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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

<b>Issue#</b>	<b>Rules Due Date</b>	<b>Date of Issue</b>
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

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: The Illinois Oil and Gas Act
- 2) Code Citation: 62 Ill. Adm. Code 240
- 3) 

<u>Section Numbers</u> :	<u>Proposed Actions</u> :
240.1800	Amendment
240.1805	Amendment
240.1810	Amendment
240.1820	Amendment
240.1835	Amendment
240.1850	Amendment
240.1851	Renumbered; New Section
240.1852	Renumbered; New Section
240.1853	New Section
240.1854	New Section
240.1855	Renumbered; New Section
240.1856	New Section
240.1857	New Section
240.1858	New Section
240.1859	New Section
240.1860	Amendment
240.1861	New Section
240.1862	Renumbered
240.1880	New Section
240.1890	New Section
240.1892	New Section
240.1894	New Section
240.1898	New Section
- 4) Statutory Authority: Implementing and authorized by the Illinois Oil and Gas Act [225 ILCS 725], the Illinois Underground Gas Storage Safety Act [415 ILCS 160] and the Illinois Administrative Procedure Act [5 ILCS 100/5-45].
- 5) A Complete Description of the Subjects and Issues Involved: This Part is being amended to implement the Illinois Underground Gas Storage Safety Act [415 ILCS 6110] pursuant to PA 100-1172, related to the underground storage of natural gas, to ensure that the rule is consistent with current Department policies, to increase protections to the People and environment of Illinois, and to account for changes in industry practices and activities.

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF PROPOSED AMENDMENTS

- 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? Yes, it was published at 43 Ill. Reg. 4650 in the April 19, 2019 *Illinois Register*.
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? Yes

<u>Section Numbers:</u>	<u>Proposed Actions:</u>	<u>Illinois Register Citations:</u>
240.125	Amendment	42 Ill. Reg. 23546; December 21, 2018
240.140	Amendment	42 Ill. Reg. 23546; December 21, 2018
240.150	Amendment	42 Ill. Reg. 23546; December 21, 2018
240.160	Amendment	42 Ill. Reg. 23546; December 21, 2018
240.180	Amendment	42 Ill. Reg. 23546; December 21, 2018
240.185	Amendment	42 Ill. Reg. 23546; December 21, 2018
240.186	Repealed	42 Ill. Reg. 23546; December 21, 2018
240.190	Amendment	42 Ill. Reg. 23546; December 21, 2018
240.420	Amendment	42 Ill. Reg. 23546; December 21, 2018
240.425	New Section	42 Ill. Reg. 23546; December 21, 2018
240.810	Amendment	42 Ill. Reg. 23546; December 21, 2018

- 11) Statement of Statewide Policy Objectives: This rulemaking neither creates, nor expands, any State mandate affecting units of local government.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed rulemaking may be submitted in writing for a period of 45 days following publication of this Notice to:

John Fischer, Legal Counsel  
 Illinois Department of Natural Resources  
 One Natural Resources Way  
 Springfield IL 62702

217/524-2163

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF PROPOSED AMENDMENTS

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
  - B) Reporting, bookkeeping or other procedures required for compliance: None
  - C) Types of professional skills necessary for compliance: None
- 14) Small Business Impact Analysis: None
- 15) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent agendas because: Legislation was pass after the filing of the Regulatory Agenda.

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

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF PROPOSED AMENDMENTS

## TITLE 62: MINING

## CHAPTER I: DEPARTMENT OF NATURAL RESOURCES

## PART 240

## THE ILLINOIS OIL AND GAS ACT

## SUBPART A: GENERAL PROVISIONS

Section	
240.10	Definitions
240.20	Prevention of Waste (Repealed)
240.30	Jurisdiction (Repealed)
240.40	Enforcement of Act (Repealed)
240.50	Delegation of Authority (Repealed)
240.60	Right of Inspection (Repealed)
240.70	Right of Access (Repealed)
240.80	Sworn Statements (Repealed)
240.90	Additional Reports (Repealed)
240.100	When Rules Become Effective (Repealed)
240.110	Notice of Rules (Repealed)
240.120	Forms (Repealed)
240.125	Notice
240.130	Hearings – Notices (Repealed)
240.134	Lease Validation Petitions
240.135	Falsification or Misstatement of Information
240.131	Unitization Hearings
240.132	Integration Hearings
240.133	Hearings to Establish Pool-Wide Drilling Units
240.140	Violations Not Requiring Formal Action
240.150	Notice of Violation
240.155	Civil Complaint
240.160	Director's Decision
240.170	Cessation Order (Repealed)
240.180	Enforcement Hearings and Enforcement Cessation Orders
240.185	Cessation of Oil Production Operations
240.186	Cessation of Conditions Creating an Imminent Danger to Public Health and Safety and the Environment
240.190	Temporary Relief Hearings
240.195	Subpoenas

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF PROPOSED AMENDMENTS

## SUBPART B: PERMIT APPLICATION PROCEDURES FOR PRODUCTION WELLS

Section	
240.200	Applicability
240.210	Application for Permit to Drill, Deepen or Convert to a Production Well
240.220	Contents of Application
240.230	Authority of Person Signing Application
240.240	Additional Requirements for Directional Drilling
240.245	Additional Requirements for Horizontal Drilling
240.250	Issuance of Permit to Drill or Operate
240.251	Revocation of Permit to Drill
240.255	Conversion of a Production Well to a Water Well
240.260	Change of Well Location
240.270	Application for Approval of Enhanced Recovery Injection and Disposal Operations (Repealed)
240.280	Duration of Underground Injection Well Orders (Repealed)

## SUBPART C: PERMIT APPLICATION PROCEDURES FOR CLASS II UIC WELLS

Section	
240.300	Applicability
240.305	Transfer of Management (Recodified)
240.310	Application for Permit to Drill, Deepen, or Convert or Amend to a Class II UIC Well
240.311	Application for Freshwater Aquifer Exemption
240.312	Freshwater Aquifer Exemptions
240.320	Contents of Application
240.330	Authority of Person Signing Application
240.340	Proposed Well Construction and Operating Parameters
240.350	Groundwater and Potable Water Supply Information
240.360	Area of Review
240.370	Public Notice
240.380	Issuance of Permit
240.385	Conversion of a Class II Well to a Water Well
240.390	Permit Amendments
240.395	Update of Class II UIC Well Permits Issued Prior to July 1, 1987

## SUBPART D: SPACING OF WELLS

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF PROPOSED AMENDMENTS

Section	
240.400	Definitions
240.410	Drilling Units
240.420	Well Location Exceptions within Drilling Unit
240.430	Drilling Unit Exceptions
240.440	More Than One Well on a Drilling Unit
240.450	Directional Drilling
240.455	Horizontal Drilling
240.460	Modified Drilling Unit
240.465	Special Drilling Unit
240.470	Establishment of Pool-Wide Drilling Units Based Upon Reservoir Characteristics

SUBPART E: WELL DRILLING,  
COMPLETION AND WORKOVER REQUIREMENTS

Section	
240.500	Definitions
240.510	Department Permit Posted
240.520	Drilling Fluid Handling and Storage
240.525	Saltwater or Oil Based Drilling Fluid Handling and Storage
240.530	Completion Fluid and Completion Fluid Waste Handling and Storage
240.540	Drilling and Completion Pit Restoration
240.550	Disposal of General Oilfield Wastes and Other Wastes

SUBPART F: WELL CONSTRUCTION, OPERATING AND REPORTING  
REQUIREMENTS FOR PRODUCTION WELLS

Section	
240.600	Applicability
240.605	Drilled Out Plugged Hole (DOPH) Notification
240.610	Construction Requirements for Production Wells
240.620	Remedial Cementing of Leaking Wells
240.630	Operating Requirements
240.640	Reporting Requirements
240.650	Confidentiality of Well Data
240.655	Mechanical Integrity Testing for Class II Injection Wells (Repealed)
240.660	Monitoring and Reporting Requirements for Enhanced Recovery Injection and Disposal Wells (Repealed)

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF PROPOSED AMENDMENTS

- 240.670 Avoidable Waste of Gas (Repealed)  
240.680 Escape of Unburned Gas Prohibited (Repealed)

SUBPART G: WELL CONSTRUCTION, OPERATING  
AND REPORTING REQUIREMENTS FOR CLASS II UIC WELLS

## Section

- 240.700 Applicability and Definitions  
240.710 Surface and Production Casing Requirements for Newly Drilled Class II UIC Wells  
240.720 Surface and Production Casing Requirements for Conversion to Class II UIC Wells  
240.730 Surface and Production Casing Requirements for Existing Class II UIC Wells  
240.740 Other Construction Requirements for Class II UIC Wells  
240.750 Operating Requirements for Class II UIC Wells  
240.760 Establishment of Internal Mechanical Integrity for Class II UIC Wells  
240.770 Establishment of External Mechanical Integrity for Class II UIC Wells  
240.780 Reporting Requirements for Class II UIC Wells  
240.790 Confidentiality of Well Data  
240.795 Commercial Saltwater Disposal Well  
240.796 Operating and Reporting Requirements, Hydraulic Fracturing Operations, Seismicity

## SUBPART H: LEASE OPERATING REQUIREMENTS

## Section

- 240.800 Definitions  
240.805 Lease and Well Identification  
240.810 Tanks, Tank Batteries and Containment Dikes  
240.815 Permanent Well Site Equipment Setback  
240.820 Flowlines  
240.830 Power Lines  
240.840 Equipment Storage  
240.850 Concrete Storage Structures  
240.860 Pits  
240.861 Existing Pit Exemption For Continued Production Use  
240.862 Existing Pit Exemption For Alternative Use  
240.870 Leaking Unpermitted Drill Hole  
240.875 Leaking Previously Plugged Well

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF PROPOSED AMENDMENTS

240.880	Initial Spill Notification
240.890	Crude Oil Spill Remediation Requirements
240.891	Crude Oil Spill Waste Disposal and Remediation
240.895	Produced Water Spill Remediation Requirements

## SUBPART I: LIQUID OILFIELD WASTE HANDLING AND DISPOSAL

Section	
240.900	Definitions
240.905	Application for Permit to Operate a Liquid Oilfield Waste Transportation System
240.906	Application for a Liquid Oilfield Waste Transportation Vehicle Permit
240.910	Inspection of Vehicles (Tanks)
240.920	Issuance of Liquid Oilfield Waste Transportation System and Vehicle Permits
240.925	Liquid Oilfield Waste Recordkeeping Requirements
240.926	Liquid Oilfield Waste Transportation System and Vehicle Operating Requirements
240.930	Produced Water
240.940	Crude Oil Bottom Sediments
240.945	Lease Road Oiling
240.950	Crude Oil Spill Waste Disposal (Repealed)
240.960	Oil Field Brine Hauling Permit Conditions (Repealed)
240.970	Inspection of Vehicles (Repealed)
240.980	Transfer of Permits (Repealed)
240.985	Revocation of Oil Field Brine Hauling Permit (Repealed)
240.990	Records and Reporting Requirements (Repealed)
240.995	Bonds – Blanket Surety Bond (Repealed)

## SUBPART J: VACUUM

Section	
240.1000	Definitions
240.1005	Applicability
240.1010	Application for Vacuum Permit
240.1020	Contents of Application
240.1030	Authority of Person Signing Application
240.1040	Notice and Hearing
240.1050	Issuance of Permit
240.1060	Permit Amendments

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF PROPOSED AMENDMENTS

## SUBPART K: PLUGGING OF WELLS

## Section

240.1105	Plugging of Non-Productive Wells (Repealed)
240.1110	Definitions
240.1115	Plugging Responsibility
240.1120	Plugging of Uncased Wells
240.1130	Plugging and Temporary Abandonment of Inactive Production Wells
240.1131	Extension of Future Use Status for Production Wells (Repealed)
240.1132	Plugging and Temporary Abandonment of Inactive Class II UIC Wells
240.1140	General Plugging Procedures and Requirements
240.1150	Specific Plugging Procedures
240.1151	Procedures for Plugging Coal Seams
240.1160	Plugging Fluid Handling and Storage
240.1170	Plugging Fluid Waste Disposal and Well Site Restoration
240.1180	Lease Restoration
240.1181	Lease Restoration Requirements (Repealed)
240.1190	Filing Plugging Report

## SUBPART L: REQUIREMENTS FOR OTHER TYPES OF WELLS

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240.1200	Applicability
240.1205	Application for Permit to Drill a Test Well or Drill Hole
240.1210	Contents of Application for Permit to Drill or Convert to an Observation, Gas Storage Well or Service Well (Repealed)
240.1220	Contents of Application for Coal Test Hole, Mineral Test Hole, Structure Test Hole, or Coal or Mineral Groundwater Monitoring Well
240.1230	Authority of Person Signing Application
240.1240	Issuance of Permit
240.1250	When Wells Shall Be Plugged and Department Notification
240.1260	Plugging and Restoration Requirements
240.1270	Confidentiality
240.1280	Converting to Water Well

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## Section

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## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF PROPOSED AMENDMENTS

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240.1310	Workable Coal Beds Defined
240.1320	Mining Board may Determine Presence of Coal Seams
240.1330	Well Locations Prohibited
240.1340	Notice to Mining Board
240.1350	Casing and Protective Work
240.1360	Operational Requirements Over Active Mine
240.1370	Inspection of Vehicles (Recodified)
240.1380	Transfer of Permits (Recodified)
240.1385	Revocation of Oil Field Brine Hauling Permit (Recodified)
240.1390	Records and Reporting Requirements (Recodified)
240.1395	Bonds – Blanket Surety Bond (Recodified)

## SUBPART N: ISSUANCE OR TRANSFER OF PERMIT TO OPERATE

## Section

240.1400	Definitions
240.1405	Transfer of Management (Repealed)
240.1410	Applicability
240.1420	Notification of Transfer
240.1425	Authority of Person Signing Notification of Transfer
240.1430	Responsibilities of Current Permittee
240.1440	Responsibilities of New Permittee
240.1450	Authority of Person Signing Notification of Acceptance
240.1460	Conditions for and Effect of Issuance or Transfer of Permit to Operate
240.1465	Condition for and Effect of Transfer of PRF Wells
240.1470	Revocation of Permit to Operate
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240.1485	Administrative Record Correction
240.1490	Transfer Hearings

## SUBPART O: BONDS

## Section

240.1500	When Required, Amount and When Released
240.1510	Definitions
240.1520	Bond Requirements
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## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF PROPOSED AMENDMENTS

## SUBPART P: WELL PLUGGING AND RESTORATION PROGRAM

## Section

- 240.1600 Definitions
- 240.1610 Plugging Leaking or Abandoned Wells
- 240.1620 Plugging Orphaned Wells
- 240.1625 Plugging Abandoned Wells Through Landowner Grant
- 240.1630 Emergency Well Plugging, Emergency Repair Work, Emergency Projects
- 240.1635 Emergency Well Plugging and Emergency Project Reimbursement
- 240.1640 Repayment of Funds
- 240.1650 Authorization for a Permittee to Operate Its Wells Placed into the Plugging and Restoration Fund Program for Abandonment
- 240.1660 Authorization for a Permittee to Operate Its Wells Placed into the Plugging and Restoration Fund Program for Non-Payment of Annual Well Fees

## SUBPART Q: ANNUAL WELL FEES

## Section

- 240.1700 Fee Liability
- 240.1705 Amount of Assessment
- 240.1710 Annual Permittee Reporting
- 240.1720 When Annual Well Fees are Due
- 240.1730 Opportunity to Contest Billing
- 240.1740 Delinquent Permittees

SUBPART R: REQUIREMENTS IN UNDERGROUND GAS STORAGE FIELDS  
AND FOR GAS STORAGE AND OBSERVATION WELLS

## Section

- 240.1800 Applicability
- 240.1805 Definitions
- 240.1810 Submission of Underground Gas Storage Field Map
- 240.1820 Permit Requests in a Underground Gas Storage Field
- 240.1830 Application for Permit to Drill or Convert Wells
- 240.1835 [Contents](#) ~~Content~~ of Application for Permit to Drill or Convert to an Observation or Gas Storage Well
- 240.1840 Authority of Person Signing Application
- 240.1850 Issuance of Permit

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## NOTICE OF PROPOSED AMENDMENTS

- ~~240.1851~~~~240.1852~~ Gas Storage and Observation Well Safety, Construction, and Operating and Reporting Requirements
- 240.1852 Inspection and Maintenance Plan
- 240.1853 Gas Storage and Observation Well Records and Reporting Requirements
- 240.1854 Notice of Probable Violation, Complaints, Hearings and Civil Penalties
- 240.1855 Civil Complaint
- 240.1856 Determination of Penalty
- 240.1857 Director's Approval of Penalty or Agreed Compromise
- 240.1858 Enforcement Hearings and Enforcement Cessation Orders
- 240.1859 Cessation of Gas Storage Operations
- 240.1860 Temporary Relief Hearings~~Storage Field Operating Requirements~~
- 240.1861 Subpoenas
- ~~240.1862~~~~240.1855~~ Well Drilling Completion and Workover Requirements
- 240.1865 Liquid Oilfield Waste Disposal
- 240.1870 Plugging of Gas Storage and Observation Wells
- 240.1880 Natural Gas Incident Notice to Department
- 240.1890 Inspection Fees for Underground Natural Gas Storage Fields Within Footprint of Sole Source Aquifer
- 240.1892 When Annual Inspection Fees Are Due
- 240.1894 Opportunity to Contest Billing
- 240.1898 Waiver

## SUBPART S: REQUIREMENTS FOR SERVICE WELLS

## Section

- 240.1900 Applicability
- 240.1905 Application for Permit to Drill or Convert to Other Types of Wells or Drill Holes
- 240.1910 Contents of Application for Permit to Drill or Convert to a Service Well
- 240.1920 Authority of Person Signing Application
- 240.1930 Issuance of Permit
- 240.1940 When Wells Shall Be Plugged and Department Notification
- 240.1950 Plugging and Restoration Requirements
- 240.1960 Converting to Water Well

AUTHORITY: Implementing and authorized by the Illinois Oil and Gas Act [225 ILCS 725], the Illinois Underground Natural Gas Storage Safety Act [415 ILCS 160], and Section 5-45 of the Illinois Administrative Procedure Act [5 ILCS 100].

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF PROPOSED AMENDMENTS

SOURCE: Adopted November 7, 1951; emergency amendment at 6 Ill. Reg. 903, effective January 15, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 5542, effective April 19, 1982; codified at 8 Ill. Reg. 2475; amended at 11 Ill. Reg. 2818, effective January 27, 1987; amended at 14 Ill. Reg. 2317, effective January 25, 1990; recodified at 14 Ill. Reg. 3053; amended at 14 Ill. Reg. 13620, effective August 8, 1990; amended at 14 Ill. Reg. 20427, effective January 1, 1991; amended at 15 Ill. Reg. 2706, effective January 31, 1991; recodified at 15 Ill. Reg. 8566; recodified at 15 Ill. Reg. 11641; emergency amendment at 15 Ill. Reg. 14679, effective September 30, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 15493, effective October 10, 1991; amended at 16 Ill. Reg. 2576, effective February 3, 1992; amended at 16 Ill. Reg. 15513, effective September 29, 1992; expedited correction at 16 Ill. Reg. 18859, effective September 29, 1992; emergency amendment at 17 Ill. Reg. 1195, effective January 12, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 2217, effective February 8, 1993; amended at 17 Ill. Reg. 14097, effective August 24, 1993; amended at 17 Ill. Reg. 19923, effective November 8, 1993; amended at 18 Ill. Reg. 8061, effective May 13, 1994; emergency amendment at 18 Ill. Reg. 10380, effective June 21, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 16361, effective November 18, 1994; amended at 19 Ill. Reg. 10981, effective July 14, 1995; amended at 21 Ill. Reg. 7164, effective June 3, 1997; emergency amendment at 22 Ill. Reg. 988, effective December 22, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 8422, effective April 28, 1998; amended at 22 Ill. Reg. 8845, effective April 28, 1998; amended at 22 Ill. Reg. 22314, effective December 14, 1998; amended at 25 Ill. Reg. 9045, effective July 9, 2001; amended at 35 Ill. Reg. 13281, effective July 26, 2011; amended at 38 Ill. Reg. 18717, effective August 29, 2014; amended at 38 Ill. Reg. 22052, effective November 14, 2014; amended at 40 Ill. Reg. 7051, effective April 22, 2016; expedited correction at 40 Ill. Reg. 11042, effective April 22, 2016; emergency amendment at 40 Ill. Reg. 13265, effective September 1, 2016, for a maximum of 150 days; emergency expired January 28, 2017; amended at 41 Ill. Reg. 2957, effective February 21, 2017; amended at 42 Ill. Reg. 5811, effective March 14, 2018; emergency amendment at 43 Ill. Reg. 4650, effective April 4, 2019, for a maximum of 150 days; amended at 43 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

SUBPART R: REQUIREMENTS IN UNDERGROUND GAS STORAGE FIELDS  
AND FOR GAS STORAGE AND OBSERVATION WELLS

**Section 240.1800 Applicability**

The provisions of this Subpart apply to [the design, installation, testing, construction, extension, replacement, maintenance](#), groundwater protection requirements and operating requirements of Underground Gas Storage Fields; the drilling and conversions of gas storage and observation wells in an Underground Gas Storage Field, and permitting requirements in Underground Gas Storage Fields for oil and gas production and Class II wells covered by Subparts B and C and

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF PROPOSED AMENDMENTS

Test Wells covered by Subpart L.

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

**Section 240.1805 Definitions**

"Act", for the purposes of this Subpart, means the Illinois Underground Natural Gas Storage Safety Act [415 ILCS 160].

"Downhole" means the portion of an underground natural gas storage facility from the first flange attaching the wellhead to the pipeline equipment and continuing down the well casing to and including the storage reservoir. (Section 5 of the Act)

"Dwelling" means any home or residence, or any building or structure to be occupied or resided in.

"Fault" means a fracture surface or zone of fractures in Earth materials along which there has been vertical and/or horizontal displacement or movement of the strata on opposite sides relative to one another.

"Fluid" means any material or substance that flows or moves, whether semisolid, liquid, gas, or steam.

"Gas Storage Operator", "Operator" or "Owner" means any entity that owns or operates an underground gas storage field.

↗ "Gas Storage Well" means a well drilled for input and/or withdrawal of natural gas or manufactured gas in a gas storage field.

"Natural Gas Incident" or "Incident" means an event that involves a release of stored natural gas from the downhole portion of an underground natural gas storage facility located in this State that:

results in the unintentional estimated gas loss of 3,000,000 cubic feet or more;

results in the unintentional estimated gas loss of 500,000 cubic feet or more that occurs within ¼ mile of a dwelling;

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF PROPOSED AMENDMENTS

results in death;

causes personal injury necessitating in-patient hospitalization;

causes property damage in excess of \$10,000;

results in an emergency shutdown of an underground natural gas storage facility.

Activation of an emergency shutdown system for reasons other than an actual emergency does not constitute an incident.

b) "Observation Well" means a well drilled to monitor subsurface conditions in oil and gas projects or gas storage fields.

"Person" means an individual, firm, joint venture, partnership, corporation, company, limited liability company, firm, association, municipality, cooperative association, or joint stock association. "Person" includes a trustee, receiver, assignee, or personal representative of the person. (Section 5 of the Act).

"Produced Fluid" means liquids regardless of chloride and total dissolved solids content, that is produced in conjunction with oil or natural gas production or natural gas storage operations.

"Secretary of Transportation" means the U.S. Secretary of Transportation or his or her designee.

"Sole Source Aquifer" means an aquifer that:

is the sole or principal drinking water source for an area; and

if contaminated, would create a significant hazard to public health as defined in 42 USC 300h-3(e) and further defined in the Sole Source Aquifer Designation Decision Process, Petition Review Guidance (USEPA; 1987; this incorporation by reference includes no later editions or amendments).

"Stored Natural Gas" means natural gas that is:

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transported by pipeline into an underground natural gas storage facility for the purpose of storage prior to transmission back to the pipeline; and

stored within the underground gas storage field.

"Underground Natural Gas Storage Facility" means a facility that stores natural gas in an underground natural gas storage field incident to natural gas transportation, including:

a depleted hydrocarbon reservoir;

an aquifer reservoir;

a solution-mined salt cavern reservoir; and

associated material and equipment used for injection, withdrawal, monitoring, or observation wells, and wellhead equipment, piping, rights-of-way, property, buildings, compressor units, separators, metering equipment, and regulator equipment.

⇒ "Underground Gas Storage Field" means an area of land that is contained within the lowest closing structural contour for which gas can be stored in a subsurface stratum.

"Violation" means a failure to comply with any provision of the Act or any Department order or rule under the Act. (Section 35 of the Act)

d) ~~"Gas Storage Operator" means any entity that owns or operates an underground gas storage field.~~

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

**Section 240.1810 Submission of Underground Gas Storage Field Map**

- a) Each gas storage operator shall submit to the Department annually a map for every underground gas storage field showing:
- 1) The lowest closing contour at which gas can be stored;

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- 2) The area of land currently under a valid lease or storage rights agreement, including the top and bottom depths of the lease; ~~and~~
  - 3) Any protective boundaries established by a governmental agency; and-
  - 4) Any known faults located in the storage area.
- b) Upon written request to the Department, the information listed in subsection (a) will be considered proprietary information and shall be held confidential.

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

**Section 240.1820 Permit Requests in a Underground Gas Storage Field**

- a) When the proposed location to drill, deepen, convert or amend an oil or gas production or Class II well, as defined in Subparts B and C, or a test hole, as defined in Subpart L, occurs within the limits of an underground gas storage field, or within any protective boundary shown on the gas storage operators map submitted to the Department, a permit shall not be issued until the applicant complies with subsection (a)(1) or (2):
- 1) The applicant enters into an agreement with the gas storage operator, outlining safety precautions and well drilling, completion, operating and plugging specifications. The agreement shall be signed by the applicant and the gas storage operator and shall be submitted with the permit application.
  - 2) The applicant submits a copy of an agreement previously reached with the gas storage operator ~~that~~which governs the relationship between the applicant and the gas storage operator with respect to safety precautions and well drilling, completion, operating and plugging issues. The agreement must be in full effect and cover the proposed drilling location.
  - 3) If an agreement cannot be reached after the applicant has exercised due ~~diligence~~diligence in negotiations, the applicant shall notify the gas storage operator of the proposed location and depth of the well by certified mail, return receipt requested. The certified mail receipt shall be attached to the permit application. If a written objection is not received by the

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Department within 15 days after the date of receipt, the permit shall be issued, subject to the fulfillment of all other requirements for the issuance of a permit under this Part, the Act, or the Illinois Oil and Gas Act. If a written objection to the application is filed with the Department within 15 days after receipt of the notice of application, the Department shall consider the objection in determining whether the permit should be issued. If the objection raises a question regarding public safety, resource ownership or sufficiency of application, the permit objection shall be set for a public hearing. A hearing shall be set only after all other requirements for issuance of the permit have been fulfilled.

b) Administrative~~Public~~ Hearing

- 1) Any ~~public~~ hearing held pursuant to this Section shall be a formal hearing conducted by the Department solely for the purpose of resolving the factual or legal question raised by the objection.
- 2) Notice of the hearing shall be sent by the Department to the applicant and to the objector by mailing the notice by U.S. Mail~~United States mail~~, postage prepaid, addressed to their last known home or business addresses.
- 3) A certified court reporter shall record the hearing at the Department's expense.
- 4) A Hearing Officer designated by the Department shall conduct the hearing. The Hearing Officer shall allow all parties at the hearing to present evidence in any form, including by oral testimony or documentary evidence, unless the Hearing Officer determines the evidence is irrelevant, immaterial, unduly repetitious, or of such a nature that reasonably prudent members of the public or people knowledgeable in the oil and gas field would not rely upon it in the conduct of their affairs.
- 5) The Hearing Officer shall have the power to continue the hearing or to leave the record open for a certain period of time in order to obtain or receive further relevant evidence.
- 6) Within 30 days after the closing of the record or the receipt of the transcript of the hearing, whichever comes later, the Department shall render a decision on the objection.

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- 7) All hearings under this Section shall be conducted in the Department's offices located in Springfield, Illinois by a Hearing Officer designated by the Director and conducted in accordance with Article 10 of the Illinois Administrative Procedure Act [5 ILCS 100].

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

**Section 240.1835 Contents of Application for Permit to Drill or Convert to an Observation or Gas Storage Well**

The application for a permit shall include:

- a) the name of the well;
- b) the surveyed well location, the GPS latitude and longitude location, and ground elevation of the well. All GPS locations shall be recorded as degrees and minutes with the minutes recorded to 6 decimal places in the North American Datum 1983 projection and shall be accurate to within 3 feet. The reported GPS location is required to be an actual GPS field measurement and not a calculated or conversion measurement. All well locations shall be surveyed by a registered Illinois Land Surveyor or an Illinois Registered Professional Engineer. ~~A~~ survey is not required for a converted or deepened well or a drilled out plugged hole if the original well location was surveyed;
- c) a brief statement of the purpose of the well and a schematic showing the proposed construction of the well;
- d) ~~certification~~Certification, under penalty of perjury, that the applicant has the right, pursuant to valid and subsisting oil and gas leases, documents or memoranda of public record and/or any statute or regulation, to drill for and operate a well on the lands and formations required for the proposed well, as set forth in Subpart D;
- e) a statement as to whether the proposed well location is within the limits of any incorporated city, town, or village (and a certified copy of the official consent of the municipal authorities if the well is within the corporate limits);
- f) the name and address of the drilling contractor and the type of drilling tools or equipment to be used;

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- g) a statement whether the well is located over an active mine or, temporarily abandoned mine, or within the undeveloped limits of a mine, and whether the coal rights are owned by someone other than the lessor under the oil and gas lease;
- h) the proposed depth of the well and the name of the lowest geologic formation to be penetrated; and;
- i) an email address by which the gas storage operator may be served with a notice of probable violation of the Act. All such email addresses shall be updated by the gas storage operator or person authorized to sign for the gas storage operator within 3 days after any email address becoming inactive or unmonitored. Any application not containing an email address for the owner or gas storage operator will be denied by the Department.

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

**Section 240.1850 Issuance of Permit**

- a) If the applicant satisfies the requirements of the Illinois Oil and Gas Act, the Act and this Part, the Department shall issue a permit.
- b) A permit shall not be issued to an applicant if: not in compliance with Section 240.250(b).
  - 1) the applicant has falsified or otherwise misstated any information on or relative to the permit application;
  - 2) the applicant has failed to abate a violation of the Illinois Oil and Gas Act or the Act as specified in a final administrative decision of the Department;
  - 3) an officer, director, agent, power of attorney or partner in the applicant, or a person with an interest in the applicant exceeding 5%, was or is an officer, director, partner, agent, power of attorney or person with an interest exceeding 5% in another entity that failed to abate a violation of the Illinois Oil and Gas Act or the Act as specified in a final administrative decision of the Department;

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- 4) the applicant was or is an officer, director, power of attorney, partner, or person with an interest exceeding 5% in another entity that has failed to abate a violation of the Illinois Oil and Gas Act or the Act as specified in a final administrative decision of the Department;
- 5) funds have been expended and remain outstanding from the Plugging and Restoration Fund (PRF) to plug wells (see Subpart P) for which the applicant was a previous permittee; or the applicant was or is an officer, director, agent, power of attorney, partner, or person with an interest exceeding 5% in a permittee for which funds were expended; or an officer, director, agent, power of attorney or partner in the applicant, or a person with an interest in the applicant exceeding 5%, was or is an officer, director, agent, power of attorney, partner or person with an interest exceeding 5% in a permittee for which funds were expended; or
- 6) the applicant is delinquent in the payment of Annual Well Fees; or the applicant was or is an officer director, agent, power of attorney, partner, or person with an interest exceeding 5% in another permittee who is delinquent in payment of Annual Well Fees; or an officer, director, agent, power of attorney or partner in the applicant, or person with an interest in the applicant exceeding 5%, was or is an officer, director, agent, power of attorney, partner or person with an interest exceeding 5% in a permittee who is delinquent in payment of Annual Well Fees.
- c) Gas storage, observation and other service well permits shall expire 1 year from the date of issuance unless acted upon by the commencement of drilling or converting operations authorized by the permit.
- d) Gas storage, observation and other service well permits are not transferable prior to the drilling of the well or test hole.

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

**Section 240.1851 ~~240.1852~~ Gas Storage and Observation Well Safety, Construction, and Operating ~~and Reporting~~ Requirements**

- a) All underground natural gas storage facilities and gas storage operators shall comply with the safety standards adopted by the Secretary of Transportation under 49 USC 60141 and 49 CFR 192.12. These standards are in addition to and

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supplement any other standards in this Part.

- b) The standards adopted under 49 USC 60141 and 49 CFR 192.12 shall apply to the design, installation, inspection, testing, construction, extension, operation, replacement, conversion, and maintenance of underground natural gas storage facilities. These standards are in addition to and supplement any other standards in this Part.
- ~~ca)~~ Wells shall, at a minimum, be constructed in accordance with Section 240.610(a) ~~and (b).~~
- d) All applicable facilities in a storage field and general storage field operation shall be conducted in accordance with Subpart H.
- ~~eb)~~ Wells shall be subject to the operating requirements of Section 240.630(a), (b) and (c) and the leaking well provisions of Section 240.1610. Production of hydrocarbon from a well permitted as an observation well is prohibited until a permit is obtained to convert the well to a production well under Section 240.210.
- f) If there is a conflict between 49 USC 60141, 49 CFR 192.12 and any provision of this Part, this Part shall control.
- ~~e)~~ ~~Wells shall be subject to the reporting requirements of Section 240.640 and confidentiality provisions of Section 240.650.~~

(Source: Section 240.1851 renumbered from Section 240.1852 and amended at 43 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 240.1852 Inspection and Maintenance Plan**

- a) In addition to Section 240.640, every gas storage operator shall file with the Department a plan for inspection and maintenance of the downhole portion of each underground natural gas storage facility owned or operated in whole or in part in the State of Illinois.
- b) All such plans must be submitted to the Department for approval. All plans must be submitted by December 1 every year for the succeeding year.
  - 1) In determining the adequacy of a plan, the Department shall consider, but

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is not limited to:

- A) relevant available underground natural gas storage facility safety data;
- B) whether the plan is appropriate for the particular type of facility;
- C) the reasonableness of the plan;
- D) the extent to which the plan will contribute to public safety; and
- E) any additional information or data the Department requires to make its determination.

- 2) If the Department finds, at any time, that the plan is inadequate to achieve safe operation, the Department will, after notice of the deficiencies are delivered to the gas storage operator and an opportunity for a hearing, require the plan to be revised.
- 3) Any modifications to the plan by the gas storage operator must be reported to the Department within 14 days after the modification.

c) Administrative Hearing

- 1) All hearings under this Section shall be conducted in the Department's offices located in Springfield, Illinois by a Hearing Officer designated by the Director and conducted in accordance with Article 10 of the Illinois Administrative Procedure Act.
- 2) Any hearing held pursuant to this Section shall be requested by the gas storage operator within 30 days after receipt of written notice by the Department of the deficiencies in the plan. If the gas storage operator fails to request a hearing within 30 days after receipt of written notice by the Department of the deficiencies in the plan, then all challenges by the gas storage operator are waived.
- 3) Any hearing held pursuant to this Section shall be a formal hearing conducted by the Department solely for the purpose of resolving the challenge raised by the gas storage operator to the Department's objection

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to the submitted inspection or maintenance plan of the gas storage operator.

- 4) Notice of the hearing shall be sent by the Department to the gas storage operator by mailing the notice by U.S. Mail, postage prepaid, addressed to the operator's last known home or business addresses.
- 5) A certified court reporter shall record the hearing at the Department's expense.
- 6) A Hearing Officer designated by the Department shall conduct the hearing. The Hearing Officer shall allow all parties at the hearing to present evidence in any form, including by oral testimony or documentary evidence, unless the Hearing Officer determines the evidence is irrelevant, immaterial, unduly repetitious, or of such a nature that reasonably prudent members of the public or people knowledgeable in the oil and gas field would not rely upon it in the conduct of their affairs.
- 7) The Hearing Officer shall have the power to continue the hearing or to leave the record open for a certain period of time in order to obtain or receive further relevant evidence.
- 8) Within 30 days after the closing of the record or the receipt of the transcript of the hearing, whichever comes later, the Department shall render a decision on the objection.
- 9) If, after a hearing, the Hearing Officer determines that the gas storage operator's submitted plan is inadequate, or the gas storage operator fails to request a hearing, the gas storage operator must revise the plan and submit the new plan to the Department for review within 30 days after the rendered decision or within 30 days after the date to request a hearing if no hearing was requested.

(Source: Former Section 240.1852 renumbered to Section 240.1851; new Section 240.1852 added at 43 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 240.1853 Gas Storage and Observation Well Records and Reporting Requirements**

- a) A person who operates an underground natural gas storage facility shall:

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- 1) after the date any applicable safety standard established under the Act takes effect, comply with the requirements of that standard at all times;
  - 2) file and comply with the plan of inspection and maintenance required by Section 20;
  - 3) keep records, make reports, provide information, and permit inspection of that person's books, records, and facilities as the Department reasonably requires to ensure compliance with the Act and this Subpart R; and
  - 4) file with the Department, under this Section, reports of all accidents involving or related to the downhole portion of an underground natural gas storage facility. (Section 25 of the Act)
- b) Records. All underground natural gas storage facilities and gas storage operators shall be required to maintain the following records for the life of the underground natural gas storage facility:
- 1) the reports and the reporting requirements of Section 240.640;
  - 2) a report of all intentional or unintentional natural gas releases greater than 500,000 cubic feet. These records shall include, at a minimum:
    - A) the underground natural gas storage field where the release occurred;
    - B) the origin and extent of the release, including the name of and location of the well and the cause;
    - C) the cause of the release; and
    - D) any corrective action taken by the gas storage operator to address the release or an explanation why corrective action was not taken; and
  - 3) a monthly loss estimate of gas migrating from a storage formation.
- c) Reporting. All underground natural gas storage facilities and gas storage

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operators shall be required to report to the Department the following:

- 1) the reports and the reporting requirements of Section 240.640;
- 2) within 24 hours after an incident, reports of all natural gas incidents involving or related to the downhole portion of an underground natural gas storage facility;
- 3) unless otherwise directed by this Part, all gas storage operators shall provide to the Department a report of all natural gas releases greater than 500,000 cubic feet. This report is to be filed with the Department by the 10<sup>th</sup> of every month for the previous month. This report shall indicate:
  - A) the underground natural gas storage field the release occurred;
  - B) the origin and extent of the release, including the name of and location of the well and the cause;
  - C) the cause of the release; and
  - D) any corrective action taken by the gas storage operator to address the release or an explanation why corrective action was not taken; and
- 4) a monthly report of the monthly loss estimate of gas migrating from a storage formation for each underground natural gas storage facility.
- d) Confidentiality. All reports required under this Section are subject to the confidentiality provisions of Section 240.650.
- e) If not previously provided pursuant to Section 240.1835(m), all gas storage operators shall provide to the Department an email address by which the gas storage operator may be served with a notice of probable violation. All such email addresses shall be updated by the gas storage operator or person authorized to sign for the gas storage operator within 3 days after any email address becomes inactive or unmonitored.

(Source: Added at 43 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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**Section 240.1854 Notice of Probable Violation, Complaints, Hearings and Civil Penalties**

When an inspector or authorized employee or agent of the Department determines that any permittee, or any person engaged in conduct or activities required to be permitted under the Act, is in violation of any requirement of the Act, the Illinois Oil and Gas Act, or this Part, or any permit condition, or has falsified or otherwise misstated any information on or relative to the permit application, a notice of probable violation shall be completed and delivered to the Director.

- a) A notice of probable violation shall include:
- 1) the date the notice of probable violation was issued and served;
  - 2) a description of the violation or violations alleged, including a citation of the specific Section of the Department's rules or Section of the Act alleged to have been violated;
  - 3) the date and location of the safety incident, if applicable, related to each alleged violation;
  - 4) a detailed description of the circumstances that support the determination of each proposed violation;
  - 5) a detailed description of the corrective action required with respect to each proposed violation;
  - 6) the amount of the penalty, if any, recommended with respect to each proposed violation;
  - 7) the applicable recommended deadline for payment of each proposed penalty and completion of each proposed corrective action;
  - 8) notification that any such recommended deadline may be extended by mutual agreement of the parties for the purpose of facilitating settlement or compromise; and
  - 9) a brief description of the procedures by which any recommended penalty or proposed corrective action may be challenged at the Department or approved pursuant to Section 30(f) of the Act. (Section 35 of the Act)

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- b) Unless otherwise specified in this Subpart, all notices of violations, Director's Decisions or hearing shall be created or conducted pursuant to Subpart A.
- c) Failure of the owner to timely request a hearing within 30 days after notice or, if a civil penalty has been assessed, to timely tender the assessed civil penalty to the Department shall constitute a waiver of all legal rights to contest the notice of probable violation, including the amount of the civil penalty.
- d) Any underground natural gas storage facility or gas storage operator that violates the Act or this Part regarding an underground natural gas storage facility is subject to a civil penalty not to exceed the maximum penalties established by 49 USC 60122(a)(1) for each day the violation persists.
- e) Whenever the Department is required to serve upon a gas storage operator a notice of probable violation, the Department shall give that notice:
- 1) personally;
  - 2) by first class U.S. Mail sent to the operator's last known address; or
  - 3) by email sent to the email address filed with the Department (see Section 240.1835 or 240.1853).
- f) Any notice of probable violation issued and served as described in this Section may also be posted on the Department's website as a public document.
- g) All such notices of probable violation sent to the gas storage operator by email shall be deemed to be served on the gas storage operator once the notice is sent by the Department to the most recent email address that has been submitted to the Department.

(Source: Added at 43 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 240.1855 Civil Complaint**

- a) The Department may elect to request the Attorney General to file an action with or without issuing a notice of probable violation pursuant to Section 240.1854.

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- b) In accordance with Section 11 of the Illinois Oil and Gas Act, the Department, through the Attorney General, shall bring an action in the name of the People of the State of Illinois in the circuit court of the county in which any part of the land or any activity that is the subject matter of the action is located, or a final administrative order was entered, to restrain that person from continuing the violation or from carrying out the threat of violation. In such action, the Department, in the name of the People of the State of Illinois, may obtain such injunctions, prohibitory and mandatory, including temporary restraining orders and preliminary injunctions, or other enforcement orders, as the facts may warrant, including but not limited to:
- 1) an assessment of civil penalties;
  - 2) submission of a bond in accordance with Subpart O; or
  - 3) denial of new drilling and/or operating permits.
- c) This Section applies to the following:
- 1) violations of any requirement of the Act that the Department determines creates a substantial and imminent danger to the health or safety of the public;
  - 2) violations of the Act that pose an imminent danger of substantial environmental harm or cause environmental damage to property or contamination of surface or ground waters of the State as a result of improper disposal, release or discharge of produced fluid or fluid; or
  - 3) the permittee has shown a pattern of documented events involving improper disposal, release, or discharge of produced fluids or fluids within the previous 2 years from the date of the most recent event.

(Source: Former Section 240.1855 renumbered to Section 270.1862; new Section 240.1855 added at 43 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 240.1856 Determination of Penalty**

- a) In determining the amount of the penalty, the Department shall consider the standards set forth in 49 USC 60122(b). (Section 30 of the Act) The Director

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shall determine whether to assess civil penalties based on the factors set forth in subsection (b).

- b) In determining the amount of a civil penalty:
- 1) the Department shall consider:
    - A) the nature, circumstances and gravity of the violation, including adverse impact on the environment;
    - B) with respect to the violator, the degree of culpability, any history of prior violations, and any effect on ability to continue doing business; and
    - C) good faith in attempting to comply.
  - 2) the Department may consider:
    - A) the economic benefit gained from the violation without any reduction because of subsequent damages; and
    - B) other matters that justice requires.
- c) Penalty Range. All civil penalties issued under the Act shall not exceed the maximum penalties established by 49 USC 60122(a)(1) for each day of the violation.
- d) All civil penalties assessed and paid to the Department shall be deposited in the Underground Resources Conservation Enforcement Fund.
- e) Upon further investigation, the Department may enter into a compromise.
- 1) A compromise may be issued to:
    - A) extend the amount of time provided to complete remedial actions necessary to abate the violations set forth in the notice of probable violations;
    - B) reduce the civil penalty assessed in the notice of probable

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violation; or

- C) allow new permits or the transfer of existing permits to be issued during the term of the settlement agreement.
- 2) An amended notice of probable violation shall be issued to:
- A) extend the amount of time provided to complete remedial action necessary to abate the violation set forth in the notice of probable violation; or
- B) reduce the civil penalty assessed in the notice of probable violation.
- 3) An amended notice of probable violation shall be issued to correct an administrative error contained in the notice of probable violation.
- 4) The permittee shall have no right to hearing associated with the issuance of an amended notice of probable violation, but shall have a right to hearing on the underlying violation that the amended notice of probable violation is seeking to enforce.
- f) If the notice of probable violation includes the assessment of a civil penalty, and the person or permittee named in the notice of probable violation does not request a hearing in accordance with Section 240.1858 to contest the amount of the penalty, the amount assessed shall be paid to the Department in full within 30 days after service of the notice of probable violation.
- g) All civil penalties or compromises shall be submitted to the Director for approval, pursuant to Section 30 of the Act.

(Source: Added at 43 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 240.1857 Director's Approval of Penalty or Agreed Compromise**

- a) Upon receipt of a notice of penalty or compromise, the Director shall conduct an investigation and may affirm, or enter into a hearing concerning, the propriety of the applicable notice of probable violation, payment or compromise.

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- 1) The Director must consider:
  - A) the nature, circumstances and gravity of the violation, including adverse impact on the environment;
  - B) with respect to the violator, the degree of culpability, any history of prior violations, and any effect on ability to continue doing business; and
  - C) good faith in attempting to comply.
- 2) The Director may consider:
  - A) the economic benefit gained from the violation without any reduction because of subsequent damages; and
  - B) other matters that justice requires.

(Source: Added at 43 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 240.1858 Enforcement Hearings and Enforcement Cessation Orders**

- a) The person charged in the applicable notice of probable violation shall have 30 days from the date of service of the notice of probable violation to request a hearing. (Section 35 of the Act) A gas storage operator seeking to contest any notice of probable violation in which a civil penalty has been assessed shall submit the assessed amount to the Department, by cashier's check or money order, together with a timely request for hearing. The assessed amount shall be deposited by the Department pending the outcome of the hearing. The assessed amount shall be refunded to the gas storage operator at the conclusion of the hearing if the Department does not prevail. All requests for hearing shall be mailed or delivered to the Department's office located in Springfield, Illinois.
- b) Upon receipt of a request for hearing submitted in accordance with subsection (a), the Department shall provide an opportunity for a formal hearing upon not less than 5 days written notice mailed to the permittee or person submitting the hearing request. The hearing shall be conducted by a Hearing Officer designated by the Director and shall be conducted in accordance with the following procedures:

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- 1) Pre-Hearing Conference
  - A) A pre-hearing conference shall be scheduled within 30 days after the request for hearing:
    - i) to define the factual and legal issues to be litigated at the administrative hearing;
    - ii) to determine the timing and scope of discovery available to the parties;
    - iii) to set a date for the parties to exchange all documents they intend to introduce into evidence during the hearing, a list of all witnesses the parties intend to have testify, and a summary of the testimony of each witness;
    - iv) to schedule a date for the administrative hearing; and
    - v) to arrive at an equitable settlement of the hearing request, if possible.
  - B) Pre-hearing conferences under this Section may be conducted via telephone conference if that procedure is acceptable to all parties to the hearing. In the event that a telephone conference is not acceptable to all parties, the pre-hearing conference shall be conducted at the place designated by the Hearing Officer.
  - C) Either party may file motions for default judgment, motions for summary judgment, motions for protective orders, and motions for orders compelling discovery. The Department's Hearing Officer shall render an order granting or denying motions filed within 15 days after service. Any order granting a motion for default judgment or a motion for summary judgment shall constitute the Department's final administrative decision as to the matter being contested.
- 2) If a settlement agreement is entered into at any stage of the hearing process, the person to whom the notice of probable violation or cessation

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order was issued will be deemed to have waived all right to further review of the violation or civil penalty in question, except as otherwise expressly provided for in the settlement agreement. The settlement agreement shall contain a waiver clause to this effect. All settlement agreements shall be executed by the Hearing Officer and shall constitute the Department's final administrative decision as to matter being contest.

- 3) All hearings under this Section shall be conducted in accordance with Article 10 of the Illinois Administrative Procedure Act. All hearings under this Section shall be conducted in the Department's offices located in Springfield, Illinois. However, the Department may conduct a hearing under this Section at a site located closer than Springfield to the production and/or injection/disposal well identified in the Director's decision being contested if facilities are available, convenient and satisfactory to the Department.
  - 4) At the hearing, the Department shall have the burden of proving the facts of the violation alleged in the notice of probable violation at issue. The amount of any civil penalty assessed shall be presumed to be proper; however, the operator may offer evidence to rebut this presumption. The standard of proof shall be a preponderance of the evidence. The person or permittee shall have the right to challenge the Hearing Officer if the person or permittee believes the Hearing Officer is prejudiced against him or her or has a conflict of interest. If the Hearing Officer disqualifies himself or herself, the Director shall designate a new Hearing Officer. The Hearing Officer shall conduct the hearing, hear the evidence and, at the conclusion of the hearing, render recommended findings of fact, recommended conclusions of law and recommendations as to the disposition of the case.
  - 5) The Director shall review the administrative record in conjunction with the Hearing Officer's recommended findings of fact, recommended conclusions of law and recommendations as to the disposition of the case. Within 30 days after the close of the hearing record or expiration of the time to request a hearing, the Department shall issue a final administrative decision.
- c) Failure of the person or permittee to timely request a hearing or, if a civil penalty has been assessed, to timely tender the assessed civil penalty shall constitute a

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waiver of all legal rights to contest the notice of probable violation, including the amount of any civil penalty. (Section 35 of the Act)

- d) If, at the expiration of the period of time originally fixed in the notice of probable violation or at the expiration of any subsequent extension of time granted by the Department, the Department finds that the violation has not been abated, it may immediately order the cessation of operations or the portions of the operation relevant to the violations.
- e) Notice of the cessation order shall be served in accordance with Section 240.1859(d). The notice shall contain a scheduled hearing date that shall be within 30 days after the issuance of the cessation order to determine whether the person or permittee has complied with any final administrative order upon which the cessation order is based. The hearing shall be conducted by a Hearing Officer, designated by the Director, and held in the Department's office in Springfield, Illinois.
- f) The cessation order shall provide that the person or permittee named in the order has the right to request a temporary relief hearing before the scheduled date of the cessation order hearing, in accordance with Section 240.1860.
- g) A cessation order issued under this Section shall continue in effect until modified, vacated or terminated by the Department. The filing of a request for temporary relief under Section 240.1860 shall not operate as a stay of the cessation order. The cessation order may be stayed by the grant of temporary relief, in accordance with Section 240.1860.

(Source: Added at 43 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 240.1859 Cessation of Gas Storage Operations**

- a) The Department may issue orders requiring the cessation of gas storage operations, with or without issuing a notice of probable violations (see Section 240.1854).
- b) If the Department determines that any condition or practice exists, or that any person or permittee is in violation of any requirement of the Act, this Part or any permit condition, and that the condition, practice or violation creates an imminent danger to the health or safety of the public, or an imminent danger of significant

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environmental harm or significant damage to property, any authorized employee or agent of the Department may order the immediate cessation of operations, in whole or in part. The following constitute procedures or violations mandating the issuance of a cessation order under this subsection:

- 1) operating a well required to be permitted under the Act without first obtaining the Department's transfer of operating authority;
  - 2) operating wells without paying annual well fees;
  - 3) operating wells without maintaining the required amount of performance bond;
  - 4) operating wells by a permittee for whom funds have been expended and not reimbursed from the PRF; or
  - 5) violations of any permit condition that creates an imminent danger to the health or safety of the public or an imminent danger of significant environmental harm or significant damage to property.
- c) If a responsible party cannot be readily located, in the judgment of the employee or agent issuing the cessation order, or fails, within the time frame specified in the cessation order, to correct the condition endangering the public health, safety or environment, the employee or agent may take any action he or she deems necessary to cause a cessation of operations and abatement of any condition observed, including emergency activities specified in Section 240.1630.
- d) The cessation order shall be served by personal delivery to the person or gas storage operator named in the order or by mailing it certified mail, return receipt requested, to the last known address of the person or gas storage operator as soon as is practicably possible but in no event later than 5 days after its issuance.
- e) The cessation order shall contain a date for a hearing that shall be held within 30 days after the issuance of the cessation order. The hearing shall be conducted by a Hearing Officer, designated by the Director, held in the Department's office in Springfield, Illinois, and conducted in accordance with Article 10 of the Illinois Administrative Procedure Act.
- f) The cessation order shall also provide that the person or gas storage operator

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named in the order has the right to request a temporary relief hearing, within 14 days from the date of issuance of the cessation order, in accordance with Section 240.1860. The cessation order shall be considered served when personally delivered to the person or gas storage operator named in the order or when the cessation order is mailed by certified mail, return receipt requested, to the person or permittee at his or her last known address.

- g) At the cessation order hearing scheduled to determine whether the person or gas storage operator has complied, the Department shall have the burden of proving the facts of the violation alleged in the cessation order. The standard of proof shall be a preponderance of the evidence. The Hearing Officer shall conduct the hearing, hear the evidence, and, at the conclusion of the hearing, render findings of fact and conclusions of law and issue the final administrative decision of the Department, pursuant to Section 10 of Illinois Oil and Gas Act.
- h) A cessation order issued under this Section shall continue in effect until modified, vacated, or terminated by the Department. The filing of a request for temporary relief under Section 240.1860 shall not operate as a stay of the cessation order. The cessation order may be stayed by the grant of temporary relief in accordance with Section 240.1860.

(Source: Added at 43 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 240.1860 Temporary Relief Hearings~~Storage Field Operating Requirements~~**

- a) Pending the holding of a hearing in accordance with Section 240.1859(e) or 240.1858(e) relating to a cessation order issued under Section 240.1859 or 240.1858, the person or gas storage operator affected by the Department's action may file a written request for temporary relief from the cessation order, together with a detailed statement giving reasons for granting that relief. The person or gas storage operator shall serve the request for temporary relief within 14 days after service of the cessation order to the Department's offices located in Springfield, Illinois.
- b) The Department shall commence a hearing within 5 working days after receipt of a timely request for temporary relief and may grant that relief, under such conditions as it may prescribe, if the person or gas storage operator requesting temporary relief shows a substantial likelihood that the findings of the Department will be favorable to the gas storage operator and the relief will not

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adversely affect the health or safety of the public or cause significant environmental harm or significant damage to property.

- c) All hearings under this Section shall be conducted in accordance with Article 10 of the Illinois Administrative Procedure Act. All hearings under this Section shall be conducted in the Department's offices located in Springfield, Illinois.
- d) At the hearing, the gas storage operator shall have the burden of proving that temporary relief from the cessation order will not adversely affect the health or safety of the public or cause environmental harm or significant damage to property. The Hearing Officer shall conduct the hearing, hear the evidence, and, at the conclusion of the hearing, render findings of fact, conclusions of law and the disposition of the case.
- e) The Hearing Officer shall issue a final administrative decision granting or denying temporary relief from the cessation order within 7 days after the close of the administrative record, pursuant to Section 10 of the Illinois Oil and Gas Act. Temporary relief shall not extend for more than 90 days, after which the cessation order shall be reinstated pending the outcome of the cessation order and pending a resolution of the violations of the Act specified in the cessation order.

~~All applicable facilities in a storage field and general storage field operation shall be conducted in accordance with Subpart H of this Part.~~

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

**Section 240.1861 Subpoenas**

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

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respond to any lawful subpoena of which he has actual knowledge, if a voucher for payment of the witness fee and mileage applicable in the State circuit courts has been tendered. Service of a subpoena may be provided prima facie by a return receipt signed by the witness or his or her authorized agent and an affidavit showing that the mailing was prepaid and was addressed to the witness, restricted delivery, with a State voucher for the fee and mileage enclosed.

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

(Source: Added at 43 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 240.1862~~240.1855~~ Well Drilling Completion and Workover Requirements**

All wells shall be drilled and all drilling waste disposed in accordance with Subpart E of this Part.

(Source: Section 240.1862 renumbered from Section 240.1855 at 43 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 240.1880 Natural Gas Incident Notice to Department**

- a) Applicability. This Section applies to all natural gas incidents.
- b) For all natural gas incidents, the permittee shall immediately notify the District Office in which the underground natural gas storage facility is located and provide public notice in compliance with Section 7.5 of the Illinois Oil and Gas Act.
- c) In addition, all private residents, owners and operators of private water systems, or businesses, including agricultural operations, located within 1.5 miles of the boundaries of the natural gas incident must be notified as soon as practically possible. Notices to private residents and businesses must be attempted through verbal communication, whether in person or by telephone. If verbal communication cannot be established, a physical notice must be posted on the

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*premises of the private residence or business in a conspicuous location where it is easily seen by the inhabitants of the private residence or employees at the business. The physical notice shall carry the following text in at least 18-point font: "NATURAL GAS INCIDENT NOTICE – READ IMMEDIATELY". Notices required under this Section shall be provided whether or not the threat of exposure has been eliminated. Both verbal and physical notices shall include the location of the natural gas incident, the date and time that the natural gas incident was discovered, contact information of the operator of the natural gas storage field, and any applicable safety information. (Section 7.5 of the Illinois Oil and Gas Act)*

- d) *The operator of a natural gas storage field has a continuous and ongoing obligation to further notify the affected parties as necessary if it is determined that the boundaries of the natural gas incident have increased, moved, or shifted. This notice requirement shall be construed as broadly as possible. (Section 7.5 of the Illinois Oil and Gas Act)*

(Source: Added at 43 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 240.1890 Inspection Fees for Underground Natural Gas Storage Fields Within Footprint of Sole Source Aquifer**

- a) *The Department will conduct annual inspections at all gas storage fields lying on the footprint of a Sole Source Aquifer designated as such in 2015 by USEPA in the State to ensure that there are no infrastructure deficiencies or failures that could pose any harm to public health. The owner of the gas storage field shall cover the costs of the annual inspection. (Section 7.6 of the Illinois Oil and Gas Act.)*
- b) *Beginning on January 1, 2019 the Department will assess an inspection fee during each fiscal year for the total costs incurred by the Department to perform annual inspections of all wells permitted under the Act and this Section, present at an underground natural gas storage facility located within the footprint of a Sole Source Aquifer, including wells reported to be transferred pursuant to Subpart N but not yet approved for transfer by the Department. The permittee for each well is responsible for paying the full assessed amount.*
- c) *Assessment of Inspection Fees*

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- 1) No later than December 31, 2019 the Department will calculate the applicable Department inspection fees incurred by the permittee during the period of January 1, 2019 through June 30, 2019 and issue that assessment to the permittee;
- 2) For the fiscal year beginning on July 1, 2019 and for every fiscal year thereafter, no later than December 31, the Department will calculate the applicable annual inspection fees incurred by the permittee during the preceding fiscal year and issue the assessment to the permittee.
- d) Liability for assessed inspection fees does not cease until full payment is received by the Department.
- e) If a permittee fee check is returned due to insufficient funds or because payment was stopped, the permittee is required to repay fees for that fiscal year by cashier's check or money order.
- f) All fees collected under this Subpart shall be deposited into the Department's Underground Resources Conservation Enforcement Fund.

(Source: Added at 43 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 240.1892 When Annual Inspection Fees Are Due**

Annual inspection fees assessed under Section 240.1890 shall become due upon assessment and shall be deemed delinquent if not paid within 90 days after the initial assessment date. Any permittee with delinquent annual inspection fees shall not operate, permit or transfer wells within the State of Illinois without first paying all delinquent fees and associated civil penalties assessed under the Act.

(Source: Added at 43 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 240.1894 Opportunity to Contest Billing**

- a) Permittees may contest the amount of annual inspection fees assessed under Section 240.1890 by submitting a written objection to the billing no later than 30 days after the assessment date.
- b) The objection must be in writing, signed by the permittee, or by an individual

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authorized to sign for the permittee, and must identify the nature of the objection. The written objection shall be mailed to the Department at its Springfield, Illinois location and must include a statement of the facts supporting the objection.

- c) The Department shall respond to any valid objections within 30 days and either deny the objection or affirm and issue an amended assessment. The Department's decision to deny or affirm the objection is a final administrative decision of the Department for purposes of the Administrative Review Law [735 ILCS 5/Art. III].

(Source: Added at 43 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 240.1898 Waiver**

- a) Subject to 49 USC 60118(d), the Department, upon application by any gas storage operator, may waive, in whole or in part, compliance with any standard established under this Subpart or the Act if the Department determines that the waiver is consistent with the safety of the underground natural gas storage facility and the protection of the environment and natural resources of the State of Illinois.
- b) All waiver requests shall be made by the gas storage operator on Department created waiver forms and shall include all information requested in the forms.
- c) The waiver forms shall include:
- 1) name of the underground natural gas storage facility;
  - 2) an underground gas storage field map of the natural gas storage facility and a brief statement of the purpose of the well and a schematic of the well;
  - 3) a description of the waiver that is being requested;
  - 4) written technical justifications as to why compliance with a provision of this Subpart or the Act is not practicable and not necessary for safety with respect to specified underground storage facilities or equipment. The justifications for any deviation from any provision of this Subpart or the Act must be technically reviewed and documented by a subject matter

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expert to ensure there will be no adverse impact on design, construction, operations, maintenance, integrity, emergency preparedness, the environment, response, and overall safety and must be dated and approved by a senior executive officer, vice president, or higher office with responsibility for the underground natural gas storage facility;

- 5) a full description of any safety and environmental protection procedures that will be implemented or modified if the waiver is granted;
  - 6) an application fee of \$5,000 for the initial application and \$500 for each waiver renewal application;
  - 7) certification, under penalty of perjury, that the applicant has the right, pursuant to valid and subsisting oil and gas leases, documents or memoranda of public record and/or any statute or regulation, to drill or operate an underground natural gas storage facility on the lands and formations, as set forth in Subpart D;
  - 8) a statement as to whether the underground natural gas storage facility is located within the limits of any incorporated city, town or village (and a certified copy of the official consent of the municipal authorities if the underground natural gas storage facility is within the corporate limits);
  - 9) a statement as to whether the underground natural gas storage facility is located over an active mine or temporarily abandoned mine, or within the undeveloped limits of a mine, and whether the coal rights are owned by someone other than the lessor under the oil and gas lease; and
  - 10) the proposed depth of the well and the name of the lowest geologic formation that is to be, or is, penetrated.
- d) The gas storage operator must provide the Department with any additional information the Department requires to ensure that the requirements of this Subpart are met. If the application does not contain all the required information documents, or there is other information that the Department requests, the Department shall notify the applicant in writing. The notification shall specify the additional information or documents necessary to an evaluation of the application and shall advise the applicant that the application will be deemed denied unless the information or documents are submitted within 60 days following the date of

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notification.

- e) All waiver requests submitted to the Department will be reviewed by the Department. The Department may issue such a waiver at its sole discretion. The waiver request will be denied if the purpose of the waiver is outweighed by safety or environmental contamination concerns, as determined at the sole discretion of the Department.
- f) No waiver may be granted if:
- 1) the gas storage operator, or any corporate or business entity of which the gas storage operator is a part, has active or pending violations, or has unpaid fines or penalties as a result of any violation, of the Illinois Oil and Gas Act, or the Act;
  - 2) the applicant has falsified or otherwise misstated any information on, or relative to, the permit application;
  - 3) the applicant has failed to abate a violation of the Illinois Oil and Gas Act or the Act specified in a final administrative decision of the Department;
  - 4) an officer, director, agent, power of attorney or partner in the applicant, or a person with an interest in the applicant exceeding 5% was or is an officer, director, partner, agent, power of attorney or person with an interest exceeding 5% in another entity that failed to abate a violation of the Illinois Oil and Gas Act or the Act specified in a final administrative decision of the Department;
  - 5) the applicant was or is an officer, director, agent, power of attorney, partner, or person with an interest exceeding 5% in another entity that has failed to abate a violation of the Illinois Oil and Gas Act or the Act specified in a final administrative decision of the Department;
  - 6) funds have been expended and remain outstanding from the PRF to plug wells (see Subpart P) for which the applicant was a previous permittee; or the applicant was or is an officer, director, agent, power of attorney, partner, or person with an interest exceeding 5% in a permittee for which funds were expended; or an officer, director, agent, power of attorney or partner in the applicant, or a person with an interest in the applicant

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exceeding 5% was or is an officer, director, agent, power of attorney, partner or person with an interest exceeding 5% in a permittee for which funds were expended; or

- 7) the applicant is delinquent in the payment of Annual Well Fees; or the applicant was or is an officer, director, agent, power of attorney, partner, or person with an interest exceeding 5% in another permittee who is delinquent in payment of Annual Well Fees; or an officer, director, agent, power of attorney or partner in the applicant, or person with an interest in the applicant exceeding 5% was or is an officer, director, agent, power of attorney, partner or person with an interest exceeding 5% in a permittee who is delinquent in payment of Annual Well Fees.
- g) A waiver may be granted by the Department upon review of the waiver form and any additional information requested by the Department.
- h) Waivers are valid for one year from the date of issuance. A waiver may be renewed upon application by the applicant and subject to the requirements of this Section.
- i) The Department shall give the Secretary of Transportation written notice of any issued waiver at least 60 days before the effective date of the waiver and any such waiver issued by the Department is subject to 49 USC 60118(d). Any waiver granted shall take effect 61 days after notice of approval by the Department is issued to the gas storage operator.
- j) An operator must discontinue use of any waiver if the Department determines, at any time, and provides written notice that the waiver adversely impacts design, construction, operations, maintenance, integrity, emergency preparedness and response, the environment, or overall safety. An operator must discontinue the use of the waiver listed in the Department's written notice within 14 days after receipt of the notice. The written notice shall be served by certified mail or by personal service.

(Source: Added at 43 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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- 1) Heading of the Part: Secretary of State Standard Procurement
- 2) Code Citation: 44 Ill. Adm. Code 2000
- 3) Section Number: 2000.2020                      Proposed Action: Amendment
- 4) Statutory Authority: The Illinois Procurement Code [30 ILCS 500]
- 5) Complete Description of the Subjects and Issues Involved: The Secretary of State desires to increase its small purchases threshold from \$40,000 to \$80,000 for supplies or services, other than professional and artistic and from \$30,000 to \$80,000 for construction.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any 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? Yes  

<u>Section Number:</u>	<u>Proposed Action:</u>	<u>Illinois Register Citation:</u>
2020.4570	Amendment	43 Ill. Reg. 3868; March 29, 2019
- 11) Statement of Statewide Policy Objective: The proposed amendments do not require expenditures by units of local government.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Written comments may be submitted within 45 days to:

Amy Williams  
Legal Advisor  
298 Howlett Building  
Springfield IL 62756

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217/785-3094  
Awilliams3@ilsos.net

- 13) Initial Regulatory Flexibility Analysis:
  - A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
  - B) Reporting, bookkeeping or other procedures required for compliance: None
  - C) Types of professional skills necessary for compliance: None
- 14) Small Business Impact Analysis: None
- 15) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent agendas because the Department did not anticipate this rulemaking at the time the agendas were filed.

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

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TITLE 44: GOVERNMENT CONTRACTS, GRANTMAKING, PROCUREMENT  
AND PROPERTY MANAGEMENT  
SUBTITLE B: SUPPLEMENTAL PROCUREMENT RULES  
CHAPTER XXV: SECRETARY OF STATE

PART 2000  
SECRETARY OF STATE STANDARD PROCUREMENT

SUBPART A: GENERAL

Section	Title
2000.01	Title
2000.05	Policy
2000.08	Illinois Procurement Code
2000.10	Application
2000.15	Definition of Terms Used in This Part
2000.25	Property Rights

SUBPART B: PROCUREMENT RULES

Section	Rules
2000.525	Rules

SUBPART C: PROCUREMENT AUTHORITY

Section	Conduct and Oversight of Procurements
2000.1005	Conduct and Oversight of Procurements

SUBPART D: PUBLICIZING PROCUREMENT ACTIONS

Section	Illinois Procurement Bulletin
2000.1510	Illinois Procurement Bulletin
2000.1560	Supplemental Notice
2000.1570	Error in Notice
2000.1580	Direct Solicitation

SUBPART E: SOURCE SELECTION AND CONTRACT FORMATION

Section
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- 2000.2005 General Provisions
- 2000.2010 Competitive Sealed Bidding
- 2000.2012 Multi-Step Sealed Bidding
- 2000.2015 Competitive Sealed Proposals
- 2000.2020 Small Purchases
- 2000.2025 Sole Economically Feasible Source Procurement
- 2000.2030 Emergency Procurements
- 2000.2035 Competitive Selection Procedures for Professional and Artistic Services
- 2000.2036 Other Methods of Source Selection
- 2000.2037 Tie Bids and Proposals
- 2000.2038 Mistakes
- 2000.2040 Cancellation of Solicitations; Rejection of Bids or Proposals

SUBPART F: SUPPLIERS, PREQUALIFICATION AND RESPONSIBILITY

Section

- 2000.2043 Suppliers
- 2000.2044 Vendor List/Required Use
- 2000.2045 Prequalification
- 2000.2046 Responsibility

SUBPART G: BID, PROPOSAL AND PERFORMANCE SECURITY

Section

- 2000.2047 Security Requirements

SUBPART H: SPECIFICATIONS AND SAMPLES

Section

- 2000.2050 Specifications and Samples

SUBPART I: CONTRACT TYPE

Section

- 2000.2055 Types of Contracts

SUBPART J: DURATION OF CONTRACTS

Section

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2000.2060 Duration of Contracts – General

## SUBPART K: CONTRACT MATTERS

## Section

2000.2560 Prevailing Wage  
2000.2570 Equal Employment Opportunity; Affirmative Action  
2000.2580 Subcontractors

## SUBPART L: CONTRACT PRICING

## Section

2000.2800 All Costs Included

SUBPART M: CONSTRUCTION AND  
CONSTRUCTION RELATED PROFESSIONAL SERVICES

## Section

2000.3005 Construction and Construction Related Professional Services

## SUBPART N: REAL PROPERTY LEASES AND CAPITAL IMPROVEMENT LEASES

## Section

2000.4000 Applicability  
2000.4005 Requests for Space/Department Responsibilities  
2000.4010 General Acquisition Procedures  
2000.4015 Acquisition of Leases by RFI  
2000.4020 Leases Acquired by Other Methods  
2000.4025 Renewal or Extension of Lease in Effect Prior to July 1, 1998  
2000.4030 Renewal of Leases Entered into After July 1, 1998  
2000.4035 Purchase Options  
2000.4040 Lease Administration  
2000.4045 Emergency Lease Procurement

## SUBPART O: PREFERENCES

## Section

2000.4505 Procurement Preferences  
2000.4510 Resident Bidder Preference

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- 2000.4530 Correctional Industries
- 2000.4535 Sheltered Workshops for the Disabled
- 2000.4540 Gas Mileage
- 2000.4545 Small Business
- 2000.4570 Contracting with Businesses Owned and Controlled by Minorities, Females and Persons with Disabilities

SUBPART P: ETHICS

- Section
- 2000.5013 Conflicts of Interest
- 2000.5015 Negotiations for Future Employment
- 2000.5020 Exemptions
- 2000.5030 Revolving Door
- 2000.5035 Disclosure of Financial Interests and Potential Conflicts of Interest
- 2000.5037 Vendor Registration, Certification and Prohibition on Political Contributions
- 2000.5039 Procurement Communication Reporting Requirement

SUBPART Q: CONCESSIONS

- Section
- 2000.5310 Concessions

SUBPART R: COMPLAINTS, PROTESTS AND REMEDIES

- Section
- 2000.5510 Complaints Against Vendors or Subcontractors
- 2000.5520 Suspension
- 2000.5530 Resolution of Contract Controversies
- 2000.5540 Violation of Statute or Rule
- 2000.5550 Protests
- 2000.5555 Hearings and Decisions

SUBPART S: SUPPLY MANAGEMENT AND DISPOSITIONS

- Section
- 2000.6010 Supply Management and Dispositions

SUBPART T: GOVERNMENTAL JOINT PURCHASING

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## Section

- 2000.6500 General  
2000.6510 No Agency Relationship

## SUBPART U: MISCELLANEOUS PROVISIONS OF GENERAL APPLICABILITY

## Section

- 2000.7000 Severability  
2000.7010 Government Furnished Property  
2000.7015 Inspections  
2000.7020 Records and Audits  
2000.7025 Written Determinations  
2000.7030 No Waiver of Sovereign Immunity

AUTHORITY: The Illinois Procurement Code [30 ILCS 500].

SOURCE: Emergency rule adopted at 22 Ill. Reg. 12208, effective July 1, 1998, for a maximum of 150 days; adopted at 22 Ill. Reg. 20306, effective November 9, 1998; emergency amendment at 23 Ill. Reg. 5911, effective April 30, 1999, for a maximum of 150 days; emergency expired September 26, 1999; amended at 23 Ill. Reg. 13953, effective November 8, 1999; amended at 35 Ill. Reg. 4629, effective March 3, 2011; recodified Title header at 39 Ill. Reg. 5903; amended at 39 Ill. Reg. 11100, effective July 24, 2015; amended at 40 Ill. Reg. 13954, effective September 23, 2016; amended at 43 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART E: SOURCE SELECTION AND CONTRACT FORMATION

**Section 2000.2020 Small Purchases**

- a) Application
- 1) Procurements of ~~\$80,000~~\$40,000 or less for supplies or services, other than professional and artistic, and ~~\$80,000~~\$30,000 or less for construction may be made using the method of source selection determined by the Procurement Officer to be most appropriate to the circumstances.
  - 2) Procurements of less than \$20,000 for professional and artistic services and that have a non-renewable term of one year or less may be made using the method of source selection determined by the Procurement Officer to

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be most appropriate to the circumstances.

- b) In determining whether a contract is under the limit, the value of the contract for the full term and all optional renewals, determined in good faith, shall be utilized. The stated value of the supplies or services, plus any optional supplies and services, shall be utilized. Where the term is calculated month-to-month or in a similar fashion, the amount shall be calculated for a twelve month period.
- c) If only a unit price or hourly rate is known, the contract shall be considered small and shall have a not to exceed limit applicable to the type of procurement (see subsection (a)).
- d) If, after signing the contract, the actual cost of completing the contract is determined to exceed the small purchase amount, and the Procurement Officer determines that a supplemental procurement is not economically feasible or practicable because of the immediacy of the agency's needs or other circumstances, the Procurement Officer must follow the procedures for sole source or emergency procurement, whichever is applicable, to complete the contract.
- e) Procurement requirements shall not be artificially divided to avoid using the other source selection methods set forth in Section 20-5 of the Illinois Procurement Code.
- f) If there is a repetitive need for small procurements of the same type, the Procurement Officer shall consider issuing a competitive sealed bid or proposal for procurement of those needs.

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

## STATE EMPLOYEES' RETIREMENT SYSTEM OF ILLINOIS

## NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: The Administration and Operation of the State Employees' Retirement System of Illinois
- 2) Code Citation: 80 Ill. Adm. Code 1540
- 3) Section Number: 1540.395                      Proposed Action: Amendment
- 4) Statutory Authority: 40 ILCS 5/14-135.03; 40 ILCS 5/14-147.5(g); 40 ILCS 5/14-147.6(e)
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking provides a clarification to the rule provision related to accelerated pension benefit payments. The rulemaking clarifies that funds used to pay accelerated pension benefit payments shall be transferred from the State Pension Obligation Acceleration Bond Fund to the State Employees' Retirement System trust fund. This clarification reflects the statutory language regarding the method used to facilitate the payment of the Bond Fund revenue to eligible retirement accounts of accelerated pension benefit payment recipients.
- 6) Published studies and reports, and sources of underlying data used to compose this rulemaking: None
- 7) Will this rulemaking replace any 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 rulemaking does not create or expand the 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: Comments on this proposed rulemaking may be submitted in writing for a period of 45 days following publication of this Notice. Comments should be submitted to:

## STATE EMPLOYEES' RETIREMENT SYSTEM OF ILLINOIS

## NOTICE OF PROPOSED AMENDMENT

Jeff Houch  
State Retirement Systems  
2101 South Veterans Parkway  
PO Box 19255  
Springfield IL 62794-9255

217/524-8105  
fax: 217/557-3943  
jeff.houch@srs.illinois.gov

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
  - B) Reporting, bookkeeping or other procedures required for compliance: None
  - C) Types of professional skills necessary for compliance: None
- 14) Small Business Impact Analysis: There is no impact on small businesses.
- 15) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not anticipated by the System when the most recent regulatory agendas were published.

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

## STATE EMPLOYEES' RETIREMENT SYSTEM OF ILLINOIS

## NOTICE OF PROPOSED AMENDMENT

## TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES

## SUBTITLE D: RETIREMENT SYSTEMS

## CHAPTER I: STATE EMPLOYEES' RETIREMENT SYSTEM OF ILLINOIS

## PART 1540

THE ADMINISTRATION AND OPERATION OF THE  
STATE EMPLOYEES' RETIREMENT SYSTEM OF ILLINOIS

## Section

1540.5	Introduction (Repealed)
1540.10	Appointment of Retirement System Coordinator
1540.20	Member's Contribution and Service Credit
1540.30	Determination of Rate of Compensation
1540.40	Prior Service Credit
1540.50	Credit for Service for Which Contributions are Permitted
1540.60	Severance of Employment – A Condition to the Payment of a Refund or Retirement Annuity
1540.70	Death Benefits
1540.80	Disability Claims
1540.90	Benefit Offset
1540.100	Birth Date Verification
1540.110	Marriage Verification
1540.120	Level Income Option
1540.130	Pension Credit for Unused Sick Leave
1540.140	Removal of Children from Care of Surviving Spouse
1540.150	Proof of Dependency
1540.160	Investigations of Benefit Recipients
1540.170	Interest on Member Contributions
1540.180	Date of Application – Retirement Annuity, Occupational and Nonoccupational and Temporary Disability Benefits, and Resignation Refund Payments
1540.190	Lump Sum Salary Payments
1540.195	Mandatory Distributions Pursuant to Section 401(a)(9) of the Internal Revenue Code
1540.200	Removal from the Payroll
1540.210	Latest Date of Membership
1540.220	Period for Payment and Amount of Payment of Contributions
1540.230	Contributions by the State (Repealed)
1540.240	Actuarially Funded Basis (Repealed)
1540.250	Payments to Establish Credit for Service for Which Contributions are Permitted

## STATE EMPLOYEES' RETIREMENT SYSTEM OF ILLINOIS

## NOTICE OF PROPOSED AMENDMENT

- 1540.255 Pick-up Option for Optional Service Contributions
  - 1540.260 Contributions and Service Credit During Nonwork Periods
  - 1540.270 Written Appeals and Hearings
  - 1540.280 Availability for Public Inspection (Recodified)
  - 1540.290 Procedure for Submission, Consideration and Disposition of Petitions Seeking the Promulgation, Amendment or Repeal of these Rules and Regulations (Recodified)
  - 1540.300 Organization of the State Employees' Retirement System (Recodified)
  - 1540.310 Amendments
  - 1540.320 Optional Forms of Benefits – Basis of Computation
  - 1540.330 Board Elections
  - 1540.340 Excess Benefit Arrangement
  - 1540.350 Qualified Illinois Domestic Relations Orders (QILDRO)
  - 1540.360 Election to be an Employee under Section 14-103.05(b)(3) of the Illinois Pension Code
  - 1540.370 Americans With Disabilities Act
  - 1540.380 Correction of Mistakes in Benefit Payments
  - 1540.385 Suspension of Benefits from Uncashed Warrants
  - 1540.390 Freedom of Information Act
  - 1540.395 Accelerated Pension Benefit Payment Program
- 1540.APPENDIX A Grievance Form
- 1540.TABLE A Optional Forms of Benefits – Basis of Computation

AUTHORITY: Implementing and authorized by Article 14 of the Illinois Pension Code [40 ILCS 5].

SOURCE: Filed December 20, 1977, effective December 31, 1977; filed and effective February 28, 1978; emergency rule at 4 Ill. Reg. 2, page 246, effective January 1, 1980; amended at 4 Ill. Reg. 12, pages 530, 532, 534, effective March 11, 1980; emergency rule at 4 Ill. Reg. 46, page 1300, effective November 1, 1980; amended at 5 Ill. Reg. 3454, effective March 19, 1981; amended at 5 Ill. Reg. 7225, effective July 1, 1981; amended at 5 Ill. Reg. 12846, effective October 30, 1981; amended at 6 Ill. Reg. 2114, effective January 29, 1982; amended at 6 Ill. Reg. 5505, effective April 16, 1982; codified at 6 Ill. Reg. 10935; emergency amendment at 6 Ill. Reg. 11084, effective August 31, 1982, for a maximum of 150 days; amended at 7 Ill. Reg. 677, effective December 30, 1982; amended at 7 Ill. Reg. 8831, effective July 15, 1983; emergency amendment at 8 Ill. Reg. 359, effective January 1, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 4144, effective March 26, 1984; Sections 1540.280, 1540.290 and 1540.300 recodified to 2 Ill. Adm. Code 2375 at 8 Ill. Reg. 15902; amended at 9 Ill. Reg. 12375, effective July 30, 1985; emergency amendment at 9 Ill. Reg. 19752, effective December 5, 1985, for a

## STATE EMPLOYEES' RETIREMENT SYSTEM OF ILLINOIS

## NOTICE OF PROPOSED AMENDMENT

maximum of 150 days; amended at 10 Ill. Reg. 8889, effective May 14, 1986; amended at 11 Ill. Reg. 11155, effective June 15, 1987; amended at 14 Ill. Reg. 10498, effective June 19, 1990; amended at 15 Ill. Reg. 7379, effective April 26, 1991; amended at 16 Ill. Reg. 14407, effective September 4, 1992; amended at 20 Ill. Reg. 8033, effective June 15, 1996; emergency amendment at 21 Ill. Reg. 476, effective January 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 4992, effective April 1, 1997; emergency amendment at 21 Ill. Reg. 13187, effective September 15, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 967, effective December 22, 1997; amended at 22 Ill. Reg. 15363, effective August 10, 1998; amended at 23 Ill. Reg. 3824, effective March 9, 1999; amended at 23 Ill. Reg. 11313, effective September 1, 1999; amended at 24 Ill. Reg. 6975, effective April 20, 2000; amended at 24 Ill. Reg. 18090, effective December 1, 2000; amended at 25 Ill. Reg. 5632, effective April 4, 2001; emergency amendment at 26 Ill. Reg. 11133, effective June 28, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 16575, effective October 22, 2002; emergency amendment at 28 Ill. Reg. 8775, effective July 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 15628, effective November 18, 2004; amended at 29 Ill. Reg. 15554, effective October 1, 2005; amended at 30 Ill. Reg. 12303, effective July 1, 2006; amended at 31 Ill. Reg. 211, effective December 21, 2006; amended at 32 Ill. Reg. 17779, effective October 29, 2008; emergency amendment at 33 Ill. Reg. 9449, effective June 19, 2009, for a maximum of 150 days; emergency expired November 15, 2009; amended at 34 Ill. Reg. 285, effective December 15, 2009; amended at 34 Ill. Reg. 8313, effective June 10, 2010; amended at 38 Ill. Reg. 4023, effective January 24, 2014; emergency amendment at 39 Ill. Reg. 2792, effective February 6, 2015, for a maximum of 150 days; emergency amendment modified in response to Joint Committee on Administrative Rules Objection at 39 Ill. Adm. Code 5626, effective April 7, 2015, for the remainder of the 150 days; amended at 39 Ill. Reg. 9582, effective June 26, 2015; amended at 41 Ill. Reg. 4217, effective March 22, 2017; amended at 42 Ill. Reg. 9568, effective May 29, 2018; emergency amendment at 42 Ill. Reg. 21436, effective November 13, 2018, for a maximum of 150 days; amended at 43 Ill. Reg. 768, effective December 19, 2018; amended at 43 Ill. Reg. 3965, effective March 18, 2019; amended at 43 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 1540.395 Accelerated Pension Benefit Payment Program**

- a) Purpose. This Section establishes policies specific to SERS concerning the Accelerated Pension Benefit Payment Options authorized by Sections 14-147.5 and 14-147.6 of the Illinois Pension Code.
- b) Payment Option Limitations
  - 1) A member needs to be an eligible person on or before June 1, 2021 in order to elect an accelerated pension benefit payment.

## STATE EMPLOYEES' RETIREMENT SYSTEM OF ILLINOIS

## NOTICE OF PROPOSED AMENDMENT

- 2) A member who elects the Level Income Option is ineligible to elect an accelerated pension benefit payment.
- 3) A member who elects the Social Security Offset Removal is ineligible to elect an accelerated pension benefit payment.
- 4) A member who elects a reversionary annuity is ineligible to elect an accelerated pension benefit payment.
- 5) A member subject to a mandatory distribution pursuant to section 401(a)(9) of the Internal Revenue Code is ineligible to elect an accelerated pension benefit payment at least 30 days prior to the date the mandatory distribution must be paid. The election form of such a member must be received by the System at least 30 days prior to the date the mandatory distribution must be paid.
- 6) A member who is indebted to the System because of an overpayment is ineligible to elect the accelerated pension benefit payment under section 14-147.5 of the Illinois Pension Code. That member may qualify for an accelerated pension benefit payment upon repaying the debt in full.
- 7) A member who cashed or deposited the payment of a proportional annuity from another participating system prior to December 1, 2018, when creditable service or earnings credit established under Article 14 of the Illinois Pension Code was used to calculate a proportional annuity or to qualify the member for a proportional annuity, is ineligible to elect an accelerated pension benefit payment.
- 8) A member who cashed or deposited the payment of a proportional annuity from another participating system prior to December 1, 2018, when creditable service or earnings credit established under another participating system was used to calculate the proportional annuity payable by the System established under Article 14 of the Illinois Pension Code or to qualify the member for the proportional annuity payable by the System established under Article 14 of the Illinois Pension Code is ineligible to elect an accelerated pension benefit payment.

## STATE EMPLOYEES' RETIREMENT SYSTEM OF ILLINOIS

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- c) For the purposes of Section 14-147.5(a)(2) of the Illinois Pension Code, "*accrued sufficient service credit to be eligible to receive a retirement annuity under this Article*" shall mean that a member must have established sufficient creditable service to qualify for a retirement annuity under Article 14 of the Illinois Pension Code. Service credit on file with another participating system at the time of the member's election for an accelerated pension benefit payment under Section 14-147.5 shall be excluded for those purposes.
- d) The present value of pension benefits calculation as determined by Section 14-147.5(b) of the Illinois Pension Code shall not include any earnings credits under another participating system.
- e) For a member that elects the accelerated pension benefit payment prescribed under Section 14-147.5 of the Illinois Pension Code, the effective date of that accelerated pension benefit payment shall not be before April 1, 2019. Furthermore, the effective date of the payment shall not be before the first of the month immediately following the date in which a valid application is received by the System.
- f) The effective date for accelerated pension benefit payment prescribed under Section 14-147.6 of the Illinois Pension Code:
- 1) shall not be before December 1, 2018; and
  - 2) shall not be before the effective date of the member's retirement annuity.
- g) The accelerated pension benefit payment shall not be transferred to the member's eligible account prior to the effective date of the member's retirement annuity.
- h) A valid application for an accelerated pension benefit must be received by the System before June 1, 2021 in order to qualify a member for an accelerated pension benefit.
- i) The election to receive an accelerated pension benefit payment under Section 14-147.6 of the Illinois Pension Code becomes irrevocable on either the date the member cashes or deposits the first retirement annuity payment, or the date on which the accelerated pension benefit payment is vouchered, whichever occurs earlier.

## STATE EMPLOYEES' RETIREMENT SYSTEM OF ILLINOIS

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- j) The election to receive an accelerated pension benefit payment under Section 14-147.5 of the Illinois Pension Code becomes irrevocable on the date the accelerated pension benefit payment is vouchered.
- k) Accelerated pension benefit payments shall be paid solely from the amounts transferred to the System from the State Pension Obligation Acceleration Bond Fund. Under no circumstance will ~~other~~the assets of the System be used to pay accelerated pension benefit payments. All elections for an accelerated pension benefit payment that will not be paid from amounts transferred to the System from the State Pension Obligation Acceleration Bond Fund shall be null and void.
- l) For cases in which a member is charged with a felony related to or arising out of or in connection with his or her service as an employee and elects an accelerated pension benefit payment, the adjudication process related to the charges must be completed before the accelerated pension benefit payment is vouchered. If the member is convicted and sentenced of a felony related to, arising out of or in connection with, his or her service as an employee, the payment shall not be vouchered.
- m) A member that elects the accelerated pension benefit payment under Section 14-147.5 of the Illinois Pension Code is ineligible to receive a refund under Section 14-130(c) of the Illinois Pension Code.
- n) Definitions

"Accelerated Pension Benefit Payment" means an accelerated pension benefit payment under Sections 14-147.5 and 14-147.6 of the Illinois Pension Code.

"Creditable Service" means service defined as "creditable service" under Section 14-103.15 of the Illinois Pension Code.

"Eligible Account" means a "tax qualified retirement plan or account" required by Sections 14-147.5(e) and 14-147.6(d) of the Illinois Pension Code.

"Level Income Option" means a benefit payment option prescribed by Section 14-112 of the Illinois Pension Code.

## STATE EMPLOYEES' RETIREMENT SYSTEM OF ILLINOIS

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"Participating System" means a retirement system defined as a "participating system" by Section 20-108 of the Illinois Pension Code.

"Proportional Annuity" means a retirement annuity paid in accordance with Section 20-121 of the Illinois Pension Code.

"Reversionary Annuity" means a reversionary annuity authorized by Section 14-113 of the Illinois Pension Code.

"Social Security Offset Removal" means the 3.825% reduction to a member's retirement annuity established by Sections 14-119(d) and 14-121(g) of the Illinois Pension Code.

"State Pension Obligation Acceleration Bond Fund" means the bond fund created by Section 7.7(d) of the General Obligation Bond Act.

"Vouchered" means that the voucher has been signed and dated, even though the warrant has not been issued by the Office of the State Comptroller.

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

## ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Accreditation of Environmental Laboratories
- 2) Code Citation: 35 Ill. Adm. Code 186
- 3) Section Number: 186.115                      Adopted Action: Amendment
- 4) Statutory Authority: Implementing and authorized by Section 1401(1)(D) of the Safe Drinking Water Act [42 USC 300f(1)(D)], Subpart C of the National Interim Primary Drinking Water Regulations [40 CFR 141.21 through 141.30], the Clean Water Act [32 USC 1251], the Illinois Environmental Protection Act [415 ILCS 5], and authorized by Section 4(n) and (o) of the Illinois Environmental Protection Act [415 ILCS 5/4(n) and (o)].
- 5) Effective Date of Rule: July 1, 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 rule is on file in the Illinois Environmental Protection Agency's principal office located at 1021 North Grand Avenue East, P.O. Box 19276 Springfield, Illinois 62794-9276 and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 42 Ill. Reg. 24373; December 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? Not Applicable
- 13) Will this rulemaking replace any emergency rule currently in effect? No
- 14) Are there any other rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: This amendment updates minimum standards for the operation of environmental laboratories relating to analyses and laboratory testing.

## ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF ADOPTED AMENDMENT

Specifically, the amendment updates the following incorporations by reference: TNI Standard; Test Methods for Evaluating Solid Waste; and the code of federal regulations.

This amendment adds the following incorporations by reference: editions 22 and 23 of the Standard Methods for the Examination of Water and Wastewater, USEPA's 5th edition Manual for the Certification of Laboratories Analyzing Drinking Water: Criteria and Procedures Quality Assurance, and supplement 1 to this manual.

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

Rex L. Gradeless  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
P.O. Box 19726  
Springfield IL 62794-9276

217/782-5544

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

## ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF ADOPTED AMENDMENT

TITLE 35: ENVIRONMENTAL PROTECTION  
SUBTITLE A: GENERAL PROVISIONS  
CHAPTER II: ENVIRONMENTAL PROTECTION AGENCYPART 186  
ACCREDITATION OF ENVIRONMENTAL LABORATORIES

## Section

186.105	Purpose
186.110	Scope and Applicability
186.115	Incorporation by Reference
186.120	Definitions
186.125	Accreditation
186.130	Application Process
186.135	TNI Standard
186.140	Personnel Requirements (Repealed)
186.145	Laboratory Equipment and Materials (Repealed)
186.150	Laboratory Facilities (Repealed)
186.155	Calibration (Repealed)
186.160	Quality Assurance/Quality Control (Repealed)
186.165	Quality Assurance Plan (Repealed)
186.170	Performance Evaluation Sample Testing (Repealed)
186.175	Performance Evaluation Testing Programs (Repealed)
186.180	Scope of Accreditation
186.185	Sample Acceptance and Receipt (Repealed)
186.190	Record Keeping, Sample Tracking and Reporting (Repealed)
186.195	Subcontracting (Repealed)
186.200	Reciprocity (Repealed)
186.205	Acceptance of Out-of-State Accreditation (Repealed)
186.210	Suspension, Revocation and Denial of Accreditation (Repealed)
186.215	Hearing, Decision and Appeal
186.220	Confidential Documents
186.225	Severability
186.230	On-site Assessment and Proficiency Testing Laboratory Expenses
186.APPENDIX A	Required Method Detection Limits (MDL) or Pattern Recognition Levels (PRL) for Drinking Water Laboratory Accreditation (Repealed)

AUTHORITY: Implementing and authorized by Section 1401(1)(D) of the Safe Drinking Water

## ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

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Act [42 USC 300f(1)(D)], Subpart C of the National Interim Primary Drinking Water Regulations [40 CFR 141.21 through 141.30], the Clean Water Act [32 USC 1251], the Illinois Environmental Protection Act [415 ILCS 5], and authorized by Section 4(n) and (o) of the Illinois Environmental Protection Act [415 ILCS 5/4(n) and (o)].

SOURCE: Adopted at 22 Ill. Reg. 5546, effective March 4, 1998; amended at 26 Ill. Reg. 12167, effective July 29, 2002; amended at 30 Ill. Reg. 2507, effective February 10, 2006; amended at 34 Ill. Reg. 9064, effective June 24, 2010; amended at 38 Ill. Reg. 18627, effective September 1, 2014; amended at 43 Ill. Reg. 6175, effective July 1, 2019.

**Section 186.115 Incorporation by Reference**

- a) The Agency incorporates the following documents by reference.
- 1) The NELAC Institute (TNI) Standard titled Requirements for the National Environmental Laboratory Accreditation Program, consisting of Volume 1, Management and Technical Requirements for Laboratories Performing Environmental Analysis, [EL-V1-2016-Rev.2.1](#)~~EL-V1-2009~~; and Volume 2, General Requirements for Accreditation Bodies Accrediting Environmental Laboratories, [EL-V2-2016-Rev.2.0](#)~~EL-V2-2009~~, P.O. Box 2439, Weatherford TX 76086, (817)598-1624.
  - 2) "Test Methods for Evaluating Solid Waste, SW846", "Laboratory Manual Physical/Chemical Properties", volumes 1A, 1B and 1C, 3<sup>rd</sup> edition ([July 2014](#)~~January 2008~~), Office of Solid Waste and Emergency Response, [U.S. Environmental Protection Agency](#), available from the National Technical Information Service (NTIS), (703)605-6000 (available at <https://www.epa.gov/hw-sw846/sw-846-compendium>~~www.epa.gov/epawaste/hazard/testmethods/sw846/online/index.htm~~).

[1000 Series: Waste Characteristics and Leaching/Extracting Methods](#)

[3000 Series: Inorganic Sample Preparation](#)

[3500 Series: Organic Sample Extraction](#)

[3600 Series: Organic Extract Cleanup](#)

## ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

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[5000 Series: Sample Preparation and Introduction for Volatile Organic Compounds](#)

[6000 Series: Inorganic Determinative Methods – Inductively Coupled Plasma \(ICP\) and Other Methods](#)

[7000 Series: Inorganic Determinative Methods – Atomic Absorption \(AA\) and Other Methods](#)

[8000 Series: Chromatographic Separation Methods](#)

[9000 Series: Miscellaneous Test Methods](#)

- 3) American Public Health Association, 1015 Fifteenth Street NW, Washington DC 20005, (202)777-2742.

"Standard Methods for the Examination of Water and Wastewater", 18<sup>th</sup> Edition, 1992.

Method 2330B for the determination of Corrosivity (Langlier Index).

Method 2340B for the determination of Hardness by Calculation.

Method 2340C for the determination of Hardness by EDTA Titrimetric Method.

"Standard Methods for the Examination of Water and Wastewater", 19<sup>th</sup> Edition, 1995.

Method 2340B for the determination of Hardness by Calculation.

Method 2340C for the determination of Hardness by EDTA Titrimetric Method.

## ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF ADOPTED AMENDMENT

Method 5320B for the determination of TOX-Total Organic Halides by Absorption-Pyrolysis-Titrimetric Method.

"Standard Methods for the Examination of Water and Wastewater", 20<sup>th</sup> Edition, 1998.

Method 2340B for the determination of Hardness by Calculation.

Method 2340C for the determination of Hardness by EDTA Titrimetric Method.

"Standard Methods for the Examination of Water and Wastewater", 21<sup>st</sup> Edition, 2005.

Method 2340B for the determination of Hardness by Calculation.

Method 2340C for the determination of Hardness by EDTA Titrimetric Method.

"Standard Methods for the Examination of Water and Wastewater", 22<sup>nd</sup> Edition, 2012.

Method 2340B for the determination of Hardness by Calculation.

Method 2340C for the determination of Hardness by EDTA Titrimetric Method.

"Standard Methods for the Examination of Water and Wastewater", 23<sup>rd</sup> Edition, 2017.

Method 2340B for the determination of Hardness by Calculation.

Method 2340C for the determination of Hardness by EDTA Titrimetric Method.

## ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

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- 4) USEPA, NSCEP. United States Environmental Protection Agency, National Service Center for Environmental Publications, P.O. Box 42419, Cincinnati OH 45242-0419 (available from <http://www.epa.gov/nscep/>).

"Methods for the Determination of Inorganic Substances in Environmental Samples", August 1993, EPA 600/R-93-100.

Method 180.1, "Determination of Turbidity by Nephelometry", Revision 2.0, August 1993.

"Methods for the Determination of Metals in Environmental Samples, Supplement I", May 1994, EPA 600/R-94-111.

Method 218.6, "Determination of Dissolved Hexavalent Chromium in Drinking Water, Groundwater and Industrial Wastewater Effluents by Ion Chromatography", Revision 3.3, May 1994.

"Methods for the Determination of Organic and Inorganic Compounds in Drinking Water, Volume 1", EPA 815/R-00/014, August 2000.

Method 314.0, "Determination of Perchlorate in Drinking Water Using Ion Chromatography", Revision 1, November 1999.

Method 526, "Determination of Selected Semivolatile Organic Compounds in Drinking Water by Solid Phase Extraction and Capillary Column Gas Chromatography/Mass Spectrometry (GC/MS)", Revision 1.0, June 2000.

Method 528, "April 2000, Determination of Phenols in Drinking Water by Solid Phase Extraction and Capillary Column Gas Chromatography/Mass Spectrometry (GC/MS)", Revision 1.0, April 2000.

## ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

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Method 532, "Determination of Phenylurea Compounds in Drinking Water by Solid Phase Extraction and High Performance Liquid Chromatography with UV Detection", Revision 1.0, June 2000.

Method 218.7, "Determination of Hexavalent Chromium in Drinking Water by Ion Chromatography with Post-Column Derivatization and UV – Visible Spectroscopic Detection", Revision 1.0, November 2011, EPA 815-R-11-005.

Method 334.0, "Determination of Residual Chlorine in Drinking Water Using an On-line Chlorine Analyzer", Revision 1.0, September 2009, EPA 815-B-09-013.

- 5) "Application Update 144: Determination of Hexavalent Chromium in Drinking Water Using Ion Chromatography", 2003, Dionex, 1228 Titan Way, P.O. Box 3603 Sunnyvale CA 94088-3603, (408)737-0700 (available from [www.Dionex.com](http://www.Dionex.com)).
- 6) QuikChem® Method 10-117-07-1-A, Determination of Chloride by Flow Injection Analysis Colorimetry, November 2007, Lachat Instruments, 5600 Lindburgh Drive, Loveland CO 80539, (414)358-4200.
- 7) "Manual for the Certification of Laboratories Analyzing Drinking Water", "Criteria and Procedures Quality Assurance", 5<sup>th</sup> edition (EPA 815-R-05-004, January 2005), Office of Water, Office of Ground Water and Drinking Water, Environmental Protection Agency, available from the National Service Center for Environmental Publications (NSCEP), (800) 490-9198 (available at <https://www.epa.gov/dwlabcert/laboratory-certification-manual-drinking-water>).

"Supplement 1 to the Fifth Edition of the Manual for the Certification of Laboratories Analyzing Drinking Water" (Supplement 1 to EPA 815-R-05-004, 2008), Office of Water, Office of Ground Water and Drinking Water, U.S. Environmental Protection Agency, available from the National Service Center for Environmental Publications (NSCEP), (800) 490-9198 (available at <https://www.epa.gov/dwlabcert/laboratory-certification-manual-drinking-water>).

## ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

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- b) The Agency incorporates the following Sections of federal regulations by reference:
- 1) 40 CFR 136.3 Table IB, Table IC, Table ID, [Table IF](#), Table IG, [Table II](#)  
[\(2018\)\(2013\)](#)  
40 CFR 136.4 [\(2018\)\(2013\)](#)  
40 CFR 136.5 [\(2018\)\(2013\)](#)  
40 CFR 136.6 [\(2018\)\(2013\)](#)  
40 CFR 136.7 [\(2018\)\(2013\)](#)  
40 CFR 136 appendix A [\(2018\)\(2013\)](#)  
40 CFR 136 appendix B [\(2018\)\(2013\)](#)  
40 CFR 136 appendix C [\(2018\)\(2013\)](#)  
[40 CFR 136 appendix D \(2018\)](#)
  - 2) 40 CFR 141.23(k) [\(2018\)\(2013\)](#)  
40 CFR 141.24(e) [\(2018\)\(2013\)](#)  
40 CFR 141.24(f)(20) [\(2018\)\(2013\)](#)  
40 CFR 141.27 [\(2018\)\(2013\)](#)  
40 CFR 141.74 [\(2018\)\(2013\)](#)  
40 CFR 141.131 [\(2018\)\(2013\)](#)  
40 CFR 141 subpart C, appendix A [\(2018\)\(2013\)](#)  
40 CFR 143.4 [\(2018\)\(2013\)](#)

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ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF ADOPTED AMENDMENT

c) This Section incorporates no later amendments or editions.

(Source: Amended at 43 Ill. Reg. 6175, effective July 1, 2019)

## SECRETARY OF STATE

## NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Secretary of State Standard Procurement
- 2) Code Citation: 44 Ill. Adm. Code 2000
- 3) 

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
2000.15	Amendment
2000.1005	Amendment
2000.1510	Amendment
2000.2005	Amendment
2000.2010	Amendment
2000.2050	Amendment
2000.4015	Amendment
2000.4025	Amendment
2000.4030	Amendment
2000.4035	Amendment
2000.4545	Amendment
2000.5037	Amendment
2000.5039	Amendment
- 4) Statutory Authority: Implementing and authorized by The Illinois Procurement Code [30 ILCS 500].
- 5) Effective Date of Rules: May 9, 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 any material incorporated is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposed published in the *Illinois Register*: 42 Ill. Reg. 24773; December 28, 2018
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: No substantive changes made between proposal and adoption. No technical changes were recommended by JCAR.

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## NOTICE OF ADOPTED AMENDMENTS

- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? No agreements issued.
- 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: The Procurement Bulletin that we've been using will no longer be available to SOS after January 1st. To continue to meet the publication requirements of the Procurement Code, SOS has chosen the Higher Education Procurement Bulletin to meet its publication needs.
- 16) Information and questions regarding these adopted rules shall be directed to:

Secretary of State  
Amy Williams, Assistant General Counsel  
298 Howlett Building  
Springfield IL 62701

217/785-3094

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

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

TITLE 44: GOVERNMENT CONTRACTS, GRANTMAKING, PROCUREMENT  
AND PROPERTY MANAGEMENT  
SUBTITLE B: SUPPLEMENTAL PROCUREMENT RULES  
CHAPTER XXV: SECRETARY OF STATE

PART 2000  
SECRETARY OF STATE STANDARD PROCUREMENT

SUBPART A: GENERAL

Section	Title
2000.01	Title
2000.05	Policy
2000.08	Illinois Procurement Code
2000.10	Application
2000.15	Definition of Terms Used in This Part
2000.25	Property Rights

SUBPART B: PROCUREMENT RULES

Section	Rules
2000.525	Rules

SUBPART C: PROCUREMENT AUTHORITY

Section	Conduct and Oversight of Procurements
2000.1005	Conduct and Oversight of Procurements

SUBPART D: PUBLICIZING PROCUREMENT ACTIONS

Section	Illinois Procurement Bulletin
2000.1510	Illinois Procurement Bulletin
2000.1560	Supplemental Notice
2000.1570	Error in Notice
2000.1580	Direct Solicitation

SUBPART E: SOURCE SELECTION AND CONTRACT FORMATION

Section
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SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

- 2000.2005 General Provisions
- 2000.2010 Competitive Sealed Bidding
- 2000.2012 Multi-Step Sealed Bidding
- 2000.2015 Competitive Sealed Proposals
- 2000.2020 Small Purchases
- 2000.2025 Sole Economically Feasible Source Procurement
- 2000.2030 Emergency Procurements
- 2000.2035 Competitive Selection Procedures for Professional and Artistic Services
- 2000.2036 Other Methods of Source Selection
- 2000.2037 Tie Bids and Proposals
- 2000.2038 Mistakes
- 2000.2040 Cancellation of Solicitations; Rejection of Bids or Proposals

SUBPART F: SUPPLIERS, PREQUALIFICATION AND RESPONSIBILITY

Section

- 2000.2043 Suppliers
- 2000.2044 Vendor List/Required Use
- 2000.2045 Prequalification
- 2000.2046 Responsibility

SUBPART G: BID, PROPOSAL AND PERFORMANCE SECURITY

Section

- 2000.2047 Security Requirements

SUBPART H: SPECIFICATIONS AND SAMPLES

Section

- 2000.2050 Specifications and Samples

SUBPART I: CONTRACT TYPE

Section

- 2000.2055 Types of Contracts

SUBPART J: DURATION OF CONTRACTS

Section

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

2000.2060 Duration of Contracts – General

SUBPART K: CONTRACT MATTERS

Section

2000.2560 Prevailing Wage  
2000.2570 Equal Employment Opportunity; Affirmative Action  
2000.2580 Subcontractors

SUBPART L: CONTRACT PRICING

Section

2000.2800 All Costs Included

SUBPART M: CONSTRUCTION AND  
CONSTRUCTION RELATED PROFESSIONAL SERVICES

Section

2000.3005 Construction and Construction Related Professional Services

SUBPART N: REAL PROPERTY LEASES AND CAPITAL IMPROVEMENT LEASES

Section

2000.4000 Applicability  
2000.4005 Requests for Space/Department Responsibilities  
2000.4010 General Acquisition Procedures  
2000.4015 Acquisition of Leases by RFI  
2000.4020 Leases Acquired by Other Methods  
2000.4025 Renewal or Extension of Lease in Effect Prior to July 1, 1998  
2000.4030 Renewal of Leases Entered into After July 1, 1998  
2000.4035 Purchase Options  
2000.4040 Lease Administration  
2000.4045 Emergency Lease Procurement

SUBPART O: PREFERENCES

Section

2000.4505 Procurement Preferences  
2000.4510 Resident Bidder Preference

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NOTICE OF ADOPTED AMENDMENTS

- 2000.4530 Correctional Industries
- 2000.4535 Sheltered Workshops for the Disabled
- 2000.4540 Gas Mileage
- 2000.4545 Small Business
- 2000.4570 Contracting with Businesses Owned and Controlled by Minorities, Females and Persons with Disabilities

SUBPART P: ETHICS

- Section
- 2000.5013 Conflicts of Interest
- 2000.5015 Negotiations for Future Employment
- 2000.5020 Exemptions
- 2000.5030 Revolving Door
- 2000.5035 Disclosure of Financial Interests and Potential Conflicts of Interest
- 2000.5037 Vendor Registration, Certification and Prohibition on Political Contributions
- 2000.5039 Procurement Communication Reporting Requirement

SUBPART Q: CONCESSIONS

- Section
- 2000.5310 Concessions

SUBPART R: COMPLAINTS, PROTESTS AND REMEDIES

- Section
- 2000.5510 Complaints Against Vendors or Subcontractors
- 2000.5520 Suspension
- 2000.5530 Resolution of Contract Controversies
- 2000.5540 Violation of Statute or Rule
- 2000.5550 Protests
- 2000.5555 Hearings and Decisions

SUBPART S: SUPPLY MANAGEMENT AND DISPOSITIONS

- Section
- 2000.6010 Supply Management and Dispositions

SUBPART T: GOVERNMENTAL JOINT PURCHASING

## SECRETARY OF STATE

## NOTICE OF ADOPTED AMENDMENTS

## Section

- 2000.6500 General  
2000.6510 No Agency Relationship

## SUBPART U: MISCELLANEOUS PROVISIONS OF GENERAL APPLICABILITY

## Section

- 2000.7000 Severability  
2000.7010 Government Furnished Property  
2000.7015 Inspections  
2000.7020 Records and Audits  
2000.7025 Written Determinations  
2000.7030 No Waiver of Sovereign Immunity

AUTHORITY: The Illinois Procurement Code [30 ILCS 500].

SOURCE: Emergency rule adopted at 22 Ill. Reg. 12208, effective July 1, 1998, for a maximum of 150 days; adopted at 22 Ill. Reg. 20306, effective November 9, 1998; emergency amendment at 23 Ill. Reg. 5911, effective April 30, 1999, for a maximum of 150 days; emergency expired September 26, 1999; amended at 23 Ill. Reg. 13953, effective November 8, 1999; amended at 35 Ill. Reg. 4629, effective March 3, 2011; recodified Title header at 39 Ill. Reg. 5903; amended at 39 Ill. Reg. 11100, effective July 24, 2015; amended at 40 Ill. Reg. 13954, effective September 23, 2016; amended at 43 Ill. Reg. 6185, effective May 9, 2019.

## SUBPART A: GENERAL

**Section 2000.15 Definition of Terms Used in This Part**

As used throughout this Part, terms defined in the Illinois Procurement Code shall have the same meaning as in the Code and as further defined in this Section, and each term listed in this Section shall have the meaning set forth in this Section unless its use clearly requires a different meaning. Terms may be defined in particular Sections for use in that Section.

"Amendment" – A written unilateral or bilateral modification to a contract term, as permitted by the original contract. These modifications shall alter the performance and completion of the contract, including but not limited to such matters as extra work and increases or decreases in quantities of goods not included within the scope of the original contract.

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"Award" – The selection of a vendor for a contract.

"Bid" – The response to an Invitation for Bids.

"Bidder" – Any person other than an individual acting as a sole proprietor who submits a bid.

"Bidder or Offeror Authorized to do Business in Illinois" – A person (other than an individual acting as a sole proprietor) that is a legal entity authorized to do business in Illinois by the SOS Department of Business Services.

"Brand Name or Equal Specification" – A specification that uses one or more manufacturer's names or catalogue numbers to describe the standard of quality, performance, and other characteristics needed to meet State requirements, and that allows the submission of equivalent products.

"Brand Name Specification" – A specification limited to one or more items by manufacturers' names or catalogue numbers.

"Bulletin" – [Any Procurement Bulletin promulgated and produced by a State agency or institution as set forth in the Illinois Procurement Code.](#) ~~The Illinois Procurement Bulletin.~~

"Change Order" – A change order shall have the same meaning as an "amendment".

"Code" – The Illinois Procurement Code [30 ILCS 500].

"Concession" – The right or a lease to engage in a certain activity for profit on the lessor's premises (e.g., a refreshment or parking concession).

"Consulting Services" – Services provided by a business or person as an independent contractor to advise and assist an agency in solving specific management or programmatic problems involving the organization, planning, direction, control or operations of a State agency. The services may or may not rise to the level of professional and artistic as defined in the Code and this Part.

"Contract" – A contract may be in written or oral form. The term contract as

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used in the Code and this Part does not include: supplies or services the terms governing which are established by tariff of the Illinois Commerce Commission or the Federal Communications Commission, bonds issued by or on behalf of any State agency, or contracts, other than for "concessions", that the State agency signs, but has no financial obligation to the other parties.

"Contractor" or "Vendor" – The terms contractor and vendor are used interchangeably for purposes of the Code and this Part.

"Day" – Calendar day. In computing any period of time, the day of the event from which the designated period of time begins to run shall not be included, but the last day of the period shall be included unless it is a Saturday, Sunday, or a State holiday, in which event the period shall run to the end of the next business day.

"DCMS" – The Department of Central Management Services.

"Items" – Anything that may be procured under this Code.

"Invitation for Bids" or "IFB" – *The process by which a purchasing agency requests information from bidders, including all documents, whether attached or incorporated by reference, used for soliciting bids.* [30 ILCS 500/1-15.45]

"Multi-Year Contract" – A multi-year contract is a contract with a performance term of more than 12 months.

"Offeror" – A person who responds to an Invitation for Bids, Request for Proposals or other form of solicitation.

"Procurement Officer" – The Chief Procurement Officer (CPO) or appropriate State Purchasing Officer (SPO) who conducts the particular procurement, or a designee of either.

"Proposal" – The response to a Request for Proposals.

"Protest Review Office" – The office address of the person designated in the solicitation documents to which protests must be directed. The person designated in the solicitation documents will respond to or coordinate the response to the protest.

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"Qualified Products List" – An approved list of supplies described by model or catalogue numbers that, prior to competitive solicitation, the State has determined will meet the applicable specification requirements.

"Renewal" – An extension of an original contract with materially identical terms to the original contract.

"Request for Information" or "RFI" – The process by which a purchasing agency requests information from offerors for all State contracts for leases of real property or capital improvements.

"Request for Proposals" or "RFP" – *The process by which a purchasing agency requests information from offerors, including all documents, whether attached or incorporated by reference, used for soliciting proposals.* [30 ILCS 500/1-15.75]

"Responsible Bidder or Offeror" – A person who has the capability in all respects to perform fully the contract requirements and the integrity and reliability that will assure good faith performance. A responsible bidder or offeror shall not include a business or other entity that does not exist as a legal entity at the time the bid or proposal is submitted for State contract.

"Reverse Auction" – A source selection technique that allows for purchase of supplies or services through a competitive auction process. A reverse auction allows bidders to electronically submit prices for an Invitation for Bids during a predefined time period and is designed to obtain the lowest cost for supplies and services.

"Service" – *The furnishing of labor, time, or effort by a contractor, not involving the delivery of a specific end product other than reports or supplies that are incidental to the required performance* [30 ILCS 500/1-15.90] and the financing thereof.

"Solicitation" – An Invitation for Bids, a Request for Proposals or other request to one or more vendors to respond to a procurement need expressed by the State.

"SOS" – The Office of the Secretary of State.

"Specification" – Any description of the physical, functional, or performance

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characteristics, or of the nature, of a supply or service. A specification includes, as appropriate, requirements for inspecting, testing, or preparing a supply or service item for delivery. Unless the context requires otherwise, the terms "specification" and "purchase description" are used interchangeably throughout this Part.

"Specification for a Common or General Use Item" – A specification that has been developed and approved for repeated use in procurements.

"State" – The Office of the Secretary of State.

"Subcontract" – A contract between one person and another person who has or is seeking a contract subject to this Code, pursuant to which the subcontractor provides to the contractor some or all of the goods, services, property, remuneration or other form of consideration that are the subject of the primary contract and includes, among other things, subleases from a lessee of a State agency.

"Subcontractor" – A person or entity that enters into a contractual agreement, for an amount greater than the small purchases limits set by Section 20-20 of the Code (or an amount set by rule pursuant to Section 20-20(c) of the Code) or Section 35-35 of the Code or Section 45 of the Architectural, Engineering and Land Surveying Qualifications Based Selection Act [30 ILCS 535/45], with a contractor who has or is seeking a contract subject to the Code, to provide the contractor some or all of the goods, services, property, remuneration or other form of consideration that are the contractor's contractual obligations.

"Supplies" – *All personal property, including but not limited to equipment, materials, printing, and insurance, and the financing of those supplies.* [30 ILCS 500/1-15.110]

"Unsolicited Offer" – Any offer other than one submitted in response to a solicitation.

(Source: Amended at 43 Ill. Reg. 6185, effective May 9, 2019)

## SUBPART C: PROCUREMENT AUTHORITY

**Section 2000.1005 Conduct and Oversight of Procurements**

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## NOTICE OF ADOPTED AMENDMENTS

- a) Chief Procurement Officer. The Secretary of State shall designate a chief procurement officer (CPO) for purposes of the Code and this Part. The CPO may conduct any or all procurements on behalf of the SOS. The CPO shall have at least 5 years of experience in State budgeting or procurement activities, or shall be a certified professional public buyer or certified public purchasing officer by the Universal Public Purchasing Certification Council. The CPO shall be a resident of the State of Illinois and shall owe a fiduciary duty to the State. The CPO is responsible for signing all written award determination letters, stating the reasoning for any contract award decision. The CPO shall perform other duties as required by law.
- b) State Purchasing Officer. The Secretary may appoint one or more SPOs to conduct procurement in accordance with the terms of the appointment and this Part. The employee performing the duties of the SPO shall be classified as a Merit Compensation employee pursuant to Secretary of State Department of Personnel rules (80 Ill. Adm. Code 410 and 420) and, upon attaining certified status, shall have the employment protections afforded that status. SPOs must be certified as a professional public buyer or a public purchasing officer by the Universal Public Purchasing Certification Council within 18 months after appointment. In the absence of an SPO, the CPO may designate a temporary acting SPO. The SPO shall exercise procurement authority at the direction of the CPO, and the decisions of an SPO are subject to review by the CPO. The SPO may enter into contracts for the Office of the Secretary of State. The SPO shall perform other duties as required by law.
- c) Procurement Compliance Monitor. The Secretary of State Inspector General, appointed pursuant to Section 14 of the Secretary of State Act [15 ILCS 305/14], or his or her designee, shall serve as the Procurement Compliance Monitor. If a designee is appointed to serve as the monitor, that designee shall be classified as a Merit Compensation employee pursuant to Secretary of State Department of Personnel rules (80 Ill. Adm. Code 410 and 420) and, upon attaining certified status, shall have the employment protections afforded that status. It shall be the duty of the monitor to oversee and review the procurement processes. The monitor shall have direct communication with the Secretary. The monitor shall:
  - 1) have the right to review all contracts, attend any procurement meeting, and access reports and files;

## SECRETARY OF STATE

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- 2) issue reports to the CPO regarding outstanding procurement problems;
  - 3) ensure transparency and compliance with procurement laws;
  - 4) report findings of waste to SOS departments. If the department does not correct circumstances causing the waste, the monitor shall report to the CPO and the Inspector General; and
  - 5) perform other duties as required by law.
- d) Procurement Policy Board. The Secretary shall appoint a Secretary of State Procurement Policy Board (SOS PPB). The SOS PPB shall consist of 5 members. In making appointments to the SOS PPB, the Secretary shall consider an individual's knowledge and experience in State government procurements and operations. The members shall receive no compensation for serving on the SOS PPB other than reimbursement for expenses reasonably incurred in the performance of their duties . Except as provided in subsection (e), the SOS PPB shall:
- 1) be authorized to review, comment upon, and recommend rules and practices governing the procurement, management, control and disposal of supplies, services, professional or artistic services, construction, and capital improvements procured by the Office of the Secretary of State;
  - 2) be authorized to review any proposal, bid or contract, and may issue recommendations regarding procurement matters;
  - 3) be notified by the CPO if a conflict of interest is identified, discovered or reasonably suspected to exist. In the event of such notification, the SOS PPB is to recommend action and give its recommendation to the CPO and Secretary. The SOS PPB's recommendation shall be published in the ~~Procurement~~ Bulletin;
  - 4) report to the Inspector General whenever the PPB has cause to believe there has been a violation of the Procurement Code; and
  - 5) perform other duties as required by law.

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## NOTICE OF ADOPTED AMENDMENTS

- e) Real Estate Review Board. The Secretary shall appoint a Secretary of State Real Estate Review Board (RRB), consisting of 4 members plus the Property Management Administrator. The 4 appointed members shall include 2 real estate professionals, one attorney, and one accountant. The RRB shall be authorized to review, comment upon, and recommend rules and practices governing the procurement, leasing, management, control and disposal of real property by the Secretary of State. Reviews of real property transactions shall consider issues related to legality; fair market value; verifications of property information, including square footage, property taxes, etc.; accuracy of rent allocation schedules; accuracy of vendor disclosure documents; and possible conflicts of interest.
- f) Chief Internal Auditor. The Secretary shall appoint a chief internal auditor. The auditor must have a Bachelor's degree, and must be either a certified internal auditor, or a certified public accountant with at least 4 years of auditing experience, or an auditor with 5 years of experience. Any chief internal auditor appointed on or after July 1, 2010, shall be appointed for a period of 5 years and may only be removed for cause. The chief internal auditor shall report directly to the Secretary. Subject to the approval of the Secretary, and consistent with the Fiscal Control and Internal Auditing Act [30 ILCS 10], the chief internal auditor shall:
- 1) direct the internal audit functions and activities;
  - 2) prepare audit reports and assess program goals;
  - 3) be responsible for the preparation of an annual audit plan for submission to and subject to the approval of the Secretary; and
  - 4) perform other duties as required by law.

(Source: Amended at 43 Ill. Reg. 6185, effective May 9, 2019)

## SUBPART D: PUBLICIZING PROCUREMENT ACTIONS

**Section 2000.1510 Illinois Procurement Bulletin**

Notice of any procurement action required by the Code to be publicized in [a recognized](#)~~the~~ [Illinois](#) Procurement Bulletin will be forwarded to [the appropriate State agency or](#)

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~~institution~~DCMS for inclusion in the appropriate volume of the Bulletin ~~in accordance with rules promulgated by DCMS (44 Ill. Adm. Code 1).~~

(Source: Amended at 43 Ill. Reg. 6185, effective May 9, 2019)

## SUBPART E: SOURCE SELECTION AND CONTRACT FORMATION

**Section 2000.2005 General Provisions**

- a) Late Bids or Proposals, Late Withdrawals and Late Modifications
  - 1) Definition. Any bid or proposal received after the time and date for receipt, and at other than the specified location, is late. A bid that is delivered to the wrong location but that is subsequently delivered to the correct location by the date and time specified shall be considered, but the agency shall not be responsible for ensuring such subsequent delivery. Any withdrawal or modification of a bid or proposal received after the time and date set for opening of bids or proposals is late. If received at other than the specified location, the submission is late.
  - 2) Treatment. No late bid or proposal, late modification, or late withdrawal will be considered unless the Procurement Officer, and not a designee, determines it would have been timely but for the action or inaction of State personnel directly serving the procurement activity (e.g., providing the wrong address).
  - 3) Records. Records shall be made and, in accordance with the State Records Act [5 ILCS 160], kept for each late bid or proposal, late modification, or late withdrawal.
  - 4) Other Submissions. Any other submission that has a time or date deadline shall be treated in the same manner as a late bid.
- b) Extension of Time
  - 1) The Procurement Officer may, prior to the date or time for submitting or modifying a bid or proposal, extend the date or time for the convenience of the State.

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- 2) After opening bids or proposals, the Procurement Officer may request bidders or offerors who submitted timely bids or proposals to extend the time during which the State may accept the bids or proposals, provided that, with regard to bids, no other change is permitted. This extension does not provide an opportunity for others to submit bids or proposals.
- c) Electronic and Facsimile Submissions
- 1) The Invitation for Bids (IFB) or Request for Proposals (RFP) may state that electronic and facsimile machine submissions will be considered if they are received at the designated office by the time and date set for receipt. Any required attachments will be submitted as stated in the IFB or RFP.
  - 2) Electronic submissions authorized by specific language in the IFB or RFP will be opened in accordance with electronic security measures in effect at the SOS at the time of opening. Unless the electronic submission procedures provide for a secure receipt, vendor assumes risk of premature disclosure due to submission in unsealed form.
  - 3) Fax submissions authorized by specific language in the IFB or RFP will be placed in a sealed container upon receipt and opened as other submissions. Vendor assumes risk of premature disclosure due to submission in unsealed form.
- d) Intent to Submit
- The Invitation for Bids or the Request for Proposals may require that vendors submit, by a certain time and date, a notice of their intent to submit a bid or proposal in response to the IFB or RFP. Bids and proposals submitted without complying with the notice of intent requirement may be rejected.
- e) Only One Bid or Proposal Received
- If only one bid or proposal is received, an award may be made to the single bidder or offeror if the Procurement Officer finds that the price submitted is fair and reasonable, and that either other prospective bidders had reasonable opportunity to respond or there is not adequate time for resolicitation. Otherwise:
- 1) new bids or offers may be solicited, including under sole source (Section 2000.2025) or emergency (Section 2000.2030) procedures; or

## SECRETARY OF STATE

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- 2) the procurement may be canceled.
- f) Alternate or Multiple Bids or Proposals
- 1) Alternate bids or proposals may be accepted if:
    - A) permitted by the solicitation and in accordance with instructions in the solicitation; or
    - B) only one vendor responded, in which case the alternate submission may be evaluated and treated in accordance with Section 2000.2025 (Sole Economically Feasible Source Procurement) ~~of this Part~~; or
    - C) the low bidder, who has met all requirements of the solicitation, has provided a lower cost alternative that meets all of the material requirements of the specifications.
  - 2) Multiple bids or proposals may be accepted if:
    - A) permitted by the solicitation and submitted in accordance with instructions in the solicitation; or
    - B) only one vendor responded, then, one or more of the submissions may be evaluated, provided that, in the case of bids, only the lowest cost bid meeting specifications may be considered.
  - 3) If a vendor clearly indicates a primary submission among alternate or multiple bids or proposals, then that primary submission shall be considered for award as though it were the only bid or proposal submitted by the vendor.
- g) Multiple Items  
An Invitation for Bids or Request for Proposals may call for pricing of multiple items of similar or related type with award based on individual line item, group total of certain items, or grand total of all items.
- h) "All or None" Bids or Proposals

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All or none bids or proposals may be accepted if the evaluation shows an all or none award to be the lowest cost or best value of those submitted.

- i) **Conditioning Bids or Proposals Upon Other Awards**  
Any bid or proposal that is conditioned upon receiving award of the particular contract being solicited and one or more other State contracts shall:
  - 1) be rejected unless the vendor removes the condition; or
  - 2) be evaluated and award made to that vendor if the vendor is also independently evaluated as the winner of the other IFBs or RFPs provided the agency need not delay procurement actions to accommodate the vendor's all or none condition.
  
- j) **Unsolicited Offers**
  - 1) **Processing of Unsolicited Offers.** The Procurement Officer may consider unsolicited offers and shall have final authority with respect to evaluation, acceptance and rejection of such unsolicited offer.
  - 2) **Conditions for Consideration.** An unsolicited offer must be in writing and must be sufficiently detailed to allow a judgment to be made concerning the potential utility of the offer to the State.
  - 3) **Award.** An award may not be made based on an unsolicited offer in place of the notice and competition requirements of the Code and this Part except if that unsolicited offer meets the requirements for a small (Section 2000.2020), sole source (Section 2000.2025), or emergency (Section 2000.2030) procurement.
  
- k) **Clarification of Bids and Proposals**  
The Procurement Officer may request that a vendor clarify its bid or proposal as a part of the evaluation process. A vendor shall not be allowed to materially change its bid or proposal in response to a request for clarification. A clarification is not an opportunity to make changes or for submission of best and finals as authorized elsewhere in this Part.
  
- l) **Extension of Time on Indefinite Quantity Contracts**  
The time of performance of an indefinite quantity contract may be extended upon

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agreement of the parties, provided the extension is for 90 days or less and the Procurement Officer determines in writing that it is not practical to award another contract at the time of such extension.

- m) Increase in Quantity on Definite Quantity Contracts
  - 1) The quantity that may be ordered from a definite quantity contract without additional notice and competition may be increased by up to 20% provided the Procurement Officer determines that separate bidding for the additional quantity is not likely to achieve lower pricing. A particular procurement may specify a different percentage.
  - 2) The quantity may be increased by any percentage provided the dollar value of the increase does not exceed the applicable small purchase (Section 2000.2020) threshold.
- n) Subsequent Purchase Request

If, within 30 days after making an award to a particular vendor pursuant to a competitive sealed bid on behalf of the SOS, the SPO receives a purchase request for the same item and for the same or lesser quantity, the SPO may contract with that vendor on the same terms and conditions, including price, without additional notice and competition, if such contract is acceptable to the vendor.
- o) Assignment, Novation or Change of Name
  - 1) Assignment. No State contract is transferable, or otherwise assignable, without the written consent of the Procurement Officer, provided, however, that a vendor may assign money receivable under a contract after due notice to the State. Assignment may require the execution of a contract with the assignee and in such cases the assignee must meet all requirements for contracting with the State.
  - 2) Recognition of a Successor in Interest; Novation. When in the best interest of the State, a successor in interest may be recognized in a novation agreement in which the transferor and the transferee agree that:
    - A) the transferee assumes all of the transferor's obligations;
    - B) the transferee meets all requirements for contracting with the State;

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- C) the transferor waives all rights under the contract as against the State; and
  - D) unless the transferor guarantees performance of the contract by the transferee, the transferee shall, if required by the State, furnish a satisfactory performance bond.
- 3) Change of Name. A vendor may submit to the Procurement Officer a written request to change the name in which it holds a contract with the State. The name change shall not alter any of the terms and conditions of the contract or the obligations of the vendor.
- 4) Reports. All change of name or novation agreements under this subsection (o) shall be reported to the CPO of DCMS within 30 days after the date the agreement becomes effective so that the bid list may be updated.
- p) Contracting for Installment Purchase Payments, Including Interest  
Contracts may provide for installment purchase payments, including interest charges, over a period of time. The interest rate may not exceed that established by law, including the Bond Authorization Act [30 ILCS 305].
- q) Use of Source Selection Method that is Not Required  
If SOS uses a method of source selection that it is not, by law, required to use (e.g., use of a competitive sealed bid for a small purchase), the SOS is not bound to strict compliance with the Code and rules governing the method of source selection used.
- r) Vendor Signature  
A bid or proposal submitted unsigned will be evaluated if the vendor submits a written signature acceptable to the Procurement Officer within the time specified by that officer.
- s) Stringing  
Dividing or planning procurements to avoid use of competitive procedures (stringing) is prohibited.
- t) Confidential Data  
Vendors must clearly identify any information that is exempt from the disclosure

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requirement of the Illinois Freedom of Information Act [5 ILCS 140] and must request special handling of that material.

- u) Documentation of Procurement Actions  
Each SPO shall maintain in the procurement or associated contract file all substantive documents and records of communications that pertain to the procurement and any resulting contract. This shall include, as applicable, but is not limited to:
- 1) Procurement Business Case, signed by the CPO or SPO, that establishes the reason for the contract decision or other form of decision memo showing CPO or SPO approvals to proceed with the contract award;
  - 2) ~~Procurement~~ Bulletin postings;
  - 3) Solicitation document (e.g., IFB) and all amendments, clarifications and Best & Final requests;
  - 4) Vendors' responses, including clarifications and responses to Best & Final requests;
  - 5) Evaluation material (e.g., scoring guidelines and forms; completed score sheets for individual evaluators, including notes; evaluation committee's combined score sheets; evaluation committee's recommendation; and management's decision);
  - 6) Protest and resolution;
  - 7) Contract and any order, change, amendments, renewal or extension;
  - 8) Contractor Performance Reviews;
  - 9) All information from subsections (u)(1) through (8), less information exempt from disclosure under the Freedom of Information Act [5 ILAC 140], shall be prepared and available for inspection and copying, with information from subsections (u)(1) through (5) available on the date any award is posted to the ~~Procurement~~ Bulletin.

(Source: Amended at 43 Ill. Reg. 6185, effective May 9, 2019)

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**Section 2000.2010 Competitive Sealed Bidding**

- a) **Application**  
Competitive sealed bidding is the required method of source selection except as allowed by the Code and this Part. The provisions of this Section apply to every procurement required to be conducted by competitive sealed bidding.
- b) **The Invitation for Bids**
  - 1) **Use.** The Invitation for Bids is used to initiate a competitive sealed bid procurement.
  - 2) **Content.** The Invitation for Bids shall include, at a minimum, the following:
    - A) instructions and information to bidders concerning the bid submission requirements, including the time and date set for receipt of bids, the address of the office to which bids are to be delivered, and the maximum time for bid acceptance by the State;
    - B) the purchase description, evaluation factors, delivery or performance schedule, and such inspection and acceptance requirements as are not included in the purchase description; and
    - C) the contract terms and conditions, including warranty and bonding or other security requirements, as applicable.
  - 3) **Incorporation by Reference.** The Invitation for Bids may incorporate documents by reference provided that the Invitation for Bids specifies where such documents can be obtained.
- c) **Bidding Time**  
Bidding time is the period of time between the date of notice or distribution of the Invitation for Bids and the time and date set for receipt of bids. In each case, bidding time will be set to provide bidders a reasonable time to prepare their bids. A minimum of 14 days shall be provided unless a shorter time is authorized by the Code or this Part.

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- d) Bidder Submissions
- 1) Bid Form. The Invitation for Bids may include a form or format for submitting bids. If a form or format is specified, vendor shall submit bids as instructed.
  - 2) Bid Samples and Descriptive Literature
    - A) Bid samples or descriptive literature may be required when it is necessary to evaluate required characteristics of the items bid.
    - B) Unsolicited bid samples or descriptive literature is submitted at the bidder's risk, may not be examined or tested, will not be deemed to vary any of the provisions of the Invitation for Bids, and may not be utilized by the vendor to contest a decision or understanding with the State.
- e) Public Notice
- 1) Publication. Every procurement for supplies and services in excess of the small purchase amount that must be procured using an Invitation for Bids shall be publicized in the ~~Illinois Procurement~~ Bulletin (see Section 2000.1510).
  - 2) Public Availability. A copy of the Invitation for Bids shall be made available for public inspection.
  - 3) Distribution. Invitations for Bids or Notices of the Availability of Invitations for Bids may be mailed or otherwise furnished to a sufficient number of bidders for the purpose of securing competition. Notices of Availability shall, at a minimum, indicate where Invitations for Bids may be obtained; generally describe what is needed; and indicate the due date for bids. Where appropriate, the Procurement Officer may require payment of a fee or a deposit for supplying the Invitation for Bids.
- f) Pre-Bid Conference
- A pre-bid conference may be conducted to enhance understanding of the procurement requirements. The pre-bid conference shall be announced as a part of the Invitation for Bids notice. The conference may be designated as "attendance

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mandatory" or "attendance optional". The conference should be held long enough after the Invitation for Bids has been issued to allow bidders to become familiar with it, but sufficiently before bid opening to allow consideration of the conference results in preparing their bids. Nothing stated at the pre-bid conference shall change the Invitation for Bids unless a change is made by written modification to the Invitation for Bids. Amendments shall be supplied to all those prospective bidders known to have received an Invitation for Bids. If the conference is mandatory, the amendment shall be supplied to attendees only.

- g) Amendments to Invitations for Bids
  - 1) Form. Amendments to Invitations for Bids shall be clearly identified and shall reference the portion of the IFB it amends.
  - 2) Distribution. Amendments shall be made available to all prospective bidders known to have received an Invitation for Bids.
  - 3) Timeliness. Amendments shall be made available within a reasonable time to allow prospective bidders to consider them in preparing their bids. If the time and date set for receipt of bids will not permit such preparation, the amendment shall extend the response time. If necessary, the response time may be extended by fax or telephone and confirmed in the amendment.
- h) Pre-Opening Modification or Withdrawal of Bids
  - 1) Procedure. Bids may be modified or withdrawn by written notice received in the office designated in the Invitation for Bids prior to the time and date set for bid opening.
  - 2) Disposition of Bid Security. If a bid is withdrawn in accordance with this Section, the bid security, if any, shall be returned to the bidder.
  - 3) Records. All documents relating to the modification or withdrawal of bids shall be made a part of the appropriate procurement file.
- i) Receipt, Opening and Recording of Bids
  - 1) Receipt. Upon its receipt, each bid and modification shall be time-stamped but not opened and shall be stored in a secure place until the time

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and date set for bid opening. If a bid is opened in error, the file shall so state.

## 2) Opening and Recording

A) Bids and modifications shall be opened publicly at the time, date, and place designated in the Invitation for Bids. Opening shall be witnessed by a State employee or any other person present, but the person opening bids shall not serve as witness. The name of each bidder, the bid price, and such other information as is deemed appropriate by the Procurement Officer, shall be recorded and the name of each bidder read aloud or otherwise made available. The name of the witness shall also be recorded at the opening.

B) The winning bid shall be available for public inspection after award, along with the record of each unsuccessful bid.

3) Confidential Data. The SPO shall examine the bids to determine the validity of any requests for nondisclosure of trade secrets and other proprietary data identified in writing. If the parties do not agree as to the disclosure of data or other information, the bid shall be rejected as nonresponsive.

## j) Bid Evaluation and Award

1) General. The contract is to be awarded to the lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth in the Invitation for Bids, except as permitted in the Code and this Part. The Invitation for Bids shall set forth the requirements and criteria that will be used to determine the lowest responsive bidder. No bid shall be evaluated for any requirements or criteria that are not disclosed in the Invitation for Bids.

2) Responsibility. Responsibility of prospective vendors is covered by Section 2000.2046 (Responsibility) ~~of this Part~~.

3) Responsiveness. A bid must conform in all material respects to the Invitation for Bids.

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- A) Product or Service Acceptability. The Invitation for Bids shall set forth any evaluation criteria to be used in determining product or service acceptability. It may require the submission of bid samples, descriptive literature, technical data, references, licenses, or other information or material. It may also provide for accomplishing any of the following prior to award:
- i) inspection or testing of a product or service prior to award for such characteristics as quality or workmanship;
  - ii) examination of such elements as appearance, finish, taste, or feel;
  - iii) other examinations to determine whether it conforms with any other purchase description requirements.
- B) The acceptability evaluation is not conducted for the purpose of determining whether one bidder's product or service capability is superior to another, but only to determine that a bidder's offering is acceptable as set forth in the Invitation for Bids. Any bidder's offering that does not meet the acceptability requirements shall be rejected.
- 4) Determination of Lowest Bidder. Following determination of product or service acceptability as set forth in this subsection (j), bids will be evaluated to determine which bidder offers the lowest cost to the State in accordance with the evaluation criteria set forth in the Invitation for Bids. Only objectively measurable criteria that are set forth in the Invitation for Bids shall be applied in determining the lowest bidder. Examples of such criteria include, but are not limited to, transportation cost and ownership or life-cycle cost formulas. Evaluation factors need not be precise predictors of actual future costs, but to the extent possible such evaluation factors shall be reasonable estimates based upon information the State has available concerning future use and shall provide for the equitable treatment of all bids. Pricing for optional supplies or services, or for renewal terms, may be considered, particularly when the pricing for such items or terms is unbalanced when compared to other pricing in the bid.
- 5) Price Negotiation. Negotiations are permitted with the low bidder to

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obtain a lower price for the item bid.

- k) Documentation of Award  
Following award, a record showing the successful bidder shall be made a part of the procurement file.
- l) Award to Other Than Low Bidder
  - 1) The Procurement Officer, but not a designee, may award to other than the lowest responsible and responsive bidder upon a written determination that award to another bidder is in the State's best interest. The written explanation must be published in the appropriate volume of the ~~Procurement~~ Bulletin.
  - 2) This action may be appropriate when the difference in quality or speed of delivery is so great as compared to the difference in price, and considering the needs of the agency, that a best value award is justified. However, if the difference in price is significant, the Procurement Officer may not utilize this provision.
  - 3) The explanation must include:
    - A) a description of the SOS's needs;
    - B) a determination that the anticipated cost will be fair and reasonable;
    - C) a listing of all reasonable and responsive bidders; and
    - D) the name of the bidder selected, pricing, and the reasons for selecting that bidder.
  - 4) The explanation shall be filed with the Legislative Audit Commission and the SOS PPB.
- m) Publicizing Award  
The successful bidder shall be notified of award and the notification may be in the form of a letter, purchase order or other clear communication. In procurements over the small purchase limit set in Section 2000.2020 (Small Purchases) ~~of this~~

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~~Part~~, notice of award shall be published in the Bulletin.

(Source: Amended at 43 Ill. Reg. 6185, effective May 9, 2019)

## SUBPART H: SPECIFICATIONS AND SAMPLES

**Section 2000.2050 Specifications and Samples**

- a) Responsibilities Regarding Specifications
  - 1) The Procurement Officer shall write the necessary specifications except as noted in this subsection (a).
  - 2) If a specification for general or common use or a qualified products list exists for an item to be procured under Section 20-20 of the Code (Small Purchases), it shall be used except as otherwise authorized by the SPO. If no such specification exists, the Procurement Officer shall have the authority to prepare specifications for use in such purchases. In an emergency under Section 20-30 of the Code, any necessary specification may be utilized without regard to the provisions of this Subpart.
- b) Procedures for the Development of Specifications
  - 1) If the SPO develops a specification for a common or general use item or has developed a qualified products list in accordance with this Section for a particular supply or service, it shall be used unless the SPO authorizes use of another specification.
  - 2) All procurements shall be based on specifications that accurately reflect the State's needs. Specifications shall clearly and precisely describe the salient technical or performance requirements.
  - 3) Specifications shall not include restrictions that do not significantly affect the technical requirements or performance requirements, or other legitimate State needs. All specifications shall be written in such a manner as to describe the requirements to be met, without having the effect of exclusively requiring a proprietary supply or service, or procurement from a sole source, unless no other manner of description will suffice.

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- 4) Any specifications or standards adopted by business, industry, not-for-profit organization or governmental unit may be adopted by reference.
  - 5) A specification may provide alternate descriptions where two or more design, functional, or performance criteria will satisfactorily meet the State's requirements.
- c) Brand Name or Equal Specification
- 1) Brand name or equal specifications may be used when the Procurement Officer determines in writing that:
    - A) no specification for a common or general use specification or qualified products list is available;
    - B) time does not permit the preparation of another form of specification, not including a brand name specification;
    - C) the nature of the product or the nature of the State's requirement makes use of a brand name or equal specification suitable for the procurement; or
    - D) use of a brand name or equal specification is in the State's best interest.
  - 2) Brand name or equal specifications shall seek to designate more than one brand as "or equal", and shall further state that substantially equivalent products to those designated will be considered for award.
  - 3) Unless the Procurement Officer determines that the essential characteristics of the brand names included in the specifications are commonly known in the industry or trade, brand name or equal specifications shall include a description of the particular design, functional, or performance characteristics that are required.
  - 4) Where a brand name or equal specification is used in a solicitation, the solicitation shall contain explanatory language that the use of a brand name is for the purpose of describing the standard of quality, performance, and characteristics desired and is not intended to limit or restrict

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competition. "Or equal" submissions will not be rejected because of minor differences in design, construction or features that do not affect the suitability of the product for its intended use. Burden of proof that the product is equal is on the bidder.

## d) Brand Name Only Specification

- 1) Determination. A brand name only specification may be used only when the Procurement Officer makes a written determination that only the identified brand name item or items will satisfy the State's needs.
- 2) Use. Brand name alone may be specified in order to ensure compatibility in existing systems, to preserve warranty, to ensure maintenance, or as authorized in writing by the SPO. The Procurement Officer may, pursuant to an authorized competitive procedure, select a particular vendor to provide supplies or services for a specified period of time, and for that period the supplier of additional, related and updated supplies and services may be limited to the selected vendor or the brand initially selected.
- 3) Competition. The Procurement Officer shall seek to identify sources from which the designated brand name item or items can be obtained and shall solicit such sources to achieve whatever degree of competition is practicable. If only one source can supply the requirement, the procurement shall be made under Section 2000.2025 (Sole Economically Feasible Source Procurement) ~~of this Part.~~
- 4) Small and Emergency Procurements. Brand name only specifications may be used when procuring items under the small (Section 2000.2020) and emergency (Section 2000.2025) provisions ~~of this Part.~~

## e) Qualified Products List

- 1) Use. A qualified products list may be developed by the Procurement Officer when testing or examination of the supplies prior to issuance of the solicitation is desirable or necessary in order to best satisfy State requirements.
- 2) Solicitation. When developing a qualified products list, a representative group of potential suppliers shall be solicited in writing to submit products

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for testing and examination to determine acceptability for inclusion in a qualified products list. Any potential supplier, even though not solicited, may offer its products for consideration during the time allowed for testing and examination.

- 3) **Testing and Confidential Data.** Inclusion on a qualified products list shall be based on results of tests or examinations conducted in accordance with established requirements. Except as otherwise provided by law, trade secrets, test data, and similar information provided by the supplier will be kept confidential when requested in writing by the supplier.
- f) **Proven Products**  
The supply or service may be rejected if it has not been offered to other governmental or commercial accounts for at least one year. Specifications may require that the supply or services must have been used in business or industry for a specified period of time to be considered.
- g) **State Required Samples**
- 1) Any required samples must be submitted as instructed in the solicitation with transportation prepaid by the vendor. Each sample must be labeled with the vendor's name, address and a means of matching the sample with the applicable bid or proposal.
  - 2) Any sample submitted must be representative of the item that would be delivered if a contract were awarded for that item. Samples submitted by a successful vendor will be retained to check continuing quality. Submission of samples will not limit the State's right to require adherence to specifications.
  - 3) No payment will be made for State Required Samples. Samples not destroyed or consumed by examination or testing will be returned upon request and at vendor's expense. Such request must be made at time of submission with return collect or prepayment provisions and instructions for return accompanying the samples.
- h) **Product Demonstration**  
Any vendor may request time and space to demonstrate a product or service. Agreement to allow such demonstration will be solely at the State's discretion and

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will not entitle the bidder to a contract nor shall payment for the demonstration be allowed unless a written contract had been executed prior to the demonstration.

- i) Specifications Prepared by Other Than State Personnel
  - 1) Specifications may be prepared by other than State personnel, including, but not limited to, consultants, architects, engineers, designers, and other drafters of specifications for public contracts when the Procurement Officer determines that there will be no substantial conflict of interest involved and it is otherwise in the best interest of the State, and provided the Procurement Officer retains the authority to finally approve the specifications. Contracts for the preparation of specifications by other than State personnel shall require the specification writer to adhere to State requirements.
  - 2) The person who prepared the specifications shall not submit a bid or proposal to meet the procurement need unless the Secretary of State, and not a designee, determines in writing that it would be in the best interest to accept such a bid or proposal from that person. A notice to that effect shall be published in the Bulletin.
- j) Pre-solicitation Assistance/Specifications Prepared by Other Than State Personnel
  - 1) Prior to issuing a solicitation, an SPO may issue an RFI to obtain services of any person or business to conduct research, analyze requirements or provide general design or other assistance to help the SOS develop its procurement strategy, specifications and documents and to identify and address other related needs. No services can be obtained to assist the SOS in reviewing, drafting or preparing an RFP or RFI or to provide similar assistance.
  - 2) Notice. A Request for Information shall be published in the ~~Illinois Procurement~~ Bulletin for at least 7 calendar days. All information received in response to an RFI shall be published in the Bulletin for at least 7 calendar days.
  - 3) The RFI shall contain at least the following:
    - A) the name of the requesting agency;

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- B) a brief description of the agency's need; and
- C) a statement that the RFI is not a solicitation.

(Source: Amended at 43 Ill. Reg. 6185, effective May 9, 2019)

## SUBPART N: REAL PROPERTY LEASES AND CAPITAL IMPROVEMENT LEASES

**Section 2000.4015 Acquisition of Leases by RFI**

All leases, except those falling under the exceptions listed in Section 2000.4020 or emergency procurements (Section 2000.4045) will be acquired as follows:

- a) All leases will be procured by a Request for Information (RFI). RFIs will contain at a minimum the following information:
  - 1) A description of the general type of property to be leased.
  - 2) The proposed use of the property.
  - 3) The proposed term of the lease.
  - 4) Preferred location of the property.
  - 5) General information such as size of space, configuration desired and any other appropriate requirements.
  - 6) Address to which requests for proposal may be sent.
  - 7) Date on which responses are due.
- b) Notice of the RFI shall be:
  - 1) published at least 14 days prior to the deadline for responding in both the ~~Illinois Procurement~~ Bulletin and a newspaper having general circulation in the area in which space is being sought.
  - 2) Of an appropriate size to draw attention and shall be placed in the legal

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advertisement section.

- c) A proposal package shall be mailed to all parties requesting one in writing. Proposal packages may also be mailed to owners of property that may meet the State's needs.
- d) Proposal packages shall at a minimum include:
  - 1) A Proposal Form.
  - 2) A copy of the Agency Program Requirements.
  - 3) An envelope for submitting the proposal.
  - 4) The date on which proposals must be submitted.
- e) All responses to the RFI will be publicly opened on the announced opening date. Names of all parties submitting proposals will be made available to the public.
- f) Secretary of State representatives may conduct discussions with respondents to further clarify the needs of the State or obtain further information on responses.
- g) On the basis of the responses to the RFI, the CPO or designee shall make a written determination of which RFIs submitted are responsive to the State's basic criteria.
- h) Secretary of State representatives will enter into negotiations with all parties submitting responsive RFIs for the purpose of obtaining the best terms for the State. A written record of all negotiations will be maintained by the Secretary of State.
- i) The Secretary of State representative shall review all relevant information and shall recommend to the CPO which proposal should be accepted.
- j) The CPO will make the final award, which will be announced in the [Illinois Procurement Bulletin](#).
- k) The lease will be reduced to writing and executed by all parties.

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- l) Should the lowest priced proposal not be selected, the CPO shall publish notice, along with the reasons for such selection, in the next available edition of the ~~Procurement~~ Bulletin.
- m) The State reserves the right to reject any and all proposals and to request and evaluate "best and final" proposals. All decisions on compliance, evaluations, terms and conditions shall be made solely at the State's discretion and made to favor the State.

(Source: Amended at 43 Ill. Reg. 6185, effective May 9, 2019)

**Section 2000.4025 Renewal or Extension of Lease in Effect Prior to July 1, 1998**

Leases in effect prior to July 1, 1998 may be renewed or extended without advertisement or an RFI process if:

- a) The CPO determines that the renewal or extension is in the best interest of the State.
- b) The CPO publishes notice of the renewal or extension in the next available issue of the ~~Procurement~~ Bulletin.

(Source: Amended at 43 Ill. Reg. 6185, effective May 9, 2019)

**Section 2000.4030 Renewal of Leases Entered into After July 1, 1998**

- a) Leases may be renewed if:
  - 1) The CPO determines in writing that such renewal is in the best interest of the State.
  - 2) Notice of such renewal is published in the ~~Procurement~~ Bulletin at least 60 days prior to the exercise of such option.
- b) Documentation justifying renewals shall be maintained in Secretary of State lease files.

(Source: Amended at 43 Ill. Reg. 6185, effective May 9, 2019)

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**Section 2000.4035 Purchase Options**

- a) All leases of free standing facilities shall contain an option to purchase exercisable by the State.
- b) Purchase options may be omitted if:
  - 1) The lease is with a governmental entity or a not-for-profit entity.
  - 2) The CPO determines that the purchase option is not in the State's best interest and publishes his/her written determination in the [Procurement Bulletin](#).

(Source: Amended at 43 Ill. Reg. 6185, effective May 9, 2019)

## SUBPART O: PREFERENCES

**Section 2000.4545 Small Business**

- a) **Set-Aside**  
The CPO for DCMS may determine categories of supplies or service procurements that will be set aside for small business located in Illinois. The SPO may contact DCMS to determine whether a particular procurement has been set aside for small business, and, if so, the SOS may honor the set aside to the extent practicable.
- b) **Small Business List**  
The SOS may refer to the list of responsible vendors that meet the criteria of small business. A business that fits the definition of small on the day of bid or proposal opening will be considered small for the duration of the contract.
- c) **Required Use**  
If a Procurement Officer wishes to make a procurement covered by a set-aside designation, the solicitation must note responses are limited to those from responsible small businesses. Bids or proposals received from large businesses will be rejected as nonresponsive.
- d) **Withdrawal of Set-Aside**

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If the Procurement Officer determines that acceptance of the best bid or proposal will result in the payment of an unreasonable price, the Procurement Officer shall reject all bids or proposals and withdraw the designation of small business set-aside for the procurement in question. When a small business set-aside is withdrawn, notification shall be published in the [Illinois Procurement Bulletin](#) with an explanation. After withdrawal of the small business set-aside, the procurement shall be conducted in accordance with the limitations of the Code and this Part.

## e) Criteria for Small Business

Unless the CPO provides a definition for a particular procurement that reflects industrial characteristics, a small business is one:

- 1) Independently owned and operated.
- 2) Not dominant in its field of operations. This means the business does not exercise a controlling or major influence in a kind of business activity in which a number of business concerns are primarily engaged. In determining dominance, consideration shall be given to all appropriate factors, including volume of business, number of employees, financial resources, competitive status or position, ownership or control of materials, processes, patents, license agreements, facilities, sales territory, and nature of business activity.
- 3) With annual sales for most recently ended fiscal year no greater than:
  - A) \$10,000,000 for wholesale business;
  - B) \$10,000,000 for construction business; or
  - C) \$6,000,000 for retail business.
- 4) With no more than 250 employees if a manufacturing business.
  - A) A manufacturing business shall calculate how many people it employs by determining its average full-time equivalent employment, based on the number of persons employed on a full-time, part-time, temporary or other basis, for its most recently ended fiscal year.

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- B) If a manufacturing business has been in existence for less than a full fiscal year, its average employment should be calculated for the period through one month prior to the bid or proposal due date.
- 5) If the business is any combination of retailer, wholesaler, or construction business, then the annual sales for each component may not exceed the amounts shown in subsection (e)(3). For example, a business that is both a retailer and a wholesaler may not have total sales exceeding \$16,000,000, and the retail component may not exceed \$6,000,000 and the wholesale component may not exceed \$10,000,000. If the business is also a manufacturer, in addition to meeting the annual sales requirement, the number of manufacturing employees may not exceed the number shown in subsection (e)(4).
- 6) When computing the size status of a vendor, the number of employees and annual sales and receipts, as applicable, of the vendor and all affiliates shall be included. Concerns are affiliates when either one directly or indirectly controls or has the power to control the other, or when a third party or parties controls or has the power to control both. In determining whether concerns are independently owned and operated and whether affiliation exists, consideration shall be given to all appropriate factors, including use of common facilities, common ownership and management and contractual arrangements. However, a franchise relationship shall not affect small business status if the franchise has the right to profit commensurate with ownership and bears the risk of loss or failure.

(Source: Amended at 43 Ill. Reg. 6185, effective May 9, 2019)

## SUBPART P: ETHICS

**Section 2000.5037 Vendor Registration, Certification and Prohibition on Political Contributions**

- a) Introduction  
Illinois law [~~10~~ ILCS 5/9-35 and 30 ILCS 500/20-160 and 50-37] (the statutes) restricts political contributions by vendors and affiliated entities; requires registration with the State Board of Elections (SBEL); requires a copy of the registration certificate stamped by SBEL (Registration Certificate) to be

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submitted with bids/proposals and contracts; and requires solicitation and contract certifications relative to the requirements of the law. This Section supplements requirements found in the statutes and does not excuse compliance with any of those requirements.

- b) General Registration Requirements
  - 1) These requirements apply to contracts, bids and proposals that are subject to the Illinois Procurement Code:
    - A) Bids/proposals referenced in this Section are those submitted in response to a competitive solicitation that is posted to the ~~Illinois Procurement~~ Bulletin on or after January 1, 2009, regardless of the value assigned to the procurement.
    - B) Bids and proposals include pending bids and proposals.
    - C) These requirements generally apply to a vendor whose existing State contracts have an aggregate value in excess of \$50,000, whose aggregate value of bids/proposals for State contracts exceeds \$50,000, or whose aggregate value of State contracts and bids/proposals exceeds \$50,000.
    - D) This value is calculated on a calendar-year basis.
  - 2) On a calendar-year basis, each vendor or potential vendor must keep track of the value of contracts and bids/proposals. Vendors must register with SBEL when the vendor determines that the value of the contracts and bids/proposals meets the threshold for registration.
  - 3) An "executive employee" means:
    - A) the President, Chairman of the Board, or Chief Executive Officer of a business entity and any other individual that fulfills equivalent duties as the President, Chairman of the Board, or Chief Executive Officer of a business entity.
    - B) any employee of a business entity whose compensation is determined directly, in whole or in part, by the award or payment

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of contracts by a State agency to the entity employing the employee, irrespective of the employee's title or status in the business entity. For the purposes of this subsection (b)(3)(B), compensation determined directly by award or payment of contracts means a payment over and above regular salary that would not be made if it were not for the award of the contract.

## c) Bids and Proposals

- 1) A copy of the Registration Certificate must be submitted with bids/proposals.
- 2) If the Registration Certificate is not timely submitted, the SOS will reject the bid/proposal.
- 3) The SOS will not reject a bid/proposal if absence of the Registration Certificate is the result of delay or error by the State, but will require the Registration Certificate before making an award.

## d) Contracts

A copy of the Registration Certificate must be in the procurement file as set forth in this subsection (d), unless the Vendor certifies it is not required to register.

- 1) For contract renewals and extensions, if the value of the renewal or extension by itself, or in combination with the contract being renewed/extended and other contracts and bids/proposals exceeds \$50,000, the vendor must provide the Registration Certificate and make the appropriate contract certification, if it has not already done so.
- 2) For indefinite quantity/estimated value contracts, a vendor who is otherwise not required to register shall register with SBEL when the value of orders placed pursuant to an indefinite/estimated value contract plus all other contracts and bids/proposals exceeds \$50,000.
- 3) For contract amendments, if the value of the amendment, by itself or in combination with the contract being renewed plus other contracts and bids/proposals, exceeds \$50,000, the vendor must provide the Registration Certificate and make the appropriate contract certification, if it has not already done so.

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- 4) Any contracts mistakenly executed in violation of this Section must be amended to include the contract certifications, and the vendor must supply the Registration Certificate. If any violation by the vendor is not cured within 5 business days after receipt of notification of the violation, the contract is voidable by the State without penalty.
- 5) Contract certification required by the statutes shall be included in or added to each contract that must be filed with the State Comptroller pursuant to Section 20-80 of the Illinois Procurement Code and those written, two-party contracts that need not be filed with the Comptroller. The SOS may require written confirmation of the rule-imposed certification at any time.

(Source: Amended at 43 Ill. Reg. 6185, effective May 9, 2019)

**Section 2000.5039 Procurement Communication Reporting Requirement**

- a) Unless otherwise specified in this Section, any written or oral communication received by a Secretary of State *employee who, by the nature of his or her duties, has the authority to participate personally or substantially in the decision to award a State contract and that imparts or requests material information or makes a material argument regarding potential action concerning an active procurement matter, including, but not limited to, an application, a contract or a project, shall be reported to the SOS Procurement Policy Board.* [30 ILCS 500/50-39(a)]
  - 1) As soon as practicable, but in no event more than 30 days after receipt of the communication or the first in a series of related communications described in subsection (b), the Secretary of State employee shall report the communication to the SOS Procurement Policy Board.
  - 2) *No trade secrets or other proprietary or confidential information shall be included in any communication reported to the SOS Procurement Policy Board.* [30 ILCS 500/50-39(b)]
- b) A communication must be reported if it is material, regarding a potential action, relating to an active procurement matter, and not otherwise excluded from reporting.

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- 1) Materiality
  - A) *"Material information" is information that a reasonable person would deem important in determining his or her course of action. It is information pertaining to significant issues, including, but not limited to, price, quantity, and terms of payment or performance.*
  - B) *A "material argument" is a communication that a reasonable person would believe was made for the purpose of influencing a decision relating to a procurement matter. It does not include general information about products, services or industry best practices, or a response to a communication initiated by an SOS employee for the purpose of providing information to evaluate new products, trends, services, or technologies. [30 ILCS 500/50-39(g)]*
  - C) In determining whether a communication is material, the SOS employee must consider:
    - i) whether the information conveyed is new or already known to the SOS (or repeated or restated privately) and other participants in the communication; and
    - ii) the likelihood that the information would influence a pending procurement matter.
- 2) A "potential action" is one that a reasonable person would believe could affect the initiation, development or outcome of a procurement matter.
- 3) *"Active procurement matter" means a procurement process beginning with the requisition or determination of need by an agency and continuing through the publication of an award notice or other completion of a final procurement action, the resolution of any protests, and the expiration of any protest or SOS Procurement Policy Board review period, if applicable. The Chief Procurement Officer may designate a document for an agency to use in documenting a determination of need. "Active procurement matter" also includes communications relating to change orders, renewals or extensions. [30 ILCS 500/50-39(g)] "Procurement processes" includes the processes of procuring specific goods, supplies,*

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services, professional or artistic services, construction, leases of real property (whether the State is the lessor or lessee), or capital improvements, and includes master contracts, contracts for financing through use of installment or lease-purchase arrangements, renegotiated contracts, amendments to contracts, and change orders. Active procurement matters include:

- A) drafting, reviewing or preparing specifications, plans or requirements, including determining the method of source selection;
  - B) drafting, reviewing or preparing any Invitations for Bid, Requests for Information, Requests for Proposals, sole source procurement justifications, emergency procurement justifications or selection information;
  - C) evaluating bids, responses and offers, and other communications among an evaluation team and any technical advisors to the team relating to the evaluation of a procurement not yet awarded;
  - D) letting or awarding a contract;
  - E) resolving protests;
  - F) determining inclusion on prequalification lists or prequalification in general;
  - G) identifying potential conflicts of interest or voiding or allowing a contract, bid, offer or subcontract for a conflict of interest;
  - H) allowing a conflict or subcontract pursuant to Section 50-60 of the Code; and
  - I) determining, drafting, preparing, executing, denying or approving change orders or the renewal or extension of an existing contract.
- c) This Section does not apply to the following communications:

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- 1) *Statements by a person publicly made in a public forum. However, communications made in a public forum, if made again privately, must be reported;*
- 2) *Statements regarding matters of procedure and practice, such as format, the number of copies required, the manner of filing, and the status of a matter;*
- 3) *Communications regarding the administration and implementation of an existing contract, except communications regarding change orders or the renewal or extension of an existing contract;*
- 4) *Statements made by an SOS employee to:*
  - A) *the employee's department head;*
  - B) *other SOS employees;*
  - C) *employees of the Executive Ethics Commission;*
  - D) *the Office of the Executive Inspector General for the Secretary of State; or*
  - E) *an employee of another State agency who, through the communication, is either:*
    - i) *exercising his or her experience or expertise in the subject matter of the particular procurement in the normal course of business, for official purposes, and at the initiation of the purchasing agency or the appropriate State Purchasing Officer; or*
    - ii) *exercising oversight, supervisory or management authority over the procurement in the normal course of business and as part of official responsibilities;*
- 5) *Unsolicited communications providing general information about products, services or industry best practices, before those products or services become involved in a procurement matter;*

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- 6) *Communications received in response to procurement solicitations pursuant to the Illinois Procurement Code, including, but not limited to, vendor responses to a Request for Information, Request for Proposal, Request for Qualifications, Invitation for Bid or a small purchase, sole source or emergency solicitation, or questions and answers posted to the ~~Procurement~~ Bulletin to supplement the procurement action, provided that the communications are made in accordance with the instructions contained in the procurement solicitation, procedures or guidelines;*
  - 7) *Communications that are privileged, protected or confidential under law;*
  - 8) *Communications that are part of a formal procurement process as set out by statute, rule or the solicitation, guidance or procedures, including, but not limited to, the posting of procurement opportunities, the processes for approving a procurement business case or its equivalent, fiscal approval, submission of bids, the finalizing of contract terms and conditions with an awardee or apparent awardee, and similar formal procurement processes.* [30 ILCS 500/50-39(a)]
- d) Notwithstanding any exemption provided in subsection (c), an SOS employee must report any communication that imparts or requests material information or makes a material argument regarding a potential action concerning an active procurement matter if that communication attempts to influence through duress, coercion or the direct or indirect offer or promise of anything of value to any person or entity in consideration for any benefit or preference in the procurement process.
  - e) Notwithstanding any exemption provided in subsection (c), an SOS employee must report any communication that imparts or requests material information or makes a material argument regarding a potential action concerning an active procurement matter if the employee reasonably believes the communication was made for any improper purpose, including, but not limited to, providing an improper benefit, monetary or nonmonetary, to any person or entity.
  - f) This Section does not apply to communications concerning procurements that are exempt from the Illinois Procurement Code.

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- g) For purposes of this Section, "Secretary of State employee" or "SOS employee" means:
- 1) any person employed full-time, part-time or pursuant to a personal services contract and whose employment duties are subject to the direction and control of the SOS with regard to the material details of how the work is to be performed;
  - 2) any appointed or elected commissioner, trustee, director or board member of a board of the SOS; or
  - 3) any other person appointed to a position in or with the SOS, regardless of whether the position is compensated.
- h) For purposes of this Section, "public forum" includes any meeting that satisfies the notice requirements contained in Section 2.02 of the Open Meetings Act [5 ILCS 120], but also includes other public events that are advertised and generally open to the public. A meeting may be a public forum even if a reasonable fee is required, such as educational seminars and conferences.

(Source: Amended at 43 Ill. Reg. 6185, effective May 9, 2019)

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- 1) Heading of the Part: Remittance Agents
- 2) Code Citation: 92 Ill. Adm. Code 1019
- 3) 

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
1019.10	Amendment
1019.20	Amendment
1019.30	Amendment
- 4) Statutory Authority: Implementing Chapter 3, Article IX, and authorized by Section 2-104(b), of the Illinois Vehicle Code [625 ILCS 5].
- 5) Effective Date of Rules: May 9, 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 any material incorporated is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposed published in the *Illinois Register*: 42 Ill. Reg. 24846; December 28, 2018
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version:
  1. In Section 10, the following changes were made:
    - b) 3) proposed language was changed to reflect IVC Section 3-908. "The business shall be permanently mounted on a fixed foundation and may not include a trailer with axle attached and still moveable." to "A licensee shall not do business at a location not set forth in his or her license. (IVC Section 3-908)".
    - 8) proposed language deleted "administrative," with the word "and" being stricken.

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- 9) new language added, "whether a civil, criminal, or administrative proceeding under the Retailers' Occupation Tax Act [35 ILCS 120] or IVC Chapter 3, Article I or VII has determined that the applicant has committed a violation within the past 3 years; and".
- 10) Strike "9)" and add "10)".
2. Delete Section 40 from the code and the register and the notice pages.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? No agreements issued.
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any other rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: This rulemaking is necessary to ensure that the Secretary of State can adequately regulate remitters that provide services to the constituents. The amendments will allow the Secretary of State to better protect the public from fraud and improper transactions.
- 16) Information and questions regarding these adopted rules shall be directed to:

Secretary of State  
Amy Williams, Assistant General Counsel  
298 Howlett Building  
Springfield IL 62701

217/785-3094

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

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## NOTICE OF ADOPTED AMENDMENTS

TITLE 92: TRANSPORTATION  
CHAPTER II: SECRETARY OF STATEPART 1019  
REMITTANCE AGENTS

## Section

1019.5	Definitions
1019.10	Application for Remittance Agency License and Renewal
1019.20	Denial of Application for Remittance Agent's License
1019.30	Suspension and Revocation of Remittance Agents' Licenses
1019.35	Processing Transactions
1019.40	Recordkeeping Requirements
1019.45	Severability Clause

AUTHORITY: Implementing Chapter 3, Article IX, and authorized by Section 2-104(b), of the Illinois Vehicle Code [625 ILCS 5].

SOURCE: Adopted at 13 Ill. Reg. 4944, effective April 1, 1989; amended at 14 Ill. Reg. 5813, effective April 15, 1990; amended at 42 Ill. Reg. 223, effective December 19, 2017; amended at 43 Ill. Reg. 6231, effective May 9, 2019.

**Section 1019.10 Application for Remittance Agency License and Renewal**

- a) If a person wishes to become a remittance agent, he/she shall file an application and bond pursuant to Sections 3-904 and 3-905 of the Illinois Vehicle Code [625 ILCS 5] (IVC). The application shall be filed with the Office of the Secretary of State as set forth in subsection (f).
- b) The notarized application shall contain the following information:
  - 1) the previous year's license number if the person is currently licensed as a remittance agent;
  - 2) the name of the business;
  - 3) the location of the business. *A licensee shall not do business at a location not set forth in his or her license. (IVC Section 3-908)* The location of the business shall also include a working printer and facsimile capabilities;

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- 4) the applicant's home address, home telephone number and business telephone number;
  - 5) the applicant's business, occupation or profession;
  - 6) the total amount of cash, checks, electronic payments or money orders made payable to the remitter received for remittance to the State in the highest 15 day period in the preceding year if the person is currently licensed;
  - 7) whether the applicant, a member of his/her immediate family, or any employee of the applicant is an employee of the Secretary of State;
  - 8) whether the applicant has ever been involved in civil or criminal litigation and if so, the type of litigation, the date and suit or charge, the court in which the matter was heard, the style or caption of the case, the disposition of the matter, and if the judgment has been satisfied; ~~and~~
  - 9) whether a civil, criminal, or administrative proceeding under the Retailers' Occupation Tax Act [35 ILCS 120] or IVC Chapter 3, Article I or VII has determined that the applicant has committed a violation within the past 3 years; and
  - 109) a list of the employees and an authorization to conduct a background check of each employee.
- c) A surety bond shall be posted for each location where the applicant intends to do business as a remittance agent. Each bond shall be for ~~\$20,000~~\$10,000 or in the amount of cash, checks, electronic payments or money orders made payable to the remitter received for remittance to the Department during the highest 15 day period in the year preceding the year for which the license is applied, whichever is greater. The bond shall be issued by a bonding or insurance company authorized to do business in Illinois. The Department shall use a list issued by the Department of Insurance to determine if the bonding or insurance company is authorized to issue the bond.
- d) The applicant shall also submit the statutory fee provided in IVC Section 3-905 for application. A license is issued for a period of one year terminating on

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December 31 each year.

- e) A remittance agent wishing to renew his/her license shall submit the material required by this Section to the Department between September 1 and December 31 of the year before the new license will become effective.
- f) All remittance agent license applications and corresponding materials should be submitted to:

Office of the Secretary of State  
Vehicle Services Department  
Howlett Building, Room 069  
Springfield, Illinois 62756

- g) The Department will make available the application form to any person who requests one. Only the Department's form will be accepted to apply for a license to operate as a remittance agent.

(Source: Amended at 43 Ill. Reg. 6231, effective May 9, 2019)

**Section 1019.20 Denial of Application for Remittance Agent's License**

- a) Pursuant to ~~IVC Section 3-906 of the Illinois Vehicle Title and Registration Law of the Illinois Vehicle Code (Ill. Rev. Stat. 1987, ch. 95½, par. 3-906)~~, the Department shall deny an application for remittance agent's licenses under the circumstances outlined in ~~IVC Section 3-906 of the Illinois Vehicle Title & Registration Law of the Illinois Vehicle Code (Ill. Rev. Stat. 1987, ch. 95½, par. 3-906)~~. If a person's application is denied, he/she shall be sent his/her application and a notice of the denial by certified mail within 30 days after~~two (2) weeks of~~ the date the application was submitted. The notice shall contain the reason for the denial and inform the applicant of his opportunity to request an administrative hearing to contest the denial pursuant to 92 Ill. Adm. Code 1001.
- b) Renewal of a remittance agent's license shall be denied if upon investigation it is discovered that the remittance agent is not financially sound and/or of good business integrity or is otherwise ineligible for a license as provided in ~~IVC Section 3-906 of the Illinois Vehicle Title & Registration Law of the Illinois Vehicle Code (Ill. Rev. Stat. 1987, ch. 95½, par. 3-906)~~. Auditors from the Department of Accounting Revenue within the Office of the Secretary of State

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shall conduct yearly inspections which includes but are not limited to examination of the temporary permits and the bond amounts. The auditors shall also be authorized by the Department to inspect the remittance agent's business records and to report any irregularities (e.g., failure to keep records as required by [IVC Section 3-910](#) ~~of the Illinois Vehicle Title & Registration Law of the Illinois Vehicle Code (Ill. Rev. Stat. 1987, ch. 95½, par. 3-910)~~) to the Department. Any further investigation shall be conducted by the Department of Police within the Office of the Secretary of State.

- c) The Department shall consider written complaints (i.e., from family, friends, neighbors, business associates, customers, other agencies, and the auditors from the Department of Accounting Revenue [or Department of Police](#)) in denying a remittance agent's license. Upon receipt of a complaint, the Secretary of State police shall investigate the matter. If, upon this investigation, it is discovered that a basis for denial exists pursuant to [IVC Section 3-906](#) ~~of the Illinois Vehicle Title & Registration Law of the Illinois Vehicle Code (Ill. Rev. Stat. 1987, ch. 95½, par. 3-906)~~, the remittance agent's current license shall be suspended or revoked as provided in Section 1019.30 if he/she is currently licensed as a remittance agent.

(Source: Amended at 43 Ill. Reg. 6231, effective May 9, 2019)

**Section 1019.30 Suspension and Revocation of Remittance Agents' Licenses**

- a) Pursuant to [IVC Section 3-907](#) ~~of the Illinois Vehicle Code~~, the Department shall suspend a person's remittance agent's license under the following circumstances:
- 1) he/she fails to keep records as provided in IVC Section 3-910;
  - 2) he/she fails to furnish information requested by the Department or file a bond as required by IVC Section 3-905; or
  - 3) it is discovered that he/she or a member of his/her immediate family is an employee of the Secretary of State.
- b) The suspension shall remain in effect for 30 days during which an audit shall be conducted to determine compliance with IVC Section 3-900. If he/she has come into compliance, his/her remittance agent's license shall be restored. If the remittance agent has not come into compliance, he/she shall have his/her

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remittance agent privileges revoked.

- c) A person shall have his/her remittance agent's license revoked under the following circumstances:
- 1) he/she attempts to do business or does business as a remittance agent while his/her privileges are suspended;
  - 2) he/she fails to remit to the Department or the Illinois Department of Revenue the proper fees required by IVC Section 3-906(4), or the check submitted is returned by the bank because of insufficient funds, or the payment submitted electronically is dishonored for any reason, and if he/she fails to submit the proper fees within 10 days after a written request by the Department;
  - 3) he/she engages in a fraudulent activity or forgery while operating as a remittance agent, as determined by the Department after the investigation;
  - 4) he/she is guilty of violating any provision of IVC Chapter 2, 3 or 4 or the Use Tax Act [35 ILCS 105] or the Service Occupation Tax Act [35 ILCS 115];
  - 5) he/she has been suspended ~~two (2)~~ times or more in one year; or
  - 6) he/she has been convicted of anya felony.
- d) The Department shall consider written complaints (i.e., family, friends, neighbors, business associates, customers, other agencies, and auditors from the Department of Accounting Revenue) in determining whether a remittance agent's license shall be suspended or revoked. Upon receipt of a complaint, the Department of Police within the Office of the Secretary of State shall investigate the matter to determine if a basis exists under this Section for a suspension or revocation.
- e) A revocation shall be for at least one year. The remittance agent shall be notified by certified mail that his/her license to operate as a remittance agent is going to be revoked. The notice shall contain the effective date of the revocation, the violation that is the cause of the revocation, and how he/she can contest the revocation. The remittance agent shall be given 10 days from the date of the notice before the revocation will become effective. In order to be reinstated

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following a revocation, the person shall request an administrative hearing as provided in 92 Ill. Adm. Code Ch. II. The person's remittance agent license shall not be restored until the Secretary is satisfied that he/she will comply with the provisions of the Illinois Vehicle Title & Registration Law [625 ILCS 5/Ch. 3, Art. IX] and is of good business integrity.

- f) If a person wishes to contest the suspension or revocation of his/her remittance agent's license, he/she shall request an administrative hearing pursuant to IVC Section 3-907 and 92 Ill. Adm. Code 1001.

(Source: Amended at 43 Ill. Reg. 6231, effective May 9, 2019)

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF HEARING ON PROPOSED AMENDMENTS

- 1) Heading of the Part: The Illinois Oil and Gas Act
- 2) Code Citation: 62 Ill. Adm. Code 240
- 3) Register Citation to Notice of Proposed Amendments: 43 Ill. Reg. 6113; May 24, 2019
- 4) Date, Time and Location of Public Hearing:

Wednesday, June 19, 2019, 3:00 p.m. – 6:00 p.m.  
Illinois Department of Natural Resources  
One Natural Resources Way  
Springfield IL 62702

- 5) Other Pertinent Information:

The hearing will be held for the purpose of gathering public comments on the Proposed Amendments. Persons interested in presenting testimony at this hearing are advised that the Department of Natural Resources will adhere to the following procedures in the conduct of the hearing:

Each person presenting oral testimony shall, prior to testifying, sign in and also complete a witness slip providing his or her contact information and identifying whom they represent.

Organizations are asked to select one spokesperson to present oral testimony on behalf of the organization.

Written comments on the proposed rulemaking may be submitted for a period of 45 days following publication of this Notice to:

John Fischer, Legal Counsel  
Illinois Department of Natural Resources  
One Natural Resources Way  
Springfield IL 62702

217/782-1809

JOINT COMMITTEE ON ADMINISTRATIVE RULES  
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received during the period of May 7, 2019 through May 13, 2019. These rulemakings are scheduled for the June 11, 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.

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<u>Second Notice Expires</u>	<u>Agency and Rule</u>	<u>Start of First Notice</u>	<u>JCAR Meeting</u>
6/21/19	<u>Revenue</u> , Income Tax (86 Ill. Adm. Code 100)	11/9/18 42 Ill. Reg. 19605	6/11/19
6/23/19	<u>Attorney General</u> , Hospital Financial Assistance under the Fair Patient Billing Act (77 Ill. Adm. Code 4500)	3/8/19 43 Ill. Reg. 3068	6/11/19

## PROCLAMATION

**2019-53****Flag Lowering – Kody M. Vanfossan**

**WHEREAS**, all Illinois residents owe a debt of gratitude to the men and women firefighters who selflessly serve to protect our lives and keep our families and communities safe; and,

**WHEREAS**, every day, these men and women face great risks and put their lives in danger to save the lives of others; and,

**WHEREAS**, on Sunday, May 5, 2019, 24-year-old Christopher Fire Department Firefighter Kody M. Vanfossan was killed in the line of duty while battling a 6-alarm commercial fire in Christopher, Illinois; and,

**WHEREAS**, Firefighter Kody M. Vanfossan, following in his father's footsteps began his service as a Cadet in Christopher, Illinois at the age of 16; and,

**WHEREAS**, Firefighter Kody M. Vanfossan is survived by his fiancé, Casey Garrett; his 5-month-old son, Erik Michael; his parents, Brent & Mindy; as well as many family and friends; and,

**WHEREAS**, a funeral service for Firefighter Vanfossan will be held on Friday, May 10, 2019 at Christopher High School Gymnasium in Christopher, Illinois;

**THEREFORE**, I, JB Pritzker, Governor of the State of Illinois, do hereby order all persons or entities governed by the Illinois Flag Display Act to fly their flags at half-staff from sunrise on Wednesday, May 8, 2019, until sunset on Friday, May 10, 2019, in honor and remembrance of Christopher Fire Department Firefighter Kody M. Vanfossan whose selfless service and sacrifice shall forever be an inspiration to the people of Illinois.

Issued by the Governor May 7, 2019

Filed by the Secretary of State May 7, 2019

**ILLINOIS ADMINISTRATIVE CODE**  
**Issue Index - With Effective Dates**

Rules acted upon in Volume 43, Issue 21 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.

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