Finerman will bring business and financial insights to all in attendance as the Achievement Luncheon keynote speaker; and

WHEREAS, each year the event also highlights Illinois small businesses during the post-luncheon Chocolate Hour, dessert buffet, and networking reception; and,

WHEREAS, national and local major corporations continue to sponsor this event each year in support of NAWBO Chicago and women business owners; and,

WHEREAS, NAWBO Chicago, formed in 1978, continues to provide women business owners with leadership, education, procurement, and networking opportunities to this day; and,

WHEREAS, NAWBO Chicago propels women entrepreneurs into economic, social, and political spheres of power; and,

THEREFORE, I, Pat Quinn, Governor of Illinois, do hereby proclaim May 7, 2013 as **NAWBO CHICAGO DAY** in Illinois, and urge citizens to continue to support women business owners for their contributions to business development, employment and other components of the Illinois economy.

Issued by the Governor May 1, 2013

Filed by the Secretary of State May 20, 2013

**2013-196
Older Americans Month**

WHEREAS, the State of Illinois is home to more than two million citizens aged 60 years or older; and,

WHEREAS, the older Americans of the State of Illinois are a vital part of our nation's demographic makeup; and,

PROCLAMATIONS

WHEREAS, older citizens are members of our community entitled to dignified, independent lives free from fears, myths, and misconceptions about aging; and,

WHEREAS, each community in the United States must strive to recognize the contributions of our older citizens, understand and address their evolving needs, and support their caregivers; and,

WHEREAS, our society is dependent upon intergenerational cooperation and support, and benefits from our collective efforts to serve older Americans and the people who love and care for them; and,

WHEREAS, increasing numbers of adults are reaching retirement age and remaining strong and active for longer than ever before; and,

WHEREAS, the State of Illinois has worked to develop strategies to get older adults engaged in civic activity in their communities and to encourage interaction between the generations; and,

WHEREAS, older adults in our state deserve to be recognized for the contributions they have made and will continue to make to the culture, economy, and character of our community and our nation; and,

WHEREAS, this year's Older Americans Month theme is "Unleash the Power of Age!" which emphasizes helping our older Americans stay positive, active, and looking forward:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim May 2013 as **OLDER AMERICANS MONTH** in Illinois, and encourage all older adults to stay engaged, active and involved in their own lives and in their communities across the State of Illinois.

Issued by the Governor May 1, 2013

Filed by the Secretary of State May 20, 2013

2013-197**Fibromyalgia Awareness Day**

WHEREAS, fibromyalgia is a debilitating disorder in which people experience long-term, body-wide pain and tender points in joints, muscles, tendons, and other soft tissues. Fibromyalgia has also been linked to fatigue, sleep problems, headaches, depression, anxiety, and other symptoms; and,

WHEREAS, an estimated 10 million people in the United States have been diagnosed with fibromyalgia, a disorder for which there is no known cause or cure; and,

PROCLAMATIONS

WHEREAS, fibromyalgia is a chronic pain disorder that interferes with even the simplest of daily activities – taking a toll emotionally, financially and socially on patients, their families, friends, and co-workers; and,

WHEREAS, fibromyalgia prevents patients from contributing to society at the level they once were able to because of a myriad of symptoms that can come and go unpredictably and vary in severity; and,

WHEREAS, people with fibromyalgia are never completely symptom-free, they are always in pain, and this pain impacts every area of their lives; and,

WHEREAS, increased awareness and expanded knowledge of the realities of life with fibromyalgia will allow the community at large to better support those who struggle with the challenges of this chronic pain disorder; and,

WHEREAS, numerous organizations around the country will join together on May 12 to observe Fibromyalgia Awareness Day – a day to promote fibromyalgia awareness and support – including improved education, diagnosis, research, and treatment; and,

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim May 12, 2013 as **FIBROMYALGIA AWARENESS DAY** in Illinois, and encourage all citizens to support the search for a cure and assist those individuals and families who deal with this devastating disorder every day.

Issued by the Governor May 7, 2013

Filed by the Secretary of State May 20, 2013

2013-198**Illinois National Guard Day**

WHEREAS, On May 9, 1723, near Fort De Chartes in what is now Randolph County, Illinois, the first militia muster of Illinois residents under the French regime occurred, giving birth to what we now call the Illinois National Guard; and

WHEREAS, the Militia Act of 1903 reorganized the various state militias into the modern National Guard system; and

WHEREAS, the Illinois National Guard has always lived up to its motto - "Always Ready, Always There" - and its heritage reflects 290 years of contributions in times of war and peace,

PROCLAMATIONS

stateside and abroad, requiring heroic sacrifices from service members, their families and their employers; and

WHEREAS, thousands of Illinois militia and National Guard members have made the ultimate sacrifice on fields of combat from the 1847 Battle of Buena Vista and 1863 Siege of Vicksburg to the 34 service members killed during the global war on terror; and

WHEREAS, the Illinois National Guard has responded to domestic challenges in Illinois and other states, such as Mississippi River flooding in 2008, the Gulf of Mexico oil spill and North Dakota floods in 2010, a major blizzard in Illinois and Hurricane Irene in 2011, Superstorm Sandy and the NATO Summit in 2012, and the recent Illinois flooding; and

WHEREAS, the Illinois National Guard - which personifies the democratic ideal of the "citizen soldier" - has grown to more than 13,000 men and women in uniform; and

WHEREAS, in 1832, Abraham Lincoln led an Illinois militia unit in the Black Hawk War, and today we stand at Camp Lincoln in Springfield, Illinois, the heart of the Illinois National Guard for more than 125 years, so

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim May 9 as **ILLINOIS NATIONAL GUARD DAY** to honor 290 years of unselfish service to the People of Illinois.

Issued by the Governor May 7, 2013

Filed by the Secretary of State May 20, 2013

2013-199**National Biomedical/Clinical Engineering Appreciation Week**

WHEREAS, as medical technology advances, healthcare facilities must keep pace by employing quality, well-trained professionals capable of understanding the complexity of medical equipment operations and applications; and,

WHEREAS, the complexity of medical technology today and in the future makes it essential that those individuals responsible for the care, safety, and accuracy of this equipment are recognized as an invaluable resource to the healthcare industry; and,

WHEREAS, biomedical equipment technicians, clinical engineers, and other medical technology professionals uniquely serve patients and the medical community while utilizing new technology developments to improve the quality of today's healthcare; and,

PROCLAMATIONS

WHEREAS, these professionals research, recommend, install, inspect, and repair medical devices and other complicated medical systems, as well as advise and train others concerning the safe and effective use of medical devices, thereby controlling healthcare costs and improving patient safety; and,

WHEREAS, the Association for the Advancement of Medical Instrumentation (AAMI) is a unique alliance of more than 6,000 members united by a common goal to increase the understanding and beneficial use of medical instrumentation; and,

WHEREAS, AAMI's Technology Management Council (TMC) seeks to advance the interests of biomedical equipment technicians, clinical engineers, and other medical technology professionals; and,

WHEREAS, the AAMI has designated the week of May 19-25, 2013 as National Biomedical/Clinical Engineering Appreciation Week. This annual celebration is specifically designed to promote the awareness of, and appreciation for, biomedical and clinical engineering professionals:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim May 19-25, 2013 as **NATIONAL BIOMEDICAL/CLINICAL ENGINEERING APPRECIATION WEEK** in Illinois, and encourage all citizens to recognize these dedicated professionals for their contributions to improving the healthcare system and patient outcomes in our state.

Issued by the Governor May 8, 2013

Filed by the Secretary of State May 20, 2013

2013-200**Aids Legal Council of Chicago Day**

WHEREAS, the AIDS Legal Council of Chicago (ALCC) was founded in 1988 by a group of volunteers led by James Monroe Smith to meet the specialized legal needs of individuals living with HIV and AIDS, as well as their families and loved ones;

WHEREAS, the ALCC exists to preserve, promote and protect the legal rights of men, women and children in the metropolitan Chicago area impacted by HIV and AIDS by providing direct legal services to people in need, educating the public about HIV-related issues, and advocating for social policies and legislation that ensure fair treatment for all people affected by HIV and AIDS; and,

PROCLAMATIONS

WHEREAS, the ALCC started seeing clients in Mr. Smith's living room, and quickly expanded through the goodwill and contributions of generous donors who helped transition the ALCC from Mr. Smith's apartment to their current downtown Chicago location; and,

WHEREAS, the ALCC successfully meets the needs of Chicago's multicultural communities through diverse engagements such as the James Monroe Smith Outreach Project, the Latino Outreach Project, the HIV-Positive Immigrants' Rights Project and the Youth Legal Rights Project; and,

WHEREAS, as the only organization of its kind in the region, the ALCC helped 900 clients on 1600 cases in just 2012 alone, providing assistance on a wide range of issues including confidentiality, discrimination, estate planning, immigration, insurance, and public benefits; and,

WHEREAS, the ALCC provides free legal services and engages the needs of underserved and underrepresented individuals in our society and has made significantly positive impacts on the lives of many individuals and their families through its mission to protect the legal rights of people living with HIV and AIDS; and,

WHEREAS, on May 9, 2013, the ALCC is celebrating its 25th Anniversary in recognition of all of its accomplishments and important work done thus far; and,

WHEREAS, this anniversary is an opportunity for all residents to join the ALCC in celebration of its success, while also recognizing the hard work and dedication that the ALCC has provided to thousands of people from every neighborhood in Chicago, communities of Cook County and the rest of the State of Illinois; and,

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim May 9, 2013 as "**AIDS LEGAL COUNCIL OF CHICAGO DAY**" in Illinois, in recognition of this organization's dedication to serving individuals living with HIV and AIDS, as well as their family members and loved ones.

Issued by the Governor May 9, 2013

Filed by the Secretary of State May 20, 2013

2013-201**Federal Employee of The Year Day**

WHEREAS, the hard work and dedication of public servants across the United States has been instrumental in making our nation strong and prosperous; and,

PROCLAMATIONS

WHEREAS, a special day is set aside each year to recognize the outstanding service of dedicated federal employees; and,

WHEREAS, this year the 56th Annual Federal Employee of the Year Awards Luncheon will be held on June 12, 2013 at the Harris Theater in Millennium Park. The theme for this year's ceremony is "One Government-One Team"; and,

WHEREAS, at this prestigious ceremony, the men and women who have dedicated themselves to providing superior service to the American public will be honored; and,

WHEREAS, awards will be given to an outstanding employee in each of the thirteen categories that cover various types of jobs within the federal workforce; and,

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim June 12, 2013 as **FEDERAL EMPLOYEE OF THE YEAR DAY** in Illinois, and encourage all citizens to join in honoring these hard working public servants, and to recognize the exceptional services they provide for our society.

Issued by the Governor May 9, 2013

Filed by the Secretary of State May 20, 2013

2013-202**People For the Public Interest Day**

WHEREAS, Business and Professional People for the Public Interest (BPI) is a not-for-profit advocacy organization dedicated to improving the quality of life for residents throughout the Chicago region; and,

WHEREAS, since 1969, BPI has been fearless in tackling the big issues, from its early victories in the landmark Gautreaux decision and blocking an airport in Lake Michigan, to its role in CHA's bold Plan for Transformation; and,

WHEREAS, BPI's unique brand of social activism was recently recognized on a global scale by the MacArthur Foundation with its 2012 Award for Creative and Effective Organizations, one of only 15 recipients in six nations; and,

WHEREAS, service to others is a hallmark of the American character, and the true heroes are those who place public service ahead of self-service; and,

WHEREAS, no one personified this spirit more than Dawn Clark Netsch, former Illinois Comptroller, State Senator and long-time BPI Board member; and,

PROCLAMATIONS

WHEREAS, as the first woman elected to a statewide constitutional office in Illinois, Dawn Clark Netsch was a trailblazer for women, pioneer for equal rights and tenacious voice for open government; and

WHEREAS, on Monday, May 13, 2013, BPI will honor Dawn Clark Netsch during their 2013 Annual Dinner with the "Champion of the Public Interest" Award; and,

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim May 13, 2013 as **PEOPLE FOR THE PUBLIC INTEREST DAY** in Illinois, in honor of BPI and Dawn Clark Netsch, whose life and legacy are an inspiration.

Issued by the Governor May 9, 2013

Filed by the Secretary of State May 20, 2013

2013-203**The Chicago Reporter Day**

WHEREAS, The Chicago Reporter was founded in 1972 by civil rights leader John A. McDermott as a monthly publication, dedicated to investigating and reporting social, economic, and political issues within Chicago; and,

WHEREAS, amid forty years of civic and social change, The Chicago Reporter has monitored and analyzed race and poverty with integrity and excellence, breaking dozens of stories and documenting widespread discrimination against African-Americans in corporate hiring, city services, and governmental affairs; and,

WHEREAS, more recently, The Chicago Reporter has made national headlines, tackling the disparities of the treatment of black and white senior citizens within nursing homes, the overly harsh sentencing for African-American offenders, and racially discriminatory mortgage lending; and,

WHEREAS, The Chicago Reporter continues to serve as a prestigious training ground for investigative journalists; and,

WHEREAS, nearly seven hundred reporters, editors, and interns have been trained at The Chicago Reporter, winning dozens of national and local journalism awards; and,

WHEREAS, The Chicago Reporter, published by the Community Renewal Society, is a must-read for legislators, policy makers, academics, journalists, philanthropists, and the public seeking to eliminate racial and economic inequities; and,

PROCLAMATIONS

WHEREAS, The Chicago Reporter reaches thousands of readers, viewers, and listeners through its award-winning website, Muckrakers Blog, and numerous partnerships with other leading media organizations; and,

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim June 13, 2013 as **THE CHICAGO REPORTER DAY** in Illinois, and congratulate The Chicago Reporter on forty successful years of investigative, civic journalism, and encourage all citizens to join in their effort to ending social and economic inequalities.

Issued by the Governor May 9, 2013

Filed by the Secretary of State May 20, 2013

2013-204
Train Day

WHEREAS, throughout history, the train industry has remained at the heart of rural American transportation as well as one of the most prevalent private employers in the United States, and Illinois takes pride in its renowned history as a center of railway travel; and,

WHEREAS, Illinois was among the first to embrace and promote railway travel, and continues to encourage this industry with our adoption of the ground-breaking and cost-effective high-speed rail; and,

WHEREAS, it was Illinois's very own President Abraham Lincoln who signed the Pacific Railroad Act on July 1, 1862, creating the original Union Pacific Railroad; and,

WHEREAS, both Federal and State transportation departments have made the development and expansion of intercity passenger rail a top priority in building 21st-Century transportation infrastructure; and,

WHEREAS, Illinois has benefitted handsomely as the freight and passenger railroad crossroads of the United States; and,

WHEREAS, Amtrak continues to work with states and others on the advancement of the next generation of high-speed and intercity passenger rail trains which will create first-rate jobs in the United States by reviving the domestic manufacturing base; and,

WHEREAS, Amtrak carried 31.4 million passengers in 2012, setting a ridership record for the ninth time in ten years and over 5 million in Illinois; and,

PROCLAMATIONS

WHEREAS, Amtrak employs 1,500 Illinois residents in well-paid, highly-skilled positions; and,

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim May 11, 2013 as **TRAIN DAY** in Illinois, encouraging all residents to celebrate the contribution of railway throughout Illinois and the nation.

Issued by the Governor May 12, 2013

Filed by the Secretary of State May 20, 2013

2013-205
Children's Day

WHEREAS, children hold a special place in our lives. Raising happy, healthy children is the greatest success any parent can hope to achieve and should be an important goal of every member of society because children are profoundly influenced by the people and the environment around them; and,

WHEREAS, the strongest influence is often a child's family, but good schools and nurturing communities also play a vital role in helping children reach their full potential; and,

WHEREAS, children are the future of Illinois and it is important that we take action to ensure that they are provided a positive start to life; and,

WHEREAS, in Illinois, we place the utmost value on the safety and welfare of our children and we strongly support programs designed to advocate for their best interests; and,

WHEREAS, it is important that all citizens work to promote an environment of hope and love for children; and,

WHEREAS, the State of Illinois is dedicated to ensuring the health, education and well-being of our children, and we pledge to continue our commitment to ensuring a bright future for all of our young people; and,

WHEREAS, Children's Day focuses on inspiring parents to take positive action and serve as role models for society, and encourages individuals to consider how their actions affect future generations; and,

WHEREAS, the second Sunday in June has been set aside as a day to celebrate children and reaffirm our commitment to their needs; and,

PROCLAMATIONS

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim June 9, 2013 as **CHILDREN'S DAY** in Illinois, and urge all members of the community to unite in participating in the education, recognition, and inspiration of our state's children.

Issued by the Governor May 13, 2013

Filed by the Secretary of State May 20, 2013

2013-206**Healthcare Technology Management Week**

WHEREAS, as medical technology advances, healthcare facilities must keep pace by employing quality, well-trained professionals capable of understanding the complexity of medical equipment operations and applications; and,

WHEREAS, the complexity of medical technology today and in the future makes it essential that those individuals responsible for the care, safety, and accuracy of this equipment are recognized as an invaluable resource to the healthcare industry; and,

WHEREAS, biomedical equipment technicians, clinical engineers, and other medical technology professionals uniquely serve patients and the medical community while utilizing new technology developments to improve the quality of today's healthcare; and,

WHEREAS, these professionals research, recommend, install, inspect, and repair medical devices and other complicated medical systems, as well as advise and train others concerning the safe and effective use of medical devices, thereby controlling healthcare costs and improving patient safety; and,

WHEREAS, the Association for the Advancement of Medical Instrumentation (AAMI) is a unique alliance of more than 6,000 members united by a common goal to increase the understanding and beneficial use of medical instrumentation; and,

WHEREAS, AAMI's Technology Management Council (TMC) seeks to advance the interests of biomedical equipment technicians, clinical engineers, and other medical technology professionals; and,

WHEREAS, the AAMI has designated the week of May 19-25, 2013 as Healthcare Technology Management Week. This annual celebration is specifically designed to promote the awareness of, and appreciation for, biomedical equipment technicians, clinical engineers, and all other medical technology professionals:

PROCLAMATIONS

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim May 19-25, 2013 as **HEALTHCARE TECHNOLOGY MANAGEMENT WEEK** in Illinois, and encourage all citizens to recognize these dedicated professionals for their contributions to improving the healthcare system and patient outcomes in our state.

Issued by the Governor May 13, 2013

Filed by the Secretary of State May 20, 2013

2013-207**Hepatitis Awareness Month**

WHEREAS, hepatitis simply means inflammation of the liver and can be caused by a wide range of things. One of the most common causes of chronic hepatitis is viral infection; and,

WHEREAS, hepatitis B and C are two such viruses that together kill approximately one million people a year. Five hundred million people around the world are currently infected with chronic hepatitis B or C and one in three people have been exposed to one or both viruses; and,

WHEREAS, the hepatitis B virus is spread through direct contact with infected blood as well as most major body fluids; and,

WHEREAS, the hepatitis C virus is spread through direct contact with infected blood, but in rare cases it may be passed on through other body fluids; and,

WHEREAS, there is no vaccination for hepatitis C, however hepatitis B can be prevented through effective vaccination; and,

WHEREAS, many people do not have any symptoms if they contract hepatitis B or C, although they can still transmit the viruses to others; and,

WHEREAS, if left untreated and unmanaged, hepatitis B or C can lead to advanced liver scarring (cirrhosis) and other serious complications including liver cancer or liver failure; and,

WHEREAS, the Georgia Doty Health Education Fund (GDHEF) is committed to working with health organizations and public agencies, as well as individuals, to develop partnerships resulting in quality programming and good public policy making, based on accurate information regarding health disparities; and,

WHEREAS, the missions of GDHEF is served through activities that include the distribution of vital health care information to underserved communities, which is provided through symposiums, seminars and literature; and,

PROCLAMATIONS

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim May 2013 as **HEPATITIS AWARENESS MONTH** in order to raise awareness of hepatitis B and hepatitis C.

Issued by the Governor May 13, 2013
Filed by the Secretary of State May 20, 2013

2013-208
Social Enterprise Week

WHEREAS, the State of Illinois is dedicated to being a leader in our nation for social enterprise; and,

WHEREAS, social enterprises are nonprofit or for-profit organizations that employ earned-revenue strategies in order to increase their capacity to deliver services; and,

WHEREAS, the primary purpose of social enterprise is to use the methods and disciplines of business and the power of the marketplace to advance social, environmental, and human justice agendas; and,

WHEREAS, the State of Illinois has displayed its commitment to ensuring it remains on the cutting edge of finding sustainable solutions to vexing problems through the creation of a Task Force on Social Innovation, Entrepreneurship, and Enterprise in 2011; and,

WHEREAS, the Social Enterprise Alliance is an organization with twelve regional chapters, and represents a combined amount of over 30,000 social enterprises, investors, educators, and entrepreneurs in the United States which create jobs and economic development essential to local communities; and,

WHEREAS, the Social Enterprise Alliance's oldest, largest, and most robust chapter is located in Illinois; and,

WHEREAS, the State of Illinois applauds the State of Minnesota for hosting this year's Social Enterprise Alliance National Summit – Building and Economy on Purpose – from May 19 to 22, 2013; and,

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim May 20-26, 2013 as **SOCIAL ENTERPRISE WEEK**, and encourage all residents to recognize social enterprises for their valuable impact on the lives of citizens and their contribution to economic growth through job creation.

PROCLAMATIONS

Issued by the Governor May 13, 2013
Filed by the Secretary of State May 20, 2013

2013-209
Association Week

WHEREAS, the Association Forum of Chicagoland represents CEOs and executives from associations located throughout Chicago and its surrounding communities; and,

WHEREAS, the Association Forum represents more than 500 associations in the Chicagoland area; and,

WHEREAS, the associations that the Association Forum serves generate more than 7.2 billion dollars annually for Chicago's economy; and,

WHEREAS, the Chicagoland associations employ more than 50,000 people in various capacities; and,

WHEREAS, the Association Forum represents institutions such as the American Bar Association, the American Dental Association, the American Medical Association, the Medical Hospital Association, the Healthcare Information and Management Systems Society and the National Association of Realtors among many others; and,

WHEREAS, the Chicago area is home to the second largest concentration of association headquarters in the United States, and ranks first in the number of health care-related organizations; and,

WHEREAS, Chicagoland-based associations' meetings, seminars, conventions, and trade shows in the Chicagoland area attract more than 5.5 million attendees; and,

WHEREAS, the Association Forum provides educational and experiential resources to its members; and,

WHEREAS, the Association Forum will celebrate Association Week 2013 from June 17-21; and,

WHEREAS, the contributions of associations and their employees to their communities will be recognized during Association Week by such events as GenNext Meets GenNow, Annual Meeting, All-Star Day, Honors Gala and a Community Service Event:

PROCLAMATIONS

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim June 17-21, 2013 as **ASSOCIATION WEEK** in Illinois in support of our associations, and encourage all citizens to recognize and celebrate the many contributions that Illinois headquartered associations make to the health, education and overall well-being of the people of the Land of Lincoln.

Issued by the Governor May 16, 2013

Filed by the Secretary of State May 20, 2013

ILLINOIS ADMINISTRATIVE CODE
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