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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 2019

Issue#	Rules Due Date	Date of Issue
1	December 26, 2018	January 4, 2019
2	December 31, 2018	January 11, 2019
3	January 7, 2019	January 18, 2019
4	January 14, 2019	January 25, 2019
5	January 22, 2019	February 1, 2019
6	January 28, 2019	February 8, 2019
7	February 4, 2019	February 15, 2019
8	February 11, 2019	February 22, 2019
9	February 19, 2019	March 1, 2019
10	February 25, 2019	March 8, 2019
11	March 4, 2019	March 15, 2019
12	March 11, 2019	March 22, 2019
13	March 18, 2019	March 29, 2019
14	March 25, 2019	April 5, 2019
15	April 1, 2019	April 12, 2019
16	April 8, 2019	April 19, 2019
17	April 15, 2019	April 26, 2019
18	April 22, 2019	May 3, 2019
19	April 29, 2019	May 10, 2019
20	May 6, 2019	May 17, 2019
21	May 13, 2019	May 24, 2019
22	May 20, 2019	May 31, 2019

23	May 28, 2019	June 7, 2019
24	June 3, 2019	June 14, 2019
25	June 10, 2019	June 21, 2019
26	June 17, 2019	June 28, 2019
27	June 24, 2019	July 5, 2019
28	July 1, 2019	July 12, 2019
29	July 8, 2019	July 19, 2019
30	July 15, 2019	July 26, 2019
31	July 22, 2019	August 2, 2019
32	July 29, 2019	August 9, 2019
33	August 5, 2019	August 16, 2019
34	August 12, 2019	August 23, 2019
35	August 19, 2019	August 30, 2019
36	August 26, 2019	September 6, 2019
37	September 3, 2019	September 13, 2019
38	September 9, 2019	September 20, 2019
39	September 16, 2019	September 27, 2019
40	September 23, 2019	October 4, 2019
41	September 30, 2019	October 11, 2019
42	October 7, 2019	October 18, 2019
43	October 15, 2019	October 25, 2019
44	October 21, 2019	November 1, 2019
45	October 28, 2019	November 8, 2019
46	November 4, 2019	November 15, 2019
47	November 12, 2019	November 22, 2019
48	November 18, 2019	December 2, 2019
49	November 25, 2019	December 6, 2019
50	December 2, 2019	December 13, 2019
51	December 9, 2019	December 20, 2019
52	December 16, 2019	December 27, 2019

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: General Provisions
- 2) Code Citation: 35 Ill. Adm. Code 401
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
401.101	Repealed
401.102	Amendment
401.103	Amendment
401.104	Amendment
401.105	Amendment
401.106	Repealed
401.APPENDIX A	Amendment
- 4) Statutory Authority: Authorized by Section 27 and implementing Sections 12 and 13 of the Environmental Protection Act [415 ILCS 5/12, 13, and 27].
- 5) A Complete Description of the Subjects and Issues Involved: In 2016, the Board began reviewing its rules to identify obsolete or otherwise unnecessary language. On January 10, 2018, the Illinois Environmental Protection Agency (IEPA) filed a proposal to update provisions including Part 401. IEPA's proposal arose from Executive Order 2016-13, which required agencies to identify outdated, repetitive, confusing, or unnecessary rules and then amend or repeal them. These proposed amendments include those submitted by IEPA and those identified separately by the Board. Both IEPA and the Board intend the amendments to be non-substantive clarifications.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace an emergency rule 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 Objective: This proposed rulemaking does not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comments on this proposal for a period of at least 45 days after the date of publication in the *Illinois Register*. Public comments should refer to docket R18-24 and be filed electronically through the Clerk's Office On-Line (COOL) on the Board's website at www.pcb.illinois.gov. Comments may be filed with the Clerk of the Board and be addressed to:

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

Interested persons may request copies of the Board's opinion and order in R18-24 by calling the Clerk's office at 312/814-3620 or may download copies from the Board's website at www.pcb.illinois.gov.

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: While the proposed amendments may affect a small business that engages in mining activities, the Board intends for the amendments to be non-substantive clarifications of existing rules.
 - B) Reporting, bookkeeping or other procedures required for compliance: None beyond those required to comply with current rules.
 - C) Types of professional skills necessary for compliance: None beyond those necessary to comply with current rules.
- 14) Small Business Impact Analysis:
- A) Types of businesses subject to the proposed amendments:

21 Mining
 - B) Categories that the Agency reasonably believes the amendments will impact: The Board intends for the proposed amendments to be non-substantive clarifications

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NOTICE OF PROPOSED AMENDMENTS

of existing rules and does not expect them to have an impact in categories such as staffing, purchasing, equipment, or record keeping.

- 15) Regulatory Agenda on which this rulemaking was summarized: July 2018

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE D: MINE RELATED WATER POLLUTION
CHAPTER I: POLLUTION CONTROL BOARDPART 401
GENERAL PROVISIONS

Section

401.101	Authority (Repealed)
401.102	Policy
401.103	Purpose
401.104	Compliance with Other Laws Required
401.105	Severability/Validity Not Affected
401.106	Repealer (Repealed)

401.APPENDIX A References to Previous Rules

AUTHORITY: Authorized by Section 27 and implementing Sections 12 and 13 of the Illinois Environmental Protection Act [415 ILCS 5].

SOURCE: Adopted at 4 Ill. Reg. 34, p. 164, effective August 7, 1980; codified at 5 Ill. Reg. 34, p. 8527, effective August 10, 1981; amended in R18-24 at 43 Ill. Reg. _____, effective _____.

Section 401.101 Authority [\(Repealed\)](#)

~~Pursuant to authority granted by Section 12 and 13 of the Environmental Protection Act (Act), which empower the Board to designate equipment or facilities capable of causing or contributing to water pollution; to set standards for the issuance of permits for the construction, installation and operation and for the inspection of said equipment or facility; to prohibit the sale, offer or use of articles for reasons of water pollution control; to set standards limiting the amounts or concentrations of contaminants that may be discharged into the waters of the State; to set standards for the filling or sealing of abandoned holes in order to protect groundwater; and to adopt requirements, standards and procedures to enable the state to implement and participate in the NPDES program established by the Federal Water Pollution Control Act of 1972 (FWPCA), as amended, (33 U.S.C. 1251 et seq.), the Board adopts the following rules and regulations.~~

(Source: Repealed at 43 Ill. Reg. _____, effective _____)

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

Section 401.102 Policy

A policy of the General Assembly in adopting the Environmental Protection Act [415 ILCS 5] is to restore, maintain and enhance the purity of the water of Illinois ~~in order~~ to protect health, welfare, property and the quality of life. It is determined that mining activities including the preparation, operation and abandonment of mines, mine refuse areas and mine related facilities without environmental planning and safeguards and ~~using the use of~~ certain refuse materials can cause, threaten or allow the discharge of contaminants into the waters of Illinois. Causing, threatening, or allowing these discharges can ~~as to~~ cause or threaten to cause a nuisance or ~~to~~ render ~~thesesuch~~ waters harmful or detrimental to public health, safety or welfare or to domestic, commercial, industrial, agricultural, recreational or other legitimate uses including use by livestock, wild animals, birds, fish or other aquatic life and riparian vegetation.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 401.103 Purpose

The purpose of ~~this~~ Subtitle D is to prevent pollution of waters of Illinois caused by failure to plan proper environmental safeguards for the location, preparation, operation and abandonment of mining activities, mining and mine refuse operations. Subtitle D establishes a ~~A~~ permit system ~~is established~~ to control ~~the multitude of~~ contaminating point and non-point source discharges, visible and hidden, continuous and fluctuating, ~~that which~~ are potentially present in mining activities, mining and mine refuse operations. ~~To in order to~~ ensure that ~~thesesuch~~ activities meet environmental standards, Subtitle D establishes water quality and effluent standards ~~are established~~ to limit discharges from point sources and as well as to protect waters for beneficial uses. Subtitle D establishes ~~In addition,~~ procedural safeguards ~~are established~~ to ensure the protection of waters. ~~It Furthermore, it~~ is the purpose of ~~this~~ Subtitle D to meet the requirements of Section 402 of the Federal Water Pollution Control Act of 1972 (FWPCA).

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 401.104 Compliance with Other Laws Required

Nothing in this Part regulation is intended to be inconsistent with or impair the obligation to comply with the provisions of ~~the an Act entitled, "The Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720]" of Illinois~~ or with any other Statestate or federal law affecting the duties of an operator.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

POLLUTION CONTROL BOARD

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Section 401.105 Severability~~Validity Not Affected~~

If any provision of ~~this~~ Subtitle D, ~~Chapter I~~ is adjudged invalid or if the application to any person or in any circumstances is adjudged invalid, ~~the~~~~such~~ invalidity ~~will~~~~shall~~ not affect the validity of this Subtitle D, ~~Chapter I~~ as a whole or of any ~~Part~~~~part~~, ~~Subpart~~~~subpart~~, sentence or clause ~~thereof~~ not adjudged invalid.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 401.106 Repealer (Repealed)

~~Chapter 4: Mine Related Pollution, effective May 23, 1972 and all amendments thereto heretofore adopted are hereby superseded.~~

(Source: Repealed at 43 Ill. Reg. _____, effective _____)

POLLUTION CONTROL BOARD

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Section 401.APPENDIX A References to Previous Rules

The following table is provided to ~~correlate previous~~~~aid in referencing old~~ Board rule numbers ~~with~~~~the current~~ Illinois Administrative Code Section~~section~~ numbers ~~pursuant to codification~~.

Chapter 4, Mine Related Pollution Part I, General Provisions	35 Ill. Adm Admin. Code Part 401
Rule 101	Section 401.101
Rule 102	Section 401.102
Rule 103	Section 401.103
Rule 104	Section 401.104
Rule 105	Section 401.105
Rule 106	Section 401.106

(Source: Amended at 43 Ill. Reg. _____, effective _____)

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NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Definitions
- 2) Code Citation: 35 Ill. Adm. Code 402
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
402.100	Amendment
402.101	Amendment
402.APPENDIX A	Amendment
- 4) Statutory Authority: Authorized by Section 27 and implementing Sections 12 and 13 of the Environmental Protection Act [415 ILCS 5/12, 13, and 27].
- 5) A Complete Description of the Subjects and Issues Involved: In 2016, the Board began reviewing its rules to identify obsolete or otherwise unnecessary language. On January 10, 2018, the Illinois Environmental Protection Agency (IEPA) filed a proposal to update provisions including Part 402. IEPA's proposal arose from Executive Order 2016-13, which required agencies to identify outdated, repetitive, confusing, or unnecessary rules and then amend or repeal them. These proposed amendments include those submitted by IEPA and those identified separately by the Board. Both IEPA and the Board intend the amendments to be non-substantive clarifications.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace an emergency rule 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 Objective: This proposed rulemaking does not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comments on this proposal for a period of at least 45 days after the date of publication in the *Illinois Register*. Public comments

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should refer to docket R18-24 and be filed electronically through the Clerk's Office On-Line (COOL) on the Board's website at www.pcb.illinois.gov. Comments may be filed with the Clerk of the Board and be addressed to:

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

Interested persons may request copies of the Board's opinion and order in R18-24 by calling the Clerk's office at 312/814-3620 or may download copies from the Board's website at www.pcb.illinois.gov.

13) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not-for-profit corporations affected: While the proposed amendments may affect a small business that engages in mining activities, the Board intends for the amendments to be non-substantive clarifications of existing rules.
- B) Reporting, bookkeeping or other procedures required for compliance: None beyond those required to comply with current rules.
- C) Types of professional skills necessary for compliance: None beyond those necessary to comply with current rules.

14) Small Business Impact Analysis:

- A) Types of businesses subject to the proposed amendments:
 - 21 Mining
- B) Categories that the Agency reasonably believes the amendments will impact: The Board intends for the proposed amendments to be non-substantive clarifications of existing rules and does not expect them to have an impact in categories such as staffing, purchasing, equipment, or record keeping.

15) Regulatory Agenda on which this rulemaking was summarized: July 2018

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE D: MINE RELATED WATER POLLUTION
CHAPTER I: POLLUTION CONTROL BOARDPART 402
DEFINITIONS

Section

402.100 Terms Defined Elsewhere
402.101 Definitions

402.APPENDIX A References to Previous Rules

AUTHORITY: Implementing Sections 12 and 13 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5].

SOURCE: Adopted at 4 Ill. Reg. 34, p. 164, effective August 7, 1980; codified at 5 Ill. Reg. 34, p. 8527; amended in R84-29 at 11 Ill. Reg. 12890, effective July 27, 1987; amended in R18-24 at 43 Ill. Reg. _____, effective _____.

Section 402.100 Terms Defined Elsewhere

Unless otherwise stated or unless the context clearly indicates a different meaning, the definition of terms used in ~~Subtitle D~~~~this Chapter~~ are the same as those found in the Illinois Environmental Protection Act [415 ILCS 5] (Act), ~~(Ill. Rev. Stat. 1979, ch. 111½, Section 1001 et seq.)~~ 35 Ill. Adm. Code Subtitle C, Chapter I, the Water Pollution Regulations of the Illinois Pollution Control Board (subtitle C, chapter I) and the Federal Water Pollution Control Act of 1972 (FWPCA), (33 USC U.S.C. 1251 et seq., 1972 as amended). ~~The following definitions which apply to this Chapter can be found in the Act, Subtitle C, Chapter I or the FWPCA: Administrator, Agency, Board, Contaminant, Effluent, Federal Water Pollution Control Act (FWPCA), National Pollutant Discharge Elimination System (NPDES), Point Source Discharge, Pollutant, Refuse, Storet, Treatment Works, Underground Waters, Wastewater, Wastewater Source, Water Pollution and Waters.~~

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 402.101 Definitions

For purposes of this ~~Subtitle D~~~~Chapter~~ the following terms are defined:

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"Abandon": to transfer ownership of or to close down mining activities, a mine or mine refuse area with no intention by ~~the~~~~that~~ operator to reopen the affected land. A mine or mine refuse area ~~that~~~~which~~ has been inoperative for one year ~~is~~~~shall be~~ rebuttably presumed ~~to be~~ abandoned.

"Acid or Ferruginous Mine Drainage": mine drainage ~~that~~~~which~~, before any treatment, has a pH of less than 6.0 or a total iron concentration greater than 10 mg/L.

"Acid-producing Material": material ~~that~~~~which~~ when exposed to air and water, ~~may cause~~~~is capable of causing~~ drainage containing sulfuric acid. In determining whether material is acid-producing, consideration ~~must~~~~shall~~ be given to the sulfur content of the material, the size and spatial distribution of pyritic compounds and other compounds of sulfur, the neutralizing effect of surrounding intermixed materials, and the quality of drainage produced by mining on sites with similar soils.

"Affected Land": any land owned, ~~or~~ controlled, or otherwise used by the operator in connection with mining activities, except the surface area above underground mine workings that is not otherwise used for mining activities. The term does not include offsite office buildings and farming operations or recreational activities on undisturbed land. Land described in a certificate of abandonment issued by the Agency under 35 Ill. Adm. Code~~Section~~ 405.110(e) is no longer part of the affected land.

"Alkaline Mine Drainage": mine drainage ~~that~~~~which~~, prior to treatment, has a pH equal to or greater than 6.0 and a total iron concentration of less than 10 mg/L.

"Aquifer": *saturated (with groundwater) soils and geologic materials that are sufficiently permeable to readily yield economically useful quantities of water to wells, springs, or streams under ordinary hydraulic gradients.* [415 ILCS 55/3(b)]~~A zone, stratum or group of strata which can store and transmit water in sufficient quantities for a specific use.~~

"Base Flow": any flow ~~that~~~~which~~ is not a result of immediate runoff from precipitation. It includes, ~~but is not limited to~~, groundwater flow, mechanical pumpages, springs, discharges from subsurface drainage systems, and controlled outfalls from other treatment works. It is normally any flow beyond 24 hours

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after the rainfall ceases.

"Coal Preparation Plant": a facility where coal is subjected to cleaning, concentrating, or other processing or preparation ~~in order~~ to separate coal from its impurities.

"Coal Preparation Plant Associated Areas": coal preparation plant yards, immediate access roads, coal refuse piles, and coal storage piles and facilities.

"Coal Refuse Disposal Pile": any coal refuse permanently deposited on the earth or stored for more than 180 days. It does not include coal refuse deposited within the active mining area or coal refuse never removed from the active mining area.

"Coal Transfer Facility" or "Coal Storage Yard": any area where coal is transferred from one mode of transportation to another or where coal is dumped, piled, stored or blended. The term includes ~~but is not limited to~~ coal docks, blending yards, conveyor belts and pipelines. As used in this Subtitle D Chapter, the terms mining activity and mine-related facility ~~shall~~ include coal transfer facilities and coal storage yards.

"Construction Authorization": authorization under 35 Ill. Adm. Code Section 403.104 to prepare land for mining activities or to construct mine-related facilities. Construction authorization is issued to a person who holds or is required to have a National Pollutant Discharge Elimination System (NPDES) permit.

"Construction Permit": a ~~State~~ permit issued under 35 Ill. Adm. Code Section 404.101 ~~that which~~ allows the operator to prepare land for mining activities or to construct mine-related facilities.

"Controlled Surface Mine Drainage": any surface mine drainage that is pumped or siphoned from a mine area or mined area.

"Domestic Retail Sales Yard": a business ~~that which~~ stockpiles coal or other minerals solely ~~to supply for the purpose of supplying~~ homeowners, small businesses, small industries or other institutions with ~~the minerals~~ mineral for their individual consumption. The term does not include any sales yard located at a mine.

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"Drainage Course": any natural or man-made channel or ditch ~~that directs~~~~which serves the purpose of directing~~ the flow of water into a natural waterway.

"Facility": a contiguous area of land, including all structures above or below the ground, ~~which is~~ owned or controlled by one person.

"Mine Area" or "Mined Area": the surface and subsurface land where mining has occurred or is occurring. The term does not include the unmined surface land directly above underground mine workings ~~that~~~~which~~ is not otherwise disturbed by mining activities.

"Mine Discharge": any point source discharge, whether natural or man-made, from a mine-related facility. Such discharges include ~~but are not limited to~~ mechanical pumpages, pit overflows, spillways, drainage ditches, seepage from mine or mine refuse areas, ~~and~~ effluent from processing and milling or mineral preparation plants. Other discharges including ~~but not limited to~~ sanitary sewers and sewage treatment works are not mine discharges. The term mine discharge includes surface runoff discharged from a sedimentation pond but does not include non-point source mine discharges.

"Mine Refuse": gob, coal, rock, slate, shale, mill tailings, boney, clay, pyrites and other unmerchantable solid or slurry material intended to be discarded ~~that~~~~which results from~~~~is connected with the~~ cleaning and preparation of mined materials at a preparation plant or washery. It includes sludge or other precipitated matter produced by the treatment of acid mine drainage but does not ~~otherwise~~ generally include sediment from alkaline mine drainage. The term also includes acid-producing spoil.

"Mine Refuse Area": any land used for dumping, ~~storing~~~~storage~~ or ~~disposing~~~~disposal~~ of mine refuse.

"Mine Refuse Pile": any deposit of solid mine refuse ~~which is~~ intended ~~for~~~~to serve as~~ permanent disposal ~~of such material~~.

"Mine-Related Facility": a portion of a facility ~~that~~~~which~~ is related to mining activities. The term includes, ~~but is not limited to~~, the following:

Affected land;

POLLUTION CONTROL BOARD

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Coal storage yard or transfer facility;

Mine;

Mine drainage treatment facility;

Mine refuse area; and

Processing or mineral preparation plant.

"Mining": the surface or underground extraction or processing of natural deposits of coal, clay, fluorspar, gravel, lead bearing ores, peat, sand, stone, zinc bearing ores or other minerals ~~using by the use of~~ any mechanical operation or process. The term also includes ~~recovering the recovery~~ or processing ~~of the~~ minerals from a mine refuse area. It does not include drilling for oil or natural gas.

"Mining Activities": all activities on a facility ~~that which are~~ directly ~~furtherin~~ ~~furtherance of~~ mining, including activities before, during and after mining. The term does not include land acquisition, exploratory drilling, surveying and similar activities. The term includes ~~but is not limited to~~, the following:

Preparation of land for mining activities;

Construction of mine-related facilities ~~that which~~ could generate refuse, result in a discharge or have the potential to cause water pollution;

Ownership or control of a mine-related facility;

Ownership or control of a coal storage yard or transfer facility;

Generation or disposal of mine refuse;

Mining;

Opening a mine;

Production of a mine discharge or non-point source mine discharge;

Surface drainage control; and

POLLUTION CONTROL BOARD

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Use of acid-producing mine refuse.

"Mountaintop Removal": surface coal mining and reclamation operations that remove entire coal seams running through the upper fraction of a mountain, ridge, or hill by removal of all of the overburden and create a level plateau or gently rolling contour with no highwalls remaining.

"New Source Coal Mine": a coal mine, including an abandoned mine ~~that~~^{which} is being remined, at which:

Construction commenced after May 4, 1984; or

A major alteration has resulted in a new, altered or increased discharge of pollutants. Major alterations are:

Extraction from a coal seam not previously extracted by that mine;

Discharge into a drainage area not previously affected by wastewater discharge from that mine;

Extensive new surface disruption at the mining operation; and

Construction of a new shaft, slope or drift.

"Non-point Source Mine Discharge": surface runoff from the affected land. The term does not include surface runoff ~~which is~~ discharged from a sedimentation pond or seepage from a mine or mine refuse area.

"Opening a Mine": any construction activity related to preparation for mining on a facility.

"Operating Permit": a ~~State~~^{state} permit required of a person carrying out mining activities.

"Operator": a person who carries out mining activities.

"Permittee": a person who holds a ~~State~~^{state} or NPDES permit issued under ~~this~~ Subtitle D, ~~Chapter I~~. In some contexts, the term permittee also includes a permit

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applicant.

"Person": any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, political subdivision, ~~State~~ agency, or any other legal entity, or their legal representative, agent or assigns.

"Processing or Mineral Preparation Plant": a facility used ~~to size or separate for the sizing or separation from the ore or raw mineral of~~ coal, clay, fluorspar, gravel, lead bearing ores, peat, sand, stone, zinc bearing ores, or other materials ~~from the ore or raw mineral.~~

"Reclamation Area": the surface area of a coal mine ~~which has been~~ returned to the contour required by permit and on which revegetation work has ~~begun~~ commenced.

"Slurry": mine refuse separated from the mineral in the cleaning process, consisting of readily pumpable fines and clays and other materials in the preparation plant effluent. This term includes mill tailings.

"Spoil": the accumulation of excavated overburden or other earth, dirt or rock overlying the mineral seam or other deposit excavated from its original location by surface or underground mining.

"State Permit": a construction permit or operating permit issued by the Agency. NPDES permits are not ~~State~~ permits.

"Steep Slope": any slope of more than 20 degrees.

"Surface Drainage Control": control of surface water on the affected land by a person ~~who is~~ engaging in mining activities. Control of surface water includes ~~diverting diversion of~~ surface waters around or away from the active mining area or mine refuse area and ~~diverting diversion, redirecting redirection or impounding impoundment of~~ a stream or ~~impounding impoundment of~~ water ~~to augment for~~ flow ~~augmentation~~ or ~~control controlled~~ release of effluents.

"Surface Mining": mining conducted in an open pit, including area and contour strip mining.

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"Underground Mining": mining conducted below the surface by means of constructing an access facility to the mineral deposit. The term includes slope, drift, shaft mines and auger or punch mining.

"Use of Acid-producing Mine Refuse": use of acid-producing mine refuse includes any use, offer for sale, sale or offer for use in roadway projects, mine roads, mine yards or elsewhere.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

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Section 402.APPENDIX A References to Previous Rules

The following table is provided to ~~correlate previous~~ ~~said in refereneing old~~ Board rule numbers ~~to~~ ~~with current Illinois Administrative Code Section~~ ~~section~~ numbers ~~pursuant to codification~~.

Chapter 4, Mine Related Pollution Part II, Definitions	35 Ill. Adm Admin. Code Part 402
Rule 200	Section 402.100
Rule 201	Section 402.101

(Source: Amended at 43 Ill. Reg. _____, effective _____)

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: NPDES Permits
- 2) Code Citation: 35 Ill. Adm. Code 403
- 3)

<u>Section Numbers</u> :	<u>Proposed Actions</u> :
403.100	Amendment
403.101	Amendment
403.102	Amendment
403.103	Amendment
403.104	Amendment
403.APPENDIX A	Amendment
- 4) Statutory Authority: Authorized by Section 27 and implementing Sections 12 and 13 of the Environmental Protection Act [415 ILCS 5/12, 13, and 27].
- 5) A Complete Description of the Subjects and Issues Involved: In 2016, the Board began reviewing its rules to identify obsolete or otherwise unnecessary language. On January 10, 2018, the Illinois Environmental Protection Agency (IEPA) filed a proposal to update provisions including Part 403. IEPA's proposal arose from Executive Order 2016-13, which required agencies to identify outdated, repetitive, confusing, or unnecessary rules and then amend or repeal them. These proposed amendments include those submitted by IEPA and those identified separately by the Board. Both IEPA and the Board intend the amendments to be non-substantive clarifications.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace an emergency rule 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 Objective: This proposed rulemaking does not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].

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- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comments on this proposal for a period of at least 45 days after the date of publication in the *Illinois Register*. Public comments should refer to docket R18-24 and be filed electronically through the Clerk's Office On-Line (COOL) on the Board's website at www.pcb.illinois.gov. Comments may be filed with the Clerk of the Board and be addressed to:

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Interested persons may request copies of the Board's opinion and order in R18-24 by calling the Clerk's office at 312/814-3620 or may download copies from the Board's website at www.pcb.illinois.gov.

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: While the proposed amendments may affect a small business that engages in mining activities, the Board intends for the amendments to be non-substantive clarifications of existing rules.
 - B) Reporting, bookkeeping or other procedures required for compliance: None beyond those required to comply with current rules.
 - C) Types of professional skills necessary for compliance: None beyond those necessary to comply with current rules.
- 14) Small Business Impact Analysis:
- A) Types of businesses subject to the proposed amendments:

21 Mining
 - B) Categories that the Agency reasonably believes the amendments will impact: The Board intends for the proposed amendments to be non-substantive clarifications

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of existing rules and does not expect them to have an impact in categories such as staffing, purchasing, equipment, or record keeping.

- 15) Regulatory Agenda on which this rulemaking was summarized: July 2018

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE D: MINE RELATED WATER POLLUTION
CHAPTER I: POLLUTION CONTROL BOARDPART 403
NPDES PERMITS

Section

403.100	Preamble
403.101	Incorporation of NPDES Water Rules
403.102	NPDES Permits Required of Certain Dischargers
403.103	Application
403.104	Construction Authorization

403.APPENDIX A References to Previous Rules

AUTHORITY: Authorized by Section 27 and implementing Sections 12 and 13 of the Illinois Environmental Protection Act [415 ILCS 5].

SOURCE: Adopted at 4 Ill. Reg. 34, p. 164, effective August 7, 1980; codified at 5 Ill. Reg. 34, p. 8527, effective August 10, 1981; amended in R18-24 at 43 Ill. Reg. _____, effective _____.

Section 403.100 Preamble

- a) Part 403 governs mining activities and permit issuance ~~for with respect to holders of an~~ NPDES permit ~~holders~~ and persons required to obtain an NPDES permit for a facility.
- b) ~~Under 35 Ill. Adm. Code As provided by Section~~ 404.102, ~~those~~ facilities ~~operating which operate~~ under an NPDES permit need not obtain a ~~State~~ permit so long as the Agency administers the NPDES permit program.
- c) ~~Under 35 Ill. Adm. Code 404.102, Part 404 does not apply is inapplicable to~~ NPDES permit holders, ~~as provided by Section 404.102.~~

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 403.101 Incorporation of NPDES Water Rules

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~~Except for 35 Ill. Adm. Code 309.154, 35 Ill. Adm. Code 309.Subpart A applies to NPDES permits required by Subtitle D. In the event of a conflict between Subtitle D and 35 Ill. Adm. Code 309.Subpart A, Subtitle D applies to mine-related facilities. The rules contained in Subpart A, Part 309, Subtitle C: Water Pollution shall apply to NPDES permits required under this Subtitle D, Chapter I, except for Section 309.154*, Authorization to Construct; provided, however, that in the event conflict arises between Subtitle D, Chapter I and Subpart A, Part 309, Subtitle C, Chapter I, the requirements of Subtitle D, Chapter I shall apply to Mine related facilities.~~

~~*Prior to codification, Rule 910(n) of Chapter 3.~~

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 403.102 NPDES Permits Required of Certain Dischargers

~~Except as in compliance with the provisions of the Act, Board regulations, the FWPCA and the provisions and conditions of the NPDES permit issued to the discharger, The discharge of contaminants any contaminant or pollutants pollutant by any person into the waters of the Statestate from a point source or into a well is shall be unlawful, except when complying with provisions of the Act, Board regulations, the FWPCA (32 USC 1251 et seq.), and the provisions and conditions of the discharger's NPDES permit.~~

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 403.103 Application

- a) A person required to obtain an NPDES permit ~~must~~ shall file an application ~~complying in accordance~~ with 35 Ill. Adm. Code Section 405.104 on forms provided by the Agency ~~or the United States Environmental Protection Agency as applicable.~~
- b) A person who holds an NPDES permit ~~for a facility~~ or who submits an NPDES permit application for ~~that~~ facility need not apply for a Statestate permit unless ~~and until~~ the Agency notifies that person that a Statestate permit is required ~~for that facility.~~
- c) Application for a renewed or ~~modified supplemental~~ NPDES permit is governed by the rules on NPDES applications ~~in general.~~

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(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 403.104 Construction Authorization

- a) ~~If an NPDES permit is required to~~No person shall prepare land for mining activities or construct a mine related facility, a person must, before preparing land or constructing a facility for which an NPDES permit is required unless:
- 1) ~~Hold~~The person holds an NPDES permit ~~including containing as a condition authorizing the permit holder to prepare land or construct a facility~~a construction authorization for the preparation or construction; or
 - 2) ~~Hold~~The person holds a construction permit under 35 Ill. Adm. Code 404.101 to prepare land or construct a facility~~for the preparation or construction issued pursuant to Section 404.101.~~
- b) ~~A~~No permittee ~~must not construct~~shall cause or allow the construction of a new mine related facility or ~~modify~~modification of a mining activity or mine related facility for which the permittee holds an NPDES permit ~~is held~~ unless the NPDES permit includes ~~as a condition authorizing the~~a construction authorization for such construction or modification; If the modification is already covered under the existing permit condition, a separate authorization from the Agency is not required.~~provided, however, that construction authorization is not required for modification which would not cause a violation of conditions of the existing permit.~~
- c) Any person required to obtain a construction authorization must apply~~shall make application~~ at least 180 days ~~before~~in advance of the date ~~on which~~ construction or modification begins~~is to begin~~.
- d) Any person seeking a construction authorization must submit~~shall furnish information and complete~~ an application under 35 Ill. Adm. Code~~as provided in Section 405.104. The rules governing issuance~~Issuance of a construction authorization shall be governed by the rules which govern issuance of an NPDES permit, including 35 Ill. Adm. Code Sections 405.101 and 405.102, also apply to issuing a construction authorization.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

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Section 403. APPENDIX A References to Previous Rules

The following table is provided to ~~correlate previous~~ ~~aid in referenc~~ ~~ing old~~ Board rule numbers with ~~the~~ current Illinois Administrative Code Section ~~section~~ numbers ~~pursuant to codification~~.

Chapter 4, Mine Related Pollution Part III, NPDES Permits	35 Ill. Adm Admin. Code Part 403
Rule 300	Section 403.100
Rule 301	Section 403.101
Rule 302	Section 403.102
Rule 303	Section 403.103
Rule 304	Section 403.104

(Source: Amended at 43 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: State Permits
- 2) Code Citation: 35 Ill. Adm. Code 404
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
404.101	Amendment
404.102	Amendment
404.103	Amendment
404.104	Amendment
404.105	Amendment
404.106	Amendment
404.107	Amendment
404.108	Amendment
404.109	Amendment
404.110	Amendment
404.111	Amendment
404.APPENDIX A	Amendment
- 4) Statutory Authority: Authorized by Section 27 and implementing Sections 12 and 13 of the Environmental Protection Act [415 ILCS 5/12, 13, and 27].
- 5) A Complete Description of the Subjects and Issues Involved: In 2016, the Board began reviewing its rules to identify obsolete or otherwise unnecessary language. On January 10, 2018, the Illinois Environmental Protection Agency (IEPA) filed a proposal to update provisions including Part 404. IEPA's proposal arose from Executive Order 2016-13, which required agencies to identify outdated, repetitive, confusing, or unnecessary rules and then amend or repeal them. These proposed amendments include those submitted by IEPA and those identified separately by the Board. Both IEPA and the Board intend the amendments to be non-substantive clarifications.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No

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- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This proposed rulemaking does not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comments on this proposal for a period of at least 45 days after the date of publication in the *Illinois Register*. Public comments should refer to docket R18-24 and be filed electronically through the Clerk's Office On-Line (COOL) on the Board's website at www.pcb.illinois.gov. Comments may be filed with the Clerk of the Board and be addressed to:

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- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: While the proposed amendments may affect a small business that engages in mining activities, the Board intends for the amendments to be non-substantive clarifications of existing rules.
- B) Reporting, bookkeeping or other procedures required for compliance: None beyond those required to comply with current rules.
- C) Types of professional skills necessary for compliance: None beyond those necessary to comply with current rules.
- 14) Small Business Impact Analysis:
- A) Types of businesses subject to the proposed rulemaking:

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- B) Categories that the Agency reasonably believes the rulemaking will impact: The Board intends for the proposed amendments to be non-substantive clarifications of existing rules and does not expect them to have an impact in categories such as staffing, purchasing, equipment, or record keeping.

- 15) Regulatory Agenda on which this rulemaking was summarized: July 2018

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE D: MINE RELATED WATER POLLUTION
CHAPTER I: POLLUTION CONTROL BOARDPART 404
STATE PERMITS

Section

404.100	Preamble
404.101	Construction and Operating Permits: State Permits
404.102	Exemption from State Permit: NPDES Holder
404.103	Exemption from State Permit: Coal Piles and Small Mines
404.104	Applications: Deadline to Apply
404.105	Permit Application: Signatures and Authorizations Required
404.106	Permit Applications: Registered or Certified Mail or Hand Delivery Required
404.107	Supplemental State Permits
404.108	Violation of Conditions and Standards in a Permit
404.109	State Permit Term
404.110	Permit No Defense to Certain Violations
404.111	Permit Review

404.APPENDIX A References to Previous Rules

AUTHORITY: Authorized by Section 27 and implementing Sections 12 and 13 of the Illinois Environmental Protection Act [415 ILCS 5].

SOURCE: Adopted at 4 Ill. Reg. 34, p. 164, effective August 7, 1980; codified at 5 Ill. Reg. 34, p. 8527, effective August 10, 1981; amended in R18-24 at 43 Ill. Reg. _____, effective _____.

Section 404.101 Construction and Operating Permits: State Permits

- a) Except as provided in 35 Ill. Adm. Code Sections 404.102 and 404.103, a person must obtain no person shall:
- 1) A construction permit before preparing~~Prepare~~ land for mining activities or constructing~~construct~~ a mine related facility that~~which~~ could generate refuse, result in a discharge, or potentially~~have the potential to~~ cause water pollution ~~without a construction permit; and~~ and

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- 2) ~~An operating permit before carrying~~ Carry out mining activities ~~without an operating permit.~~
- b) ~~The~~ For administrative convenience the Agency may issue joint construction and operating permits. Whether a ~~State~~ permit is construction, operating, or joint shall be determined from the ~~document's~~ language ~~of the entire document.~~ The ~~permit~~ title ~~is given it by the Agency shall~~ not be determinative.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 404.102 Exemption from State Permit: NPDES Holder

- a) A permittee who holds an NPDES permit for a facility need not have a ~~State~~ permit for that facility.
- b) This exemption ~~is shall be~~ inapplicable ~~if in the event~~ the Agency ceases to administer the NPDES permit program. ~~If this occurs, in this event~~ the Agency shall notify permittees that ~~State~~ permits are required and ~~shall determine deadlines, of at least 45 set dates, not less than forty-five~~ days after notification, ~~by on~~ which ~~the Agency must receive State~~ permit applications ~~are to be received.~~

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 404.103 Exemption from State Permit: Coal Piles and Small Mines

- a) Unless the Agency determines that the facility will cause or threaten ~~to cause~~ water pollution or ~~violate violation of~~ applicable regulations, the following facilities need not obtain ~~State~~ permits:
- 1) Domestic retail sales yards;
 - 2) Consumer stockpiles located at the consuming facility, including ~~but not limited to~~ power plants and steel mills; or
 - 3) Any facility where mining ~~occurs that takes place which~~ affects less than ~~10 ten~~ acres of land per year and ~~which~~ does not include a coal, fluorspar, lead or zinc mine related facility.

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- b) ~~A facility~~An operator ~~of a facility~~ claiming exemption under subsection (a)(3) ~~must of this Section shall~~ notify the Agency in writing of the facility's location ~~of the facility~~ and the basis for exemption. The exemption ~~takes shall be of no effect once the prior to the time such~~ notice is mailed.
- c) ~~If in the event~~ the Agency determines that a facility will cause or threaten ~~to cause~~ water pollution or ~~violate violation of~~ applicable regulations, or that a facility claiming exemption is not exempt, the Agency shall notify the operator that a permit is required. ~~If An exemption which is valid except that~~ the Agency has determined that ~~an exempt~~the facility will cause or threaten ~~to cause~~ water pollution or ~~violate violation of~~ applicable regulations, the exemption continues shall continue for ~~45~~forty five days after notification that the facility requires a permit and during the pendency of a permit application before the Agency.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 404.104 Applications: Deadline to Apply

A person required to have a ~~State~~ permit ~~must shall~~ file an application with the Agency at least ~~90~~ninety days before the date ~~on which~~ the permit is required.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 404.105 Permit Application: Signatures and Authorizations Required

- a) ~~If An application~~ submitted by a corporation, the permit application must shall be signed by a principal executive officer of at least the level of vice president or his or her duly authorized representative, if ~~the such~~ representative is responsible for the overall operation of the facility ~~where from which~~ the discharge ~~described in the application form~~ originates.
- b) ~~If submitted by~~~~In the case of~~ a partnership or a sole proprietorship, the permit application must shall be signed by a general partner or the proprietor, respectively.
- c) For all other persons, the permit application must shall be signed by either a principal executive officer, ranking elected official, or other duly authorized employee.

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(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 404.106 Permit Applications: Registered or Certified Mail or Hand Delivery Required

- a) All ~~State~~ permit applications ~~must~~ be mailed or delivered to the appropriate address designated by the Agency. Any application or revised application sent by mail ~~must~~ be sent by registered or certified mail, return receipt requested.
- b) ~~Any application or revised application~~ Applications which are hand delivered to the Agency must be delivered to an authorized employee of the Agency's permit section or ~~and received for by any authorized person employed in the permit section of the Agency's Mine Pollution Control Program, and the authorized employee must provide the applicant with a delivery receipt.~~

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 404.107 Supplemental State Permits

- a) A permittee may apply for a new or supplemental ~~State~~ permit whenever ~~circumstances arise such that~~ there could be a violation of its previous permit or in other appropriate circumstances.
- b) Applications for new or supplemental ~~State~~ permits ~~are~~ subject to the rules on applications in general.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 404.108 Violation of Conditions and Standards in a Permit

- a) ~~A~~ permittee ~~must not~~ violate the conditions and standards contained in its ~~State~~ permit.
- b) In addition to ~~the~~ other sanctions ~~underprovided by the Act~~ and ~~this~~ Subtitle D, ~~Chapter I~~, the Board may revoke a ~~State~~ permit in appropriate circumstances, including ~~but not limited to~~ the following:

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- 1) ~~Due to~~~~Because of~~ existing geological conditions, an operator cannot carry out mining activities ~~without causing so as not to cause~~ a violation of the Act or ~~this Subtitle D, Chapter I; or~~
- 2) A permittee's history of chronic disregard ~~by the permittee~~ for the Act or Board regulations; ~~or~~
- 3) Obtaining a permit by misrepresentation or failure to disclose ~~fully~~ all relevant facts; or
- 4) Other circumstances ~~in which~~~~where~~ it is affirmatively shown that the general standard for permit issuance ~~under 35 Ill. Adm. Code contained in Section 405.102~~ would not be met if the permittee submitted a new permit application ~~for permit were made~~.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 404.109 State Permit Term

State permits ~~will~~~~shall~~ have a duration not ~~exceeding to exceed~~ five years ~~as specified in the permit~~.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 404.110 Permit No Defense to Certain Violations

~~Possessing~~~~The possession of~~ a ~~State~~~~state~~ permit is not a defense to violation of the Act or Subtitle D, ~~Chapter I~~ except for a complaint alleging mining activity without a permit.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 404.111 Permit Review

- a) If the Agency fails to notify the applicant within 30 days after filing an application that the application is incomplete and the reason the Agency deems it incomplete, the application will be deemed to have been filed on the date of the purported filing. The applicant may treat the Agency's notification that an application is incomplete as a denial of the application for purposes of review.

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- b) If the Agency fails to take final action by granting or denying the permit as requested or modifying it with conditions within 90 days after the filing of the application, the applicant may deem the permit granted for a one year period beginning on the 91st day after the application was filed.
- c) If the Agency notifies an applicant that a permit application is incomplete or inadequate, modifies any condition or term of a State permit, or revokes an existing permit, it is considered a permit denial for purposes of appealing the Agency's decision to the Board under Section 40 of the Act.

~~Any condition or term in a state permit or Agency notification that a permit application is incomplete or inadequate or Agency notification of modification or revocation of an existing permit is a permit denial entitling a person to appeal the Agency's decision to the Board under Section 40 of the Act.~~

(Source: Amended at 43 Ill. Reg. _____, effective _____)

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Section 404. APPENDIX A References to Previous Rules

The following table is provided to ~~correlate previous~~ ~~aid in refereneing old~~ Board rule numbers ~~to~~ ~~with current Illinois Administrative Code Section~~ ~~section~~ numbers ~~pursuant to codification~~.

Chapter 4, Mine Related Pollution
Part IV, State Permits

35 Ill. ~~Adm. Admin.~~ Code ~~Part~~ 404

Rule 400	Section 404.100
Rule 401	Section 404.101
Rule 402	Section 404.102
Rule 403	Section 404.103
Rule 404	Section 404.104
Rule 405	Section 404.105
Rule 406	Section 404.106
Rule 407	Section 404.107
Rule 408	Section 404.108
Rule 409	Section 404.109
Rule 410	Section 404.110
Rule 411	Section 404.111

(Source: Amended at 43 Ill. Reg. _____, effective _____)

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NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: State and NPDES Permits
- 2) Code Citation: 35 Ill. Adm. Code 405
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
405.101	Amendment
405.102	Amendment
405.103	Amendment
405.104	Amendment
405.105	Amendment
405.106	Amendment
405.107	Amendment
405.108	Amendment
405.109	Amendment
405.110	Amendment
405.111	Amendment
405.112	Amendment
405.113	Amendment
405.APPENDIX A	Amendment
- 4) Statutory Authority: Authorized by Section 27 and implementing Sections 12 and 13 of the Environmental Protection Act [415 ILCS 5/12, 13, and 27].
- 5) A Complete Description of the Subjects and Issues Involved: In 2016, the Board began reviewing its rules to identify obsolete or otherwise unnecessary language. On January 10, 2018, the Illinois Environmental Protection Agency (IEPA) filed a proposal to update provisions including Part 405. IEPA's proposal arose from Executive Order 2016-13, which required agencies to identify outdated, repetitive, confusing, or unnecessary rules and then amend or repeal them. These proposed amendments include those submitted by IEPA and those identified separately by the Board. Both IEPA and the Board intend the amendments to be non-substantive clarifications.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace an emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No

POLLUTION CONTROL BOARD

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- 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 Objective: This proposed rulemaking does not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act. [30 ILCS 805/3(b)].
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comments on this proposal for a period of at least 45 days after the date of publication in the *Illinois Register*. Public comments should refer to docket R18-24 and be filed electronically through the Clerk's Office On-Line (COOL) on the Board's website at www.pcb.illinois.gov. Comments may be filed with the Clerk of the Board and be addressed to:

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- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: While the proposed amendments may affect a small business that engages in mining activities, the Board intends for the amendments to be non-substantive clarifications of existing rules.
- B) Reporting, bookkeeping or other procedures required for compliance: None beyond those required to comply with current rules.
- C) Types of professional skills necessary for compliance: None beyond those necessary to comply with current rules.
- 14) Small Business Impact Analysis:

POLLUTION CONTROL BOARD

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A) Types of businesses subject to the proposed amendments:

21 Mining

B) Categories that the agency reasonably believes the amendments will impact: The Board intends for the proposed amendments to be non-substantive clarifications of existing rules and does not expect them to have an impact in categories such as staffing, purchasing, equipment, or record keeping.

15) Regulatory Agenda on which this rulemaking was summarized: July 2018

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE D: MINE RELATED WATER POLLUTION
CHAPTER I: POLLUTION CONTROL BOARDPART 405
STATE AND NPDES PERMITS

Section

405.100	Preamble
405.101	Special Conditions: Agency Guidance Document
405.102	Standard for Permit Issuance or Certification
405.103	Permit Modification When New Regulations Are Adopted
405.104	Permit Applications
405.105	Surface Drainage Control
405.106	Refuse Disposal
405.107	Experimental Permits for Refuse Disposal
405.108	Permit for Use of Acid-producing Mine Refuse
405.109	Abandonment Plan
405.110	Cessation, Suspension or Abandonment
405.111	Emergency Procedures To Control Pollution
405.112	Mine Entrances
405.113	Permit Area

405.APPENDIX A References to Previous Rules

AUTHORITY: Implementing Sections 12 and 13 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5].

SOURCE: Adopted in R76-20, R77-10, 39 PCB 196, at 4 Ill. Reg. 34, p. 164, effective August 7, 1980; codified at 5 Ill. Reg. 8527; amended in R83-6A at 8 Ill. Reg. 13267, effective July 16, 1984; amended in R07-9 at 32 Ill. Reg. 15004, effective September 8, 2008; amended in R18-24 at 43 Ill. Reg. _____, effective _____.

Section 405.101 Special Conditions: Agency Guidance Document

~~a)~~In addition to the standards and conditions required by this Subtitle D, ~~Chapter I~~, the Agency may, in granting permits, impose ~~such~~ conditions ~~as may be~~ necessary to accomplish the purposes of the Act ~~that and which~~ are not inconsistent with Subtitle D, ~~Chapter I~~. All NPDES permits ~~must shall~~ contain ~~those~~ terms and conditions, including ~~but not limited to~~ schedules of

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compliance, which may be required to accomplish the purposes and provisions of the Act.

- b) ~~The Agency shall adopt such procedures as are necessary for permit issuance under this Subtitle D, Chapter I. Such procedures shall be included in an Agency guidance document.*~~
- e) ~~The Agency may adopt criteria for the design, operation, maintenance and abandonment of mine related facilities and other wastewater sources. Such criteria as are adopted shall be set forth in an Agency guidance document and shall be revised from time to time to reflect current engineering judgement and advances in the state of the art.*~~
- d) ~~In adopting new or revised criteria or procedures, the Agency shall comply with the requirements of the Illinois Administrative Procedure Act, Ill. Rev. Stat. 1979, ch. 127, §1001 et seq.~~
- e) ~~To the extent the Agency adopts such criteria, they will represent a formal Agency interpretation of what is consistent with the Act and Subtitle D, Chapter I and necessary to accomplish the purposes of the Act.~~
- f) ~~In adopting new or revised criteria the Agency shall consider other applicable state and federal statutes and regulations and shall avoid issuing criteria which conflict with such.~~

~~*35 Ill. Admin. Code Part 450 et seq.~~

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 405.102 Standard for Permit Issuance or Certification

- a) The Agency ~~will~~shall issue or certify a permit if ~~and only if~~ the operator submits adequate proof that the mine related facilities and mining activities will be constructed, prepared and operated ~~without causing~~so as not to cause a violation of the Act or Subtitle D, ~~Chapter I.~~
- b) ~~If an Agency guidance document is promulgated and if it contains criteria with regard to any condition of a permit, then for purposes of permit issuance proof of conformity with the Agency guidance document shall be prima facie evidence of no violation. However, nonconformity with the Agency guidance document shall~~

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~~not be grounds for permit denial if the condition of subsection (a) of this Section is met.~~

- ~~be)~~ The Agency may issue ~~under Section 405.107~~ an experimental permit ~~under 35 Ill. Adm. Code 405.107 despite~~; subsection (a) ~~of this Section notwithstanding~~.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 405.103 Permit Modification When New Regulations Are Adopted

If the Board adopts new regulations affecting the terms and conditions of ~~a permit that is in effect~~ an outstanding permit, the Agency may issue ~~to the permittee~~ a new or supplemental permit ~~including terms and conditions reflecting the new regulations setting forth the affected terms and conditions as modified~~.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 405.104 Permit Applications

- a) Plans, reports, specifications and application forms submitted to the Agency as part of a ~~State~~ state or NPDES permit application ~~must~~ shall be certified by a registered professional engineer when required by the Illinois Professional Engineering Act [225 ILCS 325], Ill. Rev. Stat., 1979, ch. 111, par. 5101 et seq.
- b) An application for a ~~State~~ state or NPDES permit ~~must~~ shall include:
- 1) ~~The location~~ Location of the affected land and the maximum extent of the affected land during the term of the requested permit;
 - 2) Activities on the affected land to prepare the site for mining activities, including all earth moving, grading activities, construction and any other preparatory activity;
 - 3) Measures to be taken to avoid ~~violating~~ violation of the Act and Subtitle D; ~~Chapter I~~.
 - 4) The location of all streams, creeks, bodies of water, and aquifers ~~that~~ which receive drainage from the affected land;

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- 5) The location of all private water supplies on or within one mile of the affected land;
- 6) The name, type and location of all public water supplies within ~~10~~ten miles of the affected land;
- 7) Plans for surface drainage control ~~underas required by~~ Section 405.105.
- 8) ~~Affected land areas~~~~Areas of the affected land~~ where mining will occur;
- 9) ~~Affected land areas~~~~Areas of the affected land~~ where mine refuse and spoil will be deposited;-
- 10) The general characteristics of the mine refuse and spoil ~~according to the classification scheme set forth in the Agency Guidance Document or any other general soil classification system acceptable to the Agency;~~
- 11) The proposed method of mining;
- 12) A refuse disposal plan ~~underas required by~~ Section 405.106 or ~~Section~~ 405.107;
- 13) The location of all bore holes, mine shafts, and wells on the affected land;
- 14) An estimate certified by an engineer of the quality and quantity of drainage from the mine area and mine refuse area, including ~~estimated~~~~estimates of~~ concentrations of chloride, sulfate, total dissolved solids and all ~~Section 406.106~~ contaminants ~~regulated under Section 406.106, together with an explanation for a statement of~~ the basis of the estimates;
- 15) The location of all mine ~~dicharges~~~~discharge points~~ and non-point source mine ~~discharges~~~~discharge sources~~, method or type of sediment basins, erosion control devices and wastewater treatment facilities for all mine related facilities, including ~~identifying~~~~designation of~~ collection points for water discharged from all mechanical pumping or gravity flow systems used for draining the mine and mine refuse area;
- 16) An abandonment plan ~~underas required by~~ Section 405.109; and

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- 17) If the applicant intends to use acid-producing mine refuse, a plan ~~under~~as required by Section 405.108.
- c) The Agency may ~~require~~specify other necessary information when considering necessary for consideration of the permit application. This may be done ~~through~~by way of an application form, ~~through the Agency guidance document~~ and through requests for information directed to the applicant.
- d) This ~~Section does not limit~~section shall not be construed as limiting the Agency's authority to enter into an agreement with the Illinois Department of Natural Resources, Office of Mines and Minerals for joint permit applications.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 405.105 Surface Drainage Control

- a) A State state or NPDES permit ~~must~~shall include a plan for surface drainage control as a condition.
- b) The applicant's plan for surface drainage control ~~must~~shall be incorporated into a permit by reference if it meets the standard of Section 405.102(a); otherwise, the Agency ~~must~~shall either deny the permit or issue it with a modified plan ~~modified by conditions subject to the provisions of Section 405.101.~~
- c) Mining activities and ~~depositing the deposition of~~ mine refuse ~~must~~shall be planned and conducted so as to avoid contact or interference with waters of the State that could reasonably cause water pollution ~~state where such contact can reasonably be expected to cause or allow pollution of such waters.~~
- d) Stream diversion~~Diversion~~, redirection or impoundment ~~of streams~~mustshall not be undertaken when~~where~~ the Agency demonstrates that there is an economically reasonable alternative.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 405.106 Refuse Disposal

- a) A State~~state~~ or NPDES permit ~~must~~shall include a refuse disposal plan as a

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condition.

- b) The applicant's refuse disposal plan ~~must~~ shall be incorporated into the permit by reference if it meets the standard of Section 405.102(a); otherwise the Agency ~~must~~ shall either deny the permit or issue it with a ~~modified~~ plan ~~modified by conditions subject to the provisions of Section 405.101.~~
- c) Seepage from a refuse disposal area is ~~considered~~ a mine discharge ~~and as defined by Section 402.101 which~~ is subject to ~~35 Ill. Adm. Code the standards contained in Part 406 of this Subtitle D.~~
- d) The ~~mine~~ refuse area ~~must~~ shall not ~~encompass~~ be located in an area of natural springs or an aquifer recharge area or intercept a drainage course unless special provisions ~~protect them have been made to protect such.~~ The ~~Agency has the~~ burden ~~to prove of proof shall be on the Agency to show~~ that an area is an aquifer recharge area.
- e) Acid-producing solid mine refuse ~~must~~ shall be immediately spread, ~~and~~ compacted in layers, and covered ~~as necessary~~ with suitable non-acid-producing material ~~as necessary~~. If wetness prohibits immediate spreading, the refuse ~~must~~ shall be spread and compacted as soon as possible and prior to ~~depositing the deposition of~~ a subsequent layer of refuse or cover material. ~~The~~ However, the Agency may permit alternate refuse disposal methods.
- f) Any refuse disposal plan constituting a change from the permitted refuse disposal plan is a revised refuse disposal plan.
- g) ~~Implementing Implementation of~~ a revised refuse disposal plan ~~requires~~ shall ~~require~~ a new, ~~or~~ revised, or supplemental NPDES or ~~State~~ state permit. ~~Applications must~~ Application shall be ~~submitted~~ made within the time limits ~~in 35 Ill. Adm. Code 403.104 and 404.104 prescribed~~ for the respective permits ~~as provided by Sections 403.104 and 404.104.~~
- h) Subsection (e) ~~does~~ shall not apply to acid-producing solid mine refuse disposed of underground or in strip pits where disposal is below the level of natural drainage; however, a layer ~~containing of~~ at least two feet of suitable non-acid-producing material ~~must~~ shall be applied no later than one year after completion of a refuse pile in an open pit.

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(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 405.107 Experimental Permits for Refuse Disposal

- a) To promote ~~the development of the technology~~ technological development of mine refuse pollution control, the Agency may issue experimental permits for refuse disposal not satisfying the requirements of Section 405.102 if the applicant demonstrates that the process, technique or system has a reasonable chance of complying for compliance with the Act and Subtitle D, ~~Chapter I~~.
- b) During operation, drainage from an experimental refuse area ~~must~~ shall be monitored ~~for to determine~~ compliance with the Act and Subtitle D, ~~Chapter I~~.
- c) ~~As a permit condition, the~~ The Agency may require ~~as a permit condition that~~ the permittee to submit performance data and cost information while operating during the operation of an experimental refuse area.
- d) Applications for experimental permits ~~must~~ shall comply with ~~the requirements of Section 405.104 of this Subtitle D~~.
- e) After the Agency approves an experimental permit, it may terminate the permit if data or maintenance practices indicate that the experimental method is no longer likely to meet the requirements of the Act and Subtitle D. Within 45 days after termination, the Agency will reimpose the requirements of Section 405.102. Agency approval of an experimental permit may be terminated at any time and the requirements of Section 405.102 reimposed within forty five days whenever data or maintenance practices indicate that the experimental method no longer appears likely to meet the requirements of the Act and Subtitle D, Chapter I.
- f) Within ~~12~~ twelve months ~~after terminating an~~ of the termination of the experimental permit, the permittee ~~must~~ shall complete the abandonment plan in the permitted mine refuse disposal area unless otherwise approved by the Agency.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 405.108 Permit for Use of Acid-producing Mine Refuse

- a) Using acid-producing mine refuse requires, as a permit condition, an adequate

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~~plan within a State~~ ~~A state~~ or NPDES permit ~~shall include as a condition an adequate plan for use of acid-producing mine refuse if the operator is to use such.~~

- b) ~~Using~~ ~~As defined by Section 402.101,~~ use of acid-producing mine refuse is a mining activity ~~that may require for which~~ a permit ~~may be required under 35 Ill. Adm. Code~~ Section 404.101.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 405.109 Abandonment Plan

- a) A ~~State~~ ~~state~~ or NPDES permit ~~must~~ ~~shall~~ include, as a condition, an abandonment plan ~~as a condition.~~
- b) An abandonment plan ~~must~~ ~~shall~~ be incorporated into the permit by reference if it:
- 1) ~~Contains~~ ~~Includes~~ a time schedule ~~for executing~~ ~~establishing that the abandonment plan will be executed~~ and ~~completing the plan~~ ~~completed~~ within a reasonable time after abandonment considering any potential adverse ~~enviromental impact~~ ~~impact on the environment~~ pending ~~the plan's completion of the plan~~ and the amount of time ~~necessary to complete all required to carry out the~~ steps within it. ~~One~~ ~~in the plan;~~ ~~one~~ year is assumed to be a reasonable time unless the operator demonstrates that a longer time is reasonable; and
 - 2) Shows that the mine related facilities and mining activities will be abandoned ~~without violating so as not to cause a violation of~~ the Act or Subtitle D ~~this Chapter.~~
- c) If the abandonment plan does not meet ~~the standard of~~ subsection (b) requirements, the Agency may either deny the permit or issue it with a modified ~~an~~ abandonment plan ~~modified by conditions subject to Section 405.101.~~
- d) The time limit ~~under provided by~~ subsection (b)(1) is inapplicable to abandonment plans for surface coal mines ~~that~~ ~~which~~ are approved as reclamation plans under the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720].
- e) Any abandonment plan constituting a substantial change from the permitted

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abandonment plan is a revised abandonment plan.

- f) A permittee ~~must~~shall apply for a new, ~~or~~ revised, or supplemental NPDES or State permit ~~before implementing prior to implementation of~~ a revised abandonment plan within the time limits ~~of provided by~~ 35 Ill. Adm. Code 403.104(c).

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 405.110 Cessation, Suspension or Abandonment

- a) A permittee ~~must~~shall notify the Agency in writing by certified mail within ~~30~~thirty days ~~after of any of~~ the following:
- 1) Abandonment; or
 - 2) Cessation or suspension of active mining for ~~30~~thirty days or more unless caused by a labor dispute.
- b) ~~Regardless of the cause, During~~ cessation or suspension of active mining ~~requires, whether caused by a labor dispute or not, the permittee to undertake~~shall provide whatever interim impoundment, drainage diversion, ~~or and~~ wastewater treatment is necessary to avoid ~~violating violations of~~ the Act or ~~Subtitle D this Chapter~~.
- c) Upon abandonment, the permittee ~~must~~shall execute and complete the permitted abandonment plan, ~~unless, provided, however, that the permittee need not execute and complete the permitted abandonment plan if~~ the abandonment arises solely from transfer of ownership to a responsible party.
- d) A responsible party is a person who holds a ~~State~~state or NPDES permit and all other necessary permits for the same facility. If ~~such~~ permit is issued ~~following~~subsequent to the transfer, it ~~must~~shall relieve the transferor of ~~any further~~the obligation ~~to execute of further executing~~ the abandonment plan.
- e) Upon request by the permittee, the Agency ~~must~~shall issue a certificate of abandonment whenever the permittee demonstrates that:
- 1) The abandonment plan has been satisfactorily executed; and

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- 2) The requirements of ~~Section~~Sections 405.109(b)(2)(A) and (b)(2)(B) have been met.
- f) Refusal to issue a certificate of abandonment is a permit denial for purposes of appeal.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 405.111 Emergency Procedures To Control Pollution

- a) A permittee ~~must~~shall notify the Agency within one hour of becoming aware of an emergency situation concerning mining activities ~~that~~which causes or threatens ~~to cause~~ a discharge of contaminants into the waters of Illinois. The permittee ~~must~~shall initially notify the Agency by telephone and ~~then by follow this with~~ written notice, including a description of corrective measures taken. The permittee ~~must~~shall immediately undertake necessary corrective measures consistent with Agency approval under ~~subsection paragraph~~ (b) ~~of this Section~~. Emergency situations, likely to ~~violate~~cause a violation of the Act or Subtitle ~~This Chapter I~~, include ~~but are not limited to the following~~:
 - 1) Dike, levee, dam or pipeline rupture;
 - 2) Flooded pit containing waters ~~that~~which do not meet the standards of 35 Ill. Adm. Code~~Part~~ 406;
 - 3) Power failure or mechanical breakdown of any wastewater treatment facility.
- b) The Agency may temporarily suspend the permit requirement ~~that a permit be~~ obtained to install and operate any device or facility necessary to correct the emergency situation.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 405.112 Mine Entrances

Bore holes, openings, drill holes, entrances to underground mines, and auger or punch mine entries ~~must~~shall be plugged and sealed to the extent necessary to avoid the threat of water pollution.

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(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 405.113 Permit Area

A ~~State~~ or NPDES permit ~~must~~shall specify a permit area. During the permit term, ~~no portion of~~ the affected land, or any portion of it, must not~~shall~~ be outside the permit area.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

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Section 405.APPENDIX A References to Previous Rules

The following table is provided to ~~correlate previous~~~~aid in referencing old~~ Board rule numbers ~~to~~
with current Illinois Administrative Code Section~~section~~ numbers ~~pursuant to codification~~.

Chapter 4, Mine Related Pollution Part V, State and NPDES Permits	35 Ill. Adm. Admin. Code Part 405
Rule 500	Section 405.100
Rule 501	Section 405.101
Rule 502	Section 405.102
Rule 503	Section 405.103
Rule 504	Section 405.104
Rule 505	Section 405.105
Rule 506	Section 405.106
Rule 507	Section 405.107
Rule 508	Section 405.108
Rule 509	Section 405.109
Rule 510	Section 405.110
Rule 511	Section 405.111
Rule 512	Section 405.112
Rule 513	Section 405.113

(Source: Amended at 43 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Mine Waste Effluent and Water Quality Standards
- 2) Code Citation: 35 Ill. Adm. Code 406
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
406.100	Amendment
406.101	Amendment
406.102	Amendment
406.103	Amendment
406.104	Amendment
406.105	Amendment
406.106	Amendment
406.107	Amendment
406.108	Amendment
406.109	Amendment
406.110	Amendment
406.202	Amendment
406.204	Amendment
406.205	Amendment
406.206	Amendment
406.207	Amendment
406.208	Amendment
406.APPENDIX A	Amendment
- 4) Statutory Authority: Authorized by Section 27 and implementing Sections 12 and 13 of the Environmental Protection Act [415 ILCS 5/12, 13, and 27].
- 5) A Complete Description of the Subjects and Issues Involved: In 2016, the Board began reviewing its rules to identify obsolete or otherwise unnecessary language. On January 10, 2018, the Illinois Environmental Protection Agency (IEPA) filed a proposal to update provisions including Part 406. IEPA's proposal arose from Executive Order 2016-13, which required agencies to identify outdated, repetitive, confusing, or unnecessary rules and then amend or repeal them. These proposed amendments include those submitted by IEPA and those identified separately by the Board. Both IEPA and the Board intend the amendments to be non-substantive clarifications.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None

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- 7) Will this rulemaking replace an emergency rule 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 Objective: This proposed rulemaking does not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comments on this proposal for a period of at least 45 days after the date of publication in the *Illinois Register*. Public comments should refer to docket R18-24 and be filed electronically through the Clerk's Office On-Line (COOL) on the Board's website at www.pcb.illinois.gov. Comments may be filed with the Clerk of the Board and be addressed to:

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

Interested persons may request copies of the Board's opinion and order in R18-24 by calling the Clerk's office at 312/814-3620 or may download copies from the Board's website at www.pcb.illinois.gov.

- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not-for-profit corporations affected: While the proposed amendments may affect a small business that engages in mining activities, the Board intends for the amendments to be non-substantive clarifications of existing rules.
 - B) Reporting, bookkeeping or other procedures required for compliance: None beyond those required to comply with current rules.

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- C) Types of professional skills necessary for compliance: None beyond those necessary to comply with current rules.
- 14) Small Business Impact Analysis:
- A) Types of businesses subject to the proposed rulemaking:
- 21 Mining
- B) Categories that the Agency reasonably believes the rulemaking will impact: The Board intends for the proposed amendments to be non-substantive clarifications of existing rules and does not expect them to have an impact in categories such as staffing, purchasing, equipment, or record keeping.
- 15) Regulatory Agenda on which this rulemaking was summarized: July 2018

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

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TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE D: MINE RELATED WATER POLLUTION
CHAPTER I: POLLUTION CONTROL BOARD

PART 406

MINE WASTE EFFLUENT AND WATER QUALITY STANDARDS

SUBPART A: EFFLUENT STANDARDS

Section	
406.100	Preamble
406.101	Averaging
406.102	Sampling, Reporting and Monitoring
406.103	Background Concentrations
406.104	Dilution
406.105	Commingling of Waste Streams
406.106	Effluent Standards for Mine Discharges
406.107	Offensive Discharges
406.108	Non- point Point Source Mine Discharges
406.109	Effluent Standards for Coal Mine Discharges Discharge from Reclamation Areas
406.110	Alternate Effluent Standards for Coal Mine Discharges During Precipitation Events

SUBPART B: WATER QUALITY STANDARDS

Section	
406.201	Temporary Exemption from Section 406.105 (Repealed)
406.202	Violation of Water Quality Standards
406.203	TDS Related Permit Conditions (Repealed)
406.204	Good Mining Practices
406.205	Contact with Disturbed Areas
406.206	Retention and Control of Exposed Waters
406.207	Control of Discharge Waters
406.208	Unconventional Practices
406.209	Expiration of Former Exemptions (Repealed)

406.APPENDIX A References to Previous Rules

AUTHORITY: Implementing Sections 12 and 13 and authorized by Section 27 of the

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Environmental Protection Act [415 ILCS 5].

SOURCE: Adopted in R76-20, R77-10, 39 PCB 196, at 4 Ill. Reg. 34, p. 164, effective August 7, 1980; codified at 5 Ill. Reg. 8527; emergency amendment in R83-6B at 7 Ill. Reg. 8386, effective July 5, 1983, for a maximum of 150 days; amended in R83-6B at 7 Ill. Reg. 14510, effective October 19, 1983; amended in R83-6A at 8 Ill. Reg. 13239, effective July 16, 1984; amended in R84-29 at 11 Ill. Reg. 12899, effective July 27, 1987; amended in R07-9 at 32 Ill. Reg. 15009, effective September 8, 2008; amended in R18-24 at 43 Ill. Reg. _____, effective _____.

SUBPART A: EFFLUENT STANDARDS

Section 406.100 Preamble

- a) This Part 406 applies to mine discharges and non-point source mine discharges as defined by 35 Ill. Adm. CodeSection 402.101.
- b) Other discharges, including sanitary sewers, are regulated under Subtitle C, Chapter I: Water Pollution.
- c) A facility thatwhich has another discharge will be subject to both Subtitle C and Subtitle D. Subtitle D governs mining activities, including mine discharges and non-point source mine discharges. Subtitle C governs other discharges.
- d) Except asto the extent provided in this Part 406, 35 Ill. Adm. CodePart 304 of Subtitlesubtitle C is inapplicable to mine discharges and non-point source mine discharges.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 406.101 Averaging

- a) Compliance with the numerical standards of this Part mustpart shall be determined based on the basis of 24-hour composite samples averaged over any calendar month. AIn addition, no single 24-hour composite sample must notshall exceed two times the numerical standards prescribed in this Part, andpart nor shall any grab sample taken individually or as an aliquot of any composite sample must not exceed five times the numerical standards prescribed in this Partpart.

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- b) ~~Despite subsection~~ Subsection (a) ~~of this section notwithstanding~~, if a permittee elects monitoring and reporting by grab samples ~~under as provided in~~ Section 406.102(f), then compliance with the numerical standards ~~must of this part shall~~ be determined ~~based on the basis of~~ three or more grab samples averaged over a calendar month. ~~In addition, no~~ single grab sample ~~must not shall~~ exceed two times the numerical standards ~~prescribed in this Part~~ part.
- c) The numerical standards for settleable solids are maximum values not to be exceeded at any time and are not subject to averaging.
- d) The numerical standards for pH ~~must shall~~ be within the specified range at all times and are not subject to averaging.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 406.102 Sampling, Reporting and Monitoring

- a) ~~When Where~~ treatment is provided for a discharge, effluent samples ~~must shall~~ be taken ~~at a point~~ after the final treatment process and before entry into or mixture with any waters of the ~~State state~~.
- b) ~~The Where treatment is provided the~~ permittee ~~must shall~~ design or modify structures ~~that allow so as to permit the taking of~~ effluent samples ~~by the Agency~~ at the required point. ~~e) When Where~~ treatment is not provided for a discharge, effluent samples ~~must shall~~ be taken at the nearest point of access to the discharge source at a point where the discharge leaves the mine, ~~or~~ mine area, or other portions of the affected land. ~~All, but in all cases~~ effluent samples ~~must shall~~ be taken before entry into or mixture with waters of the ~~State state~~.
- ~~c) The Agency will determine At~~ a reasonable frequency ~~at which to be determined by the Agency~~, the permittee ~~must shall~~ report the actual concentration or level of any parameter identified in the ~~State state~~ or NPDES permit.
- 1) Each report submitted ~~under pursuant to~~ this subsection (c) ~~must shall~~ include at least three samples taken from each pond discharge during three separate periods occurring during that reporting period in which the alternate limitations for precipitation events ~~under Sections of Section~~ 406.109 and 406.110 were in effect.

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- 2) If ~~such~~ alternate limitations under Sections 406.109 and 406.110 are in effect on fewer than three separate occasions during a reporting period, one sample ~~must~~shall be taken ~~from~~of each pond discharge ~~on~~during each occasion ~~during~~in that period when the alternate limitations are in effect. The operator ~~has~~shall have the burden of proof that the applicable precipitation event caused the discharge or increase in discharge ~~was caused by the applicable precipitation event~~.
- ~~de~~) The Agency may ~~by permit condition~~ require monitoring and reporting based on the basis of 24-hour composite samples averaged over calendar months as a permit condition. ~~The Agency may permit~~However, grab samples or composite samples of shorter duration ~~may be permitted by the Agency after the permittee demonstrates~~demonstration that ~~thesuch~~ samples reflect discharge levels over standard operating conditions.
- ~~ef~~) ~~Despite subsection~~Subsection (de) of this Section notwithstanding, if a permittee so requests, the Agency ~~may~~shall by permit condition require monitoring and reporting based on the basis of grab samples as a permit condition, in which case Section 406.101(b) will apply.
- ~~fg~~) Monitoring ~~must as required in this rule shall~~ continue after abandonment until the permittee has reasonably established that drainage complies with and will continue to comply with the requirements of the Act and this Subtitle D~~Chapter~~.
- ~~gh~~) All methods of sample collection, preservation and analysis used in applying ~~any of~~ the requirements of Subtitle D ~~must this Chapter shall~~ be in accord with USEPA's~~the United States Environmental Protection Agency's~~ current practice manual ~~of practice or with~~ other procedures acceptable to USEPA~~the United States Environmental Protection Agency~~ and the Agency.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 406.103 Background Concentrations

Because the effluent standards in this Part~~part~~ are based upon concentrations achievable with conventional treatment technology that is largely unaffected by ordinary levels of contaminants in intake water, they are absolute standards that must be met without subtracting background concentrations. This Part~~However, it is not the intent of these regulations is not intended to~~ require users to clean up contamination caused essentially by upstream sources or to require

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treatment when only traces of contaminants are added to the background. Complying Compliance with the numerical effluent standards is ~~therefore~~ not required when effluent concentrations ~~exceeding in excess of~~ the standards result entirely from ~~the contamination of~~ influent contamination before it enters the affected land. Background concentrations or discharges upstream from affected land are rebuttably presumed not to have caused a violation of this ~~Part~~part.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 406.104 Dilution

- a) Dilution of an effluent from a treatment works or from any wastewater source is not acceptable as a wastewater treatment method ~~of treatment of wastes in order~~ to meet the effluent standards ~~set forth~~ in this Subpart D. Rather, ~~it shall be the obligation of~~ any person discharging contaminants ~~of any kind~~ to the waters of the State ~~must to~~ provide the best degree of wastewater treatment ~~of wastewater~~ consistent with technological feasibility, economic reasonableness, and sound engineering judgment.
- b) ~~When determining~~In making determinations as to what kind of treatment is the best degree of treatment ~~under within the meaning of~~ this Section, the following will be considered:
 - 1) ~~The~~What degree of waste reduction ~~that~~ can be achieved by process change, improved housekeeping, and recovery of individual waste components for reuse; and
 - 2) Whether individual process wastewater streams should be segregated or combined.
- c) Concentrations measured for ~~the purpose of~~ determining compliance with Section 406.106 ~~must~~shall be recomputed to exclude the effect of any dilution that is improper under this Section.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 406.105 Commingling of Waste Streams

~~When~~Where waste streams from any facility ~~described in this Part~~ are combined for treatment or

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discharge, ~~pollutants with other waste streams from another facility, the concentration of each pollutant~~ in the combined discharge may not exceed the most stringent limitations for that pollutant applicable to any component waste stream of the discharge.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 406.106 Effluent Standards for Mine Discharges

- a) The effluent limitations ~~contained~~ in 35 Ill. Adm. Code 304 ~~do shall~~ not apply to mine discharges or non-point source mine discharges.
- b) Except as provided in Sections 406.109 and 406.110, a mine discharge effluent ~~must shall~~ not exceed the following levels ~~of contaminants~~:

Constituent	Storet Number	Concentration
Acidity	00435	(total acidity must shall not exceed total alkalinity)
Iron (total)	01045	3.5 mg/L †
Lead (total)	01051	1 mg/L †
Ammonia Nitrogen (as N)	00610	5 mg/L †
pH (range)	00400	(range 6 to 9)
Zinc (total)	01092	5 mg/L †
Fluoride (total)	00951	15 mg/L †
Total suspended solids	00530	35 mg/L †
Manganese	01055	2.0 mg/L †

- 1) The ammonia nitrogen standard ~~applies is applicable~~ only to an operator ~~using utilizing~~ ammonia in wastewater treatment.
- 2) The manganese effluent limitation ~~applies is applicable~~ only to discharges from facilities where chemical addition is required to meet the iron or pH effluent limitations. The upper limit of pH ~~must shall~~ be 10 for any ~~such~~ facility ~~that is unable~~ to comply with the manganese limit at pH 9. The manganese standard is not applicable to mine discharges ~~which are~~ associated with areas where no active mining, processing, or refuse disposal has taken place since May 13, 1976.

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- c) New source coal mines ~~are~~ shall be subject to a total iron limitation of 3.0 mg/L ~~+~~ in addition to the requirements of subsection (b) ~~above~~.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 406.107 Offensive Discharges

In addition to the other requirements of ~~Subtitle D~~ this Chapter, ~~no~~ mine discharge effluent must not ~~shall~~ contain settleable solids, floating debris, visible oil, grease, scum, or sludge solids. Color, odor, and turbidity must ~~shall~~ be reduced to below obvious levels.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 406.108 Non-point Source Mine Discharges

Surface drainage from the affected land of a coal mine, including disturbed areas ~~that~~ which have been graded, seeded, or planted, must pass ~~shall be passed~~ through a sedimentation pond or a series of sedimentation ponds before leaving the facility.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 406.109 Effluent Standards for Coal Mine Discharges from Reclamation Areas

- a) The effluent limitations ~~at~~ contained in 35 Ill. Adm. Code 304 and Section 406.106 ~~do~~ shall not apply to mine discharges from reclamation areas.
- b) A mine discharge effluent from a reclamation area must ~~shall~~ not exceed the following levels of contaminants:

Constituent	Store <u>Number</u>	Concentration
Settleable solids		0.5 ml/L +
pH <u>(range)</u>	00400	<u>(range 6-9)</u>

- c) Notwithstanding subsection (b), ~~above~~, any discharge, or increase in discharge ~~the~~ volume ~~of discharge~~ caused by precipitation within ~~any~~ 24 hour period greater than the 10-year, 24-hour precipitation event (or snowmelt of equivalent volume) is ~~shall be~~ subject only to a pH limitation ~~(range of 6-9)~~.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

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Section 406.110 Alternate Effluent Standards for Coal Mine Discharges During Precipitation Events

- a) Discharges ~~of alkaline mine drainage (except discharges from underground mines that are not commingled with other discharges eligible for these alternate limits), discharges from mountaintop removal areas operations, discharges from steep slope areas, and discharges from coal preparation plants and plant associated areas, and discharges of alkaline mine drainage except for drainage from coal refuse disposal piles~~ are eligible for alternate effluent limitations during precipitation events. Discharges ineligible for alternate effluent limitations during precipitation events include drainage from coal refuse piles and discharges of alkaline mine drainage from underground mines that are not commingled with other eligible discharges. Any discharge or increase in ~~discharge~~ the volume of a ~~discharge~~ caused by precipitation within any 24-hour period less than or equal to the 10-year, 24-hour precipitation event (or snowmelt of equivalent volume) may comply with the following limitations instead of those in [Section 406.106\(b\)](#):

Constituent	Storet Number	Concentration
Settleable solids		0.5 ml/L t
pH <u>(range)</u>	<u>00400</u>	<u>(range 6-9)</u>

- b) Discharges of acid or ferruginous mine discharge from coal refuse disposal piles are eligible for alternate effluent limitations during precipitation events. Any discharge or increase in ~~discharge~~ the volume of a ~~discharge~~ caused by precipitation within any 24-hour period greater than the 1-year, 24-hour precipitation event and less than or equal to the 10-year, 24-hour precipitation event (or snowmelt of equivalent volume) may comply with the following limitations instead of those in [Section 406.106\(b\)](#):

Constituent	Storet Number	Concentration
Settleable solids		0.5 ml/L t
pH <u>(range)</u>	<u>00400</u>	<u>(range 6-9)</u>

- c) Discharges of acid or ferruginous mine drainage (~~excluding except for~~ discharges in subsection (b), ~~above,~~ mountaintop removal ~~area discharges areas~~, steep slope ~~area discharges areas~~, controlled surface mines discharges, and discharges from underground workings) caused by precipitation:

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- 1) ~~Within~~~~caused by precipitation within~~ any 24-hour period less than or equal to the 2-year, 24-hour precipitation event (or snowmelt of equivalent volume) may comply with the following limitations instead of those in Section 406.109(b):

Constituent	Storet Number	Concentration
Settleable solids		0.5 ml/ L
Iron (total)	101045	3.5 mg/ L
pH (<u>range</u>)	00400	(range 6-9)

- 2) ~~Within~~~~Caused by precipitation within~~ any 24-hour period greater than the 2-year, 24-hour precipitation event but less than or equal to the 10-year, 24-hour precipitation event must comply with~~shall be subject to the requirements of~~ subsection (c)(1), ~~above~~, except for the total iron effluent standard.

- d) All discharges mentioned in subsections (a), (b), and (c) ~~of this section~~, discharges of acid or ferruginous mine drainage from underground workings ~~that which~~ are commingled with other discharges, and controlled acid or ferruginous surface mine discharges caused by precipitation within any 24-hour period greater than the 10-year, 24-hour precipitation event (or snowmelt of equivalent volume) are~~shall be~~ subject only to a pH limitation (range 6-9).

(Source: Amended at 43 Ill. Reg. _____, effective _____)

SUBPART B: WATER QUALITY STANDARDS

Section 406.202 Violation of Water Quality Standards

In addition to the other requirements of this Part, ~~no~~ mine ~~discharges and discharge of~~ non-point source mine ~~discharges discharge shall~~, alone or in combination with other sources, must not cause a violation of any water quality standards under~~of~~ 35 Ill. Adm. Code 302 or 303. ~~If~~~~When~~ the Agency finds that a discharge ~~that which~~ would comply with Subtitle D effluent standards ~~contained in this Part~~ would cause or is causing a violation of water quality standards, the Agency will~~shall~~ take appropriate action under Section 31 or 39 of the Environmental Protection Act [415 ILCS 5] ~~and to~~ require the discharge to meet ~~whatever~~ effluent limits ~~are~~ necessary to comply~~ensure compliance~~ with the water quality standards. When ~~such~~ a violation is caused by the cumulative effect of more than one source, several sources may be joined in an enforcement

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or variance proceeding, and measures for necessary effluent reductions will be determined based on ~~the basis of~~ technical feasibility, economic reasonableness, and fairness to all dischargers.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 406.204 Good Mining Practices

Good~~In determining whether an operator is utilizing good~~ mining practices are designed to minimize discharge of total dissolved solids, chloride, sulfate, iron, and manganese. ~~The, the~~ Agency shall consider whether the operator is using~~utilizing~~ the following good mining practices, ~~further defined in the Sections indicated:~~

- a) Practices ~~that which~~ may stop or minimize water from coming into contact with disturbed areas (Section 406.205);
- b) Retention and control ~~within the site~~ of waters exposed to disturbed materials (Section 406.206);
- c) Control and treatment of waters discharged from the site (Section 406.207);
- d) Unconventional practices (Section 406.208).

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 406.205 Contact with Disturbed Areas

~~The~~In considering whether an operator is utilizing practices which may stop or minimize water from coming into contact with disturbed areas, the Agency shall consider whether the operator's practices stop or minimize water from coming into contact with disturbed areas by considering~~the extent to which the operator is utilizing~~ erosion controls, including:

- a) Diversions
 - 1) Bypass diversions to collect and convey around or through disturbed areas to ~~a~~receiving stream waters that would otherwise flow over or through disturbed areas.
 - 2) On-site diversions to convey water around or over ~~or~~ disturbed areas; ~~or~~ undermined areas connected to the surface.

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- 3) Interception diversions to isolate on-site critical areas, including, ~~but not limited to:~~ raw spoils, partially stabilized spoils, and highway access roads.
- b) Runoff Controls
- 1) ~~Clearing~~ ~~Staging of clearing~~, grubbing, scalping, grading and reclamation ~~to keep operations so that the various~~ stages of the mining operation ~~are kept~~ concurrent with extraction operations, and ~~to allow only~~ a minimum disturbed surface area ~~to be~~ exposed at any one time.
 - 2) Keeping gradients and inclines to the active pit as short as possible ~~in order~~ to minimize the amount of drainage going to the active pit.
 - 3) Soil stabilization ~~through~~ measures such as revegetation and mulching to reduce the potential for exposing materials ~~that which~~ may produce dissolved solids.
 - 4) Sealing ~~of~~ boreholes acting as conduits ~~allowing which allow the~~ uncontrolled entrance of water to underground mines or to active pit areas of surface mines.
 - 5) Leaving sufficient barriers whenever mining adjacent to abandoned underground workings that may be inundated with water.
 - 6) ~~Prompt disposal~~ ~~Disposal~~ of potential contaminant producing materials ~~as soon as possible~~ in areas that will prohibit or minimize contact with surface and groundwater.
 - 7) Covering or treating potential contaminant ~~producing~~ materials ~~so as to~~ minimize adverse effects on water quality.
 - 8) Sealing ~~of~~ water-yielding fracture zones encountered during underground mining to reduce the flow of high total dissolved solids waters when geologic conditions permit successful sealing and when the flow from the fracture zone contributes significantly to the total dissolved solids load in the mine discharge.

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(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 406.206 Retention and Control of Exposed Waters

~~The~~In considering whether an operator is utilizing practices leading to the retention and control within the site of waters exposed to disturbed materials, the Agency shall consider the following to determine whether the operator's practices retain and control waters exposed to disturbed materials extent to which the operator is utilizing:

- a) Erosion Controls: grading, sloping, and ~~revegetating~~ revegetation of disturbed soil surfaces to reduce and detain runoff.
- b) Sedimentation Controls: routing and ~~segregating~~ segregation or ~~combining~~ combination of wastewater and mine runoff water to minimize any effect on the receiving stream's quality ~~of the receiving stream~~.
- c) Reuse of Discharges: ~~reusing~~ Reuse of water ~~with~~ bearing high concentrations of total dissolved solids, whenever possible, including:
 - 1) Recirculation ponds to recycle water to the preparation plant.
 - 2) Recirculation ponds to provide water for underground dust control.
 - 3) Holding ponds to provide irrigation waters to reclaimed land ~~and/or~~ adjacent crop land ~~tolerating~~ with tolerances to accept higher concentrations of total dissolved solids.
- d) Minimum Exposure of Waters to Disturbed Materials:
 - 1) ~~Applying~~ Application of water management practices, either continuously or at frequent intervals, ~~in order~~ to minimize water contact with disturbed materials.
 - 2) ~~Preventing water~~ Prevention of accumulation ~~of waters~~ in active pits, benches, terraces, roads, processing areas, surface depressions, and underground mine workings and cavities where ~~the dissolution of~~ contaminants will be ~~dissolved~~ facilitated.
 - 3) ~~Promptly removing~~ Removal of water to diversions and appropriate

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impoundments ~~as soon as possible~~ to minimize additional loadings of total dissolved solids.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 406.207 Control of Discharge Waters

~~The~~In considering whether an operator is utilizing practices leading to control and treatment of waters discharged from the site containing elevated levels of total dissolved solids, chloride or sulfate, the Agency shall consider the following practices to determine whether an operator is controlling and treating waters containing elevated levels of total dissolved solids, chloride, or sulfate discharged from the site~~extent to which the operator is utilizing:~~

- a) ~~Regulating~~Regulation of discharges when other control methods are insufficient and chemical treatment is economically unfeasible, including:
 - 1) Regulating the flow of discharges high in total dissolved solids according to~~in accordance with~~ fluctuating or intermittent stream flows so that the ~~concentration of~~ total dissolved solids concentration remains within established water quality standards; or
 - 2) Regulating the flow or fluctuation of receiving streams by timely discharge of water from existing impoundments ~~that which~~ have suitable discharge control structures.
- b) Rerouting over economically feasible distances, involving collecting discharges and conveying them to more suitable discharge points, such as large holding ponds located adjacent to more suitable receiving streams where dilution ~~and/or~~ water quality is better.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 406.208 Unconventional Practices

~~The~~In considering whether an operator is utilizing unconventional practices to prevent production or discharge of elevated levels of total dissolved solids, chloride and sulfate, the Agency shall consider the following unconventional practices in considering whether an operator's practices prevent producing or discharging elevated levels of total dissolved solids, chloride, and sulfate~~extent to which the operator is utilizing:~~

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- a) ~~Diverting~~Diversion of groundwater by intercepting the flow path ~~before~~prior to entering a surface or underground mine when ~~it is determined by~~ the mine operator determined it to be economically preferable to treating contaminated water after it passes through a mine.
- b) Dewatering practices that remove clean formation water before contacting dissolved solids-producing materials, including techniques ~~used~~which can be employed to tap nonpolluted aquifers ~~in order~~ to reduce the amount of water entering a mine.
- c) Any additional practices ~~which~~ the operator uses effectively to reduce~~demonstrates to be effective in reducing~~ levels of total dissolved solids, chloride, sulfate, iron and manganese in discharges.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

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Section 406.APPENDIX A References to Previous Rules

The following table is provided to ~~correlate previous~~aid in referencing old Board rule numbers ~~with~~the current Illinois Administrative Code Section numbers ~~pursuant to codification.~~

Chapter 4, Mine Related
Pollution Part VI, Effluent and
Water Quality Standards

35 Ill. ~~Adm~~Admin. Code
~~Part~~ 406

Rule 600	Section 406.100
Rule 601	Section 406.101
Rule 602	Section 406.102
Rule 603	Section 406.103
Rule 604	Section 406.104
Rule 605	Section 406.105
Rule 605.1	Section 406.201
Rule 606	Section 406.106
Rule 607	Section 406.107
Rule 608	Section 406.108

(Source: Amended at 43 Ill. Reg. _____, effective _____)

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- 1) Heading of Part: Egg and Egg Products Act
- 2) Code Citation: 8 Ill. Adm. Code 65
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
65.30	Amendment
65.50	Amendment
65.110	Amendment
65.130	Amendment
65.135	New Section
65.190	Amendment
65.210	Amendment
- 4) Statutory Authority: Section 13 of the Illinois Egg and Egg Products Act [410 ILCS 615/13]
- 5) Effective Date of Rules: April 15, 2019
- 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) Notice of Proposal published in *Illinois Register*: 42 Ill. Reg. 24323; December 28, 2018
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: None
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? None were made.
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No

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15) Summary and Purpose of Rulemaking: Additional rule put in place to support new section of Illinois Egg and Egg Products Act 410 ILCS 615/3.21a Lot Consolidation and 615/15 Samples for Representation of Entire Lots – Packing in Consumer Size Containers.

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

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

217/524-6905
fax: 217/785-4505

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

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TITLE 8: AGRICULTURE AND ANIMALS
CHAPTER I: DEPARTMENT OF AGRICULTURE
SUBCHAPTER b: ANIMALS AND ANIMAL PRODUCTS
(EXCEPT MEAT AND POULTRY INSPECTION ACT REGULATIONS)

PART 65
EGG AND EGG PRODUCTS ACT

Section

65.10	Definitions and Incorporations
65.20	Packaging Material, Master Containers, Packing Material and Consumer-Size Containers
65.30	Consumer Container Labeling Requirements
65.40	Restrictions
65.50	Master Container Labeling Requirements
65.60	Advertising
65.70	Brand or Firm Name
65.80	Food Preparation
65.90	Holding Temperature
65.100	Application for License or Renewal; Revocation or Suspension of License
65.110	Licenses
65.120	Surety Bond or Certificate of Deposit (Repealed)
65.130	Required Forms and Records
65.135	Egg Lot Consolidation
65.140	Minimum Sanitation, Building and Labeling Requirements for Egg Breaking Establishments
65.150	Minimum Sanitation and Operating Requirements for Shell Egg Grading Plants, Not Under Federal Inspection, Engaged in the Grading, Storage, Packaging and Distribution of Eggs
65.160	Minimum Sanitation Requirements for Retailers and Institutional Consumers
65.170	Retail Egg Inspection
65.180	Enforcement
65.190	Restricted Eggs (Definition, Labeling, Handling, Disposition)
65.200	Denaturants
65.210	Egg Inspection Fee
65.220	Illinois Grade Standards
65.230	Administrative Hearings (Repealed)

AUTHORITY: Implementing and authorized by Section 13 of the Illinois Egg and Egg Products

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Act [410 ILCS 615/13].

SOURCE: Rules and Regulations for the Illinois Egg and Egg Products Act, filed October 28, 1975, effective November 1, 1975; amended March 2, 1976, effective March 12, 1976; amended December 29, 1976, effective January 1, 1977; codified at 5 Ill. Reg. 10449; amended at 7 Ill. Reg. 2311, effective February 14, 1983; amended at 17 Ill. Reg. 6749, effective April 27, 1993; amended at 19 Ill. Reg. 16933, effective January 1, 1996; amended at 21 Ill. Reg. 900, effective January 7, 1997; amended at 28 Ill. Reg. 2072, effective February 1, 2004; amended at 29 Ill. Reg. 14774, effective October 1, 2005; amended at 35 Ill. Reg. 2578, effective April 1, 2011; amended at 43 Ill. Reg. 4799, effective April 15, 2019.

Section 65.30 Consumer Container Labeling Requirements

- a) All shell eggs sold by a producer-dealer, packer, handler, or distributor to a retailer for resale to a consumer shall be labeled on the consumer-size container with the grade and size. Labeling shall be in bold type with letters not less than $\frac{3}{8}$ inch in height, no abbreviations permitted.
- b) Labeling on each consumer-size container must show the name and address of the packer or the name and address of the distributor or retailer under whose authority the eggs were packed. This identification must be permanent either by stamping or printing in bold type with letters not less than $\frac{1}{8}$ inch in height.
- c) Each consumer-size container must include in its label numbers expressed in a three-digit Julian code not less than $\frac{1}{8}$ inch in height indicating the exact consecutive day of the year on which the determination of grade and size was made. Predating is not permitted. Illegible dates shall be considered as no dates. Candling dates must be separated from any other codes that may appear on the carton.
- d) In addition to the above labeling requirements, it shall be allowable to include expiration dates in the labeling of consumer-size containers at retail. An expiration date, or other similar language as specified by USDA standards, that is not later than ~~4530~~ days from the candling date for Grade A eggs and not later than the ~~3045~~ days from the candling date for Grade AA eggs shall be used. Eggs with an expiration date marked on the container shall not be offered for sale or sold to a consumer after the date marked on the container.

(Source: Amended at 43 Ill. Reg. 4799, effective April 15, 2019)

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Section 65.50 Master Container Labeling Requirements

- a) All master containers, whether full or partial containing bulk (loose) eggs offered, exposed or packed for sale, or transported for sale within the State shall bear a label stamped on the container or a removable tag affixed to the container on the top rung showing the following information in a conspicuous manner:
- 1) Grade and size – in letters not less than ½ inch in height.
 - 2) Name and address of packer or Illinois Egg License number or USDA plant number or egg license number from another state where eggs were packed, in letters not less than ¼ inch in height.
 - 3) The exact date on which the eggs were candled and graded. This candling date must be legible and accurate and appear in letters and numbers in Julian date code or exact date of pack not less than ¼ inch in height. Predating is not permitted. Illegible dates shall be considered as no dates.
 - 4) In addition to the above labeling requirements, an expiration date shall be required on all loose pack master containers. Use of qualifying prefixes required by USDA standards is allowable.
- b) Wire or plastic baskets (master containers) containing consumer-size cartons with the labeling information required by 8 Ill. Adm. Code 65.30 exposed to view are exempt from labeling the master container itself.
- c) Master containers, containing consumer-size containers where the labeling information is not exposed to view, must be labeled with one of the following means of identification:
- 1) name and address of packer;²⁵
 - 2) state license number;²⁵
 - 3) USDA plant number;³⁵ or
 - 4) egg license number from another state.

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- d) ~~A packer shall notify the Department in writing if he elects to use the state egg license number or USDA plant number instead of his name and address.~~

(Source: Amended at 43 Ill. Reg. 4799, effective April 15, 2019)

Section 65.110 Licenses

- a) The classifications of egg licenses and license fees for Illinois Egg Licenses (Full and Limited) are:
- 1) Illinois Egg License (Full) is required for the following business:
 - A) Producer-dealer (as defined in Section 3.29 of the Act and who sells eggs produced by his or her own flock or additional eggs from other than his or her own production ~~of 3,000 or more birds~~) – \$50.
 - B) Grading station (candles and grades nest run eggs from various producers) – \$50.
 - C) Jobber or broker (as defined in Section 3.2 of the Act) – \$50.
 - D) Distributor (as defined in Section 3.11 of the Act) – \$50.
 - 2) Illinois Egg License (Limited) is required for a producer-dealer (as defined in Section 3.29 of the Act, except that a limited licensee may only sell eggs of his or her own production and who sells only graded eggs produced by his own flock of 3,000 birds or fewer) – \$15.
 - 3) Egg Breaker's License (egg breaking establishment as defined in Section 16 of the Act). The license fee as set in Section 16 of the Act is \$200.
- b) A license will be issued if the applicant complies with the requirements of Sections 9 and 16 of the Act (as applicable to the type of license desired) and this Part.
- c) Illinois Egg Licenses must be posted conspicuously at the place of business of the holder so the license may be seen by the public and by the inspectors of the Department of Agriculture at any and all hours of the working day.

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- d) Truckers purchasing eggs from an Illinois producer are required to have an Illinois Egg License or photostatic copy of the license displayed in the cab.
- e) A separate license must be obtained for each business location.
- f) A place of business means a location where any person buys eggs from producers, or buys from or sells to institutional consumers, retailers, manufacturers or handlers. A truck or vehicle shall be considered a place of business provided no building is used for this purpose. Any person who operates his business from a vehicle in the State must provide to the Department a legal address for contact.
- g) Licenses are non-transferable. In the event of a sale of a licensed business, the purchaser will be required to make application for a new license.

(Source: Amended at 43 Ill. Reg. 4799, effective April 15, 2019)

Section 65.130 Required Forms and Records

- a) Grade Buying Slip
 - 1) When eggs are purchased from the producer on a graded basis, a grade buying slip shall be issued by the purchaser to the producer showing that eggs are of one or more of the following grade and size designations stating the quantity of each. Every grade buying slip shall carry a minimum of these six designations:

A Large	B Grade
A Medium	Restricted
A Small	Loss
 - 2) The grade buying slip must identify the producer and the purchaser and show the date of purchase and the date of grading. Eggs purchased from producers on a graded basis shall be candled and graded by the first receiver before the close of the fifth business day after receipt of the eggs at the grading facility, unless otherwise agreed to by both parties, and unless they are sold as "Nest Run Eggs", in which event they must be assigned a nest run grade and a weight class as defined in 7 CFR 56.230, 56.231, and 56.232 (2004) in the Federal standards for shell eggs.

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- 3) If quality factors preclude the assignment of a nest run grade, that grade must be stated on the invoice accompanying the sale of the eggs to the second receiver.
 - 4) Other grade and size classifications may be used in addition to those specified in subsection (a)(1). When other grades are added, they must conform with the Federal egg grading standards adopted in Section 65.220. The term "restricted" shall be used to designate all edible eggs below B quality (see Section 65.190(a)). A quantitative breakdown of the various types (i.e., checks, dirties, etc.) of restricted eggs shall be shown.
- b) Invoice
- 1) When eggs are sold by a licensed handler to another handler or retailer for ultimate resale to consumers, or to an institutional consumer or manufacturer for use in preparation of food for human consumption, an invoice or other accounting document must accompany the eggs.
 - 2) The invoice or other accounting document must show the name and address of the seller, including the physical address from where the eggs were shipped (P.O. boxes are not acceptable), the name and address of the purchaser, and the exact grade and size of the eggs sold according to State grade standards (see Section 65.220). The handler paying the inspection fee shall indicate, on each sales invoice, the amount of the inspection fee for the transaction in addition to the price of the eggs (see Section 65.210).
 - 3) Both seller and buyer must keep a copy of this invoice or other accounting documents on file, for a period of 6 months~~30 days~~, at the location where the eggs are being held or sold.

(Source: Amended at 43 Ill. Reg. 4799, effective April 15, 2019)

Section 65.135 Egg Lot Consolidation

- a) Cartons used for egg lot consolidation must be clean.
- b) All lot consolidation training must be preapproved by the Department.

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- c) Only trained personnel can perform lot consolidation at the retail level. A dated record must be kept and must be accessible at the retail store, listing all trained individuals who have been approved to perform lot consolidation. The employer bears the responsibility for training personnel and maintaining all records.
- d) Lot consolidation records must include each trained individual's name and the date of the lot consolidation. The Department can access timekeeping records to verify that the trained employee was working on the date of lot consolidation.
- e) Any retailer that wants to engage in egg lot consolidation must notify the Department either in writing or by electronic method listing each specific address of the retail location where it would like to perform egg lot consolidation. This requested location listing should be updated on an annual basis by the retailer.
- f) A second inspection fee is not payable to the Department on eggs consolidated.

(Source: Added at 43 Ill. Reg. 4799, effective April 15, 2019)

Section 65.190 Restricted Eggs (Definition, Labeling, Handling, Disposition)

- a) "Restricted eggs" means shell eggs that are checks, dirties, incubator rejects, inedibles, leakers or loss. Except for the producer exemption provided in subsection (c), checks and dirties may be used for human food provided they are processed and pasteurized in an official plant.
- b) "Capable of use as human food" means any egg or egg product, unless it is denatured, or otherwise identified as required by Federal regulation, to deter its use as human food (7 CFR 59 (2004)).
- c) Within the classifications of eggs defined as restricted eggs, only checks and dirties are capable of use as human food, unless they are destroyed or identified and labeled for animal food. Checks and dirties shall be sold directly or indirectly only to an official plant. However, a producer may sell on his own premises where eggs are produced checks and dirties directly to household consumers, for use by the consumer and the consumer's non-paying guests.
- d) Producer-dealers, packers, handlers, distributors, or retailers shall not sell on or off the premises within the State any restricted eggs to any person, including consumers, institutional consumers or employees.

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- e) Restricted eggs will not be given free, for use as human food, to any person, including but not limited to institutional consumers, charitable organizations, or any employee.
- f) Restricted eggs may be designated for animal food only when properly decharacterized or denatured to preclude their use in food for human consumption, and each container or receptacle shall be labeled "Restricted eggs, Not to be used as human food". However, restricted eggs that are not decharacterized or denatured may be moved from one USDA licensed plant to another USDA licensed plant.
- g) Inedible and loss eggs must be denatured at the point and time of segregation. If the liquid is removed from the shells, approved denaturant must be placed in the receptacle provided, before the liquid is added. If loss eggs are placed on fillerflats or in flats and fillers, or in any other manner, each layer of eggs must be denatured before another one is started. However, inedible and loss eggs under USDA inspection and control shall be handled in accordance with USDA recommendations.
- h) Checks and dirties must be conspicuously labeled at the point and time of segregation with a placard or other device. Full or partial master cases containing checks and dirties must be labeled before transfer to the cooler.
- i) Producer-dealers with fewer than 3000 birds, or any producers, regardless of size, who do no candling and grading, are not required to register under the Federal Egg Products Inspection Act. Producer-dealers with fewer than 3000 birds who candle and grade eggs must be licensed by the State and are ~~be~~ subject to this Part as it applies to restricted eggs.

(Source: Amended at 43 Ill. Reg. 4799, effective April 15, 2019)

Section 65.210 Egg Inspection Fee

- a) An inspection fee of 11¢ per case (30 dozen equals a case) or fraction of a case shall be imposed on all eggs bearing a designated size and grade that are offered for sale or sold in the State of Illinois.
- b) The first handler in Illinois who packed and sold the eggs shall pay the prescribed

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inspection fee on the eggs. In the event that the eggs are shipped into Illinois, the handler who invoiced the eggs to Illinois shall pay the fee.

- c) The handler paying the inspection fee shall indicate on each sales invoice the amount of the inspection fee for the transaction in addition to the price of the eggs.
- d) Eggs sold or shipped out of the State of Illinois are exempt from inspection fees.
- e) The inspection fee shall be paid only once on the same quantity of eggs, so long as the eggs maintain their identity by remaining in their original case, carton or container. If eggs are removed from the original case, carton or container, they are now reidentified, and a second inspection fee (same rate as the first fee) shall be paid on the eggs to the Department. However, a second inspection fee shall not be paid for eggs that are consolidation.
- f) Persons responsible for the payment of the inspection fees shall report every three months the number of master containers (cases of 30 dozen eggs per case) of eggs subject to the inspection fee on forms supplied by the Department. Exception: Persons selling less than 600 master containers of eggs per year subject to the inspection fee shall report the number of master containers sold and remit fees on an annual basis at the time of license renewal. The reports shall be accompanied by a remittance in an amount corresponding to the number of master containers at the rate prescribed per master container.
 - 1) The Director shall summon the delinquent person or firm to an administrative hearing in Springfield in which the license may be suspended or revoked if:
 - A) the quarterly report is established as being false or incorrect; or
 - B) the report is not received within 30 days after the due date.
 - 2) The quarters are as follows: January 1 to March 31; April 1 to June 30; July 1 to September 30; October 1 to December 31.
- g) The inspection fee applies to all eggs identified with a consumer Grade "AA", "A", or "B" packed loose or packaged in cartons.

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(Source: Amended at 43 Ill. Reg. 4799, effective April 15, 2019)

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- 1) Heading of Part: Bovine Brucellosis
- 2) Code Citation: 8 Ill. Adm. Code 75
- 3) Section Number: 75.60 Adopted Action:
Amendment
- 4) Statutory Authority: Illinois Bovine Brucellosis Eradication Act 510 ILCS 30/10
- 5) Effective Date of Rules: April 15, 2019
- 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 rule, 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*: 42 Ill. Reg. 24335; December 28, 2018
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: None
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? None were made.
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: This rulemaking updates requirements relating to bovine brucellosis to reflect current industry practices.
- 16) Information and questions regarding this adopted rule shall be directed to:

Pamela Harmon
Illinois Department of Agriculture

DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED AMENDMENT

P. O. Box 19281, State Fairgrounds
Springfield IL 62794-9281

217/524-6905
fax: 217/785-4505

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

DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED AMENDMENT

TITLE 8: AGRICULTURE AND ANIMALS
CHAPTER I: DEPARTMENT OF AGRICULTURE
SUBCHAPTER b: ANIMALS AND ANIMAL PRODUCTS
(EXCEPT MEAT AND POULTRY INSPECTION ACT REGULATIONS)

PART 75
BOVINE BRUCELLOSIS

Section

75.5	Definitions
75.7	Incorporation by Reference
75.10	Official Classification of the Results of the Brucellosis Blood Test
75.15	Permits to Conduct Official Brucellosis Tests
75.20	Reports Required
75.30	Tests Conducted at State Expense or for Interstate or Export Shipment
75.40	Tests Conducted at Owner's Expense for Intrastate Movement (Repealed)
75.50	Indemnity
75.60	Identification of Cattle or Bison
75.70	Herds Revealing Reactors
75.80	Sale of Suspects and Negative Animals From Quarantined Herds
75.90	Release of Herds of Cattle or Bison Under Quarantine
75.100	Herds Revealing Suspects Only
75.110	Identification Tags
75.120	Requirements for Establishing and Maintaining Certified Brucellosis-Free Herds of Cattle or Bison
75.130	Feeding or Grazing Cattle
75.140	Sale of Quarantined Feeding or Grazing Cattle
75.150	Cattle or Bison for Immediate Slaughter
75.160	Female Cattle 18 Months and Over
75.170	Release of Feeding or Grazing Cattle from Quarantine
75.180	Cattle or Bison
75.190	Additional Requirements on Cattle and Bison from States Designated as Class B and Class C States
75.200	Slaughter Cattle and Bison from Class B or Class C States
75.210	Official Calfhod Vaccination
75.220	Recognition of Brucellosis State Status
75.TABLE A	Brucellosis Standard Plate Test of Officially Vaccinated Cattle and Bison (Repealed)
75.TABLE B	Brucellosis Standard Plate Test of Non-Vaccinated Cattle and Bison (Repealed)

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AUTHORITY: Implementing and authorized by the Illinois Bovine Brucellosis Eradication Act [510 ILCS 30].

SOURCE: Regulations Relating to Bovine Brucellosis, filed January 17, 1972, effective January 27, 1972; filed May 3, 1972, effective May 13, 1972; filed December 6, 1972, effective December 16, 1972; filed June 20, 1973, effective June 20, 1973; filed December 14, 1973, effective December 24, 1973; filed August 19, 1975, effective August 29, 1975; filed March 12, 1976, effective March 22, 1976; filed June 21, 1976, effective July 1, 1976; filed December 29, 1976, effective January 8, 1977; amended at 2 Ill. Reg. 24, p. 55, effective June 15, 1978; amended at 3 Ill. Reg. 34, p. 96, effective August 24, 1979; amended at 5 Ill. Reg. 720, effective January 2, 1981; codified at 5 Ill. Reg. 10453; amended at 7 Ill. Reg. 1737, effective January 28, 1983; amended at 7 Ill. Reg. 1733, effective February 2, 1983; amended at 8 Ill. Reg. 5891, effective April 23, 1984; amended at 9 Ill. Reg. 4483, effective March 22, 1985; amended at 9 Ill. Reg. 19647, effective January 1, 1986; amended at 10 Ill. Reg. 9741, effective May 21, 1986; amended at 11 Ill. Reg. 10169, effective May 15, 1987; amended at 12 Ill. Reg. 3386, effective January 22, 1988; amended at 13 Ill. Reg. 3636, effective March 13, 1989; amended at 14 Ill. Reg. 1911, effective January 19, 1990; amended at 18 Ill. Reg. 1833, effective January 24, 1994; amended at 20 Ill. Reg. 1509, effective January 12, 1996; amended at 20 Ill. Reg. 16181, effective January 1, 1997; amended at 21 Ill. Reg. 17040, effective January 1, 1998; amended at 23 Ill. Reg. 397, effective January 1, 1999; amended at 23 Ill. Reg. 9764, effective August 9, 1999; amended at 28 Ill. Reg. 13400, effective October 1, 2004; amended at 30 Ill. Reg. 10067, effective May 22, 2006; amended at 34 Ill. Reg. 19376, effective January 1, 2011; amended at 36 Ill. Reg. 13591, effective September 1, 2012; amended at 43 Ill. Reg. 4811, effective April 15, 2019.

Section 75.60 Identification of Cattle or Bison

- a) All purebred or crossbred cattle or bison subject to registration vaccinated with brucella abortus vaccine shall be identified on the report of vaccination by their registration number, ~~or dam's registration number,~~ or record association approved individual tattoo or microchip. All grade or not permanently identified cattle or bison so vaccinated shall be ear tagged in the right ear with an official identification tag. In addition to the above identification, all animals shall be identified at the time of vaccination by a tattoo in the right ear. ~~When using a Strain 19 vaccine, the tattoo shall show the quarter and year of vaccination and the letter "V" in the Federal shield. The number of the quarter shall precede the letter "V" in the shield and the last figure of the year shall follow the letter "V" in the shield, as for example, 4V7—"4" means the last quarter (Oct., Nov., Dec.) of~~

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~~the year, "V" means vaccinated, and "7" means the year (example 1997).~~ When using ~~ana~~ RB-51 vaccine, the tattoo shall show the letter "R", then the Federal shield followed by the last number of the year the animal was vaccinated (example, RV6 would be an animal vaccinated with the RB-51 vaccine in 1996).

- b) All cattle or bison, except permanently identified purebred or crossbred animals, ~~subject to registration in a recognized breed association,~~ tested for brucellosis in the State of the Illinois shall be identified by an official ear tag placed in the right ear, ~~which tag shall bear a prefix number or letter followed by the number on the face of the tag, and on the reverse side shall bear the word "Illinois."~~
- c) Purebred or crossbred registered cattle or bison may be identified for test or vaccination by the purebred or crossbred registration number or individual registration breed tattoo or microchip.

(Source: Amended at 43 Ill. Reg. 4811, effective April 15, 2019)

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NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of Part: Diseased Animals
- 2) Code Citation: 8 Ill. Adm. Code 85
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
85.30	Amendment
85.50	Amendment
- 4) Statutory Authority: Illinois Diseased Animal Act 510 ILCS 50/2
- 5) Effective Date of Rules: April 15, 2019
- 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 rules, 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*: 42 Ill. Reg. 24340; December 28, 2018
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: None
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? None were made.
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: This rulemaking updates ear tag identification requirements for livestock and updates Code of Federal Regulation references.
- 16) Information and questions regarding these adopted rules shall be directed to:

Pamela Harmon

DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED AMENDMENTS

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

217/524-6905
fax: 217/785-4505

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

DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED AMENDMENTS

TITLE 8: AGRICULTURE AND ANIMALS
CHAPTER I: DEPARTMENT OF AGRICULTURE
SUBCHAPTER b: ANIMALS AND ANIMAL PRODUCTS
(EXCEPT MEAT AND POULTRY INSPECTION ACT REGULATIONS)

PART 85
DISEASED ANIMALS

Section

85.5	Definitions
85.7	Incorporation by Reference
85.10	Reportable Diseases
85.12	Contagious or Infectious Diseases
85.15	Truck Cleaning and Disinfection
85.20	Disposal of Sick, Diseased, or Crippled Animals at Stockyards, Auction Markets, or Marketing Centers
85.25	Sale of Livestock Quarantined Because of Disease
85.30	Identification Ear Tags for Livestock
85.35	Identification Tags Not to be Removed
85.40	Livestock for Immediate Slaughter Not to be Diverted En Route
85.45	Anthrax
85.50	Goats
85.55	Scrapie in Sheep and Goats
85.60	Bluetongue
85.65	Sheep Foot Rot (Repealed)
85.70	Cattle Scabies
85.75	Cattle Scabies – Additional Requirements on Cattle from Certain Designated Areas
85.80	Sheep and Goats
85.85	Diseased Animals
85.90	Copy of Health Certificate Shall be Furnished
85.95	Requests for Permits
85.100	Consignments to Stockyards, Auction Markets or Recognized Slaughtering Centers
85.105	Obligation of Transportation Company and Truck Operators
85.110	Additional Requirements on Cattle From Designated States
85.115	Salmonella enteritidis serotype enteritidis
85.120	Cervidae
85.125	Ratites

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- 85.130 Vesicular Stomatitis
- 85.135 Requirements for Establishing and Maintaining a Herd Under the Voluntary Paratuberculosis (Johne's Disease) Certification Program
- 85.140 Requirements for Establishing and Maintaining a Herd Under the Voluntary Paratuberculosis (Johne's Disease) Risk Management Program
- 85.145 Johne's Disease Positive Animals
- 85.150 Importation of Animals; Permit Required
- 85.155 Release from Quarantine

AUTHORITY: Implementing and authorized by the Illinois Diseased Animals Act [510 ILCS 50]; Section 6 of the Illinois Bovine Brucellosis Eradication Act [510 ILCS 30/6]; Livestock Auction Market Law [225 ILCS 640]; and Equine Infectious Anemia Control Act [510 ILCS 65].

SOURCE: Regulations Relating to Diseased Animals, filed January 17, 1972, effective January 27, 1972; filed August 19, 1975, effective August 29, 1975; filed December 29, 1976, effective January 8, 1977; amended at 2 Ill. Reg. 24, p. 12, effective June 15, 1978; amended at 3 Ill. Reg. 33, p. 337, effective August 17, 1979; amended at 5 Ill. Reg. 724, effective January 2, 1981; codified at 5 Ill. Reg. 10456; amended at 7 Ill. Reg. 1746, effective January 28, 1983; amended at 8 Ill. Reg. 5925, effective April 23, 1984; amended at 9 Ill. Reg. 4489, effective March 22, 1985; amended at 9 Ill. Reg. 18411, effective November 19, 1985; amended at 10 Ill. Reg. 20464, effective January 1, 1987; amended at 12 Ill. Reg. 8283, effective May 2, 1988; amended at 13 Ill. Reg. 3642, effective March 13, 1989; amended at 14 Ill. Reg. 1919, effective January 19, 1990; amended at 14 Ill. Reg. 15313, effective September 10, 1990; amended at 16 Ill. Reg. 11756, effective July 8, 1992; emergency amendment at 17 Ill. Reg. 14052, effective August 16, 1993, for a maximum of 150 days; amended at 18 Ill. Reg. 1850, effective January 24, 1994; emergency amendment at 19 Ill. Reg. 10734, effective July 10, 1995, for a maximum of 150 days; emergency expired December 17, 1995; amended at 20 Ill. Reg. 276, effective January 1, 1996; emergency amendment at 20 Ill. Reg. 6581, effective April 30, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 13039, effective September 25, 1996; amended at 21 Ill. Reg. 17049, effective January 1, 1998; amended at 23 Ill. Reg. 411, effective January 1, 1999; amended at 23 Ill. Reg. 7862, effective July 1, 1999; amended at 24 Ill. Reg. 997, effective January 10, 2000; amended at 24 Ill. Reg. 16612, effective November 1, 2000; amended at 26 Ill. Reg. 76, effective January 1, 2002; emergency amendment at 26 Ill. Reg. 6846, effective April 19, 2002, for a maximum of 150 days; emergency expired September 15, 2002; amended at 26 Ill. Reg. 18245, effective December 13, 2002; emergency amendment at 27 Ill. Reg. 9638, effective June 10, 2003, for a maximum of 150 days; emergency expired November 6, 2003; amended at 28 Ill. Reg. 2086, effective February 1, 2004; amended at 28 Ill. Reg. 13405, effective October 1, 2004; amended at 30 Ill. Reg. 16582, effective October 9, 2006; amended at

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31 Ill. Reg. 82, effective January 1, 2007; amended at 34 Ill. Reg. 19399, effective January 1, 2011; amended at 38 Ill. Reg. 20655, effective October 16, 2014; amended at 40 Ill. Reg. 2682, effective January 22, 2016; amended at 43 Ill. Reg. 4515, effective March 26, 2019; amended at 43 Ill. Reg. 4816, effective April 15, 2019.

Section 85.30 Identification Ear Tags for Livestock

- a) All livestock, except purebred or crossbred animals registered with an approved registry association, tested for brucellosis and/or tuberculosis in the State of Illinois, shall be identified by ~~an ear tag placed in the right ear that bears the prefix number "33" followed by 3 letters and then by 4 numbers, and that, on the reverse side, bears the word "Illinois", or by an official ear tag as defined at in the Code of Federal Regulations (9 CFR 78.1 (2017); 2009).~~
- b) Purebred or crossbred animals registered with an approved registry association may be identified for test or vaccination by registration number, ~~dam's registration number~~, microchip, or record association approved individual tattoo.

(Source: Amended at 43 Ill. Reg. 4816, effective April 15, 2019)

Section 85.50 Goats

- a) Brucellosis in Goats
 - 1) When a serologic test for brucellosis in goats discloses one or more reactors, the entire herd shall be placed under quarantine and the ~~reactors~~~~reactor(s)~~ immediately isolated from the remainder of the herd, reactor tagged and branded, and slaughtered. After removal of the ~~reactors~~~~reactor(s)~~, the entire herd shall be retested at time intervals and the number of times as requested by the Department. The length of the quarantine period shall be determined by the Department.
 - 2) All brucellosis agglutination blood tests of goats shall be made at an approved laboratory.
- b) Requirements for Establishing and Maintaining Certified Brucellosis-Free Herds of Goats
 - 1) General Requirements

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- A) Certified brucellosis-free herd certificates, which shall be valid for one year, unless revoked due to disclosure of brucellosis in the herd, shall be issued by the Department.
 - B) Certificates shall be extended for a period of one year upon evidence of a negative herd retest and compliance with all requirements for maintenance of a certified brucellosis-free herd.
 - C) A "herd" shall be considered as including all animals 6 months of age and over and shall consist of at least 5 animals.
 - D) All animals in the herd shall be identified by registration number, individual tattoo, or an official approved ear tag as defined in ~~the Code of Federal Regulations~~ (9 CFR 78.1 and; 79.2; (20172009)).
 - E) All official blood tests of goats shall be conducted at an approved laboratory.
- 2) To Qualify for Certification
- A) Herds shall be certified upon completion of 2 consecutive negative complete herd tests not less than 10 nor more than 14 months apart.
 - B) Animals classified as suspects, in herds that are otherwise negative, must be retested at 30-day intervals until their status has been determined. If the suspects are sold or otherwise disposed of before their status has been determined, the entire herd must be retested to achieve a negative herd status. If the suspects are classified as reactors upon retest, the herd is considered to be infected. Diseased goats may only be consigned directly to a slaughtering facility and must be accompanied by a "Permit for Movement, VS Form 1-27".
 - C) If on the initial herd test, or as a result of any retests of animals in the herd, one or more reactors are disclosed, the entire herd shall be placed under quarantine and the reactors immediately isolated from the remainder of the herd, reactor tagged and branded, and

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slaughtered. After removal of the reactors, the entire herd shall be retested at time intervals and the number of times as requested by the Department. The length of the quarantine period shall be determined by the Department.

- 3) To Qualify for Recertification
 - A) A negative herd test conducted within 60 days prior to the anniversary date is required for continuous certification. Upon receipt of a negative herd test, the Department shall extend certification for 12 months from the anniversary date.
 - B) If the annual test for recertification is conducted within 60 days following the anniversary date and all the animals are negative, certification will be restored and the certification period will be 12 months from the anniversary date.
 - C) If the annual test for recertification is not conducted within 60 days following the anniversary date, certification is cancelled and recertification requirements are then the same as for initial certification.
 - D) If suspects or reactors are disclosed on a recertification test, their disposition and herd retest requirements shall be the same as specified in subsections (b)(2)(B) and (C) ~~of this Section~~.
 - E) All official blood tests of goats shall be conducted at an approved laboratory.
- 4) Additions to Certified Brucellosis-Free Herds
 - A) Animals originating from other certified herds may be added without tests.
 - B) Animals originating from herds not certified may be added; provided, they are negative to an official brucellosis test within 60 days prior to addition, are held in isolation from other members of the certified herd for a minimum period of 30 days and are retested and negative at the end of this isolation period.

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- C) Purchased additions shall not receive new herd status for sale or exhibition purposes until they have been members of the herd for at least 30 days and are included in a complete herd retest.
- c) Other Contagious Diseases. All goats, including dairy goats, will not be allowed to be exhibited in Illinois and must be removed immediately from the exhibition area if showing signs of any of the following conditions:
 - 1) Lesions of contagious ecthyma (sore mouth).
 - 2) Active lesions of ringworm with resulting loss of hair.
 - 3) Caseous lymphadenitis as evidenced by draining abscesses.

(Source: Amended at 43 Ill. Reg. 4816, effective April 15, 2019)

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NOTICE OF ADOPTED REPEALER

- 1) Heading of Part: Animal Disease Laboratories Act
- 2) Code Citation: 8 Ill. Adm. Code 110
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
110.10	Repealed
110.20	Repealed
110.30	Repealed
110.50	Repealed
110.60	Repealed
110.70	Repealed
110.80	Repealed
110.90	Repealed
110.105	Repealed
110.120	Repealed
- 4) Statutory Authority: Animal Disease Laboratories Act 510 ILCS 10/1(g)
- 5) Effective Date of Rules: April 15, 2019
- 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 rule, 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*: 42 Ill. Reg. 24348; December 28, 2018
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: None
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? None were made.
- 13) Will this rulemaking replace an emergency rule currently in effect? No

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NOTICE OF ADOPTED REPEALER

- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: These rules pertained to the Galesburg Animal Disease Laboratory which is no longer open.
- 16) Information and questions regarding these adopted rules shall be directed to:

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

217/524-6905
fax 217/785-4505

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Camping on Department of Natural Resources Properties
- 2) Code Citation: 17 Ill. Adm. Code 130
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
130.40	Amendment
130.70	Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 1 and 4(1) and (5) of the State Parks Act [20 ILCS 835/1 and 4(1) and (5)], and by Sections 805-305 and 805-515 of the Civil Administrative Code of Illinois [20 ILCS 805/805-305 and 805-515].
- 5) Effective Date of Rules: April 11, 2019
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rules, including all material incorporated by reference, is on file in the Department of Natural Resources' principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 43 Ill. Reg. 1351, January 25, 2019
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version:

In Section 130.40, letters "a)", "b)", "c)", "d)" have been stricken; subsection e) has been incorporated in the definition of "Camp Shelter"; subsection (f) and (g) have been moved up under "Camp" and reworded as follows:

"Where campgrounds are laid out in defined sites, in no case will 2 or more tent trailers, travel trailers, self-propelled mobile campers, pick-up campers, or any combination thereof be considered a single camp."

"Where campgrounds are not laid out in sites, the number of camps will be determined by the capacity of the existing sanitary facilities, parking areas, soil and turf conditions,

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potential social conflicts between campers due to crowding, and similar factors as determined by Department staff."

In Section 130.40, the definition of "Department" has been added.

- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes, all changes have been made.
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: This Part has been amended to bring the cost of IDNR rentals at Dixon Springs State Park in line with fair market rates and provide for maintenance and upkeep to ensure the structures will be available for future constituents.
- 16) Information and questions regarding these adopted rules shall be directed to:

John Heidinger, Legal Counsel
Department of Natural Resources
One Natural Resources Way
Springfield IL 62702-1271

217/782-1809

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

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

TITLE 17: CONSERVATION
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES
SUBCHAPTER a: LANDS

PART 130

CAMPING ON DEPARTMENT OF NATURAL RESOURCES PROPERTIES

Section

130.10	Location
130.20	Purpose of Campground
130.30	Classification of Camps by Equipment Used – Definitions
130.40	Definitions
130.50	Registrations
130.60	Permits, Extensions and Time Limits
130.70	Fees and Charges
130.80	Refunds
130.90	Check-in and Check-out Times
130.100	Unoccupied Camps
130.110	Vehicles per Camp (Refer to 17 Ill. Adm. Code 130.30)
130.120	Youth Group (Boy Scouts, Girl Scouts, Explorers, church groups, or others)
130.130	Organization Group Camps (charter organizations, ROTC, private clubs or others)
130.135	Campground Host Program
130.140	Use of Campground
130.150	Violation of Rule

AUTHORITY: Implementing and authorized by Sections 1 and 4(1) and (5) of the State Parks Act [20 ILCS 835], and by Sections 805-305 and 805-515 of the Civil Administrative Code of Illinois [20 ILCS 805].

SOURCE: Adopted at 4 Ill. Reg. 7, p. 110, effective February 4, 1980; emergency amendment at 5 Ill. Reg. 5707, effective June 1, 1981 for a maximum of 150 days; codified at 5 Ill. Reg. 10623; amended at 5 Ill. Reg. 14568, effective December 9, 1981; amended at 6 Ill. Reg. 3840, effective March 31, 1982; amended at 6 Ill. Reg. 9626, effective July 21, 1982; amended at 6 Ill. Reg. 14835, effective November 24, 1982; amended at 7 Ill. Reg. 5870, effective April 22, 1983; amended at 8 Ill. Reg. 5647, effective April 16, 1984; amended at 9 Ill. Reg. 6173, effective April 23, 1985; amended at 9 Ill. Reg. 11594, effective July 16, 1985; amended at 10 Ill. Reg. 9777, effective May 21, 1986; amended at 10 Ill. Reg. 13244, effective July 28, 1986; amended at 11 Ill. Reg. 9506, effective May 15, 1987; amended at 14 Ill. Reg. 12402, effective July 20, 1990; emergency amendment at 16 Ill. Reg. 7925, effective May 11, 1992, for a maximum of

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150 days; emergency expired October 8, 1992; amended at 16 Ill. Reg. 15982, effective October 2, 1992; amended at 18 Ill. Reg. 1126, effective January 18, 1994; amended at 19 Ill. Reg. 6462, effective April 28, 1995; amended at 20 Ill. Reg. 6683, effective May 6, 1996; amended at 21 Ill. Reg. 9034, effective June 26, 1997; amended at 22 Ill. Reg. 3076, effective January 23, 1998; amended at 22 Ill. Reg. 11781, effective June 24, 1998; amended at 23 Ill. Reg. 8376, effective July 7, 1999; amended at 24 Ill. Reg. 1634, effective January 13, 2000; amended at 24 Ill. Reg. 13699, effective August 23, 2000; amended at 27 Ill. Reg. 12630, effective July 21, 2003; amended at 28 Ill. Reg. 6118, effective April 15, 2004; amended at 29 Ill. Reg. 20445, effective December 2, 2005; amended at 32 Ill. Reg. 181, effective December 19, 2007; amended at 32 Ill. Reg. 8406, effective May 21, 2008; amended at 34 Ill. Reg. 10791, effective July 16, 2010; amended at 43 Ill. Reg. 4826, effective April 11, 2019.

Section 130.40 Definitions

"Barracks" means a temporary housing structure characterized by its plainness and minimal amenities offered.

a) "Camp" means a single family or group occupying one site ~~that is a designated individual site~~ within a Departmentally managed site, established and maintained for the sole purpose of camping, including the use of tents, trailers or any other type of camping device.

Where campgrounds are laid out in defined sites, in no case will 2 or more tent trailers, travel trailers, self-propelled mobile campers, pick-up campers, or any combination thereof be considered a single camp.

Where campgrounds are not laid out in sites, the number of camps will be determined by the capacity of the existing sanitary facilities, parking areas, soil and turf conditions, potential social conflicts between campers due to crowding, and similar factors as determined by Department staff.

d)A "Camp Shelter" ~~means is~~ the portable equipment used by the single family or group for bedding and housing. e) If more than one camp shelter is required for the single family or group, they shall occupy separate campsites. (Exceptions: Minor children (under 18) sleeping in sleeping bags or in a tent outside the family shelter are considered occupants sharing the same shelter. A group of no more than 4 occupants may occupy up to 2 or 4 one-man tents on a single campsite.)

"Department" means the Illinois Department of Natural Resources.

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~~h)A~~ "Premium Campground" ~~means is~~ a designated camping facility that has a preponderant history of consistently operating at capacity or has unique amenities, such as automated trap and skeet ranges, that are not typically offered at other State camping facilities. The following sites are designated as Premium Campgrounds: Chain O'Lakes State Park, Illinois Beach State Park, Kankakee River State Park, the World Shooting ~~and Recreational~~ Complex (~~WSRC~~), Rock Cut State Park, Shabbona Lake State Recreation Area and Starved Rock State Park.

~~b)A~~ "Single Family" ~~means consists of~~ either or both parents and unmarried children. Other family members will be considered ~~as~~ part of the family as long as they occupy the same shelter, but not to exceed a total of 4 adults (18 years of age or older).

~~e)The~~ "Single Group" ~~means consists of~~ unrelated adults (18 years of age or older) with or without children occupying the same shelter. This group ~~shall would~~ not exceed 4 occupants (except for Rent-A-Camp sites with an extra large tent, which ~~shall would~~ not exceed 8 occupants and a campground cabin, ~~which shall would~~ not exceed 6 occupants).

~~f)In no case will 2 or more tent trailers, travel trailers, self-propelled mobile campers, pick up campers, or any combination thereof be considered as a single camp.~~

~~g)Where campgrounds are laid out in defined sites, not more than one camp will be permitted on a site. Where campgrounds are not laid out in sites, the number of camps will be determined by the capacity of the existing sanitary facilities, parking areas, soil and turf conditions, potential social conflicts between campers due to crowding, and similar factors as determined by Department staff.~~

(Source: Amended at 43 Ill. Reg. 4826, effective April 11, 2019)

Section 130.70 Fees and Charges

- a) The full amount of the camping fee and, if applicable, the utility fee shall be collected at the time the permit is issued. If checks are taken, they shall be made payable to the Illinois Department of Natural Resources and the site identified. Camping fees vary according to the type of campground and are as follows:

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- 1) Spring-Summer Camping (rates apply May 1 through September 30, except at the [WSRC World Shooting Complex](#) during sanctioned shooting events when camping is reserved for event participants via a licensing agreement between the event sponsor and the Department)
 - A) Class AA Sites: Camping fee of \$15 per night per site, \$10 utility fee. Sites having availability to showers, electricity, water hookups, sewer hookups, and vehicular access. The camping fee shall be \$25 per night on Friday, Saturday and Sunday of the Memorial Day and Labor Day holiday weekends and on Friday, Saturday and Sunday nights of the Independence Day weekend if July 4 falls on a Friday, Saturday, Sunday or Monday.
 - B) Class A Sites: Camping fee of \$10 per night per site, \$10 utility fee. Sites having availability to showers, electricity and vehicular access. The camping fee shall be \$20 per night on Friday, Saturday and Sunday of the Memorial Day and Labor Day holiday weekends and on Friday, Saturday and Sunday nights of the Independence Day weekend if July 4 falls on a Friday, Saturday, Sunday or Monday.
 - C) Class A Premium Sites: Camping fee of \$15 per night per site, \$10 utility fee. Sites having availability to showers, electricity and vehicular access. The camping fee shall be \$25 per night on Friday, Saturday and Sunday of the Memorial Day and Labor Day holiday weekends and on Friday, Saturday and Sunday nights of the Independence Day weekend if July 4 falls on a Friday, Saturday, Sunday or Monday.
 - D) Class B-E Sites: Camping fee of \$8 per night per site, \$10 utility fee. Sites having availability to electricity and vehicular access.
 - E) Class B-E Premium Sites: Camping fee of \$10 per night per site, \$10 utility fee. Sites having availability to electricity and vehicular access.
 - F) Class B-S Sites: Camping fee of \$10 per night per site. Sites having availability to showers and vehicular access.

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- G) Class B-S Premium Sites: Camping fee of \$12 per night per site. Sites having availability to showers and vehicular access.
- H) Class C Sites: Camping fee of \$8 per night per site. Sites having vehicular access or tent camp/primitive sites (walk-in or backpack) having availability to showers.
- I) Class D Sites: Camping fee of \$6 per night per site. Tent camping or primitive sites with no vehicular access.
- J) Youth Group Camping: \$2 per person, minimum daily camping fee of \$20.
- K) Adult Group Camping: \$4 per person, minimum daily camping fee of \$40.
- L) Each member of an organized group utilizing facilities furnished at Dixon Springs State Park, Horseshoe Lake State Fish and Wildlife Area (Alexander County) and Pere Marquette State Park shall pay a fee of \$4 per night. At Dixon Springs and Horseshoe Lake State Fish and Wildlife Area (Alexander County), a deposit of \$40 will be required before confirmation of a reservation. The deposits will be credited to the total camping fee. At Pere Marquette, a deposit of \$100 will be required before confirmation of a reservation. The deposits will be credited to the total camping fee. At Pere Marquette and Dixon Springs, deposit balances will not be refunded until inspection is made of the facilities after the group departs. If damages warrant, Pere Marquette and Dixon Springs will have authority to retain this deposit. Fees for day use of the group camps at Dixon Springs, Horseshoe Lake State Fish and Wildlife Area (Alexander County) and Pere Marquette shall be ~~\$75~~\$50 per day.
- M) Rent-A-Camp Tents
Tents will be made available at designated State parks and recreational areas throughout the Department's statewide system. Rent-A-Camp Tent areas will provide, at additional fees of \$8 and \$12 per night, one large tent (approximately 10' x 13') or one extra

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large tent (approximately 14' x 14'), respectively (erected), with wood floor, one charcoal grill, one picnic table, one trash barrel, and either 4 sleeping cots per large tent or 8 sleeping cots per extra large tent. The total overnight fee for a Rent-A-Camp Tent will be based on the basic fees of \$8 or \$12 per night in addition to the class of camping rate on which the Rent-A-Camp site is located.

- N) Rent-A-Camp Cabin areas will provide, at a basic cabin rental fee of \$25 per night, one 2-bedroom cabin with 2 bunk beds, one full-sized bed, ceiling fans, electric heaters, table with chairs, one charcoal grill, one picnic table, and one trash barrel. The total overnight fee for a Rent-A-Camp Cabin will be based on the basic fee plus Class specific utility and camping fees, as follows:
- i) Rent-A-Camp Cabins at Class A Sites:
\$25 cabin rental plus \$10 utility fee and \$10 camping fee per night, per site at all sites having availability to showers and vehicular access.
 - ii) Rent-A-Camp Cabins at Class A Premium Sites:
\$25 cabin rental plus \$10 utility fee and \$15 camping fee per night, per site at all sites having availability to showers and vehicular access.
 - iii) Individual Rent-A-Cabins at Dixon Springs State Park:
rented individually – not by organized groups pursuant to subsection (a)(1)(L); ~~\$60~~~~\$30~~ cabin rental, ~~\$45~~ barrack fee per unit.
- O) A \$5 per campsite non-refundable reservation fee must be remitted at those facilities offering reservation services. This fee applies to reservations for group campsites as well as individual site reservations and individual Rent-A-Camp Cabin and individual Rent-A-Camp Tent reservations. In addition to the \$5 non-refundable fee, the full amount of the camping and utility fee (if applicable) is required at the time reservations are made.

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- P) Dumping of wastewater from recreational vehicles and camping trailers by persons who are not registered campers will cost \$5 per vehicle.
- 2) Fall-Winter Camping (rates apply October 1 through April 30, except at the [WSRC World Shooting Complex](#) during sanctioned shooting events when camping is reserved for event participants via a licensing agreement between the event sponsor and the Department)
- A) As long as buildings, water and electrical service are available, regardless of the date, the regular camping fee will apply.
- B) When cold weather requires closing down buildings and shutting off water in any Class A or B campgrounds, the fee shall be reduced commensurate with the services and facilities available for use.
- C) The fee for primitive campsites shall be \$6 per site. When a change in facilities is made and a campsite is reclassified, the fee for a site will change automatically.
- b) Exceptions: Employees, Concessionaires, and Special Legislation
- 1) Persons who qualify and are placed in the campground host program at approved camping sites will not be required to pay the established camping fee.
- 2) The concessionaire, manager, or a responsible employee designated by the concessionaire will not be charged the regular camping fee. Rent will be paid at the rate established by the Department or pursuant to the concession lease.
- 3) An Illinois resident age 62 or older, or a person who has a Class 2 disability as defined in Section 4A of the Illinois Identification Card Act [15 ILCS 335/~~4A~~] or a disabled veteran, or a former prisoner of war as defined in Section 5 of the Department of Veterans Affairs Act [20 ILCS 2805/~~5~~], is entitled to the following camping fee provisions, upon qualifying, which will allow the spouse or minor (under 18) children, or minor grandchildren to be included in the camping party. All other

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members must be registered and pay the regular camping fee for the facilities provided.

- A) Illinois residents age 62 or older will be charged one-half the established camping fee on any Monday, Tuesday, Wednesday, or Thursday, at Class AA, A Premium, A, B-E Premium, B-E, B-S Premium, and B-S sites but must pay the entire established camping fee on all sites on any Friday, Saturday or Sunday, and, if at a site with utilities, must pay the entire utility fee for each day of camping. Verification of age may be made by any document required by law to establish proof of age and date of birth and issued by a federal or state governmental agency. No fee on Class C and D sites Monday through Thursday.
 - B) Illinois residents who have a Class 2 disability and present a current Illinois Disabled Person Identification Card issued by the Secretary of State will be charged one-half the established camping fee for Class AA, A Premium, A, B-E Premium, B-E, B-S Premium and B-S sites on any Monday, Tuesday, Wednesday or Thursday, but must pay the entire established camping fee for any Friday, Saturday or Sunday, and, if at a site with utilities, must pay the entire utility fee for each day of camping. No fee on Class C and D sites. Parents or legal guardians, aged 18 or over, of minors who have a current Class 2 Illinois Disabled Person Identification Card may register the campsite at the reduced rate specified in this subsection (b)(3)(B) for disabled persons, provided the disabled minor is present and camping at the same site as the parent or legal guardian.
 - C) An Illinois resident who is a disabled veteran or former prisoner of war may camp without being charged a camping fee, but if at a site with utilities, must pay the entire utility fee for each day of camping. An individual wishing to qualify for free camping under the provisions stated above must be able to submit the appropriate document issued by the Illinois Department of Veterans' Affairs (see 20 ILCS 2805/5).
- c) World Shooting and Recreational Complex (~~WSRC~~)

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The Department may establish the fees for use of all or parts of the campground at the WSRC through the negotiation of contracts for events to be held at the WSRC. The Department shall consider the numbers of camping spaces reserved and the services provided at each campsite when establishing fees by contract. All other fees set forth in this Section shall apply to public camping at the WSRC.

(Source: Amended at 43 Ill. Reg. 4826, effective April 11, 2019)

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- 1) Heading of the Part: Revocation Procedures for Conservation Offenses
- 2) Code Citation: 17 Ill. Adm. Code 2530
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
2530.20	Amendment
2530.230	Amendment
2530.250	Amendment
2530.255	Amendment
2530.270	Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 1-125 and 20-105 of the Fish and Aquatic Life Code of 1971 [515 ILCS 5/1-125 and 20-105], Sections 1.4 and 3.36 of the Wildlife Code [520 ILCS 5/1.4 and 3.36], Sections 4 and 5 of the Illinois Endangered Species Protection Act [520 ILCS 10/4 and 5], Section 3B-8 of the Boat Registration and Safety Act [625 ILCS 45/3B-8], Sections 10 and 13 of the Timber Buyers Licensing Act [225 ILCS 735/10 and 13], Section 6 of the Ginseng Harvesting Act [525 ILCS 20/6] and the Illinois Administrative Procedure Act [5 ILCS 100], Sections 70 and 105 of the Herptiles-Herps Act [510 ILCS 68] and authorized by Sections 5-625, 805-518, 805-545 and 805-550 of the Civil Administrative Code of Illinois [20 ILCS 5/5-625, 805-518, 805-545 and 805-550].
- 5) Effective Date of Rules: April 11, 2019
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rules, including all material incorporated by reference, is on file in the Department of Natural Resources' principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 43 Ill. Reg. 115, January 4, 2019
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: None

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- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? No agreements were necessary.
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: This Part has been amended to add the ability to revoke licenses pertaining to Herptiles-Herp Act pursuant to PA 98-752
- 16) Information and questions regarding this adopted rules shall be directed to:

John Heidinger, Legal Counsel
Department of Natural Resources
One Natural Resources Way
Springfield IL 62702-1271

217/782-1809

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

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

TITLE 17: CONSERVATION
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES
SUBCHAPTER f: ADMINISTRATIVE SERVICES

PART 2530
REVOCATION PROCEDURES
FOR CONSERVATION OFFENSES

SUBPART A: GENERAL RULES

Section	
2530.10	Applicability
2530.20	Definitions
2530.30	Filing
2530.35	Parties
2530.40	Documents
2530.50	Computation of Time
2530.60	Appearances

SUBPART B: SUMMARY REVOCATION/SUSPENSION
BASED ON ACCUMULATION OF POINTS

Section	
2530.110	Applicability (Recodified)
2530.130	Rules Proposed by Member of Public (Recodified)
2530.140	Authorization of Hearing (Recodified)
2530.150	Notice of Hearing (Recodified)
2530.160	Hearing Officer (Recodified)
2530.180	Written Submission (Recodified)
2530.190	Record (Recodified)
2530.200	Revision of Proposed Rules (Recodified)
2530.210	Filing and Publication of Final Rules (Recodified)
2530.220	Applicability
2530.230	Point System
2530.240	Points
2530.245	Single Incident Rule
2530.250	Groups
2530.255	Types of Offenses
2530.260	Computation of Suspension Period

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- 2530.270 Summary Revocation/Suspension Procedures
- 2530.275 Notice of Revocation/Suspension
- 2530.280 Request for Hearing to Appeal Summary Revocation/Suspension

SUBPART C: DEPARTMENT INITIATED REVOCATIONS/SUSPENSIONS
BASED UPON COURSE OF CONDUCT

Section

- 2530.300 Department Initiated Revocation/Suspension Based Upon Course of Conduct
- 2530.310 Applicability
- 2530.320 General Procedures (Repealed)
- 2530.330 Parties (Renumbered)
- 2530.340 Notice and Complaint (Department Initiated Proceeding) (Renumbered)

SUBPART D: HEARINGS OF CONTESTED CASES

- 2530.350 Service (Department Initiated Proceeding) (Repealed)
- 2530.355 General Procedures of Hearings
- 2530.360 Time and Location of Hearing
- 2530.370 Prehearing Conferences
- 2530.380 Authority of Hearing Officer
- 2530.390 Order of Administrative Hearings
- 2530.400 Official Notice
- 2530.410 Default
- 2530.420 Evidence
- 2530.430 Motions and Answers
- 2530.470 Administrative Record
- 2530.480 Briefs and Oral Arguments
- 2530.482 Decision, Order and Disposition
- 2530.484 Compelling Appearance at Hearing
- 2530.486 Recording of Hearing
- 2530.488 Hearing on Timber Buyers – Second and Subsequent Suspensions
- 2530.490 Decision and Order (Repealed)

SUBPART E: INTERSTATE WILDLIFE VIOLATOR COMPACT

Section

- 2530.500 Interstate Wildlife Violator Compact Membership

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SUBPART F: REINSTATEMENT OF PRIVILEGES

Section

- 2530.600 Reinstatement Procedures
- 2530.610 Reinstatement Fees

SUBPART G: STATUTORILY MANDATED SUSPENSIONS

Section

- 2530.700 Suspension of Operating Privileges

SUBPART H: EVICTION FROM DEPARTMENT LANDS

Section

- 2530.800 Applicability
- 2530.810 Immediate Eviction and Removal from Department Lands for up to 90 Days
- 2530.820 Request for Hearing to Appeal Immediate Eviction and Removal
- 2530.830 Eviction and Removal from Department Lands for Longer than 90 Days
- 2530.840 Department Request for Eviction and Removal Longer than 90 Days
- 2530.850 Procedures for Eviction/Removal Hearings

AUTHORITY: Implementing and authorized by Sections 1-125 and 20-105 of the Fish and Aquatic Life Code of 1971 [515 ILCS 5/1-125 and 20-105], Sections 1.4 and 3.36 of the Wildlife Code [520 ILCS 5/1.4 and 3.36], Sections 4 and 5 of the Illinois Endangered Species Protection Act [520 ILCS 10/4 and 5], Section 3B-8 of the Boat Registration and Safety Act [625 ILCS 45/3B-8], Sections 10 and 13 of the Timber Buyers Licensing Act [225 ILCS 735/10 and 13], Section 6 of the Ginseng Harvesting Act [525 ILCS 20/6] and the Illinois Administrative Procedure Act [5 ILCS 100], Sections 70 and 105 of the Herptiles-Herps Act [510 ILCS 68] and authorized by Sections 5-625, 805-518, 805-545 and 805-550 of the Civil Administrative Code of Illinois [20 ILCS 5/5-625, 805-518, 805-545 and 805-550].

SOURCE: Filed December 21, 1977; effective December 31, 1977; codified at 5 Ill. Reg. 10664; amended at 6 Ill. Reg. 10687, effective August 25, 1982; Subpart B recodified to 2 Ill. Adm. Code 825: Subpart B at 8 Ill. Reg. 4133, effective March 19, 1984; amended at 10 Ill. Reg. 20201, effective November 25, 1986; recodified by changing the agency name from Department of Conservation to Department of Natural Resources at 20 Ill. Reg. 9389; amended at 25 Ill. Reg. 3659, effective February 26, 2001; amended at 25 Ill. Reg. 14126, effective October 22, 2001; amended at 28 Ill. Reg. 9990, effective July 6, 2004; amended at 31 Ill. Reg. 9215, effective June 18, 2007; amended at 32 Ill. Reg. 17481, effective October 24, 2008;

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amended at 35 Ill. Reg. 13268, effective July 26, 2011; recodified at 38 Ill. Reg. 6747; amended at 38 Ill. Reg. 17001, effective July 25, 2014; amended at 43 Ill. Reg. 4837, effective April 11, 2019.

SUBPART A: GENERAL RULES

Section 2530.20 Definitions

In this Part the following terms shall have the meanings ascribed:

"Arrest" means the issuance of a State or federal citation or a notice to appear, or the filing of a complaint by a State or federal prosecutor.

"Contested case" means an adjudicatory proceeding, not including rate making, rulemaking, quasi-legislative, informational or similar proceedings, in which the individual legal rights, duties or privileges of a party are required by law to be determined by an agency only after an opportunity for hearing. [5 ILCS 100/1-30]

"Department" means the Illinois Department of Natural Resources. [520 ILCS 5/1.2d]

"Determination of guilt by a court of law" means a case disposition, including supervision or conditional discharge, by a circuit court of the State of Illinois or a United States District Court in an Illinois District for an offense that is a violation of any of the provisions of the Fish and Aquatic Life Code [515 ILCS 5], the Wildlife Code [520 ILCS 5], the Timber Buyers Licensing Act [225 ILCS 735], the Ginseng Harvesting Act [525 ILCS 20], the Endangered Species Protection Act [520 ILCS 10], [the Herptiles-Herps Act \[510 ILCS 68\]](#) or any violation of similar federal statutes or rules.

"Director" means the director of the Illinois Department of Natural Resources. [520 ILCS 5/1.2e]

"Hearing Officer" means the presiding officer or officers at the initial hearing before the Department and each continuation. [5 ILCS 100/1-15]

"License" includes the whole or part of any Department permit, stamp, license, certificate, approval, registration, or similar form or permission required by law.

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[5 ILCS 100/1-35]

"Licensing" includes the Department procedures respecting the grant, denial, renewal, revocation, suspension, annulment, withdrawal or amendment of a license. [5 ILCS 100/1-40]

"Office of Law Enforcement" means the Department of Natural Resources' Office of Law Enforcement.

"Party" means such person or agency named or admitted as a party, or properly seeking and entitled as of right to be admitted as a party. [5 ILCS 100/1-55]

"Person" means any individual, partnership, corporation, association, governmental subdivision, or public or private organization of any character other than an agency. [5 ILCS 100/1-60]

"Single incident" means a set of acts or events occurring at the same location, date and time giving rise to violations of State or federal laws.

(Source: Amended at 43 Ill. Reg. 4837, effective April 11, 2019)

SUBPART B: SUMMARY REVOCATION/SUSPENSION

Section 2530.230 Point System

- a) Any person found guilty by a circuit court of the State of Illinois (including supervision or conditional discharge) or a United States District Court in an Illinois District of an offense that is a violation of any of the provisions of the Fish and Aquatic Life Code, the Wildlife Code, the Timber Buyers Licensing Act, the Ginseng Harvesting Act, the Endangered Species Act, [the Herptiles-Herps Act](#) or any similar violation of federal statutes or rules, or any violation under Section 48-3(b) of the Criminal Code of 2012 [720 ILCS 5/48-3(b)] shall be assessed points as set out in Section 2530.240.
- b) Licenses, permits and stamps shall be revoked, and privileges shall be suspended, based upon the accumulated points. The assessed accumulated points remain until:

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- 1) In cases involving Type I offenses (see Section 2530.255), 18 months has elapsed since the date of arrest for offense;
- 2) In cases involving Type II offenses, 36 months has elapsed since the date of arrest for offense;
- 3) An order of the Circuit Court or the Director terminates the suspension and the applicable reinstatement fee has been paid and processed by the Department; or
- 4) An order of the Circuit Court has expunged the underlying record of the offense, the Office of Law Enforcement has received notice of the expungement, and the applicable reinstatement fee has been paid.

(Source: Amended at 43 Ill. Reg. 4837, effective April 11, 2019)

Section 2530.250 Groups

- a) Group A = Wildlife Code, Endangered Species Protection Act – Wildlife, Federal Offenses – Wildlife, ~~and~~ Section 48-3(b) of the Criminal Code of 2012 – Wildlife, and Herptiles-Herps Act.
- b) Group B = Fish and Aquatic Life Code, Endangered Species Protection Act – Aquatic Life, Federal Offenses – Aquatic Life, ~~and~~ Section 48-3(b) of the Criminal Code of 2012 – Aquatic Life, and Herptiles-Herps Act.
- c) Group C = Timber Buyers Licensing Act.
- d) Group D = Ginseng Harvesting Act, Endangered Species Protection Act – Plants, Federal Offenses – Plants.

(Source: Amended at 43 Ill. Reg. 4837, effective April 11, 2019)

Section 2530.255 Types of Offenses

- a) Type I Offenses = Those offenses related to commercial/business activities covered under Timber Buyer, Taxidermist, Aquaculture, Aquatic Life Dealer, Herptile, Minnow Dealer, Mussel Dealer, Commercial Roe Dealer, Commercial Fisherman, Commercial Mussel, Commercial Roe Harvester, Game and Game

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Bird Breeder, Wild Game Food Dealer, Furbearing Animal Breeder, Fur Tanner, Class A Nuisance Wildlife Control Operator, Migratory Waterfowl Hunting Area or Charter Fishing licenses and permits.

- b) Type II Offenses = All other offenses related to activities covered under licenses and permits and offenses of hunter or fisherman interference under the Criminal Code. (Example: hunting, trapping, sport fishing, etc.)

(Source: Amended at 43 Ill. Reg. 4837, effective April 11, 2019)

Section 2530.270 Summary Revocation/Suspension Procedures

- a) All Illinois Circuit Court clerks shall report to the Office of Law Enforcement, Illinois Department of Natural Resources, One Natural Resources Way, Springfield IL 62702-1271, the disposition of cases involving a violation of any of the provisions of the Fish and Aquatic Life Code, the Wildlife Code, the Timber Buyers Licensing Act, the Ginseng Harvesting Act, the Endangered Species Protection Act, [the Herptiles-Herps Act](#) and Section 48-3(b) of the Criminal Code of 2012.
- b) Points shall be assessed to the individual by the Office of Law Enforcement once reports of disposition are received from the circuit clerk. The Department shall not be responsible or liable for the delay or failure of a circuit clerk in the reporting of dispositions. Any delay or failure of a circuit clerk in the reporting of dispositions does not affect the Department's ability to revoke or suspend privileges pursuant to this Part.
- c) Whenever sufficient points have been accumulated for suspension as set out in Section 2530.260, the suspension shall be imposed by the Department on a quarterly basis as follows:
- 1) For any dispositions received during the first quarter of the calendar year (January-March), suspensions shall begin on April 30.
 - 2) For any dispositions received during the second quarter of the calendar year (April-June), suspensions shall begin on July 30.
 - 3) For dispositions received during the third quarter of the calendar year (July-September), suspensions shall begin on October 30.

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- 4) For dispositions received during the fourth quarter of the calendar year (October-December), suspensions shall begin on January 30.

(Source: Amended at 43 Ill. Reg. 4837, effective April 11, 2019)

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received during the period of April 9, 2019 through April 15, 2019. These rulemakings are scheduled for the May 14, 2019 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>
5/23/19	<u>Healthcare and Family Services</u> , Specialized Healthcare Delivery Systems (89 Ill. Adm. Code 146)	10/05/18 42 Ill. Reg. 17309	5/14/19
5/29/19	<u>Financial and Professional Regulation</u> , Nurse Practices Act (68 Ill. Adm. Code 1300)	10/12/18 42 Ill. Reg. 18179	5/14/19
5/29/19	<u>Financial and Professional Regulation</u> , Private Detective, Private Alarm, Private Security, Fingerprint Vendor, and Locksmith Act of 2004 (68 Ill. Adm. Code 1240)	2/8/19 43 Ill. Reg. 1681	5/14/19
5/29/19	<u>Illinois Racing Board</u> , Medication(11 Ill. Adm. Code 603)	2/5/19 43 Ill. Reg 2217	5/14/19

ILLINOIS ADMINISTRATIVE CODE
Issue Index - With Effective Dates

Rules acted upon in Volume 43, Issue 17 are listed in the Issues Index by Title number, Part number, Volume and Issue. Inquiries about the Issue Index may be directed to the Administrative Code Division at (217) 782-7017/18.

PROPOSED RULES

35 - 401	4730
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35 - 406	4781

ADOPTED RULES

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8 - 75	4/15/2019	4811
8 - 85	4/15/2019	4816
8 - 110	4/15/2019	4824
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17 - 2530	4/11/2019	4837