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July 6, 2018 Volume 42, Issue 27

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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 2018

<b>Issue#</b>	<b>Rules Due Date</b>	<b>Date of Issue</b>
1	December 26, 2017	January 5, 2018
2	January 2, 2018	January 12, 2018
3	January 8, 2018	January 19, 2018
4	January 16, 2018	January 26, 2018
5	January 22, 2018	February 2, 2018
6	January 29, 2018	February 9, 2018
7	February 5, 2018	February 16, 2018
8	February 13, 2018	February 23, 2018
9	February 20, 2018	March 2, 2018
10	February 26, 2018	March 9, 2018
11	March 5, 2018	March 16, 2018
12	March 12, 2018	March 23, 2018
13	March 19, 2018	March 30, 2018
14	March 26, 2018	April 6, 2018
15	April 2, 2018	April 13, 2018
16	April 9, 2018	April 20, 2018
17	April 16, 2018	April 27, 2018
18	April 23, 2018	May 4, 2018
19	April 30, 2018	May 11, 2018
20	May 7, 2018	May 18, 2018
21	May 14, 2018	May 25, 2018
22	May 21, 2018	June 1, 2018
23	May 29, 2018	June 8, 2018
24	June 4, 2018	June 15, 2018
25	June 11, 2018	June 22, 2018

26	June 18, 2018	June 29, 2018
27	June 25, 2018	July 6, 2018
28	July 2, 2018	July 13, 2018
29	July 9, 2018	July 20, 2018
30	July 16, 2018	July 27, 2018
31	July 23, 2018	August 3, 2018
32	July 30, 2018	August 10, 2018
33	August 6, 2018	August 17, 2018
34	August 13, 2018	August 24, 2018
35	August 20, 2018	August 31, 2018
36	August 27, 2018	September 7, 2018
37	September 4, 2018	September 14, 2018
38	September 10, 2018	September 21, 2018
39	September 17, 2018	September 28, 2018
40	September 24, 2018	October 5, 2018
41	October 1, 2018	October 12, 2018
42	October 9, 2018	October 19, 2018
43	October 15, 2018	October 26, 2018
44	October 22, 2018	November 2, 2018
45	October 29, 2018	November 9, 2018
46	November 5, 2018	November 16, 2018
47	November 13, 2018	November 26, 2018
48	November 19, 2018	November 30, 2018
49	November 26, 2018	December 7, 2018
50	December 3, 2018	December 14, 2018
51	December 10, 2018	December 21, 2018
52	December 17, 2018	December 28, 2018

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF PROPOSED RULES

- 1) Heading of the Part: Regulatory Accounting Treatment for Cloud-Based Computing Solutions
- 2) Code Citation: 83 Ill. Adm. Code 289
- 3) 

<u>Section Numbers</u> :	<u>Proposed Actions</u> :
289.10	New Section
289.20	New Section
289.30	New Section
289.40	New Section
- 4) Statutory Authority: Implementing Sections 9-101 and 9-201 and authorized by Section 10-101 of the Public Utilities Act [220 ILCS 5/9-101, 9-201 and 10-101].
- 5) A Complete Description of the Subjects and Issues Involved: New Part 289, Regulatory Accounting Treatment for Cloud-Based Computing Solutions, is intended to provide comparable accounting treatment for on-premises and cloud-based computing systems. Under current accounting provisions, there is a disparity in the treatment of on-premises and cloud-based computing systems that creates a disincentive for utilities to invest in new technology. The different systems serve the same function, however, and therefore the disparity should be addressed, to achieve comparable accounting treatment of on-premises and cloud-based computing systems.
- 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? Yes
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: The proposed rulemaking neither creates nor expands any State mandate on units of local government, school districts, or community college districts.



## ILLINOIS COMMERCE COMMISSION

## NOTICE OF PROPOSED RULES

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

Comments should be filed, within 45 days after the date of this issue of the Illinois Register, in Docket No. 17-0855 with:

Elizabeth Rolando, Chief Clerk  
Illinois Commerce Commission  
527 East Capitol Avenue  
Springfield IL 62701

217/782-7434

- 13) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not-for-profit corporations affected: This rulemaking will affect any subject jurisdictional entities that are also small businesses as defined in the Illinois Administrative Procedure Act. This rulemaking will not affect any small municipalities or not-for-profit corporations.
- B) Reporting, bookkeeping or other procedures required for compliance:  
Bookkeeping and filing procedures
- C) Types of professional skills necessary for compliance: Managerial and accounting skills

- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the two most recent Agendas because: The Commission did not anticipate the need for this rulemaking at that time.

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

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF PROPOSED RULES

## TITLE 83: PUBLIC UTILITIES

CHAPTER I: ILLINOIS COMMERCE COMMISSION  
SUBCHAPTER d: PROVISIONS APPLICABLE TO  
MORE THAN ONE KIND OF UTILITYPART 289  
REGULATORY ACCOUNTING TREATMENT  
FOR CLOUD-BASED COMPUTING SOLUTIONS

Section	
289.10	Purpose
289.20	Definitions
289.30	Applicability
289.40	Regulatory Accounting Treatment

AUTHORITY: Implementing Sections 9-101 and 9-201 and authorized by Section 10-101 of the Public Utilities Act [220 ILCS 5/9-101, 9-201 and 10-101].

SOURCE: Adopted at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 289.10 Purpose**

The purpose of this Part is to provide comparable accounting treatment for cloud-based computing solutions and on-premises computing solutions. This Part authorizes a regulatory accounting alternative that any public utility subject to the provisions of this Part may utilize in order to minimize differences in regulatory accounting treatment for cloud-based computing solutions and on-premises computing solutions.

**Section 289.20 Definitions**

"Act" means the Public Utilities Act [220 ILCS 5].

"Affiliate-leased" means an item for which an affiliate of the public utility has legal right of possession and/or use for a contractually defined term.

"Affiliate-owned" means an item for which an affiliate of the public utility has legal right of possession.

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF PROPOSED RULES

"Cloud-based" means electronic applications, services or resources obtained from an outside service provider's servers via access to the internet or other computer network.

"Commission" means the Illinois Commerce Commission.

"Computing service" means a computing activity or computing solution provided by an outside service provider and in which service the public utility or its affiliate does not have and will not obtain an ownership interest.

"Computing solution" means a way in which a problem or task is solved or otherwise addressed using electronic computers.

"On-premises" means electronic applications, services, or resources that are provided using services and computing infrastructure owned by the public utility or its affiliate.

"Financial accounting" means the accounting treatment, rules, and reporting processes required by the Financial Accounting Standards Board (FASB), 401 Merritt 7, PO Box 5116, Norwalk CT 06856-5116, or its successor.

"Outside service provider" means a provider of computing services that is not owned by, affiliated with or otherwise related to the public utility or an affiliate of the public utility.

"Public utility" shall have the same meaning as in Section 3-105 of the Act.

"Regulatory accounting" means the accounting treatment, rules, and reporting processes required by the Commission.

"Regulatory asset" means expenses that are capitalized pursuant to FASB Accounting Standards Codification Section 980-340-25-1 (version 2.0, adopted February 25, 2016).

"Service contract" means the legal document that governs a public utility's and/or its affiliate's agreement to obtain computing services from an outside service provider. Any service contract extension or renewal shall be accounted for as a separate regulatory asset under this Part.

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF PROPOSED RULES

"Service contract term" means the period of time during which the outside service provider is obligated to provide computing services under the service contract and excludes the period associated with optional contract extensions and any period after the effective date of a service contract cancellation.

"Utility-leased" means an item for which the public utility has legal right of possession and/or use for a contractually defined term.

"Utility-owned" means an item for which the public utility has legal right of possession.

**Section 289.30 Applicability**

- a) The regulatory accounting treatment set forth in this Part shall only apply to costs within the jurisdiction of the Commission and shall be available to all public utilities for which the Commission regulates rates.
- b) The regulatory accounting treatment set forth in this Part shall apply to services rendered and costs incurred subsequent to the effective date of this Part.

**Section 289.40 Regulatory Accounting Treatment**

- a) A public utility may record as a regulatory asset and, subject to the Commission's determination of prudence and reasonableness in a rate case, include in rate base those costs associated with cloud-based computing solutions that would be recorded to a utility plant account in accordance with financial accounting requirements if the costs were for an on-premises computing solution, rather than a cloud-based computing solution, if all the requirements in subsection (b) are met. All other costs associated with cloud-based computing solutions shall be recorded in accordance with financial accounting requirements, Commission practice, rules, and law.
- b) A public utility that records a regulatory asset as authorized under this Part shall meet the following requirements:
  - 1) The public utility shall record as a regulatory asset only costs incurred through the period being reported for a cloud-based computing solution or computing service.

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF PROPOSED RULES

- 2) The public utility shall ensure that each regulatory asset is associated with a specific service contract.
  - 3) The public utility shall amortize each regulatory asset in accordance with the instructions in subsection (c).
  - 4) The public utility shall report specific information regarding regulatory assets.
    - A) For the period from the implementation of this rule through December 31, 2024, the public utility shall email the Accounting Department of the Illinois Commerce Commission at ICC.AccountingMgr@Illinois.gov within six months of the effective date of this rule and subsequently, every March 31 and September 30, a notification containing the recording of each new regulatory asset under this Part for the previously unreported period. The notification shall identify the type of computing service, the service contract term, and the cost set forth in the service contract.
    - B) For the period from the implementation of this rule through December 31, 2024, with each rate case filing, the public utility shall identify the five highest-cost regulatory assets, as well as any regulatory assets equal to or in excess of \$1,000,000, that the public utility recorded under this Part and included in rate base in Section 285.2010, Schedule B-2, or Section 285.2095, Schedule B-10, in accordance with Part 285 of the Commission's rules. For each identified regulatory asset, the public utility shall provide the information set forth in 83 Ill. Adm. Code 285.6100(b)(1) through (7) [Schedule F-4].
    - C) After December 31, 2024, with each rate case filing, the public utility shall include regulatory assets recorded under this Part when complying with 83 Ill. Adm. Code 285.6100 [Schedule F-4] when those regulatory assets recorded under this Part meet or exceed the individual project cost thresholds shown in the table provided in 83 Ill. Adm. Code 285.6100(a).
- c) Amortization of the regulatory asset

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF PROPOSED RULES

- 1) Each regulatory asset recorded under this Part shall be amortized individually.
- 2) Each regulatory asset recorded under this Part shall be amortized over a period beginning with the in-service date and ending at the conclusion of the service contract term with which the regulatory asset is associated.
- 3) In the event of a service contract cancellation, the remaining unamortized balance of the associated regulatory asset recorded under this Part shall be amortized to expense on the effective date of the service contract cancellation.
- 4) The amortization method used by a public utility to amortize any part of a regulatory asset under this Part remains subject to the Commission's determination of prudence and reasonableness in a rate case.

## DEPARTMENT OF INSURANCE

## NOTICE OF PROPOSED REPLEAER

- 1) Heading of the Part: Illinois Insurance Exchange Annual Statement
- 2) Code Citation: 50 Ill. Adm. Code 551
- 3) 

<u>Section Numbers</u> :	<u>Proposed Actions</u> :
551.10	Repealed
551.20	Repealed
551.30	Repealed
551.40	Repealed
551.50	Repealed
551.60	Repealed
- 4) Statutory Authority: Implementing Sections 107.12, 107.13, 107.20 and 107.21 and authorized by Section 401(a) of the Illinois Insurance Code (Ill. Rev. Stat. 1981, ch. 73, pars. 719.12, 719.13, 719.20, 719.21 and 1013).
- 5) A Complete Description of the Subjects and Issues Involved: The statute implemented by the rule was repealed. Therefore, the rule is also being repealed.
- 6) Any published studies or reports, along with the sources of underlying data, that were used when comprising this rulemaking, in accordance with 1 Ill. Adm. Code 100.355:  
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 will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this Notice to:

## DEPARTMENT OF INSURANCE

## NOTICE OF PROPOSED REPEALER

Jennifer Parker-Heimlich  
Assistant General Counsel  
Illinois Department of Insurance  
320 W. Washington St.  
Springfield IL 62767

or

Susan Anders  
Rules Coordinator  
Illinois Department of Insurance  
320 W. Washington St.  
Springfield IL 62767

217/557-7317  
fax: 217/524-9033

217/558-0957

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Not applicable
  - B) Reporting, bookkeeping or other procedures required for compliance: Not applicable
  - C) Types of professional skills necessary for compliance: Not applicable
- 14) Regulatory Agenda on which this rulemaking was summarized: July 2017

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



## DEPARTMENT OF INSURANCE

## NOTICE OF PROPOSED REPLEAER

TITLE 50: INSURANCE  
CHAPTER I: DEPARTMENT OF INSURANCE  
SUBCHAPTER f: INSURANCE EXCHANGE

## PART 551

ILLINOIS INSURANCE EXCHANGE ANNUAL STATEMENT (REPEALED)

## Section

551.10	Authority
551.20	Purpose and Scope
551.30	Definitions
551.40	Contents of the Illinois Insurance Exchange Annual Statement
551.50	Annual Financial Report on each syndicate
551.60	Severability Provision

**AUTHORITY:** Implementing Sections 107.12, 107.13, 107.20 and 107.21 and authorized by Section 401(a) of the Illinois Insurance Code (Ill. Rev. Stat. 1981, ch. 73, pars. 719.12, 719.13, 719.20, 719.21 and 1013).

**SOURCE:** Adopted at 6 Ill. Reg. 2132, effective February 2, 1982; codified at 6 Ill. Reg. 12454; repealed at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 551.10 Authority**

This Rule is promulgated by the Director of Insurance pursuant to Sections 107.12, 107.13, 107.20, 107.21 and 401 of the Illinois Insurance Code (Ill. Rev. Stat. 1981, ch. 73, pars. 719.12, 719.13, 719.20, 719.21 and 1013.)

**Section 551.20 Purpose and Scope**

The purpose of this Rule is to specify the format of an Annual Statement required to be filed with the Director of Insurance concerning the activities of the Illinois Insurance Exchange.

**Section 551.30 Definitions**

In addition to the definitions of Section 107.15 of the Illinois Insurance Code (Ill. Rev. Stat. 1981, ch. 73, par. 719.15), the following definitions shall apply to this Rule:

"Board of Trustees" means the duly elected Trustees of the Exchange pursuant to

## DEPARTMENT OF INSURANCE

## NOTICE OF PROPOSED REPLEAER

Section 107.17 of the Illinois Insurance Code.

"Central Processing Facility" means the recordkeeping facility formed pursuant to Section 107.21 of the Illinois Insurance Code.

"Exchange" means the Illinois Insurance Exchange, formed pursuant to Article V 1/2 of the Illinois Insurance Code.

"Rules of the Exchange" and "By-laws" means the body of the Rules or By-laws adopted by the Board of Trustees, as amended, pursuant to Sections 107.06, 107.07, 107.10, 107.19, 107.21, 107.22 and 107.24 of the Illinois Insurance Code.

"Security Association" means the Illinois Insurance Exchange Immediate Access Security Association formed pursuant to Section 107.26 of the Illinois Insurance Code.

**Section 551.40 Contents of the Illinois Insurance Exchange Annual Statement**

- a) The Annual Statement from the Exchange to the Director of Insurance shall include the following:
  - 1) Title page containing the following:
    - A) Name
    - B) "As of Date" of the annual statement.
    - C) List of Officers.
    - D) List of Directors.
    - E) Signatures of three officers in the format of the jurat of the National Association of Insurance Commissioners (N.A.I.C.) annual statement for fire and casualty insurance companies. Appropriate changes may be made to the jurat.
  - 2) Annual Financial Report on the Central Processing Facility.
    - A) Balance sheet reporting assets, liabilities, capital and surplus.

## DEPARTMENT OF INSURANCE

## NOTICE OF PROPOSED REPLEAER

- B) Statement of gain or loss from operations.
  - C) Statement of changes in financial position.
  - D) Statement of changes in capital and surplus.
  - E) Notes to the above financial statements as required by generally accepted accounting principles, including a description of the accounting method used in this report.
- 3) Annual Financial Report on the Security Association in the form of item 2) of this Section.
  - 4) Annual Financial Report on each syndicate as described in Section 551.50 of this Rule.
  - 5) Copies of amendments to the Articles of Incorporation, By-laws and Rules of the Exchange made during the year of this statement.
- b) Two manually signed and notarized copies of the Annual Statement shall be filed with the Director on or before April 1 of each year for the year ended December 31 immediately preceding.
  - c) Any changes, additional notes or qualifications made by independent auditors to the financial data filed pursuant to the above shall be filed with the Director within five days after receipt by the Exchange.

**Section 551.50 Annual Financial Report on each syndicate**

The annual financial report on each syndicate shall include the following:

- a) N.A.I.C. Fire and Casualty annual statement pages representing the following:
  - 1) Schedule of assets, liabilities, surplus and other funds.
  - 2) Statement of income and capital and surplus account.
  - 3) Statement of changes in financial position.

## DEPARTMENT OF INSURANCE

## NOTICE OF PROPOSED REPLEAER

- 4) Schedule of premiums written, earned, unearned and in force by annual statement line of business.
  - 5) Schedules of losses paid and incurred and loss adjustment expense outstanding by annual statement line of business.
  - 6) Five-year historical data.
  - 7) Loss development schedules.
  - 8) Exhibit of premiums and losses allocated by states and territories.
  - 9) All additional schedules filed annually with the Exchange pursuant to Section 107.13a of the Illinois Insurance Code.
- b) Notes to the above financial statements as required by generally accepted accounting principles, including a description of the accounting method used in this report.

**Section 551.60 Severability Provision**

If any Section or portion of a Section of this Rule or the applicability thereof to any person or circumstances is held invalid in a court, the remainder of the Rule or the applicability of such provision to other persons or circumstances shall not be affected thereby.

## DEPARTMENT OF INSURANCE

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: License and Documents Necessary to Engage in Activities and Examinations
- 2) Code Citation: 50 Ill. Adm. Code 752
- 3) 

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
752.10	Amendment
752.20	Repealed
752.30	Amendment
- 4) Statutory Authority: Implementing Article VIIA and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/Art. VIIA (and 401)].
- 5) A Complete Description of the Subjects and Issues Involved: Currently, the Department's Property and Casualty Compliance Unit is responsible for the annual licensure of advisory organizations and joint underwriting associations. However, it was decided this function would more appropriately fit within the duties conducted by the Corporate Regulatory Section. To that end, the duties have been transferred within these Departmental units, and the proposed amendments reflect this work assignment change. Additionally, several portions of the rule that are no longer necessary are being removed.
- 6) Any published studies or reports, along with the sources of underlying data, that were used when comprising this rulemaking, in accordance with 1 Ill. Adm. Code 100.355:  
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 will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.

## DEPARTMENT OF INSURANCE

## NOTICE OF PROPOSED AMENDMENTS

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

Fred Moore  
Assistant General Counsel  
Illinois Department of Insurance  
122 S. Michigan Ave, 19th Fl  
Chicago IL 60603

or Susan Anders  
Rules Coordinator  
Illinois Department of Insurance  
320 W. Washington St.  
Springfield IL 62767

312/814-5398  
fax: 312-814-2862

217/558-0957

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
  - B) Reporting, bookkeeping or other procedures required for compliance: None
  - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2018

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

## DEPARTMENT OF INSURANCE

## NOTICE OF PROPOSED AMENDMENTS

## TITLE 50: INSURANCE

## CHAPTER I: DEPARTMENT OF INSURANCE

SUBCHAPTER i: ADVISORY ORGANIZATIONS AND INSURANCE COMPANIES

## PART 752

LICENSE AND DOCUMENTS NECESSARY TO ENGAGE IN  
ACTIVITIES AND EXAMINATIONS

## Section

752.10	License
752.20	Documents – Joint Underwriting and Joint Reinsurance ( <u>Repealed</u> )
752.30	Submission of Application
752.40	Examinations

AUTHORITY: Implementing Article VIIA and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/Art. VIIA (and 401)].

SOURCE: Filed September 9, 1975, effective September 30, 1975; codified at 6 Ill. Reg. 12454; amended at 38 Ill. Reg. 19939, effective September 30, 2014; amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 752.10 License**

- a) All advisory organizations conducting activities as defined in Article VIIA and in the regulations issued to effect Article VIIA must apply to and be licensed by the Department of Insurance.
- ~~b) Licenses issued to advisory organizations by the State of Illinois prior to October 1, 1972 became null and void on January 1, 1973.~~
- be) Every application for a license must include:
  - 1) Copies certified by the custodian of the originals of the following:
    - A) Constitution;
    - B) The Articles of Incorporation;
    - C) Articles of Agreement;

## DEPARTMENT OF INSURANCE

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- D) Articles of Associations; and
  - E) The by-laws, plan of operations, rules or regulations that govern eligibility for membership and the activities of members relative to their membership.
- 2) A list of members and subscribers.
  - 3) The name and address of a resident of the state upon whom Notices or Orders of the Director or process may be served.
  - 4) A list of the officers and principal managers.
  - 5) A \$50 fee payable to the Illinois Director of Insurance.
- cd) Notification of substantive changes in subsections (be)(1), (3) and (4) must be made within 60 days after the change. The list of members and subscribers should be submitted annually, but additions to or deletions from the list should be submitted monthly.
- de) Licenses must be renewed annually prior to January 1st each year, but application for renewal need include only an update of existing documents and information previously submitted to the Department.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 752.20 Documents-Joint Underwriting and Joint Reinsurance (Repealed)**

- a) ~~All groups, associations or organizations of admitted companies which engage in joint underwriting or joint reinsurance through a formal group, association, or organization must file necessary documents prior to January 1, 1973.~~
- b) ~~Necessary documents of these entities in a) above must include:~~
  - 1) ~~Copies certified by the custodian of the originals of the following:~~
    - A) ~~its Articles of Incorporation, Agreement or Association;~~



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- ~~B) its Constitution;~~
- ~~C) by laws, rules or regulations governing its activities.~~
- ~~2) Its list of members.~~
- ~~3) The name and address of its resident agent for service of process.~~
- e) ~~Joint underwriting or joint reinsurance arrangements or transactions by two or more admitted companies which do not constitute formal group, association, or organization arrangements or transactions do not require filing under this Article of the Insurance Code.~~
- d) ~~Notification of substantive changes in those documents required in b) above must be made within 60 days of the change.~~

(Source: Repealed at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 752.30 Submission of Application**

All applications, information documents and fees required under Sections 752.10 ~~and 752.20~~ must be received by:

Illinois Department of Insurance  
~~Corporate Regulatory Section~~ ~~Property & Casualty Compliance Unit~~  
320 West Washington St.  
Springfield, Illinois 62767

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF INSURANCE

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- 1) Heading of the Part: Uniform Accounting Instructions for Fire and Marine and Casualty and Surety Insurers
- 2) Code Citation: 50 Ill. Adm. Code 903
- 3) 

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
903.5	Repealed
903.10	Repealed
903.20	Repealed
903.30	Repealed
903.40	Repealed
903.50	Repealed
903.60	Repealed
903.70	Repealed
903.80	Repealed
903.90	Repealed
903.100	Repealed
903.110	Repealed
903.120	Repealed
903.130	Repealed
903.140	Repealed
903.150	Repealed
903.160	Repealed
903.170	Repealed
903.180	Repealed
903.190	Repealed
903.200	Repealed
903.210	Repealed
903.220	Repealed
903.310	Repealed
903.410	Repealed
903.420	Repealed
903.430	Repealed
903.510	Repealed
903.520	Repealed
903.610	Repealed
903.620	Repealed
903.630	Repealed

## DEPARTMENT OF INSURANCE

## NOTICE OF PROPOSED REPEALER

- 4) Statutory Authority: Implementing Section 133 and authorized by Section 401 of the Illinois Insurance Code (Ill. Rev. Stat. 1981, ch. 73, pars. 745 and 1013) [215 ILCS 5/133 and 401].
- 5) A Complete Description of the Subjects and Issues Involved: Part 903 was effective in 1958 and defines expenses of fire and marine and casualty and surety insurers for uniformity. The annual statement instructions and the NAIC Accounting Practices and Procedures Manual now provides direction and explanations for these expenses. This is an unnecessary Part and should be repealed in its entirety.
- 6) Any published studies or reports, along with the sources of underlying data, that were used when comprising this rulemaking, in accordance with 1 Ill. Adm. Code 100.355: 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 will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this Notice to:

Fred Moore  
Assistant General Counsel  
Illinois Department of Insurance  
122 S. Michigan Ave, 19th Fl  
Chicago IL 60603

or Susan Anders  
Rules Coordinator  
Illinois Department of Insurance  
320 W. Washington St.  
Springfield IL 62767

312/814-5398  
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NOTICE OF PROPOSED REPEALER

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
  - B) Reporting, bookkeeping or other procedures required for compliance: None
  - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2018

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

## DEPARTMENT OF INSURANCE

## NOTICE OF PROPOSED REPEALER

## TITLE 50: INSURANCE

## CHAPTER I: DEPARTMENT OF INSURANCE

## SUBCHAPTER I: PROVISIONS APPLICABLE TO ALL COMPANIES

## PART 903

UNIFORM ACCOUNTING INSTRUCTIONS FOR FIRE AND  
MARINE AND CASUALTY AND SURETY INSURERS (REPEALED)

## SUBPART A: RULES RELATING TO OPERATING EXPENSE CLASSIFICATIONS

Section	
903.5	Introduction
903.10	Claim Adjustment Services
903.20	Commission and Brokerage
903.30	Allowances to Managers and Agents
903.40	Advertising
903.50	Boards, Bureaus and Associations
903.60	Surveys and Underwriting Reports
903.70	Audit of Assureds' Records
903.80	Salaries
903.90	Employee Relations and Welfare
903.100	Insurance
903.110	Directors' Fees
903.120	Traveling and Travel Items
903.130	Rent and Rent Items
903.140	Equipment
903.150	Printing and Stationery
903.160	Postage, Telephone and Telegraph, Exchange and Express
903.170	Legal and Auditing
903.180	Taxes, Licenses and Fees
903.190	Real Estate Expenses
903.200	Real Estate Taxes
903.210	Miscellaneous
903.220	General Instructions in Connection with Operating Expense Classifications

SUBPART B: RULES RELATING TO THE ALLOCATION  
OF JOINT EXPENSES TO COMPANIES

Section

## DEPARTMENT OF INSURANCE

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903.310 Joint Expenses

SUBPART C: RULES RELATING TO THE COMPOSITION OF,  
AND ALLOCATION TO, EXPENSE GROUPS

## Section

903.410 List of Expense Groups  
903.420 Composition of the Expense Groups  
903.430 Allocation to Expense Groups

SUBPART D: RULES RELATING TO ALLOCATION  
TO LINES OF BUSINESS

## Section

903.510 Lines of Business  
903.520 Allocation of Expenses to Lines of Business

SUBPART E: SPECIAL INSTRUCTIONS RELATING TO  
THE ALLOCATION OF SALARIES AND OTHER EXPENSES

## Section

903.610 General Procedures in Allocating Salaries  
903.620 General Instructions Regarding Allocation Bases  
903.630 Special Statements and Records Required

AUTHORITY: Implementing Section 133 and authorized by Section 401 of the Illinois Insurance Code (Ill. Rev. Stat. 1981, ch. 73, pars. 745 and 1013).

SOURCE: Effective July 11, 1958; codified at 7 Ill. Reg. 10840; repealed at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

SUBPART A: RULES RELATING TO OPERATING EXPENSE CLASSIFICATIONS

**Section 903.5 Introduction**

For the purpose of establishing uniformity in classifications of expenses of fire and marine and casualty and surety insurers recorded in statements and reports filed with and statistics reported to Insurance Departments, all such insurers shall, beginning January 1, 1949, observe the instructions set forth in this Part.

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## NOTICE OF PROPOSED REPEALER

**Section 903.10 Claim Adjustment Services**

- a) Direct
  - 1) Include the Following Expenses When in Connection With the Investigation and Adjustment of Policy Claims:
    - A) Independent Adjusters: Fees and expenses of independent adjusters or settling agents.
    - B) Legal: Fees and expenses of lawyers for legal services in the defense, trial, or appeal of suits, or for other legal services.
    - C) Bonds: Premium costs of bonds.
    - D) Appeal Costs and Expenses: Appeal bond premiums; charges for printing records; charges for printing briefs; court fees incidental to appeals.
    - E) General Court Costs and Fees: Entry fees and other court costs, and other fees not includible in Losses. Note: Interest and costs assessed as part of or subsequent to judgment are includible in Losses.
    - F) Medical Testimony: Fees and expenses of medical witnesses for attendance or testimony at trials or hearings ("Medical" includes physicians, surgeons, chiropractors, chiropodists, dentists, osteopaths, veterinarians, and hospital representatives).
    - G) Expert Witnesses: Fees and expenses of expert witnesses for attendance or testimony at trials or hearings.
    - H) Lay Witnesses: Fees and expenses of lay witnesses for attendance or testimony at trials or hearings.
    - I) Service of Process: Constables', sheriffs' and other fees and expenses for service of process, including subpoenas.

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- J) Transcripts of Testimony: Stenographers' fees and fees for transcripts of testimony.
  - K) Medical Examinations: Fees for medical examinations, fees for performing autopsies, fees for impartial examination, x-rays, etc., for the purpose of trial and determining questions of liability. This does not include fees for medical examinations, x-rays, etc., made to determine necessary treatment, or made solely to determine the extent or continuation of disability, or first aid charges, as such fees and charges are includible in Losses.
  - L) Miscellaneous: Costs of appraisals, expert examinations, surveys, plans, estimates, photographs, maps, weather reports, detective reports, audits, credit or character reports, watchman. Charges for hospital records and records of other kinds, notary fees, certified copies of certificates and legal documents. Charges for Claim Adjustment Services by underwriting syndicates, pools and associations.
- 2) Exclude:
- A) Compensation to employees (see Salaries).
  - B) Expenses of salaried employees (see Traveling and Entertaining).
  - C) Items includible in Allowances to Managers and Agents.
  - D) Payments to State Industrial Commissions (see Taxes, Licenses and Fees).
  - E) Payments to claim adjusting organizations except where the expense is billed specifically to individual companies (see Boards, Bureaus and Associations).
  - F) Cost of services of medical examiners for underwriting purposes (see Surveys and Underwriting Reports).
  - G) Salvage and subrogation recovery expense, rewards, lost and found advertising, expenses for disposal of salvage. Such expenses shall



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## NOTICE OF PROPOSED REPEALER

be deducted from salvage.

- H) Any expenses which by these instructions are includible elsewhere.
- I) Separation of Claim Adjustment Services: The Statistical Plans filed by certain rating bureaus contain definitions of "Allocated Loss Adjustment Expenses" which exclude for rating purposes certain types of claim adjustment services as defined herein. For the lines of business thus affected, companies which are members of such rating bureaus shall maintain records necessary to the reporting of Claim Adjustment Services Direct, as follows:
  - i) As defined in Statistical Plans
  - ii) Other than as defined in Statistical Plans.
- b) Reinsurance Assumed  
Include:

Claim adjustment expenses in bills rendered  
by ceding companies.
- c) Reinsurance Ceded  
Include:

Claim adjustment expenses billed to assuming insurers.

**Section 903.20 Commission and Brokerage**

- a) Direct
  - 1) Include:
    - A) All payments, reimbursements and allowances, on direct writings, computed as a percentage of premiums for production, management or other services to:
      - i) Managers

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- ii) Supervising general agents
  - iii) General agents
  - iv) Regional and district agents
  - v) Local agents
  - vi) Office agents
  - vii) Brokers
  - viii) Solicitors
  - ix) Other producers and agents
- B) Commissions and brokerage to employees when the activities for which the commissions are paid are not a part of their duties as employees.
- 2) Exclude:
- A) Compensation to employees except as noted above (see Salaries).
  - B) Allowances, reimbursements and payments not computed as a percentage of premiums (see Allowances to Managers and Agents).
  - C) Expenses involved in transactions between insurance companies (see Joint Expenses; Commission and Brokerage-Reinsurance Assumed and Ceded; Expenses for Account of Another; and Income from Special Services).
  - D) Contingent commission (see Commission and Brokerage-Contingent).
  - E) Fees of investment counsel (see Legal and Auditing).
  - F) Expenses includible in Boards, Bureaus and Associations.

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- G) Taxes on premiums (see Taxes, Licenses and Fees).
  - H) Commission received for special services such as loss adjustment and inspection not related to policies issued by the company (see Income from Special Services).
- b) Reinsurance Assumed
- 1) Commission and allowances of every nature on reinsurance assumed including tax and board allowances and reinsurance brokerage, except contingent commission, shall be included in Commission and Brokerage-Reinsurance Assumed.
  - 2) Exception: Where commission and allowances under reinsurance assumed take the form of accurate proportions of actual expenses incurred, as in some quota share and pooling agreements, entries shall be made to the actual expenses.
- c) Reinsurance Ceded
- 1) Commission and allowances of every nature on reinsurance ceded including tax and board allowances and reinsurance brokerage, except contingent commission, shall be included in Commission and Brokerage-Reinsurance Ceded.
  - 2) Exception: Where commission and allowances under reinsurance ceded take the form of accurate proportions of actual expenses incurred, as in some quota share and pooling agreements, entries shall be made to the actual expenses.
- d) Contingent-Net  
Include:
- 1) Contingent or profit commission paid.
  - 2) Contingent or profit commission received.
  - 3) Contingent commission to employees when the activities for which the

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contingent commission is paid are not a part of their duties as employees.

- e) Policy and Membership Fees  
Include:
  - 1) Policy and membership fees retained by, or paid to, agents.
  - 2) Policy and membership fees to employees when the activities for which the policy and membership fees are paid are not a part of their duties as employees.

**Section 903.30 Allowances to Managers and Agents**

- a) Include:  
Net allowances, reimbursements and payments for expenses of every nature, not computed as a percentage of premiums, to managers, agents, brokers, solicitors, and other producers.
- b) Exclude:
  - 1) Compensation to employees (see Salaries).
  - 2) Expenses of salaried employees (see Traveling and Entertaining).
  - 3) Expenses of management where one insurance company has been appointed manager for another (see Joint Expenses; Commission and Brokerage-Reinsurance Assumed and Ceded; and Expenses for Account of Another).
  - 4) Contingent commission (see Commission and Brokerage-Contingent).
  - 5) Policy and membership fees (see Commission and Brokerage-Policy and Membership Fees).
  - 6) Expenses in connection with owned real estate (see Real Estate Expenses).
  - 7) Amounts representing exact reimbursements for Losses, Taxes, Licenses and Fees, Boards, Bureaus and Associations, and Advertising, where only the minimum space required by law is taken.

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- 8) Amounts representing exact reimbursements for Claim Adjustment Services, Surveys and Underwriting Reports and Audit of Assureds' Records when these services are performed by others than employees of managers, agents, brokers, solicitors or other producers.

**Section 903.40 Advertising**

- a) Include:  
Cost of the following:
  - 1) Services of advertising agents.
  - 2) Public relations counsel.
  - 3) Space in newspapers, periodicals, billboards, programs and other publications.
  - 4) Circulars, pamphlets, calendars and literature issued for advertising or promotional purposes.
  - 5) Drawings, plates, etchings, etc., in connection with advertising.
  - 6) All charges for printing, paper, etc. in bills covering advertising.
  - 7) Radio broadcasts.
  - 8) Prospect and mailing lists.
  - 9) Signs, frames, medals, etc., for agents.
  - 10) Souvenirs for general distribution.
  - 11) Directory listings.
  - 12) House organs and similar publications distributed to others than employees.
  - 13) Advertising required by law when more than the minimum space required

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to comply with the law is taken.

- b) Exclude:
- 1) Compensation to employees (see Salaries).
  - 2) Items includible in Traveling and Entertaining, Claim Adjustment Services, and Boards, Bureaus and Associations.
  - 3) Cost of literature, booklets, placards, signs, etc., issued solely for accident and loss prevention (see Surveys and Underwriting Reports).
  - 4) Advertising and business development expenses allowed, reimbursed or paid to managers, agents, brokers, solicitors, and other producers (see Allowances to Managers and Agents).
  - 5) Cost of help wanted advertising (see Employee Relations and Welfare).
  - 6) Cost of advertising in connection with owned real estate (see Real Estate Expenses).
  - 7) Cost of house organs and similar publications for the use of employees (see Printing and Stationery).
  - 8) Donations to organized charities (see Miscellaneous).
  - 9) Cost of souvenirs not generally distributed (see Traveling and Entertaining).

**Section 903.50 Boards, Bureaus and Associations**

- a) Include:  
Dues, assessments, fees and charges of:
- 1) Underwriters' boards, rating organizations, statistical agencies, inspection and audit bureaus.
  - 2) Underwriters' advisory and service organizations including such organizations as Insurance Executives Association and Association of

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Casualty and Surety Companies.

- 3) Accident and loss prevention organizations.
  - 4) Claim organizations.
  - 5) Underwriting syndicates, pools and associations such as Factory Insurance Association, Oil Insurance Association, assigned risk plans (except Commission and Brokerage, Claim Adjustment Services, and Taxes, Licenses and Fees).
  - 6) Specific payments to boards, bureaus and associations for rate manuals, revisions, fillers, rating plans and experience data.
- b) Exclude:
- 1) Cost of inspection, engineering or accident and loss prevention billed specifically to individual companies (see Surveys and Underwriting Reports).
  - 2) Loss adjustment expenses billed specifically to individual companies (see Claim Adjustment Services).
  - 3) Allowances under reinsurance contracts for board and bureau expenses (see Commission and Brokerage-Reinsurance Assumed and Ceded).
  - 4) Payments to State Industrial Commissions (see Taxes, Licenses and Fees).
  - 5) Payments into State Security Funds (see Taxes, Licenses and Fees).
  - 6) Commission and Brokerage, Claim Adjustment Services, and Taxes, Licenses and Fees of underwriting syndicates, pools, and associations such as Factory Insurance Association and Oil Insurance Association.
  - 7) Cost of survey, credit, moral hazard, character and commercial reports obtained for underwriting purposes (see Surveys and Underwriting Reports).
  - 8) Cost of commercial reporting services (see Surveys and Underwriting

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Reports).

- 9) Dues and subscriptions to social or civic clubs or affairs (see Traveling and Entertaining).
- 10) Dues and subscriptions to accounting, legal, actuarial or similar societies and associations (see Traveling and Entertaining).

**Section 903.60 Surveys and Underwriting Reports**

- a) Include:
  - 1) Cost of the following:

Survey, credit, moral hazard, character and commercial reports obtained for underwriting purposes.
  - 2) Commercial reporting services.
  - 3) Appraisals for underwriting purposes.
  - 4) Fire records
  - 5) Inspection, engineering, and accident and loss prevention billed specifically.
  - 6) Literature, booklets, placards, signs, etc., issued solely for accident and loss prevention.
  - 7) Maps and corrections.
  - 8) Services of medical examiners for underwriting purposes.
- b) Exclude:
  - 1) Compensation to employees (see Salaries).
  - 2) Expenses of salaried employees (see Traveling and Entertaining).



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- 3) Items includible in Boards, Bureaus and Associations, Claim Adjustment Services and Allowances to Managers and Agents.
- 4) Cost of character or credit reports on employees or applicants for employment (see Employee Relations and Welfare).
- 5) Fees for physical examination of employees or applicants for employment (see Employee Relations and Welfare).
- 6) Income from inspections, which shall be classified in accordance with the instruction "Income from Special Services".

**Section 903.70 Audit of Assureds' Records**

- a) Include:  
Auditing fees and expenses of independent auditors for auditing payrolls and other premium bases.
- b) Exclude:
  - 1) Compensation to employees (see Salaries).
  - 2) Expenses of salaried employees (see Traveling and Entertaining).
  - 3) Items includible in Claim Adjustment Services.
  - 4) Items includible in Allowances to Managers and Agents.

**Section 903.80 Salaries**

- a) Include:
  - 1) Salaries, bonus, overtime, contingent compensation, pay while on leave, dismissal allowance, pay while training and other compensation of employees.
  - 2) Commission and brokerage to employees when the activities for which the commission is paid are a part of their duties as employees.

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- b) Exclude:  
Salaries or wages of janitors, caretakers, maintenance men and agents paid in connection with owned real estate (see Real Estate Expenses).

**Section 903.90 Employee Relations and Welfare**

- a) Pensions and Insurance Benefits for Employees
- 1) Include:
- A) Cost of retirement insurance.
  - B) Payments or appropriations to funds irrevocably devoted to the payment of pensions or other employees' benefits.
  - C) Pensions or other retirement allowances.
  - D) Accident, health and hospitalization insurance for employees.
  - E) Group life insurance for employees.
  - F) Worker's compensation insurance.
  - G) Payments to or on behalf of employees under self-insurance.
  - H) Any other Insurance for the benefit of employees.
- 2) Exclude:
- A) Cost of insurance on lives of employees when the company is the beneficiary, (such cost shall not appear among expenses, but shall be charged to surplus).
  - B) Payments or appropriations to pension funds not irrevocably devoted to the payment of pensions or other employees' benefits (such payments or appropriations shall not appear among expenses).
  - C) Items includible in Real Estate Expenses.

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- D) All other types of insurance premiums.
- b) All Other
- 1) Include:
    - Cost of:
      - A) Advertising-help wanted.
      - B) Training and welfare of employees.
      - C) Physical examinations of employees or applicants for employment.
      - D) Character or credit reports on employees or applicants for employment.
      - E) Gatherings, outings and entertainment for employees.
      - F) Visiting nurse service for or on behalf of employees.
      - G) Medical and hospital bills for employees (not covered by 903.90(a)).
      - H) Direct payments, other than salaries, to employees for injury and sickness (not covered by Section 903.90(a)).
      - I) Supper money.
      - J) Donations to or on behalf of employees.
      - K) Food and catering for employees.
    - 2) Exclude:
      - A) Salaries, bonus, overtime, contingent, pay while on leave, dismissal allowances, pay while training and other compensation of employees (see Salaries).

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- B) Items includible in Real Estate Expenses.
- C) Cost of house organs and similar publications (see Advertising, and Printing and Stationery).

**Section 903.100 Insurance**

- a) Include:
  - 1) Fidelity or surety bonds covering employees and agents.
  - 2) Burglary, and robbery insurance premiums.
  - 3) Public liability insurance premiums (Excl. owned Real Estate).
  - 4) Premiums for insurance on office contents.
  - 5) Cost of insurance on automobiles.
  - 6) All other insurance premiums not specifically provided for in other operating accounts.
- b) Exclude:
  - 1) Items includible in Employee Relations and Welfare.
  - 2) Items includible in Real Estate expenses.

**Section 903.110 Directors' Fees**

- a) Include:
  - 1) Directors' fees and other compensation of directors for attendance at board or committee meetings.
  - 2) Other fees, compensation and expenses paid to directors.
- b) Exclude:

## DEPARTMENT OF INSURANCE

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Commission to directors for the production of business (see Commission and Brokerage-Direct).

**Section 903.120 Traveling and Travel Items**

- a) Include:
- 1) Transportation, hotel, meals, postage, telephone, telegraph, express and incidental living expenses of employees while traveling.
  - 2) Expenses for transfer of employees.
  - 3) Depreciation, repairs and other operating expenses of automobiles.
  - 4) Rent of automobiles.
  - 5) Fees for automobile license plates.
  - 6) Cost of insurance on automobiles.
  - 7) Cost of transportation, hotel, meals and entertainment of guests.
  - 8) Cost of favors and presents given or extended to others than employees.
  - 9) Cost of souvenirs not generally distributed.
  - 10) Dues and subscriptions to social or civic clubs or affairs.
  - 11) Dues and subscriptions to accounting, legal, actuarial, or similar societies and associations.
- b) Exclude:
- 1) Items includible in Salaries, Advertising, Commission and Brokerage, Taxes, Licenses and Fees, Boards, Bureaus and Associations, and Equipment.
  - 2) Cost of gatherings, outings, etc., and entertainment for employees (see Employee Relations and Welfare).

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- 3) Traveling and entertaining expenses paid, reimbursed, or allowed to managers, agents, brokers, solicitors and other producers (see Allowances to Managers and Agents).
- 4) Items includible in Real Estate Expenses.
- 5) Donations to organized charities (see Miscellaneous).
- 6) Cost of souvenirs for general distribution (see Advertising).

**Section 903.130 Rent and Rent Items**

- a) Include:
  - 1) Rent of home office and branch offices.
  - 2) Rent for space occupied in buildings owned.
  - 3) Light, heat, power and water charges in leased premises.
  - 4) Interest, taxes, etc., paid in lieu of rent for leased premises.
  - 5) Cost of alterations and repairs of leased premises.
  - 6) Public liability insurance premiums.
  - 7) Rent of storage, safekeeping and warehouse space.
  - 8) Rent of safe deposit boxes.
  - 9) Rent of post office boxes.
  - 10) Time clock service charges.
  - 11) Cost of cleaning, towels, ice, water, electric lamp replacements and other expenses incidental to office maintenance.
- b) Exclude:

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- 1) Compensation to employees (see Salaries).
- 2) Rent of furniture, equipment, and office machines (see Equipment).
- 3) Rent of automobiles (see Traveling and Entertaining).
- 4) Rent allowed reimbursed, or paid to managers, agents, brokers, solicitors and other producers (see Allowances to Managers and Agents).
- 5) Items includible in Real Estate Expenses.
- 6) Rent income from owned real estate.

**Section 903.140 Equipment**

- a) Include:
  - 1) Rent and repairs of furniture, equipment and office machines including printers' equipment, postage machines and punched card equipment.
  - 2) Depreciation on furniture, equipment and office machines.
  - 3) Premiums for insurance on office contents.
- b) Exclude:
  - 1) Compensation to employees (see Salaries).
  - 2) Rent, repairs and depreciation of automobiles (see Traveling and Entertaining).
  - 3) Cost of insurance on automobiles (see Traveling and Entertaining).
  - 4) Cost of alterations and repairs of leased premises (see Rent and Rent Items).
  - 5) Equipment expenses allowed, reimbursed or paid to managers, agents, brokers, solicitors and other producers (see Allowances to Managers and

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Agents).

- 6) Items includible in Real Estate Expenses.

**Section 903.150 Printing and Stationery**

a) Include:

- 1) Cost of the following:  
Printing, stationery and office supplies such as: letterheads, envelopes, paper stock, printed forms or manuals, adding machine tape, carbon paper, binders and posts, photostatic copies, pencils, pens, leads, ink, glue, stamps and stamp pads, staplers, staples, clips and pins, desk top equipment (calendars, trays, etc.), waste baskets, analysis pads, ledgers, journals, minute books, etc.
- 2) Policies and policy forms.
- 3) Punch cards
- 4) House organs and similar publications for the use of employees.
- 5) Books, newspapers and periodicals including investment, tax and legal publications and services.

b) Exclude:

- 1) Compensation to employees (see Salaries).
- 2) Specific payments to boards, bureaus and associations for rate manuals, revisions, fillers, rating plans and experience data (see Boards, Bureaus and Associations).
- 3) Cost of the following:
  - A) Literature, booklets, placards, signs, etc., issued solely for accident and loss prevention (see Surveys and Underwriting Reports).
  - B) Items includible in Claim Adjustment Services.



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- C) Items includible in Advertising.
- D) Printers' equipment in company owned printing departments (see Equipment).
- E) Printing and stationery allowed, reimbursed or paid to managers, agents, brokers, solicitors and other producers (see Allowances to Managers and Agents).
- F) House organs and similar publications distributed to others than employees (see Advertising).
- G) Commercial reporting services (see Surveys and Underwriting Reports).
- H) Items includible in Real Estate Expenses.

**Section 903.160 Postage, Telephone and Telegraph, Exchange and Express**

- a) Include:
  - 1) Express, freight and cartage.
  - 2) Postage.
  - 3) Cost of telephone and telegrams, cables, radiograms and teletype.
  - 4) Bank charges for collection and exchange.
- b) Exclude:
  - 1) Compensation to employees (see Salaries).
  - 2) Rent, repairs and depreciation of postage machines (see Equipment).
  - 3) Postage, telephone, telegraph and express of employees while traveling (see Traveling and Entertaining).

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- 4) Postage, telephone and telegraph, exchange, and express allowed, reimbursed or paid to managers, agents, brokers, solicitors and other producers (see Allowances to Managers and Agents).
- 5) Profits or losses resulting from exchange on remittances to Home Office by a United States Branch. Such profits or losses shall not be included in expenses.
- 6) Items includible in Real Estate Expenses.
- 7) Rent of post office boxes (see Rent and Rent Items).

**Section 903.170 Legal and Auditing**

- a) Include:
  - 1) Legal retainers, fees and other legal expenses (except on losses and salvage).
  - 2) Auditing fees of independent auditors for examining records of home and branch offices.
  - 3) Cost of services of tax experts.
  - 4) Fees of investment counsel.
  - 5) Registrar fees.
  - 6) Custodian fees.
  - 7) Trustees' fees.
  - 8) Transfer agent fees.
  - 9) Fees and expenses of others than employees, for collecting balances.
  - 10) Notary fees.
- b) Exclude:

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- 1) Compensation to employees (see Salaries).
- 2) Expenses of salaried employees (see Traveling and Entertaining).
- 3) Items includible in Claim Adjustment Services.
- 4) Items includible in Real Estate Expenses.
- 5) Cost of auditing of assureds' records (see Audit of Assureds' Records).

**Section 903.180 Taxes, Licenses and Fees**

- a) State and Local Insurance Taxes
  - 1) Include:
    - A) State, county and municipal taxes, licenses and fees based upon premiums.
    - B) Fire Patrol assessments.
    - C) Payments to State Industrial (or other) Commissions for administration of Workers' Compensation or other State Benefit Acts (including assessments for administering Financial Responsibility Laws) regardless of basis of assessment.
    - D) Net payments to State Security Funds, Reopened Case Funds, Second Injury Funds, and other State funds when construed by the company as operating expenses, regardless of basis of assessment.
  - 2) Exclude:  
Allowances for taxes under reinsurance contracts (see Commission and Brokerage Reinsurance Assumed and Ceded).
- b) Insurance Department Licenses and Fees
  - 1) Include:

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- A) Agents' Licenses.
  - B) Certificates of authority, compliance, deposit, etc.
  - C) Filing fees.
  - D) Fees and expenses of examination by insurance departments or other governmental agencies.
- 2) Exclude:  
Items includible in Claim Adjustment Services.
- c) Payroll Taxes
- 1) Include:
    - A) Old age benefit taxes.
    - B) Unemployment insurance taxes.
  - 2) Exclude:  
Payroll taxes includible in Real Estate Taxes.
- d) All other (excluding Federal Income and Real Estate)
- 1) Include:
    - A) Qualifying bond premiums.
    - B) Statement publication fees.
    - C) Advertising required by law.
    - D) Personal property taxes.
    - E) State income taxes.
    - F) Capital stock taxes.

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- G) Business or corporation licenses or fees (not includible under (a) or (b)).
  - H) Marine profits taxes.
  - I) Documentary stamps on reinsurance.
  - J) Any other taxes not assignable under (a), (b), and (c) and not otherwise excluded.
- 2) Exclude:
- A) Cost of advertising required by law where more than minimum space required to comply with the law is taken. Such expense shall be included in Advertising.
  - B) Real estate taxes, licenses and fees (see Real Estate Taxes).
  - C) Items includible in Claim Adjustment services.
  - D) Fees for automobile license plates (see Travel and Travel items).
  - E) Federal income tax.
  - F) Sales taxes, etc. included on invoices of vendors. Such taxes are to follow allocation of cost of items purchased.

**Section 903.190 Real Estate Expenses**

## Include:

- a) Salaries, wages and other compensation of janitors, caretakers, maintenance men and agents paid in connection with owned real estate.
- b) Cost of operating and maintaining owned real estate.
- c) Cost of insurance in connection with owned real estate.
- d) Cost of advertising in connection with owned real estate.

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**Section 903.200 Real Estate Taxes**

Include:

Taxes, licenses and fees on owned real estate.

**Section 903.210 Miscellaneous**

Expenses not listed as includible in other operating expense classifications, and not analogous thereto, shall be included in "Miscellaneous". Specifically, the following shall be included:

- a) Cost of tabulating service when such service is rendered by outside organizations.
- b) Amounts received and handled in accordance with the Instruction "Income from Special Services".
- c) Donations to organized charities.
- d) Differences between actual amounts paid, and amounts apportioned in accordance with the Instruction "Joint Expenses" (Section 903.310).

**Section 903.220 General Instructions in Connection with Operating Expense Classifications**

- a) Joint Expenses
  - 1) Whenever personnel or facilities are used in common by two or more companies, or whenever the personnel or facilities of one company are used in the activities of two or more companies, the expenses involved shall be apportioned in accordance with the regulations relating to Joint Expenses, (Section 903.310) and such apportioned expenses shall be allocated by each company to the same operating expense classifications as if the expenses had been borne wholly. Any difference between the actual amount paid, and the amount of such apportioned expenses shall be included in the operating expense classification "Miscellaneous".
  - 2) This instruction does not apply to the allocation of the following, which are covered by separate instructions herein:

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- A) Reinsurance commission and allowances (see Commission and Brokerage-Reinsurance Assumed and Ceded).
  - B) Commission and brokerage paid to managers and agents (see Commission and Brokerage-Direct).
  - C) Allowances to managers and agents (see Allowances to Managers and Agents).
  - D) Expenses allocable in accordance with the instruction "Income from Special Services".
- b) Expenses for Account of Another  
Whenever expenses are paid by one company for account of another, the payments shall not appear among the expenses reported by the former, and shall be included by the latter in the same expense classifications as if originally paid by it.
- c) Income from Special Services
- 1) Whenever an insurance company receives compensation for sales or services, such as loss adjustment or inspection not related to policies written by the company, and such compensation is not calculated as a joint expense reimbursement, the amount thereof shall be included in the operating expense classification "Miscellaneous". Where an insurance company pays the compensation, allocation shall be made to the expense classification dictated by the nature of the expense.
  - 2) This instruction is of limited applicability and does not apply to the allocation of the following, which are covered by separate instructions herein:
    - A) Reinsurance commission and allowances (see Commission and Brokerage-Reinsurance Assumed and Ceded).
    - B) Expenses incurred for the benefit of companies in the same group or fleet. Such expenses are covered by the Instruction "Joint Expenses" (Section 903.310).

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- d) Analogous Items  
The lists of expenses includible in the operating expense classifications are representative and do not exclude analogous items which are omitted from the lists.

SUBPART B: RULES RELATING TO THE ALLOCATION  
OF JOINT EXPENSES TO COMPANIES

**Section 903.310 Joint Expenses**

- a) Joint Expenses, as described in Subpart A, Section 903.220 (a), shall be allocated to companies as follows:

Expenses To Be Allocated To Companies	Bases of Allocation To Companies
Advertising	Premiums
Boards, Bureaus and Associations	Special Studies
Surveys & Underwriting Reports	Special Studies
Audit of Assureds' Records	Special Studies
Salaries	See Special Instructions Relating to the Allocation of Salaries & other Expenses (Subpart E)
Employee Relations & Welfare	Overhead on Salaries
Pensions	Overhead on Salaries
Traveling & Entertaining	Special Studies
Rent & Rent Items	Overhead on Salaries



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Equipment	Overhead on Salaries
Printing & Stationery	Overhead on Salaries
Postage, Telephone & Telegraph, Exchange & Express	Overhead on Salaries
Legal & Auditing	Special Studies
Payroll Taxes	Overhead on Salaries
Miscellaneous	Special Studies

## b) Definitions

- 1) The term "Premiums" used as a basis of allocation means the allocation of expenses shall follow the percentages of applicable premiums.
- 2) The term "Special Studies" used as a basis of allocation means that expenses shall be analyzed and bases of allocation applied as dictated by that analysis.
- 3) The term "Overhead on Salaries" used as a basis of allocation means that the allocation of expenses shall follow the percentages of the applicable salaries allocation.

## c) Other Bases Permitted or Prescribed

For those operating expense classifications permitting the basis, Overhead on Salaries or Premiums, any other basis of allocation may be adopted which yields more accurate results. The bases Overhead on Salaries and Premiums shall not be used if clearly inappropriate.

## d) Other Instructions Applicable

In making any allocations of Joint Expenses, companies shall observe the General Instructions Regarding Allocation Bases (see Subpart E, Section 903.620).

## e) Records Required

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- 1) The methods followed in allocating Joint Expenses shall be described, kept and supported as set forth under Detail of Allocation Bases (see Subpart E, Section 903.630 (g)).
  - 2) The effects of the application, to each operating expense classification, of all bases of allocation shall be shown on records kept in clear and legible form. Such records shall be readily available for examination.
- f) **Interim Allocations of Joint Expenses**  
It is permissible to apportion expenses between companies during the year on the basis of methods and procedures other than those prescribed herein, provided allocations of corrected amounts, calculated in accordance with this Part, are made in time for entry in the Annual Statement.

SUBPART C: RULES RELATING TO THE COMPOSITION OF,  
AND ALLOCATION TO, EXPENSE GROUPS

**Section 903.410 List of Expense Groups**

Expenses reported in the operating expense classifications shall be allocated to the following expense groups:

- a) Investment Expenses
- b) Loss Adjustment Expenses
- c) Acquisition, Field Supervision and Collection Expenses
- d) Taxes
- e) General Expenses

**Section 903.420 Composition of the Expense Groups**

The composition of each expense group shall be as follows:

- a) **Investment Expenses**  
Investment Expenses shall comprise all expenses incurred wholly or partially in

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connection with the investing of funds and the obtaining of investment income, including related expenses incurred in the following activities: initiating or handling orders and recommendations; doing research; pricing; appraising and valuing; paying and receiving; entering and keeping general and detail records; safe keeping; collecting; recording, calculating and accruing investment income; general clerical, secretarial, office maintenance, supervisory and executive duties; handling personnel, supplies, mail, etc; and all other activities reasonably attributable to the investing of funds and the obtaining of investment income.

## b) Loss Adjustment Expenses

Loss Adjustment Expenses shall comprise all expenses incurred wholly or partially in connection with the adjustment and recording of policy claims, including the totals of the operating expense classification, Claim Adjustment Services; the types of expenses included in Claim Adjustment Services, when the activities resulting in such types of expenses are performed by employees; and including related expenses incurred in the following activities: estimating amounts of claims; paying and receiving; entering and keeping general and detail records; general clerical, secretarial, office maintenance, supervisory and executive duties; handling personnel, supplies, mail, etc.; and all other activities reasonably attributable to the adjustment and recording of policy claims in connection with claims reported, paid, and outstanding, and reinsurance thereon.

## c) Acquisition, Field Supervision and Collection Expenses

1) Acquisition, Field Supervision and Collection Expenses shall comprise all expenses incurred wholly or partially in the following activities:

- A) Soliciting and procuring business and developing the sales field.
- B) Writing policy contracts, and checking and directly supervising the work of policy writers.
- C) Receiving and paying of premiums and commissions; entering into or setting up records of premiums and commissions receivable and payable for collection purposes; balancing and maintaining such records; corresponding with and visiting insureds and producers for the purpose of collecting premiums or adjusting differences; checking current accounts from producers; auditing of records of delinquent agents; and services of collection agencies. Do not

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include activities in connection with accounts receivable from and payable to branch or other offices within the company.

- D) Compiling and distributing expiration lists, notices of premiums due, lists of premiums or premium balances receivable and payable, contingent and other commission statements, production statements for acquisition and field supervision purposes, and similar data.
- E) Maintaining good will of insureds and producers; activities of field men; contact work related to acquisition, field supervision and collection; making contracts and agreements with producers; and activities in connection with agency appointments and replacements. Do not include: inspections of risks when carried on by personnel employed by the insurance company, engaged full time in physical inspection of risks and activities directly related thereto; audits for the purpose of premium determination; and activities in connection with the adjustment of policy claims.
- F) Rendering service to agents and other producers, such as providing office space, personnel, telephone, etc., and obtaining agents' licenses. Do not include fees paid for agents' licenses.
- G) Advertising and publicity of every nature related to acquisition, field supervision and collection. In addition to applicable salaries, etc., include the entire amount shown in the operating expense classification, Advertising.
- H) Miscellaneous activities of agents, brokers and producers other than employees, when performed by them: inspections; quoting premiums; signing policies; examining and mailing policies, applications and daily reports; compiling figures for current accounts, correspondence and sundry bookkeeping and clerical work.
- I) Other activities reasonably attributable to those operations listed in (A) to (H), such as: keeping general and detail records; paying and receiving; general clerical, secretarial, office maintenance, supervisory and executive work; and handling personnel, supplies,

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mail, etc.

- 2) Commission and Allowances:
  - A) When the whole or a part of any amount in the operating expense classifications Commission and Brokerage-Direct, and Allowances to Managers and Agents is paid specifically for services other than those set forth under Section 903.420(c)(1)(A) to (c)(1)(I) , and when such services are not duplicated or otherwise compensated by the company, the amount thereof shall be allocated to expense groups other than Acquisition, Field Supervision and Collection, and such allocations shall be justified by detailed statements and data calculated and prepared in accordance with the methods prescribed in this Part showing amounts of expenditures, properly allocated to expense groups and primary lines of business.
  - B) When Allowances to Managers and Agents represent a division of expenses shared with other companies, the aforementioned statements and data shall show the division of such shared expenses calculated and prepared in accordance with the methods prescribed in this Part.
  - C) The calculation and preparation of the aforementioned statements and data shall be subject to verification and audit by insurance department personnel.
  - D) The instructions under the heading Commission and Allowances do not apply to Commission and Brokerage-Reinsurance Assumed, or Commission and Brokerage-Reinsurance Ceded.
- d) Taxes  
Taxes shall comprise the totals of the operating expense classification Taxes, Licenses and Fees.
- e) General Expenses  
General Expenses shall comprise all expenses not assignable by this Part to other expense groups.

**Section 903.430 Allocation to Expense Groups**

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- a) Expenses shall be allocated to expense groups as follows:

<u>Expenses to Be Allocated to Expense Groups</u>	<u>Allocation to Expense Groups</u>
Claim Adjust. Services:	
Direct	Loss Adjust. Expenses
Reinsurance Assumed	Loss Adjust. Expenses
Reinsurance Ceded	Loss Adjust. Expenses
Commission & Brokerage:	See Commission and Allowances
Direct	(Subpart C, Section 903.420(c)(2))
Reinsurance Assumed	Acquisition, Field Supervision and Collection Expenses
Reinsurance Ceded	Acquisition, Field Supervision and Collection Expenses
Contingent-Net	Acquisition, Field Supervision and Collection Expenses
Policy & Membership Fees	Acquisition, Field Supervision and Collection Expenses
Allowances to Managers & Agents	See Commission and Allowances (Subpart C, Section 903.420(c)(2))
Advertising	Acquisition, Field Super. & Collec. Exp.
Boards, Bureaus & Assn.	General Expenses
Surveys & Underwriting	General Expenses

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## Reports

Audit of Assureds' Rec.	General Expenses
Salaries	See Spec. Instructions Relating to Allocation of Salaries & Other Expenses (Subpart E)
Employee Relations & Welfare	Overhead on Salaries
Pensions	Overhead on Salaries
Directors' Fees	Overhead on Salaries
Travel and Entertain.	Spec. Studies
Rent and Rent Items	Overhead on Salaries
Equipment	Overhead on Salaries
Printing & Stationery	Overhead on Salaries
Postage, Telephone & Telegraph, Exchange and Express	Overhead on Salaries
Legal & Auditing	Special Studies
Taxes, Licenses & Fees	Taxes
Real Estate Expenses	Investment Expenses
Real Estate Taxes	Investment Expenses
Income from Spec. Serv.	Special Studies
Miscellaneous	Special Studies

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- b) **Definitions**  
For definition of the terms Overhead on Salaries & Special Studies, See Subpart B, Section 903.310(b).
- c) **Other Bases Permitted Or Prescribed**  
For those operating expense classifications permitting the basis Overhead on Salaries, any other basis of allocation may be adopted which yields more accurate results. The basis Overhead on Salaries shall not be used if clearly inappropriate.
- d) **Other Instructions Applicable**  
In making any allocations to expense groups, companies shall observe the General Instructions Regarding Allocation Bases (see Subpart E, Section 903.620).
- e) **Records Required**  
The methods followed in allocating to expense groups shall be described, kept and supported as set forth under Detail of Allocation Bases (see Subpart E, Section 903.630(g)).

The effects of the application to each operating expense classification of all bases of allocation shall be shown on records kept in clear and legible form. Such records shall be readily available for examination.

SUBPART D: RULES RELATING TO ALLOCATION  
TO LINES OF BUSINESS

**Section 903.510 Lines of Business**

The lines of business for allocation of expenses shall be the following:

- a) **Fire and Allied Lines:**
  - 1) Fire
  - 2) Extended Coverage
  - 3) Other
- b) **Ocean Marine**



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- c) Inland Marine
- d) Automobile Liability
  - 1) Bodily Injury (including medical payments coverage)
  - 2) Property Damage
- e) Automobile Physical Damage and Theft:  
Fire, Theft and Comprehensive Collision
- f) Worker's Compensation
- g) Liability Other than Automobile
  - 1) Bodily Injury
  - 2) Property Damage
- h) Fidelity
- i) Surety
- j) Glass
- k) Burglary and Theft
- l) Accident and Health
- m) Boiler and Machinery

**Section 903.520 Allocation of Expenses to Lines of Business**

- a) Allocation of Expenses
  - 1) The allocation of expenses to lines of business shall be by expense groups. Each classification of expense within each expense group shall be allocated separately to lines of business on the bases of allocation

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prescribed as follows.

- 2) All bases employed in such allocations shall be applicable and appropriate to the expense group of which such expense is a part.
- 3) Example - Expenses which are allocated to lines of business as an Overhead on Salaries shall be calculated in relation only to the salaries included in the same expense group.

Expenses Included in the Expense Group, Loss Adjust. Expenses	Bases of Allocation to Lines of Business
Claim Adjust. Services:	
Direct	Actual
Reinsurance Assumed	Actual
Reinsurance Ceded	Actual
Commission & Brokerage -Direct	See Commission & Allow. (Subpart C, Section 903.420(c)(2))
Allowances to Managers and Agents	See Commission & Allow. (Subpart C, Section 903.420(c)(2))
Salaries	See Spec. Inst. Relating to Allocation of Salaries & Other Expenses (Subpart E)
Employee Relations & Welfare	Overhead on Salaries
Pensions	Overhead on Salaries
Directors' Fees	Overhead on Salaries
Traveling & Entertain.	Special Studies
Rent & Rent Items	Overhead on Salaries

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Equipment	Overhead on Salaries
Printing & Stationery	Overhead on Salaries
Postage, Telephone & Telegraph, Exchange & Express	Overhead on Salaries
Legal & Auditing	Special Studies
Income from Spec. Serv.	Special Studies
Miscellaneous	Special Studies
Expenses Included in the Expense Group, Acquisition, Field Supervision & Collection Expenses	Bases of Allocation to Lines of Business
Commission & Brokerage: Direct	Actual, but Subject to Instructions Under Comm. & Allow. (Subpart C, Section 903.420(c)(2))
Reinsurance Assumed	Actual
Reinsurance Ceded	Actual
Contingent-Net	Special Studies
Policy & Membership Fees	Actual
Allowances to Managers & Agents	Spec. Studies, but Subject to Instructions under Commission & Allowance (Subpart C, Section 903.420(c)(2))

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Advertising	Premiums
Salaries	See Special Instructions Relating to Allocation of Salaries & Other Expenses (Subpart E)
Employee Relations & Welfare	Overhead on Salaries
Pensions	Overhead on Salaries
Directors' Fees	Overhead on Salaries
Travel & Entertain.	Special Studies
Rent & Rent Items	Overhead on Salaries
Equipment	Overhead on Salaries
Printing & Stationery	Overhead on Salaries
Postage, Telephone & Telegraph, Exchange & Express	Overhead on Salaries
Legal & Auditing	Special Studies
Income from Spec. Serv.	Special Studies
Miscellaneous	Special Studies
Expenses Included in the Expense Group, General Expenses	Bases of Allocation to Lines of Business
Comm. & Brokerage- Direct	See Comm & Allowances (Subpart C, Section 903.420(c)(2))

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Allowances to Managers & Agents	See Comm. & Allowances (Subpart C, Section 903.420(c)(2))
Boards, Bureaus & Assn.	Special Studies
Surveys & Underwriting Reports	Special Studies
Audit of Assureds' Records	Special Studies
Salaries	See Spec. Instructions Relating to Allocation of Salaries & Other Expenses (Subpart E)
Employee Relations & Welfare	Overhead on Salaries
Pensions	Overhead on Salaries
Directors' Fees	Overhead on Salaries
Travel. & Entertain.	Special Studies
Rent & Rent Items	Overhead on Salaries
Equipment	Overhead on Salaries
Printing & Stationery	Overhead on Salaries
Postage, Telephone & Telegraph, Exchange & Express	Overhead on Salaries
Legal & Auditing	Special Studies
Income from Spec. Serv.	Special Studies

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## Miscellaneous

## Special Studies

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 Expenses Included in the  
Expense Group, Taxes
 

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 Bases of Allocation  
to Lines of Business
 

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## Taxes, Licenses &amp; Fees:

State &amp; Local Ins. Taxes

Special Studies

Ins. Dept. or State

Licenses &amp; Fees

Special Studies

## Payroll Taxes

Overhead on Salaries

## All other (excluding

Fed. Income &amp; Real

Estate)

Special Studies

## b) Definitions

1) The term Actual means that the expenses are susceptible of direct and accurate allocation, and companies shall allocate directly to lines of business and shall not employ any apportionments or estimations.

2) For definitions of the terms Special Studies, Premiums and Overhead on Salaries, see Subpart B, Section 903.310(b).

## c) Other Bases Permitted or Prescribed

For those expense classifications permitting the basis Overhead on Salaries or Premiums, any other basis of allocation may be adopted which yields more accurate results. The bases Overhead on Salaries and Premiums shall not be used if clearly inappropriate.

## d) Other Instructions Applicable

In making any allocations to lines of business, companies shall observe the General Instructions Regarding Allocation Bases (see Subpart E, Section 903.620)

## e) Records Required

The methods followed in allocating to lines of business shall be described, kept

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and supported as set forth under Detail of Allocation Bases (see Subpart E, Section 903.630(g)).

- f) The effects of the application to each operating expense classification of all bases of allocation shall be shown on records kept in clear and legible form. Such records shall be readily available for examination.

SUBPART E: SPECIAL INSTRUCTIONS RELATING TO  
THE ALLOCATION OF SALARIES AND OTHER EXPENSES

**Section 903.610 General Procedures in Allocating Salaries**

- a) **Direct Allocations**  
Wherever possible, salaries of individuals or similarly employed groups shall be allocated direct to companies, expense groups and primary lines of business. In other words, salaries of employees whose work is solely in connection with a specific company, expense group or line of business shall be allocated thereto.
- b) **Allocations Other Than Direct**
  - 1) When a direct allocation is not made, salaries, with certain exceptions hereinafter noted, shall be allocated on whichever of the following bases, or combinations thereof, are appropriate:
    - A) Number of Items or Units
    - B) Time Studies
    - C) Overhead on Other Allocations
    - D) Premiums
    - E) Dollar Volume of Losses
    - F) Other Special Studies
  - 2) All bases of allocation, and the application thereof, shall be subject to restrictions, modifications and exceptions in the General Instructions Regarding Allocation Bases which follow.

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**Section 903.620 General Instructions Regarding Allocation Bases**

- a) Number of Items or Units
  - 1) Item and unit counts may include the following:
    - A) Number of Premium Entries
    - B) Number of Policies
    - C) Number of Loss Entries
    - D) Number of Accidents
    - E) Number of Employees

and any other unit or item counts which aid in the allocation of expenses. To the greatest practical extent, such unit or item counts shall be applied only to expenses incurred in activities having a direct relationship to the bases.

- 2) In determining the applicability of Number of Premium Entries as a basis of allocation, consideration shall be given to the number of premiums on original policies plus additional premiums, return premiums, reinsurance premiums, and return premiums on reinsurance. Where more than one card is punched or more than one entry is made covering only one amount, consideration shall be given thereto. Consideration shall also be given to the effect on cost of procedural differences in connection with types of entries.
- 3) In determining the applicability of Number of Policies as a basis of allocation, consideration shall be given to policies underlying another policy, to policies covering more than one line of business, to policies for various terms, and to the effect on cost of procedural differences in connection with types of policies.
- 4) In determining the applicability of Number of Loss Entries as a basis of allocation, consideration shall be given to the number of gross entries plus



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salvage entries and reinsurance entries, for paid or outstanding losses, or both, and to the effect on cost of procedural differences in connection with types of loss entries.

- 5) In determining the applicability of Number of Accidents as a basis of allocation, consideration shall be given to accidents on which specific estimates are set up, those on which no specific estimate is made, and those for which no claim is made, and to the effect on cost of procedural differences in connection with types of accidents.
  - 6) The basis Number of Employees is of limited application and shall be used only where the cost logically follows the number of employees. It may be of use, where properly weighted, in allocating such units as cafeteria, personnel department, and payroll department.
- b) **Time Studies**  
Time studies are actual measurements of time required to make motions, to complete a routine of regularly occurring procedure. In contemplating the use of a time study as a basis of allocation, consideration shall be given to the number of motions which must be studied to obtain a valid average and to possible distortions in the average caused by exceptional conditions during the study.
- c) **Overhead on Other Allocations**  
Salaries of supervisors and executives may be distributed as an overhead on the salaries of employees whom they supervise. Salaries of departments such as mail and general stenographic may be distributed as an overhead on the salaries of people whose work is handled. However, no salaries shall be distributed as an overhead on other allocations if any other basis is more appropriate.
- d) **Premiums**
- 1) Premiums shall not be used as a basis of allocation except when specifically noted as a permissible basis or when the expense is incurred as a percentage of premiums (subject to instructions under Commission and Allowances in Subpart C, Section 903.420(c)(2)), or when the expenses are logically allocable on the basis of premiums. In no event shall premiums be used as a basis of allocation in connection with clerical, technical, secretarial, office maintenance, supervisory and executive activities unless such basis is clearly appropriate and until all other

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reasonable bases of allocation have been considered and found less appropriate than premiums.

- 2) In determining the applicability of premiums as a basis of allocation, consideration shall be given to the applicability of direct and reinsurance premiums, and written, earned and unearned premiums, as well as to subdivisions thereof.
- e) Dollar Volume of Losses
- 1) Dollar Volume of Losses shall be used as a basis of allocation only when the activities resulting in expense are influenced by the dollar amounts of losses, and only when all other reasonable bases of allocation have been considered and found less appropriate than Dollar Volume of Losses.
  - 2) In determining the applicability of Dollar Volume of Losses as a basis of allocation, consideration shall be given to the applicability of direct and reinsurance losses, and paid, incurred and outstanding losses as well as to subdivisions thereof.
- f) Other Special Studies
- Salaries may be allocated on the basis of other special studies, provided demonstrably more accurate results are thereby produced than through the use of the bases heretofore discussed, but not otherwise.
- g) Weightings
- Weightings may be applied in using any bases of allocation but the justification for such weightings shall be stated in the Detail of Allocation Bases (see Subpart E, Section 903.630(g)). Weightings shall not be used as a means for giving effect to a basis which is prohibited by these instructions.
- h) Bases Shall Be Appropriate
- 1) The bases of allocation used shall be appropriate and applicable to the expenses to which such bases are applied. All bases shall be limited and subdivided in such manner that the expenses to which the bases are applied have a reasonable relationship to each component of the bases. For example, an allocation basis which includes a particular line of business shall not be applied to expenses incurred for activities which do

## DEPARTMENT OF INSURANCE

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not include that line.

- 2) Any basis of allocation which is found to be inappropriate shall be discontinued.
- i) **General Work On Totals**  
Where an individual or a group of employees work on totals, the allocation of the expenses involved may be based on the information entering into the totals.
- j) **Bases Shall Be Made In Current Period**  
All bases of allocation shall be compiled or calculated from the transactions or procedures for the period applicable to the expenses to be allocated, unless the use of any other period is justified by investigation made during the applicable period. Such justification shall be set forth on the Detail of Allocation Bases (see Subpart E, Section 903.630(g)).

**Section 903.630 Special Statements and Records Required**

- a) The following types of records shall be prepared by each company or fleet in allocating salaries to companies, expense groups and primary lines of business:
  - 1) Allocation of Salaries
  - 2) Recapitulation of Salaries
  - 3) Detail of Allocation Bases
- b) The Allocation of Salaries and the Recapitulation of Salaries shall be prepared,
  - 1) for the twelve months of the current calendar year, or
  - 2) for twelve months ending not earlier than September 30th of the current year, in which case the ratios established shall be applied to the total salaries for the twelve months of the current calendar year. The method of (2) shall not be followed if operations during the period used were materially different from operations during the period to which the ratios are to be applied. All amounts included in the operating expense classification Salaries, for the period used in preparing the Allocation of Salaries and the Recapitulation of Salaries shall be accounted for on such

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records.

- c) Forms of the records are shown hereinafter. The forms may be of any convenient size, and may be entered in ink, type, or by other mechanical means, provided the entries are legible. If the organization or method of operation of any company is such as to make desirable changes in the forms such as a rearrangement of the columns, or a separation of the forms into two or more parts, such changes may be made, provided the substituted forms do not, in any respect, show less information than called for on the forms shown herein, and do not result in confusing the presentation of salary allocation.
- d) Such records shall be maintained in good order and shall at all times be readily available for examination.
- e) Allocation Of Salaries Form
  - 1) The form, Allocation of Salaries, is shown on the preceding page. To aid in the understanding of the form, specimen entries have been made thereon and, as further aids to understanding, each column is explained in the following paragraphs:
    - A) Column 1:
      - i) List each similarly employed unit within each departmental or other division in the organization. By "similarly employed" is meant employed in essentially the same or similar activities in or for the same departmental or other division.
      - ii) The personnel shall be divided into as many units as necessary to show each type of work done by each departmental or other division in the organization. Employees whose duties are not solely related to the work performed by one unit, such as some in supervisory positions, shall be listed separately by title or job classification.
    - B) Column 2: Gross salaries applicable to each unit shown in Column 1.

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- C) Columns 3, 4 and 5:
- i) These columns are for use when the Salaries classification is affected by allocations made to other companies.
  - ii) A separate line is to be used for the allocation to each company or group of companies. When intercompany allocations are not made, or when quota share percentages can be applied to fleet totals, Columns 3,4 and 5 need not be used.
  - iii) Designating numbers shall be entered in Column 4 for the methods used in intercompany allocations.
- D) Column 6: Designating numbers shall be entered in this column for the methods used in allocating salaries to expense groups.
- E) Columns 7 to 10: The amounts assigned to each expense group shall be in accordance with the method shown in Column 6. At the side of each expense group column (except the column Investment Expenses) is shown a narrow column captioned "Line Distribution", wherein shall be entered designating numbers for the methods to be followed in distributing salaries to primary lines of business.
- 2) Pool and Quota Share Reinsurance  
When quota share reinsurance is in effect and when salaries may be allocated in strict accordance with the quota share percentages, the amounts shown in the Allocation of Salaries Form may be those subject to quota share. Quota share percentages may, in such cases, be applied to the totals either on the Allocation of Salaries or the Recapitulation of Salaries.
- 3) Branch and Field  
Branch office salaries shall be shown separately in the Allocation of Salaries and in the Recapitulation of Salaries. In combining branch employees into similarly employed units, it shall be permissible to consider as a unit all similarly employed personnel in all branch offices having similar functions, and handling approximately the same relative

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volume of each line of business.

- 4) **Salary Reimbursements to Other Companies**  
Due to expense sharing with another company, outside of the company or fleet, debits may appear in the salary accounts for reimbursements to outside companies. Such payments are to be shown under separate caption in the Allocation of Salaries. Where such payments amount to less than 10% of gross salaries paid by the company to its own employees, the amounts shown on the Allocation of Salaries may be distributed as an overhead on all other salary distributions. If more than 10%, the distribution shall be obtained from the other company.
  - 5) **Salaries Not Specifically Reimbursable**  
When the employees of a company devote time to the affairs of another company, and the reimbursements therefor are handled in accordance with the instructions, Expenses for Account of Another or Income from Special Services (see Subpart b, Section 903.220(b) and (c)), the salaries for each similarly employed unit applicable to work done for such other company shall be shown separately on the Allocation of Salaries (in Columns 3 to 10 incl.).
- f) **Recapitulation of Salaries Form**
- 1) When all distributions called for on the Allocation of Salaries Form have been completed, the Recapitulation of Salaries shall be made.
  - 2) For each company to which salaries have been allocated on the Allocation of Salaries Form, the amounts shown in each expense group column shall be combined by the line distribution codes shown in the "Line Distribution" columns. The totals thus obtained shall be entered on the Recapitulation of Salaries Form and allocated to primary lines of business in accordance with the line distribution codes.
  - 3) The forms, Recapitulation of Salaries, are shown on the preceding page.
  - 4) Although presented on one page, there are three separate forms, one for Loss Adjustment Expenses, another for Acquisition, Field Supervision and Collection Expenses, and another for General Expenses. For purposes of illustration, the specimen entries, applicable to Company A, made on the

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Allocation of Salaries Form have been continued on the Recapitulation of Salaries Form. Note that, for Company A, the figures in the expense group columns on the Allocation of Salaries Form have been combined by "Line Distribution" codes, entered on the Recapitulation of Salaries Form, and then spread to primary lines of business based on the "Line Distribution" codes.

## g) Detail of Allocation Bases Form

- 1) The bases of allocation used on the Allocation of Salaries Form shall be fully described on the Detail of Allocation Bases Form. There shall be a separate sheet for each basis and the sheets shall be kept in consecutive numerical order, available at all times for examination.
- 2) When the basis of allocation cannot be fully described on the form, subsidiary worksheets, compilations and data shall be either attached to the form or filed separately and readily available.
- 3) The Detail of Allocation Bases Form and all subsidiary worksheets, compilations and data shall be clear and legible; shall show the sources, detail and dates of all figures used; shall disclose the names of persons or groups responsible for all compilations, data, calculations, studies, estimates, judgment factors, weightings, etc., and the dates thereof; and, in general shall include complete explanations of all figures used and decisions made.
- 4) Note: The Detail of Allocation Bases Form need not be prepared each year, but with appropriate changes in supporting worksheets, etc., may remain current as long as the bases are in effect.
- 5) Four illustrations of the Detail of Allocation Bases Form are shown on the pages which follow. The allocation bases No. 1, 101, 105 and 501 shown on the Allocation of Salaries Form have been carried into the forms and specimen explanations given.

(Editor's Note: The illustrations referred to were omitted from Rule 9.03 (now 50 Ill. Adm. Code 903) as filed July 11, 1958. The Department of Insurance has advised that the specimen material intended by the rules may be found in "Instructions for Uniform classifications of Expenses of

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED REPEALER

Fire-Marine-Casualty-Surety Insurers Effective January 1, 1949 (NAIC Proc. 1949 pp. 42-125)" together with official NAIC amendments thereto and interpretations thereof.)



## DEPARTMENT OF INSURANCE

## NOTICE OF PROPOSED REPEALER

- 1) Heading of the Part: Supplemental Reports for Property and Casualty Insurance Companies
- 2) Code Citation: 50 Ill. Adm. Code 936
- 3) 

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
936.10	Repealed
936.20	Repealed
936.30	Repealed
936.40	Repealed
936.50	Repealed
936.60	Repealed
936.EXHIBIT A	Repealed
- 4) Statutory Authority: Implementing and authorized by Section 144.2 of the Illinois Insurance Code [215 ILCS 5/144.2] (see PA 90-381, effective August 14, 1997).
- 5) A Complete Description of the Subjects and Issues Involved: Part 936, effective 1998, required Property & Casualty companies to complete and submit the specified form if notified by the Department that supplemental reporting was required. This supplemental information can now be obtained through companies' annual statements or during the Department's routine review process. This Part is now unnecessary and should be repealed in its entirety.
- 6) Any published studies or reports, along with the sources of underlying data, that were used when comprising this rulemaking, in accordance with 1 Ill. Adm. Code 100.355:  
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 will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.

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## NOTICE OF PROPOSED REPEALER

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

Fred Moore  
Assistant General Counsel  
Illinois Department of Insurance  
122 S. Michigan Ave, 19th Fl  
Chicago IL 60603

or Susan Anders  
Rules Coordinator  
Illinois Department of Insurance  
320 W. Washington St.  
Springfield IL 62767

312/814-5398  
fax: 312/814-2862

217/558-0957

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
  - B) Reporting, bookkeeping or other procedures required for compliance: None
  - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2018

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

## DEPARTMENT OF INSURANCE

## NOTICE OF PROPOSED REPEALER

## TITLE 50: INSURANCE

## CHAPTER I: DEPARTMENT OF INSURANCE

## SUBCHAPTER I: PROVISIONS APPLICABLE TO ALL COMPANIES

## PART 936

SUPPLEMENTAL REPORTS FOR PROPERTY  
AND CASUALTY INSURANCE COMPANIES (REPEALED)

## Section

936.10	Purpose
936.20	Applicability
936.30	Definitions
936.40	Notification Procedures
936.50	Reporting Requirements for Notified Property and Casualty Companies Having Direct Premium Income
936.60	Penalties

## 936.EXHIBIT A Property and Casualty Reporting Form

AUTHORITY: Implementing and authorized by Section 144.2 of the Illinois Insurance Code [215 ILCS 5/144.2] (see P.A. 90-381, effective August 14, 1997).

SOURCE: Adopted at 22 Ill. Reg. 15319, effective August 6, 1998; repealed at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 936.10 Purpose**

The purpose of this Part is to establish notification procedures and supplemental reporting requirements for property and casualty insurance companies.

**Section 936.20 Applicability**

This Part shall apply to all companies authorized to transact the classes of business as set forth in Class 2 or Class 3 of Section 4 of the Illinois Insurance Code [215 ILCS 5/4].

**Section 936.30 Definitions**

Annual Statement means that statement required by Section 136 of the Illinois Insurance Code [215 ILCS 5/136] to be filed annually by the company with the

## DEPARTMENT OF INSURANCE

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Office of the Director.

Direct Premium Income means any written premium shown for a property and casualty company on Schedule T, Line 98, Column 2 of the statutory Annual Statement, as required by Section 136 of the Illinois Insurance Code [215 ILCS 5/136], or equivalent information in any revision of the Annual Statement.

Director means the Director of the Illinois Department of Insurance.

Notified Companies means those insurance companies which the Director has notified pursuant to Section 936.40 of this Part.

**Section 936.40 Notification Procedures**

- a) A company having direct premium income for property and casualty business may be notified by the Director that supplemental reporting requirements must be met if the company meets one or more of the following categories:
  - 1) the company has been exempted by the Director pursuant to Section 136 of the Illinois Insurance Code [215 ILCS 5/136] from filing the actuarial opinion for any reason as outlined in the appropriate National Association of Insurance Commissioners Annual Statement Instructions;
  - 2) the company has greater than 30 percent of direct premium income from lines of business that have less than 10 years of experience reported in Schedule P of the Annual Statement; or
  - 3) the Director believes that the financial condition of the company warrants additional monitoring.
- b) The Director will notify, in writing, the companies that meet one or more of the conditions listed in subsection (a) of this Section. The Director's written notification shall include the reason the supplemental reporting is being required from the notified company.

**Section 936.50 Reporting Requirements for Notified Property and Casualty Companies Having Direct Premium Income**

- a) The notified company shall file a completed Exhibit A of this Part with: Financial

## DEPARTMENT OF INSURANCE

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Corporate Regulatory Division, Casualty Actuarial Section, Illinois Department of Insurance, 320 West Washington Street, Springfield, Illinois 62767-0001.

- b) Notified companies are to file the supplemental report pursuant to subsection (a) of this Section within 45 days after the end of each calendar quarter including the last calendar quarter of the year.
- c) The notified company shall continue to file a completed Exhibit A as specified in subsection (a) of this Section unless otherwise notified by the Director.

**Section 936.60 Penalties**

Failure of a notified company to file the supplemental reports pursuant to Section 936.50 of this Part shall subject the notified company to the provisions of Section 403A of the Illinois Insurance Code [215 ILCS 5/403A].

DEPARTMENT OF INSURANCE

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**Section 936.EXHIBIT A Property and Casualty Reporting Form**

**Cumulative paid loss development history at successive quarterly evaluations for most recent four (4) accident years (Include paid ALAE)**

Development Quarter (in months)

<u>Accident Year</u>	3	6	9	12	15	18	21	24	27	30	33	36	39	42	45	48
XXX	XXX	XXX	XXX	XXX	XXX	XXX	XXX	XXX	XXX	XXX	XXX	XXX	XXX	XXX	XXX	XXX
XXX	XXX	XXX	XXX	XXX	XXX	XXX	XXX	XXX	XXX	XXX	XXX	XXX				
XXX	XXX	XXX	XXX	XXX	XXX	XXX	XXX	XXX								
XXX	XXX	XXX	XXX													

**Cumulative paid + case loss development history (excluding bulk & IBNR) at successive quarterly evaluations for most recent 4 accident yrs.**

**(This is referred to as "reported")**

(Including paid ALAE)

Development Quarter (in months)

<u>Accident Year</u>	3	6	9	12	15	18	21	24	27	30	33	36	39	42	45	48
XXX	XXX	XXX	XXX	XXX	XXX	XXX	XXX	XXX	XXX	XXX	XXX	XXX	XXX	XXX	XXX	XXX
XXX	XXX	XXX	XXX	XXX	XXX	XXX	XXX	XXX	XXX	XXX	XXX	XXX				
XXX	XXX	XXX	XXX	XXX	XXX	XXX	XXX	XXX								
XXX	XXX	XXX	XXX													

**Bulk and incurred but not reported reserves on losses and ALAE at successive quarterly evaluations for most recent four (4) accident years**

(Pure bulk and IBNR as well as future development on reported claims)

Development Quarter (in months)

<u>Accident Year</u>	3	6	9	12	15	18	21	24	27	30	33	36	39	42	45	48
XXX	XXX	XXX	XXX	XXX	XXX	XXX	XXX	XXX	XXX	XXX	XXX	XXX	XXX	XXX	XXX	XXX
XXX	XXX	XXX	XXX	XXX	XXX	XXX	XXX	XXX	XXX	XXX	XXX	XXX				
XXX	XXX	XXX	XXX	XXX	XXX	XXX	XXX	XXX								
XXX	XXX	XXX	XXX													

**Earned premium by accident quarter**



## DEPARTMENT OF INSURANCE

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Mid-Term Cancellations
- 2) Code Citation: 50 Ill. Adm. Code 940
- 3) 

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
940.10	Amendment
940.20	Amendment
940.30	Amendment
- 4) Statutory Authority: Implementing Section 143.16a of the Illinois Insurance Code [215 ILCS 5/143.16a] and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/401].
- 5) A Complete Description of the Subjects and Issues Involved: The proposed amendments remove a requirement to file any amendments purporting to omit reinsurance coverage. This requirement is redundant because those amendments would already be included in the reinsurance contract that is required to be filed. The amendments also add a definition for "Code" as "Illinois Insurance Code" to simplify language, and they include grammatical and technical corrections and clarifications.
- 6) Any published studies or reports, along with the sources of underlying data, that were used when comprising this rulemaking, in accordance with 1 Ill. Adm. Code 100.355:  
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 will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this Notice to:



## DEPARTMENT OF INSURANCE

## NOTICE OF PROPOSED AMENDMENTS

Robert Planthold  
Assistant General Counsel  
Illinois Department of Insurance  
122 S. Michigan Ave, 19th Fl  
Chicago IL 60603

or Susan Anders  
Rules Coordinator  
Illinois Department of Insurance  
320 W. Washington St.  
Springfield IL 62767

312/814-5445  
fax: 312/814-2862

217/558-0957

- 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: Reduction in existing reporting requirements
  - C) Types of professional skills necessary for compliance: Clerical/Administrative
- 14) Regulatory Agenda on which this rulemaking was summarized: July 2018

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

## DEPARTMENT OF INSURANCE

## NOTICE OF PROPOSED AMENDMENTS

TITLE 50: INSURANCE  
CHAPTER I: DEPARTMENT OF INSURANCE  
SUBCHAPTER I: PROVISIONS APPLICABLE TO ALL COMPANIESPART 940  
MID-TERM CANCELLATIONS

Section	
940.10	Purpose
940.20	Definitions
940.30	Certification

AUTHORITY: Implementing Section 143.16a of the Illinois Insurance Code [215 ILCS 5/143.16a] and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/401].

SOURCE: Emergency rules adopted at 10 Ill. Reg. 3680, effective January 30, 1986, for a maximum of 150 days; adopted at 11 Ill. Reg. 3113, effective February 3, 1987; amended at 12 Ill. Reg. 19699, effective November 14, 1988; amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 940.10 Purpose**

This Part is issued pursuant to Section 401 of the ~~Illinois Insurance Code (Ill. Rev. Stat. 1985, ch. 73, par. 1013)~~ in order to implement Section 143.16a(e) ~~of~~by the ~~Illinois Insurance Code (Ill. Rev. Stat. 1985, ch. 73, par. 755.16a(e))~~ by establishing standards and procedures for the filing and acceptance of certifications of the loss of reinsurance by the Illinois Director of Insurance.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 940.20 Definitions**

"Code" means the Illinois Insurance Code [215 ILCS 5]

~~a)~~"Department" ~~means~~shall mean the Illinois Department of Insurance.

~~b)~~"Director" ~~means~~shall mean the Illinois Director of Insurance.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF INSURANCE

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**Section 940.30 Certification**

- a) No notice of cancellation may be issued by any insurer under authority of Section 143.16a(e) of the ~~Illinois Insurance~~ Code unless the insurer has filed the certification and documents described by this section and received notification of its acceptance from the Director.
- b) Certification of the loss of reinsurance under Section 143.16a(e) of the Illinois Insurance Code shall consist of a written statement signed by a principal officer of the company identifying the specific lines of insurance affected by the loss of reinsurance, giving an estimate of the number of Illinois policies to be cancelled, describing the reason for the loss of reinsurance, describing all efforts to renew and/or replace the reinsurance lost, and affirming that the insurer will cancel only those policies which were covered by the lost reinsurance.
- c) Every certification filed under this Part must be accompanied by the following documents:
  - 1) a copy of the reinsurance contract which had provided coverage for the policies to be cancelled;
  - 2) a copy of any notice of cancellation of reinsurance issued by the reinsurer and effecting the policies to be cancelled; and
  - ~~3) a copy of any amendment purporting to omit reinsurance coverage for the policies to be cancelled; and~~
  - 34) a copy of any new reinsurance contract replacing the lost reinsurance and purporting to omit reinsurance coverage for the policies to be cancelled.
- d) The Director shall give written notice of his acceptance of a certification within 30 days ~~after~~ its receipt by the Department, unless:
  - 1) the filing does not comply with the requirements of this Part;
  - 2) the filing is insufficient to demonstrate that the loss of reinsurance was involuntary on the part of the insurer making the filing;
  - 3) the certification appears to be untrue; or

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- 4) the reinsurance lost does not cover a substantial part of the underlying risk. In determining whether or not the reinsurance covers a substantial part of the underlying risk, the Director shall consider:
- A) the risk of loss to the insurer in providing coverage to the underlying risk without reinsurance, as compared to ~~the such~~ risk of loss to the insurer assuming the reinsurance of the underlying risk continues;
  - B) whether or not the reinsurance terminated actually provided for a transfer of risk from the insurer to the reinsurer; and
  - C) whether or not the termination of the reinsurance contract resulted in, or will result in a decrease in the insurer's statutory capital and surplus as described in Section 174.1 of the Code~~(Ill. Rev. Stat. 1987, ch. 73, par. 786.1)~~.
- e) Whenever the Director refuses to accept a certification he shall give written notice stating the reason for such refusal within 30 days after ~~of~~ the receipt of the certification by the Department.
- f) The Director's written notice of refusal shall be issued under and governed by the provisions of Sections 401.1 or 403A of the ~~Illinois Insurance Code (Ill. Rev. Stat. 1987, ch. 73, pars. 1013.1 or 1015A)~~ and the insurer shall be entitled to all rights of hearing provided for in the Code therein and in accordance with 50 Ill. Adm. Illinois Administrative Code 2402.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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## NOTICE OF PROPOSED REPEALER

- 1) Heading of the Part: Admitted Assets
- 2) Code Citation: 50 Ill. Adm. Code 945
- 3) 

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
945.10	Repealed
945.20	Repealed
945.30	Repealed
945.40	Repealed
945.50	Repealed
- 4) Statutory Authority: Implementing Section 136 and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/136 and 401] and implementing Section 2-7 of the Health Maintenance Organization Act [215 ILCS 125/2-7] (see PA 91-549, effective August 14, 1999).
- 5) A Complete Description of the Subjects and Issues Involved: This rule was a stop gap measure for defining “admitted assets” in 2000 until the NAIC Accounting Practices and Procedures were adopted in 2001. The rule is no longer needed and is being repealed. Additionally, Section 2-7 of the Health Maintenance Organization Act [215 ILCS 125/2-7] was repealed by PA 97-486, Section 30, effective January 1, 2012.
- 6) Any published studies or reports, along with the sources of underlying data, that were used when comprising this rulemaking, in accordance with 1 Ill. Adm. Code 100.355:  
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 will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.

## DEPARTMENT OF INSURANCE

## NOTICE OF PROPOSED REPEALER

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

Fred Moore  
Assistant General Counsel  
Illinois Department of Insurance  
122 S. Michigan Ave, 19th Fl  
Chicago IL 60603

or Susan Anders  
Rules Coordinator  
Illinois Department of Insurance  
320 W. Washington St.  
Springfield IL 62767

312/814-5398  
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217/558-0957

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
  - B) Reporting, bookkeeping or other procedures required for compliance: None
  - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2018

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

## DEPARTMENT OF INSURANCE

## NOTICE OF PROPOSED REPEALER

## TITLE 50: INSURANCE

## CHAPTER I: DEPARTMENT OF INSURANCE

## SUBCHAPTER I: PROVISIONS APPLICABLE TO ALL COMPANIES

## PART 945

ADMITTED ASSETS (REPEALED)

## Section

945.10	Purpose
945.20	Applicability
945.30	Definitions
945.40	Definition of Admitted Assets for Insurance Companies
945.50	Definition of Admitted Assets for Health Maintenance Organization

**AUTHORITY:** Implementing Section 136 and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/136 and 401] and implementing Section 2-7 of the Health Maintenance Organization Act [215 ILCS 125/2-7] (see P.A. 91-549, effective August 14, 1999).

**SOURCE:** Emergency rules adopted at 24 Ill. Reg. 2480, effective January 28, 2000, for a maximum of 150 days; adopted at 24 Ill. Reg. 8254, effective May 30, 2000; repealed at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 945.10 Purpose**

This Part sets forth clarification of the definition of "admitted assets" as defined by Section 3.1 of the Illinois Insurance Code [215 ILCS 5/3.1] and Section 1-3 of the Health Maintenance Organization Act [215 ILCS 125/1-3] (see P.A. 91-549, effective August 14, 1999).

**Section 945.20 Applicability**

This Part applies to any company as defined by Section 2 of the Illinois Insurance Code [215 ILCS 5/2] or any Health Maintenance Organization defined by Section 1-2 of the Health Maintenance Organization Act [215 ILCS 125/2-1] or any person, company or organization required to file an annual statement pursuant to Section 136 of the Illinois Insurance Code [215 ILCS 5/136] or Section 2-7 of the Health Maintenance Organization Act [215 ILCS 125/2-7] for financial statements filed with the Department covering any period of time ending on, or before December 31, 2000.

**Section 945.30 Definitions**

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Except as stated and unless a different meaning of a term is clear from its context, the definitions of terms used in this Part shall be the same as those used in the Illinois Insurance Code or in any Acts in Chapter 215 of the Illinois Compiled Statutes.

Act means the Health Maintenance Organization Act [215 ILCS 125].

Code means the Illinois Insurance Code [215 ILCS 5].

**Section 945.40 Definition of Admitted Assets for Insurance Companies**

Admitted assets includes the investments authorized or permitted by the Code, exclusive of Section 136 of the Code [215 ILCS 5/136], the credit for reinsurance allowed by the Code, and the following:

- a) Petty cash and other cash funds in the company's principal or any official branch office and under the control of the company.
- b) Immediately withdrawable funds on deposit in demand accounts, in a bank or trust company as defined in Section 126.2MMM(1) of the Code [215 ILCS 5/126.2MMM(1)] or like funds actually in the principal or any official branch office at statement date, and in transit to such bank or trust company with authentic deposit credit given prior to the close of business on the fifth bank working day following the statement date.
- c) The amount fairly estimated as recoverable on cash deposited in a closed bank or trust company, if qualifying under the provisions of this Section prior to the suspension of such bank or trust company.
- d) Bills and accounts receivable collateralized by securities of the kind in which the company is authorized to invest.
- e) Bills receivable not past due covering uncollected premiums taken by a company in the transaction of business described in Section 4, Class 3 of the Code [215 ILCS 5/4], in an amount not to exceed the unearned premium reserve liability calculated on each respective policy.
- f) For in force insurance coverages written by fire, casualty, and reciprocal companies, excluding group accident and health business, premium deposits,



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gross premiums, and agents' balances (net of related commissions) not more than 90 days past due; installments booked but deferred and not yet due (net of related commissions), provided that all amounts having become due from the insured are not more than 90 days past due; and audit and retrospective premium to the extent permitted to be admitted pursuant to the Annual Statement Instructions and the Accounting Practices and Procedures Manual for Property and Casualty Insurers published by the National Association of Insurance Commissioners, unless the Director prescribes otherwise. However, audit and retrospective premiums that represent anticipated additional premiums on policies for which the policy period has not yet expired may not be admitted.

- g) Net amount of uncollected premiums on group life and group accident and health policies, not more than 90 days past due.
- h) Due and uncollected accident and health premiums on in force individual policies, on insurance written by companies pursuant to Section 4, Class 1 of the Code [215 ILCS 5/4], less commissions due thereon to agents; not exceeding in the aggregate the premium reserve liability computed on such business.
- i) Premium notes, policy loans and liens, and the net amount of uncollected and deferred premiums on individual life insurance policies, not in excess of the liability for the legal reserves specified in Section 223 or Section 281 of the Code [215 ILCS 5/223 or 281] on such individual life insurance policies.
- j) Premium and assessment notes, certificate loans and liens, and the gross amount less loading, of premiums or assessments actually collected by subordinate lodges not yet turned over to the Supreme Lodge on individual life insurance certificates not in excess of the liability for the legal reserves specified in Section 297.1 or Section 305.1 of the Code [215 ILCS 5/297.1 or 305.1] on such individual life insurance certificates.
- k) Mortuary assessments due and unpaid on last call made within 60 days, on insurance in force and for which notices have been issued, not in excess of the liability for the unpaid claims which are to be paid by the proceeds.
- l) Amounts fairly estimated as recoverable from advances made on contracts under surety bonds.
- m) Amounts receivable from insurance companies authorized to do business in this

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State and from associations or bureaus owned or controlled by 5 or more separate and nonaffiliated, by ownership or management, insurance companies of which a majority thereof are authorized to transact business in this State. The amount of those receivables allowed as admitted assets may not exceed the lesser of 5% of the company's total admitted assets or 10% of the company's surplus as regards policyholders. Amounts receivable from insurance companies or associations or bureaus not meeting the preceding standards of this Part if collateralized in the manner prescribed by Section 173.1 of the Code [215 ILCS 5/173.1].

- n) Tax refunds due from the United States or any state, the Government of Canada or any province, or the Commonwealth of Puerto Rico or amounts due to a subsidiary from a parent under a tax allocation agreement that conforms with rules adopted by the Director.
- o) The interest accrued on mortgage loans conforming to the Code, not exceeding an aggregate amount on an individual loan of one year's total due and accrued interest.
- p) The rents accrued and owing to the company on real and personal property, directly or beneficially owned, not exceeding on each individual property the amount of one year's total due and accrued rent.
- q) Interest or rents accrued on conditional sales agreements, security interests, chattel mortgages and real or personal property under lease to other corporations, all conforming to the Code, and not exceeding on any individual investment, the amount of one year's total due and accrued interest or rent.
- r) The fixed and required interest due and accrued on bonds and other like evidences of indebtedness, conforming to the Code, and not in default.
- s) Dividends receivable on shares of stock conforming to the Code; provided that the market price taken for valuation purposes does not include the value of the dividend.
- t) The interest or dividends due and payable, but not credited, on deposits in banks and trust companies or on accounts with savings and loan associations.
- u) Interest accrued on secured loans conforming to the Code, not exceeding the amount of one year's interest on any loan.

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- v) Interest accrued on tax anticipation warrants.
- w) The value of electronic computer or data processing machines or systems purchased for use in connection with the business of the company, if such machines or systems whenever purchased have an aggregate original cost to the company of at least \$75,000. The amortized value of such machines or systems at the end of any calendar year shall not be greater than the original purchase price less 10% for each completed year, or pro rata portion for any fraction thereof, after such purchase, with the total admissible value at any statement date to be limited to an amount not exceeding 2% of the company's admitted assets at such statement date.
- x) Amounts, other than premium, receivable from affiliates, not outstanding for more than 3 months, and arising under management contracts or service agreements which meet the requirements of Section 141.1 of the Code [215 ILCS 5/141.1] to the extent that the affiliate has liquid assets sufficient to pay the balance. The amount of those receivables included in admitted assets may not exceed the lesser of 5% of the company's admitted assets or 10% of the company's surplus as regards policyholders. For purposes of this subsection (x), "affiliate" has the meaning given that term in Section 131.1 of the Code [215 ILCS 5/131.1].
- y) Property and liability guaranty fund or guaranty association assessments paid in any state, but only to the extent it is probable the company will be able to offset those assessments against present or future premium taxes or income taxes payable in the state in which the assessments were paid. The amount of those assessments allowed as admitted assets may not exceed the lesser of 5% of the company's total admitted assets or 10% of the company's surplus as regards policyholders. The Director may disallow any such assessment as an admitted asset to the extent he determines a company is unlikely to realize a present or future premium tax or income tax offset as a result of the assessment.

**Section 945.50 Definition of Admitted Assets for Health Maintenance Organization**

Admitted Assets includes the investments authorized or permitted by Section 3-1 of the Act [215 ILCS 125/3-1], exclusive of Section 2-7 of the Act [215 ILCS 125/2-7], and the following:

- a) Petty cash and other cash funds in the organization's principal or any official

## DEPARTMENT OF INSURANCE

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branch office and under the control of the organization.

- b) Immediately withdrawable funds on deposit in demand accounts, in a bank or trust company as defined in Section 3-1(g)(3) of the Act [215 ILCS 125/3-1(g)(3)] or like funds actually in the principal or any official branch office at statement date, and in transit to such bank or trust company with authentic deposit credit given prior to the close of business on the fifth bank working day following the statement date.
- c) The amount fairly estimated as recoverable on cash deposited in a closed bank or trust company, if qualifying under the provisions of this Section prior to the suspension of such bank or trust company.
- d) Bills and accounts receivable collateralized by securities of the kind in which the organization is authorized to invest.
- e) Premiums receivable from groups or individuals which are not more than 60 days past due. Premiums receivable from the United States, any state thereof or any political subdivision of either which is not more than 90 days past due.
- f) Amounts due under insurance policies or reinsurance arrangements from insurance companies authorized to do business in this State.
- g) Tax refunds due from the United States, any state or any political subdivision thereof.
- h) The interest accrued on mortgage loans conforming to Section 3-1 of the Act, not exceeding in aggregate amount on an individual loan of one year's total due and accrued interest.
- i) The rents accrued and owing to the organization on real and personal property, directly or beneficially owned, not exceeding on each individual property the amount of one year's total due and accrued rent.
- j) Interest or rents accrued on conditional sales agreements, security interests, chattel mortgages and real or personal property under lease to other corporations, all conforming to Section 3-1 of the Act, and not exceeding on any individual investment, the amount of one year's total due and accrued interest or rent.

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- k) The fixed and required interest due and accrued on bonds and other like evidences of indebtedness, conforming to Section 3-1 of the Act, and not in default.
- l) Dividends receivable on shares of stock conforming to Section 3-1 of the Act; provided that the market price taken for valuation purposes does not include the value of the dividend.
- m) The interest or dividends due and payable, but not credited, on deposits in banks and trust companies or on accounts with savings and loan associations.
- n) Interest accrued on secured loans conforming to the Act, not exceeding the amount of one year's interest on any loan.
- o) Interest accrued on tax anticipation warrants.
- p) The amortized value of electronic computer or data processing machines or systems purchased for use in connection with the business of the organization, including software purchased and developed specifically for the organization's use and purposes.
- q) The cost of furniture, equipment and medical equipment, less accumulated depreciation thereon, and medical and pharmaceutical supplies that are used in the delivery of health care and under the control of the organization, provided such assets do not exceed 30% of admitted assets.
- r) Amounts due from affiliates pursuant to management contracts or service agreements which meet the requirements of Section 141.1 of the Code [215 ILCS 5/141.1] to the extent that the affiliate has liquid assets with which to pay the balance and maintain its accounts on a current basis; provided that the aggregate amount due from affiliates may not exceed the lesser of 10% of the organization's admitted assets or 25% of the organization's net worth as defined in Section 3-1 of the Act. Any amount outstanding more than 3 months shall be deemed not current. For purpose of this subsection (r), "affiliates" are as defined in Section 131.1 of the Code [215 ILCS 5/131.1].
- s) Intangible assets, including, but not limited to, organization goodwill and purchased goodwill, to the extent reported in the most recent annual or quarterly financial statement filed with the Director preceding July 20, 1987. However, such assets shall be amortized, by the straight-line method, to a value of zero no

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later than December 31, 1990; provided, however, that no organization shall be required pursuant to the foregoing provision to amortize such assets in an amount greater than \$300,000 in any one year, and in cases where amortization of such assets by December 31, 1990 would otherwise require amortization of an annual amount in excess of \$300,000, the organization shall be required only to amortize such assets at a rate of \$300,000 per year until all such assets have been amortized to a value of zero, unless the continuation of the current amortization schedule would result in an earlier zero value, in which case the current amortization schedule shall be applied.

- t) Amounts due from patients or enrollees for health care services rendered which are not more than 60 days past due.
- u) Amounts advanced to providers under contract to the organization for services to be rendered to enrollees pursuant to the contract. Amounts advanced must be for a period of not more than 3 months and must be based on historical or estimated utilization patterns with the provider and must be reconciled against actual incurred claims at least semi-annually. Amounts due in the aggregate may not exceed 50% of the organization's net worth as defined in Section 3-1 of the Act. Amounts due from a single provider may not exceed the lesser of 5% of the organization's admitted assets or 10% of the organization's net worth.
- v) Cost reimbursement due from the Health Care Financing Administration for furnishing covered medicare services to medicare enrollees which are not more than twelve months past due.
- w) Prepaid rent or lease payments no greater than 3 months in advance, on real property used for the administration of the organization's business or for the delivery of medical care.

## DEPARTMENT OF INSURANCE

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Minimum Standards for Individual and Group Medicare Supplement Insurance
- 2) Code Citation: 50 Ill. Adm. Code 2008
- 3) 

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
2008.30	Amendment
2008.40	Amendment
2008.45	Amendment
2008.50	Amendment
2008.63	New Section
2008.64	Amendment
2008.67	Amendment
2008.80	Amendment
2008.81	Amendment
2008.APPENDIX W	Amendment
2008.APPENDIX EE	Amendment
2008.APPENDIX FF	Amendment
- 4) Statutory Authority: Implementing Sections 363 and 363a and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/363, 5/363a, and 5/401].
- 5) A Complete Description of the Subjects and Issues Involved: The proposed amendments to Sections 2008.67(f)(7), 2008.APPENDIX W, 2008.APPENDIX EE, and 2008.APPENDIX FF, as well as the proposed new Section 2008.63, are designed to bring Illinois in compliance with new federal mandates under the Medicare Access and CHIP Reauthorization Act of 2015 ("MACRA"). MACRA prohibits the sale of Medicare supplement policies that cover Part B deductibles to "newly eligible" Medicare beneficiaries, defined as those individuals who: (a) have attained age 65 on or after January 1, 2020; or (b) first become eligible for Medicare due to age, disability, or end-stage renal disease, on or after January 1, 2020. This prohibition applies in all states. Issuers selling such policies to "newly eligible" Medicare beneficiaries on or after January 1, 2020 are subject to fines, and/or imprisonment of not more than five years, and/or civil monetary penalties of not more than \$25,000 for each prohibited act. For "newly eligible" individuals, references in the law to Medicare supplement Plans C, F, and F with High Deductible are deemed as references to Plans D, G, and G with High Deductible.

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To facilitate states' compliance with MACRA, the National Association of Insurance Commissioners ("NAIC") revised its Model Regulation to Implement the NAIC Medicare Supplement Insurance Minimum Standards Model Act, MDL-651 (the "Model Regulation") as of 3rd Quarter 2016. The Centers for Medicare and Medicaid Services ("CMS") published a notice in the Federal Register [82 Fed. Reg. 41,684 (Sept. 1, 2017)] that recognizes this version of the new Model Regulation as setting forth the standards and requirements for Medicare supplement policies under Section 1882 of the Social Security Act [42 U.S.C. § 1395ss], subject to CMS' clarifications. Any state failing to come into alignment with the CMS-designated revisions to the Model Regulation could receive an accreditation censure from the NAIC and/or lose certification from the Secretary of the U.S. Department of Health and Human Services to regulate Medicare supplement insurance.

Other proposed changes to this Part: a company has proposed an attained-age premium structure for Medicare supplement policies which includes a dip in premium rates for several ages after age 65 (this has been referred to as a "ladle-shaped" premium structure by other regulators). Our proposed amendment to Section 2008.81 is necessary to clarify to industry that this premium structure is not allowed as it would constitute open enrollment discrimination as described in Section 2008.74.

The "ladle-shaped" structure would destabilize the Medicare supplement market by encouraging healthy 67 or 68 year olds with coverage from other companies to submit to medical underwriting and switch coverage, leaving companies that do not adopt this structure with unhealthy insureds at insufficient premium rates. These other companies would then be forced to copy the "ladle-shaped" rate structure, and rates for 65 year olds could become unaffordable. The clear intent of the open enrollment discrimination rule is to spread the additional costs of the open enrollment population over all policyholders.

Additionally, the "ladle-shaped" structure could be exploited by raising age 65 open enrollment premiums to astronomical levels followed by dramatically lower premiums in ages subsequent to 65 in order to prevent or otherwise discourage potential applicants from enrolling during the open enrollment period.

Our proposed language is similar to Option 2 for Section 15G of the Medicare Supplement Model Regulation 651, but the language we employed eliminates ambiguity and includes definitive instructions.



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In the course of working on the above amendments, we also found a need for technical corrections to this Part in Sections 2008.30, 2008.40, 2008.45, 2008.50, the introductory paragraphs of Sections 2008.64 and 2008.67, and 2008.80.

- 6) Any published studies or reports, along with the sources of underlying data, that were used when composing this rulemaking, in accordance with 1 Ill. Adm. Code 100.355:  
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 will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this Notice to:
- |   |    |  |
|---|----|--|
| Robert Planthold<br>Assistant General Counsel<br>Illinois Department of Insurance<br>122 S. Michigan Ave, 19th Fl<br>Chicago IL 60603 | or | Susan Anders<br>Rules Coordinator<br>Illinois Department of Insurance<br>320 W. Washington St.<br>Springfield IL 62767 |
| 312/814-5445<br>fax: 312/814-2862   |    | 217/558-0957   |
- 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

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- C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2018

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

## DEPARTMENT OF INSURANCE

## NOTICE OF PROPOSED AMENDMENTS

TITLE 50: INSURANCE  
CHAPTER I: DEPARTMENT OF INSURANCE  
SUBCHAPTER z: ACCIDENT AND HEALTH INSURANCEPART 2008  
MINIMUM STANDARDS FOR INDIVIDUAL  
AND GROUP MEDICARE SUPPLEMENT INSURANCE

## SUBPART A: GENERAL PROVISIONS

## Section

2008.10	Authority
2008.20	Purpose
2008.30	Applicability and Scope
2008.35	Effective Date (Repealed)
2008.40	Definitions

## SUBPART B: COVERAGE, POLICY &amp; BENEFIT PROVISIONS

2008.45	Creditable Coverage
2008.50	Policy Definitions and Terms
2008.60	Policy Provisions
2008.61	Benefit Conversion Requirements During Transition (Repealed)
<u>2008.63</u>	<u>Standard Medicare Supplement Benefit Plans for 2020 Standardized Medicare Supplement Benefit Plan Policies or Certificates Issued for Delivery to Individuals Newly Eligible for Medicare on or after January 1, 2020</u>
2008.64	Benefit Standards for 2010 Standardized Medicare Supplement Benefit Plan Policies or Certificates Issued for Delivery with an Effective Date for Coverage on or after June 1, 2010
2008.67	Standard Medicare Supplement Benefit Plans for 2010 Standardized Medicare Supplement Benefit Plan Policies or Certificates Issued for Delivery with an Effective Date for Coverage on or after June 1, 2010
2008.70	Minimum Benefit Standards for Pre-Standardized Medicare Supplement Benefit Plan Policies or Certificates Issued for Delivery Prior to February 11, 1992
2008.71	Benefit Standards for 1990 Standardized Medicare Supplement Benefit Plan Policies or Certificates Issued for Delivery after February 11, 1992 and with an Effective Date for Coverage Prior to June 1, 2010
2008.72	Standard Medicare Supplement Benefit Plans for 1990 Standardized Medicare Supplement Benefit Plan Policies or Certificates Issued for Delivery on or after

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2008.73 February 11, 1992 and with an Effective Date for Coverage Prior to June 1, 2010  
Medicare Select Policies and Certificates

## SUBPART C: ENROLLMENT &amp; ELIGIBILITY

2008.74 Open Enrollment  
2008.75 Guaranteed Issue for Eligible Persons

## SUBPART D: CLAIMS, REFUNDS &amp; CREDITS

2008.76 Standards for Claims Payment  
2008.80 Loss Ratio Standards and Refund or Credit of Premium

SUBPART E: RATES, COMPENSATION AGREEMENTS,  
DISCLOSURE, REPLACEMENT & MARKETING

2008.81 Filing and Approval of Policies and Certificates and Premium Rates  
2008.82 Permitted Compensation Arrangements  
2008.90 Required Disclosure Provisions  
2008.91 Instructions for Use of the Disclosure Statements for Health Insurance Policies  
Sold to Medicare Beneficiaries that Duplicate Medicare  
2008.100 Requirements for Application Forms and Replacement Coverage  
2008.101 Standards for Marketing  
2008.102 Appropriateness of Recommended Purchase and Excessive Insurance

## SUBPART F: REPORTING &amp; PROHIBITIONS

2008.103 Reporting of Multiple Policies  
2008.104 Prohibition Against Preexisting Conditions, Waiting Periods, Elimination Periods  
and Probationary Periods in Replacement Policies or Certificates  
2008.107 Prohibition Against Use of Genetic Information and Requests for Genetic Testing

## SUBPART G: MISCELLANEOUS PROVISIONS

2008.110 Severability  
2008.120 Effective Date (Repealed)

2008.APPENDIX A Policy Checklist  
2008.APPENDIX B Outline of Medicare Supplement Coverage – Cover Page for Medicare

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## NOTICE OF PROPOSED AMENDMENTS

	Supplement Plans Sold Prior to June 1, 2010
2008.APPENDIX C	Plan A (for plans issued prior to June 1, 2010)
2008.APPENDIX D	Plan B (for plans issued prior to June 1, 2010)
2008.APPENDIX E	Plan C (for plans issued prior to June 1, 2010)
2008.APPENDIX F	Plan D (for plans issued prior to June 1, 2010)
2008.APPENDIX G	Plan E (not available after May 31, 2010)
2008.APPENDIX H	Plan F or High Deductible Plan F (for plans issued prior to June 1, 2010)
2008.APPENDIX I	Plan G (for plans issued prior to June 1, 2010)
2008.APPENDIX J	Plan H (not available after May 31, 2010)
2008.APPENDIX K	Plan I (not available after May 31, 2010)
2008.APPENDIX L	Plan J or High Deductible Plan J (not available after May 31, 2010)
2008.APPENDIX M	Plan K (for plans issued prior to June 1, 2010)
2008.APPENDIX N	Plan L (for plans issued prior to June 1, 2010)
2008.APPENDIX O	Notice of Medicare Changes (Renumbered)
2008.APPENDIX P	Medicare Supplement Policies Report (Renumbered)
2008.APPENDIX Q	Disclosure Statements (Renumbered)
2008.APPENDIX R	Notice to Applicant Regarding Replacement of Medicare Supplement Insurance or Medicare Advantage
2008.APPENDIX S	Medicare Supplement Refund Calculation Format
2008.APPENDIX T	Notice of Medicare Changes
2008.APPENDIX U	Medicare Supplement Policies Report
2008.APPENDIX V	Disclosure Statements
2008.APPENDIX W	Outline of Medicare Supplement Coverage – Cover Page for Medicare Supplement Plans Sold on or after June 1, 2010
2008.APPENDIX AA	Plan A (for plans issued on or after June 1, 2010)
2008.APPENDIX BB	Plan B (for plans issued on or after June 1, 2010)
2008.APPENDIX CC	Plan C (for plans issued on or after June 1, 2010)
2008.APPENDIX DD	Plan D (for plans issued on or after June 1, 2010)
2008.APPENDIX EE	Plan F or High Deductible Plan F (for plans issued on or after June 1, 2010)
2008.APPENDIX FF	Plan G <a href="#">or High Deductible Plan G</a> (for plans issued on or after June 1, 2010)
2008.APPENDIX GG	Plan K (for plans issued on or after June 1, 2010)
2008.APPENDIX HH	Plan L (for plans issued on or after June 1, 2010)
2008.APPENDIX II	Plan M (for plans issued on or after June 1, 2010)
2008.APPENDIX JJ	Plan N (for plans issued on or after June 1, 2010)

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**AUTHORITY:** Implementing Sections 363 and 363a and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/363, 363a and 401].

**SOURCE:** Adopted at 6 Ill. Reg. 7115, effective June 1, 1982 and January 1, 1983; codified at 7 Ill. Reg. 3474; emergency amendment at 13 Ill. Reg. 586, effective January 1, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 8520, effective May 23, 1989; amended at 14 Ill. Reg. 19243, effective November 27, 1990; amended at 16 Ill. Reg. 2766, effective February 11, 1992; corrected at 16 Ill. Reg. 3590; amended at 16 Ill. Reg. 15452, effective September 29, 1992; emergency amendment at 16 Ill. Reg. 19226, effective December 1, 1992, for a maximum of 150 days; emergency expired April 29, 1993; amended at 17 Ill. Reg. 11469, effective July 9, 1993; amended at 20 Ill. Reg. 6393, effective April 28, 1996; amended at 23 Ill. Reg. 3704, effective March 10, 1999; amended at 23 Ill. Reg. 14700, effective January 1, 2000; amended at 24 Ill. Reg. 19151, effective January 1, 2001; amended at 25 Ill. Reg. 7886, effective June 18, 2001; amended at 26 Ill. Reg. 5130, effective March 25, 2002; transferred from the Department of Insurance to the Department of Financial and Professional Regulation pursuant to Executive Order 2004-6 on July 1, 2004; amended at 29 Ill. Reg. 14188, effective September 8, 2005; amended at 33 Ill. Reg. 8904, effective June 10, 2009; recodified from the Department of Financial and Professional Regulation to the Department of Insurance pursuant to Executive Order 2009-04 at 39 Ill. Reg. 8346; amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART A: GENERAL PROVISIONS

**Section 2008.30 Applicability and Scope**

- a) Except as otherwise specifically provided in Sections 2008.70, 2008.75, 2008.76, 2008.80, ~~2008.81~~, 2008.90 and 2008.103 of this Part, this Part shall apply to:
  - 1) All Medicare supplement policies delivered or issued for delivery in this State on or after June 1, 1982, and
  - 2) All certificates issued under group Medicare supplement policies, which policies or contracts have been delivered or issued for delivery in this State.
- b) This Part shall not apply to:
  - 1) "Accident Only" or "Specified Disease" types of policies (Section 363(1)(b) of the Illinois Insurance Code (the Code)), or

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- 2) Policies or health care benefit plans, including group conversion policies, provided to Medicare eligible persons, which policies or plans are not marketed or purported or held to be Medicare supplement policies or benefit plans (Section 363(1)(b) of the Code), or
  - 3) A policy or contract of one or more employers or labor organizations, or of the trustees of a fund established by one or more employers or labor organizations, or combination thereof, for employees or former employees, or a combination thereof, or for members or former members, or a combination thereof, of the labor organizations.
- c) Under section 104(c) of the Medicare Improvements for Patients and Providers Act of 2008 (MIPPA) (PL 110-275), policies that are advertised, marketed or designed primarily to cover out-of-pocket costs under Medicare Advantage Plans (established under Medicare Part C) must comply with the Medicare supplement requirements of section 1882(o) of the Social Security Act (42 USC 1395ss(o)).

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 2008.40 Definitions**

For the purposes of this Part:

"1990 Standardized Medicare supplement benefit plan", "1990 Standardized benefit plan" or "1990 plan" means a group or individual policy of Medicare supplement insurance issued on or after February 11, 1992 and with an effective date for coverage prior to June 1, 2010 and includes Medicare supplement insurance policies and certificates renewed on or after that date that are not replaced by the issuer at the request of the insured.

"2010 Standardized Medicare supplement benefit plan", "2010 Standardized benefit plan" or "2010 plan" means a group or individual policy of Medicare supplement insurance issued with an effective date for coverage on or after June 1, 2010.

Applicant means:

*in the case of an individual Medicare supplement policy, the person who seeks to contract for insurance benefits; and*

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*in the case of a group Medicare supplement policy, the proposed certificateholder (Section 363(2)(a) of the Code).*

Bankruptcy means when a Medicare Advantage organization that is not an issuer has filed, or has had filed against it, a petition for declaration of bankruptcy and has ceased doing business in this State.

Certificate means *any certificate delivered or issued for delivery in this State under a group Medicare supplement policy* (Section 363(2)(b) of the Code).

Certificate Form means the form on which the certificate is delivered or issued for delivery by the issuer.

Continuous Period of Creditable Coverage means the period during which an individual was covered by creditable coverage, if during the period of coverage the individual had no breaks in coverage greater than 63 days.

Code means the Illinois Insurance Code [215 ILCS 5].

Department means the Illinois Department of Insurance.

Director means the Director of the Illinois Department of Insurance.

Employee Welfare Benefit Plan means a plan, fund or program of employee benefits as defined in 29 USC 1002 (Employee Retirement Income Security Act).

Insolvency means when an issuer, licensed to transact the business of insurance in this State, has had a final order of liquidation entered against it with a finding of insolvency by a court of competent jurisdiction in the issuer's state of domicile.

Issuer includes insurance companies, fraternal benefit societies, health care service plans, and any other entity delivering or issuing for delivery in this State Medicare supplement policies or certificates.

Medicare means the Health Insurance for the Aged and Disabled Act, Title XVIII of the Social Security Amendments of 1965, as then constituted or later amended (42 USC 1801-1898).



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Medicare Advantage Plan means a plan of coverage for health benefits under Medicare Part C as defined in Section ~~18591395w-28~~(b)(1) of the Social Security Act (42 USC 1395w-28(b)(1)), and includes:

Coordinated care plans which provide health care services, including but not limited to health maintenance organization plans (with or without a point-of-service option), plans offered by provider-sponsored organizations, and preferred provider organization plans;

Medicare medical savings account plans coupled with a contribution into a Medicare Advantage medical savings account; and

Medicare Advantage private fee-for-service plans.

Medicare ~~supplement~~Supplement policy~~Policy~~ means a group or individual policy of (accident and sickness) insurance or a subscriber contract (of hospital and medical service associations or health maintenance organizations) other than a policy issued pursuant to a contract under Section 1876 of the federal Social Security Act (42 USC 1395 et seq.) or an issued policy under a demonstration project specified in 42 USC Section 1395ss(g)(1) which is advertised, marketed or designed primarily as a supplement to reimbursements under Medicare for the hospital, medical or surgical expenses of persons eligible for Medicare (Section 363(2)(c) of the Code). "Medicare supplement policy" does not include Medicare Advantage Plans established under Medicare Part C, Outpatient Prescription Drug plans established under Medicare Part D, or any Health Care Prepayment Plan that provides benefits pursuant to an agreement under section 1833(a)(1)(A) of the Social Security Act (42 USC 1395l(a)(1)(A)).

Policy Form means the form on which the policy is delivered or issued for delivery by the issuer.

"Pre-Standardized Medicare supplement benefit plan", "Pre-Standardized benefit plan" or "Pre-Standardized plan" means a group or individual policy of Medicare supplement insurance issued prior to February 11, 1992.

Secretary means the Secretary of the United States Department of Health and Human Services.

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(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART B: COVERAGE, POLICY &amp; BENEFIT PROVISIONS

**Section 2008.45 Creditable coverage**

Creditable coverage means:

- a) With respect to an individual, coverage of the individual provided under any of the following:
  - 1) A group health plan;
  - 2) Health insurance coverage;
  - 3) Part A or Part B of Title XVIII of the Social Security Act (Medicare);
  - 4) Title XIX of the Social Security Act (Medicaid), other than coverage consisting solely of benefits under Section 1928;
  - 5) Chapter 55 (CHAMPUS) (10 USC);
  - 6) A medical care program of the Indian Health Service or of a tribal organization;
  - 7) A state health benefits risk pool;
  - 8) A health plan offered under Chapter 89 (Federal Employees Health Benefits Program) (5 USC);
  - 9) A public health plan as defined in federal regulation; and
  - 10) A health benefit plan under Section 5(e) of the Peace Corps Act (22 USC 2504(e~~3~~)).
- b) Creditable coverage shall not include one or more, or any combination, of the following:
  - 1) Coverage only for accident and disability income insurance, or any

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combination thereof;

- 2) Coverage issued as a supplement to liability insurance;
  - 3) Liability insurance, including general liability insurance and automobile liability insurance;
  - 4) Workers' compensation or similar insurance;
  - 5) Automobile medical payment insurance;
  - 6) Credit-only insurance;
  - 7) Coverage for on-site medical clinics; and
  - 8) Other similar insurance coverage, specified in federal regulations, under which benefits for medical care are secondary or incidental to other insurance benefits.
- c) Creditable coverage shall not include the following benefits if they are provided under a separate policy, certificate or contract of insurance or are otherwise not an integral part of the plan:
- 1) Limited scope dental or vision benefits;
  - 2) Benefits for traditional long-term care or long-term care partnership insurance, nursing home care, home health care, community-based care, or any combination thereof; and
  - 3) Such other similar, limited benefits as are specified in federal regulations.
- d) Creditable coverage shall not include the following benefits if offered as independent, noncoordinated benefits:
- 1) Coverage only for a specified disease or illness; and
  - 2) Hospital indemnity or other fixed indemnity insurance.
- e) Creditable coverage shall not include the following if it is offered as a separate

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policy, certificate or contract of insurance:

- 1) Medicare supplemental health insurance as defined under Section 1882(g)(1) of the Social Security Act;
- 2) Coverage supplemental to the coverage provided under Chapter 55 (10 USC); and
- 3) Similar supplemental coverage provided under a group health plan.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 2008.50 Policy Definitions and Terms**

No policy or certificate may be advertised, solicited or issued for delivery in this State as a Medicare supplement policy or certificate unless such policy or certificate contains definitions or terms which conform to the requirements of this Section.

"Accident," "Accidental Injury" or "Accidental Means" shall be defined to employ "result" language and shall not include words which establish an accidental means test or use words such as "external, violent, visible wounds" or similar words of description or characterization.

The definition shall not be more restrictive than the following: "Injury or injuries for which benefits are provided means accidental bodily injury sustained by the insured person which is the direct result of an accident, independent of disease or bodily infirmity or any other cause, and occurs while the insurance is in force."

Such definition may provide that injuries shall not include injuries for which benefits are provided or available under any workers' compensation, employer's liability or similar law, or motor vehicle no fault plan, unless prohibited by law.

"Benefit Period" or "Medicare Benefit Period" shall not be defined more restrictively than as defined in the Medicare program.

"Convalescent Nursing Home," "Extended Care Facility," or "Skilled Nursing Facility" shall not be defined more restrictively than as defined in the Medicare

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program.

"Duplication of Insurance" means a transaction wherein new accident and health insurance is to be purchased and it is known to the producer or should be known to the producer or the issuer, in the case of a direct response solicitation, that the new insurance will provide some of the benefits or coverages which the proposed insured already has under existing accident and health insurance.

"Health Care Expenses", for purposes of Section 2008.80, means expenses of a nonprofit health, hospital or medical service corporation, prepaid health plan or similar organization associated with the delivery of health care services in which providers of the health care services are reimbursed for such services on an other than fee for service basis which are analogous to incurred losses of insurers.

"Hospital" may be defined in relation to its status, facilities and available services or to reflect its accreditation by the Joint Commission on Accreditation of Hospitals but not more restrictively than as defined in the Medicare program.

"Medicare" shall be defined in the policy and certificate as "The Health Insurance for the Aged [and Disabled Act](#), Title XVIII of the Social Security Amendments of 1965 as then constituted or later amended", or "Title I, Part I of Public Law 89-97, as enacted by the Eighty-Ninth Congress of the United States of America and popularly known as the Health Insurance for the Aged Act, as then constituted and any later amendments or substitutes thereof", or words of similar import.

"Medicare Eligible Expenses" shall mean expenses of the kinds covered by Medicare Parts A and B, to the extent recognized as reasonable and medically necessary by Medicare.

"Over-Insurance" means "duplication" of insurance to such extent that the combination of the existing insurance and the proposed insurance would substantially exceed any loss reasonably expected to be incurred.

"Physician" shall not be defined more restrictively than as defined in the Medicare program.

"Sickness" shall not be defined more restrictively than the following: "Sickness means illness or disease of an insured person which first manifests itself after the effective date of insurance and while the insurance is in force." The definition

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may be further modified to exclude sicknesses or diseases for which benefits are provided under any workers' compensation, occupational disease, employer's liability or similar law.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 2008.63 Standard Medicare Supplement Benefit Plans for 2020 Standardized Medicare Supplement Benefit Plan Policies or Certificates Issued for Delivery to Individuals Newly Eligible for Medicare on or after January 1, 2020**

The Medicare Access and CHIP Reauthorization Act of 2015 (MACRA) requires the following standards are applicable to all Medicare supplement policies or certificates delivered or issued for delivery in this State to individuals newly eligible for Medicare on or after January 1, 2020. No policy or certificate that provides coverage of the Medicare Part B deductible may be advertised, solicited, delivered or issued for delivery in this State as a Medicare supplement policy or certificate to individuals newly eligible for Medicare on or after January 1, 2020. All policies must comply with the following benefit plan standards. Benefit plan standards applicable to Medicare supplement policies and certificates issued to individuals eligible for Medicare before January 1, 2020, remain subject to the requirements of Section 2008.70 for Pre-Standardized Plans, Section 2008.71 for 1990 Plans, or Section 2008.64 for 2010 Plans.

- a) Benefit Requirement. The standards and requirements of Section 2008.67 shall apply to all Medicare supplement policies or certificates delivered or issued for delivery to individuals newly eligible for Medicare on or after January 1, 2020, with the following exceptions:
- 1) Standardized Medicare supplement benefit Plan C is redesignated as Plan D and shall provide the benefits contained in Section 2008.67(f)(3) but shall not provide coverage for 100% or any portion of the Medicare Part B deductible.
  - 2) Standardized Medicare supplement benefit Plan F is redesignated as Plan G and shall provide the benefits contained in Section 2008.67(f)(5) but shall not provide coverage for 100% or any portion of the Medicare Part B deductible.
  - 3) Standardized Medicare supplement benefit plans C, F, and F with High Deductible may not be offered to individuals newly eligible for Medicare on or after January 1, 2020.

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- 4) Standardized Medicare supplement benefit Plan F with High Deductible is redesignated as Plan G with High Deductible and shall provide the benefits contained in Section 2008.64(f)(6) but shall not provide coverage for 100% or any portion of the Medicare Part B deductible; provided further that the Medicare Part B deductible paid by the beneficiary shall be considered an out-of-pocket expense in meeting the annual high deductible.
- 5) The reference to Plans C or F contained in Section 2008.67(b) is deemed a reference to Plans D or G, respectively, for purposes of this Section.
- b) Applicability to Certain Individuals. This section applies to only individuals that are newly eligible for Medicare on or after January 1, 2020:
- 1) By reason of attaining age 65 on or after January 1, 2020; or
- 2) By reason of entitlement to benefits under part A pursuant to section 226(b) or 226A of the Social Security Act, or who is deemed to be eligible for benefits under section 226(a) of the Social Security Act on or after January 1, 2020.
- c) Guaranteed Issue for Eligible Persons. For purposes of Section 2008.75(e), in the case of any individual newly eligible for Medicare on or after January 1, 2020, any reference to a Medicare supplement policy C or F (including F with High Deductible) shall be deemed to be a reference to Medicare supplement policy D or G (including G with High Deductible), respectively, that meet the requirements of this Section.
- d) Offer of Redesignated Plans to Individuals Other Than Newly Eligible. On or after January 1, 2020, the standardized benefit plans described in subsection (a)(4) may be offered to any individual who was eligible for Medicare prior to January 1, 2020, in addition to the standardized plans described in Section 2008.67(f).

(Source: Added at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 2008.64 Benefit Standards for 2010 Standardized Medicare Supplement Benefit Plan Policies or Certificates Issued for Delivery with an Effective Date for Coverage on or after June 1, 2010**

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The following standards are applicable to all Medicare supplement policies or certificates delivered or issued for delivery in this State with an effective date for coverage on or after June 1, 2010. No policy or certificate may be advertised, solicited, delivered, or issued for delivery in this State as a Medicare supplement policy or certificate unless it complies with these benefit standards. No issuer may offer any 1990 Standardized Medicare supplement benefit plan for sale on or after June 1, 2010. Benefit standards applicable to Medicare supplement policies and certificates issued with an effective date for coverage ~~before~~ ~~on~~ ~~or~~ ~~after~~ June 1, 2010 remain subject to the requirements of Section 2008.70 for Pre-Standardized Plans or Section 2008.71 for 1990 Plans.

- a) General Standards. The following standards apply to Medicare supplement policies and certificates and are in addition to all other requirements of this Part.
  - 1) A Medicare supplement policy or certificate shall not exclude or limit benefits for losses incurred more than 6 months from the effective date of coverage because it involved a preexisting condition. The policy or certificate may not define a preexisting condition more restrictively than a condition for which medical advice was given or treatment was recommended by or received from a physician within 6 months before the effective date of coverage.
  - 2) A Medicare supplement policy or certificate shall not indemnify against losses resulting from sickness on a different basis than losses resulting from accidents.
  - 3) A Medicare supplement policy or certificate shall provide that benefits designed to cover cost sharing amounts under Medicare will be changed automatically to coincide with any changes in the applicable Medicare deductible, copayment, or coinsurance amounts. Premiums may be modified to correspond with such changes.
  - 4) No Medicare supplement policy or certificate shall provide for termination of coverage of a spouse solely because of the occurrence of an event specified for termination of coverage of the insured, other than the nonpayment of premium.
  - 5) Each Medicare supplement policy shall be guaranteed renewable.



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- A) The issuer shall not cancel or nonrenew the policy solely on the ground of health status of the individual.
  - B) The issuer shall not cancel or nonrenew the policy for any reason other than nonpayment of premium or material misrepresentation.
  - C) If the Medicare supplement policy is terminated by the group policyholder and is not replaced as provided under subsection (a)(5)(E), the issuer shall offer certificateholders an individual Medicare supplement policy which, at the option of the certificateholder:
    - i) Provides for continuation of the benefits contained in the group policy; or
    - ii) Provides for benefits that otherwise meet the requirements of this subsection.
  - D) If an individual is a certificateholder in a group Medicare supplement policy and the individual terminates membership in the group, the issuer shall
    - i) Offer the certificateholder the conversion opportunity described in subsection (a)(5)(C); or
    - ii) At the option of the group policyholder, offer the certificateholder continuation of coverage under the group policy.
  - E) If a group Medicare supplement policy is replaced by another group Medicare supplement policy purchased by the same policyholder, the issuer of the replacement policy shall offer coverage to all persons covered under the old group policy on its date of termination. Coverage under the new policy shall not result in any exclusion for preexisting conditions that would have been covered under the group policy being replaced.
- 6) Termination of a Medicare supplement policy or certificate shall be without prejudice to any continuous loss which commenced while the

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policy was in force, but the extension of benefits beyond the period during which the policy was in force may be conditioned upon the continuous total disability of the insured, limited to the duration of the policy benefit period, if any, or payment of the maximum benefits. Receipt of Medicare Part D benefits will not be considered in determining a continuous loss.

- 7) A Medicare supplement policy or certificate shall provide that benefits and premiums under the policy or certificate shall be suspended at the request of the policyholder or certificateholder for the period in which the policyholder or certificateholder has applied for, and is determined to be entitled to medical assistance under Title XIX of the Social Security Act (42 USC 1901-1941), but only if the policyholder or certificateholder notifies the issuer of the policy or certificate within 90 days after the date the individual becomes entitled to assistance. In no case shall the suspension exceed 24 months.
  - A) If suspension occurs and if the policyholder or certificateholder loses entitlement to medical assistance, the policy or certificate shall be automatically reinstated, effective as of the date of termination of entitlement, if the policyholder or certificateholder provides notice of loss of entitlement within 90 days after the date of loss and pays the premium attributable to the period, effective as of the date of termination of entitlement.
  - B) Each Medicare supplement policy shall provide that benefits and premiums under the policy shall be suspended for any period that may be provided by federal regulation at the request of the policyholder if the policyholder is entitled to benefits under section 226(b) of the Social Security Act (42 USC 426(b)) and is covered under a group health plan (as defined in section 1862(b)(1)(A)(v) of the Social Security Act (42 USC 1395y(b)(1)(A)(v))). If suspension occurs and if the policyholder or certificate holder loses coverage under the group health plan, the policy shall be automatically reinstated, effective as of the date of loss of coverage, if the policyholder provides notice of loss of coverage within 90 days after the date of the loss and pays the premium attributable to the period, effective as of the date of termination of enrollment in the group health plan..

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- C) Reinstitution of coverages as described in subsections (a)(7)(A) and (B):
- i) Shall not provide for any waiting period with respect to treatment of preexisting conditions;
  - ii) Shall provide for resumption of coverage that is substantially equivalent to coverage in effect before the date of suspension; and
  - iii) Shall provide for classification of premiums on terms at least as favorable to the policyholder or certificateholder as the premium classification terms that would have applied to the policyholder or certificateholder had the coverage not been suspended.
- b) Standards for Basic (Core) Benefits Common to Medicare Supplement Insurance Benefit Plans A, B, C, D, F, F with High Deductible, G, M and N. Every issuer of Medicare supplement insurance benefit plans shall make available a policy or certificate including only the following basic "core" package of benefits to each prospective insured. An issuer may make available to prospective insureds any of the other Medicare Supplement Insurance Benefit Plans in addition to the basic core package, but not in lieu of it.
- 1) Coverage of Part A Medicare eligible expenses for hospitalization to the extent not covered by Medicare from the 61<sup>st</sup> day through the 90<sup>th</sup> day in any Medicare benefit period;
  - 2) Coverage of Part A Medicare eligible expenses incurred for hospitalization to the extent not covered by Medicare for each Medicare lifetime inpatient reserve day used;
  - 3) Upon exhaustion of the Medicare hospital inpatient coverage, including the lifetime reserve days, coverage of 100% of the Medicare Part A eligible expenses for hospitalization paid at the applicable prospective payment system (PPS) rate, or other appropriate Medicare standard of payment, subject to a lifetime maximum benefit of an additional 365 days. The provider shall accept the issuer's payment as payment in full and may not bill the insured for any balance;

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- 4) Coverage under Medicare Parts A and B for the reasonable cost of the first 3 pints of blood (or equivalent quantities of packed red blood cells, as defined under federal regulations) unless replaced in accordance with federal regulations;
  - 5) Coverage for the coinsurance amount, or in the case of hospital outpatient department services paid under a prospective payment system, the copayment amount, of Medicare eligible expenses under Part B regardless of hospital confinement, subject to the Medicare Part B deductible;
  - 6) Hospice Care: Coverage of cost sharing for all Part A Medicare eligible hospice care and respite care expenses.
- c) Standards for Additional Benefits. The following additional benefits shall be included in Medicare supplement benefit Plans B, C, D, F, F with High Deductible, G, M, and N as provided by Section 2008.67 of this Part.
- 1) Medicare Part A Deductible: Coverage for 100% of the Medicare Part A inpatient hospital deductible amount per benefit period.
  - 2) Medicare Part A Deductible: Coverage for 50% of the Medicare Part A inpatient hospital deductible amount per benefit period.
  - 3) Skilled Nursing Facility Care: Coverage for the actual billed charges up to the coinsurance amount from the 21<sup>st</sup> day through the 100<sup>th</sup> day in a Medicare benefit period for post-hospital skilled nursing facility care eligible under Medicare Part A.
  - 4) Medicare Part B Deductible: Coverage for 100% of the Medicare Part B deductible amount per calendar year regardless of hospital confinement.
  - 5) One Hundred Percent of the Medicare Part B Excess Charges: Coverage for all of the difference between the actual Medicare Part B charges as billed, not to exceed any charge limitation established by the Medicare program or state law, and the Medicare-approved Part B charge.
  - 6) Medically Necessary Emergency Care in a Foreign Country: Coverage to the extent not covered by Medicare for 80% of the billed charges for

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Medicare-eligible expenses for medically necessary emergency hospital, physician and medical care received in a foreign country, which care would have been covered by Medicare if provided in the United States and which care began during the 60 consecutive days of each trip outside the United States, subject to a calendar year deductible of \$250, and a lifetime maximum benefit of \$50,000. For purposes of this benefit, "emergency care" shall mean care needed immediately because of an injury or an illness of sudden and unexpected onset.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 2008.67 Standard Medicare Supplement Benefit Plans for 2010 Standardized Medicare Supplement Benefit Plan Policies or Certificates Issued for Delivery with an Effective Date for Coverage on or after June 1, 2010**

The following standards are applicable to all Medicare supplement policies or certificates delivered or issued for delivery in this State with an effective date for coverage on or after June 1, 2010. No policy or certificate may be advertised, solicited, delivered or issued for delivery in this State as a Medicare supplement policy or certificate unless it complies with these benefit plan standards. Benefit plan standards applicable to Medicare supplement policies and certificates issued with an effective date for coverage before June 1, 2010 remain subject to the requirements of Section 2008.70 for Pre-Standardized Plans or Section 2008.71 for 1990 Plans.

- a) An issuer shall make available to each prospective policyholder and certificateholder a policy form or certificate form containing only the basic (core) benefits, as defined in Section 2008.64(b) of this Part.
- b) If an issuer makes available any of the additional benefits described in Section 2008.64(c), or offers standardized benefit Plans K or L as described in subsections (f)(8) and (9) of this Section, then the issuer shall make available to each prospective policyholder and certificateholder, in addition to a policy form or certificate form with only the basic (core) benefits as described in subsection (a), a policy form or certificate form containing either standardized benefit Plan C as described in subsection (f)(3) or standardized benefit Plan F as described in subsection (f)(5).
- c) No groups, packages or combinations of Medicare supplement benefits other than those listed in this Section shall be offered for sale in this State, except as may be permitted in subsection (g) and in Section 2008.73 of this Part.

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- d) Benefit plans shall be uniform in structure, language, designation and format to the standard benefit plans listed in this subsection and conform to the definitions in Sections 2008.40 and 2008.50 of this Part. Each benefit shall be structured in accordance with the format provided in Section 2008.64(b) and (c) of this Part; or, in the case of plans K or L, in subsection (f)(8) or (f)(9) and list the benefits in the order shown. For purposes of this Section, "structure, language, and format" means style, arrangement and overall content of a benefit.
- e) In addition to the benefit plan designations required in subsection (d) of this Section, an issuer may use other designations to the extent permitted by law.
- f) Make-up of 2010 Standardized Benefit Plans:
- 1) Standardized Medicare supplement benefit Plan A shall include only the following: The basic (core) benefits as defined in Section 2008.64(b) of this Part.
  - 2) Standardized Medicare supplement benefit Plan B shall include only the following: The basic (core) benefit as defined in Section 2008.64(b) of this Part, plus 100% of the Medicare Part A deductible as defined in Section 2008.64(c)(1) of this Part.
  - 3) Standardized Medicare supplement benefit Plan C shall include only the following: The basic (core) benefit as defined in Section 2008.64(b) of this Part, plus 100% of the Medicare Part A deductible, skilled nursing facility care, 100% of the Medicare Part B deductible, and medically necessary emergency care in a foreign country as defined in Section 2008.64(c)(1), (3), (4), and (6) of this Part, respectively.
  - 4) Standardized Medicare supplement benefit Plan D shall include only the following: The basic (core) benefit (as defined in Section 2008.64(b) of this Part), plus 100% of the Medicare Part A deductible, skilled nursing facility care, and medically necessary emergency care in an foreign country as defined in Section 2008.64(c)(1), (3), and (6) of this Part, respectively.
  - 5) Standardized Medicare supplement (regular) Plan F shall include only the following: The basic (core) benefit as defined in Section 2008.64(b) of this

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Part, plus 100% of the Medicare Part A deductible, the skilled nursing facility care, 100% of the Medicare Part B deductible, 100% of the Medicare Part B excess charges, and medically necessary emergency care in a foreign country as defined in Section 2008.64(c)(1), (3), (4), (5), and (6), respectively.

- 6) Standardized Medicare supplement Plan F With High Deductible shall include only the following: 100% of covered expenses following the payment of the annual deductible set forth in subsection (f)(6)(B).
  - A) The basic (core) benefit as defined in Section 2008.64(b) of this Part, plus 100% of the Medicare Part A deductible, skilled nursing facility care, 100% of the Medicare Part B deductible, 100% of the Medicare Part B excess charges, and medically necessary emergency care in a foreign country as defined in Section 2008.64(c)(1), (3), (4), (5), and (6) of this Part, respectively.
  - B) The annual deductible in Plan F With High Deductible shall consist of out-of-pocket expenses, other than premiums, for services covered by (regular) Plan F, and shall be in addition to any other specific benefit deductibles. The basis for the deductible shall be \$1,500 and shall be adjusted annually from 1999 by the Secretary of the U.S. Department of Health and Human Services to reflect the change in the Consumer Price Index for all urban consumers for the twelve-month period ending with August of the preceding year, and rounded to the nearest multiple of \$10.
- 7) Standardized Medicare supplement benefit Plan G shall include only the following: The basic (core) benefit as defined in Section 2008.64(b) of this Part, plus 100% of the Medicare Part A deductible, skilled nursing facility care, 100% of the Medicare Part B excess charges, and medically necessary emergency care in a foreign country as defined in Section 2008.64(c)(1), (3), (5), and (6), respectively. Effective January 1, 2020, the standardized benefit plans described in Section 2008.63(a)(4) (Redesignated Plan G with High Deductible) may be offered to any individual who was eligible for Medicare prior to January 1, 2020.

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- 8) Standardized Medicare supplement Plan K is mandated by the Medicare Prescription Drug, Improvement and Modernization Act of 2003, and shall include only the following:
- A) Part A Hospital Coinsurance 61<sup>st</sup> through 90<sup>th</sup> days: Coverage of 100% of the Part A hospital coinsurance amount for each day used from the 61<sup>st</sup> through the 90<sup>th</sup> day in any Medicare benefit period;
  - B) Part A Hospital Coinsurance, 91<sup>st</sup> through 150<sup>th</sup> days: Coverage of 100% of the Part A hospital coinsurance amount for each Medicare lifetime inpatient reserve day used from the 91<sup>st</sup> through the 150<sup>th</sup> day in any Medicare benefit period;
  - C) Part A Hospitalization After 150 Days: Upon exhaustion of the Medicare hospital inpatient coverage, including the lifetime reserve days, coverage of 100% of the Medicare Part A eligible expenses for hospitalization paid at the applicable prospective payment system (PPS) rate, or other appropriate Medicare standard of payment, subject to a lifetime maximum benefit of an additional 365 days. The provider shall accept the issuer's payment as payment in full and may not bill the insured for any balance;
  - D) Medicare Part A Deductible: Coverage for 50% of the Medicare Part A inpatient hospital deductible amount per benefit period until the out-of-pocket limitation is met as described in subsection (f)(8)(J);
  - E) Skilled Nursing Facility Care: Coverage for 50% of the coinsurance amount for each day used from the 21<sup>st</sup> day through the 100<sup>th</sup> day in a Medicare benefit period for post-hospital skilled nursing facility care eligible under Medicare Part A until the out-of-pocket limitation is met as described in subsection (f)(8)(J);
  - F) Hospice Care: Coverage for 50% of cost sharing for all Part A Medicare eligible expenses and respite care until the out-of-pocket limitation is met as described in subsection (f)(8)(J);
  - G) Blood: Coverage for 50%, under Medicare Part A or B, of the reasonable cost of the first 3 pints of blood (or equivalent



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quantities of packed red blood cells, as defined under federal regulations) unless replaced in accordance with federal regulations until the out-of-pocket limitation is met as described in subsection (f)(8)(J);

- H) Part B Cost Sharing: Except for coverage provided in subsection (f)(8)(I), coverage for 50% of the cost sharing otherwise applicable under Medicare Part B after the policyholder pays the Part B deductible until the out-of-pocket limitation is met as described in subsection (f)(8)(J);
  - I) Part B Preventive Services: Coverage of 100% of the cost sharing for Medicare Part B preventive services after the policyholder pays the Part B deductible; and
  - J) Cost Sharing After Out-of-Pocket Limits: Coverage of 100% of all cost sharing under Medicare Parts A and B for the balance of the calendar year after the individual has reached the out-of-pocket limitation on annual expenditures under Medicare Parts A and B of \$4000 in 2006, indexed each year by the appropriate inflation adjustment specified by the Secretary of the U.S. Department of Health and Human Services.
- 9) Standardized Medicare supplement Plan L is mandated by the Medicare Prescription Drug, Improvement and Modernization Act of 2003, and shall include only the following:
- A) The benefits described in subsections (f)(8)(A), (B), (C) and (I);
  - B) The benefit described in subsections (f)(8)(D), (E), (F), (G) and (H), but substituting 75% for 50%; and
  - C) The benefit described in subsection (f)(8)(J), but substituting \$2000 for \$4000.
- 10) Standardized Medicare supplement Plan M shall include only the following: The basic (core) benefit as defined in Section 2008.64(b) of this Part, plus 50% of the Medicare Part A deductible, skilled nursing facility

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care, and medically necessary emergency care in a foreign country as defined in Section 2008.64(c)(2), (3) and (6) of this Part, respectively.

- 11) Standardized Medicare supplement Plan N shall include only the following: The basic (core) benefit as defined in Section 2008.64(b) of this Part, plus 100% of the Medicare Part A deductible, skilled nursing facility care, and medically necessary emergency care in a foreign country as defined in Section 2008.64(c)(1), (3) and (6) of this Part, respectively, with copayments in the following amounts:
- A) the lesser of \$20 or the Medicare Part B coinsurance or copayment for each covered health care provider office visit (including visits to medical specialists); and
  - B) the lesser of \$50 or the Medicare Part B coinsurance or copayment for each covered emergency room visit; however, this copayment shall be waived if the insured is admitted to any hospital and the emergency visit is subsequently covered as a Medicare Part A expense.
- g) New or Innovative Benefits: An issuer may, with the prior approval of the Director, offer policies or certificates with new or innovative benefits, in addition to the standardized benefits provided in a policy or certificate that otherwise complies with the applicable standards. The new or innovative benefits shall include only benefits that are appropriate to Medicare supplement insurance, are new or innovative, are not otherwise available, and are cost-effective. Approval of new or innovative benefits must not adversely impact the goal of Medicare supplement simplification. New or innovative benefits shall not include an outpatient prescription drug benefit. New or innovative benefits shall not be used to change or reduce benefits, including a change of any cost-sharing provision, in any standardized plan.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART D: CLAIMS, REFUNDS &amp; CREDITS

**Section 2008.80 Loss Ratio Standards and Refund or Credit of Premium**

- a) Loss Ratio Standards.

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- 1) A Medicare supplement policy form or certificate form shall not be delivered or issued for delivery unless the policy form or certificate form:
  - A) Can be expected, as estimated for the entire period for which rates are computed to provide coverage, to return to policyholders and certificateholders in the form of aggregate benefits (not including anticipated refunds or credits) provided under the policy form or certificate form:
    - i) At least 75% of the aggregate amount of premiums earned in the case of group policies; or
    - ii) At least 65% of the aggregate amount of premiums earned in the case of individual policies.
  - B) Is calculated on the basis of incurred claims experience or incurred health care expenses, where coverage is provided by a health maintenance organization on a service rather than reimbursement basis, and on the basis of earned premiums for the period, in accordance with accepted actuarial principles and practices. Incurred health care expenses where coverage is provided by a health maintenance organization shall not include:
    - i) Home office and overhead cost;
    - ii) Advertising costs;
    - iii) Commissions and other acquisition costs;
    - iv) Taxes;
    - v) Capital costs;
    - vi) Administrative costs; and
    - vii) Claims processing costs.
- 2) All filings of rates and rating schedules shall be made in compliance with

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50 Ill. Adm. Code 916 and shall demonstrate that expected claims in relation to premiums comply with the requirements of this Section when combined with actual experience to date. Filings of rate revisions shall also demonstrate that the anticipated loss ratio over the entire future period for which the revised rates are computed to provide coverage can be expected to meet the appropriate loss ratio standards.

- 3) For purposes of applying subsection (a) ~~of this Section~~ and Section ~~2008.81(d)(2)~~~~2008.81(e)(2)~~ ~~of this Part~~, policies issued as a result of solicitations of individuals through the mails or by mass media advertising (including both print and broadcast advertising) shall be deemed to be individual policies.
  - 4) For policies issued prior to April 28, 1996, expected claims in relation to premiums shall meet:
    - A) The originally filed anticipated loss ratio when combined with the actual experience since inception;
    - B) The appropriate loss ratio requirement from subsections (a)(1)(A) and (B) of this Section when combined with actual experience beginning April 28, 1996 to date; and
    - C) The appropriate loss ratio requirement from subsections (a)(1)(A) and (B) of this Section over the entire future period for which the rates are computed to provide coverage.
- b) Refund or Credit Calculation
- 1) An issuer shall collect and file with the Director by May 31 of each year the data contained in Appendix S of this Part for each type in a standard Medicare supplement benefit plan.
  - 2) If, on the basis of the experience as reported, the benchmark ratio since inception (ratio 1) exceeds the adjusted experience ratio since inception (ratio 3), then a refund or credit calculation is required. The refund calculation shall be done on a statewide basis for each type in a standard Medicare supplement benefit plan. For purposes of the refund or credit calculation, experience on policies issued within the reporting year shall

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be excluded.

- 3) For the purposes of this Section, on policies or certificates issued prior to November 5, 1991, the issuer shall make the refund or credit calculation separately for all individual policies (including all group policies subject to an individual loss ratio standard when issued) combined and all other group policies combined for experience after April 28, 1996. The first such report shall be due by May 31, 1998.
  - 4) A refund or credit shall be made only when the benchmark loss ratio exceeds the adjusted experience loss ratio and the amount to be refunded or credited exceeds a de minimis level. Such refund shall include interest from the end of the calendar year to the date of the refund or credit at a rate specified by the Secretary of Health and Human Services, but in no event shall it be less than the average rate of interest for 13-week Treasury notes. A refund or credit against premiums due shall be made by September 30 following the experience year upon which the refund or credit is based.
- c) **Annual Filing of Premium Rates**  
An issuer of Medicare supplement policies and certificates issued in this State before or after the effective date of this Part shall file annually its rates, rating schedule and supporting documentation including ratios of incurred losses to earned premiums by policy duration for approval by the Director in accordance with the filing requirements and procedures prescribed by the Director. The supporting documentation shall also demonstrate, in accordance with actuarial standards of practice using reasonable assumptions, that the appropriate loss ratio standards can be expected to be met over the entire period for which rates are computed. Such demonstration shall exclude active life reserves. An expected third-year loss ratio which is greater than or equal to the applicable percentage shall be demonstrated for policies or certificates in force less than 3 years.
- d) As soon as practicable, but prior to the effective date of revisions in Medicare benefits, every issuer of Medicare supplement policies or certificates in this State shall file with the Department:
- 1) Appropriate premium adjustments necessary to produce loss ratios as anticipated for the current premium for the applicable policies or certificates. Such supporting documents as are necessary to justify the

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adjustment shall accompany the filing.

- 2) An issuer shall make such premium adjustments as are necessary to produce an expected loss ratio under such policy or certificate as will conform with minimum loss ratio standards for Medicare supplement policies and which are expected to result in a loss ratio at least as great as that originally anticipated in the rates used to produce current premiums by the issuer for such Medicare supplement policies or certificates. No premium adjustment which would modify the loss ratio experience under the policy other than the adjustments described herein shall be made with respect to a policy at any time other than upon its renewal date or anniversary date.
  - 3) If an issuer fails to make premium adjustments acceptable to the Director, the Director may order premium adjustments, refunds or premium credits deemed necessary to achieve the loss ratio required by this Section.
  - 4) Any appropriate riders, endorsements or policy forms needed to accomplish the Medicare supplement policy or certificate modifications necessary to eliminate benefit duplications with Medicare. Such riders, endorsements or policy forms shall provide a clear description of the Medicare supplement benefits provided by the policy or certificate.
- e) **Public Hearings**  
The Director may conduct a public hearing to gather information concerning a request by an issuer for an increase in a rate for a policy form or certificate form issued before or after the effective date of this Part if the experience of the form for the previous reporting period is not in compliance with the applicable loss ratio standard. The determination of compliance is made without consideration of any refund or credit for such reporting period.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

SUBPART E: RATES, COMPENSATION AGREEMENT,  
DISCLOSURE, REPLACEMENT & MARKETING

**Section 2008.81 Filing and Approval of Policies and Certificates and Premium Rates**

- a) An issuer shall not deliver or issue for delivery a policy or certificate to a resident

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of this State unless the policy form or certificate form has been filed with and approved by the Director pursuant to 50 Ill. Adm. Code 916.

- b) An issuer shall file any riders or amendments to policy or certificate forms to delete outpatient prescription drug benefits as required by the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 only with the Director in the state in which the policy or certificate was issued.
- c) An issuer shall not use or change premium rates for a Medicare supplement policy or certificate unless the rates, rating schedule and supporting documentation have been filed with and approved by the Director pursuant to 50 Ill. Adm. Code 916.
- d) Except as provided in subsection (d)(1), an issuer shall not file for approval more than one form of a policy or certificate of each type for each standard Medicare supplement benefit plan.
  - 1) An issuer may offer, with the approval of the Director, up to four additional policy forms or certificate forms of the same type for the same standard Medicare supplement benefit plan, one for each of the following cases:
    - A) The inclusion of new or innovative benefits;
    - B) The addition of either direct response or producer marketing methods;
    - C) The addition of either guaranteed issue or underwritten coverage;
    - D) The offering of coverage to individuals eligible for Medicare by reason of disability.
  - 2) For the purposes of this Section, a "type" means an individual policy, a group policy, an individual Medicare Select policy, or a group Medicare Select policy.
- e) Except as provided in subsection (e)(1), an issuer shall continue to make available for purchase any policy form or certificate form issued after the effective date of this Part that has been approved by the Director. A policy form or certificate form shall not be considered to be available for purchase unless the issuer has actively

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offered it for sale in the previous 12 months.

- 1) An issuer may discontinue the availability of a policy form or certificate form if the issuer provides to the Director in writing its decision at least 30 days prior to discontinuing the availability of the form of the policy or certificate. After receipt of the notice by the Director, the issuer shall no longer offer for sale the policy form or certificate form in this State.
- 2) An issuer that discontinues the availability of a policy form or certificate form pursuant to subsection (e)(1) shall not file for approval a new policy form or certificate form of the same type for the same standard Medicare supplement benefit plan as the discontinued form for a period of five years after the issuer provides notice to the Director of the discontinuance. The period of discontinuance may be reduced if the Director determines that a shorter period is appropriate.
- 3) The sale or other transfer of Medicare supplement business to another issuer shall be considered a discontinuance for the purposes of subsection (e).
- 4) A change in the rating structure or methodology shall be considered a discontinuance under subsections (e)(1) and (2) unless the issuer complies with the following requirements:
  - A) The issuer provides an actuarial memorandum, in a form and manner prescribed by the Director, describing the manner in which the revised rating methodology and resultant rates differ from the existing rating methodology and existing rates.
  - B) The issuer does not subsequently put into effect a change of rates or rating factors that would cause the percentage differential between the discontinued and subsequent rates as described in the actuarial memorandum to change. The Director may approve a change to the differential which is in the public interest.
- f) Except as provided herein, the experience of all policy forms or certificate forms of the same type in a standard Medicare supplement benefit plan shall be combined for purposes of the refund or credit calculation prescribed in Section 2008.80 of this Part. Forms assumed under an assumption reinsurance agreement



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shall not be combined with the experience of other forms for purposes of the refund or credit calculation.

- g) For ages 65 and older, the ratio between rates for successive ages shall be greater than or equal to 1.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 2008.APPENDIX W Outline of Medicare Supplement Coverage – Cover Page for Medicare Supplement Plans Sold on or after June 1, 2010**

**Benefit Chart of Medicare Supplement Plans Sold for Effective Dates on or After June 1, 2010**

This chart shows the benefits included in each of the standard Medicare supplement plans. Every company must make Plan "A" available. Some plans may not be available in your state.

~~Plans E, H, I, and J are no longer available for sale. [This sentence shall not appear after June 1, 2011.]~~

**Basic Benefits:**

- **Hospitalization** – Part A coinsurance plus coverage for 365 additional days after Medicare benefits end.
- **Medical Expenses** – Part B coinsurance (generally 20% of Medicare-approved expenses) or copayments for hospital outpatient services. Plans K, L and N require insureds to pay a portion of Part B coinsurance or copayments.
- **Blood** – First three pints of blood each year.
- **Hospice** – Part A coinsurance.

A	B	C	D	F	F*	G	K	L	M	N
Basic, including 100% Part B coinsurance	Basic, including 100% Part B coinsurance	Basic, including 100% Part B coinsurance	Basic, including 100% Part B coinsurance	Basic, including 100% Part B coinsurance*		Basic, including 100% Part B coinsurance	Hospitalization and preventive care paid at 100%; other basic benefits paid at 50%	Hospitalization and preventive care paid at 100%; other basic benefits paid at 75%	Basic, including 100% Part B coinsurance	Basic, including 100% Part B coinsurance, except up to \$20

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									copayment for office visit, and up to \$50 copayment for ER
		Skilled Nursing Facility Coinsurance	Skilled Nursing Facility Coinsurance	Skilled Nursing Facility Coinsurance	Skilled Nursing Facility Coinsurance	50% Skilled Nursing Facility Coinsurance	75% Skilled Nursing Facility Coinsurance	Skilled Nursing Facility Coinsurance	Skilled Nursing Facility Coinsurance
	Part A Deductible	Part A Deductible	Part A Deductible	Part A Deductible	Part A Deductible	50% Part A Deductible	75% Part A Deductible	50% Part A Deductible	Part A Deductible
		Part B Deductible		Part B Deductible					
				Part B Excess (100%)	Part B Excess (100%)				
		Foreign Travel Emergency	Foreign Travel Emergency	Foreign Travel Emergency	Foreign Travel Emergency			Foreign Travel Emergency	Foreign Travel Emergency
						Out-of-pocket limit \$[4140]; paid at 100% after limit reached	Out-of-pocket limit \$[2070]; paid at 100% after limit reached		

\* Plan F also has an option called a high deductible Plan F. This high deductible plan pays the same benefits as Plan F after one has paid a calendar year [\$1860] deductible. Benefits from high deductible Plan F will not begin until out-of-pocket expenses exceed [\$1860]. Out-of-pocket expenses for this deductible are expenses that would ordinarily be paid by the policy. These expenses include the Medicare deductibles for Part A and Part B, but do not include the plan's separate foreign travel emergency deductible.

**PREMIUM INFORMATION [Boldface Type]**

We [insert issuer's name] can only raise your premium if we raise the premium for all policies like yours in this State. [If the premium is based on the increasing age of the insured, include information specifying when premiums will change.]

**DISCLOSURES [Boldface Type]**

Use this outline to compare benefits and premiums among policies.

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This outline shows benefits and premiums of policies sold for effective dates on or after June 1, 2010. Policies sold for effective dates prior to June 1, 2010 have different benefits and premiums. Plans E, H, I, and J will no longer be available for sale after May 31, 2010.

**READ YOUR POLICY VERY CAREFULLY** [Boldface Type]

This is only an outline describing your policy's most important features. The policy is your insurance contract. You must read the policy itself to understand all of the rights and duties of both you and your insurance company.

**RIGHT TO RETURN POLICY** [Boldface Type]

If you find that you are not satisfied with your policy, you may return it to [insert issuer's address]. If you send the policy back to us within 30 days after you receive it, we will treat the policy as if it had never been issued and return all of your payments.

**POLICY REPLACEMENT** [Boldface Type]

If you are replacing another health insurance policy, do NOT cancel it until you have actually received your new policy and are sure you want to keep it.

**NOTICE** [Boldface Type]

This policy may not fully cover all of your medical costs.

[for producers:]

Neither [insert company's name] nor its agents are connected with Medicare.

[for direct response:]

[insert company's name] is not connected with Medicare.

This outline of coverage does not give all the details of Medicare coverage. Contact your local Social Security Office or consult Medicare and You for more details.

**COMPLETE ANSWERS ARE VERY IMPORTANT** [Boldface Type]

When you fill out the application for the new policy, be sure to answer truthfully and completely all questions about your medical and health history. The company may cancel your policy and

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refuse to pay any claims if you leave out or falsify important medical information. [If the policy or certificate is guaranteed issue, this paragraph need not appear.]

Review the application carefully before you sign it. Be certain that all information has been properly recorded.

[Include for each plan prominently identified in the cover page, a chart showing the services, Medicare payments, plan payments and insured payments for each plan, using the same language, in the same order, using uniform layout and format as shown in Appendices AA through JJ of this Part. No more than four plans may be shown on one chart. For purposes of illustration, charts for each plan are included in this Part. An issuer may use additional benefit plan designations on these charts pursuant to Section 2008.67(e) of this Part.]

[Include an explanation of any innovative benefits on the cover page and in the chart, in a manner approved by the Director.]

**Benefit Chart of Medicare Supplement Plans Sold to  
Individuals Newly Eligible on or After January 1, 2020**

This chart shows the benefits included in each of the standard Medicare supplement plans. Some plans may not be available. Only applicants **first** eligible for Medicare before 2020 may purchase Plans C, F, and high deductible F.

Note: A ✓ means 100% of the benefit is paid.

<u>Benefits</u>	<u>Plans Available to All Applicants</u>								<u>Medicare first eligible before</u>	
	<u>A</u>	<u>B</u>	<u>D</u>	<u>G<sup>1</sup></u>	<u>K</u>	<u>L</u>	<u>M</u>	<u>N</u>	<u>C</u>	<u>F<sup>1</sup></u>
<u>Medicare Part A coinsurance and hospital coverage (up to an additional 365 days after Medicare benefits are used up)</u>	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
<u>Medicare Part B coinsurance or copayment</u>	✓	✓	✓	✓	50%	75%	✓	✓ copays apply <sup>3</sup>	✓	✓

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<u>Blood (first three pints)</u>	<u>✓</u>	<u>✓</u>	<u>✓</u>	<u>✓</u>	<u>50%</u>	<u>75%</u>	<u>✓</u>	<u>✓</u>	<u>✓</u>	<u>✓</u>
<u>Part A hospice care coinsurance or copayment</u>	<u>✓</u>	<u>✓</u>	<u>✓</u>	<u>✓</u>	<u>50%</u>	<u>75%</u>	<u>✓</u>	<u>✓</u>	<u>✓</u>	<u>✓</u>
<u>Skilled nursing facility coinsurance</u>			<u>✓</u>	<u>✓</u>	<u>50%</u>	<u>75%</u>	<u>✓</u>	<u>✓</u>	<u>✓</u>	<u>✓</u>
<u>Medicare Part A deductible</u>		<u>✓</u>	<u>✓</u>	<u>✓</u>	<u>50%</u>	<u>75%</u>	<u>50%</u>	<u>✓</u>	<u>✓</u>	<u>✓</u>
<u>Medicare Part B deductible</u>									<u>✓</u>	<u>✓</u>
<u>Medicare Part B excess charges</u>				<u>✓</u>						<u>✓</u>
<u>Foreign travel emergency (up to plan limits)</u>			<u>✓</u>	<u>✓</u>			<u>✓</u>	<u>✓</u>	<u>✓</u>	<u>✓</u>
<u>Out-of-pocket limit in [2017]<sup>2</sup></u>					<u>[\$5120]<sup>2</sup></u>	<u>[\$2560]<sup>2</sup></u>				

<sup>1</sup> Plans F and G also have a high deductible option which require first paying a plan deductible of [\$2200] before the plan begins to pay. Once the plan deductible is met, the plan pays 100% of covered services for the rest of the calendar year. High deductible plan G does not cover the Medicare Part B deductible. However, high deductible plans F and G count your payment of the Medicare Part B deductible toward meeting the plan deductible.

<sup>2</sup> Plans K and L pay 100% of covered services for the rest of the calendar year once you meet the out-of-pocket yearly limit.

<sup>3</sup> Plan N pays 100% of the Part B coinsurance, except for a co-payment of up to \$20 for some office visits and up to a \$50 co-payment for emergency room visits that do not result in an inpatient admission.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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**Section 2008.APPENDIX EE Plan F or High Deductible Plan F (for plans issued on or after June 1, 2010)****MEDICARE (PART A) – Hospital Services – Per Benefit Period**

Companies must add the current fixed dollar amount authorized by Medicare where the brackets appear below. The dollar amount is updated periodically by Medicare and companies must reflect these changes to their outlines of coverage in a timely manner.

\* A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

[\*\* This high deductible plan pays the same benefits as Plan F after ~~you have~~you have paid a calendar year [\$\_\_\_\_\_] deductible. Benefits from high deductible Plan F will not begin until out-of-pocket expenses are [\$\_\_\_\_\_] . Out-of-pocket expenses for this deductible are expenses that would ordinarily be paid by the policy. This includes the Medicare deductibles for Part A and Part B, but does not include the plan's separate foreign travel emergency deductible.]

SERVICES	MEDICARE PAYS	[AFTER YOU PAY [\$___] DEDUCTIBLE**] PLAN PAYS	[IN ADDITION TO [\$___] DEDUCTIBLE**] YOU PAY
<b>HOSPITALIZATION*</b> Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but [\$_____]	[\$_____] (Part A Deductible)	\$0
61 <sup>st</sup> thru 90 <sup>th</sup> day	All but [\$_____] a day	[\$_____] a day	\$0
91 <sup>st</sup> day and after:			
– While using 60 lifetime reserve days	All but [\$_____] a day	[\$_____] a day	\$0
– Once lifetime reserve days are used:			
– Additional 365 days	\$0	100% of Medicare Eligible Expenses	\$0***

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– Beyond the Additional 365 days	\$0	\$0	All costs
<b>SKILLED NURSING FACILITY CARE*</b> You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare- approved facility within 30 days after leaving the hospital			
First 20 days	All approved amounts	\$0	\$0
21 <sup>st</sup> thru 100 <sup>th</sup> day	All but [\$_____] a day	Up to [\$_____] a day	\$0
101 <sup>st</sup> day and after	\$0	\$0	All costs
<b>BLOOD</b>			
First 3 pints	\$0	3 pints	\$0
Additional amounts	100%	\$0	\$0
<b>HOSPICE CARE</b> You must meet Medicare's requirements, including a doctor's certification of terminal illness	All but very limited copayment/coinsurance for out-patient drugs and in- patient respite care	Medicare copayment/coinsurance	\$0

\*\*\* **NOTICE:** When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid for up to an additional 365 days as provided in the policy's "Core Benefits." During this time the hospital is prohibited from billing you for the balance based on any difference between its billed charges and the amount Medicare would have paid.

**(Plan F or High Deductible Plan F Continued)****MEDICARE (PART B) – Medical Services – Per Calendar Year**

- \* Once you have been billed \$[~~183+00~~] of Medicare-Approved amounts for covered services (which are noted with an asterisk), your Part B Deductible will have been met for the calendar year.

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[\*\* This high deductible plan pays the same benefits as Plan F after ~~you have one has~~ paid a calendar year [\$\_\_\_\_] deductible. Benefits from the high deductible Plan F will not begin until out-of-pocket expenses are [\$\_\_\_\_]. Out-of-pocket expenses for this deductible are expenses that would ordinarily be paid by the policy. This includes the Medicare deductibles for Part A and Part B, but does not include the plan's separate foreign travel emergency deductible.]

SERVICES	MEDICARE PAYS	[AFTER YOU PAY [\$____] DEDUCTIBLE**] PLAN PAYS	[IN ADDITION TO [\$____] DEDUCTIBLE**] YOU PAY
<b>MEDICAL EXPENSES – IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT</b> , such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment.  First \$[ <del>183400</del> ] of Medicare Approved Amounts*  Remainder of Medicare Approved Amounts	\$0  generally 80%	\$[ <del>183400</del> ] (Part B Deductible)  generally 20%	\$0  \$0
<b>Part B Excess Charges</b> (Above Medicare Approved Amounts)	\$0	100%	\$0
<b>BLOOD</b>  First 3 pints  Next \$[ <del>183400</del> ] of Medicare Approved Amounts*  Remainder of Medicare Approved Amounts	\$0  \$0  80%	All costs  \$[ <del>183400</del> ] (Part B Deductible)  20%	\$0  \$0  \$0
<b>CLINICAL LABORATORY SERVICES</b>  TESTS FOR DIAGNOSTIC SERVICES	100%	\$0	\$0



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**PARTS A & B**

<b>SERVICES</b>	<b>MEDICARE PAYS</b>	<b>[AFTER YOU PAY [\$___] DEDUCTIBLE**] PLAN PAYS</b>	<b>[IN ADDITION TO [\$___] DEDUCTIBLE**] YOU PAY</b>
<b>HOME HEALTH CARE</b>			
<b>MEDICARE APPROVED SERVICES</b>			
– Medically necessary skilled care services and medical supplies	100%	\$0	\$0
– Durable medical equipment			
First \$ <del>183400</del> of Medicare Approved Amounts*	\$0	\$ <del>183400</del> (Part B Deductible)	\$0
Remainder of Medicare Approved Amounts	80%	20%	\$0

**OTHER BENEFITS – Not Covered By Medicare**

<b>SERVICES</b>	<b>MEDICARE PAYS</b>	<b>[AFTER YOU PAY THE [\$___] DEDUCTIBLE**] PLAN PAYS</b>	<b>[IN ADDITION TO THE [\$___] DEDUCTIBLE**] YOU PAY</b>
<b>FOREIGN TRAVEL – NOT COVERED BY MEDICARE</b>			
Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA			
First \$250 each calendar year	\$0	\$0	\$250
Remainder of Charges	\$0	80% to a lifetime maximum benefit of \$50,000	20% and amounts over the \$50,000 lifetime maximum

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF INSURANCE

## NOTICE OF PROPOSED AMENDMENTS

**Section 2008.APPENDIX FF Plan G or High Deductible Plan G (for plans issued on or after June 1, 2010)****MEDICARE (PART A) – Hospital Services – Per Benefit Period**

Companies must add the current fixed dollar amount authorized by Medicare where the brackets appear below. The dollar amount is updated periodically by Medicare and companies must reflect these changes to their outlines of coverage in a timely manner.

- \* A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

[\*\* This high deductible plan pays the same benefits as Plan G after you have paid a calendar year [\$ \_\_\_\_\_ ] deductible. Benefits from the high deductible Plan G will not begin until out-of-pocket expenses are [\$ \_\_\_\_\_ ]. Out-of-pocket expenses for this deductible include expenses for the Medicare Part B deductible and expenses that would ordinarily be paid by the policy. This does not include the plan's separate foreign travel emergency deductible.]

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
<b>HOSPITALIZATION*</b> Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but [\$_____]	[\$_____] (Part A Deductible)	\$0
61 <sup>st</sup> thru 90 <sup>th</sup> day	All but [\$_____] a day	[\$_____] a day	\$0
91 <sup>st</sup> day and after:			
– While using 60 lifetime reserve days	All but [\$_____] a day	[\$_____] a day	\$0
– Once lifetime reserve days are used:			
– Additional 365 days	\$0	100% of Medicare Eligible Expenses	\$0**
– Beyond the Additional 365 days	\$0	\$0	All costs

## DEPARTMENT OF INSURANCE

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<p><b>SKILLED NURSING FACILITY CARE*</b></p> <p>You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital</p> <p>First 20 days</p> <p>21<sup>st</sup> thru 100<sup>th</sup> day</p> <p>101<sup>st</sup> day and after</p>	<p>All approved amounts</p> <p>All but [\$_____] a day</p> <p>\$0</p>	<p>\$0</p> <p>Up to [\$_____] a day</p> <p>\$0</p>	<p>\$0</p> <p>\$0</p> <p>All costs</p>
<p><b>BLOOD</b></p> <p>First 3 pints</p> <p>Additional amounts</p>	<p>\$0</p> <p>100%</p>	<p>3 pints</p> <p>\$0</p>	<p>\$0</p> <p>\$0</p>
<p><b>HOSPICE CARE</b></p> <p>You must meet Medicare's requirements, including a doctor's certification of terminal illness</p>	<p>All but very limited copayment/coinsurance for out-patient drugs and inpatient respite care</p>	<p>Medicare copayment/coinsurance</p>	<p>\$0</p>

**\*\* NOTICE:** When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid for up to an additional 365 days as provided in the policy's "Core Benefits." During this time the hospital is prohibited from billing you for the balance based on any difference between its billed charges and the amount Medicare would have paid.

**(Plan G or High Deductible Plan G Continued)**

**MEDICARE (PART B) – Medical Services – Per Calendar Year**

\* Once you have been billed \$[~~183100~~] of Medicare-Approved amounts for covered services (which are noted with an asterisk), your Part B Deductible will have been met for the calendar year.

[\*\* This high deductible plan pays the same benefits as Plan G after you have paid a calendar year [\$\_\_\_\_\_] deductible. Benefits from the high deductible Plan G will not begin until out-

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of-pocket expenses are [\$\_\_\_\_\_]. Out-of-pocket expenses for this deductible include expenses for the Medicare Part B deductible and expenses that would ordinarily be paid by the policy. This does not include the plan's separate foreign travel emergency deductible.]

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
<b>MEDICAL EXPENSES – IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT</b> , such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment.  First \$[183+00] of Medicare Approved Amounts*  Remainder of Medicare Approved Amounts	\$0  generally 80%	\$0  generally 20%	\$[183+00] (Part B Deductible)  \$0
<b>Part B Excess Charges</b> (Above Medicare Approved Amounts)	\$0	100%	\$0
<b>BLOOD</b>  First 3 pints  Next \$[183+00] of Medicare Approved Amounts*  Remainder of Medicare Approved Amounts	\$0  \$0  80%	All costs  \$0  20%	\$0  \$[183+00] (Part B Deductible)  \$0
<b>CLINICAL LABORATORY SERVICES</b>  TESTS FOR DIAGNOSTIC SERVICES	100%	\$0	\$0

## PARTS A &amp; B

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
<b>HOME HEALTH CARE</b>  MEDICARE APPROVED SERVICES  – Medically necessary skilled care services and medical supplies	100%	\$0	\$0

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– Durable medical equipment			
First \$[ <del>183+00</del> ] of Medicare Approved Amounts*	\$0	\$0	\$[ <del>183+00</del> ] (Part B Deductible)
Remainder of Medicare Approved Amounts	80%	20%	\$0

**OTHER BENEFITS – NOT COVERED BY MEDICARE**

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
<b>FOREIGN TRAVEL – NOT COVERED BY MEDICARE</b>			
Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA			
First \$250 each calendar year	\$0	\$0	\$250
Remainder of Charges	\$0	80% to a lifetime maximum benefit of \$50,000	20% and amounts over the \$50,000 lifetime maximum

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF INSURANCE

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Managed Care Reform & Patient Rights
- 2) Code Citation: 50 Ill. Adm. Code 4520
- 3) 

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
4520.130	Amendment
4520.EXHIBIT B	Amendment
- 4) Statutory Authority: Implementing the Managed Care Reform and Patient Rights Act [215 ILCS 134] and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/401]; 42 USC 300gg-22; and 45 CFR 150.101(b)(2) and 150.201.
- 5) A Complete Description of the Subjects and Issues Involved: Consistent with PA 99-111, Part 4520 will be amended to recognize the Accreditation Association for Ambulatory Health Care (AAAHC) among the list of accreditors from which utilization organizations may receive accreditation and qualify for reduced registration and renewal fees. Also, consistent with PA 99-761, Part 4520 will be amended to apply the medical exemptions process to all insurers licensed in the State to sell policy of group or individual accident and health insurance or health benefits plan, and provide that certain provisions upon which a step therapy requirement exception request shall be approved.
- 6) Any published studies or reports, along with the sources of underlying data, that were used when comprising this rulemaking, in accordance with 1 Ill. Adm. Code 100.355?  
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 will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.

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

Felicia Page, Assistant General Counsel Department of Insurance 320 West Washington, 4 <sup>th</sup> Floor Springfield IL 62767-0001	or	Susan Anders, Rules Coordinator Department of Insurance 320 West Washington, 4 <sup>th</sup> Floor Springfield IL 62767-0001
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217/524-5433

fax: 217/524-9033

217/558-0957

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Utilization Review Organizations (UROs)
  - B) Reporting, bookkeeping or other procedures required for compliance: Claim review and recordkeeping procedures determined by the Accreditation Association for Ambulatory Health Care (AAAHC)
  - C) Types of professional skills necessary for compliance: Paramedical and medical practice certifications allowed by the AAAHC pertaining to ambulatory care
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2018

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

## DEPARTMENT OF INSURANCE

## NOTICE OF PROPOSED AMENDMENTS

TITLE 50: INSURANCE  
CHAPTER I: DEPARTMENT OF INSURANCE  
SUBCHAPTER ww: HEALTH CARE SERVICE PLANSPART 4520  
MANAGED CARE REFORM & PATIENT RIGHTS

Section	
4520.10	Purpose
4520.20	Applicability and Scope
4520.30	Definitions
4520.40	Provision of Information
4520.50	Notice of Nonrenewal or Termination
4520.60	Transition of Services
4520.70	Health Care Services, Appeals, Complaints and External Independent Reviews
4520.80	Joint Resolution of Complaints – Department of Insurance and Department of Public Health – Notification and Resolution Process
4520.90	Record of Complaints
4520.100	Access and Quality of Care from Providers Without Primary Care Physician Referral or Authorization
4520.110	Emergency Services
4520.120	Post Stabilization Services
4520.130	Registration of Utilization Review Organizations
4520.140	Operational Requirements
4520.EXHIBIT A	Complaint Reporting Column Descriptions
4520.EXHIBIT B	Application for Registration of a Utilization Review Organization
4520.EXHIBIT C	Utilization Review Organization Officers and Directors Biographical Affidavit
4520.EXHIBIT D	NAIC Utilization Review Organization Officers and Directors Biographical Affidavit

**AUTHORITY:** Implementing the Managed Care Reform and Patient Rights Act [215 ILCS 134] and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5], 42 USC 300gg-22, and 45 CFR 150.101(b)(2) and 150.201.

**SOURCE:** Emergency rules adopted at 23 Ill. Reg. 12466, effective September 27, 1999, for a maximum of 150 days; adopted at 24 Ill. Reg. 3374, effective February 10, 2000; amended at 24



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Ill. Reg. 9429, effective July 1, 2000; transferred from the Department of Insurance to the Department of Financial and Professional Regulation pursuant to Executive Order 2004-6 on July 1, 2004; amended at 28 Ill. Reg. 13711, effective September 28, 2004; amended at 30 Ill. Reg. 6368, effective March 29, 2006; amended at 34 Ill. Reg. 6879, effective April 29, 2010; amended at 38 Ill. Reg. 2253, effective January 2, 2014; amended at 38 Ill. Reg. 23431, effective November 25, 2014; transferred from the Department of Financial and Professional Regulation to the Department of Insurance pursuant to Executive Order 2009-4; recodified from 50 Ill. Adm. Code 5420 to 50 Ill. Adm. Code 4520 at 41 Ill. Reg. 4982; amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 4520.130 Registration of Utilization Review Organizations**

- a) Registration: On or after July 1, 2000, a utilization review organization may not conduct utilization review for persons subject to Section 85 of the Managed Care Reform and Patient Rights Act [215 ILCS 134/85] unless the utilization review organization has registered with the Director. An application for registration shall be in a format as set forth in Exhibit B ~~of this Part~~, and must be signed by an officer or director of the utilization review organization. Initial registration applications shall be deemed approved unless the Director finds ~~thesueh~~ application to be noncompliant with either the standards set forth in Section 85 of the Managed Care Reform and Patient Rights Act or this Part.
- b) Fees: A utilization review organization must register with the Director every two years. A fee of \$3,000 must be submitted with each application or renewal unless the utilization review organization is accredited by the Health Utilization ~~Management~~ ~~Medical Standards of the American Accreditation Healthcare Commission~~ (URAC), the National Committee for Quality Assurance (NCQA), ~~or the Joint Commission on Accreditation of Healthcare Organizations (JCAHO), or the Accreditation Association for Ambulatory Health Care (AAAHC),~~ in which case the fee is \$1500.
- c) Any material changes in the information filed pursuant to this Part shall be filed with the Director within 30 days after ~~thesueh~~ change. Loss of accreditation status will require re-registration and payment of a \$3000 fee pursuant to subsections (a) and (b) ~~of this Section~~.
- d) Renewals and Appeals:
  - 1) A registered utilization review organization may continue to operate, if the

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## NOTICE OF PROPOSED AMENDMENTS

application and fee have been filed 30 days prior to the renewal date, until the renewal is denied or issued by the Director.

- 2) If the renewal application and fee are not received prior to the renewal date, the registration will automatically expire and the utilization review organization must re-register and pay a fee pursuant to subsections (a) and (b) ~~of this Section~~.
- 3) If an application for registration or renewal is denied under this Part, the applicant may appeal ~~that such~~ denial by requesting a hearing under the terms of Article 10 of the Illinois Administrative Procedure Act [5 ILCS 100/10-5 through 10-70] and 50 Ill. Adm. Code 2402. A petition for hearing must be postmarked no later than 30 days ~~after from~~ the date of initial denial. A hearing shall be scheduled within 45 days after the petition is filed with the Director. A decision by the Director shall be rendered within 60 days after the close of the hearing.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF INSURANCE

## NOTICE OF PROPOSED AMENDMENTS

**Section 4520.EXHIBIT B Application for Registration of a Utilization Review Organization**

1. Name of Applicant \_\_\_\_\_

Type of Applicant (check one):

- Corporation  
 Partnership  
 Limited Liability Corporation  
 Other (Describe) \_\_\_\_\_

FEIN \_\_\_\_\_

Contact Person \_\_\_\_\_

Business Telephone Number ( ) \_\_\_\_\_

Fax Number ( ) \_\_\_\_\_

Email Address \_\_\_\_\_

2. Type of Utilization Review Organization (check **all** that apply):

- Health Care Utilization Review (as defined in Section 4520.30 of this Part)  
 Workers' Compensation Review (as defined in 50 Ill. Adm. Code 2905.10)

Check **all** categories that apply (as applicable):

- Licensed HMO providing utilization review services outside of the HMO (as defined in 50 Ill. Adm. Code 4521.20)  
 Licensed HMO providing utilization review services only within that HMO (as defined in 50 Ill. Adm. Code 4521.20)  
 Third Party Administrator  
 Licensed Insurance Company providing utilization review services outside of that Insurance Company  
 Licensed Insurance Company providing utilization review services only within that Insurance Company  
 Hospital or Medical Group providing utilization review services for other than internal purposes  
 Workers' Compensation Utilization Review Organization  
 Other (Describe) \_\_\_\_\_

3. Business Address

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Street (do not use PO Box) \_\_\_\_\_  
 City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_ - \_\_\_\_\_

## 4. Mailing Address

Street or P.O. Box \_\_\_\_\_  
 City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_ - \_\_\_\_\_

## 5. Business Telephone Number ( ) \_\_\_\_\_

Toll Free Number ( ) \_\_\_\_\_

FAX Number ( ) \_\_\_\_\_

Email Address/Website \_\_\_\_\_

6. Agent for Service of Process **in Illinois**

Name \_\_\_\_\_

Street Address (do not use P. O. Box) \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_ - \_\_\_\_\_

## 7. For each Utilization Review Program supply the following information:

a) The name, address, telephone number and normal business hours of the utilization programs.

b) The organization and governing structure of the utilization review programs.

c) The number of reviews in Illinois for which utilization review is conducted by each utilization program for the current year.

Health Reviews

Workers' Compensation Reviews

d) Hours of operation of each utilization review program.

e) Description of the grievance process for each utilization program.

f) Please check (all that apply) to determine if you are using the Health Standards and/or the Workers' Compensation Standards in order to meet or exceed American Accreditation Healthcare Commission (URAC) Standards and provide the Department with a copy of your current certificates, if applicable.

Health Utilization Standards

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- Workers' Compensation Standards
- g) Number of reviews in Illinois for which utilization review was conducted for the previous calendar year for each utilization review program.
- Health Reviews
- Workers' Compensation Reviews
- h) Written policies and procedures for protecting confidential information according to applicable State and Federal laws for each utilization review program.
- i) Biographical information for organization officers and directors, as set forth in Exhibit C or D (as appropriate). Biographical affidavits shall be stamped "confidential" by the utilization review organization.
8. Indicate accreditation status below.
- a)  Health accredited by:
- URAC
- NCQA
- JCAHO
- [AAAHHC \(as defined in 50 Ill. Adm. Code 4520.130\(b\)\)](#)
- b)  Workers' Compensation accredited by:
- URAC Health Standards
- URAC Workers' Compensation Standards
- c)  Unaccredited
9.  Check Enclosed
- a)  Accredited fee \$1500 biennially
- b)  Unaccredited fee \$3000 biennially
10. Affirmation (to be signed by an officer or director of the utilization review organization only):
- I, \_\_\_\_\_ do hereby certify that  
(typed name, title)

DEPARTMENT OF INSURANCE

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(utilization review organization)

complies with the Health and/or Workers' Compensation Utilization Management Standards of the American Accreditation Healthcare Commission (URAC) sufficient to achieve American Accreditation Healthcare Commission (URAC) accreditation or submits evidence of accreditation by the American Accreditation Healthcare Commission (URAC) accreditation or submits evidence of accreditation by the American Accreditation Healthcare Commission (URAC) for its Health and/or Workers' Compensation Utilization Management Standards, and do hereby affirm that all of the information presented in this application is true and correct.

(signature)

(date)

Please mail completed application to:

Illinois Department of Insurance  
Utilization Review Unit  
320 West Washington Street  
Springfield IL 62767-0001  
(217) 558-2309

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF INSURANCE

## NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Health Carrier External Review
- 2) Code Citation: 50 Ill. Adm. Code 4530
- 3) Section Number: 4530.40                      Proposed Action: Amendment
- 4) Statutory Authority: Implementing the Health Carrier External Review Act [215 ILCS 180] and authorized by Section 50(h) of the Act [215 ILCS 180/50(h)] and Section 401 of the Illinois Insurance Code [215 ILCS 5/401].
- 5) A Complete Description of the Subjects and Issues Involved: Section 4530.40 will be amended to make the deadline for health carriers to submit an external review report to the Director of Insurance consistent with PA 99-537, which becomes effective January 1, 2017.
- 6) Any published studies or reports, along with the sources of underlying data, that were used when comprising this rulemaking, in accordance with 1 Ill. Adm. Code 100.355?  
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 will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.
- 12) Time, Place and Manner in which interested persons may comment on this rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this Notice to:

Felicia Page, Assistant General Counsel  
Department of Insurance  
320 West Washington, 4<sup>th</sup> Floor

or Susan Anders, Rules Coordinator  
Department of Insurance  
320 West Washington, 4<sup>th</sup> Floor

## DEPARTMENT OF INSURANCE

## NOTICE OF PROPOSED AMENDMENT

Springfield IL 62767-0001

Springfield IL 62767-0001

217/524-5433

217/558-0957

fax: 217/524-9033

13) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Not likely to be applicable to small business in that the health carriers subject to the rule are sizable institutions.
- B) Reporting, bookkeeping or other procedures required for compliance: Preparation and filing of health carrier external review reports.
- C) Types of professional skills necessary for compliance: Clerical and technical compliance

14) Regulatory Agenda on which this rulemaking was summarized: January 2018

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



## DEPARTMENT OF INSURANCE

## NOTICE OF PROPOSED AMENDMENT

TITLE 50: INSURANCE  
CHAPTER I: DEPARTMENT OF INSURANCE  
SUBCHAPTER ww: HEALTH CARE SERVICE PLANSPART 4530  
HEALTH CARRIER EXTERNAL REVIEW

## Section

4530.10	Purpose
4530.20	Applicability and Scope
4530.30	Definitions
4530.40	Health Carrier Obligations
4530.50	Independent Review Organization Obligations
4530.60	Registration of Independent Review Organizations
4530.70	Operational Requirements
4530.80	Examination
4530.90	Random Selection of IROs by Director
4530.APPENDIX A	IRO Notice of Decision Template – Non-Experimental and Investigational
4530.APPENDIX B	IRO Notice of Decision Template – Experimental and Investigational
4530.APPENDIX C	Independent Review Organizations – Application for Registration
4530.APPENDIX D	Independent Review Organizations – Application for Reapproving Independent Review Organizations
4530.APPENDIX E	Illinois or NAIC Biographical Affidavit

**AUTHORITY:** Implementing the Health Carrier External Review Act [215 ILCS 180] and authorized by Section 50(h) of the Act [215 ILCS 180/50(h)] and Section 401 of the Illinois Insurance Code [215 ILCS 5/401].

**SOURCE:** Adopted at 34 Ill. Reg. 10741, effective July 19, 2010; amended at 39 Ill. Reg. 4077, effective September 1, 2015; amended at 39 Ill. Reg. 12577, effective September 1, 2015; recodified from 50 Ill. Adm. Code 5430 to 50 Ill. Adm. Code 4530 at 41 Ill. Reg. 4990; amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 4530.40 Health Carrier Obligations**

- a) Each health carrier shall maintain written records in the aggregate, by state, and for each type of health benefit plan offered by the health carrier on all requests for

## DEPARTMENT OF INSURANCE

## NOTICE OF PROPOSED AMENDMENT

external review for which the health carrier received notice from the Director for each calendar year. The health carrier shall submit, electronically, a report to the Director in the format specified by the Director by ~~June~~<sup>March</sup> 1 of each year.

- b) A health carrier must file with the Director for approval sample copies of:
- 1) All notices and forms that carriers must provide to covered persons under Sections 20, 25, 35, 40 and 42 of the Act. In addition to those statutory requirements, the following information must be included on notices sent to members in response to member appeals:
    - A) All notices and forms must prominently display the name, address, toll-free phone number, fax number and appeal email address of the carrier or administrator that handles appeals;
    - B) All notices and forms shall be specific and limited to information regarding appeals and external review procedures for the member's plan;
    - C) All notices shall state the number of levels of appeals available (no more than two levels for group and one level for individual) under the plan and will state which level of appeal is applicable to the adverse determination within the notice;
    - D) All notices shall include the date, including month, day and year, of the adverse determination and, if applicable, the date of the final adverse determination, including month, day and year;
    - E) All notices shall inform covered persons that the deadlines for filing an appeal or external review request are not postponed or delayed by health care provider appeals unless the health care provider is acting as an authorized representative for the covered person; i.e., the covered person should be filing internal appeals independently and concurrently unless the health care provider has been designated in writing as the authorized representative;
    - F) All notices shall indicate whether the adverse determination relates to a member appeal (filed by the member or authorized representative who may be the health care provider) or a provider

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appeal (pursuant to the provider contract) and shall explain timeframes from the date of the adverse determination for the member to appeal and to file an external review regardless of the status of a provider appeal;

- G) Upon exhaustion of provider appeals, the notice (which is copied to the member) shall specify timeframes from the date of the final adverse determination for the member to file an appeal or file an external review;
- H) Upon exhaustion of internal appeals by the member, the final adverse determination notice shall clearly state that it is the final adverse determination, that all internal appeals have been exhausted, and that the member has 4 months from the date of the letter to file an external review;
- I) All notices shall include the following contact information for the Department of Insurance:

Illinois Departments of Insurance  
Office of Consumer Health Insurance  
External Review Unit  
320 W. Washington Street  
Springfield IL 62767  
Toll-free Telephone: (877) 850-4740  
Fax: (217) 557-8495  
Email: [doi.externalreview@illinois.gov](mailto:doi.externalreview@illinois.gov)  
Website: <https://mc.insurance.illinois.gov/messagecenter.nsf>

- 2) Descriptions for both the required standard external review and expedited external review procedures as set forth within Section 20 of the Act.
- 3) Statements informing the covered person and any authorized representative that a standard external review request deemed to be ineligible for review by the plan or its representative may be appealed to the Director by filing a complaint with the Director. The health carrier shall use the following address and provide the following contact information when directing the covered person or authorized

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representative to appeal initial determinations of ineligibility for standard external review:

The Illinois Department of Insurance  
Office of Consumer Health Insurance  
External Review Unit  
320 West Washington Street  
Springfield IL 62767  
Toll-free Telephone: (877) 527-9431  
Fax: (217) 557-8495  
Email: [doi.externalreview@illinois.gov](mailto:doi.externalreview@illinois.gov)  
Website: <https://mc.insurance.illinois.gov/messagecenter.nsf>

- 4) Statements informing the covered person and any authorized representative that an expedited external review request deemed to be ineligible for review by the plan or its representative may be appealed to the Director by filing a complaint with the Director. The health carrier shall use the following address when directing the covered person or authorized representative to appeal initial determinations of ineligibility for expedited external review:

The Illinois Department of Insurance  
Office of Consumer Health Insurance  
External Review Unit  
320 West Washington Street  
Springfield IL 62767  
Toll-free Telephone: (877) 850-4740  
Fax: (217) 557-8495  
Email: [doi.externalreview@illinois.gov](mailto:doi.externalreview@illinois.gov)  
Website: <https://mc.insurance.illinois.gov/messagecenter.nsf>

- 5) Special Rules for Multi-State Plans Under the Marketplace Pursuant to the U.S. Office of Personnel Management's (OPM) Multi-State Plan Program regulation at 45 CFR 800.5023, OPM administers the External Review Process for disputed adverse benefit determinations submitted by enrollees in Multi-State Plan health insurance options.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: White-Tailed Deer Hunting By Use of Bow and Arrow
- 2) Code Citation: 17 Ill. Adm. Code 670
- 3) 

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
670.30	Amendment
670.40	Amendment
670.60	Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 1.2, 1.3, 1.4, 2.1, 2.2, 2.5, 2.20, 2.24, 2.25, 2.26, 2.33, 3.5 and 3.36 of the Wildlife Code [520 ILCS 5/1.2, 1.3, 1.4, 2.1, 2.2, 2.5, 2.20, 2.24, 2.25, 2.26, 2.33, 3.5 and 3.36].
- 5) A Complete Description of the Subjects and Issues Involved: This Part is being amended pursuant to PA 100-0489 to address crossbows regulations, which are now considered "archery equipment" and may be used whenever other bows are legal and also creates a "Restricted Archery Zone" in several counties in which hunters may only take antlered-deer during the period of October 1-15.
- 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? No
- 11) Statement of Statewide Policy Objective: This rulemaking does not affect units of local government.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed rulemaking may be submitted in writing for a period of 45 days following publication of this Notice to:

Javonna Ackerman, Legal Counsel

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Department of Natural Resources  
One Natural Resources Way  
Springfield IL 62702-1271

217/557-0126

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

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

## DEPARTMENT OF NATURAL RESOURCES

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

## PART 670

## WHITE-TAILED DEER HUNTING BY USE OF BOW AND ARROW

## Section

670.10	Statewide Open Seasons and Counties
670.20	Statewide Deer Permit Requirements
670.21	Deer Permit Requirements – Landowner/Tenant Permits
670.30	Statewide Legal Bow and Arrow
670.40	Statewide Deer Hunting Rules
670.50	Rejection of Application/Revocation of Permits
670.55	Reporting Harvest
670.60	Regulations at Various Department-Owned or -Managed Sites

AUTHORITY: Implementing and authorized by Sections 1.2, 1.3, 1.4, 2.1, 2.2, 2.5, 2.20, 2.24, 2.25, 2.26, 2.33, 3.5 and 3.36 of the Wildlife Code [520 ILCS 5/1.2, 1.3, 1.4, 2.1, 2.2, 2.5, 2.20, 2.24, 2.25, 2.26, 2.33, 3.5 and 3.36].

SOURCE: Adopted at 5 Ill. Reg. 8888, effective August 25, 1981; codified at 5 Ill. Reg. 10641; emergency amendment at 5 Ill. Reg. 11402, effective October 14, 1981, for a maximum of 150 days; emergency expired March 13, 1982; amended at 6 Ill. Reg. 10721, effective August 20, 1982; emergency amendment at 6 Ill. Reg. 15581, effective December 14, 1982, for a maximum of 150 days; emergency expired May 13, 1983; amended at 7 Ill. Reg. 10790, effective August 24, 1983; amended at 8 Ill. Reg. 19004, effective September 26, 1984; amended at 9 Ill. Reg. 14317, effective September 9, 1985; amended at 10 Ill. Reg. 16658, effective September 22, 1986; amended at 11 Ill. Reg. 2275, effective January 20, 1987; amended at 12 Ill. Reg. 12042, effective July 11, 1988; amended at 13 Ill. Reg. 12839, effective July 21, 1989; amended at 14 Ill. Reg. 14787, effective September 4, 1990; amended at 14 Ill. Reg. 19859, effective December 3, 1990; amended at 15 Ill. Reg. 10021, effective June 24, 1991; amended at 15 Ill. Reg. 16691, effective October 31, 1991; amended at 16 Ill. Reg. 11116, effective June 30, 1992; amended at 17 Ill. Reg. 286, effective December 28, 1992; amended at 17 Ill. Reg. 13452, effective July 30, 1993; amended at 18 Ill. Reg. 5842, effective April 5, 1994; amended at 19 Ill. Reg. 7560, effective May 26, 1995; amended at 19 Ill. Reg. 15411, effective October 26, 1995; amended at 20 Ill. Reg. 6723, effective May 6, 1996; amended at 21 Ill. Reg. 5561, effective April 19, 1997; amended at 22 Ill. Reg. 7995, effective April 28, 1998; amended at 23 Ill. Reg. 6829, effective

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May 20, 1999; amended at 24 Ill. Reg. 6908, effective April 20, 2000; amended at 25 Ill. Reg. 7217, effective May 22, 2001; amended at 25 Ill. Reg. 11471, effective August 14, 2001; amended at 26 Ill. Reg. 9356, effective June 17, 2002; amended at 27 Ill. Reg. 10025, effective June 23, 2003; amended at 28 Ill. Reg. 9968, effective July 6, 2004; amended at 29 Ill. Reg. 9761, effective June 24, 2005; amended at 30 Ill. Reg. 12196, effective June 28, 2006; amended at 31 Ill. Reg. 8202, effective May 25, 2007; amended at 32 Ill. Reg. 9337, effective June 13, 2008; amended at 33 Ill. Reg. 11571, effective July 27, 2009; amended at 34 Ill. Reg. 4839, effective March 19, 2010; amended at 35 Ill. Reg. 10739, effective June 23, 2011; amended at 36 Ill. Reg. 13450, effective August 10, 2012; amended at 37 Ill. Reg. 14926, effective August 30, 2013; amended at 38 Ill. Reg. 22752, effective November 18, 2014; amended at 39 Ill. Reg. 10905, effective July 27, 2015; emergency amendment at 39 Ill. Reg. 13125, effective September 3, 2015, for a maximum of 150 days; amended at 39 Ill. Reg. 14568, effective October 20, 2015; amended at 40 Ill. Reg. 829, effective December 29, 2015; amended at 40 Ill. Reg. 10579, effective July 20, 2016; amended at 41 Ill. Reg. 8679, effective June 28, 2017; amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 670.30 Statewide Legal Bow and Arrow**

- a) The only legal hunting devices to take, or attempt to take, deer are:
- 1) Longbows, recurve bows or compound bows with minimum pull of 30 pounds at some point within a 28-inch draw. Minimum arrow length is 20 inches. ~~Any mechanical device capable of maintaining a drawn or partially drawn position on a bow without the hunter exerting full string tension is illegal.~~
  - 2) Crossbows ~~and bolts as specified in 17 Ill. Adm. Code 760.21., so long as one or more of the following conditions are met:~~
    - A) ~~If the user is a person age 62 and older with a valid photo ID containing proof of age; or~~
    - B) ~~If the user is a disabled person to whom the Department has issued a permit to use a crossbow as provided by 17 Ill. Adm. Code 760; or~~



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- ~~C)~~ *If the date is between the second Monday following the Thanksgiving holiday through the last day of the archery deer hunting season (both inclusive) [520 ILCS 5/2.5]; or*
- ~~D)~~ *If the user possesses a valid Youth Hunting License and archery deer hunting permit, and remains under the direct supervision of a parent, grandparent, or guardian who is 21 years of age or older and who possesses a valid Illinois hunting license and valid archery deer permit. [520 ILCS 5/2.5a and 3.1-9] Accompaniment by a parent, grandparent, or guardian shall serve as evidence that express permission of an adult was granted to obtain the deer permit.*
- b) Broadheads must be used for archery deer hunting. Broadheads may have fixed or expandable cutting surfaces, but they must be a minimum  $\frac{7}{8}$  inch in diameter when fully opened. Broadheads with fixed cutting surfaces must be metal or flint-, chert- or obsidian-knapped; broadheads with expandable cutting surfaces must be metal. Nothing in this subsection shall be construed to prohibit the possession of arrows with field tips or blunt tips for the purpose of legally taking small game or for target practice during the course of the hunt, but those arrows may not be used in any attempt to take deer.
- ~~e)~~ *Specifications for legal crossbows and bolts are contained in 17 Ill. Adm. Code 760.*
- ~~c~~d) All other hunting devices, including electronic arrow tracking devices utilizing radio telemetry, are illegal. It is unlawful to carry any firearm or sidearm while hunting deer with a bow and arrow.
- ~~d~~e) Use of an unlawful device is a Class B misdemeanor (see 520 ILCS 5/2.24); ~~except that unlawful use of a crossbow is a Class A misdemeanor with a minimum \$500 and maximum \$5,000 fine, in addition to other statutory penalties (see 520 ILCS 5/2.33(o)).~~

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 670.40 Statewide Deer Hunting Rules**

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- a) The bag limit is one deer per legally authorized either-sex, antlered-only or antlerless-only permit. All either-sex permits and antlered-only permits are subject to the following restriction: no hunter, regardless of the quantity or type of permits in his/her possession, may harvest more than 2 antlered deer during a year, including the youth, archery, muzzleloader and firearm seasons. For purposes of this subsection, deer seasons are considered to be in the same year if their opening dates fall within the same 12-month period that begins on July 1. A hunter in possession of an either-sex permit after having harvested 2 antlered deer during a year, as defined above, may only use the permit to harvest an antlerless deer. Subject to this restriction, an either-sex permit holder is allowed to take a deer with or without antlers; and an antlered-only permit holder is allowed to take only a deer having at least one antler of a length of 3 or more inches. An antlerless-only permit holder is allowed to take only a deer without antlers or a deer having antlers less than 3 inches long.
- b) The Illinois Restricted Archery Zone shall consist of Champaign, Douglas, Macon, Moultrie and Piatt counties. During the period October 1 – October 15, only antlered deer may be harvested in the Restricted Archery Zone, regardless of permits in possession. An antlered deer is defined as a deer having at least one antler of a length of 3 or more inches. All restrictions listed in subsection (a) also apply in the Restricted Archery Zone.
- ~~c~~b) Recipients of any type of Archery Deer Hunting Permit shall record their signature on the permit prior to hunting and must carry it on their person while hunting.
- ~~d~~e) The temporary harvest tag shall be attached and properly sealed immediately upon kill and before the deer is moved, transported or field dressed. No person shall leave any deer that has been killed without properly attaching the temporary harvest tag to the deer in the manner prescribed on the permit.
- ~~e~~d) Hunters shall not have in their possession, while in the field during archery deer season, any deer permit issued to another person (permits are non-transferable).
- ~~f~~e) Permits will not be re-issued in cases involving deer taken which are found to be diseased or spoiled due to previous injury. Legal disposal of unfit deer taken shall be the responsibility of the hunter. For those hunters participating in DNR's Chronic Wasting Disease Surveillance Program, a free permit will be made

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available (during either the current year or the subsequent year, at the discretion of the hunter) if their tested deer is determined to have chronic wasting disease.

- gf) Unlawful take or possession of one deer is a Class B misdemeanor (see 520 ILCS 5/2.24); unlawful take or possession of two or more deer in a 90-day period is a Class 4 felony (see 520 ILCS 5/2.36a); unlawful take or possession of 2 or more deer as a single act or single course of conduct is a Class 3 felony (see 520 ILCS 5/2.36a); and any other violation of this Section is a Class B misdemeanor (see 520 ILCS 5/2.24).

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 670.60 Regulations at Various Department-Owned or -Managed Sites**

- a) All the regulations in 17 Ill. Adm. Code 510 (General Hunting and Trapping) apply in this Section, unless this Section is more restrictive.
- b) It is unlawful to drive deer, or participate in a deer drive, on all Department-owned or -managed properties. A deer drive is defined as a deliberate action by one or more persons (whether armed or unarmed) whose intent is to cause deer to move within archery range of one or more participating hunters.
- c) Only one tree stand or ground blind is allowed per deer permit holder. Tree stands and ground blinds must comply with restrictions listed in 17 Ill. Adm. Code 510.10(c)(3) and (c)(12) and must be portable. Tree stands and ground blinds must be removed at the end of each day with the exception that they may be left unattended from September 15 through January 31 at those sites listed in this Section that are followed by a (1). Any tree stand or ground blind left unattended must be legibly marked with the owner's name, address, and telephone number, or site assigned identification number.
- d) Check-in, check-out, and reporting of harvest is required at those sites listed in this Section that are followed by a (2). Sites that require use of windshield cards by hunters as specified in 17 Ill. Adm. Code 510.10 are followed by a (6).
- e) Where standby hunters are used to fill quotas, a drawing will be held at sites indicated by a (3).

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- f) Only antlerless deer or antlered deer having at least four points on one side may be harvested at those sites listed in this Section that are followed by a (4).
- g) Only antlerless deer or antlered deer having at least five points on one side may be harvested at those sites listed in this Section that are followed by a (5).
- h) Statewide regulations shall apply at the following sites:
- Alvah Borah State Habitat Area (6)
  - \* Anderson Lake State Fish and Wildlife Area (1) (2)
  - Apple River Canyon State Park – Thompson and Salem Units (6)
  - Argyle Lake State Park (1) (6)
  - \* Banner Marsh State Fish and Wildlife Area (statewide hunting hours except during the Central Zone duck season hunting hours 1:00 p.m. until ½ hour after sunset) (1) (2)
  - \* Beall Woods State Park (1) (6)
  - \* Big Bend State Fish and Wildlife Area (1) (2)
  - Big Grand Pierre Glade State Natural Area (1)
  - Big River State Forest (1) (6)
  - Bradford Pheasant Habitat Area (October 1-31 only) [\(6\)](#)
  - Buffalo Rock State Park/Blackball Mines Nature Preserve (2)
  - Burning Star State Fish and Wildlife Area (6)
  - Butterfield Trail State Recreation Area (6)
  - Cache River State Natural Area (1) (2)

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Campbell Pond State Fish and Wildlife Area (1) (6)

Cape Bend State Fish and Wildlife Area (1) (2)

Carlyle Lake Lands and Waters (Corps of Engineers managed lands, except Jim Hawn and East Spillway Areas)

\* Carlyle Lake Lands and Waters (Corps of Engineers managed lands – Jim Hawn and East Spillway Areas)

Carlyle Lake State Fish and Wildlife Area (except subimpoundment area is closed 7 days prior to and during the regular waterfowl season; lands bounded on the east by "C" levee, south by "D" levee, west by ACOE property line, and including the posted area west of parking lot #2, will be open the entire archery deer hunting season) (6)

Castle Rock State Park (submission of all deer heads within 48 hours after harvest on site is required to test for the presence of Chronic Wasting Disease) (1) (6)

Cedar Glen State Natural Area (no hunting after December 15) (1) (6)

Chauncey Marsh State Natural Area (permit obtained at Red Hills State Park headquarters) (1) (6)

Clinton Lake State Recreation Area (an antlerless deer must be taken on the site before an antlered deer is harvested) (6)

Coffeen Lake State Fish and Wildlife Area (6)

Collier Limestone Glade State Natural Area (1)

Copperhead Hollow State Wildlife Area (1) (6)

Crawford County State Conservation Area (1) (6)

Cretaceous Hills State Natural Area (1) (6)

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Cypress Creek National Wildlife Refuge

Cypress Pond State Natural Area (1) (2)

Deer Pond State Natural Area (1) (2)

Des Plaines Game Propagation Center (closed Saturdays and Sundays in October and Sundays in November, December and January) (2)

Des Plaines State Conservation Area (no hunting is permitted Wednesday through Sunday of the site's permit pheasant season) (6)

Devil's Island State Wildlife Management Area

Dixon Springs State Park (1) (6)

Dog Island State Wildlife Management Area (1) (6)

Dublin Highlands Pheasant Habitat Area (opens statewide opening date; however, site closes for archery deer hunting at the end of legal shooting hours the day preceding the opening of the North Zone upland season and reopens the day after the close of the North Zone upland season and runs until the statewide season closes; [submission of all deer heads within 48 hours after harvest on site is required to test for the presence of Chronic Wasting Disease](#)) (1) (2)

\* Eagle Creek State Park (~~disabled hunters are exempt from site's antler restrictions~~; for Corps of Engineers managed lands not managed by DNR, contact Corps of Engineers, Lake Shelbyville office for specific deer hunting policy) ~~(4)~~(6)

Eldon Hazlet State Park (archery hunting is closed in the designated controlled pheasant hunting area on days when the controlled pheasant hunting program is in operation) (6)

Embarras River Bottoms State Habitat Area (1) (6)

Ferne Clyffe State Park (1) (2)

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Finrock State Habitat Area (October 1-31 only; eligible hunters required to obtain Clinton Lake State Recreation Area site hunting permit) (6)

Flag Pond State Natural Area (1)

Flatwoods State Natural Area (1) (6)

Fort de Chartres State Historic Site (1) (2)

\* Fort Kaskaskia State Historic Site (opens November 1) (2)

Fort Massac State Park (1) (6)

Fox Ridge State Park (1) (6)

Franklin Creek State Natural Area (submission of all deer heads within 48 hours after harvest on site is required to test for the presence of Chronic Wasting Disease) (6)

French Bluff State Natural Area (6)

George S. Park Memorial Woods State Natural Area (2)

Giant City State Park (1) (2)

Goose Lake Prairie State Natural Area/Heidecke State Fish & Wildlife Area (archery deer hunting is closed during the muzzleloader deer season) (6)

Green River State Wildlife Area (1) (6)

Hallsville State Habitat Area (October 1-31 only; eligible hunters will use Clinton Lake State Recreation Area site hunting permit) (1) (6)

Hamilton County State Conservation Area (1) (6)

Hanover Bluff State Natural Area (6)

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Harry "Babe" Woodyard State Natural Area ~~(4)~~(6)

Henry Allen Gleason State Natural Area (6)

Hidden Springs State Forest (1) (6)

Hindsboro State Habitat Area (October 1 through October 31 only) (6)

Horseshoe Lake State Conservation Area – Alexander County (Controlled Goose Hunting Area – open from October 1-31; reopens with the close of the Quota Zone goose season through statewide closing; remainder of the Public Hunting Area open during statewide season) (1) (2)

Ilo Dillin State Habitat Area (hunting allowed during October only) (6)

Iroquois County State Wildlife Area/Hooper Branch only (1) (2)

Johnson-Sauk Trail State Park (statewide regulations apply, except that, on Wednesdays through Sundays of the site's permit pheasant season, hunting only allowed 2:00 p.m. until sunset) (1) (6)

Jubilee College State Park (2)

Kankakee River State Park (deer bow hunters must wear a cap and upper outer garment with at least 400 square inches of solid blaze orange between 9:00 a.m. and 3:00 p.m. on days when upland game hunting is allowed during the site's controlled hunting season; a limited hunting opportunity for persons with disabilities, Class P2A, exists at the Davis Creek Bike Trail Area; disabled hunters must register to hunt at the site office and must sign in and out daily; disabled hunters are required to hunt with a non-disabled partner who may also hunt from predetermined locations during the disabled hunting season (November 1 to the day before the first firearm deer season, except campground blinds will remain open until the close of the archery deer season and do not require a partner to hunt) (6)

Kaskaskia River State Fish and Wildlife Area (the State-owned portion of



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the defined waterfowl rest area is open until 2 weeks prior to the start of the regular duck season through the close of the regular duck and Canada goose seasons; no hunting within 50 yards of the Baldwin Lake Waterfowl Rest Area's main north-south road) (1) (2 – except south of Highway 154 and north of Highway 13)

Kickapoo State Recreation Area (6)

Kidd Lake State Natural Area (1)

Kinkaid Lake State Fish and Wildlife Area (1) (2)

Kishwaukee River State Fish and Wildlife Area; submission of all deer heads within 48 hours after harvest on site is required to test for the presence of Chronic Wasting Disease (6)

Lake Le Aqua Na State Park ([submission of all deer heads within 48 hours after harvest on site is required to test for the presence of Chronic Wasting Disease antlerless deer only; November 1-30; hunting hours legal opening until 10:00 a.m.](#)) (62)

Larry D. Closson Habitat Area (October 1-31 only) (1)

Lincoln Trail State Park (November 1 through the end of statewide season) (2)

Little Rock Creek State Habitat Area (opens statewide opening date; however, site closes for archery deer hunting at the end of legal shooting hours the day preceding the opening of the north zone upland season and reopens the day after the close of the north zone upland season and runs until the statewide season closes) (1) (2)

Lowden-Miller State Forest (submission of all deer heads within 48 hours after harvest on site is required to test for the presence of Chronic Wasting Disease) (1) (6)

Lowden State Park (in October, hunting allowed on Mondays, Tuesdays, Wednesdays and Thursdays only, excluding official State holidays;

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beginning November 1, archery hunting is allowed 7 days a week) (6)

Lusk Creek Canyon State Natural Area (1)

Mackinaw River State Fish and Wildlife Area (1) (6)

Marseilles State Fish and Wildlife Area (closed Friday, Saturday, and Sunday in October only; no hunting after the first Thursday after January 10; all tree stands must be removed from this area no later than the last day of the season; unauthorized personnel may not be on the site outside of the posted check station operating hours; hunters may enter the site only from designated parking lots) (1) (2)

Marshall State Fish and Wildlife Area (Duck Ranch Unit closed 7 days prior to the duck season through the close of duck season) (6)

Mautino State Fish and Wildlife Area (1) (6)

Maxine Loy Land and Water Reserve (6)

Maytown Pheasant Habitat Area (hunting allowed during October only) (6)

Mazonia/Braidwood State Fish and Wildlife Area (2) (4)

Meeker State Habitat Area (1) (6)

Mermet Lake State Conservation Area (1) (6)

Middle Fork State Fish and Wildlife Area (6)

Midewin National Tallgrass Prairie (additional site hunting pass required) (2)

Miller-Anderson Woods State Natural Area (2)

Mississippi Palisades State Park (closed during the first firearm deer season) (1) (6)

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Mississippi River Pool 16 (1)

Mississippi River Pools 17, 18 (1)

Mississippi River Pools 21, 22, 24 (1)

Mississippi State Fish and Waterfowl Management Area – Pools 25 and 26 (Batchtown, Crull Hollow and Godar Waterfowl Rest Areas are closed to hunting beginning 14 days before regular duck season; areas reopen to hunting the day after duck season closes; it is unlawful to trespass upon the designated duck hunting areas between sunset of the Sunday immediately preceding opening day of regular duck season through the day before regular duck season as posted at the site; no deer hunting is allowed within 200 yards of an occupied duck blind; during duck season only, deer hunters may not access the designated duck hunting areas by launching a boat at certain specifically posted boat ramps; boat ramps reopen to deer hunters the day after duck season closes; hunting is allowed at Red's Landing and Riprap Landing walk-in areas from 12:00 p.m. to ½ hour after sunset during duck season, statewide hours during remainder of season) (1)

Mitchell's Grove State Nature Preserve (antlerless deer only in October; either-sex deer from November 1 until the end of the statewide season; closed during the muzzleloading deer season) (2)

Momence Wetlands State Natural Area (1) (6)

Moraine View State Park (archery deer hunting closed Wednesday through Sunday during the controlled pheasant season) (1) (6)

Morrison Rockwood State Park (opens on the day following the close of the first firearm deer season) (1) (2)

\* Mt. Vernon Propagation Center (1) (2)

Nauvoo State Park (Max Rowe Unit Only) (6)

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Newton Lake State Fish and Wildlife Area (6)

Oakford State Conservation Area

Paul C. Burrus State Habitat Area (formerly Hurricane Creek State Habitat Area) (hunter quotas filled by drawing) (6)

\* Peabody River King State Fish and Wildlife Area (East subunit closes November 1) (1) (2)

\* Pekin Lake State Fish and Wildlife Area (1) (6)

Pere Marquette State Park (~~area east of Graham Hollow Road~~)(1) (6)

Prairie Ridge State Natural Area (1) (6)

Pyramid State Park (4) (6)

Pyramid State Park – Captain Unit (4) (6)

Pyramid State Park – Denmark Unit (4) (6)

Pyramid State Park – East Conant Unit (4) (6)

Pyramid State Park – Galum Unit (4) (6)

Rall Woods State Natural Area (6)

\* Ramsey Lake State Park (6)

\* Randolph County State Conservation Area (1) (2)

Rauchfuss Hill State Recreation Area (1) (6)

Ray Norbut State Fish and Wildlife Area (6)

Ray Norbut State Fish and Wildlife Area – Dutch Creek Unit (6)

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Ray Norbut State Fish and Wildlife Area – East Hannibal Unit (6)

\* Red Hills State Park (1) (6)

Rend Lake State Fish and Wildlife Area (refuge only (south of site headquarters) from October 1 through October 31; an antlerless deer must be taken on the site before an antlered deer is harvested) (2)

Rend Lake State Fish and Wildlife Area and Corps of Engineers managed areas of Rend Lake

Revis Hill Prairie State Natural Area (6)

\* Rice Lake State Fish and Wildlife Area (statewide hunting hours, except that, during the Central Zone duck season, hunting hours 1:00 p.m. until ½ hour after sunset) (1) (2)

\* Rockton Bog State Natural Area (6)

Sahara Woods State Fish and Wildlife Area (portions of site closed until November 1) (6)

Saline County State Fish and Wildlife Area (1) (6)

\* Sam Dale Lake State Fish and Wildlife Area (1) (6)

\* Sam Parr State Park (1) (2)

Sandy Ford State Natural Area (antlerless deer only in October; either-sex deer from November 1 until the end of the statewide season; archery deer hunting is closed during the muzzleloader deer season) (2)

Sangamon County State Conservation Area (1)

Sanganois State Wildlife Area (Ash Swale Waterfowl Rest Area will be closed to deer hunting during the waterfowl hunting seasons) (1) (6)

Sand Ridge State Forest (6)

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- \* Shabbona Lake State Park (submission of all deer heads within 48 hours after harvest on site is required to test for the presence of Chronic Wasting Disease) (6)  
  
Shelbyville State Fish and Wildlife Area (for Corps of Engineers managed lands not managed by DNR, contact Corps of Engineers, Lake Shelbyville office for specific deer hunting policy) (1) (6)  
  
Sielbeck Forest State Natural Area (1) (6)  
  
Siloam Springs State Park (4) (6)  
  
Siloam Springs State Park (Fall Creek Unit) (6)  
  
Siloam Springs State Park – Buckhorn Unit (resident hunters only) (4) (6)
- \* Silver Springs State Park (2)  
  
Skinner Farm State Habitat Area (1) (2)
- \* Snakeden Hollow State Fish and Wildlife Area (closed during goose season; tree stands must be removed no later than the last day of archery hunting on the site) (1) (6)  
  
Sparks Pond State Natural Area (6)  
  
Spoon River State Forest (1) (6)
- \* Spring Lake State Fish and Wildlife Area (1) (6)
- \* Starved Rock State Park/Matthiessen State Park/Margery C. Carlson Nature Preserve (antlerless deer only in October; either-sex deer from November 1 until the end of the statewide season; deer bowhunters must wear a cap and upper outer garment with at least 400 square inches of solid blaze orange during the statewide firearm deer seasons; open to archery deer hunting during the statewide firearm deer season only in Zone A) (2)

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- \* Stephen A. Forbes State Recreation Area (6)  
Tapley Woods State Natural Area (6)  
Ten Mile Creek State Fish and Wildlife Area (areas designated as refuge are closed to all access during Canada goose season only) (1) (6)  
Trail of Tears State Forest (1) (2)  
Turkey Bluffs State Fish and Wildlife Area (1) (2)  
Union County State Fish and Wildlife Area (Firing Line Unit open throughout statewide season; Controlled Public Hunting Area open October 1 through October 31) (1) (2)  
Vesely Land and Water Reserve/Wilmington Shrub Prairie Nature Preserve (6)  
Walnut Point State Park (1) (6)  
Wards Grove State Nature Preserve (closed during firearm deer hunting; antlerless deer only) (6)
- \* Washington County State Conservation Area (1) (2)  
Weinberg-King State Park (6)  
Weinberg-King State Park – Cecil White Unit (6)  
Weinberg-King State Park – Scripps Unit (resident hunters only) (6)  
Weinberg-King State Park – Spunky Bottoms Unit (resident hunters only) (6)  
Weldon Springs State Park – Piatt County Unit (an antlerless deer must be taken on the site before an antlered deer is harvested) (6)

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Whitefield Pheasant Habitat Area (hunting allowed during October only)  
(6)

- \* White Pines Forest State Park ( hunting allowed on Mondays, Tuesdays, Wednesdays and Thursdays only – excluding official State holidays in October. Beginning November 1, archery hunting is allowed 7 days a week, excluding the site's special firearm deer season) (6)

Wildcat Hollow State Forest (1) (6)

Willow Creek State Habitat Area (hunting permitted October 1-31) (1) (6)

Winston Tunnel State Natural Area (6)

Wise Ridge State Natural Area (1)

Witkowsky State Wildlife Area (opens October 15) (6)

Wolf Creek State Park (~~an antlerless deer must be taken on the site before an antlered deer is harvested; Illinois residents and non-residents are eligible for the drawing;~~ for Corps of Engineers managed lands not managed by DNR, contact Corps of Engineers, Lake Shelbyville office, for specific deer hunting policy) ~~(4)~~-(6)

Woodford State Fish and Wildlife Area (opens at the close of duck season) (6)

- i) Statewide regulations shall apply at the following sites except that hunter quotas shall be filled by mail-in drawing:

Beaver Dam State Park (an antlerless deer must be taken on the site before an antlered deer is harvested; harvest reports are due to the site by December 31; failure to submit report shall result in the loss of hunting privileges at the site for the following year) (1)

Bohm Woods State Nature Preserve (an antlerless deer must be taken on the site before an antlered deer is harvested; harvest reports are due to the site by January 31; failure to submit report shall result in the loss of



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hunting privileges at the site for the following year) (1)

- \* Frank Holten State Park (opens November 1; crossing of Harding Ditch within confines of site allowed; no hunting from Harding Ditch right-of-way; drawing for weekly hunter quotas will be held prior to the season; display windshield card while hunting; harvest report due to site by January 31, failure shall result in ineligibility to hunt at the site the following year) (1, starting October 15) (6)

Goode's Woods State Nature Preserve (an antlerless deer must be taken on the site before an antlered deer is harvested; harvest reports are due to the site by January 31; failure to submit report shall result in the loss of hunting privileges at the site for the following year) (1)

- \* Horseshoe Lake State Park (Madison County) (hunting in designated areas only; an antlerless deer must be taken on the site before an antlered deer is harvested; harvest reports are due to the site by December 31; failure to submit report shall result in the loss of hunting privileges at the site for the following year) (1)

Pere Marquette State Park (hunting allowed in group camping areas only; season begins the first weekday after camps close)

- \* [Zoeller State Natural Area \(1\) \(6\)](#)

- j) State regulations shall apply except that hunters must obtain a free permit from the site office. This permit must be in possession while hunting and must be returned, and harvest reported, to the address indicated on the card before February 15. Failure to return the permit shall result in loss of hunting privileges at that site for the following year.

- \* Horseshoe Lake State Park (Madison County – Gaberet, Mosenthein and Chouteau Island Units)

- k) Statewide regulations shall apply except that no hunting is permitted [on days that Wednesday through Sunday of the site is open to site's](#) permit pheasant season.

Chain O'Lakes State Park (season opens Monday prior to opening of

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permit pheasant hunting season and closes ~~before Tuesday following the close of the~~ controlled pheasant clean up hunt~~permit pheasant hunting season~~; season reopens on December 26 ~~through~~ the close of regular season) (3) (6)

Iroquois County State Conservation Area (permit pheasant hunting units are closed to archery hunting on days the site is open to permit pheasant hunting, archery hunting is open under statewide regulations in non-permit pheasant hunting units) (6)

Wayne Fitzgerald State Recreation Area (no bowhunting during controlled hunts as posted at the site) (2)

- l) Statewide regulations shall apply at the following sites except that nonresident hunter quotas shall be filled by mail-in drawing. Information about specific drawing dates and application procedures will be publicly announced. Successful applicants will be issued a free permit from the site office. This permit must be in possession while hunting and must be returned and harvest reported to the address indicated on the card before February 15. Failure to return the permit shall result in loss of hunting privileges at that site for the following year.

Jim Edgar Panther Creek State Fish and Wildlife Area (Open Unit and West Open Unit closed to archery hunting during the Youth Deer Season) (1) (4) (6)

- \* Sangchris Lake State Park (site will be closed to archery deer hunting during the second firearm deer season) (1) (4) (6)

- m) Statewide regulations shall apply at this site except that hunter quotas for specific periods shall be filled by mail-in drawing. Only Illinois residents are eligible to apply. Information about drawing dates and application procedures will be publicly announced.

Hennepin Canal State Trail (hunters must stay in their designated zone; an antlerless deer must be taken on the site before an antlered deer may be taken) (1) (6)

Illinois Beach State Park, North Dunes Nature Preserve and Illinois Beach

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Nature Preserve (~~opens November 1;~~ hunting assigned for one week periods; site-issued windshield card must be displayed while hunting; harvest report due to site by February 1, failure to report shall result in ineligibility to hunt at the site the following year)

James Pate Philip State Park and Heron Woods State Habitat Area

Moraine Hills State Park ~~(6)~~

Volo Bog State Natural Area ~~(6)~~

n) Violations of site specific regulations are petty offenses (see 520 ILCS 5/2.20).

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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- 1) Heading of the Part: Underground Injection Control Operating Requirements
- 2) Code Citation: 35 Ill. Adm. Code 730
- 3) 

<u>Section Numbers</u> :	<u>Proposed Actions</u> :
730.101	Amendment
730.102	Amendment
730.103	Amendment
730.104	Amendment
730.105	Amendment
730.106	Amendment
730.108	Amendment
730.113	Amendment
730.132	Amendment
730.133	Amendment
730.134	Amendment
730.151	Amendment
730.161	Amendment
730.162	Amendment
730.164	Amendment
730.165	Amendment
730.167	Amendment
730.171	Amendment
730.172	Amendment
730.181	Amendment
730.182	Amendment
730.184	Amendment
730.185	Amendment
730.188	Amendment
730.189	Amendment
730.190	Amendment
730.191	Amendment
730.193	Amendment
730.194	Amendment
730.195	Amendment
- 4) Statutory Authority: 415 ILCS 5/7.2, 13, 22.4, and 27

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- 5) A Complete Description of the Subjects and Issues Involved: The amendments to Part 730 are a single segment of the consolidated docket R17-14/R17-15/R18-11/R18-31 rulemaking that also affects 35 Ill. Adm. Code 702, 704, 705, 720 through 728, 733, 738, 739, and 810 through 812. Due to the extreme volume of the consolidated docket, each Part is covered by a notice in four separate issues of the *Illinois Register*. Included in this issue are 35 Ill. Adm. Code 730, 733, 738, 739, and 810 through 812. The consolidated docket R17-14/R17-15/R18-11/R18-31 rulemaking updates the Illinois hazardous waste, underground injection control (UIC), and Municipal Solid Waste Landfill (MSWLF) rules to incorporate amendments adopted by the United States Environmental Protection Agency (USEPA) during calendar years 2016 and 2017, embracing two update periods: July 1, 2016 through December 31, 2016 and July 1, 2017 through December 31, 2017. The consolidated docket R17-14/R17-15/R18-11/R18-31 rulemaking further makes numerous corrections and non-substantive stylistic revisions that the Board finds necessary. A comprehensive description is contained in the Board's opinion and order of March 3, 2016, proposing amendments in docket R16-7, which opinion and order is available from the address below.

The following briefly summarizes the federal actions in the update periods:

November 28, 2016 (81 Fed. Reg. 85696): USEPA revised requirements for importing and exporting hazardous waste. USEPA amended 40 C.F.R. 260 through 267, 271, and 273. USEPA intended greater protection of human health and the environment, greater consistency with current requirements for shipments between members of the Organization for Economic Cooperation and Development (OECD), and implementation of electronic submittal of import- and export-related documents into an Automated Export System.

November 28, 2016 (81 Fed. Reg. 85732): USEPA adopted the GIR, which extensively revised requirements for generators hazardous waste. USEPA revised rules in all parts of the hazardous waste rules: 40 C.F.R. 260 through 268, 270, 271, 273, and 279. The GIR also included revisions to RCRA Subtitle D rules in 40 C.F.R. 257 and 258. The federal MSWLF rules are codified in 40 C.F.R. 258. USEPA intended that reorganization of the hazardous waste generator requirements would make them more user-friendly and address gaps in the rules to make them more effective and protective of human health and the environment. USEPA also corrected inadvertent errors and remove obsolete provisions.

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August 29, 2017 (82 Fed. Reg. 41015): USEPA established the Automated Export System (AES) filing compliance date, a critical implementation date for electronic reporting hazardous waste exports. As of December 31, 2017, exporters of manifested hazardous waste, exporters of universal waste, exporters of spent lead-acid batteries for recycling or disposal, and exporters of cathode ray tubes (CRTs) for recycling were to report using the AES for export shipments. After the AES filing compliance date, the use of paper reporting was no longer permissible for these exports.

December 26, 2017 (82 Fed. Reg. 60894): USEPA further revised the rules for imports and exports of hazardous waste. No person can assert a confidential business information (CBI) claim for documents relating to import, export, and transit of hazardous waste and those specific to export of excluded CRTs.

Specifically, the amendments to Part 730 make several needed corrections in the text of the rules.

Tables appear in a document entitled "Identical-in-Substance Rulemaking Addendum (Proposed)" that the Board added to consolidated docket R17-14/R17-15/R18-11/R18-31. The tables list the deviations from the literal text of the federal amendments and the several necessary corrections and stylistic revisions not directly derived from USEPA actions. Persons interested in the details of those deviations from the literal text should refer to the Identical-in-Substance Rulemaking Addendum (Proposed) in consolidated docket R17-14/R17-15/R18-11/R18-31.

Sections 13 and 22.4 of the Environmental Protection Act [415 ILCS 5/13 and 22.4] provides that Section 5-35 of the Administrative Procedure Act [5 ILCS 100/5-35] does not apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules (JCAR).

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

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- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: These proposed amendments do not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comment on this proposal for a period of 45 days after the date of this publication. Comments should reference consolidated docket R17-14/R17-15/R18-11/R18-31 and be addressed to:

Don A. Brown, Clerk  
Illinois Pollution Control Board  
State of Illinois Center, Suite 11-500  
100 W. Randolph St.  
Chicago IL 60601

Please direct inquiries to the following person and reference consolidated docket R17-14/R17-15/R18-11/R18-31:

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

312/814-6924  
email: michael.mccambridge@illinois.gov

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

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

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municipalities, and not-for-profit corporations disposing of industrial wastewaters into the sewage collection system of a publicly owned treatment works. These proposed amendments do not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].

- B) Reporting, bookkeeping or other procedures required for compliance: The existing rules and proposed amendments require extensive reporting, bookkeeping and other procedures, including the preparation of manifests and annual reports, waste analyses and maintenance of operating records. These proposed amendments do not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- C) Types of professional skills necessary for compliance: Compliance with the existing rules and proposed amendments may require the services of an attorney, certified public accountant, chemist and registered professional engineer. These proposed amendments do not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2017 and January 2018

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



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TITLE 35: ENVIRONMENTAL PROTECTION  
SUBTITLE G: WASTE DISPOSAL  
CHAPTER I: POLLUTION CONTROL BOARD  
SUBCHAPTER d: UNDERGROUND INJECTION CONTROL AND  
UNDERGROUND STORAGE TANK PROGRAMS

PART 730  
UNDERGROUND INJECTION CONTROL OPERATING REQUIREMENTS

SUBPART A: GENERAL

Section	
730.101	Applicability, Scope, and Effective Date
730.102	Laws Authorizing Regulations
730.103	Definitions
730.104	Criteria for Exempted Aquifers
730.105	Classification of Injection Wells
730.106	Area of Review
730.107	Corrective Action
730.108	Mechanical Integrity
730.109	Criteria for Establishing Permitting Priorities
730.110	Plugging and Abandoning Wells

SUBPART B: CRITERIA AND STANDARDS APPLICABLE  
TO CLASS I NON-HAZARDOUS WASTE INJECTION WELLS

Section	
730.111	Applicability
730.112	Construction Requirements
730.113	Operating, Monitoring, and Reporting Requirements
730.114	Information to be Considered by the Agency

SUBPART C: CRITERIA AND STANDARDS APPLICABLE  
TO CLASS II INJECTION WELLS

Section	
730.121	Adoption of Criteria and Standards Applicable to Class II Injection Wells by the Illinois Department of Natural Resources, Office of Mines and Minerals

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SUBPART D: CRITERIA AND STANDARDS APPLICABLE  
TO CLASS III INJECTION WELLS

- Section
- 730.131 Applicability
- 730.132 Construction Requirements
- 730.133 Operating, Monitoring, and Reporting Requirements
- 730.134 Information to be Considered by the Agency

SUBPART F: CRITERIA AND STANDARDS APPLICABLE  
TO CLASS V INJECTION WELLS

- Section
- 730.151 Applicability
- 730.152 Inventory and Assessment (Repealed)

SUBPART G: CRITERIA AND STANDARDS APPLICABLE TO  
CLASS I HAZARDOUS WASTE INJECTION WELLS

- Section
- 730.161 Applicability and Definitions
- 730.162 Minimum Criteria for Siting
- 730.163 Area of Review
- 730.164 Corrective Action for Wells in the Area of Review
- 730.165 Construction Requirements
- 730.166 Logging, Sampling, and Testing Prior to New Well Operation
- 730.167 Operating Requirements
- 730.168 Testing and Monitoring Requirements
- 730.169 Reporting Requirements
- 730.170 Information to be Evaluated
- 730.171 Closure
- 730.172 Post-Closure Care
- 730.173 Financial Responsibility for Post-Closure Care

SUBPART H: CRITERIA AND STANDARDS APPLICABLE TO CLASS VI WELLS

- Section

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730.181	Applicability
730.182	Required Class VI Injection Well Permit Information
730.183	Minimum Criteria for Siting
730.184	Area of Review and Corrective Action
730.185	Financial Responsibility
730.186	Injection Well Construction Requirements
730.187	Logging, Sampling, and Testing Prior to Injection Well Operation
730.188	Injection Well Operating Requirements
730.189	Mechanical Integrity
730.190	Testing and Monitoring Requirements
730.191	Reporting Requirements
730.192	Injection Well Plugging
730.193	Post-Injection Site Care and Site Closure
730.194	Emergency and Remedial Response
730.195	Alternative Class VI Injection Well Depth Requirements

**AUTHORITY:** Implementing Sections 7.2, 13, and 22.4 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/7.2, 13, 22.4, and 27].

**SOURCE:** Adopted in R81-32 at 6 Ill. Reg. 12479, effective March 3, 1984; amended in R82-19 at 7 Ill. Reg. 14426, effective March 3, 1984; recodified at 10 Ill. Reg. 14174; amended in R89-2 at 14 Ill. Reg. 3130, effective February 20, 1990; amended in R89-11 at 14 Ill. Reg. 11959, effective July 9, 1990; amended in R93-6 at 17 Ill. Reg. 15646, effective September 14, 1993; amended in R94-5 at 18 Ill. Reg. 18391, effective December 20, 1994; amended in R95-4 at 19 Ill. Reg. 10047, effective June 27, 1995; amended in R00-11/R01-1 at 24 Ill. Reg. 18680, effective December 7, 2000; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 1281, effective December 20, 2006; amended in R11-14 at 36 Ill. Reg. 1661, effective January 20, 2012; amended in R17-14/R17-15/R18-12 at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART A: GENERAL

**Section 730.101 Applicability, Scope, and Effective Date**

- a) This Part sets forth technical criteria and standards for the Underground Injection Control (UIC) Program. This Part must be read in conjunction with 35 Ill. Adm. Code 702, 704, and 705, which also apply to the UIC program. 35 Ill. Adm. Code 702 and 704 prescribe the regulatory requirements for the UIC permit program. 35 Ill. Adm. Code 704 further outlines hazardous waste management

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requirements and sets forth the financial assurance requirements applicable to Class I hazardous waste injection wells and requirements applicable to certain types of Class V injection wells. 35 Ill. Adm. Code 705 describes the procedures the Agency must use for issuing UIC permits.

- b) ~~Any~~ ~~On and after February 1, 1984, any~~ underground injection that is not authorized by rule or by permit is unlawful.
- c) Electronic reporting. The filing of any document pursuant to any provision of this Part as an electronic document is subject to 35 Ill. Adm. Code 720.104.

BOARD NOTE: Subsection (c) ~~of this Section~~ is derived from 40 CFR 3 and 145.11(a)(33) ~~(2017)~~(2011).

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 730.102 Laws Authorizing Regulations**

The laws authorizing these regulations and all other UIC program regulations are included in the Environmental Protection Act ~~[415 ILCS 5]~~, as amended.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 730.103 Definitions**

The following definitions apply to the underground injection control program.

"Abandoned well" means a well whose use has been permanently discontinued or that is in a state of disrepair such that it cannot be used for its intended purpose or for observation purposes.

"Act" means the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (P.L. 94-580, as amended by P.L. 95-609, 42 USC 6901).

"Administrator" means the Administrator of the U.S. Environmental Protection Agency or the Administrator's designee.

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"Agency" means the Illinois Environmental Protection Agency.

"Application" means the Agency forms for applying for a permit, including any additions, revisions, or modifications to the forms. For RCRA, application also includes the information required by the Agency pursuant to 35 Ill. Adm. Code 703.182-703.188 and 703.200 (contents of Part B of the RCRA application).

"Aquifer" means a geologic formation, group of formations or part of a formation that is capable of yielding a significant amount of water to a well or spring.

"Area of review" means the area surrounding an "injection well" described according to the criteria set forth in Section 730.106 or, in the case of an area permit, the project area plus a circumscribing area the width of which is either 402 meters (one-quarter mile) or a number calculated according to the criteria set forth in Section 730.106.

"Casing" means a pipe or tubing of appropriate material, of varying diameter and weight, lowered into a borehole during or after drilling in order to support the sides of the hole and thus prevent the walls from caving, to prevent loss of drilling mud into porous ground or to prevent water, gas, or other fluid from entering or leaving the hole.

"Catastrophic collapse" means the sudden and utter failure of overlying "strata" caused by removal of underlying materials.

"Cementing" means the operation whereby a cement slurry is pumped into a drilled hole or forced behind the casing.

"Cesspool" means a "drywell" that receives untreated sanitary waste containing human excreta and which sometimes has an open bottom or perforated sides.

"Confining bed" means a body of impermeable or distinctly less permeable material stratigraphically adjacent to one or more aquifers.

"Confining zone" means a geologic formation, group of formations, or part of a formation that is capable of limiting fluid movement above an injection zone.

"Contaminant" means any physical, chemical, biological, or radiological

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substance or matter in water.

"Conventional mine" means an open pit or underground excavation for the production of minerals.

~~"Date of approval by USEPA of the Illinois UIC program" means February 1, 1984.~~

"Director" means the Director of the Illinois Environmental Protection Agency or the Administrator's designee.

"Disposal well" means a well used for the disposal of waste into a subsurface stratum.

"Drywell" means a well, other than an improved sinkhole or subsurface fluid distribution system, that is completed above the water table so that its bottom and sides are typically dry except when receiving fluids.

~~"Effective date of the UIC program" means February 1, 1984.~~

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

"EPA" or "USEPA" means the United States Environmental Protection Agency.

"Exempted aquifer" means an "aquifer" or its portion that meets the criteria in the definition of "underground source of drinking water" but which has been exempted according to the procedures of 35 Ill. Adm. Code 704.123, 704.104, and 702.105.

"Existing injection well" means an "injection well" other than a "new injection well".

"Experimental technology" means a technology that has not been proven feasible under the conditions in which it is being tested.

"Facility or activity" means any HWM facility, UIC injection well, or any other facility or activity (including land or appurtenances thereto) that is subject to

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regulation under the "State" RCRA or UIC program.

"Fault" means a surface or zone of rock fracture along which there has been displacement.

"Flow rate" means the volume per unit time of the flow of a gas or other fluid substance that emerges from an orifice, pump or turbine or which passes along a conduit or channel.

"Fluid" means material or substance that flows or moves, whether in a semisolid, liquid sludge, gas, or any other form or state.

"Formation" means a body of rock characterized by a degree of lithologic homogeneity that is prevailing, but not necessarily, tabular and is mappable on the earth's surface or traceable in the subsurface.

"Formation fluid" means fluid present in a formation under natural conditions as opposed to introduced fluids, such as drilling mud.

"Generator" means any person, by site location, whose act or process produces hazardous waste identified or listed in 35 Ill. Adm. Code 721.

"Groundwater" means water below the land surface in a zone of saturation.

"Hazardous waste" means a hazardous waste as defined in 35 Ill. Adm. Code 721.103.

"Hazardous waste management facility" or "HWM facility" means all contiguous land, and structures, other appurtenances and improvements on the land used for treating, storing, or disposing of hazardous waste. A facility may consist of several treatment, storage, or disposal operational units (for example, one or more landfills, surface impoundments, or combination of them).

"HWM facility" means Hazardous waste management facility.

"Illinois" means the State of Illinois.

"Improved sinkhole" means a naturally occurring karst depression or other natural

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crevice that is found in volcanic terrain and other geologic settings that have been modified by man for the purpose of directing and emplacing fluids into the subsurface.

"Injection well" means a well into which fluids are being injected.

"Injection zone" means a geologic formation, group of formations, or part of a formation receiving fluids through a well.

"Lithology" means the description of rocks on the basis of their physical and chemical characteristics.

"Owner or operator" means the owner or operator of any facility or activity subject to regulation under RCRA, UIC, or the Environmental Protection Act.

"Packer" means a device lowered into a well that can be expanded to produce a fluid-tight seal.

"Permit" means an authorization, license, or equivalent control document issued by the Agency to implement the requirements of this Part and 35 Ill. Adm. Code 702 through 705. Permit does not include RCRA interim status (Subpart C of 35 Ill. Adm. Code 703), UIC authorization by rule (Subpart C of 35 Ill. Adm. Code 704), or any permit that has not yet been the subject of final Agency action, such as a draft permit or a proposed permit.

"Plugging" means the act or process of stopping the flow of water, oil, or gas into or out of a formation through a borehole or well penetrating that formation.

"Plugging record" means a systematic listing of permanent or temporary abandonment of water, oil, gas, test, exploration, and waste injection wells, and may contain a well log, description of amounts and types of plugging material used, the method employed for plugging, a description of formations that are sealed and a graphic log of the well showing formation location, formation thickness, and location of plugging structures.

"Point of injection;" for a Class V injection well, means the last accessible sampling point prior to waste fluids being released into the subsurface environment through the well. For example, the point of injection of a Class V



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septic system might be the distribution box – the last accessible sampling point before the waste fluids drain into the underlying soils. For a dry well, it is likely to be the well bore itself.

"Pressure" means the total load or force per unit area acting on a surface.

"Project" means a group of wells in a single operation.

"Radioactive Waste" means any waste that contains radioactive material in concentrations that exceed those listed in Table II, column 2 in appendix B to 10 CFR 20 (Water Effluent Concentrations), incorporated by reference in 35 Ill. Adm. Code 720.111.

"RCRA" means the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (42 USC 6901 et seq.).

"Sanitary waste" means liquid or solid wastes originating solely from humans and human activities, such as wastes collected from toilets, showers, wash basins, sinks used for cleaning domestic areas, sinks used for food preparation, clothes washing operations, and sinks or washing machines where food and beverage serving dishes, glasses, and utensils are cleaned. Sources of these wastes may include single or multiple residences, hotels and motels, restaurants, bunkhouses, schools, ranger stations, crew quarters, guard stations, campgrounds, picnic grounds, day-use recreation areas, other commercial facilities, and industrial facilities, provided the waste is not mixed with industrial waste.

"SDWA" means the Safe Drinking Water Act (42 USC 300(f) et seq.).

"Septic system" means a well that is used to emplace sanitary waste below the surface and which is typically comprised of a septic tank and subsurface fluid distribution system or disposal system.

"Site" means the land or water area where any facility or activity is physically located or conducted, including adjacent land used in connection with the facility or activity.

"Sole or principal source aquifer" means an aquifer that has been designated by the Administrator pursuant to Section 1424(a) or (e) of SDWA (42 USC 300h-

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3(a) or (e)).

"State" means the State of Illinois.

"Stratum" (plural strata) means a single sedimentary bed or layer, regardless of thickness, that consists of generally the same kind of rock material.

"Subsidence" means the lowering of the natural land surface in response to: earth movements; lowering of fluid pressure, removal of underlying supporting material by mining or solution of solids, either artificially or from natural causes; compaction due to wetting (hydrocompaction); oxidation of organic matter in soils; or added load on the land surface.

"Subsurface fluid distribution system" means an assemblage of perforated pipes, drain tiles, or other similar mechanisms intended to distribute fluids below the surface of the ground.

"Surface casing" means the first string of well casing to be installed in the well.

"Total dissolved solids" or "TDS" means the total dissolved (filterable) solids, as determined by use of the method specified in 40 CFR 136.3 (Identification of Test Procedures; the method for filterable residue), incorporated by reference in 35 Ill. Adm. Code 720.111.

"UIC" means the Underground Injection Control program under Part C of the Safe Drinking Water Act (42 USC 300h through 300h-8), including the approved Illinois program.

"Underground injection" means a "well injection".

"Underground source of drinking water" or "USDW" means an aquifer or its portion of which the following is true:

It supplies any public water system; or

It contains a sufficient quantity of groundwater to supply a public water system; and

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It currently supplies drinking water for human consumption; or

It contains less than 10,000 mg/ℓ total dissolved solids; and

It is not an exempted "aquifer-".

"USDW" means underground source of drinking water.

"Well" means a bored, drilled, or driven shaft whose depth is greater than the largest surface dimension; a dug hole whose depth is greater than the largest surface dimension; an improved sinkhole; or a subsurface fluid distribution system.

"Well injection" means the subsurface emplacement of fluids through a well.

"Well monitoring" means the measurement, by on-site instruments or laboratory methods, of the quality of water in a well.

"Well plug" means a watertight and gastight seal installed in a borehole or well to prevent movement of fluids.

"Well stimulation" means several processes used to clean the well bore, enlarge channels, and increase pore space in the interval to be injected, thus making it possible for wastewater to move more readily into the formation, and includes surging, jetting, blasting, acidizing, and hydraulic fracturing.

BOARD NOTE: Derived from 40 CFR 146.3 [\(2017\)](#)~~(2011)~~.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

### **Section 730.104 Criteria for Exempted Aquifers**

An aquifer or a portion of an aquifer that meets the criteria for an "underground source of drinking water" in Section 730.103 is an "exempted aquifer" for a Class I, Class III, or Class V injection well if the Board determines pursuant to 35 Ill. Adm. Code 704.123 that the aquifer meets the criteria of either subsections (a) and (b) or (a) and (c) ~~of this Section~~. For a Class VI injection well, the Board must determine that the well meets the criteria of subsection (d) ~~of this Section~~.

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- a) The aquifer does not currently serve as a source of drinking water; and
- b) The aquifer cannot now and will not in the future serve as a source of drinking water because one or more of the following is true of the aquifer:
  - 1) The aquifer is mineral, hydrocarbon, or geothermal energy producing, or a permit applicant can demonstrate, as part of a permit application for a Class II or III injection well, that the aquifer contains minerals or hydrocarbons that are expected to be commercially producible considering their quantity and location;
  - 2) The aquifer is situated at a depth or location that makes recovery of water for drinking water purposes economically or technologically impractical;
  - 3) The aquifer is so contaminated that it would be economically or technologically impractical to render that water fit for human consumption; or
  - 4) The aquifer is located over a Class III injection well mining area subject to subsidence or catastrophic collapse; or
- c) The total dissolved solids content of the groundwater in the aquifer is more than 3,000 and less than 10,000 mg/ℓ, and the aquifer is not reasonably expected to supply a public water system.
- d) The areal extent of an aquifer exemption for a Class II enhanced oil recovery or enhanced gas recovery well is expanded for the exclusive purpose of Class VI injection for geologic sequestration pursuant to 35 Ill. Adm. Code 704.123(d) if the Agency determines that the aquifer meets the following criteria:
  - 1) The aquifer does not currently serve as a source of drinking water;
  - 2) The total dissolved solids content of the ground water in the aquifer is greater than 3,000 mg/ℓ and less than 10,000 mg/ℓ; and
  - 3) The aquifer is not reasonably expected to supply a public water system.

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BOARD NOTE: Derived from 40 CFR 146.4 ~~(2011)~~(2017).

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 730.105 Classification of Injection Wells**

Injection wells are classified as follows:

- a) Class I injection wells. A Class I injection well is any of the following:
  - 1) A Class I hazardous waste injection well that is used by a generator of hazardous waste or an owner or operator of a hazardous waste management facility to inject hazardous waste beneath the lowermost formation containing an underground source of drinking water within 402 meters (one-quarter mile) of the well bore.
  - 2) An industrial or municipal disposal well that injects fluids beneath the lowermost formation containing an underground source of drinking water within 402 meters (one-quarter mile) of the well bore.
  - 3) A radioactive waste disposal well that injects fluids below the lowermost formation containing an underground source of drinking water within 402 meters (one-quarter mile) of the well bore.
- b) Class II injection wells. A Class II injection well is one that injects any of the following types of fluids:
  - 1) Fluids that are brought to the surface in connection with conventional oil or natural gas production and which may be commingled with wastewaters from gas plants that are an integral part of production operations, unless those waters are classified as a hazardous waste at the time of injection;
  - 2) Fluids that are used for enhanced recovery of oil or natural gas; and
  - 3) Fluids that are used for storage of hydrocarbons that are liquid at standard temperature and pressure.
- c) Class III injection wells. A Class III injection well is one that injects fluid for

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extraction of minerals, including one used in any of the following activities:

- 1) Mining of sulfur by the Frasch process;
- 2) In situ production of uranium or other metals. This category includes only in situ production from ore bodies that have not been conventionally mined. Solution mining of conventional mines, such as stopes leaching, is included in Class V; or
- 3) Solution mining of salts or potash.

BOARD NOTE: Class III injection well would include a well that is used for the recovery of geothermal energy to produce electric power, but would not include a well that is used in heating or aquaculture that falls under Class V.

- d) Class IV injection wells. A Class IV injection well is any of the following:
  - 1) A well used by a generator of hazardous waste or of radioactive waste, by an owner or operator of a hazardous waste management facility, or by an owner or operator of a radioactive waste disposal site to dispose of hazardous waste or radioactive waste into a formation that contains an underground source of drinking water within 402 meters (one-quarter mile) of the well.
  - 2) A well used by a generator of hazardous waste or of radioactive waste, by an owner or operator of a hazardous waste management facility, or by an owner or operator of a radioactive waste disposal site to dispose of hazardous waste or radioactive waste above a formation that contains an underground source of drinking water within 402 meters (one-quarter mile) of the well.
  - 3) A well used by a generator of hazardous waste or an owner or operator of a hazardous waste management facility to dispose of hazardous waste that cannot be classified pursuant to subsection (a)(1), (d)(1), or (d)(2) ~~of this Section~~ (e.g., wells used to dispose of hazardous wastes into or above a formation that contains an aquifer that has been exempted pursuant to Section 730.104).

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- e) Class V injection wells. A Class V injection well is any not included in Class I, Class II, Class III, Class IV, or Class VI. Specific types of Class V injection wells include the following:
- 1) Air conditioning return flow wells used to return the water used in a heat pump for heating or cooling to the supply aquifer;
  - 2) Cesspools, including multiple dwelling, community, or regional cesspools, or other devices that receive wastes that have an open bottom and sometimes have perforated sides. The UIC requirements do not apply to single family residential cesspools or to non-residential cesspools that receive solely sanitary wastes and have the capacity to serve fewer than 20 persons a day;
  - 3) Cooling water return flow wells used to inject water previously used for cooling;
  - 4) Drainage wells used to drain surface fluid, primarily storm runoff, into a subsurface formation;
  - 5) Dry wells used for the injection of wastes into a subsurface formation;
  - 6) Recharge wells used to replenish the water in an aquifer;
  - 7) Salt water intrusion barrier wells used to inject water into a fresh water aquifer to prevent the intrusion of salt water into the fresh water;
  - 8) Sand backfill and other backfill wells used to inject a mixture of water and sand, mill tailings, or other solids into mined out portions of subsurface mines whether what is injected is a radioactive waste or not;
  - 9) Septic system wells used to inject the waste or effluent from a multiple dwelling, business establishment, community, or regional business establishment septic tank. The UIC requirements do not apply to single family residential septic system wells, or to nonresidential septic system wells that are used solely for the disposal of sanitary waste and which have the capacity to serve fewer than 20 persons a day;

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- 10) Subsidence control wells (not used for the purpose of oil or natural gas production) used to inject fluids into a non-oil or gas producing zone to reduce or eliminate subsidence associated with the overdraft of fresh water;
  - 11) Radioactive waste disposal wells other than Class IV injection wells;
  - 12) Injection wells associated with the recovery of geothermal energy for heating, aquaculture, or production of electric power;
  - 13) Wells used for solution mining of conventional mines such as stopes leaching;
  - 14) Wells used to inject spent brine into the same formation from which it was withdrawn after extraction of halogens or their salts; and
  - 15) Injection wells used in experimental technologies.
- f) Class VI injection wells. A Class VI injection well is any of the following:
- 1) An injection well that is not experimental in nature and which is used for geologic sequestration of carbon dioxide beneath the lowermost formation containing a USDW;
  - 2) An injection well that is used for geologic sequestration of carbon dioxide and which has been granted a permit that includes alternative injection well depth requirements pursuant to Section 730.195; or
  - 3) An injection well that is used for geologic sequestration of carbon dioxide and which has received an expansion to the areal extent of an existing Class II enhanced oil recovery or enhanced gas recovery aquifer exemption pursuant to Section 730.104 and 35 Ill. Adm. Code 704.123(d).

BOARD NOTE: Derived from 40 CFR 146.5 [\(2017\)](#)~~(2011)~~.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 730.106 Area of Review**



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The area of review for each injection well or each field, project, or area in Illinois must be determined according to either subsection (a) or (b) ~~of this Section~~. The Agency may solicit input from the owners or operators of injection wells within Illinois as to which method is most appropriate for each geographic area or field.

- a) Zone of endangering influence.
  - 1) The zone of endangering influence must be the applicable of the following:
    - A) In the case of an application for a well permit pursuant to 35 Ill. Adm. Code 704.161, that area the radius of which is the lateral distance in which the pressures in the injection zone may cause the migration of the injection or formation fluid into an underground source of drinking water; or
    - B) In the case of an application for an area permit pursuant to 35 Ill. Adm. Code 704.162, the project area plus a circumscribing area the width of which is the lateral distance from the perimeter of the project area, in which the pressures in the injection zone may cause the migration of the injection or formation fluid into an underground source of drinking water.
  - 2) Computation of the zone of endangering influence may be based upon the parameters listed below and should be calculated for an injection time period equal to the expected life of the injection well or pattern. The following modified This equation illustrates one form that the mathematical model may take.

$$r = \sqrt{\frac{2.25 \text{ kHt}}{S \times 10^x}}$$

where:

$$x = \frac{4 \pi \text{ KH} (h_w - h_{bo} \times S_b G_b)}{2.3 Q}$$

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- $r$  = Radius of endangering influence from injection well (length)  
 $k$  = Hydraulic conductivity of the injection zone (length/time)  
 $H$  = Thickness of the injection zone (length)  
 $t$  = Time of injection (time)  
 $S$  = Storage coefficient (dimensionless)  
 $Q$  = Injection rate (volume/time)  
 $h_{bo}$  = Observed original hydrostatic head of injection zone (length)  
measured from the base of the lowermost underground source  
of drinking water  
 $h_w$  = Hydrostatic head of underground source of drinking water  
(length) measured from the base of the lowest underground  
source of drinking water  
 $S_p G_b$  = Specific gravity of fluid in the zone (dimensionless)  
 $P_i$  = 3.14159 (dimensionless)

- 3) The above equation is based on the following assumptions:
- A) The injection zone is homogenous and isotropic;
  - B) The injection zone has infinite area extent;
  - C) The injection well penetrates the entire thickness of the injection zone;
  - D) The well diameter is infinitesimal compared to "r" when injection time is longer than a few minutes; and
  - E) The emplacement of fluid into the injection zone creates instantaneous increase in pressure.

b) Fixed radius.

- 1) In the case of an application for a well permit pursuant to 35 Ill. Adm. Code 704.161, a fixed radius around the well of not less than 402 meters (one-quarter mile) may be used.
- 2) In the case of an application for an area permit pursuant to 35 Ill. Adm.

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Code 704.162, a fixed width of not less than 402 meters (one-quarter mile) for the circumscribing area may be used.

- 3) In determining the fixed radius, the following factors must be taken into consideration: the chemistry of injected and formation fluids; the hydrogeology; the population and groundwater use and dependence; and historical practices in the area.
- c) If the area of review is determined by a mathematical model pursuant to subsection (a) ~~of this Section~~, the permissible radius is the result of such calculation even if it is less than 402 meters (one-quarter mile).

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 730.108 Mechanical Integrity**

- a) The owner or operator must demonstrate mechanical integrity when required by other Sections. An injection well has mechanical integrity if both of the following conditions are fulfilled:
  - 1) There is no significant leak in the casing, tubing, or packer; and
  - 2) There is no significant fluid movement into an underground source of drinking water through vertical channels adjacent to the injection bore.
- b) One of the following tests must be used to demonstrate the absence of significant leaks pursuant to subsection (a)(1) ~~of this Section~~:
  - 1) Following an initial pressure test, monitoring of the tubing-casing annulus pressure with sufficient frequency to be representative, as determined by the Agency, while maintaining an annulus pressure different from atmospheric pressure measured at the surface; or
  - 2) A pressure test with liquid or gas.
- c) One of the following methods may be used to determine the absence of significant fluid movement pursuant to subsection (a)(2) ~~of this Section~~:

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- 1) The results of a temperature or noise log;
  - 2) For Class III injection wells where the nature of the casing precludes the use of the logging techniques prescribed at subsection (c)(1) ~~of this Section~~, cementing records demonstrating the presence of adequate cement to prevent migration; or
  - 3) For Class III injection wells where the Agency elects to rely on cementing records to demonstrate the absence of significant fluid movement, the monitoring program prescribed by 35 Ill. Adm. Code 730.113(b) must be designed to verify the absence of significant fluid movement.
- d) The Agency may allow the use of a test to demonstrate mechanical integrity other than those listed in subsections (b) and (c) ~~of this Section~~. To obtain approval, the owner or operator must submit a written request to the Agency that sets forth the proposed test and all technical data supporting its use. The Agency must approve the request if the test will reliably demonstrate the mechanical integrity of wells for which its use is proposed.
- e) In conducting and evaluating the tests enumerated in this Section or others to be allowed by the Agency, the owner or operator and the Agency must apply methods and standards generally accepted in the industry. When the owner or operator reports the results of mechanical integrity tests to the Agency, it must include a description of the test and the method used. In making its evaluation, the Agency must review monitoring and other test data submitted since the previous evaluation.
- f) The Agency may require additional or alternative tests if the results presented by the owner or operator pursuant to subsection (e) ~~of this Section~~ are not satisfactory to the Agency to demonstrate that there is no movement of fluid into or between USDWs resulting from the injection activity.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

SUBPART B: CRITERIA AND STANDARDS APPLICABLE  
TO CLASS I NON-HAZARDOUS WASTE INJECTION WELLS

**Section 730.113 Operating, Monitoring, and Reporting Requirements**

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- a) Operating Requirements. Operating requirements must, at a minimum, specify the following:
- 1) That, except during stimulation, injection pressure at the wellhead must not exceed a maximum that must be calculated so as to assure that the pressure in the injection zone during injection does not initiate new fractures or propagate existing fractures in the injection zone. In no case must injection pressure initiate fractures in the confining zone or cause the movement of injection or formation fluids into an underground source of drinking water;
  - 2) That injection between the outermost casing protecting underground sources of drinking water and the well bore is prohibited; and
  - 3) That, unless an alternative to a packer has been approved pursuant to Section 730.112(c), the annulus between the tubing and the long string of casings must be filled with a fluid approved by permit condition, and a pressure prescribed by permit condition must be maintained on the annulus.
- b) Monitoring Requirements. Monitoring requirements must, at a minimum, include all of the following:
- 1) The analysis of the injected fluids with sufficient frequency to yield representative data of their characteristics;
  - 2) Installation and use of continuous recording devices to monitor injection pressure, flow rate, and volume, and the pressure on the annulus between the tubing and the long string of casing;
  - 3) A demonstration of mechanical integrity pursuant to Section 730.108 at least once every five years during the life of the well; and
  - 4) The type, number, and location of wells within the area of review to be used to monitor any migration of fluids into and pressure in the underground sources of drinking water, the parameters to be measured, and the frequency of monitoring.

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- c) Reporting Requirements. Reporting requirements must, at a minimum, include:
- 1) Quarterly reports to the Agency on each of the following:
    - A) The physical, chemical, and other relevant characteristics of injection fluids;
    - B) The monthly average, maximum, and minimum values for injection pressure, flow rate and volume, and annular pressure; and
    - C) The results of monitoring prescribed pursuant to subsection (b)(4) [of this Section](#).
  - 2) Reporting the results, with the first quarterly report after the completion of each of the following:
    - A) Periodic tests of mechanical integrity;
    - B) Any other test of the injection well conducted by the permittee if required by permit condition; and
    - C) Any well work over.
- d) Ambient monitoring.
- 1) Based on a site-specific assessment of the potential for fluid movement from the well or injection zone and on the potential value of monitoring wells to detect such movement, the Agency must require the owner or operator to develop a monitoring program. At a minimum, the Agency must require monitoring of the pressure buildup in the injection zone annually, including at a minimum, a shut down of the well for a time sufficient to conduct a valid observation of the pressure fall-off curve.
  - 2) When prescribing a monitoring system the Agency may also require:
    - A) Continuous monitoring for pressure changes in the first aquifer overlying the confining zone. When such a well is installed, the

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owner or operator must, on a quarterly basis, sample the aquifer and analyze for constituents specified by permit condition;

- B) The use of indirect, geophysical techniques to determine the position of the waste front, the water quality in a formation designated by permit condition or to provide other site-specific data;
- C) Periodic monitoring of the ground water quality in the first aquifer overlying the injection zone;
- D) Periodic monitoring of the ground water quality in the lowermost USDW; and
- E) Any additional monitoring necessary to determine whether fluids are moving into or between USDWs.

BOARD NOTE: Derived from 40 CFR 146.13 [\(2017\)](#)~~(2005)~~.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

SUBPART D: CRITERIA AND STANDARDS APPLICABLE  
TO CLASS III INJECTION WELLS

**Section 730.132 Construction Requirements**

- a) A new Class III injection well must be cased and cemented to prevent the migration of fluids into or between underground sources of drinking water. The Agency may waive the cementing requirements for a new well in existing projects or portions of existing projects where it has substantial evidence that no contamination of underground sources of drinking water would result. The casing and cement used in the construction of each newly drilled well must be designed for the life expectancy of the well. In determining and specifying casing and cementing requirements, the following factors must be considered:
  - 1) The depth to the injection zone;
  - 2) The injection pressure, external pressure, internal pressure, axial loading,

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etc.;

- 3) The hole size;
  - 4) The size and grade of all casing strings (wall thickness, diameter, nominal weight, length, joint specification, and construction material);
  - 5) The corrosiveness of injected fluids and formation fluids;
  - 6) The lithology of injection and confining zones; and
  - 7) The type and grade of cement.
- b) Appropriate logs and other tests must be conducted during the drilling and construction of a new Class III injection well. A descriptive report interpreting the results of such logs and tests must be prepared by a knowledgeable log analyst and submitted to the Agency. The logs and tests appropriate to each type of Class III injection well must be determined based on the intended function, depth, construction, and other characteristics of the well; the availability of similar data in the area of the drilling site; and the need for additional information that may arise from time to time as the construction of the well progresses. Deviation checks must be conducted on all holes where pilot holes and reaming are used, unless the hole will be cased and cemented by circulating cement to the surface. Where deviation checks are necessary they must be conducted at sufficiently frequent intervals to assure that vertical avenues for fluid migration in the form of diverging holes are not created during drilling.
- c) Where the injection zone is a formation that is naturally water-bearing, the following information concerning the injection zone must be determined or calculated for a new Class III injection well or project:
- 1) The fluid pressure;
  - 2) The fracture pressure; and
  - 3) The physical and chemical characteristics of the formation fluids.
- d) Where the injection formation is not a water-bearing formation, the information in



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subsection (c)(2) ~~of this Section~~ must be submitted.

- e) Where injection is into a formation that contains water with less than 10,000 mg/ℓ TDS, monitoring wells must be completed into the injection zone and into any underground sources of drinking water above the injection zone that could be affected by the mining operation. These wells must be located in such a fashion as to detect any excursion of injection fluids, process by-products, or formation fluids outside the mining area or zone. If the operation may be affected by subsidence or catastrophic collapse, the monitoring wells must be located so that they will not be physically affected.
- f) Where injection is into a formation that does not contain water with less than 10,000 mg/ℓ TDS, no monitoring wells are necessary in the injection stratum.
- g) Where the injection wells penetrate an USDW in an area subject to subsidence or catastrophic collapse, an adequate number of monitoring wells must be completed into the USDW to detect any movement of injected fluids, process by-products, or formation fluids into the USDW. The monitoring wells must be located outside the physical influence of the subsidence or catastrophic collapse.
- h) In determining the number, location, construction, and frequency of monitoring of the monitoring wells the following criteria must be considered:
  - 1) The population relying on the USDW affected or potentially affected by the injection operation;
  - 2) The proximity of the injection operation to points of withdrawal of drinking water;
  - 3) The local geology and hydrology;
  - 4) The operating pressures and whether a negative pressure gradient is being maintained;
  - 5) The nature and volume of the injected fluid, the formation water, and the process by-products; and
  - 6) The injection well density.

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(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 730.133 Operating, Monitoring, and Reporting Requirements**

- a) Operating requirements. Operating requirements prescribed must, at a minimum, specify each of the following:
- 1) That, except during well stimulation, the injection pressure at the wellhead must be calculated so as to assure that the pressure in the injection zone during injection does not initiate new fractures or propagate existing fractures in the injection zone. In no case must injection pressure initiate fractures in the confining zone or cause the migration of injection or formation fluids into an underground source of drinking water; and
  - 2) That injection between the outermost casing protecting underground sources of drinking water and the well bore is prohibited.
- b) Monitoring requirements. Monitoring requirements must, at a minimum, specify the information set forth in subsections (b)(1) through (b)(5) ~~of this Section~~:
- 1) Monitoring of the nature of injected fluids with sufficient frequency to yield representative data on its characteristics. Whenever the injection fluid is modified to the extent that the analysis required by Section 730.134 (a)(7)(C) is incorrect or incomplete, the owner or operator must provide the Agency with a new analysis as required by Section 730.134 (a)(7)(C);
  - 2) Monitoring of injection pressure and either flow rate or volume semimonthly, or metering and daily recording of injected and produced fluid volumes, as appropriate;
  - 3) Demonstration of mechanical integrity pursuant to Section 730.108 at least once every five years during the life of the well for salt solution mining;
  - 4) Monitoring of the fluid level in the injection zone semi-monthly, where appropriate, and monitoring of the parameters chosen to measure water quality in the monitoring wells required by Section 730.132(e) semi-

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monthly; and

- 5) Quarterly monitoring of wells required by Section 730.132(g).
  - 6) A Class III injection well may be monitored on a field or project basis, rather than on an individual well basis, by manifold monitoring. Manifold monitoring may be used in cases of facilities consisting of more than one injection well operating with a common manifold. Separate monitoring systems for each well are not required provided the owner or operator demonstrates that manifold monitoring is comparable to individual well monitoring.
- c) Reporting requirements. Reporting requirements must, at a minimum, include the information set forth in subsections (c)(1) and (c)(2)-~~of this Section~~, subject to subsection (c)(3)-~~of this Section~~:
- 1) Quarterly reporting to the Agency on required monitoring; and
  - 2) Results of mechanical integrity and any other periodic test required by the Agency reported with the first regular quarterly report after the completion of the test.
  - 3) Monitoring may be reported on a project or field basis rather than individual well basis where manifold monitoring is used.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 730.134 Information to be Considered by the Agency**

This Section sets forth information that must be considered by the Agency in authorizing a Class III injection well. Certain maps, cross-sections, tabulations of wells within the area of review, and other data may be included in the application by reference provided they are current, readily available to the Agency (for example, in the Agency's files) and sufficiently identified to be retrieved.

- a) Prior to the issuance of a permit to operate an existing Class III injection well or area or for the construction of a new Class III injection well, the Agency must consider the following:

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- 1) The information required in 35 Ill. Adm. Code 702.120 through 702.124 and 704.161(c);
- 2) A map showing the injection well or project area for which the permit is sought and the applicable area of review. Within the area of review, the map must show the number or name and location of all existing producing wells, injection wells, abandoned wells, dry holes, public water systems, and water wells. The map may also show surface bodies of waters, mines (surface and subsurface), quarries and other pertinent surface features including residences and roads, and faults if known or suspected. Only information of public record and pertinent information known to the applicant is required to be included on this map;
- 3) A tabulation of data reasonably available from public records or otherwise known to the applicant on wells within the area of review included on the map required pursuant to subsection (a)(2) ~~of this Section~~ that penetrate the proposed injection zone. Such data must include a description of each well's type, construction, date drilled, location, depth, record of plugging and completion, and any additional information the Agency may require. In cases where the information would be repetitive and the wells are of similar age, type, and construction the Agency may elect to only require data on a representative number of wells;
- 4) Maps and cross-sections indicating the vertical limits of all underground sources of drinking water within the area of review, their position relative to the injection formation and the direction of water movements, where known, in every underground source of drinking water that may be affected by the proposed injection;
- 5) Maps and cross-sections detailing the geologic structure of the local area;
- 6) Generalized map and cross-sections illustrating the regional geologic setting;
- 7) Proposed operating data, as follows:
  - A) The average and maximum daily rate and volume of fluid to be

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injected;

- B) The average and maximum injection pressure; and
  - C) Qualitative analysis and ranges in concentrations of all constituents of injected fluids. The applicant may request confidentiality as specified in 35 Ill. Adm. Code 101.107. If the information is proprietary an applicant may, in lieu of the ranges in concentrations, choose to submit maximum concentrations that must not be exceeded. In such a case the applicant must retain records of the undisclosed concentrations and provide them upon request to the Agency as part of any enforcement investigation;
- 8) A proposed formation testing program to obtain the information required by Section 730.132(c);
  - 9) A proposed stimulation program;
  - 10) The proposed injection procedure;
  - 11) Schematic or other appropriate drawings of the surface and subsurface construction details of the system;
  - 12) Plans (including maps) for meeting the monitoring requirements of Section 730.133(b);
  - 13) Expected changes in pressure, native fluid displacement, direction of movement of injection fluid;
  - 14) Contingency plans to cope with all shut-ins or well failures so as to prevent the migration of contaminating fluids into underground sources of drinking water;
  - 15) A certificate that the applicant has assured, through a performance bond or other appropriate means, the resources necessary to close, plug, or abandon the well as required by 35 Ill. Adm. Code 704.189; and
  - 16) The corrective action proposed to be taken pursuant to 35 Ill. Adm. Code

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704.193.

- b) Prior to granting approval for the operation of a Class III injection well, the Agency must consider the following information:
- 1) All available logging and testing data on the well;
  - 2) A satisfactory demonstration of mechanical integrity for all new wells and for all existing salt solution pursuant to Section 730.108;
  - 3) The anticipated maximum pressure and flow rate at which the permittee will operate;
  - 4) The results of the formation testing program;
  - 5) The actual injection procedures; and
  - 6) The status of corrective action on defective wells in the area of review.
- c) Prior to granting approval for the plugging and abandonment of a Class III injection well, the Agency must consider the following information:
- 1) The type and number of plugs to be used;
  - 2) The placement of each plug including the elevation of the top and bottom;
  - 3) The type, grade, and quantity of cement to be used;
  - 4) The method of placement of the plugs; and
  - 5) The procedure to be used to meet the requirements of Section 730.110(c).

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

SUBPART F: CRITERIA AND STANDARDS APPLICABLE  
TO CLASS V INJECTION WELLS

**Section 730.151 Applicability**

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This Subpart F sets forth criteria and standards for underground injection control programs to regulate all injection not regulated in Subparts B, D, and E ~~of this Part~~. A Class II injection well, however, is not regulated by this Subpart F.

- a) Generally, a well covered by this Subpart F injects non-hazardous fluids into or above formations that contain underground sources of drinking water. It includes all wells listed in Section 730.105(e) but is not limited to those types of injection wells.
- b) It also includes a well not covered in Class IV that injects radioactive materials listed in table II, column 2 in appendix B to 10 CFR 20 (Water Effluent Concentrations), incorporated by reference in 35 Ill. Adm. Code 720.111(b).

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

SUBPART G: CRITERIA AND STANDARDS APPLICABLE TO  
CLASS I HAZARDOUS WASTE INJECTION WELLS

**Section 730.161 Applicability and Definitions**

- a) This Subpart G establishes criteria and standards for underground injection control programs to regulate Class I hazardous waste injection wells. Unless otherwise noted, this Subpart G supplements the requirements of Subpart A ~~of this Part~~ and applies instead of Subpart B ~~of this Part~~ to a Class I hazardous waste injection well.
- b) Definitions. The following definitions apply for the purposes of this Subpart G:

"Cone of influence" means that area around the well within which increased injection zone pressures caused by injection into the hazardous waste injection well would be sufficient to drive fluids into a USDW.

"Existing well" means a Class I hazardous waste injection well that had a UIC permit or UIC permit by rule prior to August 25, 1988, or a well that has become a Class I hazardous waste injection well as a result of a change in the definition of the injected waste which would render the waste hazardous pursuant to 35 Ill. Adm. Code 721.103.

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"Injection interval" means that part of the injection zone in which the well is screened, or in which the waste is otherwise directly emplaced.

"New well" means any Class I hazardous waste injection well that is not an existing well.

"Transmissive fault or fracture" is a fault or fracture that has sufficient permeability and vertical extent to allow fluids to move between formations.

BOARD NOTE: Derived from 40 CFR 146.61 [\(2017\)](#)~~(2005)~~.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 730.162 Minimum Criteria for Siting**

- a) All Class I hazardous waste injection wells must be sited such that they inject into a formation that is beneath the lowermost formation containing, within 402 meters (one-quarter mile) of the well bore, a USDW.
- b) The siting of a Class I hazardous waste injection well must be limited to an area that is geologically suitable. The Agency must determine geologic suitability based upon its consideration of the following:
  - 1) An analysis of the structural and stratigraphic geology, the hydrogeology, and the seismicity of the region;
  - 2) An analysis of the local geology and hydrogeology of the well site, including, at a minimum, detailed information regarding stratigraphy, structure, and rock properties; aquifer hydrodynamics; and mineral resources; and
  - 3) A determination that the geology of the area can be described confidently and that limits of waste fate and transport can be accurately predicted through the use of models.
- c) Class I hazardous waste injection wells must be sited such that the following is



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true:

- 1) The injection zone has sufficient permeability, porosity, thickness, and area extent to prevent migration of fluids into USDWs; and
- 2) The confining zone is as follows:
  - A) It is laterally continuous and free of transecting, transmissive faults, or fractures over an area sufficient to prevent the movement of fluids into a USDW; and
  - B) It contains at least one formation of sufficient thickness and with lithologic and stress characteristics capable of preventing vertical propagation of fractures.
- d) The owner or operator must demonstrate one of the alternatives in subsections (d)(1) through (d)(3) ~~of this Section~~ to the Agency, subject to subsection (d)(4) ~~of this Section~~:
  - 1) That the confining zone is separated from the base of the lowermost USDW by at least one sequence of permeable and less permeable strata that will provide an added layer of protection for the USDW in the event of fluid movement in an unlocated borehole or transmissive fault;
  - 2) That, within the area of review, the piezometric surface of the fluid in the injection zone is less than the piezometric surface of the lowermost USDW, considering density effects, injection pressures, and any significant pumping in the overlying USDW; or
  - 3) There is no USDW present.
  - 4) The owner or operator of a site that does not meet the requirements in subsection (d)(1), (d)(2), or (d)(3) ~~of this Section~~ may petition the Board for an adjusted standard pursuant to Subpart D of 35 Ill. Adm. Code 104. The Board may grant an adjusted standard approving such a site if it determines that because of site geology, nature of the wastes involved, or other considerations; abandoned boreholes; or other conduits would not cause an endangerment of USDWs. A petition for an adjusted standard

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pursuant to this subsection (d)(4) must include the following components:

- A) Those portions of a permit application for the particular injection activities and site that are relevant to the Board's determination; and
- B) Such other relevant information that the Board may by order require pursuant to 35 Ill. Adm. Code 104.228.

BOARD NOTE: Derived from 40 CFR 146.62 [\(2017\)](#)~~(2005)~~.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 730.164 Corrective Action for Wells in the Area of Review**

For the purposes of a Class I hazardous waste injection well, this Section applies instead of 35 Ill. Adm. Code 704.193 and Section 730.107.

- a) The owner or operator of a Class I hazardous waste injection well must, as part of the permit application, submit a plan to the Agency outlining the protocol used to accomplish both of the following:
  - 1) Identify all wells penetrating the confining zone or injection zone within the area of review; and
  - 2) Determine whether wells are adequately completed or plugged.
- b) The owner or operator of a Class I hazardous waste injection well must identify the location of all wells within the area of review that penetrate the injection zone or the confining zone and must submit both of the following, as required in Section 730.170(a):
  - 1) A tabulation of all wells within the area of review that penetrate the injection zone or the confining zone; and
  - 2) A description of each well or type of well and any records of its plugging or completion.

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- c) For wells that the Agency determines are improperly plugged, completed, or abandoned, or for which plugging or completion information is unavailable, the applicant must also submit a plan consisting of such steps or modification as are necessary to prevent movement of fluids into or between USDWs. Where the plan is adequate, the Agency must incorporate it into the permit as a condition. Where the Agency's review of an application indicates the permittee's plan is inadequate (based at a minimum on the factors in subsection (e) ~~of this Section~~), the Agency must do the appropriate of the following:
- 1) It must require the applicant to revise the plan;
  - 2) It must prescribe a plan for corrective action as a condition of the permit;  
or
  - 3) It must deny the application.
- d) Requirements.
- 1) Existing injection wells. Any permit issued for an existing Class I hazardous waste injection well requiring corrective action other than pressure limitations must include a compliance schedule pursuant to 35 Ill. Adm. Code 702.162 requiring any corrective action accepted or prescribed pursuant to subsection (c) ~~of this Section~~. Any such compliance schedule must provide for compliance no later than two years following issuance of the permit and must require observance of appropriate pressure limitations pursuant to subsection (d)(3) ~~of this Section~~ until all other corrective action measures have been implemented.
  - 2) New injection wells. No owner or operator of a new Class I hazardous waste injection well may begin injection until all corrective actions required pursuant to this Section have been taken.
  - 3) The Agency may require pressure limitations instead of plugging. If pressure limitations are used instead of plugging, the Agency must require as a permit condition that injection pressure be limited so that pressure in the injection zone at the site of any improperly completed or abandoned well within the area of review would not be sufficient to drive fluids into or between USDWs. This pressure limitation must satisfy the corrective

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action requirements. Alternatively, such injection pressure limitation may be made part of a compliance schedule pursuant to 35 Ill. Adm. Code 702.162 and may be required to be maintained until all other required corrective actions have been implemented.

- e) The Agency must consider the following criteria and factors in determining the adequacy of corrective action proposed by the applicant pursuant to subsection (c) ~~of this Section~~ and in determining the additional steps needed to prevent fluid movement into and between USDWs:
- 1) The nature and volume of injected fluid;
  - 2) The nature of native fluids or byproducts of injection;
  - 3) Geology;
  - 4) Hydrology;
  - 5) The history of the injection operation;
  - 6) Any completion and plugging records;
  - 7) The closure procedures in effect at the time the well was closed;
  - 8) Any hydraulic connections with USDWs;
  - 9) The reliability of the procedures used to identify abandoned wells; and
  - 10) Any other factors that might affect the movement of fluids into or between USDWs.

BOARD NOTE: Derived from 40 CFR 146.64 [\(2017\)](#)~~(2005)~~.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 730.165 Construction Requirements**

- a) General. All existing and new Class I hazardous waste injection wells must be

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constructed and completed to accomplish each of the following:

- 1) Prevent the movement of fluids into or between USDWs or into any unauthorized zones;
  - 2) Permit the use of appropriate testing devices and workover tools; and
  - 3) Permit continuous monitoring of injection tubing and long string casing as required pursuant to Section 730.167(f);
- b) **Compatibility.** All well materials must be compatible with fluids with which the materials may be expected to come into contact. The owner or operator must employ any compatibility testing method specified by permit condition. The owner or operator may otherwise refer to "Technical Assistance Document: Corrosion, Its Detection and Control in Injection Wells," USEPA publication number EPA-570/9-87-002, incorporated by reference at 35 Ill. Adm. Code 720.111.
- c) **Casing and cementing new wells.**
- 1) Casing and cement used in the construction of each newly drilled well must be designed for the life expectancy of the well, including the post-closure care period. The casing and cementing program must be designed to prevent the movement of fluids into or between USDWs, and to prevent potential leaks of fluids from the well. The Agency must consider the following information as required by Section 730.170 in determining and specifying casing and cementing requirements:
    - A) The depth to the injection zone;
    - B) The injection pressure, external pressure, internal pressure, and axial loading;
    - C) The hole size;
    - D) The size and grade of all casing strings (well thickness, diameter, nominal weight, length, joint specification, and construction material);

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- E) The corrosiveness of injected fluid, formation fluids, and temperature;
  - F) The lithology of the injection and confining zones;
  - G) The type or grade of cement; and
  - H) The quantity and chemical composition of the injected fluid.
- 2) One surface casing string must, at a minimum, extend into the confining bed below the lowest formation that contains a USDW and be cemented by circulating cement from the base of the casing to the surface, using a minimum of 120 percent of the calculated annular volume. The Agency may require more than 120 percent when the geology or other circumstances warrant it.
- 3) At least one long string casing, using a sufficient number of centralizers, must extend to the injection zone and must be cemented by circulating cement to the surface in one or more stages:
- A) Of sufficient quantity and quality to withstand the maximum operating pressure; and
  - B) In a quantity no less than 120 percent of the calculated volume necessary to fill the annular space. The Agency must require more than 120 percent when the geology or other circumstances warrant it.
- 4) Circulation of cement may be accomplished by staging. The Agency may approve an alternative method of cementing in cases where the cement cannot be recirculated to the surface, provided the owner or operator can demonstrate by using logs that the cement is continuous and does not allow fluid movement behind the well bore.
- 5) Casings, including any casing connections, must be rated to have sufficient structural strength to withstand both of the following conditions for the design life of the well:

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- A) The maximum burst and collapse pressures that may be experienced during the construction, operation, and closure of the well; and
  - B) The maximum tensile stress that may be experienced at any point along the length of the casing during the construction, operating, and closure of the well.
- 6) At a minimum, cement and cement additives must be of sufficient quality and quantity to maintain integrity over the design life of the well.
- d) Tubing and packer.
- 1) All Class I hazardous waste injection wells must inject fluids through tubing with a packer set at a point specified by permit condition.
  - 2) In determining and specifying requirements for tubing and packer, the following factors must be considered:
    - A) The depth of setting;
    - B) The characteristics of injection fluid (chemical content, corrosiveness, temperature, and density);
    - C) The injection pressure;
    - D) The annular pressure;
    - E) The rate (intermittent or continuous), temperature, and volume of injected fluid;
    - F) The size of casing; and
    - G) The tubing tensile, burst, and collapse strengths.
  - 3) The Agency may approve the use of a fluid seal if it determines in writing that the following conditions are met:

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- A) The operator demonstrates that the seal will provide a level of protection comparable to a packer;
- B) The operator demonstrates that the staff is, and will remain, adequately trained to operate and maintain the well and to identify and interpret variations in parameters of concern;
- C) The permit contains specific limitations on variations in annular pressure and loss of annular fluid;
- D) The design and construction of the well allows continuous monitoring of the annular pressure and mass balance of annular fluid; and
- E) A secondary system is used to monitor the interface between the annulus fluid and the injection fluid and the permit contains requirements for testing the system every three months and recording the results.

BOARD NOTE: Derived from 40 CFR 146.65 [\(2017\)](#)~~(2005)~~.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 730.167 Operating Requirements**

- a) Except during stimulation, the owner or operator must assure that injection pressure at the wellhead does not exceed a maximum that must be calculated so as to assure that the pressure in the injection zone during injection does not initiate new fractures or propagate existing fractures in the injection zone. The owner or operator must assure that the injection pressure does not initiate fractures or propagate existing fractures in the confining zone, nor cause the movement of injection or formation fluids into a USDW.
- b) Injection between the outermost casing protecting USDWs and the well bore is prohibited.
- c) The owner or operator must maintain an annulus pressure that exceeds the



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operating injection pressure, unless the Agency determines in writing that such a requirement might harm the integrity of the well. The fluid in the annulus must be noncorrosive, or must contain a corrosion inhibitor.

- d) The owner or operator must maintain mechanical integrity of the injection well at all times.
- e) Permit requirements for owners or operators of hazardous waste injection wells that inject wastes that have the potential to react with the injection formation to generate gases must include the following:
  - 1) Conditions limiting the temperature, pH, or acidity of the injected waste; and
  - 2) Procedures necessary to assure that pressure imbalances that might cause a backflow or blowout do not occur.
- f) The owner or operator must install and use continuous recording devices to monitor each of the following: the injection pressure; the flow rate, volume, and temperature of injected fluids; and the pressure on the annulus between the tubing and the long string casing, and must install and use either of the following:
  - 1) Automatic alarm and automatic shut-off systems, designed to sound and shut-in the well when pressures and flow rates or other parameters specified by permit condition exceed a range or gradient specified in the permit; or
  - 2) Automatic alarms, designed to sound when the pressures and flow rates or other parameters exceed a rate or gradient specified in the permit, in cases where the owner or operator certifies that a trained operator will be on-site at all times when the well is operating.
- g) If an automatic alarm or shutdown is triggered, the owner or operator must immediately investigate and identify the cause of the alarm or shutoff without undue delay. If, upon such investigation, the well appears to be lacking mechanical integrity, or if monitoring required pursuant to subsection (f) ~~of this Section~~ otherwise indicates that the well may be lacking mechanical integrity, the owner or operator must undertake all of the following actions:

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- 1) It must stop injecting waste fluids unless authorized by permit condition to continue or resume injection;
  - 2) It must take all necessary steps to determine the presence or absence of a leak; and
  - 3) It must notify the Agency within 24 hours after the alarm or shutdown.
- h) If a loss of mechanical integrity is discovered pursuant to subsection (g) ~~of this Section~~ or during periodic mechanical integrity testing, the owner or operator must undertake all of the following actions:
- 1) It must immediately cease injection of waste fluids;
  - 2) It must take all steps reasonably necessary to determine whether there may have been a release of hazardous wastes or hazardous waste constituents into any unauthorized zone;
  - 3) It must notify the Agency within 24 hours after loss of mechanical integrity is discovered;
  - 4) It must notify the Agency when injection can be expected to resume; and
  - 5) It must restore and demonstrate mechanical integrity pursuant to Section 730.108 prior to resuming injection of waste fluids.
- i) Whenever the owner or operator obtains evidence that there may have been a release of injected wastes into an unauthorized zone, the following must occur:
- 1) The owner or operator must immediately cease injection of waste fluids, and undertake all of the following actions:
    - A) It must notify the Agency within 24 hours of obtaining such evidence;
    - B) It must take all necessary steps to identify and characterize the extent of any release;

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- C) It must comply with any remediation plan specified by permit condition;
  - D) It must implement any remediation plan specified by permit condition; and
  - E) Where such release is into a USDW currently serving as a water supply, it must place a notice in a newspaper of general circulation.
- 2) The Agency must permit the operator to resume injection prior to completing cleanup action if the owner or operator demonstrates that the injection operation will not endanger USDWs.
- j) The owner or operator must notify the Agency and obtain a permit modification prior to conducting any well workover.

BOARD NOTE: Derived from 40 CFR 146.67 [\(2017\)](#)~~(2005)~~.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 730.171 Closure**

- a) Closure plan. The owner or operator of a Class I hazardous waste injection well must prepare, maintain, and comply with a plan for closure of the well that meets the requirements of subsection (d) ~~of this Section~~ and is specified by permit condition. The obligation to implement the closure plan survives the termination of a permit or the cessation of injection activities. The requirement to maintain and implement an approved plan is directly enforceable regardless of whether the requirement is a condition of the permit.
  - 1) The owner or operator must submit the plan as a part of the permit application and, upon approval by the Agency, such plan must be a condition of any permit issued.
  - 2) The owner or operator must submit any proposed significant revision to the method of closure reflected in the plan for approval by the Agency no later than the date on which notice of closure is required to be submitted to

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the Agency pursuant to subsection (b) ~~of this Section~~.

- 3) The plan must assure financial responsibility, as required in 35 Ill. Adm. Code 704.189.
- 4) The plan must include the following information:
  - A) The type and number of plugs to be used;
  - B) The placement of each plug including the evaluation of the top and bottom of each plug;
  - C) The type and grade and quantity of material to be used in plugging;
  - D) The method of placement of the plugs;
  - E) Any proposed test or measure to be made;
  - F) The amount, size, and location (by depth) of casing and any other materials to be left in the well;
  - G) The method and location where casing is to be parted, if applicable;
  - H) The procedure to be used to meet the requirements of subsection (d)(5) ~~of this Section~~; and
  - I) The estimated cost of closure.
- 5) The Agency must modify a closure plan following the procedures of Subpart C of 35 Ill. Adm. Code 702.
- 6) An owner or operator of a Class I hazardous waste injection well who stops injection temporarily, may keep the well open if the conditions of ~~subsections subsection~~ (a)(6)(A) and (a)(6)(B) ~~of this Section~~ are true of ~~the~~ owner or operator, subject to subsection (a)(6)(C) ~~of this Section~~:
  - A) Has received authorization from the Agency; and

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- B) Has described actions or procedures, satisfactory to the Agency, that the owner or operator will take actions to ensure that the well will not endanger USDWs during the period of temporary disuse. These actions and procedures must include compliance with the technical requirements applicable to active injection wells unless otherwise waived by permit condition.
  - C) For the purposes of this subsection (a), submitting a description of actions or procedures for Agency authorization is in the nature of a permit application, and the owner or operator may appeal the Agency's decision to the Board.
- 7) The owner or operator of a well that has ceased operations for more than two years must notify the Agency at least 30 days prior to resuming operation of the well.
- b) Notice of intent to close. The owner or operator must notify the Agency at least 60 days before closure of a well.
  - c) Closure report. Within 60 days after closure, or at the time of the next quarterly report (whichever is less), the owner or operator must submit a closure report to the Agency. If the quarterly report is due less than 15 days after completion of closure, then the report must be submitted within 60 days after closure. The report must be certified as accurate by the owner or operator and by the person who performed the closure operation (if other than the owner or operator). Such report must consist of either of the following documents:
    - 1) A statement that the well was closed in accordance with the closure plan previously submitted and approved by the Agency; or
    - 2) Where actual closure differed from the plan previously submitted, a written statement specifying the differences between the previous plan and the actual closure.
  - d) Standards for well closure.
    - 1) Prior to closing the well, the owner or operator must observe and record

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the pressure decay for a time specified by permit condition. The Agency must analyze the pressure decay and the transient pressure observations conducted pursuant to Section 730.168(e)(1)(A) and determine whether the injection activity has conformed to predicted values.

- 2) Prior to well closure, appropriate mechanical integrity testing must be conducted to ensure the integrity of that portion of the long string casing and cement that will be left in the ground after closure. Testing methods may include the following:
  - A) Pressure tests with liquid or gas;
  - B) Radioactive tracer surveys;
  - C) Noise, temperature, pipe evaluation, or cement bond logs; and
  - D) Any other test required by permit condition.
- 3) Prior to well closure, the well must be flushed with a buffer fluid.
- 4) Upon closure, a Class I hazardous waste injection well must be plugged with cement in a manner that will not allow the movement of fluids into or between USDWs.
- 5) Placement of the cement plugs must be accomplished by one of the following means:
  - A) The Balance Method;
  - B) The Dump Bailer Method;
  - C) The Two-Plug Method; or
  - D) An alternative method, specified by permit condition, that will reliably provide a comparable level of protection.
- 6) Each plug used must be appropriately tagged and tested for seal and stability before closure is completed.

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- 7) The well to be closed must be in a state of static equilibrium with the mud weight equalized top to bottom, either by circulating the mud in the well at least once or by a comparable method prescribed by permit condition, prior to the placement of the cement plugs.

BOARD NOTE: Derived from 40 CFR 146.71 [\(2017\)](#)~~(2005)~~.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 730.172 Post-Closure Care**

- a) The owner or operator of a Class I hazardous waste injection well must prepare, maintain, and comply with a plan for post-closure care that meets the requirements of subsection (b) ~~of this Section~~ and is specified by permit condition. The obligation to implement the post-closure plan survives the termination of a permit or the cessation of injection activities. The requirement to maintain an approved plan is directly enforceable regardless of whether the requirement is a condition of the permit.
  - 1) The owner or operator must submit the plan as a part of the permit application and, upon approval by the Agency, such plan must be a condition of any permit issued.
  - 2) The owner or operator must submit any proposed significant revision to the plan as appropriate over the life of the well, but no later than the date of the closure report required pursuant to Section 730.171(c).
  - 3) The plan must assure financial responsibility, as required in Section 730.173.
  - 4) The plan must include the following information:
    - A) The pressure in the injection zone before injection began;
    - B) The anticipated pressure in the injection zone at the time of closure;

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- C) The predicted time until pressure in the injection zone decays to the point that the well's cone of influence no longer intersects the base of the lowermost USDW;
  - D) The predicted position of the waste front at closure;
  - E) The status of any cleanups required pursuant to Section 730.164; and
  - F) The estimated cost of proposed post-closure care.
- 5) At the request of the owner or operator, or on its own initiative, the Agency may modify the post-closure plan after submission of the closure report following the procedures in 35 Ill. Adm. Code 705.128.
- b) The owner or operator must undertake each of the following activities:
- 1) It must continue and complete any cleanup action required pursuant to Section 730.164, if applicable;
  - 2) It must continue to conduct any groundwater monitoring required under the permit until pressure in the injection zone decays to the point that the well's cone of influence no longer intersects the base of the lowermost USDW. The Agency must extend the period of post-closure monitoring if it determines in writing that the well may endanger a USDW;
  - 3) It must submit a survey plat to the local zoning authority designated by permit condition. The plat must indicate the location of the well relative to permanently surveyed benchmarks. A copy of the plat must be submitted to USEPA, Region 5;
  - 4) It must notify the Illinois Department of Natural Resources, Office of Mines and Minerals, the State Department of Public Health, and any unit of local government authorized to grant permits under the Water Well Construction Code [415 ILCS 30] in the area where the well is located as to the depth and location of the well and the confining zone; and
  - 5) It must retain, for a period of three years following well closure, records



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reflecting the nature, composition, and volume of all injected fluids. Owners or operators must deliver the records to the Agency at the conclusion of the retention period.

- c) Each owner of a Class I hazardous waste injection well, and the owner of the surface or subsurface property on or in which a Class I hazardous waste injection well is located, must record a notation on the deed to the facility property or on some other instrument that is normally examined during title search that will in perpetuity provide any potential purchaser of the property the following information:
- 1) The fact that land has been used to manage hazardous waste;
  - 2) The names of the Illinois Department of Natural Resources, Office of Mines and Minerals and the local zoning authority with which the plat was filed, as well as the address of USEPA Region 5; and
  - 3) The type and volume of waste injected, the injection interval or intervals into which it was injected, and the period over which injection occurred.
- d) In addition to the requirements stated in this Section, each owner of a Class I hazardous waste injection well must comply with any other State or federal law or local ordinance that requires the reporting of any potential environmental or physical impairment of real property to subsequent or prospective owners.

BOARD NOTE: The Responsible Property Transfer Act of 1988 [765 ILCS 90] (RPTA) formerly required the disclosure and recordation of any environmental impairment of real property in Illinois. The General Assembly repealed that statute in P.A. 92-299, Section 5, effective August 9, 2001. Section 10 of that repeal provided for continued maintenance of documents prepared and recorded under RPTA prior to its repeal.

BOARD NOTE: Derived from 40 CFR 146.72 [\(2017\)](#)~~(2011)~~.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

SUBPART H: CRITERIA AND STANDARDS APPLICABLE TO CLASS VI WELLS

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**Section 730.181 Applicability**

- a) This Subpart H establishes criteria and standards for Class VI carbon dioxide geologic sequestration injection wells.
- b) This Subpart H applies to any injection well that is used to inject carbon dioxide specifically for the purpose of geologic sequestration.
- c) This Subpart H also applies to the owner or operator of a permit- or rule-authorized Class I, Class II, or Class V experimental carbon dioxide injection well that seeks to apply for a Class VI geologic sequestration permit for its well. An owner or operator that seeks to convert an existing Class I, Class II, or Class V experimental injection well to a Class VI geologic sequestration well must demonstrate to the Agency that the well was engineered and constructed to meet the requirements of Section 146.86(a) and to ensure protection of USDWs, in lieu of requirements at Sections 146.86(b) and 146.87(a). ~~The By December 10, 2011, the~~ owner or operator of either a Class I injection well that was previously permitted for the purpose of geologic sequestration or a Class V experimental technology injection well that is no longer being used for experimental purposes and which will continue injection of carbon dioxide for the purpose of geologic sequestration must apply for a Class VI permit. A converted well must still meet all other requirements of this Part.
- d) Definitions. The following definitions apply to this Subpart H. To the extent that these definitions conflict with those that appear in 35 Ill. Adm. Code 702.110 or Section 730.103, the definitions of this Section govern for Class VI wells:

"Area of review" means the region surrounding the geologic sequestration project where a USDW may be endangered by the injection activity. The area of review is delineated using computational modeling that accounts for the physical and chemical properties of all phases of the injected carbon dioxide stream and displaced fluids, and is based on available site characterization, monitoring, and operational data, as set forth in Section 730.184.

"Carbon dioxide plume" means the sub-surface three-dimensional extent underground of an injected carbon dioxide stream.

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"Carbon dioxide stream" means carbon dioxide that has been captured from an emission source (e.g., a power plant), plus incidental associated substances derived from the source materials and the capture process, and any substances added to the stream to enable or improve the injection process. This Subpart H does not apply to any carbon dioxide stream that meets the definition of a hazardous waste in 35 Ill. Adm. Code 721.103.

"Confining zone" means a geologic formation, a group of formations, or a part of a formation that stratigraphically overlies an injection zone and which acts as barrier to fluid movement. For a Class VI injection well that is operating under a permit that includes alternative injection well depth requirements, "confining zone" means a geologic formation, a group of formations, or a part of a formation that stratigraphically overlies and underlies the injection zone.

"Corrective action" means the use of Agency-approved methods to ensure that wells within an area of review do not serve as conduits for the movement of fluids into a USDW.

"Geologic sequestration" means the long-term containment of a gaseous, liquid, or supercritical carbon dioxide stream in subsurface geologic formations. This term does not apply to carbon dioxide capture or transport.

"Geologic sequestration project" means any of the following three types of injection wells:

An injection well or wells that are used to emplace a carbon dioxide stream beneath the lowermost formation containing a USDW;

An injection well or wells that are used for geologic sequestration of carbon dioxide and which have been granted a permit that includes alternative injection well depth requirements pursuant to requirements at Section 730.195; or

An injection well or wells that are used for geologic sequestration of carbon dioxide and which have received an expansion to the areal extent of an existing Class II enhanced oil recovery or enhanced gas recovery aquifer exemption pursuant to Section 730.104 and 35 Ill. Adm. Code 704.123(d).

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A geologic sequestration project includes the subsurface three-dimensional extent of the carbon dioxide plume, the associated area of elevated pressure, and displaced fluids, as well as the surface area above that delineated region.

"Injection zone" means a geologic formation, a group of formations, or a part of a formation that is of sufficient areal extent, thickness, porosity, and permeability to receive carbon dioxide through a well or wells associated with a geologic sequestration project.

"Post-injection site care" means appropriate monitoring and other actions (including corrective action) needed following cessation of injection to ensure that no USDW is endangered, as required under Section 730.193.

"Pressure front" means the zone of elevated pressure that is created by the injection of carbon dioxide into the subsurface. For the purposes of this Subpart H, the pressure front of a carbon dioxide plume refers to a zone where there is a pressure differential sufficient to cause the movement of injected fluids or formation fluids into a USDW.

"Site closure" means the point or time, as determined by the Agency pursuant to Section 730.193, at which the owner or operator of a geologic sequestration site is released from post-injection site care responsibilities.

"Transmissive fault or fracture" means a fault or fracture that has sufficient permeability and vertical extent to allow fluids to move between formations.

BOARD NOTE: This Section corresponds with 40 CFR 146.81 [\(2017\)](#)~~(2011)~~.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 730.182 Required Class VI Injection Well Permit Information**

This Section sets forth the information that the Agency must consider when authorizing a Class VI injection well. For a converted Class I, Class II, or Class V experimental injection well, certain maps, cross-sections, tabulations of wells within the area of review, and other data may be included in the application by reference, provided they are current, readily available to the

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Agency, and sufficiently identified as to be retrieved. In cases where USEPA issues the permit, all the information in this Section must be submitted to the USEPA, Region 5.

- a) Prior to the issuance of a permit for the construction of a new Class VI injection well or the conversion of an existing Class I, Class II, or Class V injection well to a Class VI injection well, the owner or operator must submit, pursuant to Section 730.191(e), and the Agency must consider, the following:
  - 1) The information required by 35 Ill. Adm. Code 702.123(a) through (f);
  - 2) A map showing the injection well for which a permit is sought and the applicable area of review consistent with Section 730.184. Within the area of review, the map must show the number or name and location of all injection wells, producing wells, abandoned wells, plugged wells, or dry holes; deep stratigraphic boreholes; Agency- or USEPA-approved subsurface cleanup sites; surface bodies of water, springs, mines (surface and subsurface), quarries, water wells; and other pertinent surface features, including structures intended for human occupancy, state boundaries, and roads. The map should also show faults, if known or suspected. Only information of public record is required to be included on this map;
  - 3) Information on the geologic structure and hydrogeologic properties of the proposed storage site and overlying formations, including the following documents and information:
    - A) Maps and cross sections of the area of review;
    - B) The location, orientation, and properties of known or suspected faults and fractures that may transect the confining zones in the area of review and a determination that the faults and fractures would not interfere with containment;
    - C) Data on the depth, areal extent, thickness, mineralogy, porosity, permeability, and capillary pressure of the injection and confining zones; including geology and facies changes based on field data, which may include geologic cores, outcrop data, seismic surveys, well logs, and names and lithologic descriptions;

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- D) Geomechanical information on fractures, stress, ductility, rock strength, and in-situ fluid pressures within the confining zones;
  - E) Information on the seismic history that includes the presence and depth of seismic sources and a determination that the seismicity would not interfere with containment; and
  - F) Geologic and topographic maps and cross sections that illustrate regional geology, hydrogeology, and the geologic structure of the local area;
- 4) A tabulation of all wells within the area of review that penetrate the injection or confining zones. The tabulated data must include a description of each well's type, construction, date drilled, location, depth, applicable records of plugging and completion, and any additional information that the Agency may require to evaluate the request for a permit;
  - 5) Maps and stratigraphic cross sections indicating the general vertical and lateral limits of all USDWs, water wells, and springs within the area of review, their positions relative to the injection zones, and the direction of water movement, where known;
  - 6) Baseline geochemical data on subsurface formations that includes all USDWs in the area of review;
  - 7) Proposed operating data for the proposed geologic sequestration site that includes that following items of information:
    - A) The average and maximum daily rate and volume or mass, and the total anticipated volume or mass, of the carbon dioxide stream;
    - B) The average and maximum injection pressures;
    - C) The sources of the carbon dioxide stream; and
    - D) An analysis of the chemical and physical characteristics of the carbon dioxide stream;

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- 8) A proposed program for pre-operational formation testing that fulfills the requirements of Section 730.187 to obtain an analysis of the chemical and physical characteristics of the injection zones and confining zones;
- 9) A proposed stimulation program, a description of stimulation fluids to be used, and a determination that stimulation will not interfere with containment;
- 10) A proposed procedure to outline steps necessary to conduct injection operation;
- 11) Schematics or other appropriate drawings of the surface and subsurface construction details of the well;
- 12) Injection well construction procedures that fulfill the requirements of Section 730.186;
- 13) A proposed area of review and corrective action plan that fulfills the requirements of Section 730.184;
- 14) A demonstration which is sufficient to support an Agency determination that the applicant has met the financial responsibility requirements under Section 730.185;
- 15) A proposed testing and monitoring plan, as required by Section 730.190;
- 16) A proposed injection well plugging plan, as required by Section 730.192(b);
- 17) A proposed post-injection site care and site closure plan, as required by Section 730.193(a);
- 18) At the Agency's discretion, a demonstration of an alternative post-injection site care timeframe required, as required by Section 730.193(c);
- 19) A proposed emergency and remedial response plan, as required by Section 730.194(a);

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- 20) A list of contacts, submitted to the Agency, for those states identified to be within the area of review of the Class VI project based on information provided pursuant to subsection (a)(2) ~~of this Section~~; and
  - 21) Any other information requested by the Agency that would support an Agency determination whether to issue the requested permit.
- b) Pursuant to this Section, and as required by 40 CFR 145.23(f)(13), the Agency must notify any states that the Agency determines are within the area of review of the Class VI project based on information submitted pursuant to subsections (a)(2) and (a)(20) ~~of this Section~~ of the permit application in writing.
- c) Prior to granting a permit for the operation of a Class VI injection well, the Agency must consider the following information:
- 1) The final area of review based on modeling, using data obtained during the logging and testing of the well and the formation required by subsections (c)(2), (c)(3), (c)(4), (c)(6), (c)(7), and (c)(10) ~~of this Section~~;
  - 2) Any relevant updates to the information on the geologic structure and hydrogeologic properties of the proposed storage site and overlying formations, submitted pursuant to subsection (a)(3) ~~of this Section~~, based on data obtained during the logging and testing of the well and the formation required by subsections (c)(3), (c)(4), (c)(6), (c)(7), and (c)(10) ~~of this Section~~;
  - 3) Information on the compatibility of the carbon dioxide stream with fluids in the injection zones and minerals in both the injection and the confining zones, based on the results of the formation testing program, and with the materials used to construct the well;
  - 4) The results of the formation testing program required by subsection (a)(8) ~~of this Section~~;
  - 5) Final injection well construction procedures that fulfill the requirements of Section 730.186;



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- 6) The status of any corrective action on wells in the area of review;
  - 7) All available logging and testing program data on the well required by Section 730.187;
  - 8) A demonstration of mechanical integrity pursuant to Section 730.189;
  - 9) Any updates to the proposed area of review and corrective action plan, the testing and monitoring plan, the injection well plugging plan, the post-injection site care and site closure plan, or the emergency and remedial response plan, and any updates to the alternative post-injection site care timeframe demonstration, which the applicant has submitted pursuant to subsection (a) ~~of this Section~~, that are necessary to address new information collected during logging and testing of the well and the formation, as required by this Section; and
  - 10) Any other information requested by the Agency.
- d) An owner or operator which seeks a permit that includes alternative injection well depth requirements to the generally applicable requirement to inject below the lowermost USDW must also refer to Section 730.195 and submit a supplemental report, as required at Section 730.195(a). The supplemental report is not part of the permit application.

BOARD NOTE: This Section corresponds with 40 CFR 146.82 ~~(2017)~~(2011).

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 730.184 Area of Review and Corrective Action**

- a) The area of review is the region surrounding the geologic sequestration project where the injection activity may endanger a USDW. The area of review is delineated using computational modeling that accounts for the physical and chemical properties of all phases of the injected carbon dioxide stream and which is based on available site characterization, monitoring, and operational data.
- b) The owner or operator of a Class VI injection well must prepare, maintain, and comply with a plan to delineate the area of review for a proposed geologic

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sequestration project; must periodically reevaluate the delineation; and must perform corrective action that meets the requirements of this Section and which is sufficient to support an Agency determination that the corrective action is acceptable. The requirement to maintain and implement an approved plan is directly enforceable regardless of whether the requirement is a condition of the permit. As a part of the permit application to the Agency, the owner or operator must submit an area of review and corrective action plan that includes the following information:

- 1) The method that the owner or operator will use for delineating the area of review which meets the requirements of subsection (c) ~~of this Section~~, including the model that the owner or operator will use, assumptions that the owner or operator will make, and the site characterization data on which the owner or operator will base the model;
- 2) A description of each of the following:
  - A) The minimum fixed frequency, not to exceed five years, at which the owner or operator proposes to reevaluate the area of review;
  - B) The monitoring and operational conditions that would warrant a reevaluation of the area of review prior to the next scheduled reevaluation as determined by the minimum fixed frequency established pursuant to subsection (b)(2)(A) ~~of this Section~~;
  - C) How monitoring and operational data (e.g., injection rate, pressure, etc.) will be used to inform an area of review reevaluation; and
  - D) How the owner or operator will conduct corrective action to meet the requirements of subsection (d) ~~of this Section~~, including the following information:
    - i) What corrective action the owner or operator will perform prior to injection;
    - ii) What, if any, portions of the area of review the owner or operator will address with corrective action on a phased basis and how that phasing will be determined;

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- iii) How the owner or operator will adjust corrective action if there are changes in the area of review; and
  - iv) How the owner or operator will guarantee site access for future corrective action.
- c) The owner or operator of a Class VI injection well must perform the following actions to delineate the area of review and identify all wells that require corrective action:
- 1) The owner or operator must predict, using existing site characterization, monitoring and operational data, and computational modeling, the projected lateral and vertical migration of the carbon dioxide plume and formation fluids in the subsurface from the commencement of injection activities until the plume movement ceases, until pressure differentials sufficient to cause the movement of injected fluids or formation fluids into a USDW are no longer present, or until the end of a fixed time period determined by the Agency. The model must fulfill the following requirements:
    - A) The model must be based on detailed geologic data collected to characterize the injection zones, confining zones and any additional zones; and anticipated operating data, including injection pressures, rates, and total volumes over the proposed life of the geologic sequestration project;
    - B) The model must take into account any geologic heterogeneities, other discontinuities, data quality, and their possible impact on model predictions; and
    - C) The model must consider potential migration through faults, fractures, and artificial penetrations.
  - 2) Using methods approved by the Agency, the owner or operator must identify all penetrations, including active and abandoned wells and underground mines, in the area of review that may penetrate the confining zones and must provide a description of each well's type, construction,

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date drilled, location, depth, record of plugging and/or completion, and any additional information the Agency may require; and

- 3) The owner or operator must determine which abandoned wells in the area of review have been plugged in a manner that prevents the movement of carbon dioxide or other fluids that may endanger USDWs, including use of materials compatible with the carbon dioxide stream.
- d) The owner or operator of a Class VI injection well must perform corrective action on all wells in the area of review that are determined to need corrective action, using methods designed to prevent the movement of fluid into or between USDWs, including use of materials compatible with the carbon dioxide stream, where appropriate.
- e) At the minimum fixed frequency, not to exceed five years, as specified in the area of review and corrective action plan, or when monitoring and operational conditions warrant, the owner or operator of a Class VI injection well must fulfill each of the following requirements:
  - 1) The owner or operator must reevaluate the area of review in the same manner specified in subsection (c)(1)-~~of this Section~~;
  - 2) The owner or operator must identify all wells in the reevaluated area of review that require corrective action in the same manner specified in subsection (c)-~~of this Section~~;
  - 3) The owner or operator must perform corrective action on wells requiring corrective action in the reevaluated area of review in the same manner specified in subsection (d)-~~of this Section~~; and
  - 4) The owner or operator must submit an amended area of review and corrective action plan or demonstrate through monitoring data and modeling results sufficiently to support an Agency finding that no amendment to the area of review and corrective action plan is needed. Any amendments to the area of review and corrective action plan must be approved by the Agency, must be incorporated into the permit, and are subject to the permit modification requirements set forth in 35 Ill. Adm. Code 704.262 or 704.264, as appropriate.

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- f) The emergency and remedial response plan (as required by Section 730.194) and the demonstration of financial responsibility (as described by Section 730.185) must account for the area of review delineated as specified in subsection (c)(1) ~~of this Section~~ or the most recently evaluated area of review delineated pursuant to subsection (e) ~~of this Section~~, regardless of whether corrective action in the area of review is phased.
- g) The owner or operator must retain all modeling inputs and data used to support area of review reevaluations under subsection (e) ~~of this Section~~ for 10 years.

BOARD NOTE: This Section corresponds with 40 CFR 146.84 ~~(2011)~~(2017).

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 730.185 Financial Responsibility**

- a) The owner or operator of an injection well to which this Subpart H applies must demonstrate and maintain financial responsibility that the Agency has determined fulfills the following conditions:
- 1) The financial responsibility instruments used must be from the following list of qualifying instruments:
    - A) A trust fund;
    - B) A surety bond;
    - C) A letter of credit;
    - D) Insurance;
    - E) Self insurance (i.e., the financial test and corporate guarantee);
    - F) An escrow account; or
    - G) Any other instruments that the Agency determines are satisfactory.

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- 2) The qualifying instruments must be sufficient to cover the following costs:
  - A) The costs of corrective action (that meets the requirements of Section 730.184);
  - B) The costs of injection well plugging (that meets the requirements of Section 730.192);
  - C) The costs of post-injection site care and site closure (that meets the requirements of Section 730.193); and
  - D) The costs of emergency and remedial response (that meets the requirements of Section 730.194).
- 3) The financial responsibility instruments must be sufficient to address endangerment of underground sources of drinking water.
- 4) The qualifying financial responsibility instruments must comprise protective conditions of coverage.
  - A) Protective conditions of coverage must include, at a minimum, cancellation, renewal, and continuation provisions; specifications on when the provider becomes liable following a notice of cancellation if there is a failure to renew with a new qualifying financial instrument, and requirements for the provider to meet a minimum rating, minimum capitalization, and have the ability to pass the bond rating when applicable.
    - i) Cancellation. For purposes of this Subpart H, the owner or operator must provide that its financial mechanism may not cancel, terminate, or fail to renew, except for failure to pay that financial instrument. If there is a failure to pay the financial instrument, the financial institution may elect to cancel, terminate, or fail to renew the instrument by sending notice by certified mail to the owner or operator and the Agency. The cancellation must not be final for 120 days after receipt of cancellation notice by the owner or operator and the Agency. The owner or operator must

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provide an alternative financial responsibility demonstration within 60 days after notice of cancellation, and if an alternate financial responsibility demonstration is not acceptable (or possible), any funds from the instrument being cancelled must be released within 60 days of notification by the Agency.

- ii) Renewal. For purposes of this Subpart H, an owner or operator must renew all financial instruments, if an instrument expires, for the entire term of the geologic sequestration project. The instrument may be automatically renewed, as long as the owner or operator has the option of renewal at the face amount of the expiring instrument. The automatic renewal of an instrument must, at a minimum, provide the holder with the option of renewal at the face amount of the expiring financial instrument.
  - iii) Cancellation, termination, or failure to renew may not occur and the financial instrument will remain in full force and effect in the event that any of the following occurs on or before the date of expiration: the Agency deems the facility abandoned; or the permit is revoked or a new permit is denied; closure is ordered by the Agency or a court of competent jurisdiction; the owner or operator is named as debtor in a voluntary or involuntary bankruptcy proceeding under Title 11 of the United States Code; or the amount due on the instrument is fully paid.
- B) This subsection (a)(4)(B) would correspond with 40 CFR 706.85(a)(4)(ii) if such existed. USEPA codified a paragraph (a)(4)(i) without a paragraph (a)(4)(ii). Illinois codification requirements do not allow codification of a subsection level unless multiple subsections exist at that level. This statement maintains structural consistency with the corresponding federal rules.
- 5) The qualifying financial responsibility instruments must be approved by the Agency.

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- A) The Agency must consider and approve the financial responsibility demonstration for all the phases of the geologic sequestration project prior to issuing a Class VI injection well permit (Section 730.182).
  - B) The owner or operator must provide any updated information related to their financial responsibility instruments on an annual basis and if there are any changes, the Agency must evaluate, within a reasonable time, the financial responsibility demonstration to confirm that the instruments used remain adequate for use. The owner or operator must maintain financial responsibility requirements regardless of the status of the Agency's review of the financial responsibility demonstration.
  - C) The Agency must disapprove the use of a financial instrument if the Agency determines that it is not sufficient to meet the requirements of this Section.
- 6) The owner or operator may demonstrate financial responsibility by using one or multiple qualifying financial instruments for specific phases of the geologic sequestration project.
- A) In the event that the owner or operator combines more than one instrument for a specific geologic sequestration phase (e.g., well plugging), such combination must be limited to instruments that are not based on financial strength or performance (i.e., self insurance or performance bond), for example trust funds, surety bonds guaranteeing payment into a trust fund, letters of credit, escrow account, and insurance. In this case, it is the combination of mechanisms, rather than the single mechanism, that must provide financial responsibility for an amount at least equal to the current cost estimate.
  - B) When using a third-party instrument to demonstrate financial responsibility, the owner or operator must provide a proof that the third-party provider fulfills either of the following:



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- i) The provider must have passed financial strength requirements of subsection (b)(6)(E) ~~of this Section~~ based on credit ratings; or
  - ii) The provider must have met a minimum rating, minimum capitalization, and have the ability to pass the bond rating set forth in subsection (b)(6)(E) ~~of this Section~~, when applicable.
- C) An owner or operator using certain types of third-party instruments must establish a standby trust fund to enable the Agency to be party to the financial responsibility agreement without the Agency being the beneficiary of any funds. The standby trust fund must be used along with other financial responsibility instruments (e.g., surety bonds, letters of credit, or escrow accounts) to provide a location to place funds if needed.
- D) An owner or operator may deposit money to an escrow account to cover financial responsibility requirements. This account must segregate funds sufficient to cover estimated costs for Class VI (geologic sequestration) financial responsibility from other accounts and uses.
- E) An owner or operator or its guarantor may use self insurance to demonstrate financial responsibility for geologic sequestration projects if the owner or operator or its guarantor fulfill the following requirements:
- i) The owner or operator or its guarantor must meet a tangible net worth of an amount approved by the Agency;
  - ii) The owner or operator or its guarantor must have a net working capital and tangible net worth each at least six times the sum of the current well plugging, post-injection site care, and site closure cost;
  - iii) The owner or operator or its guarantor must have assets located in the United States amounting to at least 90

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percent of total assets or at least six times the sum of the current well plugging, post injection site care, and site closure cost;

- iv) The owner or operator or its guarantor must submit a report of its bond rating and financial information annually; and
  - v) The owner or operator or its guarantor must either have a bond rating test of AAA, AA, A, or BBB, as issued by Standard & Poor's, or Aaa, Aa, A, or Baa, as issued by Moody's, or meet all of the following five financial ratio thresholds: a ratio of total liabilities to net worth less than 2.0; a ratio of current assets to current liabilities greater than 1.5; a ratio of the sum of net income plus depreciation, depletion, and amortization to total liabilities greater than 0.1; a ratio of current assets minus current liabilities to total assets greater than -0.1; and a net profit (revenues minus expenses) greater than 0.
- F) An owner or operator that is not able to meet the corporate financial test criteria of subsection (a)(6)(E) ~~of this Section~~ may arrange a corporate guarantee by demonstrating that its corporate parent meets the financial test requirements on its behalf. The corporate parent's demonstration that it meets the financial test requirement is insufficient if it has not also guaranteed to fulfill the obligations for the owner or operator.
- G) An owner or operator may obtain an insurance policy to cover the estimated costs of geologic sequestration activities that require financial responsibility. This insurance policy must be obtained from a third-party provider.
- b) The requirement to maintain adequate financial responsibility and resources is directly enforceable regardless of whether the requirement is a condition of the permit.
- 1) The owner or operator must maintain financial responsibility and resources until both of the following events have occurred:

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- A) The Agency has received and approved the completed post-injection site care and site closure plan; and
  - B) The Agency has approved site closure.
- 2) The owner or operator may be released from a financial instrument in the following circumstances:
- A) The owner or operator has completed the phase of the geologic sequestration project for which the financial instrument was required, and the owner or operator has fulfilled all of its financial obligations, as determined by the Agency, including obtaining financial responsibility for the next phase of the geologic sequestration project, if required; or
  - B) The owner or operator has submitted a replacement financial instrument, and the owner or operator has received written approval from the Agency that accepts the new financial instrument and which releases the owner or operator from the previous financial assurance instrument.
- c) The owner or operator must have a detailed written estimate, in current dollars, of the cost of performing corrective action on wells in the area of review, plugging the injection wells, post-injection site care, site closure, and emergency and remedial response.
- 1) The cost estimate must be performed for each phase separately, and the cost estimate must be based on the costs to the Agency of hiring a third party to perform the required activities. A third party is a party who is not within the corporate structure of the owner or operator.
  - 2) During the active life of the geologic sequestration project, the owner or operator must adjust the cost estimate for inflation within 60 days prior to the anniversary date of the establishment of the financial instruments used to comply with subsection (a) ~~of this Section~~, and the owner or operator must provide this adjustment to the Agency. The owner or operator must also provide to the Agency written updates of adjustments to the cost

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estimate within 60 days after any amendments to the area of review and corrective action plan (Section 730.184), the injection well plugging plan (Section 730.192), the post-injection site care and site closure plan (Section 730.193), and the emergency and remedial response plan (Section 730.194).

- 3) The Agency must approve any decrease or increase to the initial cost estimate. During the active life of the geologic sequestration project, the owner or operator must revise the cost estimate no later than 60 days after any of the following events has occurred: the Agency has approved the request to modify the area of review and corrective action plan (Section 730.184), the Agency has approved the injection well plugging plan (Section 730.192), the Agency has approved the post-injection site care and site closure plan (Section 730.193), or the Agency has approved the emergency and response plan (Section 730.194), if the change in the plan increases the cost. If the change to the plan decreases the cost, any withdrawal of funds must be approved by the Agency. Any decrease to the value of the financial assurance instrument must first be approved by the Agency. The revised cost estimate must be adjusted for inflation as specified at subsection (c)(2) ~~of this Section~~.
  - 4) Within 60 days after an increase in the current cost estimate to an amount greater than the face amount of a financial instrument currently in use, the owner or operator must either cause the face amount to be increased to an amount at least equal to the current cost estimate and submit evidence of that increase to the Agency, or obtain other financial responsibility instruments to cover the increase. Whenever the current cost estimate decreases, the owner or operator may reduce the face amount of the financial assurance instrument to the amount of the current cost estimate only in accordance with a written approval from the Agency.
- d) The owner or operator must notify the Agency by certified mail of adverse financial conditions, such as bankruptcy, that may affect the ability to carry out injection well plugging and post-injection site care and site closure.
- 1) In the event that the owner or operator or the third-party provider of a financial responsibility instrument is going through a bankruptcy, the owner or operator must notify the Agency of the proceeding by certified

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mail within 10 days after commencement of a voluntary or involuntary proceeding under Title 11 of the United States Code that names the owner or operator as debtor.

- 2) The guarantor of a corporate guarantee must make the notification to the Agency required by this subsection (d)(2) if the guarantor is named as debtor, as required under the terms of the corporate guarantee.
- 3) An owner or operator who fulfills the requirements of subsection (a) ~~of this Section~~ by obtaining a trust fund, surety bond, letter of credit, escrow account, or insurance policy will be deemed to be without the required financial assurance in the event of bankruptcy of the trustee or issuing institution or a suspension or revocation of the authority of the trustee institution to act as trustee of the institution issuing the pertinent financial assurance instrument. The owner or operator must establish other financial assurance within 60 days after such an event.
- e) The owner or operator must provide an adjustment of the cost estimate to the Agency within 60 days after notification of an Agency determination during the annual evaluation of the qualifying financial responsibility instruments that the most recent demonstration is no longer adequate to cover the cost of corrective action (as required by Section 730.184), injection well plugging (as required by Section 730.192), post-injection site care and site closure (as required by Section 730.193), and emergency and remedial response (as required by Section 730.194).
- f) The Agency must approve the use and length of pay-in-periods for trust funds or escrow accounts.

BOARD NOTE: This Section corresponds with 40 CFR 146.85 ~~(2011)~~(2017).

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 730.188 Injection Well Operating Requirements**

- a) Except during injection well stimulation, the owner or operator must ensure that injection pressure does not exceed 90 percent of the fracture pressure of the injection zones, so as to ensure that the injection does not initiate new fractures or propagate existing fractures in the injection zones. In no case may injection

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pressure initiate fractures in the confining zones or cause the movement of injection or formation fluids that endangers a USDW. Pursuant to the requirements of Section 730.182(a)(9), all stimulation programs must be approved by the Agency as part of the permit application and incorporated into the permit.

- b) Injection between the outermost casing that protects any USDW and the well bore is prohibited.
- c) The owner or operator must fill the annulus between the tubing and the long-string casing with a non-corrosive fluid approved by the Agency. The owner or operator must maintain on the annulus a pressure that exceeds the operating injection pressure, unless the Agency determines that such a requirement might harm the integrity of the well or endanger any USDW.
- d) Other than during periods of well workover (maintenance) approved by the Agency in which the sealed tubing-casing annulus is disassembled for maintenance or corrective procedures, the owner or operator must maintain mechanical integrity of the injection well at all times.
- e) The owner or operator must install and use the equipment indicated in subsection (e)(1) ~~of this Section~~ and the appropriate of subsection (e)(2) or (e)(3) ~~of this Section~~:
  - 1) Continuous recording devices that monitor each of the following parameters:
    - A) The carbon dioxide injection pressure;
    - B) The rate, volume or mass, and temperature of the carbon dioxide stream;
    - C) The pressure on the annulus between the tubing and the long-string casing; and
    - D) The annulus fluid volume.
  - 2) For onshore wells, alarms and automatic surface shut-off systems or, at the discretion of the Agency, down-hole shut-off systems (e.g., automatic

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shut-off valves, check valves, etc.) or other mechanical devices that provide equivalent protection.

- 3) For wells located offshore but within State territorial waters, alarms and automatic down-hole shut-off systems designed to alert the operator and shut-in the well when operating parameters, such as annulus pressure, injection rate, or other parameters, diverge beyond permitted ranges or gradients specified in the permit.
- f) If a shutdown is triggered (down-hole or at the surface), or if a loss of mechanical integrity is discovered, the owner or operator must immediately investigate and identify the cause of the shutoff as expeditiously as possible. If, upon investigation, or if monitoring required under subsection (e) ~~of this Section~~ otherwise indicates that the well may be lacking mechanical integrity, the well appears to be lacking mechanical integrity, the owner or operator must undertake each of the following actions:
  - 1) The owner or operator must immediately cease injection;
  - 2) The owner or operator must take all steps reasonably necessary to determine whether there may have been a release of the injected carbon dioxide stream or formation fluids into any unauthorized zone;
  - 3) The owner or operator must notify the Agency of the event within 24 hours;
  - 4) The owner or operator must restore and demonstrate the mechanical integrity of the well to the satisfaction of the Agency prior to resuming injection; and
  - 5) The owner or operator must notify the Agency when injection can be expected to resume.

BOARD NOTE: This Section corresponds with 40 CFR 146.88 ~~(2017)(2011)~~.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 730.189 Mechanical Integrity**

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- a) A Class VI injection well has mechanical integrity if both of the following conditions exist:
- 1) There is no significant leak in the casing, tubing, or packer; and
  - 2) There is no significant fluid movement into a USDW through channels adjacent to the injection well bore.
- b) To evaluate the absence of significant leaks under subsection (a)(1) ~~of this Section~~, the owner or operator must, following an initial annulus pressure test, continuously monitor each of the following parameters:
- 1) The injection pressure, rate, and injected volumes;
  - 2) The pressure on the annulus between the tubing and the long-string casing; and
  - 3) The annulus fluid volume, as specified in Section 730.188(e);
- c) At least once per year, the owner or operator must use one of the following methods to determine the absence of significant fluid movement under subsection (a)(2) ~~of this Section~~:
- 1) An approved tracer survey, such as an oxygen-activation log; or
  - 2) A temperature or noise log.
- d) If required by the Agency, at a frequency specified in the testing and monitoring plan required by Section 730.190, the owner or operator must run a casing inspection log to determine the presence or absence of corrosion in the long-string casing.
- e) The Agency must require any requested alternative test that the Agency has determined is necessary to evaluate mechanical integrity under subsections (a)(1) or (a)(2) ~~of this Section~~ after obtaining the written approval of USEPA.



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BOARD NOTE: Corresponding 40 CFR 146.89(e) provides that the Agency must submit a written request to USEPA setting forth the proposed test and all technical data supporting its use to obtain approval for a new mechanical integrity test. USEPA stated that it will approve the request if USEPA determines that the proposed test will reliably demonstrate the mechanical integrity of wells for which its use was proposed. USEPA stated that it will publish any alternative method that USEPA has approved in the Federal Register, and the Agency must approve use of the published method if the Agency has determined that the method is appropriate to evaluate mechanical integrity, unless USEPA restricts its use at the time of approval by USEPA.

- f) In conducting and evaluating the tests enumerated in this Section or others that the Agency has required by permit, the owner or operator and the Agency must apply methods and standards generally accepted in the industry. When the owner or operator reports the results of mechanical integrity tests to the Agency, the owner or operator must include a description of the tests and the methods used. In making its evaluation, the Agency must review monitoring and other test data submitted since the previous evaluation.
- g) The Agency must require additional or alternative tests if the Agency determines that the results presented by the owner or operator pursuant to subsections (a) through (d) ~~of this Section~~ are not satisfactory to demonstrate that there is no significant leak in the casing, tubing, or packer or that there is no significant movement of fluid into a USDW resulting from the injection activity, as required by subsections (a)(1) and (a)(2) ~~of this Section~~.

BOARD NOTE: This Section corresponds with 40 CFR 146.89 ~~(2017)~~(2011).

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 730.190 Testing and Monitoring Requirements**

The owner or operator of a Class VI injection well must prepare, maintain, and comply with a testing and monitoring plan which will verify that the geologic sequestration project is operating as permitted, and that the project is not endangering USDWs. The requirement to maintain and implement an approved testing and monitoring plan is directly enforceable, regardless of whether the requirement is a condition of the permit. The owner or operator must submit the testing and monitoring plan to the Agency with the permit application, and the owner or operator must

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include a description of how it will meet the requirements of this Section, including accessing sites for all necessary monitoring and testing during the life of the project. Testing and monitoring associated with geologic sequestration projects must, at a minimum, include the following parameters and devices:

- a) Analyses of the carbon dioxide stream with sufficient frequency to yield data representative of the chemical and physical characteristics of the stream;
- b) Installation and use of continuous recording devices to monitor injection pressure, rate, and volume, except during well workovers, as such are defined in Section 730.188(d); the pressure on the annulus between the tubing and the long-string casing; and the annulus fluid volume added;
- c) Corrosion monitoring of the well materials for loss of mass, thickness, cracking, pitting, and other signs of corrosion, which must be performed on a quarterly basis to ensure that the well components fulfill the Agency-approved minimum standards for material strength and performance, as provided in Section 730.186(b), by performing one of the following tests:
  - 1) Analyzing coupons of the well construction materials placed in contact with the carbon dioxide stream;
  - 2) Routing the carbon dioxide stream through a loop constructed with the material used in the well and inspecting the materials in the loop; or
  - 3) Using an alternative method approved by the Agency;
- d) Periodic monitoring of the groundwater quality and geochemical changes above the confining zones that may be a result of carbon dioxide movement through the confining zones or additional identified zones, including the following information:
  - 1) The location and number of monitoring wells based on specific information about the geologic sequestration project, including injection rate and volume, geology, the presence of artificial penetrations, and other factors; and

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- 2) The monitoring frequency and spatial distribution of monitoring wells based on baseline geochemical data that has been collected pursuant to Section 730.182(a)(6) and on any modeling results in the area of review evaluation required by Section 730.184(c).
- e) The annual demonstration of external mechanical integrity required by Section 730.189(c) at least once per year until the injection well is plugged; and, if required by the Agency, a casing inspection log undertaken pursuant to Section 730.189(d), at a frequency established in the testing and monitoring plan;
- f) A pressure fall-off test at least once every five years, unless the Agency has required more frequent testing based on site-specific information;
- g) Testing and monitoring to track the extent of the carbon dioxide plume and the presence or absence of elevated pressure (i.e., the pressure front) by using the following types of methods:
  - 1) Direct methods in the injection zones; and
  - 2) Indirect methods (e.g., seismic, electrical, gravity, or electromagnetic surveys or down-hole carbon dioxide detection tools), unless the Agency has determined, based on site-specific geology, that these methods are not appropriate;
- h) The Agency must require surface air monitoring or soil gas monitoring if the Agency determines that this monitoring is needed to detect movement of carbon dioxide that could endanger a USDW.
  - 1) The design of Class VI injection well surface air or soil gas monitoring must be based on potential risks to USDWs within the area of review;
  - 2) The monitoring frequency and spatial distribution of surface air monitoring or soil gas monitoring must be decided using baseline data, and the monitoring plan must describe how the proposed monitoring will yield useful information on the area of review delineation or compliance with the prohibition against movement of fluid into a USDW set forth in 35 Ill. Adm. Code 704.122;

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- 3) If the Agency requires surface air or soil gas monitoring, the Agency has determined that monitoring undertaken to comply with subpart RR of 40 CFR 98 accomplishes the goals of subsections (h)(1) and (h)(2)-~~of this Section~~, and the owner or operator fulfills the carbon dioxide release reporting requirements set forth in Section 730.191(c)(5), the Agency must approve the use of monitoring undertaken to comply with subpart RR of 40 CFR 98. After approval by the Agency, compliance with subpart RR of 40 CFR 98 pursuant to this subsection (h)(3) is deemed a condition of the Class VI injection well permit;
- i) Any additional monitoring that the Agency has determined is necessary to support, upgrade, and improve the computational modeling of the area of review evaluation that is required by Section 730.184(c) and to determine compliance with the prohibition against movement of fluid into a USDW set forth in 35 Ill. Adm. Code 704.122;
- j) The owner or operator must periodically review the testing and monitoring plan to incorporate monitoring data collected under this Subpart H, operational data collected pursuant to Section 730.188, and the most recent area of review reevaluation performed pursuant to Section 730.184(e). The owner or operator must review the testing and monitoring plan at least once in every five-year period. Based on this review, the owner or operator must submit an amended testing and monitoring plan or demonstrate to the Agency that no amendment to the testing and monitoring plan is needed. Any amendments to the testing and monitoring plan must be approved by the Agency, must be incorporated into the permit, and are subject to the permit modification requirements set forth in 35 Ill. Adm. Code 704.261 or 704.264, as appropriate. The owner or operator must submit amended plans or demonstrations to the Agency as follows:
  - 1) Within one year after an area of review reevaluation;
  - 2) Following any significant changes to the facility, such as addition of monitoring wells or newly permitted injection wells within the area of review, on a schedule determined by the Agency; or
  - 3) When required by the Agency.

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- k) A quality assurance and surveillance plan for all testing and monitoring requirements.

BOARD NOTE: This Section corresponds with 40 CFR 146.90 [\(2017\)](#)~~(2011)~~.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 730.191 Reporting Requirements**

The owner or operator of a Class VI injection well must, at a minimum, provide the following reports to the Agency for each permitted Class VI injection well, as specified in subsection (e) ~~of this Section~~:

- a) Semi-annual reports containing the following information:
- 1) A description of any deviations in the physical, chemical, and other relevant characteristics of the carbon dioxide stream from the proposed operating data submitted to the Agency pursuant to Sections 730.182(a)(7) and (c)(3) and 730.186(b)(1) and (c)(3);
  - 2) The monthly average, maximum, and minimum values for injection pressure, flow rate and volume, and annular pressure;
  - 3) A description of any event that exceeds operating parameters for the annulus pressure or injection pressure specified in the permit;
  - 4) A description of any event that triggers a shut-off device required pursuant to Section 730.188(e) and the response undertaken by the owner or operator;
  - 5) The monthly volume or mass of the carbon dioxide stream injected over the reporting period and the volume injected cumulatively over the life of the project;
  - 6) The monthly annulus fluid volume added; and
  - 7) The results of the monitoring required by Section 730.190.

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- b) Report the results within 30 days after completion of any of the following:
- 1) Any results of periodic tests of mechanical integrity;
  - 2) Any well workover; and
  - 3) Results of any other test of the injection well that the owner or operator has conducted as required by the Agency.
- c) Report any of the following events within 24 hours after the event:
- 1) The owner or operator has discovered any evidence that the injected carbon dioxide stream or associated pressure front may cause an endangerment to a USDW;
  - 2) The owner or operator has discovered any noncompliance with a permit condition, or malfunction of the injection system, which may cause fluid migration into or between USDWs;
  - 3) The owner or operator has discovered any triggering of a shut-off system (i.e., down-hole or at the surface);
  - 4) The owner or operator has discovered any failure to maintain mechanical integrity; or
  - 5) The owner or operator has discovered any release of carbon dioxide to the atmosphere or biosphere through surface air or soil gas monitoring or other monitoring technologies that the Agency has required pursuant to Section 730.190(h).
- d) An owner or operator must notify the Agency in writing 30 days in advance of any of the following:
- 1) Any planned well workover;
  - 2) Any planned stimulation activities, other than stimulation for formation testing conducted pursuant to Section 730.182; and

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- 3) Any other planned test of the injection well conducted by the owner or operator.
- e) In corresponding 40 CFR 146.91(e), USEPA has stated that owners or operators must submit all required reports, submittals, and notifications under this Subpart H to USEPA in an electronic format approved by USEPA.
- f) The owner or operator must retain records as follows:
  - 1) The owner or operator must retain all data collected pursuant to Section 730.182 for Class VI permit applications throughout the life of the geologic sequestration project and for 10 years following site closure.
  - 2) The owner or operator must retain data on the nature and composition of all injected fluids collected pursuant to Section 730.190(a) until 10 years after site closure. The Agency may require the owner or operator to deliver the records to the Agency at the conclusion of the retention period.
  - 3) The owner or operator must retain monitoring data collected pursuant to Section 730.190(b) through (i) for 10 years after it is collected.
  - 4) The owner or operator must retain well plugging reports, post-injection site care data, including, if appropriate, data and information used to develop the demonstration of the alternative post-injection site care timeframe, and the site closure report collected pursuant to requirements at Section 730.193(f) and (h) for 10 years following site closure.
  - 5) The Agency may require the owner or operator to retain any records required by this Subpart H for a period that is longer than 10 years after site closure. Any Agency requirement that the owner or operator retain records for a longer period must be made in writing, the writing must recite a definite longer period, and the Agency must state the reasons for the determination to require the longer period. An owner or operator may appeal any Agency determination made pursuant to this subsection (f)(5) to the Board pursuant to Section 40 of the Act ~~[415 ILCS 5/40]~~.

BOARD NOTE: This Section corresponds with 40 CFR 146.91 ~~(2017)~~(2011).

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(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 730.193 Post-Injection Site Care and Site Closure**

- a) The owner or operator of a Class VI injection well must prepare, maintain, and comply with a plan for post-injection site care and site closure that the Agency has determined meets the requirements of subsection (a)(2) ~~of this Section~~. The requirement to maintain and implement an approved plan is directly enforceable, regardless of whether the requirement is a condition of the permit.
  - 1) The owner or operator must submit the post-injection site care and site closure plan to the Agency as a part of the permit application.
  - 2) The post-injection site care and site closure plan must include the following information:
    - A) The pressure differential between pre-injection and predicted post-injection pressures in the injection zones;
    - B) The predicted position of the carbon dioxide plume and associated pressure front at site closure, as demonstrated in the area of review evaluation required by Section 730.184(c)(1);
    - C) A description of the proposed post-injection monitoring location, methods, and frequency;
    - D) A proposed schedule for submitting post-injection site care monitoring results to the Agency pursuant to Section 730.191(e); and
    - E) The duration of the post-injection site care timeframe and, if approved by the Agency, the demonstration of the alternative post-injection site care timeframe that ensures non-endangerment of USDWs.
  - 3) Upon cessation of injection, the owner or operator of a Class VI injection well must either submit an amended post-injection site care and site closure plan or demonstrate to the Agency through monitoring data and



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modeling results that no amendment to the plan is needed. The Agency must approve any amendments to the post-injection site care and site closure plan and incorporate the amendments into the permit, and the incorporation of the amendments into the permit is subject to the permit modification requirements set forth in 35 Ill. Adm. Code 704.262 or 704.264, as appropriate.

- 4) At any time during the life of the geologic sequestration project, the owner or operator may modify and resubmit the post-injection site care and site closure plan for Agency approval. The owner or operator must resubmit the plan to the Agency within 30 days after making any modification.
- b) The owner or operator must monitor the site following the cessation of injection to show the position of the carbon dioxide plume and pressure front and demonstrate that no USDW is being endangered.
- 1) Following the cessation of injection, the owner or operator must continue to conduct monitoring as specified in the Agency-approved post-injection site care and site closure plan for at least 50 years or for the duration of the alternative timeframe approved by the Agency pursuant to requirements in subsection (c) ~~of this Section~~, unless the owner or operator makes a demonstration under subsection (b)(2) ~~of this Section~~. The monitoring must continue until the geologic sequestration project no longer poses an endangerment to USDWs and the demonstration under subsection (b)(2) ~~of this Section~~ is submitted and approved by the Agency.
  - 2) If the Agency determines, based on monitoring and other site-specific data, that the geologic sequestration project no longer poses an endangerment to any USDW before 50 years or prior to the end of the approved alternative timeframe, the Agency must either approve an amendment to the post-injection site care and site closure plan to reduce the frequency of monitoring or authorize site closure before the end of the 50-year period or prior to the end of the approved alternative timeframe.
  - 3) Prior to authorization for site closure, the owner or operator must submit to the Agency for review and approval a demonstration, based on monitoring and other site-specific data, that no additional monitoring is

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needed to ensure that the geologic sequestration project does not pose an endangerment to any USDW.

- 4) If the owner or operator cannot make the demonstration required by subsection (b)(3) ~~of this Section~~ (i.e., the Agency has determined that additional monitoring is needed to ensure that the geologic sequestration project does not pose an endangerment to any USDW or the Agency has not approved the demonstration) at the end of the 50-year period or at the end of the approved alternative timeframe, the owner or operator must submit to the Agency a plan to continue post-injection site care until the owner or operator has made a demonstration that the Agency can approve.
- c) Demonstration of alternative post-injection site care timeframe. If the Agency determines in consultation with USEPA during the permitting process that an alternative post-injection site care timeframe other than the 50-year default is appropriate and ensures non-endangerment of any USDW, the Agency must approve the alternative post-injection site care timeframe. The Agency must base its determination on significant, site-specific data and information, including all data and information collected pursuant to Sections 730.182 and 730.183, and the Agency must determine based on substantial evidence that the geologic sequestration project will no longer pose a risk of endangerment to any USDW at the end of the alternative post-injection site care timeframe.
- 1) A demonstration of an alternative post-injection site care timeframe must include consideration and documentation of the following:
    - A) The results of computational modeling performed pursuant to delineation of the area of review, as required by Section 730.184;
    - B) The predicted timeframe for pressure decline within the injection zone and any other zones, such that formation fluids may not be forced into any USDW, or the timeframe for pressure decline to pre-injection pressures;
    - C) The predicted rate of carbon dioxide plume migration within the injection zone and the predicted timeframe for the cessation of migration;

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- D) A description of the site-specific processes that will result in carbon dioxide trapping, including immobilization by capillary trapping, dissolution, and mineralization at the site;
  - E) The predicted rate of carbon dioxide trapping in the immobile capillary phase, dissolved phase, and mineral phase;
  - F) The results of laboratory analyses, research studies, or field or site-specific studies to verify the information required in subsections (c)(1)(D) and (c)(1)(E) ~~of this Section~~;
  - G) A characterization of the confining zones, including a demonstration that each confining zone is free of transmissive faults, fractures, and micro-fractures and is of appropriate thickness, permeability, and integrity to impede fluid movement (e.g., carbon dioxide, formation fluids, etc.);
  - H) The presence of potential conduits for fluid movement, including planned injection wells and project monitoring wells associated with the proposed geologic sequestration project or any other projects in proximity to the predicted or modeled final extent of the carbon dioxide plume and area of elevated pressure;
  - I) A description of the well construction and an assessment of the quality of plugs of all abandoned wells within the area of review;
  - J) The distance between the injection zone and the nearest USDWs above and below the injection zone; and
  - K) Any additional site-specific factors required by the Agency.
- 2) Information submitted to support the demonstration required by subsection (c)(1) ~~of this Section~~ must meet the following criteria:
- A) All analyses and tests performed to support the demonstration must be accurate and reproducible, and they must have been performed in accordance with the established quality assurance standards;

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- B) Estimation techniques must be appropriate, and USEPA-certified test protocols must have been used where available;
  - C) Predictive models must be appropriate and tailored to the site conditions, composition of the carbon dioxide stream, and injection and site conditions over the life of the geologic sequestration project;
  - D) Predictive models must be calibrated using existing information (e.g., at Class I, Class II, or Class V experimental technology injection well sites) where sufficient data are available;
  - E) Reasonably conservative values and modeling assumptions must be used and disclosed to the Agency whenever values are estimated on the basis of known historical information instead of site-specific measurements;
  - F) The owner or operator must perform an analysis to identify and assess aspects of the alternative post-injection site care timeframe demonstration that contribute significantly to uncertainty. The owner or operator must conduct sensitivity analyses to determine the effect that significant uncertainty may contribute to the modeling demonstration.
  - G) An approved quality assurance and quality control plan must address all aspects of the demonstration; and
  - H) Any additional criteria required by the Agency.
- d) Notice of intent for site closure. The owner or operator must notify the Agency in writing at least 120 days before site closure. At the time of this notice, if any changes have been made to the original post-injection site care and site closure plan, the owner or operator must also provide the revised plan. The Agency may allow for a shorter notice period. The Agency must allow for a shorter notice period if the Agency determines that the shorter notice period is adequate to complete Agency review of the post-injection site care and site closure plan or that well closure must occur more promptly.

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- e) After the Agency has authorized site closure, the owner or operator must plug all monitoring wells in a manner that will not allow movement of injection or formation fluids which endangers a USDW.
- f) The owner or operator must submit a site closure report to the Agency within 90 days after site closure, which must thereafter be retained at a location designated by the Agency for at least 10 years. The report must include the following records and documentation:
  - 1) Documentation of the injection and monitoring well plugging as required by Section 730.192 and subsection (e) ~~of this Section~~. The owner or operator must provide a copy of a survey plat that the owner or operator has submitted to the local zoning authority designated by the Agency. The plat must indicate the location of the injection well relative to permanently surveyed benchmarks. The owner or operator must also submit a copy of the plat to USEPA Region 5;
  - 2) Documentation of appropriate notification and information to all State and local authorities that have authority over drilling activities within the area of review, to enable those State and local authorities to impose appropriate conditions on subsequent drilling activities that may penetrate the injection and confining zones; and  
  
BOARD NOTE: The Illinois Department of Natural Resources, Office of Mines and Minerals, Oil and Gas Division and the Illinois Department of Public Health each have some role in regulating well drilling, depending on the type of well. Other State agencies may also have a role. Further, units of local government and agencies of a sister state may regulate well drilling if a portion of the area of review lies within their jurisdiction. The owner or operator must assure that all applicable regulatory entities receive the required notification and information.
  - 3) Records reflecting the nature, composition, and volume of the carbon dioxide stream.
- g) Each owner or operator of a Class VI injection well must record a notation on the deed to the facility property or any other document that is normally examined

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during title search that will in perpetuity provide the following information to any potential purchaser of the property:

- 1) The fact that land has been used to sequester carbon dioxide;
  - 2) The name of the county with which the survey plat was filed, as well as the addresses of the Agency and USEPA Region 5; and
  - 3) The volume of fluid injected, the injection zone or zones into which the fluid was injected, and the period over which injection occurred.
- h) The owner or operator must retain records collected during the post-injection site care period for at least 10 years following site closure. The owner or operator must deliver the records to the Agency at the conclusion of the retention period, and the records must thereafter be retained at a location designated by the Agency for that purpose.

BOARD NOTE: This Section corresponds with 40 CFR 146.93 [\(2017\)](#)~~(2011)~~.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 730.194 Emergency and Remedial Response**

- a) As part of the permit application, the owner or operator must provide the Agency with an emergency and remedial response plan that describes actions the owner or operator must take to address movement of the injection or formation fluids which may cause an endangerment to a USDW during the construction, operation, and post-injection site care periods of the injection well. The requirement to maintain and implement an approved emergency and remedial response plan is directly enforceable regardless of whether the requirement is a condition of the permit.
- b) If the owner or operator obtains evidence that the injected carbon dioxide stream and associated pressure front may cause an endangerment to a USDW, the owner or operator must undertake the following actions:
  - 1) The owner or operator must immediately cease injection;

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- 2) The owner or operator must take all steps reasonably necessary to identify and characterize any release;
  - 3) The owner or operator must notify the Agency within 24 hours after obtaining the evidence; and
  - 4) The owner or operator must implement the emergency and remedial response plan approved by the Agency.
- c) The Agency must allow the operator to resume injection prior to remediation if the Agency has determined that the injection operation will not endanger any USDW.
- d) The owner or operator must periodically review the emergency and remedial response plan developed pursuant to subsection (a) ~~of this Section~~. The owner or operator must review the emergency and remedial response plan at least once in every five year period. Based on this review, the owner or operator must submit an amended emergency and remedial response plan or demonstrate to the Agency that no amendment to the emergency and remedial response plan is needed. The Agency must approve any amendments to the emergency and remedial response plan and incorporate the amendments into the permit, and the incorporation of the amendments into the permit is subject to the permit modification requirements set forth in 35 Ill. Adm. Code 704.262 or 704.264, as appropriate. The owner or operator must submit any amended plans or demonstrations to the Agency as follows:
- 1) Within one year of an area of review reevaluation;
  - 2) Following any significant changes to the facility, such as addition of injection or monitoring wells, on a schedule determined by the Agency; or
  - 3) When required by the Agency.

BOARD NOTE: This Section corresponds with 40 CFR 146.94 [\(2017\)](#)~~(2011)~~.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 730.195 Alternative Class VI Injection Well Depth Requirements**

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This Section specifies the requirements for application of alternative injection well depth requirements for Class VI injection wells that meet certain criteria. This Section sets forth information that an owner or operator seeking application of alternative Class VI injection well depth requirements must submit to the Agency; the information that the Agency must consider when determining whether any well is suitable for application of alternative injection well depth requirements; the procedure for Agency-USEPA Region 5 communication and Agency determination whether a well is suitable for application of alternative injection well depth requirements; and the additional requirements that apply to an owner or operator of a Class VI injection well that has been granted a permit that includes alternative injection well depth requirements.

- a) When seeking a permit that includes alternative injection well depth requirements to the requirement to inject below the lowermost USDW, the owner or operator must submit a supplemental report concurrent with the permit application. The supplemental report must include the following information:
  - 1) The following demonstrations with regard to the injection zones:
    - A) Each is laterally continuous;
    - B) None is a USDW;
    - C) None is hydraulically connected to a USDW;
    - D) None outcrops;
    - E) Each has adequate injectivity, volume, and sufficient porosity to safely contain the injected carbon dioxide and formation fluids; and
    - F) Each has appropriate geochemistry.
  - 2) A demonstration that each injection zone is bounded by laterally continuous impermeable confining units above and below the injection zone that are adequate to prevent fluid movement and pressure buildup outside of the injection zone and that the confining units are free of transmissive faults and fractures. The report must further characterize the



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regional fracture properties and contain a demonstration that these fractures will not interfere with injection, serve as conduits, or endanger USDWs.

- 3) A demonstration, using computational modeling, that no fluid movement will endanger any USDW above or below the injection zone. This modeling should be conducted in conjunction with the area of review determination required by Section 730.184, and the modeling is subject to the area of review delineation and well identification requirements set forth in Section 730.184(c) and the periodic reevaluation requirements set forth in Section 730.184(e).
- 4) The following demonstrations with regard to well design and construction, in conjunction with the alternative injection well depth requirements:
  - A) Well design and construction will ensure isolation of the injectate in lieu of the prohibition against movement of fluids set forth in 730.186(a)(1); and
  - B) Well design and construction will meet the well construction requirements set forth in subsection (f) ~~of this Section~~.
- 5) A description of how the owner or operator will tailor the monitoring and testing and any additional plans to the geologic sequestration project to ensure protection of USDWs above and below each injection zone if the Agency issues a permit that includes alternative injection well depth requirements.
- 6) Information on the location of all the public water supplies that will be affected, or which are reasonably likely to be affected, by the carbon sequestration project, and all public water supplies that distribute water drawn from any USDW in the area of review.
- 7) Any other information that the Agency determines is necessary to inform the USEPA Region 5's decision to issue a waiver, as required by subsection (b) ~~of this Section~~.

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- b) To inform the USEPA Region 5's decision on whether to grant a waiver of the injection depth requirements pursuant to 40 CFR 146.95, which would allow the Agency to issue a permit that includes alternative injection well depth requirements, the Agency must submit the following documentation to USEPA Region 5:
- 1) An evaluation of the following information as it relates to siting, construction, and operation of a geologic sequestration project under a permit that includes alternative injection well depth requirements:
    - A) The integrity of the upper and lower confining units;
    - B) The suitability of the injection zones (e.g., lateral continuity, lack of transmissive faults and fractures, known current or planned artificial penetrations into the injection zones or formations below the injection zone, etc.);
    - C) The potential capacity of the geologic formations to sequester carbon dioxide, accounting for the availability of alternative injection sites;
    - D) All other site characterization data, the proposed emergency and remedial response plan, and a demonstration of financial responsibility;
    - E) An assessment of community needs, demands, and supply from drinking water resources;
    - F) An assessment of planned needs and potential or future use of USDWs and non-USDWs in the area of review;
    - G) An assessment of planned or permitted water, hydrocarbon, or mineral resource exploitation potential of the proposed injection formations and other formations both above and below the injection zone to determine if there are any plans to drill through the formation to access resources in or beneath the proposed injection zones or formations;

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- H) The proposed plan for securing alternative water resources or treating USDW formation waters in the event of contamination related to the Class VI injection well activity; and,
  - I) Any other applicable considerations or information that the Agency determines is necessary to aid a determination by USEPA Region 5 to grant a waiver that would allow the Agency to issue a permit that includes alternative injection well depth requirements.
- 2) Consultation with the Agency's Division of Public Water Supply and all agencies of a sister state that have public water system supervision authority over lands within the area of review of a well for which a waiver that would allow the Agency to issue a permit that includes alternative injection well depth requirements is sought.
  - 3) Any written waiver-related information submitted by the Agency's Division of Public Water Supply and all agencies of a sister state that have public water system supervision authority to the Agency.
- c) Pursuant to 35 Ill. Adm. Code 705.163 and concurrent with the Class VI injection well permit application notice process, the Agency must give public notice that the owner or operator has sought a permit that includes alternative injection well depth requirements. The notice must clearly state the following information:
    - 1) The depth of the proposed injection zones;
    - 2) The location of the injection wells;
    - 3) The name and depth of each USDW within the area of review;
    - 4) A map of the area of review;
    - 5) The names of any public water supplies that will be affected, or which are reasonably likely to be affected, by the carbon sequestration project, and all public water supplies that distribute water drawn from any USDW in the area of review; and

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- 6) The results of consultation with the Agency's Division of Public Water Supply and all agencies of a sister state that have public water system supervision authority, as required by subsection (b)(2) ~~of this Section~~.
- d) Following the public notice required by subsection (c) ~~of this Section~~, the Agency must provide all information received through the waiver application process to USEPA Region 5. USEPA has stated in corresponding 40 CFR 146.95(d) that, based on this information, the USEPA Region 5 must provide written concurrence or non-concurrence regarding the Agency issuing a permit that includes alternative injection well depth requirements.
    - 1) If USEPA Region 5 determines that additional information is required to support a decision, the Agency must provide that information. At its discretion, USEPA Region 5 may require that public notice of the new information be initiated.
    - 2) The Agency must not issue a permit that includes alternative injection well depth requirements without having first received the written concurrence of USEPA Region 5.
  - e) USEPA has stated in corresponding 40 CFR 146.95(e) that if the Agency issues a permit that includes alternative injection well depth requirements, USEPA will post the following information on its Office of Water website within 30 days after permit issuance:
    - 1) The depth of the proposed injection zones;
    - 2) The location of the injection wells;
    - 3) The name and depth of all USDWs within the area of review;
    - 4) A map of the area of review;
    - 5) The names of any public water supplies that will be affected, or which are reasonably likely to be affected, by the carbon sequestration project, and all public water supplies that distribute water drawn from any USDW in the area of review; and

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- 6) The date of permit issuance.
- f) Upon receipt of a permit that includes alternative injection well depth requirements for geologic sequestration, the owner or operator of the covered Class VI injection well must comply with the following requirements:
  - 1) All requirements of Sections 730.184, 730.185, 730.187, 730.188, 730.189, 730.191, 730.192, and 730.194;
  - 2) All requirements of Section 730.186, with the following modified requirements:
    - A) The owner or operator must ensure that each Class VI injection well operating under the alternative injection well depth requirements is constructed and completed to prevent movement of fluids into any unauthorized zone that includes a USDW, in lieu of the requirements of Section 730.186(a)(1).
    - B) The casing and cementing program must be designed to prevent the movement of fluids into any unauthorized zone that includes a USDW in lieu of the requirements of Section 730.186(b)(1).
    - C) The surface casing must extend through the base of the nearest USDW directly above the injection zone. The surface casing must be cemented to the surface. Alternatively, the Agency must require that the casing extend through another formation above the injection zone and below the nearest USDW above the injection zone if the Agency determines that doing so is necessary to prevent movement of fluids into a USDW.
  - 3) All requirements of Section 730.190, with the following modified requirements:
    - A) The owner or operator must monitor the groundwater quality, geochemical changes, and pressure in the first USDWs immediately above and below each injection zone; and in any other formation that the Agency determines is necessary to detect potential movement of fluids into a USDW.

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- B) The owner or operator must conduct testing and monitoring to track the extent of the carbon dioxide plume and the presence or absence of elevated pressure (i.e., the pressure front) by using direct methods to monitor for pressure changes in the injection zones. The owner or operator must use indirect methods (e.g., seismic, electrical, gravity, or electromagnetic surveys or down-hole carbon dioxide detection tools) that the Agency determines are necessary based on site-specific geology.
- 4) All requirements of Section 730.193, with the following, modified post-injection site care monitoring requirements:
    - A) The owner or operator must monitor the groundwater quality, geochemical changes, and pressure in the first USDWs immediately above and below each injection zone; and in any other formation that the Agency determines is necessary to detect potential movement of fluids into a USDW.
    - B) The owner or operator must conduct testing and monitoring to track the extent of the carbon dioxide plume and the presence or absence of elevated pressure (i.e., the pressure front) by using direct methods in the injection zones. The owner or operator must use indirect methods (e.g., seismic, electrical, gravity, or electromagnetic surveys or down-hole carbon dioxide detection tools) that the Agency determines are necessary to detect potential movement of fluids into a USDW;
  - 5) Any additional requirements that the Agency determines are necessary to ensure protection of USDWs above and below the injection zones.

BOARD NOTE: This Section corresponds with 40 CFR 146.95 [\(2017\)](#)~~(2011)~~. The corresponding federal rule calls the administrative permission to allow a well to inject at an alternative depth (i.e., above the lowermost USDW) a "waiver-". While the Board has retained the use of "waiver" with regard to USEPA review of alternative depth requirements, the Board has changed this to some variant of "permit that includes alternative injection well depth requirements-". While the Agency cannot "waive" standards embodied in Board regulations, the Agency can issue a permit that applies alternative standards that are contained in the regulations.

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The Board believes that this rule includes standards sufficient to guide an Agency permit determination.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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- 1) Heading of the Part: Standards for Universal Waste Management
- 2) Code Citation: 35 Ill. Adm. Code 733
- 3) 

<u>Section Numbers</u> :	<u>Proposed Actions</u> :
733.101	Amendment
733.102	Amendment
733.103	Amendment
733.105	Amendment
733.108	Amendment
733.113	Amendment
733.114	Amendment
733.115	Amendment
733.118	Amendment
733.120	Amendment
733.133	Amendment
733.134	Amendment
733.135	Amendment
733.138	Amendment
733.139	Amendment
733.140	Amendment
733.151	Amendment
733.152	Amendment
733.153	Amendment
733.156	Amendment
733.161	Amendment
733.162	Amendment
733.170	Amendment
733.180	Amendment
733.181	Amendment
- 4) Statutory Authority: 415 ILCS 5/7.2, 22.4, and 27
- 5) A Complete Description of the Subjects and Issues Involved: The amendments to Part 733 are a single segment of the consolidated docket R17-14/R17-15/R18-11/R18-31 rulemaking that also affects 35 Ill. Adm. Code 702, 704, 705, 720 through 728, 730, 738, 739, and 810 through 812. Due to the extreme volume of the consolidated docket, each Part is covered by a notice in four separate issues of the *Illinois Register*. Included in this



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issue are 35 Ill. Adm. Code 730, 733, 738, 739, and 810 through 812. To save space, a more detailed description of the subjects and issues involved in the consolidated docket R17-14/R17-15/R18-11/R18-31 rulemaking in this issue of the *Illinois Register* only in the answer to question 5 in the Notice of Adopted Amendments for 35 Ill. Adm. Code 730. A comprehensive description is contained in the Board's opinion and order of March 3, 2016, proposing amendments in docket R16-7, which opinion and order is available from the address below.

Specifically, the amendments to Part 733 incorporate elements of the Generator Improvements Rule and the Hazardous Waste Import-Export Revisions. The Board makes several needed corrections in the text of the rules.

Tables appear in a document entitled "Identical-in-Substance Rulemaking Addendum (Proposed)" that the Board added to consolidated docket R17-14/R17-15/R18-11/R18-31. The tables list the deviations from the literal text of the federal amendments and the several necessary corrections and stylistic revisions not directly derived from USEPA actions. Persons interested in the details of those deviations from the literal text should refer to the Identical-in-Substance Rulemaking Addendum (Proposed) in consolidated docket R17-14/R17-15/R18-11/R18-31.

Section 22.4 of the Environmental Protection Act [415 ILCS 5/22.4] provides that Section 5-35 of the Illinois Administrative Procedure Act [5 ILCS 100/5-35] does not apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the IAPA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules (JCAR).

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Does this rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No

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- 11) Statement of Statewide Policy Objective: These proposed amendments do not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comment on this proposal for a period of 45 days after the date of this publication. Comments should reference consolidated docket R17-14/R17-15/R18-11/R18-31 and be addressed to:

Don A. Brown, Clerk  
Illinois Pollution Control Board  
State of Illinois Center, Suite 11-500  
100 W. Randolph St.  
Chicago IL 60601

Please direct inquiries to the following person and reference consolidated docket R17-14/R17-15/R18-11/R18-31:

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

312/814-6924  
email: michael.mccambridge@illinois.gov

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

- 13) Initial Regulatory Flexibility Analysis:
  - A) Types of small businesses, small municipalities and not-for-profit corporations affected: This rulemaking may affect those small businesses, small municipalities, and not-for-profit corporations disposing of industrial wastewaters into the sewage collection system of a publicly owned treatment works. These proposed amendments do not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].

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- B) Reporting, bookkeeping or other procedures required for compliance: The existing rules and proposed amendments require extensive reporting, bookkeeping and other procedures, including the preparation of manifests and annual reports, waste analyses and maintenance of operating records. These proposed amendments do not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- C) Types of professional skills necessary for compliance: Compliance with the existing rules and proposed amendments may require the services of an attorney, certified public accountant, chemist and registered professional engineer. These proposed amendments do not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2017 and January 2018

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

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TITLE 35: ENVIRONMENTAL PROTECTION  
SUBTITLE G: WASTE DISPOSAL  
CHAPTER I: POLLUTION CONTROL BOARD  
SUBCHAPTER c: HAZARDOUS WASTE OPERATING REQUIREMENTSPART 733  
STANDARDS FOR UNIVERSAL WASTE MANAGEMENT

## SUBPART A: GENERAL

## Section

733.101	Scope
733.102	Applicability: Batteries
733.103	Applicability: Pesticides
733.104	Applicability: Mercury-Containing Equipment
733.105	Applicability: Lamps
733.106	Applicability: Mercury-Containing Equipment (Repealed)
733.107	Applicability: Mercury-Containing Lamps (Repealed)
733.108	Applicability: Household and Conditionally Exempt Small Quantity Generator Waste
733.109	Definitions

## SUBPART B: STANDARDS FOR SMALL QUANTITY HANDLERS

## Section

733.110	Applicability
733.111	Prohibitions
733.112	Notification
733.113	Waste Management
733.114	Labeling and Marking
733.115	Accumulation Time Limits
733.116	Employee Training
733.117	Response to Releases
733.118	Off-Site Shipments
733.119	Tracking Universal Waste Shipments
733.120	Exports

## SUBPART C: STANDARDS FOR LARGE QUANTITY HANDLERS

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Section	
733.130	Applicability
733.131	Prohibitions
733.132	Notification
733.133	Waste Management
733.134	Labeling and Marking
733.135	Accumulation Time Limits
733.136	Employee Training
733.137	Response to Releases
733.138	Off-Site Shipments
733.139	Tracking Universal Waste Shipments
733.140	Exports

SUBPART D: STANDARDS FOR UNIVERSAL WASTE TRANSPORTERS

Section	
733.150	Applicability
733.151	Prohibitions
733.152	Waste Management
733.153	Accumulation Time Limits
733.154	Response to Releases
733.155	Off-site Shipments
733.156	Exports

SUBPART E: STANDARDS FOR DESTINATION FACILITIES

Section	
733.160	Applicability
733.161	Off-Site Shipments
733.162	Tracking Universal Waste Shipments

SUBPART F: IMPORT REQUIREMENTS

Section	
733.170	Imports

SUBPART G: PETITIONS TO INCLUDE OTHER WASTES

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## Section

733.180

General

733.181

Factors for Petitions to Include Other Wastes

**AUTHORITY:** Implementing Sections 7.2 and 22.4 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/7.2, 22.4, and 27].

**SOURCE:** Adopted in R95-20 at 20 Ill. Reg. 11291, effective August 1, 1996; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 944, effective December 16, 1997; amended in R98-12 at 22 Ill. Reg. 7650, effective April 15, 1998; amended in R99-15 at 23 Ill. Reg. 9502, effective July 26, 1999; amended in R00-13 at 24 Ill. Reg. 9874, effective June 20, 2000; amended in R05-8 at 29 Ill. Reg. 6058, effective April 13, 2005; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 1352, effective December 20, 2006; amended in R16-7 at 40 Ill. Reg. 12268, effective August 9, 2016; amended in R17-14/R17-15/R18-12 at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART A: GENERAL

**Section 733.101 Scope**

- a) This Part establishes requirements for managing the following:
  - 1) Batteries, as described in Section 733.102;
  - 2) Pesticides, as described in Section 733.103;
  - 3) Mercury-containing equipment, as described in Section 733.104; and
  - 4) Lamps, as described in Section 733.105.
- b) This Part provides an alternative set of management standards in lieu of regulation pursuant to 35 Ill. Adm. Code 702 through 705 and 720 through 728.
- c) Electronic reporting. The filing of any document pursuant to any provision of this Part as an electronic document is subject to 35 Ill. Adm. Code 720.104.

**BOARD NOTE:** Subsection (c) ~~of this Section~~ is derived from 40 CFR 3, ~~as added, and 40 CFR~~ 271.10(b), 271.11(b), and 271.12(h) ~~(20172005), as amended~~

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at 70 Fed. Reg. 59848 (Oct. 13, 2005).

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 733.102 Applicability: Batteries**

- a) Batteries covered under this Part.
- 1) The requirements of this Part apply to persons managing batteries, as described in Section 733.109, except those listed in subsection (b) ~~of this Section~~.
  - 2) Spent lead-acid batteries that are not managed under Subpart G of 35 Ill. Adm. Code 726, are subject to management under this Part.
- b) Batteries not covered under this Part. The requirements of this Part do not apply to persons managing the following batteries:
- 1) Spent lead-acid batteries that are managed under Subpart G of 35 Ill. Adm. Code 726;
  - 2) Batteries, as described in Section 733.109, that are not yet wastes under 35 Ill. Adm. Code 721, including those that do not meet the criteria for waste generation in subsection (c) ~~of this Section~~; or
  - 3) Batteries, as described in Section 733.109, that are not hazardous waste. A battery is a hazardous waste if it exhibits one or more of the characteristics identified in Subpart C of 35 Ill. Adm. Code 721.
- c) Generation of waste batteries.
- 1) A used battery becomes a waste on the date it is discarded (e.g., when sent for reclamation).
  - 2) An unused battery becomes a waste on the date the handler decides to discard it.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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**Section 733.103 Applicability: Pesticides**

- a) Pesticides covered under this Part. The requirements of this Part apply to persons managing pesticides, as described in Section 733.109, that meet the following conditions, except those listed in subsection (b) ~~of this Section~~:
  - 1) Recalled pesticides, as follows:
    - A) Stocks of a suspended and canceled pesticide that are part of a voluntary or mandatory recall under Section 19(b) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA; 7 USC 136q(b)), including, but not limited to those owned by the registrant responsible for conducting the recall; or
    - B) Stocks of a suspended or cancelled pesticide, or a pesticide that is not in compliance with FIFRA, that are part of a voluntary recall by the registrant; or
  - 2) Stocks of other unused pesticide products that are collected and managed as part of a waste pesticide collection program.
- b) Pesticides not covered under this Part. The requirements of this Part do not apply to persons managing the following pesticides:
  - 1) Recalled pesticides described in subsection (a)(1) ~~of this Section~~ and unused pesticide products described in subsection (a)(2) ~~of this Section~~ that are managed by farmers in compliance with 35 Ill. Adm. Code 722.170. (35 Ill. Adm. Code 722.170 addresses pesticides disposed of on the farmer's own farm in a manner consistent with the disposal instructions on the pesticide label, providing the container is triple rinsed in accordance with 35 Ill. Adm. Code 721.107(b)(3).);
  - 2) Pesticides not meeting the conditions set forth in subsection (a) ~~of this Section~~ must be managed in compliance with the hazardous waste regulations in 35 Ill. Adm. Code 702 through 705 and 720 through 728;
  - 3) Pesticides that are not wastes under 35 Ill. Adm. Code 721, including



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those that do not meet the criteria for waste generation in subsection (c) ~~of this Section~~ or those that are not wastes as described in subsection (d) ~~of this Section~~; and

- 4) Pesticides that are not hazardous waste. A pesticide is a hazardous waste if it is a waste (see subsection (b)(3) ~~of this Section~~) and either it is listed in Subpart D of 35 Ill. Adm. Code 721 or it exhibits one or more of the characteristics identified in Subpart C of 35 Ill. Adm. Code 721.
- c) When a pesticide becomes a waste.
- 1) A recalled pesticide described in subsection (a)(1) ~~of this Section~~ becomes a waste on the first date on which both of the following conditions apply:
    - A) The generator of the recalled pesticide agrees to participate in the recall; and
    - B) The person conducting the recall decides to discard (e.g., burn the pesticide for energy recovery).
  - 2) An unused pesticide product described in subsection (a)(2) ~~of this Section~~ becomes a waste on the date the generator decides to discard it.
- d) Pesticides that are not wastes. The following pesticides are not wastes:
- 1) Recalled pesticides described in subsection (a)(1) ~~of this Section~~, provided that either of the following conditions exist:
    - A) The person conducting the recall has not made a decision to discard the pesticide (e.g., burn it for energy recovery). Until such a decision is made, the pesticide does not meet the definition of "solid waste" under 35 Ill. Adm. Code 721.102; thus the pesticide is not a hazardous waste and is not subject to hazardous waste requirements, including those of this Part. This pesticide remains subject to the requirements of FIFRA; or
    - B) The person conducting the recall has made a decision to use a management option that, under 35 Ill. Adm. Code 721.102, does

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not cause the pesticide to be a solid waste (i.e., the selected option is use (other than use constituting disposal) or reuse (other than burning for energy recovery) or reclamation). Such a pesticide is not a solid waste and therefore is not a hazardous waste, and is not subject to the hazardous waste requirements including this Part. This pesticide, including a recalled pesticide that is exported to a foreign destination for use or reuse, remains subject to the requirements of FIFRA; and

- 2) Unused pesticide products described in subsection (a)(2) ~~of this Section~~, if the generator of the unused pesticide product has not decided to discard them (e.g., burn for energy recovery). These pesticides remain subject to the requirements of FIFRA.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 733.105 Applicability: Lamps**

- a) Lamps covered under this Part. The requirements of this Part apply to persons that manage lamps, as described in Section 733.109, except those listed in subsection (b) ~~of this Section~~.
- b) Lamps not covered under this Part. The requirements of this Part do not apply to persons that manage the following lamps:
  - 1) Lamps that are not yet wastes under 35 Ill. Adm. Code 721, as provided in subsection (c) ~~of this Section~~; and
  - 2) Lamps that are not hazardous waste. A lamp is a hazardous waste if it exhibits one or more of the characteristics identified in Subpart C of 35 Ill. Adm. Code 721.
- c) Generation of waste lamps.
  - 1) A used lamp becomes a waste on the date it is discarded.
  - 2) An unused lamp becomes a waste on the date the handler decides to discard it.

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(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 733.108 Applicability: Household and Conditionally Exempt Small Quantity Generator Waste**

- a) A person that manages any of the wastes listed below may, at its option, manage the waste under the requirements of this Part.
- 1) Household wastes that are exempt under 35 Ill. Adm. Code 721.104(b)(1) and which are also of the same type as the universal wastes defined at Section 733.109; or
  - 2) ~~VSQG~~~~Conditionally exempt small quantity generator~~ wastes that are exempt under 35 Ill. Adm. Code ~~722.114721.105~~ and are also of the same type as the universal wastes defined at Section 733.109.
- b) A person that commingles the wastes described in subsections (a)(1) and (a)(2) ~~of this Section~~ together with universal waste regulated under this Part must manage the commingled waste under the requirements of this Part.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART B: STANDARDS FOR SMALL QUANTITY HANDLERS

**Section 733.113 Waste Management**

- a) Universal waste batteries. A small quantity handler of universal waste must manage universal waste batteries in a manner that prevents releases of any universal waste or component of a universal waste to the environment, as follows:
- 1) A small quantity handler of universal waste must contain any universal waste battery that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions in a container. The container must be closed, structurally sound, compatible with the contents of the battery, and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions;

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- 2) A small quantity handler of universal waste may conduct the following activities, as long as the casing of each individual battery cell is not breached and remains intact and closed (except that cells may be opened to remove electrolyte but must be immediately closed after removal):
  - A) Sorting batteries by type;
  - B) Mixing battery types in one container;
  - C) Discharging batteries so as to remove the electric charge;
  - D) Regenerating used batteries;
  - E) Disassembling batteries or battery packs into individual batteries or cells;
  - F) Removing batteries from consumer products; or
  - G) Removing electrolyte from batteries; and
- 3) A small quantity handler of universal waste that removes electrolyte from batteries, or that generates other solid waste (e.g., battery pack materials, discarded consumer products) as a result of the activities listed in subsection (a)(2) ~~of this Section~~, must determine whether the electrolyte or other solid waste exhibits a characteristic of hazardous waste identified in Subpart C of 35 Ill. Adm. Code 721.
  - A) If the electrolyte or other solid waste exhibits a characteristic of hazardous waste, it is subject to all applicable requirements of 35 Ill. Adm. Code 702 through 705 and 720 through 728. The handler is considered the generator of the hazardous electrolyte or other waste and is subject to 35 Ill. Adm. Code 722.
  - B) If the electrolyte or other solid waste is not hazardous, the handler may manage the waste in any way that is in compliance with applicable federal, State, or local solid (non-hazardous) waste regulations.

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BOARD NOTE: See generally the Act ~~[415 ILCS 5]~~ and 35 Ill. Adm. Code 807 through 817 to determine whether additional facility siting, special waste, or non-hazardous waste regulations apply to the waste. Consult the ordinances of relevant units of local government to determine whether local requirements apply.

- b) Universal waste pesticides. A small quantity handler of universal waste must manage universal waste pesticides in a way that prevents releases of any universal waste or component of a universal waste to the environment. The universal waste pesticides must be contained in one or more of the following:
- 1) A container that remains closed, structurally sound, compatible with the pesticide, and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions;
  - 2) A container that does not meet the requirements of subsection (b)(1) ~~of this Section~~, provided that the unacceptable container is overpacked in a container that does meet the requirements of subsection (b)(1) ~~of this Section~~;
  - 3) A tank that meets the requirements of Subpart J of 35 Ill. Adm. Code 725, except for 35 Ill. Adm. Code 725.297(c), 265.300, and 265.301; or
  - 4) A transport vehicle or vessel that is closed, structurally sound, compatible with the pesticide, and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.
- c) Universal waste mercury-containing equipment. A small quantity handler of universal waste must manage universal waste mercury-containing equipment in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:
- 1) A small quantity handler of universal waste must place in a container any universal waste mercury-containing equipment with non-contained elemental mercury or that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions. The container must be closed; must be structurally sound; must be compatible

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with the contents of the device; must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions; and must be reasonably designed to prevent the escape of mercury into the environment by volatilization or any other means.

- 2) A small quantity handler of universal waste may remove mercury-containing ampules from universal waste mercury-containing equipment provided the handler follows each of the following procedures:
  - A) It removes and manages the ampules in a manner designed to prevent breakage of the ampules;
  - B) It removes ampules only over or in a containment device (e.g., tray or pan sufficient to collect and contain any mercury released from an ampule in case of breakage);
  - C) It ensures that a mercury clean-up system is readily available to immediately transfer any mercury resulting from spills or leaks from broken ampules from that containment device to a container that meets the requirements of 35 Ill. Adm. Code 722.~~115~~134;
  - D) It immediately transfers any mercury resulting from spills or leaks from broken ampules from the containment device to a container that meets the requirements of 35 Ill. Adm. Code 722.~~115~~134;
  - E) It ensures that the area in which ampules are removed is well ventilated and monitored to ensure compliance with applicable OSHA exposure levels for mercury;
  - F) It ensures that employees removing ampules are thoroughly familiar with proper waste mercury handling and emergency procedures, including transfer of mercury from containment devices to appropriate containers;
  - G) It stores removed ampules in closed, non-leaking containers that are in good condition; and
  - H) It packs removed ampules in the container with packing materials

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adequate to prevent breakage during storage, handling, and transportation.

- 3) A small quantity handler of universal waste mercury-containing equipment that does not contain an ampule may remove the open original housing holding the mercury from universal waste mercury-containing equipment provided the handler does as follows:
  - A) It immediately seals the original housing holding the mercury with an air-tight seal to prevent the release of any mercury to the environment; and
  - B) It follows all requirements for removing ampules and managing removed ampules pursuant to subsection (c)(2) of this Section.
- 4) Required hazardous waste determination and further waste management.
  - A) A small quantity handler of universal waste that removes mercury-containing ampules from mercury-containing equipment or seals mercury from mercury-containing equipment in its original housing must determine whether the following exhibit a characteristic of hazardous waste identified in Subpart C of 35 Ill. Adm. Code 721:
    - i) Mercury or clean-up residues resulting from spills or leaks; or
    - ii) Other solid waste generated as a result of the removal of mercury-containing ampules (e.g., the remaining mercury-containing equipment).
  - B) If the mercury, residues, or other solid waste exhibits a characteristic of hazardous waste, it must be managed in compliance with all applicable requirements of 35 Ill. Adm. Code 702 through 705 and 720 through 728. The handler is considered the generator of the mercury, residues, or other waste and must manage it in compliance with 35 Ill. Adm. Code 722.

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- C) If the mercury, residues, or other solid waste is not hazardous, the handler may manage the waste in any way that is in compliance with applicable federal, State, or local solid (non-hazardous) waste regulations.

BOARD NOTE: See generally the Act [\[415 ILCS 5\]](#) and 35 Ill. Adm. Code 807 through 817 to determine whether additional facility siting, special waste, or non-hazardous waste regulations apply to the waste. Consult the ordinances of relevant units of local government to determine whether local requirements apply.

- d) Lamps. A small quantity handler of universal waste must manage lamps in a manner that prevents releases of any universal waste or component of a universal waste to the environment, as follows:
- 1) A small quantity handler of universal waste lamps must contain all lamps in containers or packages that are structurally sound, adequate to prevent breakage, and compatible with the contents of the lamps. Such containers and packages must remain closed and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions;
  - 2) A small quantity handler of universal waste lamps must immediately clean up and place in a container any lamp that is broken, and the small quantity handler must place in a container any lamp that shows evidence of breakage, leakage, or damage that could cause the release of mercury or other hazardous constituents to the environment. Any container used must be closed, structurally sound, compatible with the contents of the lamps, and must lack evidence of leakage, spillage, or damage that could cause leakage or releases of mercury or other hazardous constituents to the environment under reasonably foreseeable conditions; and
  - 3) Small quantity handlers of universal waste lamps may treat those lamps for volume reduction at the site where they were generated under the following conditions:
    - A) The lamps must be crushed in a closed system designed and operated in such a manner that any emission of mercury from the



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crushing system must not exceed 0.1 mg/m<sup>3</sup> when measured on the basis of time weighted average over an eight-hour period;

- B) The handler must provide notification of crushing activity to the Agency quarterly, in a form as provided by the Agency. Such notification must include the following information:
- i) Name and address of the handler;
  - ii) Estimated monthly amount of lamps crushed; and
  - iii) The technology employed for crushing, including any certification or testing data provided by the manufacturer of the crushing unit verifying that the crushing device achieves the emission controls required in subsection (d)(5)(A) ~~of this Section~~;
- C) The handler immediately transfers any material recovered from a spill or leak to a container that meets the requirements of 35 Ill. Adm. Code 722.115~~134~~, and has available equipment necessary to comply with this requirement;
- D) The handler ensures that the area in which the lamps are crushed is well-ventilated and monitored to ensure compliance with applicable OSHA exposure levels for mercury;
- E) The handler ensures that employees crushing lamps are thoroughly familiar with proper waste mercury handling and emergency procedures, including transfer of mercury from containment devices to appropriate containers; and
- F) The crushed lamps are stored in closed, non-leaking containers that are in good condition (e.g., no severe rusting, apparent structural defects or deterioration), suitable to prevent releases during storage, handling, and transportation.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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**Section 733.114 Labeling and Marking**

A small quantity handler of universal waste must label or mark the universal waste to identify the type of universal waste, as follows:

- a) Universal waste batteries (i.e., each battery) or a container in which the batteries are contained must be labeled or marked clearly with any one of the following phrases: "Universal Waste – Batteries," "Waste Batteries," or "Used Batteries".
- b) A container (or multiple container package unit), tank, transport vehicle, or vessel in which recalled universal waste pesticides, as described in Section 733.103(a)(1), are contained must be labeled or marked clearly, as follows:
  - 1) The label that was on or accompanied the product as sold or distributed; and
  - 2) The words "Universal Waste – Pesticides" or "Waste – Pesticides."
- c) A container, tank, or transport vehicle, or vessel in which unused pesticide products, as described in Section 733.103(a)(2), are contained must be labeled or marked clearly, as follows:
  - 1) Pesticide labeling:
    - A) The label that was on the product when purchased, if still legible;
    - B) If using the labels described in subsection (c)(1)(A) ~~of this Section~~ is not feasible, the appropriate label as required under USDOT regulation 49 CFR 172 (Hazardous Materials Table, Special Provisions, Hazardous Materials Communications, Emergency Response Information, and Training Requirements), incorporated by reference in 35 Ill. Adm. Code 720.111(b); or
    - C) If using the labels described in subsections (c)(1)(A) and (c)(1)(B) ~~of this Section~~ is not feasible, another label prescribed or designated by the waste pesticide collection program administered or recognized by a state; and

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- 2) The words "Universal Waste – Pesticides" or "Waste – Pesticides."
- d) Universal waste mercury-containing equipment and universal waste thermostat labeling:
  - 1) Universal waste mercury-containing equipment (i.e., each device) or a container in which the equipment is contained must be labeled or marked clearly with any one of the following phrases: "Universal Waste – Mercury-Containing Equipment," or "Waste ~~MercuryMercuryMercury~~-Containing Equipment," or "Used Mercury-Containing Equipment."
  - 2) Universal waste thermostats (i.e., each thermostat) or a container in which the thermostats are contained must be labeled or marked clearly with any one of the following phrases: "Universal Waste – Mercury Thermostats," or "Waste Mercury Thermostats," or "Used Mercury Thermostats".
- e) Each lamp or a container or package in which such lamps are contained must be labeled or clearly marked with one of the following phrases: "Universal Waste – Lamps," "Waste Lamps" or "Used Lamps."

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 733.115 Accumulation Time Limits**

- a) A small quantity handler of universal waste may accumulate universal waste for no longer than one year from the date the universal waste is generated or received from another handler, unless the requirements of subsection (b) ~~of this Section~~ are met.
- b) A small quantity handler of universal waste may accumulate universal waste for longer than one year from the date the universal waste is generated or received from another handler if such activity is solely for the purpose of accumulation of such quantities of universal waste as are necessary to facilitate proper recovery, treatment, or disposal. However, the handler bears the burden of proving that such activity is solely for the purpose of accumulation of such quantities of universal waste as are necessary to facilitate proper recovery, treatment, or disposal.

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- c) A small quantity handler of universal waste that accumulates universal waste must be able to demonstrate the length of time that the universal waste has been accumulated from the date it becomes a waste or is received. The handler may make this demonstration in any of the following ways:
- 1) Placing the universal waste in a container and marking or labeling the container with the earliest date that any universal waste in the container became a waste or was received;
  - 2) Marking or labeling each individual item of universal waste (e.g., each battery or thermostat) with the date it became a waste or was received;
  - 3) Maintaining an on-site inventory system that identifies the date each universal waste became a waste or was received;
  - 4) Maintaining an on-site inventory system that identifies the earliest date that any universal waste in a group of universal waste items or a group of containers of universal waste became a waste or was received;
  - 5) Placing the universal waste in a specific accumulation area and identifying the earliest date that any universal waste in the area became a waste or was received; or
  - 6) Any other method that clearly demonstrates the length of time that the universal waste has been accumulated from the date it became a waste or was received.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 733.118 Off-Site Shipments**

- a) A small quantity handler of universal waste is prohibited from sending or taking universal waste to a place other than another universal waste handler, a destination facility, or a foreign destination.
- b) If a small quantity handler of universal waste self-transportes universal waste off-site, the handler becomes a universal waste transporter for those self-transportation activities and must comply with the transporter requirements of

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Subpart D ~~of this Part~~ while transporting the universal waste.

- c) If a universal waste being offered for off-site transportation meets the definition of hazardous material under USDOT regulation 49 CFR 171.8 (Definitions and Abbreviations), incorporated by reference in 35 Ill. Adm. Code 720.111(b), a small quantity handler of universal waste must package, label, mark, and placard the shipment and prepare the proper shipping papers in accordance with the applicable USDOT regulations under 49 CFR 171 (General Information, Regulations, and Definitions), 172 (Hazardous Materials Table, Special Provisions, Hazardous Materials Communications, Emergency Response Information, and Training Requirements), 173 (Shippers – General Requirements for Shipments and Packages), 174 (Carriage by Rail), 175 (Carriage by Aircraft), 176 (Carriage by Vessel), 177 (Carriage by Public Highway), 178 (Specifications for Packagings), 179 (Specifications for Tank Cars), and 180 (Continuing Qualification and Maintenance of Packagings), incorporated by reference in 35 Ill. Adm. Code 720.111(b).
- d) Prior to sending a shipment of universal waste to another universal waste handler, the originating handler must ensure that the receiving handler agrees to receive the shipment.
- e) If a small quantity handler of universal waste sends a shipment of universal waste to another handler or to a destination facility and the shipment is rejected by the receiving handler or destination facility, the originating handler must do either of the following:
  - 1) Receive the waste back when notified that the shipment has been rejected;  
or
  - 2) Agree with the receiving handler on a destination facility to which the shipment will be sent.
- f) A small quantity handler of universal waste may reject a shipment containing universal waste or a portion of a shipment containing universal waste that it has received from another handler. If a handler rejects a shipment or a portion of a shipment, it must contact the originating handler to notify the originating handler of the rejection and to discuss reshipment of the load. The handler must perform either of the following actions:

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- 1) Send the shipment back to the originating handler; or
  - 2) If agreed to by both the originating and receiving handler, send the shipment to a destination facility.
- g) If a small quantity handler of universal waste receives a shipment containing hazardous waste that is not a universal waste, the handler must immediately notify the Agency (Bureau of Land, Illinois EPA, 1021 North Grand Avenue East, Springfield, Illinois 62794-9276 (telephone: 217-782-6761)) of the illegal shipment, and provide the name, address, and phone number of the originating shipper. The Agency will provide instructions for managing the hazardous waste.
- h) If a small quantity handler of universal waste receives a shipment of non-hazardous, non-universal waste, the handler may manage the waste in any way that is in compliance with applicable federal, State, or local solid (non-hazardous) waste regulations.

BOARD NOTE: See generally the Act ~~[415 ILCS 5]~~ and 35 Ill. Adm. Code 807 through 817 to determine whether additional facility siting, special waste, or non-hazardous waste regulations apply to the waste. Consult the ordinances of relevant units of local government to determine whether local requirements apply.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 733.120 Exports**

A small quantity handler of universal waste that sends universal waste to a foreign destination ~~other than to those OECD countries specified in 35 Ill. Adm. Code 722.158(a)(1) (in which case the handler~~ is subject to the requirements of Subpart H of 35 Ill. Adm. Code 722.) ~~shall do the following:~~

- a) ~~Comply with the requirements applicable to a primary exporter in 35 Ill. Adm. Code 722.153; 722.156(a)(1) through (a)(4), (a)(6), and (b); and 722.157;~~
- b) ~~Export such universal waste only upon consent of the receiving country and in conformance with the USEPA Acknowledgement of Consent, as defined in Subpart E of 35 Ill. Adm. Code 722; and~~

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- e) ~~Provide a copy of the USEPA Acknowledgment of Consent for the shipment to the transporter transporting the shipment for export.~~

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART C: STANDARDS FOR LARGE QUANTITY HANDLERS

**Section 733.133 Waste Management**

- a) Universal waste batteries. A large quantity handler of universal waste must manage universal waste batteries in a manner that prevents releases of any universal waste or component of a universal waste to the environment, as follows:
- 1) A large quantity handler of universal waste must contain any universal waste battery that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions in a container. The container must be closed, structurally sound, compatible with the contents of the battery, and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.
  - 2) A large quantity handler of universal waste may conduct the following activities, as long as the casing of each individual battery cell is not breached and remains intact and closed (except that cells may be opened to remove electrolyte but must be immediately closed after removal):
    - A) Sorting batteries by type;
    - B) Mixing battery types in one container;
    - C) Discharging batteries so as to remove the electric charge;
    - D) Regenerating used batteries;
    - E) Disassembling batteries or battery packs into individual batteries or cells;

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- F) Removing batteries from consumer products; or
  - G) Removing electrolyte from batteries.
- 3) A large quantity handler of universal waste that removes electrolyte from batteries or that generates other solid waste (e.g., battery pack materials, discarded consumer products) as a result of the activities listed in subsection (a)(2) ~~of this Section~~ must determine whether the electrolyte or other solid waste exhibits a characteristic of hazardous waste identified in Subpart C of 35 Ill. Adm. Code 721.
- A) If the electrolyte or other solid waste exhibits a characteristic of hazardous waste, it must be managed in compliance with all applicable requirements of 35 Ill. Adm. Code 702 through 705 and 720 through 728. The handler is considered the generator of the hazardous electrolyte or other waste and is subject to 35 Ill. Adm. Code 722.
  - B) If the electrolyte or other solid waste is not hazardous, the handler may manage the waste in any way that is in compliance with applicable federal, State, or local solid (non-hazardous) waste regulations.

BOARD NOTE: See generally the Act ~~[415 ILCS 5]~~ and 35 Ill. Adm. Code 807 through 817 to determine whether additional facility siting, special waste, or non-hazardous waste regulations apply to the waste. Consult the ordinances of relevant units of local government to determine whether local requirements apply.

- b) Universal waste pesticides. A large quantity handler of universal waste must manage universal waste pesticides in a manner that prevents releases of any universal waste or component of a universal waste to the environment. The universal waste pesticides must be contained in one or more of the following:
  - 1) A container that remains closed, structurally sound, compatible with the pesticide, and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions;



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- 2) A container that does not meet the requirements of subsection (b)(1) ~~of this Section~~, provided that the unacceptable container is overpacked in a container that does meet the requirements of subsection (b)(1) ~~of this Section~~;
  - 3) A tank that meets the requirements of Subpart J of 35 Ill. Adm. Code 725, except for 35 Ill. Adm. Code 725.297(c), 725.300, and 725.301; or
  - 4) A transport vehicle or vessel that is closed, structurally sound, compatible with the pesticide, and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.
- c) Universal waste mercury-containing equipment. A large quantity handler of universal ~~waste~~ must manage universal waste mercury-containing equipment in a manner that prevents releases of any universal waste or component of a universal waste to the environment, as follows:
- 1) A large quantity handler of universal waste must place in a container any universal mercury-containing equipment with non-contained elemental mercury or that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions. The container must be closed; must be structurally sound; must be compatible with the contents of the device; must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions; and must be reasonably designed to prevent the escape of mercury into the environment by volatilization or any other means.
  - 2) A large quantity handler of universal waste may remove mercury-containing ampules from universal waste mercury-containing equipment, provided the handler follows each of the following procedures:
    - A) It removes the ampules in a manner designed to prevent breakage of the ampules;
    - B) It removes ampules only over or in a containment device (e.g., tray or pan sufficient to collect and contain any mercury released from an ampule in case of breakage);

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- C) It ensures that a mercury clean-up system is readily available to immediately transfer any mercury resulting from spills or leaks from broken ampules, from the containment device to a container that meets the requirements of 35 Ill. Adm. Code 722.~~115134~~;
  - D) It immediately transfers any mercury resulting from spills or leaks from broken ampules from the containment device to a container that meets the requirements of 35 Ill. Adm. Code 722.~~115134~~;
  - E) It ensures that the area in which ampules are removed is well ventilated and monitored to ensure compliance with applicable OSHA exposure levels for mercury;
  - F) It ensures that employees removing ampules are thoroughly familiar with proper waste mercury handling and emergency procedures, including transfer of mercury from containment devices to appropriate containers;
  - G) It stores removed ampules in closed, non-leaking containers that are in good condition; and
  - H) It packs removed ampules in the container with packing materials adequate to prevent breakage during storage, handling, and transportation.
- 3) A large quantity handler of universal waste mercury-containing equipment that does not contain an ampule may remove the open original housing holding the mercury from universal waste mercury-containing equipment provided the handler does as follows:
- A) It immediately seals the original housing holding the mercury with an air-tight seal to prevent the release of any mercury to the environment; and
  - B) It follows all requirements for removing ampules and managing removed ampules pursuant to subsection (c)(2)~~-of this Section~~.
- 4) Required hazardous waste determination and further waste management.

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- A) A large quantity handler of universal waste that removes mercury-containing ampules from mercury-containing equipment or seals mercury from mercury-containing equipment in its original housing must determine whether the following exhibit a characteristic of hazardous waste identified in Subpart C of 35 Ill. Adm. Code 721:
- i) Mercury or clean-up residues resulting from spills or leaks; or
  - ii) Other solid waste generated as a result of the removal of mercury-containing ampules (e.g., the remaining mercury-containing equipment).
- B) If the mercury, residues, or other solid waste exhibits a characteristic of hazardous waste, it must be managed in compliance with all applicable requirements of 35 Ill. Adm. Code 702 through 705 and 720 through 728. The handler is considered the generator of the mercury, residues, or other waste and must manage it in compliance with 35 Ill. Adm. Code 722.
- C) If the mercury, residues, or other solid waste is not hazardous, the handler may manage the waste in any way that is in compliance with applicable federal, State, or local solid (non-hazardous) waste regulations.

BOARD NOTE: See generally the Act ~~[415 ILCS 5]~~ and 35 Ill. Adm. Code 807 through 817 to determine whether additional facility siting, special waste, or non-hazardous waste regulations apply to the waste. Consult the ordinances of relevant units of local government to determine whether local requirements apply.

- d) Lamps. A large quantity handler of universal waste must manage lamps in a manner that prevents releases of any universal waste or component of a universal waste to the environment, as follows:
- 1) A large quantity handler of universal waste lamps must contain all lamps

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in containers or packages that are structurally sound, adequate to prevent breakage, and compatible with the contents of the lamps. Such containers and packages must remain closed and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions;

- 2) A large quantity handler of universal waste lamps must immediately clean up and place in a container any lamp that is broken, and the large quantity handler must place in a container any lamp that shows evidence of breakage, leakage, or damage that could cause the release of mercury or other hazardous constituents to the environment. Any container used must be closed, structurally sound, compatible with the contents of the lamps, and must lack evidence of leakage, spillage, or damage that could cause leakage or releases of mercury or other hazardous constituents to the environment under reasonably foreseeable conditions; and
- 3) Large quantity handlers of universal waste lamps may treat those lamps for volume reduction at the site where they were generated under the following conditions:
  - A) The lamps must be crushed in a closed system designed and operated in such a manner that any emission of mercury from the crushing system must not exceed  $0.1 \text{ mg/m}^3$  when measured on the basis of time weighted average over an 8-hour period;
  - B) The handler must provide notification of crushing activity to the Agency quarterly, in a form as provided by the Agency. Such notification must include the following information:
    - i) Name and address of the handler;
    - ii) Estimated monthly amount of lamps crushed; and
    - iii) The technology employed for crushing, including any certification or testing data provided by the manufacturer of the crushing unit verifying that the crushing device achieves the emission controls required in subsection (d)(5)(A) ~~of this Section~~;

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- C) The handler immediately transfers any material recovered from a spill or leak to a container that meets the requirements of 35 Ill. Adm. Code 722.115~~134~~, and has available equipment necessary to comply with this requirement;
- D) The handler ensures that the area in which the lamps are crushed is well-ventilated and monitored to ensure compliance with applicable OSHA exposure levels for mercury;
- E) The handler ensures that employees crushing lamps are thoroughly familiar with proper waste mercury handling and emergency procedures, including transfer of mercury from containment devices to appropriate containers; and
- F) The crushed lamps are stored in closed, non-leaking containers that are in good condition (e.g., no severe rusting, apparent structural defects or deterioration), suitable to prevent releases during storage, handling and transportation.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 733.134 Labeling and Marking**

A large quantity handler of universal waste must label or mark the universal waste to identify the type of universal waste, as follows:

- a) Universal waste batteries (i.e., each battery), or a container or tank in which the batteries are contained, must be labeled or marked clearly with any one of the following phrases: "Universal Waste – Batteries", "Waste Batteries", or "Used Batteries";
- b) A container (or multiple container package unit), tank, transport vehicle or vessel in which recalled universal waste pesticides as described in Section 733.103(a)(1) are contained must be labeled or marked clearly as follows:
  - 1) The label that was on or accompanied the product as sold or distributed; and

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- 2) The words "Universal Waste – Pesticides" or "Waste – Pesticides:".
- c) A container, tank, or transport vehicle or vessel in which unused pesticide products, as described in Section 733.103(a)(2), are contained must be labeled or marked clearly, as follows:
- 1) Pesticide labeling:
    - A) The label that was on the product when purchased, if still legible;
    - B) If using the labels described in subsection (c)(1)(A) ~~of this Section~~ is not feasible, the appropriate label as required pursuant to the USDOT regulation 49 CFR 172 (Hazardous Materials Table, Special Provisions, Hazardous Materials Communications, Emergency Response Information, and Training Requirements), incorporated by reference in 35 Ill. Adm. Code 720.111(b); or
    - C) If using the labels described in subsections (c)(1)(A) and (c)(1)(B) of this Section is not feasible, another label prescribed or designated by the pesticide collection program; and
  - 2) The words "Universal Waste – Pesticides" or "Waste – Pesticides:".
- d) Universal waste mercury-containing equipment and universal waste thermostat labeling:
- 1) Mercury-containing equipment (i.e., each device) or a container in which the equipment is contained must be labeled or marked clearly with any of the following phrases: "Universal Waste – Mercury-Containing Equipment;" "Waste Mercury-Containing Equipment;" or "Used Mercury-Containing Equipment:".
  - 2) A universal waste mercury-containing thermostat or a container containing only universal waste mercury-containing thermostats may be labeled or marked clearly with any one of the following phrases: "Universal Waste – Mercury Thermostats;" or "Waste Mercury Thermostats;" or "Used Mercury Thermostats".

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- e) Each lamp or a container or package in which such lamps are contained must be labeled or clearly marked with any one of the following phrases: "Universal Waste – Lamps;" "Waste Lamps;" or "Used Lamps;"

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 733.135 Accumulation Time Limits**

- a) A large quantity handler of universal waste may accumulate universal waste for no longer than one year from the date the universal waste is generated or received from another handler, unless the requirements of subsection (b) ~~of this Section~~ are met.
- b) A large quantity handler of universal waste may accumulate universal waste for longer than one year from the date the universal waste is generated or received from another handler if such activity is solely for the purpose of accumulation of such quantities of universal waste as necessary to facilitate proper recovery, treatment, or disposal. However, the handler bears the burden of proving that such activity was solely for the purpose of accumulation of such quantities of universal waste as necessary to facilitate proper recovery, treatment, or disposal.
- c) A large quantity handler of universal waste must be able to demonstrate the length of time that the universal waste has been accumulated from the date it becomes a waste or is received. The handler may make this demonstration in any of the following ways:
- 1) Placing the universal waste in a container and marking or labeling the container with the earliest date that any universal waste in the container became a waste or was received;
  - 2) Marking or labeling the individual item of universal waste (e.g., each battery or thermostat) with the date it became a waste or was received;
  - 3) Maintaining an on-site inventory system that identifies the date the universal waste being accumulated became a waste or was received;
  - 4) Maintaining an on-site inventory system that identifies the earliest date

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that any universal waste in a group of universal waste items or a group of containers of universal waste became a waste or was received;

- 5) Placing the universal waste in a specific accumulation area and identifying the earliest date that any universal waste in the area became a waste or was received; or
- 6) Any other method that clearly demonstrates the length of time that the universal waste has been accumulated from the date it became a waste or was received.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 733.138 Off-Site Shipments**

- a) A large quantity handler of universal waste is prohibited from sending or taking universal waste to a place other than another universal waste handler, a destination facility, or a foreign destination.
- b) If a large quantity handler of universal waste self-transportes universal waste off-site, the handler becomes a universal waste transporter for those self-transportation activities and must comply with the transporter requirements of Subpart D ~~of this Part~~ while transporting the universal waste.
- c) If a universal waste being offered for off-site transportation meets the definition of hazardous material under USDOT regulation 49 CFR 171.8 (Definitions and Abbreviations), incorporated by reference in 35 Ill. Adm. Code 720.111(b), a large quantity handler of universal waste must package, label, mark and placard the shipment, and prepare the proper shipping papers in accordance with the applicable USDOT regulations under 49 CFR 171 (General Information, Regulations, and Definitions), 172 (Hazardous Materials Table, Special Provisions, Hazardous Materials Communications, Emergency Response Information, and Training Requirements), 173 (Shippers – General Requirements for Shipments and Packages), 174 (Carriage by Rail), 175 (Carriage by Aircraft), 176 (Carriage by Vessel), 177 (Carriage by Public Highway), 178 (Specifications for Packagings), 179 (Specifications for Tank Cars), and 180 (Continuing Qualification and Maintenance of Packagings), incorporated by reference in 35 Ill. Adm. Code 720.111(b).



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- d) Prior to sending a shipment of universal waste to another universal waste handler, the originating handler must ensure that the receiving handler agrees to receive the shipment.
- e) If a large quantity handler of universal waste sends a shipment of universal waste to another handler or to a destination facility and the shipment is rejected by the receiving handler or destination facility, the originating handler must do either of the following:
  - 1) Receive the waste back when notified that the shipment has been rejected; or
  - 2) Agree with the receiving handler on a destination facility to which the shipment will be sent.
- f) A large quantity handler of universal waste may reject a shipment containing universal waste, or a portion of a shipment containing universal waste that it has received from another handler. If a handler rejects a shipment or a portion of a shipment, it must contact the originating handler to notify the originating handler of the rejection and to discuss reshipment of the load. The handler must perform either of the following actions:
  - 1) Send the shipment back to the originating handler; or
  - 2) If agreed to by both the originating and receiving handler, send the shipment to a destination facility.
- g) If a large quantity handler of universal waste receives a shipment containing hazardous waste that is not a universal waste, the handler must immediately notify the Agency (Bureau of Land, Illinois EPA, 1021 North Grand Avenue East, Springfield, Illinois 62794-9276 (telephone: 217-782-6761)) of the illegal shipment, and provide the name, address, and phone number of the originating shipper. The Agency will provide instructions for managing the hazardous waste.
- h) If a large quantity handler of universal waste receives a shipment of non-hazardous, non-universal waste, the handler may manage the waste in any way that is in compliance with applicable federal, State, or local solid (non-hazardous)

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waste regulations.

BOARD NOTE: See generally the Act ~~[415 ILCS 5]~~ and 35 Ill. Adm. Code 807 through 817 to determine whether additional facility siting, special waste, or non-hazardous waste regulations apply to the waste. Consult the ordinances of relevant units of local government to determine whether local requirements apply.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 733.139 Tracking Universal Waste Shipments**

- a) Receipt of shipments. A large quantity handler of universal waste must keep a record of each shipment of universal waste received at the facility. The record may take the form of a log, invoice, manifest, bill of lading, [movement document](#), or other shipping document. The record for each shipment of universal waste received must include the following information:
- 1) The name and address of the originating universal waste handler or foreign shipper from which the universal waste was sent;
  - 2) The quantity of each type of universal waste received (e.g., batteries, pesticides, thermostats, mercury-containing lamps);
  - 3) The date of receipt of the shipment of universal waste.
- b) Shipments off-site. A large quantity handler of universal waste must keep a record of each shipment of universal waste sent from the handler to other facilities. The record may take the form of a log, invoice, manifest, bill of lading, [movement document](#), or other shipping document. The record for each shipment of universal waste sent must include the following information:
- 1) The name and address of the universal waste handler, destination facility, or foreign destination to which the universal waste was sent;
  - 2) The quantity of each type of universal waste sent (e.g., batteries, pesticides, thermostats, mercury-containing lamps); and
  - 3) The date the shipment of universal waste left the facility.

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- c) Record retention.
- 1) A large quantity handler of universal waste must retain the records described in subsection (a) ~~of this Section~~ for at least three years from the date of receipt of a shipment of universal waste.
  - 2) A large quantity handler of universal waste must retain the records described in subsection (b) ~~of this Section~~ for at least three years from the date a shipment of universal waste left the facility.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 733.140 Exports**

A large quantity handler of universal waste that sends universal waste to a foreign destination ~~other than to those OECD countries specified in 35 Ill. Adm. Code 722.158(a)(1) (in which case the handler~~ is subject to the requirements of Subpart H of 35 Ill. Adm. Code 722.) ~~must do the following:~~

- a) ~~Comply with the requirements applicable to a primary exporter in 35 Ill. Adm. Code 722.153; 722.156(a)(1) through (a)(4), (a)(6), and (b); and 722.157;~~
- b) ~~Export such universal waste only upon consent of the receiving country and in conformance with the USEPA Acknowledgement of Consent, as defined in Subpart E of 35 Ill. Adm. Code 722; and~~
- e) ~~Provide a copy of the USEPA Acknowledgement of Consent for the shipment to the transporter transporting the shipment for export.~~

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART D: STANDARDS FOR UNIVERSAL WASTE TRANSPORTERS

**Section 733.151 Prohibitions**

- a) A universal waste transporter is prohibited from the following:

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- 1) Disposing of universal waste; and
  - 2) Diluting or treating universal waste, except by responding to releases as provided in Section 733.154 or as provided in subsection (b).
- b) Transporters of mercury containing universal waste lamps may treat mercury containing lamps for volume reduction at the site where they were generated under the following conditions:
- 1) The lamps must be crushed in a closed system designed and operated in such a manner that any emission of mercury from the crushing system must not exceed  $0.1 \text{ mg/m}^3$  when measured on the basis of time weighted average over an 8-hour period;
  - 2) The transporter must provide notification of crushing activity to the Agency quarterly, in a form as provided by the Agency. Such notification must include the following information:
    - A) Name and address of the transporter;
    - B) Estimated monthly amount of lamps crushed; and
    - C) The technology employed for crushing, including any certification or testing data provided by the manufacturer of the crushing unit verifying that the crushing device achieves the emission controls required in subsection (b)(1) ~~of this Section~~;
  - 3) The transporter immediately transfers any material recovered from a spill or leak to a container that meets the requirements of 35 Ill. Adm. Code 722.115+34, and has available equipment necessary to comply with this requirement;
  - 4) The transporter ensures that the area in which the lamps are crushed is well-ventilated and monitored to ensure compliance with applicable OSHA exposure levels for mercury;
  - 5) The transporter ensures that employees crushing lamps are thoroughly familiar with proper waste mercury handling and emergency procedures,

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including transfer of mercury from containment devices to appropriate containers; and

- 6) The crushed lamps are stored in closed, non-leaking containers that are in good condition (e.g., no severe rusting, apparent structural defects or deterioration), suitable to prevent releases during storage, handling and transportation.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 733.152 Waste Management**

- a) A universal waste transporter must comply with all applicable USDOT regulations in 49 CFR 171 (General Information, Regulations, and Definitions), 172 (Hazardous Materials Table, Special Provisions, Hazardous Materials Communications, Emergency Response Information, and Training Requirements), 173 (Shippers – General Requirements for Shipments and Packages), 174 (Carriage by Rail), 175 (Carriage by Aircraft), 176 (Carriage by Vessel), 177 (Carriage by Public Highway), 178 (Specifications for Packagings), 179 (Specifications for Tank Cars), and 180 (Continuing Qualification and Maintenance of Packagings), incorporated by reference in 35 Ill. Adm. Code 720.111(b) for transport of any universal waste that meets the definition of hazardous material in 49 CFR 171.8 (Definitions and Abbreviations), incorporated by reference in Section 720.111(b). For purposes of the USDOT regulations, a material is considered a hazardous waste if it is subject to the Hazardous Waste Manifest Requirements of 35 Ill. Adm. Code 722. Because universal waste does not require a hazardous waste manifest, it is not considered hazardous waste under the USDOT regulations.
- b) Some universal waste materials are regulated by the USDOT as hazardous materials because they meet the criteria for one or more hazard classes specified in 49 CFR 173.2 (Hazardous Materials Classes and Index to Hazard Class Definitions), incorporated by reference in Section 720.111(b). As universal waste shipments do not require a manifest under 35 Ill. Adm. Code 722, they may not be described by the USDOT proper shipping name "hazardous waste, (l) or (s), n.o.s.," nor may the hazardous material's proper shipping name be modified by adding the word "waste:".

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(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 733.153 Accumulation Time Limits**

- a) A universal waste transporter may only store the universal waste at a universal waste transfer facility for ten days or less.
- b) If a universal waste transporter stores universal waste for more than ten days, the transporter becomes a universal waste handler and must comply with the applicable requirements of Subpart B or C ~~of this Part~~ while storing the universal waste.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 733.156 Exports**

A universal waste transporter transporting a shipment of universal waste to a foreign destination ~~other than to those OECD countries specified in 35 Ill. Adm. Code 722.158(a)(1) (in which case the transporter is subject to the requirements of Subpart H of 35 Ill. Adm. Code 722.) may not accept a shipment if the transporter knows the shipment does not conform to the USEPA Acknowledgment of Consent. In addition the transporter must ensure the following:~~

- a) ~~A copy of the USEPA Acknowledgment of Consent accompanies the shipment; and~~
- b) ~~The shipment is delivered to the facility designated by the person initiating the shipment.~~

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART E: STANDARDS FOR DESTINATION FACILITIES

**Section 733.161 Off-Site Shipments**

- a) The owner or operator of a destination facility is prohibited from sending or taking universal waste to a place other than a universal waste handler, another destination facility, or a foreign destination.

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- b) The owner or operator of a destination facility may reject a shipment containing universal waste, or a portion of a shipment containing universal waste. If the owner or operator of the destination facility rejects a shipment or a portion of a shipment, it must contact the shipper to notify the shipper of the rejection and to discuss reshipment of the load. The owner or operator of the destination facility must perform either of the following actions:
- 1) Send the shipment back to the original shipper; or
  - 2) If agreed to by both the shipper and the owner or operator of the destination facility, send the shipment to another destination facility.
- c) If the owner or operator of a destination facility receives a shipment containing hazardous waste that is not a universal waste, the owner or operator of the destination facility must immediately notify the Agency (Bureau of Land, Illinois EPA, 1021 North Grand Avenue East, Springfield, Illinois 62794-9276 (telephone: 217-782-6761)) of the illegal shipment, and provide the name, address, and phone number of the shipper. The Agency will provide instructions for managing the hazardous waste.
- d) If the owner or operator of a destination facility receives a shipment of non-hazardous, non-universal waste, the owner or operator may manage the waste in any way that is in compliance with applicable federal or State solid (non-hazardous) waste regulations.

BOARD NOTE: See generally the Act ~~[415 ILCS 5]~~ and 35 Ill. Adm. Code 807 through 817 to determine whether additional facility siting, special waste, or non-hazardous waste regulations apply to the waste. Consult the ordinances of relevant units of local government to determine whether local requirements apply.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 733.162 Tracking Universal Waste Shipments**

- a) The owner or operator of a destination facility must keep a record of each shipment of universal waste received at the facility. The record may take the form of a log, invoice, manifest, bill of lading, [movement document](#), or other shipping document. The record for each shipment of universal waste received

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must include the following information:

- 1) The name and address of the universal waste handler, destination facility, or foreign shipper from which the universal waste was sent;
  - 2) The quantity of each type of universal waste received (e.g., batteries, pesticides, thermostats, mercury-containing lamps); and
  - 3) The date of receipt of the shipment of universal waste.
- b) The owner or operator of a destination facility must retain the records described in subsection (a) ~~of this Section~~ for at least three years from the date of receipt of a shipment of universal waste.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART F: IMPORT REQUIREMENTS

**Section 733.170 Imports**

Persons managing universal waste that is imported from a foreign country into the United States are subject to the requirements of Subpart H of 35 Ill. Adm. Code 722 and the applicable requirements of this Part immediately after the waste enters the United States, as indicated in subsections (a) through (c) ~~of this Section~~:

- a) A universal waste transporter is subject to the universal waste transporter requirements of Subpart D ~~of this Part~~.
- b) A universal waste handler is subject to the small or large quantity handler of universal waste requirements of Subpart B or C ~~of this Part~~, as applicable.
- c) An owner or operator of a destination facility is subject to the destination facility requirements of Subpart E ~~of this Part~~.
- d) ~~Persons managing universal waste that is imported from an OECD country as specified in 35 Ill. Adm. Code 722.158(a)(1) are subject to subsections (a) through (c) of this Section, in addition to the requirements of 35 Ill. Adm. Code 722.~~



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(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART G: PETITIONS TO INCLUDE OTHER WASTES

**Section 733.180 General**

- a) Any person seeking to add a hazardous waste or a category of hazardous waste to this Part may petition for a regulatory amendment as follows:
- 1) If USEPA has already added the waste or category of waste to federal 40 CFR 273: by identical-in-substance rulemaking, under Sections 7.2 and 22.4(a) of the Act ~~[415 ILCS 5/7.2 and 22.4(a)]~~, 35 Ill. Adm. Code 101 and 102, and 35 Ill. Adm. Code 720.120; or
  - 2) If USEPA has not added the waste or category of waste to federal 40 CFR 273: by general rulemaking, under Sections 22.4(b) and 27 of the Act ~~[415 ILCS 5/22.4(b) and 27]~~, 35 Ill. Adm. Code 101 and 102, this Subpart G, and 35 Ill. Adm. Code 720.120 and 720.123.

BOARD NOTE: The Board cannot add a hazardous waste or category of hazardous waste to this Part by general rulemaking until USEPA either authorizes the Illinois universal waste regulations or otherwise authorizes the Board to add new categories of universal waste. The Board may, however, add a waste or category of waste by identical-in-substance rulemaking.

- b) Petitions for identical-in-substance rulemaking.
- 1) Any petition for identical-in-substance rulemaking under subsection (a)(1) ~~of this Section~~ must include a copy of the Federal Register notices of adopted amendments in which USEPA promulgated the additions to federal 40 CFR 273. The Board will evaluate any petition for identical-in-substance rulemaking based on the Federal Register notices.
  - 2) If the petitioner desires expedited Board consideration of the proposed amendments to this Part (i.e., adoption within one year of the date of the Federal Register notice), it must explicitly request expedited consideration and set forth the arguments in favor of such consideration.

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- c) Petitions for general rulemaking.
- 1) To be successful using the general rulemaking procedure under subsection (a)(2) ~~of this Section~~, the petitioner must demonstrate to the satisfaction of the Board that each of the following would be true of regulation under the universal waste regulations of this Part:
    - A) It would be appropriate for the waste or category of waste;
    - B) It would improve management practices for the waste or category of waste; and
    - C) It would improve implementation of the hazardous waste program.
  - 2) The petition must include the information required by 35 Ill. Adm. Code 720.120(b). The petition should also address as many of the factors listed in Section 733.181 as are appropriate for the waste or waste category addressed in the petition.
  - 3) The Board will evaluate petitions for general rulemaking and grant or deny the requested relief using the factors listed in Section 733.181. The decision will be based on the weight of evidence showing that regulation under this Part would fulfill the requirements of subsection (c)(1) ~~of this Section~~.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 733.181 Factors for Petitions to Include Other Wastes**

- a) Hazardous waste listing or characteristics. The waste or category of waste, as generated by a wide variety of generators, is listed in Subpart D of 35 Ill. Adm. Code 721, or (if not listed) a proportion of the waste stream exhibits one or more characteristics of hazardous waste identified in Subpart C of 35 Ill. Adm. Code 721. (When a characteristic waste is added to the universal waste regulations of this Part by using a generic name to identify the waste category (e.g., batteries), the definition of universal waste in 35 Ill. Adm. Code 720.110 and Section 733.109 will be amended to include only the hazardous waste portion of the waste

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category (e.g., hazardous waste batteries.) Thus, only the portion of the waste stream that does exhibit one or more characteristics (i.e., is hazardous waste) is subject to the universal waste regulations of this Part;

- b) Generation by a wide variety of types of facilities. The waste or category of waste is not exclusive to a specific industry or group of industries, is commonly generated by a wide variety of types of establishments (including, for example, households, retail and commercial businesses, office complexes, ~~VSQGs~~conditionally exempt small quantity generators, small businesses, or government organizations, as well as large industrial facilities);
- c) Generation by a large number of generators. The waste or category of waste is generated by a large number of generators (e.g., more than 1,000 nationally) and is frequently generated in relatively small quantities by each generator;
- d) Collection systems to ensure close stewardship. Systems to be used for collecting the waste or category of waste (including packaging, marking, and labeling practices) would ensure close stewardship of the waste;
- e) Waste management standards and risk to human health and the environment. The risk posed by the waste or category of waste during accumulation and transport is relatively low compared to other hazardous wastes, and specific management standards proposed or referenced by the petitioner (e.g., waste management requirements appropriate to be added to Sections 733.113, 733.133, and 733.152; or applicable USDOT requirements) would be protective of human health and the environment during accumulation and transport;
- f) Increased likelihood of diversion of waste from non-hazardous waste management systems. Regulation of the waste or category of waste pursuant to this Part will increase the likelihood that the waste will be diverted from non-hazardous waste management systems (e.g., the municipal waste stream, non-hazardous industrial or commercial waste stream, municipal sewer, or stormwater systems) to recycling, treatment, or disposal in compliance with Subtitle C of RCRA (42 USC 6921-6939e);
- g) Improved implementation of the hazardous waste program. Regulation of the waste or category of waste pursuant to this Part will improve implementation of and compliance with the hazardous waste regulatory program; or

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h) Such other factors as may be appropriate.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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- 1) Heading of the Part: Hazardous Waste Injection Restrictions
- 2) Code Citation: 35 Ill. Adm. Code 738
- 3) 

<u>Section Numbers</u> :	<u>Proposed Actions</u> :
738.101	Amendment
738.102	Amendment
738.103	Amendment
738.104	Amendment
738.110	Amendment
738.111	Amendment
738.112	Amendment
738.114	Amendment
738.115	Amendment
738.116	Amendment
738.117	Amendment
738.118	Amendment
738.120	Amendment
738.121	Amendment
738.122	Amendment
738.123	Amendment
738.124	Amendment
- 4) Statutory Authority: 415 ILCS 5/7.2, 22.4, and 27
- 5) A Complete Description of the Subjects and Issues Involved: The amendments to Part 738 are a single segment of the consolidated docket R17-14/R17-15/R18-11/R18-31 rulemaking that also affects 35 Ill. Adm. Code 702, 704, 705, 720 through 728, 730, 733, 739, and 810 through 812. Due to the extreme volume of the consolidated docket, each Part is covered by a notice in four separate issues of the *Illinois Register*. Included in this issue are 35 Ill. Adm. Code 730, 733, 738, 739, and 810 through 812. To save space, a more detailed description of the subjects and issues involved in the consolidated docket R17-14/R17-15/R18-11/R18-31 rulemaking in this issue of the *Illinois Register* only in the answer to question 5 in the Notice of Adopted Amendments for 35 Ill. Adm. Code 730. A comprehensive description is contained in the Board's opinion and order of March 3, 2016, proposing amendments in docket R16-7, which opinion and order is available from the address below.

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Specifically, the amendments to Part 738 incorporate elements of the Generator Improvements Rule. The Board makes several needed corrections in the text of the rules.

Tables appear in a document entitled "Identical-in-Substance Rulemaking Addendum (Proposed)" that the Board added to consolidated docket R17-14/R17-15/R18-11/R18-31. The tables list the deviations from the literal text of the federal amendments and the several necessary corrections and stylistic revisions not directly derived from USEPA actions. Persons interested in the details of those deviations from the literal text should refer to the Identical-in-Substance Rulemaking Addendum (Proposed) in consolidated docket R17-14/R17-15/R18-11/R18-31.

Section 22.4 of the Environmental Protection Act [415 ILCS 5/22.4] provides that Section 5-35 of the Illinois Administrative Procedure Act [5 ILCS 100/5-35] does not apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the IAPA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules (JCAR).

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Does 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: These proposed amendments do not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comment on this proposal for a period of 45 days after the date of this publication. Comments should reference consolidated docket R17-14/R17-15/R18-11/R18-31 and be addressed to:

Don A. Brown, Clerk

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

Please direct inquiries to the following person and reference consolidated docket R17-14/R17-15/R18-11/R18-31:

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

312/814-6924  
email: michael.mccambridge@illinois.gov

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

13) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities, and not-for-profit corporations affected: This rulemaking may affect those small businesses, small municipalities, and not-for-profit corporations disposing of industrial wastewaters into the sewage collection system of a publicly owned treatment works. These proposed amendments do not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- B) Reporting, bookkeeping or other procedures required for compliance: The existing rules and proposed amendments require extensive reporting, bookkeeping and other procedures, including the preparation of manifests and annual reports, waste analyses and maintenance of operating records. These proposed amendments do not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- C) Types of professional skills necessary for compliance: Compliance with the existing rules and proposed amendments may require the services of an attorney,

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certified public accountant, chemist and registered professional engineer. These proposed amendments do not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].

- 14) Regulatory Agenda on which this rulemaking was summarized: January 2017 and January 2018

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



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TITLE 35: ENVIRONMENTAL PROTECTION  
SUBTITLE G: WASTE DISPOSAL  
CHAPTER I: POLLUTION CONTROL BOARD  
SUBCHAPTER c: HAZARDOUS WASTE OPERATING REQUIREMENTSPART 738  
HAZARDOUS WASTE INJECTION RESTRICTIONS

## SUBPART A: GENERAL

Section	
738.101	Purpose, Scope, and Applicability
738.102	Definitions
738.103	Dilution Prohibited as a Substitute for Treatment
738.104	Case-by-Case Extensions of an Effective Date
738.105	Waste Analysis
738.106	Electronic Reporting

## SUBPART B: PROHIBITIONS ON INJECTION

Section	
738.110	Waste-Specific Prohibitions: Solvent Wastes
738.111	Waste-Specific Prohibitions: Dioxin-Containing Wastes
738.112	Waste-Specific Prohibitions: California List Wastes
738.114	Waste-Specific Prohibitions: First Third Wastes
738.115	Waste-Specific Prohibitions: Second Third Wastes
738.116	Waste-Specific Prohibitions: Third Third Wastes
738.117	Waste-Specific Prohibitions: Newly-Listed Wastes
738.118	Waste-Specific prohibitions: Newly-Listed and Identified Wastes

## SUBPART C: PETITION STANDARDS AND PROCEDURES

Section	
738.120	Petitions to Allow Injection of a Prohibited Waste
738.121	Required Information to Support Petitions
738.122	Submission, Review, and Approval or Denial of Petitions
738.123	Review of Adjusted Standards
738.124	Termination of Approved Petition

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AUTHORITY: Implementing Sections 7.2 and 22.4 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/7.2, 22.4, and 27].

SOURCE: Adopted in R89-2 at 14 Ill. Reg. 3059, effective February 20, 1990; amended in R89-11 at 14 Ill. Reg. 11948, effective July 9, 1990; amended in R90-14 at 15 Ill. Reg. 11425, effective July 24, 1991; amended in R92-13 at 17 Ill. Reg. 6190, effective April 5, 1993; amended in R93-6 at 17 Ill. Reg. 15641, effective September 14, 1993; amended in R95-4 at 19 Ill. Reg. 9501, effective June 27, 1995; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 238, effective December 16, 1997; amended in R97-21/R98-3/R98-5 at 22 Ill. Reg. 17486, effective September 28, 1998; amended in R98-21/R99-2/R99-7 at 23 Ill. Reg. 1695, effective January 19, 1999; amended in R00-11/R01-1 at 24 Ill. Reg. 18576, effective December 7, 2000; amended in R01-21/R01-23 at 25 Ill. Reg. 9161, effective July 9, 2001; amended in R02-1/R02-12/R02-17 at 26 Ill. Reg. 6835, effective April 22, 2002; amended in R06-5/R06-6/R06-7 at 30 Ill. Reg. 4053, effective February 23, 2006; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 1407, effective December 20, 2006; amended in R17-14/R17-15/R18-12 at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART A: GENERAL

**Section 738.101 Purpose, Scope, and Applicability**

- a) This Part identifies hazardous wastes that are restricted from disposal into Class I injection wells and defines those circumstances under which a waste, otherwise prohibited from injection, may be injected.
- b) The requirements of this Part apply to owners or operators of ~~the following~~ Class I hazardous waste injection wells used to inject hazardous waste.:
  - 1) ~~Hazardous waste injection wells that are used to inject hazardous waste;~~  
~~and~~
  - 2) ~~Injection wells that are used to inject wastes that once exhibited a prohibited characteristic of hazardous waste identified in Subpart C of 35 Ill. Adm. Code 721, at the point of generation, and which no longer exhibit the characteristic at the point of injection.~~
- c) Wastes otherwise prohibited from injection may continue to be injected under any

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of the following circumstances:

- 1) If USEPA has granted an extension from the effective date of a prohibition, as described in Section 738.104; or
  - 2) If the Board has granted an adjusted standard in response to a petition filed under Section 738.120; or
  - 3) If the waste is generated by a conditionally exempt small quantity generator, as defined in 35 Ill. Adm. Code [720.110721-105](#).
- d) A waste that is hazardous only because it exhibits a characteristic of hazardous waste and which is otherwise prohibited from injection under this Part or 35 Ill. Adm. Code 728 is not prohibited from injection if the following is true of the waste:
- 1) It is disposed into a non-hazardous or hazardous waste injection well, as defined under 35 Ill. Adm. Code 730.106(a); and
  - 2) It does not exhibit any prohibited characteristic of hazardous waste identified in Subpart C of 35 Ill. Adm. Code 721 at the point of injection.

BOARD NOTE: Derived from 40 CFR 148.1 [\(2017\)\(2005\)](#).

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 738.102 Definitions**

"Injection interval" means that part of the injection zone in which the well is screened or in which the waste is otherwise directly emplaced.

"Transmissive fault or fracture" is a fault or fracture that has sufficient permeability and vertical extent to allow fluids to move between formations.

"USEPA hazardous waste number" means the number assigned by USEPA pursuant to each hazardous waste listed in Subpart D of 35 Ill. Adm. Code 721 and to each characteristic identified in Subpart C of 35 Ill. Adm. Code 721.

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BOARD NOTE: Derived from 40 CFR 148.2 ~~(2017)~~(2005).

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 738.103 Dilution Prohibited as a Substitute for Treatment**

- a) The provisions of 35 Ill. Adm. Code 728.103 apply to owners or operators of Class I hazardous waste injection wells ~~used to inject a waste that is hazardous at the point of generation whether or not the waste is hazardous at the point of injection.~~
- b) ~~The owner or operator of a Class I non-hazardous waste injection well that injects waste formerly exhibiting a hazardous characteristic that has been removed by dilution may address underlying hazardous constituents by treating the hazardous waste, by obtaining an exemption pursuant to a petition filed under Section 738.120, or by complying with the provisions set forth in 35 Ill. Adm. Code 728.109.~~

BOARD NOTE: Derived from 40 CFR 148.3 ~~(2017)~~(2005).

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 738.104 Case-by-Case Extensions of an Effective Date**

The owner or operator of a Class I hazardous ~~or non-hazardous~~ waste injection well may submit an application to USEPA for an extension of the effective date of any applicable prohibition established under Subpart B ~~of this Part~~ pursuant to 40 CFR 268.5. Any extension that is granted by USEPA will be deemed an extension of the effective date of the derivative Board rule.

BOARD NOTE: Derived from 40 CFR 148.4 ~~(2017)~~(2005).

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART B: PROHIBITIONS ON INJECTION

**Section 738.110 Waste-Specific Prohibitions: Solvent Wastes**

- a) The spent solvent wastes specified in 35 Ill. Adm. Code 721.131 by the following

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USEPA hazardous waste numbers are prohibited from underground injection: F001, F002, F003, F004, and F005.

- b) The requirements of subsection (a) ~~of this Section~~ do not apply under any of the following circumstances:
- 1) If the waste meets or is treated to meet the standards of Subpart D of 35 Ill. Adm. Code 728; or
  - 2) If the Board has granted an adjusted standard in response to a petition under Subpart C ~~of this Part~~; or
  - 3) During the period of extension of the applicable effective date if an extension has been granted by USEPA as referenced in Section 738.104.

BOARD NOTE: Derived from 40 CFR 148.10 ~~(2005)~~ (2017).

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 738.111 Waste-Specific Prohibitions: Dioxin-Containing Wastes**

- a) The dioxin-containing wastes specified in 35 Ill. Adm. Code 721.131 by the following USEPA hazardous waste numbers are prohibited from underground injection: F020, F021, F022, F023, F026, F027, and F028.
- b) The requirements of subsection (a) ~~of this Section~~ do not apply under any of the following circumstances:
- 1) If the waste meets or is treated to meet the standards of Subpart D of 35 Ill. Adm. Code 728; or
  - 2) If the Board has granted an adjusted standard in response to a petition under Subpart C ~~of this Part~~; or
  - 3) During the period of extension of the applicable effective date, if an extension has been granted by USEPA as referenced in Section 738.104.

BOARD NOTE: Derived from 40 CFR 148.11 ~~(2005)~~ (2017).

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(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 738.112 Waste-Specific Prohibitions: California List Wastes**

- a) The hazardous wastes listed in 35 Ill. Adm. Code 728.132 containing polychlorinated biphenyls at concentrations greater than or equal to 50 ppm or halogenated organic compounds at concentrations greater than or equal to 10,000 mg/kg are prohibited from underground injection.
- b) The following hazardous wastes are prohibited from underground injection:
  - 1) Liquid hazardous wastes, including free liquids associated with any solid or sludge, containing free cyanides at concentrations greater than or equal to 1,000mg/ℓ;
  - 2) Liquid hazardous wastes, including free liquids associated with any solid or sludge, containing the following metals (or elements) or compounds of these metals (or elements) at concentrations greater than or equal to those specified below:
    - A) Arsenic or compounds (as As) 500 mg/ℓ;
    - B) Cadmium or compounds (as Cd) 100 mg/ℓ;
    - C) Chromium (VI) or compounds (as Cr VI) 500 mg/ℓ;
    - D) Lead or compounds (as Pb) 500 mg/ℓ;
    - E) Mercury or compounds (as Hg) 20 mg/ℓ;
    - F) Nickel or compounds (as Ni) 134 mg/ℓ;
    - G) Selenium or compounds (as Se) 100 mg/ℓ; and
    - H) Thallium or compounds (as Tl) 130 mg/ℓ;
  - 3) Liquid hazardous waste having a pH less than or equal to two (2.0); and

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- 4) Hazardous wastes containing halogenated organic compounds in total concentration less than 10,000 mg/kg but greater than or equal to 1,000 mg/kg.
- c) The requirements of subsections (a) and (b) ~~of this Section~~ do not apply under any of the following circumstances:
  - 1) If the waste meets or is treated to meet the applicable standards specified in Subpart D of 35 Ill. Adm. Code 728; or
  - 2) If the Board has granted an adjusted standard in response to a petition under Subpart C ~~of this Part~~; or
  - 3) During the period of extension of the applicable effective date, if an extension is granted by USEPA as referenced in Section 738.104.

BOARD NOTE: Derived from 40 CFR 148.12 ~~(2005)~~ (2017).

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 738.114 Waste-Specific Prohibitions: First Third Wastes**

- a) Prohibitions.
  - 1) The wastes specified in 35 Ill. Adm. Code 721.131 by the following USEPA hazardous waste numbers are prohibited from underground injection: F006 (wastewaters and nonwastewaters), F008, F009, F019.
  - 2) The wastes specified in 35 Ill. Adm. Code 721.132 by the following USEPA hazardous waste numbers are prohibited from underground injection: K001, K004, K008, K015 (wastewaters and nonwastewaters), K016 (at concentrations greater than or equal to one percent), K017, K018, K019, K020, K021 (wastewaters, and nonwastewaters generated by the process described in the waste listing description, and not those generated in the course of treating wastewater forms of these wastes), K022 (wastewaters and nonwastewaters), K024, K030, K031, K035, K036 (wastewaters, and nonwastewaters generated by the process described in

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the waste listing description, and not those generated in the course of treating wastewater forms of these wastes), K037, K044, K045, K046 (wastewaters and nonwastewaters), K047, K048, K049, K050, K051, K052, K060 (wastewaters, and nonwastewaters generated by the process described in the waste listing description, and not those generated in the course of treating wastewater forms of these wastes), K061 (wastewaters and nonwastewaters), K062, K069 (calcium sulfate nonwastewaters; all wastewaters; and noncalcium sulfate nonwastewaters generated by the process described in the waste listing description, and not those generated in the course of treating wastewater forms of these wastes), K071, K073, K083, K084, K085, K086, K087, K099, K101 (all wastewaters and nonwastewaters), K102 (all wastewaters and nonwastewaters), K103, K104, and K106.

- 3) The wastes specified in 35 Ill. Adm. Code 721.133 by the following USEPA hazardous waste numbers are prohibited from underground injection: P001, P004, P005, P010, P011, P012, P015, P016, P018, P020, P030, P036, P037, P039, P041, P048, P050, P058, P059, P063, P068, P069, P070, P071, P081, P082, P084, P087, P089, P092, P094, P097, P102, P105, P108, P110, P115, P120, P122, P123, U007, U009, U010, U012, U016, U018, U019, U022, U029, U031, U036, U037, U041, U043, U044, U046, U050, U051, U053, U061, U063, U064, U066, U067, U074, U077, U078, U086, U089, U103, U105, U108, U115, U122, U124, U129, U130, U133, U134, U137, U151, U154, U155, U157, U158, U159, U171, U177, U180, U185, U188, U192, U200, U209, U210, U211, U219, U220, U221, U223, U226, U227, U228, U237, U238, U248, and U249.
- b) The wastes specified in 35 Ill. Adm. Code 721.132 by the following USEPA hazardous waste number are prohibited from underground injection: K016 (at concentrations less than one percent).
- c) Prohibitions.
  - 1) The wastes specified in 35 Ill. Adm. Code 721.131 by the following USEPA hazardous waste number are prohibited from underground injection: F007.



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- 2) The wastes specified in 35 Ill. Adm. Code 721.132 by the following USEPA hazardous waste numbers are prohibited from underground injection: K011 (nonwastewaters) and K013 (nonwastewaters).
- d) The wastes specified in 35 Ill. Adm. Code 721.132 by the following USEPA hazardous waste numbers are prohibited from underground injection: K011 (wastewaters), K013 (wastewaters), and K014.
- e) The requirements of subsections (a) through (d) ~~of this Section~~ do not apply under any of the following circumstances:
  - 1) If the waste meets or is treated to meet the applicable standards specified in Subpart D of 35 Ill. Adm. Code 728; or
  - 2) If the Board has granted an adjusted standard in response to a petition by USEPA as referenced in Subpart C ~~of this Part~~; or
  - 3) During the period of extension of the applicable effective date, if an extension is granted by USEPA as referenced in Section 738.104.

BOARD NOTE: Derived from 40 CFR 148.14 ~~(2005)~~ (2017).

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 738.115 Waste-Specific Prohibitions: Second Third Wastes**

- a) Prohibitions.
  - 1) The wastes specified in 35 Ill. Adm. Code 721.131 by the following USEPA hazardous waste numbers are prohibited from underground injection: F010 and F024.
  - 2) The wastes specified in 35 Ill. Adm. Code 721.132 by the following USEPA hazardous waste numbers are prohibited from underground injection: K009 (nonwastewaters), K010, K025 (wastewaters, and nonwastewaters generated by the process described in the waste listing description, and not those generated in the course of treating wastewater forms of these wastes), K027, K028, K029 (wastewaters and

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nonwastewaters), K038, K039, K040, K041, K042, K043, K095 (wastewaters and nonwastewaters), K096 (wastewaters and nonwastewaters), K097, K098, K105, K113, K114, K115, and K116.

- 3) The wastes specified in 35 Ill. Adm. Code 721.133 by the following USEPA hazardous waste numbers are prohibited from underground injection: P002, P003, P007, P008, P014, P026, P027, P029, P040, P043, P044, P049, P054, P057, P060, P062, P066, P067, P072, P074, P085, P098, P104, P106, P107, P111, P112, P113, P114, U002, U003, U005, U008, U011, U014, U015, U020, U021, U023, U025, U026, U028, U032, U035, U047, U049, U057, U058, U059, U060, U062, U070, U073, U080, U083, U092, U093, U094, U095, U097, U098, U099, U101, U106, U107, U109, U110, U111, U114, U116, U119, U127, U128, U131, U135, U138, U140, U142, U143, U144, U146, U147, U149, U150, U161, U162, U163, U164, U165, U168, U169, U170, U172, U173, U174, U176, U178, U179, U189, U193, U196, U203, U205, U206, U208, U213, U214, U215, U216, U217, U218, U235, U239, and U244.
- b) The wastes specified in 35 Ill. Adm. Code 721.131 by the following USEPA hazardous waste numbers are prohibited from underground injection pursuant to the treatment standards specified in 35 Ill. Adm. Code 728.141 and 728.143 applicable to F011 and F012 wastewaters and nonwastewaters: F011 (nonwastewaters) and F012 (nonwastewaters).
- c) The wastes specified in 35 Ill. Adm. Code 721.132 by the following USEPA hazardous waste number are prohibited from underground injection: K009 (wastewaters).
- d) The requirements of subsections (a) through (c) ~~of this Section~~ do not apply under any of the following circumstances:
  - 1) If the waste meets or is treated to meet the applicable standards specified in Subpart D of 35 Ill. Adm. Code 728; or
  - 2) If the Board has granted an adjusted standard in response to a petition under Subpart C ~~of this Part~~; or

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- 3) During the period of extension of the applicable effective date, if an extension is granted by USEPA as referenced in Section 738.104.

BOARD NOTE: Derived from 40 CFR 148.15 (2017)~~(2005)~~.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 738.116 Waste-Specific Prohibitions: Third Third Wastes**

- a) Prohibitions.
  - 1) The wastes specified in 35 Ill. Adm. Code 721.131 by the following USEPA hazardous waste numbers are prohibited from underground injection: F025 and F039 (nonwastewaters).
  - 2) The wastes specified in 35 Ill. Adm. Code 721.132 by the following USEPA hazardous waste numbers are prohibited from underground injection: K002, K003, K005 (wastewaters and nonwastewaters), K006, K007 (wastewaters and nonwastewaters), K023, K026, K032, K033, K034, K093, K094, and K100.
  - 3) The wastes specified in 35 Ill. Adm. Code 721.133 by the following USEPA hazardous waste numbers are prohibited from underground injection: P006, P009, P013, P017, P021, P022, P023, P024, P028, P031, P033, P034, P038, P042, P045, P046, P047, P051, P056, P064, P065, P073, P075, P076, P077, P078, P088, P093, P095, P096, P099, P101, P103, P109, P116, P118, P119, P121, U001, U004, U006, U017, U024, U027, U030, U033, U034, U038, U039, U042, U045, U048, U052, U055, U056, U068, U069, U071, U072, U075, U076, U079, U081, U082, U084, U085, U087, U088, U090, U091, U096, U102, U112, U113, U117, U118, U120, U121, U123, U125, U126, U132, U136, U141, U145, U148, U152, U153, U156, U160, U166, U167, U181, U182, U183, U184, U186, U187, U190, U191, U194, U197, U201, U202, U204, U207, U222, U225, U234, U236, U240, U243, U246, and U247.
  - 4) The wastes specified in 35 Ill. Adm. Code 721.121 or 721.124 by characteristic alone and designated by the following USEPA hazardous waste numbers are prohibited from underground injection: D001, D004,

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D005, D006, D008, D009 (wastewaters), D010, D011, D012, D013, D014, D015, D016, and D017.

- b) Mixed radioactive and hazardous wastes in 35 Ill. Adm. Code 728.110, 728.111, and 728.112, which are mixed radioactive and hazardous wastes, are prohibited from underground injection.
- c) Prohibitions.
- 1) The wastes specified in 35 Ill. Adm. Code 721.131 by the following USEPA hazardous waste number are prohibited from underground injection: F039 ~~(wastewaters)~~~~(nonwastewaters)~~.
  - 2) The wastes specified in 35 Ill. Adm. Code 721.122, 721.123, or 721.124 as hazardous based on a characteristic alone and designated by the following USEPA hazardous waste numbers are prohibited from underground injection: D002 (wastewaters and nonwastewaters), D003 (wastewaters and nonwastewaters), D007 (wastewaters and nonwastewaters), and D009 (nonwastewaters).
- d) The requirements of subsections (a) through (c) ~~of this Section~~ do not apply under any of the following circumstances:
- 1) If the waste meets or is treated to meet the applicable standards specified in Subpart D of 35 Ill. Adm. Code 728; or
  - 2) If the Board has granted an adjusted standard in response to a petition under Subpart C ~~of this Part~~; or
  - 3) During the period of extension of the applicable effective date, if an extension is granted by USEPA as referenced in Section 738.104.

BOARD NOTE: Derived from 40 CFR 148.16 ~~(2017)~~~~(2005)~~.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 738.117 Waste-Specific Prohibitions: Newly-Listed Wastes**

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- a) The wastes specified in Subpart D of 35 Ill. Adm. Code 721 by the following USEPA hazardous waste numbers are prohibited from underground injection: F037, F038, K107, K108, K109, K110, K111, K112, K117, K118, K123, K124, K125, K126, K131, K136, U328, U353, and U359.
- b) The wastes specified in Subpart D of 35 Ill. Adm. Code 721 by the following USEPA hazardous waste numbers are prohibited from underground injection: K141, K142, K143, K144, K145, K147, K148, K149, K150, and K151.
- c) This subsection (c) corresponds with 40 CFR 148.17(c), removed and marked "reserved" by USEPA at 61 Fed. Reg. 15662 (April 8, 1996). This statement maintains structural consistency with USEPA rules.
- d) The wastes specified in Subpart D of 35 Ill. Adm. Code 721 by the following USEPA hazardous waste numbers are prohibited from underground injection: K117, K118, K131, and K132.
- e) The requirements of subsections (a) through (d) ~~of this Section~~ do not apply under any of the following circumstances:
  - 1) If the waste meets or is treated to meet the applicable standards specified in Subpart D of 35 Ill. Adm. Code 728; or
  - 2) If the Board has granted an adjusted standard in response to a petition under Subpart C ~~of this Part~~; or
  - 3) During the period of extension of the applicable effective date, if an extension is granted by USEPA as referenced in Section 738.104.

BOARD NOTE: Derived from 40 CFR 148.17 ~~(2005)~~ (2017).

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 738.118 Waste-Specific Prohibitions: Newly-Listed and Identified Wastes**

- a) All newly identified D004 through D011 wastes and characteristic mineral processing wastes, except those identified in subsection (b) of this Section, are prohibited from underground injection.

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- b) Characteristic hazardous wastes from titanium dioxide mineral processing, and radioactive wastes mixed with newly identified D004 through D011 or mixed with newly identified characteristic mineral processing wastes, are prohibited from underground injection.
- c) The wastes specified in 35 Ill. Adm. Code 721 as USEPA hazardous waste numbers F032, F034, F035 are prohibited from underground injection.
- d) The wastes specified in 35 Ill. Adm. Code 721 as USEPA hazardous waste numbers F032, F034, F035 that are mixed with radioactive wastes are prohibited from underground injection.
- e) The wastes specified in 35 Ill. Adm. Code 721.132 as having the following USEPA hazardous waste numbers are prohibited from underground injection: K156, K157, K158, K159, K160, K161, P127, P128, P185, P188, P189, P190, P191, P192, P194, P196, P197, P198, P199, P201, P202, P203, P204, P205, U271, U277, U278, U279, U280, U364, U365, U366, U367, U372, U373, U375, U376, U377, U378, U379, U381, U382, U383, U384, U385, U386, U387, U389, U390, U391, U392, U393, U394, U395, U396, U400, U401, U402, U403, U404, U407, U409, U410, and U411.
- f) The wastes specified in 35 Ill. Adm. Code 721.132 as USEPA hazardous waste number K088 are prohibited from underground injection.
- g) The wastes specified in 35 Ill. Adm. Code 721 as having the following USEPA hazardous waste numbers and Mixed TC/Radioactive wastes are prohibited from underground injection: D018, D019, D020, D021, D022, D023, D024, D025, D026, D027, D028, D029, D030, D031, D032, D033, D034, D035, D036, D037, D038, D039, D040, D041, D042, and D043.
- h) This subsection (h) corresponds with 40 CFR 148.18(h), which USEPA has removed and marked "reserved:". This statement maintains structural consistency with the federal regulations.
- i) The wastes specified in 35 Ill. Adm. Code 721.132 as USEPA hazardous waste numbers K169 through K172 are prohibited from underground injection.

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- j) The wastes specified in 35 Ill. Adm. Code 721.132 as USEPA hazardous waste numbers K174 and K175 are prohibited from underground injection.
- k) The wastes specified in 35 Ill. Adm. Code 721.132 as USEPA hazardous waste numbers K176, K177, and K178 are prohibited from underground injection.
- l) The wastes specified in 35 Ill. Adm. Code 721.132 as USEPA hazardous waste number K181 are prohibited from underground injection.
- m) The requirements of subsections (a) through (l) ~~of this Section~~ do not apply under any of the following circumstances:
  - 1) If the waste meets or is treated to meet the applicable standards specified in Subpart D of 35 Ill. Adm. Code 728; or
  - 2) If the Board has granted an adjusted standard in response to a petition under Subpart C ~~of this Part~~; or
  - 3) During the period of extension of the applicable effective date, if an extension has been granted by USEPA as referenced in Section 738.104.

BOARD NOTE: Derived from 40 CFR 148.18 ~~(2017)(2005)~~.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART C: PETITION STANDARDS AND PROCEDURES

**Section 738.120 Petitions to Allow Injection of a Prohibited Waste**

- a) Any person seeking an exemption from a prohibition under Subpart B ~~of this Part~~ for the injection of a restricted hazardous waste, ~~including a hazardous waste that exhibits a characteristic of hazardous waste and which contains underlying hazardous constituents at the point of generation, but which no longer exhibits a characteristic of hazardous waste when injected~~ into ~~ana-Class-I~~ injection well or wells, must submit a petition for an adjusted standard to the Board, pursuant to Subpart D of 35 Ill. Adm. Code 104, demonstrating that, to a reasonable degree of certainty, there will be no migration of hazardous constituents from the injection zone for as long as the waste remains hazardous. This demonstration requires a

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showing of the following:

- 1) The hydrogeological and geochemical conditions at the site and the physiochemical nature of the waste stream are such that reliable predictions can be made with regard to each of the following:
  - A) Fluid movement conditions are such that the injected fluids will not migrate within 10,000 years in either of the following ways:
    - i) Vertically upward out of the injection zone; or
    - ii) Laterally within the injection zone to a point of discharge or interface with an underground source of drinking water (USDW), as defined in 35 Ill. Adm. Code 730; or
  - B) Before the injected fluids migrate out of the injection zone or to a point of discharge or interface with a USDW, the fluid will no longer be hazardous because of attenuation, transformation, or immobilization of hazardous constituents within the injection zone by hydrolysis, chemical interactions, or other means; and
- 2) For each well, the petition has fulfilled the following requirements:
  - A) It has demonstrated that the injection well's area of review complies with the substantive requirements of 35 Ill. Adm. Code 730.163;
  - B) It has located, identified, and ascertained the condition of all wells within the injection well's area of review (as specified in 35 Ill. Adm. Code 730.163) that penetrate the injection zone or the confining zone by use of a protocol acceptable to the Board that meets the substantive requirements of 35 Ill. Adm. Code 730.164;
  - C) It has provided a corrective action plan that meets the substantive requirements of 35 Ill. Adm. Code 730.164, the implementation of which will become a condition of any adjusted standard granted; and



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- D) It has provided the results of pressure and radioactive tracer tests performed within one year prior to submission of the petition demonstrating the mechanical integrity of the well's long string casing, injection tube, annular seal, and bottom hole cement. In cases where the petition has not been approved or denied within one year after the initial demonstration of mechanical integrity, the Board may require the owner or operator to perform the tests again and submit the results of the new tests.

BOARD NOTE: The requirements of subsection (a)(2) ~~of this Section~~ need not be incorporated in a permit at the time the Board grants an adjusted standard.

- b) A demonstration under subsection (a)(1)(A) ~~of this Section~~ must identify the strata within the injection zone which will confine fluid movement above the injection interval, and it must include a showing that this strata is free of known transmissive faults of fractures and that there is a confining zone above the injection zone.
- c) A demonstration under subsection (a)(1)(B) ~~of this Section~~ must identify the strata within the injection zone where waste transformation will be accomplished, and it must include a showing that this strata is free of known transmissive faults or fractures and that there is a confining zone above the injection zone.
- d) A demonstration may include either of the following features, which will become a condition of the adjusted standard:
- 1) Treatment methods that the owner or operator will use to reduce the toxicity or mobility of the wastes; or
  - 2) A monitoring plan that the owner or operator will use to enhance confidence in one or more aspects of the demonstration.
- e) Any person that has been granted an adjusted standard pursuant to this Section may submit a petition for reissuance of the adjusted standard to include an additional restricted waste or wastes or to modify any conditions imposed on that adjusted standard by the Board. The Board will reissue the adjusted standard if the petitioner complies with subsections (a), (b), and (c) ~~of this Section~~.

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- f) Any person that has been granted an adjusted standard pursuant to this Section may submit a petition to modify that adjusted standard to include an additional (hazardous) waste or wastes. The Board will grant the modification if it determines, to a reasonable degree of certainty, that the additional waste or wastes will behave hydraulically and chemically in a manner similar to previously included wastes and that the additional waste or wastes will not interfere with the containment capability of the injection zone.

BOARD NOTE: Derived from 40 CFR 148.20 [\(2017\)](#)~~(2005)~~.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 738.121 Required Information to Support Petitions**

- a) Information submitted in support of a Section 738.120 petition must meet the following requirements:
- 1) All data from waste analyses and any new testing performed by the petitioner must be approved by the Board and must provide data that are accurate, reproducible, and performed in accordance with quality assurance standards;
  - 2) The following must be true with regard to estimation and monitoring techniques and the identification of applicable existing USEPA-certified test protocols:
    - A) All estimation and monitoring techniques must be approved by the Board; and
    - B) The petition must identify all applicable USEPA-certified test protocols in existence at the time the estimation and monitoring was performed;
  - 3) Predictive models must have been verified and validated, must be appropriate for the specific site, waste streams, and injection conditions of the operation, and they must be calibrated for existing sites where sufficient data are available;

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- 4) A quality assurance and quality control plan addressing all aspects of the demonstration must be provided to and approved by the Board;
  - 5) Reasonably conservative values must be used whenever values taken from the literature or estimated on the basis of known information are used instead of site-specific measurements; and
  - 6) An analysis must be performed to identify and assess aspects of the demonstration that contribute significantly to uncertainty. The petitioner must conduct a sensitivity analysis to determine the effect that significant uncertainty may contribute to the demonstration. The demonstration must then be based on conservative assumptions identified in the analysis.
- b) Any petitioner under Section 738.120(a)(1)(A) must provide sufficient site-specific information to support the demonstration, such as the following:
- 1) The thickness, porosity, permeability and extent of the various strata in the injection zone;
  - 2) The thickness, porosity, permeability, extent and continuity of the confining zone;
  - 3) The hydraulic gradient in the injection zone;
  - 4) The hydrostatic pressure in the injection zone; and
  - 5) The geochemical conditions of the site.
- c) In addition to the information in subsection (b) ~~of this Section~~, any petitioner under Section 738.120(a)(1)(B) ~~of this Part~~ must provide sufficient waste-specific information to ensure reasonably reliable predictions about the waste transformation. The petitioner must provide the information necessary to support the demonstration, such as the following:
- 1) A description of the chemical processes or other means that will lead to waste transformation; and

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- 2) Results of laboratory experiments verifying the waste transformation.

BOARD NOTE: Derived from 40 CFR 148.21 ~~(2005)~~ (2017).

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 738.122 Submission, Review, and Approval or Denial of Petitions**

- a) Any petition submitted to the Board, pursuant to Section 738.120(a) ~~of this Part~~, must include the following:
  - 1) An identification of the specific waste or wastes and the specific injection well or wells for which the demonstration will be made;
  - 2) A waste analysis fully describing the chemical and physical characteristics of the subject wastes;
  - 3) Such additional information as the Board requires to support the petition pursuant to Section 738.120 and Section 738.121 ~~of this Part~~; and
  - 4) This statement signed by the petitioner or an authorized representative:

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this petition and all attached documents, and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.
- b) The Board will provide public notice and an opportunity for public comment in accordance with the procedures in Subpart D of 35 Ill. Adm. Code 104.
- c) An adjusted standard will apply only to the underground injection of the specific restricted waste or wastes identified in the petition into a Class I hazardous waste injection well or wells specifically identified in the petition (unless the adjusted standard is modified or reissued pursuant to Section 738.120(e) or (f)).

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- d) Upon request by any petitioner who obtains an adjusted standard for a well pursuant to this Subpart C, the Agency must initiate and reasonably expedite the necessary procedures to issue or reissue a permit or permits for the hazardous waste well or wells covered by the adjusted standard for a term not to exceed 10 years.
- e) Each adjusted standard granted pursuant to this Part is subject to the following condition, whether or not this condition appears as part of the adjusted standard, and the Board will include this condition as part of each adjusted standard granted: "This adjusted standard does not affect the enforceability of any provisions of the Environmental Protection Act, Board rules, or other laws, except to the extent that its provisions expressly state otherwise."

BOARD NOTE: Derived from 40 CFR 148.22 [\(2017\)](#)~~(2005)~~.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 738.123 Review of Adjusted Standards**

- a) Agency review.
  - 1) When considering whether to reissue a permit for the operation of a Class I hazardous waste injection well, the Agency must review any adjusted standard granted by the Board pursuant to this Subpart C.
  - 2) If the Agency determines that new information shows that the basis for granting the adjusted standard may no longer be valid, the Agency must request in writing that the permittee submit a petition to the Board to modify the adjusted standard.
  - 3) All petitions requested by the Agency pursuant to subsection (a)(2)~~of this Section~~ must be filed pursuant to [Section section](#) 738.120(f). Such a petition may seek reaffirmation of the adjusted standard without modification.
  - 4) Permittee's failure to file a petition, Agency petitions for reconsideration, and Board reconsideration of adjusted standards.

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- A) If the permittee fails to file a petition requested by the Agency under subsection (a)(2) ~~of this Section~~, the Agency may petition the Board for reconsideration of any adjusted standard granted under this Part at any time during the effectiveness of that adjusted standard, the limitation periods of 35 Ill. Adm. Code 101.520 and 101.904 notwithstanding.
- B) Board review.
  - i) The Board may conduct a plenary review of the substance of any adjusted standard on reconsideration to the same extent that it would review a new petition for an adjusted standard.
  - ii) The Board may treat a motion for reconsideration of an adjusted standard as a new petition under Section 738.120 and require that the full requirements of that Section and of Subpart D of 35 Ill. Adm. Code 104 apply to the proceeding, with the Agency acting as the petitioner.
- b) Whenever the Board determines that the basis for approval of a petition may no longer be valid, the Board will require a new demonstration in accordance with Section 738.120.

BOARD NOTE: Derived from 40 CFR 148.23 [\(2017\)](#)~~(2005)~~.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 738.124 Termination of Approved Petition**

- a) Termination through an enforcement action.
  - 1) An enforcement action against an owner or operator having an adjusted standard and limitation on Agency petitions for reconsideration of an adjusted standard:
    - A) Any person may file an enforcement action against an owner or operator of an underground injection well pursuant to Section 33 of

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the Environmental Protection Act ~~[415 ILCS 5/33]~~ for any violation of the Act or Board rules, notwithstanding the existence of any adjusted standard.

- B) The Agency may petition the Board for reconsideration of any adjusted standard at any time during the effectiveness of that adjusted standard, the limitation periods of 35 Ill. Adm. Code 101.520 and 101.904 notwithstanding.
- 2) In any action under subsection (a)(1) ~~of this Section~~, if the Board finds a violation of the Act or Board regulations, the Board may terminate any adjusted standard granted under Section 738.120 for any of the following causes:
- A) Noncompliance by the owner or operator with any condition of the adjusted standard;
  - B) The owner or operator's failure in the petition or during the review and approval to disclose fully all relevant facts, or the petitioner's misrepresentation of any relevant facts at any time; or
  - C) A determination that new information shows that the basis for approval of the petition is no longer valid.
- b) In any action under subsection (a)(1) ~~of this Section~~, the Board will terminate an adjusted standard granted under Section 738.120 for the following causes:
- 1) The petitioner's willful withholding during the review and approval of the petition of facts directly and materially relevant to the Board's decision on the petition;
  - 2) A determination that there has been migration from the injection zone or the well that is not in accordance with the terms of the adjusted standard, except that the Board, may at its discretion decide not to terminate where both of the following conditions are fulfilled:
    - A) The migration resulted from a mechanical failure of the well that can be promptly corrected through a repair to the injection well

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itself or from an undetected well or conduit that can be plugged promptly; and

- B) The requirements of 35 Ill. Adm. Code 730.167 are satisfied.

BOARD NOTE: Derived from 40 CFR 148.24 [\(2017\)](#)~~(2005)~~.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)



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- 1) Heading of the Part: Standards for the Management of Used Oil
- 2) Code Citation: 35 Ill. Adm. Code 739
- 3) 

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
739.100	Amendment
739.110	Amendment
739.120	Amendment
739.122	Amendment
739.124	Amendment
739.130	Amendment
739.131	Amendment
739.132	Amendment
739.140	Amendment
739.141	Amendment
739.144	Amendment
739.145	Amendment
739.146	Amendment
739.150	Amendment
739.152	Amendment
739.154	Amendment
739.156	Amendment
739.160	Amendment
739.161	Amendment
739.163	Amendment
739.164	Amendment
739.165	Amendment
739.166	Amendment
739.170	Amendment
739.174	Amendment
739.175	Amendment
- 4) Statutory Authority: 415 ILCS 5/7.2, 22.4, and 27
- 5) A Complete Description of the Subjects and Issues Involved: The amendments to Part 739 are a single segment of the consolidated docket R17-14/R17-15/R18-11/R18-31 rulemaking that also affects 35 Ill. Adm. Code 702, 704, 705, 720 through 728, 730, 733, 738, and 810 through 812. Due to the extreme volume of the consolidated docket, each

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Part is covered by a notice in four separate issues of the *Illinois Register*. Included in this issue are 35 Ill. Adm. Code 730, 733, 738, 739, and 810 through 812. To save space, a more detailed description of the subjects and issues involved in the consolidated docket R17-14/R17-15/R18-11/R18-31 rulemaking in this issue of the *Illinois Register* only in the answer to question 5 in the Notice of Adopted Amendments for 35 Ill. Adm. Code 730. A comprehensive description is contained in the Board's opinion and order of March 3, 2016, proposing amendments in docket R16-7, which opinion and order is available from the address below.

Specifically, the amendments to Part 739 incorporate elements of the Generator Improvements Rule. The Board makes several needed corrections in the text of the rules.

Tables appear in a document entitled "Identical-in-Substance Rulemaking Addendum (Proposed)" that the Board added to consolidated docket R17-14/R17-15/R18-11/R18-31. The tables list the deviations from the literal text of the federal amendments and the several necessary corrections and stylistic revisions not directly derived from USEPA actions. Persons interested in the details of those deviations from the literal text should refer to the Identical-in-Substance Rulemaking Addendum (Proposed) in consolidated docket R17-14/R17-15/R18-11/R18-31.

Section 22.4 of the Environmental Protection Act [415 ILCS 5/13 and 22.4] provides that Section 5-35 of the Administrative Procedure Act [5 ILCS 100/5-35] does not apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules (JCAR).

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Does this rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No

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- 11) Statement of Statewide Policy Objective: These proposed amendments do not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comment on this proposal for a period of 45 days after the date of this publication. Comments should reference consolidated docket R17-14/R17-15/R18-11/R18-31 and be addressed to:

Don A. Brown, Clerk  
Illinois Pollution Control Board  
State of Illinois Center, Suite 11-500  
100 W. Randolph St.  
Chicago IL 60601

Please direct inquiries to the following person and reference consolidated docket R17-14/R17-15/R18-11/R18-31:

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

312/814-6924  
email: michael.mccambridge@illinois.gov

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

- 13) Initial Regulatory Flexibility Analysis:
  - A) Types of small businesses, small municipalities and not-for-profit corporations affected: This rulemaking may affect those small businesses, small municipalities, and not-for-profit corporations disposing of industrial wastewaters into the sewage collection system of a publicly owned treatment works. These proposed amendments do not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].

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- B) Reporting, bookkeeping or other procedures required for compliance: The existing rules and proposed amendments require extensive reporting, bookkeeping and other procedures, including the preparation of manifests and annual reports, waste analyses and maintenance of operating records. These proposed amendments do not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- C) Types of professional skills necessary for compliance: Compliance with the existing rules and proposed amendments may require the services of an attorney, certified public accountant, chemist and registered professional engineer. These proposed amendments do not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2017 and January 2018

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

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TITLE 35: ENVIRONMENTAL PROTECTION  
SUBTITLE G: WASTE DISPOSAL  
CHAPTER I: POLLUTION CONTROL BOARD  
SUBCHAPTER c: HAZARDOUS WASTE OPERATING REQUIREMENTS

PART 739  
STANDARDS FOR THE MANAGEMENT OF USED OIL

SUBPART A: DEFINITIONS

Section  
739.100 Definitions

SUBPART B: APPLICABILITY

Section  
739.110 Applicability  
739.111 Used Oil Specifications  
739.112 Prohibitions  
739.113 Electronic Reporting

SUBPART C: STANDARDS FOR USED OIL GENERATORS

Section  
739.120 Applicability  
739.121 Hazardous Waste Mixing  
739.122 Used Oil Storage  
739.123 On-Site Burning in Space Heaters  
739.124 Off-Site Shipments

SUBPART D: STANDARDS FOR USED OIL COLLECTION CENTERS  
AND AGGREGATION POINTS

Section  
739.130 Do-It-Yourselfer Used Oil Collection Centers  
739.131 Used Oil Collection Centers  
739.132 Used Oil Aggregate Points Owned by the Generator

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SUBPART E: STANDARDS FOR USED OIL TRANSPORTER  
AND TRANSFER FACILITIES

## Section

739.140	Applicability
739.141	Restrictions on Transporters that Are Not Also Processors
739.142	Notification
739.143	Used Oil Transportation
739.144	Rebuttable Presumption for Used Oil
739.145	Used Oil Storage at Transfer Facilities
739.146	Tracking
739.147	Management of Residues

## SUBPART F: STANDARDS FOR USED OIL PROCESSORS

## Section

739.150	Applicability
739.151	Notification
739.152	General Facility Standards
739.153	Rebuttable Presumption for Used Oil
739.154	Used Oil Management
739.155	Analysis Plan
739.156	Tracking
739.157	Operating Record and Reporting
739.158	Off-Site Shipments of Used Oil
739.159	Management of Residues

SUBPART G: STANDARDS FOR USED OIL BURNERS THAT BURN  
OFF-SPECIFICATION USED OIL FOR ENERGY RECOVERY

## Section

739.160	Applicability
739.161	Restriction on Burning
739.162	Notification
739.163	Rebuttable Presumption for Used Oil
739.164	Used Oil Storage
739.165	Tracking
739.166	Notices

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739.167 Management of Residues

## SUBPART H: STANDARDS FOR USED OIL FUEL MARKETERS

## Section

739.170 Applicability  
739.171 Prohibitions  
739.172 On-Specification Used Oil Fuel  
739.173 Notification  
739.174 Tracking  
739.175 Notices

## SUBPART I: DISPOSAL OF USED OIL

## Section

739.180 Applicability  
739.181 Disposal  
739.182 Use As a Dust Suppressant

**AUTHORITY:** Implementing Sections 7.2 and 22.4 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/7.2, 22.4, and 27].

**SOURCE:** Adopted in R93-4 at 17 Ill. Reg. 20954, effective November 22, 1993; amended in R93-16 at 18 Ill. Reg. 6931, effective April 26, 1994; amended in R94-17 at 18 Ill. Reg. 17616, effective November 23, 1994; amended in R95-6 at 19 Ill. Reg. 10036, effective June 27, 1995; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 767, effective December 16, 1997; amended in R98-21/R99-2/R99-7 at 23 Ill. Reg. 2274, effective January 19, 1999; amended in R04-16 at 28 Ill. Reg. 10706, effective July 19, 2004; amended in R06-5/R06-6/R06-7 at 30 Ill. Reg. 4094, effective February 23, 2006; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 1413, effective December 20, 2006; amended in R07-5/R07-14 at 32 Ill. Reg. 13047, effective July 14, 2008; amended in R06-20(A) at 34 Ill. Reg. 3296, effective February 25, 2010; amended in R06-20(B) at 34 Ill. Reg. 17381, effective October 29, 2010; amended in R13-15 at 37 Ill. Reg. 17963, effective October 24, 2013; amended in R17-14/R17-15/R18-12 at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_

## SUBPART A: DEFINITIONS

**Section 739.100 Definitions**

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Terms that are defined in 35 Ill. Adm. Code 720.110, 721.101, and 731.112 have the same meanings when used in this Part.

"Aboveground tank" means a tank used to store or process used oil that is not an underground storage tank, as defined in 35 Ill. Adm. Code 280.12.

BOARD NOTE: This definition is different from the definition for "aboveground tank" given in 35 Ill. Adm. Code 720.110. Although the meanings are similar, the main distinction is that the definition for this Part limits the tanks to those used to store or process used oil, whereas the 720.110 definition contemplates tanks that contain hazardous wastes. This definition of aboveground tank is limited to this Part only.

"Classification", as used in this Part, means a short description of the waste generating activity and designation as either hazardous waste with the appropriate hazardous waste code, nonhazardous used oil, nonhazardous used oil mixture, or nonhazardous other special waste.

"Container" means any portable device in which a material is stored, transported, treated, disposed of, or otherwise handled.

"Do-it-yourselfer used oil collection center" means any site or facility that accepts or aggregates and stores used oil collected only from household do-it-yourselfers.

"Existing tank" means a tank that is used for the storage or processing of used oil and that is in operation, or for which installation had commenced on or prior to October 4, 1996. Installation will be considered to have commenced if the owner or operator had obtained all federal, state, and local approvals or permits necessary to begin installation of the tank and if either of the following had occurred:

A continuous on-site installation program had begun, or

The owner or operator had entered into contractual obligations that cannot be canceled or modified without substantial loss for installation of the tank to be completed within a reasonable time.

BOARD NOTE: This definition is similar to the definition for "Existing tank system" in 35 Ill. Adm. Code 720.110. Although the meanings are similar, the



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definition given above for "existing tank" in this Part limits the tanks to those used to store or process used oil, whereas the 720.110 definition contemplates tanks systems that contain hazardous wastes. This definition of existing tank is limited to this Part only.

"Household 'do-it-yourselfer' used oil" means oil that is derived from households, such as used oil generated by individuals who generate used oil through the maintenance of their personal vehicles.

BOARD NOTE: Household "do-it-yourselfer" used oil is not subject to the State's special waste hauling permit requirements under Part 809.

"Household 'do-it-yourselfer' used oil generator" means an individual who generates household "do-it-yourselfer" used oil.

"New tank" means a tank that will be used to store or process used oil and for which installation had commenced after October 4, 1996.

BOARD NOTE: This definition is similar to the definition given for "New tank system" given in 35 Ill. Adm. Code 720.110. Although the meanings are similar, the definition given above for "new tank" in this Part limits the tanks to those used to store or process used oil, whereas the 720.110 definition contemplates new tanks systems that contain hazardous wastes. This definition of new tank is limited to this Part only.

"Petroleum refining facility" means an establishment primarily engaged in producing gasoline, kerosene, distillate fuel oils, residual fuel oils, and lubricants, through fractionation, straight distillation of crude oil, redistillation of unfinished petroleum derivatives, cracking, or other processes (i.e., facilities classified as SIC 2911).

"Processing" means chemical or physical operations designed to produce from used oil, or to make used oil more amenable for production of, fuel oils, lubricants, or other used oil-derived product. Processing includes, but is not limited to the following: blending used oil with virgin petroleum products, blending used oils to meet the fuel specification, filtration, simple distillation, chemical or physical separation, and re-refining.

"Re-refining distillation bottoms" means the heavy fraction produced by vacuum distillation of filtered and dehydrated used oil. The composition of still bottoms

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varies with column operation and feedstock.

"Tank" means any stationary device, designed to contain an accumulation of used oil that is constructed primarily of non-earthen materials (e.g., wood, concrete, steel, plastic) which provide structural support.

"Used oil" means any oil that has been refined from crude oil or any synthetic oil that has been used and as a result of such use is contaminated by physical or chemical impurities.

"Used oil aggregation point" means any site or facility that accepts, aggregates, or stores used oil collected only from other used oil generation sites owned or operated by the owner or operator of the aggregation point, from which used oil is transported to the aggregation point in shipments of no more than 55 gallons [\(208 ℓ\)](#). Used oil aggregation points may also accept used oil from household do-it-yourselfers.

"Used oil burner" means a facility where used oil not meeting the specification requirements in Section 739.111 is burned for energy recovery in devices identified in Section 739.161(a).

"Used oil collection center" means any site or facility that is registered by the Agency to manage used oil and accepts or aggregates and stores used oil collected from used oil generators regulated under Subpart C ~~of this Part~~ that bring used oil to the collection center in shipments of no more than 55 gallons [\(208 ℓ\)](#) under the provisions of Section 739.124. Used oil collection centers may also accept used oil from household do-it-yourselfers.

"Used oil fuel marketer" means any person that conducts either of the following activities:

Directs a shipment of off-specification used oil from their facility to a used oil burner; or

First claims that used oil that is to be burned for energy recovery meets the used oil fuel specifications set forth in Section 739.111.

"Used oil generator" means any person, by site, whose act or process produces

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used oil or whose act first causes used oil to become subject to regulation.

"Used oil processor" means a facility that processes used oil.

"Used oil transfer facility" means any transportation-related facility including loading docks, parking areas, storage areas, and other areas where shipments of used oil are held for more than 24 hours and not longer than 35 days during the normal course of transportation or prior to an activity performed pursuant to Section 739.120(b)(2). Transfer facilities that store used oil for more than 35 days are subject to regulation under Subpart F ~~of this Part~~.

"Used oil transporter" means any person that transports used oil, any person that collects used oil from more than one generator and that transports the collected oil, and owners and operators of used oil transfer facilities. Used oil transporters may consolidate or aggregate loads of used oil for purposes of transportation but, with the following exception, may not process used oil. Transporters may conduct incidental processing operations that occur in the normal course of used oil transportation (e.g., settling and water separation), but that are not designed to produce (or make more amenable for production of) used oil derived products or used oil fuel.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART B: APPLICABILITY

**Section 739.110 Applicability**

This Section identifies those materials that are subject to regulation as used oil under this Part. This Section also identifies some materials that are not subject to regulation as used oil under this Part, and indicates whether these materials may be subject to regulation as hazardous waste under 35 Ill. Adm. Code 702, 703, and 720 through 728.

- a) Used oil. Used oil is presumed to be recycled, unless a used oil handler disposes of used oil or sends used oil for disposal. Except as provided in Section 739.111, the regulations of this Part apply to used oil and to materials identified in this Section as being subject to regulation as used oil, whether or not the used oil or material exhibits any characteristics of hazardous waste identified in Subpart C of 35 Ill. Adm. Code 721.

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- b) Mixtures of used oil and hazardous waste.
  - 1) Listed hazardous waste.
    - A) A mixture of used oil and hazardous waste that is listed in Subpart D of 35 Ill. Adm. Code 721 is subject to regulation as hazardous waste under 35 Ill. Adm. Code 702, 703, and 720 through 728, rather than as used oil under this Part.
    - B) Rebuttable presumption for used oil. Used oil containing more than 1,000 ppm total halogens is presumed to be a hazardous waste because it has been mixed with halogenated hazardous waste listed in Subpart D of 35 Ill. Adm. Code 721. An owner or operator may rebut this presumption by demonstrating that the used oil does not contain hazardous waste (for example, by showing that the used oil does not contain significant concentrations of halogenated hazardous constituents listed in Appendix H of 35 Ill. Adm. Code 721).
      - i) This rebuttable presumption does not apply to metalworking oils or fluids containing chlorinated paraffins, if they are processed, through a tolling arrangement as described in Section 739.124(c), to reclaim metalworking oils or fluids. This presumption does apply to metalworking oils or fluids if such oils or fluids are recycled in any other manner, or disposed.
      - ii) This rebuttable presumption does not apply to used oils contaminated with chlorofluorocarbons (CFCs) removed from refrigeration units where the CFCs are destined for reclamation. This rebuttable presumption does apply to used oils contaminated with CFCs that have been mixed with used oil from sources other than refrigeration units.
  - 2) Characteristic hazardous waste. A mixture of used oil and hazardous waste that solely exhibits one or more of the hazardous waste characteristics identified in Subpart C of 35 Ill. Adm. Code 721 and a

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mixture of used oil and hazardous waste that is listed in Subpart D ~~of this Part~~ solely because it exhibits one or more of the characteristics of hazardous waste identified in Subpart C of 35 Ill. Adm. Code 721 is subject to the following:

- A) Except as provided in subsection (b)(2)(C) ~~of this Section~~, regulation as hazardous waste under 35 Ill. Adm. Code 702, 703, and 720 through 728 rather than as used oil under this Part, if the resultant mixture exhibits any characteristics of hazardous waste identified in Subpart C of 35 Ill. Adm. Code 721; or
  - B) Except as provided in subsection (b)(2)(C) ~~of this Section~~, regulation as used oil under this Part, if the resultant mixture does not exhibit any characteristics of hazardous waste identified under Subpart C of 35 Ill. Adm. Code 721.
  - C) Regulation as used oil under this Part, if the mixture is of used oil and a waste that is hazardous solely because it exhibits the characteristic of ignitability (e.g., ignitable-only mineral spirits), provided that the resultant mixture does not exhibit the characteristic of ignitability under 35 Ill. Adm. Code 721.121.
- 3) ~~VSQGC~~ ~~Conditionally exempt small quantity generator~~ hazardous waste. A mixture of used oil and ~~VSQGC~~ ~~conditionally exempt small quantity generator~~ hazardous waste regulated under 35 Ill. Adm. Code ~~722.114721.105~~ is subject to regulation as used oil under this Part.
- c) Materials containing or otherwise contaminated with used oil.
- 1) Except as provided in subsection (c)(2) ~~of this Section~~, the following is true of a material containing or otherwise contaminated with used oil from which the used oil has been properly drained or removed to the extent possible so that no visible signs of free-flowing oil remain in or on the material:
    - A) The material is not used oil, so it is not subject to this Part; and
    - B) If applicable, the material is subject to the hazardous waste

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regulations of 35 Ill. Adm. Code 702, 703, and 720 through 728.

- 2) A material containing or otherwise contaminated with used oil that is burned for energy recovery is subject to regulation as used oil under this Part.
- 3) Used oil drained or removed from materials containing or otherwise contaminated with used oil is subject to regulation as used oil under this Part.
- d) Mixtures of used oil with products.
  - 1) Except as provided in subsection (d)(2) ~~of this Section~~, mixtures of used oil and fuels or other fuel products are subject to regulation as used oil under this Part.
  - 2) Mixtures of used oil and diesel fuel mixed on-site by the generator of the used oil for use in the generator's own vehicles are not subject to this Part once the used oil and diesel fuel have been mixed. Prior to mixing, the used oil is subject to the requirements of Subpart C ~~of this Part~~.
- e) Materials derived from used oil.
  - 1) The following is true of materials that are reclaimed from used oil, which are used beneficially, and which are not burned for energy recovery or used in a manner constituting disposal (e.g., re-refined lubricants):
    - A) The materials are not used oil and thus are not subject to this Part~~;~~ and
    - B) The materials are not solid wastes and are thus not subject to the hazardous waste regulations of 35 Ill. Adm. Code 702, 703, and 720 through 728, as provided in 35 Ill. Adm. Code 721.103(e)(1).
  - 2) Materials produced from used oil that are burned for energy recovery (e.g., used oil fuels) are subject to regulation as used oil under this Part.
  - 3) Except as provided in subsection (e)(4) ~~of this Section~~, the following is

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true of materials derived from used oil that are disposed of or used in a manner constituting disposal:

- A) The materials are not used oil and thus are not subject to this Part;<sup>2,5</sup> and
  - B) The materials are solid wastes and thus are subject to the hazardous waste regulations of 35 Ill. Adm. Code 702, 703, and 720 through 728 if the materials are listed or identified as hazardous waste.
- 4) Used oil re-refining distillation bottoms that are used as feedstock to manufacture asphalt products are not subject to this Part.
- f) Wastewater. Wastewater, the discharge of which is subject to regulation under either Section 402 or Section 307(b) of the federal Clean Water Act (including wastewaters at facilities that have eliminated the discharge of wastewater), contaminated with de minimis quantities of used oil are not subject to the requirements of this Part. For purposes of this subsection, "de minimis" quantities of used oils are defined as small spills, leaks, or drippings from pumps, machinery, pipes, and other similar equipment during normal operations or small amounts of oil lost to the wastewater treatment system during washing or draining operations. This exception will not apply if the used oil is discarded as a result of abnormal manufacturing operations resulting in substantial leaks, spills, or other releases, or to used oil recovered from wastewaters.
- g) Used oil introduced into crude oil pipelines or a petroleum refining facility.
- 1) Used oil mixed with crude oil or natural gas liquids (e.g., in a production separator or crude oil stock tank) for insertion into a crude oil pipeline is exempt from the requirements of this Part. The used oil is subject to the requirements of this Part prior to the mixing of used oil with crude oil or natural gas liquids.
  - 2) Mixtures of used oil and crude oil or natural gas liquids containing less than one percent used oil that are being stored or transported to a crude oil pipeline or petroleum refining facility for insertion into the refining process at a point prior to crude distillation or catalytic cracking are

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exempt from the requirements of this Part.

- 3) Used oil that is inserted into the petroleum refining process before crude distillation or catalytic cracking without prior mixing with crude oil is exempt from the requirements of this Part, provided that the used oil contains less than one percent of the crude oil feed to any petroleum refining facility process unit at any given time. Prior to insertion into the petroleum refining process, the used oil is subject to the requirements of this Part.
- 4) Except as provided in subsection (g)(5) ~~of this Section~~, used oil that is introduced into a petroleum refining facility process after crude distillation or catalytic cracking is exempt from the requirements of this Part only if the used oil meets the specification of Section 739.111. Prior to insertion into the petroleum refining facility process, the used oil is subject to the requirements of this Part.
- 5) Used oil that is incidentally captured by a hydrocarbon recovery system or wastewater treatment system as part of routine process operations at a petroleum refining facility and inserted into the petroleum refining facility process is exempt from the requirements of this Part. This exemption does not extend to used oil that is intentionally introduced into a hydrocarbon recovery system (e.g., by pouring collected used oil into the wastewater treatment system).
- 6) Tank bottoms from stock tanks containing exempt mixtures of used oil and crude oil or natural gas liquids are exempt from the requirements of this Part.
- h) Used oil on vessels. Used oil produced on vessels from normal shipboard operations is not subject to this Part until it is transported ashore.
- i) Used oil containing PCBs. Used oil containing PCBs, as defined at 40 CFR 761.3 (Definitions), incorporated by reference at 35 Ill. Adm. Code 720.111(b), at any concentration less than 50 ppm is subject to the requirements of this Part unless, because of dilution, it is regulated under federal 40 CFR 761 as a used oil containing PCBs at 50 ppm or greater. PCB-containing used oil subject to the requirements of this Part may also be subject to the prohibitions and requirements



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of 40 CFR 761, including 40 CFR 761.20(d) and (e). Used oil containing PCBs at concentrations of 50 ppm or greater is not subject to the requirements of this Part, but is subject to regulation under federal 40 CFR 761. No person may avoid these provisions by diluting used oil containing PCBs, unless otherwise specifically provided for in this Part or federal 40 CFR 761.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART C: STANDARDS FOR USED OIL GENERATORS

**Section 739.120 Applicability**

- a) General. This Subpart C applies to all generators of used oil, except the following:
- 1) Household "do-it-yourselfer" used oil generators. Household "do-it-yourselfer" used oil generators are not subject to regulation under this Part.
  - 2) Vessels. Vessels at sea or at port are not subject to this Subpart C. For purposes of this Subpart C, used oil produced on vessels from normal shipboard operations is considered to be generated at the time it is transported ashore. The owner or operator of the vessel and the persons removing or accepting used oil from the vessel are co-generators of the used oil and are both responsible for managing the waste in compliance with this Subpart C once the used oil is transported ashore. The co-generators may decide among themselves which party will fulfill the requirements of this Subpart C.
  - 3) Diesel fuel. Mixtures of used oil and diesel fuel mixed by the generator of the used oil for use in the generator's own vehicles are not subject to this Part once the used oil and diesel fuel have been mixed. Prior to mixing, the used oil fuel is subject to the requirements of this Subpart C.
  - 4) Farmers. Farmers who generate an average of 25 gallons (95 ℓ) per month or less of used oil from vehicles or machinery used on the farm in a calendar year are not subject to the requirements of this Part.

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- b) Other applicable provisions. A used oil generator that conducts any of the following activities is subject to the requirements of other applicable provisions of this Part, as indicated in subsections (b)(1) through (b)(5):
- 1) A generator that transports used oil, except under the self-transport provisions of Section 739.124(a) and (b), must also comply with Subpart E of this Part.
  - 2) A generator that processes or re-refines used oil.
    - A) Except as provided in subsection (b)(2)(B) ~~of this Section~~, a generator that processes or re-refines used oil must also comply with Subpart F ~~of this Part~~.
    - B) A generator that performs the following activities is not a used oil processor, provided that the used oil is generated on-site and is not being sent off-site to a burner of on- or off-specification used oil fuel:
      - i) Filtering, cleaning, or otherwise reconditioning used oil before returning it for reuse by the generator;
      - ii) Separating used oil from wastewater generated on-site to make the wastewater acceptable for discharge or reuse pursuant to Section 402 or 307(b) for the federal Clean Water Act (33 USC 1317 or 1342), 40 CFR 403 through 499, or 35 Ill. Adm. Code 310 or 309, governing the discharge of wastewaters;
      - iii) Using oil mist collectors to remove small droplets of used oil from in-plant air to make plant air suitable for continued recirculation;
      - iv) Draining or otherwise removing used oil from materials containing or otherwise contaminated with used oil in order to remove excessive oil to the extent possible pursuant to Section 739.110(c); or

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- v) Filtering, separating, or otherwise reconditioning used oil before burning it in a space heater pursuant to Section 739.123.
- 3) A generator that burns off-specification used oil for energy recovery, except under the on-site space heater provisions of Section 739.123, must also comply with Subpart G ~~of this Part~~.
- 4) A generator that directs shipments of off-specification used oil from their facility to a used oil burner or first claims that used oil that is to be burned for energy recovery meets the used oil fuel specifications set forth in Section 739.111 must also comply with Subpart H ~~of this Part~~.
- 5) A generator that disposes of used oil must also comply with Subpart I ~~of this Part~~.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 739.122 Used Oil Storage**

A used oil generator is subject to all applicable federal Spill Prevention, Control and Countermeasures (40 CFR 112) in addition to the requirements of this Subpart C. A used oil generator is also subject to the Underground Storage Tank (35 Ill. Adm. Code 731) standards for used oil stored in underground tanks whether or not the used oil exhibits any characteristics of hazardous waste, in addition to the requirements of this Subpart C.

- a) Storage units. A used oil generator may not store used oil in units other than tanks, containers, or units subject to regulation under 35 Ill. Adm. Code 724 or 725.
- b) Condition of units. The following must be true of containers and aboveground tanks used to store used oil at a generator facility:
  - 1) The containers must be in good condition (no severe rusting, apparent structural defects or deterioration); and
  - 2) The containers may not be leaking (no visible leaks).

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- c) Labels.
- 1) Containers and aboveground tanks used to store used oil at generator facilities must be labeled or marked clearly with the words "Used Oil."
  - 2) Fill pipes used to transfer used oil into underground storage tanks at generator facilities must be labeled or marked clearly with the words "Used Oil."
- d) Response to releases. Upon detection of a release of used oil to the environment that is not subject to the federal requirements of subpart F of 40 CFR 280 and which has occurred after October 4, 1996, a generator must perform the following cleanup steps:
- BOARD NOTE: Corresponding 40 CFR 279.22(d) applies to releases that "occurred after the effective date of the authorized used oil program for the State in which the release is located." The Board adopted the used oil standards in docket R93-4 at 17 Ill. Reg. 20954, effective November 22, 1993. USEPA approved the Illinois standards at 61 Fed. Reg. 40521 (Aug. 5, 1996), effective October 4, 1996. The Board has interpreted "the effective date of the authorized used oil program" to mean the October 4, 1996 date of federal authorization of the Illinois program, and we substituted that date for the federal effective date language. Had USEPA written something like "the effective date of the used oil program in the authorized State in which the release is located," the Board would have used the November 22, 1993 effective date of the Illinois used oil standards.
- 1) Stop the release;
  - 2) Contain the released used oil;
  - 3) Properly clean up and manage the released used oil and other materials; and
  - 4) If necessary, repair or replace any leaking used oil storage containers or tanks prior to returning them to service.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 739.124 Off-Site Shipments**

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Except as provided in subsections (a) through (c) ~~of this Section~~, a generator must ensure that its used oil is transported only by transporters that have obtained a USEPA identification number and an Illinois special waste identification number pursuant to 35 Ill. Adm. Code 809.

BOARD NOTE: A generator that qualifies for an exemption under Section 739.124(a) through (c) may still be subject to the State's special waste hauling permit requirements under 35 Ill. Adm. Code 809.

- a) Self-transportation of small amounts to registered collection centers. A generator may transport, without a USEPA identification number and an Illinois special waste identification number, used oil that is generated at the generator's site and used oil collected from household do-it-yourselfers to a used oil collection center provided that the following conditions are fulfilled:
  - 1) The generator transports the used oil in a vehicle owned by the generator or owned by an employee of the generator;
  - 2) The generator transports no more than 55 gallons (208 ℓ) of used oil at any time; and
  - 3) The generator transports the used oil to a used oil collection center that has registered by written notification with the Agency to manage used oil. This notification must include information sufficient for the Agency to identify, locate and communicate with the facility. The notification must be submitted on forms provided by the Agency.
  
- b) Self-transportation of small amounts to aggregation points owned by the generator. A generator may transport, without a USEPA identification number and an Illinois special waste identification number, used oil that is generated at the generator's site to an aggregation point provided that the following conditions are fulfilled:
  - 1) The generator transports the used oil in a vehicle owned by the generator or owned by an employee of the generator;
  - 2) The generator transports no more than 55 gallons (208 ℓ) of used oil at any time; and

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- 3) The generator transports the used oil to an aggregation point that is owned or operated by the same generator.
- c) Tolling arrangements. A used oil generator may arrange for used oil to be transported by a transporter without a USEPA identification number and an Illinois special waste identification number if the used oil is reclaimed under a contractual agreement pursuant to which reclaimed oil is returned by the processor to the generator for use as a lubricant, cutting oil, or coolant. The contract (known as a "tolling arrangement") must indicate the following information:
- 1) The type of used oil and the frequency of shipments;
  - 2) That the vehicle used to transport the used oil to the processing facility and to deliver recycled used oil back to the generator is owned and operated by the used oil processor; and
  - 3) That reclaimed oil will be returned to the generator.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

SUBPART D: STANDARDS FOR USED OIL COLLECTION CENTERS  
AND AGGREGATION POINTS

**Section 739.130 Do-It-Yourselfer Used Oil Collection Centers**

- a) Applicability. This Section applies to owners or operators of all do-it-yourselfer (DIY) used oil collection centers. A DIY used oil collection center is any site or facility that accepts or aggregates and stores used oil collected only from household do-it-yourselfers.
- b) DIY used oil collection center requirements. Owners or operators of all DIY used oil collection centers must comply with the generator standards in Subpart C ~~of~~ [this Part](#).

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 739.131 Used Oil Collection Centers**

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- a) **Applicability.** This Section applies to owners or operators of used oil collection centers. A used oil collection center is any site or facility that accepts, aggregates or stores used oil collected from used oil generators regulated under Subpart C of ~~this Part~~ who bring used oil to the collection center in shipments of no more than 55 gallons (208 ℓ) under the provisions of Section 739.124(a). Used oil collection centers may also accept used oil from household do-it-yourselfers.

**BOARD NOTE:** A generator who qualifies for an exemption under Section 739.124 may still be subject to the State's special waste hauling permit requirements under Part 809.

- b) **Used oil collection center requirements.** Owners or operators of all used oil collection centers must do the following:
- 1) Comply with the generator standards in Subpart C of this Part; and
  - 2) Be registered by the Agency to manage used oil. The used oil collection center must register by written notification with the Agency to manage used oil. This notification must include information sufficient for the Agency to identify, locate and communicate with the facility. The notification must be submitted on forms provided by the Agency.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 739.132 Used Oil Aggregate Points Owned by the Generator**

- a) **Applicability.** This Section applies to owners or operators of all used oil aggregation points. A used oil aggregation point is any site or facility that accepts, aggregates, or stores used oil collected only from other used oil generation sites owned or operated by the owner or operator of the aggregation point, from which used oil is transported to the aggregation point in shipments of no more than 55 gallons (208 ℓ) under the provisions of Section 739.124(b). A used oil aggregation point may also accept used oil from household do-it-yourselfers.

**BOARD NOTE:** A generator who qualifies for an exemption under Section 739.124 may still be subject to the State's special waste hauling permit

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requirements under Part 809.

- b) Used oil aggregation point requirements. Owners or operators of all used oil aggregation points must comply with the generator standards in Subpart C ~~of this Part~~.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

SUBPART E: STANDARDS FOR USED OIL TRANSPORTER  
AND TRANSFER FACILITIES

**Section 739.140 Applicability**

- a) General. Except as provided in subsections (a)(1) through (a)(4) ~~of this Section~~, this Subpart E applies to all used oil transporters. A used oil transporter is a person that transports used oil, a person that collects used oil from more than one generator and transport the collected oil, and an owner or operator of a used oil transfer facility.
- 1) This Subpart E does not apply to on-site transportation.
  - 2) This Subpart E does not apply to a generator that transports shipments of used oil totaling 55 gallons (208 ℓ) or less from the generator to a used oil collection center as specified in Section 739.124(a).
  - 3) This Subpart E does not apply to a generator that transports shipments of used oil totaling 55 gallons (208 ℓ) or less from the generator to a used oil aggregation point owned or operated by the same generator as specified in Section 739.124(b).
  - 4) This Subpart E does not apply to transportation of used oil from household do-it-yourselfers to a regulated used oil generator, collection center, aggregation point, processor, or burner subject to the requirements of this Part. Except as provided in subsections (a)(1) through (a)(3) ~~of this Section~~, this Subpart E does, however, apply to transportation of collected household do-it-yourselfer used oil from regulated used oil generators, collection centers, aggregation points, or other facilities where household do-it-yourselfer used oil is collected.



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BOARD NOTE: A generator that qualifies for an exemption under Section 739.124 may still be subject to the State's special waste hauling permit requirements under Part 809.

- b) Imports and exports. A transporter that imports used oil from abroad or export used oil outside of the United States are subject to the requirements of this Subpart E from the time the used oil enters and until the time it exits the United States.
- c) Trucks used to transport hazardous waste. Unless trucks previously used to transport hazardous waste are emptied as described in 35 Ill. Adm. Code 721.107 prior to transporting used oil, the used oil is considered to have been mixed with the hazardous waste and must be managed as hazardous waste unless, under the provisions of Section 739.110(b), the hazardous waste and used oil mixture is determined not to be hazardous waste.
- d) Other applicable provisions. A used oil transporter that conducts the following activities are also subject to other applicable provisions of this Part as indicated in subsections (d)(1) through (d)(5) ~~of this Section:~~
  - 1) A transporter that generates used oil must also comply with Subpart C ~~of this Part;~~
  - 2) A transporter that processes or re-refines used oil, except as provided in Section 739.141, must also comply with Subpart F ~~of this Part;~~
  - 3) A transporter that burns off-specification used oil for energy recovery must also comply with Subpart G of this Part;
  - 4) A transporter that directs shipments of off-specification used oil from its facility to a used oil burner or first claims that used oil that is to be burned for energy recovery meets the used oil fuel specifications set forth in Section 739.111 must also comply with Subpart H of this Part; and
  - 5) A transporter that disposes of used oil must also comply with Subpart I ~~of this Part.~~

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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**Section 739.141 Restrictions on Transporters that Are Not Also Processors**

- a) A used oil transporter may consolidate or aggregate loads of used oil for purposes of transportation. However, except as provided in subsection (b) ~~of this Section~~, a used oil transporter may not process used oil unless they also comply with the requirements for processors in Subpart F ~~of this Part~~.
- b) A transporter may conduct incidental processing operations that occur in the normal course of used oil transportation (e.g., settling and water separation), but that are not designed to produce (or make more amenable for production of) used oil derived products unless it also complies with the processor requirements in Subpart F ~~of this Part~~.
- c) A transporter of used oil that is removed from oil-bearing electrical transformers and turbines and which is filtered by the transporter or at a transfer facility prior to being returned to its original use is not subject to the processor and re-refiner requirements in Subpart F ~~of this Part~~.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 739.144 Rebuttable Presumption for Used Oil**

- a) To ensure that used oil is not a hazardous waste under the rebuttable presumption of Section 739.110(b)(1)(ii), the used oil transporter must determine whether the total halogen content of used oil being transported or stored at a transfer facility is above or below 1,000 ppm.
- b) The transporter must make this determination by the following means:
  - 1) Testing the used oil; or
  - 2) Applying knowledge of the halogen content of the used oil in light of the materials or processes used.
- c) If the used oil contains greater than or equal to 1,000 ppm total halogens, it is presumed to be a hazardous waste because it has been mixed with halogenated hazardous waste listed in Subpart D of 35 Ill. Adm. Code 721. The owner or

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operator may rebut the presumption by demonstrating that the used oil does not contain hazardous waste (for example, by showing that the used oil does not contain significant concentrations of halogenated hazardous constituents listed in Appendix H of 35 Ill. Adm. Code 721).

- 1) The rebuttable presumption does not apply to metalworking oils and fluids containing chlorinated paraffins, if they are processed, through a tolling arrangement as described in Section 739.124(c), to reclaim metalworking oils and fluids. The presumption does apply to metalworking oils and fluids if such oils and fluids are recycled in any other manner, or disposed.
  - 2) The rebuttable presumption does not apply to used oils contaminated with chlorofluorocarbons (CFCs) removed from refrigeration units if the CFCs are destined for reclamation. The rebuttable presumption does apply to used oils contaminated with CFCs that have been mixed with used oil from sources other than refrigeration units.
- d) Record retention. Records of analyses conducted or information used to comply with subsections (a), (b), and (c) ~~of this Section~~ must be maintained by the transporter for at least three years.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 739.145 Used Oil Storage at Transfer Facilities**

A used oil transporter is subject to all applicable Spill Prevention, Control and Countermeasures (40 CFR 112) in addition to the requirements of this Subpart E. A used oil transporter is also subject to the Underground Storage Tank (35 Ill. Adm. Code 731) standards for used oil stored in underground tanks whether or not the used oil exhibits any characteristics of hazardous waste, in addition to the requirements of this Subpart.

- a) Applicability. This Section applies to used oil transfer facilities. Used oil transfer facilities are transportation-related facilities including loading docks, parking areas, storage areas, and other areas where shipments of used oil are held for more than 24 hours during the normal course of transportation and not longer than 35 days. A transfer facility that store used oil for more than 35 days are subject to regulation under Subpart F ~~of this Part~~.

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- b) Storage units. An owner or operator of a used oil transfer facility may not store used oil in units other than tanks, containers, or units subject to regulation under 35 Ill. Adm. Code 724 or 725.
- c) Condition of units. The following must be true of containers and aboveground tanks used to store used oil at a transfer facility:
  - 1) The containers must be in good condition (no severe rusting, apparent structural defects or deterioration); and
  - 2) The containers may not be leaking (no visible leaks).
- d) Secondary containment for containers. Containers used to store used oil at a transfer facility must be equipped with a secondary containment system.
  - 1) The secondary containment system must consist of the following, at a minimum:
    - A) Both of the following:
      - i) Dikes, berms, or retaining walls; and
      - ii) A floor. The floor must cover the entire area within the dikes, berms, or retaining walls; or
    - B) An equivalent secondary containment system.
  - 2) The entire containment system, including walls and floors, must be sufficiently impervious to used oil to prevent any used oil released into the containment system from migrating out of the system to the soil, groundwater, or surface water.
- e) Secondary containment for existing aboveground tanks. Existing aboveground tanks used to store used oil at a transfer facility must be equipped with a secondary containment system.
  - 1) The secondary containment system must consist of the following, at a minimum:

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- A) Both of the following:
    - i) Dikes, berms, or retaining walls; and
    - ii) A floor. The floor must cover the entire area within the dike, berm, or retaining wall except areas where existing portions of the tank meet the ground; or
  - B) An equivalent secondary containment system.
- 2) The entire containment system, including walls and floors, must be sufficiently impervious to used oil to prevent any used oil released into the containment system from migrating out of the system to the soil, groundwater, or surface water.
- f) Secondary containment for new aboveground tanks. New aboveground tanks used to store used oil at a transfer facility must be equipped with a secondary containment system.
- 1) The secondary containment system must consist of the following, at a minimum:
- A) Both of the following:
    - i) Dikes, berms, or retaining walls; and
    - ii) A floor. The floor must cover the entire area within the dike, berm, or retaining wall; or
  - B) An equivalent secondary containment system.
- 2) The entire containment system, including walls and floors, must be sufficiently impervious to used oil to prevent any used oil released into the containment system from migrating out of the system to the soil, groundwater, or surface water.
- g) Labels.

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- 1) Containers and aboveground tanks used to store used oil at transfer facilities must be labeled or marked clearly with the words "Used Oil-".
  - 2) Fill pipes used to transfer used oil into underground storage tanks at transfer facilities must be labeled or marked clearly with the words "Used Oil-".
- h) Response to releases. Upon detection of a release of used oil to the environment that is not subject to the federal requirements of subpart F of 40 CFR 280 and which has occurred after October 4, 1996, an owner or operator of a transfer facility must perform the following cleanup steps:

BOARD NOTE: Corresponding 40 CFR 279.45(h) applies to releases that "occurred after the effective date of the authorized used oil program for the State in which the release is located-". The Board adopted the used oil standards in docket R93-4 at 17 Ill. Reg. 20954, effective November 22, 1993. USEPA approved the Illinois standards at 61 Fed. Reg. 40521 (Aug. 5, 1996), effective October 4, 1996. The Board has interpreted "the effective date of the authorized used oil program" to mean the October 4, 1996 date of federal authorization of the Illinois program, and we substituted that date for the federal effective date language. Had USEPA written something like "the effective date of the used oil program in the authorized State in which the release is located-," the Board would have used the November 22, 1993 effective date of the Illinois used oil standards.

- 1) Stop the release;
- 2) Contain the released used oil;
- 3) Properly clean up and manage the released used oil and other materials; and
- 4) If necessary, repair or replace any leaking used oil storage containers or tanks prior to returning them to service.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 739.146 Tracking**

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- a) Acceptance. A used oil transporter must keep a record of each used oil shipment accepted for transport. Records for each shipment must include the following:
- 1) The name and address of the generator, transporter, or processor that provided the used oil for transport;
  - 2) The USEPA identification number and Illinois special waste identification number (if applicable) of the generator, transporter, or processor that provided the used oil for transport;
  - 3) The quantity of used oil accepted;
  - 4) The date of acceptance;
  - 5) The signature:
    - A) Except as provided in subsection (a)(5)(B) ~~of this Section~~, the signature, dated upon receipt of the used oil, of a representative of the generator, transporter, or processor or re-refiner that provided the used oil for transport.
    - B) An intermediate rail transporter is not required to sign the record of acceptance; and
  - 6) If the transporter has accepted any shipment of mixtures of used oil and materials identified in 35 Ill. Adm. Code 808.121(b)(6), the following:
    - A) Information stating when and where the special waste was generated;
    - B) The classification and quantity of the special waste delivered to the transporter;
    - C) Any special handling instructions pertinent to emergency personnel in the event of an accident; and
    - D) A generator's certification as follows: "I hereby declare that the contents of this consignment are fully and accurately described above

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by the proper shipping name, and are classified, packaged, marked and labeled/placarded, and are in all respects in proper condition for transport according to applicable international and national governmental regulations. If export shipment and I am the Primary Exporter, I certify that the contents of this consignment conform to the terms of the attached EPA Acknowledgement of Consent. I certify that the waste minimization statement identified in 40 CFR 262.27(a) (if I am a large quantity generator) or (b) (if I am a small quantity generator) is true."

- b) Deliveries. A used oil transporter must keep a record of each shipment of used oil that is delivered to another used oil transporter, or to a used oil burner, processor, or disposal facility. Records of each delivery must include the following:
- 1) The name and address of the receiving facility or transporter;
  - 2) The USEPA identification number and Illinois special waste identification number of the receiving facility or transporter;
  - 3) The quantity of used oil delivered;
  - 4) The date of delivery;
  - 5) The signature:
    - A) Except as provided in subsection (b)(5)(B) of this Section, the signature, dated upon receipt of the used oil, of a representative of the receiving facility or transporter.
    - B) An intermediate rail transporter is not required to sign the record of acceptance.
- c) Exports of used oil. A used oil transporter must maintain the records described in subsections (b)(1) through (b)(4) ~~of this Section~~ for each shipment of used oil exported to any foreign country.
- d) Record retention. The records described in subsections (a), (b), and (c) ~~of this Section~~ must be maintained for at least three years.



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(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART F: STANDARDS FOR USED OIL PROCESSORS

**Section 739.150 Applicability**

- a) The requirements of this Subpart F apply to owners and operators of facilities that process used oil. Processing means chemical or physical operations designed to produce from used oil, or to make used oil more amenable for production of, fuel oils, lubricants, or other used oil-derived products. Processing includes, but is not limited to the following: blending used oil with virgin petroleum products, blending used oils to meet the fuel specification, filtration, simple distillation, chemical or physical separation, and re-refining. The requirements of this Subpart F do not apply to the following:
- 1) A transporter that conducts incidental processing operations that occur during the normal course of transportation, as provided in Section 739.141; or
  - 2) A burner that conducts incidental processing operations that occur during the normal course of used oil management prior to burning, as provided in Section 739.161(b).
- b) Other applicable provisions. A used oil processor that conducts the following activities are also subject to the requirements of other applicable provisions of this Part, as indicated in subsections (b)(1) through (b)(5) ~~of this Section~~.
- 1) A processor that generates used oil must also comply with Subpart C of this Part;
  - 2) A processor that transports used oil must also comply with Subpart E ~~of this Part~~;
  - 3) Except as provided in subsections (b)(3)(A) and (b)(3)(B) ~~of this Section~~, a processor that burns off-specification used oil for energy recovery must also comply with Subpart G of this Part. Processors burning used oil for energy recovery under the following conditions are not subject to Subpart

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~~G of this Part:~~

- A) The used oil is burned in an on-site space heater that meets the requirements of Section 739.123; or
- B) The used oil is burned for purposes of processing used oil, which is considered burning incidentally to used oil processing;
- 4) A processor that directs shipments of off-specification used oil from their facility to a used oil burner or first claim that used oil that is to be burned for energy recovery meets the used oil fuel specifications set forth in Section 739.111 must also comply with Subpart ~~H of this Part~~; and
- 5) A processor that disposes of used oil also must comply with Subpart ~~I of this Part~~.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 739.152 General Facility Standards**

- a) Preparedness and prevention. An owner or operator of a used oil processing or re-refining facility must comply with the following requirements:
  - 1) Maintenance and operation of a facility. All facilities must be maintained and operated to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of used oil to air, soil, or surface water that could threaten human health or the environment.
  - 2) Required equipment. All facilities must be equipped with the following, unless none of the hazards posed by used oil handled at the facility could require a particular kind of equipment specified in subsections (a)(2)(A) through (a)(2)(D) ~~of this Section~~:
    - A) An internal communications or alarm system capable of providing immediate emergency instruction (voice or signal) to facility personnel;
    - B) A device, such as a telephone (immediately available at the scene

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- of operations) or a hand-held two-way radio, capable of summoning emergency assistance from local police departments, fire departments, or State or local emergency response teams;
- C) Portable fire extinguishers, fire control equipment (including special extinguishing equipment, such as that using foam, inert gas, or dry chemicals), spill control equipment, and decontamination equipment; and
- D) Water at adequate volume and pressure to supply water hose streams, foam producing equipment, automatic sprinklers, or water spray systems.
- 3) Testing and maintenance of equipment. All facility communications or alarm systems, fire protection equipment, spill control equipment, and decontamination equipment, where required, must be tested and maintained as necessary to assure its proper operation in time of emergency.
- 4) Access to communications or alarm system
- A) Whenever used oil is being poured, mixed, spread, or otherwise handled, all personnel involved in the operation must have immediate access to an internal alarm or emergency communication device, either directly or through visual or voice contact with another employee, unless such a device is not required in subsection (a)(2)-of this Section.
- B) If there is ever just one employee on the premises while the facility is operating, the employee must have immediate access to a device, such as a telephone (immediately available at the scene of operation) or a hand-held two-way radio, capable of summoning external emergency assistance, unless such a device is not required in subsection (a)(2)-of this Section.
- 5) Required aisle space. The owner or operator must maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of

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facility operation in an emergency, unless aisle space is not needed for any of these purposes.

- 6) Arrangements with local authorities
  - A) The owner or operator must attempt to make the following arrangements, as appropriate for the type of used oil handled at the facility and the potential need for the services of these organizations:
    - i) Arrangements to familiarize police, fire departments, and emergency response teams with the layout of the facility, properties of used oil handled at the facility and associated hazards, places where facility personnel would normally be working, entrances to roads inside the facility, and possible evacuation routes;
    - ii) Where more than one police and fire department might respond to an emergency, agreements designating primary emergency authority to a specific police and a specific fire department, and agreements with any others to provide support to the primary emergency authority;
    - iii) Agreements with State emergency response teams, emergency response contractors, and equipment suppliers; and
    - iv) Arrangements to familiarize local hospitals with the properties of used oil handled at the facility and the types of injuries or illnesses that could result from fires, explosions, or releases at the facility.
  - B) Where State or local authorities decline to enter into such arrangements, the owner or operator must document the refusal in the operating record.
- b) Contingency plan and emergency procedures. An owner or operator of a used oil processing or re-refining facility must comply with the following requirements:

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- 1) Purpose and implementation of contingency plan.
  - A) Each owner or operator must have a contingency plan for the facility. The contingency plan must be designed to minimize hazards to human health or the environment from fires, explosions, or any unplanned sudden or non-sudden release of used oil to air, soil, or surface water.
  - B) The provisions of the plan must be carried out immediately whenever there is a fire, explosion, or release of used oil that could threaten human health or the environment.
- 2) Content of contingency plan.
  - A) The contingency plan must describe the actions facility personnel must take to comply with subsections (b)(1) and (b)(6) ~~of this Section~~ in response to fires, explosions, or any unplanned sudden or non-sudden release of used oil to air, soil, or surface water at the facility.
  - B) If the owner or operator has already prepared a Spill Prevention Control and Countermeasures (SPCC) Plan in accordance with federal 40 CFR 112 or some other emergency or contingency plan exists for the facility under federal, State, or local regulation (e.g., federal 40 CFR 300 or 40 CFR 280), the owner or operator need only amend that plan to incorporate used oil management provisions that are sufficient to comply with the requirements of this Part.
  - C) The plan must describe arrangements agreed to by local police departments, fire departments, hospitals, contractors, and State and local emergency response teams to coordinate emergency services, pursuant to subsection (a)(6) ~~of this Section~~.
  - D) The plan must list names, addresses, and phone numbers (office and home) of all persons qualified to act as emergency coordinator (see subsection (b)(5) ~~of this Section~~), and this list must be kept up

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to date. Where more than one person is listed, one must be named as primary emergency coordinator and others must be listed in the order in which they will assume responsibility as alternates.

- E) The plan must include a list of all emergency equipment at the facility (such as fire extinguishing systems, spill control equipment, communications and alarm systems (internal and external), and decontamination equipment), where this equipment is required. This list must be kept up to date. In addition, the plan must include the location and a physical description of each item on the list, and a brief outline of its capabilities.
  - F) The plan must include an evacuation plan for facility personnel where there is a possibility that evacuation could be necessary. This plan must describe signals to be used to begin evacuation, evacuation routes, and alternate evacuation routes (in cases where the primary routes could be blocked by releases of used oil or fires).
- 3) Copies of contingency plan. Copies of the contingency plan and all revisions to the plan must be disposed of as follows:
- A) Maintained at the facility; and
  - B) Submitted to all local police departments, fire departments, hospitals, and State and local emergency response teams that may be called upon to provide emergency services.
- 4) Amendment of contingency plan. The contingency plan must be reviewed, and immediately amended, if necessary, whenever one of the following occurs:
- A) Applicable regulations are revised;
  - B) The plan fails in an emergency;
  - C) The facility changes – in its design, construction, operation, maintenance, or other circumstances – in a way that materially

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increases the potential for fires, explosions, or releases of used oil, or changes the response necessary in an emergency;

- D) The list of emergency coordinators changes; or
  - E) The list of emergency equipment changes.
- 5) Emergency coordinator. At all times, there must be at least one employee either on the facility premises or on call (i.e., available to respond to an emergency by reaching the facility within a short period of time) with the responsibility for coordinating all emergency response measures. This emergency coordinator must be thoroughly familiar with all aspects of the facility's contingency plan, all operations and activities at the facility, the location and characteristic of used oil handled, the location of all records within the facility, and facility layout. In addition, this person must have the authority to commit the resources needed to carry out the contingency plan.

BOARD NOTE: USEPA cited the following as guidance: "The emergency coordinator's responsibilities are more fully spelled out in [subsection (b)(6) ~~of this Section~~]. Applicable responsibilities for the emergency coordinator vary, depending on factors such as type and variety of used oil handled by the facility, and type and complexity of the facility."

- 6) Emergency procedures
- A) Whenever there is an imminent or actual emergency situation, the emergency coordinator (or the designee when the emergency coordinator is on call) must immediately do the following:
    - i) Activate internal facility alarms or communication systems, where applicable, to notify all facility personnel; and
    - ii) Notify appropriate State or local agencies with designated response roles if their help is needed.
  - B) Whenever there is a release, fire, or explosion, the emergency

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coordinator must immediately identify the character, exact source, amount, and areal extent of any released materials. He or she may do this by observation or review of facility records or manifests and, if necessary, by chemical analyses.

- C) Concurrently, the emergency coordinator must assess possible hazards to human health or the environment that may result from the release, fire, or explosion. This assessment must consider both direct and indirect effects of the release, fire, or explosion (e.g., the effects of any toxic, irritating, or asphyxiating gases that are generated, or the effects of any hazardous surface water run-offs from water or chemical agents used to control fire and heat-induced explosions).
- D) If the emergency coordinator determines that the facility has had a release, fire, or explosion that could threaten human health, or the environment, outside the facility, he or she must report his findings as follows:
- i) If his assessment indicated that evacuation of local areas may be advisable, he or she must immediately notify appropriate local authorities. He or she must be available to help appropriate officials decide whether local areas should be evacuated; and
  - ii) He must immediately notify either the government official designated as the on-scene coordinator for the geographical area (in the applicable regional contingency plan under federal 40 CFR 300), or the National Response Center (using their 24-hour toll free number (800) 424-8802). The report must include the following information: name and telephone number of reporter; name and address of facility; time and type of incident (e.g., release, fire); name and quantity of materials involved, to the extent known; the extent of injuries, if any; and the possible hazards to human health, or the environment, outside the facility.
- E) During an emergency, the emergency coordinator must take all



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reasonable measures necessary to ensure that fires, explosions, and releases do not occur, recur, or spread to other used oil or hazardous waste at the facility. These measures must include, where applicable, stopping processes and operation, collecting and containing released used oil, and removing or isolating containers.

- F) If the facility stops operation in response to a fire, explosion, or release, the emergency coordinator must monitor for leaks, pressure buildup, gas generation, or ruptures in valves, pipes, or other equipment, wherever this is appropriate.
- G) Immediately after an emergency, the emergency coordinator must provide for recycling, storing, or disposing of recovered used oil, contaminated soil or surface water, or any other material that results from a release, fire, or explosion at the facility.
- H) The emergency coordinator must ensure that the following occur, in the affected areas of the facility:
  - i) No waste or used oil that may be incompatible with the released material is recycled, treated, stored, or disposed of until cleanup procedures are completed; and
  - ii) All emergency equipment listed in the contingency plan is cleaned and fit for its intended use before operations are resumed.
  - iii) The owner or operator must notify the Agency, and all other appropriate State and local authorities that the facility is in compliance with subsections (b)(6)(H)(i) and (b)(6)(H)(ii) ~~of this Section~~ before operations are resumed in the affected areas of the facility.
- I) The owner or operator must note in the operating record the time, date, and details of any incident that requires implementing the contingency plan. Within 15 days after the incident, it must submit a written report on the incident to USEPA Region 5. The report must include the following:

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- i) The name, address, and telephone number of the owner or operator;
- ii) The name, address, and telephone number of the facility;
- iii) The date, time, and type of incident (e.g., fire, explosion);
- iv) The name and quantity of materials involved;
- v) The extent of injuries, if any;
- vi) An assessment of actual or potential hazards to human health or the environment, where this is applicable; and
- vii) The estimated quantity and disposition of recovered material that resulted from the incident.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 739.154 Used Oil Management**

A used oil processor is subject to all applicable Spill Prevention, Control and Countermeasures (40 CFR 112) in addition to the requirements of this Subpart F. A used oil processor or re-refiner is also subject to the Underground Storage Tank (35 Ill. Adm. Code 731) standards for used oil stored in underground tanks whether or not the used oil exhibits any characteristics of hazardous waste, in addition to the requirements of this Subpart F.

- a) Management units. A used oil processor may not store used oil in units other than tanks, containers, or units subject to regulation under 35 Ill. Adm. Code 724 or 725.
- b) Condition of units. The following must be true of containers and aboveground tanks used to store or process used oil at a processing facility:
  - 1) The containers must be in good condition (no severe rusting, apparent structural defects or deterioration); and

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- 2) The containers may not be leaking (no visible leaks).
- c) Secondary containment for containers. Containers used to store or process used oil at processing and re-refining facilities must be equipped with a secondary containment system.
- 1) The secondary containment system must consist of the following, at a minimum:
    - A) Both of the following:
      - i) Dikes, berms, or retaining walls; and
      - ii) A floor. The floor must cover the entire area within the dike, berm, or retaining wall; or
    - B) An equivalent secondary containment system.
  - 2) The entire containment system, including walls and floor, must be sufficiently impervious to used oil to prevent any used oil released into the containment system from migrating out of the system to the soil, groundwater, or surface water.
- d) Secondary containment for existing aboveground tanks. Existing aboveground tanks used to store or process used oil at processing and re-refining facilities must be equipped with a secondary containment system.
- 1) The secondary containment system must consist of the following, at a minimum:
    - A) Both of the following:
      - i) Dikes, berms, or retaining walls; and
      - ii) A floor. The floor must cover the entire area within the dike, berm, or retaining wall except areas where existing portions of the tank meet the ground; or

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- B) An equivalent secondary containment system.
- 2) The entire containment system, including walls and floor, must be sufficiently impervious to used oil to prevent any used oil released into the containment system from migrating out of the system to the soil, groundwater, or surface water.
- e) Secondary containment for new aboveground tanks. New aboveground tanks used to store or process used oil at processing and re-refining facilities must be equipped with a secondary containment system.
  - 1) The secondary containment system must consist of the following, at a minimum:
    - A) Both of the following:
      - i) Dikes, berms, or retaining walls; and
      - ii) A floor. The floor must cover the entire area within the dike, berm, or retaining wall; or
    - B) An equivalent secondary containment system.
  - 2) The entire containment system, including walls and floor, must be sufficiently impervious to used oil to prevent any used oil released into the containment system from migrating out of the system to the soil, groundwater, or surface water.
- f) Labels.
  - 1) Containers and aboveground tanks used to store used oil at processing facilities must be labeled or marked clearly with the words "Used Oil:".
  - 2) Fill pipes used to transfer used oil into underground storage tanks at processing facilities must be labeled or marked clearly with the words "Used Oil:".
- g) Response to releases. Upon detection of a release of used oil to the environment

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that is not subject to the federal requirements of subpart F of 40 CFR 280 and which has occurred after October 4, 1996, a processor must perform the following cleanup steps:

BOARD NOTE: Corresponding 40 CFR 279.54(g) applies to releases that "occurred after the effective date of the authorized used oil program for the State in which the release is located." The Board adopted the used oil standards in docket R93-4 at 17 Ill. Reg. 20954, effective November 22, 1993. USEPA approved the Illinois standards at 61 Fed. Reg. 40521 (Aug. 5, 1996), effective October 4, 1996. The Board has interpreted "the effective date of the authorized used oil program" to mean the October 4, 1996 date of federal authorization of the Illinois program, and we substituted that date for the federal effective date language. Had USEPA written something like "the effective date of the used oil program in the authorized State in which the release is located," the Board would have used the November 22, 1993 effective date of the Illinois used oil standards.

- 1) Stop the release;
  - 2) Contain the released used oil;
  - 3) Properly clean up and manage the released used oil and other materials;  
and
  - 4) If necessary, repair or replace any leaking used oil storage containers or tanks prior to returning them to service.
- h) Closure.
- 1) Aboveground tanks. An owner or operator that stores or processes used oil in aboveground tanks must comply with the following requirements:
    - A) At closure of a tank system, the owner or operator must remove or decontaminate used oil residues in tanks, contaminated containment system components, contaminated soils, and structures and equipment contaminated with used oil, and manage them as hazardous waste, unless the materials are not hazardous waste under this chapter.

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- B) If the owner or operator demonstrates that not all contaminated soils can be practicably removed or decontaminated as required in subsection (h)(1)(A) ~~of this Section~~, then the owner or operator must close the tank system and perform post-closure care in accordance with the closure and post-closure care requirements that apply to hazardous waste landfills (35 Ill. Adm. Code 725.410).
- 2) Containers. An owner or operator that stores used oil in containers must comply with the following requirements:
- A) At closure, containers holding used oils or residues of used oil must be removed from the site;
- B) The owner or operator must remove or decontaminate used oil residues, contaminated containment system components, contaminated soils, and structures and equipment contaminated with used oil, and manage them as hazardous waste, unless the materials are not hazardous waste 35 Ill. Adm. Code 721.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 739.156 Tracking**

- a) Acceptance. A used oil processor must keep a record of each used oil shipment accepted for processing. These records may take the form of a log, invoice, manifest, bill of lading or other shipping documents. Records for each shipment must include the following information:
- 1) The name and address of the transporter that delivered the used oil to the processor;
  - 2) The name and address of the generator or processor from whom the used oil was sent for processing;
  - 3) The USEPA identification number and Illinois special waste identification number of the transporter that delivered the used oil to the processor;

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- 4) The USEPA identification number and Illinois special waste identification number (if applicable) of the generator or processor from whom the used oil was sent for processing;
  - 5) The quantity of used oil accepted;
  - 6) The date of acceptance; and
  - 7) If the transporter has accepted any shipment of mixtures of used oil and materials identified in 35 Ill. Adm. Code 808.121(b)(6), the following:
    - A) Information stating when and where the special waste was generated;
    - B) The classification and quantity of the special waste delivered to the transporter;
    - C) Any special handling instructions pertinent to emergency personnel in the event of an accident; and
    - D) A generator's certification as follows: "I hereby declare that the contents of this consignment are fully and accurately described above by the proper shipping name, and are classified, packaged, marked and labeled/placarded, and are in all respects in proper condition for transport according to applicable international and national governmental regulations. If export shipment and I am the Primary Exporter, I certify that the contents of this consignment conform to the terms of the attached EPA Acknowledgement of Consent. I certify that the waste minimization statement identified in 40 CFR 262.27(a) (if I am a large quantity generator) or (b) (if I am a small quantity generator) is true."
- b) Deliveries. A used oil processor must keep a record of each shipment of used oil that is delivered to another used oil burner, processor, or disposal facility. These records may take the form of a log, invoice, manifest, bill of lading or other shipping documents. Records of each delivery must include the following information:
- 1) The name and address of the transporter that delivers the used oil to the

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burner, processor, or disposal facility;

- 2) The name and address of the burner, processor, or disposal facility that will receive the used oil;
- 3) The USEPA identification number and Illinois special waste identification number of the transporter that delivers the used oil to the burner, processor or disposal facility;
- 4) The USEPA identification number and Illinois special waste identification number of the burner, processor, or disposal facility that will receive the used oil;
- 5) The quantity of used oil shipped;
- 6) The date of shipment; and
- 7) If the transporter has accepted any shipment of mixtures of used oil and materials identified in 35 Ill. Adm. Code 808.121(b)(6), the following:
  - A) Information stating when and where the special waste was generated;
  - B) The classification and quantity of the special waste delivered to the transporter;
  - C) Any special handling instructions pertinent to emergency personnel in the event of an accident; and
  - D) A generator's certification as follows: "I hereby declare that the contents of this consignment are fully and accurately described above by the proper shipping name, and are classified, packaged, marked and labeled/placarded, and are in all respects in proper condition for transport according to applicable international and national governmental regulations. If export shipment and I am the Primary Exporter, I certify that the contents of this consignment conform to the terms of the attached EPA Acknowledgement of Consent. I certify that the waste minimization statement identified in 40 CFR 262.27(a) (if I am a large quantity generator) or (b) (if I am a small



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quantity generator) is true."

- c) Record retention. The records described in subsections (a) and (b) ~~of this Section~~ must be maintained for at least three years.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

SUBPART G: STANDARDS FOR USED OIL BURNERS THAT BURN  
OFF-SPECIFICATION USED OIL FOR ENERGY RECOVERY

**Section 739.160 Applicability**

- a) General. The requirements of this Subpart G apply to used oil burners except as specified in subsections (a)(1) and (a)(2) ~~of this Section~~. A used oil burner is a facility where used oil not meeting the specification requirements in Section 739.111 is burned for energy recovery in devices identified in Section 739.161(a). Facilities burning used oil for energy recovery under the following conditions are not subject to this Subpart G:
- 1) The used oil is burned by the generator in an on-site space heater under the provisions of Section 739.123; or
  - 2) The used oil is burned by a processor for purposes of processing used oil, which is considered burning incidentally to used oil processing.
- b) Other applicable provisions. A used oil burner that conducts the following activities is also subject to the requirements of other applicable provisions of this Part as indicated below.
- 1) A burner that generates used oil must also comply with Subpart C ~~of this Part~~;
  - 2) A burner that transports used oil must also comply with Subpart E ~~of this Part~~;
  - 3) Except as provided in Section 739.161(b), a burner that processes or re-refines used oil must also comply with Subpart F ~~of this Part~~;

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- 4) A burner that directs shipments of off-specification used oil from their facility to a used oil burner or first claim that used oil that is to be burned for energy recovery meets the used oil fuel specifications set forth in Section 739.111 must also comply with Subpart H ~~of this Part~~; and
  - 5) A burner that disposes of used oil must comply with Subpart I of this Part.
- c) Specification fuel. This Subpart G does not apply to a person burning used oil that meets the used oil fuel specification of Section 739.111, provided that the burner complies with the requirements of Subpart H ~~of this Part~~.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 739.161 Restriction on Burning**

- a) Off-specification used oil fuel may only be burned for energy recovery in the following devices:
  - 1) Industrial furnaces identified in 35 Ill. Adm. Code 720.110;
  - 2) Boilers, as defined in 35 Ill. Adm. Code 720.110, that are identified as follows:
    - A) Industrial boilers located on the site of a facility engaged in a manufacturing process where substances are transformed into new products, including the component parts of products, by mechanical or chemical processes;
    - B) Utility boilers used to produce electric power, steam, heated or cooled air, or other gases or fluids for sale; or
    - C) Used oil-fired space heaters provided that the burner meets the provisions of Section 739.123; or
  - 3) Hazardous waste incinerators subject to regulation under Subpart O of 35 Ill. Adm. Code 724 or 725.
- b) Restrictions.

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- 1) With the following exception, a used oil burner may not process used oil unless it also complies with the requirements of Subpart F ~~of this Part~~.
- 2) A used oil burner may aggregate off-specification used oil with virgin oil or on-specification used oil for purposes of burning, but may not aggregate for purposes of producing on-specification used oil.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 739.163 Rebuttable Presumption for Used Oil**

- a) To ensure that used oil managed at a used oil burner facility is not hazardous waste under the rebuttable presumption of Section 739.110(b)(1)(ii), a used oil burner must determine whether the total halogen content of used oil managed at the facility is above or below 1,000 ppm.
- b) The used oil burner must determine if the used oil contains above or below 1,000 ppm total halogens by the following means:
  - 1) Testing the used oil;
  - 2) Applying knowledge of the halogen content of the used oil in light of the materials or processes used; or
  - 3) If the used oil has been received from a processor subject to regulation under Subpart F ~~of this Part~~, using information provided by the processor.
- c) If the used oil contains greater than or equal to 1,000 ppm total halogens, it is presumed to be a hazardous waste because it has been mixed with halogenated hazardous waste listed in Subpart D of 35 Ill. Adm. Code 721. The owner or operator may rebut the presumption by demonstrating that the used oil does not contain hazardous waste (for example, by showing that the used oil does not contain significant concentrations of halogenated hazardous constituents listed in Appendix H of 35 Ill. Adm. Code 721).
  - 1) The rebuttable presumption does not apply to metalworking oils or fluids containing chlorinated paraffins, if they are processed, through a tolling

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arrangement as described in Section 739.124(c), to reclaim metalworking oils or fluids. The presumption does apply to metalworking oils or fluids if such oils and fluids are recycled in any other manner, or disposed.

- 2) The rebuttable presumption does not apply to used oils contaminated with chlorofluorocarbons (CFCs) removed from refrigeration units where the CFCs are destined for reclamation. The rebuttable presumption does apply to used oils contaminated with CFCs that have been mixed with used oil from sources other than refrigeration units.
- d) Record retention. Records of analyses conducted or information used to comply with subsections (a), (b), and (c) ~~of this Section~~ must be maintained by the burner for at least three years.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 739.164 Used Oil Storage**

A used oil burner is subject to all applicable Spill Prevention, Control and Countermeasures (federal 40 CFR 112) in addition to the requirements of this Subpart G. A used oil burner is also subject to the Underground Storage Tank (35 Ill. Adm. Code 731) standards for used oil stored in underground tanks whether or not the used oil exhibits any characteristics of hazardous waste, in addition to the requirements of this Subpart G.

- a) Storage units. A used oil burner may not store used oil in units other than tanks, containers, or units subject to regulation under 35 Ill. Adm. Code 724 or 725.
- b) Condition of units. The following must be true of containers and aboveground tanks used to store used oil at a burner facility:
  - 1) The containers must be in good condition (no severe rusting, apparent structural defects or deterioration); and
  - 2) The containers may not be leaking (no visible leaks).
- c) Secondary containment for containers. Containers used to store used oil at a burner facility must be equipped with a secondary containment system.

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- 1) The secondary containment system must consist of the following, at a minimum:
    - A) Dikes, berms, or retaining walls; and
    - B) A floor. The floor must cover the entire area within the dike, berm, or retaining wall.
  - 2) The entire containment system, including walls and floor, must be sufficiently impervious to used oil to prevent any used oil released into the containment system from migrating out of the system to the soil, groundwater, or surface water.
- d) Secondary containment for existing aboveground tanks. Existing aboveground tanks used to store used oil at burner facilities must be equipped with a secondary containment system.
- 1) The secondary containment system must consist of the following, at a minimum:
    - A) Both of the following:
      - i) Dikes, berms, or retaining walls; and
      - ii) A floor. The floor must cover the entire area within the dike, berm, or retaining wall except areas where existing portions of the tank meet the ground; or
    - B) An equivalent secondary containment system.
  - 2) The entire containment system, including walls and floor, must be sufficiently impervious to used oil to prevent any used oil released into the containment system from migrating out of the system to the soil, groundwater, or surface water.
- e) Secondary containment for new aboveground tanks. A new aboveground tank used to store used oil at burner facilities must be equipped with a secondary containment system.

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- 1) The secondary containment system must consist of the following, at a minimum:
    - A) Both of the following:
      - i) Dikes, berms, or retaining walls; and
      - ii) A floor. The floor must cover the entire area within the dike, berm, or retaining wall; or
    - B) An equivalent secondary containment system.
  - 2) The entire containment system, including walls and floor, must be sufficiently impervious to used oil to prevent any used oil released into the containment system from migrating out of the system to the soil, groundwater, or surface water.
- f) Labels.
- 1) A container or aboveground tank used to store used oil at a burner facility must be labeled or marked clearly with the words "Used Oil:".
  - 2) Fill pipes used to transfer used oil into underground storage tanks at burner facilities must be labeled or marked clearly with the words "Used Oil:".
- g) Response to releases. Upon detection of a release of used oil to the environment that is not subject to the federal requirements of subpart F of 40 CFR 280 and which has occurred after October 4, 1996, a burner must perform the following cleanup steps:

BOARD NOTE: Corresponding 40 CFR 279.64(g) applies to releases that "occurred after the effective date of the authorized used oil program for the State in which the release is located:". The Board adopted the used oil standards in docket R93-4 at 17 Ill. Reg. 20954, effective November 22, 1993. USEPA approved the Illinois standards at 61 Fed. Reg. 40521 (Aug. 5, 1996), effective October 4, 1996. The Board has interpreted "the effective date of the authorized

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used oil program" to mean the October 4, 1996 date of federal authorization of the Illinois program, and we substituted that date for the federal effective date language. Had USEPA written something like "the effective date of the used oil program in the authorized State in which the release is located," the Board would have used the November 22, 1993 effective date of the Illinois used oil standards.

- 1) Stop the release;
- 2) Contain the released used oil;
- 3) Properly clean up and manage the released used oil and other materials;  
and
- 4) If necessary, repair or replace any leaking used oil storage containers or tanks prior to returning them to service.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 739.165 Tracking**

- a) Acceptance. A used oil burner must keep a record of each used oil shipment accepted for burning. These records may take the form of a log, invoice, manifest, bill of lading, or other shipping documents. Records for each shipment must include the following information:
  - 1) The name and address of the transporter that delivered the used oil to the burner;
  - 2) The name and address of the generator or processor from whom the used oil was sent to the burner;
  - 3) The USEPA identification number and Illinois special waste identification number of the transporter that delivered the used oil to the burner;
  - 4) The USEPA identification number and Illinois special waste identification number (if applicable) of the generator or processor from whom the used oil was sent to the burner;

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- 5) The quantity of used oil accepted;
  - 6) The date of acceptance; and
  - 7) If the transporter has accepted any shipment of mixtures of used oil and materials identified in 35 Ill. Adm. Code 808.121(b)(5) or (b)(6), the following:
    - A) Information stating when and where the special waste was generated;
    - B) The classification and quantity of the special waste delivered to the transporter;
    - C) Any special handling instructions pertinent to emergency personnel in the event of an accident; and
    - D) A generator's certification as follows: "I hereby declare that the contents of this consignment are fully and accurately described above by the proper shipping name, and are classified, packaged, marked and labeled/placarded, and are in all respects in proper condition for transport according to applicable international and national governmental regulations. If export shipment and I am the Primary Exporter, I certify that the contents of this consignment conform to the terms of the attached EPA Acknowledgement of Consent. I certify that the waste minimization statement identified in 40 CFR 262.27(a) (if I am a large quantity generator) or (b) (if I am a small quantity generator) is true."
- b) Record retention. The records described in subsection (a) ~~of this Section~~ must be maintained for at least three years.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 739.166 Notices**

- a) Certification. Before a burner accepts the first shipment of off-specification used oil fuel from a generator, transporter, or processor, the burner must provide to the generator, transporter, or processor a one-time written and signed notice certifying



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the following:

- 1) That the burner has notified USEPA stating the location and general description of his used oil management activities; and
  - 2) That the burner will burn the used oil only in an industrial furnace or boiler identified in Section 739.161(a).
- b) Certification retention. The certification described in subsection (a) ~~of this Section~~ must be maintained for three years from the date the burner last receives shipment of off-specification used oil from that generator, transporter, or processor.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART H: STANDARDS FOR USED OIL FUEL MARKETERS

**Section 739.170 Applicability**

- a) Any person that conducts either of the following activities is subject to the requirements of this Subpart H:
  - 1) Directs a shipment of off-specification used oil from their facility to a used oil burner; or
  - 2) First claims that used oil that is to be burned for energy recovery meets the used oil fuel specifications set forth in Section 739.111.
- b) The following persons are not marketers subject to this Subpart H:
  - 1) A used oil generator, or a transporter that transports used oil received only from generators, unless the generator or transporter directs a shipment of off-specification used oil from its facility to a used oil burner. However, a processor that burns some used oil fuel for purposes of processing is considered to be burning incidentally to processing. Thus, generator or transporter that directs shipments of off-specification used oil to a processor that incidentally burns used oil is not a marketer subject to this Subpart H;

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- 2) A person that directs shipments of on-specification used oil and which is not the first person to claim the oil meets the used oil fuel specifications of Section 739.111.
- c) Any person subject to the requirements of this Subpart H must also comply with one of the following:
  - 1) Subpart C ~~– Standard of this Part – Standards~~ for Used Oil Generators;
  - 2) Subpart E ~~– Standard of this Part – Standards~~ for Used Oil Transporters and Transfer Facilities;
  - 3) Subpart F ~~– Standard of this Part – Standards~~ for Used Oil Processors and Re-refiners; or
  - 4) Subpart G ~~– Standard of this Part – Standards~~ for Used Oil Burners that Burn Off-Specification Used Oil for Energy Recovery.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 739.174 Tracking**

- a) Off-specification used oil delivery. Any used oil fuel marketer that directs a shipment of off-specification used oil to a burner must keep a record of each shipment of used oil to a used oil burner. These records may take the form of a log, invoice, manifest, bill of lading or other shipping documents. Records for each shipment must include the following information:
  - 1) The name and address of the transporter that delivers the used oil to the burner;
  - 2) The name and address of the burner that will receive the used oil;
  - 3) The USEPA identification number and Illinois special waste identification number of the transporter that delivers the used oil to the burner;
  - 4) The USEPA identification number and Illinois special waste identification

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number of the burner;

- 5) The quantity of used oil shipped;
  - 6) The date of shipment; and
  - 7) If the transporter has accepted any shipment of mixtures of used oil and materials identified in 35 Ill. Adm. Code 808.121(b)(5) or (b)(6), the following:
    - A) Information stating when and where the special waste was generated;
    - B) The classification and quantity of the special waste delivered to the transporter;
    - C) Any special handling instructions pertinent to emergency personnel in the event of an accident; and
    - D) A generator's certification as follows: "I hereby declare that the contents of this consignment are fully and accurately described above by the proper shipping name, and are classified, packaged, marked and labeled/placarded, and are in all respects in proper condition for transport according to applicable international and national governmental regulations. If export shipment and I am the Primary Exporter, I certify that the contents of this consignment conform to the terms of the attached EPA Acknowledgement of Consent. I certify that the waste minimization statement identified in 40 CFR 262.27(a) (if I am a large quantity generator) or (b) (if I am a small quantity generator) is true."
- b) On-specification used oil delivery. A generator, transporter, processor or re-refiner, or burner that first claims that used oil that is to be burned for energy recovery meets the fuel specifications under Section 739.111 must keep a record of each shipment of used oil to the facility to which it delivers the used oil. Records for each shipment must include the following information:
- 1) The name and address of the facility receiving the shipment;

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- 2) The quantity of used oil fuel delivered;
  - 3) The date of shipment or delivery; and
  - 4) A cross-reference to the record of used oil analysis or other information used to make the determination that the oil meets the specification as required under Section 739.172(a).
- c) Record retention. The records described in subsections (a) and (b) ~~of this Section~~ must be maintained for at least three years.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 739.175 Notices**

- a) Certification. Before a used oil generator, transporter, or processor directs the first shipment of off-specification used oil fuel to a burner, it must obtain a one-time written and signed notice from the burner certifying the following:
- 1) That the burner has notified USEPA stating the location and general description of used oil management activities; and
  - 2) That the burner will burn the off-specification used oil only in an industrial furnace or boiler identified in Section 739.161(a).
- b) Certification retention. The certification described in subsection (a) ~~of this Section~~ must be maintained for three years from the date the last shipment of off-specification used oil is shipped to the burner.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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- 1) Heading of the Part: Solid Waste Disposal: General Provisions
- 2) Code Citation: 35 Ill. Adm. Code 810
- 3) 

<u>Section Numbers</u> :	<u>Proposed Actions</u> :
810.103	Amendment
810.104	Amendment
810.105	Amendment
- 4) Statutory Authority: 415 ILCS 5/7.2, 21, 21.1, 22, 22.17, 22.40, and 27
- 5) A Complete Description of the Subjects and Issues Involved: The amendments to Part 810 are a single segment of the consolidated docket R17-14/R17-15/R18-11/R18-31 rulemaking that also affects 35 Ill. Adm. Code 702, 704, 705, 720 through 728, 730, 733, 738, 739, 811 and 812. Due to the extreme volume of the consolidated docket, each Part is covered by a notice in four separate issues of the *Illinois Register*. Included in this issue are 35 Ill. Adm. Code 730, 733, 738, 739, and 810 through 812. To save space, a more detailed description of the subjects and issues involved in the consolidated docket R17-14/R17-15/R18-11/R18-31 rulemaking in this issue of the *Illinois Register* only in the answer to question 5 in the Notice of Adopted Amendments for 35 Ill. Adm. Code 730. A comprehensive description is contained in the Board's opinion and order of March 3, 2016, proposing amendments in docket R16-7, which opinion and order is available from the address below.

Specifically, the amendments to Part 810 incorporate elements of the Generator Improvements Rule. The Board makes several needed corrections in the text of the rules.

Tables appear in a document entitled "Identical-in-Substance Rulemaking Addendum (Proposed)" that the Board added to consolidated docket R17-14/R17-15/R18-11/R18-31.

The tables list the deviations from the literal text of the federal amendments and the several necessary corrections and stylistic revisions not directly derived from USEPA actions. Persons interested in the details of those deviations from the literal text should refer to the Identical-in-Substance Rulemaking Addendum (Proposed) in consolidated docket R17-14/R17-15/R18-11/R18-31.

Section 22.40 of the Environmental Protection Act [415 ILCS 5/22.40] provides that Section 5-35 of the Administrative Procedure Act [5 ILCS 100/5-35] does not apply to

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this rulemaking. Because this rulemaking is not subject to Section 5-35 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules (JCAR).

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Does this rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? Yes
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: These proposed amendments do not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comment on this proposal for a period of 45 days after the date of this publication. Comments should reference consolidated docket R17-14/R17-15/R18-11/R18-31 and be addressed to:

Don A. Brown, Clerk  
Illinois Pollution Control Board  
State of Illinois Center, Suite 11-500  
100 W. Randolph St.  
Chicago IL 60601

Please direct inquiries to the following person and reference consolidated docket R17-14/R17-15/R18-11/R18-31:

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

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312/814-6924

email: michael.mccambridge@illinois.gov

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

13) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities, and not-for-profit corporations affected: This rulemaking may affect those small businesses, small municipalities, and not-for-profit corporations disposing of industrial wastewaters into the sewage collection system of a publicly owned treatment works. These proposed amendments do not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- B) Reporting, bookkeeping or other procedures required for compliance: The existing rules and proposed amendments require extensive reporting, bookkeeping and other procedures, including the preparation of manifests and annual reports, waste analyses and maintenance of operating records. These proposed amendments do not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- C) Types of professional skills necessary for compliance: Compliance with the existing rules and proposed amendments may require the services of an attorney, certified public accountant, chemist and registered professional engineer. These proposed amendments do not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].

14) Regulatory Agenda on which this rulemaking was summarized: January 2017 and January 2018

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

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TITLE 35: ENVIRONMENTAL PROTECTION  
SUBTITLE G: WASTE DISPOSAL  
CHAPTER I: POLLUTION CONTROL BOARD  
SUBCHAPTER i: SOLID WASTE AND SPECIAL WASTE HAULINGPART 810  
SOLID WASTE DISPOSAL: GENERAL PROVISIONS

## Section

810.101	Scope and Applicability
810.102	Severability
810.103	Definitions
810.104	Incorporations by Reference
810.105	Electronic Reporting

**AUTHORITY:** Implementing Sections 7.2, 21, 21.1, 22, 22.17, and 22.40 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/7.2, 21, 21.1, 22, 22.17, 22.40, and 27].

**SOURCE:** Adopted in R88-7 at 14 Ill. Reg. 15838, effective September 18, 1990; amended in R93-10 at 18 Ill. Reg. 1268, effective January 13, 1994; amended in R90-26 at 18 Ill. Reg. 12457, effective August 1, 1994; amended in R95-9 at 19 Ill. Reg. 14427, effective September 29, 1995; amended in R96-1 at 20 Ill. Reg. 11985, effective August 15, 1996; amended in R97-20 at 21 Ill. Reg. 15825, effective November 25, 1997; amended in R04-5/R04-15 at 28 Ill. Reg. 9090, effective June 18, 2004; amended in R05-1 at 29 Ill. Reg. 5028, effective March 22, 2005; amended in R06-5/R06-6/R06-7 at 30 Ill. Reg. 4130, effective February 23, 2006; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 1425, effective December 20, 2006; amended in R07-8 at 31 Ill. Reg. 16167, effective November 27, 2007; amended in R10-9 at 35 Ill. Reg. 10837, effective June 22, 2011; amended in R14-1/R14-2/R14-3 at 38 Ill. Reg. 7253, effective March 13, 2014; amended in R15-8 at 38 Ill. Reg. 23458, effective November 24, 2014; amended in R17-14/R17-15/R18-12 at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 810.103 Definitions**

Except as stated in this Section, or unless a different meaning of a word or term is clear from the context, the definition of words or terms in this Part will be the same as that applied to the same words or terms in the Environmental Protection Act (Act) ~~[415 ILCS 5]~~:



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

"Admixtures" are chemicals added to earth materials to improve for a specific application the physical or chemical properties of the earth materials. Admixtures include, but are not limited to: lime, cement, bentonite, and sodium silicate.

*"Agency" is the Environmental Protection Agency established by the Environmental Protection Act. [415 ILCS 5/3.105]*

"Applicant" means the person submitting an application to the Agency for a permit for a solid waste disposal facility.

*"Aquifer" means saturated (with groundwater) soils and geologic materials which are sufficiently permeable to readily yield economically useful quantities of water to wells, springs, or streams under ordinary hydraulic gradients and whose boundaries can be identified and mapped from hydrogeologic data. (Section 3 of the Illinois Groundwater Protection Act [415 ILCS 55/3])*

"Bedrock" means the solid rock formation immediately underlying any loose superficial material such as soil, alluvium, or glacial drift.

"Beneficially usable waste" means any solid waste from the steel and foundry industries that will not decompose biologically, burn, serve as food for vectors, form a gas, cause an odor, or form a leachate that contains constituents which exceed the limits for this type of waste as specified at 35 Ill. Adm. Code 817.106.

*"Board" is the Pollution Control Board established by the Act. [415 ILCS 5/3.130]*

"Borrow area" means an area from which earthen material is excavated for the purpose of constructing daily cover, final cover, a liner, a gas venting system, roadways, or berms.

"Chemical waste" means a non-putrescible solid whose characteristics are such that any contaminated leachate is expected to be formed through chemical or physical processes, rather than biological processes, and no gas is expected to be formed as a result.

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"Coal combustion power generating facilities" means establishments that generate electricity by combusting coal and which utilize a lime or limestone scrubber system.

"Contaminated leachate" means any leachate whose constituent violate the standards of 35 Ill. Adm. Code 811.202.

"Dead animal disposal site" means an on-the-farm disposal site at which the burial of dead animals is done in accordance with the Illinois Dead Animal Disposal Act [225 ILCS 610] and regulations adopted pursuant thereto (8 Ill. Adm. Code 90).

"Design Period" means that length of time determined by the sum of the operating life of the solid waste landfill facility plus the postclosure care period necessary to stabilize the waste in the units.

*"Disposal" means the discharge, deposit, injection, dumping, spilling, leaking or placing of any solid waste into or on any land or water or into any well such that solid waste or any constituent of the solid waste may enter the environment by being emitted into the air or discharged into any waters, including groundwater.* [415 ILCS 5/3.185] If the solid waste is accumulated and not confined or contained to prevent its entry into the environment, or there is no certain plan for its disposal elsewhere, such accumulation will constitute disposal.

"Disturbed areas" means those areas within a facility that have been physically altered during waste disposal operations or during the construction of any part of the facility.

"Documentation" means items, in any tangible form, whether directly legible or legible with the aid of any machine or device, including but not limited to affidavits, certificates, deeds, leases, contracts or other binding agreements, licenses, permits, photographs, audio or video recordings, maps, geographic surveys, chemical and mathematical formulas or equations, mathematical and statistical calculations and assumptions, research papers, technical reports, technical designs and design drawings, stocks, bonds, and financial records, that are used to support facts or hypotheses.

"Earth liners" means structures constructed from naturally occurring soil material that has been compacted to achieve a low permeability.

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"Existing facility" or "Existing unit" means a facility or unit that is not defined in this Section as a new facility or a new unit.

*"Existing MSWLF unit" means any municipal solid waste landfill unit that has received household waste before October 9, 1993. [415 ILCS 5/3.285]*

"Facility" means a site and all equipment and fixtures on a site used to treat, store or dispose of solid or special wastes. A facility consists of an entire solid or special waste treatment, storage, or disposal operation. All structures used in connection with or to facilitate the waste disposal operation will be considered a part of the facility. A facility may include, but is not limited to, one or more solid waste disposal units, buildings, treatment systems, processing and storage operations, and monitoring stations.

"Field capacity" means that maximum moisture content of a waste, under field conditions of temperature and pressure, above which moisture is released by gravity drainage.

"Foundry sand" means pure sand or a mixture of sand and any additives necessary for use of the sand in the foundry process, but does not include such foundry process by-products as air pollution control dust or refractories.

"Gas collection system" means a system of wells, trenches, pipes and other related ancillary structures such as manholes, compressor housing, and monitoring installations that collects and transports the gas produced in a putrescible waste disposal unit to one or more gas processing points. The flow of gas through such a system may be produced by naturally occurring gas pressure gradients or may be aided by an induced draft generated by mechanical means.

"Gas condensate" means the liquid formed as a landfill gas is cooled or compressed.

"Gas venting system" means a system of wells, trenches, pipes and other related structures that vents the gas produced in a putrescible waste disposal unit to the atmosphere.

"Geomembranes" means manufactured membrane liners and barriers of low

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permeability used to control the migration of fluids or gases.

"Geotextiles" are permeable manufactured materials used for purposes that include, but are not limited to, strengthening soil, providing a filter to prevent clogging of drains, and collecting and draining liquids and gases beneath the ground surface.

*"Groundwater" means underground water which occurs within the saturated zone and within geologic materials where the fluid pressure in the pore space is equal to or greater than atmospheric pressure. (Section 3 of the Illinois Groundwater Protection Act)*

*"Household waste" means any solid waste (including garbage, trash, and sanitary waste in septic tanks) derived from households (including single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreation areas). [415 ILCS 5/3.230]*

"Hydraulic barriers" means structures designed to prevent or control the seepage of water. Hydraulic barriers include, but are not limited to, cutoff walls, slurry walls, grout curtains, and liners.

"Inert waste" means any solid waste that will not decompose biologically, burn, serve as food for vectors, form a gas, cause an odor, or form a contaminated leachate, as determined in accordance with 35 Ill. Adm. Code 811.202(b). Such inert wastes will include only non-biodegradable and non-putrescible solid wastes. Inert wastes may include, but are not limited to, bricks, masonry, and concrete (cured for 60 days or more).

"Iron slag" means slag.

"Land application unit" means an area where wastes are agronomically spread over or disked into land or otherwise applied so as to become incorporated into the soil surface. For the purposes of this Part and 35 Ill. Adm. Code 811 through 815, a land application unit is not a landfill; however, other Parts of 35 Ill. Adm. Code: Chapter I may apply, and may include the permitting requirements of 35 Ill. Adm. Code 309.

"Landfill" means a unit or part of a facility in or on which waste is placed and

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accumulated over time for disposal, and which is not a land application unit, a surface impoundment or an underground injection well. For the purposes of this Part and 35 Ill. Adm. Code 811 through 815, landfills include waste piles, as defined in this Section.

*"Lateral expansion" means a horizontal expansion of the actual waste boundaries of an existing MSWLF unit occurring on or after October 9, 1993. A horizontal expansion is any area where solid waste is placed for the first time directly upon the bottom liner of the unit, excluding side slopes on or after October 9, 1993. [415 ILCS 5/3.275]*

"Leachate" means liquid that has been or is in direct contact with a solid waste.

"Lift" means an accumulation of waste that is compacted into a unit and over which cover is placed.

"Low risk waste" means any solid waste from the steel and foundry industries that will not decompose biologically, burn, serve as food for vectors, form a gas, cause an odor, or form a leachate that contains constituents that exceed the limits for this type of waste as specified at 35 Ill. Adm. Code 817.106.

"Malodor" means an odor caused by *one or more contaminant emissions into the atmosphere from a facility that is in sufficient quantities and of such characteristics and duration as to be described as malodorous and which may be injurious to human, plant, or animal life, to health, or to property, or may unreasonably interfere with the enjoyment of life or property.* [415 ILCS 5/3.115] (defining "air pollution")

*"Municipal solid waste landfill unit" or "MSWLF unit" means a contiguous area of land or an excavation that receives household waste, and that is not a land application, surface impoundment, injection well, or any pile of non-containerized accumulations of solid, non-flowing waste that is used for treatment or storage. A MSWLF unit may also receive other types of RCRA Subtitle D wastes, such as commercial solid waste, non-hazardous sludge, waste from a very small quantity generator, as defined in 35 Ill. Adm. Code 720.110, ~~waste~~ and industrial solid waste. Such a landfill may be publicly or privately owned or operated. a MSWLF unit may be a new MSWLF unit, an existing MSWLF unit or a lateral expansion. A sanitary landfill is subject to regulation as a MSWLF if it receives*

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*household waste.* [415 ILCS 5/3.285] But, a landfill that receives residential lead-based paint waste and which does not receive any other household waste is not a MSWLF unit.

BOARD NOTE: Section 3.160 of the Act, from which this definition derives, uses the phrase "small quantity generator," which is a separate type of facility defined in 40 CFR 260.10. The exclusion that would allow disposal of waste from very small quantity generator in a MSWLF unit does not apply to waste from a small quantity generator waste. Use of a "small quantity generator" would make the Illinois hazardous waste and MSWLF rules less stringent than their federal counterparts. The final sentence of corresponding 40 C.F.R. 258.2 provides as follows: "A construction and demolition landfill that receives residential lead-based paint waste and which does not receive any other household waste is not a MSWLF Unit." A construction and demolition landfill is a type of landfill that does not exist in Illinois, so the Board omitted the reference to "construction and demolition landfill-". A landfill in Illinois that receives residential lead-based paint waste and no other type of household waste would be permitted as a chemical waste landfill or a putrescible waste landfill under Subpart C of 35 Ill. Adm. Code 811, as appropriate.

"National Pollutant Discharge Elimination System" or "NPDES" means the program for issuing, modifying, revoking and reissuing, terminating, monitoring, and enforcing permits and imposing and enforcing pretreatment requirements under the Clean Water Act (33 USC 1251 et seq.), Section 12(f) of the Act ~~[415 ILCS 5/12(f)]~~, Subpart A of 35 Ill. Adm. Code 309, and 35 Ill. Adm. Code 310.

"NPDES permit" means a permit issued under the NPDES program.

"New facility" or "New unit" means a solid waste landfill facility or a unit at a facility, if one or more of the following conditions apply:

It is a landfill or unit exempt from permit requirements pursuant to Section 21(d) of the Act ~~[415 ILCS 5/21(d)]~~ that ~~had~~has not yet accepted any waste as of September 18, 1990;

It is a landfill or unit not exempt from permit requirements pursuant to Section 21(d) of the Act ~~[415 ILCS 5/21(d)]~~ that ~~had~~has no development or operating permit issued by the Agency pursuant to 35 Ill. Adm. Code 807 as of September 18, 1990; or

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It is a landfill with a unit whose maximum design capacity or lateral extent was increased after September 18, 1990.

BOARD NOTE: A new unit located in an existing facility will be considered a unit subject to 35 Ill. Adm. Code 814, which references applicable requirements of 35 Ill. Adm. Code 811.

*"New MSWLF unit" means any municipal solid waste landfill unit that has received household waste on or after October 9, 1993 for the first time. [415 ILCS 5/3.285]*

"One hundred-year flood plain" means any land area that is subject to a one percent or greater chance of flooding in a given year from any source.

"One hundred-year, 24-hour precipitation event" means a precipitation event of 24-hour duration with a probable recurrence interval of once in 100 years.

"Operator" means the person responsible for the operation and maintenance of a solid waste disposal facility.

"Owner" means a person who has an interest, directly or indirectly, in land, including a leasehold interest, on which a person operates and maintains a solid waste disposal facility. The "owner" is the "operator" if there is no other person who is operating and maintaining a solid waste disposal facility.

"Perched watertable" means an elevated watertable above a discontinuous saturated lens, resting on a low permeability (such as clay) layer within a high permeability (such as sand) formation.

"Permit area" means the entire horizontal and vertical region occupied by a permitted solid waste disposal facility.

*"Person" is any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, political subdivision, State agency, or any other legal entity, or their legal representative, agent or assigns. [415 ILCS 5/3.315]*

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"Potentially usable waste" means any solid waste from the steel and foundry industries that will not decompose biologically, burn, serve as food for vectors, form a gas, cause an odor, or form a leachate that contains constituents that exceed the limits for this type of waste as specified at 35 Ill. Adm. Code 817.106.

"Poz-O-Tec materials" means materials produced by a stabilization process patented by Conversion Systems, Inc. utilizing flue gas desulfurization (FGD) sludges and ash produced by coal combustion power generation facilities as raw materials.

"Poz-O-Tec monofill" means a landfill in which solely Poz-O-Tec materials are placed for disposal.

"Professional engineer" means a person who has registered and obtained a seal pursuant to the Professional Engineering Practice Act of 1989 [225 ILCS 325].

"Professional land surveyor" means a person who has received a certificate of registration and a seal pursuant to the Illinois Professional Land Surveyor Act of 1989 [225 ILCS 330].

"Putrescible waste" means a solid waste that contains organic matter capable of being decomposed by microorganisms so as to cause a malodor, gases, or other offensive conditions, or which is capable of providing food for birds and vectors. Putrescible wastes may form a contaminated leachate from microbiological degradation, chemical processes, and physical processes. Putrescible waste includes, but is not limited to, garbage, offal, dead animals, general household waste, and commercial waste. All solid wastes that do not meet the definition of inert or chemical wastes will be considered putrescible wastes.

"Publicly owned treatment works" or "POTW" means a treatment works that is owned by the State of Illinois or a unit of local government. This definition includes any devices and systems used in the storage, treatment, recycling, and reclamation of municipal sewage or industrial wastewater. It also includes sewers, pipes, and other conveyances only if they convey wastewater to a POTW treatment plant. The term also means the unit of local government that has jurisdiction over the indirect discharges to and the discharges from such a treatment works.



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"Recharge zone" means an area through which water can enter an aquifer.

"Research, development, and demonstration permit" or "RD&D permit" means a permit issued pursuant to 35 Ill. Adm. Code 813.112.

"Residential lead-based paint waste" means waste containing lead-based paint that is generated as a result of activities such as abatement, rehabilitation, renovation, and remodeling in homes and other residences. The term residential lead-based paint waste includes, but is not limited to, lead-based paint debris, chips, dust, and sludges.

*"Resource Conservation and Recovery Act" or "RCRA" means the Resource Conservation and Recovery Act of 1976 (P.L. 94-580 codified as 42 USC. §§6901 et seq.) as amended. [415 ILCS 5/3.425]*

"Responsible charge," when used to refer to a person, means that the person is normally present at a waste disposal site; directs the day-to-day overall operation at the site; and either is the owner or operator or is employed by or under contract with the owner or operator to assure that the day-to-day operations at the site are carried out in compliance with any Part of 35 Ill. Adm. Code: Chapter I governing operations at waste disposal sites.

"Runoff" means water resulting from precipitation that flows overland before it enters a defined stream channel, any portion of such overland flow that infiltrates into the ground before it reaches the stream channel, and any precipitation that falls directly into a stream channel.

"Salvaging" means the return of waste materials to use, under the supervision of the landfill operator, so long as the activity is confined to an area remote from the operating face of the landfill, it does not interfere with or otherwise delay the operations of the landfill, and it results in the removal of all materials for salvaging from the landfill site daily or separates them by type and stores them in a manner that does not create a nuisance, harbor vectors, or cause an unsightly appearance.

"Scavenging" means the removal of materials from a solid waste management facility or unit that is not salvaging.

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"Seismic Slope Safety Factor" means the ratio between the resisting forces or moments in a slope and the driving forces or moments that may cause a massive slope failure during an earthquake or other seismic event such as an explosion.

"Settlement" means subsidence caused by waste loading, changes in groundwater level, chemical changes within the soil, and adjacent operations involving excavation.

"Shredding" means the mechanical reduction in particle sizes of solid waste. Putrescible waste is considered shredded if 90 percent of the waste by dry weight passes a three-inch sieve.

"Significant Modification" means a modification to an approved permit issued by the Agency in accordance with Section 39 of the Act ~~[415 ILCS 5/39]~~ and 35 Ill. Adm. Code 813 that is required when one or more of the following changes (considered significant when that change is measured by one or more parameters whose values lie outside the expected operating range of values as specified in the permit) are planned, occur, or will occur:

An increase in the capacity of the waste disposal unit over the permitted capacity;

Any change in the placement of daily, intermediate, or final cover;

A decrease in performance, efficiency, or longevity of the liner system;

A decrease in efficiency or performance of the leachate collection system;

A change in configuration, performance, or efficiency of the leachate management system;

A change in the final disposition of treated effluent or in the quality of the discharge from the leachate treatment or pretreatment system;

Installation of a gas management system or a decrease in the efficiency or performance of an existing gas management system;

A change in the performance or operation of the surface water control

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system;

A decrease in the quality or quantity of data from any environmental monitoring system;

A change in the applicable background concentrations or the maximum allowable predicted concentrations;

A change in the design or configuration of the regraded area after development or after final closure;

A change in the amount or type of postclosure financial assurance;

Any change in the permit boundary;

A change in the postclosure land use of the property;

A remedial action necessary to protect groundwater;

Transfer of the permit to a new operator;

Operating authorization is being sought to place into service a structure constructed pursuant to a construction quality assurance program; or

A change in any requirement set forth as a special condition in the permit.

"Slag" means the fused agglomerate that separates in the iron and steel production and floats on the surface of the molten metal.

"Sole source aquifer" means those aquifers designated pursuant to Section 1424(e) of the Safe Drinking Water Act of 1974 (42 USC 300h-3).

"Solid Waste" means a waste that is defined in this Section as an inert waste, as a putrescible waste, as a chemical waste or as a special waste, and which is not also defined as a hazardous waste pursuant to 35 Ill. Adm. Code 721.

*"Special waste" means any industrial process waste, pollution control waste, or hazardous waste, except as determined pursuant to Section 22.9 of the Act* [\[415\]](#)

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~~ILCS 5/22.9]~~ and 35 Ill. Adm. Code 808. [415 ILCS 5/3.475]

"Static Safety Factor" means the ratio between resisting forces or moments in a slope and the driving forces or moments that may cause a massive slope failure.

"Steel slag" means slag.

"Surface impoundment" means a natural topographic depression, a man-made excavation, or a diked area into which flowing wastes, such as liquid wastes or wastes containing free liquids, are placed. For the purposes of this Part and 35 Ill. Adm. Code 811 through 815, a surface impoundment is not a landfill. Other Parts of 35 Ill. Adm. Code: Chapter I may apply, including the permitting requirements of 35 Ill. Adm. Code 309.

"Twenty-five-year, 24-hour precipitation event" means a precipitation event of 24-hour duration with a probable recurrence interval of once in 25 years.

"Uppermost aquifer" means the first geologic formation above or below the bottom elevation of a constructed liner or wastes, where no liner is present, that is an aquifer, and includes any lower aquifer that is hydraulically connected with this aquifer within the facility's permit area.

"Unit" means a contiguous area used for solid waste disposal.

"Unit of local government" means a unit of local government, as defined by Article 7, Section 1 of the Illinois Constitution. A unit of local government may include, but is not limited to, a municipality, a county, or a sanitary district.

"Waste pile" means an area on which non-containerized masses of solid, non-flowing wastes are placed for disposal. For the purposes of this Part and 35 Ill. Adm. Code 811 through 815, a waste pile is a landfill, unless the operator can demonstrate that the wastes are not accumulated over time for disposal. At a minimum, such demonstration must include photographs, records, or other observable or discernable information, maintained on a yearly basis, that show that within the preceding year the waste has been removed for utilization or disposal elsewhere.

"Waste stabilization" means any chemical, physical, or thermal treatment of

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waste, either alone or in combination with biological processes, that results in a reduction of microorganisms, including viruses, and the potential for putrefaction.

"Working face" means any part of a landfill where waste is being disposed of.

"Zone of attenuation" means the three dimensional region formed by excluding the volume occupied by the waste placement from the smaller of the volumes resulting from vertical planes drawn to the bottom of the uppermost aquifer at the property boundary or 100 feet from the edge of one or more adjacent units.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 810.104 Incorporations by Reference**

a) The Board incorporates the following material by reference:

1) Code of Federal Regulations:

40 CFR 3.2 (~~2017~~2014) (How Does This Part Provide for Electronic Reporting?), referenced in Section 810.105.

40 CFR 3.3 (~~2017~~2014) (What Definitions Are Applicable to This Part?), referenced in Section 810.105.

40 CFR 3.10 (~~2017~~2014) (What Are the Requirements for Electronic Reporting to EPA?), referenced in Section 810.105.

40 CFR 3.2000 (~~2017~~2014) (What Are the Requirements Authorized State, Tribe, and Local Programs' Reporting Systems Must Meet?), referenced in Section 810.105.

40 CFR 141.40 (~~2017~~2014) (Monitoring Requirements for Unregulated Contaminants), referenced in 35 Ill. Adm. Code 811.319 and 817.415.

40 CFR 258.10(a), (b), and (c) (~~2017~~2014) (Airport Safety), referenced in [Appendix A to 35 Ill. Adm. Code 814](#).~~Appendix A.~~

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40 CFR 258.11(a) (~~2017~~2014) (Floodplains), referenced in [Appendix A to 35 Ill. Adm. Code 814](#).~~Appendix A~~.

40 CFR 258.12(a) (~~2017~~2014) (Wetlands), referenced in [Appendix A to 35 Ill. Adm. Code 814](#).~~Appendix A~~.

40 CFR 258.13 (~~2017~~2014) (Fault Areas), referenced in [Appendix A to 35 Ill. Adm. Code 814](#).~~Appendix A~~.

40 CFR 258.14 (~~2017~~2014) (Seismic Impact Zones), referenced in [Appendix A to 35 Ill. Adm. Code 814](#).~~Appendix A~~.

40 CFR 258.15 (~~2017~~2014) (Unstable Areas), referenced in [Appendix A to 35 Ill. Adm. Code 814](#).~~Appendix A~~.

40 CFR 258.16(a) (~~2017~~2014) (Closure of Existing Municipal Solid Waste Landfill Units), referenced in [Appendix A to 35 Ill. Adm. Code 814](#).~~Appendix A~~.

40 CFR 258.20 (~~2017~~2014) (Procedures for Excluding the Receipt of Hazardous Waste), referenced in [Appendix A to 35 Ill. Adm. Code 814](#).~~Appendix A~~.

40 CFR 258.23 (~~2017~~2014) (Explosive Gases Control), referenced in [Appendix A to 35 Ill. Adm. Code 814](#).~~Appendix A~~.

40 CFR 258.26 (~~2017~~2014) (Run-on/Run-off Control Systems), referenced in [Appendix A to 35 Ill. Adm. Code 814](#).~~Appendix A~~.

40 CFR 258.27 (~~2017~~2014) (Surface Water Requirements), referenced in [Appendix A to 35 Ill. Adm. Code 814](#).~~Appendix A~~.

40 CFR 258.28 (~~2017~~2014) (Liquids Restrictions), referenced in [Appendix A to 35 Ill. Adm. Code 814](#).~~Appendix A~~.

40 CFR 258.29(a) and (c) (~~2017~~2014) (Recordkeeping Requirements), referenced in [Appendix A to 35 Ill. Adm. Code 814](#).~~Appendix A~~.

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40 CFR 258.60(c)(2), (c)(3), (d), (f), (g), and (i) (~~2017~~2014) (Closure Criteria), referenced in [Appendix A to 35 Ill. Adm. Code 814](#).~~Appendix A~~.

40 CFR 258.61(a), (c)(3), and (d) (~~2017~~2014) (Post-Closure Care Requirements), referenced in [Appendix A to 35 Ill. Adm. Code 814](#).~~Appendix A~~.

40 CFR 258.70(a) (~~2017~~2014) ((Financial Assurance) Applicability and Effective Date), referenced in [Appendix A to 35 Ill. Adm. Code 814](#).~~Appendix A~~.

40 CFR 258.71(a)(2) (~~2017~~2014) (Financial Assurance for Closure), referenced in [Appendix A to 35 Ill. Adm. Code 814](#).~~Appendix A~~.

40 CFR 258.72(a)(1) and (a)(2) (~~2017~~2014) (Financial Assurance for Post-Closure Care), referenced in [Appendix A to 35 Ill. Adm. Code 814](#).~~Appendix A~~.

40 CFR 258.73 (~~2017~~2014) (Financial Assurance for Corrective Action), referenced in [Appendix A to 35 Ill. Adm. Code 814](#).~~Appendix A~~.

40 CFR 258.74 (~~2017~~2014) (Allowable Mechanisms (for Financial Assurance)), referenced in [Appendix A to 35 Ill. Adm. Code 814](#).~~Appendix A~~.

Appendix I to 40 CFR 258 (~~2017~~2014) ([Constituents for Detection Monitoring](#)), referenced in 35 Ill. Adm. Code 811.319.

Appendix II to 40 CFR 258 (~~2017~~2014) ([List of Hazardous Inorganic and Organic Constituents](#)), referenced in 35 Ill. Adm. Code 811.319.

- 2) American Institute of Certified Public Accountants, 1211 Avenue of the Americas, New York NY 10036:

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Financial Accounting Standard Board (FASB) Accounting Standards – Current Text, 2008 Edition, referenced in 35 Ill. Adm. Code 811.715.

American Institute of Certified Public Accountants (AICPA) Professional Standards – Statements on Auditing Standards, June 1, 2008 Edition, referenced in 35 Ill. Adm. Code 811.715.

- 3) ASTM. American Society for Testing and Materials, 1976 Race Street, Philadelphia PA 19103 215-299-5585:

Method D2234-76, "Test Method for Collection of Gross Samples of Coal," approved 1976, referenced in 35 Ill. Adm. Code 817.103.

Method D3987-85, "Standard Test Method for Shake Extraction of Solid Waste with Water," approved 1985, referenced in 35 Ill. Adm. Code 814.601, 814.701, 814.901, 814.902, and 817.103.

- 4) GASB. Governmental Accounting Standards Board, 401 Merritt 7, P.O. Box 5116, Norwalk CT 06856-5116:

Statement 18, Accounting for Municipal Solid Waste Landfill Closure and Post-Closure Care Costs, August 1993, referenced in 35 Ill. Adm. Code 811.716.

- 5) U.S. Army Corps of Engineers, Publication Department, 2803 52<sup>nd</sup> Ave., Hyattsville MD 20781, 301-394-0081:

Engineering Manual 1110-2-1906 Appendix VII, Falling-Head Permeability Cylinder (1986), referenced in 35 Ill. Adm. Code 816.530.

- 6) U.S. Government Printing Office, Washington DC 20402, Ph: 202-783-3238:

Method 9095B (Paint Filter Liquids Test) in "Test Methods for



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Evaluating Solid Waste, Physical/Chemical Methods" (Third Edition, Update IIIB, November 2004) (document number EPA-SW-846-03-03B or EPA-530-R-04-037), referenced in 35 Ill. Adm. Code 811.107.

- b) This incorporation includes no later amendments or editions.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 810.105 Electronic Reporting**

- a) Scope and Applicability.
- 1) The USEPA, the Board, or the Agency may allow for the filing of electronic documents. This Section does not require submission of electronic documents in lieu of paper documents. This Section sets forth the requirements for the optional electronic filing of any report or document that must be submitted to the appropriate of the following:
    - A) To USEPA directly under Title 40 of the Code of Federal Regulations; or
    - B) To the Board or the Agency pursuant to any provision of 35 Ill. Adm. Code 810 through 815, to the extent the document is required by a provision derived from 40 CFR 258.
  - 2) Electronic reporting under this Section can begin only after USEPA has first done as follows:
    - A) As to filing with USEPA, USEPA has published a notice in the Federal Register announcing that USEPA is prepared to receive documents required or permitted by the identified part or subpart of Title 40 of the Code of Federal Regulations in an electronic format; or
    - B) As to filing with the State, USEPA has granted approval of any electronic document receiving system established by the Board or

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the Agency that meets the requirements of 40 CFR 3.2000, incorporated by reference in Section 810.104.

- 3) This Section does not apply to any of the following documents, whether or not the document is a document submitted to satisfy the requirements cited in subsection (a)(1) ~~of this Section~~:
  - A) Any document submitted via facsimile;
  - B) Any document submitted via magnetic or optical media, such as diskette, compact disc, digital video disc, or tape; or
  - C) Any data transfer between USEPA, any state, or any local government and either the Board or the Agency as part of administrative arrangements between the parties to the transfer to share data.
- 4) Upon USEPA conferring approval for the filing of any types of documents as electronic documents, as described in subsection (a)(2)(B) ~~of this Section~~, the Agency or the Board, as appropriate, must publish a Notice of Public Information in the Illinois Register that describes the documents approved for submission as electronic documents, the electronic document receiving system approved to receive them, the acceptable formats and procedures for their submission, and the date on which the Board or the Agency will begin to receive those submissions. In the event of cessation of USEPA approval or receiving any type of document as an electronic document, the Board or the Agency must similarly cause publication of a Notice of Public Information in the Illinois Register.

BOARD NOTE: Subsection (a) ~~of this Section~~ is derived from 40 CFR 3.1 ~~(2017), as added at 70 Fed. Reg. 59848 (Oct. 13, 2005)~~.

- b) Definitions. For the purposes of this Section, terms will have the meaning attributed them in 40 CFR 3.3, incorporated by reference in 35 Ill. Adm. Code 810.104.
- c) Procedures for submission of electronic documents to USEPA. Except as provided in subsection (a)(3) ~~of this Section~~, any person who is required under

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Title 40 of the Code of Federal Regulations to create and submit or otherwise provide a document to USEPA may satisfy this requirement with an electronic document, in lieu of a paper document, provided the following conditions are met:

- 1) The person satisfies the requirements of 40 CFR 3.10, incorporated by reference in Section 810.104; and
- 2) USEPA has first published a notice in the Federal Register as described in subsection (a)(2) ~~of this Section~~.

BOARD NOTE: Subsection (c) ~~of this Section~~ is derived from 40 CFR 3.2(a) and subpart B of 40 CFR 3 ~~(2017)~~, as added at 70 Fed. Reg. 59848 (Oct. 13, 2005).

- d) Procedures for submission of electronic documents to the Board or the Agency.
  - 1) The Board or the Agency may, but is not required to, establish procedures for the electronic submission of documents that meet the requirements of CFR 3.2 and 3.2000, incorporated by reference in Section 810.104. The Board or the Agency must establish any such procedures under the Administrative Procedure Act ~~[5 ILCS 100/5]~~.
  - 2) The Board or the Agency may not accept electronic documents under this Section until after USEPA has approved the procedures in writing, and the Board or the Agency has published a notice of such approval in the Illinois Register. Nothing in this subsection (d) limits the authority of the Board or the Agency under the Illinois Environmental Protection Act ~~[415 ILCS 5]~~ to accept documents filed electronically.

BOARD NOTE: Subsection (d) ~~of this Section~~ is derived from 40 CFR 3.2(b) and subpart D of 40 CFR 3 ~~(2017)~~, as added at 70 Fed. Reg. 59848 (Oct. 13, 2005).

- e) Effects of submission of an electronic document.
  - 1) If a person who submits a document as an electronic document fails to comply with the requirements this Section, that person is subject to the

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penalties prescribed for failure to comply with the requirement that the electronic document was intended to satisfy.

- 2) Where a document submitted as an electronic document to satisfy a reporting requirement bears an electronic signature, the electronic signature legally binds, obligates, and makes the signer responsible to the same extent as the signer's handwritten signature would on a paper document submitted to satisfy the same reporting requirement.
- 3) Proof that a particular signature device was used to create an electronic signature will suffice to establish that the individual uniquely entitled to use the device did so with the intent to sign the electronic document and give it effect.
- 4) Nothing in this Section limits the use of electronic documents or information derived from electronic documents as evidence in enforcement or other proceedings.

BOARD NOTE: Subsection (e) ~~of this Section~~ is derived from 40 CFR 3.4 and 3.2000(c) ~~(2017), as added at 70 Fed. Reg. 59848 (Oct. 13, 2005)~~.

- f) Public document subject to State laws. Any electronic document filed with the Board is a public document. The document, its filing, its retention by the Board, and its availability for public inspection and copying are subject to various State laws, including, but not limited to, the following:
  - 1) The Administrative Procedure Act [5 ILCS 100];
  - 2) The Freedom of Information Act [5 ILCS 140];
  - 3) The State Records Act [5 ILCS 160];
  - 4) The Electronic Commerce Security Act [5 ILCS 175];
  - 5) The Environmental Protection Act ~~[415 ILCS 5]~~;
  - 6) Regulations relating to public access to Board records (2 Ill. Adm. Code 2175); and

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- 7) Board procedural rules relating to protection of trade secrets and confidential information (35 Ill. Adm. Code 130).
- g) Nothing in this Section or in any provisions adopted pursuant to subsection (c)(1) ~~of this Section~~ will create any right or privilege to submit any document as an electronic document.

BOARD NOTE: Subsection (g) ~~of this Section~~ is derived from 40 CFR 3.2(c) ~~(2017), as added at 70 Fed. Reg. 59848 (Oct. 13, 2005).~~

BOARD NOTE: Derived from 40 CFR 3, ~~as added,~~ and ~~40 CFR~~ 258.29(d) ~~(2017)(2005), as amended at 70 Fed. Reg. 59848 (Oct. 13, 2005).~~

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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- 1) Heading of the Part: Standards for New Solid Waste Landfills
- 2) Code Citation: 35 Ill. Adm. Code 811
- 3) 

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
811.103	Amendment
811.106	Amendment
811.107	Amendment
811.110	Amendment
811.302	Amendment
811.309	Amendment
811.310	Amendment
811.314	Amendment
811.319	Amendment
811.320	Amendment
811.321	Amendment
811.323	Amendment
811.326	Amendment
811.404	Amendment
811.704	Amendment
811.715	Amendment
811.716	Amendment
811.719	Amendment
811.Appendix A, Illustration A	Amendment
811.Appendix A, Illustration B	Amendment
811.Appendix A, Illustration C	Amendment
811.Appendix A, Illustration E	Amendment
811.Appendix B	Amendment
811.Appendix C	Amendment
- 4) Statutory Authority: 415 ILCS 5/7.2, 21, 21.1, 22, 22.17, 22.40, and 27
- 5) A Complete Description of the Subjects and Issues Involved: The amendments to Part 811 are a single segment of the consolidated docket R17-14/R17-15/R18-11/R18-31 rulemaking that also affects 35 Ill. Adm. Code 702, 704, 705, 720 through 728, 730, 733, 738, 739, 810 and 812. Due to the extreme volume of the consolidated docket, each Part is covered by a notice in four separate issues of the *Illinois Register*. Included in this issue are 35 Ill. Adm. Code 730, 733, 738, 739, and 810 through 812. To save space, a

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more detailed description of the subjects and issues involved in the consolidated docket R17-14/R17-15/R18-11/R18-31 rulemaking in this issue of the *Illinois Register* only in the answer to question 5 in the Notice of Adopted Amendments for 35 Ill. Adm. Code 730. A comprehensive description is contained in the Board's opinion and order of March 3, 2016, proposing amendments in docket R16-7, which opinion and order is available from the address below.

Specifically, the amendments to Part 811 incorporate elements of the Generator Improvements Rule. The Board makes several needed corrections in the text of the rules.

Tables appear in a document entitled "Identical-in-Substance Rulemaking Addendum (Proposed)" that the Board added to consolidated docket R17-14/R17-15/R18-11/R18-31. The tables list the deviations from the literal text of the federal amendments and the several necessary corrections and stylistic revisions not directly derived from USEPA actions. Persons interested in the details of those deviations from the literal text should refer to the Identical-in-Substance Rulemaking Addendum (Proposed) in consolidated docket R17-14/R17-15/R18-11/R18-31.

Section 22.40 of the Environmental Protection Act [415 ILCS 5/22.40] provides that Section 5-35 of the Administrative Procedure Act [5 ILCS 100/5-35] does not apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules (JCAR).

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Does this rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: These proposed amendments do not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].

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- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comment on this proposal for a period of 45 days after the date of this publication. Comments should reference consolidated docket R17-14/R17-15/R18-11/R18-31 and be addressed to:

Don A. Brown, Clerk  
Illinois Pollution Control Board  
State of Illinois Center, Suite 11-500  
100 W. Randolph St.  
Chicago IL 60601

Please direct inquiries to the following person and reference consolidated docket R17-14/R17-15/R18-11/R18-31:

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

312/814-6924  
email: michael.mccambridge@illinois.gov

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

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities, and not-for-profit corporations affected: This rulemaking may affect those small businesses, small municipalities, and not-for-profit corporations disposing of industrial wastewaters into the sewage collection system of a publicly owned treatment works. These proposed amendments do not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- B) Reporting, bookkeeping or other procedures required for compliance: The existing rules and proposed amendments require extensive reporting, bookkeeping



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and other procedures, including the preparation of manifests and annual reports, waste analyses and maintenance of operating records. These proposed amendments do not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].

- C) Types of professional skills necessary for compliance: Compliance with the existing rules and proposed amendments may require the services of an attorney, certified public accountant, chemist and registered professional engineer. These proposed amendments do not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2017 and January 2018

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

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NOTICE OF PROPOSED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION  
SUBTITLE G: WASTE DISPOSAL  
CHAPTER I: POLLUTION CONTROL BOARD  
SUBCHAPTER i: SOLID WASTE AND SPECIAL WASTE HAULING

PART 811  
STANDARDS FOR NEW SOLID WASTE LANDFILLS

SUBPART A: GENERAL STANDARDS FOR ALL LANDFILLS

Section	
811.101	Scope and Applicability
811.102	Location Standards
811.103	Surface Water Drainage
811.104	Survey Controls
811.105	Compaction
811.106	Daily Cover
811.107	Operating Standards
811.108	Salvaging
811.109	Boundary Control
811.110	Closure and Written Closure Plan
811.111	Postclosure Maintenance
811.112	Recordkeeping Requirements for MSWLF Units
811.113	Electronic Reporting

SUBPART B: INERT WASTE LANDFILLS

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811.201	Scope and Applicability
811.202	Determination of Contaminated Leachate
811.203	Design Period
811.204	Final Cover
811.205	Final Slope and Stabilization
811.206	Leachate Sampling
811.207	Load Checking

SUBPART C: PUTRESCIBLE AND CHEMICAL WASTE LANDFILLS

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811.301	Scope and Applicability
811.302	Facility Location
811.303	Design Period
811.304	Foundation and Mass Stability Analysis
811.305	Foundation Construction
811.306	Liner Systems
811.307	Leachate Drainage System
811.308	Leachate Collection System
811.309	Leachate Treatment and Disposal System
811.310	Landfill Gas Monitoring
811.311	Landfill Gas Management System
811.312	Landfill Gas Processing and Disposal System
811.313	Intermediate Cover
811.314	Final Cover System
811.315	Hydrogeologic Site Investigations
811.316	Plugging and Sealing of Drill Holes
811.317	Groundwater Impact Assessment
811.318	Design, Construction, and Operation of Groundwater Monitoring Systems
811.319	Groundwater Monitoring Programs
811.320	Groundwater Quality Standards
811.321	Waste Placement
811.322	Final Slope and Stabilization
811.323	Load Checking Program
811.324	Corrective Action Measures for MSWLF Units
811.325	Selection of remedy for MSWLF Units
811.326	Implementation of the corrective action program at MSWLF Units

## SUBPART D: MANAGEMENT OF SPECIAL WASTES AT LANDFILLS

Section	
811.401	Scope and Applicability
811.402	Notice to Generators and Transporters
811.403	Special Waste Manifests
811.404	Identification Record
811.405	Recordkeeping Requirements
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## SUBPART E: CONSTRUCTION QUALITY ASSURANCE PROGRAMS

## Section

811.501	Scope and Applicability
811.502	Duties and Qualifications of Key Personnel
811.503	Inspection Activities
811.504	Sampling Requirements
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811.506	Foundations and Subbases
811.507	Compacted Earth Liners
811.508	Geomembranes
811.509	Leachate Collection Systems

## SUBPART G: FINANCIAL ASSURANCE

## Section

811.700	Scope, Applicability and Definitions
811.701	Upgrading Financial Assurance
811.702	Release of Financial Institution
811.703	Application of Proceeds and Appeals
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811.705	Revision of Cost Estimate
811.706	Mechanisms for Financial Assurance
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811.708	Use of a Financial Mechanism for Multiple Sites
811.709	Trust Fund for Unrelated Sites
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811.711	Surety Bond Guaranteeing Payment
811.712	Surety Bond Guaranteeing Performance
811.713	Letter of Credit
811.714	Closure Insurance
811.715	Self-Insurance for Non-Commercial Sites
811.716	Local Government Financial Test
811.717	Local Government Guarantee
811.718	Discounting
811.719	Corporate Financial Test
811.720	Corporate Guarantee

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- 811.APPENDIX A Financial Assurance Forms
- 811.ILLUSTRATION A Trust Agreement
  - 811.ILLUSTRATION B Certificate of Acknowledgment
  - 811.ILLUSTRATION C Forfeiture Bond
  - 811.ILLUSTRATION D Performance Bond
  - 811.ILLUSTRATION E Irrevocable Standby Letter of Credit
  - 811.ILLUSTRATION F Certificate of Insurance for Closure and/or Post-Closure Care or Corrective Action
  - 811.ILLUSTRATION G Owner's or Operator's Bond Without Surety
  - 811.ILLUSTRATION H Owner's or Operator's Bond With Parent Surety
  - 811.ILLUSTRATION I Letter from Chief Financial Officer
- 811.APPENDIX B Section-by-Section correlation between the Standards of the RCRA Subtitle D MSWLF regulations and the Board's nonhazardous waste landfill regulations.
- 811.APPENDIX C List of Leachate Monitoring Parameters

AUTHORITY: Implementing Sections 7.2, 21, 21.1, 22, 22.17, and 22.40 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/7.2, 21, 21.1, 22, 22.17, 22.40, and 27].

SOURCE: Adopted in R88-7 at 14 Ill. Reg. 15861, effective September 18, 1990; amended in R92-19 at 17 Ill. Reg. 12413, effective July 19, 1993; amended in R93-10 at 18 Ill. Reg. 1308, effective January 13, 1994; expedited correction at 18 Ill. Reg. 7504, effective July 19, 1993; amended in R90-26 at 18 Ill. Reg. 12481, effective August 1, 1994; amended in R95-13 at 19 Ill. Reg. 12257, effective August 15, 1995; amended in R96-1 at 20 Ill. Reg. 12000, effective August 15, 1996; amended in R97-20 at 21 Ill. Reg. 15831, effective November 25, 1997; amended in R98-9 at 22 Ill. Reg. 11491, effective June 23, 1998; amended in R99-1 at 23 Ill. Reg. 2794, effective February 17, 1999; amended in R98-29 at 23 Ill. Reg. 6880, effective July 1, 1999; amended in R04-5/R04-15 at 28 Ill. Reg. 9107, effective June 18, 2004; amended in R05-1 at 29 Ill. Reg. 5044, effective March 22, 2005; amended in R06-5/R06-6/R06-7 at 30 Ill. Reg. 4136, effective February 23, 2006; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 1435, effective December 20, 2006; amended in R07-8 at 31 Ill. Reg. 16172, effective November 27, 2007; amended in R10-9 at 35 Ill. Reg. 10842, effective June 22, 2011; amended in R10-09(A) at 35 Ill. Reg. 18882, effective October 24, 2011; amended in R14-1/R14-2/R14-3 at 38 Ill. Reg. 7259, effective March 13, 2014; amended in R17-14/R17-15/R18-12 at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART A: GENERAL STANDARDS FOR ALL LANDFILLS

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**Section 811.103 Surface Water Drainage**

- a) Runoff ~~from~~From Disturbed Areas.
- 1) Runoff from disturbed areas resulting from precipitation events less than or equal to the 25-year, 24-hour precipitation event that is discharged to waters of the State must meet the requirements of 35 Ill. Adm. Code 304.
  - 2) All discharges of runoff from disturbed areas to waters of the State must be permitted by the Agency in accordance with 35 Ill. Adm. Code 309.
  - 3) All treatment facilities must be equipped with bypass outlets designed to pass the peak flow of runoff from the 100-year, 24-hour precipitation event without damage to the treatment facilities or surrounding structures.
  - 4) All surface water control structures must be operated until the final cover is placed and erosional stability is provided by the vegetative or other cover meeting the requirements of Section 811.205 or 811.322.
  - 5) All discharge structures must be designed to have flow velocities that will not cause erosion and scouring of the natural or constructed lining, i.e., bottom and sides, of the receiving stream channel.
- b) Diversion of Runoff ~~from~~From Undisturbed Areas.
- 1) Runoff from undisturbed areas must be diverted around disturbed areas, unless the operator shows that it is impractical based on site-specific conditions or unless the Agency has issued a research, development, and demonstration (RD&D) permit that provides otherwise pursuant to 35 Ill. Adm. Code 813.112(a)(1), relating to run-on control systems, and that permit is in effect.
  - 2) Diversion facilities must be designed to prevent runoff from the 25-year, 24-hour precipitation event from entering disturbed areas, unless the Agency has issued an RD&D permit that provides otherwise pursuant to 35 Ill. Adm. Code 813.112(a)(1), relating to run-on control systems, and that permit is in effect.

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- 3) Runoff from undisturbed areas that becomes commingled with runoff from disturbed areas must be handled as runoff from disturbed areas and treated in accordance with subsection (a) ~~of this Section~~.
- 4) All diversion structures must be designed to have flow velocities that will not cause erosion and scouring of the natural or constructed lining, i.e., the bottom and sides, of the diversion channel and downstream channels.
- 5) All diversion structures must be operated until the final cover is placed and erosional stability is provided by the vegetative or other cover that meets the requirements of Section 811.205 or 811.322.

BOARD NOTE: Those segments of subsections (b)(1) and (b)(2) ~~of this Section~~ that relate to RD&D permits are derived from 40 CFR 258.4(a)(1) (~~2017~~2004).

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 811.106 Daily Cover**

- a) A uniform layer of at least 0.15 meter (six inches) of clean soil material must be placed on all exposed waste by the end of each day of operation.
- b) Alternative materials or procedures, including the removal of daily cover prior to additional waste placement, may be used, provided that the alternative materials or procedures achieve equivalent or superior performance to the requirements of subsection (a) ~~of this Section~~ in the following areas:
  - 1) Prevention of blowing debris;
  - 2) Minimization of access to the waste by vectors;
  - 3) Minimization of the threat of fires at the open face; and
  - 4) Minimization of odors.
- c) Any alternative frequencies for cover requirements to those set forth in subsections (a) and (b) ~~of this Section~~ for any owner or operator of an MSWLF

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that disposes of 20 tons (18 megagrams) of municipal solid waste per day or less, based on an annual average, must be established by an adjusted standard pursuant to Section 28.1 of the Act [~~415 ILCS 5/28.1~~] and Subpart D of 35 Ill. Adm. Code 104. Any alternative requirements established under this subsection (c) must fulfill the following requirements:

- 1) They must consider the unique characteristics of small communities;
- 2) They must take into account climatic and hydrogeologic conditions; and
- 3) They must be protective of human health and the environment.

BOARD NOTE: This subsection (c) is derived from 40 CFR 258.21(d) (~~20172004~~).

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 811.107 Operating Standards**

- a) Phasing of Operations.
  - 1) Waste must be placed in a manner and at such a rate that mass stability is provided during all phases of operation. Mass stability means that the mass of waste deposited will not undergo settling or slope failure that interrupts operations at the facility or causes damage to any of the various landfill operations or structures, such as the liner, leachate or drainage collection system, gas collection system, or monitoring system.
  - 2) The phasing of operations at the facility must be designed in such a way as to allow the sequential construction, filling, and closure of discrete units or parts of units.
  - 3) The operator must design and sequence the waste placement operation in each discrete unit or parts of units, in conjunction with the overall operations of the facility, so as to shorten the operational phase and allow wastes to be built up to the planned final grade.
- b) Size and Slope of Working Face.



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- 1) The working face of the unit must be no larger than is necessary, based on the terrain and equipment used in waste placement, to conduct operations in a safe and efficient manner.
- 2) The slopes of the working face area must be no steeper than two to one (horizontal to vertical) unless the waste is stable at steeper slopes.
- c) Equipment. Equipment must be maintained and available for use at the facility during all hours of operation, so as to achieve and maintain compliance with the requirements of this Part.
- d) Utilities. All utilities, including but not limited to heat, lights, power and communications equipment, necessary for safe operation in compliance with the requirements of this Part must be available at the facility at all times.
- e) Maintenance. The operator must maintain and operate all systems and related appurtenances and structures in a manner that facilitates proper operations in compliance with this Part.
- f) Open Burning. Open burning is prohibited, except in accordance with 35 Ill. Adm. Code 200 through 245.
- g) Dust Control. The operator must implement methods for controlling dust, so as to prevent wind dispersal of particulate matter.
- h) Noise Control. The facility must be designed, constructed, and maintained to minimize the level of equipment noise audible outside the facility. The facility must not cause or contribute to a violation of 35 Ill. Adm. Code 900 through 905 or of Section 24 of the Act ~~[415 ILCS 5/24]~~.
- i) Vector Control. The operator must implement measures to control the population of disease and nuisance vectors.
- j) Fire Protection. The operator must institute fire protection measures including, but not limited to, maintaining a supply of water onsite and radio or telephone access to the nearest fire department.

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- k) Litter Control.
  - 1) The operator must patrol the facility daily to check for litter accumulation. All litter must be collected and placed in the fill or in a secure, covered container for later disposal.
  - 2) The facility must not accept solid waste from vehicles that do not utilize devices such as covers or tarpaulins to control litter, unless the nature of the solid waste load is such that it cannot cause any litter during its transportation to the facility.
- l) Mud Tracking. The facility must implement methods, such as use of wheel washing units, to prevent tracking of mud by hauling vehicles onto public roadways.
- m) Liquids Restrictions for MSWLF Units.
  - 1) Bulk or noncontainerized liquid waste may not be placed in MSWLF units, unless one of the following conditions is true:
    - A) The waste is household waste other than septic waste;
    - B) The waste is leachate or gas condensate derived from the MSWLF unit and the MSWLF unit, whether it is a new or existing MSWLF unit or lateral expansion, is designed with a composite liner and leachate collection system that complies with the requirements of Sections 811.306 through 811.309; or
    - C) The Agency has issued an RD&D permit pursuant to 35 Ill. Adm. Code 813.112(a)(2) that allows the placement of noncontainerized liquids in the landfill, and that permit is in effect.
  - 2) Containers holding liquid waste may not be placed in an MSWLF unit, unless one of the following conditions is true:
    - A) The container is a small container similar in size to that normally found in household waste;

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- B) The container is designed to hold liquids for use other than storage;  
or
  - C) The waste is household waste.
- 3) For purposes of this Section, the following definitions apply:
- A) "Liquid waste" means any waste material that is determined to contain "free liquids," as defined by Method 9095B (Paint Filter Liquids Test) (Revision 2, November 2004), as described in "Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods," incorporated by reference in 35 Ill. Adm. Code 810.104.
  - B) "Gas condensate" means the liquid generated as a result of gas recovery processes at the MSWLF unit.

BOARD NOTE: Subsections (m)(1) through (m)(3) ~~of this Section~~ are derived from 40 CFR 258.28(20172013). Subsection (m)(1)(C) ~~of this Section~~ relating to RD&D permits is derived from 40 CFR 258.4(a)(2) (20172013).

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 811.110 Closure and Written Closure Plan**

- a) The final slopes and contours mustshall be designed to complement and blend with the surrounding topography of the proposed final land use of the area.
- b) All drainage ways and swales mustshall be designed to safely pass the runoff from the 100-year, 24-hour precipitation event without scouring or erosion.
- c) The final configuration of the facility mustshall be designed in a manner that minimizes the need for further maintenance.
- d) Written closure plan
  - 1) The operator mustshall maintain a written plan describing all actions that the operator will undertake to close the unit or facility in a manner that

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fulfills the provisions of the Act, of this Part and of other applicable Parts of 35 Ill. Adm. Code: Chapter I. The written closure plan ~~must~~ fulfill the minimum information requirements of 35 Ill. Adm. Code 812.114.

- 2) A modification of the written closure plan ~~must~~ constitute a significant modification of the permit for the purposes of 35 Ill. Adm. Code 813.Subpart B.
- 3) In addition to the informational requirements of subsection 811.100(d)(1), an owner or operator of a MSWLF unit ~~must~~ include the following information in the written closure plan:
  - A) An estimate of the largest area of the MSWLF unit ever requiring a final cover, as required by Section 811.314, at any time during the active life; and
  - B) An estimate of the maximum inventory of wastes ever on-site over the active life of the landfill facility.

BOARD NOTE: Subsection 811.110(d)(3) is derived from 40 CFR 258.60(c)(1) and (c)(2) (~~2017~~1992).

- e) The owner or operator of a MSWLF unit ~~must~~ begin closure activities for each MSWLF unit no later than the date determined as follows:
  - 1) 30 days after the date on which the MSWLF unit receives the final receipt of wastes; or
  - 2) If the MSWLF unit has remaining capacity and there is a reasonable likelihood that the MSWLF unit will receive additional wastes, no later than one year after the most recent receipt of wastes.
  - 3) The Agency ~~must~~ grant extensions beyond this one year deadline for beginning closure if the owner or operator demonstrates that:
    - A) The MSWLF unit has the capacity to receive additional wastes; and

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- B) The owner or operator has taken and will continue to take all steps necessary to prevent threats to human health and the environment from the unclosed MSWLF unit.

BOARD NOTE: Subsection (e) is derived from 40 CFR 258.60(f) ([2017-1992](#)).

- f) The owner or operator of a MSWLF unit mustshall complete closure activities for each unit in accordance with closure plan no later than the dates determined as follows:
- 1) Within 180 days of beginning closure, as specified in subsection (e) ~~of this Section~~.
  - 2) The Agency mustshall grant extension of the closure period if the owner or operator demonstrates that:
    - A) The closure will, of necessity, take longer than 180 days; and
    - B) The owner or operator has taken and will continue to take all necessary steps to prevent threats to human health and the environment from the unclosed MSWLF unit.

BOARD NOTE: Subsection (~~fe~~) is derived from 40 CFR 258.60(g) ([2017-1992](#)).

- g) Deed notation.
- 1) Following closure of all MSWLF units at a site, the owner or operator mustshall record a notation on the deed to the landfill facility property or some other instrument that is normally examined during title search. The owner or operator mustshall place a copy of the instrument in the operating record, and mustshall notify the Agency that the notation has been recorded and a copy has been placed in the operating record.
  - 2) The notation on the deed or other instrument must be made in such a way that in perpetuity notify any potential purchaser of the property that:
    - A) The land has been used as a landfill facility; and

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B) Its use is restricted pursuant to Section 811.111(d).

BOARD NOTE: Subsection (g) is derived from 40 CFR 258.60(i) (~~2017~~1992).

h) The Agency ~~must shall~~ allow the owner or operator of a MSWLF unit to remove the notation from the deed only if the owner or operator demonstrates to the Agency that all wastes are removed from the facility.

BOARD NOTE: Subsection (h) is derived from 40 CFR 258.60(j) (~~2017~~1992).

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART C: PUTRESCIBLE AND CHEMICAL WASTE LANDFILLS

**Section 811.302 Facility Location**

- a) No part of a unit may be located within a setback zone established pursuant to Section 14.2 or 14.3 of the Act;
- b) No part of a unit may be located within the recharge zone or within 366 meters (1200 feet), vertically or horizontally, of a sole-source aquifer designated by the United States Environmental Protection Agency pursuant to Section 1424(e) of the Safe Drinking Water Act (42 USC 300f et seq.), unless there is a stratum between the bottom of the waste disposal unit and the top of the aquifer that meets the following minimum requirements:
- 1) The stratum has a minimum thickness of 15.2 meters (50 feet);
  - 2) The maximum hydraulic conductivity in both the horizontal and vertical directions is no greater than  $1 \times 10^{-7}$  centimeters per second, as determined by in situ borehole or equivalent tests;
  - 3) There is no indication of continuous sand or silt seams, faults, fractures, or cracks within the stratum that may provide paths for migration; and
  - 4) Age dating of extracted water samples from both the aquifer and the stratum indicates that the time of travel for water percolating downward through the relatively impermeable stratum is no faster than 15.2 meters

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(50 feet) in 100 years.

- c) A facility located within 152 meters (500 feet) of the right of way of a township or county road or state or interstate highway must have its operations screened from view by a barrier of natural objects, fences, barricades, or plants no less than 2.44 meters (eight feet) in height.
- d) No part of a unit may be located closer than 152 meters (500 feet) from an occupied dwelling, school, or hospital that was occupied on the date when the operator first applied for a permit to develop the unit or the facility containing the unit, unless the owner of such dwelling, school, or hospital provides permission to the operator, in writing, for a closer distance.
- e) The facility may not be located closer than 1525 meters (5000 feet) of any runway used by piston type aircraft or within 3050 meters (10,000 feet) of any runway used by turbojet aircraft unless the Federal Aviation Administration (FAA) provides the operator with written permission, including technical justification, for a closer distance.
- f) An owner or operator proposing to locate a new MSWLF unit within a five-mile radius of any airport runway used by turbojet or piston-type aircraft must notify the affected airport and the FAA within seven days after filing a permit application with Agency in accordance with 35 Ill. Adm. Code 813 for developing a new landfill.

BOARD NOTE: Subsections (e) and Subsection (f) are of this Section is derived from 40 CFR 258.10(20172003), as amended at 68 Fed. Reg. 59333 (October 15, 2003). USEPA added the following information in a note appended to 40 CFR 258.10: A prohibition on locating a new MSWLF near certain airports was enacted in Section 503 of the federal Wendell H. Ford Aviation Investment and Reform Act for the 21<sup>st</sup> Century (Ford Act) (49 USC 44718(d)). Section 503 prohibits the "construction or establishment" of a new MSWLF after April 5, 2000 within six miles of certain smaller public airports unless the FAA allows an exemption. The FAA administers the Ford Act and has issued guidance in FAA Advisory Circular 150/5200-34, dated August 26, 2000. For further information, please contact the FAA.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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**Section 811.309 Leachate Treatment and Disposal Systems**

- a) Leachate mustshall be allowed to flow freely from the drainage and collection system. The operator is responsible for the operation of a leachate management system designed to handle all leachate as it drains from the collection system. The leachate management system mustshall consist of any combination of storage, treatment, pretreatment, and disposal options designed and constructed in compliance with the requirements of this Section.
- b) The leachate management system mustshall consist of any combination of multiple treatment and storage structures, to allow the management and disposal of leachate during routine maintenance and repairs.
- c) Standards for Onsite Treatment and Pretreatment.
  - 1) All onsite treatment or pretreatment systems mustshall be considered part of the facility.
  - 2) The onsite treatment or pretreatment system mustshall be designed in accordance with the expected characteristics of the leachate. The design may include modifications to the system necessary to accommodate changing leachate characteristics.
  - 3) The onsite treatment or pretreatment system mustshall be designed to function for the entire design period.
  - 4) All of the facility's unit operations, tanks, ponds, lagoons and basins mustshall be designed and constructed with liners or containment structures to control seepage to groundwater.
  - 5) All treated effluent discharged to waters of the State mustshall meet the requirements of 35 Ill. Adm. Code 309.
  - 6) The treatment system mustshall be operated by an operator certified under the requirements of 35 Ill. Adm. Code 312.
- d) Standards for Leachate Storage Systems.



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- 1) Except as otherwise provided in subsection (d)(6)-~~of this Section~~, the leachate storage facility must be able to store a minimum of at least five days' worth of accumulated leachate at the maximum generation rate used in designing the leachate drainage system in accordance with Section 811.307. The minimum storage capacity may be built up over time and in stages, so long as the capacity for five consecutive days of accumulated leachate is available at any time during the design period of the facility.
  - 2) All leachate storage tanks ~~must~~shall be equipped with secondary containment systems equivalent to the protection provided by a clay liner 0.61 meter (2 feet thick) having a permeability no greater than  $10^{-7}$  centimeters per second.
  - 3) Leachate storage systems ~~must~~shall be fabricated from material compatible with the leachate expected to be generated and resistant to temperature extremes.
  - 4) The leachate storage system ~~must~~shall not cause or contribute to a malodor.
  - 5) The leachate drainage and collection system ~~must~~shall not be used for the purpose of storing leachate.
  - 6) A facility may have less than five days' worth of storage capacity for accumulated leachate as required by subsection (d)(1)-~~of this Section~~, if the owner or operator of the facility demonstrates that multiple treatment, storage and disposal options in the facility's approved leachate management system developed in accordance with subsection (b)-~~of this Section~~ will achieve equivalent performance. Such options ~~must~~shall consist of not less than one day's worth of storage capacity for accumulated leachate plus at least two alternative means of managing accumulated leachate through treatment or disposal, or both treatment and disposal, each of which means is capable of treating or disposing of all leachate generated at the maximum generation rate on a daily basis.
- e) Standards for Discharge to an Offsite Treatment Works.

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- 1) Leachate may be discharged to an offsite treatment works that meets the following requirements:
    - A) All discharges of effluent from the treatment works mustshall meet the requirements of 35 Ill. Adm. Code 309.
    - B) The treatment systems mustshall be operated by an operator certified under the requirements of 35 Ill. Adm. Code 312.
    - C) No more than 50 percent of the average daily influent flow can be attributable to leachate from the solid waste disposal facility. Otherwise, the treatment works mustshall be considered a part of the solid waste disposal facility.
  - 2) The operator is responsible for securing permission from the offsite treatment works for authority to discharge to the treatment works.
  - 3) All discharges to a treatment works mustshall meet the requirements of 35 Ill. Adm. Code 310.
  - 4) Pumps, meters, valves and monitoring stations that control and monitor the flow of leachate from the unit and which are under the control of the operator shall be considered part of the facility and mustshall be accessible to the operator at all times.
  - 5) Leachate mustshall be allowed to flow into the sewage system at all times; however, if access to the treatment works is restricted or anticipated to be restricted for longer than five days, then an alternative leachate management system mustshall be constructed in accordance with subsection (c).
  - 6) Where leachate is not directly discharged into a sewage system, the operator mustshall provide storage capacity sufficient to transfer all leachate to an offsite treatment works. The storage system mustshall meet the requirements of subsection (d).
- f) Standards for Leachate Recycling Systems.

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- 1) Leachate recycling systems may be utilized only at permitted waste disposal units that meet the following requirements:
  - A) The unit must have a liner designed, constructed and maintained to meet the minimum standards of Section 811.306.
  - B) The unit must have a leachate collection system in place and operating in accordance with Section 811.307.
  - C) A gas management system, equipped with a mechanical device such as a compressor to withdraw gas, must be implemented to control odors and prevent migration of methane in accordance with Section 811.311.
  - D) The topography must be such that any accidental leachate runoff can be controlled by ditches, berms or other equivalent control means.
- 2) Leachate ~~must~~ not be recycled during precipitation events or in volumes large enough to cause runoff or surface seeps.
- 3) The amount of leachate added to the unit ~~must~~ not exceed the ability of the waste and cover soils to transmit leachate flow downward. All other leachate ~~must~~ be considered excess leachate, and a leachate management system capable of disposing of all excess leachate must be available.
- 4) The leachate storage and distribution system ~~must~~ be designed to avoid exposure of leachate to air unless aeration or functionally equivalent devices are utilized.
- 5) The distribution system ~~must~~ be designed to allow leachate to be evenly distributed beneath the surface over the recycle area.
- 6) Daily and intermediate cover ~~must~~ be permeable to the extent necessary to prevent the accumulation of water and formation of perched watertables and gas buildup; alternatively cover ~~must~~ be removed prior to additional waste placement.

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- 7) Daily and intermediate cover mustshall slope away from the perimeter of the site to minimize surface discharges.
- g) Leachate Monitoring.
- 1) Representative samples of leachate mustshall be collected from each established leachate monitoring location in accordance with subsection (g)(5) and tested for the parameters referenced in subsections (g)(2)(G) and (g)(3)(D). The Agency may, by permit condition, require additional, or allow less, leachate sampling and testing as necessary to ensure compliance with this Section and Sections 811.312, 811.317, and 811.319.
  - 2) Discharges of leachate from units that dispose of putrescible wastes mustshall be tested for the following constituents prior to treatment or pretreatment:
    - A) Five day biochemical oxygen demand (BOD<sub>5</sub>);
    - B) Chemical oxygen demand;
    - C) Total Suspended Solids;
    - D) Total Iron;
    - E) pH;
    - F) Any other constituents listed in the operator's National Pollution Discharge Elimination System (NPDES) discharge permit, pursuant to 35 Ill. Adm. Code 304, or required by a publicly owned treatment works, pursuant to 35 Ill. Adm. Code 310; and
    - G) All the monitoring parameters listed in Section 811. Appendix C, unless an alternate monitoring list has been approved by the Agency.
  - 3) Discharges of leachate from units which dispose only chemical wastes

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mustshall be monitored for constituents determined by the characteristics of the chemical waste to be disposed of in the unit. They mustshall include, as a minimum:

- A) pH;
  - B) Total Dissolved Solids;
  - C) Any other constituents listed in the operator's NPDES discharge permit, pursuant to 35 Ill. Adm. Code 304, or required by a publicly owned treatment works, pursuant to 35 Ill. Adm. Code 310; and
  - D) All the monitoring parameters listed in Section 811. Appendix C, unless an alternate monitoring list has been approved by the Agency.
- 4) A network of leachate monitoring locations mustshall be established, capable of characterizing the leachate produced by the unit. Unless an alternate network has been approved by the Agency, the network of leachate monitoring locations mustshall include:
- A) At least four leachate monitoring locations; and
  - B) At least one leachate monitoring location for every 25 acres within the unit's waste boundaries.
- 5) Leachate monitoring mustshall be performed at least once every six months and each established leachate monitoring location mustshall be monitored at least once every two years.
- h) Time of Operation of the Leachate Management System.
- 1) The operator mustshall collect and dispose of leachate for a minimum of five years after closure and thereafter until treatment is no longer necessary.
  - 2) Treatment is no longer necessary if the leachate constituents do not exceed

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the wastewater effluent standards in 35 Ill. Adm. Code 304.124, 304.125, 304.126 and do not contain a BOD<sub>5</sub> concentration greater than 30 mg/L for six consecutive months.

- 3) Leachate collection at a MSWLF unit ~~must~~ be continued for a minimum period of 30 years after closure, except as otherwise provided by subsections (h)(4) and (h)(5).
- 4) The Agency may reduce the leachate collection period at a MSWLF unit upon a demonstration by the owner or operator that the reduced period is sufficient to protect human health and environment.
- 5) The owner or operator of a MSWLF unit ~~must~~ petition the Board for an adjusted standard in accordance with Section 811.303, if the owner or operator seeks a reduction of the postclosure care monitoring period for all of the following requirements:
  - i) Inspection and maintenance (Section 811.111);
  - ii) Leachate collection (Section 811.309);
  - iii) Gas monitoring (Section 811.310); and
  - iv) Groundwater monitoring (Section 811.319).

BOARD NOTE: Subsection (h) is derived from 40 CFR 258.61 (~~2017+992~~).

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 811.310 Landfill Gas Monitoring**

- a) This Section applies to all units that dispose putrescible wastes.
- b) Location and Design of Monitoring Wells.
  - 1) Gas monitoring devices must be placed at intervals and elevations within the waste to provide a representative sampling of the composition and buildup of gases within the unit.

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- 2) Gas monitoring devices must be placed around the unit at locations and elevations capable of detecting migrating gas from the ground surface to the lowest elevation of the liner system or the top elevation of the groundwater, whichever is higher.
  - 3) A predictive gas flow model may be utilized to determine the optimum placement of monitoring points required for making observations and tracing the movement of gas.
  - 4) Gas monitoring devices must be constructed from materials that will not react with or be corroded by the landfill gas.
  - 5) Gas monitoring devices must be designed and constructed to measure pressure and allow collection of a representative sample of gas.
  - 6) Gas monitoring devices must be constructed and maintained to minimize gas leakage.
  - 7) The gas monitoring system must not interfere with the operation of the liner, leachate collection system, or delay the construction of the final cover system.
  - 8) At least three ambient air monitoring locations must be chosen and samples must be taken no higher than 0.025 meter (1 inch) above the ground and 30.49m (100 feet) downwind from the edge of the unit or at the property boundary, whichever is closer to the unit.
- c) Monitoring Frequency.
- 1) All gas monitoring devices, including the ambient air monitors must be operated to obtain samples on a monthly basis for the entire operating period and for a minimum of five years after closure.
  - 2) After a minimum of five years after closure, monitoring frequency may be reduced to quarterly sampling intervals.
  - 3) The sampling frequency may be reduced to yearly sampling intervals upon

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the installation and operation of a gas collection system equipped with a mechanical device such as a compressor to withdraw gas.

- 4) Monitoring must be continued for a minimum period of: thirty years after closure at MSWLF units, except as otherwise provided by subsections (c)(5) and (c)(6) ~~of this Section~~; five years after closure at landfills, other than MSWLF units, which are used exclusively for disposing of wastes generated at the site; or fifteen years after closure at all other landfills regulated under this Part. Monitoring, beyond the minimum period, may be discontinued if the following conditions have been met for at least one year:
  - A) The concentration of methane is less than five percent of the lower explosive limit in air for four consecutive quarters at all monitoring points outside the unit; and
  - B) Monitoring points within the unit indicate that methane is no longer being produced in quantities that would result in migration from the unit and exceed the standards of subsection (a)(1) of this Section.
- 5) The Agency may reduce the gas monitoring period at an MSWLF unit upon a demonstration by the owner or operator that the reduced period is sufficient to protect human health and environment.
- 6) The owner or operator of an MSWLF unit must petition the Board for an adjusted standard in accordance with Section 811.303, if the owner or operator seeks a reduction of the postclosure care monitoring period for all of the following requirements:
  - A) Inspection and maintenance (Section 811.111);
  - B) Leachate collection (Section 811.309);
  - C) Gas monitoring (Section 811.310); and
  - D) Groundwater monitoring (Section 811.319).



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BOARD NOTE: Those segments of this subsection (c) that relate to MSWLF units are derived from 40 CFR 258.61 (~~2017~~2002).

- d) Parameters to be Monitored.
- 1) All below ground monitoring devices must be monitored for the following parameters at each sampling interval:
    - A) Methane;
    - B) Pressure;
    - C) Oxygen; and
    - D) Carbon dioxide.
  - 2) Ambient air monitors must be sampled for methane only when the average wind velocity is less than eight kilometers (five miles) per hour at a minimum of three downwind locations 30.49 meters (100 feet) from the edge of the unit or the property boundary, whichever is closer to the unit.
  - 3) All buildings within a facility must be monitored for methane by utilizing continuous detection devices located at likely points where methane might enter the building.
- e) Any alternative frequencies for the monitoring requirement of subsection (c) ~~of this Section~~ for any owner or operator of an MSWLF that disposes of 20 tons (18 megagrams) of municipal solid waste per day or less, based on an annual average, must be established by an adjusted standard pursuant to Section 28.1 of the Act ~~[415 ILCS 5/28.1]~~ and Subpart D of 35 Ill. Adm. Code 104. Any alternative monitoring frequencies established under this subsection (e) must fulfill the following requirements:
- 1) They must consider the unique characteristics of small communities;
  - 2) They must take into account climatic and hydrogeologic conditions; and
  - 3) They must be protective of human health and the environment.

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BOARD NOTE: This subsection (e) is derived from 40 CFR 258.23(e) ([20172004](#)).

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 811.314 Final Cover System**

- a) The unit must be covered by a final cover consisting of a low permeability layer overlain by a final protective layer constructed in accordance with the requirements of this Section, unless the Agency has issued an RD&D permit that allows the use of an innovative final cover technology pursuant to an adjusted standard issued under 35 Ill. Adm. Code 813.112(b), and that permit is in effect.
- b) Standards for the Low Permeability Layer.
  - 1) Not later than 60 days after placement of the final lift of solid waste, a low permeability layer must be constructed.
  - 2) The low permeability layer must cover the entire unit and connect with the liner system.
  - 3) The low permeability layer must consist of any one of the following:
    - A) A compacted earth layer constructed in accordance with the following standards:
      - i) The minimum allowable thickness must be 0.91 meter (3 feet); and
      - ii) The layer must be compacted to achieve a permeability of  $1 \times 10^{-7}$  centimeters per second and minimize void spaces.
      - iii) Alternative specifications may be utilized provided that the performance of the low permeability layer is equal to or superior to the performance of a layer meeting the requirements of subsections (b)(3)(A)(i) and (b)(3)(A)(ii) [of this Section](#).

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- B) A geomembrane constructed in accordance with the following standards:
- i) The geomembrane must provide performance equal or superior to the compacted earth layer described in subsection (b)(3)(A) ~~of this Section~~.
  - ii) The geomembrane must have strength to withstand the normal stresses imposed by the waste stabilization process.
  - iii) The geomembrane must be placed over a prepared base free from sharp objects and other materials that may cause damage.
- C) Any other low permeability layer construction techniques or materials, provided that they provide equivalent or superior performance to the requirements of this subsection (b).
- 4) For an MSWLF unit, subsection (b)(3) ~~of this Section~~ notwithstanding, if the bottom liner system permeability is lower than  $1 \times 10^{-7}$  cm/sec, the permeability of the low permeability layer of the final cover system must be less than or equal to the permeability of the bottom liner system.
- c) Standards for the Final Protective Layer.
- 1) The final protective layer must cover the entire low permeability layer.
  - 2) The thickness of the final protective layer must be sufficient to protect the low permeability layer from freezing and minimize root penetration of the low permeability layer, but must not be less than 0.91 meter (3 feet).
  - 3) The final protective layer must consist of soil material capable of supporting vegetation.
  - 4) The final protective layer must be placed as soon as possible after placement of the low permeability layer to prevent desiccation, cracking, freezing, or other damage to the low permeability layer.

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- d) Any alternative requirements for the infiltration barrier in subsection (b) ~~of this Section~~ for any owner or operator of an MSWLF that disposes of 20 tons (18 megagrams) of municipal solid waste per day or less, based on an annual average, must be established by an adjusted standard pursuant to Section 28.1 of the Act ~~[415 ILCS 5/28.1]~~ and Subpart D of 35 Ill. Adm. Code 104. Any alternative requirements established under this subsection must fulfill the following requirements:
- 1) They must consider the unique characteristics of small communities;
  - 2) They must take into account climatic and hydrogeologic conditions; and
  - 3) They must be protective of human health and the environment.

BOARD NOTE: Subsection (b)(4) ~~of this Section~~ is derived from 40 CFR 258.60(a) (20172004). Subsection (d) ~~of this Section~~ is derived from 40 CFR 258.60(b)(3) (20172004). Those segments of subsection (a) ~~of this Section~~ that relate to RD&D permits are derived from 40 CFR 258.4(b) (20172004).

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 811.319 Groundwater Monitoring Programs**

- a) Detection Monitoring Program. Any use of the term maximum allowable predicted concentration in this Section is a reference to Section 811.318(c). The operator must implement a detection monitoring program in accordance with the following requirements:
- 1) Monitoring Schedule and Frequency.
    - A) The monitoring period must begin as soon as waste is placed into the unit of a new landfill or within one year of the effective date of this Part for an existing landfill. Monitoring must continue for a minimum period of 15 years after closure, or in the case of MSWLF units, a minimum period of 30 years after closure, except as otherwise provided by subsection (a)(1)(C) ~~of this Section~~. The operator must sample all monitoring points for all potential sources

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of contamination on a quarterly basis except as specified in subsection (a)(3), for a period of five years from the date of issuance of the initial permit for significant modification under 35 Ill. Adm. Code 814.104 or a permit for a new unit pursuant to 35 Ill. Adm. Code 813.104. After the initial five-year period, the sampling frequency for each monitoring point must be reduced to a semi-annual basis, provided the operator has submitted the certification described in 35 Ill. Adm. Code 813.304(b).

Alternatively, after the initial five-year period, the Agency must allow sampling on a semi-annual basis where the operator demonstrates that monitoring effectiveness has not been compromised, that sufficient quarterly data has been collected to characterize groundwater, and that leachate from the monitored unit does not constitute a threat to groundwater. For the purposes of this Section, the source must be considered a threat to groundwater if the results of the monitoring indicate either that the concentrations of any of the constituents monitored within the zone of attenuation is above the maximum allowable predicted concentration for that constituent or, for existing landfills, subject to Subpart D of 35 Ill. Adm. Code 814, that the concentration of any constituent has exceeded the applicable standard at the compliance boundary as defined in 35 Ill. Adm. Code 814.402(b)(3).

- B) Beginning fifteen years after closure of the unit, or five years after all other potential sources of discharge no longer constitute a threat to groundwater, as defined in subsection (a)(1)(A) ~~of this Section~~, the monitoring frequency may change on a well by well basis to an annual schedule if either of the following conditions exist. However, monitoring must return to a quarterly schedule at any well where a statistically significant increase is determined to have occurred in accordance with Section 811.320(e), in the concentration of any constituent with respect to the previous sample.
- i) All constituents monitored within the zone of attenuation have returned to a concentration less than or equal to ten percent of the maximum allowable predicted concentration;

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or

- ii) All constituents monitored within the zone of attenuation are less than or equal to their maximum allowable predicted concentration for eight consecutive quarters.
- C) Monitoring must be continued for a minimum period of: 30 years after closure at MSWLF units, except as otherwise provided by subsections (a)(1)(D) and (a)(1)(E) ~~of this Section~~; five years after closure at landfills, other than MSWLF units, which are used exclusively for disposing waste generated at the site; or 15 years after closure at all other landfills regulated under this Part. Monitoring, beyond the minimum period, may be discontinued under the following conditions:
- i) No statistically significant increase is detected in the concentration of any constituent above that measured and recorded during the immediately preceding scheduled sampling for three consecutive years, after changing to an annual monitoring frequency; or
  - ii) Immediately after contaminated leachate is no longer generated by the unit.
- D) The Agency may reduce the groundwater monitoring period at a MSWLF unit upon a demonstration by the owner or operator that the reduced period is sufficient to protect human health and environment.
- E) An owner or operator of a MSWLF unit must petition the Board for an adjusted standard in accordance with Section 811.303, if the owner or operator seeks a reduction of the post-closure care monitoring period for all of the following requirements:
- i) Inspection and maintenance (Section 811.111);
  - ii) Leachate collection (Section 811.309);

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- iii) Gas monitoring (Section 811.310); and
- iv) Groundwater monitoring (Section 811.319).

BOARD NOTE: Changes to subsections (a)(1)(A), (a)(1)(C), (a)(1)(D), and (a)(1)(E) ~~of this Section~~ are derived from 40 CFR 258.61 (~~2017~~[2013](#)).

- 2) Criteria for Choosing Constituents to be Monitored.
  - A) The operator must monitor each well for constituents that will provide a means for detecting groundwater contamination. Constituents must be chosen for monitoring if they meet the following requirements:
    - i) The constituent appears in, or is expected to be in, the leachate; and
    - ii) Is contained within the following list of constituents:
      - Ammonia – Nitrogen (dissolved)
      - Arsenic (dissolved)
      - Boron (dissolved)
      - Cadmium (dissolved)
      - Chloride (dissolved)
      - Chromium (dissolved)
      - Cyanide (total)
      - Lead (dissolved)
      - Magnesium (dissolved)
      - Mercury (dissolved)
      - Nitrate (dissolved)
      - Sulfate (dissolved)
      - Total Dissolved Solids (TDS)
      - Zinc (dissolved)
    - iii) This is the minimum list for MSWLFs.
    - iv) Any facility accepting more than 50% by volume non-municipal waste must determine additional indicator

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parameters based upon leachate characteristic and waste content.

- B) One or more indicator constituents, representative of the transport processes of constituents in the leachate, may be chosen for monitoring in place of the constituents it represents. The use of such indicator constituents must be included in an Agency approved permit.
- 3) Organic Chemicals Monitoring. The operator must monitor each existing well that is being used as a part of the monitoring well network at the facility within one year after the effective date of this Part, and monitor each new well within the three months after its establishment. The monitoring required by this subsection (a)(3) must be for a broad range of organic chemical contaminants in accordance with the following procedures:
- A) The analysis must be at least as comprehensive and sensitive as the tests for the 51 organic chemicals in drinking water described at 40 CFR 141.40 and appendix I to 40 CFR 258 ([20172006](#)), each incorporated by reference at 35 Ill. Adm. Code 810.104 and:

Acetone  
Acrylonitrile  
Benzene  
Bromobenzene  
Bromochloromethane  
Bromodichloromethane  
Bromoform; Tribromomethane  
n-Butylbenzene  
sec-Butylbenzene  
tert-Butylbenzene  
Carbon disulfide  
Carbon tetrachloride  
Chlorobenzene



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Chloroethane  
Chloroform; Trichloromethane  
o-Chlorotoluene  
p-Chlorotoluene  
Dibromochloromethane  
1,2-Dibromo-3-chloropropane  
1,2-Dibromoethane  
1,2-Dichlorobenzene  
1,3-Dichlorobenzene  
1,4-Dichlorobenzene  
trans-1,4-Dichloro-2-butene  
Dichlorodifluoromethane  
1,1-Dichloroethane  
1,2-Dichloroethane  
1,1-Dichloroethylene  
cis-1,2-Dichloroethylene  
trans-1,2-Dichloroethylene  
1,2-Dichloropropane  
1,3-Dichloropropane  
2,2-Dichloropropane  
1,1-Dichloropropene  
1,3-Dichloropropene  
cis-1,3-Dichloropropene  
trans-1,3-Dichloropropene  
Ethylbenzene  
Hexachlorobutadiene  
2-Hexanone; Methyl butyl ketone  
Isopropylbenzene  
p-Isopropyltoluene  
Methyl bromide; Bromomethane  
Methyl chloride; Chloromethane

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Methylene bromide; Dibromomethane

Dichloromethane

Methyl ethyl ketone

Methyl iodide; Iodomethane

4-Methyl-2-pentanone

Naphthalene

Oil and Grease (hexane soluble)

n-Propylbenzene

Styrene

1,1,1,2-Tetrachloroethane

1,1,2,2-Tetrachloroethane

Tetrachloroethylene

Tetrahydrofuran

Toluene

Total Phenolics

1,2,3-Trichlorobenzene

1,2,4-Trichlorobenzene

1,1,1-Trichloroethane

1,1,2-Trichloroethane

Trichloroethylene

Trichlorofluoromethane

1,2,3-Trichloropropane

1,2,4-Trimethylbenzene

1,3,5-Trimethylbenzene

Vinyl acetate

Vinyl chloride

Xylenes

- B) At least once every two years, the operator must monitor each well in accordance with subsection (a)(3)(A) ~~of this Section~~.
- C) The operator of a MSWLF unit must monitor each well in

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accordance with subsection (a)(3)(A) ~~of this Section~~ on a semi-annual basis.

BOARD NOTE: Subsection (a)(3)(C) ~~of this Section~~ is derived from 40 CFR 258.54(b) (~~2017~~2013).

- 4) Confirmation of Monitored Increase.
  - A) The confirmation procedures of this subsection must be used only if the concentrations of the constituents monitored can be measured at or above the practical quantitation limit (PQL). The PQL is defined as the lowest concentration that can be reliably measured within specified limits of precision and accuracy, under routine laboratory operating conditions. The operator must institute the confirmation procedures of subsection (a)(4)(B) ~~of this Section~~ after notifying the Agency in writing, within ten days, of observed increases:
    - i) The concentration of any inorganic constituent monitored in accordance with subsections (a)(1) and (a)(2) ~~of this Section~~ shows a progressive increase over eight consecutive monitoring events;
    - ii) The concentration of any constituent exceeds the maximum allowable predicted concentration at an established monitoring point within the zone of attenuation;
    - iii) The concentration of any constituent monitored in accordance with subsection (a)(3) ~~of this Section~~ exceeds the preceding measured concentration at any established monitoring point; and
    - iv) The concentration of any constituent monitored at or beyond the zone of attenuation exceeds the applicable groundwater quality standards of Section 811.320.
  - B) The confirmation procedures must include the following:

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- i) The operator must verify any observed increase by taking additional samples within 90 days after the initial sampling event and ensure that the samples and sampling protocol used will detect any statistically significant increase in the concentration of the suspect constituent in accordance with Section 811.320(e), so as to confirm the observed increase. The operator must notify the Agency of any confirmed increase before the end of the next business day following the confirmation.
- ii) The operator must determine the source of any confirmed increase, which may include, but must not be limited to, natural phenomena, sampling or analysis errors, or an offsite source.
- iii) The operator must notify the Agency in writing of any confirmed increase. The notification must demonstrate a source other than the facility and provide the rationale used in such a determination. The notification must be submitted to the Agency no later than 180 days after the original sampling event. If the facility is permitted by the Agency, the notification must be filed for review as a significant permit modification pursuant to Subpart B of 35 Ill. Adm. Code 813.
- iv) If an alternative source demonstration described in subsections (a)(4)(B)(ii) and (a)(4)(B)(iii) ~~of this Section~~ cannot be made, assessment monitoring is required in accordance with subsection (b) ~~of this Section~~.
- v) If an alternative source demonstration, submitted to the Agency as an application, is denied pursuant to 35 Ill. Adm. Code 813.105, the operator must commence sampling for the constituents listed in subsection (b)(5) ~~of this Section~~, and submit an assessment monitoring plan as a significant permit modification, both within 30 days after the dated notification of Agency denial. The operator must sample the well or wells that exhibited the confirmed

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increase.

- b) **Assessment Monitoring.** The operator must begin an assessment monitoring program in order to confirm that the solid waste disposal facility is the source of the contamination and to provide information needed to carry out a groundwater impact assessment in accordance with subsection (c) ~~of this Section~~. The assessment monitoring program must be conducted in accordance with the following requirements:
- 1) The assessment monitoring must be conducted in accordance with this subsection to collect information to assess the nature and extent of groundwater contamination. The owner or operator of a MSWLF unit must comply with the additional requirements prescribed in subsection (b)(5) ~~of this Section~~. The assessment monitoring must consist of monitoring of additional constituents that might indicate the source and extent of contamination. In addition, assessment monitoring may include any other investigative techniques that will assist in determining the source, nature and extent of the contamination, which may consist of, but need not be limited to the following:
    - A) More frequent sampling of the wells in which the observation occurred;
    - B) More frequent sampling of any surrounding wells; and
    - C) The placement of additional monitoring wells to determine the source and extent of the contamination.
  - 2) Except as provided for in subsections (a)(4)(B)(iii) and (a)(4)(B)(v) ~~of this Section~~, the operator of the facility for which assessment monitoring is required must file the plans for an assessment monitoring program with the Agency. If the facility is permitted by the Agency, then the plans must be filed for review as a significant permit modification pursuant to Subpart B of 35 Ill. Adm. Code 813 within 180 days after the original sampling event. The assessment monitoring program must be implemented within 180 days after the original sampling event in accordance with subsection (a)(4) ~~of this Section~~ or, in the case of permitted facilities, within 45 days after Agency approval.

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- 3) If the analysis of the assessment monitoring data shows that the concentration of one or more constituents, monitored at or beyond the zone of attenuation is above the applicable groundwater quality standards of Section 811.320 and is attributable to the solid waste disposal facility, then the operator must determine the nature and extent of the groundwater contamination including an assessment of the potential impact on the groundwater should waste continue to be accepted at the facility and must implement the remedial action in accordance with subsection (d) ~~of this Section~~.
- 4) If the analysis of the assessment monitoring data shows that the concentration of one or more constituents is attributable to the solid waste disposal facility and exceeds the maximum allowable predicted concentration within the zone of attenuation, then the operator must conduct a groundwater impact assessment in accordance with the requirements of subsection (c) ~~of this Section~~.
- 5) In addition to the requirements of subsection (b)(1) ~~of this Section~~, to collect information to assess the nature and extent of groundwater contamination, the following requirements are applicable to MSWLF units:
  - A) The monitoring of additional constituents pursuant to subsection (b)(1) ~~of this Section~~ must include, at a minimum (except as otherwise provided in subsection (b)(5)(E) ~~of this Section~~), the constituents listed in 40 appendix II to CFR 258, incorporated by reference at 35 Ill. Adm. Code 810.104, and constituents from 35 Ill. Adm. Code 620.410.

BOARD NOTE: Subsection (b)(5)(A) ~~of this Section~~ is derived from 40 CFR 258.55(b) (20172013).
  - B) Within 14 days after obtaining the results of sampling required under subsection (b)(5)(A) ~~of this Section~~, the owner or operator must do as follows:
    - i) The owner or operator must place a notice in the operating

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record identifying the constituents that have been detected;  
and

- ii) The owner or operator must notify the Agency that such a notice has been placed in the operating record.

BOARD NOTE: Subsection (b)(5)(B) ~~of this Section~~ is derived from 40 CFR 258.55(d)(1) (~~20172013~~).

- C) The owner or operator must establish background concentrations for any constituents detected pursuant to subsection (b)(5)(A) ~~of this Section~~ in accordance with Section 811.320(e).

BOARD NOTE: Subsection (b)(5)(C) ~~of this Section~~ is derived from 40 CFR 258.55(d)(3) (~~20172013~~).

- D) Within 90 days after the initial monitoring in accordance with subsection (b)(5)(A) ~~of this Section~~, the owner or operator must monitor for the detected constituents listed in appendix II to 40 CFR 258, incorporated by reference in 35 Ill. Adm. Code 810.104, and 35 Ill. Adm. Code 620.410 on a semiannual basis during the assessment monitoring. The operator must monitor all the constituents listed in appendix II to 40 CFR 258 and 35 Ill. Adm. Code 620.410 on an annual basis during assessment monitoring.

BOARD NOTE: Subsection (b)(5)(D) ~~of this Section~~ is derived from 40 CFR 258.55(d)(2) (~~20172012~~).

- E) The owner or operator may request the Agency to delete any of the 40 CFR 258 and 35 Ill. Adm. Code 620.410 constituents by demonstrating to the Agency that the deleted constituents are not reasonably expected to be in or derived from the waste contained in the leachate.

BOARD NOTE: Subsection (b)(5)(E) ~~of this Section~~ is derived from 40 CFR 258.55(b) (~~20172012~~).

- F) Within 14 days after finding an exceedance above the applicable

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groundwater quality standards in accordance with subsection (b)(3) ~~of this Section~~, the owner or operator must do as follows:

- i) The owner or operator must place a notice in the operating record that identifies the constituents monitored under subsection (b)(1)(D) ~~of this Section~~ that have exceeded the groundwater quality standard;
- ii) The owner or operator must notify the Agency and the appropriate officials of the local municipality or county within whose boundaries the site is located that such a notice has been placed in the operating record; and
- iii) The owner or operator must notify all persons who own land or reside on land that directly overlies any part of the plume of contamination if contaminants have migrated off-site.

BOARD NOTE: Subsection (b)(5)(F) ~~of this Section~~ is derived from 40 CFR 258.55(g)(1)(i) through ~~(g)(1)(iii)~~ (20172012).

- G) If the concentrations of all constituents in 40 CFR 258.appendix II, incorporated by reference in 35 Ill. Adm. Code 810.104, and 35 Ill. Adm. Code 620.410 c are shown to be at or below background values, using the statistical procedures in Section 811.320(e), for two consecutive sampling events, the owner or operator must notify the Agency of this finding and may stop monitoring the 40 CFR 258.appendix II and 35 Ill. Adm. Code 620.410 constituents.

BOARD NOTE: Subsection (b)(5)(G) ~~of this Section~~ is derived from 40 CFR 258.55(e) (20172013).

- c) **Assessment of Potential Groundwater Impact.** An operator required to conduct a groundwater impact assessment in accordance with subsection (b)(4) ~~of this Section~~ must assess the potential impacts outside the zone of attenuation that may result from confirmed increases above the maximum allowable predicted concentration within the zone of attenuation, attributable to the facility, in order to determine if there is need for remedial action. In addition to the requirements of



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Section 811.317, the following requirements apply:

- 1) The operator must utilize any new information developed since the initial assessment and information from the detection and assessment monitoring programs and such information may be used for the recalibration of the GCT model; and
  - 2) The operator must submit the groundwater impact assessment and any proposed remedial action plans determined necessary pursuant to subsection (d) of this Section to the Agency within 180 days after the start of the assessment monitoring program.
- d) Remedial Action. The owner or operator of a MSWLF unit must conduct corrective action in accordance with Sections 811.324, 811.325, and 811.326. The owner or operator of a landfill facility, other than a MSWLF unit, must conduct remedial action in accordance with this subsection (d).
- 1) The operator must submit plans for the remedial action to the Agency. Such plans and all supporting information including data collected during the assessment monitoring must be submitted within 90 days after determination of either of the following:
    - A) The groundwater impact assessment, performed in accordance with subsection (c) ~~of this Section~~, indicates that remedial action is needed; or
    - B) Any confirmed increase above the applicable groundwater quality standards of Section 811.320 is determined to be attributable to the solid waste disposal facility in accordance with subsection (b) ~~of this Section~~.
  - 2) If the facility has been issued a permit by the Agency, then the operator must submit this information as an application for significant modification to the permit;
  - 3) The operator must implement the plan for remedial action program within 90 days after the following:

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- A) Completion of the groundwater impact assessment that requires remedial action;
  - B) Establishing that a violation of an applicable groundwater quality standard of Section 811.320 is attributable to the solid waste disposal facility in accordance with subsection (b)(3) ~~of this Section~~; or
  - C) Agency approval of the remedial action plan, where the facility has been permitted by the Agency.
- 4) The remedial action program must consist of one or a combination of one of more of the following solutions:
- A) Retrofit additional groundwater protective measures within the unit;
  - B) Construct an additional hydraulic barrier, such as a cutoff wall or slurry wall system;
  - C) Pump and treat the contaminated groundwater; or
  - D) Any other equivalent technique which will prevent further contamination of groundwater.
- 5) Termination of the Remedial Action Program.
- A) The remedial action program must continue in accordance with the plan until monitoring shows that the concentrations of all monitored constituents are below the maximum allowable predicted concentration within the zone of attenuation, below the applicable groundwater quality standards of Section 811.320 at or beyond the zone of attenuation, over a period of four consecutive quarters no longer exist.
  - B) The operator must submit to the Agency all information collected under subsection (d)(5)(A) ~~of this Section~~. If the facility is permitted then the operator must submit this information as a

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significant modification of the permit.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 811.320 Groundwater Quality Standards**

- a) Applicable Groundwater Quality Standards
  - 1) Groundwater quality mustshall be maintained at each constituent's background concentration, at or beyond the zone of attenuation. The applicable groundwater quality standard established for any constituent mustshall be:
    - A) The background concentration; or
    - B) The Board established standard adjusted by the Board in accordance with the justification procedure of subsection (b).
  - 2) Any statistically significant increase above an applicable groundwater quality standard established pursuant to subsection (a)(1) that is attributable to the facility and which occurs at or beyond the zone of attenuation within 100 years after closure of the last unit accepting waste within such a facility mustshall constitute a violation.
  - 3) For the purposes of this Part:
    - A) "Background concentration" means that concentration of a constituent that is established as the background in accordance with subsection (d); and
    - B) "Board established standard" is the concentration of a constituent adopted by the Board as a groundwater quality standard adopted by the Board pursuant to Section 14.4 of the Act or Section 8 of the Illinois Groundwater Protection Act.
- b) Justification for Adjusted Groundwater Quality Standards
  - 1) An operator may petition the Board for an adjusted groundwater quality

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standard in accordance with the procedures specified in Section 28.1 of the Act and 35 Ill. Adm. Code 104.400.Subpart D.

- 2) For groundwater which contains naturally occurring constituents which meet the applicable requirements of 35 Ill. Adm. Code 620.410, 620.420, 620.430, or 620.440 the Board will specify adjusted groundwater quality standards no greater than those of 35 Ill. Adm. Code 620.410, 620.420, 620.430 or 620.440, respectively, upon a demonstration by the operator that:
  - A) The change in standards will not interfere with, or become injurious to, any present or potential beneficial uses for such water;
  - B) The change in standards is necessary for economic or social development, by providing information including, but not limited to, the impacts of the standards on the regional economy, social disbenefits such as loss of jobs or closing of landfills, and economic analysis contrasting the health and environmental benefits with costs likely to be incurred in meeting the standards; and
  - C) All technically feasible and economically reasonable methods are being used to prevent the degradation of the groundwater quality.
- 3) Notwithstanding subsection (b)(2), in no case ~~must~~ shall the Board specify adjusted groundwater quality standards for a MSWLF unit greater than the following levels:

<u>Chemical</u>	<u>Concentration (mg/ℓ)</u>
Arsenic	0.05
Barium	1.0
Benzene	0.005
Cadmium	0.01
Carbon tetrachloride	0.005
Chromium (hexavalent)	0.05
2,4-Dichlorophenoxy acetic acid	0.1
1,4-Dichlorobenzene	0.075

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1,2-Dichloroethane	0.005
1,1-Dichloroethylene	0.007
Endrin	0.0002
Fluoride	4
Lindane	0.004
Lead	0.05
Mercury	0.002
Methoxychlor	0.1
Nitrate	10
Selenium	0.01
Silver	0.05
Toxaphene	0.005
1,1,1-Trichloromethane	0.2
Trichloroethylene	0.005
2,4,5-Trichlorophenoxy acetic acid	0.01
Vinyl Chloride	0.002

- 4) For groundwater which contains naturally occurring constituents which do not meet the standards of 35 Ill. Adm. Code 620.410, 620.420, 620.430 or 620.440, the Board will specify adjusted groundwater quality standards, upon a demonstration by the operator that:
- A) The groundwater does not presently serve as a source of drinking water;
  - B) The change in standards will not interfere with, or become injurious to, any present or potential beneficial uses for such waters;
  - C) The change in standards is necessary for economic or social development, by providing information including, but not limited to, the impacts of the standards on the regional economy, social disbenefits such as loss of jobs or closing of landfills, and economic analysis contrasting the health and environmental benefits with costs likely to be incurred in meeting the standards; and
  - D) The groundwater cannot presently, and will not in the future, serve

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as a source of drinking water because:

- i) It is impossible to remove water in usable quantities;
  - ii) The groundwater is situated at a depth or location such that recovery of water for drinking purposes is not technologically feasible or economically reasonable;
  - iii) The groundwater is so contaminated that it would be economically or technologically impractical to render that water fit for human consumption;
  - iv) The total dissolved solids content of the groundwater is more than 3,000 mg/ℓ and that water will not be used to serve a public water supply system; or
  - v) The total dissolved solids content of the groundwater exceeds 10,000 mg/ℓ.
- c) Determination of the Zone of Attenuation
- 1) The zone of attenuation, within which concentrations of constituents in leachate discharged from the unit may exceed the applicable groundwater quality standard of this Section, is a volume bounded by a vertical plane at the property boundary or 100 feet from the edge of the unit, whichever is less, extending from the ground surface to the bottom of the uppermost aquifer and excluding the volume occupied by the waste.
  - 2) Zones of attenuation ~~must~~ shall not extend to the annual high water mark of navigable surface waters.
  - 3) Overlapping zones of attenuation from units within a single facility may be combined into a single zone for the purposes of establishing a monitoring network.
- d) Establishment of Background Concentrations
- 1) The initial monitoring to determine background concentrations ~~must~~ shall

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commence during the hydrogeological assessment required by Section 811.315. The background concentrations for those parameters identified in Sections 811.315(e)(1)(G) and 811.319(a)(2) and (a)(3) mustshall be established based on consecutive quarterly sampling of wells for a minimum of one year, monitored in accordance with the requirements of subsections (d)(2), (d)(3) and (d)(4). Non-consecutive data may be considered by the Agency, if only one data point from a quarterly event is missing, and it can be demonstrated that the remaining data set is representative of consecutive data in terms of any seasonal or temporal variation. Statistical tests and procedures mustshall be employed, in accordance with subsection (e), depending on the number, type and frequency of samples collected from the wells, to establish the background concentrations.

- 2) Adjustments to the background concentrations mustshall be made if changes in the concentrations of constituents observed in background wells over time are determined, in accordance with subsection (e), to be statistically significant, and due to natural temporal or spatial variability or due to an off-site source not associated with the landfill or the landfill activities. Such adjustments may be conducted no more frequently than once every two years during the operation of a facility and modified subject to approval by the Agency. Non-consecutive data may be used for an adjustment upon Agency approval. Adjustments to the background concentration mustshall not be initiated prior to November 27, 2009 unless required by the Agency.
- 3) Background concentrations determined in accordance with this subsection mustshall be used for the purposes of establishing groundwater quality standards, in accordance with subsection (a). The operator mustshall prepare a list of the background concentrations established in accordance with this subsection. The operator mustshall maintain such a list at the facility, mustshall submit a copy of the list to the Agency for establishing standards in accordance with subsection (a), and mustshall provide updates to the list within ten days of any change to the list.
- 4) A network of monitoring wells mustshall be established upgradient from the unit, with respect to groundwater flow, in accordance with the following standards, in order to determine the background concentrations

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of constituents in the groundwater:

- A) The wells ~~must~~shall be located at such a distance that discharges of contaminants from the unit will not be detectable;
  - B) The wells ~~must~~shall be sampled at the same frequency as other monitoring points to provide continuous background concentration data, throughout the monitoring period; and
  - C) The wells ~~must~~shall be located at several depths to provide data on the spatial variability.
- 5) A determination of background concentrations may include the sampling of wells that are not hydraulically upgradient of the waste unit where:
- A) Hydrogeologic conditions do not allow the owner or operator to determine what wells are hydraulically upgradient of the waste; and
  - B) Sampling at other wells will provide an indication of background concentrations that is representative of that which would have been provided by upgradient wells.
- 6) If background concentrations cannot be determined on site, then alternative background concentrations may be determined from actual monitoring data from the aquifer of concern, which includes, but is not limited to, data from another landfill site that overlies the same aquifer.
- e) Statistical Analysis of Groundwater Monitoring Data
- 1) Statistical tests ~~must~~shall be used to analyze groundwater monitoring data. One or more of the normal theory statistical tests ~~must~~shall be chosen first for analyzing the data set or transformations of the data set. Where such normal theory tests are demonstrated to be inappropriate, tests listed in subsection (e)(4) ~~must~~shall be used. The level of significance (Type I error level) ~~must~~shall be no less than 0.01, for individual well comparisons, and no less than 0.05, for multiple well comparisons. The statistical analysis ~~must~~shall include, but not be limited to, the accounting



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of data below the detection limit of the analytical method used, the establishment of background concentrations and the determination of whether statistically significant changes have occurred in:

- A) The concentration of any chemical constituent with respect to the background concentration or maximum allowable predicted concentration; and
  - B) The established background concentration of any chemical constituents over time.
- 2) The statistical test or tests used mustshall be based upon the sampling and collection protocol of Sections 811.318 and 811.319.
- 3) Monitored data that are below the level of detection mustshall be reported as not detected (ND). The level of detection for each constituent mustshall be the practical quantitation limit (PQL), and mustshall be the lowest concentration that is protective of human health and the environment, and can be achieved within specified limits of precision and accuracy during routine laboratory operating conditions. In no case, mustshall the PQL be established above the level that the Board has established for a groundwater quality standard under the Illinois Groundwater Protection Act [415 ILCS 55]. The following procedures mustshall be used to analyze such data, unless an alternative procedure in accordance with subsection (e)(4), is shown to be applicable:
- A) Where the percentage of nondetects in the data base used is less than 15 percent, the operator mustshall replace NDs with the PQL divided by two, then proceed with the use of one or more of the Normal Theory statistical tests;
  - B) Where the percentage of nondetects in the data base used is between 15 and 50 percent, and the data are normally distributed, the operator mustshall use Cohen's or Aitchison's adjustment to the sample mean and standard deviation, followed by an applicable statistical procedure;
  - C) Where the percentage of nondetects in the database used is above

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50 percent, then the owner or operator ~~must~~shall use an alternative procedure in accordance with subsection (e)(4).

- 4) Nonparametric statistical tests or any other statistical test if it is demonstrated to meet the requirements of 35 Ill. Adm. Code 724.197(i).

BOARD NOTE: Subsection (b)(3) is derived from 40 CFR 258.40 Table 1-  
(~~2017~~1992).

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 811.321 Waste Placement**

- a) Phasing of Operations.
  - 1) Waste disposal operations ~~must~~shall move from the lowest portions of the unit to the highest portions. Except as provided in subsection (a)(2), the placement of waste ~~must~~shall begin in the lowest part of the active face of the unit, located in the part of the facility most downgradient, with respect to groundwater flow.
  - 2) The operator may dispose of wastes in areas other than those specified in subsection (a)(1) only under any of the following conditions:
    - A) Climatic conditions, such as wind and precipitation, are such that the placement of waste in the bottom of the unit would cause water pollution, litter or damage to any part of the liner;
    - B) The topography of the land surrounding the unit makes the procedure of subsection (a)(1) environmentally unsound, for example, because steep slopes surround the unit; or
    - C) When groundwater monitoring wells, constructed in accordance with the requirements of Section 811.319, are placed 50 feet, or less, downgradient from the filled portions of the unit.
- b) Initial Waste Placement.

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- 1) Construction, compaction and earth moving equipment ~~must~~ be prohibited from operating directly on the leachate collection piping system until a minimum of five feet of waste has been mounded over the system.
- 2) Construction, compaction and earth moving equipment ~~must~~ be prohibited from operating directly on the leachate drainage blanket. Waste disposal operations ~~must~~ begin at the edge of the drainage layer by carefully pushing waste out over the drainage layer.
- 3) An initial layer of waste, a minimum of five feet thick, or, alternatively, a temporary protective layer of other material suitable to prevent the compacted earth liner from freezing, ~~must~~ be placed over the entire drainage blanket prior to the onset of weather conditions that may cause the compacted earth liner to freeze, except as provided in subsection (b)(4) ~~of this Section.~~
- 4) Waste ~~must~~ not be placed over areas that are subject to freezing conditions until the liner has been certified or recertified by the CQA officer designated pursuant to Section 811.502 and reconstructed (if necessary) to meet the requirements of Section 811.306.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 811.323 Load Checking Program**

- a) The operator ~~must~~ implement a load checking program that meets the requirements of this Section, for detecting and discouraging attempts to dispose regulated hazardous wastes at the facility. For purposes of this Section and Section 811.406, "regulated hazardous ~~wastewastes~~" means a solid waste that is a hazardous waste, as defined in 35 Ill. Adm. Code 721.103, that is not excluded from regulation as hazardous waste under 35 Ill. Adm. Code 721.104(b) or which was not generated by a VSQG, as defined in 35 Ill. Adm. Code 720.110—are wastes defined as such under RCRA, at 35 Ill. Adm. Code 721, and subject to regulations under 35 Ill. Adm. Code: Subtitle G.
- b) In addition to checking for hazardous waste in accordance with subsection (a), the load checking program at a MSWLF unit ~~must~~ include waste load inspection for detecting and discouraging attempts to dispose "polychlorinated biphenyl

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wastes" as defined in 40 CFR 761.3 (~~2017~~1992).

~~BOARD NOTE: Subsection (b) is derived from 40 CFR 258.20(a) (1992).~~

- c) The load checking program ~~must~~ consist of, at a minimum, the following components:
- 1) Random ~~Inspections.~~inspections
    - A) An inspector designated by the facility ~~must~~ examine at least three random loads of solid waste delivered to the landfill on a random day each week. The drivers randomly selected by the inspector ~~must~~ be directed to discharge their loads at a separate, designated location within the facility. The facility ~~must~~ conduct a detailed inspection of the discharged material for any regulated hazardous or other unacceptable wastes that may be present. Cameras or other devices may be used to record the visible contents of solid waste shipments. Where such devices are employed, their use should be designated on a sign posted near the entrance to the facility.
    - B) If regulated hazardous wastes or other unacceptable wastes are suspected, the facility ~~must~~ communicate with the generator, hauler or other party responsible for shipping the waste to the facility to determine the identity of the waste.
  - 2) Recording ~~Inspection Results.~~inspection results

Information and observations derived from each random inspection ~~must~~ be recorded in writing and retained at the facility for at least three years. The recorded information ~~must~~ include, at a minimum, the date and time of the inspection; the names of the hauling firm and the driver of the vehicle, the vehicle license plate number; the source of the waste, as stated by the driver; and observations made by the inspector during the detailed inspection. The written record ~~must~~ be signed by both the inspector and the driver.
  - 3) Training.

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The solid waste management facility mustshall train designated inspectors, equipment operators, weigh station attendants, spotters at large facilities, and all other appropriate facility personnel in the identification of potential sources of regulated hazardous wastes and other unacceptable wastes, including but not limited to PCBs. The training program mustshall emphasize familiarity with containers typically used for regulated hazardous wastes and with labels for regulated hazardous wastes, under RCRA, and for hazardous materials under the Hazardous Materials Transportation Act (49 U.S.C. 1801 et seq.).

- d) Handling Regulated Hazardous Wastes.
- 1) If any regulated hazardous wastes are identified by random load checking, or are otherwise discovered to be improperly deposited at the facility, the facility mustshall promptly notify the Agency, the person responsible for shipping the wastes to the landfill, and the generator of the wastes, if known. Waste loads identical to the regulated hazardous waste identified through the random load checking which have not yet been deposited in the landfill mustshall not be accepted. The area where the wastes are deposited mustshall immediately be cordoned off from public access. The solid waste management facility mustshall assure the cleanup, transportation and disposal of the waste at a permitted hazardous waste management facility.
  - 2) The party responsible for transporting the waste to the solid waste management facility mustshall be responsible for the costs of such proper cleanup, transportation and disposal.
  - 3) Subsequent shipments by persons or sources found or suspected to be previously responsible for shipping regulated hazardous waste mustshall be subject to the following special precautionary measures prior to the solid waste management facility accepting wastes. The operator mustshall use precautionary measures such as questioning the driver concerning the waste contents prior to discharge and visual inspection during the discharge of the load at the working face or elsewhere.

BOARD NOTE: Subsections (a) through (c) are derived from 40 CFR 258.20 (2017).

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(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 811.326 Implementation of the corrective action program at MSWLF Units**

- a) Based on the schedule established pursuant to Section 811.325(d) for initiation and completion of corrective action, the owner or operator must fulfill the following requirements:
- 1) It must establish and implement a corrective action groundwater monitoring program that fulfills the following requirements:
    - A) At a minimum, the program must meet the requirements of an assessment monitoring program pursuant to Section 811.319(b);
    - B) The program must indicate the effectiveness of the remedy; and
    - C) The program must demonstrate compliance with groundwater protection standards pursuant to subsection (e) ~~of this Section~~.
  - 2) It must implement the remedy selected pursuant to Section 811.325.
  - 3) It must take any interim measures necessary to ensure the adequate protection of human health and the environment. The interim measures should, to the greatest extent practicable, be consistent with the objectives of and contribute to the performance of any remedy that may be required pursuant to Section 811.325. The owner or operator must consider the following factors in determining whether interim measures are necessary:
    - A) The time required to develop and implement a final remedy;
    - B) Any actual or potential exposure of nearby populations or environmental receptors to hazardous constituents;
    - C) Any actual or potential contamination of drinking water supplies or sensitive ecosystems;
    - D) Any further degradation of the groundwater that may occur if

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remedial action is not initiated expeditiously;

- E) The weather conditions that may cause hazardous constituents to migrate or be released;
  - F) Any risks of fire or explosion, or potential for exposure to hazardous constituents as a result of an accident or failure of a container or handling system; and
  - G) Any other situations that may pose threats to human health and the environment.
- b) If an owner or operator determines, based on information developed after implementation of the remedy has begun or other information, that compliance with requirements of Section 811.325(b) are not being achieved through the remedy selected, the owner or operator must fulfill the following requirements:
- 1) It must implement other methods or techniques that could practicably achieve compliance with the requirements, unless the owner or operator makes the determination pursuant to subsection (c) ~~of this Section~~.
  - 2) It must submit to the Agency, prior to implementing any alternative methods pursuant to subsection (b)(1) ~~of this Section~~, an application for a significant modification to the permit describing the alternative methods or techniques and how they meet the standards of Section 811.325(b).
- c) If the owner or operator determines that compliance with the requirements of Section 811.325(b) cannot be practically achieved with any currently available methods, the owner or operator must fulfill the following requirements:
- 1) It must obtain the certification of a qualified groundwater scientist or a determination by the Agency that compliance with requirements pursuant to Section 811.325(b) cannot be practically achieved with any currently available methods.
  - 2) It must implement alternative measures to control exposure of humans or the environment to residual contamination, as necessary to ~~adequately to adequately~~ protect human health and the environment.

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- 3) It must implement alternative measures for control of the sources of contamination, or for removal or decontamination of equipment, units, devices, or structures that fulfill the following requirements:
    - A) The measures are technically practicable; and
    - B) The measures are consistent with the overall objective of the remedy.
  - 4) It must submit to the Agency, prior to implementing the alternative measures in accordance with subsection (c) ~~of this Section~~, an application for a significant modification to the permit justifying the alternative measures.
  - 5) For purposes of this Section, a "qualified groundwater scientist" is a scientist or an engineer who has received a baccalaureate or postgraduate degree in the natural sciences or engineering and has sufficient training and experience in groundwater hydrology and related fields as may be demonstrated by state registration, professional certifications, or completion of accredited university programs that enable that individual to make sound professional judgments regarding groundwater monitoring, contaminant fate and transport, and corrective action.
- d) All solid wastes that are managed ~~pursuant to a remedy required pursuant to Section 811.325 or subsection (a)(3) of this Section~~ must be managed by the owner or operator in a manner that fulfills the following requirements:
- 1) That adequately protects human health and the environment; and
  - 2) That complies with applicable requirements of [this Part 811](#).
- e) Remedies selected pursuant to Section 811.325 must be considered complete when the following requirements are fulfilled:
- 1) The owner or operator complies with the groundwater quality standards established pursuant to Section 811.320 at all points within the plume of contamination that lie beyond the zone of attenuation established pursuant



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to Section 811.320;

- 2) Compliance with the groundwater quality standards established pursuant to Section 811.320 has been achieved by demonstrating that concentrations of the constituents monitored under the assessment monitoring program pursuant to Section 811.319(b) have not exceeded the groundwater quality standards for a period of three consecutive years using the statistical procedures and performance standards in Section 811.320(e). The Agency may specify an alternative time period during which the owner or operator must demonstrate compliance with the groundwater quality standard(s). The Agency must specify such an alternative time period by considering the following factors:
  - A) The extent and concentration of the releases;
  - B) The behavior characteristics of the hazardous constituents in the groundwater;
  - C) The accuracy of monitoring or modeling techniques, including any seasonal, meteorological, or other environmental variabilities that may affect the accuracy; and
  - D) The characteristics of the groundwater; and
- 3) All actions required to complete the remedy have been satisfied.
  - f) Within 14 days after the completion of the remedy, the owner or operator must submit to the Agency an application for a significant modification of the permit including a certification that the remedy has been completed in compliance with the requirements of subsection (e) ~~of this Section~~. The certification must be signed by the owner or operator and by a qualified groundwater scientist.
  - g) Upon Agency review and approval of the certification that the corrective action has been completed, in accordance with subsection (e) ~~of this Section~~, the Agency must release the owner or operator from the financial assurance requirements for corrective action pursuant to Subpart G ~~of this Part~~.

BOARD NOTE: Requirements of this Section are derived from 40 CFR 258.58

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(~~20172005~~).

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART D: MANAGEMENT OF SPECIAL WASTES AT LANDFILLS

**Section 811.404 Identification Record**

- a) Each special waste disposed of at a facility (including special wastes generated at the facility) ~~must~~shall be accompanied by a special waste profile identification sheet, from the waste generator, that certifies the following:
- 1) The generator's name and address;
  - 2) The transporter's name and telephone number;
  - 3) The name of waste;
  - 4) The process generating the waste;
  - 5) Physical characteristics of waste (e.g., color, odor, solid or liquid, flash point);
  - 6) The chemical composition of the waste;
  - 7) The metals content of the waste;
  - 8) Hazardous characteristics (including identification of wastes deemed hazardous by the United States Environmental Protection Agency or the state);
  - 9) Presence of polychlorinated biphenyls (PCB)s or 2,3,7,8-tetrachlorodibenzodioxin (2,3,7,8-TCDD); and
  - 10) Any other information, such as the result of any test carried out in accordance with Section 811.202, that can be used to determine:
    - A) Whether the special waste is regulated as a hazardous waste, as

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defined at 35 Ill. Adm. Code 721;

- B) Whether the special waste is of a type that is permitted for or has been classified, in accordance with 35 Ill. Adm. Code 809, for storage, treatment, or disposal at the facility; and
  - C) Whether the method of storage, treatment, or disposal, using the methods available at the facility, is appropriate for the waste.
- b) Special waste recertification
- Each subsequent shipment of a special waste from the same generator must be accompanied by a transportation record in accordance with 35 Ill. Adm. Code 811.403(b), a copy of the original special waste profile identification sheet, and either:
- 1) A special waste recertification by the generator describing whether there have been changes in the following:
    - A) Laboratory analysis (copies to be attached);
    - B) Raw material in the waste-generating process;
    - C) The waste-generating process itself;
    - D) The physical or hazardous characteristics of the waste; and
    - E) New information on the human health effects of exposure to the waste; or
  - 2) Certification indicating that any change in the physical or hazardous characteristic of the waste is not sufficient to require a new special waste profile.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART G: FINANCIAL ASSURANCE

**Section 811.704 Closure and Post-Closure Care and Corrective Action Cost Estimates**

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- a) Written cost estimate. The owner or operator ~~must~~shall have a written estimate of the cost of closure of all parts of the facility where wastes have been deposited in accordance with the requirements of this Part; the written closure plan, required by Section 811.110 and 35 Ill. Adm. Code 812.114; and the cost of post-closure care and plans, required by this Part and the written post-closure care plans required by 35 Ill. Adm. Code 812.115. The cost estimate is the total cost for closure and post-closure care.
- b) The owner or operator ~~must~~shall revise the cost estimate whenever a change in the closure plan or post-closure care plan increases the cost estimate.
- c) The cost estimate must be based on the steps necessary for the premature final closure of the facility on the assumed closure date.
- d) The cost estimate must be based on the assumption that the Agency will contract with a third party to implement the closure plan.
- e) The cost estimate may not be reduced by allowance for the salvage value of equipment or waste, for the resale value of land, or for the sale of landfill gas.
- f) The cost estimate must, at a minimum, include all costs for all activities necessary to close the facility in accordance with all requirements of this Part.
- g) (Blank)
- h) The post-closure care cost estimate must, at a minimum, be based on the following elements in the post-closure care plan:
  - 1) Groundwater monitoring, based on the number of monitoring points and parameters and the frequency of sampling specified in the permit.
  - 2) The annual Cost of Cover Placement and Stabilization, including an estimate of the annual residual settlement and erosion control and the cost of mowing.
  - 3) Alternative Landfill Gas Disposal. If landfill gas is transported to an off-site processing system, then the owner or operator ~~must~~shall include in the

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cost estimate the costs necessary to operate an onsite gas disposal system, should access to the off-site facility become unavailable. The cost estimate must include the following information: installation, operation, maintenance and monitoring of an on-site gas disposal system.

- 4) Cost Estimates Beyond the Design Period. When a facility must extend the post-closure care period beyond the applicable design period, the cost estimate must be based upon such additional time and the care activities occurring during that time.
  - i) This Section does not authorize the Agency to require the owner or operator to perform any of the indicated activities upon which cost estimates are to be based; however, if the site permit requires a closure activity, the owner or operator ~~must~~ include the cost of that activity in the cost estimate.
  - j) Once the owner or operator has completed an activity, the owner or operator may file an application for significant permit modification pursuant to 35 Ill. Adm. Code 813.201 indicating that the activity has been completed, and zeroing that element of the cost estimate.
  - k) Cost estimate for corrective action at MSWLF units.
    - 1) An owner or operator of a MSWLF unit required to undertake a corrective action program pursuant to Section 811.326 ~~must~~ have a detailed written estimate, in current dollars, of the cost of hiring a third party to perform the corrective action in accordance with the Section 811.326. The corrective action cost estimate must account for the total costs of corrective action activities as described in the corrective action plan for the entire corrective action period. The owner or operator ~~must~~ notify the Agency that the estimate has been placed in the operating record.
    - 2) The owner or operator must annually adjust the estimate for inflation until the corrective action program is completed in accordance with Section 811.326(f).
    - 3) The owner or operator must increase the corrective action cost estimate and the amount of financial assurance provided pursuant to subsections (k)(5) and (k)(6) ~~of this Section~~ if changes in the corrective action

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program or MSWLF unit conditions increase the maximum costs of corrective action.

- 4) The owner or operator may reduce the amount of the corrective action cost estimate and the amount of financial assurance provided pursuant to subsections (k)(5) and (k)(6) ~~of this Section~~ if the cost estimate exceeds the maximum remaining costs of corrective action. The owner or operator mustshall notify the Agency that the justification for the reduction of the corrective action cost estimate and the amount of financial assurance has been placed in the operating record.
- 5) The owner or operator of each MSWLF unit required to undertake a corrective action program under Section 811.326 mustshall establish, in accordance with Section 811.706, financial assurance for the most recent corrective action program.
- 6) The owner or operator mustshall provide continuous coverage for corrective action until released from the financial assurance requirements for corrective action by demonstrating compliance with Section 811.326 (f) and (g).

BOARD NOTE: Subsection (k) is derived from 40 CFR 258.73 (~~2017~~1992).

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 811.715 Self-Insurance for Non-Commercial Sites**

- a) Definitions. The following definitions are intended to assist in the understanding of this Part and are not intended to limit the meanings of terms in any way that conflicts with generally accepted accounting principles:

"Assets" means all existing and all probable future economic benefits obtained or controlled by a particular entity.

"Current assets" means cash or other assets or resources commonly identified as those that are reasonably expected to be realized in cash or sold or consumed during the normal operating cycle of the business.

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"Current liabilities" means obligations whose liquidation is reasonably expected to require the use of existing resources properly classifiable as current assets or the creation of other current liabilities.

"Generally accepted accounting principles" means the accounting and auditing standards of the American Institute of Certified Public Accountants and the Governmental Accounting Standards Board that are incorporated by reference in 35 Ill. Adm. Code 810.104.

"Gross Revenue" means total receipts less returns and allowances.

"Independently audited" refers to an audit performed by an independent certified public accountant in accordance with generally accepted auditing standards.

"Liabilities" means probable future sacrifices of economic benefits arising from present obligations to transfer assets or provide services to other entities in the future as a result of past transactions or events.

"Net working capital" means current assets minus current liabilities.

"Net worth" means total assets minus total liabilities and is equivalent to owner's equity.

"Tangible net worth" means tangible assets less liabilities; tangible assets to not include intangibles such as goodwill and rights to patents or royalties.

- b) Information to be Filed. An owner or operator may satisfy the financial assurance requirements of this Part by providing the following:
- 1) Bond without surety promising to pay the cost estimate (subsection (c) ~~of this Section~~).
  - 2) Proof that the owner or operator meets the gross revenue test (subsection (d) ~~of this Section~~).
  - 3) Proof that the owner or operator meets the financial test (subsection (e) ~~of this Section~~).

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- c) Bond Without Surety. An owner or operator utilizing self-insurance must provide a bond without surety on the forms specified in Appendix A, Illustration G ~~of this Part~~. The owner or operator must promise to pay the current cost estimate to the Agency unless the owner or operator provides closure and post-closure care in accordance with the closure and post-closure care plans.
- d) Gross Revenue Test. The owner or operator must demonstrate that less than one-half of its gross revenues are derived from waste disposal operations. Revenue is "from waste disposal operations" if it would stop upon cessation of the owner or operator's waste disposal operations.
- e) Financial Test.
- 1) To pass the financial test, the owner or operator must meet the criteria of either subsection (e)(1)(A) or (e)(1)(B) ~~of this Section~~:
- A) The owner or operator must have:
- i) Two of the following three ratios: a ratio of total liabilities to net worth of less than 2.0; a ratio of the sum of net income plus depreciation, depletion and amortization to total liabilities of greater than 0.1; or a ratio of current assets to current liabilities of greater than 1.5; ~~and~~
- ii) Net working capital and tangible net worth each at least six times the current cost estimate; ~~and~~
- iii) Tangible net worth of at least \$10 million; and
- iv) Assets in the United States amounting to at least 90 percent of the owner's or operator's total assets and at least six times the current cost estimate.
- B) The owner or operator must have:
- i) A current rating of AAA, AA, A, or BBB for its most recent bond issuance as issued by Standard and Poor, or a rating of Aaa, Aa, A, or Baa, as issued by Moody;



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- ii) Tangible net worth at least six times the current cost estimate;
  - iii) Tangible net worth of at least \$10 million; and
  - iv) Assets located in the United States amounting to at least 90 percent of its total assets or at least six times the current cost estimate.
- 2) To demonstrate that it meets this test, the owner or operator must submit the following items to the Agency:
- A) A letter signed by the owner or operator's chief financial officer and worded as specified in Appendix A, Illustration I;
  - B) A copy of the independent certified public accountant's report on examination of the owner or operator's financial statements for the latest completed fiscal year; and
  - C) A special report from the owner or operator's independent certified public accountant to the owner or operator stating the following:
    - i) The accountant has compared the data that the letter from the chief financial officer specifies as having been derived from the independently audited, year-end financial statements for the latest fiscal year with the amounts in such financial statements; and
    - ii) In connection with that procedure, no matters came to the accountant's attention that caused the accountant to believe that the specified data should be adjusted.
- f) Updated Information.
- 1) After the initial submission of items specified in subsections (d) and (e) ~~of this Section~~, the owner or operator must send updated information to the Agency within 90 days after the close of each succeeding fiscal year.

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- 2) If the owner or operator no longer meets the requirements of subsections (d) and (e) ~~of this Section~~, the owner or operator must send notice to the Agency of intent to establish alternative financial assurance. The notice must be sent by certified mail within 90 days after the end of the fiscal year for which the year-end financial data show that the operator no longer meets the requirements.
  
- g) Qualified Opinions. If the opinion required by subsections (e)(2)(B) and (e)(2)(C) ~~of this Section~~ includes an adverse opinion or a disclaimer of opinion, the Agency must disallow the use of self-insurance. If the opinion includes other qualifications, the Agency must disallow the use of self-insurance if:
  - 1) The qualifications relate to the numbers that are used in the gross revenue test or the financial test; and
  - 2) In light of the qualifications, the owner or operator has failed to demonstrate that it meets the gross revenue test or financial test.
  
- h) Parent Corporation. An owner or operator may satisfy the financial assurance requirements of this Part by either of the following means:
  - 1) Demonstrating that a corporation that owns an interest in the owner or operator meets the requirements of this Section; and
  - 2) Providing a bond to the Agency with the parent corporation as surety on a form specified in Appendix A, Illustration H in accordance with Section 811.711(d), (e), (f), and (g) ~~of this Part~~.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 811.716 Local Government Financial Test**

A unit of local government owner or operator that satisfies the requirements of subsections (a) through (c) ~~of this Section~~ may demonstrate financial assurance up to the amount specified in subsection (d) ~~of this Section~~.

- a) Financial Component.

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- 1) The unit of local government owner or operator must satisfy subsection (a)(1)(A) or (a)(1)(B) ~~of this Section~~, as applicable:
  - A) If the owner or operator has outstanding, rated, general obligation bonds that are not secured by insurance, a letter of credit, or other collateral or guarantee, it must have a current rating of Aaa, Aa, A, or Baa, as issued by Moody's, or AAA, AA, A, or BBB, as issued by Standard and Poor's, on all such general obligation bonds; or
  - B) The owner or operator must satisfy each of the following financial ratios based on the owner or operator's most recent audited annual financial statement:
    - i) A ratio of cash plus marketable securities to total expenditures greater than or equal to 0.05; and
    - ii) A ratio of annual debt service to total expenditures less than or equal to 0.20.
- 2) The unit of local government owner or operator must prepare its financial statements in conformity with Generally Accepted Accounting Principles for governments and have its financial statements audited by an independent certified public accountant or the Comptroller of the State of Illinois pursuant to the Governmental Account Audit Act [50 ILCS 310].
- 3) A unit of local government is not eligible to assure its obligations pursuant to this Section if any of the following is true:
  - A) It is currently in default on any outstanding general obligation bonds;
  - B) It has any outstanding general obligation bonds rated lower than Baa as issued by Moody's or BBB as issued by Standard and Poor's;
  - C) It operated at a deficit equal to five percent or more of total annual revenue in each of the past two fiscal years; or

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D) It receives an adverse opinion, disclaimer of opinion, or other qualified opinion from the independent certified public accountant or the Comptroller of the State of Illinois pursuant to the Governmental Account Audit Act [50 ILCS 310] auditing its financial statement as required pursuant to subsection (a)(2) ~~of this Section~~. However, the Agency must evaluate qualified opinions on a case-by-case basis and allow use of the financial test in cases where the Agency deems the qualification insufficient to warrant disallowance of use of the test.

4) Terms used in this Section are defined as follows:

"Cash plus marketable securities" is all the cash plus marketable securities held by the unit of local government on the last day of a fiscal year, excluding cash and marketable securities designated to satisfy past obligations such as pensions.

"Debt service" is the amount of principal and interest due on a loan in a given time period, typically the current year.

"Deficit" equals total annual revenues minus total annual expenditures.

"Total revenues" include revenues from all taxes and fees but does not include the proceeds from borrowing or asset sales, excluding revenue from funds managed by a unit of local government on behalf of a specific third party.

"Total expenditures" include all expenditures excluding capital outlays and debt repayment.

b) Public Notice Component.

1) The unit of local government owner or operator must place a reference to the closure and post-closure care costs assured through the financial test into its next comprehensive annual financial report (CAFR), or prior to the initial receipt of waste at the facility, whichever is later.

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- 2) Disclosure must include the nature and source of closure and post-closure care requirements, the reported liability at the balance sheet date, the estimated total closure and post-closure care cost remaining to be recognized, the percentage of landfill capacity used to date, and the estimated landfill life in years.
  - 3) A reference to corrective action costs must be placed in the CAFR not later than 120 days after the corrective action remedy has been selected in accordance with the requirements of Sections 811.319(d) and 811.325.
  - 4) For the first year the financial test is used to assure costs at a particular facility, the reference may instead be placed in the operating record until issuance of the next available CAFR if timing does not permit the reference to be incorporated into the most recently issued CAFR or budget.
  - 5) For closure and post-closure costs, conformance with Government Accounting Standards Board Statement 18, incorporated by reference in 35 Ill. Adm. Code 810.104, assures compliance with this public notice component.
- c) Recordkeeping and Reporting Requirements.
- 1) The unit of local government owner or operator must place the following items in the facility's operating record:
    - A) A letter signed by the unit of local government's chief financial officer that provides the following information:
      - i) It lists all the current cost estimates covered by a financial test, as described in subsection (d) ~~of this Section~~;
      - ii) It provides evidence and certifies that the unit of local government meets the conditions of subsections (a)(1), (a)(2), and (a)(3) ~~of this Section~~; and
      - iii) It certifies that the unit of local government meets the conditions of subsections (b) and (d) ~~of this Section~~.

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- B) The unit of local government's independently audited year-end financial statements for the latest fiscal year (except for a unit of local government where audits are required every two years, where unaudited statements may be used in years when audits are not required), including the unqualified opinion of the auditor who must be an independent certified public accountant (CPA) or the Comptroller of the State of Illinois pursuant to the Governmental Account Audit Act [50 ILCS 310].
- C) A report to the unit of local government from the unit of local government's independent CPA or the Comptroller of the State of Illinois pursuant to the Governmental Account Audit Act [50 ILCS 310] based on performing an agreed upon procedures engagement relative to the financial ratios required by subsection (a)(1)(B) ~~of this Section~~, if applicable, and the requirements of subsections (a)(2), (a)(3)(C), and (a)(3)(D) ~~of this Section~~. The CPA or Comptroller's report should state the procedures performed and the CPA or Comptroller's findings.
- D) A copy of the comprehensive annual financial report (CAFR) used to comply with subsection (b) ~~of this Section~~ or certification that the requirements of Government Accounting Standards Board Statement 18, incorporated by reference in Section 810.104, have been met.
- 2) The items required in subsection (c)(1) ~~of this Section~~ must be placed in the facility operating record as follows:
- A) In the case of closure and post-closure care, ~~before November 27, 1997 or~~ prior to the initial receipt of waste at the facility; ~~whichever is later~~; or
- B) In the case of corrective action, not later than 120 days after the corrective action remedy is selected in accordance with the requirements of Sections 811.319(d) and 811.325.
- 3) After the initial placement of the items in the facility operating record, the

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unit of local government owner or operator must update the information and place the updated information in the operating record within 180 days following the close of the owner or operator's fiscal year.

- 4) The unit of local government owner or operator is no longer required to meet the requirements of subsection (c) ~~of this Section~~ when either of the following occurs:
    - A) The owner or operator substitutes alternative financial assurance as specified in this Section; or
    - B) The owner or operator is released from the requirements of this Section in accordance with Section 811.326(g), 811.702(b), or 811.704(j) or (k)(6).
  - 5) A unit of local government must satisfy the requirements of the financial test at the close of each fiscal year. If the unit of local government owner or operator no longer meets the requirements of the local government financial test it must, within 120 days following the close of the owner or operator's fiscal year, obtain alternative financial assurance that meets the requirements of this Subpart, place the required submissions for that assurance in the operating record, notify the Agency that the owner or operator no longer meets the criteria of the financial test and that alternative assurance has been obtained, and submit evidence of the alternative financial assurance to the Agency.
  - 6) The Agency, based on a reasonable belief that the unit of local government owner or operator may no longer meet the requirements of the local government financial test, may require additional reports of financial condition from the unit of local government at any time. If the Agency determines, on the basis of such reports or other information, that the owner or operator no longer meets the requirements of the local government financial test, the unit of local government must provide alternative financial assurance in accordance with this Subpart.
- d) Calculation of Costs to Be Assured. The portion of the closure, post-closure, and corrective action costs that an owner or operator may assure pursuant to this Section is determined as follows:

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- 1) If the unit of local government owner or operator does not assure other environmental obligations through a financial test, it may assure closure, post-closure, and corrective action costs that equal up to 43 percent of the unit of local government's total annual revenue.
- 2) If the unit of local government assures other environmental obligations through a financial test, including those associated with UIC facilities pursuant to 35 Ill. Adm. Code 704.213; petroleum underground storage tank facilities pursuant to 40 CFR 280; PCB storage facilities pursuant to 40 CFR 761; and hazardous waste treatment, storage, and disposal facilities pursuant to 35 Ill. Adm. Code 724 and 725, it must add those costs to the closure, post-closure, and corrective action costs it seeks to assure pursuant to this Section. The total that may be assured must not exceed 43 percent of the unit of local government's total annual revenue.
- 3) The owner or operator must obtain an alternative financial assurance instrument for those costs that exceed the limits set in subsections (d)(1) and (d)(2) ~~of this Section~~.

BOARD NOTE: Derived from 40 CFR 258.74(f) (~~2017~~2013).

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 811.719 Corporate Financial Test**

An MSWLF owner or operator that satisfies the requirements of this Section may demonstrate financial assurance up to the amount specified in this Section as follows:

- a) Financial component.
  - 1) The owner or operator must satisfy one of the following three conditions:
    - A) A current rating for its senior unsubordinated debt of AAA, AA, A, or BBB as issued by Standard and Poor's or Aaa, Aa, A, or Baa as issued by Moody's; or
    - B) A ratio of less than 1.5 comparing total liabilities to net worth; or



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- C) A ratio of greater than 0.10 comparing the sum of net income plus depreciation, depletion and amortization, minus \$10 million, to total liabilities.
- 2) The tangible net worth of the owner or operator must be greater than:
    - A) The sum of the current closure, post-closure care, corrective action cost estimates and any other environmental obligations, including guarantees, covered by a financial test plus \$10 million except as provided in subsection (a)(2)(B) ~~of this Section~~.
    - B) \$10 million in net worth plus the amount of any guarantees that have not been recognized as liabilities on the financial statements, provided all of the current closure, post-closure care, and corrective action costs and any other environmental obligations covered by a financial test are recognized as liabilities on the owner's or operator's audited financial statements, and subject to the approval of the Agency.
  - 3) The owner or operator must have assets located in the United States amounting to at least the sum of current closure, post-closure care, corrective action cost estimates and any other environmental obligations covered by a financial test, as described in subsection (c) ~~of this Section~~.
- b) Recordkeeping and reporting requirements.
    - 1) The owner or operator must place the following items into the facility's operating record:
      - A) A letter signed by the owner's or operator's chief financial officer that includes the following:
        - i) All the current cost estimates covered by a financial test, including, but not limited to, cost estimates required for municipal solid waste management facilities pursuant to this Part; cost estimates required for UIC facilities pursuant to 35 Ill. Adm. Code 730, if applicable; cost estimates

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required for petroleum underground storage tank facilities pursuant to 40 CFR 280, if applicable; cost estimates required for PCB storage facilities pursuant to 40 CFR 761, if applicable; and cost estimates required for hazardous waste treatment, storage, and disposal facilities pursuant to 35 Ill. Adm. Code 724 or 725, if applicable; and

- ii) Evidence demonstrating that the firm meets the conditions of subsection (a)(1)(A), (a)(1)(B), or (a)(1)(C) ~~of this Section~~ and ~~subsections~~ subsection (a)(2) and (a)(3) ~~of this Section~~.
- B) A copy of the independent certified public accountant's unqualified opinion of the owner's or operator's financial statements for the latest completed fiscal year. To be eligible to use the financial test, the owner's or operator's financial statements must receive an unqualified opinion from the independent certified public accountant. An adverse opinion, disclaimer of opinion, or other qualified opinion will be cause for disallowance, with the potential exception for qualified opinions provided in the next sentence. The Agency must evaluate qualified opinions on a case-by-case basis and allow use of the financial test in cases where the Agency deems that the matters that form the basis for the qualification are insufficient to warrant disallowance of the test. If the Agency does not allow use of the test, the owner or operator must provide alternative financial assurance that meets the requirements of this Section.
- C) If the chief financial officer's letter providing evidence of financial assurance includes financial data showing that the owner or operator satisfies subsection (a)(1)(B) or (a)(1)(C) ~~of this Section~~ that are different from data in the audited financial statements referred to in subsection (b)(1)(B) ~~of this Section~~ or any other audited financial statement or data filed with the federal Security Exchange Commission, then a special report from the owner's or operator's independent certified public accountant to the owner or operator is required. The special report must be based upon an agreed upon procedures engagement in accordance with

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professional auditing standards and must describe the procedures performed in comparing the data in the chief financial officer's letter derived from the independently audited, year-end financial statements for the latest fiscal year with the amounts in such financial statements, the findings of that comparison, and the reasons for any differences.

- D) If the chief financial officer's letter provides a demonstration that the firm has assured for environmental obligations, as provided in subsection (a)(2)(B) ~~of this Section~~, then the letter must include a report from the independent certified public accountant that verifies that all of the environmental obligations covered by a financial test have been recognized as liabilities on the audited financial statements, how these obligations have been measured and reported, and that the tangible net worth of the firm is at least \$10 million plus the amount of any guarantees provided.
- 2) An owner or operator must place the items specified in subsection (b)(1) ~~of this Section~~ in the operating record and notify the Agency in writing that these items have been placed in the operating record before the initial receipt of waste ~~or before February 17, 1999, whichever is later~~, in the case of closure and post-closure care, or no later than 120 days after the corrective action remedy has been selected in accordance with the requirements of Section 811.324.

BOARD NOTE: Corresponding 40 CFR 258.74(e)(2)(ii) provides that this requirement is effective "before the initial receipt of waste or before the effective date of the requirements of this Section (April 9, 1997 or October 9, 1997 for MSWLF units meeting the conditions of Sec. 258.1(f)(1)), whichever is later:". The Board has instead inserted the date on which these amendments are to be filed and become effective in Illinois.

- 3) After the initial placement of items specified in subsection (b)(1) ~~of this Section~~ in the operating record, the owner or operator must annually update the information and place updated information in the operating record within 90 days following the close of the owner's or operator's fiscal year. The Agency must provide up to an additional 45 days for an

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owner or operator who can demonstrate that 90 days is insufficient time to acquire audited financial statements. The updated information must consist of all items specified in subsection (b)(1)-~~of this Section~~.

- 4) The owner or operator is no longer required to submit the items specified in this subsection (b) or comply with the requirements of this Section when either of the following occurs:
    - A) It substitutes alternative financial assurance, as specified in this Subpart G, that is not subject to these recordkeeping and reporting requirements; or
    - B) It is released from the requirements of this Subpart G in accordance with Sections 811.700 and 811.706.
  - 5) If the owner or operator no longer meets the requirements of subsection (a)-~~of this Section~~, the owner or operator must obtain alternative financial assurance that meets the requirements of this Subpart G within 120 days following the close of the facility's fiscal year. The owner or operator must also place the required submissions for the alternative financial assurance in the facility operating record and notify the Agency that it no longer meets the criteria of the financial test and that it has obtained alternative financial assurance. The owner or operator must submit evidence of the alternative financial assurance to the Agency.
  - 6) The Agency may require the owner or operator to provide reports of its financial condition in addition to or including current financial test documentation specified in subsection (b)-~~of this Section~~ at any time it has a reasonable belief that the owner or operator may no longer meet the requirements of subsection (a)-~~of this Section~~. If the Agency finds that the owner or operator no longer meets the requirements of subsection (a)-~~of this Section~~, the owner or operator must provide alternative financial assurance that meets the requirements of this Subpart G.
- c) Calculation of costs to be assured. When calculating the current cost estimates for closure, post-closure care, corrective action, the sum of the combination of such costs to be covered, and any other environmental obligations assured by a financial test referred to in this Section, the owner or operator must include cost

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estimates required for municipal solid waste management facilities pursuant to this Part, as well as cost estimates required for the following environmental obligations, if it assures them through a financial test: obligations associated with UIC facilities pursuant to 35 Ill. Adm. Code 730; petroleum underground storage tank facilities pursuant to 40 CFR 280; PCB storage facilities pursuant to 40 CFR 761; and hazardous waste treatment, storage, and disposal facilities pursuant to 35 Ill. Adm. Code 724 or 725.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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**Section 811.**~~APPENDIX~~**Appendix A Financial Assurance Forms**

**Section 811.ILLUSTRATION A Trust Agreement**

TRUST AGREEMENT

Trust Fund Number \_\_\_\_\_

Trust Agreement, the "Agreement," entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, by and between \_\_\_\_\_, a \_\_\_\_\_, the "Grantor," and \_\_\_\_\_, the "Trustee."

Whereas, Section 21.1 of the Environmental Protection Act, "Act", prohibits any person from conducting any waste disposal operation unless such person has posted with the Illinois Environmental Protection Agency, "IEPA", a performance bond or other security for the purpose of insuring closure of the site and post-closure care or corrective action in accordance with the Act and Illinois Pollution Control Board, "IPCB", rules.

Whereas, the IPCB has established certain regulations applicable to the Grantor, requiring that an operator of a waste disposal site provide assurance that funds will be available when needed for closure and/or post-closure care or corrective action of the site.

Whereas, the Grantor has elected to establish a trust to provide all or part of such financial assurance for the sites identified in this agreement.

Whereas, the Grantor, acting through its duly authorized officers, has selected the Trustee to be the trustee under this agreement, and the Trustee is willing to act as trustee.

Whereas, Trustee is an entity that has authority to act as a trustee and whose trust operations are regulated by the Illinois Department of Financial and Professional Regulation or who complies with the Corporate Fiduciary Act [205 ILCS 5]. (Line through any condition that does not apply.)

Now, Therefore, the Grantor and the Trustee agree as follows:

**Section 1. Definitions.**

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As used in this Agreement:

- a) The term "Grantor" means the operator who enters into this Agreement and any successors or assigns of the operator.
- b) The term "Trustee" means the Trustee who enters into this Agreement and any successor Trustee.

**Section 2. Identification of Sites and Cost Estimates.**

This Agreement pertains to the sites and cost estimates identified on attached Schedule A (on Schedule A, list the name and address and current cost estimate of each site for which financial assurance is demonstrated by this agreement).

**Section 3. Establishment of Fund.**

The Grantor and the Trustee hereby establish a trust fund, the "Fund," for the benefit of the IEPA. The Grantor and the Trustee intend that no other third party have access to the Fund except as provided in this agreement. The Fund is established initially as consisting of the property, which is acceptable to the Trustee, described in Schedule B attached to this agreement. Such property and any other property subsequently transferred to the Trustee is referred to as the Fund, together with all earnings and profits on the Fund, less any payments or distributions made by the Trustee pursuant to this agreement. The Fund shall be held by the Trustee, in trust, as provided in this agreement. The Trustee shall not be responsible nor shall it undertake any responsibility for the amount or adequacy of, nor any duty to collect from the Grantor, any payments necessary to discharge any liabilities of the Grantor.

**Section 4. Payment for Closure and Post-Closure care or Corrective Action.**

The Trustee shall make payments from the Fund as the IEPA shall direct, in writing, to provide for the payment of the costs of closure and/or post-closure care or corrective action of the sites covered by this agreement. The Trustee shall reimburse the Grantor or other persons as specified by the IEPA from the Fund for closure and post-closure or corrective action expenditures in such amounts as the IEPA shall direct in writing. In addition, the Trustee shall refund to the Grantor such amounts as the IEPA specifies in writing. Upon refund, such funds shall no longer constitute part of the Fund.

**Section 5. Payments Comprising the Fund.**

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Payments made to the Trustee for the Fund shall consist of cash or securities acceptable to the Trustee.

**Section 6. Trust Management.**

The Trustee shall invest and reinvest the principal and income of the Fund and keep the Fund invested as a single fund, without distinction between principal and income, in accordance with general investment policies and guidelines which the Grantor may communicate in writing to the Trustee from time to time, subject, however, to the provisions of this Section. In investing, reinvesting, exchanging, selling and managing the Fund, the Trustee shall discharge his duties with respect to the trust fund solely in the interest of the beneficiary and with the care, skill, prudence and diligence under the circumstances then prevailing which persons of prudence, acting in a like capacity and familiar with such matters, would use in the conduct of an enterprise of a like character and with like aims; except that:

- a) Securities or other obligations of the Grantor, or any other owner or operator of the site, or any of their affiliates as defined in Section 80a-2(a)(2) of the Investment Company Act of 1940, as amended (15 USC 80a-2(a)(2)) shall not be acquired or held, unless they are securities or other obligations of the Federal government or the State of Illinois;
- b) The Trustee is authorized to invest the Fund in time or demand deposits of the Trustee, to the extent insured by the Federal Deposit Insurance Corporation.
- c) The Trustee is authorized to hold cash awaiting investment or distribution uninvested for a reasonable time and without liability for the payment of interest thereon.

**Section 7. Commingling and Investment.**

The Trustee is expressly authorized in its discretion:

- a) To transfer from time to time any or all of the assets of the Fund to any common, commingled or collective trust fund created by the Trustee in which the Fund is eligible to participate, subject to all of the provisions thereof, to be commingled with the assets of other trusts participating therein; and
- b) To purchase shares in any investment company registered under the Investment Company Act of 1940 (15 USC 80a-1 et seq.) including one which may be created, managed,



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underwritten or to which investment advice is rendered or the shares of which are sold by the Trustee. The Trustee may vote such shares in its discretion.

**Section 8. Express Powers of Trustee.**

Without in any way limiting the powers and discretions conferred upon the Trustee by the other provisions of this agreement or by law, the Trustee is expressly authorized and empowered;

- a) To sell, exchange, convey, transfer or otherwise dispose of any property held by it, by public or private sale. No person dealing with the Trustee shall be bound to see to the application of the purchase money or to inquire into the validity or expedience of any such sale or other disposition;
- b) To make, execute, acknowledge and deliver any and all documents of transfer and conveyance and any and all other instruments that may be necessary or appropriate to carry out the powers granted in this agreement;
- c) To register any securities held in the Fund in its own name or in the name of a nominee and to hold any security in bearer form or in book entry, or to combine certificates representing such securities with certificates of the same issue held by the Trustee in other fiduciary capacities, or to deposit or arrange for the deposit of such securities in a qualified central depository even though, when so deposited, such securities may be merged and held in bulk in the name of the nominee of such depository with other securities deposited therein by another person, or to deposit or arrange for the deposit of any securities issued by the United States Government, or any agency or instrumentality thereof, with a Federal Reserve Bank, but the books and records of the Trustee shall at all times show that all such securities are part of the Fund;
- d) To deposit any cash in the Fund in interest-bearing accounts maintained or savings certificates issued by the Trustee, in its separate corporate capacity, or in any other banking institution affiliated with the Trustee, to the extent insured by the Federal Deposit Insurance Corporation; and
- e) To compromise or otherwise adjust all claims in favor of or against the Fund.

**Section 9. Taxes and Expenses.**

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All taxes of any kind that may be assessed or levied against or in respect of the Fund and all brokerage commissions incurred by the Fund shall be paid from the Fund. All other expenses incurred by the Trustee, to the extent not paid directly by the Grantor, and all other proper charges and disbursements of the Trustee shall be paid from the Fund.

**Section 10. Annual Valuation.**

The Trustee shall annually furnish to the Grantor and to the IEPA a statement confirming the value of the Trust. The evaluation day shall be each year on the \_\_\_\_\_ day of \_\_\_\_\_. Any securities in the Fund shall be valued at market value as of the evaluation day. The Trustee shall mail the evaluation statement to the Grantor and the IEPA within 30 days after the evaluation day. The failure of the Grantor to object in writing to the Trustee within 90 days after the statement has been furnished to the Grantor and the IEPA shall constitute a conclusively binding assent by the Grantor, barring the Grantor from asserting any claim or liability against the Trustee with respect to matters disclosed in the statement.

**Section 11. Advice of Counsel.**

The Trustee may from time to time consult with counsel, who may be counsel to the Grantor, with respect to any question arising as to the construction of this agreement or any action to be taken hereunder. The Trustee shall be fully protected, to the extent permitted by law, in acting upon the advice of counsel.

**Section 12. Trustee Compensation.**

The Trustee shall be entitled to reasonable compensation for its services as agreed upon in writing from time to time with the Grantor.

**Section 13. Successor Trustee.**

The Trustee may resign or the Grantor may replace the Trustee, but such resignation or replacement shall not be effective until the Grantor has appointed a successor trustee and the successor accepts the appointment. The successor trustee shall have the same powers and duties as those conferred upon the Trustee hereunder. Upon the successor trustee's acceptance of the appointment, the Trustee shall assign, transfer and pay over to the successor trustee the funds and properties then constituting the Fund. If for any reason the Grantor cannot or does not act in the event of the resignation of the Trustee, the Trustee may apply to a court of competent jurisdiction for the appointment of a successor trustee or for instructions. The successor trustee shall specify

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the date on which it assumes administration of the trust in a writing sent to the Grantor, the IEPA and the present Trustee by certified mail ten days before such change becomes effective. Any expenses incurred by the Trustee as a result of any of the acts contemplated by this Section shall be paid as provided in Section 9.

**Section 14. Instructions to the Trustee.**

All orders, requests and instructions by the Grantor to the Trustee shall be in writing, signed by such persons as are designated in the attached Exhibit A or such other designees as the Grantor may designate by amendment to Exhibit A. The Trustee shall be fully protected in acting without inquiry in accordance with the Grantor's orders, requests and instructions. All orders, requests and instructions by the IEPA to the Trustee shall be in writing, signed by the IEPA Director or his/her designee, and the Trustee shall act and shall be fully protected in acting in accordance with such orders, requests and instructions. The Trustee shall have the right to assume, in the absence of written notice to the contrary, that no event constituting a change or a termination of the authority of any person to act on behalf of the Grantor or IEPA hereunder has occurred. The Trustee shall have no duty to act in the absence of such orders, requests and instructions from the Grantor and/or IEPA, except as provided in this agreement.

**Section 15. Notice of Nonpayment.**

The Trustee shall notify the Grantor and the IEPA, by certified mail within ten days following the expiration of the 30-day period after the anniversary of the establishment of the Trust, if no payment is received from the Grantor during that period. After the pay-in period is completed, the Trustee shall not be required to send a notice of nonpayment.

**Section 16. Amendment of Agreement.**

This Agreement may be amended by an instrument in writing executed by the Grantor, the Trustee and the IEPA Director or his/her designee, or by the Trustee and the IEPA Director or his/her designee if the Grantor ceases to exist.

**Section 17. Irrevocability and Termination.**

Subject to the right of the parties to amend this Agreement as provided in Section 16, this Trust shall be irrevocable and shall continue until terminated at the written agreement of the Grantor, the Trustee and the IEPA Director or his/her designee, or by the Trustee and the IEPA Director

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or his/her designee, if the Grantor ceases to exist. Upon termination of the Trust, all remaining trust property, less final trust administration expenses, shall be delivered to the Grantor.

**Section 18. Immunity and Indemnification.**

The Trustee shall not incur personal liability of any nature in connection with any act or omission, made in good faith, in the administration of this Trust, or in carrying out any directions by the Grantor or the IEPA Director or his/her designee issued in accordance with this Agreement. The Trustee shall be indemnified and saved harmless by the Grantor or from the Trust Fund, or both, from and against any personal liability to which the Trustee may be subjected by reason of any act or conduct in its official capacity, including all expenses reasonably incurred in its defense in the event the Grantor fails to provide such defense.

**Section 19. Choice of Law.**

This Agreement shall be administered, construed and enforced according to the laws of the State of Illinois.

**Section 20. Interpretation.**

As used in this Agreement, words in the singular include the plural and words in the plural include the singular. The descriptive headings for each Section of this Agreement shall not affect the interpretation or the legal efficacy of this Agreement.

In Witness Whereof the parties have caused this Agreement to be executed by their respective officers duly authorized and their corporate seals to be hereunto affixed and attested as of the date first above written. The parties below certify that the wording of this Agreement is identical to the wording specified in 35 Ill. Adm. Code 811.Appendix A, Illustration A as those regulations were constituted on the date this Agreement was entered.

Attest:           Signature of Grantor \_\_\_\_\_

                          Typed Name \_\_\_\_\_

                          Title \_\_\_\_\_

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Seal

Attest: Signature of Trustee \_\_\_\_\_

Typed Name \_\_\_\_\_

Title \_\_\_\_\_

Seal

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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Section 811.APPENDIX A Financial Assurance Forms

Section 811.ILLUSTRATION~~Illustration~~ **B Certificate of Acknowledgment**

CERTIFICATE OF ACKNOWLEDGMENT

State of \_\_\_\_\_ )  
 )SS

County of \_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ before me personally came \_\_\_\_\_ (operator) to me known, who, being by me duly sworn, did depose and say that she/he resides at \_\_\_\_\_ (address), that she/he is \_\_\_\_\_ (title) of \_\_\_\_\_ (corporation), the corporation described in and which executed the above instrument; that she/he knows the seal of said corporation; that the seal affixed to such instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation, and that she/he signed her/his name thereto by like order.

\_\_\_\_\_ Notary Public

My Commission Expires \_\_\_\_\_

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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**Section 811.APPENDIX A Financial Assurance Forms**

**Section 811.ILLUSTRATION C Forfeiture Bond**

FORFEITURE BOND

Date bond executed: \_\_\_\_\_

Effective date: \_\_\_\_\_

Principal: \_\_\_\_\_

Type of organization: \_\_\_\_\_

State of incorporation: \_\_\_\_\_

Surety: \_\_\_\_\_

Sites:

Name \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_

Amount guaranteed by this bond: \$ \_\_\_\_\_

Name \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_

Amount guaranteed by this bond: \$ \_\_\_\_\_

Please attach a separate page if more space is needed for all sites.

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Total penal sum of bond: \_\_\_\_\_

Surety's bond number: \_\_\_\_\_

The Principal and the Surety promise to pay the Illinois Environmental Protection Agency ("IEPA") the above penal sum unless the Principal provides closure and post-closure care or corrective action for each site in accordance with the closure and post-closure care or corrective action plans for that site. To the payment of this obligation the Principal and Surety jointly and severally bind themselves, their heirs, executors, administrators, successors and assigns.

Whereas the Principal is required, under Section 21(d) of the Environmental Protection Act [415 ILCS 5/21(d)], to have a permit to conduct a waste disposal operation.

Whereas the Principal is required, under Section 21.1 of the Environmental Protection Act [415 ILCS 5/21.1], to provide financial assurance for closure and post-closure care or corrective action.

Whereas the Surety is licensed by the Illinois Department of Insurance or is licensed to transact the business of insurance or approved to provide insurance as an excess or surplus lines insurer by the insurance department in one or more states.

Whereas the Principal and Surety agree that this bond shall be governed by the laws of the State of Illinois.

The Surety shall pay the penal sum to the IEPA if, during the term of the bond, the Principal fails to provide closure or post-closure care or corrective action for any site in accordance with the closure and post-closure care or corrective action plans for that site as guaranteed by this bond. The Principal fails to so provide when the Principal:

- a) Abandons the site;
- b) Is adjudicated bankrupt;
- c) Fails to initiate closure of the site or post-closure care or corrective action when ordered to do so by the Illinois Pollution Control Board or a court of competent jurisdiction;



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- d) Notifies the IEPA that it has initiated closure, or initiates closure, but fails to close the site or provide post-closure care or corrective action in accordance with the closure and post-closure care or corrective action plans;
- e) For corrective action, fails to implement corrective action at a municipal solid waste landfill unit in accordance with 35 Ill. Adm. Code 811.326; or
- f) Fails to provide alternative financial assurance and obtain the IEPA written approval of the assurance provided within 90 days after receipt by both the Principal and the IEPA of a notice from the Surety that the bond will not be renewed for another term.

The Surety shall pay the penal sum of the bond to the IEPA within 30 days after the IEPA mails notice to the Surety that the Principal has met one or more of the conditions described above . Payment shall be made by check or draft payable to the State of Illinois, Landfill Closure and Post-Closure Fund.

The liability of the Surety shall not be discharged by any payment or succession of payments unless and until such payment or payments shall amount in the aggregate to the penal sum of the bond. In no event shall the obligation of the Surety exceed the amount of the penal sum.

This bond shall expire on the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ [date], but that expiration date shall be automatically extended for a period of [at least one year] on [date] and on each successive expiration date, unless, at least 120 days before the current expiration date, the Surety notifies both the IEPA and the Principal by certified mail that the Surety has decided not to extend the term of this surety bond beyond the current expiration date. The 120 days will begin on the date when both the Principal and the IEPA have received the notice, as evidenced by the return receipts.

The Principal may terminate this bond by sending written notice to the Surety; provided, however, that no such notice shall become effective until the Surety receives written authorization for termination of the bond from the IEPA in accordance with 35 Ill. Adm. Code 811.702.

In Witness Whereof, the Principal and Surety have executed this Forfeiture Bond and have affixed their seals on the date set forth above.

The persons whose signatures appear below certify that they are authorized to execute this surety

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bond on behalf of the Principal and Surety and that the wording of this surety bond is identical to the wording specified in 35 Ill. Adm. Code 811.Appendix A, Illustration C as that regulation was constituted on the date this bond was executed.

PRINCIPAL

SURETY

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name

\_\_\_\_\_  
Typed Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Title

\_\_\_\_\_  
State of Incorporation

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Typed Name

Corporate Seal

\_\_\_\_\_  
Title

Corporate Seal

Bond Premium: \$ \_\_\_\_\_

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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**Section 811. APPENDIX A Financial Assurance Forms**

**Section.811.ILLUSTRATION E Irrevocable Standby Letter of Credit**

IRREVOCABLE STANDBY LETTER OF CREDIT

Director  
Illinois Environmental Protection Agency  
C/O Bureau of Land #24  
Financial Assurance Program  
1021 North Grand Avenue East  
Post Office Box 19276  
Springfield, Illinois 62794-9276

Dear Sir or Madam:

We have authority to issue letters of credit. Our letter-of-credit operations are regulated by the Illinois Department of Financial and Professional Regulation or our deposits are insured by the Federal Deposit Insurance Corporation. (Omit language that does not apply.)

We hereby establish our Irrevocable Standby Letter of Credit No. \_\_\_\_\_ in your favor, at the request and for the account of \_\_\_\_\_ up to the aggregate amount of \_\_\_\_\_ U.S. dollars (\$ \_\_\_\_\_ ) available upon presentation of:

1. your sight draft, bearing references to this letter of credit No. \_\_\_\_\_ ; and
2. your signed statement reading as follows: "I certify that the amount of the draft is payable pursuant to regulations issued under authority of the Environmental Protection Act [415 ILCS 5] and 35 Ill. Adm. Code 811.713(e)."

This letter of credit is effective as of \_\_\_\_\_ [date] and shall expire on \_\_\_\_\_ [date] at least one year later]; but that expiration date shall be automatically extended for a period of [at least one year] on \_\_\_\_\_ [date] and on each successive expiration date, unless, at least 120 days before the current expiration date, we notify both you and \_\_\_\_\_ [owner's or operator's name] by certified mail that we have decided not to extend this letter of credit beyond the current expiration date. The 120 days will begin on the date when both the \_\_\_\_\_ [owner's or operator's name]

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and the IEPA have received the notice, as evidenced by the return receipts. In the event you are so notified, any unused portion of the credit shall be available upon presentation of your sight draft for 120 days after the date of receipt by both you and \_\_\_\_\_ [owner's or operator's name], as shown on the signed return receipts.

Whenever this letter of credit is drawn on, under and in compliance with the terms of this credit, we shall duly honor that draft upon presentation to us, and we shall deposit the amount of the draft directly into the State of Illinois Landfill Closure and Post-Closure or Corrective Action Fund in accordance with your instructions.

We certify that the wording of this letter of credit is identical to the wording specified in 35 Ill. Adm. Code 811.Appendix A, Illustration E as that regulation was constituted on the date shown below.

Signature \_\_\_\_\_

Typed Name \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_

Name and address of issuing institution \_\_\_\_\_

This credit is subject to [insert "the most recent edition of the Uniform Customs and Practice for Documentary Credits, published and copyrighted by the International Chamber of Commerce," or "the Uniform Commercial Code"].

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## POLLUTION CONTROL BOARD

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**Section 811.**APPENDIX**Appendix B State-Federal MSWLF Regulations Correlation Table**

RCRA SUBTITLE D REGULATIONS	ILLINOIS LANDFILL REGULATIONS
I. SUBPART A: General	
1) Purpose, Scope, and Applicability (40 CFR 258.1)	1) NL <sup>1</sup> : Sections 811.101, 811.301, 811.401, 811.501, and 811.700. EL <sup>2</sup> : Section 814.101.
2) Definitions (40 CFR 258.2)	2) Section 810.103.
3) Research, Development, and Demonstration Permits (40 CFR 258.4)	3) Sections 811.103(b)(1) and (b)(2), 811.107(m)(1)(C), 811.314(a), and 813.112.
II. SUBPART B: Location Restrictions	
1) Airport safety (40 CFR 258.10)	1) NL <sup>1</sup> : <del>Sections</del> Section 811.302(e) <u>and (f)</u> . EL <sup>2</sup> : Section 814.302(c) and 814.402(c).
2) Floodplains. (40 CFR 258.11)	2) NL <sup>1</sup> : Section 811.102(b). EL <sup>2</sup> : <del>Sections</del> Section 814.302(a)(1) and 814.402(a)(1).
3) Wetlands. (40 CFR 258.12)	3) NL <sup>1</sup> : Sections 811.102(d) <u>and (e)</u> ; <del>811.102(e)</del> , and 811.103. EL <sup>2</sup> : <del>Sections</del> Section 814.302 and 814.402.
4) Fault areas. (40 CFR 258.13)	4) NL <sup>1</sup> : Sections 811.304 and 811.305. EL <sup>2</sup> : Section 814.302 and 814.402.
5) Seismic impact zones. (40 CFR 258.14)	5) Same as above.

## POLLUTION CONTROL BOARD

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- |                                    |  |    |  |
|------------------------------------|--|----|--|
| 6)                                 | Unstable areas. (40 CFR 258.15)  | 6) | NL <sup>1</sup> : Sections 811.304 and 811.305.<br>EL <sup>2</sup> : Sections 811.302(c) and 811.402(c).     |
| 7)                                 | Closure of existing MSWL units. (40 CFR 258.16)                          | 7) | EL <sup>2</sup> : Sections 814.301 and 814.401.  |
| III. SUBPART C: Operating Criteria |  |    |  |
| 1)                                 | Procedures for excluding the receipt of hazardous waste. (40 CFR 258.20) | 1) | NL <sup>1</sup> : Section 811.323. EL <sup>2</sup> : Sections 814.302 and 814.402.                           |
| 2)                                 | Cover material requirements. (40 CFR 258.21)                             | 2) | NL <sup>1</sup> : Section 811.106. EL <sup>2</sup> : Sections 814.302 and 814.402.                           |
| 3)                                 | Disease vector control. (40 CFR 258.22)                                  | 3) | NL <sup>1</sup> : Section 811.107(i). EL <sup>2</sup> : Sections 814.302 and 814.402.                        |
| 4)                                 | Explosive gas control. (40 CFR 258.23)                                   | 4) | NL <sup>1</sup> : Sections 811.310, 811.311, and 811.312. EL <sup>2</sup> : Sections 814.302 and 814.402.    |
| 5)                                 | Air criteria. (40 CFR 258.24)  | 5) | NL <sup>1</sup> : Sections 811.107(b), 811.310, and 811.311. EL <sup>2</sup> : Sections 814.302 and 814.402. |
| 6)                                 | Access requirements. (40 CFR 258.25)                                     | 6) | NL <sup>1</sup> : Section 811.109. EL <sup>2</sup> : Sections 814.302 and 814.402.                           |
| 7)                                 | Run-on/run-off control system. (40 CFR 258.26)                           | 7) | NL <sup>1</sup> : Section 811.103. EL <sup>2</sup> : Sections 814.302 and 814.402.                           |
| 8)                                 | Surface water requirements. (40 CFR 258.27)                              | 8) | Same as above.   |
| 9)                                 | Liquids restrictions. (40 CFR 258.28)                                    | 9) | NL <sup>1</sup> : Section 811.107(m). EL <sup>2</sup> : Sections 814.302 and 814.402.                        |

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- |     |   |     |  |
|-----|---|-----|--|
| 10) | Recordkeeping requirements. (40 CFR 258.29)             | 10) | NL <sup>1</sup> : Sections 811.112, and Parts 812 and 813. EL <sup>2</sup> : Sections 814.302 and 814.402.   |
| IV. | SUBPART D: Design criteria (40 CFR 258.40)              | IV) | NL <sup>1</sup> : 811.303, 811.304, 811.305, 811.306, 811.307, 811.308, 811.309, 811.315, 811.316, 811.317, and 811.Subpart E. EL <sup>2</sup> : Sections 814.302 and 814.402. |
| V.  | SUBPART E: Groundwater Monitoring and Corrective Action |     |  |
| 1)  | Applicability.  | 1)  | NL <sup>1</sup> : 35 Section 811.319(a)(1). EL <sup>2</sup> : Sections 814.302 and 814.402.  |
| 2)  | Groundwater monitoring systems. (40 CFR 258.51)         | 2)  | NL <sup>1</sup> : Sections 811.318 and 811.320(d). EL <sup>2</sup> : Sections 814.302 and 814.402.   |
| 3)  | Groundwater sampling and analysis. (40 CFR 258.53)      | 3)  | NL <sup>1</sup> : <del>Sections</del> Section 811.318(e), 811.320(d) <del>and, 811.320(e)</del> . EL <sup>2</sup> : Sections 814.302 and 814.402.                              |
| 4)  | Detection monitoring program. (40 CFR 258.54)           | 4)  | NL <sup>1</sup> : Section 811.319(a). EL <sup>2</sup> : Sections 814.302 and 814.402.  |
| 5)  | Assessment monitoring program. (40 CFR 258.55)          | 5)  | NL <sup>1</sup> : Section 811.319(b). EL <sup>2</sup> : Sections 814.302 and 814.402.  |
| 6)  | Assessment of corrective measures. (40 CFR 258.56)      | 6)  | NL <sup>1</sup> : Sections 811.319(d) and 811.324. EL <sup>2</sup> : Sections 814.302 and 814.402.   |
| 7)  | Selection of remedy. (40 CFR 258.57)                    | 7)  | NL <sup>1</sup> : Sections 811.319(d) and 811.325. EL <sup>2</sup> : Sections 814.302 and 814.402.   |
| 8)  | Implementation of the corrective                        | 8)  | NL <sup>1</sup> : Sections 811.319(d) and  |

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- action program. (40 CFR 258.58) 811.~~326~~~~325~~. EL<sup>2</sup>: Sections 814.302 and 814.402.
- VI. SUBPART F: Closure and Post-Closure Care
- 1) Closure criteria. (40 CFR 258.60) 1) NL<sup>1</sup>: Sections 811.110, 811.~~314~~~~315~~ and 811.322. EL<sup>2</sup>: Sections 814.302 and 814.402.
- 2) Post-closure care requirements. (40 CFR 258.61) 2) NL<sup>1</sup>: Section 811.111. EL<sup>2</sup>: Sections 814.302 and 814.402.
- VII. SUBPART G: Financial Assurance Criteria
- 1) Applicability and effective date. (40 CFR 258.70) 1) NL<sup>1</sup>: Section 811.700. EL<sup>2</sup>: Sections 814.302 and 814.402.
- 2) Financial assurance for closure. (40 CFR 258.71) 2) NL<sup>1</sup>: Sections 811.701 through 811.705. EL<sup>2</sup>: Sections 814.302 and 814.402.
- 3) Financial assurance for post-closure. (40 CFR 258.72) 3) Same as (2).
- 4) Financial assurance for corrective action. (40 CFR 258.73) 4) Same as (2).
- 5) Allowable mechanisms. (40 CFR 258.74 and 258.75) 5) NL<sup>1</sup>: Section 811.706 through 811.720. EL<sup>2</sup>: Sections 814.302 and 814.402.

1 – NL: New Landfill; 2 – EL: Existing Landfill and Lateral Expansions.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)



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**Section 811.****APPENDIX****Appendix C List of Leachate Monitoring Parameters**

pH

Elevation Leachate Surface

Bottom of Well Elevation

Leachate Level from Measuring Point

Arsenic (total)

Barium (total)

Cadmium (total) mg/l

Iron (total)

Ammonia Nitrogen – N

Bacteria (Fecal Coliform)

Biochemical Oxygen Demand (BOD5)

1,1,1,2-Tetrachloroethane

1,1,1-Trichloroethane

1,1,2,2-Tetrachloroethane

1,1,2-Trichloroethane

1,1-Dichloroethane

1,1-Dichloroethylene

1,1-Dichloropropene

1,2,3-Trichlorobenzene

1,2,3-Trichloropropane

1,2,4-Trichlorobenzene

1,2,4-Trimethylbenzene

1,2-Dibromo-3-Chloropropane

1,2-Dichloroethane

1,2-Dichloropropane

1,3,5-Trimethylbenzene

1,3-Dichloropropane

1,3-Dichloropropene

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1,4-Dichloro-2-Butene

1-Propanol

2,2-Dichloropropane

2,4,5-tp (Silvex)

2,4,6-Trichlorophenol

2,4-Dichlorophenol

2,4-Dichlorophenoxyacetic Acid (2,4-D)

2,4-Dimethylphenol

2,4-Dinitrotoluene

2,4-Dinitrophenol

2,6-Dinitrotoluene

2-Chloroethyl Vinyl Ether

2-Chloronaphthalene

2-Chlorophenol

2-Hexanone

2-Propanol (Isopropyl Alcohol)

3,3-Dichlorobenzidine

4,4-DDD

4,4-DDE

4,4-DDT

4,6-Dinitro-o-Cresol

4-Bromophenyl Phenyl Ether

4-Chlorophenyl Phenyl Ether

4-Methyl-2-Pentanone

4-Nitrophenol

Acenaphthene

Acetone

Alachlor

Aldicarb

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Aldrin  
Alpha – BHC  
Aluminum  
Anthracene  
Antimony  
Atrazine  
Benzene  
Benzo (a) Anthracene  
Benzo (a) Pyrene  
Benzo (b) Fluoranthene  
Benzo (ghi) Perylene  
Benzo (k) Fluoranthene  
Beryllium (total)  
Beta – BHC  
Bicarbonate  
Bis (2-Chloro-1-Methylethyl) Ether  
Bis (2-Chloroethoxy) Methane  
Bis (2-Chloroethyl) Ether  
Bis (2-Ethylhexyl) Ether  
Bis (2-Ethylhexyl) Phthalate  
Bis(Chloromethyl) Ether  
Boron  
Bromobenzene  
Bromochloromethane  
Bromodichloromethane  
Bromoform  
Bromomethane  
Butanol  
Butyl Benzyl Phthalate

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Calcium mg/l  
Carbofuran  
Carbon Disulfide  
Carbon Tetrachloride  
Chemical Oxygen Demand (COD)  
Chlordane  
Chloride mg/l  
Chlorobenzene  
Chloroethane  
Chloroform  
Chloromethane  
Chromium (hexavalent)  
Chromium (total)  
Chrysene  
Cis-1,2-Dichloroethylene  
Cobalt (total)  
Copper (total)  
Cyanide  
DDT  
Delta – BHC  
Di-N-Butyl Phthalate  
Di-N-Octyl Phthalate  
Dibenzo (a,h) Anthracene  
Dibromochloromethane  
Dibromomethane  
Dichlorodifluoromethane  
Dieldrin  
Diethyl Phthalate  
Dimethyl Phthalate

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Endosulfan I  
Endosulfan II  
Endosulfan Sulfate  
Endrin  
Endrin Aldehyde  
Ethyl Acetate  
Ethylbenzene  
Ethylene Dibromide (EDB)  
Fluoranthene  
Fluorene  
Fluoride  
Heptachlor Epoxide  
Heptachlor  
Hexachlorobenzene  
Hexachlorobutadiene  
Hexachlorocyclopentadiene  
Hexachloroethane  
Ideno (1,2,3-cd) Pyrene  
Iodomethane  
Isopropylbenzene  
Lead (total)  
Lindane  
Magnesium (total)  
Manganese (total)  
Mercury (total)  
Methoxychlor  
Methyl Chloride  
Methyl Ethyl Ketone  
Methylene Bromide

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Methylene Chloride  
Naphthalene  
Nickel (total)  
Nitrate-Nitrogen  
Nitrobenzine  
Oil. Hexane Soluble (or Equivalent)  
Parathion  
Pentachlorophenol  
Phenanthrene  
Phenols  
Phosphorous  
Polychlorinated Biphenyls  
Potassium  
Pyrene  
Selenium  
Silver (total)  
Specific Conductance  
Sodium  
Styrene  
Sulfate  
Temperature of Leachate Sample (°F)  
tert-Butylbenzene  
Tetrachlorodibenzo-p-Dioxins  
Tetrachloroethylene  
Tetrahydrofuran  
Thallium  
Tin  
Toluene  
Total Organic Carbon (TOC)

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Total Dissolved Solids (TDS) mg/l

Total Suspended Solids (TSS) mg/l

Toxaphene

trans-1,2-Dichloroethylene

trans-1,3-Dichlorpropene

Trichloroethylene

Trichlorofluoromethane

Vinyl Acetate

Vinyl Chloride

Xylene

Zinc (total)

m-Dichlorobenzene

m-Xylene

n-Butylbenzene

n-Nitrosodimethylamine

n-Nitrosodiphenylamine

n-Nitrosodipropylamine

n-Propylbenzene

o-Chlorotoluene

o-Dichlorobenzene

o-Nitrophenol

o-Xylene

p-Chlorotoluene

p-Cresol

p-Dichlorobenzene

p-Isopropyltoluene

p-Nitrophenol

p-Xylene

sec-Butylbenzene

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Note: All parameters ~~must~~shall be determined from unfiltered samples.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)



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- 1) Heading of the Part: Information to be Submitted in a Permit Application
- 2) Code Citation: 35 Ill. Adm. Code 812
- 3) Section Number: 812.105                      Proposed Action: Amendment
- 4) Statutory Authority: 415 ILCS 5/7.2, 21, 21.1, 22, 22.17, 22.40, and 27
- 5) A Complete Description of the Subjects and Issues Involved: The amendments to Part 812 are a single segment of the consolidated docket R17-14/R17-15/R18-11/R18-31 rulemaking that also affects 35 Ill. Adm. Code 702, 704, 705, 720 through 728, 730, 733, 738, 739, 810 and 811. Due to the extreme volume of the consolidated docket, each Part is covered by a notice in four separate issues of the *Illinois Register*. Included in this issue are 35 Ill. Adm. Code 730, 733, 738, 739, and 810 through 812. To save space, a more detailed description of the subjects and issues involved in the consolidated docket R17-14/R17-15/R18-11/R18-31 rulemaking in this issue of the *Illinois Register* only in the answer to question 5 in the Notice of Adopted Amendments for 35 Ill. Adm. Code 730. A comprehensive description is contained in the Board's opinion and order of March 3, 2016, proposing amendments in docket R16-7, which opinion and order is available from the address below.

Specifically, the amendment to Part 812 makes needed corrections in the text of the rules.

Tables appear in a document entitled "Identical-in-Substance Rulemaking Addendum (Proposed)" that the Board added to consolidated docket R17-14/R17-15/R18-11/R18-31. The tables list the deviations from the literal text of the federal amendments and the several necessary corrections and stylistic revisions not directly derived from USEPA actions. Persons interested in the details of those deviations from the literal text should refer to the Identical-in-Substance Rulemaking Addendum (Proposed) in consolidated docket R17-14/R17-15/R18-11/R18-31.

Section 22.40 of the Environmental Protection Act [415 ILCS 5/22.40] provides that Section 5-35 of the Illinois Administrative Procedure Act [5 ILCS 100/5-35] does not apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the IAPA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules (JCAR).

## POLLUTION CONTROL BOARD

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- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Does this rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: These proposed amendments do not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comment on this proposal for a period of 45 days after the date of this publication. Comments should reference consolidated docket R17-14/R17-15/R18-11/R18-31 and be addressed to:

Don A. Brown, Clerk  
Illinois Pollution Control Board  
State of Illinois Center, Suite 11-500  
100 W. Randolph St.  
Chicago IL 60601

Please direct inquiries to the following person and reference consolidated docket R17-14/R17-15/R18-11/R18-31:

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

312/814-6924  
email: michael.mccambridge@illinois.gov

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

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: This rulemaking may affect those small businesses, small municipalities, and not-for-profit corporations disposing of industrial wastewaters into the sewage collection system of a publicly owned treatment works. These proposed amendments do not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
  - B) Reporting, bookkeeping or other procedures required for compliance: The existing rules and proposed amendments require extensive reporting, bookkeeping and other procedures, including the preparation of manifests and annual reports, waste analyses and maintenance of operating records. These proposed amendments do not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
  - C) Types of professional skills necessary for compliance: Compliance with the existing rules and proposed amendments may require the services of an attorney, certified public accountant, chemist and registered professional engineer. These proposed amendments do not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2017 and January 2018

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

TITLE 35: ENVIRONMENTAL PROTECTION  
SUBTITLE G: WASTE DISPOSAL  
CHAPTER I: POLLUTION CONTROL BOARD  
SUBCHAPTER i: SOLID WASTE AND SPECIAL WASTE HAULING

PART 812  
INFORMATION TO BE SUBMITTED IN A PERMIT APPLICATION

SUBPART A: GENERAL INFORMATION REQUIRED FOR ALL LANDFILLS

Section	
812.101	Scope and Applicability
812.102	Certification by Professional Engineer
812.103	Application Fees
812.104	Required Signatures
812.105	Approval by Unit of Local Government
812.106	Site Location Map
812.107	Site Plan Map
812.108	Narrative Description of the Facility
812.109	Location Standards
812.110	Surface Water Control
812.111	Daily Cover
812.112	Legal Description
812.113	Proof of Property Ownership and Certification
812.114	Closure Plans
812.115	Postclosure Care Plans
812.116	Closure and Postclosure Cost Estimates
812.117	Electronic Reporting

SUBPART B: ADDITIONAL INFORMATION REQUIRED  
FOR INERT WASTE LANDFILLS

Section	
812.201	Scope and Applicability
812.202	Waste Stream Test Results
812.203	Final Cover
812.204	Closure Requirements

## POLLUTION CONTROL BOARD

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SUBPART C: ADDITIONAL INFORMATION REQUIRED FOR PUTRESCIBLE  
AND CHEMICAL WASTE LANDFILLS

Section	
812.301	Scope and Applicability
812.302	Waste Analysis
812.303	Site Location
812.304	Waste Shredding
812.305	Foundation Analysis and Design
812.306	Design of the Liner System
812.307	Leachate Drainage and Collection Systems
812.308	Leachate Management System
812.309	Landfill Gas Monitoring Systems
812.310	Gas Collection Systems
812.311	Landfill Gas Disposal
812.312	Intermediate Cover
812.313	Design of the Final Cover System
812.314	Description of the Hydrogeology
812.315	Plugging and Sealing of Drill Holes
812.316	Results of the Groundwater Impact Assessment
812.317	Groundwater Monitoring Program
812.318	Operating Plans

AUTHORITY: Implementing Sections 7.2, 21, 21.1, 22, 22.17, and 22.40, and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/7.2, 21, 21.1, 22, 22.17, 22.40, and 27].

SOURCE: Adopted in R88-7 at 14 Ill. Reg. 15785, effective September 18, 1990; amended in R90-26 at 18 Ill. Reg. 12185, effective August 1, 1994; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 1461, effective December 20, 2006; amended in R17-14/R17-15/R18-12 at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART A: GENERAL INFORMATION REQUIRED FOR ALL LANDFILLS

**Section 812.105 Approval by Unit of Local Government**

The applicant must~~shall~~ state whether the facility is a new regional pollution control facility, as defined in Section 3.3303-32 of the Act, which is subject to the site location suitability approval

## POLLUTION CONTROL BOARD

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requirements of Sections 39(c) and 39.2 of the Act. If such approval by a unit of local government is required, the application ~~must~~shall identify the unit of local government with jurisdiction. The application ~~must~~shall contain any approval issued by that unit of local government. If no approval has been granted, the application ~~must~~shall describe the status of the approval request.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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- 1) Heading of the Part: Gifted Education
- 2) Code Citation: 23 Ill. Adm. Code 227
- 3) 

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
227.5	New Section
227.10	Amendment
227.20	Amendment
227.25	Amendment
227.50	Amendment
227.60	New Section
- 4) Statutory Authority: 105 ILCS 5/Art. 14A-32 and 14A-55
- 5) A Complete Description of the Subjects and Issues Involved: PA 99-706 updated the Section of the School Code pertaining to funding gifted education programs. The PA updated the assessment methods used to identify students who are eligible for gifted education. This rulemaking will update the current references in the administrative rules to be consistent with statute.

PA 100-421 specified guidelines for school districts to develop accelerated placement policies. These policies will allow students early entrance to kindergarten or first grade, acceleration in a single subject, or grade acceleration. Under the Act, ISBE is required to adopt rules to determine data to be collected regarding accelerated placement. ISBE must also identify a method of making that information available to the public.

This rulemaking clarifies that the written policies shall indicate approaches for early entrance to both kindergarten and first grade. Data that ISBE will collect shall include demographic information (gender, ethnicity, English Learner status, special education status, free and reduced lunch/low income), and the type of placement of students who are accelerated. School districts will be required to report data on students upon identification but not later than July 31 of each year beginning with the 2018-19 School Year. The data will be posted annually on the ISBE website.
- 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

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- 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 will not create or enlarge a State mandate.
- 12) Time, Place and Manner in which interested persons may comment on this rulemaking:  
Written comments may be submitted within 45 days of the publication of this Notice to:

Lindsay M. Bentivegna  
Agency Rules Coordinator  
Illinois State Board of Education  
100 North First Street, E-222  
Springfield IL 62777-0001

217/782-5270  
rules@isbe.net

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agendas on which this rulemaking was summarized: January 2018

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



## STATE BOARD OF EDUCATION

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TITLE 23: EDUCATION AND CULTURAL RESOURCES  
SUBTITLE A: EDUCATION  
CHAPTER I: STATE BOARD OF EDUCATION  
SUBCHAPTER f: INSTRUCTION FOR SPECIFIC STUDENT POPULATIONS

PART 227  
GIFTED EDUCATION

## Section

<a href="#">227.5</a>	<a href="#">Definitions</a>
227.10	Purpose and Applicability
227.20	Submission of Proposal; Plan
227.25	Required Qualifications
227.30	Criteria for the Review of Initial Applications
227.40	Allocation of Funds
227.50	Statewide Activities
<a href="#">227.60</a>	<a href="#">Accelerated Placement</a>

AUTHORITY: Implementing Article 14A of the School Code [105 ILCS 5/Art. 14A] and authorized by Sections 14A-32 and 14A-55 of the School Code [105 ILCS 5/14A-32 and 14A-55].

SOURCE: Adopted at 31 Ill. Reg. 2449, effective January 16, 2007; amended at 38 Ill. Reg. 8335, effective April 1, 2014; amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 227.5 Definitions**

*"Accelerated placement" means the placement of a child in an educational setting with curriculum that is usually reserved for children who are older or in higher grades than the child. (See Section 14A-17 of the School Code.) Accelerated placement is not limited to those children who have been identified as gifted and talented, but rather is open to all children who demonstrate high ability and who may benefit from accelerated placement. (See Section 14A-32 of the School Code.)*

*"Early entrance to kindergarten" means the admission of a student to kindergarten who will not yet be 5 years old by September 1 of that school year.*

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"Early entrance to first grade" is the admission of a student to first grade who will not yet be 6 years old by September 1 of that school year and who has not completed kindergarten. Students who are younger than 6 upon starting first grade but who were admitted early to kindergarten do not need to be reevaluated prior to admission to first grade.

"Individual subject acceleration" means the practice of assigning a student to a specific content area at a higher instructional level than is typical given the student's grade for the purpose of providing access to appropriately challenging learning opportunities in one or more subject areas.

"School Code" means 105 ILCS 5.

"Whole grade acceleration" means the practice of assigning a student to a higher grade level than is typical given the student's age on a full-time basis for the purpose of providing access to appropriately challenging learning opportunities.

(Source: Added at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 227.10 Purpose and Applicability**

This Part establishes the procedure and criteria for approval by the State Board of Education of programs of gifted education under Article 14A of the School Code ~~[105 ILCS 5/Art. 14A]~~ and implements other provisions of that Article, including accelerated placement. The requirements of this Part apply only to locally developed programs for which State funding is sought. Eligible applicants shall be those entities identified in Section 14A-45 of the School Code ~~[105 ILCS 5/14A-45]~~ as well as public university laboratory schools (see 105 ILCS 5/2-3.109a) ~~approved by the State Board of Education pursuant to Section 18-8.05(K) of the School Code [105 ILCS 5/18-8.05(K)]~~, charter schools (see 105 ILCS 5/27A-11.5), and area vocational centers (see 105 ILCS 5/2-3.109b).

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 227.20 Submission of Proposal; Plan**

As used in this Part, a "proposal" means the plan for gifted education that is required under Section 14A-30 of the School Code ~~[105 ILCS 5/14A-30]~~, accompanied by the additional

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materials applicants will be required to submit in response to a Request for Proposals (RFP) as described in Section 14A-45 of the School Code ~~[105 ILCS 5/14A-45]~~ and this Section.

- a) When sufficient State funding is expected to be available to support local programs of gifted education, the State Superintendent of Education shall issue ~~ana Request for Proposals (RFP)~~. To be considered for funding, an eligible entity shall submit for approval by the State Superintendent a plan for its program that incorporates all the elements required by Section 14A-30 of the School Code and meets the specific requirements of this subsection (a).
  - 1) In order to demonstrate compliance with Section 14A-30(2) of the School Code ~~[105 ILCS 5/14A-30(2)]~~, each plan shall include programs of instruction in English language arts and mathematics and may include programs of instruction in additional subjects. Each plan shall indicate whether the program will be unified across the subjects offered or students will be identified gifted on a subject-by-subject basis and shall provide a description of the curriculum and instructional materials to be used, the grades to be served in the various subjects to be offered, and the program's approach to the development of higher-level skills, as required by Section 14A-30(11) and (12) of the School Code ~~[105 ILCS 5/14A-30(11) and (12)]~~.
  - 2) In order to demonstrate compliance with the requirements of Section 14A-30 of the School Code related to identification of the students to be served, each plan shall:
    - A) demonstrate that:
      - i) active consideration is given to the potential eligibility of students who are identified as having disabilities~~three or more assessment measures will be used for each student;~~
      - ii) multiple assessment instruments will be used for the purposes of identifying a student for accelerated placement of each eligible student~~these will include instruments designed to help identify gifted and talented students who are members of underrepresented groups; and~~

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- iii) a selection process designed to help identify gifted and talented students in an inclusive and equitable manner who are members of underrepresented groups, including low-income students, minority students, students with disabilities, twice-exceptional students, and English Learners~~active consideration is given to the potential eligibility of students who are identified as having disabilities;~~
- B) provide evidence that the measures to be used in each curricular area, when taken together, provide equivalent rigor in the identification of students as gifted and talented; and
- C) discuss how the measures to be used in each subject area correspond to the level of attainment prerequisite to students' participation in the program.
- 3) ~~In order to demonstrate compliance with Section 14A-20 of the School Code [105 ILCS 5/14A-20], each plan shall describe the method by which students' scores on the assessment measures used in each subject area, or across subject areas, as applicable, will be treated to arrive at a composite ranking that identifies the students who have scored in the top 5 percent locally.~~4) In order to demonstrate compliance with Sections 14A-25 and 14A-30(7) of the School Code ~~[105 ILCS 5/14A-25 and 14A-30(7)]~~, each plan shall include evidence that:
- A) the ranking process for each subject area, or across subject areas, as applicable, is applied in the same manner to the scores achieved by all students;
- B) if any program's capacity is inadequate to serve the entire number of students identified as eligible, the method of selecting those who will participate considers only the composite scores and their ranking;
- C) the applicant has a procedure for accommodating students who were not available when the relevant assessment measures were

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administered but who may be eligible to participate in the program;  
~~and~~

D) in identifying the locations where the program will be offered, consideration has been given to the needs of students who are members of underrepresented groups; ~~and-~~

E) local norms of score ranges on assessments are taken into consideration when identifying students for accelerated placement.

45) In order to demonstrate compliance with the requirement of Section 14A-30(8) of the School Code ~~[105 ILCS 5/14A-30(8)]~~, each plan shall describe the appeals process that will be available when students are not identified as gifted and talented or are not selected to be served by a program, including evidence that each appeal will be considered:

A) by an individual not involved in the original decision and at an equal or higher level of authority within the applicant organization;

B) using information in accordance with the requirements of ~~subsection~~ subsections (a)(3) ~~and (4) of this Section~~; and

C) in time for the student to be placed into the program at the beginning of the next semester, if the appeal results in the student's identification and selection.

56) In order to demonstrate compliance with the requirement of Section 14A-30(16) of the School Code ~~[105 ILCS 5/14A-30(16)]~~, each plan shall identify the qualifications held by the teachers who will be assigned to the program, provided that:

A) each teacher employed shall be qualified under Section 227.25 ~~of this Part~~ after no more than three years of teaching in any program funded pursuant to this Part; and

B) each teacher not qualified under Section 227.25 ~~of this Part~~ shall complete some portion of the requirements chosen during each

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year of the grace period permitted under subsection (a)(6)(A) ~~of this Section.~~

- ~~67~~) In order to demonstrate compliance with Section 14A-30(9) of the School Code ~~[105 ILCS 5/14A-30(9)]~~, each plan shall:
- A) describe the steps the applicant will take to inform parents and other members of the public of:
    - i) the existence and scope of the program;
    - ii) the methods used for identifying students who are gifted and talented and in selecting participants for the program; and
    - iii) the availability of the appeals process established pursuant to subsection (a)(~~45~~) ~~of this Section~~; and
  - B) provide a rationale for the applicant's outreach plans, with specific reference to the linguistic or cultural needs of any segments of the population that may not be readily informed of the program.
- b) Each RFP shall describe the format that applicants will be required to follow and any additional information they may be required to submit.
- c) Each RFP shall include a budget summary and payment schedule, as well as requiring a narrative budget breakdown, i.e., a detailed explanation of each line item of expenditure that discusses the need for State funds in the context of the applicant's other available resources.
- d) Each RFP shall identify the data recipients will be required to collect and report regarding the achievement of students participating in the program, as well as any other information to be reported and the associated timelines.
- e) Each RFP shall include such certification and assurance forms as the State Superintendent may, by law, require.

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- f) Each RFP shall specify the date by which applications shall be submitted. The deadline established shall provide at least 45 days in which to submit plans that conform to the requirements of Article 14A of the School Code and this Part as applications for funding.
- g) Separate proposals for renewal of funding as discussed in Section 227.40(b) ~~of this Part~~ shall be invited and shall contain at least:
- 1) evidence that the program has complied with all aspects of Article 14A of the School Code and the approved plan;
  - 2) the required data relative to students' achievement and growth;
  - 3) information on the qualifications and professional development of the teachers employed that will permit verification of compliance with the requirements of ~~subsection~~ Section 227.20(a)(56) ~~of this Part~~;
  - 4) an updated narrative that discusses the services and materials for which funding is requested and presents evidence of continued need for State support; and
  - 5) an updated budget summary and payment schedule for the renewal year, including a narrative budget breakdown.
- h) Incomplete applications shall not be considered.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 227.25 Required Qualifications**

As a means of demonstrating that he or she *understands the characteristics and educational needs of children and is able to differentiate the curriculum and apply instructional methods to meet the needs of the children* as required by Section 14A-30(16) of the School Code ~~105 ILCS 14A-30(16)~~, and subject to the provisions of Section 227.20(a)(6) of this Part, each teacher who is assigned to provide instruction in a program funded pursuant to this Part shall have completed, or shall be required to complete at least one of the following:

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- a) Nine semester hours of college credit from a regionally accredited institution of higher education and demonstrably related to the education of gifted and talented students; ~~or~~
- b) Both the State and national assessment instruments, namely:
- 1) the self-assessment developed by the Illinois Association for Gifted Children (IAGC) (which shall be based on the "Professional Teaching Standards for Educators Working with Gifted/Talented Learners" (2012), published by IAGC, 800 E. Northwest Highway, Suite 610, Palatine ~~IL~~; ~~Illinois~~ 60074 and posted at [www.iagcgifted.org](http://www.iagcgifted.org); no later editions of or revisions to these standards are incorporated) with a rating of "experienced" or "expert"; and
  - 2) ~~the National Evaluation Series (NES) Gifted Education examination (Test Code 312; Pearson Education, Inc., PO Box 226, Amherst MA 01004 (2014))~~ ~~the PRAXIS examination for gifted education (Test Code 0357, Educational Testing Service, Rosedale Road, Princeton, New Jersey 08541 (2006))~~; ~~or~~
- c) Six semester hours of college credit from a regionally accredited institution of higher education and demonstrably related to the education of gifted and talented students and any one of the following additional choices:
- 1) the self-assessment referred to in subsection (b)(1); or
  - 2) the ~~Gifted Education~~ ~~PRAXIS~~ examination referred to in subsection (b)(2); or
  - 3) the applicable gifted education course of instruction offered by the State Board of Education in cooperation with IAGC:
    - A) for those successfully completing the course before October 1, 2009, the Gifted Education Institute; or
    - B) for those successfully completing the course on or after October 1, 2009, the Gifted Education Seminar; or



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- 4) two years of experience teaching in, coordinating, or directing a program for gifted students; or
  - 5) participation in no fewer than two ~~State~~ or national conferences on gifted education, such as those offered by IAGC or the National Association for Gifted Children ~~(NAGC)~~; or
  - 6) professional development activities demonstrably related to the education of gifted and talented students that are sufficient to generate 30 continuing professional development units (CPDUs) or 30 clock hours of professional development, as defined and quantified in the rules for educator license renewal (see 23 Ill. Adm. Code 25, Subpart J); ~~or~~
- d) Three semester hours of college credit from a regionally accredited institution of higher education and demonstrably related to the education of gifted and talented students and any two of the additional choices listed in subsections (c)(1) through (6) ~~of this Section~~; ~~or~~
  - e) The gifted education training referred to in subsection (c)(3) and any two of the additional choices listed in subsection (c); ~~or~~
  - f) Coursework that leads to obtaining a gifted teacher endorsement; or
  - g) Coursework that leads to obtaining a gifted specialist endorsement.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 227.50 Statewide Activities**

- a) Funding made available pursuant to Article 14A of the School Code may be used by the State Board of Education for purposes including, but not limited to:
  - 1) upgrading professional development materials and events for personnel statewide who serve gifted students, including the Gifted Education ~~Seminar~~ Institute referenced in Section 227.25 ~~of this Part~~, or making professional development materials and opportunities more widely available;

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- 2) reaching underserved demographic groups or geographic areas of the State;
  - 3) developing and disseminating new knowledge in this field;
  - 4) developing and disseminating materials for use by parents of gifted students;
  - 5) building awareness of and support for gifted education;
  - 6) providing financial resources to support the review of portfolios developed by teachers to demonstrate required qualifications;
  - 7) supporting the administrative functions of [the State Board ISBE](#) required or authorized pursuant to Section 14A-35 of the School Code ~~[105 ILCS 14A-35]~~; and
  - 8) other experimental projects and initiatives as outlined in Section 14A-50 of the School Code ~~[105 ILCS 5/14A-50]~~.
- b) When the funds appropriated under Article 14A of the School Code are sufficient to provide effective support for local programs of gifted education, the State Superintendent ~~of Education~~ may reserve no more than 5 percent of the amount appropriated for the purposes discussed in subsection (a) of this Section. When the State Superintendent ~~of Education~~ determines that the level of service to gifted and talented students statewide can more effectively be increased through statewide activities rather than through support for a small number of local programs, the State Superintendent may devote the entire amount available to these purposes.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 227.60 Accelerated Placement**

Pursuant to Section 14A-32 of the School Code, school districts shall have a policy that allows for accelerated placement. (See Section 14A-32 of the School Code.) In writing its policy, each school district shall indicate approaches used to identify students for accelerated placement in both kindergarten and first grade.

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- a) A school district shall not be required to submit its acceleration plan to the State Board of Education for review, comment or approval, unless specifically requested by the State Board. A school district shall post its acceleration plan on its website, if available.
- b) School districts must report the following information on accelerated placement to the State Board in the Student Information System:
- 1) Demographic Information for Each Student Participating in an Accelerated Placement Program
    - A) Gender;
    - B) Ethnicity;
    - C) English language status;
    - D) Special education status; and
    - F) Low-income status
  - 2) Student Participation in Accelerated Programming
    - A) Gender;
    - B) Ethnicity;
    - C) English language status;
    - D) Special education status; and
    - F) Low-income status
  - 3) Type of Placement
    - A) Early entrance to kindergarten;

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- B) Early entrance to first grade;
  - C) Individual subject acceleration; and
  - D) Whole grade acceleration.
- c) All of the information required to be reported in subsection (b) shall be entered upon identifying the student as participating in accelerated placement but not later than July 31 of each year beginning with the 2018-2019 school year.
- d) The State Board will make the information reported in subsection (b) available annually on its website.

(Source: Added at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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- 1) Heading of the Part: Imaging Products
- 2) Code Citation: 20 Ill. Adm. Code 1298
- 3) 

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
1298.10	Amendment
1298.20	Amendment
1298.30	Amendment
1298.40	Amendment
- 4) Statutory Authority: Implementing and authorized by Section 2605-15 of the Civil Administrative Code of Illinois [20 ILCS 2605/2605-15].
- 5) A Complete Description of the Subjects and Issues Involved: The proposed amendments will update the requirements and procedures for obtaining imaging products from the Department to include digital media. Obsolete items are being removed and fees are being changed to reflect technology changes.
- 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? No
- 11) Statement of Statewide Policy Objective: These rules will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Within 45 days after the publication of this Notice, any interested person may submit comments, data, views or arguments regarding the proposed amendments. The submissions must be in writing and directed to:

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Mr. Matthew R. Rentschler  
Chief Legal Counsel  
Illinois State Police  
801 South 7th Street, Suite 1000-S  
Springfield IL 62703

217/782-7658

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Any small business, small municipality, or not-for-profit corporation requesting imaging products could be affected.
  - B) Reporting, bookkeeping or other procedures required for compliance: None
  - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda which this rulemaking was summarized: January 2018

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

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TITLE 20: CORRECTIONS, CRIMINAL JUSTICE, AND LAW ENFORCEMENT  
CHAPTER II: DEPARTMENT OF STATE POLICEPART 1298  
IMAGING PRODUCTS

## Section

1298.10	Introduction
1298.20	Definitions
1298.30	Request Procedures
1298.40	Fees

AUTHORITY: Implementing and authorized by Section 2605-15 of the Civil Administrative Code of Illinois [20 ILCS 2605/2605-15].

SOURCE: Adopted at 27 Ill. Reg. 10315, effective June 26, 2003; amended at 37 Ill. Reg. 8041, effective June 3, 2013; amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 1298.10 Introduction**

The Department of State Police, in the context of its powers and duties, captures digital images, videos, and measurements and produces ~~photographic images~~ in a variety of formats. Individuals and other entities often desire to obtain copies of these digital images, videos, and measurements ~~imaging products~~. This Part is intended to establish the requirements and procedures for obtaining imaging products from the Department.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1298.20 Definitions**

"Department" means the Illinois Department of State Police.

"Graphic Image" means any image, including, but not limited to, those depicting a nude human body; autopsy or post-mortem images; a body with severe trauma ~~lacerations~~ or injuries; or any digital image or video ~~other similar image~~ the release of which a reasonable person would find constitutes an unwarranted invasion of personal privacy.

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"Imaging Products" means any digital images, videos, or measurements collected or visual image on film, paper, or electronic media produced by Department of State Police personnel. These may include, but ~~is~~ are not limited to, digital animations, charts, or other digital media produced by Department of State Police personnel ~~photographic images, whether digital or non-digital, video images, visual computer images, computer-generated illustrative images, charts, schematics, data collection files whether in raw or processed form, and computer animations.~~

"Requester" means a person or other entity that requests imaging products from the Department.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1298.30 Request Procedures**

- a) A requester shall complete an Imaging Request Form for each imaging product request.
- b) Each request shall include the appropriate fee established in Section 1298.40, for the particular image product requested. The payment of fees, established in Section 1298.40, shall be made by certified check, money order or personal check made payable to the State Police Services Fund; cash will not be accepted.
- c) The Department shall not process ~~any~~ the request until ~~receipt of~~ a correctly completed Imaging Request Form and the appropriate ~~fees~~ fees are received. The Department shall return any incorrect or incomplete Imaging Request Form and fee to the requester.
- d) All imaging products will be provided to the requester in a digital format. ~~Each request will be valid for 30 calendar days from the date the request form was sent to the requester. Once this period has expired, the request shall be null and void, and a new request form must be submitted.~~
- e) Graphic images will only be provided to the requester if the Imaging Request Form is accompanied by a subpoena or notarized permission of the individual depicted in the graphic image. If the individual depicted in the graphic image is deceased or lacks capacity to grant permission, the Imaging Request Form must



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~~be accompanied by notarized permission of that individual's legal representative. All imaging products, excluding digital or non-digital photographic images, shall be provided in a printed or digital format.~~

- ~~f) Those requested images provided without a subpoena shall have all graphic images redacted.~~
- ~~g) All photographic images, whether digital or non-digital, shall be provided in the form of a 4 x 6 inch photograph. Each still image request shall also include a CD-ROM or DVD containing copies of the printed digital images.~~
- ~~h) Each request for photographic images will include all images, whether digital or non-digital, contained within the related case file; therefore, the costs associated with each request shall be dependent upon the total number of images contained within the case file or remaining images after redacting has been completed.~~
- ~~fi) All requested imaging products shall be sent to the requester by U.S. Mail ~~to the requester~~ unless other arrangements are made and paid for by the requester.~~
- ~~gj) The requester shall not reproduce, license, sell, or further distribute imaging products ~~obtained~~ without the written consent of the Department.~~
- ~~h) Imaging products will only be provided to requesters in compliance with the exemptions to the Illinois Freedom of Information Act [5 ILCS 140/7].~~
- ~~i) Imaging products will be provided to the requester in the electronic format in which it is maintained by the Department.~~
- ~~k) The processing of requests shall be delayed or suspended when Department imaging resources are needed for law enforcement purposes.~~
- ~~l) In the event release of an image would constitute an unwarranted invasion of the personal privacy due to the manner in which an individual is portrayed in the image, the image will not be released except as required by law or with the notarized permission of the individual or the individual's representative.~~

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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**Section 1298.40 Fees**

The fees ~~will~~ reflect the costs incurred to ~~acquire, maintain, and~~ reproduce the particular imaging products. Fees ~~received~~ shall be deposited ~~into~~ the State Police Services Fund or as otherwise legally required. The fees shall be as follows:

a)	<u>Optical CD/DVD disk containing imaging products (&lt;80 MB)</u>	<u>\$20</u>
b)	<u>Optical CD/DVD disk containing imaging products (80-160 MB)</u>	<u>\$40</u>
c)	<u>Optical CD/DVD disk containing imaging products (&gt;160 MB)</u>	<u>\$100</u>
d)	<u>Flash drive containing imaging products (&lt;80 MB)</u>	<u>\$40</u>
e)	<u>Flash drive containing imaging products (80-160 MB)</u>	<u>\$60</u>
f)	<u>Flash drive containing imaging products (&gt;160 MB)</u>	<u>\$120</u>
a)	<del>4x6 inch photograph — \$5 each</del>	
b)	<del>video tape — \$20 each</del>	
e)	<del>36x48 inch diagram or illustration — \$85</del>	
d)	<del>animations — \$40 per second of finished animation</del>	
e)	<del>total station electronic data — \$20</del>	
f)	<del>redacting of graphic images</del>	
1)	<del>case files containing 1-150 images</del>	<del>\$5</del>
2)	<del>case files containing 151-300 images</del>	<del>\$10</del>
3)	<del>case files containing 301-450 images</del>	<del>\$15</del>
4)	<del>case files containing 451-600 images</del>	<del>\$20</del>

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5)	<del>case files containing 601-750 images</del>	\$25
6)	<del>case files containing 751-900 images</del>	\$30
7)	<del>case files containing 901-1050 images</del>	\$35
8)	<del>case files containing 1051-1300 images</del>	\$40
9)	<del>case files containing 1301-1450 images</del>	\$45
10)	<del>case files containing more than 1451 images</del>	\$50

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Business Enterprise Program: Contracting with Businesses Owned and Controlled by Minorities, Females and Persons with Disabilities
- 2) Code Citation: 44 Ill. Adm. Code 10
- 3) 

<u>Section Numbers</u> :	<u>Adopted Actions</u> :
10.10	Amendment
10.50	Amendment
10.62	Amendment
10.70	Amendment
10.100	Renumbered
10.200	New Section
10.201	New Section
10.202	New Section
10.203	New Section
10.204	New Section
10.205	New Section
- 4) Statutory Authority: Implementing and authorized by the Business Enterprise for Minorities, Females, and Persons with Disabilities Act [30 ILCS 575].
- 5) Effective Date of Rules: June 25, 2018
- 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 rulemaking, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in *Illinois Register*: 41 Ill. Reg. 11026; September 8, 2017
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Difference between proposal and final version: One grammatical change was made by JCAR to Section 10.205.

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- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: These amendments will help to decrease inefficiencies in the certification and appeals process for the BEP and to increase opportunities for businesses owned by minorities, women, and people with disabilities to participate in State contracts. This helps to create a more thriving economy in Illinois through the support of these small businesses.
- 16) Information and questions regarding these adopted rules shall be directed to:

Benjamin G. Jones  
Department of Central Management Services  
100 West Randolph, Suite 4-500  
Chicago IL 60601

312/814-4689  
fax: 312/814-0911  
benjamin.jones@illinois.gov

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

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

TITLE 44: GOVERNMENT CONTRACTS, GRANTMAKING,  
PROCUREMENT~~PROCUREMENTS~~, AND PROPERTY MANAGEMENT  
SUBTITLE A: PROCUREMENT AND CONTRACT PROVISIONS  
CHAPTER V: DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

PART 10

BUSINESS ENTERPRISE PROGRAM: CONTRACTING WITH BUSINESSES OWNED  
AND CONTROLLED BY MINORITIES, FEMALES AND PERSONS WITH DISABILITIES

SUBPART A: GENERAL

Section

- 10.05 Introduction
- 10.10 Definitions

SUBPART B: GOAL AND GOAL MEASUREMENT

Section

- 10.20 Goal
- 10.21 Contracts and Expenditures Subject to the Goal
- 10.22 Categories of Contracts and Expenditures Exempt from Goal
- 10.23 Council Review of Agency Requests for Specific Exemptions
- 10.24 Goal Measurement
- 10.25 Subcontracting

SUBPART C: AGENCY COMPLIANCE AND REPORTING

Section

- 10.30 Agency Compliance
- 10.35 Professional and Artistic Contract Reporting

SUBPART D: PROGRAM ELIGIBILITY

Section

- 10.40 Program Eligibility

SUBPART E: CERTIFICATION

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- Section
- 10.50 General
- 10.55 Program Information

SUBPART F: CERTIFICATION REQUIREMENTS AND PROCEDURES

- Section
- 10.60 Application
- 10.61 Applicant Requirements
- 10.62 Time to Determine Eligibility
- 10.63 Certification by Other Certifying Entities
- 10.64 Sales Limitation; Exception
- 10.65 Citizenship/Permanent Residency
- 10.66 Ownership/Control by Members of Eligible Groups
- 10.67 Ownership
- 10.68 Control
- 10.69 Notice of Certification or Denial

SUBPART G: RECONSIDERATION, DECERTIFICATION AND RECERTIFICATION

- Section
- 10.70 Review and Reconsideration
- 10.71 Decertification Process
- 10.72 Annual Confirmation of Eligibility

SUBPART H: SPECIAL ASSISTANCE FOR CERTIFIED BUSINESSES

- Section
- 10.80 Special Assistance

SUBPART I: CONTRACT REQUIREMENTS

- Section
- 10.90 Change in Eligibility
- 10.91 Contract Commitment; Good Faith Effort

SUBPART J: VIOLATIONS BY VENDOR

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Section  
10.100 Violations by Vendor

SUBPART K: SHELTERED MARKETS

<u>Section</u>	
<u>10.200</u>	<u>Purpose</u>
<u>10.201</u>	<u>Applicability</u>
<u>10.202</u>	<u>Evidence of Discrimination</u>
<u>10.203</u>	<u>Establishment and Adjustment of Sheltered Markets</u>
<u>10.204</u>	<u>Sheltered Market Procurements</u>
<u>10.205</u>	<u>Participation Eligibility</u>

AUTHORITY: Implementing and authorized by the Business Enterprise for Minorities, Females, and Persons with Disabilities Act [30 ILCS 575].

SOURCE: Adopted by emergency rulemaking at 22 Ill. Reg. 12584, effective July 1, 1998, for a maximum of 150 days; adopted at 22 Ill. Reg. 20560, effective November 16, 1998; amended at 25 Ill. Reg. 4831, effective March 19, 2001; amended at 26 Ill. Reg. 17980, effective December 6, 2002; amended at 31 Ill. Reg. 4023, effective February 22, 2007; amended at 32 Ill. Reg. 18845, effective November 24, 2008; recodified from 44 Ill. Adm. Code 10, Chapter I to 44 Ill. Adm. Code 10, Chapter V at 35 Ill. Reg. 10142; amended at 36 Ill. Reg. 10717, effective July 6, 2012; emergency amendment at 37 Ill. Reg. 3885, effective March 14, 2013, for a maximum of 150 days; recodified Title of the Part at 39 Ill. Reg. 5903; amended at 42 Ill. Reg. 12941, effective June 25, 2018.

## SUBPART A: GENERAL

**Section 10.10 Definitions**

"Act" means the Business Enterprise for Minorities, Females, and Persons with Disabilities Act [30 ILCS 575].

"Department" means the Illinois Department of Central Management Services.

"BEP" or "Business Enterprise Program" means the activities conducted by the Council, Secretary and Department of Central Management Services pursuant to



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the Act.

"BEP ~~Eligible~~ eligible" or "BEP ~~Eligible Vendor~~ eligible vendor" means an MBE, FBE, or PBE.

"Council" means the public body established by the Act to implement and oversee implementation of the Business Enterprise Program.

"Eligible ~~Group Member~~ group member" means a person who meets the eligibility requirements set forth in Section 10.40(a) ~~of this Part~~.

"FBE" means a business owned and controlled by females in accordance with the requirements of the Act and this Part.

"MBE" means a business owned and controlled by minorities in accordance with the requirements of the Act and this Part.

"PBE" means a business owned and controlled by persons with disabilities in accordance with the requirements of the Act and this Part.

"Public Institutions of Higher Education" has the meaning provided in Section 2(A)(7) of the Act.

"Racial, Gender or Disability-Based Discrimination" means specific, documented instances of racial, gender or disability-based bias in the utilization of FBE, MBE or PBE businesses for State contracts compared to the availability of these businesses in the market. Generalized allegations of societal and/or industry discrimination are not sufficient, on their own, to satisfy this standard.

"Secretary" means the individual appointed to act as Secretary to the Council and to be manager of the BEP Division of the Department of Central Management Services.

"Sheltered Market" means a procurement procedure in which certain State contracts are selected for businesses owned and controlled by minorities, females, and persons with disabilities on a competitive bid or negotiated basis [30 ILCS 575/8b].

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"State Agency" has the meaning provided by Section 2(A)(6) of the Act.

"State Contract" has the meaning provided by Section 2(A)(5) of the Act.

(Source: Amended at 42 Ill. Reg. 12941, effective June 25, 2018)

## SUBPART E: CERTIFICATION

**Section 10.50 General**

- a) The certification process verifies that the business is owned and controlled by BEP eligible individuals in accordance with requirements of the Act and this Part. The Secretary to the Council will oversee the certification process. The certification procedure consists of the requirements and procedures outlined in this Section.
- b) The Secretary will certify a business firm that meets the requirements of the Act and this Part. All certifications, new and existing, shall be valid for a period of 7~~5~~ years from the effective date of the certification, subject to annual confirmation.
- c) Only certified businesses are eligible for the benefits of the Program. Agencies may count only those expenditures with a certified business or certified business subcontractor toward meeting the goal.
- d) A business owned and controlled by minority females shall designate whether the business will be certified as FBE or MBE.
- e) A business owned and controlled at least 51% by any combination of minorities, females and persons with disabilities shall be counted as a business owned and controlled by the eligible group that has the largest percentage of ownership. When there is a tie, the business shall select the eligible group classification.
- f) A business owned and controlled by a person with a disability, or by an entity that is a not-for-profit agency for the disabled, is a PBE certified business regardless of the ethnicity or gender of the owner or owners, or of the governing board.
- g) These classifications facilitate consistent accounting of agency contract awards to businesses covered by the Act. These classifications do not preclude such

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businesses or not-for-profit agencies from receiving any contract that may be awarded under the Illinois Procurement Code [30 ILCS 500] or other applicable law.

(Source: Amended at 42 Ill. Reg. 12941, effective June 25, 2018)

## SUBPART F: CERTIFICATION REQUIREMENTS AND PROCEDURES

**Section 10.62 Time to Determine Eligibility**

The Secretary shall contact all applicants seeking certification within 60 days after receipt of the application, and shall grant certification or, deny certification. The Secretary shall contact all applicants regarding any requests for, or request additional or clarifying information within 15 days after receipt of the application, necessary to make the certification decision.

(Source: Amended at 42 Ill. Reg. 12941, effective June 25, 2018)

## SUBPART G: RECONSIDERATION, DECERTIFICATION AND RECERTIFICATION

**Section 10.70 Review and Reconsideration**

- a) ~~The applicant may request that the Secretary reconsider a certification denial. The Secretary shall inform the applicant of the reconsideration decision within 60 days after receipt of the request for reconsideration. If the decision is not favorable to the applicant, the Secretary shall inform the applicant of additional reviews that are available.~~
- a)b) The applicant may request a review of a certification denial by submitting an unfavorable decision of the Secretary. The applicant must submit this request in writing to the Secretary postmarked no later than 30 days after the applicant received the certification denial letterSecretary's decision. The request must state why the applicant believes the denialSecretary's decision is wrong, must address all points raised in the denialSecretary's decision and must include any supporting documentation.
- b)e) The Council's Certification Committee, made up of at least three Council Members, shall consider any requested review of the denialSecretary's reconsideration decision. The Secretary will attempt to schedule a Committee

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meeting within 30 days after receipt of the request for review. The meeting shall be held in Chicago. The Secretary will notify the applicant at least 10 days prior to the meeting of the location, date and time.

- c)⇄ The Secretary shall provide each Committee member with a copy of the request for review, other relevant information and a response to the points raised in the request for review. Each Committee member shall review the files prior to the meeting.
- d)⇄ The Committee Chair shall call the meeting to order, announce the matter at issue and explain the meeting procedures. The Chair shall briefly restate the reasons given for the ~~denial~~Secretary's decision and open the floor to the applicant. The meeting shall proceed in an informal manner within these procedures. All information obtained shall be considered.
- e)⇄ The applicant may make an opening statement, but must respond to each of the reasons for denial given in the ~~denial~~Secretary's decision. The applicant may bring and question any witnesses. The Committee may ask questions of the applicant, the Secretary or any other person present. The Secretary may comment at any time. When the applicant is finished the Secretary may call witnesses. Both applicant and Secretary may make closing statements. Although the applicant may have an attorney or other representatives assist at the meeting, applicant must be present and applicant must respond to questions of the Committee.
- f)⇄ The Committee shall consider the information obtained at the meeting. The Committee's decision will be based upon majority vote to be given at a Committee meeting or submitted individually to the Secretary, who shall record and report the vote.
- g)⇄ If the decision is favorable to the applicant, the Secretary will notify and place the applicant on the list of certified vendors. If the decision is adverse to the applicant, the Secretary will notify the applicant, providing the Committee's reasons and information on the further review that is available.
- h)⇄ The applicant may ask that the full Council review an adverse decision of the Certification Committee. The applicant must submit this request in writing to the Secretary. The request must be postmarked no later than 15 days after the

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applicant received the Committee's decision. This request must state why the applicant believes the Committee's decision is wrong, must address all points raised in the Committee's decision and must include any supporting documentation.

- i)† The Secretary shall provide each Council member with a copy of the request for review and a copy of the Secretary's file on the matter. In addition, the Secretary shall prepare and submit to the Council a draft response to the points raised in the request for review. The Secretary shall consult with the Committee prior to submitting the draft.
- j)† The Secretary will schedule the review at the earliest convenience of the Council. The applicant will be told of the location, date and time of the meeting.
- k)† The Council shall consider only the written information provided or produced by the applicant, the Certification Committee and the Secretary. The Council may, on its own, request that the applicant address the Council or respond to specific questions. If the Council requests that the applicant be present, the applicant may have an attorney or other representative assist at the meeting, but the applicant must be available to respond to Council questions. The Council will allow the applicant to address the Council if the applicant makes that request as part of the second request.
- l)† After reviewing all information obtained, the Council shall vote to uphold the Committee's decision, overturn the Committee's decision or have the matter sent back to the Committee for reconsideration with instructions from the Council.
- m)† If the decision is favorable to the applicant, the Council shall inform the Secretary. The Secretary shall place the applicant on the list of certified vendors. The Secretary shall inform the applicant.
- n)† If the decision is adverse to the applicant, the Council shall inform the Secretary. The Secretary shall notify the applicant.
- o)† If the decision is to send the matter back to the Committee, the process shall continue from that point until resolved at the Committee or Council level.

(Source: Amended at 42 Ill. Reg. 12941, effective June 25, 2018)

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## SUBPART J: VIOLATIONS BY VENDOR

**Section 10.100 Violations by Vendor**

Should a vendor violate the Act, this Part, or the terms of contracts let pursuant to this Program, the State may pursue any or all of the following actions.

- a) A certified vendor may be decertified and an applicant for certification may be denied certification for reasons including, but not limited to:
  - 1) refusal to supply information sufficient for the Secretary or the Council to make a determination for eligibility or continued eligibility;
  - 2) refusal to supply additional proof of eligibility for the Program, particularly after receiving a contract with Section 10.80 (Special Assistance) provisions;
  - 3) accepting a contract with Section 10.80 (Special Assistance) provisions when the vendor does not qualify for the Program; or
  - 4) any other violation of the Act or this Part.
- b) The State may cancel, without penalty to the State, any contract entered into by a vendor in violation of:
  - 1) the Act or this Part;
  - 2) the requirements of a contract let with Section 10.80 (Special Assistance) provisions; or
  - 3) commitments regarding use of certified vendors, including, but not limited to, those in Section 10.64 (Sales Limitation; Exception) and Section 10.91 (Contract Commitment; Good Faith Effort).
- c) In the case of a cancellation under subsection (b)(2) or (b)(3), the amount of profit applicable to amounts paid to the vendor shall be withheld from any amounts owed to the vendor. If the amount owed the vendor is insufficient to off-set

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profits, the vendor shall be liable to pay back to the State any balance of those profits. The profit rate shall be deemed 20% unless a lesser or greater amount can be conclusively proved.

- d) The Secretary may suspend a vendor from the program for a period of no more than one year and a contracting agency may cancel a contract for a violation of:
  - 1) the Act or this Part;
  - 2) the requirements of a contract let with Section 10.80 (Special Assistance) provisions; or
  - 3) commitments regarding use of certified vendors, including, but not limited to, those in Section 10.64 (Sales Limitation; Exception) and Section 10.91 (Contract Commitment; Good Faith Effort).
- e) Depending on the seriousness of the violation, the suspension shall be:
  - 1) from participation in the BEP Program; or
  - 2) from further contracting with the State.
- f) A vendor may appeal any of the actions of the Council taken pursuant to this Section in the same manner as a vendor denied certification (see Subpart G of this Part).
- g) The Secretary shall notify the Chief Procurement Officers, State Purchasing Officers and other interested parties of the revocation of certification or of suspension.
- h) If any agency finds or suspects that a business is in violation of the Act or of this Part, the violation should be reported to the Secretary as soon as practicable after the finding.

(Source: Section 10.200 renumbered from Section 10.100 at 42 Ill. Reg. 12941, effective June 25, 2018)

SUBPART K: SHELTERED MARKETS

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**Section 10.200 Purpose**

This Subpart is intended:

- a) to set forth the practice and procedures to be followed for the establishment and continuation of narrowly tailored sheltered markets under Section 8b of the Act;
- b) to provide opportunity for the public to understand and comment on evidence regarding past or present racial, gender or disability-based discrimination present in procurements by interested State agencies;
- c) to establish procedures by which the Council consults interested or affected segments of the public;
- d) to enable the Department to fully consider and respond to evidence regarding past or present racial, gender or disability-based discrimination present presented to the Council;
- e) to establish cooperation between the Department and other governmental bodies, including the Council, the Offices of the Chief Procurement Officers, and interested State agencies and public institutions of higher education;
- f) to foster openness among the Department, other governmental bodies, and the public; and
- g) to comply with State and federal requirements.

(Source: Added at 42 Ill. Reg. 12941, effective June 25, 2018)

**Section 10.201 Applicability**

This Subpart sets forth the procedures to be followed by the Department, State agencies, public institutions of higher education and the Council in collecting evidence of past or present racial, gender, or disability-based discrimination present in the award of State contracts, and applying, if appropriate, procedures to establish and continue narrowly tailored sheltered markets to address this discrimination. This Subpart shall apply to procurements of State agencies and public institutions of higher education as defined in Section 10.10.



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(Source: Added at 42 Ill. Reg. 12941, effective June 25, 2018)

**Section 10.202 Evidence of Discrimination**

- a) The Council shall receive, review and discuss any evidence regarding past or present racial, gender or disability-based discrimination that directly impacts State contracting at every regular meeting. Evidence may include, but is not limited to, written documentation or oral testimony regarding specific instances of such discrimination against MBEs, FBEs and PBEs.
- b) The Department may commission disparity and utilization studies that may indicate, among other things, any quantitative effects of discrimination in specific industries and geographic locations. The Department shall forward a copy of its findings and recommendations to the Council.
- c) The Secretary shall investigate and make recommendations to the Council concerning the use of the sheltered market process.

(Source: Added at 42 Ill. Reg. 12941, effective June 25, 2018)

**Section 10.203 Establishment and Adjustment of Sheltered Markets**

- a) The Council shall vote to decide whether to establish a sheltered market or to adjust an existing sheltered market when the Council finds a pattern of racial, gender or disability-based discrimination in a particular industry.
  - 1) The Council must vote to establish or adjust an existing sheltered market by a majority vote.
  - 2) The Council shall only vote to establish sheltered markets when other feasible remedial measures are insufficient to address the discrimination; provided, however, that there shall be no requirement to exhaust all potential remedial measures before establishing sheltered markets.
- b) The procuring State agency or public institution of higher education shall work with its respective Chief Procurement Officer to implement or adjust existing sheltered markets as established by the Council.

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(Source: Added at 42 Ill. Reg. 12941, effective June 25, 2018)

**Section 10.204 Sheltered Market Procurements**

Solicitations selected by the procuring State agency or public institution of higher education to implement sheltered markets through specific procurements shall be a narrowly tailored remedy to address identified discrimination.

(Source: Added at 42 Ill. Reg. 12941, effective June 25, 2018)

**Section 10.205 Participation Eligibility**

- a) Participation in any sheltered market solicitation shall be limited to BEP certified vendors.
- b) The Council may choose which subgroups within the BEP certified vendor pool can participate in any sheltered market, on a case-by-case basis, based on evidence of racial, gender or disability-based discrimination.
- c) Participating businesses shall make all books and records related to the performance of any sheltered market contract available for audit pursuant to Section 20-65 of the Illinois Procurement Code.
- d) Any subcontractors utilized on a sheltered market procurement shall be BEP certified vendors.

(Source: Added at 42 Ill. Reg. 12941, effective June 25, 2018)

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- 1) Heading of the Part: Merit and Fitness
- 2) Code Citation: 80 Ill. Adm. Code 302
- 3) Section Number: 302.30                      Adopted Action:  
Amendment
- 4) Statutory Authority: Implementing and authorized by the Personnel Code [20 ILCS 415/8a(2)].
- 5) Effective Date of Rule: June 25, 2018
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rule, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in *Illinois Register*: 41 Ill. Reg. 15434; December 29, 2017
- 10) Has JCAR issued a Statement of Objections to this rulemaking? No
- 11) Difference between Proposal and Final Version: No changes were made.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? No changes were requested by JCAR.
- 13) Will this rulemaking replace any emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: This change expands absolute veteran's preference to include those who served a minimum of 4 years in the Illinois National Guard or reserve component of the armed forces of the United States regardless of whether or not the person was mobilized to active duty.
- 16) Information and questions regarding this adopted rule shall be directed to:

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Bureau of Administrative Services  
Department of Central Management Services  
715 Stratton Office Building  
Springfield, IL 62706

217/782-2141

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

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TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES  
SUBTITLE B: PERSONNEL RULES, PAY PLANS, AND  
POSITION CLASSIFICATIONS

CHAPTER I: DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

PART 302  
MERIT AND FITNESS

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302.30	Veterans Preference
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- 302.170 Programs
- 302.175 Appointments
- 302.180 Limitations on Trainee Appointments

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- 302.200 Interruptions in Continuous Service
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SUBPART F: PROBATIONARY STATUS

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302.670	Approval of Director of Central Management Services
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302.700	Cause for Discharge
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302.780	Discharge of Probationary Employees
302.781	Reinstatement from Suspension or Discharge
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302.821	Effect of Loss of Federal Funding on Employees Excluded from Term Appointment by Reason of Being Federally Funded (Repealed)
302.822	Appointees Under Term Appointments
302.823	No Promotion to Positions Covered by Term Appointments (Repealed)
302.824	No Reallocation to Term Positions
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302.830	Expiration of Term Appointment
302.840	Renewal Procedures
302.841	Renewal Procedures for Incumbents on the Effective Date of Section 8b18 of the Personnel Code (Repealed)
302.842	Effective Date of Reappointment or Termination (Repealed)
302.846	Change in Position Factors Affecting Term Appointment Exclusion
302.850	Reconsideration Request
302.860	Renewal Procedure for Incumbents Subject to Public Act 83-1369
302.863	Renewal of Certified or Probationary Incumbents in Exempted Positions

AUTHORITY: Implementing and authorized by the Personnel Code [20 ILCS 415].

SOURCE: Filed May 29, 1975; amended at 2 Ill. Reg. 33, p. 24, effective September 1, 1978; amended at 3 Ill. Reg. 1, p. 63, effective January 1, 1979; amended at 3 Ill. Reg. 22, p. 78, effective June 1, 1979; emergency amendment at 3 Ill. Reg. 48, p. 188, effective January 1, 1980, for a maximum of 150 days; emergency amendment at 4 Ill. Reg. 1, p. 76, effective January 1, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 11, p. 67, effective March 1, 1980; amended at 4 Ill. Reg. 15, p. 216, effective March 31, 1980; amended at 4 Ill. Reg. 22, p. 227, effective June 1, 1980; amended at 5 Ill. Reg. 8029, effective August 1, 1981; amended at 7 Ill.

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Reg. 654, effective January 5, 1983; codified at 7 Ill. Reg. 13198; amended at 8 Ill. Reg. 7788, effective May 23, 1984; emergency amendment at 9 Ill. Reg. 241, effective January 1, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 7907, effective May 15, 1985; amended at 10 Ill. Reg. 13940, effective September 1, 1986; amended at 12 Ill. Reg. 5634, effective March 15, 1988; emergency amendment at 12 Ill. Reg. 16214, effective September 23, 1988, for a maximum of 150 days; emergency expired February 20, 1989; amended at 13 Ill. Reg. 3722, effective March 13, 1989; amended at 13 Ill. Reg. 10820, effective June 23, 1989; amended at 13 Ill. Reg. 12970, effective August 1, 1989; amended at 15 Ill. Reg. 17974, effective November 27, 1991; amended at 16 Ill. Reg. 8375, effective May 21, 1992; emergency amendment at 16 Ill. Reg. 11645, effective July 6, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 13489, effective August 19, 1992; amended at 16 Ill. Reg. 17607, effective November 6, 1992; amended at 17 Ill. Reg. 3169, effective March 1, 1993; amended at 18 Ill. Reg. 1892, effective January 25, 1994; amended at 18 Ill. Reg. 17183, effective November 21, 1994; amended at 19 Ill. Reg. 8145, effective June 7, 1995; amended at 20 Ill. Reg. 3507, effective February 13, 1996; amended at 21 Ill. Reg. 15462, effective November 24, 1997; amended at 22 Ill. Reg. 14735, effective August 3, 1998; amended at 26 Ill. Reg. 15285, effective October 15, 2002; amended at 29 Ill. Reg. 11800, effective July 14, 2005; emergency amendment at 30 Ill. Reg. 12366, effective July 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 18270, effective November 13, 2006; amended at 31 Ill. Reg. 15069, effective October 26, 2007; emergency amendment at 32 Ill. Reg. 19935, effective December 9, 2008, for a maximum of 150 days; amended at 33 Ill. Reg. 6495, effective April 23, 2009; amended at 33 Ill. Reg. 16560, effective November 13, 2009; amended at 36 Ill. Reg. 9384, effective June 14, 2012; amended at 42 Ill. Reg. 12956, effective June 25, 2018.

## SUBPART A: APPLICATION AND EXAMINATION

**Section 302.30 Veterans Preference**

- a) Appropriate preference in entrance examinations shall be granted to qualified ~~veterans~~ ~~persons~~ who have been members of the armed forces of the United States or to qualified ~~veterans~~ ~~persons~~ who, while citizens of the United States, were members of the armed forces of allies of the United States in time of hostilities with a foreign country (as set forth in Section 8b7 of the Personnel Code) and to certain other persons as set forth in this Section.
- b) To be eligible, applicant must have received discharge under honorable conditions and served under one or more of the following conditions:

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- 1) Served, for at least six months, in the armed forces of the United States, the Illinois National Guard, or any reserve component of the armed forces of the United States; or
  - 2) While a U.S. citizen, been a member of the armed forces of an ally of the U.S. in time of hostilities with a foreign country; or
  - 3) Discharged on the grounds of hardship; or
  - 4) Released from active duty because of a service connected disability; or
  - 5) Served for the duration of hostilities regardless of the length of engagement.
- c) Preference will be in the form of points added to the final grades of persons who otherwise qualify and are entitled to appear on the list of those eligible for appointments. Preference in entrance examinations will be granted as follows:
- 1) Ten points shall be added to the entrance examination grade for veteran eligibles currently holding proof of a service connected disability from the U.S. Department of Veterans Affairs or from an allied country for service connected disabilities or if the veteran is a purple heart recipient.
  - 2) Five points shall be added to the entrance examination grade for veteran eligibles who have served during a time of hostilities with a foreign country and who meet the qualifications set forth in subsection (b), but who do not qualify for 10 points under subsection (c)(1).
  - 3) A person not eligible for a preference under subsection (c)(1) or (c)(2) is qualified for a preference of 3 points if the person has served in the armed forces of the United States, the Illinois National Guard, or any reserve component of the armed forces of the United States and the person:
    - A) served for at least 6 months and has been discharged under honorable conditions; or
    - B) has been discharged on the grounds of hardship; or

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- C) was released from active duty because of a service connected disability; or-
- D) served a minimum of 4 years in the Illinois National Guard or reserve component of the armed forces of the United States, regardless of whether the person was mobilized to active duty.
- 4) An active member of the National Guard or a reserve component of the armed forces of the United States is eligible for the preference described in subsection (c)(3) if the member meets the service requirements of subsection (c)(3).
- d) If category ratings are used, the veteran eligibles in each category shall be preferred for appointment before the non-veteran eligibles in the same category.
- e) The following shall be entitled to the same preference to which the veteran would have been entitled under this Section:
- 1) a surviving unremarried spouse or civil union partner, who has not subsequently married or entered into a civil union, of a veteran who suffered a service connected death; or
- 2) the spouse or civil union partner of a veteran who suffered a service connected disability that prevents the veteran from qualifying for civil service employment.
- f) A preference shall also be given to the following individuals: 10 points for one parent of a veteran who is not married or in a civil union partnership who suffered a service connected death or a service connected disability that prevents the veteran from qualifying for civil service employment. The first parent to receive a civil service appointment shall be the parent entitled to the preference.
- g) Before a veteran's preference is granted, the Department of Central Management Services must verify the applicant's entitlement to the preference by requiring a certified copy of the applicant's most recent DD-214 (Certificate of Release or Discharge from Active Duty) or other evidence of the applicant's most recent honorable discharge from the Armed Forces of the United States. The Department of Central Management Services shall determine whether the documentation

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submitted by the applicant is acceptable. To be acceptable, the documentation submitted must be an authentic, official record of the United States Armed Forces evidencing the individual's military service.

(Source: Amended at 42 Ill. Reg. 12956, effective June 25, 2018)

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- 1) Heading of the Part: Extensions of Jurisdiction
- 2) Code Citation: 80 Ill. Adm. Code 305
- 3) Section Number: 305.320                      Adopted Action:  
New Section
- 4) Statutory Authority: Implementing and authorized by Section 4b of the Personnel Code [20 ILCS 415/4b].
- 5) Effective Date of Rule: June 25, 2018
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rule, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in *Illinois Register*: 41 Ill. Reg. 15444; December 29, 2017
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Difference between Proposal and Final Version: Two grammatical changes were made by JCAR to the amended Section.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rule currently in effect? No
- 14) Are there any other rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: This change reflects the Memorandum of Understanding (MOU) between Central Management Services (CMS) and the American Federation of State, County and Municipal Employees (AFSCME) to extend Personnel Code Jurisdictions A, B and C to the Illinois Commerce Commission positions of Financial and Budget Assistant, 9-1-1 Analyst III, and Manager 9-1-1. These positions

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will be reclassified by CMS as Accountant, Executive II, and Public Service Administrator, Option 1, respectively. There will be no change in pay or seniority. Pursuant to PA 99-6, the effective date of the change is January 1, 2016.

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

Personnel Bureau  
Department of Central Management Services  
715 Stratton Office Building  
Springfield IL 62706

217/782-2141

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

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## NOTICE OF ADOPTED AMENDMENT

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES  
SUBTITLE B: PERSONNEL RULES, PAY PLANS, AND  
POSITION CLASSIFICATIONS  
CHAPTER I: DEPARTMENT OF CENTRAL MANAGEMENT SERVICESPART 305  
EXTENSIONS OF JURISDICTION

## Section

305.50	Extends Jurisdiction A, B & C
305.60	Extends Jurisdiction A, B & C (July 1, 1970)
305.70	Extends Jurisdiction A, B & C (July 1, 1970)
305.80	Extends Jurisdiction A, B & C (August 1, 1970)
305.90	Extends Jurisdiction A, B & C (August 1, 1971)
305.100	Extends Jurisdiction A, B & C (November 16, 1971)
305.110	Extends Jurisdiction A, B & C (April 1, 1972)
305.120	Extends Jurisdiction A, B & C (May 1, 1972)
305.130	Extends Jurisdiction A & C (October 1, 1972)
305.140	Extends Jurisdiction A & C (October 1, 1972)
305.150	Extends Jurisdiction A, B and C (November 1, 1972)
305.160	Extends Jurisdiction B, Except 8b.1, 8b.3 and 8b.5 (January 1, 1973)
305.170	Extension of Jurisdiction
305.180	Termination of Extension of Jurisdiction
305.190	Extension of Jurisdiction
305.200	Third Extension of Jurisdiction to Office of the Treasurer
305.210	Extends Jurisdiction A, B and C (December 1, 1998)
305.220	Extends Jurisdiction A, B and C (December 1, 1998)
305.230	Extends Jurisdiction A, B and C (July 16, 2002)
305.240	Extends Jurisdiction A, B and C (April 7, 2005)
305.250	Extends Jurisdiction A, B and C (January 16, 2006)
305.260	Extends Jurisdiction A, B and C (November 30, 2008)
305.270	Extends Jurisdiction A, B and C (December 30, 2009)
305.280	Extends Jurisdiction A, B and C (June 1, 2011)
305.290	Extends Jurisdiction A, B and C (July 25, 2012)
305.300	Extends Jurisdiction A, B and C (March 31, 2013)
305.310	Extends Jurisdiction B
<u>305.320</u>	<u>Extends Jurisdiction A, B and C (January 1, 2016)</u>



## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF ADOPTED AMENDMENT

AUTHORITY: Implementing and authorized by Section 4b of the Personnel Code [20 ILCS 415/4b].

SOURCE: Filed May 29, 1975; emergency amendment at 2 Ill. Reg. 46, p. 3, effective January 1, 1979, for a maximum of 150 days; amended at 3 Ill. Reg. 1, p. 61, effective January 1, 1979; codified at 7 Ill. Reg. 13214; amended at 10 Ill. Reg. 21643, effective December 15, 1986; amended at 22 Ill. Reg. 21302, effective December 1, 1998; emergency amendment at 26 Ill. Reg. 12060, effective July 16, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 16150, effective October 18, 2002; emergency amendment at 29 Ill. Reg. 5751, effective April 7, 2005, for a maximum of 150 days; emergency expired September 3, 2005; amended at 29 Ill. Reg. 14530, effective September 14, 2005; emergency amendment at 30 Ill. Reg. 1378, effective January 16, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 9321, effective May 4, 2006; amended at 32 Ill. Reg. 18931, effective November 30, 2008; amended at 34 Ill. Reg. 834, effective December 30, 2009; amended at 35 Ill. Reg. 8982, effective June 1, 2011; amended at 36 Ill. Reg. 12811, effective July 25, 2012; amended at 37 Ill. Reg. 4231, effective March 31, 2013; amended at 40 Ill. Reg. 13604, effective September 13, 2016; amended at 42 Ill. Reg. 12967, effective June 25, 2018.

**Section 305.320 Extends Jurisdiction A, B and C (January 1, 2016)**

- a) Effective January 1, 2016, the Personnel Code Jurisdictions A, B and C will be extended to the Illinois Commerce Commission positions of Financial and Budget Assistant, 9-1-1 Analyst III, and Manager 9-1-1. These positions will be reclassified by CMS as Accountant, Executive II, and Public Service Administrator, Option 1, respectively.
- b) With the exception of those employees who have already been determined qualified, the affected employees cited in subsection (a) will be required to qualify within six months in the same kind of examination as those required for entrance examinations for comparable positions. All other appointments subsequent to January 1, 2016 will be made pursuant to provisions of the Personnel Code and the rules of the Department of Central Management Services (80 Ill. Adm. Code 301, 302, 303, 304, 310 and 320). No provision of this Section in any way affects the status of employees already holding certified status under the Personnel Code. All other provisions of the Personnel Code and rules of the Department of Central Management Services will apply to the affected employees effective January 1, 2016.

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DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENT

(Source: Added at 42 Ill. Reg. 12967, effective June 25, 2018)

## ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Procedures for Reporting Release of Livestock Waste
- 2) Code Citation: 35 Ill. Adm. Code 580
- 3) 

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
580.104	Amendment
580.107	Amendment
580.200	Amendment
- 4) Statutory Authority: Implementing and authorized by Section 18 of the Livestock Management Facilities Act [510 ILCS 77/18] and Section 4(h) of the Illinois Environmental Protection Act [415 ILCS 5/4(h)].
- 5) Effective Date of Rules: July 1, 2018
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rule is on file in the Illinois Environmental Protection Agency's principal office located at 1021 North Grand Avenue East, P.O. Box 19276, Springfield IL 62794-9276 and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 41 Ill. Reg. 13924; November 17, 2017
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: The First Notice version published in the *Illinois Register* included changes made by JCAR. The IEPA's final version contains only grammatical revisions submitted by the Agency during Second Notice and approved by JCAR.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rule currently in effect? No

## ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF ADOPTED AMENDMENTS

- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: The Illinois EPA's amendments to Part 580 update statutory and regulatory references. The statutory references and regulatory references have been repealed or moved and the amendments reflect those changes.
- 16) Information and questions regarding these adopted rules shall be directed to:

Stefanie N. Diers  
Assistant Counsel  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield IL 62794-9276

217/782-5544

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

## ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF ADOPTED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION  
SUBTITLE E: AGRICULTURE RELATED WATER POLLUTION  
CHAPTER II: ENVIRONMENTAL PROTECTION AGENCYPART 580  
PROCEDURES FOR REPORTING RELEASES OF LIVESTOCK WASTE

Section	
580.100	Introduction
580.101	Scope
580.102	Applicability
580.103	Purpose
580.104	Definitions
580.105	Method of Reporting a Release of Livestock Waste
580.106	Contents of Report
580.107	Reporting of Releases to Groundwater
580.200	Distribution of Information
580.300	Follow-up Written Report

**AUTHORITY:** Implementing and authorized by Section 18 of the Livestock Management Facilities Act [510 ILCS 77/18] (see P.A. 91-0110, effective July 13, 1999); and Section 4(h) of the Environmental Protection Act [415 ILCS 5/4(h)].

**SOURCE:** Adopted at 22 Ill. Reg. 21863, effective December 4, 1998; amended at 24 Ill. Reg. 15415, effective October 6, 2000; amended at 42 Ill. Reg. 12972, effective July 1, 2018.

**Section 580.104 Definitions**

Terms used in this Part have the meaning specified in the Livestock Management Facilities Act [510 ILCS 77] or the Environmental Protection Act [415 ILCS 5]. The following terms have the meanings specified:

"Agency" means the Illinois Environmental Protection Agency.

"Controlled and recovered release" means any release that:

does not result in a discharge to waters of the State; and

## ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF ADOPTED AMENDMENTS

has been controlled by diking or berming, or has been otherwise restricted in flow or extent; and

has been recovered so that the unrecovered portion of the released livestock waste is less than or equal to the agronomic application rate of the crop or vegetation grown at the site of the release.

"Department" means the Illinois Department of Agriculture.

*"Livestock management facility" means any animal feeding operation, livestock shelter, or on-farm milking and accompanying milk-handling area. Two or more livestock management ~~facilities~~ ~~facilities~~ under common ownership, where the ~~facilities~~ ~~facilities~~ are not separated by a minimum distance of ¼ mile, and that share a common livestock waste handling facility shall be considered a single livestock management facility. A livestock management facility at ~~educational~~ ~~education~~ institutions, livestock pasture operations where animals are housed on a temporary basis such as county and state fairs, livestock shows, race tracks, and horse breeding and foaling farms, and market holding facilities are not subject to this Part. [510 ILCS 77/10.30]*

*"Livestock waste" means livestock excreta and associated feed losses, bedding, wash waters, sprinkling waters from livestock cooling, precipitation polluted by falling on or flowing onto an animal feeding operation, and other materials polluted by livestock. [510 ILCS 77/10.35]*

*"Livestock waste handling facility" means individually or collectively those immovable constructions or devices, except sewers, used for collecting, pumping, treating, or disposing of livestock waste or for the recovery of by-products from the livestock waste. Two or more livestock waste handling facilities under common ownership, and where the facilities are not separated by a minimum distance of ¼ mile, shall be considered a single livestock waste handling facility. [510 ILCS 77/10.40]*

*"Owner or Operator" means any person who owns, leases, controls, or supervises a livestock management facility or livestock waste-handling facility. [510 ILCS 77/10.50]*

*"Person" means any individual, partnership, co-partnership, firm, company,*

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*corporation, association, joint stock company, trust, estate, political subdivision, State agency, or any other legal entity or their legal representative, agent, or assigns.* [510 ILCS 77/10.55]

"Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, ~~or dumping~~ or disposing of livestock waste into the environment. For purposes of this Part, a release does not include the normal application of fertilizer such as the application of livestock waste to crop land at agronomic rates established by guidelines of the Agency, regulations of the Illinois Pollution Control Board or in a waste management plan developed pursuant to the Livestock Management Facilities Act [510 ILCS 77] and regulations promulgated thereunder for the crop grown. A release is not application to a grassed area under 35 Ill. Adm. Code 506.303(r) or use of a runoff field application system under 35 Ill. Adm. Code 501.404(d). Air emissions are not releases under this Part.

"Transportation equipment" means all structures and devices including but not limited to pipes, pumps, tanks, or containers, both mobile and non-mobile, used for conveying livestock waste to or from a livestock management facility or livestock waste handling facility.

*"Waters" means all accumulations of water, surface and underground, natural, and artificial, public and private, or parts thereof, which are wholly or partially within, flow through, or border upon this State.* [415 ILCS 5/~~3.5503-56~~] *For purposes of this Part, waters of the State do not include small temporary accumulations of surface water from precipitation or irrigation systems.* [510 ILCS 77/18]

(Source: Amended at 42 Ill. Reg. 12972, effective July 1, 2018)

**Section 580.107 Reporting of Releases to Groundwater**

If an owner or operator of a lagoon required to implement groundwater monitoring under 35 Ill. Adm. Code 506.204(d) submits a report to the Department of a proposed response action required under 8 Ill. Adm. Code 900.61135 Ill. Adm. Code 506.206(g)(2), the owner or operator ~~shall~~will submit that report to the Agency at the same time.

(Source: Amended at 42 Ill. Reg. 12972, effective July 1, 2018)

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**Section 580.200 Distribution of Information**

- a) Reports under this Part are required by Section 18(a) of the Livestock Management Facilities Act [510 ILCS 77/18(a)] and Section 4(h) of the Environmental Protection Act [415 ILCS 5/4(h)], ~~and are therefore not privileged under Section 52.2(h)(1) of the Environmental Protection Act [415 ILCS 5/52.2(h)(1)].~~
- b) All reports under Sections 580.105 and 580.300 will be forwarded to the Department by the Agency.
- c) All reports under this Part indicating, or with respect to which subsequent investigations reveal, releases to surface waters will be forwarded by the Agency to the Illinois Department of Natural Resources and to the health department of the county in which the release occurred.
- d) All reports under this Part indicating, or with respect to which subsequent investigations reveal, releases to groundwater will be forwarded by the Agency to the health department of the county in which the release occurred.
- e) All reports under this Part are accessible from the ~~Agency Illinois EPA~~ through the Freedom of Information Act [5 ILCS 140] and Agency regulations at 2 Ill. Adm. Code ~~18281826~~.

(Source: Amended at 42 Ill. Reg. 12972, effective July 1, 2018)



## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Medical Practice Act of 1987
- 2) Code Citation: 68 Ill. Adm. Code 1285
- 3) Section Number: 1285.240                      Adopted Action: Amendment
- 4) Statutory Authority: Implementing the Medical Practice Act of 1987 [225 ILCS 60] and the Patients' Right to Know Act [225 ILCS 61] and authorized by Section 2105-15(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15(7)].
- 5) Effective Date of Rule: July 6, 2018
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? Yes. Please see Section 1285.240(a)(3).
- 8) A copy of the adopted rule, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Date Notice of Proposal published in the *Illinois Register*: 41 Ill. Reg. 14870; December 8, 2017
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: There are no differences between the proposed version and the adopted version of this rule.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? None were made.
- 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: The Executive Order establishing the Governor's Opioid Prevention and Intervention Task Office, mandates IDFPR to establish opioid

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

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prescribing guidelines. This rule is consistent with the efforts of the agencies in the State of Illinois in addressing the opioid epidemic. This will promote the effective treatment and recovery of individuals with opioid use disorder.

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

Department of Financial and Professional Regulation  
Attention: Craig Cellini  
320 West Washington, 3rd Floor  
Springfield IL 62786

217/785-0813  
fax: 217/557-4451

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

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF ADOPTED AMENDMENT

TITLE 68: PROFESSIONS AND OCCUPATIONS  
CHAPTER VII: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION  
SUBCHAPTER b: PROFESSIONS AND OCCUPATIONSPART 1285  
MEDICAL PRACTICE ACT OF 1987SUBPART A: MEDICAL LICENSING, RENEWAL  
AND RESTORATION PROCEDURE

Section	
1285.20	Six Year Post-Secondary Programs of Medical Education
1285.30	Programs of Chiropractic Education
1285.40	Approved Postgraduate Clinical Training Programs
1285.50	Application for Examination
1285.60	Examinations
1285.70	Application for a License on the Basis of Examination
1285.80	Licensure by Endorsement
1285.90	Temporary Licenses
1285.91	Visiting Resident Permits
1285.95	Professional Capacity Standards for Applicants Having Graduated More Than 2 Years Prior to Application
1285.100	Visiting Professor Permits
1285.101	Visiting Physician Permits
1285.105	Chiropractic Physician Preceptorship (Repealed)
1285.110	Continuing Medical Education (CME)
1285.120	Renewals
1285.130	Restoration and Inactive Status
1285.140	Granting Variances

## SUBPART B: MEDICAL DISCIPLINARY PROCEEDINGS

Section	
1285.200	Medical Disciplinary Board
1285.205	Complaint Committee
1285.210	The Medical Coordinator
1285.215	Complaint Handling Procedure
1285.220	Informal Conferences

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF ADOPTED AMENDMENT

1285.225	Consent Orders
1285.230	Summary Suspension
1285.235	Mandatory Reporting of Impaired Physicians by Health Care Institutions
1285.240	Standards
1285.245	Advertising
1285.250	Monitoring of Probation and Other Discipline and Notification
1285.255	Rehabilitation
1285.260	Fines
1285.265	Subpoena Process of Medical and Hospital Records
1285.270	Inspection of Physical Premises
1285.275	Failing to Furnish Information
1285.280	Mandatory Reporting of Persons Engaged in Post-Graduate Clinical Training Programs

## SUBPART C: GENERAL INFORMATION

## Section

1285.305	Physician Profiles
1285.310	Public Access to Records and Meetings
1285.320	Response to Hospital Inquiries
1285.330	Rules of Evidence
1285.335	Physician Delegation of Authority
1285.336	Use of Lasers
1285.340	Anesthesia Services in an Office Setting

**AUTHORITY:** Implementing the Medical Practice Act of 1987 [225 ILCS 60] and the Patients' Right to Know Act [225 ILCS 61] and authorized by Section 2105-15(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15(7)].

**SOURCE:** Adopted at 13 Ill. Reg. 483, effective December 29, 1988; emergency amendment at 13 Ill. Reg. 651, effective January 1, 1989, for a maximum of 150 days; emergency expired May 31, 1989; amended at 13 Ill. Reg. 10613, effective June 16, 1989; amended at 13 Ill. Reg. 10925, effective June 21, 1989; emergency amendment at 15 Ill. Reg. 7785, effective April 30, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 13365, effective September 3, 1991; amended at 15 Ill. Reg. 17724, effective November 26, 1991; amended at 17 Ill. Reg. 17191, effective September 27, 1993; expedited correction at 18 Ill. Reg. 312, effective September 27, 1993; amended at 20 Ill. Reg. 7888, effective May 30, 1996; amended at 22 Ill. Reg. 6985, effective April 6, 1998; amended at 22 Ill. Reg. 10580, effective June 1, 1998; amended at 24 Ill. Reg.

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

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3620, effective February 15, 2000; amended at 24 Ill. Reg. 8348, effective June 5, 2000; amended at 26 Ill. Reg. 7243, effective April 26, 2002; amended at 28 Ill. Reg. 5857, effective March 29, 2004; amended at 29 Ill. Reg. 18823, effective November 4, 2005; amended at 31 Ill. Reg. 14069, effective September 24, 2007; amended at 33 Ill. Reg. 4971, effective March 19, 2009; emergency amendment at 35 Ill. Reg. 14564, effective August 12, 2011, for a maximum of 150 days; amended at 35 Ill. Reg. 19500, effective November 17, 2011; amended at 38 Ill. Reg. 15972, effective August 1, 2014; amended at 40 Ill. Reg. 3503, effective March 4, 2016; amended at 42 Ill. Reg. 12978, effective July 6, 2018.

## SUBPART B: MEDICAL DISCIPLINARY PROCEEDINGS

**Section 1285.240 Standards**

- a) Dishonorable, Unethical or Unprofessional Conduct
  - 1) In determining what constitutes dishonorable, unethical or unprofessional conduct of a character likely to deceive, defraud or harm the public, the Disciplinary Board shall consider whether the questioned activities:
    - A) Are violative of ethical standards of the profession (such as safeguard patient confidence and records within the constraints of law; respect the rights of patients, colleagues and other health professionals; observe laws under the Act and pertaining to any relevant specialty; to provide service with compassion and respect for human dignity);
    - B) Constitute a breach of the physician's responsibility to a patient;
    - C) Resulted in assumption by the physician of responsibility for delivery of patient care that the physician was not properly qualified or competent to render;
    - D) Resulted in a delegation of responsibility for delivery of patient care to persons who were not properly supervised or who were not competent to assume such responsibility;
    - E) Caused actual harm to any member of the public; or

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

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- F) Are reasonably likely to cause harm to any member of the public in the future.
- 2) Questionable activities include, but are not limited to:
- A) Being convicted of any crime an essential element of which is larceny, embezzlement, obtaining money, property or credit by false pretenses or by means of a confidence game, dishonesty, fraud, misstatement or moral turpitude;
  - B) Delegating patient care responsibility to any individual when the physician has reason to believe that the person may not be competent;
  - C) Misrepresenting educational background, training, credentials, competence, or medical staff memberships;
  - D) Failing to properly supervise subordinate health professional and paraprofessional staff under the licensee's supervision and control in patient care responsibilities; or
  - E) Committing of any other act or omission that breaches the physician's responsibility to a patient according to accepted medical standards of practice.
- 3) [The Division hereby incorporates by reference the "Model Policy on the Use of Opioid Analgesics in the Treatment of Chronic Pain", Federation of State Medical Boards, April 2017, 400 Fuller Wisser Road, Suite 300, Euless TX 76039. No later amendments or editions are included.](#)
- b) Immoral Conduct
- 1) Immoral conduct in the commission of any act related to the licensee's practice means conduct that:
    - A) Demonstrates moral indifference to the opinions of the good and respectable members of the profession;

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

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- B) Is inimical to the public welfare;
  - C) Abuses the physician/patient relationship by taking unfair advantage of a patient's vulnerability; and
  - D) Is committed in the course of the practice of medicine.
- 2) In determining immoral conduct in the commission of any act related to the licensee's practice, the Disciplinary Board shall consider, but not be limited to, the following standards:
- A) Taking advantage of a patient's vulnerability by committing an act that violates established codes of professional behavior expected on the part of a physician;
  - B) Unethical conduct with a patient that results in the patient engaging in unwanted personal, financial or sexual relationships with the physician;
  - C) Conducting human experimentation or utilizing unproven drugs, medicine, surgery or equipment to treat patients, except as authorized for use in an approved research program pursuant to rules of the Illinois Department of Public Health authorizing research programs (77 Ill. Adm. Code 250.130) or as otherwise expressly authorized by law;
  - D) Committing an act, in the practice of persons licensed under the Act, of a flagrant, glaringly obvious nature, that constitutes conduct of such a distasteful nature that accepted codes of behavior or codes of ethics are breached;
  - E) Committing an act in a relationship with a patient so as to violate common standards of decency or propriety; or
  - F) Any other behavior that violates established codes of physician behavior or that violates established ethical principles commonly associated with the practice of medicine.

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

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- c) In determining what constitutes gross negligence, the Disciplinary Board shall consider gross negligence to be an act or omission that is evidence of recklessness or carelessness toward or a disregard for the safety or well-being of the patient, and that results in injury to the patient.

(Source: Amended at 42 Ill. Reg. 12978, effective July 6, 2018)



## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Medical Payment
- 2) Code Citation: 89 Ill. Adm. Code 140
- 3) 

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
140.452	Amendment
140.453	Amendment
140.454	Amendment
140.455	Amendment
140.456	Amendment
140.460	Amendment
140.499	New Section
140.TABLE N	New Section
140.TABLE O	New Section
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]
- 5) Effective Date of Rules: June 25, 2018
- 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 materials incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in *Illinois Register*: 42 Ill. Reg. 3040; February 16, 2018
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: The differences between the proposed and adopted versions of this rulemaking include clarifications regarding: when payment will be made for services; references to the Department's published fee schedule; targeted case management services limits; PSR targeted population profiles; services Behavioral Health Clinics may provide; and Behavioral Health Clinic service areas.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

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- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes, the changes are reflective of the agreements issued by JCAR.
- 13) Will this rulemaking replace any emergency rule currently in effect? No
- 14) Are there any other rulemakings pending on this Part? Yes

<u>Section Numbers:</u>	<u>Proposed Actions:</u>	<u>Illinois Register Citations:</u>
140.94	Repealed	41 Ill. Reg. 12709; October 13, 2017
140.95	Repealed	41 Ill. Reg. 12709; October 13, 2017
140.44	Amendment	41 Ill. Reg. 13532; November 13, 2017
140.417	Amendment	42 Ill. Reg. 27; January 5, 2018
140.3	Amendment	42 Ill. Reg. 7285; April 20, 2018
140.6	Amendment	42 Ill. Reg. 7285; April 20, 2018
140.413	Amendment	42 Ill. Reg. 7285; April 20, 2018
140.421	Amendment	42 Ill. Reg. 8119; May 18, 2018
140.513	Amendment	42 Ill. Reg. 9052; June 8, 2018

- 15) Summary and Purpose of Rulemaking: This rulemaking delineates Medicaid Community-based Mental Health Services within the Medical Payment subpart of the Department's administrative rules; clarifies staff qualifications, provider types and service definitions for Community-based Mental Health Services; outlines program approval requirements and standards for several Medicaid Community-based Mental Health Services; and includes administrative updates to accommodate these changes.
- 16) Information and questions regarding these adopted rules shall be directed to:

Christopher Gange  
 Acting General Counsel  
 Illinois Department of Healthcare and Family Services  
 201 South Grand Avenue East, 3<sup>rd</sup> Floor  
 Springfield IL 62763-0002

HFS.Rules@Illinois.gov

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

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF ADOPTED AMENDMENTS

## TITLE 89: SOCIAL SERVICES

## CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## SUBCHAPTER d: MEDICAL PROGRAMS

## PART 140

## MEDICAL PAYMENT

## SUBPART A: GENERAL PROVISIONS

## Section

- 140.1 Incorporation By Reference
- 140.2 Medical Assistance Programs
- 140.3 Covered Services Under Medical Assistance Programs
- 140.4 Covered Medical Services Under AFDC-MANG for non-pregnant persons who are 18 years of age or older (Repealed)
- 140.5 Covered Medical Services Under General Assistance
- 140.6 Medical Services Not Covered
- 140.7 Medical Assistance Provided to Individuals Under the Age of Eighteen Who Do Not Qualify for AFDC and Children Under Age Eight
- 140.8 Medical Assistance For Qualified Severely Impaired Individuals
- 140.9 Medical Assistance for a Pregnant Woman Who Would Not Be Categorically Eligible for AFDC/AFDC-MANG if the Child Were Already Born Or Who Do Not Qualify As Mandatory Categorically Needy
- 140.10 Medical Assistance Provided to Persons Confined or Detained by the Criminal Justice System

## SUBPART B: MEDICAL PROVIDER PARTICIPATION

## Section

- 140.11 Enrollment Conditions for Medical Providers
- 140.12 Participation Requirements for Medical Providers
- 140.13 Definitions
- 140.14 Denial of Application to Participate in the Medical Assistance Program
- 140.15 Suspension and Denial of Payment, Recovery of Money and Penalties
- 140.16 Termination, Suspension or Exclusion of a Vendor's Eligibility to Participate in the Medical Assistance Program
- 140.17 Suspension of a Vendor's Eligibility to Participate in the Medical Assistance Program

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

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- 140.18 Effect of Termination, Suspension, Exclusion or Revocation on Persons Associated with Vendor
- 140.19 Application to Participate or for Reinstatement Subsequent to Termination, Suspension, Exclusion or Barring
- 140.20 Submittal of Claims
- 140.21 Reimbursement for QMB Eligible Medical Assistance Recipients and QMB Eligible Only Recipients and Individuals Who Are Entitled to Medicare Part A or Part B and Are Eligible for Some Form of Medicaid Benefits
- 140.22 Magnetic Tape Billings (Repealed)
- 140.23 Payment of Claims
- 140.24 Payment Procedures
- 140.25 Overpayment or Underpayment of Claims
- 140.26 Payment to Factors Prohibited
- 140.27 Assignment of Vendor Payments
- 140.28 Record Requirements for Medical Providers
- 140.30 Audits
- 140.31 Emergency Services Audits
- 140.32 Prohibition on Participation, and Special Permission for Participation
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AUTHORITY: Implementing and authorized by Articles III, IV, V and VI and Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V and VI and 12-13].

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Ill. Reg. 8540, effective July 15, 1983; amended at 7 Ill. Reg. 9382, effective July 22, 1983; amended at 7 Ill. Reg. 12868, effective September 20, 1983; peremptory amendment at 7 Ill. Reg. 15047, effective October 31, 1983; amended at 7 Ill. Reg. 17358, effective December 21, 1983; amended at 8 Ill. Reg. 254, effective December 21, 1983; emergency amendment at 8 Ill. Reg. 580, effective January 1, 1984, for a maximum of 150 days; codified at 8 Ill. Reg. 2483; amended at 8 Ill. Reg. 3012, effective February 22, 1984; amended at 8 Ill. Reg. 5262, effective April 9, 1984; amended at 8 Ill. Reg. 6785, effective April 27, 1984; amended at 8 Ill. Reg. 6983, effective May 9, 1984; amended at 8 Ill. Reg. 7258, effective May 16, 1984; emergency amendment at 8 Ill. Reg. 7910, effective May 22, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 7910, effective June 1, 1984; amended at 8 Ill. Reg. 10032, effective June 18, 1984; emergency amendment at 8 Ill. Reg. 10062, effective June 20, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 13343, effective July 17, 1984; amended at 8 Ill. Reg. 13779, effective July 24, 1984; Sections 140.72 and 140.73 recodified to 89 Ill. Adm. Code 141 at 8 Ill. Reg. 16354; amended (by adding sections being codified with no substantive change) at 8 Ill. Reg. 17899; peremptory amendment at 8 Ill. Reg. 18151, effective September 18, 1984; amended at 8 Ill. Reg. 21629, effective October 19, 1984; peremptory amendment at 8 Ill. Reg. 21677, effective October 24, 1984; amended at 8 Ill. Reg. 22097, effective October 24, 1984; peremptory amendment at 8 Ill. Reg. 22155, effective October 29, 1984; amended at 8 Ill. Reg. 23218, effective November 20, 1984; emergency amendment at 8 Ill. Reg. 23721, effective November 21, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 25067, effective December 19, 1984; emergency amendment at 9 Ill. Reg. 407, effective January 1, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 2697, effective February 22, 1985; amended at 9 Ill. Reg. 6235, effective April 19, 1985; amended at 9 Ill. Reg. 8677, effective May 28, 1985; amended at 9 Ill. Reg. 9564, effective June 5, 1985; amended at 9 Ill. Reg. 10025, effective June 26, 1985; emergency amendment at 9 Ill. Reg. 11403, effective June 27, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 11357, effective June 28, 1985; amended at 9 Ill. Reg. 12000, effective July 24, 1985; amended at 9 Ill. Reg. 12306, effective August 5, 1985; amended at 9 Ill. Reg. 13998, effective September 3, 1985; amended at 9 Ill. Reg. 14684, effective September 13, 1985; amended at 9 Ill. Reg. 15503, effective October 4, 1985; amended at 9 Ill. Reg. 16312, effective October 11, 1985; amended at 9 Ill. Reg. 19138, effective December 2, 1985; amended at 9 Ill. Reg. 19737, effective December 9, 1985; amended at 10 Ill. Reg. 238, effective December 27, 1985; emergency amendment at 10 Ill. Reg. 798, effective January 1, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 672, effective January 6, 1986; amended at 10 Ill. Reg. 1206, effective January 13, 1986; amended at 10 Ill. Reg. 3041, effective January 24, 1986; amended at 10 Ill. Reg. 6981, effective April 16, 1986; amended at 10 Ill. Reg. 7825, effective April 30, 1986; amended at 10 Ill. Reg. 8128, effective May 7, 1986; emergency amendment at 10 Ill. Reg. 8912, effective May 13, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 11440, effective June 20, 1986; amended at 10 Ill. Reg. 14714, effective August 27, 1986;

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140.94 thru 140.398 recodified to 89 Ill. Adm. Code 148.10 thru 148.390 at 13 Ill. Reg. 9572; emergency amendment at 13 Ill. Reg. 10977, effective July 1, 1989, for a maximum of 150 days; emergency expired November 28, 1989; amended at 13 Ill. Reg. 11516, effective July 3, 1989; amended at 13 Ill. Reg. 12119, effective July 7, 1989; Section 140.110 recodified to 89 Ill. Adm. Code 148.120 at 13 Ill. Reg. 12118; amended at 13 Ill. Reg. 12562, effective July 17, 1989; amended at 13 Ill. Reg. 14391, effective August 31, 1989; emergency amendment at 13 Ill. Reg. 15473, effective September 12, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 16992, effective October 16, 1989; amended at 14 Ill. Reg. 190, effective December 21, 1989; amended at 14 Ill. Reg. 2564, effective February 9, 1990; emergency amendment at 14 Ill. Reg. 3241, effective February 14, 1990, for a maximum of 150 days; emergency expired July 14, 1990; amended at 14 Ill. Reg. 4543, effective March 12, 1990; emergency amendment at 14 Ill. Reg. 4577, effective March 6, 1990, for a maximum of 150 days; emergency expired August 3, 1990; emergency amendment at 14 Ill. Reg. 5575, effective April 1, 1990, for a maximum of 150 days; emergency expired August 29, 1990; emergency amendment at 14 Ill. Reg. 5865, effective April 3, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 7141, effective April 27, 1990; emergency amendment at 14 Ill. Reg. 7249, effective April 27, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 10062, effective June 12, 1990; amended at 14 Ill. Reg. 10409, effective June 19, 1990; emergency amendment at 14 Ill. Reg. 12082, effective July 5, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 13262, effective August 6, 1990; emergency amendment at 14 Ill. Reg. 14184, effective August 16, 1990, for a maximum of 150 days; emergency amendment at 14 Ill. Reg. 14570, effective August 22, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 14826, effective August 31, 1990; amended at 14 Ill. Reg. 15366, effective September 12, 1990; amended at 14 Ill. Reg. 15981, effective September 21, 1990; amended at 14 Ill. Reg. 17279, effective October 12, 1990; amended at 14 Ill. Reg. 18057, effective October 22, 1990; amended at 14 Ill. Reg. 18508, effective October 30, 1990; amended at 14 Ill. Reg. 18813, effective November 6, 1990; Notice of Corrections to Adopted Amendment at 15 Ill. Reg. 1174; amended at 14 Ill. Reg. 20478, effective December 7, 1990; amended at 14 Ill. Reg. 20729, effective December 12, 1990; amended at 15 Ill. Reg. 298, effective December 28, 1990; emergency amendment at 15 Ill. Reg. 592, effective January 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 1051, effective January 18, 1991; amended at 15 Ill. Reg. 6220, effective April 18, 1991; amended at 15 Ill. Reg. 6534, effective April 30, 1991; amended at 15 Ill. Reg. 8264, effective May 23, 1991; amended at 15 Ill. Reg. 8972, effective June 17, 1991; amended at 15 Ill. Reg. 10114, effective June 21, 1991; amended at 15 Ill. Reg. 10468, effective July 1, 1991; amended at 15 Ill. Reg. 11176, effective August 1, 1991; emergency amendment at 15 Ill. Reg. 11515, effective July 25, 1991, for a maximum of 150 days; emergency expired December 22, 1991; emergency amendment at 15 Ill. Reg. 12919, effective August 15, 1991, for a maximum of 150 days; emergency expired January 12, 1992; emergency amendment at 15 Ill. Reg. 16366, effective October 22, 1991, for a maximum of 150

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days; amended at 15 Ill. Reg. 17318, effective November 18, 1991; amended at 15 Ill. Reg. 17733, effective November 22, 1991; emergency amendment at 16 Ill. Reg. 300, effective December 20, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 174, effective December 24, 1991; amended at 16 Ill. Reg. 1877, effective January 24, 1992; amended at 16 Ill. Reg. 3552, effective February 28, 1992; amended at 16 Ill. Reg. 4006, effective March 6, 1992; amended at 16 Ill. Reg. 6408, effective March 20, 1992; expedited correction at 16 Ill. Reg. 11348, effective March 20, 1992; amended at 16 Ill. Reg. 6849, effective April 7, 1992; amended at 16 Ill. Reg. 7017, effective April 17, 1992; amended at 16 Ill. Reg. 10050, effective June 5, 1992; amended at 16 Ill. Reg. 11174, effective June 26, 1992; emergency amendment at 16 Ill. Reg. 11947, effective July 10, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 12186, effective July 24, 1992; emergency amendment at 16 Ill. Reg. 13337, effective August 14, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 15109, effective September 21, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 15561, effective September 30, 1992; amended at 16 Ill. Reg. 17302, effective November 2, 1992; emergency amendment at 16 Ill. Reg. 18097, effective November 17, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 19146, effective December 1, 1992; expedited correction at 17 Ill. Reg. 7078, effective December 1, 1992; amended at 16 Ill. Reg. 19879, effective December 7, 1992; amended at 17 Ill. Reg. 837, effective January 11, 1993; amended at 17 Ill. Reg. 1112, effective January 15, 1993; amended at 17 Ill. Reg. 2290, effective February 15, 1993; amended at 17 Ill. Reg. 2951, effective February 17, 1993; amended at 17 Ill. Reg. 3421, effective February 19, 1993; amended at 17 Ill. Reg. 6196, effective April 5, 1993; amended at 17 Ill. Reg. 6839, effective April 21, 1993; amended at 17 Ill. Reg. 7004, effective May 17, 1993; emergency amendment at 17 Ill. Reg. 11201, effective July 1, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 15162, effective September 2, 1993, for a maximum of 150 days; emergency amendment suspended at 17 Ill. Reg. 18902, effective October 12, 1993; emergency amendment at 17 Ill. Reg. 18152, effective October 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 18571, effective October 8, 1993; emergency amendment at 17 Ill. Reg. 18611, effective October 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 20999, effective November 24, 1993; emergency amendment repealed at 17 Ill. Reg. 22583, effective December 20, 1993; amended at 18 Ill. Reg. 3620, effective February 28, 1994; amended at 18 Ill. Reg. 4250, effective March 4, 1994; amended at 18 Ill. Reg. 5951, effective April 1, 1994; emergency amendment at 18 Ill. Reg. 10922, effective July 1, 1994, for a maximum of 150 days; emergency amendment suspended at 18 Ill. Reg. 17286, effective November 15, 1994; emergency amendment repealed at 19 Ill. Reg. 5839, effective April 4, 1995; amended at 18 Ill. Reg. 11244, effective July 1, 1994; amended at 18 Ill. Reg. 14126, effective August 29, 1994; amended at 18 Ill. Reg. 16675, effective November 1, 1994; amended at 18 Ill. Reg. 18059, effective December 19, 1994; amended at 19 Ill. Reg. 1082, effective January 20, 1995; amended at 19 Ill. Reg. 2933, effective March 1, 1995; emergency amendment at 19 Ill. Reg. 3529, effective March 1,

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1995, for a maximum of 150 days; amended at 19 Ill. Reg. 5663, effective April 1, 1995; amended at 19 Ill. Reg. 7919, effective June 5, 1995; emergency amendment at 19 Ill. Reg. 8455, effective June 9, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 9297, effective July 1, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 10252, effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 13019, effective September 5, 1995; amended at 19 Ill. Reg. 14440, effective September 29, 1995; emergency amendment at 19 Ill. Reg. 14833, effective October 6, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 15441, effective October 26, 1995; amended at 19 Ill. Reg. 15692, effective November 6, 1995; amended at 19 Ill. Reg. 16677, effective November 28, 1995; amended at 20 Ill. Reg. 1210, effective December 29, 1995; amended at 20 Ill. Reg. 4345, effective March 4, 1996; amended at 20 Ill. Reg. 5858, effective April 5, 1996; amended at 20 Ill. Reg. 6929, effective May 6, 1996; amended at 20 Ill. Reg. 7922, effective May 31, 1996; amended at 20 Ill. Reg. 9081, effective June 28, 1996; emergency amendment at 20 Ill. Reg. 9312, effective July 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 11332, effective August 1, 1996; amended at 20 Ill. Reg. 14845, effective October 31, 1996; emergency amendment at 21 Ill. Reg. 705, effective December 31, 1996, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 3734, effective March 5, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 4777, effective April 2, 1997; amended at 21 Ill. Reg. 6899, effective May 23, 1997; amended at 21 Ill. Reg. 9763, effective July 15, 1997; amended at 21 Ill. Reg. 11569, effective August 1, 1997; emergency amendment at 21 Ill. Reg. 13857, effective October 1, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 1416, effective December 29, 1997; amended at 22 Ill. Reg. 4412, effective February 27, 1998; amended at 22 Ill. Reg. 7024, effective April 1, 1998; amended at 22 Ill. Reg. 10606, effective June 1, 1998; emergency amendment at 22 Ill. Reg. 13117, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 16302, effective August 28, 1998; amended at 22 Ill. Reg. 18979, effective September 30, 1998; amended at 22 Ill. Reg. 19898, effective October 30, 1998; emergency amendment at 22 Ill. Reg. 22108, effective December 1, 1998, for a maximum of 150 days; emergency expired April 29, 1999; amended at 23 Ill. Reg. 5796, effective April 30, 1999; amended at 23 Ill. Reg. 7122, effective June 1, 1999; emergency amendment at 23 Ill. Reg. 8236, effective July 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 9874, effective August 3, 1999; amended at 23 Ill. Reg. 12697, effective October 1, 1999; amended at 23 Ill. Reg. 13646, effective November 1, 1999; amended at 23 Ill. Reg. 14567, effective December 1, 1999; amended at 24 Ill. Reg. 661, effective January 3, 2000; amended at 24 Ill. Reg. 10277, effective July 1, 2000; emergency amendment at 24 Ill. Reg. 10436, effective July 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15086, effective October 1, 2000; amended at 24 Ill. Reg. 18320, effective December 1, 2000; emergency amendment at 24 Ill. Reg. 19344, effective December 15, 2000, for a maximum of 150 days; amended at 25 Ill. Reg. 3897, effective March 1, 2001; amended at 25 Ill. Reg. 6665, effective May 11, 2001; amended at 25

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Ill. Reg. 8793, effective July 1, 2001; emergency amendment at 25 Ill. Reg. 8850, effective July 1, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 11880, effective September 1, 2001; amended at 25 Ill. Reg. 12820, effective October 8, 2001; amended at 25 Ill. Reg. 14957, effective November 1, 2001; emergency amendment at 25 Ill. Reg. 16127, effective November 28, 2001, for a maximum of 150 days; emergency amendment at 25 Ill. Reg. 16292, effective December 3, 2001, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 514, effective January 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 663, effective January 7, 2002; amended at 26 Ill. Reg. 4781, effective March 15, 2002; emergency amendment at 26 Ill. Reg. 5984, effective April 15, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 7285, effective April 29, 2002; emergency amendment at 26 Ill. Reg. 8594, effective June 1, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 11259, effective July 1, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 12461, effective July 29, 2002, for a maximum of 150 days; emergency amendment repealed at 26 Ill. Reg. 16593, effective October 22, 2002; emergency amendment at 26 Ill. Reg. 12772, effective August 12, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 13641, effective September 3, 2002; amended at 26 Ill. Reg. 14789, effective September 26, 2002; emergency amendment at 26 Ill. Reg. 15076, effective October 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 16303, effective October 25, 2002; amended at 26 Ill. Reg. 17751, effective November 27, 2002; amended at 27 Ill. Reg. 768, effective January 3, 2003; amended at 27 Ill. Reg. 3041, effective February 10, 2003; amended at 27 Ill. Reg. 4364, effective February 24, 2003; amended at 27 Ill. Reg. 7823, effective May 1, 2003; amended at 27 Ill. Reg. 9157, effective June 2, 2003; emergency amendment at 27 Ill. Reg. 10813, effective July 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 13784, effective August 1, 2003; amended at 27 Ill. Reg. 14799, effective September 5, 2003; emergency amendment at 27 Ill. Reg. 15584, effective September 20, 2003, for a maximum of 150 days; emergency amendment at 27 Ill. Reg. 16161, effective October 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18629, effective November 26, 2003; amended at 28 Ill. Reg. 2744, effective February 1, 2004; amended at 28 Ill. Reg. 4958, effective March 3, 2004; emergency amendment at 28 Ill. Reg. 6622, effective April 19, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 7081, effective May 3, 2004; emergency amendment at 28 Ill. Reg. 8108, effective June 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 9640, effective July 1, 2004; emergency amendment at 28 Ill. Reg. 10135, effective July 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 11161, effective August 1, 2004; emergency amendment at 28 Ill. Reg. 12198, effective August 11, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 13775, effective October 1, 2004; amended at 28 Ill. Reg. 14804, effective October 27, 2004; amended at 28 Ill. Reg. 15513, effective November 24, 2004; amended at 29 Ill. Reg. 831, effective January 1, 2005; amended at 29 Ill. Reg. 6945, effective May 1, 2005; emergency amendment at 29 Ill. Reg. 8509, effective June 1, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 12534, effective

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August 1, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 14957, effective September 30, 2005; emergency amendment at 29 Ill. Reg. 15064, effective October 1, 2005, for a maximum of 150 days; emergency amendment repealed by emergency rulemaking at 29 Ill. Reg. 15985, effective October 5, 2005, for the remainder of the 150 days; emergency amendment at 29 Ill. Reg. 15610, effective October 1, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 16515, effective October 5, 2005, for a maximum of 150 days; amended at 30 Ill. Reg. 349, effective December 28, 2005; emergency amendment at 30 Ill. Reg. 573, effective January 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 796, effective January 1, 2006; amended at 30 Ill. Reg. 2802, effective February 24, 2006; amended at 30 Ill. Reg. 10370, effective May 26, 2006; emergency amendment at 30 Ill. Reg. 12376, effective July 1, 2006, for a maximum of 150 days; emergency amendment at 30 Ill. Reg. 13909, effective August 2, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 14280, effective August 18, 2006; expedited correction at 31 Ill. Reg. 1745, effective August 18, 2006; emergency amendment at 30 Ill. Reg. 17970, effective November 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 18648, effective November 27, 2006; emergency amendment at 30 Ill. Reg. 19400, effective December 1, 2006, for a maximum of 150 days; amended at 31 Ill. Reg. 388, effective December 29, 2006; emergency amendment at 31 Ill. Reg. 1580, effective January 1, 2007, for a maximum of 150 days; amended at 31 Ill. Reg. 2413, effective January 19, 2007; amended at 31 Ill. Reg. 5561, effective March 30, 2007; amended at 31 Ill. Reg. 6930, effective April 29, 2007; amended at 31 Ill. Reg. 8485, effective May 30, 2007; emergency amendment at 31 Ill. Reg. 10115, effective June 30, 2007, for a maximum of 150 days; amended at 31 Ill. Reg. 14749, effective October 22, 2007; emergency amendment at 32 Ill. Reg. 383, effective January 1, 2008, for a maximum of 150 days; peremptory amendment at 32 Ill. Reg. 6743, effective April 1, 2008; peremptory amendment suspended at 32 Ill. Reg. 8449, effective May 21, 2008; suspension withdrawn by the Joint Committee on Administrative Rules at 32 Ill. Reg. 18323, effective November 12, 2008; peremptory amendment repealed by emergency rulemaking at 32 Ill. Reg. 18422, effective November 12, 2008, for a maximum of 150 days; emergency expired April 10, 2009; peremptory amendment repealed at 33 Ill. Reg. 6667, effective April 29, 2009; amended at 32 Ill. Reg. 7727, effective May 5, 2008; emergency amendment at 32 Ill. Reg. 10480, effective July 1, 2008, for a maximum of 150 days; emergency expired November 27, 2008; amended at 32 Ill. Reg. 17133, effective October 15, 2008; amended at 33 Ill. Reg. 209, effective December 29, 2008; amended at 33 Ill. Reg. 9048, effective June 15, 2009; emergency amendment at 33 Ill. Reg. 10800, effective June 30, 2009, for a maximum of 150 days; amended at 33 Ill. Reg. 11287, effective July 14, 2009; amended at 33 Ill. Reg. 11938, effective August 17, 2009; amended at 33 Ill. Reg. 12227, effective October 1, 2009; emergency amendment at 33 Ill. Reg. 14324, effective October 1, 2009, for a maximum of 150 days; emergency expired February 27, 2010; amended at 33 Ill. Reg. 16573, effective November 16, 2009; amended at 34 Ill. Reg. 516, effective January 1, 2010; amended at 34 Ill.

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Reg. 903, effective January 29, 2010; amended at 34 Ill. Reg. 3761, effective March 14, 2010; amended at 34 Ill. Reg. 5215, effective March 25, 2010; amended at 34 Ill. Reg. 19517, effective December 6, 2010; amended at 35 Ill. Reg. 394, effective December 27, 2010; amended at 35 Ill. Reg. 7648, effective May 1, 2011; amended at 35 Ill. Reg. 7962, effective May 1, 2011; amended at 35 Ill. Reg. 10000, effective June 15, 2011; amended at 35 Ill. Reg. 12909, effective July 25, 2011; amended at 36 Ill. Reg. 2271, effective February 1, 2012; amended at 36 Ill. Reg. 7010, effective April 27, 2012; amended at 36 Ill. Reg. 7545, effective May 7, 2012; amended at 36 Ill. Reg. 9113, effective June 11, 2012; emergency amendment at 36 Ill. Reg. 11329, effective July 1, 2012 through June 30, 2013; emergency amendment to Section 140.442(e)(4) suspended at 36 Ill. Reg. 13736, effective August 15, 2012; suspension withdrawn from Section 140.442(e)(4) at 36 Ill. Reg. 14529, September 11, 2012; emergency amendment in response to Joint Committee on Administrative Rules action on Section 140.442(e)(4) at 36 Ill. Reg. 14820, effective September 21, 2012 through June 30, 2013; emergency amendment to Section 140.491 suspended at 36 Ill. Reg. 13738, effective August 15, 2012; suspension withdrawn by the Joint Committee on Administrative Rules from Section 140.491 at 37 Ill. Reg. 890, January 8, 2013; emergency amendment in response to Joint Committee on Administrative Rules action on Section 140.491 at 37 Ill. Reg. 1330, effective January 15, 2013 through June 30, 2013; amended at 36 Ill. Reg. 15361, effective October 15, 2012; emergency amendment at 37 Ill. Reg. 253, effective January 1, 2013 through June 30, 2013; emergency amendment at 37 Ill. Reg. 846, effective January 9, 2013 through June 30, 2013; emergency amendment at 37 Ill. Reg. 1774, effective January 28, 2013 through June 30, 2013; emergency amendment at 37 Ill. Reg. 2348, effective February 1, 2013 through June 30, 2013; amended at 37 Ill. Reg. 3831, effective March 13, 2013; emergency amendment at 37 Ill. Reg. 5058, effective April 1, 2013 through June 30, 2013; emergency amendment at 37 Ill. Reg. 5170, effective April 8, 2013 through June 30, 2013; amended at 37 Ill. Reg. 6196, effective April 29, 2013; amended at 37 Ill. Reg. 7985, effective May 29, 2013; amended at 37 Ill. Reg. 10282, effective June 27, 2013; amended at 37 Ill. Reg. 12855, effective July 24, 2013; emergency amendment at 37 Ill. Reg. 14196, effective August 20, 2013, for a maximum of 150 days; amended at 37 Ill. Reg. 17584, effective October 23, 2013; amended at 37 Ill. Reg. 18275, effective November 4, 2013; amended at 37 Ill. Reg. 20339, effective December 9, 2013; amended at 38 Ill. Reg. 859, effective December 23, 2013; emergency amendment at 38 Ill. Reg. 1174, effective January 1, 2014, for a maximum of 150 days; amended at 38 Ill. Reg. 4330, effective January 29, 2014; amended at 38 Ill. Reg. 7156, effective March 13, 2014; amended at 38 Ill. Reg. 12141, effective May 30, 2014; amended at 38 Ill. Reg. 15081, effective July 2, 2014; emergency amendment at 38 Ill. Reg. 15673, effective July 7, 2014, for a maximum of 150 days; emergency amendment at 38 Ill. Reg. 18216, effective August 18, 2014, for a maximum of 150 days; amended at 38 Ill. Reg. 18462, effective August 19, 2014; amended at 38 Ill. Reg. 23623, effective December 2, 2014; amended at 39 Ill. Reg. 4394, effective March 11, 2015; emergency amendment at 39 Ill. Reg. 6903, effective May 1,

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2015 through June 30, 2015; emergency amendment at 39 Ill. Reg. 8137, effective May 20, 2015, for a maximum of 150 days; emergency amendment at 39 Ill. Reg. 10427, effective July 10, 2015, for a maximum of 150 days; emergency expired December 6, 2015; amended at 39 Ill. Reg. 12825, effective September 4, 2015; amended at 39 Ill. Reg. 13380, effective September 25, 2015; amended at 39 Ill. Reg. 14138, effective October 14, 2015; emergency amendment at 40 Ill. Reg. 13677, effective September 16, 2016, for a maximum of 150 days; emergency expired February 12, 2017; amended at 41 Ill. Reg. 999, effective January 19, 2017; amended at 41 Ill. Reg. 3296, effective March 8, 2017; amended at 41 Ill. Reg. 7526, effective June 15, 2017; amended at 41 Ill. Reg. 10950, effective August 9, 2017; amended at 42 Ill. Reg. 4829, effective March 1, 2018; amended at 42 Ill. Reg. 12986, effective June 25, 2018.

## SUBPART D: PAYMENT FOR NON-INSTITUTIONAL SERVICES

**Section 140.452 Community-based Mental Health Providers Qualified for Payment Services**

- a) Payment will be made for community-based mental health services provided by providers enrolled in the Illinois Medical Assistance Program as:
- 1) A Community Mental Health Center. Community Mental Health Center shall mean an entity certified by the Department, or its agent, pursuant to as being in compliance with standards set forth in 59 Ill. Adm. Code 132; or
  - 2) A Behavioral Health Clinic, pursuant to Section 140.499; or certified as being compliant with standards set forth in 59 Ill. Adm. Code 132 and under a multi-agency contract with the Department, DCFS and DHS to provide Screening, Assessment and Support Services (SASS).
  - 3) An Independent Practitioner defined as:
    - A) A Licensed Clinical Psychologist, pursuant to 89 Ill. Adm. Code 140.423(a);
    - B) A Licensed Clinical Social Worker, pursuant to 89 Ill. Code 140.424(a); or

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- C) A psychiatrist, defined as a physician licensed under the Medical Practice Act of 1987 who has successfully completed a training program in psychiatry approved by the Accreditation Council for Graduate Medical Education (ACGME) or other training program identified as equivalent by the Department.
- b) To receive payment for community-based mental health services, providers must be enrolled for participation in the Medical Assistance Program, pursuant to Sections 140.11 and 140.12.
- c) Community Mental Health Centers may receive reimbursement for all services described in Section 140.454.
- d) Behavioral Health Clinics may receive reimbursement for all services described in Section 140.454, except Behavioral Health Clinics may not receive reimbursement for the services described in the following subsections of Section 140.453: Assertive Community Treatment (Section 140.453(d)(4)(A)) and Psychosocial Rehabilitation (Section 140.453(d)(2)(F)).
- e) Independent Practitioners may receive reimbursement only for the following services: Assessment and Treatment Planning (Section 140.453(d)(1)); Therapy/Counseling (Section 140.453(d)(2)(G)); and MRO Crisis Services (Section 140.453(d)(3)).

(Source: Amended at 42 Ill. Reg. 12986, effective June 25, 2018)

**Section 140.453 Community-based Mental Health Service Definitions and Professional Qualifications**

- a) Inter-Departmental Collaboration and Administration. The Department of Human Services-Division of Mental Health (DHS-DMH) and the Department of Children and Family Services (DCFS), pursuant to an executed interagency agreement, shall ensure the administration and coordination of mental health services.
- b) Community-based Mental Health Professional Qualifications. All individuals qualified under this Section to provide services shall only provide the services listed in this Section within their scope of practice, as defined or by federal or state law, regulation or policy.



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- 1) All professional definitions provided in this subsection (b) are only applicable to services detailed in this Section.
- 2) Independent Practitioner (IP). An IP, as defined by Section 140.452(a)(3), may receive direct reimbursement for services pursuant to Section 140.452(e). All other credentialed staff detailed in this Section must be employees of a Community Mental Health Center or Behavioral Health Clinic that may qualify for reimbursement for the services provided.
- 3) Licensed Practitioner of the Healing Arts (LPHA). An LPHA is defined as:
  - A) A physician who holds a valid license in the state of practice and is legally authorized under state law or rule to practice medicine in all its branches, so long as that practice is not in conflict with the Medical Practice Act of 1987;
  - B) An advanced practice nurse with psychiatric specialty that holds a valid license in the state of practice and is legally authorized under state law or rule to practice as an advanced practice nurse, so long as that practice is not in conflict with the Illinois Nurse Practice Act or the Medical Practice Act of 1987;
  - C) A clinical psychologist who holds a valid license in the state of practice and is legally authorized under state law or rule to practice as a clinical psychologist, so long as that practice is not in conflict with the Clinical Psychologist Licensing Act;
  - D) A licensed clinical professional counselor possessing a master's degree who holds a valid license in the state of practice and is legally authorized under state law or rule to practice as a licensed clinical professional counselor, so long as that practice is not in conflict with the Professional Counselor and Clinical Professional Counselor Licensing Act [225 ILCS 107];
  - E) A marriage and family therapist who holds a valid license in the state of practice and is legally authorized under state law or rule to

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practice as a marriage and family therapist, so long as that practice is not in conflict with the Marriage and Family Therapist Licensing Act [225 ILCS 55];

F) A clinical social worker possessing a master's or doctoral degree who holds a valid license in the state of practice and is legally authorized under state law or rule to practice as a social worker, so long as that practice is not in conflict with the Clinical Social Work and Social Work Practice Act.

4) Qualified Mental Health Professional (QMHP). A QMHP is defined as one of the following:

A) Any individual identified as an LPHA in subsection (b)(3);

B) A registered nurse who holds a valid license in the state of practice, is legally authorized under state law or rule to practice as a registered nurse, so long as that practice is not in conflict with the Illinois Nurse Practice Act, and has training in mental health services or one year of clinical experience, under supervision, in treating problems related to mental illness, or specialized training in the treatment of children and adolescents.

C) An occupational therapist who holds a valid license in the state of practice and is legally authorized under state law or rule to practice as an occupational therapist, so long as that practice is not in conflict with the Illinois Occupational Therapy Practice Act [225 ILCS 75] with at least one year of clinical experience in a mental health setting. In the event the state of practice does not provide a legal authority for licensure, the individual must meet the requirements of 42 CFR 484.4 for an occupational therapist.

D) An individual possessing a master's or doctoral degree in counseling and guidance, rehabilitation counseling, social work, psychology, pastoral counseling, family therapy, or a related field and has:

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- i) Successfully completed 1,000 hours of practicum and/or internship under clinical and educational supervision; or
  - ii) One year of documented clinical experience under the supervision of a QMHP.
- 5) Mental Health Professional (MHP)
- A) An MHP is defined as one of the following:
- i) Any individual identified as a QMHP in subsection (b)(4); or
  - ii) An individual meeting the following qualifications, delivering services under the supervision of a QMHP:
    - An individual possessing a bachelor's degree in counseling and guidance, rehabilitation counseling, social work, education, vocational counseling, psychology, pastoral counseling, family therapy, or related human service field;
    - An individual possessing a bachelor's degree in any field, other than those identified in subsection (b)(4)(D), with two years of documented clinical experience in a mental health setting under the supervision of a QMHP;
    - A practical nurse who holds a valid license in the state of practice and is legally authorized under state law or rule to practice as a practical nurse, so long as that practice is not in conflict with the Illinois Nurse Practice Act;
    - An individual possessing a certificate of psychiatric rehabilitation from a DHS-approved program, plus a high school diploma or GED, plus two years'

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documented experience in providing mental health services;

- A recovery support specialist with a current certification from the Illinois Alcohol and Other Drug Abuse Professional Certification Association, Inc.;
- A family partnership professional with current certification from the Illinois Alcohol and Other Drug Abuse Professional Certification Association, Inc.;
- An occupational therapy assistant with at least one year of experience in a mental health setting that holds a valid license in the state of practice and is legally authorized under state law or rule to practice as an occupational therapist assistant, so long as that practice is not in conflict with the Illinois Occupational Therapy Practice Act. In the event the state of practice does not provide a legal authority for licensure, the individual must meet the requirements of 42 CFR 484.4 for an occupational therapist; or
- An individual with a high school diploma or GED and a minimum of five years documented clinical experience in mental health or human services.

B) Any individual designated as an MHP prior to July 1, 2011 shall retain that designation throughout the continual course of his/her employment. In the event that the individual leaves the current employer, the designation is no longer valid.

6) Rehabilitative Services Associate (RSA). An RSA is defined as one of the following:

A) Any individual identified as a QMHP in subsection (b)(4); or

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- B) An individual meeting the following qualifications, delivering services under the supervision of a QMHP:
- i) Any individual identified as an MHP in subsection (b)(5); or
  - ii) Any individual who is 21 years of age and demonstrates all of the following:
    - Skill in the delivery of rehabilitative services to adults or children;
    - The ability to work within a provider agency's structure and accept supervision; and
    - The ability to work constructively with individuals receiving services, other providers of service, and the community.
- c) Service Reimbursements. The services detailed in subsections (d) and (e) may be eligible for reimbursement pursuant to the Department's published fee schedule when the services are:
- 1) Recommended by an LPHA or IP, operating within his/her scope of practice. Unless otherwise noted in this Section, the term services "recommended by an LPHA or IP" shall mean:
    - A) The services of Assessment and Treatment Planning performed by an LPHA or IP to determine an individual's potential clinical need for services; or
    - B) Those services identified by the LPHA or IP following the completion of an Assessment and Treatment Plan;
  - 2) Provided to an individual for the maximum reduction of mental disability and restoration to the best possible functional level in accordance with 42

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CFR 440.130. A mental disability, for the purposes of receiving services under this Section is established as follows:

- A) The identification of a diagnosis and a functional impairment in accordance with subsection (d)(1)(A)(i) (Assessment) and treatment recommendations by the LPHA or IP following the completion of the Assessment and Treatment Plan; or
  - B) For children under age 21 who do not meet the criteria listed in subsection (c)(2)(A), the identification of more than one documented criterion for a mental disorder listed in the Diagnostic and Statistical Manual of Mental Disorders (DSM-5), a documented impact on the child's functioning in more than one life domain, and treatment recommendations by the LPHA or IP following the completion of the Assessment and Treatment Plan;
  - 3) Provided consistent with any service limitations, utilization controls, and prior authorizations established by the Department. All prior authorizations for the services detailed in this Section shall be completed by the Department or its approved agent; and
  - 4) Provided for the direct benefit of the child, which may include support provided to immediate caregivers of the eligible child.
- d) Medicaid Rehabilitation Option (MRO). The following services are established as qualified mental health services under section 1905(a)(13)(C) of the Social Security Act (42 USC 1396d(19)).
- 1) Assessment and Treatment Planning
    - A) Assessment. Assessment means a formal process of gathering information regarding an individual's mental and physical status and presenting problems through direct contact with the individual and collaterals, resulting in the identification of the individual's mental health service needs. The service of Assessment includes establishing a diagnosis, treatment recommendations, and level of care determinations for service delivery and shall result in an initial or updated Assessment Report.

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- i) Assessment services may provide or determine a definitive or provisional diagnosis pursuant to DSM-5 or the International Classification of Diseases, 10<sup>th</sup> Revision – Clinical Modification (ICD-10). In the event that a rule-out diagnosis is utilized, the Assessment Report must contain documentation as to what additional diagnostic assessment activities will occur in order to provide a definitive diagnosis. A definitive diagnosis shall be determined within 90 days after the completion of the Assessment Report.
- ii) The Assessment Report shall be reviewed, approved and signed by the LPHA or IP.
- iii) At a minimum, the Assessment Report is updated at least every 12 months.
- iv) The Assessment may also include:
  - Clinical assessment activities, performed by, or under the supervision of, an LPHA or IP using a nationally standardized assessment instrument resulting in a written report or documented outcome that includes the identification of a clinical issue or tentative diagnosis to assist in the completion of the initial or updated Assessment Report;
  - Psychological testing activities, provided in accordance with the Clinical Psychologist Licensing Act and using a nationally standardized psychological assessment instrument, resulting in a written report that includes the identification of issues, tentative diagnosis and recommendations for treatment or services; and
  - The completion of the Level of Care Utilization System (LOCUS) activities.

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- v) Assessment services may be provided:
- By a Community Mental Health Center, Behavioral Health Clinic, or Independent Practitioner;
  - At all service locations and settings deemed appropriate for reimbursement, as detailed in the Department's published fee schedule;
  - On an individual basis;
  - By an MHP, QMHP, LPHA; and
  - By video, phone or face-to-face contact, notwithstanding the restriction on services provided via phone in Sections 140.6(n) and 140.403.

B) Treatment Plan Development. A process, based upon the Assessment Report and any additional evaluations, that results in a written Treatment Plan developed with the participation of the individual and the individual's parent or guardian, if applicable. The Treatment Plan is client focused; it defines the specific services to be provided, the individual's goals for those services, and the staff responsible for delivering the services; and it may include updating and modifications.

- i) The individual's written Treatment Plan will include a diagnosis, pursuant to subsection (d)(1)(A)(i).
- ii) The individual's Treatment Plan shall be reviewed, approved, and signed by the LPHA or IP.
- iii) At a minimum, the individual's Treatment Plan shall be updated at least every six months.
- iv) The individual and, if applicable, the individual's parent or guardian, will sign the written Treatment Plan to document their participation in development with the plan.



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- v) The individual and the individual's parent or guardian, if applicable, will be offered a complete copy of their Treatment Plan upon completion or revision.
  - vi) Treatment Plan services may be provided:
    - By a Community Mental Health Center, Behavioral Health Clinic, or Independent Practitioner;
    - At all service locations and settings deemed appropriate for reimbursement, as detailed in the Department's published fee schedule;
    - On an individual basis;
    - By an MHP, QMHP, LPHA; and
    - By video, phone or face-to-face contact, notwithstanding the restriction on services provided via phone in Sections 140.6(n) and 140.403.
- 2) General MRO Services
- A) Community Support Services. Community Support Services shall consist of therapeutic interventions that facilitate illness self-management, identification and use of natural supports, and skill building.
    - i) Community Support Services includes: engaging the individual to have input into his/her service delivery and recovery process; development of relapse prevention strategies and plans; assistance in development of functional, interpersonal and community coping skills (including adaptation to home, school, family and work environments); and skill-building related to symptom self-monitoring. Community Support Services may include an evidence-informed approach to skills training.

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ii) Community Support Services may only be provided:

- By a Community Mental Health Center or Behavioral Health Clinic;
- At all service locations and settings deemed appropriate for reimbursement, as detailed in the Department's published fee schedule;
- In an individual or group modality;
- By an RSA, MHP, QMHP, LPHA; and
- By video, phone or face-to-face contact, notwithstanding the restriction on services provided via phone in Sections 140.6(n) and 140.403.

B) Intensive Outpatient (IO) Services. Intensive Outpatient Services are scheduled group therapeutic sessions made available for at least four hours per day, five days per week, for individuals at risk of, or with a history of, psychiatric hospitalization.

i) IO Services may only be provided:

- By a Community Mental Health Center or Behavioral Health Clinic;
- Through programs approved pursuant to Table N;
- At all service locations and settings deemed appropriate for reimbursement, as detailed in the Department's published fee schedule;
- By a QMHP;
- In a group modality; and

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- On a face-to-face basis.
  - ii) IO services may be subject to prior authorization, pursuant to Section 140.40.
- C) Medication Administration. Medication Administration consists of preparing the individual and the medication for administration and observing the individual for possible adverse reactions. Medication Administration services may only be provided:
- i) By a Community Mental Health Center or Behavioral Health Clinic;
  - ii) At all service locations and settings deemed appropriate for reimbursement, as detailed in the Department's published fee schedule;
  - iii) On an individual basis;
  - iv) By face-to-face contact; and
  - v) By staff that hold a valid license in the state of practice and are legally authorized under state law or rule to administer medication, so long as that practice is not in conflict with the Illinois Nurse Practice Act or the Medical Practice Act of 1987 (e.g., a physician, a psychiatrist, advanced practice nurse, registered nurse or a practical nurse).
- D) Medication Monitoring. Medication Monitoring includes observation, evaluation and discussion of target symptoms responses, adverse effects, laboratory results, tardive dyskinesia screens, and new target symptoms or medications. Medication Monitoring services may only be provided:
- i) By a Community Mental Health Center or Behavioral Health Clinic;

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- ii) At all service locations and settings deemed appropriate for reimbursement, as detailed in the Department's published fee schedule;
  - iii) On an individual basis;
  - iv) By an RSA, MHP, QMHP or LPHA, as designated in writing to provide the service by staff that hold a valid license in the state of practice and are legally authorized under state law to prescribe medication pursuant to the Illinois Nurse Practice Act or the Medical Practice Act of 1987; and
  - v) By video or face-to-face contact, notwithstanding the restriction on services provided via phone in Sections 140.6(n) and 140.403. Phone consultation is allowed only when a client is experiencing adverse symptoms and phone consultation with another professional is necessary.
- E) Medication Training. Medication Training includes training individuals on self-administration and safeguarding of medication and communication with other professionals, family or caregivers on medication issues. Medication Training services may only be provided:
- i) By a Community Mental Health Center or Behavioral Health Clinic;
  - ii) At all service locations and settings deemed appropriate for reimbursement, as detailed in the Department's published fee schedule;
  - iii) In an individual or group modality;
  - iv) By video or face-to-face contact; and
  - v) By an RSA, MHP, QMHP or LPHA, as designated in writing to provide the service by staff that hold a valid

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license in the state of practice and are legally authorized under state law to prescribe medication pursuant to the Illinois Nurse Practice Act or the Medical Practice Act of 1987.

F) Psychosocial Rehabilitation (PSR). PSR shall be rehabilitative therapy for individuals designed to increase abilities and resources necessary for community living, socialization, work and recovery. Core activities include cognitive-behavioral interventions, problem solving, interventions to reduce or ameliorate symptoms of a co-occurring disorder and other rehabilitative interventions. PSR is provided in an organized program through individual and group interventions. The focus of treatment interventions includes capacity building to facilitate independent living and adaptation, problem solving and coping skills development.

i) PSR services may only be provided:

- On-site at a Community Mental Health Center;
- Through a program that is approved pursuant to Table N;
- In an individual or group modality. The staffing ratio for groups shall not exceed one full-time equivalent staff to 15 individuals;
- By an RSA, MHP, QMHP and LPHA; and
- By face-to-face contact.

ii) PSR may be subject to prior authorization, pursuant to Section 140.40.

G) Therapy/Counseling. Therapy/Counseling is a treatment modality that uses interventions based on psychotherapy theory and techniques to promote emotional, cognitive, behavioral or

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psychological changes. Therapy/Counseling Services may be provided:

- i) By a Community Mental Health Center, Behavioral Health Clinic, or Independent Practitioner;
- ii) At all service locations and settings deemed appropriate for reimbursement, as detailed in the Department's published fee schedule;
- iii) In an individual, group or family modality;
- iv) By an MHP, QMHP and LPHA; and
- v) By video, phone or face-to-face contact, notwithstanding the restriction on services provided via phone in Sections 140.6(n) and 140.403.

3) MRO Crisis Services

- A) Crisis Intervention. Crisis Intervention includes: crisis assessment, brief intervention, consultation, referral and linkage to other services.
- i) Crisis intervention services include pre-hospitalization screening of individuals age 0 through 20, to assess their ability to be stabilized in the community as an alternative to inpatient psychiatric hospitalization, pursuant to Section 5 of the Children's Mental Health Act of 2003 [405 ILCS 49].
  - ii) Crisis intervention services may be provided:
    - Prior to Assessment and Treatment Planning;
    - By a Community Mental Health Center, Behavioral Health Clinic, or Independent Practitioner;

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- At all service locations and settings deemed appropriate for reimbursement, as detailed in the Department's published fee schedule;
- On an individual basis;
- By a QMHP, LPHA or MHP with immediate access to a QMHP; and
- By video, phone or face-to-face contact, notwithstanding the restriction on services provided via phone in Sections 140.6(n) and 140.403.

4) Team-based MRO Services

A) Assertive Community Treatment (ACT) Services. ACT Services consist of integrated crisis, treatment and rehabilitative supports provided by an interdisciplinary team to individuals with serious and persistent mental illness or co-occurring mental health and substance use disorders. ACT Services are intended to promote symptom stability, management of co-morbid health conditions, and appropriate use of psychotropic medications, as well as to restore personal care, community living, work and social skills. ACT Services encompass counseling and therapy, medication management and monitoring, skill building, and crisis stabilization services. ACT Services focus on the restoration of functional skills (e.g., psychosocial, adaptive, self-care) to promote and maintain community living.

i) ACT Services shall be:

- Provided only by Community Mental Health Centers;
- Delivered by a team led by a full-time LPHA;
- At least one member of the team who is either a Certified Recovery Support Specialist (CRSS) or

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Certified Family Partnership Professional (CFPP), based upon the age of the clients served by the team. A person with lived experience may be included on a team that does not have a CRSS or CFPP if he/she obtains certification within 18 months after his/her date of hire; and

- Available 24 hours per day, seven days a week, each week of the year.

ii) ACT Services may only be provided:

- To eligible individuals age 18 or older;
- At all service locations and settings deemed appropriate for reimbursement, as detailed in the Department's published fee schedule;
- In an individual or group modality; and
- By video, phone or face-to-face contact, notwithstanding the restriction on services provided via phone in Sections 140.6(n) and 140.403.

iii) ACT Services may be subject to prior authorization, pursuant to Section 140.40.

B) Community Support Team (CST). CST consists of mental health rehabilitation services and supports to decrease hospitalization and crisis episodes and to increase community functioning in order for the individual to achieve rehabilitative, resiliency and recovery goals. CST facilitates illness self-management, skill building, identification and use of adaptive and compensatory skills, identification and use of natural supports, and use of community resources.

i) CST Services shall be:



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- Provided only by programs approved pursuant to Table N;
  - Delivered by a team led by a full-time QMHP; and
  - Available 24 hours per day, seven days a week, each week of the year.
- ii) CST Services may only be provided:
- By a Community Mental Health Center or Behavioral Health Clinic;
  - At all service locations and setting deemed appropriate for reimbursement, as detailed in the Department's published fee schedule;
  - On an individual basis;
  - By video, phone or face-to-face contact, notwithstanding the restriction on services provided via phone in Sections 140.6(n) and 140.403.
- iii) CST Services may be subject to prior authorization, pursuant to Section 140.40.
- e) Targeted Case Management (TCM). The following services are established pursuant to section 1905(a)(19) of the Social Security Act (42 USC 1396d(a)(19)).
- 1) Types of TCM Services
- A) Client-centered Consultation Case Management. Client-centered Consultation Case Management consists of client-specific professional communications among provider staff or between provider staff and staff of other providers who are involved with service provision to the individual. Professional communications include offering or obtaining a professional opinion regarding the

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individual's current functioning level or improving the individual's functioning level, discussing the individual's progress in treatment, adjusting the individual's current treatment, or addressing the individual's need for additional or alternative mental health services. Client-centered Consultation Case Management services may only be provided:

- i) To eligible individuals receiving one or more services detailed in Section 140.453(d)(2) (General MRO Services);
  - ii) By a Community Mental Health Center or Behavioral Health Clinic;
  - iii) At all service locations and settings deemed appropriate for reimbursement, as detailed in the Department's published fee schedule;
  - iv) On an individual basis;
  - v) By an RSA, MHP, QMHP and LPHA; and
  - vi) By video, phone or face-to-face contact, notwithstanding the restriction on services provided via phone in Sections 140.6(n) and 140.403.
- B) Mental Health Case Management Services. Mental Health Case Management Services consist of: assessment, planning, coordination and advocacy services for individuals who need multiple services and require assistance in gaining access to and in using behavioral health, physical health, social, vocational, educational, housing, public income entitlements and other community services to assist the individual in the community. Mental Health Case Management Services may also include identifying and investigating available resources, explaining options to the individual, and linking the individual with necessary resources. Mental Health Case Management Services may be provided:

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- i) Prior to Assessment and Treatment Planning;
  - ii) By a Community Mental Health Center or Behavioral Health Clinic;
  - iii) At all service locations and settings deemed appropriate for reimbursement, as detailed in the Department's published fee schedule;
  - iv) On an individual basis;
  - v) By an RSA, MHP, QMHP and LPHA; and
  - vi) By video, phone or face-to-face contact, notwithstanding the restriction on services provided via phone in Sections 140.6(n) and 140.403.
- C) Transition Linkage and Aftercare Case Management Services shall be provided to assist in an effective transition in living arrangements, consistent with the individual's welfare and development. This includes discharge from institutional settings, transition to adult services, and assisting the individual or the individual's family or caretaker with the transition.
- i) Transition, Linkage and Aftercare Limitation. The Department will not fund more than 40 hours of this service per State fiscal year for an eligible individual.
  - ii) Transition, Linkage and Aftercare may only be provided:
    - By a Community Mental Health Center or Behavioral Health Clinic;
    - At all service locations and settings deemed appropriate for reimbursement, as detailed in the Department's published fee schedule;
    - On an individual basis;

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- By an MHP, QMHP and LPHA; and
  - By video, phone or face-to-face contact, notwithstanding the restriction on services provided via phone in Sections 140.6(n) and 140.403.
- iii) Transition Linkage and Aftercare Case Management Services may be subject to prior authorization, pursuant to Section 140.40.
- 2) Limitation on Targeted Case Management Services. The Department shall not fund more than 240 total hours of targeted case management services per State fiscal year per individual (not per provider).

~~Words that are defined in 59 Ill. Adm. Code 132.25 have the same meaning when used in Sections 140.452 through 140.456.~~

~~"DCFS" means the Illinois Department of Children and Family Services.~~

~~"DHS" means the Illinois Department of Human Services.~~

~~"Screening, Assessment and Support Services (SASS)" means a program of intensive mental health services provided by an agency certified by DHS or DCFS to provide screening, assessment and support services to children with a mental illness or emotional disorder who are at risk for psychiatric hospitalization.~~

(Source: Amended at 42 Ill. Reg. 12986, effective June 25, 2018)

**Section 140.454 Types of Mental Health Services**

The specific types of mental health services for which payment will be made are:

- a) Mental health services meeting the standards in ~~8959~~ Ill. Adm. Code ~~140.453132~~;
- b) The screening and assessment authorized under 59 Ill. Adm. Code 131.40 for individuals under 21 years of age; ~~and~~

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- c) The crisis intervention and stabilization services authorized under 59 Ill. Adm. Code 131.50(a) provided during an individual's participation in the Screening, Assessment and Support Services program;~~for a period not to exceed 90 days for clients under 21 years of age.~~
- d) Subject to prior approval pursuant to Section 140.40, case management services for individuals, identified through the screening process specified in Section 140.642, transitioning from a nursing facility into residence in the community;  
and-
- e) Developmental testing for an infant and risk assessment screening for perinatal depression, for either the mother (prenatal or post-partum) or the infant, up to one year after delivery.

(Source: Amended at 42 Ill. Reg. 12986, effective June 25, 2018)

**Section 140.455 Payment for Mental Health Services**

- a) The amount approved for payment for mental health services described in Section 140.454 shall be based on the type and amount of service required by and actually delivered, and provided consistent with any service limitations, utilization controls, or prior approval processes established or authorized by the Department to a client.
- b) The payment amount for a service described in Section 140.454(a) through (d) is determined in accordance with the rate methodologies outlined in the Department's published fee schedule, available at <https://www.illinois.gov/hfs/MedicalProviders/MedicaidReimbursement/Pages/CMHP.aspx>~~59 Ill. Adm. Code 132.60.~~
- c) The payment amount for a service described in Section 140.454(e) shall be at the rate of reimbursement paid to a physician for the same service.

(Source: Amended at 42 Ill. Reg. 12986, effective June 25, 2018)

**Section 140.456 Hearings**

The Department shall initiate administrative proceedings pursuant to 89 Ill. Adm. Code 104,

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Subpart C, and Sections 140.13 through 140.19 to suspend or terminate the eligibility of providers of mental health ~~clinic~~ services to participate in the Illinois Medical Assistance Program ~~when the provider has failed to comply with~~ where:

- a) ~~The provider has failed to comply with~~ 59 Ill. Adm. Code 132; ~~and/or~~
- b) Sections 140.452 through 140.455;
- c) Section 140.460;
- d) Section 140.499 or Table O; and/or
- e) Any of the grounds for suspension or termination set forth in Section 140.16 or Section 140.17 are present.

(Source: Amended at 42 Ill. Reg. 12986, effective June 25, 2018)

**Section 140.460 Clinic Services**

- a) The following types of clinics are eligible to receive payment for clinic services:
  - ~~1a)~~ Hospital-based organized clinics;
  - ~~2b)~~ Encounter rate clinics;
  - ~~3e)~~ Federally Qualified Health Centers (FQHC):
  - ~~4d)~~ Rural health clinics; and
- e) ~~Mental health clinics (see Sections 140.452 through 140.456); and~~
  - ~~5f)~~ Maternal and Child Health Clinics.
- b) Behavioral Health Clinics are eligible to receive payment for Community-based Mental Health Services as defined in Section 140.453, as detailed in the Department's published fee schedule.

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- c) Clinics enrolled for participation in the Medical Assistance Program pursuant to Sections 140.11 and 140.12 to receive reimbursement on an encounter rate basis are prohibited from receiving reimbursement from the Department for the provision of services in Section 140.453 in any form other than their established behavioral health encounter rate.

(Source: Amended at 42 Ill. Reg. 12986, effective June 25, 2018)

**Section 140.499 Behavioral Health Clinic**

The Behavioral Health Clinic (BHC) shall:

- a) Provide community-based mental health services pursuant to Section 140.453;
- b) Enroll with the Department as a medical provider pursuant to Section 140.11 and comply with Subparts A and B;
- c) Not be enrolled for participation in the Medical Assistance Program as a clinic pursuant to Section 140.460(a) or as a Community Mental Health Center pursuant to 59 Ill. Adm. Code 132;
- d) Provide cost reporting information to the Department in a manner and format specified by the Department with a minimum of 90 days written notice; and
- e) Comply with requirements established in Table O.

(Source: Added at 42 Ill. Reg. 12986, effective June 25, 2018)

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**Section 140.TABLE N Program Approval for Specified Behavioral Health Services**

- a) Purpose. Services requiring program approval, as required in Section 140.453, shall be approved based upon the criteria outlined in this Section. For the purposes of this Section, Department shall mean the Department of Healthcare and Family Services (HFS) or its agent.
  
- b) Process
  - 1) Initial Program Approval
    - A) Enrolled providers, and providers seeking enrollment with HFS pursuant to Section 140.452, to provide one or more of the services detailed in Section 140.453 that require program approval, must identify their intention to provide those services with the HFS Provider Participation Unit through the Illinois Medicaid Program Advanced Cloud Technology (IMPACT) portal.
    - B) The Department shall process the provider's enrollment application, or updated materials, pursuant to Subpart B.
    - C) Following the provider's enrollment, or updated enrollment status, the Department will perform program approval of the provider's service program within 90 days.
    - D) The program approval process shall include:
      - i) The annual submission of an attestation detailing the provider's adherence with Section 140.453 and this Table N, for each service for which the provider is seeking program approval.
      - ii) The review of provider program plans, policies, procedures, staffing materials, and other documents required by the Department to determine compliance with Section 140.453 and this Table N, for each service for which the provider is seeking program approval.



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- iii) Program approval of PSR and IO service programs shall require an on-site visit prior to approval.
- iv) The Department may, at its sole discretion, elect to perform on-site program approval activities for any and all services detailed in this Table N.
- E) The Department will notify the provider of the date and format of its program approval activities in writing. For program approval activities that are subject to on-site review, the Department will notify the provider at least 10 days prior to the scheduled review. The Provider must:
  - i) Make the physical plant and site locations available to the Department during clinical review;
  - ii) Make all administrative and clinical staff, required program plans, procedures manuals, and other necessary documentation required to complete the program approval review available to the Department during the review.
- F) The Department shall utilize the program approval criteria detailed in subsection (c) of this Table N for each of the qualifying service program types to be reviewed.
- G) Following the on-site review, the Department shall notify the provider in writing, within 10 business days, of its program approval findings.
  - i) Providers determined to be approved shall be enrolled for a period of 12 months for the service program specialty in IMPACT.
  - ii) Providers determined not to be approved:
    - May request programmatic technical assistance from the Department. Throughout the period of receiving technical assistance, and at the sole

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discretion of the Department, the Department may work jointly with the provider to remedy outstanding issues and approve the provider's program.

- Providers determined not to be approved shall be notified of their rights to appeal pursuant to subsection (e), following the receipt of technical assistance from the Department.

2) Program Approval/Annual Re-Approval. Following successful completion of initial program approval, providers shall have their service programs reviewed and re-approved annually pursuant to subsection (b)(1)(D) through (G).

A) Providers determined to be re-approved shall continue to be enrolled for the service program specialty in IMPACT for an additional period of 12 months.

B) Providers failing to continue to meet the approval standards shall be issued a Notice of Deficiencies. The Notice of Deficiencies shall inform the provider that it is granted 30 a day period to remedy all identified deficiencies and that technical assistance is available from the Department.

i) Providers that remedy identified deficiencies shall be re-approved pursuant to subsection (b)(2)(A).

ii) Providers that fail to remedy identified deficiencies shall be provided Final Notice from the Department upon the close of the 30 day period established by the Notice of Deficiencies. Upon the date of issuance of Final Notice, the provider shall be informed of its right to appeal and the availability of technical assistance (see subsection (b)(1)(G)(ii)).

c) Services

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- 1) Community Support Team (CST) Program Approval. The provider must attest annually to CST Services meeting the standards detailed in this subsection (c)(1). Additionally, the provider shall demonstrate compliance with the following requirements through policy, procedures, aggregated service detail and/or client record documentation.
  - A) Programming. The provider shall ensure CST Services are delivered consistently with the following:
    - i) Services. Individuals served in the CST program shall have access to the interventions detailed in Section 140.453(d)(2)(A) and (G).
    - ii) Service Delivery
      - CST Services are to be provided in the individual's natural setting, with teams delivering no fewer than 60 percent of services in the home or community setting.
      - CST Services shall be provided during times and at locations that reasonably accommodate individual's service and treatment needs.
    - iii) Staffing Ratio. CST Services are delivered with staffing ratios that ensure that no more than 18 individuals per each full time equivalent staff are attributed to CST.
  - B) Staffing Requirements. The provider shall ensure that the CST team is established consistently with the following:
    - i) A team lead (see Section 140.453(d)(4)(B)(i));
    - ii) A team member who is either a Certified Recovery Support Specialist (CRSS) or Certified Family Partnership Professional (CFPP), based upon the age of the individuals served by the team. A person with lived experience may be included on a team that does not have a CRSS or CFPP if

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he/she obtains certification within 18 month after his/her date of hire; and

iii) One other staff member meeting the credentials to provide one or more of the services detailed in in Section 140.453(d)(2)(A) and (G).

C) Targeted Population Profile. The provider shall ensure the predominant population of individuals receiving CST Services from their CST program will exhibit 3 or more of the following conditions:

i) At risk of institutionalization;

ii) Repeated utilization of crisis services or emergency services for an underlying behavioral health condition;

iii) Current, or history within the last three months of (including threats of):

• Suicidal ideation or gestures; or

• Harm to self or others;

iv) History of failed treatment compliance with elements of the individual's Treatment Plan, Crisis Safety Plan or prescribed medications impacting his/her behavioral health condition;

v) Frequent utilization of detoxification services;

vi) Behavioral health issues that have not shown improvement through participation in traditional outpatient behavioral health services; or

vii) Compounding treatment factors, such as:

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- Medical complexity, including cognitive impairment, additional medical conditions, and/or medication resistance;
  - Issues with social determinants, including chronic homelessness, repeat arrest, and/or incarceration; or
  - Behavioral complexity, including inappropriate public behavior (e.g., public intoxication, indecency, disturbing the peace) or other behavioral problems.
- D) Provider-based Utilization Management. The provider shall establish a CST Service review process that adheres to the following:
- i) The team shall meet weekly to review all individuals participating in the CST program and their progress in services.
  - ii) The CST team lead shall review, with the referring LPHA, the Assessment and Treatment Plan and CST Services on a monthly basis to ensure ongoing necessity for service delivery.
  - iii) The LPHA shall:
    - Review each individual's progress in service; and
    - Identify any necessary changes in CST Services, including transition to less intensive services, consistent with the participating individual's Assessment and Treatment Plan.
- 2) IO Program Approval. The provider must attest annually to IO Services meeting the standards detailed in this subsection (c)(2). Additionally, the provider shall demonstrate compliance with the following requirements

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through policy, procedures, aggregated service detail, and/or client record documentation.

- A) Programming. The provider shall ensure IO Services are delivered consistently with the following:
- i) Active Treatment. The provider shall program IO Services to ensure participants are provided with active treatment, meaning that activities and therapies are not primarily recreational or diversionary. IO Services are provided in response to the participating individual's condition with a reasonable expectation to:
- Improve or maintain the individual's condition;
  - Improve functional level; and
  - Prevent institutionalization.
- ii) IO programming provides a series of time-limited, structured, group interventions specific to the needs of the participating individuals, including psychoeducational, skills-development, crisis de-escalation, and other therapeutic interventions. IO programming shall be evidence-informed and delivered through the use of a standardized curriculum model, when available.
- B) Staffing Requirements. The provider shall ensure that IO Service programs are established and include staffing ratios. IO Service staffing ratios for groups shall not exceed one full-time equivalent staff to 8 individuals for adults and one full-time equivalent staff to 4 individuals for youth.
- C) Targeted Population Profile. The provider shall ensure the predominant population of individuals receiving IO Services from their IO program meet the criteria in this subsection (c)(2)(C):

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- i) Recognize their condition and seek to manage that condition through lower intensity community services;
    - ii) Are at risk of institutionalization; and
    - iii) Have sufficient cognitive ability to benefit from IO Services.
  - D) Provider-based Utilization Management. The provider shall establish an IO Service review process that adheres to the following:
    - i) The IO staff shall review, with the referring LPHA, the Assessment and Treatment Plan and IO Services on a weekly basis.
    - ii) The LPHA shall review each individual's diagnosis and identify targeted IO Service topics and goals to be addressed through the provider's IO Service program.
- 3) PSR Program Approval. The Provider must attest annually to PSR Services meeting the standards detailed in this subsection (c)(3). Additionally, the provider shall demonstrate compliance with the following requirements through policy, procedures, aggregated service detail, and/or client record documentation.
- A) Programming. The provider shall ensure PSR Services are delivered consistently with the following:
  - i) Active Treatment. The provider shall develop PSR Services to ensure participants are provided with active treatment, meaning activities and therapies are not primarily recreational or diversionary. PSR Services are provided in response to the individual's condition, with a reasonable expectation to:
    - Improve or maintain the individual's condition;

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- Improve functional level; and
  - Prevent institutionalization.
- ii) Co-occurring Treatment. PSR programs shall have the ability to provide services and interventions to individuals with co-occurring psychiatric and substance use disorder conditions.
- B) Staffing. The provider shall ensure that PSR Service programs are established consistently with the following:
- i) PSR Program Director. The PSR program shall have a full-time Program Director that meets the requirements of a QMHP (see Section 140.453(b)(2)). The Program Director shall be consistently scheduled onsite, spending at least half of his/her time in the provision of PSR Services.
- ii) All PSR program staff shall have direct access to the PSR Program Director, or other delegated QMHP, at all times during PSR Service delivery.
- C) Targeted Population Profile. The provider will ensure the predominant population of individuals receiving PSR Services from their PSR program will meet the criteria in this subsection (c)(3)(C):
- i) Require a minimum of 20 hours per week of therapeutic services as evidenced in the plan of care;
- ii) Benefit from a coordinated program of services and require more than individual sessions of outpatient treatment;
- iii) Are not eligible to receive similar services under a facility payment rate;
- iv) Have an adequate support system while not actively engaged in the program;



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- v) Have a mental health diagnosis;
  - vi) Are determined not to be dangerous to self or others; and
  - vii) Have the cognitive and emotional ability to participate in the active treatment process and can tolerate the intensity of PSR Services.
- D) Provider-based Utilization Management. The provider shall establish a PSR Service review process that adheres to the following:
- i) The PSR staff shall review, with the referring LPHA, the Assessment and Treatment Plan and PSR Services minimally on the following schedule:
    - Within 14 days after admission to the PSR program; and
    - Once every 30 days, following the initial 14 day period.
  - ii) The LPHA shall:
    - Validate the individual's diagnosis, establish the PSR Service goals with the individual, and direct the type, amount, duration and frequency of intervention to be delivered during the individual's participation at the PSR program.
    - Certify that the individual cannot otherwise be stabilized in the community without participating in PSR Services, placing the individual at risk of institutionalization.
- d) Transferability. Program approval is assignable or transferable consistent with the policies and procedures established by the HFS Provider Participation Unit

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related to the assignment and transferability of a provider's enrollment status with HFS.

- e) Appeals. For appeals regarding program approval, the following shall apply:
- 1) The HFS rules for Medical Vendor Hearings (89 Ill. Adm. Code 104.Subpart C) shall apply to all appeals under this Section, except that:
    - A) Informal review of any appealable issue must be completed by the Department's Bureau of Behavioral Health (BBH) pursuant to this Section before formal appeal of the issue may be requested to the Department's Bureau of Administrative Hearings (BAH); and
    - B) 89 Ill. Adm. Code 104.204, 104.205, 104.206, 104.207, 104.208, 104.210, 104.211, 104.213, 104.216, 104.217, 104.249, 104.260, 104.272, 104.273 and 104.274 shall not apply.
  - 2) A provider may appeal the following actions detailed in this Part:
    - A) Refusal to issue program approval; or
    - B) Revocation of program approval resulting in disenrollment from participation for the specific clinical service in question.
  - 3) Informal Review Process
    - A) The provider seeking to appeal any of the issues in subsection (e)(2) must first request informal review of the issue by BBH before the issue may be appealed to BAH.
      - i) Request for informal review must be submitted in writing to BBH within 10 days after the date of notice of the contested action and must clearly identify the issue or action for which informal review is sought.
      - ii) If the request for informal review is received by BBH prior to the Department's intended action taking effect, the action shall be stayed until completion of the informal review and,

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if applicable, expiration of the subsequent 10 day period to formally appeal the outcome of the informal review to BAH.

- B) The BBH shall complete the informal review of the contested action within 30 days after receipt of the request and shall determine whether to maintain, reverse or modify the action or take other action as necessary.
- i) BBH may request and review all materials pertaining to the informal review held by the Department's vendors, agents or providers.
- ii) BBH shall notify the individual or authorized representative in writing of the result of the informal review. The written notification shall:
- State the result of the informal review, including action to be taken, if any;
  - State the reason and policy basis for the action; and
  - Provide notice of the right to appeal and instructions on how to proceed with formal appeal through BAH.
- C) The provider may appeal the result of the informal review by filing a written request for appeal with BAH within 10 days after the date of the notice of the result of the informal review. If the request for appeal is received by BAH prior to Department's intended action taking effect, the action shall be stayed until the appeal is resolved through final administrative decision or withdrawal of the appeal.
- D) The final administrative decision shall be issued to the interested parties within 90 days after the date the appeal is filed with BAH unless additional time is required for proper disposition of the appeal.

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- E) Appropriate action implementing the final administrative decision shall be taken within 30 days after the date the final administrative decision is issued.

(Source: Added at 42 Ill. Reg. 12986, effective June 25, 2018)

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**Section 140.TABLE O Criteria for Participation as a Behavioral Health Clinic**

- a) General Requirements. A Behavioral Health Clinic (BHC) shall:
- 1) Operate in a manner compliant with all applicable State and federal laws, regulations and adopted policies and procedures;
  - 2) Establish and maintain policies and procedures to be used by all staff in the administration of programs and delivery of services;
  - 3) Ensure facilities, staff and services are culturally competent, consistent with the needs of individuals served. Culturally competent shall mean compliance with the national Culturally and Linguistically Appropriate Standards (CLAS) (<https://www.thinkculturalhealth.hhs.gov/clas>), as detailed by the HHS Office of Minority Health;
  - 4) Establish policies, protocols, and other necessary contracts or agreement to ensure individuals can access and maintain active support from an independent practitioner licensed by the State of Illinois to provide consultation, evaluation, prescription and management of medication; and
  - 5) Hold, at a minimum, quarterly meetings with individuals served and community stakeholders to obtain feedback.
- b) Clinic Location. BHC locations must meet the following standards:
- 1) Not be an individual's residence or a home;
  - 2) Provide a sanitary and comfortable environment for individuals and staff conducive to the provision of behavioral health services;
  - 3) Establish and maintain policies and procedures specific to emergency disaster plans, fire evacuation plans, and procedures for managing the basic maintenance of the site;
  - 4) Provide an environment reflective of the interventions being offered and populations being served that, at a minimum, shall afford privacy to individuals;

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- 5) Meet health and safety standards, as applicable;
  - 6) Be accessible in accordance with the Americans With Disabilities Act of 1990 (42 USC 12101), as amended, and the Illinois Accessibility Code (71 Ill. Adm. Code 400) and the ADA Accessibility Guidelines (28 CFR 36), whichever is more stringent. Providers must maintain a written policy for reasonable accommodations for the provision of services to individuals unable to access the provider's sites due to physical inaccessibility;
  - 7) Display a current letter from the Office of the State Fire Marshal or the local fire authority demonstrating annual compliance with 41 Ill. Adm. Code Part 100; and
  - 8) Comply with building codes adopted by local ordinance.
- c) Personnel Standards. A BHC shall:
- 1) Maintain sufficient staff of appropriate training and credentialing to meet the requirements for service delivery;
  - 2) Employ a full-time Clinical Director who meets the requirements of a Licensed Practitioner of the Healing Arts (LPHA) to oversee and direct the clinical functions of the BHC;
  - 3) Perform and record sufficient background checks on all prospective employees, volunteers, interns, unpaid personnel, or other individuals who are prospective agents of the BHC. Background checks shall be retained in the individual's personnel record. The BHC shall, at a minimum:
    - A) Access the Department of Public Health's Health Care Worker Registry concerning the person. If the Registry has information substantiating a finding of abuse or neglect against the person, the provider shall not engage him/her in any capacity;
    - B) Perform background checks in compliance with requirements set forth in the Health Care Worker Background Check Act [225 ILCS

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46] and in the Illinois Department of Public Health's rules (77 Ill. Adm. Code 955);

- C) Review the Provider Sanctions List provided by the HFS Office of Inspector General (HFS OIG) to ensure the provider is not on the list of sanctioned providers. The provider shall not employ or contract with any provider found on the HFS OIG Provider Sanctions List; and
- D) Meet any additional background check requirements required by the population or funder as approved by the Department.

d) Organizational Requirements. A BHC shall:

- 1) Maintain an appropriate level of insurance against professional and physical liabilities;
- 2) Not subcontract for the delivery of services detailed in Section 140.453.

e) Service Delivery Requirements. A BHC shall:

- 1) Coordinate service delivery with the individual's primary care provider, care coordination entity, and/or managed care entity;
- 2) Seek to enhance individual engagement through the:
  - A) Availability of services during non-traditional working hours (e.g., weekends and evening periods); and
  - B) Delivery of services in the home or other community-based settings.
- 3) Develop policies and procedures to ensure individuals receive referrals for substance use disorder treatment services, as needed.

(Source: Added at 42 Ill. Reg. 12986, effective June 25, 2018)

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: General Hunting and Trapping on Department-Owned or -Managed Sites
- 2) Code Citation: 17 Ill. Adm. Code 510
- 3) Section Number: 510.10                      Adopted Action:  
Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 1.2, 1.3, 1.4, 1.13, 1.20, 2.1, 2.2, 2.6, 2.7, 2.9, 2.13, 2.18, 2.20, 2.24, 2.25, 2.26, 2.27, 2.28, 2.30, 2.33 and 3.5 of the Wildlife Code [520 ILCS 5/1.2, 1.3, 1.4, 1.13, 1.20, 2.1, 2.2, 2.6, 2.7, 2.9, 2.13, 2.18, 2.20, 2.24, 2.25, 2.26, 2.27, 2.28, 2.30, 2.33 and 3.5] and by Sections 805-515 of the Civil Administrative Code of Illinois [20 ILCS 805/805-515].
- 5) Effective Date of Rule: June 22, 2018
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rule, including all material incorporated by reference, is on file in the Department of Natural Resources' principal office and is available for public inspection.
- 9) Notice of Proposal published in *Illinois Register*: 42 Ill. Reg. 4221; March 9, 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? No agreements were necessary.
- 13) Will this rulemaking replace any emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No



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- 15) Summary and Purpose of Rulemaking: This Part is being amended to make Statewide program changes, open and close State-owned or -managed sites, and amend procedures at State sites.
- 16) Information and questions regarding this adopted rule shall be directed to:

Javonna Ackerman, Legal Counsel  
Department of Natural Resources  
One Natural Resources Way  
Springfield IL 62702-1271

217/557-0126

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

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF ADOPTED AMENDMENT

TITLE 17: CONSERVATION  
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES  
SUBCHAPTER b: FISH AND WILDLIFEPART 510  
GENERAL HUNTING AND TRAPPING ON  
DEPARTMENT-OWNED OR -MANAGED SITES

## Section

- 510.10 General Site Regulations  
510.20 Hunting and Trapping by Special Permit

**AUTHORITY:** Implementing and authorized by Sections 1.2, 1.3, 1.4, 1.13, 1.20, 2.1, 2.2, 2.6, 2.7, 2.9, 2.13, 2.18, 2.20, 2.24, 2.25, 2.26, 2.27, 2.28, 2.30, 2.33 and 3.5 of the Wildlife Code [520 ILCS 5/1.2, 1.3, 1.4, 1.13, 1.20, 2.1, 2.2, 2.6, 2.7, 2.9, 2.13, 2.18, 2.20, 2.24, 2.25, 2.26, 2.27, 2.28, 2.30, 2.33 and 3.5] and by Section 805-515 of the Civil Administrative Code of Illinois [20 ILCS 805/805-515].

**SOURCE:** Adopted at 5 Ill. Reg. 8011, effective July 24, 1981; codified at 5 Ill. Reg. 10633; amended at 6 Ill. Reg. 9637, effective July 21, 1982; amended at 7 Ill. Reg. 10775, effective August 24, 1983; amended at 8 Ill. Reg. 13700, effective July 24, 1984; amended at 9 Ill. Reg. 11610, effective July 16, 1985; amended at 10 Ill. Reg. 15597, effective September 16, 1986; amended at 11 Ill. Reg. 9535, effective May 5, 1987; amended at 12 Ill. Reg. 11724, effective June 30, 1988; amended at 13 Ill. Reg. 10583, effective June 19, 1989; amended at 14 Ill. Reg. 14762, effective September 4, 1990; amended at 15 Ill. Reg. 9966, effective June 24, 1991; amended at 16 Ill. Reg. 11064, effective June 30, 1992; amended at 17 Ill. Reg. 10775, effective July 1, 1993; amended at 19 Ill. Reg. 10608, effective July 1, 1995; recodified by changing the agency name from Department of Conservation to Department of Natural Resources at 20 Ill. Reg. 9389; amended at 22 Ill. Reg. 14804, effective August 3, 1998; amended at 24 Ill. Reg. 8923, effective June 19, 2000; emergency amendment at 28 Ill. Reg. 13809, effective October 1, 2004, for a maximum of 150 days; amended at 29 Ill. Reg. 1364, effective January 10, 2005; amended at 30 Ill. Reg. 12126, effective June 28, 2006; amended at 37 Ill. Reg. 3068, effective March 4, 2013; amended at 38 Ill. Reg. 22714, effective November 18, 2014; amended at 39 Ill. Reg. 10897, effective July 27, 2015; amended at 41 Ill. Reg. 8468, effective June 28, 2017; amended at 42 Ill. Reg. 13049, effective June 22, 2018.

**Section 510.10 General Site Regulations**

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- a) Regulations
- 1) All the regulations cited in this Part apply to all Department species rules, unless the species rule is more restrictive.
  - 2) The legal possession of a concealed firearm by a validly licensed concealed carry licensee (see 430 ILCS 66) is allowed within designated areas as defined in subsection (b)(2), subject to Section 2.33 of the Wildlife Code on illegal devices and State refuges, the prohibitions set forth in Section 65 of the Firearm Concealed Carry Act and any applicable federal regulations. Violation is a Class B misdemeanor (see 520 ILCS 5/2.33), except that violation of Section 2.33(g), (i), (o), (p), (y) and (cc) are Class A misdemeanors with a minimum \$500 fine and a maximum \$5,000 fine, in addition to other statutory penalties. Nothing in this Part shall be construed to criminalize the legal possession of a concealed firearm by a validly licensed concealed carry licensee (see 430 ILCS 66).
- b) Definitions
- 1) Unauthorized person – any individual who is not a Department employee, an individual who is not present for the purpose of hunting or trapping, or is an individual who does not fall under the definition of "non-hunting or non-trapping partner" pursuant to subsections (b)(10) and (d)(8).
  - 2) Designated area – a defined location at a site with a set boundary within which only a specified recreational activity such as hunting or trapping may take place during a publicly announced time period.
  - 3) Hunting/Trapping area – any portion of a site where actual hunting and/or trapping takes place. It does not include places such as parking lots, check stations, pavilions, or picnic areas associated with a hunting/trapping area.
  - 4) Restricted area – a defined location at a site with a set boundary within which hunting and/or trapping is prohibited.
  - 5) Refuge area – a defined location at a site with a set boundary within which no public activity or presence is allowed, except as authorized by the Department when it is determined that activity such as nature studies,

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hiking, fishing or camping would not be detrimental to the purpose of the refuge.

- 6) Adult – a person 18 years of age or older.
  - 7) Waterfowl rest area – a defined location at a site with a set boundary within which no public activity or presence is allowed for a specified period of time, except as authorized by the Department.
  - 8) Hunter or trapper quota – The maximum number of hunters or trappers that can be accommodated at a site at any one time. Hunter and trapper quotas are determined by the formula of one hunter or trapper per 10-40 huntable acres. The number of huntable acres is determined by, but not limited to, the biological studies on the number of available animals within a species, the condition, topography and configuration of the land at the site, the condition of the roads at the site and the number of employees available to work at the site.
  - 9) Publicly announced – The information referred to will be included on the Department's Internet Home Page at [www.dnr.illinois.gov](http://www.dnr.illinois.gov), provided to outdoor writers for newspapers, and placed on the Department's Toll Free Hotline.
  - 10) Non-hunting or non-trapping partner – a person who accompanies a hunter or trapper and does not hunt or trap during the trip.
- c) It shall be unlawful:
- 1) For any person to possess any alcoholic beverage or illegal drug or be under the influence of alcohol, illegal drugs, or intoxicating compounds while in any hunting/trapping area for the purpose of hunting or trapping.
  - 2) To hunt or trap on any site with a manned check station without first declaring game killed on a previous hunt and in possession either on the hunter's person or in his vehicle.
  - 3) To construct or use any tree stand using nails, screws or any device which pierces or cuts the bark of the tree on which it is installed.

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- 4) To hunt or trap in a restricted area.
  - 5) For unauthorized persons to use or occupy in any manner designated hunting areas during the permit dove hunting season and controlled pheasant hunting season at sites holding such seasons, or during any hunting season where such restrictions are so posted at the site, when authorized hunting is in progress.
  - 6) To enter a refuge, restricted area or waterfowl rest area unless authorized by the Department.
  - 7) To hunt or trap on any Department-owned or -managed land that is not a designated area pursuant to applicable species rules (17 Ill. Adm. Code 530, 550, 570, 590, 650, 660, 670, 680, 690, 710, 715, 720, 730, and 740).
  - 8) To buy, sell or commercialize hunting or trapping rights, directly or indirectly, except that this does not apply to Department of Natural Resources hunting or trapping fees or to the operation of controlled pheasant hunting on Department lands pursuant to a written concession agreement.
  - 9) To hunt or trap without a valid permit where permits are required.
  - 10) To hunt with any weapon except shotgun or bow and arrow unless otherwise specified.
  - 11) To track deer with dogs on any Department owned or managed site during hours when deer hunting is being conducted on the site.
  - 12) To use or occupy a ground blind during any firearm deer season, unless at least 400 square inches of solid, vivid blaze orange material is securely attached to the uppermost portion of the blind and a substantial amount of orange is visible for 360 degrees.
- d) Specific Management Procedures
- 1) Specific management procedures will be posted at either check stations or

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site parking lots at the site so the procedures will be visible to the public.

- 2) Where there is a check station in operation, or where designated, hunters must sign in and/or sign out, and report their kill within 15 minutes, or as posted, after completing their hunt. Some areas require the wearing of a back patch and depositing hunting license (or Firearm Owner's Identification card if the hunter is exempt from buying a license).
- 3) In the event that Department budget reductions or site staffing reductions make the operation of check stations impractical, State sites that now require check stations and other restrictive hunter regulations may be opened to statewide regulations or closed to hunting by posting such notice at the site.
- 4) Statewide regulations shall apply at sites where windshield cards are issued, except that each hunter must obtain a free site windshield card online from the Department website. This windshield card must be displayed under the vehicle windshield, face up, and with the windshield card number visible. Hunters must report their annual harvest online (even if the hunter did not hunt) by February 15 or two weeks after the season closes for those seasons ending after February 1. Hunters shall forfeit their hunting privileges at the site for the following year if they fail to report by the above deadline [for two consecutive hunt years](#).
- 5) Department will have the authority to issue site specific deer permits in addition to any other deer permits issued by the Department (see Parts 650, 660, 670 and 680) and to designate the sex of deer (antlered or antlerless) that hunters may harvest through site-specific regulations.
- 6) All hunter or trapper quotas are filled on a first come-first served basis unless a drawing or special permit is used. The Department shall use a special permit or drawing whenever past hunter or trapper participation at a particular site reveals that the demand exceeds the quota established by the Department. Hunters or trappers will be notified as expeditiously as possible through site postings, news releases or public announcements when quotas are established.
- 7) During pheasant, rabbit, quail and partridge season, hunters are required to

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wear a cap and upper outer garment of solid and vivid blaze orange of at least 400 square inches while hunting pheasant, quail, Hungarian partridge, rabbit, snipe, rail and woodcock.

- 8) Non-hunting or non-trapping partners may accompany hunters and trappers on their hunting or trapping trips. Partners must be unarmed and remain with the hunter or trapper throughout the trip. On sites where special permits are required, each permit holder or party is limited to one non-hunting or non-trapping partner per trip. On sites with waterfowl blinds, non-hunters count towards the blind's maximum occupancy.

(Source: Amended at 42 Ill. Reg. 13049, effective June 22, 2018)

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- 1) Heading of the Part: Cock Pheasant, Hungarian Partridge, Bobwhite Quail, and Rabbit Hunting
- 2) Code Citation: 17 Ill. Adm. Code 530
- 3) 

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
530.80	Amendment
530.95	Amendment
530.110	Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 1.3, 1.4, 1.13, 2.1, 2.2, 2.6, 2.7, 2.13, 2.27, 2.30, 2.33, 3.5, 3.27, 3.28 and 3.29 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.13, 2.1, 2.2, 2.6, 2.7, 2.13, 2.27, 2.30, 2.33, 3.5, 3.27, 3.28 and 3.29].
- 5) Effective Date of Rules: June 22, 2018
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rules, including all material incorporated by reference, is on file in the Department of Natural Resources' principal office and is available for public inspection.
- 9) Notice of Proposal published in *Illinois Register*: 42 Ill. Reg. 4229; March 9, 2018
- 10) Has JCAR issued a Statement of Objections to this rulemaking? No
- 11) Differences between Proposal and Final Version: In Section 530.110(b), "(Alexander County)" has been added after "Horseshoe Lake State Conservation Area" and in Section 530(b)(2), "River" has been added after "Mackinaw".
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? No agreements were necessary.
- 13) Will this rulemaking replace any emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No



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15) Summary and Purpose of Rulemaking: This Part has been amended to make Statewide program changes, open and close State-owned or -managed sites, and amend procedures at State sites.

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

Javonna Ackerman, Legal Counsel  
Department of Natural Resources  
One Natural Resources Way  
Springfield IL 62702-1271

217/557-0126

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

## DEPARTMENT OF NATURAL RESOURCES

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TITLE 17: CONSERVATION  
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES  
SUBCHAPTER b: FISH AND WILDLIFEPART 530  
COCK PHEASANT, HUNGARIAN PARTRIDGE,  
BOBWHITE QUAIL, AND RABBIT HUNTING

Section	
530.10	Statewide General Regulations
530.20	Statewide Cock Pheasant, Hungarian Partridge, Bobwhite Quail, and Cottontail and Swamp Rabbit Regulations
530.30	Statewide Hungarian Partridge Regulations (Repealed)
530.40	Statewide Bobwhite Quail Regulations (Repealed)
530.50	Statewide Rabbit Regulations (Repealed)
530.60	Statewide Crow Regulations (Repealed)
530.70	Permit Requirements for Fee Hunting of Pheasant, Quail and Rabbit at Controlled Permit Hunting Sites
530.80	Regulations for Fee Hunting of Pheasant, Quail and Rabbit at Controlled Permit Hunting Sites
530.85	Youth Pheasant Hunting Permit Requirements
530.90	Illinois Youth Pheasant Hunting Sites Permit Requirements (Repealed)
530.95	Youth Pheasant Hunting Regulations
530.100	Illinois Youth Pheasant Hunting Regulations (Repealed)
530.105	Regulations for Fee Hunting of Pheasant, Hungarian Partridge, Quail and Rabbit at Controlled Daily Drawing Pheasant Hunting Sites (Repealed)
530.110	Regulations for Non-Fee Hunting of Cock Pheasant, Hungarian Partridge, Quail, and Rabbit at Various Department-Owned or -Managed Sites
530.115	Regulations for Hunting by Falconry Methods at Various Department-Owned or -Managed Sites
530.120	Regulations for Hunting Crow at Various Department-Owned or -Managed Sites (Repealed)

AUTHORITY: Implementing and authorized by Sections 1.3, 1.4, 1.13, 2.1, 2.2, 2.6, 2.7, 2.13, 2.27, 2.30, 2.33, 3.5, 3.27, 3.28 and 3.29 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.13, 2.1, 2.2, 2.6, 2.7, 2.13, 2.27, 2.30, 2.33, 3.5, 3.27, 3.28 and 3.29].

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SOURCE: Adopted at 5 Ill. Reg. 8777, effective August 25, 1981; codified at 5 Ill. Reg. 10634; amended at 6 Ill. Reg. 10667, effective August 20, 1982; amended at 7 Ill. Reg. 10755, effective August 24, 1983; amended at 8 Ill. Reg. 21574, effective October 23, 1984; amended at 9 Ill. Reg. 15846, effective October 8, 1985; amended at 10 Ill. Reg. 15579, effective September 16, 1986; emergency amendment at 10 Ill. Reg. 18822, effective October 16, 1986, for a maximum of 150 days; emergency expired March 15, 1987; amended at 11 Ill. Reg. 10546, effective May 21, 1987; amended at 12 Ill. Reg. 12016, effective July 7, 1988; amended at 13 Ill. Reg. 12796, effective July 21, 1989; emergency amendment at 13 Ill. Reg. 12985, effective July 31, 1989, for a maximum of 150 days; emergency expired December 28, 1989; amended at 13 Ill. Reg. 17348, effective October 27, 1989; amended at 14 Ill. Reg. 10775, effective June 20, 1990; emergency amendment at 14 Ill. Reg. 18324, effective October 29, 1990, for a maximum of 150 days; emergency expired March 28, 1991; amended at 15 Ill. Reg. 9924, effective June 24, 1991; emergency amendment at 15 Ill. Reg. 16124, effective October 25, 1991, for a maximum of 150 days; emergency expired March 23, 1992; amended at 15 Ill. Reg. 18138, effective December 6, 1991; amended at 16 Ill. Reg. 12470, effective July 28, 1992; amended at 16 Ill. Reg. 18951, effective December 1, 1992; amended at 17 Ill. Reg. 15534, effective September 10, 1993; amended at 18 Ill. Reg. 12628, effective August 9, 1994; amended at 19 Ill. Reg. 12615, effective August 29, 1995; recodified by changing the agency name from Department of Conservation to Department of Natural Resources at 20 Ill. Reg. 9389; amended at 20 Ill. Reg. 12397, effective August 30, 1996; amended at 21 Ill. Reg. 9042, effective June 26, 1997; amended at 22 Ill. Reg. 14762, effective August 3, 1998; amended at 23 Ill. Reg. 9012, effective July 28, 1999; amended at 24 Ill. Reg. 12496, effective August 7, 2000; amended at 25 Ill. Reg. 11119, effective August 21, 2001; amended at 26 Ill. Reg. 16210, effective October 18, 2002; amended at 27 Ill. Reg. 15381, effective September 18, 2003; amended at 28 Ill. Reg. 12835, effective September 1, 2004; amended at 29 Ill. Reg. 13813, effective August 26, 2005; amended at 30 Ill. Reg. 14478, effective August 24, 2006; amended at 31 Ill. Reg. 9175, effective June 18, 2007; amended at 32 Ill. Reg. 17455, effective October 24, 2008; amended at 33 Ill. Reg. 13871, effective September 21, 2009; amended at 34 Ill. Reg. 16429, effective October 8, 2010; amended at 35 Ill. Reg. 15212, effective September 2, 2011; amended at 36 Ill. Reg. 14704, effective September 21, 2012; amended at 37 Ill. Reg. 16394, effective October 3, 2013; amended at 38 Ill. Reg. 22722, effective November 18, 2014; amended at 39 Ill. Reg. 11331, effective August 3, 2015; amended at 40 Ill. Reg. 10475, effective July 20, 2016; amended at 40 Ill. Reg. 15149, effective October 18, 2016; amended at 41 Ill. Reg. 8525, effective June 28, 2017; amended at 42 Ill. Reg. 13057, effective June 22, 2018.

**Section 530.80 Regulations for Fee Hunting of Pheasant, Quail and Rabbit at Controlled Permit Hunting Sites**

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- a) Hunting Seasons:
- 1) The following controlled pheasant hunting areas shall be closed to pheasant permit hunting on every Monday and Tuesday during the controlled hunting season (except as provided in subsection (a)(3)) and on December 25.
    - Chain O'Lakes State Park
    - Des Plaines State Conservation Area
    - Eldon Hazlet State Park (Carlyle Lake)
    - Horseshoe Lake State Park – Madison County
    - Iroquois County State Conservation Area
    - Jim Edgar Panther Creek State Fish and Wildlife Area – Controlled Unit
    - Johnson-Sauk Trail State Park
    - Kankakee River State Park
    - Lee County State Conservation Area (Green River State Wildlife Area)
    - Moraine View State Park
    - Ramsey Lake State Park
    - Sand Ridge State Forest
    - Silver Springs State Park
    - Wayne Fitzgerald State Park (Rend Lake)
  - 2) The following controlled pheasant hunting areas are open only to

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participants in the Illinois Youth Pheasant Hunting Program on the first Saturday following the opening of the statewide upland game season.

Chain O'Lakes State Park

Des Plaines State Conservation Area

Eldon Hazlet State Park (Carlyle Lake)

Iroquois County State Conservation Area

Jim Edgar Panther Creek State Fish and Wildlife Area – Controlled Unit

Johnson-Sauk Trail State Park

Lee County State Conservation Area (Green River State Wildlife Area)

Moraine View State Park

Sand Ridge State Forest

Wayne Fitzgerald State Park (Rend Lake)

- 3) Controlled pheasant hunting seasons are listed below; exceptions are in parentheses; with written authorization from the Director, captive-reared game bird hunting may be scheduled during the season provided for in Section 1.13 or 2.6 of the Wildlife Code [520 ILCS 5], whichever is longer, on the following DNR operated areas:

Chain O'Lakes State Park (closed ~~the week of~~during the November 3-day firearm ~~season~~deer hunting), ~~Lee County State Conservation Area (Green River) (closed during the November and December firearm deer hunting season) – Friday through Sunday beginning with the Friday~~the Wednesday before the first Saturday in November through the seventh Sunday following, ~~except~~Wednesday through Sunday during the week of Thanksgiving Day

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Des Plaines State Conservation Area (closed during the November 3-day firearm deer hunting), Iroquois County State Conservation Area (closed during the November firearm deer hunting season) and Moraine View State Park – the Wednesday before the first Saturday of November through the ninth Sunday following

Eldon Hazlet State Park and Wayne Fitzgerald State Park – the Wednesday following the first Saturday of November through the ninth Sunday following

Horseshoe Lake State Park-Madison County (closed Wednesday and Thursday from opening day until the close of the central zone duck season and New Year's Day) – Friday through Sunday beginning with the Friday before the third Saturday of December~~the second Friday of December or the first hunting day after the close of the central zone duck season, whichever occurs first,~~ through the following January 31, except open Wednesday through Sunday during the last week of December

Jim Edgar Panther Creek State Fish and Wildlife Area – Controlled Unit (closed during the November and December firearm deer hunting season), Johnson-Sauk Trail State Park (closed New Year's Day and the Thursday and Friday after the first Saturday in November when the first Saturday in November is November 1 through 3), Kankakee River State Park (closed New Year's Day); ~~Sand Ridge State Forest~~ – season dates are those specified in Section 530.20

Lee County State Conservation Area (Green River) (closed the weeks of the November 3-day and December 4-day firearm deer seasons) – Friday through Sunday beginning with the Friday before the first Saturday in November through the seventh Sunday following

Ramsey Lake State Park (closed on New Year's Day) – Saturdays and Sundays in November except Friday through Sunday during the week of Thanksgiving, Saturdays and Sundays in December

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except Friday through Sunday before and following Christmas Day, and Saturdays and Sundays in January

Sand Ridge State Forest – Fridays through Sundays and Thanksgiving Day during the season dates specified in Section 530.20

~~Ramsey Lake State Park (closed New Year's Day) – Saturdays and Sundays from the first Saturday of November through the last Sunday of the following January~~

Silver Springs State Park (closed New Year's Day) – the third Saturday of October through the following January 8

- b) Hunting hours are listed below. On Thanksgiving Day, hunting hours are 9:00 a.m.-1:00 p.m. Hunters with reservations are required to check in at the check station on the following sites at the listed times. Hunters with reservations that check in after the required check-in time may not be allowed to hunt if the site hunter quota has been filled.

<b>Site Name</b>	<b>Check-In Times</b>	<b>Hunting Hours</b>
Chain O'Lakes State Park	7:00-8:00 a.m.	9:00 a.m.-4:00 p.m.
Des Plaines State Conservation Area	7:00-8:00 a.m.	9:00 a.m.-4:00 p.m.
Eldon Hazlet State Park (Carlyle Lake)	7:00-8:00 a.m.	9:00 a.m.-4:00 p.m.
Horseshoe Lake State Park (Madison County)	7:00-8:00 a.m.	9:00 a.m.-4:00 p.m.
Iroquois County State Conservation Area	7:00-8:00 a.m.	9:00 a.m.-4:00 p.m.
Jim Edgar Panther Creek State Fish and Wildlife	8:00-8:30 a.m.	9:00 a.m.-4:00 p.m.

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## Area (Controlled Unit)

Johnson-Sauk Trail State Park	8:00-8:30 a.m.	9:00 a.m.-4:00 p.m.
Kankakee River State Park	8:00-8:30 a.m.	9:00 a.m.-4:00 p.m.
Lee County State Conservation Area (Green River State Wildlife Area)	8:00-8:30 a.m.	9:00 a.m.-4:00 p.m.
Moraine View State Park	7:00-8:00 a.m.	9:00 a.m.-4:00 p.m.
Ramsey Lake State Park	8:00-8:30 a.m.	9:00 a.m.-4:00 p.m.
Sand Ridge State Forest	8:00-8:30 a.m.	9:00 a.m.-4:00 p.m.
Silver Springs State Park	8:00-8:30 a.m.	9:00 a.m.-4:00 p.m.
Wayne Fitzgerald State Park (Rend Lake)	7:00-8:00 a.m.	9:00 a.m.-4:00 p.m.

- c) Except for Standing Vehicle Permittees with a Disabled Controlled Pheasant Hunting Permit, during the controlled pheasant hunting season when daily quotas are not filled, permits shall be issued by drawing held at the conclusion of check-in time and if daily quotas remain unfilled at the conclusion of the drawing, on a first come-first served basis until 12:00 noon unless an earlier time is posted at the site's hunter check station at the following sites:

Des Plaines State Conservation Area

Eldon Hazlet State Park

Iroquois County State Conservation Area

Jim Edgar Panther Creek State Fish and Wildlife Area

Johnson-Sauk Trail State Park



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Lee County State Conservation Area (Green River)

Kankakee River State Park

Moraine View State Park

Sand Ridge State Forest

Wayne Fitzgerald State Park

- d) Hunting licenses, daily "Public Hunting Grounds for Pheasants" fees and hunting permit fees collected by public/private partnership area concessionaire:
- 1) Depending on the availability of staff during the controlled pheasant hunting season, hunters may be required to deposit their hunting license in the check station while hunting. Persons exempt by law from having a hunting license must deposit their Firearm Owner's Identification Card. If they are under 21 years old and do not have a card, they must be accompanied by a parent, legal guardian or a person in loco parentis who has a valid card in possession.
  - 2) Pursuant to Section 1.13 of the Wildlife Code, at Lee County State Conservation Area (Green River), hunters must pay the following daily Public Hunting Grounds for Pheasants fee to the Department prior to hunting: \$30 residents; \$35 non-residents. On the Sunday following Thanksgiving Day, hunters under 18 are not required to pay the daily Public Hunting Grounds for Pheasants fee.
  - 3) Pursuant to Section 1.13 of the Code, at Des Plaines State Conservation Area, Iroquois County State Conservation Area, Jim Edgar Panther Creek State Fish and Wildlife Area – Controlled Unit, Johnson-Sauk Trail State Park, Kankakee River State Park, Moraine View State Park, Eldon Hazlet State Park (Carlyle Lake), Wayne Fitzgerald State Park and Sand Ridge State Forest, hunters must pay the following daily Public Hunting Grounds for Pheasants fee to the Department prior to hunting: \$30 residents; \$35 non-residents. On the Sunday following Thanksgiving Day and the Saturday between Christmas Day and New Year's Day, hunters under 18

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are not required to pay the daily Public Hunting Grounds for Pheasants fee.

- 4) Hunters must pay the following hunting permit fees to be collected by the public/private partnership area concessionaire under the terms of a Controlled Pheasant Hunting Agreement with the Department prior to hunting. On youth hunting days requested by the concessionaire and authorized by the Department, hunters under the age of 18 are not required to pay a hunting permit fee.

Hunting permit fees at Chain O'Lakes, Horseshoe Lake (Madison County), Ramsey Lake and Silver Springs State Parks shall be set in the lease agreement between the Department and the public/private partnership area concessionaire. The lease agreement may allow the concessionaire to charge a different fee for standard hunting days and special non-standard hunting days. Fee and date information is ~~publicly~~<sup>publically</sup> available on the Department's website at: [www.dnr.illinois.gov](http://www.dnr.illinois.gov).

- e) During the controlled pheasant hunting season, hunters must wear a back patch issued by the check station.
- f) Anyone who has killed game previously and has it in possession or in their vehicle must declare it with the person in charge of the area during check-in. All game found in a hunter's possession after hunting has started on the area shall be considered illegally taken if the hunter has not declared it prior to going afield.
- g) All hunting must be done with shotguns or bow and arrow. Only shot shells with a shot size of No. 5 lead or a non-toxic shot size ballistically equivalent to No. 5 lead or smaller may be used, except at Chain O' Lakes State Park, [Des Plaines State Fish and Wildlife Area](#), [Horseshoe Lake State Park \(Madison County\)](#), [Jim Edgar Panther Creek State Fish and Wildlife Area](#), Johnson-Sauk Trail State Park, Lee County Conservation Area (Green River), [Silver Springs State Park](#), Wayne Fitzgerald State Park and Eldon Hazlet State Park where only nontoxic shot approved by the U.S. Fish and Wildlife Service may be possessed and only shot shells with a shot size ballistically equivalent to No. 5 lead or smaller may be used or in possession. Flu flu arrows only may be used or in possession by bow and arrow hunters.

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- h) Non-hunters are not allowed in the field, except at special hunts publicly announced by the Department where non-hunters authorized by the Department shall be allowed in the field, and except for operators of Department conveyances and Standing Vehicle Permittees and a single dog handler for the Permittee.
- i) Hunters under 16 years of age must be accompanied by an adult hunter.
- j) Daily limits – On the following areas, a permit authorizes the harvest of 2 pheasants of either sex per hunter; exceptions are in parentheses. With written authorization from the Director, the Department may issue more than one permit to a hunter, and, further, the Department may authorize the harvest of released game birds and migratory game birds as provided for in Section 3.28 of the Code. The limits provided for in Section 3.28 shall apply at the following sites:

Chain O'Lakes State Park (two 2 pheasant permits or one 3 or 4 pheasant permit per hunter each day)

Des Plaines State Conservation Area

Eldon Hazlet State Park

Lee County State Conservation Area (2 cock pheasants per permit hunter)

Horseshoe Lake State Park-Madison County (two 2 pheasant permits or one 3 or 4 pheasant permit per hunter each day; additionally, first day only, 4 quail and 2 rabbits per hunter)

Iroquois County State Conservation Area

Jim Edgar Panther Creek State Fish and Wildlife Area (additionally, 8 bobwhite quail opening day through the Sunday following Thanksgiving Day and 4 rabbits per hunter)

Johnson-Sauk Trail State Park (additionally, 8 bobwhite quail, 2 Hungarian partridge and 4 rabbits per hunter)

Kankakee River State Park (additionally, 8 bobwhite quail and 4 rabbits

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per hunter)

Moraine View State Park

Ramsey Lake State Park (two 2 pheasant permits or one 3 or 4 pheasant permit per hunter each day; additionally, 8 bobwhite quail and 4 rabbits per hunter)

Sand Ridge State Forest (additionally, 8 bobwhite quail and 4 rabbits per hunter)

Silver Springs State Park (two 2 pheasant permits or one 3 or 4 pheasant permit per hunter each day)

Wayne Fitzgerald State Park

- k) Tagging of Birds  
During the controlled pheasant hunting season, all pheasants must be affixed with a Department tag before they are removed from the area during the controlled pheasant hunting season. The tag must remain on the leg of the pheasants until the pheasants are finally prepared for consumption.
- l) During the controlled pheasant hunting season, hunters may not leave the confines of any permit area and return to hunt on the permit area during the same day.
- m) Any person who violates any provision of this Part or 17 Ill. Adm. Code 510.10(c)(1), (4) and (6) or (d)(7) or Section 2.33(n), (x) or (z) of the Wildlife Code shall be subject to arrest and/or removal from the premises for the remainder of the controlled pheasant hunting season under applicable statutes, including Section 21-5 of the Criminal Code (Criminal Trespass to State Supported Land). Hunters may request a hearing within 10 days after the citation by written request addressed to: Legal Division, Department of Natural Resources, One Natural Resources Way, Springfield IL 62702-1271. The hearing shall be governed by the provisions of 17 Ill. Adm. Code 2530.
- n) Violation of a site regulation is a petty offense (see 520 ILCS 5/2.6, 2.7, 2.13 or 2.27).

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(Source: Amended at 42 Ill. Reg. 13057, effective June 22, 2018)

**Section 530.95 Youth Pheasant Hunting Regulations**

- a) At the following sites, the Illinois Youth Pheasant Hunt will be held on:
- 1) the Saturday preceding the opening of the statewide upland game season:

Clinton Lake State Recreation Area

~~[Mackinaw River State Fish and Wildlife Area](#)~~

- 2) the Saturday following the opening of the statewide upland game season:

Chain O'Lakes State Park

Des Plaines State Conservation Area

Eldon Hazlet State Park (Carlyle Lake)

Lee County State Conservation Area (Green River)

Iroquois County State Conservation Area

Jim Edgar Panther Creek State Fish and Wildlife Area – Controlled Unit

Johnson-Sauk Trail State Park

~~[Mackinaw River State Fish and Wildlife Area](#)~~

Moraine View State Park

Sand Ridge State Forest

Sangchris Lake State Park

Wayne Fitzgerald State Park (Rend Lake)

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- 3) the second Sunday following the opening of the statewide upland game season:

Horseshoe Lake State Park (Madison County)

- 4) the ~~third~~first Saturday of ~~March~~~~the statewide upland game season~~:

World Shooting Complex

- 5) the first Saturday of March:

Pere Marquette State Park/Mississippi River Area – Pool 26 State Fish and Wildlife Area

- 6) the Saturday two weeks before the opening of the statewide upland game season:

Edward R. Madigan State Fish and Wildlife Area

- b) Hunting hours are from 9:00 a.m. to 4:00 p.m., except that, at Sangchris Lake, hunting hours are from 11:00 a.m. to 4:00 p.m., and, at Edward R. Madigan State Fish and Wildlife Area, Eldon Hazlet State Park, Mackinaw River State Fish and Wildlife Area, Pere Marquette State Park/Mississippi River Area-Pool 26 State Fish and Wildlife Area, and the World Shooting Complex, hunting hours are from 1:00 p.m. to 4:00 p.m. Hunters with reservations or permits are required to check in at the check station between 7:00 and 8:00 a.m. (between 10:00 and 10:30 a.m. at Sangchris Lake State Park).
- c) All hunters must be between the ages of 10 and 17 inclusive and have a youth hunting permit. Stand-by permits shall be issued by drawing held at the conclusion of check-in time when daily quotas are not filled. Hunters under age 18 are not required to pay a daily fee.
- d) Depending on the availability of staff during the controlled pheasant hunting season, hunters may be required to deposit their hunting licenses in the check station while hunting. Each permit holder must be accompanied by a non-hunting supervisory adult. If the hunter does not have a valid Firearm Owner's

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Identification (FOID) card, the supervisory adult is required to have a valid FOID card. Only one supervisory adult in a hunting party is required to have a valid FOID card if the hunters in the hunting party stay under the immediate control (accompany youth hunter at all times) of the supervisory adult possessing the valid FOID card. The supervising adult shall be criminally liable for the actions of the youth in the hunting party and shall be subject to the criminal penalties provided by law.

- e) Supervising adults are required to wear a cap and upper outer garment of solid and vivid blaze orange of a least 400 square inches. Hunters must wear a back patch issued by the check station.
- f) Persons who have killed game previously and have it in their possession or in their vehicle must declare it with the person in charge of the area prior to hunting on the area. All previously killed game found in a hunter's possession after hunting has started on the area will be considered illegally taken if the hunter has not declared it prior to going afield.
- g) All hunting must be done with shotguns. Only shot shells with a shot size of #5 lead or a nontoxic shot size ballistically equivalent to No. 5 lead or smaller may be used, except at Chain O'Lakes State Park, [Des Plaines State Fish and Wildlife Area](#), Eldon Hazlet State Park, [Horseshoe Lake State Park \(Madison County\)](#), [Jim Edgar Panther Creek State Fish and Wildlife Area](#), Johnson-Sauk Trail State Park, Lee County Conservation Area (Green River), [Mackinaw River State Fish and Wildlife Area](#), [Silver Springs State Park](#) and Wayne Fitzgerald State Park where only shot shells approved as nontoxic by the U.S. Fish and Wildlife Service with a shot size ballistically equivalent to No. 5 lead or smaller may be used.
- h) Daily Limit
  - 1) Two pheasants of either sex at Chain O'Lakes State Park, [Clinton Lake State Recreation Area](#), Des Plaines State Conservation Area, [Edward R. Madigan State Fish and Wildlife Area](#), Eldon Hazlet State Park, Iroquois County State Conservation Area, Horseshoe Lake State Park (Madison County), Johnson-Sauk Trail State Park, [Mackinaw River State Fish and Wildlife Area](#), Moraine View State Park, Pere Marquette State Park/Mississippi River Area-Pool 26 State Fish and Wildlife Area, Sand

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Ridge State Forest, Wayne Fitzgerald State Park and the World Shooting Complex.

- 2) Two cock pheasants only at ~~the Clinton Lake State Recreation Area, Edward R. Madigan State Fish and Wildlife Area,~~ Lee County State Conservation Area (Green River) ~~and Mackinaw River State Fish and Wildlife Area.~~
  - 3) Statewide upland game limits at Sangchris Lake State Park.
  - 4) Two pheasants of either sex, eight quail and four rabbits at Jim Edgar Panther Creek State Fish and Wildlife Area – Controlled Unit.
- i) All pheasants must be affixed with a Department tag before they are removed from the area. The tag must remain on the leg of the pheasants until the pheasants are finally prepared for consumption.
  - j) Violation of this Section is a petty offense (see 520 ILCS 5/2.6).

(Source: Amended at 42 Ill. Reg. 13057, effective June 22, 2018)

**Section 530.110 Regulations for Non-Fee Hunting of Cock Pheasant, Hungarian Partridge, Quail, and Rabbit at Various Department-Owned or -Managed Sites**

- a) General Site Regulations
  - 1) All regulations in 17 Ill. Adm. Code 510 – General Hunting and Trapping – apply in this Section, unless this Section is more restrictive.
  - 2) Only flu flu arrows may be used by bow and arrow hunters; broadheads are not allowed.
  - 3) On sites that are indicated by (1), hunters must check in and/or sign out. Sites that require use of windshield cards by hunters as specified in 17 Ill. Adm. Code 510.10 are followed by (5).
  - 4) On sites that are indicated by (2), only nontoxic shot approved by the U.S. Fish and Wildlife Service of size #3 steel or tin, #4 bismuth shot or #5



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tungsten-iron, tungsten-polymer, tungsten-matrix or smaller may be used or possessed.

- 5) Site specific rules or exceptions are noted in parentheses after each site.
- b) Site Specific Regulations
- 1) Statewide regulations apply at the following sites:
    - Alvah Borah State Habitat Area (5)
    - Anderson Lake State Conservation Area (1) [\(2\)](#)
    - Apple River Canyon State Park – Salem and Thompson Units (rabbits only; closed during firearm deer hunting) (5)
    - Argyle Lake State Park (closed during firearm deer hunting) (5)
    - Banner Marsh State Fish and Wildlife Area (opens the day after the close of the central zone duck season) (1) [\(2\)](#)
    - Big Bend State Fish and Wildlife Area (hunting for bobwhite quail will terminate at the close of legal shooting hours on December 14) (1) [\(2\)](#)
    - Big River State Forest (closed during firearm deer hunting) (5)
    - Buffalo Prairie Pheasant Habitat Area (site will be open to Youth Hunting Only (hunters <18 years old accompanied by a non-hunting adult) for the first 2 weeks of the Upland Game Season; the site will be open to upland game hunting with statewide regulations after the first 2 weeks of season) (1) (2)
    - Cache River State Natural Area (1)
    - Campbell Pond State Wildlife Management Area (5)
    - Cape Bend State Fish and Wildlife Area (1)

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Carlyle Lake State Lands and Waters (Corps of Engineers Managed Lands)

Carlyle Lake State Fish and Wildlife Area (subimpoundment area closed 7 days prior to and during the southern zone waterfowl season) (5)

Chauncey Marsh State Natural Area (5)

Clinton Lake State Recreation Area (4:00 p.m. daily closing) (5)

Copperhead Hollow State Fish and Wildlife Area (rabbit hunting only) (5)

Crawford County State Fish and Wildlife Area (1) [\(2\)](#)

[Cretaceous Hills State Natural Area \(2\) \(5\)](#)

Cypress Pond State Natural Area (1)

Deer Pond State Natural Area (1)

Devil's Island State Fish and Wildlife Area

Dog Island State Wildlife Management Area (5)

Double T State Fish and Wildlife Area (opens the day after the close of the Central Illinois Zone goose season) (1) [\(2\)](#)

Eagle Creek State Park (~~open only January 16-22~~)

Eldon Hazlet State Park (north of Allen Branch and west of Peppenhorst Branch only) (5)

Embarras River Bottoms State Habitat Area (2) (5)

Ferne Clyffe State Park (1)

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Fort de Chartres State Historic Site (hunting with muzzleloading shotgun or bow and arrow only) (1)

Ft. Massac State Park (5)

Fox Ridge State Park (4:00 p.m. daily closing; closed during firearm deer hunting) (5)

Giant City State Park (1)

Hamilton County State Conservation Area (5)

Hanover Bluff State Natural Area (closed during firearm deer hunting (rabbit only)) (5)

Hidden Springs State Forest (no hunting during firearm deer hunting; 4:00 p.m. daily closing) (5)

Horseshoe Lake State Conservation Area (Alexander County) (Public Hunting Area) (5)

Horseshoe Lake State Conservation Area ([Alexander County](#)) (Controlled Hunting Area; closed prior to and during the Canada goose season) (1) [\(2\)](#)

Horseshoe Lake State Park (Madison County) – Gabaret, Mosenthein, Chouteau Island Unit (all hunters must obtain a free site permit) [\(2\)](#)

Jim Edgar Panther Creek State Fish and Wildlife Area – Open Unit [\(2\)](#) (5)

Jim Edgar Panther Creek State Fish and Wildlife Area – Controlled Unit (rabbit hunting only open Monday following the close of the controlled pheasant hunting season through the close of rabbit season) [\(2\)](#) (5)

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Jubilee College State Park (hunting for pheasant and quail will terminate at sunset on the Sunday after Thanksgiving; closed during all site firearm deer hunting) (1) (2)

Kaskaskia River State Fish and Wildlife Area (Doza Creek Waterfowl Management Area closed 7 days prior to and during duck season; the defined Baldwin Lake Waterfowl Rest Area is closed) (1)

Kickapoo State Recreation Area (4:00 p.m. daily closing; closed during firearm deer hunting) (5)

Kinkaid Lake State Fish and Wildlife Area (1)

Marseilles State Fish and Wildlife Area (closed during all site firearm deer hunting; rabbit hunting closes at the end of the pheasant and quail season; unauthorized personnel may not be on the site outside of the posted check station operating hours; hunters may only enter the site from designated parking lots) (1)

Marshall State Fish and Wildlife Area (closed during firearm deer hunting) [\(2\)](#) (5)

Mazonia State Fish and Wildlife Area (upland season does not open until the day after the close of the site's waterfowl season; the site is closed Mondays, Tuesdays, Christmas Day and New Year's Day) (1)

Meeker State Habitat Area (5)

Mermet Lake State Fish and Wildlife Area (5)

Middle Fork State Fish and Wildlife Area (4:00 p.m. daily closing; closed during firearm deer hunting) (5)

Mississippi River Pools 16, 17, 18

Mississippi River State Fish and Waterfowl Management Area

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(Pools 25 and 26)

Mississippi River Pools 21, 22, 24

Moraine View State Park (rabbit hunting permitted Mondays and Tuesdays during the site controlled hunting season; hunting hours are 8:00 a.m. to 4:00 p.m. only) (5)

Mt. Vernon Game Propagation Center (hunting from January 1 to the end of season; rabbits only) (1)

Nauvoo State Park (Max Rowe Unit only) (5)

Newton Lake State Fish and Wildlife Area (closed during firearm deer hunting) (5)

Oakford State Conservation Area

Peabody River King State Fish and Wildlife Area (West and North Subunits only) (1)

Pyramid State Park (5)

Pyramid State Park – Galum Unit (5)

Rall Woods State Natural Area (closed during firearm deer hunting (rabbit only)) (5)

Ramsey Lake State Park (8:00 a.m. to 4:00 p.m.; rabbits and quail only may be hunted on Mondays and Tuesdays during the fee pheasant season) (5)

Randolph County State Conservation Area (1)

Ray Norbut State Fish and Wildlife Area (5)

Ray Norbut State Fish and Wildlife Area – Dutch Creek Unit (5)

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Red Hills State Park (5)

Rend Lake Project Lands and Waters

Sahara Woods State Fish and Wildlife Area (5)

Saline County State Conservation Area (5)

Sam Dale Lake State Conservation Area (5)

Sam Parr State Park (8:00 a.m. to 4:00 p.m.) (1) [\(2\)](#)

Sangamon County State Conservation Area

Sanganois State Fish and Wildlife Area [\(2\)](#) (5)

Shawnee National Forest, Oakwood Bottoms (2)

Shelbyville State Fish and Wildlife Area (4:00 p.m. daily closing)  
(5)

Sielbeck Forest State Natural Area (5)

Siloam Springs State Park – Buckhorn Unit (opens December 5;  
closed during Late-Winter Deer Season) (5)

Skinner Farm State Habitat Area (1)

Snakeden Hollow State Fish and Wildlife Area (opens the day after  
the close of the Central Illinois zone goose season) (1) (2)

Spoon River State Forest (5)

Stephen A. Forbes State Park (8:00 a.m. to 4:00 p.m.) (5)

Tapley Woods State Natural Area (closed during firearm deer  
hunting and muzzleloading rifle deer seasons; rabbit only) (5)

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Ten Mile Creek State Fish and Wildlife Area (areas designated as Waterfowl Rest Areas are closed to all access during the regular Canada goose season only) (nontoxic shot only on posted waterfowl rest areas) (5)

Trail of Tears State Forest (1)

Turkey Bluffs State Fish and Wildlife Area (1)

Union County State Conservation Area (Firing Line Unit Management Area only) (1) (2)

Washington County State Conservation Area (1)

Weinberg-King State Park (5)

Weinberg-King State Park (Cecil White Unit) (5)

Weinberg-King State Park (Scripps Unit) (5)

Weinberg-King State Park (Spunky Bottoms Unit) (5)

Weldon Springs/Piatt County Unit (closed during first and second firearm deer hunting) (5)

Wildcat Hollow State Forest (5)

Winston Tunnel State Natural Area (closed during firearm deer hunting (rabbit only) (5)

Wise Ridge State Natural Area

Witkowsky State Wildlife Area (rabbit only; opens after second firearm deer hunting) (closed during firearm deer hunting) (5)

Wolf Creek State Park (~~open only January 16-22~~)

- 2) Hunting is permitted on the following areas only on the dates listed in

## DEPARTMENT OF NATURAL RESOURCES

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parentheses; or on sites indicated by (3), hunting will be permitted on the first and second day of the statewide upland game season and on each subsequent Wednesday and Saturday in November, and on each Thursday and Sunday in December, through December 24. On sites indicated by (4), hunting will be permitted on the first and second day of the statewide upland game season and on each subsequent Wednesday and Saturday in November and on each Thursday and Sunday in December, through December 24, except closed during the firearm deer seasons and open December 27 and 29. Daily hunting permits filled by drawing through DNR Permit Office. Successful applicants will be sent confirmation and a printable permit via email or can access the Reservation Inquiry System to see if they were awarded a permit. Illinois residents will have preference. Only one permit per person will be issued. Each permit authorizes the holder to bring the number of additional hunting partners listed in parentheses for the day's hunt. The permit must be in possession while hunting on the site. The harvest must be reported by February 15 (or two weeks after the season closes for those seasons ending after February 1) or permit holders will forfeit hunting privileges at the sites covered in this Section for the following year:

Birkbeck Pheasant Habitat Area (each permit authorizes the holder to bring 3 hunting partners) (3)

Bradford Pheasant Habitat Area (each permit authorizes the holder to bring 3 hunting partners) (2) (3)

Chatsworth State Habitat Area (each permit authorizes the holder to bring 3 hunting partners) (2) (3)

Clifton Pheasant Habitat Area (each permit authorizes the holder to bring 3 hunting partners) (3)

Coffeen Lake State Fish and Wildlife Area – Upland Management Area (open every Wednesday during the upland season; daily limit of bobwhite quail is 4; permits issued for dates after the close of the pheasant and quail season are for rabbit hunting only; each permit authorizes the holder to bring 3 hunting partners)



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Dublin Highlands Pheasant Habitat Area (each permit authorizes the holder to bring 3 hunting partners) (3)

~~Eagle Creek State Park (each permit authorizes the holder to bring 3 hunting partners) (3)~~

Edward R. Madigan State Park (open on Mondays from the opening of upland game season until Christmas Day; each permit authorizes the holder to bring 3 hunting partners; check in required before hunting)

Finrock State Habitat Area (each permit authorizes the holder to bring 5 hunting partners) (3)

Freeman Mine Habitat Area (open every Wednesday in November and December starting with opening day of upland game season except during firearm deer hunting and December 24 and 25; each permit authorizes holder to bring 3 hunting partners; hunting hours 8 a.m. to 4 p.m.; daily bag limit is 2 cock pheasants, 4 quail, and 2 rabbits)

Franklin Creek State Natural Area – Nachusa Prairie Sand Farm (each permit authorizes the holder to bring 3 hunting partners) (3)

Gifford Pheasant Habitat Area (each permit authorizes the holder to bring 3 hunting partners) (3)

Green River State Wildlife Area (open every Monday, Wednesday and Thursday in November and December beginning with the Monday after the opening of the statewide upland season through the seventh Monday following; closed during the November and December firearm deer hunting; each permit authorizes the holder to bring 5 hunting partners) (1) (2)

Hallsville Pheasant Habitat Area (each permit authorizes the holder to bring 3 hunting partners) (3)

Harry "Babe" Woodyard State Natural Area (each permit

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authorizes the holder to bring 3 hunting partners; 8 a.m. to 4 p.m. hunting hours) (4)

Herschel Workman Pheasant Habitat Area (each permit authorizes the holder to bring 3 hunting partners) (3)

Hindsboro Pheasant Habitat Area (each permit authorizes the holder to bring 3 hunting partners) (3)

Ilo Dillin State Habitat Area (each permit authorizes the holder to bring 3 hunting partners) (2) (3)

Jim Edgar Panther Creek State Fish and Wildlife Area (Upland Game Management Area) (open every Tuesday and Saturday during the upland game season, starting with opening day of upland game season, except during firearm deer season and December 24 and 25; permits issued for dates after the close of the pheasant and quail season are for rabbit hunting only; each permit authorizes holder to bring 3 hunting partners) (2)

Larry D. Closson Habitat Area (each permit authorizes the holder to bring 3 partners) (3)

Little Rock Creek Habitat Area (each permit authorizes the holder to bring 3 hunting partners) (3)

Loda Pheasant Habitat Area (each permit authorizes the holder to bring 3 hunting partners) (3)

Mackinaw [River](#) State Fish and Wildlife Area (each permit authorizes the holder to bring 5 hunting partners) (2) (4)

Manito Pheasant Habitat Area (each permit authorizes the holder to bring 3 hunting partners) (3)

Mautino State Fish and Wildlife Area (each permit authorizes the holder to bring 3 hunting partners) (2) (3)

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Maxine Loy Land and Water Reserve (open every Wednesday during the upland season; daily limit of bobwhite quail is 4; permits issued for dates after the close of the pheasant and quail season are for rabbit hunting only; each permit authorizes the holder to bring 3 hunting partners) (2)

Maytown Pheasant Habitat Area (each permit authorizes the holder to bring 3 hunting partners) (3)

Milks Grove Pheasant Habitat Area (each permit authorizes the holder to bring 3 hunting partners) (3)

Paul C. Burrus State Habitat Area (each permit authorizes the holder to bring 3 hunting partners) (4)

Perdueville Pheasant Habitat Area (each permit authorizes the holder to bring 3 hunting partners) (3)

Pyramid State Park – Captain Unit (open every Saturday and Wednesday starting with opening day through the close of statewide quail season (South Zone); closed during firearm, muzzleloader and late winter deer seasons and any day that conflicts with a scheduled field trial; each permit authorizes the holder to bring 2 hunting partners)

Pyramid State Park – Denmark Unit (open every Saturday and Wednesday starting with opening day through the close of statewide quail season (South Zone); closed during firearm, muzzleloader and late winter deer seasons and any day that conflicts with a scheduled field trial; each permit authorizes the holder to bring 2 hunting partners)

Pyramid State Park – East Conant Unit (open every Saturday and Wednesday starting with opening day through the close of statewide quail season (South Zone); closed during firearm, muzzleloader and late winter deer seasons and any day that conflicts with a scheduled field trial; each permit authorizes the holder to bring 2 hunting partners)

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Sand Prairie Pheasant Habitat Area (each permit authorizes the holder to bring 5 hunting partners) (3)

Sand Ridge State Forest (Sparks Pond Land and Water Reserve Area) (open on Saturdays and Tuesdays from the opening of the upland game season through the end of December except during firearm deer hunting; each permit authorizes holder to bring 3 hunting partners) [\(2\)](#)

Sangchris Lake State Park (open every Wednesday and Saturday in November and December after the opening day of upland game season except the Saturday of the second firearm deer season and December 24 and 25; each permit authorizes holder to bring 3 hunting partners; hunting hours 11:00 a.m. to sunset; check in required before hunting)

Saybrook Pheasant Habitat Area (each permit authorizes the holder to bring 5 hunting partners) (3)

Sibley Pheasant Habitat Area (each permit authorizes the holder to bring 5 hunting partners) (3)

Steward Pheasant Habitat Area (each permit authorizes the holder to bring 3 hunting partners) (3)

Victoria Pheasant Habitat Area (each permit authorizes the holder to bring 5 hunting partners) [\(2\)](#) (3)

Whitefield Pheasant Habitat Area (each permit authorizes the holder to bring 3 hunting partners) [\(2\)](#) (3)

Willow Creek State Habitat Area (each permit authorizes the holder to bring 3 hunting partners) (3)

~~Wolf Creek State Park (each permit authorizes the holder to bring 3 hunting partners) (4)~~

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- 3) The following sites will be open for pheasant, quail, rabbit and partridge hunting following the site's controlled pheasant hunting season; pheasants of either sex may be taken; all hen pheasants must be tagged by DNR before leaving sites; hunting hours are 8:00 a.m. to 4:00 p.m.; hunting dates are noted in parentheses:

Chain O'Lakes State Park (open Wednesday through Friday following permit pheasant season) (1)

Des Plaines State Conservation Area (dates are 5 days following the close of the site's permit pheasant season excluding Mondays, Tuesdays and Christmas) (1)

Eldon Hazlet State Park (no quail or rabbit hunting; controlled pheasant hunting area and for 5 consecutive days only) (1)

Iroquois County State Wildlife Management Area (open Wednesday through Sunday following permit pheasant season, excluding Christmas and New Year's Day) (5)

Kankakee River State Park (no quail hunting)

Moraine View State Park (open Monday following the close of the controlled pheasant hunting season through the close of the North Zone season) (5)

Silver Springs State Park (dates are 5 days following the close of the site's permit pheasant season, excluding Mondays and Tuesdays) (1)

- c) Violation of a site regulation is a petty offense (see 520 ILCS 5/2.6, 2.7, 2.13 or 2.27).

(Source: Amended at 42 Ill. Reg. 13057, effective June 22, 2018)

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- 1) Heading of the Part: Raccoon, Opossum, Striped Skunk, Red Fox, Gray Fox, Coyote, Bobcat and Woodchuck (Groundhog) Hunting
- 2) Code Citation: 17 Ill. Adm. Code 550
- 3) Section Number: 550.30                      Adopted Action: Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 1.3, 1.4, 1.10, 2.1, 2.2, 2.30, 2.30b, 2.33 and 3.5 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.10, 2.1, 2.2, 2.30, 2.30b, 2.33 and 3.5].
- 5) Effective Date of Rule: June 22, 2018
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rule, including all material incorporated by reference, is on file in the Department of Natural Resources' principal office and is available for public inspection.
- 9) Notice of Proposal published in *Illinois Register*: 42 Ill. Reg. 4259; March 9, 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? No agreements were necessary.
- 13) Will this rulemaking replace any emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: This Part has been amended to make Statewide program changes, open and close State-owned or -managed sites, and amend procedures at State sites.

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

Javonna Ackerman, Legal Counsel  
Department of Natural Resources  
One Natural Resources Way  
Springfield IL 62702-1271

217/557-0126

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

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF ADOPTED AMENDMENT

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

## PART 550

RACCOON, OPOSSUM, STRIPED SKUNK, RED FOX, GRAY FOX, COYOTE,  
BOBCAT AND WOODCHUCK (GROUNDHOG) HUNTING

## Section

550.10	General Regulations
550.20	Statewide Regulations
550.25	Permit and Tagging Requirements – Bobcat
550.26	Limits on Total Harvest – Bobcat
550.30	Raccoon, Opossum, Striped Skunk, Red Fox, Gray Fox, Coyote, Bobcat and Woodchuck (Groundhog) Hunting on Department-Owned, -Leased or -Managed Sites

**AUTHORITY:** Implementing and authorized by Sections 1.3, 1.4, 1.10, 2.1, 2.2, 2.30, 2.30b, 2.33 and 3.5 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.10, 2.1, 2.2, 2.30, 2.30b, 2.33 and 3.5].

**SOURCE:** 5 Ill. Reg. 8833, effective August 25, 1981; codified at 5 Ill. Reg. 10636; emergency amendment at 5 Ill. Reg. 11593, effective October 20, 1981, for a maximum of 150 days; emergency expired March 17, 1982; amended at 6 Ill. Reg. 10714, effective August 20, 1982; amended at 7 Ill. Reg. 10782, effective August 24, 1983; amended at 7 Ill. Reg. 16098, effective November 22, 1983; amended at 8 Ill. Reg. 21593, effective October 23, 1984; amended at 9 Ill. Reg. 16204, effective October 9, 1985; emergency amendment at 9 Ill. Reg. 18151, effective November 12, 1985, for a maximum of 150 days; emergency expired April 11, 1986; amended at 10 Ill. Reg. 16649, effective September 22, 1986; amended at 11 Ill. Reg. 9540, effective May 5, 1987; amended at 12 Ill. Reg. 11730, effective June 30, 1988; amended at 13 Ill. Reg. 10598, effective June 19, 1989; amended at 14 Ill. Reg. 10798, effective June 20, 1990; amended at 15 Ill. Reg. 11598, effective August 2, 1991; amended at 16 Ill. Reg. 11078, effective June 30, 1992; amended at 17 Ill. Reg. 10795, effective July 1, 1993; amended at 18 Ill. Reg. 10090, effective June 21, 1994; amended at 19 Ill. Reg. 11787, effective August 3, 1995; amended at 20 Ill. Reg. 10874, effective August 5, 1996; amended at 21 Ill. Reg. 9077, effective June 26, 1997; amended at 22 Ill. Reg. 14836, effective August 3, 1998; amended at 23 Ill. Reg. 9066, effective July 28, 1999; amended at 24 Ill. Reg. 8938, effective June 19, 2000; amended at 25 Ill. Reg. 9895, effective July 17, 2001; amended at 26 Ill. Reg. 14680, effective September 20, 2002; amended at 28 Ill. Reg. 11873, effective July 27, 2004; amended at 29 Ill. Reg. 12471, effective



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July 28, 2005; amended at 30 Ill. Reg. 12133, effective June 28, 2006; amended at 31 Ill. Reg. 13106, effective August 30, 2007; amended at 32 Ill. Reg. 10093, effective June 30, 2008; amended at 33 Ill. Reg. 9680, effective June 26, 2009; amended at 34 Ill. Reg. 12808, effective August 20, 2010; amended at 35 Ill. Reg. 13137, effective July 26, 2011; amended at 37 Ill. Reg. 20642, effective December 12, 2013; amended at 39 Ill. Reg. 11360, effective August 3, 2015; amended at 40 Ill. Reg. 8549, effective June 13, 2016; amended at 41 Ill. Reg. 8542, effective June 28, 2017; amended at 42 Ill. Reg. 2834, effective January 24, 2018; amended at 42 Ill. Reg. 13087, effective June 22, 2018.

**Section 550.30 Raccoon, Opossum, Striped Skunk, Red Fox, Gray Fox, Coyote, Bobcat and Woodchuck (Groundhog) Hunting on Department-Owned, -Leased or -Managed Sites**

- a) All the regulations in 17 Ill. Adm. Code 510 – General Hunting and Trapping apply in this Section, unless this Section is more restrictive.
- b) For sites where hunter quotas exist and permits are required a drawing shall be held prior to the opening of the season. The date of the drawing shall be announced by the Department by public announcement and the drawing shall be held at the site. The number of permits per site shall be determined pursuant to 17 Ill. Adm. Code 510.20. Sites that require use of windshield cards by hunters as specified in 17 Ill. Adm. Code 510.10 are followed by (1).
- c) .22 caliber or smaller rimfire firearms permitted from sunset to sunrise unless otherwise specified; use of a shotgun with slugs to take furbearing mammals is prohibited except as provided in Section 550.10(a).
- d) Coyote and striped skunk season shall coincide with the statewide fox season unless otherwise specified.
- e) No woodchuck (groundhog) hunting allowed unless otherwise specified.
- f) Statewide regulations as provided for in this rule apply at the following sites (exceptions are in parentheses):

Alvah Borah State Habitat Area (1)

Anderson Lake State Conservation Area (all hunting to begin after the close of duck season)

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Apple River Canyon State Park – Thompson and Salem Units (1)

Argyle Lake State Park (1)

Banner Marsh State Fish and Wildlife Area (coyote only; coyotes can be taken with archery equipment when the site is open to archery deer hunting during archery shooting hours; coyotes can be taken with shotguns on days when the site is open to upland hunting with upland shooting hours)

Big Bend State Fish and Wildlife Area (coyote season from August 1 through the following February 28)

Big River State Forest (1)

Burning Star State Fish and Wildlife Area (No hunting on Island Lake waterfowl rest area from November 1 through February 28) (1)

Cache River State Natural Area

Campbell Pond State Wildlife Management Area (1)

Cape Bend State Fish and Wildlife Area

Carlyle Lake Lands and Waters – Corps of Engineers Management Lands

Carlyle Lake State Fish and Wildlife Area (subimpoundment area closed 7 days prior to and during the southern zone waterfowl season) (1)

Chauncey Marsh State Natural Area (1)

Clinton Lake State Recreation Area (1)

Coffeen Lake State Fish and Wildlife Area (coyote only; shotgun or bow and arrow) (1)

Copperhead Hollow State Wildlife Area (1)

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Crawford County State Fish and Wildlife Area (1)

[Cretaceous Hills State Natural Area \(1\)](#)

Cypress Pond State Natural Area

Deer Pond State Natural Area

Des Plaines State Fish and Wildlife Area (coyote may be taken with a shotgun from the day after the archery deer season closes until February 28; pursuit of coyotes with dogs is prohibited; archery deer hunters may take coyotes during the archery deer season) (1)

Devil's Island State Fish and Wildlife Area

Dog Island State Wildlife Management Area (1)

Eagle Creek State Park (season opens day after second firearm deer season; closes December 20; hunting sunset to sunrise only; raccoon only) (1)

Eldon Hazlet State Park (north of Allen Branch and west of Peppenhorst Branch)

Embarras River Bottoms State Habitat Area (1)

Ferne Clyffe State Park – Cedar Draper Bluffs Hunting Area

Fort de Chartres State Historic Site (muzzleloading firearms or bow and arrow only)

Fox Ridge State Park (1)

Freeman Mine (1)

Green River State Wildlife Area (skunk and coyote close the last day of February; .22 rimfire firearms permitted from 30 minutes after sunset until

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30 minutes before sunrise) (1)

Hamilton County State Conservation Area (1)

Hanover Bluff State Natural Area (1)

Harry "Babe" Woodyard State Natural Area (1)

Hennepin Canal State Trail (archery only; coyote and raccoon only; season open only when the site archery deer season is open) (1)

Hidden Springs State Forest (1)

Horseshoe Lake State Conservation Area – Alexander County (Public Hunting Area except Controlled Hunting Area)

Horseshoe Lake State Park – Madison County (coyote only from February 1 through 28, hunting hours are ½ hour before sunrise to ½ hour after sunset; failure to report harvest by March 15 will result in loss of hunting privileges at the site for the following year)

Horseshoe Lake State Park – Madison County – Gabaret, Mosenthein, Chouteau Island Units (1)

Iroquois County State Wildlife Management Area (season opens the day after permit pheasant season) (1)

Jim Edgar Panther Creek State Fish and Wildlife Area (statewide seasons for coyote and striped skunk) (1)

Johnson Sauk Trail State Recreation Area (archery only; coyote and fox only; site coyote season runs concurrently with the site archery deer season; site fox season begins when the statewide fox season opens, runs concurrently with the site archery deer season, and closes the earlier of either the statewide fox season closing or the site archery deer season closing) (1)

Jubilee College State Park (coyote only; season runs concurrently with

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firearm deer season)

Kankakee River State Park (coyote, fox, skunk and opossum may be taken during their respective seasons that fall within the archery deer season by archery only; shotgun only hunting opens the day after the close of the site upland game season or archery deer season, whichever is later, and closes with the close of the statewide fox season) (1)

Kaskaskia River State Fish and Wildlife Area (Doza Creek Waterfowl Management Area closed 7 days prior to and during duck season; the defined Baldwin Lake Waterfowl Rest Area is closed)

Kickapoo State Recreation Area (1)

Kinkaid Lake State Fish and Wildlife Area

Lincoln Trail State Park (season opens day after first firearm deer season; closes December 20; hunting hours sunset to sunrise only; raccoon only) (1)

Marseilles State Fish and Wildlife Area (coyote only; November 5 through the first Thursday after January 10; hunting hours are 30 minutes before sunrise to 30 minutes after sunset; use of dogs is prohibited; unauthorized personnel may not be on the site outside of the posted check station operating hours; hunters must enter the site only from designated parking lots)

Marshall State Fish and Wildlife Area (raccoon, opossum open to statewide regulations; skunk, red fox, gray fox, coyote and woodchuck open to archery during the archery deer season and statewide regulations after the close of archery deer season) (1)

Marshall State Fish and Wildlife Area – Duck Ranch Unit (raccoon and opossum only; opens the day after the close of duck season)

Matthiessen State Park (coyote only with a shotgun from the date after the archery deer season closes until February 28; use of dogs is prohibited; archery deer hunters may take coyotes during the archery deer season) (1)

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Mautino State Fish and Wildlife Area (archery only; coyote and raccoon only; season open only when the site archery deer season is open) (1)

Mazonia State Fish and Wildlife Area (archery only; coyote, fox, raccoon, skunk and opossum may be taken during their respective seasons that fall within the archery deer hunting season; statewide hours)

Meeker State Habitat Area (1)

Mermet Lake State Fish and Wildlife Area (hunting limited to upland game area; hunting hours ½ hour before sunrise to ½ hour after sunset) (1)

[Middle Fork State Fish and Wildlife Area \(1\)](#)

Mississippi River State Fish and Waterfowl Management Area (Pools 25 and 26)

Mississippi River Pools 16, 17, 18, 21, 22 and 24 (groundhog hunting allowed)

Momence Wetlands State Natural Area (archery only; coyote, fox, raccoon, skunk and opossum may be taken during their respective seasons that fall within the archery deer hunting season; statewide hours)

Moraine View State Park (coyote open concurrently with site archery deer hunting, archery only; raccoon opens the second Monday in December, night hunting only) (1)

Oakford State Conservation Area

Peabody River King State Fish and Wildlife Area (except South Subunit; shotgun or bow only; coyote season open from August 1 through the following February 28 and during the spring turkey season to hunters with a valid, unfilled turkey permit; use of dogs for hunting coyotes is prohibited)

Pyramid State Park (1)

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Pyramid State Park – Captain Unit (no hunting on waterfowl refuge) (1)

Pyramid State Park – Denmark Unit (no hunting on waterfowl refuge) (1)

Pyramid State Park – East Conant Unit (1)

Pyramid State Park – Galum Unit (1)

Rall Woods State Natural Area (1)

Randolph County State Conservation Area

Ray Norbut State Fish and Wildlife Area (1)

Ray Norbut State Fish and Wildlife Area – Dutch Creek Unit (opens day after second firearm deer season) (1)

Rend Lake Project Lands and Waters

Rivers Project Office – Corps of Engineers Managed Lands (1)

Sahara Woods State Fish and Wildlife Area (1)

Saline County State Fish and Wildlife Area (1)

Sam Dale Lake State Fish and Wildlife Area (1)

Sam Parr State Park (1)

Sand Ridge State Forest (coyote and striped skunk seasons – opening of the statewide raccoon season until the day before opening of the statewide spring turkey season) (1)

Sangamon County State Conservation Area

Sanganois State Fish and Wildlife Area (statewide seasons for coyote and striped skunk) (1)

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Sangchris Lake State Park (fox, coyote and striped skunk hunting only; statewide seasons for fox, coyote and striped skunk, except, during central zone duck and Canada goose season, hunters pursuing waterfowl or upland game may take fox, coyote and striped skunk with shotgun only in accordance with site-specific regulations set forth in 17 Ill. Adm. Code 530 and 590) (1)

Shawnee National Forest, Oakwood Bottoms and LaRue Scatters (season closes 7 days before opening of duck season and remains closed through the duck season; at Oakwood Bottoms non-toxic shot only)

Shelbyville State Fish and Wildlife Area (1)

Sielbeck Forest State Natural Area

Siloam Springs State Park (raccoon and bobcat only) (1)

Siloam Springs State Park – Buckhorn Unit (raccoon and bobcat only) (1)

Silver Springs State Fish and Wildlife Area (coyote may be taken with a shotgun from the day after the archery deer season closes until February 28; pursuit of coyotes with dogs is prohibited; archery deer hunters may take coyotes during the archery deer season)

Skinner Farm State Habitat Area

Spoon River State Forest (1)

Stephen A. Forbes State Park (1)

Tapley Woods State Natural Area (1)

Ten Mile Creek State Fish and Wildlife Area (statewide coyote, striped skunk and groundhog hunting allowed; .22 caliber or smaller rimfire firearms permitted 24 hours a day; designated Waterfowl Rest Areas closed during open season for Canada goose) (1)



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Trail of Tears State Forest

Turkey Bluffs State Fish and Wildlife Area

Walnut Point State Park (raccoon hunting only)

(1)

Washington County State Conservation Area

Weinberg-King State Park (raccoon and bobcat only) (1)

Weinberg-King State Park – Scripps Unit (use of dogs for hunting coyote is not allowed) (1)

Weinberg-King State Park – Spunky Bottoms Unit (1)

Wildcat Hollow State Forest (1)

Winston Tunnel State Natural Area (1)

Wise Ridge State Natural Area

Witkowsky State Wildlife Area (coyote only; season shall coincide with archery and firearm deer season at this site; archery only during the archery deer season at this site) (1)

Wolf Creek State Park (season opens day after second firearm deer season; closes December 20; hunting sunset to sunrise only; raccoon only)

(1)

Woodford County State Fish and Wildlife Area (raccoon, opossum only; season opens after duck season) (1)

- g) Violation of a site-specific regulation is a Class B misdemeanor. Statewide regulations apply except that hunters must obtain a permit from the site; where hunter quotas exist, permits are allocated as described in subsection (b); permits must be in possession while hunting; the permit must be returned by February 15 or hunter will forfeit hunting privileges at that site the following year (exceptions

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are in parentheses):

Beaver Dam State Park (bow and arrow only; for hunters with a valid site issued archery deer permit only)

Horseshoe Lake State Park (Madison County) (coyote only, bow and arrow only; for hunters with a valid site issued archery deer permit only)  
Ramsey Lake State Park

h) Violation of a site regulation is a Class B misdemeanor (see 520 ILCS 5/2.30).

(Source: Amended at 42 Ill. Reg. 13087, effective June 22, 2018)

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Muskrat, Mink, Raccoon, Opossum, Striped Skunk, Weasel, Red Fox, Gray Fox, Coyote, Badger, River Otter, Beaver, Bobcat and Woodchuck (Groundhog) Trapping
- 2) Code Citation: 17 Ill. Adm. Code 570
- 3) Section Number: 570.40                      Adopted Action: Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 1.2, 1.3, 1.4, 1.10, 2.1, 2.2, 2.30, 2.30b, 2.33, 2.33a and 3.5 of the Wildlife Code [520 ILCS 5/1.2, 1.3, 1.4, 1.10, 2.1, 2.2, 2.30, 2.30b, 2.33, 2.33a and 3.5].
- 5) Effective Date of Rule: June 22, 2018
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rule, including all material incorporated by reference, is on file in the Department of Natural Resources' principal office and is available for public inspection.
- 9) Notice of Proposal published in *Illinois Register*: 42 Ill. Reg. 4272; March 9, 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? No agreements were necessary.
- 13) Will this rulemaking replace any emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENT

- 15) Summary and Purpose of Rulemaking: This Part is being amended to make Statewide program changes, open and close State-owned or -managed sites, and amend procedures at State sites.
- 16) Information and questions regarding this adopted rule shall be directed to:

Javonna Ackerman, Legal Counsel  
Department of Natural Resources  
One Natural Resources Way  
Springfield IL 62702-1271

217/557-0126

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

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF ADOPTED AMENDMENT

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

## PART 570

MUSKRAT, MINK, RACCOON, OPOSSUM, STRIPED SKUNK, WEASEL,  
RED FOX, GRAY FOX, COYOTE, BADGER, RIVER OTTER, BEAVER, BOBCAT AND  
WOODCHUCK (GROUNDHOG) TRAPPING

## Section

570.10	Statewide Zones
570.15	Closed Zone – Bobcat Trapping
570.20	Statewide Season Dates
570.30	Statewide Hours, Daily Limit and Possession Limit
570.31	Permit and Tagging Requirements
570.32	Limits on Total Harvest – Bobcat
570.35	Use of Rifles, Pistols and Airguns by Trappers During Deer Gun Season
570.40	Trapping Regulations on Department-Owned, -Leased or -Managed Sites

**AUTHORITY:** Implementing and authorized by Sections 1.2, 1.3, 1.4, 1.10, 2.1, 2.2, 2.30, 2.30b, 2.33, 2.33a and 3.5 of the Wildlife Code [520 ILCS 5/1.2, 1.3, 1.4, 1.10, 2.1, 2.2, 2.30, 2.30b, 2.33, 2.33a and 3.5].

**SOURCE:** Adopted at 5 Ill. Reg. 9767, effective September 17, 1981; codified at 5 Ill. Reg. 10637; amended at 6 Ill. Reg. 10709, effective August 20, 1982; amended at 7 Ill. Reg. 10778, effective August 24, 1983; amended at 8 Ill. Reg. 21589, effective October 23, 1984; amended at 9 Ill. Reg. 15864, effective October 7, 1985; amended at 10 Ill. Reg. 16644, effective September 24, 1986; amended at 12 Ill. Reg. 12034, effective July 7, 1988; emergency amendments at 12 Ill. Reg. 16261, effective September 23, 1988, for a maximum of 150 days; emergency expired February 20, 1989; amended at 13 Ill. Reg. 10589, effective June 15, 1989; amended at 14 Ill. Reg. 14775, effective September 4, 1990; amended at 14 Ill. Reg. 19854, effective December 3, 1990; amended at 15 Ill. Reg. 11586, effective August 2, 1991; amended at 16 Ill. Reg. 11069, effective June 30, 1992; amended at 17 Ill. Reg. 10785, effective July 1, 1993; amended at 17 Ill. Reg. 18796, effective October 19, 1993; amended at 18 Ill. Reg. 10077, effective June 21, 1994; amended at 19 Ill. Reg. 12640, effective August 29, 1995; amended at 20 Ill. Reg. 12351, effective August 30, 1996; amended at 21 Ill. Reg. 9070, effective June 26, 1997; amended at 22 Ill. Reg. 14809, effective August 3, 1998; amended at 23 Ill. Reg. 9055, effective July 28, 1999; amended at 24 Ill. Reg. 8929, effective June 19, 2000; amended at 25 Ill. Reg. 9887, effective

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July 17, 2001; amended at 26 Ill. Reg. 13809, effective September 5, 2002; amended at 27 Ill. Reg. 749, effective January 6, 2003; amended at 28 Ill. Reg. 11883, effective July 27, 2004; amended at 29 Ill. Reg. 9643, effective June 27, 2005; amended at 30 Ill. Reg. 12143, effective June 28, 2006; amended at 31 Ill. Reg. 13117, effective August 30, 2007; amended at 32 Ill. Reg. 10104, effective June 30, 2008; amended at 33 Ill. Reg. 9691, effective June 26, 2009; amended at 34 Ill. Reg. 12820, effective August 20, 2010; amended at 35 Ill. Reg. 13149, effective July 26, 2011; amended at 36 Ill. Reg. 14408, effective September 5, 2012; amended at 37 Ill. Reg. 20659, effective December 12, 2013; amended at 39 Ill. Reg. 11373, effective August 3, 2015; amended at 40 Ill. Reg. 8568, effective June 13, 2016; amended at 41 Ill. Reg. 8558, effective June 28, 2017; amended at 42 Ill. Reg. 2838, effective January 24, 2018; amended at 42 Ill. Reg. 13100, effective June 22, 2018.

**Section 570.40 Trapping Regulations on Department-Owned, -Leased or -Managed Sites**

- a) General Regulations
  - 1) All the regulations in 17 Ill. Adm. Code 510 – General Hunting and Trapping apply in this Section, unless this Section is more restrictive.
  - 2) Trappers must stay within assigned areas.
  - 3) On sites where a drawing is required, it shall be held prior to the opening of the season. The date of the drawing shall be announced by the Department by public announcement (publicly announced means that the information referred to will be included on the Department's Internet Home Page at [www.dnr.illinois.gov](http://www.dnr.illinois.gov), provided to outdoor writers for newspapers, and placed on the Department's Toll Free Hotline) and the drawing shall be held at the site. Persons participating in the drawing must have either a current or previous year trapping license. The number of permits per site shall be determined pursuant to 17 Ill. Adm. Code 510.20. Permit applicants must submit name and address to the site prior to drawing. Permits must be in possession while trapping on the area. Sites that require a drawing are followed by (1). Sites that require use of windshield cards by trappers as specified in 17 Ill. Adm. Code 510.10 are followed by (2).
  - 4) All sites except Kinkaid Lake Fish and Wildlife Area, Mississippi River Pools 16, 17, 18, 21, 22, 24, and Rend Lake Wildlife Management Area

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require trappers to submit a harvest report to the site superintendent within 20 days following the close of the trapping season. Reports for sites that require use of windshield cards must be submitted online at the Department's website. Failure to report shall result in the trapper being ineligible to trap at that site for the following year.

- 5) Body-gripping traps with a 10-inch jaw spread or larger must be totally submerged in water when set.
  - 6) Any person who violates the site specific regulations shall be guilty of a Class B Misdemeanor.
  - 7) No trapping is permitted in subimpoundments or designated waterfowl management units during duck season.
  - 8) .22 caliber or smaller rimfire firearms permitted unless otherwise specified.
- b) Statewide regulations as provided for in this Part apply at the following sites (exceptions in parentheses):

Alvah Borah State Habitat Area (2)

Beall Woods State Park (water sets only) (1)

Burning Star State Fish and Wildlife Area (no trapping in Island Lake Waterfowl Rest Area November 1 through February 28) (2)

Chauncey Marsh State Natural Area (obtain permit at Red Hills State Park headquarters) (1)

Crawford County State Fish and Wildlife Management Area (water sets only) (1)

[Cretaceous Hills State Natural Area \(2\)](#)

Des Plaines Game Propagation Center (1)

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Frank Holten State Park (water sets only; designated areas only)

Kinkaid Lake State Fish and Wildlife Area

Mississippi River Pools 16, 17, 18, 21, 22, 24 (USFWS trapping permit required on U.S. Fish and Wildlife Service National Wildlife Refuges in Pools 21 and 24; Quincy Bay Waterfowl Management Unit closed to trapping during the regular duck season)

Pere Marquette State Park (1)

Ray Norbut State Fish and Wildlife Area (1)

Ray Norbut State Fish and Wildlife Area – Dutch Creek Unit (1)

Ray Norbut State Fish and Wildlife Area – East Hannibal Unit (1)

Rend Lake Project Lands and Waters (water sets only)

Sam Parr State Park (water sets only) (1)

Sielbeck Forest State Natural Area (water sets only) (2)

Siloam Springs State Park (1)

Siloam Springs State Park – Buckhorn Unit (1)

Siloam Springs State Park – Fall Creek Unit (1)

Snakeden Hollow State Fish and Wildlife Area (1)

Weinberg-King State Park (1) (2)

Weinberg-King State Park – Scripps Unit (1) (2)

Weinberg-King State Park – Spunky Bottoms Unit (1) (2)

- c) Statewide regulations as provided for in this Part apply at the following sites; in



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addition, a permit is required; only Egg Traps<sup>®</sup>, D-P (Dog-Proof) Traps<sup>®</sup>, Lil Grizz Get'rz<sup>®</sup>, box traps, cage traps, and traps of similar design may be used for land sets (exceptions in parentheses):

Big Bend Fish and Wildlife Area (dog proof traps required) (1) (2)

Birkbeck Pheasant Habitat Area (1) (2)

Buffalo Prairie Pheasant Habitat Area (season begins at sunrise on December 26) (1) (2)

Butterfield Trail State Recreation Area (1) (2)

Cache River State Natural Area (no snares allowed) (1)

Cape Bend State Fish and Wildlife Area (1)

Carlyle Lake Lands and Waters – Corps of Engineers Managed Lands (1)

Carlyle Lake State Wildlife Management Area (1)

Clinton Lake State Recreation Area (1) (2)

Cypress Pond State Natural Area (1)

Deer Pond State Natural Area (1)

Devil's Island State Fish and Wildlife Area (1)

Eldon Hazlet State Park – north of Allen Branch and west of Peppenhorst Branch only (1)

Embarras River Bottoms State Habitat Area (2)

Ferne Clyffe State Park – Cedar Draper Bluffs Hunting Area (1)

Finfrock State Habitat Area (1) (2)

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Fort de Chartres Historic Site (1)

Hallsville Pheasant Habitat Area (1) [\(2\)](#)

Harry "Babe" Woodyard State Natural Area (1) (2)

Herschel Workman Pheasant Habitat Area (2)

Hindsboro Pheasant Habitat Area (2)

Horseshoe Lake State Conservation Area (1)

I & M Canal State Park (1)

Kaskaskia River Fish and Wildlife Area (Doza Creek Waterfowl Management Area closed 7 days prior to duck season; the defined Baldwin Lake Waterfowl Rest Area is closed) (1) (2)

Kickapoo State Recreation Area (1) (2)

Kidd Lake State Natural Area (1)

Lake Murphysboro State Park (1)

Larry D. Closson State Habitat Area (2)

Lincoln Trail State Park (1) (2)

Lowden State Park – Kilbuck Creek Habitat Area (1)

Meeker State Habitat Area (1) (2)

Mermet Lake State Fish and Wildlife Area (1) (2)

Middle Fork State Fish and Wildlife Area (1) (2)

Mississippi River State Fish and Waterfowl Area (Pools 25, 26) (land sets accessed by land only allowed during duck season; water sets allowed)

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after duck season closes) (1)

Moraine Hills State Park (water sets only; only body-gripping traps with a jaw spread of 5 inches or less may be used; no more than two persons may enter drawing on a single card) (1)

Moraine View State Park (no more than 2 persons may enter drawing on a single card) (1) (2)

Newton Lake State Fish and Wildlife Area (2)

Paul C. Burrus Habitat Area (2)

Peabody River King State Fish and Wildlife Area (east, west, and south subunits only) (1)

Perdueville Pheasant Habitat Area (2)

Pyramid State Park (1) (2)

Pyramid State Park – East Conant Unit (1) (2)

Pyramid State Park – Galum Unit (1) (2)

Randolph County State Conservation Area (1)

Red Hills State Park (2)

Sand Ridge State Forest (1) (2)

Sanganois State Fish and Wildlife Area (1) (2)

Saybrook Pheasant Habitat Area (2)

Shelbyville State Fish and Wildlife Area (1) (2)

Sibley Pheasant Habitat Area (2)

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Ten Mile Creek State Fish and Wildlife Area (designated Waterfowl Rest Areas closed to trapping during open season for Canada goose) (2)

Turkey Bluffs State Fish and Wildlife Area (1)

Union County State Fish and Wildlife Area (1)

Victoria Pheasant Habitat Area (season opens at sunrise on December 26)  
(1) (2)

Walnut Point State Park (2)

Washington County State Conservation Area (1)

Willow Creek State Habitat Area (2)

Wise Ridge State Natural Area (1)

World Shooting and Recreation Complex (designated areas only) (1)

- d) Statewide regulations as provided for in this Part apply at the following sites (exceptions in parentheses); in addition, a permit is required; only Egg Traps<sup>®</sup>, D-P (Dog-Proof) Traps<sup>®</sup>, Lil Grizz Get'rz<sup>®</sup>, box traps, cage traps, and traps of similar design may be used for land sets; only body-gripping traps with a jaw spread of 5 inches or less, foothold traps with a jaw spread of 4½ inches or less and square body-gripping traps with a 10 inch jaw spread may be used for water sets; snares may be used for water sets:

Anderson Lake State Conservation Area (1)

Argyle Lake State Park (1) (2)

Banner Marsh State Fish and Wildlife Area (1)

Beaver Dam State Park (1)

Big Bend State Fish and Wildlife Area (after the close of rabbit season foothold traps with a jaw spread of 7½ inches or less may be used for

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water sets) (1)

Coffeen Lake State Fish and Wildlife Area (1)

Coleta Ponds (1)

Copperhead Hollow State Wildlife Area (1) (2)

Dog Island State Wildlife Management Area (1) (2)

Double T State Fish and Wildlife Area (1)

Giant City State Park (1)

Hamilton County State Fish and Wildlife Area (closed during firearm deer season) (2)

Hanover Bluff State Natural Area (1)

Hennepin Canal Parkway including Sinnissippi Lake (trappers must register at park office; no floats may be set more than 14 days prior to the season and must be removed at the conclusion of the season; no land sets) (1)

Hidden Springs State Forest (1) (2)

Horseshoe Lake State Park – Madison County (1)

Horseshoe Lake State Park (Gabaret, Mosenthein and Chouteau Island Units (Madison County)) (1)

Ilo Dillin State Habitat Area (use of foothold traps prohibited during pheasant and quail season) (1)

Jim Edgar Panther Creek State Fish and Wildlife Area (body-gripping traps must be completely submerged) (1) (2)

Johnson-Sauk Trail State Park (no foothold water sets) (1)

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Jubilee College State Park (1)

Kankakee River State Park (trappers must wear blaze orange while checking traps; no trapping adjacent to bike or horse trails; south of the Kankakee River, only dog proof type traps may be used until the close of the upland hunting season; no trapping on campground areas until closed) (1)

Kishwaukee River State Fish and Wildlife Area (site trapping season ends on the last day of archery deer season) (1) (2)

Lake Le-Aqua-Na State Park (1)

Little Rock Creek State Habitat Area (1)

Mackinaw River State Fish and Wildlife Area (1)

Marshall County State Fish and Wildlife Area (1) (2)

Mautino State Fish and Wildlife Area (trappers must register at the Hennepin Canal office; no floats may be set more than 14 days prior to the season and must be removed at the conclusion of the season; no land sets) (1)

Morrison Rockwood State Park (1)

Pekin Lake State Fish and Wildlife Area (1)

Pyramid State Park – Captain Unit (no trapping on waterfowl refuge during waterfowl season; no foothold traps; body-gripping traps must be submerged) (1) (2)

Pyramid State Park – Denmark Unit (no trapping on waterfowl refuge during waterfowl season; no foothold traps; body-gripping traps must be submerged) (1) (2)

Ramsey Lake State Park (1)

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Rice Lake State Fish and Wildlife Area (1)

Rock Cut State Park (1)

Saline County State Fish and Wildlife Area (1) (2)

Sam Dale Lake State Conservation Area (2)

Sahara Woods State Fish and Wildlife Area (1) (2)

Sangchris Lake State Park (trapping rights for the opening day of the raccoon trapping season in the southern zone through January 25 are allocated by a drawing and restricted to designated areas; from February 1 through March 31, Sangchris Lake will be open to statewide trapping regulations) (1) (2)

Shabbona Lake State Park (1) (2)

Sparland State Fish and Wildlife Area (1)

Spoon River State Forest (1) (2)

Spring Lake State Fish and Wildlife Area (1)

Starved Rock/Matthiessen State Park (1)

Stephen A. Forbes State Park (1) (2)

Trail of Tears State Forest (1)

Weldon Springs State Park (1) (2)

- e) Trapping is prohibited on all other Department-owned, -leased or -managed sites except by special permit which shall be issued by the Department when it is determined that the harvest of a species would enhance the biological balance of the resource.

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- 1) All regulations shall be according to species regulations as provided for in this Part.
  - 2) Permit application information and site specific regulations shall be announced publicly by the Department through the news media by September 1 of each year.
  - 3) Site specific regulations shall be listed on the application and permit and posted at the site.
- f) Violation of site specific regulations is a Class B misdemeanor (see Section 2.30 of the Code).

(Source: Amended at 42 Ill. Reg. 13100, effective June 22, 2018)



## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: White-Tailed Deer Hunting By Use of Firearms
- 2) Code Citation: 17 Ill. Adm. Code 650
- 3) 

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
650.22	Amendment
650.30	Amendment
650.60	Amendment
650.66	Amendment
650.67	Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 1.3, 1.4, 1.13, 2.20, 2.24, 2.25, 2.26, 2.33 and 3.36 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.13, 2.20, 2.24, 2.25, 2.26, 2.33 and 3.36].
- 5) Effective Date of Rules: June 22, 2018
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rules, including all material incorporated by reference is on file in the Department of Natural Resources' principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 42 Ill. Reg. 4351, March 9, 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? No agreements were necessary.
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any other rulemakings pending on this Part? No

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NOTICE OF ADOPTED AMENDMENTS

- 15) Summary and Purpose of Rulemaking: This Part has been amended to make statewide program changes, open and close State-owned or -managed sites, and amend procedures at State sites.
- 16) Information and questions regarding these adopted rules shall be directed to:

Javonna Ackerman, Legal Counsel  
Department of Natural Resources  
One Natural Resources Way  
Springfield IL 62702-1271

217/557-0126

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

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF ADOPTED AMENDMENTS

TITLE 17: CONSERVATION  
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES  
SUBCHAPTER b: FISH AND WILDLIFEPART 650  
WHITE-TAILED DEER HUNTING BY USE OF FIREARMS

## Section

650.10	Statewide Season and Permit Quotas
650.20	Statewide Deer Permit Requirements
650.21	Deer Permit Requirements – Landowner/Tenant Permits
650.22	Deer Permit Requirements – Special Hunts
650.23	Deer Permit Requirements – Group Hunt
650.30	Statewide Requirements for Hunting Devices
650.40	Statewide Deer Hunting Rules
650.45	Reporting Harvest
650.50	Rejection of Application/Revocation of Permits
650.60	Regulations at Various Department-Owned or -Managed Sites
650.65	Youth Hunt (Repealed)
650.66	Special Hunts for Young Hunters
650.67	Special Hunts for Disabled Hunters
650.70	Special Extended Season Firearm Deer Hunt (Repealed)

AUTHORITY: Implementing and authorized by Sections 1.3, 1.4, 1.13, 2.20, 2.24, 2.25, 2.26, 2.33 and 3.36 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.13, 2.20, 2.24, 2.25, 2.26, 2.33 and 3.36].

SOURCE: Adopted at 5 Ill. Reg. 9771, effective September 17, 1981; codified at 5 Ill. Reg. 10640; amended at 6 Ill. Reg. 10730, effective August 20, 1982; amended at 7 Ill. Reg. 10798, effective August 24, 1983; amended at 8 Ill. Reg. 21602, effective October 23, 1984; amended at 9 Ill. Reg. 16213, effective October 10, 1985; emergency amendment at 9 Ill. Reg. 20922, effective December 18, 1985, for a maximum of 150 days; amended at 10 Ill. Reg. 4223, effective February 25, 1986; amended at 10 Ill. Reg. 16665, effective September 22, 1986; amended at 11 Ill. Reg. 3044, effective February 3, 1987; amended at 11 Ill. Reg. 9564, effective May 5, 1987; amended at 12 Ill. Reg. 8003, effective April 25, 1988; amended at 12 Ill. Reg. 12055, effective July 11, 1988; amended at 13 Ill. Reg. 12853, effective July 21, 1989; amended at 14 Ill. Reg. 12430, effective July 20, 1990; amended at 14 Ill. Reg. 19869, effective December 3, 1990; amended at 15 Ill. Reg. 10038, effective June 24, 1991; emergency amendment at 15 Ill.

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Reg. 15790, effective October 22, 1991, for a maximum of 150 days; emergency expired March 21, 1992; amended at 16 Ill. Reg. 11131, effective June 30, 1992; amended at 17 Ill. Reg. 13468, effective July 30, 1993; amended at 18 Ill. Reg. 5859, effective April 5, 1994; amended at 18 Ill. Reg. 13431, effective August 23, 1994; amended at 19 Ill. Reg. 6477, effective April 28, 1995; amended at 20 Ill. Reg. 7515, effective May 20, 1996; amended at 21 Ill. Reg. 5572, effective April 19, 1997; amended at 21 Ill. Reg. 9116, effective June 26, 1997; amended at 22 Ill. Reg. 8007, effective April 28, 1998; amended at 23 Ill. Reg. 5564, effective April 26, 1999; amended at 24 Ill. Reg. 8971, effective June 19, 2000; amended at 24 Ill. Reg. 10260, effective July 1, 2000; amended at 25 Ill. Reg. 7231, effective May 22, 2001; amended at 26 Ill. Reg. 9319, effective June 17, 2002; amended at 27 Ill. Reg. 10009, effective June 23, 2003; emergency amendment at 27 Ill. Reg. 17270, effective November 10, 2003, for a maximum of 150 days; Section 650.60 of the emergency rules expired April 8, 2004; amended at 28 Ill. Reg. 353, effective December 19, 2003; amended at 28 Ill. Reg. 8039, effective May 26, 2004; amended at 29 Ill. Reg. 9718, effective June 24, 2005; emergency amendment at 29 Ill. Reg. 13025, effective August 10, 2005, for a maximum of 150 days; emergency expired January 1, 2006; amended at 30 Ill. Reg. 12155, effective June 28, 2006; amended at 31 Ill. Reg. 8169, effective May 25, 2007; amended at 32 Ill. Reg. 9300, effective June 13, 2008; amended at 33 Ill. Reg. 11534, effective July 27, 2009; amended at 34 Ill. Reg. 4800, effective March 19, 2010; amended at 35 Ill. Reg. 10710, effective June 23, 2011; amended at 36 Ill. Reg. 13419, effective August 10, 2012; amended at 37 Ill. Reg. 14888, effective August 30, 2013; amended at 38 Ill. Reg. 22742, effective November 18, 2014; amended at 39 Ill. Reg. 7643, effective May 18, 2015; amended at 40 Ill. Reg. 10545, effective July 20, 2016; amended at 41 Ill. Reg. 8639, effective June 28, 2017; amended at 41 Ill. Reg. 15784, effective December 18, 2017; amended at 42 Ill. Reg. 13114, effective June 22, 2018.

**Section 650.22 Deer Permit Requirements – Special Hunts**

- a) Special hunt sites are defined as those sites which are owned or controlled by agencies/entities other than the Department, or sites at which the Department only controls a portion of the property designated for deer hunting, which issue deer hunting permits through the statewide lottery process. The Permit Office issues deer hunting permits through a computerized drawing for the following sites, in addition to the Department-owned or -managed sites listed in Section 650.60(i). The permit preference system does not apply to special hunt areas or to State sites allocating permits in the lottery.

Crab Orchard National Wildlife Refuge (the first and second season are considered separate hunt choices, and permit applicants must specify which

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season they are applying for in the County Choice or Hunt Area field of the application. Permits may be issued as antlerless-only without the normal bonus requirement. Standby hunting will be allowed if additional permits are available at the site)

Crab Orchard National Wildlife Refuge – Disabled Hunt (first season only)

Joliet Army Training Area (Will County)

Lake Shelbyville Project Lands – Disabled Hunt (first season only; permit drawing will be conducted by Corps of Engineers' staff with permits mailed to successful applicants by the Department; contact Corps of Engineers, Lake Shelbyville office for application procedures/dates; additional permits will be available for purchase at the site for any unfilled positions)

Lake Shelbyville Project Lands (Moultrie County) (it is unlawful to drive deer; for Corps of Engineers managed lands not managed by IDNR, contact Corps of Engineers, Lake Shelbyville office for specific deer hunting policy)

Lake Shelbyville Project Lands except Wolf Creek State Park (Shelby County) (it is unlawful to drive deer; for Corps of Engineers managed lands not managed by IDNR, contact Corps of Engineers, Lake Shelbyville office for specific deer hunting policy)

Lost Mound Unit – Upper Mississippi River National Wildlife and Fish Refuge, including Stewardship Park and Eagles Landing (DNR owned) – [Disabled Hunt](#) (Friday, Saturday and Sunday prior to the first statewide firearm deer season only; permit drawing will be conducted by USFWS; preference given to disabled hunters; either-sex permits; bonus antlerless-only permits and one-day standby permits will be sold at site)

Midewin National Tallgrass Prairie (no handguns allowed; additional site pass is required; check-in, check-out and reporting of harvest is required)

- b) Providing false information on an application is a Class A misdemeanor (see 520 ILCS 5/2.38). Hunting deer prior to ½ hour before sunrise or after ½ hour after sunset is a Class A misdemeanor with a \$500 minimum and \$5,000 maximum fine, in addition to other statutory penalties (see 520 ILCS 5/2.33(y)). Taking an

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antlered deer with an antlerless permit is a Class B misdemeanor (see 520 ILCS 5/2.24). Hunting after sunset or outside the set season is a Class B misdemeanor (see 520 ILCS 5/2.24).

(Source: Amended at 42 Ill. Reg. 13114, effective June 22, 2018)

**Section 650.30 Statewide Requirements for Hunting Devices**

- a) The only legal hunting devices to take, or attempt to take, deer are:
- 1) Shotgun, loaded with slugs only, of not larger than 10 nor smaller than 20 gauge, not capable of firing more than 3 consecutive slugs; or
  - 2) A single or double barreled muzzleloading rifle of at least .45 caliber shooting a single projectile through a barrel of at least sixteen inches in length; or
  - 3) Centerfire revolvers or centerfire single-shot handguns of .30 caliber or larger with a minimum barrel length of 4 inches; or
  - 4) On private land only, archery equipment as prescribed by 17 Ill. Adm. Code 670.30, ~~except that crossbows may only be used by persons age 62 and older with a valid photo ID containing proof of age, or by a disabled person to whom the Department has issued a permit to use a crossbow as provided by 17 Ill. Adm. Code 760.~~
- b) Standards and specifications for legal firearm ammunition are:
- 1) For shotguns and muzzleloading firearms, the minimum size of the projectile shall be .44 caliber. A wad or sleeve is not considered a projectile or a part of the projectile.
  - 2) For handguns, a bottleneck centerfire cartridge of .30 caliber or larger with a case length not exceeding 1.4 inches, or a straight-walled centerfire cartridge of .30 caliber or larger, both of which must be available as a factory load with the published ballistic tables of the manufacturer showing a capability of at least 500 foot pounds of energy at the muzzle.

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- 3) Non-expanding, military-style full metal jacket bullets cannot be used to harvest white-tailed deer; only soft point or expanding bullets (including copper/copper alloy rounds designed for hunting) are legal ammunition.
- c) Standards and specifications for use of muzzleloading firearms are as follows:
- 1) A muzzleloading firearm is defined as a firearm that is incapable of being loaded from the breech end.
  - 2) Only black powder or a "black powder substitute" such as Pyrodex may be used. Modern smokeless powders (nitrocellulose-based) are an approved blackpowder substitute only in muzzleloading firearms that are specifically designed for their use.
  - 3) Only percussion (cap or primer) caps, wheellock, matchlock, flintlock or electronic ~~flint type~~ ignition may be used, ~~except the Connecticut Valley Arms (CVA) electronic ignition shall be legal to use.~~
  - 4) The following shall constitute an unloaded muzzleloading firearm:
    - A) ~~removal~~ Removal of percussion cap/primer; ~~or~~
    - B) removal of prime powder from frizzen pan with frizzen open and hammer all the way down; ~~or~~
    - C) removal of prime powder from flashpan and wheel unwound; ~~or~~
    - D) removal of prime powder and match with match not lit; ~~or~~
    - E) removal of the battery from the ~~CVA~~ electronic ignition muzzleloader, shall constitute an unloaded muzzleloading firearm.
- d) Violation of this Section is a Class B misdemeanor (see 520 ILCS 5/2.24).

(Source: Amended at 42 Ill. Reg. 13114, effective June 22, 2018)

**Section 650.60 Regulations at Various Department-Owned or -Managed Sites**

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- a) All the regulations in 17 Ill. Adm. Code 510 – General Hunting and Trapping apply in this Section, unless this Section is more restrictive.
- b) It is unlawful to drive deer, or participate in a deer drive, on all Department-owned or -managed properties. A deer drive is defined as a deliberate action by one or more persons (whether armed or unarmed) whose intent is to cause deer to move within firearm range of one or more participating hunters.
- c) Only one tree stand or ground blind is allowed per deer permit holder. Tree stands and ground blinds must comply with restrictions listed in 17 Ill. Adm. Code 510.10(c)(3) and (c)(12) and must be portable. Tree stands and ground blinds must be removed at the end of each day with the exception that they may be left unattended from September 15-January 31 at those sites listed in this Section that are followed by a (1). Any tree stand or ground blind left unattended overnight must be legibly marked with the owner's name, address, and telephone number, or site assigned identification number.
- d) Check-in, check-out, and reporting of harvest is required at those sites listed in this Section that are followed by a (2). Sites that require use of windshield cards by hunters as specified in 17 Ill. Adm. Code 510.10 are followed by a (6).
- e) Only antlerless deer or antlered deer having at least four points on one side may be harvested at those sites listed in this Section that are followed by a (3).
- f) Only antlerless deer or antlered deer having at least five points on one side may be harvested at those sites listed in this Section that are followed by a (4).
- g) Statewide regulations shall apply at the following sites:

Alvah Borah State Habitat Area (1) (6)

Big Grand Pierre Glade State Natural Area (1)

Cache River State Natural Area (1) (2)

Campbell Pond State Habitat Area (1) (6)

Cape Bend State Fish and Wildlife Area (1) (2)



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Carlyle Lake Lands and Waters (Corps of Engineers managed lands except for Jim Hawn and East Spillway areas that are closed to firearm deer hunting)

Carlyle Lake State Fish and Wildlife Area (except subimpoundment area) (6)

Chauncey Marsh State Natural Area (1) (6)

Collier Limestone Glade State Natural Area (1)

Crawford County Fish and Wildlife Area (1) (6)

Cretaceous Hills State Natural Area (1) (6)

Cypress Creek National Wildlife Refuge

Cypress Pond State Natural Area (1) (2)

Deer Pond State Natural Area (1) (2)

Devil's Island State Wildlife Management Area

Dog Island State Wildlife Management Area (1) (6)

Ferne Clyffe State Park – Cedar/Draper Bluff Hunting Area (1) (2)

Fort de Chartres State Historic Site (muzzleloading rifles only; no in-line muzzleloading rifles or muzzleloaders with scopes allowed) (1) (2)

George S. Park Memorial Woods State Natural Area (2)

Giant City State Park (1) (2)

Hamilton County State Conservation Area (1) (6)

Horseshoe Lake State Fish and Wildlife Area – Alexander County (all portions of the Public Hunting Area except the Controlled Goose Hunting Area) (1) (2)

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Kaskaskia River State Fish and Wildlife Area, excluding Doza Creek Water Management Area and Baldwin Lake Rest Area (1) (2, except south of Highway 154 and north of Highway 13)

Kinkaid Lake State Fish and Wildlife Area (1) (2)

Lake Le Aqua Na State Park (first season only; standby hunting allowed by Stephenson County permit holders during the first season if all blinds not filled by youth hunters; submission of all deer heads within 48 hours after harvest on site is required to test for the presence of Chronic Wasting Disease) (2)

Lusk Creek Canyon State Natural Area (1)

Meeker State Habitat Area (1) (6)

Mermet Lake State Conservation Area (1) (6)

Miller-Anderson Woods State Natural Area (Bureau County permit holders may hunt the Bureau County portion of the Area and Putnam County permit holders may hunt the Putnam County portion of the Area) (2)

Mississippi State Fish and Waterfowl Management Area – Pools 25 and 26 (Batchtown, Crull Hollow and Godar Waterfowl Rest Areas are closed to hunting beginning 14 days before the regular duck season; areas reopen to hunting the day after duck season closes; it is unlawful to trespass upon the designated duck hunting areas between sunset of the Sunday immediately preceding opening day of regular duck season through the day before regular duck season as posted at the site; no deer hunting is allowed within 200 yards of an occupied duck blind; during duck season only, deer hunters may not access the designated duck hunting areas by launching a boat at certain specifically posted boat ramps; boat ramps reopen to deer hunters the day after duck season closes; hunting is allowed at Red's Landing and Riprap Landing walk-in areas from 12:00 p.m. to ½ hour after sunset during duck season, statewide hours during remainder of the season) (1)

Mississippi River Pool 16 (1)

Mississippi River Pools 17, 18 (1)

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Mississippi River Pools 21, 22, 24 (1)

Oakford State Conservation Area

Pere Marquette State Park (1) (6)

Rend Lake State Fish and Wildlife Area and Corps of Engineers' managed areas of Rend Lake

Saline County State Fish and Wildlife Area (1) (6)

Sielbeck Forest State Natural Area (1) (6)

Skinner Farm State Habitat Area (1) (2)

Ten Mile Creek State Fish and Wildlife Area (areas designated as Waterfowl Rest Areas are closed to all access during the Canada Goose Season only) (1) (6)

Trail of Tears State Forest (1) (2)

Turkey Bluffs State Fish and Wildlife Area (1) (2)

Union County State Fish and Wildlife Area (Firing Line Unit only) (1) (2)

Weinberg-King State Park – Spunky Bottoms Unit (6)

Wildcat Hollow State Forest (1) (6)

Wise Ridge State Natural Area (1)

- h) Statewide regulations shall apply at the following sites by special permit allocated through the regular statewide drawing. Season dates that differ from the statewide dates are in parentheses. Sites that offer standby hunting are followed by a (5). At sites offering standby hunting, permit holders must register at the check station by 5:00 a.m. each day of the hunt. Unvalidated permits are void after 5:00 a.m. Vacancies each day will be filled by a drawing held at 5:00 a.m. Vacancies may be filled by any person holding a valid hunting license, Habitat Stamp, and Firearm Owner Identification Card, unless exempt. Standby hunters

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will be issued a one-day site-specific deer permit at the check station, and charged a permit fee of \$5. All hunters must check out and report harvest. Sites that require use of windshield cards by hunters as specified in 17 Ill. Adm. Code 510.10 are followed by (6). In the event that Department budget reductions or site staffing reductions make the operation of check stations or issuance of standby permits impractical, changes to check station procedures and standby permit issuance will be publicly announced and posted at the site.

Apple River Canyon State Park – Thompson and Salem Units (first or second season only) (6)

Argyle Lake State Park (2) (5) (6)

Big River State Forest (2) (5) (6)

Burning Star State Fish and Wildlife Area (6)

Butterfield Trail State Recreation Area (6)

Carlyle Lake State Fish and Wildlife Area – East Fork Unit in Clinton County

Castle Rock State Park (first or second season only) (1) (5) (6)

Cedar Glen State Natural Area (1) (6)

Chain O'Lakes State Park (first season permits only; hunting from elevated stands only, 6 feet minimum above the ground except for designated accessible blinds; firearms must be fully enclosed in a case, except while the hunter is in an elevated stand or as otherwise authorized by an employee of the Department; all hunters must attend a site lottery drawing for designated hunter stations) (1) (2) (5)

Clinton Lake State Recreation Area (only in the area between County Highway 14 and State Route 48 – both sides of lake) (6)

Coffeen Lake State Fish and Wildlife Area (6)

Copperhead Hollow State Fish and Wildlife Area (1) (6)

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- Des Plaines State Conservation Area (first season only) (2) (5)
- Embarras River Bottoms State Habitat Area (1) (6)
- Ferne Clyffe State Park – Ferne Clyffe Hunting Area (1) (2)
- Flag Pond State Natural Area (1) (6)
- Fort Massac State Park (6)
- Fox Ridge State Park (1) (6)
- Franklin Creek State Natural Area (first or second season only) (5) (6)
- French Bluff State Natural Area (first or second season only) (1) (6)
- Goose Lake Prairie State Natural Area/Heidecke State Fish and Wildlife Area (first or second season only) (2) (5)
- Green River State Wildlife Area (first or second season only) (1) (5) (6)
- Hanover Bluff State Natural Area (first or second season only) (6)
- Harry "Babe" Woodyard State Natural Area ~~(3)~~(6)
- Henry Allan Gleason State Natural Area ~~(62)~~
- Hidden Springs State Forest (1) (6)
- Horseshoe Lake State Fish and Wildlife Area – Refuge (Alexander County) (hunting only on the third Friday and Saturday of October) (2)
- Iroquois County State Conservation Area (first season only) (5) (6)
- Iroquois County State Conservation Area (second season only; no hunting in the controlled pheasant hunting area) (5) (6)
- Jim Edgar Panther Creek State Fish and Wildlife Area (1) (3) (6)

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Jubilee College State Park (first or second season only; hunting is prohibited in marked zones (handicapped hunt area and areas within 300 yards of an inhabited dwelling); tree stands may be erected the day before the first season and must be removed by the day after the end of the second season) (2) (5)

Kaskaskia River Fish and Wildlife Area (Baldwin Lake Rest Area; first or second season only; hunting from elevated stands only; six feet minimum above ground; hunting must occur within 20 yards of an assigned, numbered stake; an inhouse drawing will be held in mid-October for such assignments; hunters will be notified by mail of their hunting location; no hunters may enter the area before 5:00 a.m.); any hunter that has filled the Springfield-issued permit may purchase additional antlerless-only tags at the site office (1) (2) (5 – last 2 days of second season)

Kickapoo State Recreation Area (6)

Kishwaukee River State Fish and Wildlife Area (first or second season only) (6)

Lake Le Aqua Na State Park (second season only; submission of all deer heads within 48 hours after harvest on site is required to test for the presence of Chronic Wasting Disease) (6)

Lake Shelbyville State Fish and Wildlife Area (must have valid permit for Lake Shelbyville Project Lands – Moultrie County) (6)

Lowden-Miller State Forest (first or second season only) (1) (5) (6)

Mackinaw River State Fish and Wildlife Area (1) (2) (5)

Marseilles Fish and Wildlife Area (first or second season only) (all tree stands must be removed no later than the last day of the archery deer season; unauthorized personnel may not be on the site outside of the posted check station operating hours; hunters may enter the site only from designated parking lots) (1) (2) (5)

Marshall State Fish and Wildlife Area (2) (5)

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Middle Fork State Fish and Wildlife Area (6)

Mississippi Palisades State Park (first or second season only) (1) (5) (6)

Momence Wetlands State Natural Area

Moraine Hills State Park (first or second season permits only; hunting from elevated stands only, 6 feet minimum above ground except for designated accessible blinds; firearms must be fully enclosed in a case, except while the hunter is in an elevated stand or as otherwise authorized by an employee of the Department) (2) (5)

Morrison-Rockwood State Park (first season only) (5)

Newton Lake State Fish and Wildlife Area (6)

Paul C. Burrus State Habitat Area (6)

Peabody River King State Fish and Wildlife Area (any hunter that has filled the Springfield-issued permit may purchase additional antlerless-only tags at the site office)

Prairie Ridge State Natural Area (Jasper County) (6)

Pyramid State Park (3) (6)

Pyramid State Park – Captain Unit (3) (6)

Pyramid State Park – Denmark Unit (3) (6)

Pyramid State Park – East Conant Unit (3) (6)

Pyramid State Park – Galum Unit (3) (6)

Rall Woods State Natural Area (first or second season only) (6)

Ray Norbut State Fish and Wildlife Area (6)

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Ray Norbut State Fish and Wildlife Area – Dutch Creek Unit (6)

Revis Hill Prairie State Natural Area (~~62~~)

Sand Ridge State Forest (6)

Sangamon County State Conservation Area (6)

Sanganois State Wildlife Area (Ash Swale Waterfowl Rest Area will be closed to deer hunting during the waterfowl hunting season) (1) (6)

Siloam Springs State Park (3) (6)

Siloam Springs State Park – Buckhorn Unit (3) (6)

Spoon River State Forest (first or second season only) (1) (6)

Starved Rock State Park (first or second season only; permit includes Starved Rock State Park, Matthiessen State Park, Margery C. Carlson State Natural Area, Mitchell's Grove State Natural Area and Sandy Ford State Natural Area; all initial permits will be issued as antlerless only; hunters must take an antlerless deer during the current year firearm season on site before they can purchase an either-sex site-specific permit; hunters must check antlerless deer with site staff for verification to participate in bonus buck program; standby hunters may purchase up to 2 one-day site-specific antlerless-only permits each day) (2) (5)

Tapley Woods State Natural Area (first or second season only) (6)

Union County State Fish and Wildlife Area – Refuge (hunting only on the first Friday and Saturday of November) (2)

Vesely Land and Water Reserve/Wilmington Shrub Prairie Nature Preserve (first or second season only) (6)

Wards Grove State Nature Preserve (first or second season only; antlerless only) (6)

Weinberg-King State Park (6)



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Weinberg-King State Park – Scripps Unit (6)

Weldon Springs State Park – Piatt County Unit (6)

White Pines Forest State Park (Monday, Tuesday and Wednesday prior to the first statewide firearm deer season only) (5) (6)

White Pines Forest State Park (Monday, Tuesday and Wednesday prior to the second statewide firearm deer season only) (5) (6)

Winston Tunnel State Natural Area (first or second season only) (6)

Witkowsky State Wildlife Area (first or second season only) (6)

Wolf Creek State Park (~~participants in the Corps of Engineers special disabled hunt program are exempt from site's antler restrictions;~~ for Corps of Engineers managed lands not managed by IDNR, contact Corps of Engineers, Lake Shelbyville office for specific deer hunting policy) ~~(3)~~(6)

- i) Violations of site specific regulations are petty offenses (see 520 ILCS 5/2.20).

(Source: Amended at 42 Ill. Reg. 13114, effective June 22, 2018)

**Section 650.66 Special Hunts for Young Hunters**

- a) Statewide regulations shall apply, except as noted in parentheses, at the following sites by special permit allocated through the regular statewide drawing. Shooting is allowed from elevated tree stands, except as noted in parentheses. Applicants must not have reached their 18<sup>th</sup> birthday, ~~have completed a State approved Hunter Education course and have a hunting license, unless exempt,~~ by the start of the season. Only one tree stand is allowed per person. Tree stands must comply with restrictions listed in 17 Ill. Adm. Code 510.10(c)(3) and must be portable. Tree stands may be set up the day before the hunt and shall be removed the day after. All tree stands must be marked with a site assigned identification number. Check-in, check-out and report of harvest is required.

Crab Orchard National Wildlife Refuge (first season only; public hunting area

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only, except area north of Route 13 is closed to firearm deer hunting)

Dixon Springs State Park

Lake Le Aqua Na State Park (hunting from Department established ground blinds only; first season only; ~~permits shall be antlerless only; youth hunters may purchase a \$5 either sex permit after harvesting an antlerless deer;~~ supervisors may hunt; submission of all deer heads within 48 hours after harvest on site is required to test for the presence of Chronic Wasting Disease, ~~but may only take antlerless deer~~)

- b) Violation of this Section is a Class B misdemeanor (see 520 ILCS 5/2.24).

(Source: Amended at 42 Ill. Reg. 13114, effective June 22, 2018)

**Section 650.67 Special Hunts for Disabled Hunters**

- a) Statewide regulations apply; season dates are the Thursday, Friday, and Saturday immediately prior to the first firearm deer season, and the Thursday, Friday, and Saturday immediately following the second weekend of the regular firearm season unless otherwise noted in parentheses. Permit applications may be obtained from the appropriate site office, and completed applications must be returned to that office by the third Friday in October unless otherwise noted in parentheses. Disabled hunters must possess a Class P2A disability card in order to be eligible for the drawing. All participating hunters must show proof of passing the Illinois Hunter Safety Course or an equivalent State program for nonresidents unless otherwise noted in parentheses. Additional regulations will be publicly announced.

Clinton Lake State Recreation Area (completed applications must be returned by the first Friday in October~~Mascoutin State Park~~) (2)

Horseshoe Lake State Conservation Area (first Saturday and Sunday of November; participants other than disabled hunters must take an antlerless deer before taking an antlered deer) (1) (2) (5)

Johnson-Sauk Trail State Park (first Thursday and Friday occurring after November 1) (2)

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Jubilee College State Park (coincides with first firearm deer season; hunter safety course not required) (2) (5)

Jubilee College State Park (coincides with second firearm deer season; hunter safety course not required) (2) (5)

Rock Cut State Park (Thursday, Friday and Saturday prior to the first statewide firearm deer season) (2) (5)

Spoon River State Forest (first Saturday and Sunday in October following the completion of youth firearm deer season) (2)

Starved Rock State Park (coincides with first firearm deer season; permit applications may be obtained from the site office and completed applications must be returned to that office by the third Friday in October; all initial permits will be issued as antlerless only; hunters must take an antlerless deer during the current year firearm season on site before they can purchase an either-sex site-specific permit; hunters must check antlerless deer with site staff for verification to participate in bonus buck program; hunter safety course not required) (2) (5)

Starved Rock State Park (coincides with second firearm deer season; permit applications may be obtained from the site office and completed applications must be returned to that office by the third Friday in October; all initial permits will be issued as antlerless only; hunters must take an antlerless deer during the current year firearm season on site before they can purchase an either-sex site-specific permit; hunters must check antlerless deer with site staff for verification to participate in bonus buck program; hunter safety course not required) (2) (5)

Wayne Fitzgerald State Park (the first Friday, Saturday and Sunday in November; permit applications may be obtained from the site office and completed applications must be returned to that office by October 1; all initial permits will be issued as antlerless only; hunters must harvest an antlerless deer onsite before they can purchase an either-sex site-specific permit; hunters must check antlerless deer with site staff for verification to get the either-sex permit) (2) (5)

- b) Violation of this Section is a Class B misdemeanor (see 520 ILCS 5/2.24).

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(Source: Amended at 42 Ill. Reg. 13114, effective June 22, 2018)

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- 1) Heading of the Part: White-Tailed Deer Hunting By Use of Muzzleloading Rifles
- 2) Code Citation: 17 Ill. Adm. Code 660
- 3) 

<u>Section Numbers</u> :	<u>Adopted Actions</u> :
660.22	Amendment
660.30	Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 1.3, 1.4, 1.13, 2.20, 2.24, 2.25, 2.26, 2.33 and 3.36 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.13, 2.20, 2.24, 2.25, 2.26, 2.33 and 3.36].
- 5) Effective Date of Rules: June 22, 2018
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rules, including all material incorporated by reference, is on file in the Department of Natural Resources' principal office and is available for public inspection.
- 9) Notice of Proposal published in *Illinois Register*: 42 Ill. Reg. 4371; March 9, 2018
- 10) Has JCAR issued a Statement of Objections 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? No agreements were necessary.
- 13) Will this rulemaking replace any emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: This Part is being amended to make Statewide program changes, open and close State-owned or -managed sites, and amend procedures at State sites.

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

Javonna Ackerman, Legal Counsel  
Department of Natural Resources  
One Natural Resources Way  
Springfield IL 62702-1271

217/557-0126

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

## DEPARTMENT OF NATURAL RESOURCES

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TITLE 17: CONSERVATION  
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES  
SUBCHAPTER b: FISH AND WILDLIFEPART 660  
WHITE-TAILED DEER HUNTING BY USE  
OF MUZZLELOADING RIFLES

## Section

660.10	Statewide Season and Permit Quotas
660.20	Statewide Deer Permit Requirements
660.21	Deer Permit Requirements – Landowner/Tenant Permits
660.22	Deer Permit Requirements – Special Hunts
660.25	Deer Permit Requirements – Group Hunt
660.30	Statewide Muzzleloading Rifle Requirements
660.40	Statewide Deer Hunting Rules
660.45	Reporting Harvest
660.50	Rejection of Application/Revocation of Permits
660.60	Regulations at Various Department-Owned or -Managed Sites

AUTHORITY: Implementing and authorized by Sections 1.3, 1.4, 1.13, 2.20, 2.24, 2.25, 2.26, 2.33 and 3.36 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.13, 2.20, 2.24, 2.25, 2.26, 2.33 and 3.36].

SOURCE: Adopted at 15 Ill. Reg. 4777, effective March 18, 1991; amended at 15 Ill. Reg. 11627, effective August 2, 1991; amended at 16 Ill. Reg. 11150, effective June 30, 1992; amended at 17 Ill. Reg. 10865, effective July 1, 1993; amended at 18 Ill. Reg. 5878, effective April 5, 1994; amended at 18 Ill. Reg. 13435, effective August 23, 1994; amended at 19 Ill. Reg. 6500, effective April 28, 1995; amended at 20 Ill. Reg. 6734, effective May 6, 1996; amended at 21 Ill. Reg. 5583, effective April 19, 1997; amended at 21 Ill. Reg. 9122, effective June 26, 1997; amended at 22 Ill. Reg. 8026, effective April 28, 1998; amended at 23 Ill. Reg. 5579, effective April 26, 1999; amended at 24 Ill. Reg. 10251, effective July 1, 2000; amended at 25 Ill. Reg. 6367, effective April 27, 2001; amended at 26 Ill. Reg. 9340, effective June 17, 2002; amended at 27 Ill. Reg. 10018, effective June 23, 2003; amended at 28 Ill. Reg. 8056, effective May 26, 2004; amended at 29 Ill. Reg. 9744, effective June 24, 2005; emergency amendment at 29 Ill. Reg. 13032, effective August 10, 2005, for a maximum of 150 days; emergency expired January 6, 2006; amended at 30 Ill. Reg. 12181, effective June 28, 2006; amended at 31 Ill. Reg. 8188, effective May 25, 2007; amended at 32 Ill. Reg. 9325, effective June 13, 2008; amended at

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33 Ill. Reg. 11555, effective July 27, 2009; amended at 34 Ill. Reg. 4824, effective March 19, 2010; amended at 35 Ill. Reg. 10728, effective June 23, 2011; amended at 36 Ill. Reg. 13436, effective August 10, 2012; amended at 37 Ill. Reg. 14913, effective August 30, 2013; amended at 38 Ill. Reg. 22748, effective November 18, 2014; amended at 39 Ill. Reg. 7666, effective May 18, 2015; amended at 40 Ill. Reg. 10564, effective July 20, 2016; amended at 41 Ill. Reg. 8664, effective June 28, 2017; amended at 42 Ill. Reg. 13134, effective June 22, 2018.

**Section 660.22 Deer Permit Requirements – Special Hunts**

- a) Special hunt sites are defined as those sites that are owned or controlled by agencies/entities other than the Department, or sites at which the Department only controls a portion of the property designated for deer hunting, and that issue deer hunting permits through the statewide lottery process. The Permit Office issues deer hunting permits through a computerized drawing for the following sites, in addition to the Department-owned or -managed sites listed in Section 660.60(h):

Delair Division, Great River National Wildlife Refuge (second 2-day (Saturday and Sunday) weekend in January; ~~all initial permits will be issued as antlerless only; hunters must take an antlerless deer on the site during this hunt before they will be issued an either sex permit by site staff~~)

Midewin National Tallgrass Prairie (closed during the second firearm deer season; additional site pass is required; check-in, check-out and reporting of harvest is required)

- b) Providing false information on an application is a Class A misdemeanor (see 520 ILCS 5/2.38). Hunting deer outside the special season dates or prior to ½ hour before sunrise or after sunset on the listed property is a Class A misdemeanor with a \$500 minimum and \$5,000 maximum fine, in addition to other statutory penalties (see 520 ILCS 5/2.33(y)).

(Source: Amended at 42 Ill. Reg. 13134, effective June 22, 2018)

**Section 660.30 Statewide Muzzleloading Rifle Requirements**

- a) The only legal hunting device is a single or double barreled muzzleloading rifle of at least .45 caliber shooting a single projectile through a barrel of at least 16



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inches in length.

- b) The standards and specifications for muzzleloading rifles and ammunition are as follows:
- 1) A muzzleloading rifle is defined as a rifle that is incapable of being loaded from the breech end.
  - 2) The minimum size of the muzzleloading rifle projectile shall be .44 caliber. A wad or sleeve is not considered a projectile or a part of the projectile. Non-expanding, military-style full metal jacket bullets cannot be used to harvest white-tailed deer; only soft point or expanding bullets (including copper/copper alloy rounds designed for hunting) are legal ammunition.
  - 3) Only black powder or a "black powder substitute" such as Pyrodex may be used. Modern smokeless powders (nitrocellulose-based) are an approved blackpowder substitute only in muzzleloading rifles that are specifically designed for their use.
  - 4) Only percussion (~~cap or primer~~), wheellock, matchlock, flintlock or electronic ignition may be used; ~~except the Connecticut Valley Arms (CVA) electronic ignition shall be legal to use.~~
  - 5) The following shall constitute an unloaded muzzleloading rifle:
    - A) ~~removal~~ Removal of percussion cap/primer; ~~or~~
    - B) removal of prime powder from frizzen pan with frizzen open and hammer all the way down; ~~or~~
    - C) removal of prime powder from flashpan and wheel unwound; ~~or~~
    - D) removal of prime powder and match with match not lit; ~~or~~
    - E) removal of the battery from the ~~CVA~~ electronic ignition muzzleloader, shall constitute an unloaded muzzleloading rifle.

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF ADOPTED AMENDMENTS

- c) It shall be unlawful to use or possess any other firearm or ammunition in the field while hunting white-tailed deer during the muzzleloading rifle deer season. However, the lawful possession of firearms to take furbearing mammals and game mammals other than deer by persons other than muzzleloading deer hunters shall not be prohibited during the muzzleloading rifle deer season as set in Section 660.10.
- d) Violation of this Section is a Class B misdemeanor (see 520 ILCS 5/2.24).

(Source: Amended at 42 Ill. Reg. 13134, effective June 22, 2018)

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Special White-Tailed Deer Season For Disease Control
- 2) Code Citation: 17 Ill. Adm. Code 675
- 3) Section Number: 675.10                      Adopted Action: Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 1.3, 1.4, 1.13, 2.20, 2.24, 2.25, 2.26 and 3.36 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.13, 2.20, 2.24, 2.25, 2.26 and 3.36].
- 5) Effective Date of Rule: June 22, 2018
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rule, including all material incorporated by reference, is on file in the Department of Natural Resources' principal office and is available for public inspection.
- 9) Notice of Proposal published in *Illinois Register*: 42 Ill. Reg. 4377; March 9, 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? No agreements were necessary.
- 13) Will this rulemaking replace any emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: This Part has been amended to make Statewide program changes, open and close State-owned or -managed sites, and amend procedures at State sites.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENT

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

Javonna Ackerman, Legal Counsel  
Department of Natural Resources  
One Natural Resources Way  
Springfield IL 62702-1271

217/557-0126

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

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF ADOPTED AMENDMENT

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

## PART 675

## SPECIAL WHITE-TAILED DEER SEASON FOR DISEASE CONTROL

## Section

675.10	Chronic Wasting Disease (CWD) Season
675.20	CWD Deer Permit Requirements
675.30	Weapon Requirements for CWD Deer Hunting Season
675.40	CWD Deer Hunting Rules
675.50	Reporting Harvest
675.60	Rejection of Application/Revocation of Permits
675.70	Regulations at Various Department-Owned or -Managed Sites

**AUTHORITY:** Implementing and authorized by Sections 1.3, 1.4, 1.13, 2.20, 2.24, 2.25, 2.26 and 3.36 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.13, 2.20, 2.24, 2.25, 2.26 and 3.36].

**SOURCE:** Adopted at 29 Ill. Reg. 20454, effective December 2, 2005; amended at 31 Ill. Reg. 1874, effective January 5, 2007; amended at 31 Ill. Reg. 14822, effective October 18, 2007; amended at 32 Ill. Reg. 19731, effective December 4, 2008; amended at 33 Ill. Reg. 11593, effective July 27, 2009; amended at 35 Ill. Reg. 20583, effective December 9, 2011; amended at 37 Ill. Reg. 14960, effective August 30, 2013; amended at 39 Ill. Reg. 10928, effective July 27, 2015; amended at 40 Ill. Reg. 10603, effective July 20, 2016; amended at 42 Ill. Reg. 13140, effective June 22, 2018.

**Section 675.10 Chronic Wasting Disease (CWD) Season**

- a) Season: One-half hour before sunrise on the first Thursday after December 25 to ½ hour after sunset on the following Sunday, and ½ hour before sunrise on the first Friday after January 11 to ½ hour after sunset on the following Sunday. Shooting hours are ½ hour before sunrise to ½ hour after sunset. Hunting prior to ½ hour before sunrise or after ½ hour after sunset is a Class A misdemeanor with a minimum \$500 fine and a maximum \$5,000 fine in addition to other statutory penalties (see 520 ILCS 5/2.33(y)).

## DEPARTMENT OF NATURAL RESOURCES

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- b) Open counties: Boone, McHenry, Winnebago, Stephenson, Ogle, LaSalle, JoDaviess, Grundy, Kendall, Will, Kankakee, Livingston, [Carroll](#) and DeKalb counties and that portion of Kane County west of State Route 47. Additional counties in which CWD foci are identified subsequent to adoption of this Part shall be opened via public announcement (e.g., press release and site posting).
- c) Hunting outside the set season dates or without a valid permit for the area hunted is a Class B misdemeanor (see 520 ILCS 5/2.24). Hunting prior to ½ hour before sunrise or after ½ hour after sunset is a Class A misdemeanor with a minimum \$500 fine and a maximum \$5,000 fine in addition to other statutory penalties (see 520 ILCS 5/2.33(y)).

(Source: Amended at 42 Ill. Reg. 13140, effective June 22, 2018)

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Late-Winter Deer Hunting Season
- 2) Code Citation: 17 Ill. Adm. Code 680
- 3) Section Number: 680.40                      Adopted Action:  
Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 1.3, 1.4, 1.13, 2.20, 2.24, 2.25, 2.26 and 3.36 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.13, 2.20, 2.24, 2.25, 2.26 and 3.36].
- 5) Effective Date of Rule: June 22, 2018
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rule, including all material incorporated by reference is on file in the Department of Natural Resources' principal office and is available for public inspection.
- 9) Notice of Proposal published in *Illinois Register*: 42 Ill. Reg. 4381; March 9, 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? No agreements were necessary.
- 13) Will this rulemaking replace any emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: This Part has been amended to make Statewide program changes, open and close State-owned or -managed sites, and amend procedures at State sites.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENT

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

Javonna Ackerman, Legal Counsel  
Department of Natural Resources  
One Natural Resources Way  
Springfield IL 62702-1271

217/557-0126

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



## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF ADOPTED AMENDMENT

TITLE 17: CONSERVATION  
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES  
SUBCHAPTER b: FISH AND WILDLIFEPART 680  
LATE-WINTER DEER HUNTING SEASON

## Section

680.10	Statewide Season
680.20	Statewide Deer Permit Requirements
680.25	Deer Permit Requirements – Free Landowner/Tenant Permits (Repealed)
680.30	Deer Permit Requirements – Group Hunt (Repealed)
680.40	Statewide Firearm Requirements for Late-Winter Deer Hunting
680.50	Statewide Deer Hunting Rules
680.60	Reporting Harvest
680.70	Rejection of Application/Revocation of Permits
680.80	Regulations at Various Department-Owned or -Managed Sites

**AUTHORITY:** Implementing and authorized by Sections 1.3, 1.4, 1.13, 2.20, 2.24, 2.25, 2.26 and 3.36 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.13, 2.20, 2.24, 2.25, 2.26 and 3.36].

**SOURCE:** Adopted at 15 Ill. Reg. 13353, effective September 3, 1991; amended at 16 Ill. Reg. 15446, effective September 28, 1992; amended at 17 Ill. Reg. 18810, effective October 19, 1993; amended at 18 Ill. Reg. 15739, effective October 18, 1994; amended at 19 Ill. Reg. 15422, effective October 26, 1995; amended at 20 Ill. Reg. 10906, effective August 5, 1996; amended at 21 Ill. Reg. 9128, effective June 26, 1997; amended at 22 Ill. Reg. 14875, effective August 3, 1998; amended at 24 Ill. Reg. 8975, effective June 19, 2000; amended at 26 Ill. Reg. 13820, effective September 5, 2002; emergency amendment at 28 Ill. Reg. 1032, effective January 6, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 2197, effective January 26, 2004; amended at 28 Ill. Reg. 15503, effective November 19, 2004; amended at 29 Ill. Reg. 20462, effective December 2, 2005; amended at 30 Ill. Reg. 14508, effective August 24, 2006; amended at 31 Ill. Reg. 13180, effective August 30, 2007; amended at 32 Ill. Reg. 19736, effective December 3, 2008; amended at 33 Ill. Reg. 11601, effective July 27, 2009; amended at 34 Ill. Reg. 16518, effective October 8, 2010; amended at 35 Ill. Reg. 15242, effective September 2, 2011; amended at 37 Ill. Reg. 14967, effective August 30, 2013; amended at 40 Ill. Reg. 10607, effective July 20, 2016; amended at 42 Ill. Reg. 13144, effective June 22, 2018.

**Section 680.40 Statewide Firearm Requirements for Late-Winter Deer Hunting**

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF ADOPTED AMENDMENT

- a) The only legal firearms to take, or attempt to take, deer are:
- 1) Shotgun, loaded with slugs only, of not larger than 10 nor smaller than 20 gauge, not capable of firing more than 3 consecutive slugs; or
  - 2) A single or double barreled muzzleloading rifle of at least .45 caliber shooting a single projectile through a barrel of at least 16 inches in length; or
  - 3) centerfire revolvers or centerfire single-shot handguns of .30 caliber or larger with a minimum barrel length of 4 inches and single-shot muzzleloading handguns (blackpowder handguns that are incapable of being loaded from the breech end) of .50 caliber or larger capable of producing at least 500 foot pounds of energy at the muzzle according to published ballistic tables of the manufacturer.
- b) Standards and specifications for legal ammunition are:
- 1) For shotguns and muzzleloading firearms, the minimum size of the projectile shall be .44 caliber. A wad or sleeve is not considered a projectile or a part of the projectile.
  - 2) The only legal ammunition for a centerfire handgun is a bottleneck centerfire cartridge of .30 caliber or larger with a case length not exceeding 1.4 inches, or a straight-walled centerfire cartridge of .30 caliber or larger, both of which must be available with the published ballistic tables of the manufacturer showing a capability of at least 500 foot pounds of energy at the muzzle. Single-shot muzzleloading handguns must use a projectile of .44 caliber or larger with sufficient blackpowder or "blackpowder substitute" (such as Pyrodex) to produce at least 500 foot pounds of energy at the muzzle. A wad or sleeve is not considered a projectile or part of a projectile.
  - 3) Non-expanding, military-style full metal jacket bullets cannot be used to harvest white-tailed deer; only soft point or expanding bullets (including copper/copper alloy rounds designed for hunting) are legal ammunition.

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- c) Standards and specifications for use of muzzleloading firearms are as follows:
- 1) A muzzleloading firearm is defined as a firearm that is incapable of being loaded from the breech end.
  - 2) Only black powder or a "black powder substitute" such as Pyrodex may be used. Modern smokeless powders (nitrocellulose-based) are an approved blackpowder substitute only in muzzleloading firearms that are specifically designed for their use.
  - 3) Only percussion ~~(cap or primer) caps~~, wheel lock, matchlock, flintlock or electronic~~flint type~~ ignition may be used, ~~except the Connecticut Valley Arms (CVA) electronic ignition shall be legal to use.~~
  - 4) The following shall constitute an unloaded muzzleloading firearm:
    - A) ~~removal~~ Removal of percussion cap/~~primer~~:
    - B) removal of prime powder from frizzen pan with frizzen open and hammer all the way down;~~or~~
    - C) removal of prime powder from flashpan and wheel unwound;~~or~~
    - D) removal of prime powder and match with match not lit;~~or~~
    - E) removal of the battery from the ~~CVA~~ electronic ignition muzzleloader, shall constitute an unloaded muzzleloading firearm.
- d) Hunters using unfilled muzzleloader deer permits may only use muzzleloading rifles as specified in subsection (a)(2). Hunters using unfilled firearm deer permits, or Late-Winter Deer Season Permits, may use all firearms specified in subsection (a). Hunters using unfilled youth deer permits may only use shotguns or muzzleloaders as specified in subsections (a)(1) and (a)(2).
- e) It shall be unlawful to use or possess any other firearm or ammunition in the field while hunting white-tailed deer during the Late-Winter Deer Season. However, the lawful possession of firearms to take furbearing mammals and game mammals other than deer by persons other than deer hunters shall not be prohibited during

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NOTICE OF ADOPTED AMENDMENT

the Late-Winter deer season as set in Section 680.10. Violation is a Class B misdemeanor (see 520 ILCS 5/2.24).

(Source: Amended at 42 Ill. Reg. 13144, effective June 22, 2018)

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Youth Hunting Seasons
- 2) Code Citation: 17 Ill. Adm. Code 685
- 3) 

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
685.30	Amendment
685.40	Amendment
685.70	Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 1.3, 1.4, 2.24, 2.25, 2.26 and 3.36 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 2.24, 2.25, 2.26 and 3.36].
- 5) Effective Date of Rule: June 22, 2018
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rules, including all material incorporated by reference is on file in the Department of Natural Resources' principal office and is available for public inspection.
- 9) Notice of Proposal published in *Illinois Register*: 42 Ill. Reg. 4387; March 9, 2018
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: Section 685.40(b)(1), "(using other types of hunting licenses or license-exempt)" has been added after "hunters"; and "A nonresident supervisor must have a valid Illinois hunting license." has been added after "adult"; subsection (b)(1)(A) and (B) have been deleted.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? No agreements were necessary.
- 13) Will this rulemaking replace any emergency rule currently in effect? No
- 14) Are there any other rulemakings pending on this Part? No

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- 15) Summary and Purpose of Rulemaking: This Part has been amended to make statewide program changes, open and close State-owned or -managed sites, and amend procedures at State sites.
- 16) Information and questions regarding these adopted rules shall be directed to:

Javonna Ackerman, Legal Counsel  
Department of Natural Resources  
One Natural Resources Way  
Springfield IL 62702-1271

217/557-0126

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

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF ADOPTED AMENDMENTS

TITLE 17: CONSERVATION  
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES  
SUBCHAPTER b: FISH AND WILDLIFEPART 685  
YOUTH HUNTING SEASONS

## Section

685.10	Statewide Season for White-Tailed Deer Hunting
685.20	Statewide Deer Permit Requirements
685.30	Statewide Firearm Requirements for Hunting the Youth Deer Season
685.40	Statewide Deer Hunting Rules
685.50	Reporting Harvest of Deer
685.60	Rejection of Application/Revocation of Deer Permits
685.70	Regulations at Various Department-Owned or -Managed Sites
685.80	Youth White-Tailed Deer Hunt (Repealed)
685.90	Heritage Youth Wild Turkey Hunt – Spring Season (Repealed)
685.100	Youth Pheasant Hunting (Repealed)
685.110	Youth Waterfowl Hunting
685.120	Youth Dove Hunting (Repealed)

**AUTHORITY:** Implementing and authorized by Sections 1.3, 1.4, 2.24, 2.25, 2.26 and 3.36 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 2.24, 2.25, 2.26 and 3.36].

**SOURCE:** Adopted at 20 Ill. Reg. 12452, effective August 30, 1996; amended at 21 Ill. Reg. 14548, effective October 24, 1997; amended at 25 Ill. Reg. 6904, effective May 21, 2001; amended at 26 Ill. Reg. 4418, effective March 11, 2002; amended at 26 Ill. Reg. 13828, effective September 5, 2002; amended at 27 Ill. Reg. 14332, effective August 25, 2003; amended at 29 Ill. Reg. 20469, effective December 2, 2005; amended at 30 Ill. Reg. 12222, effective June 28, 2006; emergency amendment at 31 Ill. Reg. 12096, effective August 1, 2007, for a maximum of 150 days; amended at 31 Ill. Reg. 14829, effective October 18, 2007; amended at 32 Ill. Reg. 10115, effective June 30, 2008; amended at 33 Ill. Reg. 11609, effective July 27, 2009; amended at 34 Ill. Reg. 4863, effective March 19, 2010; amended at 35 Ill. Reg. 13228, effective July 26, 2011; amended at 37 Ill. Reg. 19277, effective November 14, 2013; amended at 38 Ill. Reg. 22772, effective November 18, 2014; amended at 39 Ill. Reg. 10932, effective July 27, 2015; amended at 39 Ill. Reg. 14574, effective October 20, 2015; amended at 40 Ill. Reg. 10612, effective July 20, 2016; amended at 41 Ill. Reg. 8707, effective June 28, 2017; amended at 42 Ill. Reg. 13150, effective June 22, 2018.

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## NOTICE OF ADOPTED AMENDMENTS

**Section 685.30 Statewide Firearm Requirements for Hunting the Youth Deer Season**

- a) Specifications of legal firearms and their respective legal ammunition for the Youth Deer Hunt are:
- 1) Shotgun, loaded with slugs only, of not larger than 10 nor smaller than 20 gauge, not capable of firing more than 3 consecutive slugs;
  - 2) A single or double barreled muzzleloading firearm of at least .45 caliber shooting a single projectile through a barrel of at least sixteen inches in length;
  - 3) The minimum size of the firearm projectile shall be .44 caliber. A wad or sleeve is not considered a projectile or part of the projectile. Non-expanding, military-style full metal jacket bullets cannot be used to harvest white-tailed deer; only soft point or expanding bullets (including copper/copper alloy rounds designed for hunting) are legal ammunition.
- b) The standards and specifications for use of such muzzleloading firearms are as follows:
- 1) A muzzleloading firearm is defined as a firearm that is incapable of being loaded from the breech end.
  - 2) Only black powder or a black powder substitute such as Pyrodex may be used. Modern smokeless powders (nitrocellulose-based) are an approved blackpowder substitute only in muzzleloading firearms that are specifically designed for their use.
  - 3) Only percussion (cap or primer)Percussion caps, wheellock, matchlock, flintlock or electronicflint type ignition ~~only~~ may be used, ~~except the Connecticut Valley Arms (CVA) electronic ignition shall be legal to use.~~
  - 4) The following shall constitute an unloaded muzzleloading firearm:
    - A) removalRemoval of percussion cap/primer; ~~or~~



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- B) removal of prime powder from frizzen pan with frizzen open and hammer all the way down;~~;~~~~or~~
  - C) removal of prime powder from flashpan and wheel un-wound;~~;~~~~or~~
  - D) removal of prime powder and match with match not lit;~~;~~ or
  - E) removal of the battery from the ~~CVA~~-electronic ignition muzzleloader, shall constitute an unloaded muzzleloading firearm.
- c) It shall be a Class B misdemeanor (see 520 ILCS 5/2.24) to use or possess any type of firearm or ammunition in the field other than those specifically authorized by this rule while hunting white-tailed deer during the Youth Deer Hunting Season, but archery deer hunters in possession of a valid archery deer permit may hunt during this season provided that, in counties open to youth deer hunting, they wear the orange garments required of gun deer hunters. The otherwise lawful possession of firearms to take furbearing mammals and game mammals other than deer by persons other than youth deer hunters or their supervisors shall not be prohibited during the Youth Deer Hunting Season as set in Section 685.10.

(Source: Amended at 42 Ill. Reg. 13150, effective June 22, 2018)

**Section 685.40 Statewide Deer Hunting Rules**

- a) Bag limits: One deer per legally authorized permit. All either-sex permits are subject to the following restrictions: no hunter, regardless of the quantity or type of permits in his/her possession, may harvest more than 2 antlered deer during a year, including the youth, archery, muzzleloader and firearm seasons. For purposes of this Section, deer seasons are considered to be in the same year if their opening dates fall within the same 12-month period that begins on July 1.
- b) Supervision of Youth Hunters
  - 1) Each hunter participating in the Youth Deer Hunting Season while using an Apprentice Hunter License or a Youth Hunting License must be accompanied by a non-hunting, validly-licensed (Illinois hunting license) parent, guardian or grandparent. All other hunters (using other types of hunting licenses or license-exempt) participating in the Youth Deer

## DEPARTMENT OF NATURAL RESOURCES

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Hunting Season must each be accompanied by a non-hunting supervisor (parent, guardian or responsible adult). A nonresident supervisor must have a valid Illinois hunting license. ~~who has a valid Illinois hunting license or who has in his or her possession a valid Firearm Owners Identification (FOID) Card.~~

- 2) The non-hunting supervisor must wear the orange garments required of gun deer hunters, and must remain with the hunting youth so as to have the youth under immediate control. Youths participating in the first firearm deer season using only an unfilled Youth Deer Permit (i.e., youths without a firearm deer season permit for that county) must be accompanied by a supervisor as described in this subsection (b), but, during the firearm deer season, that supervisor may also hunt so long as he/she has the appropriate licenses and permits. Each supervisor may only accompany a single youth at any given time during the hunt. The supervising adult shall be criminally liable for the actions of the youth in the hunting party, and be subject to the criminal penalties provided by law.
- c) The temporary harvest tag must be attached and properly sealed immediately upon kill and before the deer is moved, transported or field dressed. No person shall leave any deer that has been killed without properly attaching the temporary harvest tag to the deer in the manner prescribed in Section 685.50 and on the permit.
- d) Hunters shall not have in their possession, while in the field during the Youth Deer Season, any deer permit issued to another person (permits are non-transferrable). Violation is a Class B misdemeanor (see 520 ILCS 5/2.24).
- e) Permits shall not be re-issued in cases involving deer taken which are found to be diseased or spoiled due to previous injury. Disposal of unfit deer taken shall be the responsibility of the hunter.

(Source: Amended at 42 Ill. Reg. 13150, effective June 22, 2018)

**Section 685.70 Regulations at Various Department-Owned or -Managed Sites**

- a) All the regulations in 17 Ill. Adm. Code 510 apply in this Section, unless this Section is more restrictive.

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF ADOPTED AMENDMENTS

- b) Check-in, check-out, and reporting of harvest is required at those sites listed in this Section that are followed by a (1). Sites that require use of windshield cards by hunters, as specified in 17 Ill. Adm. Code 510.10, are followed by a (2).
- c) Statewide regulations shall apply at the following sites:
- Apple River Canyon State Park (Salem/Thompson Units only) (2)
- Big River State Forest (2)
- Burning Star State Fish and Wildlife Area (2)
- Cache River State Natural Area (1)
- Campbell Pond State Habitat Area (2)
- Cape Bend State Fish and Wildlife Area (1)
- Carlyle Lake State Fish and Wildlife Area (2)
- Cedar Glen State Natural Area (2)
- Chauncey Marsh State Natural Area (2)
- Copperhead Hollow State Fish and Wildlife Area (2)
- Crawford County State Fish and Wildlife Area (1)
- Cypress Pond State Natural Area (1)
- Deer Pond State Natural Area (1)
- Devil's Island State Wildlife Management Area
- Dixon Springs State Park (2)
- Dog Island State Wildlife Management Area (2)

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Eldon Hazlet State Park (North Allen Branch Unit only) (2)

Eagles Landing (operated as part of the hunt at the Upper Mississippi River National Wildlife Refuge – Lost Mound Unit; a special permit from USFWS is required; contact the refuge for specific hunt details)

Ferne Clyffe State Park (Cedar/Draper Units only) (1)

Fort Massac State Park (2)

Giant City State Park (1)

Glass Hill State Natural Area (1)

Green River State Wildlife Area (2)

Hanover Bluff State Natural Area (2)

Hidden Springs State Forest (2)

Horseshoe Lake State Fish and Wildlife Area – Alexander County (1)

Kaskaskia River State Fish and Wildlife Area (1 – except south of Highway 154 and north of Highway 13)

Kinkaid Lake State Fish and Wildlife Area (1)

Mackinaw State Fish and Wildlife Area (2)

Marshall State Fish and Wildlife Area (2)

Meeker State Habitat Area (2)

Mermet Lake State Fish and Wildlife Area (2)

Mississippi River Pools 17, 18

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## NOTICE OF ADOPTED AMENDMENTS

Mississippi River Pools 21, 22, 24

Mississippi River State Fish and Wildlife Area

Newton Lake State Fish and Wildlife Area (2)

Oakford Conservation Area

Pere Marquette State Park (2)

Pyramid State Recreation Area (East Conant, Galum, and Old Park Units only)  
(2)

Rall Woods State Natural Area (2)

Ray Norbut State Fish and Wildlife Area – Dutch Creek Unit (2)

Ray Norbut State Fish and Wildlife Area (2)

Rend Lake State Fish and Wildlife Area

Saline County State Fish and Wildlife Area (2)

Sand Ridge State Forest (2)

Seilbeck Forest State Natural Area (2)

Shelbyville State Fish and Wildlife Area (2)

Siloam Springs State Park (2)

Skinner Farm State Habitat Area (1)

Spoon River State Forest (2)

Stewardship Park (operated as part of the hunt at the Upper Mississippi River National Wildlife Refuge – Lost Mound Unit; a special permit from USFWS is required; contact the refuge for specific hunt details)

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## NOTICE OF ADOPTED AMENDMENTS

Tapley Woods State Natural Area (2)

Ten Mile Creek State Fish and Wildlife Area (2)

Trail of Tears State Forest (1)

Turkey Bluffs State Fish and Wildlife Area (1)

Union County State Fish and Wildlife Area (1)

Wards Grove State Nature Preserve (2)

Weinberg-King State Fish and Wildlife Area, including Scripps and Spunky Bottoms Units (2)

Wildcat Hollow State Habitat Area (2)

Winston Tunnel State Natural Area (2)

Wise Ridge State Natural Area

- d) Statewide regulations shall apply at the following sites, except that hunter quotas shall be filled by mail-in drawing. Information about drawing dates and application procedures will be publicly announced.

Coffeen Lake State Fish and Wildlife Area (Upland Management Area only) (2)

Iroquois County State Wildlife Area (1)

Jim Edgar Panther Creek State Fish and Wildlife Area (2)

Kankakee River State Park (2)

Sangamon County Conservation Area

~~Sites will be opened to youth deer hunting at the discretion of the Department; open sites will be announced via public announcement. Open sites that require the use of windshield cards by~~

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~~hunters as specified in 17 Ill. Adm. Code 510.10 will be noted in the public announcement.~~

(Source: Amended at 42 Ill. Reg. 13150, effective June 22, 2018)

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Squirrel Hunting
- 2) Code Citation: 17 Ill. Adm. Code 690
- 3) Section Number: 690.30                      Adopted Action:  
Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 1.2, 1.3, 1.4, 2.1, 2.2, 2.20, 2.28 and 3.5 of the Wildlife Code [520 ILCS 5/1.2, 1.3, 1.4, 2.1, 2.2, 2.20, 2.28 and 3.5].
- 5) Effective Date of Rule: June 22, 2018
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rule, including all material incorporated by reference is on file in the Department of Natural Resources' principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 42 Ill. Reg. 4398, March 9, 2018
- 10) Has JCAR issued a Statement of Objections 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? No agreements were necessary.
- 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 Part has been amended to make statewide program changes, open and close State-owned or -managed sites, and amend procedures at State sites.



DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENT

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

Javonna Ackerman, Legal Counsel  
Department of Natural Resources  
One Natural Resources Way  
Springfield IL 62702-1271

217/557-0126

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

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF ADOPTED AMENDMENT

TITLE 17: CONSERVATION  
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES  
SUBCHAPTER b: FISH AND WILDLIFEPART 690  
SQUIRREL HUNTING

## Section

690.10	Hunting Seasons
690.20	Statewide Regulations
690.30	Regulations at Various Department-Owned or -Managed Sites

**AUTHORITY:** Implementing and authorized by Sections 1.2, 1.3, 1.4, 2.1, 2.2, 2.20, 2.28 and 3.5 of the Wildlife Code [520 ILCS 5/1.2, 1.3, 1.4, 2.1, 2.2, 2.20, 2.28 and 3.5].

**SOURCE:** Adopted at 5 Ill. Reg. 8017, effective July 24, 1981; codified at 5 Ill. Reg. 10642; emergency amendment at 5 Ill. Reg. 11382, effective October 14, 1981, for a maximum of 150 days; emergency expired March 12, 1982; amended at 6 Ill. Reg. 9642, effective July 21, 1982; amended at 7 Ill. Reg. 8809, effective July 15, 1983; emergency amendment at 7 Ill. Reg. 9690, effective August 1, 1983, for a maximum of 150 days; emergency expired December 29, 1983; amended at 8 Ill. Reg. 16789, effective August 30, 1984; amended at 9 Ill. Reg. 11614, effective July 16, 1985; amended at 10 Ill. Reg. 15601, effective September 16, 1986; amended at 11 Ill. Reg. 9549, effective May 5, 1987; amended at 12 Ill. Reg. 12246, effective July 15, 1988; amended at 13 Ill. Reg. 10606, effective June 15, 1989; amended at 14 Ill. Reg. 10816, effective June 20, 1990; amended at 15 Ill. Reg. 10012, effective June 24, 1991; amended at 16 Ill. Reg. 11087, effective June 30, 1992; amended at 17 Ill. Reg. 10842, effective July 1, 1993; amended at 18 Ill. Reg. 8624, effective May 31, 1994; amended at 19 Ill. Reg. 10664, effective July 1, 1995; amended at 20 Ill. Reg. 10882, effective August 5, 1996; amended at 21 Ill. Reg. 9095, effective June 26, 1997; amended at 22 Ill. Reg. 14844, effective August 3, 1998; amended at 23 Ill. Reg. 9074, effective July 28, 1999; amended at 24 Ill. Reg. 8947, effective June 19, 2000; amended at 25 Ill. Reg. 9903, effective July 17, 2001; amended at 26 Ill. Reg. 13845, effective September 5, 2002; amended at 27 Ill. Reg. 12640, effective July 21, 2003; amended at 28 Ill. Reg. 11893, effective July 27, 2004; amended at 29 Ill. Reg. 9786, effective June 27, 2005; amended at 30 Ill. Reg. 12229, effective June 28, 2006; amended at 31 Ill. Reg. 11700, effective July 27, 2007; amended at 32 Ill. Reg. 14819, effective August 27, 2008; amended at 33 Ill. Reg. 13900, effective September 21, 2009; amended at 34 Ill. Reg. 10802, effective July 16, 2010; amended at 35 Ill. Reg. 15247, effective September 2, 2011; amended at 37 Ill. Reg. 20674, effective December 12, 2013; amended at 39 Ill. Reg. 10939, effective July 27, 2015; amended at

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40 Ill. Reg. 10618, effective July 20, 2016; amended at 41 Ill. Reg. 8714, effective June 28, 2017; amended at 42 Ill. Reg. 13161, effective June 22, 2018.

**Section 690.30 Regulations at Various Department-Owned or -Managed Sites**

- a) All the regulations in 17 Ill. Adm. Code 510, General Hunting and Trapping on Department-Owned or Managed Sites, apply in this Part, unless this Part is more restrictive. Violation of a site specific regulation is a petty offense (see 520 ILCS 5/2.28).
- b) Hunting with .22 caliber or smaller rimfire firearms, .25 caliber or smaller air rifles, or muzzleloading black powder rifles is allowed at those sites listed in the following subsections that are followed by a (1). For sites that do not allow rimfire or muzzleloading firearms, hunting with .25 caliber or smaller air rifles is allowed at those sites listed in the following subsections that are followed by a (3).
- c) Check-in, check-out and reporting of harvest is required at those sites listed in the following subsections that are followed by a (2). Sites that require use of windshield cards by hunters as specified in 17 Ill. Adm. Code 510.10 are followed by (4).
- d) Statewide regulations apply at the following sites:
  - Alvah Borah State Fish and Wildlife Area (4)
  - Anderson Lake State Conservation Area (2)
  - Apple River Canyon State Park – Salem and Thompson Units (closed during firearm deer hunting) (4)
  - Argyle Lake State Park (4)
  - Beaver Dam State Park (statewide opening through September 30) (4)
  - Big Bend State Fish and Wildlife Area (2)
  - Big River State Forest (4)

## DEPARTMENT OF NATURAL RESOURCES

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Burning Star State Fish and Wildlife Area (1) (4)

Butterfield Trail State Recreation Area (closed during all deer seasons) (1) (4)

Cache River State Natural Area (1) (2)

Campbell Pond State Wildlife Management Area (4)

Cape Bend State Fish and Wildlife Area (1) (2)

Carlyle Lake Lands and Waters – Corps of Engineers managed lands (1)

Carlyle Lake State Fish and Wildlife Area (subimpoundment area closes 7 days prior to the start of the waterfowl season for the zone in which Carlyle Lake is located) (1) (4)

Chain O'Lakes State Park (opens Wednesday after permit pheasant season for 5 consecutive days, except closed on Christmas Day; 8:00 a.m. to 4:00 p.m.; daily quota filled on first come-first served basis; DNR issued back patch must be worn while hunting; only shot size of No. 3 steel, No. 4 bismuth, No. 5 tungsten-iron, tungsten-matrix, tungsten-polymer or smaller may be used) (2)

Chauncey Marsh State Natural Area (1) (4)

Clinton Lake State Recreation Area – North Fork Management Area, North of the County Road at the North Fork Boat Ramp and handicapped upland game area (1) (4)

Coffeen Lake State Fish and Wildlife Area (statewide opening through September 30 and reopens the day after archery deer season closes and remains open until the end of the statewide season) (4)

Copperhead Hollow State Fish and Wildlife Area (1) (4)

Crawford County State Fish and Wildlife Area (1) (4)

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[Cretaceous Hills State Natural Area \(1\) \(4\)](#)

Cypress Pond State Natural Area (1) (2)

Deer Pond State Natural Area (1) (2)

Devil's Island State Fish and Wildlife Area

Dog Island State Wildlife Management Area (1) (4)

Eldon Hazlet State Park (north of Allen Branch (4); and west of Peppenhorst Branch only)

Embarras River Bottoms State Habitat Area (1) (4)

Ferne Clyffe State Park – Cedar Draper Bluffs Hunting Area (1) (2)

Flag Pond State Natural Area (1) (4)

Fort de Chartres State Historic Site (muzzleloading firearms or bow and arrow only) (1) (2)

Fort Massac State Park (4)

Fox Ridge State Park (1) (4)

French Bluff Natural Area (1) (4)

Hamilton County State Conservation Area (4)

Hanover Bluff State Natural Area (closed during firearm deer hunting) (4)

Harry "Babe" Woodyard State Natural Area [\(1\)](#)(4)

Heidecke State Fish and Wildlife Area – Morris Wetlands Unit only (closes September 30) (3) (4)

## DEPARTMENT OF NATURAL RESOURCES

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Hidden Springs State Forest (1) (4)

Hindsboro Pheasant State Habitat Area (closes September 30) (1) (4)

Iroquois County State Wildlife Area (closed during all deer seasons) (1) (4)

Jim Edgar Panther Creek State Fish and Wildlife Area (the Quality Unit and Controlled Unit close October 31) (1) (4)

Jubilee College State Park (2) (3)

Kaskaskia River State Fish and Wildlife Area (Doza Creek Waterfowl Management Area closed 7 days prior to and during duck season; the defined Baldwin Lake Waterfowl Rest Area is closed) (1) (2)

Kickapoo State Recreation Area ~~(1)(season opens the day after Labor Day)~~ (4)

Kinkaid Lake State Fish and Wildlife Area (1)

Lake Shelbyville – Eagle Creek State Park (closes the opening day of site's pheasant season) (4)

Larry D. Closson State Habitat Area (closes September 30) (1) (4)

Lowden-Miller State Forest (hunting allowed from September 1 through September 30 only; hunting allowed only on the southern one-half of the site) (1) (4)

Marseilles State Fish and Wildlife Area (Monday through Thursday only through October 31; during August, hunting allowed west of E. 2450 Road only; open daily November 1 through the end of the site archery deer season; closed during the site firearm and muzzleloading deer seasons; unauthorized personnel may not be on the site outside of the posted check station operating hours; hunters may only enter the site from designated parking lots) (2)

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Marshall State Conservation Area (1) (4)

Meeker State Habitat Area (1) (4)

Mermet Lake State Conservation Area (non-toxic shot only in waterfowl areas; squirrel hunting closes after September 30, except in upland game area) (1) (4)

Middle Fork State Fish and Wildlife Area ~~(1)(season opens the day after Labor Day)~~ (4)

Mississippi River State Fish and Waterfowl Management Area (Pools 25 and 26) (1)

Mississippi River Pools 16, 17, 18 (1)

Mississippi River Pools 21, 22, 24 (1)

Moraine View State Park (closed during the controlled pheasant season, archery deer season and late winter deer season) (4)

Morrison Rockwood State Park (opens November 1 and closes the Thursday before the first statewide firearm deer season) (1) (2)

Nauvoo State Park (Max Rowe Unit only) (4)

Newton Lake State Fish and Wildlife Area (closed during site deer season) (4)

Oakford State Conservation Area (1)

Paul C. Burrus State Habitat Area (season closes September 30) (1) (4)

Peabody River King State Fish and Wildlife Area (east subunit closes November 1) (2)

Pere Marquette State Park (season opens the day after Labor Day) (1) (4)

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Pyramid State Park (1) (4)

Pyramid State Park – Captain Unit (1) (4)

Pyramid State Park – Denmark Unit (1) (4)

Pyramid State Park – East Conant Unit (1) (4)

Pyramid State Park – Galum Unit (1) (4)

Rall Woods State Natural Area (closed during firearm deer hunting) (4)

Ramsey Lake State Park (4)

Randolph County State Conservation Area (2)

Ray Norbut State Fish and Wildlife Area (1) (4)

Ray Norbut State Fish and Wildlife Area – Dutch Creek Unit (1) (4)

Red Hills State Park (4)

Rend Lake Project Lands and Waters (1)

Sahara Woods State Fish and Wildlife Area (1) (4)

Saline County State Fish and Wildlife Area (1) (4)

Sam Dale Lake State Fish and Wildlife Area (4)

Sam Parr State Fish and Wildlife Area (2)

Sand Ridge State Forest (closed during the controlled pheasant season) (1)  
(4)

Sangamon County State Conservation Area

Sanganois State Fish and Wildlife Area (1) (4)



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Shawnee National Forest – Oakwood Bottoms (non-toxic shot only) (1)

Shelbyville State Fish and Wildlife Area (1) (4)

Sielbeck Forest State Natural Area (1) (4)

Siloam Springs State Park (1) (4)

Siloam Springs State Park – Buckhorn Unit (1) (4)

Skinner Farm State Habitat Area (2)

Spoon River State Forest (1) (4)

Stephen A. Forbes State Recreation Area (4)

Tapley Woods State Natural Area (closed during firearm deer hunting) (4)

Ten Mile Creek State Fish and Wildlife Area (1) (4)

Trail of Tears State Forest (1) (2)

Turkey Bluffs State Fish and Wildlife Area (1) (2)

Walnut Point State Park (1) (4)

Washington County State Conservation Area (2)

Weinberg-King State Park (1) (4)

Weinberg-King State Park – Cecil White Unit (4)

Weinberg-King State Park – Scripps Unit (1) (4)

Weinberg-King State Park – Spunky Bottoms Unit (1) (4)

Wildcat Hollow State Forest (1) (4)

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Willow Creek State Habitat Area (closes September 30) (1) (4)

Winston Tunnel State Natural Area (closed during firearm deer hunting)  
(4)

Wise Ridge State Natural Area (1)

Witkowsky State Wildlife Area (opens after second firearm deer season;  
closed during firearm deer hunting) (4)

- e) Season dates shall be the day following Labor Day through the end of the statewide season at the following sites:

Ferne Clyffe State Park – Ferne Clyffe Hunting Area (2)

Giant City State Park (rimfire cartridges allowed in Union County portion;  
no rimfire cartridges allowed in Jackson County portion only) (1) (2)

- f) Season dates shall be the day after Labor Day through September 30 at the following sites:

Johnson-Sauk Trail State Park (season reopens the day after the archery deer season closes and remains open until the end of the statewide season)  
(4)

Kankakee River State Park (4)

Momence Wetlands State Natural Area (4)

Sangchris Lake State Park (4)

Silver Springs State Park (2)

Spring Lake State Fish and Wildlife Area (season reopens the day after the archery deer season closes and remains open until the end of the statewide season) (3) (4)

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF ADOPTED AMENDMENT

- g) Statewide regulations apply at the following sites, except that hunters must obtain a free permit from the site and variations in season dates are in parentheses. Permits must be in possession while hunting. The permit must be returned and harvest reported by March 15 or the hunter will forfeit privileges at that site for the following year:

Horseshoe Lake State Park – Gabaret, Mosenthein and Chouteau Island Units (Madison County)

Matthiessen State Park (season opens on statewide opening day and closes the day before the archery deer season opens; permits available at the Starved Rock State Park office; hunting in designated areas only)

- h) Season dates shall be statewide opening through September 30 at the following sites:

Castle Rock State Park (4)

Mackinaw State Fish and Wildlife Area (season reopens the day after the archery deer season closes and remains open until the end of the statewide season) (1) (4)

Mt. Vernon Game Propagation Center (2)

Sandy Ford State Natural Area (2)

Weldon Springs State Park – Piatt County Unit (4)

Woodford County State Fish and Wildlife Area (4)

- i) Season dates shall be statewide opening through October 31 at the following sites:

Green River State Wildlife Area (4)

Horseshoe Lake State Conservation Area (season on the controlled goose hunting area shall close October 31, remainder of the public hunting area statewide season; non-toxic shot only) (1)

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Union County State Conservation Area (season on the controlled goose hunting area closes October 31; firing line unit – statewide closing; non-toxic shot only) (1)

(Source: Amended at 42 Ill. Reg. 13161, effective June 22, 2018)

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: The Taking of Wild Turkeys – Spring Season
- 2) Code Citation: 17 Ill. Adm. Code 710
- 3) 

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
710.10	Amendment
710.30	Amendment
710.50	Amendment
710.70	Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 1.3, 1.4, 1.20, 2.9, 2.10, 2.11 and 2.20 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.20, 2.9, 2.10, 2.11 and 2.20].
- 5) Effective Date of Rules: June 22, 2018
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rules, including all material incorporated by reference, is on file in the Department of Natural Resources' principal office and is available for public inspection.
- 9) Notice of Proposal published in *Illinois Register*: 42 Ill. Reg. 4411; March 9, 2018
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: In Section 710.70(e)(2), "If the youth is hunting with a firearm, a nonresident supervisor must have a valid Illinois hunting license." after the word "adult."; "(A)" and "(B)" have been deleted.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? No agreements were necessary.
- 13) Will this rulemaking replace any emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- 15) Summary and Purpose of Rulemaking: This Part has been amended to make Statewide program changes, open and close State-owned or -managed sites, and amend procedures at State sites.
- 16) Information and questions regarding these adopted rules shall be directed to:

Javonna Ackerman, Legal Counsel  
Department of Natural Resources  
One Natural Resources Way  
Springfield IL 62702-1271

217/557-0126

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

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF ADOPTED AMENDMENTS

TITLE 17: CONSERVATION  
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES  
SUBCHAPTER b: FISH AND WILDLIFEPART 710  
THE TAKING OF WILD TURKEYS – SPRING SEASON

## Section

710.5	Hunting Zones
710.10	Hunting Seasons
710.20	Statewide Turkey Permit Requirements
710.21	Turkey Permit Requirements – Special Hunts (Renumbered)
710.22	Turkey Permit Requirements – Landowner/Tenant Permits
710.25	Turkey Permit Requirements – Special Hunts
710.28	Turkey Permit Requirements – Heritage Youth Turkey Hunt (Repealed)
710.30	Turkey Hunting Regulations
710.40	Other Regulations (Repealed)
710.50	Regulations at Various Department-Owned or -Managed Sites
710.55	Special Hunts for Disabled Hunters
710.60	Releasing or Stocking of Turkeys
710.70	Spring Youth Turkey Hunt

**AUTHORITY:** Implementing and authorized by Sections 1.3, 1.4, 1.20, 2.9, 2.10, 2.11 and 2.20 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.20, 2.9, 2.10, 2.11 and 2.20].

**SOURCE:** Adopted at 4 Ill. Reg. 15, p. 153, effective April 1, 1980; codified at 5 Ill. Reg. 10643; amended at 6 Ill. Reg. 3852, effective March 31, 1982; amended at 7 Ill. Reg. 4208, effective March 25, 1983; amended at 8 Ill. Reg. 5663, effective April 16, 1984; amended at 9 Ill. Reg. 6200, effective April 24, 1985; amended at 10 Ill. Reg. 6848, effective April 4, 1986; amended at 11 Ill. Reg. 2267, effective January 20, 1987; amended at 12 Ill. Reg. 5342, effective March 8, 1988; amended at 13 Ill. Reg. 5090, effective April 4, 1989; amended at 14 Ill. Reg. 663, effective January 2, 1990; amended at 15 Ill. Reg. 4161, effective March 4, 1991; amended at 16 Ill. Reg. 1843, effective January 17, 1992; amended at 17 Ill. Reg. 3184, effective March 2, 1993; amended at 18 Ill. Reg. 1156, effective January 18, 1994; emergency amendment at 18 Ill. Reg. 3751, effective March 1, 1994, for a maximum of 150 days; emergency expired July 29, 1994; amended at 19 Ill. Reg. 2450, effective February 17, 1995; emergency amendment at 19 Ill. Reg. 5312, effective April 1, 1995, for a maximum of 150 days; emergency expired August 29, 1995; amended at 20 Ill. Reg. 777, effective December 29, 1995; recodified by changing the

## DEPARTMENT OF NATURAL RESOURCES

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agency name from Department of Conservation to Department of Natural Resources at 20 Ill. Reg. 9389; amended at 21 Ill. Reg. 3125, effective March 3, 1997; amended at 22 Ill. Reg. 2192, effective January 2, 1998; amended at 22 Ill. Reg. 19568, effective October 23, 1998; amended at 23 Ill. Reg. 11956, effective September 21, 1999; amended at 24 Ill. Reg. 7984, effective May 24, 2000; amended at 24 Ill. Reg. 17778, effective November 27, 2000; amended at 25 Ill. Reg. 14176, effective October 22, 2001; amended at 26 Ill. Reg. 18028, effective December 6, 2002; amended at 27 Ill. Reg. 17075, effective October 22, 2003; amended at 29 Ill. Reg. 3935, effective February 24, 2005; amended at 29 Ill. Reg. 20484, effective December 2, 2005; amended at 31 Ill. Reg. 1958, effective January 16, 2007; amended at 31 Ill. Reg. 16476, effective November 28, 2007; amended at 32 Ill. Reg. 19742, effective December 3, 2008; amended at 34 Ill. Reg. 4868, effective March 19, 2010; amended at 35 Ill. Reg. 3705, effective February 16, 2011; amended at 35 Ill. Reg. 20588, effective December 9, 2011; amended at 37 Ill. Reg. 1898, effective February 4, 2013; amended at 37 Ill. Reg. 20688, effective December 12, 2013; amended at 38 Ill. Reg. 22780, effective November 18, 2014; amended at 39 Ill. Reg. 10951, effective July 27, 2015; amended at 40 Ill. Reg. 10630, effective July 20, 2016; amended at 41 Ill. Reg. 85, effective December 22, 2016; amended at 41 Ill. Reg. 8727, effective June 28, 2017; amended at 41 Ill. Reg. 12599, effective September 20, 2017; amended at 42 Ill. Reg. 13174, effective June 22, 2018.

**Section 710.10 Hunting Seasons**

## a) Northern Zone Season Dates:

- 1<sup>st</sup> Season: Monday, April ~~15~~<sup>16</sup>-Friday, April ~~19, 2019~~<sup>20, 2018</sup>
- 2<sup>nd</sup> Season: Saturday, April ~~20~~<sup>21</sup>-Thursday, April ~~25, 2019~~<sup>26, 2018</sup>
- 3<sup>rd</sup> Season: Friday, April ~~26~~<sup>27</sup>-Wednesday, May ~~1, 2019~~<sup>2, 2018</sup>
- 4<sup>th</sup> Season: Thursday, May ~~23~~<sup>24</sup>-Wednesday, May ~~8, 2019~~<sup>9, 2018</sup>
- 5<sup>th</sup> Season: Thursday, May ~~9~~<sup>10</sup>-Thursday, May ~~16, 2019~~<sup>17, 2018</sup>

## b) Southern Zone Season Dates:

- 1<sup>st</sup> Season: Monday, April ~~8~~<sup>9</sup>-Friday, April ~~12, 2019~~<sup>13, 2018</sup>
- 2<sup>nd</sup> Season: Saturday, April ~~13~~<sup>14</sup>-Thursday, April ~~18, 2019~~<sup>19, 2018</sup>



DEPARTMENT OF NATURAL RESOURCES

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3<sup>rd</sup> Season: Friday, April ~~19~~<sup>20</sup>-Wednesday, April ~~24, 2019~~<sup>25, 2018</sup>

4<sup>th</sup> Season: Thursday, April ~~25~~<sup>26</sup>-Wednesday, May ~~1, 2019~~<sup>2, 2018</sup>

5<sup>th</sup> Season: Thursday, May ~~23~~<sup>24</sup>-Thursday, May ~~9, 2019~~<sup>10, 2018</sup>

c) Open Counties:

NORTHERN ZONE

- Adams
- Boone
- Brown
- Bureau
- Calhoun
- Carroll
- Cass
- Champaign
- Christian
- Clark
- Coles
- Cumberland
- DeKalb
- DeWitt
- Douglas
- Edgar
- Ford
- Fulton
- Greene
- Grundy
- Hancock
- Henderson
- Henry
- Iroquois
- Jersey
- Jo Daviess
- Kane
- Kankakee

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Kendall  
Knox  
Lake  
La Salle  
Lee  
Livingston  
Logan  
Macon  
Macoupin  
Marshall-Putnam  
Mason  
McDonough  
McHenry  
McLean  
Menard  
Mercer  
Montgomery  
Morgan  
Moultrie  
Ogle  
Peoria  
Piatt  
Pike  
Rock Island  
Sangamon  
Schuyler  
Scott  
Shelby  
Stark  
Stephenson  
Tazewell  
Vermilion  
Warren  
Whiteside  
Will  
Winnebago  
Woodford

DEPARTMENT OF NATURAL RESOURCES

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SOUTHERN ZONE

Alexander  
Bond  
Clay  
Clinton  
Crawford  
Edwards  
Effingham  
Fayette  
Franklin  
Hamilton  
Gallatin-Hardin  
Jackson  
Jasper  
Jefferson  
Johnson  
Lawrence  
Madison  
Marion  
Massac  
Monroe  
Perry  
Pope  
Pulaski  
Randolph  
Richland  
Saline  
St. Clair  
Union  
Wabash  
Washington  
Wayne  
White  
Williamson

(Source: Amended at 42 Ill. Reg. 13174, effective June 22, 2018)

**Section 710.30 Turkey Hunting Regulations**

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF ADOPTED AMENDMENTS

- a) It is unlawful:
- 1) to use live or electronic turkey decoys, recorded calls, dogs, or bait (an area is considered as baited during the presence of and for 10 consecutive days following the removal of the bait);
  - 2) to take any wild turkey except a hen with a visible beard or a gobbler (male);
  - 3) to take, or attempt to take, more than three wild turkeys during the spring season, one must have a valid permit for each turkey that is taken;
  - 4) to use any weapon except a shotgun or bow and arrow. #4 shot is the largest and ~~#7½ is the smallest~~ size shot that may be legally used or possessed while turkey hunting;
  - 5) to hunt except from ½ hour before sunrise to 1:00 p.m. during each day of the season;
  - 6) for any person having taken the legal limit of wild turkeys to further participate with a weapon in any hunting party for the purpose of taking additional wild turkeys;
  - 7) for any person to possess while in the field during wild turkey season any turkey permit issued to another person (permits are non-transferable);
  - 8) to transport or leave a wild turkey without first attaching the temporary harvest tag to the leg in the manner prescribed on the permit. Immediately upon kill and before the turkey is moved, transported or field dressed, the hunter must properly attach the temporary harvest tag to the leg. Successful hunters must register their harvest by 3:00 p.m. on the same calendar day as the turkey was taken by calling the toll-free telephone check-in system at 1-866-ILCHECK or by accessing the on-line check-in system at [www.dnr.illinois.gov](http://www.dnr.illinois.gov). Hunters must provide all information requested by the check-in system, and will be provided with a confirmation number to verify that they checked in their harvest. The confirmation number must be written by the hunter on the leg tag. The leg

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF ADOPTED AMENDMENTS

tag must remain attached to the leg of the turkey until it is at the legal residence of the person who legally took or possessed the turkey and the turkey has been checked in. The turkey must remain whole (or field dressed) until it has been checked in;

- 9) for any person to shoot a wild turkey while it is in a tree before 7:00 a.m.;
  - 10) for any person to hunt wild turkeys without possessing a Wild Turkey Hunting Permit which shall include the hunter's signature recorded on the permit and carried on the person while hunting, except that a person without a weapon may accompany a turkey hunter as a caller or observer;
  - 11) for any person to use a turkey call that imitates sounds made by a turkey or to attempt to call a turkey by making these sounds while in the field in the Southern Zone from March 15 through the day before the 1<sup>st</sup> turkey season and in the Northern Zone from March 22 through the day before the 1<sup>st</sup> turkey season. This prohibition only applies in counties open to spring turkey hunting. This prohibition does not apply to participants in the Youth Turkey Hunt with a valid permit, or their accompanying adult, during that season as prescribed by Section 710.70.
- b) Archers may use:
- 1) Longbows, recurve bows or compound bows with minimum pull of ~~3040~~ pounds at some point within a 28-inch draw. Minimum arrow length is 20 inches. ~~Any mechanical device capable of maintaining a drawn or partially drawn position on a bow without the hunter exerting full string tension is illegal.~~
  - 2) Crossbows ~~and bolts as specified in 17 Ill. Adm. Code 760.21., so long as one or more of the following conditions are met:~~
    - A) ~~If the user is a person age 62 and older with a valid photo ID containing proof of age; or~~
    - B) ~~If the user is a disabled person to whom the Department has issued a permit to use a crossbow, as provided by 17 Ill. Adm. Code 760.~~

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF ADOPTED AMENDMENTS

- c) Broadheads must be used. Broadheads may have fixed or expandable cutting surfaces, but they must have a minimum  $\frac{7}{8}$  inch diameter when fully opened. Broadheads with fixed cutting surfaces must be metal or flint-, chert-, or obsidian-knapped; broadheads with expandable cutting surfaces must be metal. ~~Any mechanical device capable of maintaining a drawn position or partially drawn position on a bow is illegal.~~ All other bows and arrows, including electronic arrow tracking systems using radio telemetry, are illegal.
- d) ~~Specifications for legal crossbows and bolts are contained in 17 Ill. Adm. Code 760.~~

(Source: Amended at 42 Ill. Reg. 13174, effective June 22, 2018)

**Section 710.50 Regulations at Various Department-Owned or -Managed Sites**

- a) Hunters who intend to hunt Department sites and who have a physical disability that requires special accommodations ~~are encouraged to~~must contact the site superintendent at least 10 days before the date they wish to hunt. The site superintendent ~~will~~shall make reasonable accommodations necessary to allow the disabled person to participate in the hunting experience at the site. Disabled hunters who require an aide or assistant with them during the hunt are responsible for providing the aide or assistant and notifying the site superintendent that an assistant will be present, and whether the assistant will also be hunting.
- b) Hunters must sign in/sign out at all sites that are followed by a (1). Sites that require use of windshield cards by hunters as specified in 17 Ill. Adm. Code 510.10 are followed by a (2).
- c) Statewide regulations shall apply for the following sites:
- Alvah Borah State Habitat Area (2)
  - Anderson Lake State Conservation Area (1)
  - Argyle Lake State Park (2)
  - Cache River State Natural Area (1)

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF ADOPTED AMENDMENTS

Campbell Pond State Wildlife Management Area (2)

Cape Bend State Fish and Wildlife Area (1)

Carlyle Lake State Fish and Wildlife Area (2)

Copperhead Hollow State Wildlife Area (2)

Cretaceous Hills State Natural Area (2)

Cypress Pond State Natural Area (1)

Deer Pond State Natural Area (1)

Devil's Island State Fish and Wildlife Area

Dog Island State Wildlife Management Area (2)

Ferne Clyffe State Park – Cedar Draper Bluff Hunting Area (1)

Flag Pond State Natural Area

Fort de Chartres State Historic Site (muzzleloading shotgun or archery only; no in-line muzzleloading shotguns or muzzleloaders with scopes allowed) (1)

Fort Massac State Park (2)

Giant City State Park (1)

Horseshoe Lake State Conservation Area – Alexander County (controlled goose hunting area and public hunting area only) (1)

Horseshoe Lake State Park (Madison County) – Gabaret, Mosenthein, Chouteau Island Units (all hunters must obtain a free site permit)

Kaskaskia River State Fish and Wildlife Area (no hunting east of and within 50 yards of the defined Baldwin Lake Waterfowl Rest Area's main

## DEPARTMENT OF NATURAL RESOURCES

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north-south road, within 100 yards of any house or building, or south of the Dry Lake access road; a hunter with a P-2 handicapped certification, accompanied by a non-hunting attendant, may hunt at the site's designated handicapped hunting spot within this closed area; the hunting spot will be allocated on a first come-first served basis or via a drawing, if needed, held at the site office) (1)

Kinkaid Lake State Fish and Wildlife Area (1)

Mark Twain National Wildlife Refuge, Gardner Division

Mississippi River State Fish and Wildlife Area (Pools 25 and 26)

Mississippi River Pools 16, 17, 18, 21, 22, and 24

Nauvoo State Park (Max Rowe Unit only) (2)

Oakford State Conservation Area

Peabody River King State Fish and Wildlife Area (except South Subunit)  
(1)

Pere Marquette State Park (designated area only) (2)

Ray Norbut State Fish and Wildlife Area (2)

Rend Lake Project Lands and Waters except Wayne Fitzgerald State Park

Saline County State Fish and Wildlife Area (2)

Sanganois State Conservation Area (2)

Sielbeck Forest State Natural Area (2)

Skinner Farm State Habitat Area (1)

Trail of Tears State Forest (1)



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## NOTICE OF ADOPTED AMENDMENTS

Turkey Bluffs State Fish and Wildlife Area (1)

Union County State Conservation Area – Firing Line Unit and Public Hunting Area only (1)

Weinberg-King State Park (2)

Weinberg-King State Park (Cecil White Unit) (2)

Weinberg-King State Park (Spunky Bottoms Unit) (2)

Wildcat Hollow State Habitat Area (2)

Wise Ridge State Natural Area

- d) Statewide regulations shall apply except that all hunting is allowed by site-specific permit only. The Department of Natural Resources allocates permits for these areas through the lottery process set forth in Section 710.20. This permit is only valid for the specific site and season indicated on the permit.

Apple River Canyon State Park – Thompson and Salem Units (2)

Beaver Dam State Park (2)

Big Bend State Fish and Wildlife Area (1)

Big River State Forest (2)

Burning Star State Fish and Wildlife Area (2)

Butterfield Trail State Recreation Area (2)

Carlyle Lake State Fish and Wildlife Area – East Fork Management Unit (2)

Castle Rock State Park (2)

Clinton Lake State Recreation Area (2)

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF ADOPTED AMENDMENTS

Coffeen Lake State Fish and Wildlife Area (2)

Crawford County State Fish and Wildlife Area (2)

Dixon Springs State Park (youth under the age of 18 prior to the first day of the season only) (1)

Eagle Creek State Park (first two seasons only) (2)

Eldon Hazlet State Park (2)

Embarras River Bottoms State Habitat Area (2)

Ferne Clyffe State Park – Ferne Clyffe Hunting Area (1)

Fort Massac State Park (youth under the age of 18 prior to the first day of the season only) (1)

Fox Ridge State Park (2)

French Bluff State Natural Area (2)

Green River State Wildlife Area (2)

Hamilton County State Conservation Area (2)

Hanover Bluff State Natural Area (2)

Harry "Babe" Woodyard State Natural Area (2)

Hidden Springs State Forest (2)

Horseshoe Lake State Park (Madison County)

Iroquois County State Wildlife Area (2)

Jim Edgar Panther Creek State Fish and Wildlife Area (2)

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Johnson-Sauk Trail State Park (2)

Jubilee College State Park (1)

Kankakee River State Park (hunting hours are from ½ hour before sunrise until 12:00 noon) (1)

Kickapoo State Park (2)

Kishwaukee River State Fish and Wildlife Area (2)

Lowden Miller State Forest (2)

Mackinaw River State Fish and Wildlife Area (2)

Marseilles State Fish and Wildlife Area (site is open to hunting Monday through Thursday only; hunting hours are from ½ hour before sunrise until 8:30 a.m. with potential additional hunting hours being posted by the site; unauthorized personnel may not be on the site outside of the posted check station operating hours; hunters may only enter the site from designated parking lots) (1)

Marshall State Fish and Wildlife Area (2)

Matthiessen State Park (South of Vermilion River Area) (1)

Mautino State Fish and Wildlife Area (2)

Meeker State Habitat Area (2)

Mermet Lake State Fish and Wildlife Area (2)

Middle Fork State Fish and Wildlife Management Area (2)

Mississippi Palisades State Park (closed during the fifth season) (2)

Momence Wetlands (1)

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Moraine View State Park (no hunting on weekends during 4<sup>th</sup> and 5<sup>th</sup> season) (2)

Morrison Rockwood State Park (closed during the fifth season) (1)

Mt. Vernon Game Propagation Center

Newton Lake State Fish and Wildlife Area (2)

Paul C. Burrus State Habitat Area (must have Fox Ridge State Park permit) (2)

Pere Marquette State Park (Piasa, Quotoga, Potawatomi Camp Areas) (no hunting allowed on weekends) (2)

Pyramid State Park (2)

Pyramid State Park – Captain Unit (2)

Pyramid State Park – Denmark Unit (2)

Pyramid State Park – East Conant Unit (2)

Pyramid State Park – Galum Unit (2)

Rall Woods State Natural Area (2)

Ramsey Lake State Park (2)

Randolph County State Conservation Area (a handicapped hunter with a P-2 handicapped certification, accompanied by a non-hunting attendant, wanting to hunt at one of the site's two designated handicapped hunting spots is not required to have a site-specific permit; these hunting spots will be allocated on a first come-first served basis or via a drawing, if needed, held at the site office) (1)

Ray Norbut State Fish and Wildlife Area – Dutch Creek Unit (2)

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Red Hills State Park (2)

Red Hills State Park/Chauncey Marsh (2)

Sahara Woods State Fish and Wildlife Area (2)

Sam Dale Lake State Fish and Wildlife Area (2)

Sam Parr State Fish and Wildlife Area (2)

Sand Ridge State Forest (2)

Sandy Ford State Natural Area

Sangamon County State Conservation Area

Sanganois State Conservation Area (Squirrel Timber Unit) (2)

Sangchris Lake State Park

Shelbyville State Fish and Wildlife Area ([must have valid permit for Lake Shelbyville Project Lands – Moultrie County](#)) (2)

Siloam Springs State Park (2)

Siloam Springs State Park (Buckhorn Unit) (2)

Spoon River State Forest (2)

Starved Rock State Park (1)

Stephen A. Forbes State Park (2)

Tapley Woods State Natural Area (2)

Ten Mile Creek State Fish and Wildlife Area (2)

## DEPARTMENT OF NATURAL RESOURCES

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Vesely Land and Water Reserve

Washington County State Conservation Area (1)

Wayne Fitzgerald State Recreation Area

Weinberg-King State Park (Scripps Unit) (2)

Weldon Springs State Park – Piatt County Unit (2)

Winston Tunnel State Natural Area (2)

Witkowsky State Wildlife Area (2)

Wolf Creek State Park (first 2 seasons only) (2)

[Zoeller State Natural Area \(2\)](#)

(Source: Amended at 42 Ill. Reg. 13174, effective June 22, 2018)

**Section 710.70 Spring Youth Turkey Hunt**

- a) Hunting Dates: March ~~30~~<sup>31</sup> and ~~31, 2019~~<sup>April 1, 2018</sup> and April ~~6~~<sup>7</sup> and ~~7~~<sup>8</sup>, ~~2019~~<sup>2018</sup>. The North Zone and South Zone are open concurrently for all 4 days.
- b) Open Counties: All counties listed in Section 710.10 are open to Spring Youth Turkey Hunting.
- c) Eligibility: The Spring Youth Turkey Hunt is open only to hunters who have not reached the age of 18 prior to the opening date of the youth season. Hunters must have an apprentice or youth hunting license, or they must have completed a State-approved Hunter Education course and have a hunting license, unless exempt. In addition, hunters must have a Habitat Stamp, unless exempt.
- d) Permit Requirements – Spring Youth Turkey Hunt
  - 1) All youth hunters must have a current, valid Youth Turkey Hunt Permit (\$10). Hunters are eligible to purchase only one Youth Turkey Hunt

## DEPARTMENT OF NATURAL RESOURCES

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Permit. Hunting without a permit is a Class B misdemeanor (see 520 ILCS 5/2.9).

- 2) For a county permit: Youth Turkey Hunt Permits valid for counties open to youth turkey hunting will be available for sale over-the-counter (OTC) from agents beginning the first Tuesday in March through the last day of the Youth Turkey Season.
  - 3) For a Special Hunt Area permit: Youth hunters may apply online (<http://dnr.state.il.us/admin/turkey.htm>) for a site-specific permit valid for one of the Special Hunt Areas. The application period begins the third Tuesday in January and ends the third Monday in February. Permits will be allocated via a lottery drawing in which Illinois residents will be given preference.
  - 4) The applicants must not have had their hunting privileges suspended or revoked in this State or any other state.
  - 5) A \$3 service fee will be charged for replacement permits issued by the Department, except when permits are lost in the mail, there will be no charge. Monies derived from this source will be deposited in the Wildlife and Fish Fund.
  - 6) The Youth Turkey Hunt Permit shall be valid only for the dates and counties/Special Hunt Area listed on the permit.
  - 7) A permit issued for the Youth Turkey Hunt will count toward the maximum number of permits (Section 710.20(j)(3)) an individual can receive for the Spring Wild Turkey Season.
- e) Youth Turkey Hunting Regulations
- 1) Each hunter participating in the Illinois Youth Turkey Hunt while using an Apprentice Hunter License or Youth Hunting License must be accompanied by a non-hunting, validly-licensed (Illinois hunting license) parent, guardian or grandparent.

## DEPARTMENT OF NATURAL RESOURCES

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- 2) All other hunters (using other types of hunting licenses or license-exempt) participating in the Youth Turkey Hunt must each be accompanied by a non-hunting supervisor (parent, guardian or responsible adult). If the youth is hunting with a firearm, a nonresident supervisor must have a valid Illinois hunting license. ~~who has a valid Illinois hunting license or who has in his or her possession a valid Firearm Owners Identification (FOID) Card. An Illinois resident serving as a youth supervisor must have a valid FOID card regardless of whether he or she has a valid Illinois hunting license. FOID cards are not issued to non residents, so non residents serving as youth supervisors must have a valid Illinois hunting license.~~
- 3) The non-hunting supervisor must remain with the hunting youth so as to have the youth under immediate control. Each supervisor may only accompany a single youth at any given time during the hunt. The supervising adult shall be criminally liable for the actions of the youth in the hunting party and shall be subject to the criminal penalties provided by law.
- 42) All regulations prescribed by Section 710.30 apply during the Youth Turkey Hunt.
- f) The following sites will be open to holders of a valid Youth Turkey Hunt Permit for the county in which the site is located. Persons wishing to hunt one of the listed sites should contact that site prior to hunting for information about site regulations and restrictions. Sites that require use of windshield cards by hunters as specified in 17 Ill. Adm. Code 510.10 are followed by a (2).

Anderson Lake State Fish and Wildlife Area

Apple River Canyon State Park – Thompson and Salem Units (2)

Argyle Lake State Park

Big Bend State Fish and Wildlife Area (Whiteside County)

Big River State Forest (2)

Cache River State Natural Area



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Cape Bend State Fish and Wildlife Area

Carlyle Lake State Fish and Wildlife Area (2)

Carlyle Lake State Fish and Wildlife Area – East Fork Management Unit  
(2)

Copperhead Hollow State Wildlife Area (2)

Crab Orchard National Wildlife Refuge Public Hunting Area

Crawford County State Fish Wildlife Area

Cypress Pond State Natural Area

Deer Pond State Natural Area

Devil's Island State Fish and Wildlife Area

Dog Island State Wildlife Management Area

Ferne Clyffe State Park – Cedar Draper State Habitat Area

Giant City State Park

Green River State Wildlife Area (2)

Hanover Bluff State Natural Area (2)

Horseshoe Lake State Conservation Area – Alexander County

Kaskaskia River State Fish and Wildlife Area

Kinkaid Lake State Fish and Wildlife Area

Lake Shelbyville Project Land (U.S. Army Corps of Engineers managed)  
– Moultrie County

## DEPARTMENT OF NATURAL RESOURCES

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Lake Shelbyville Project Land (U.S. Army Corps of Engineers managed)  
– Shelby County

Mackinaw River State Fish and Wildlife Area (2)

Marshall State Fish and Wildlife Area

Mermet Lake State Fish and Wildlife Area (2)

Moraine View State Park (2)

Mississippi River Area Pools 21, 22, 24, 25 and 26

Mt. Vernon Game Propagation Center (1)

Nauvoo State Park (Max Rowe Unit Only) (2)

Newton Lake State Fish and Wildlife Area (2)

Pere Marquette State Park (open area east of Graham Hollow Road only)  
(2)

Pyramid State Park (2)

Pyramid State Park – East Conant Unit (2)

Rall Woods State Natural Area (2)

Ray Norbut State Fish and Wildlife Area (2)

Rend Lake Corps of Engineers-managed land in Jefferson and  
Franklin Counties

Rend Lake State Fish and Wildlife Area

Sahara Woods State Fish and Wildlife Area (2)

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Sam Parr State Fish and Wildlife Area (2)

Shelbyville State Fish and Wildlife Area (2)

Sielbeck Forest State Natural Area (2)

Siloam Springs State Park (2)

Siloam Springs State Park (Buckhorn Unit) (2)

Skinner Farm State Habitat Area

Spoon River State Forest (2)

Tapley Woods State Natural Area (2)

Trail of Tears State Forest

Ten Mile Creek State Fish and Wildlife Area

Turkey Bluffs State Fish and Wildlife Area

Union County State Conservation Area

Weinberg-King State Park (2)

Weinberg-King State Park (Cecil White Unit) (2)

Weinberg-King State Park (Scripps Unit) (2)

Weinberg-King State Park (Spunky Bottoms Unit) (2)

Winston Tunnel State Natural Area (2)

Wise Ridge State Natural Area

Witkowsky State Wildlife Area (2)

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- g) Statewide regulations shall apply except that all hunting is allowed by site-specific permit only. The Department of Natural Resources allocates permits for these areas through the lottery process set forth in Section 710.70(d). This permit is only valid for the specific site and season indicated on the permit.

Burning Star State Fish and Wildlife Area (2)

Butterfield Trail State Recreation Area (2)

Castle Rock State Park (2)

Clinton Lake State Recreation Area (2)

Coffeen Lake State Fish and Wildlife Area (2)

Crab Orchard National Wildlife Refuge (Closed Portion)

Eldon Hazlet State Park (2)

Embarras River Bottoms State Habitat Area (2)

Ferne Clyffe State Park – Ferne Clyffe Hunting Area

Harry "Babe" Woodyard State Natural Area (2)

Hidden Springs State Forest (2)

Iroquois County State Fish and Wildlife Area (2)

Jim Edgar Panther Creek State Fish and Wildlife Area

Kankakee River State Park

Kickapoo State Recreation Area (2)

Middle Fork State Fish and Wildlife Area (2)

Momence Wetlands

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DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Ramsey Lake State Park (2)

Sam Dale Lake State Fish and Wildlife Area (2)

Sand Ridge State Forest

Sangchris Lake State Park

Stephen A. Forbes State Park (2)

Wayne Fitzgerald State Recreation Area

Weldon Springs – Piatt County Unit (2)

(Source: Amended at 42 Ill. Reg. 13174, effective June 22, 2018)

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: The Taking of Wild Turkeys – Fall Gun Season
- 2) Code Citation: 17 Ill. Adm. Code 715
- 3) 

<u>Section Numbers</u> :	<u>Adopted Actions</u> :
715.30	Amendment
715.40	Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 1.3, 1.4, 1.20, 2.9, 2.10, 2.11 and 2.20 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.20, 2.9, 2.10, 2.11 and 2.20].
- 5) Effective Date of Rules: June 22, 2018
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rules, including all material incorporated by reference is on file in the Department of Natural Resources' principal office and is available for public inspection.
- 9) Notice of Proposal published in *Illinois Register*: 42 Ill. Reg. 4436; March 9, 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? No agreements were necessary.
- 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 Part has been amended to make Statewide program changes, open and close State-owned or -managed sites, and amend procedures at State sites.

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NOTICE OF ADOPTED AMENDMENTS

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

Javonna Ackerman, Legal Counsel  
Department of Natural Resources  
One Natural Resources Way  
Springfield IL 62702-1271

217/557-0126

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

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF ADOPTED AMENDMENTS

TITLE 17: CONSERVATION  
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES  
SUBCHAPTER b: FISH AND WILDLIFEPART 715  
THE TAKING OF WILD TURKEYS – FALL GUN SEASON

## Section

715.10	Hunting Season, Open Counties and Permit Quotas
715.20	Statewide Turkey Permit Requirements
715.21	Turkey Permit Requirements – Special Hunts
715.25	Turkey Permit Requirements – Landowner/Tenant Permits
715.30	Turkey Hunting Regulations
715.40	Regulations at Various Department-Owned or -Managed Sites

AUTHORITY: Implementing and authorized by Sections 1.3, 1.4, 1.20, 2.9, 2.10, 2.11 and 2.20 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.20, 2.9, 2.10, 2.11 and 2.20].

SOURCE: Adopted at 13 Ill. Reg. 14950, effective September 6, 1989; amended at 14 Ill. Reg. 12421, effective July 20, 1990; amended at 15 Ill. Reg. 11618, effective August 2, 1991; amended at 16 Ill. Reg. 11101, effective June 30, 1992; amended at 17 Ill. Reg. 10858, effective July 1, 1993; amended at 18 Ill. Reg. 10013, effective June 21, 1994; amended at 19 Ill. Reg. 11806, effective August 3, 1995; amended at 20 Ill. Reg. 10898, effective August 5, 1996; amended at 21 Ill. Reg. 9110, effective June 26, 1997; amended at 22 Ill. Reg. 14866, effective August 3, 1998; amended at 23 Ill. Reg. 9091, effective July 28, 1999; amended at 24 Ill. Reg. 8965, effective June 19, 2000; amended at 25 Ill. Reg. 11460, effective August 14, 2001; amended at 26 Ill. Reg. 13855, effective September 5, 2002; amended at 27 Ill. Reg. 12650, effective July 21, 2003; amended at 28 Ill. Reg. 11904, effective July 27, 2004; amended at 29 Ill. Reg. 15542, effective September 27, 2005; amended at 29 Ill. Reg. 18938, effective November 4, 2005; amended at 30 Ill. Reg. 14518, effective August 24, 2006; amended at 31 Ill. Reg. 11711, effective July 27, 2007; amended at 32 Ill. Reg. 14830, effective August 27, 2008; amended at 33 Ill. Reg. 13911, effective September 21, 2009; amended at 34 Ill. Reg. 10814, effective July 16, 2010; amended at 35 Ill. Reg. 15259, effective September 2, 2011; amended at 37 Ill. Reg. 19283, effective November 14, 2013; amended at 39 Ill. Reg. 10983, effective July 27, 2015; amended at 40 Ill. Reg. 10654, effective July 20, 2016; amended at 41 Ill. Reg. 8754, effective June 28, 2017; amended at 42 Ill. Reg. 13199, effective June 22, 2018.

**Section 715.30 Turkey Hunting Regulations**



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## NOTICE OF ADOPTED AMENDMENTS

- a) Violation of this Section is a Class B misdemeanor (see 520 ILCS 5/2.9), except that hunting prior to ½ hour before sunrise or after ½ hour after sunset is a Class A misdemeanor with a minimum \$500 fine and a maximum \$5,000 fine in addition to other statutory penalties (see 520 ILCS 5/2.33(y)). It is unlawful:
- 1) to use live or electronic turkey decoys, recorded calls, dogs or bait. An area is considered as baited during the presence of and for 10 consecutive days following the removal of bait;
  - 2) to take, or attempt to take, more than one wild turkey per valid permit (either sex may be harvested);
  - 3) to use any weapon except a shotgun. #4 shot is the largest ~~and #7½ is the smallest~~ size shot that may be legally used;
  - 4) to hunt except from ½ hour before sunrise to sunset during each day of the season;
  - 5) for any person to hunt wild turkeys without having a signed Wild Turkey Hunting Permit in possession, except that a person without a weapon may accompany a turkey hunter as a caller or observer;
  - 6) to transport or leave a wild turkey without first affixing the adhesive-backed turkey permit securely around the leg. Immediately upon kill and before the turkey is moved, transported or field dressed, the hunter must cut out the designated notch on the leg tag to invalidate it, and the tag must be affixed to the turkey;
  - 7) for any person to shoot a wild turkey while it is in a tree before 7:00 a.m.;  
and
  - 8) to possess while in the field, during turkey season, any turkey permit issued to another person. (Permits are non-transferrable.)
- b) Successful hunters must register their harvest by 10:00 p.m. on the same calendar day the turkey was taken by calling the toll-free telephone check-in system at 1-866-ILCHECK or by accessing the on-line check-in system at

## DEPARTMENT OF NATURAL RESOURCES

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www.dnr.illinois.gov. Hunters must provide all information requested by the check-in system, and will be provided with a confirmation number to verify that they checked in their harvest. The confirmation number must be written by the hunter onto the leg tag. The leg tag must remain attached to the leg of the turkey until it is at the legal residence of the person who legally took or possessed the turkey and the turkey has been checked in. The turkey must remain whole (or field dressed) until it has been checked in.

- c) Failure to comply with the regulations in this Part is a Class B misdemeanor (see 520 ILCS 5/2.9).

(Source: Amended at 42 Ill. Reg. 13199, effective June 22, 2018)

**Section 715.40 Regulations at Various Department-Owned or -Managed Sites**

- a) Statewide regulations shall apply for the following sites:

Horseshoe Lake State Park (Madison County) – Gabaret, Mosenthein and Chouteau Island Unit

Kaskaskia River State Fish and Wildlife Area (except that area north of Hwy. 154, east of the Kaskaskia River and south of Risdon School Road and Beck's Landing access road)

Mississippi River State Fish and Waterfowl Management Area (Pools 25 and 26)

Mississippi River Pools 16, 17, 18

Mississippi River Pools 21, 22, 24

Rend Lake Project Lands

Wise Ridge State Natural Area

- b) Statewide regulations shall apply except that all hunters must check in, check out, and report harvest at those sites listed below. Quotas, where listed, shall be on a first come-first served basis. Hunters shall not be allowed to sign in prior to 4

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a.m. each day of the season.

Cache River State Natural Area (Johnson County portion only)

Cape Bend State Fish and Wildlife Area

Cypress Pond State Natural Area

Deer Pond State Natural Area

Devil's Island State Fish and Wildlife Area

Ferne Clyffe State Park

Fort de Chartres State Historic Site (muzzleloading shotguns only)

Giant City State Park

Horseshoe Lake State Conservation Area (public hunting area except for controlled goose hunting area)

Kinkaid Lake State Fish and Wildlife Area

Skinner Farm State Habitat Area

Trail of Tears State Forest

Turkey Bluffs State Fish and Wildlife Area

Union County State Fish and Wildlife Area – Firing Line Management Unit Only

- c) Statewide regulations shall apply except that all hunting is allowed by site-specific permit only. The Department of Natural Resources allocates permits for these areas through the lottery process set forth in Section 715.20. This permit is only valid for the specific site indicated on the permit.

Apple River Canyon State Park – Salem and Thompson Units (windshield

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card required)

Crawford County State Fish and Wildlife Area (windshield card required)

Embarras River Bottoms State Habitat Area

Flag Pond State Natural Area

Hamilton County State Conservation Area (windshield card required)

Jim Edgar Panther Creek State Fish and Wildlife Area (windshield card required)

Meeker State Habitat Area (windshield card required)

Newton Lake State Fish and Wildlife Area (windshield card required)

Sam Parr State Fish and Wildlife Area (windshield card required)

Sand Ridge State Forest (windshield card required)

Ten Mile Creek State Fish and Wildlife Area (windshield card required)

Witkowsky State Wildlife Area (windshield card required)

- d) Statewide regulations shall apply except hunters shall register and report their harvest through the use of windshield cards as specified in 17 Ill. Adm. Code 510.10.

Argyle Lake State Park

Big River State Forest

Copperhead Hollow State Fish and Wildlife Area

[Cretaceous Hills State Natural Area](#)

Dog Island State Wildlife Management Area

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Hanover Bluff State Natural Area

Nauvoo State Park (Max Rowe Unit only)

Pere Marquette State Park (~~east of Graham Hollow Road~~)

Rall Woods State Natural Area

Ray Norbut State Fish and Wildlife Area

Ray Norbut State Fish and Wildlife Area – Dutch Creek Unit

Sahara Woods State Fish and Wildlife Area

Saline County State Conservation Area

Siloam Springs State Park (sign in/sign out required)

Spoon River State Forest

Tapley Woods State Natural Area

Weinberg-King State Park

Weinberg-King State Park – Cecil White Unit

Weinberg-King State Park – Scripps Unit

Weinberg-King State Park – Spunky Bottoms Unit

Winston Tunnel State Natural Area

- e) Special program for hunters with disabilities. Statewide regulations shall apply unless designated otherwise by site regulations. Only disabled persons participating in the site's firearm deer hunt are eligible to participate. This hunt will run concurrent with the site's firearm deer hunt (refer to 17 Ill. Adm. Code 650.67 for hunt dates). Permits will be \$15 each; site specific for Rock Cut;

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

issued at the site during check in for firearm deer hunting. Any additional availability will be publicly announced.

Rock Cut State Park

- f) Violation of a site specific regulation is a Class B misdemeanor (see 520 ILCS 5/2.9).

(Source: Amended at 42 Ill. Reg. 13199, effective June 22, 2018)

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: The Taking of Wild Turkeys – Fall Archery Season
- 2) Code Citation: 17 Ill. Adm. Code 720
- 3) 

<u>Section Numbers</u> :	<u>Adopted Actions</u> :
720.20	Amendment
720.30	Amendment
720.40	Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 1.3, 1.4, 2.9, 2.10, 2.11 and 2.20 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 2.9, 2.10, 2.11 and 2.20].
- 5) Effective Date of Rules: June 22, 2018
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rules, including all material incorporated by reference is on file in the Department of Natural Resources' principal office and is available for public inspection.
- 9) Notice of Proposal published in the Illinois Register: 42 Ill. Reg. 4445, March 9, 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? No agreements were necessary.
- 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 Part is being amended to make statewide program changes, open and close State-owned or -managed sites, and amend procedures at State sites.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

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

Javonna Ackerman, Legal Counsel  
Department of Natural Resources  
One Natural Resources Way  
Springfield IL 62702-1271

217/557-0126

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



## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF ADOPTED AMENDMENTS

TITLE 17: CONSERVATION  
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES  
SUBCHAPTER b: FISH AND WILDLIFEPART 720  
THE TAKING OF WILD TURKEYS – FALL ARCHERY SEASON

## Section

720.10	Hunting Seasons and Counties Open to Hunting
720.20	Statewide Turkey Permit Requirements
720.25	Turkey Permit Requirements – Landowner/Tenant Permits
720.30	Turkey Hunting Regulations
720.40	Regulations at Various Department-Owned or -Managed Sites
720.50	Releasing or Stocking of Turkeys (Repealed)

AUTHORITY: Implementing and authorized by Sections 1.3, 1.4, 2.9, 2.10, 2.11 and 2.20 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 2.9, 2.10, 2.11 and 2.20].

SOURCE: Adopted and codified at 8 Ill. Reg. 7825, effective May 22, 1984; emergency amendments at 8 Ill. Reg. 20086, effective October 12, 1985, for a maximum of 150 days; emergency expired March 2, 1985; amended at 9 Ill. Reg. 14311, effective September 5, 1985; amended at 11 Ill. Reg. 9556, effective May 5, 1987; amended at 12 Ill. Reg. 12254, effective July 15, 1988; amended at 13 Ill. Reg. 12831, effective July 21, 1989; amended at 14 Ill. Reg. 12413, effective July 20, 1990; amended at 15 Ill. Reg. 11611, effective August 2, 1991; amended at 16 Ill. Reg. 11093, effective June 30, 1992; amended at 16 Ill. Reg. 15442, effective September 28, 1992; amended at 17 Ill. Reg. 281, effective December 28, 1992; amended at 17 Ill. Reg. 10850, effective July 1, 1993; amended at 18 Ill. Reg. 10104, effective June 21, 1994; amended at 19 Ill. Reg. 11799, effective August 3, 1995; amended at 20 Ill. Reg. 10890, effective August 5, 1996; amended at 21 Ill. Reg. 9102, effective June 26, 1997; amended at 22 Ill. Reg. 14856, effective August 3, 1998; amended at 23 Ill. Reg. 9082, effective July 28, 1999; amended at 24 Ill. Reg. 8956, effective June 19, 2000; amended at 25 Ill. Reg. 11448, effective August 14, 2001; amended at 26 Ill. Reg. 13867, effective September 5, 2002; amended at 27 Ill. Reg. 12658, effective July 21, 2003; amended at 28 Ill. Reg. 13612, effective September 24, 2004; amended at 29 Ill. Reg. 18345, effective August 26, 2005; amended at 29 Ill. Reg. 18944, effective November 4, 2005; amended at 30 Ill. Reg. 12240, effective June 28, 2006; amended at 31 Ill. Reg. 11723, effective July 27, 2007; amended at 32 Ill. Reg. 14843, effective August 27, 2008; amended at 33 Ill. Reg. 13918, effective September 21, 2009; amended at 34 Ill. Reg. 10821, effective July 16, 2010; amended at 35 Ill. Reg. 15268, effective September 2, 2011;

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF ADOPTED AMENDMENTS

amended at 37 Ill. Reg. 19297, effective November 14, 2013; amended at 39 Ill. Reg. 10997, effective July 27, 2015; amended at 40 Ill. Reg. 10661, effective July 20, 2016; amended at 41 Ill. Reg. 8762, effective June 28, 2017; amended at 42 Ill. Reg. 13208, effective June 22, 2018.

**Section 720.20 Statewide Turkey Permit Requirements**

- a) All turkey hunters must have a current, valid Fall Archery Wild Turkey Hunting Permit. Lifetime licenses issued after August 15, 2006 shall not qualify a non-resident of Illinois for a resident turkey permit. All hunters, except those exempted by Section 3.1 of the Wildlife Code [520 ILCS 5] are also required to obtain a hunting license before hunting wild turkey. Archery turkey permits are only available over-the-counter (OTC) from license vendors located throughout the State. Prices for OTC permits sold by license vendors include the vendor's issuing fee. Fees for fall archery turkey permits are as follows:

- 1) Illinois Resident OTC Permit – \$5.50
- 2) Nonresident OTC Permit – \$75.50

~~To take, or attempt to take, a wild turkey, Illinois residents must first obtain an archery "Wild Turkey Hunting Permit" for a fee of \$5. Lifetime licenses issued after August 15, 2006 shall not qualify a non-resident of Illinois for a resident turkey permit. Non-resident turkey hunters shall be charged \$75 for wild turkey hunting permits. Paid archery turkey permits are only available over the counter (OTC) from license vendors located throughout the State. The permit will authorize the holder to hunt in any of the open counties of the State, on property where permission to hunt has been obtained from the property owner. All hunters, except those exempted by Section 3.1 of the Wildlife Code [520 ILCS 5/3.1] are required to obtain a hunting license before hunting wild turkey. Hunting without a valid permit is a Class B misdemeanor (see 520 ILCS 5/2.9).~~

- b) Hunters purchasing an archery turkey permit must supply all necessary applicant information to the license vendor in order to properly complete the permit.
- c) An individual may purchase a maximum of two archery turkey permits per season. Permits are not transferable and refunds will not be granted.
- d) A \$3 service fee will be charged for replacement permits issued by the

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF ADOPTED AMENDMENTS

Department. The procedures for obtaining a replacement license are detailed in 17 Ill. Adm. Code 2520.50. Monies from this source will be deposited in the Wildlife and Fish Fund.

- e) It shall be unlawful to:
- 1) Purchase or attempt to purchase or receive more than two archery turkey permits. Violation is a Class B misdemeanor (see 520 ILCS 5/2.9).
  - 2) Provide false and/or deceptive information to a vendor when purchasing a permit. In addition to criminal charges, individuals found guilty of violating this Section shall have their permit revoked and fees forfeited. The procedure by which an individual may appeal an application rejection, permit revocation, and the forfeiture of fees is set forth in 17 Ill. Adm. Code 2530 (Department Formal Hearings Conducted for Rulemaking and Contested Cases). Violation is a Class A misdemeanor (see 520 ILCS 5/2.38).

(Source: Amended at 42 Ill. Reg. 13208, effective June 22, 2018)

**Section 720.30 Turkey Hunting Regulations**

- a) It is unlawful:
- 1) to use live or electronic turkey decoys, recorded calls, dogs or bait. An area is considered as baited during the presence of and for 10 consecutive days following the removal of bait;
  - 2) to take, or attempt to take, more than 1 wild turkey per valid permit during the fall archery season (either sex may be harvested);
  - 3) to use any weapon except:
    - A) a long, recurved or compound bow with a minimum pull of 30 pounds at some point within a 28 inch draw. Minimum arrow length is 20 inches, and broadheads must be used; ~~Any mechanical device capable of maintaining a drawn or partially drawn position on a bow without the hunter exerting full string~~

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF ADOPTED AMENDMENTS

~~tension is illegal;~~

- B) ~~crossbows and bolts specified in 17 Ill. Adm. Code 760.21;~~  
~~Crossbows, so long as one or more of the following conditions are met:~~
- i) ~~if the user is a person age 62 and older with a valid photo ID containing proof of age; or~~
  - ii) ~~if the user is a disabled person to whom the Department has issued a permit to use a crossbow as provided by 17 Ill. Adm. Code 760; or~~
  - iii) ~~if the date is between the second Monday following the Thanksgiving holiday through the last day of the archery deer hunting season (both inclusive);~~
- C) ~~broadheads~~Broadheads may have fixed or expandable cutting surfaces, but they must have a minimum  $\frac{7}{8}$  inch diameter when fully opened. Broadheads with fixed blades must be metal or flint-, chert-, or obsidian-napped; broadheads with expandable cutting surfaces must be metal. All other bows and arrows, including electronic arrow tracking systems utilizing radio telemetry, are illegal;
- 4) for any person having taken the limit of wild turkeys to further participate with a weapon in any hunting party for the purpose of taking additional turkeys;
- 5) for any person to hunt wild turkeys without having a signed Archery Wild Turkey Hunting Permit in possession, except that a person without a weapon may accompany a turkey hunter as a caller or observer;
- 6) to transport or leave a wild turkey without first affixing the turkey permit securely around the leg. Immediately upon kill and before the turkey is moved, transported or field dressed, the hunter must invalidate the leg tag and the tag must be affixed to the turkey (for over-the-counter permits the leg tag is invalidated by detaching it from the permit; for property only

## DEPARTMENT OF NATURAL RESOURCES

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hunting (POH) landowner permits, the leg tag is invalidated by cutting out the designated notch on the tag); and

- 7) to possess, while in the field during archery turkey season, any turkey permit issued to another person.
- b) Successful hunters must register their harvest by 10:00 p.m. on the same calendar day the turkey was taken by calling the toll-free telephone check-in system at 1-866-ILCHECK or by accessing the on-line check-in system at [www.dnr.illinois.gov](http://www.dnr.illinois.gov). Hunters must provide all information requested by the check-in system, and will be provided with a confirmation number to verify that they checked in their harvest. The confirmation number must be written by the hunter onto the leg tag. The leg tag must remain attached to the leg of the turkey until it is at the legal residence of the person who legally took or possessed the turkey and the turkey has been checked in. The turkey must remain whole (or field dressed) until it has been checked in.
- c) Violation of this Section is a Class B misdemeanor (see 520 ILCS 5/2.9).

(Source: Amended at 42 Ill. Reg. 13208, effective June 22, 2018)

**Section 720.40 Regulations at Various Department-Owned or -Managed Sites**

Statewide regulations shall apply for the following sites, except those sites designated below by asterisk (\*) shall be open to archery turkey hunting without regard to firearm deer season. Those sites followed by (1) require hunters to check in and check out. Violation of a site specific regulation is a Class B misdemeanor (see 520 ILCS 5/2.9). Those sites followed by a (2) require hunters to obtain a permit from the site before hunting. Sites that require use of windshield cards by hunters as specified in 17 Ill. Adm. Code 510.10 are followed by (3).

Alvah Borah State Habitat Area (3)

\* Anderson Lake State Conservation Area (1)

Apple River Canyon State Park – Salem and Thompson Units (3)

Argyle Lake State Park (3)

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF ADOPTED AMENDMENTS

Beaver Dam State Park (site specific archery deer permit hunters only; disabled hunting is available in the designated blind location upon request; Class P2A, disabled hunters, are required to be accompanied by a non-disabled hunter, who may also hunt from the same blind location) (2)

Big Bend State Fish and Wildlife Area (1)

Big River State Forest (3)

Butterfield Trail State Recreation Area (3)

Cache River State Natural Area (1)

Campbell Pond State Wildlife Management Area (3)

Cape Bend State Fish and Wildlife Area (1)

Carlyle Lake Lands and Waters – Corps of Engineers Managed Lands

Carlyle Lake State Fish and Wildlife Management Area (subimpoundment area closes 7 days prior to the start of the waterfowl season for the zone in which Carlyle Lake is located) (3)

Castle Rock State Park (3)

Chain O'Lakes State Park (closed Wednesday through Sunday of pheasant season; opens Monday prior to pheasant season and closes Tuesday following close of pheasant season; reopens December 26 through the close of regular season) (1)

Chauncey Marsh State Natural Area (3)

Clinton Lake State Recreation Area (3)

Coffeen Lake State Fish and Wildlife Area (3)

Copperhead Hollow State Fish and Wildlife Area (3)

Crawford County State Conservation Area (3)

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF ADOPTED AMENDMENTS

Cretaceous Hills State Natural Area (3)

Cypress Pond State Natural Area (1)

Deer Pond State Natural Area (1)

Devil's Island State Fish and Wildlife Area

Dixon Springs State Park (1)

Dog Island State Wildlife Management Area (3)

Eagle Creek State Park (3)

Eldon Hazlet State Park (archery hunting is closed in the designated controlled pheasant hunting area on days when the controlled pheasant hunting program is in operation) (3)

Embarrass River Bottoms State Habitat Area (3)

Ferne Clyffe State Park (1)

Flag Pond State Natural Area (3)

Fort de Chartres State Historic Site

\* Fort Kaskaskia State Historic Site (opens November 1) (1)

Fort Massac State Park (1)

Frank Holten State Park (opens November 1; crossing of Harding Ditch within confines of site allowed, no hunting from Harding Ditch right-of-way) (3)

Franklin Creek State Park (hunting in designated area only) (3)

French Bluff State Natural Area (3)

Giant City State Park (1)

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF ADOPTED AMENDMENTS

Green River State Wildlife Area (3)

Hamilton County State Conservation Area (3)

Hanover Bluff State Natural Area (3)

Harry "Babe" Woodyard State Natural Area (3)

Hennepin Canal Parkway (open only to hunters with valid site deer permit and a valid archery turkey permit) (2)

Horseshoe Lake State Conservation Area (Alexander County) (controlled goose hunting area closed 7 days prior to Quota Zone goose season through the close of the Quota Zone goose season; remainder of the public hunting area open during the statewide season) (1)  
(2)

\* Horseshoe Lake State Park (Madison County) – Gabaret, Mosenthein and Chouteau Island Units (2)

Iroquois County State Wildlife Area (3)

Jim Edgar Panther Creek State Fish and Wildlife Area (3)

Johnson-Sauk Trail State Park (closed Wednesday through Sunday during site's pheasant permit season) (3)

Jubilee College State Park (1)

Kaskaskia River State Fish and Wildlife Area (no hunting within 50 yards of the Baldwin Lake Waterfowl Rest Area's main north-south road; this defined waterfowl rest area is closed until the Columbus Day holiday) (1 – except south of Highway 154 and north of Highway 13)

Kickapoo State Recreation Area (3)

Kinkaid Lake State Fish and Wildlife Area



## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF ADOPTED AMENDMENTS

Kishwaukee River State Fish and Wildlife Area (3)

Lowden-Miller State Forest (3)

Mackinaw River State Fish and Wildlife Area (3)

Marseilles State Fish and Wildlife Area (fall archery turkey season closes the first Thursday after January 10; closed Friday, Saturday, and Sunday in October; unauthorized personnel may not be on the site outside of the posted check station operating hours; hunters may only enter the site from designated parking lots) (1)

Marshall State Fish and Wildlife Area (Duck Ranch Unit closed 7 days prior to the duck season through the close of duck season) (3)

Mautino State Fish and Wildlife Area (3)

Meeker State Habitat Area (3)

Mermet Lake State Fish and Wildlife Area (3)

Middle Fork State Fish and Wildlife Area (3)

Mississippi Palisades State Park (3)

Mississippi River State Fish and Waterfowl Management Area (Pools 25 and 26)

Mississippi River Pools 16, 17 and 18

Mississippi River Pools 21, 22 and 24

Moraine View State Park (closed Wednesday through Sunday during site's controlled pheasant season) (3)

\* Mt. Vernon Propagation Center (1)

Nauvoo State Park (Max Rowe Unit only) (3)

Newton Lake State Fish and Wildlife Area (3)

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF ADOPTED AMENDMENTS

- Oakford State Conservation Area
- Peabody River King State Fish and Wildlife Area (east subunit closed November 1) (1)
- Pere Marquette State Park (~~area east of Graham Hollow Road~~)(3)
- Pere Marquette State Park – Group Camp Area (2)
- Pyramid State Park (3)
- Pyramid State Park – East Conant Unit (3)
- Rall Woods State Natural Area (3)
- \* Ramsey Lake State Park (3)
- \* Randolph County State Conservation Area
- Rauchfuss Hill State Recreation Area (3)
- Ray Norbut State Fish and Wildlife Area (3)
- \* Ray Norbut State Fish and Wildlife Area – Dutch Creek Unit (3)
- Ray Norbut State Fish and Wildlife Area – East Hannibal Unit (3)
- Red Hills State Park (3)
- \* Rend Lake Project Lands and Waters
- Sahara Woods State Fish and Wildlife Area (3)
- Saline County State Conservation Area (3)
- \* Sam Dale Lake State Fish and Wildlife Area (3)
- \* Sam Parr State Fish and Wildlife Area (3)

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF ADOPTED AMENDMENTS

- Sand Ridge State Forest (3)
- Sandy Ford State Natural Area (1)
- Sanganois State Fish and Wildlife Area (3)
- \* Sangchris Lake State Park (site will be closed to archery deer and turkey hunting during the second firearm deer season) (3)
- \* Shabbona Lake State Park (3)
- Shelbyville Lake – Corps of Engineers Managed Lands
- Shelbyville State Fish and Wildlife Management Area (3)
- Sielbeck Forest State Natural Area (3)
- Siloam Springs State Park (3)
- \* Siloam Springs State Park – Buckhorn Unit (resident hunters only) (3)
- Skinner Farm State Habitat Area (3)
- Spoon River State Forest (3)
- \* Spring Lake State Fish and Wildlife Area (3)
- Starved Rock State Park/Matthiessen State Park (no turkey hunting in the nature preserves; open only in areas where archery deer hunting is allowed other than nature preserves; must have valid archery deer permit in possession to hunt turkeys; open concurrent with site archery deer season) (1)
- \* Stephen A. Forbes State Park (3)
- Tapley Woods State Natural Area (3)
- Ten Mile Creek State Fish and Wildlife Area (3)

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF ADOPTED AMENDMENTS

Trail of Tears State Forest (1)

Turkey Bluffs State Fish and Wildlife Area

Union County State Conservation Area (Fire Line Unit open throughout statewide season; Controlled Hunting Area open October 1 through October 31) (1)

\* Washington County State Conservation Area (1)

Wayne Fitzgerald State Park (no hunting during controlled hunts as posted at the site) (1)

Weinberg-King State Park (3)

Weinberg-King State Park – Cecil White Unit (3)

Weinberg-King State Park – Scripps Unit (resident hunters only) (3)

Weinberg-King State Park – Spunky Bottoms Unit (resident hunters only) (3)

Wildcat Hollow State Forest (3)

Winston Tunnel State Natural Area (3)

Wise Ridge State Natural Area

Witkowsky State Wildlife Area (opens October 15) (3)

\* [Zoeller State Natural Area \(site specific archery deer permit hunters only\) \(3\)](#)

(Source: Amended at 42 Ill. Reg. 13208, effective June 22, 2018)

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Dove Hunting
- 2) Code Citation: 17 Ill. Adm. Code 730
- 3) Section Number: 730.20                      Adopted Action:  
Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 1.3 and 1.4 of the Wildlife Code [520 ILCS 5/1.3 and 1.4].
- 5) Effective Date of Rule: June 22, 2018
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rule, including all material incorporated by reference is on file in the Department of Natural Resources' principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 42 Ill. Reg. 4459, March 9, 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? No agreements were necessary.
- 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 Part has been amended to make statewide program changes, open and close State-owned or -managed sites, and amend procedures at State sites.
- 16) Information and questions regarding this adopted rule shall be directed to:

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENT

Javonna Ackerman, Legal Counsel  
Department of Natural Resources  
One Natural Resources Way  
Springfield IL 62702-1271

217/557-0126

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

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF ADOPTED AMENDMENT

TITLE 17: CONSERVATION  
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES  
SUBCHAPTER b: FISH AND WILDLIFEPART 730  
DOVE HUNTING

## Section

730.10	Statewide Regulations
730.20	Regulations at Various Department-Owned or -Managed Sites
730.30	Youth and Youth/Adult Dove Hunts at Various Department-Owned or -Managed Sites (Repealed)
730.40	Youth Dove Hunting

AUTHORITY: Implementing and authorized by Sections 1.3 and 1.4 of the Wildlife Code [520 ILCS 5/1.3 and 1.4].

SOURCE: Adopted at 5 Ill. Reg. 8792, effective August 25, 1981; codified at 5 Ill. Reg. 10644; amended at 6 Ill. Reg. 9631, effective July 21, 1982; emergency amendment at 6 Ill. Reg. 10040, effective August 2, 1982, for a maximum of 150 days; emergency expired December 30, 1982; amended at 7 Ill. Reg. 10767, effective August 24, 1983; emergency amendment at 7 Ill. Reg. 10999, effective August 24, 1983, for a maximum of 150 days; amended at 8 Ill. Reg. 13680, effective July 25, 1984; amended at 9 Ill. Reg. 11601, effective July 16, 1985; emergency amendment at 9 Ill. Reg. 14025, effective September 4, 1985, for a maximum of 150 days; amended at 10 Ill. Reg. 15590, effective September 16, 1986; amended at 11 Ill. Reg. 9526, effective May 5, 1987; amended at 11 Ill. Reg. 11346, effective June 10, 1987; amended at 12 Ill. Reg. 12186, effective July 15, 1988; amended at 13 Ill. Reg. 10513, effective June 15, 1989; amended at 14 Ill. Reg. 11193, effective June 29, 1990; amended at 15 Ill. Reg. 9951, effective June 24, 1991; amended at 16 Ill. Reg. 11041, effective June 30, 1992; amended at 17 Ill. Reg. 10761, effective July 1, 1993; amended at 18 Ill. Reg. 10009, effective June 21, 1994; amended at 19 Ill. Reg. 10588, effective July 1, 1995; amended at 20 Ill. Reg. 10861, effective August 5, 1996; amended at 21 Ill. Reg. 11700, effective August 12, 1997; amended at 22 Ill. Reg. 14792, effective August 3, 1998; amended at 23 Ill. Reg. 9043, effective July 28, 1999; amended at 24 Ill. Reg. 8911, effective June 19, 2000; amended at 25 Ill. Reg. 11373, effective August 14, 2001; amended at 26 Ill. Reg. 13590, effective September 3, 2002; amended at 27 Ill. Reg. 12666, effective July 21, 2003; amended at 28 Ill. Reg. 12865, effective September 1, 2004; amended at 29 Ill. Reg. 9797, effective June 24, 2005; amended at 30 Ill. Reg. 12251, effective June 28, 2006; amended at 31 Ill. Reg. 11738, effective July 27, 2007; amended at 32 Ill. Reg.

## DEPARTMENT OF NATURAL RESOURCES

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14857, effective August 27, 2008; amended at 33 Ill. Reg. 9702, effective June 26, 2009; amended at 34 Ill. Reg. 12831, effective August 20, 2010; amended at 35 Ill. Reg. 13234, effective July 26, 2011; amended at 37 Ill. Reg. 20717, effective December 12, 2013; amended at 39 Ill. Reg. 11014, effective July 27, 2015; amended at 40 Ill. Reg. 10672, effective July 20, 2016; amended at 41 Ill. Reg. 8779, effective June 28, 2017; amended at 42 Ill. Reg. 13222, effective June 22, 2018.

**Section 730.20 Regulations at Various Department-Owned or -Managed Sites**

- a) All the regulations in 17 Ill. Adm. Code 510 – General Hunting and Trapping apply in this Section, unless this Section is more restrictive.
- b) General Regulations
  - 1) Hunters shall possess only lead or an approved non-toxic (as defined by the U.S. Fish and Wildlife Service in 50 CFR 20) shot, such as bismuth, of size #7.5 or smaller, or steel shot size #6 or lead shot size #7½, #8 or #9 or size #6 steel or smaller for taking of doves, except as noted in under subsection (b)(2), and except these restrictions do not apply after October 31 during the November portion of dove season.
  - 2) Only U.S. Fish and Wildlife Service approved non-toxic shot may be possessed for doves~~non-toxic shot (as defined by the U.S. Fish and Wildlife Service in 50 CFR 20), #6 steel shot or #7½ bismuth shot or smaller may be possessed~~ on the following areas:
    - Anderson Lake State Conservation Area
    - Banner Marsh State Fish and Wildlife Area
    - Big Bend State Fish and Wildlife Area (#)
    - Big River State Forest
    - Burning Star State Fish and Wildlife Area
    - Cache River State Natural Area



## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF ADOPTED AMENDMENT

Cape Bend State Fish and Wildlife Area

Carlyle Lake State Fish and Wildlife Area

Chain O'Lakes State Park

Clinton Lake State Recreation Area (dove management fields only)

[Coffeen Lake State Fish and Wildlife Area](#)

[Copperhead Hollow State Fish and Wildlife Area](#)

[Crawford County State Fish and Wildlife Area](#)

Des Plaines State Conservation Area

[Dixon Springs State Park](#)

Double T State Fish and Wildlife Area

[Edward Madigan State Park \(dove management fields only\)](#)

Eldon Hazlet State Park

Green River State Wildlife Area

[Harry "Babe" Woodyard State Natural Area](#)

Hennepin Canal Parkway State Park

Horseshoe Lake State Conservation Area (Alexander County)

Horseshoe Lake State Park (Madison County)

Horseshoe Lake State Park (Madison County) Gabaret, Mosenthein,  
Chouteau Island Unit

[Jim Edgar Panther Creek State Fish and Wildlife Area](#)

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DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENT

Johnson-Sauk Trail State Park

Jubilee College State Park

Kankakee River State Park

Kaskaskia River State Fish and Wildlife Area (designated areas)

[Kickapoo State Recreation Area](#)

[Lake Le Aqua Na State Park](#)

Mackinaw River State Fish and Wildlife Area

Marshall State Fish and Wildlife Area

Matthiessen State Park

Mautino State Fish and Wildlife Area

[Middle Fork State Fish and Wildlife Area](#)

Mississippi River State Fish and Wildlife Area (Pools 25 and 26)

Moraine View State Park

Mt. Vernon Game Propagation Center

Peabody River King State Fish and Wildlife Area

[Pere Marquette State Park](#)

Pyramid State Park – Captain Unit

Pyramid State Park – Denmark Unit

Pyramid State Park – East Conant Unit

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENT

Pyramid State Park – Galum Unit

[Ramsey Lake State Park](#)

[Ray Norbut State Fish and Wildlife Area](#)

Rend Lake State Fish and Wildlife Area and Corps of Engineers managed areas of Rend Lake

Rice Lake State Fish and Wildlife Area

Sam Parr State Fish and Wildlife Area

Sand Prairie Pheasant Habitat Area

Sanganois State Fish and Wildlife Area

Sangchris Lake State Park

Shabbona Lake State Park

Shelbyville State Fish and Wildlife Area (~~waterfowl management units and designated non-toxic shot units only~~)

[Siloam Springs State Park](#)

[Siloam Springs State Park – Buckhorn Unit](#)

Silver Springs State Fish and Wildlife Area

Snakeden Hollow State Fish and Wildlife Area/Victoria Pheasant Habitat Area

Spoon River State Forest

Starved Rock State Park

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF ADOPTED AMENDMENT

Stephen A. Forbes State Recreation Area

Ten Mile Creek State Fish and Wildlife Area (areas posted as rest area ~~on~~  
~~the Eads and Belle Rive Units~~)

Union County State Fish and Wildlife Area

Weinberg-King State Park

- 3) On areas where hunters are required to hunt from marked or staked sites, hunters must hunt within 10 feet of the marked site.
  - 4) No hunting is allowed within 100 yards of a designated dove management field except for hunters who are part of the hunter quota for that field.
  - 5) At sites indicated by (#), hunters are required to check in and/or sign out as provided in 17 Ill. Adm. Code 510. Sites that require use of windshield cards by hunters as specified in 17 Ill. Adm. Code 510.10 are followed by (1).
  - 6) At sites where additional regulations apply, they are noted in parentheses after the site name.
  - 7) Hunting hours and hunting dates at all sites that are open during the upland game season shall coincide with hunting hours and hunting dates listed for the respective sites listed in 17 Ill. Adm. Code 530.
- c) Statewide season regulations as provided for in this rule shall apply at the following sites:
- Argyle Lake State Park (season opens day after Labor Day) (1)
  - Burning Star State Fish and Wildlife Area (1)
  - Cache River State Natural Area (#)
  - Campbell Pond State Wildlife Management Area (1)

## DEPARTMENT OF NATURAL RESOURCES

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Cape Bend State Fish and Wildlife Area (#)

Carlyle Lake Lands and Waters – Corps of Engineers managed lands (#)

Carlyle Lake State Fish and Wildlife Area (1)

Chauncey Marsh State Natural Area (permit required; may be obtained at Red Hills State Park headquarters; permits must be returned by 15 February) (1)

[Copperhead Hollow State Fish and Wildlife Area \(1\)](#)

Corps of Engineers managed areas of Rend Lake

Cypress Pond State Natural Area (#)

Deer Pond State Natural Area (#)

Devil's Island State Fish and Wildlife Area

[Dixon Springs State Park \(2\)](#)

Dog Island State Wildlife Management Area (1)

Ferne Clyffe State Park (#)

Ft. de Chartres State Historic Site (muzzleloading shotgun only) (#)

Ft. Massac State Park (1)

Freeman Mine (permit required)

Giant City State Park (#)

Marseilles State Fish and Wildlife Area (after Labor Day closed Friday, Saturday and Sunday through October) (#)

Marshall State Fish and Wildlife Area (1)

## DEPARTMENT OF NATURAL RESOURCES

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Meeker State Habitat Area (1)

Mermet Lake State Fish and Wildlife Area (1)

Mississippi River Pools 16, 17 and 18

Mississippi River Pools 21, 22, 24

Nauvoo State Park – Max Rowe Unit (1)

Oakford State Conservation Area

[Pere Marquette State Park \(1\)](#)

Ray Norbut State Fish and Wildlife Area (1)

Red Hills State Park (1)

Sahara Woods State Fish and Wildlife Area (1)

Sand Ridge State Forest (season open from opening day of dove season through October 31) (1)

Sangamon County State Conservation Area

Sanganois State Fish and Wildlife Area (1)

Sielbeck Forest State Natural Area (1)

Siloam Springs State Park (1)

Siloam Springs State Park – Buckhorn Unit (1)

Spoon River State Forest (1)

Trail of Tears State Forest (#)

## DEPARTMENT OF NATURAL RESOURCES

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Union County State Fish and Wildlife Area – Controlled Hunting Area (shooting hours from noon to 5 p.m., September 1-5 and sunrise to sunset from September 6-October 28) (#)

Weinberg-King State Park (1)

Weinberg-King State Park – Scripps and Spunky Bottoms Units (1)

Wildcat Hollow State Forest (1)

Wise Ridge State Natural Area

- d) Statewide regulations as provided in this Part shall apply at the following sites except that hunting hours are 12 noon to 5 p.m. daily September 1-5; season closes September 30. A drawing will be held at 11 a.m. if more hunters show up than can be accommodated.

Banner Marsh State Fish and Wildlife Area (sunrise to noon daily September 1-5, drawing one hour before sunrise; black powder firearms only on September 2) (#)

Double T State Fish and Wildlife Area (sunrise to noon daily September 1-5, drawing one hour before sunrise) (#)

Hennepin Canal State Park (#)

Iroquois County State Wildlife Management Area (1)

Jubilee College State Park (hunting allowed only on opening day, Saturdays, Sundays, Wednesdays and holidays) (#)

Mautino State Fish and Wildlife Area (#)

Morrison Rockwood State Park (#)

Rice Lake State Fish and Wildlife Area (sunrise to noon daily September 1-5, drawing one hour before sunrise) (#)

## DEPARTMENT OF NATURAL RESOURCES

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Sam Dale Lake State Fish and Wildlife Area (1)  
Snakeden Hollow State Fish and Wildlife Area/Victoria Pheasant Habitat  
Area

- e) Statewide regulations as provided for in this Part shall apply at the following sites, except that hunting hours are 12 noon to 5 p.m. daily September 1-5. A drawing will be held at 11 a.m. if more hunters show up than can be accommodated.

Anderson Lake State Conservation Area (#)

Big River State Forest (1)

Chain O'Lakes State Park (closes September 5)

Clinton Lake State Recreation Area (dove management fields only) (1)

Eldon Hazlet State Park (closes October 14) (1)

Fox Ridge State Park (dove management fields only) (1)

Harry "Babe" Woodyard State Natural Area (permit required) (1)

Hidden Springs State Forest (dove management fields only) (1)

Horseshoe Lake State Fish and Wildlife Area (Alexander County) (season closes at the end of the first statewide split season) (#)

Kaskaskia River State Fish and Wildlife Area (Doza Creek Waterfowl Management Area closes October 14; the defined Baldwin Lake Waterfowl Rest Area is closed) (#)

Kinkaid State Fish and Wildlife Area (#)

Middle Fork State Fish and Wildlife Area (dove management fields only) (1)

Moraine View State Park (dove management fields only; season closes October 14) (1)



## DEPARTMENT OF NATURAL RESOURCES

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Newton Lake State Fish and Wildlife Area (dove management units) (1)

Peabody River King State Fish and Wildlife Area (East Subunit closes October 14) (#)

Pyramid State Park (permit required; permit must be returned by February 15; no dove hunting is allowed September 1-5 within 200 yards of a designated dove management field, except for hunters who are part of the hunter quota for that field; all hunters must register as a group not to exceed 4 names per card; a hunter's name may only appear on one lottery card; the lottery card shall be in the possession of the hunter or group while hunting) (1)

Pyramid State Park – Captain Unit (permit required; permit must be returned by February 15; unsuccessful lottery participants and other hunters not participating in the lottery drawing may only hunt in designated areas during September 1-5 (i.e., all land west of the Western Haul Road and all land east of the Eastern Haul Road to the shore of Super Lake to South Haul Road); all hunters must register as a group not to exceed 4 names per card; a hunter's name may only appear on one lottery card; the lottery card shall be in the possession of the hunter or group while hunting) (1)

Pyramid State Park – Denmark Unit (permit required; permit must be returned by February 15; unsuccessful lottery participants and other hunters not participating in the lottery drawing may only hunt in designated areas during September 1-5 (i.e., all land south of Quonset Hut Road to Tangen Cemetery Road to Brushy Creek Road); all hunters must register as a group not to exceed 4 names per card; a hunter's name may only appear on one lottery card; the lottery card shall be in the possession of the hunter or group while hunting) (1)

Pyramid State Park – East Conant Unit (permit required; permit must be returned by February 15; no dove hunting is allowed September 1-5 within 200 yards of a designated dove management field except for hunters who are part of the hunter quota for that field; all hunters must register as a group not to exceed 4 names per card; a hunter's name may only appear on

## DEPARTMENT OF NATURAL RESOURCES

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one lottery card; the lottery card shall be in the possession of the hunter or group while hunting) (1)

Pyramid State Park – Galum Unit (permit required; permit must be returned by February 15; no dove hunting is allowed September 1-5 within 200 yards of a designated dove management field except for hunters who are part of the hunter quota for that field; all hunters must register as a group not to exceed 4 names per card; a hunter's name may only appear on one lottery card; the lottery card shall be in the possession of the hunter or group while hunting) (1)

Randolph County State Conservation Area (#)

Turkey Bluffs State Fish and Wildlife Area (#)

Washington County State Conservation Area (closes October 14) (#)

World Shooting and Recreation Complex (designated dove management fields only) (#)

- f) Statewide regulations as provided for in this Part shall apply at the following sites, except that hunting hours are 12 noon to 5 p.m. daily September 1-30. A drawing will be held at 11 a.m. if more hunters show up than can be accommodated.

Crawford County State Fish and Wildlife Area (1)

Hamilton County State Fish and Wildlife Area (1)

Lake Le Aqua Na State Park (#)

Sam Parr State Fish and Wildlife Area (1)

Shabbona Lake State Park (1)

Skinner Farm State Habitat Area (#)

Stephen A. Forbes State Recreation Area (season opens day after Labor Day) (1)

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- g) Statewide regulations as provided for in this Part shall apply at the following sites, except that hunting hours are 12 noon to 5 p.m. daily. Hunting is allowed on opening day, Wednesday, and Saturday only. A drawing will be held at 11 a.m. if more hunters show up than can be accommodated.

Saline County State Fish and Wildlife Area (1)

- h) Statewide regulations apply except that hunting hours are 12 noon to 5 p.m. from September 1-5; hunters must obtain a free permit from the Department; permits must be in possession while hunting on the site. Permit must be returned and harvest reported by February 15 or hunter will forfeit hunting privileges for that site for the following season.

Clinton Lake State Recreation Area (except dove management fields) (1)

Fox Ridge State Park (except dove management units; shooting hours after September 5 are 12 noon to sunset) (1)

Hidden Springs State Forest (except dove management fields) (1)

Kickapoo State Recreation Area (1)

Lake Shelbyville – Eagle Creek State Park (season opens day after Labor Day; closes October 14; shooting hours are 12 noon to sunset) (1)

Middle Fork State Fish and Wildlife Area (except dove management units) (1)

Moraine View State Park (except dove management fields; season closes October 14) (1)

Newton Lake State Fish and Wildlife Area (except dove management units) (1)

Shelbyville State Fish and Wildlife Area (hunters must hunt from designated stakes within dove management fields, with a maximum of 2 hunters per stake) (1)

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~~Shelbyville State Fish and Wildlife Area—Kaskaskia and West Okaw Wildlife Management Areas (hunters must hunt from designated stakes within dove management fields, with a maximum of 2 hunters per stake)~~  
(4)

- i) Statewide regulations as provided for in this Part shall apply at the following sites, except that hunting hours are sunrise to 11:30 a.m. daily September 1-5; season closes September 30. A drawing will be held one hour before sunrise if more hunters show up than can be accommodated.

Mt. Vernon Game Propagation Center (#)

Ramsey Lake State Park (1)

Rend Lake State Fish and Wildlife Area (#)

Ten Mile Creek State Fish and Wildlife Area (season closes on statewide closing date) (1)

- j) Permit Areas

- 1) Permit Season Regulations

A) Permit season dates shall be September 1-5 and hunting hours are 12 noon to 5 p.m. at the sites listed at the end of this subsection.

- B) Permit Applications

Permit applications will be accepted starting in June. Initial acceptance dates and methods for making applications will be publicly announced. A hunter can obtain up to 2 dove permits as follows: Only applications submitted by Illinois residents will be processed during the first lottery to apply for up to one dove permit. Non-residents and residents who did not receive a permit or did not apply in the first lottery will be eligible to participate in the second lottery to apply for their first dove permit. Residents will have priority in the 2<sup>nd</sup> lottery. Residents and non-residents can apply for a 2<sup>nd</sup> permit during the phone-in reservation period to be held after the lottery. Successful applicants will be sent

## DEPARTMENT OF NATURAL RESOURCES

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confirmation via email or can access the Reservation Inquiry System to see if they were awarded a permit.

- C) Drawings for permits at specific sites may be canceled at any time due to flooding, inclement weather, staff shortages or other adverse conditions beyond the Department's control. Hunters are urged to select a second choice of sites on their permit application.
  - D) Permits are not transferrable.
  - E) Permits will be issued from the Springfield Permit Office for permit controlled sites. For other information, go to [www.dnr.illinois.gov](http://www.dnr.illinois.gov).
  - F) Hunting at these areas is by special permit only for the first five days of the season; thereafter, no permits are required for hunting these sites, except at Jim Edgar Panther Creek State Fish and Wildlife Area as indicated in subsection (j)(3). All permits will be issued from Springfield and not from the site, except at Panther Creek State Fish and Wildlife Area as indicated in subsection (j)(3).
  - G) Check in time for registration shall be between 9 a.m. and 11 a.m. each day. Openings after 11 a.m. will be filled by drawing for standbys if more hunters register than there are vacancies.
  - H) All hunters must wear a DNR issued backpatch.
- 2) Non-Permit Season Regulations
- A) Non-permit season shall be September 6-30 except as indicated in parentheses.
  - B) Non-permit hunting hours shall be 12 noon to sunset except as indicated in parentheses.
  - C) No permits are required except as indicated in parentheses.

## DEPARTMENT OF NATURAL RESOURCES

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- D) Check in and check out is required except as indicated in parentheses.
- E) Hunter quotas will be filled on a first come-first served basis.

## 3) Sites

Big Bend State Fish and Wildlife Area

Coffeen Lake State Fish and Wildlife Area (non-permit hunting hours are 12 noon to 5:00 p.m.)

Des Plaines State Conservation Area

Edward R. Madigan State Park

Green River State Wildlife Area/Sand Prairie Habitat Area (non-permit hunting hours are sunrise to sunset) (1)

Horseshoe Lake State Park (Madison County) (non-permit hunting hours are 12 noon to 5 p.m.)

Horseshoe Lake State Park (Madison County) Gabaret, Mosenthein, Chouteau Island Unit (non-permit hunting hours are 12 noon to 5:00 p.m. September 6 through October 14)

Jim Edgar Panther Creek State Fish and Wildlife Area (for days 6 through 10 of the season, hunting hours are noon to 6:00 p.m. and hunters must check in and out at the site office; permit required as indicated in subsection (i) for days 11 through the end of the statewide dove season; hunting hours for days 11 through the end of the statewide dove season are sunrise to sunset; on the Controlled Unit only those hunters engaged in the controlled pheasant hunting program may take doves during the November portion of the dove season; on the Quail Management Unit only those hunters with Quail Management Unit Permits may take doves during the November portion of the dove season) (1)

Johnson Sauk Trail State Park (permit hunting hours are noon to 5:00

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p.m.) (1)

Kankakee River State Park

Mackinaw River State Recreation Area (non-permit hunting hours sunrise to sunset; each permit authorizes the holder to bring one hunting partner)  
(1)

Matthiessen State Park

Sangchris Lake State Park (closed after Sunday of the third weekend in September; designated fields will be open from sunrise to 12 noon starting the 6<sup>th</sup> day of the dove season)

Silver Springs State Park (closed during National Hunting and Fishing Day Weekend)

Snakeden Hollow State Fish and Wildlife Area/Victoria Pheasant Habitat Area (non-permit hunting hours sunrise to sunset)

Starved Rock State Park

k) Violation of a site specific regulation is a petty offense (see 520 ILCS 5/2.20).

(Source: Amended at 42 Ill. Reg. 13222, effective June 22, 2018)

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## NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Illinois Prescribed Burning Act
- 2) Code Citation: 17 Ill. Adm. Code 1565
- 3) 

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
1565.20	Amendment
1565.Exhibit A	Repealed
- 4) Statutory Authority: Implementing and authorized by the Illinois Prescribed Burning Act [525 ILCS 37].
- 5) Effective Date of Rules: June 22, 2018
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rules, including all material incorporated by reference is on file in the Department of Natural Resources' principal office and is available for public inspection.
- 9) Notice of Proposal published in *Illinois Register*: 42 Ill. Reg. 4478; March 9, 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? No agreements were necessary.
- 13) Will this rulemaking replace any emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: This Part has been amended to make statewide program changes by changing the required materials for certification by adding training and burn logs and a signed Prescribed Fire Burn Manager Apprentice Task Book to allow



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NOTICE OF ADOPTED AMENDMENTS

supervising burn managers to better track and document apprentice progress and accomplishments.

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

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

217/557-6379

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

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF ADOPTED AMENDMENTS

TITLE 17: CONSERVATION  
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES  
SUBCHAPTER d: FORESTRYPART 1565  
ILLINOIS PRESCRIBED BURNING ACT

## Section

1565.5	Purpose
1565.10	Definitions
1565.20	Certified Prescribed Burn Manager
1565.30	Burn Prescriptions
1565.40	Notifications and Permits
1565.50	Conducting Prescribed Burns
1565.60	Records and Reporting
1565.70	Administration of Act

1565.EXHIBIT A Certified Prescribed Burn Manager Application ([Repealed](#))

AUTHORITY: Implementing and authorized by the Illinois Prescribed Burning Act [525 ILCS 37].

SOURCE: Adopted at 33 Ill. Reg. 15724, effective November 2, 2009; amended at 36 Ill. Reg. 14415, effective September 5, 2012; amended at 42 Ill. Reg. 13241, effective June 22, 2018.

**Section 1565.20 Certified Prescribed Burn Manager**

- a) A certified prescribed burn manager performs the following activities:
- 1) writes and/or approves burn prescriptions as described in Section 1565.30;
  - 2) serves as the direct supervisor of the burn personnel at the scene of a prescribed burn and is responsible for implementing a burn prescription as described in Section 1565.40; and
  - 3) supervises and trains an apprentice prescribed burn manager as described in Section 1565.20(c).

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF ADOPTED AMENDMENTS

- b) To become a certified prescribed burn manager, a person must complete the following requirements and have a valid Illinois Certified Prescribed Burn Manager Certificate issued by the Department pursuant to Section 1565.70.
- 1) Successfully complete:
    - A) the following National Wildfire Coordinating Group Wildland Fire Training Courses or equivalents:
      - i) Basic Incident Command System (I-100);
      - ii) Fire Fighter Training (S-130); and
      - iii) Wildland Fire Behavior (S-190); or
    - B) a specialized Illinois Prescribed Burning Manager Course that incorporates pertinent information in the courses listed in subsection (b)(1)(A), along with information on prescribed burning in Illinois that has been approved by the Board;
  - 2) Participate in five prescribed burns that will be documented on a [form provided by the Department and known as the Certified Prescribed Burn Manager Application](#);
  - 3) Successfully complete two prescribed burns as an apprentice prescribed burn manager under the supervision of a certified prescribed burn manager;
  - 4) Submit the following to the Illinois Department of Natural Resources, Attention: Prescribed Burn Manager Certification, One Natural Resources Way, Springfield IL 62702-1271:
    - A) A Certified Prescribed Burn Manager Application (the "[Application](#)" [described in \(b\)\(2\) above](#));
    - B) A \$50 fee (State of Illinois employees are exempt from the fee); and

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF ADOPTED AMENDMENTS

- C) Copies of all course certificates and relevant prescribed burn prescriptions, [training and burn logs, signed Prescribed Fire Burn Manager Apprentice Task Book](#), and prescribed burn report forms or an affidavit described in Section 1565.20(d) for the burns required in Section 1565.20(b)(3) documenting the experience and apprenticeship.
- c) To become an apprentice, a person must apply to ~~the Department~~[DNR](#) in writing and be accepted by a certified prescribed burn manager who will agree to supervise the training in conducting the burn. An apprentice prescribed burn manager shall assume the functions of a certified prescribed burn manager during a burn under the direct supervision of a certified prescribed burn manager. An apprentice shall sign the prescribed burn report as the "apprentice prescribed burn manager" and note his or her experience on the Application. The certified prescribed burn manager supervising the apprentice shall also provide an evaluation of the performance of the apprentice and certify the successful completion of the burn by the apprentice on the [Prescribed Fire Burn Manager Apprentice Task Book](#)~~prescribed burn report. The signatures on the prescribed burn report shall serve as documentation of the number of times an apprentice serves as an apprentice prescribed burn manager.~~
- d) Prior to December 31, 2015, persons who have submitted an affidavit along with their Application attesting to their participation in at least seven burns, including at least five at which they have served as the prescribed burn manager prior to November 1, 2009, shall be considered to have completed the apprenticeship and experience requirements.
- e) Persons who hold certifications from other states whose training meets or exceeds the requirements of this Part can receive an Illinois Certified Prescribed Burn Manager Certificate by submitting an Application, proof of certification in another state and the \$50 fee to: Illinois Department of Natural Resources, Attention: Prescribed Burn Manager Certification, One Natural Resources Way, Springfield IL 62702-1271.
- f) Persons who have received the certification as a Prescribed Fire Burn Boss Type 1 or Type 2, known as RXB1 or RXB2 respectively, under the NIIMS Wildland Fire Qualification System, can receive an Illinois Certified Prescribed Burn Manager Certificate by submitting an Application, proof of the RXB1 or RXB2

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DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

certification and the \$50 fee to: Illinois Department of Natural Resources,  
Attention: Prescribed Burn Manager Certification, One Natural Resources Way,  
Springfield IL 62702-1271.

(Source: Amended at 42 Ill. Reg. 13241, effective June 22, 2018)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

**Section 1565.EXHIBIT A Certified Prescribed Burn Manager Application (Repealed)**

~~Directions: All applicants must complete PART A and attach the required documentation and submit any required fee to the Illinois Department of Natural Resources, Attention Prescribed Burn Manager Certification, One Natural Resources Way, Springfield IL, 62702-1271. Each applicant must complete either Part B, C or D and the documentation listed in that Part.~~

**PART A:**

**~~SECTION A1: IDENTIFICATION\*~~**

~~Applicant Name: \_\_\_\_\_~~

~~Employer's Name (if applicable): \_\_\_\_\_~~

~~Applicant Address (Street Address, City, State, Zip Code):~~

\_\_\_\_\_

~~Applicant Phone Number: \_\_\_\_\_~~

~~Applicant Date of Birth: \_\_\_\_\_~~

~~\*Please provide a copy of your driver's license or other government issued identification card.~~

**~~SECTION A2: CLASSROOM TRAINING\*\*~~**

~~Course Name: \_\_\_\_\_ Date: \_\_\_\_\_~~

~~Course Name: \_\_\_\_\_ Date: \_\_\_\_\_~~

~~Course Name: \_\_\_\_\_ Date: \_\_\_\_\_~~

~~\*\*Attach copies of all listed course completion certificates. If additional space is needed to list courses, then attach a separate sheet listing course work.~~

**SECTION A3: FEE**

~~CHECK THIS BOX IF YOU ARE A STATE OF ILLINOIS EMPLOYEE AND EXEMPT FROM THE CERTIFICATION FEE:  OTHERWISE, INCLUDE CHECK OR MONEY~~

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

~~ORDER FOR \$50 MADE PAYABLE TO THE ILLINOIS DEPARTMENT OF NATURAL RESOURCES.~~

~~SECTION A4: SIGNATURE~~

~~I certify that the information provided in this application is correct.~~

~~Applicant: \_\_\_\_\_ Date: \_\_\_\_\_~~

**PART B:**

**SECTION B1: PRESCRIBED BURN PARTICIPATION**

1) Location: \_\_\_\_\_ Date: \_\_\_\_\_

2) Location: \_\_\_\_\_ Date: \_\_\_\_\_

3) Location: \_\_\_\_\_ Date: \_\_\_\_\_

4) Location: \_\_\_\_\_ Date: \_\_\_\_\_

5) Location: \_\_\_\_\_ Date: \_\_\_\_\_

~~SECTION B2: PRESCRIBED BURNS WHERE APPLICANT SERVED AS AN APPRENTICE PRESCRIBED BURN MANAGER\*~~

~~I have reviewed Section A and B1 and accept the above named person as an Apprentice Prescribed Burn Manager.~~

~~Certified Prescribed Burn  
Manager:~~

\_\_\_\_\_  
(Signature) (Date)

Name: \_\_\_\_\_ Certificate Number: \_\_\_\_\_  
(Type or Print)

1) Location: \_\_\_\_\_ Date: \_\_\_\_\_

DEPARTMENT OF NATURAL RESOURCES

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~~Certified Prescribed Burn Manager Supervising the Apprentice Prescribed Burn Manager~~

Name: \_\_\_\_\_ Certificate Number: \_\_\_\_\_  
(Type or Print)

2) Location: \_\_\_\_\_ Date: \_\_\_\_\_  
~~Certified Prescribed Burn Manager Supervising the Apprentice Prescribed Burn Manager~~

Name: \_\_\_\_\_ Certificate Number: \_\_\_\_\_  
(Type or Print)

~~\*Attach copies of relevant Prescribed Burning Plans, Prescribed Burn Reports and performance evaluations signed by a Certified Prescribed Burn Manager supervising the Apprentice Prescribed Burn Manager.~~

**PART C:**  
~~**PREVIOUS PRESCRIBED BURN MANAGEMENT EXPERIENCE:** Complete and notarize this part ONLY if you are claiming exemption from the apprentice requirements due to previous experience as a prescribed burn manager. Part C cannot be completed after December 31, 2010.~~

~~Pursuant to 17 Ill. Adm. Code 1565.20(d), prior to July 1, 2009, I have participated in at least seven prescribed burns, including at least five at which I have served as the Certified Prescribed Burn Manager.~~

By: \_\_\_\_\_  
(Applicant's Signature)

STATE OF ILLINOIS  
COUNTY OF \_\_\_\_\_

Signed and sworn (or affirmed) to before me this \_\_\_\_\_ day of \_\_\_\_\_

by \_\_\_\_\_



DEPARTMENT OF NATURAL RESOURCES

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~~(applicant's name)~~

~~(Signature of Notary Public)~~

~~(SEAL)~~

**PART D:**

~~Complete this part ONLY if you hold certification from another state that meets or exceeds the requirements of an Illinois Prescribed Burn Manager Certificate or hold a valid prescribed burn certification for a Prescribed Fire Boss under the NHIMS Wildfire Qualification System and you are claiming you qualify for an Illinois Certificate pursuant to 17 Ill. Adm. Code 1565.20(e) or (f).~~

~~Check the following box or boxes that apply:~~

- ~~I hold a valid Prescribed Burn Manager Certificate or its equivalent from 15724 \_\_\_\_\_ (list state) and have attached to this application a copy of that certificate and a copy of my application used to obtain the certificate, or an official document from that state listing the general qualifications for certification.~~
- ~~I hold certification as a Prescribed Fire Burn Boss Type 1 (RXB1) or Type 2 (RXB2) through the NHIMS Wildfire Qualification System and have attached a copy of that certification to this application.~~

~~I certify that the above information is correct.~~

~~Applicant's Signature: \_\_\_\_\_ Date: \_\_\_\_\_~~

(Source: Repealed at 42 Ill. Reg. 13241, effective June 22, 2018)

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Designation of Restricted Waters in the State of Illinois
- 2) Code Citation: 17 Ill. Adm. Code 2030
- 3) Section Number: 2030.10                      Adopted Action: Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 5-7 and 5-12 of the Boat Registration and Safety Act [625 ILCS 45/5-7 and 5-12].
- 5) Effective Date of Rule: June 22, 2018
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rule, including all material incorporated by reference is on file in the Department of Natural Resources' principal office and is available for public inspection.
- 9) Notice of Proposal published in *Illinois Register*: 42 Ill. Reg. 5724; March 30, 2018
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: Subsection (c) has been stricken.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rule currently in effect? No
- 14) Are there any other rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: This Part has been amended to stay in compliance with the U.S. Coast Guard
- 16) Information and questions regarding this adopted rule shall be directed to:

DEPARTMENT OF NATURAL RESOURCES

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Javonna Ackerman, Legal Counsel  
Department of Natural Resources  
One Natural Resources Way  
Springfield IL 62702-1271

217/557-0126

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

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF ADOPTED AMENDMENT

TITLE 17: CONSERVATION  
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES  
SUBCHAPTER e: LAW ENFORCEMENT

## PART 2030

## DESIGNATION OF RESTRICTED WATERS IN THE STATE OF ILLINOIS

## Section

2030.10	General Regulations
2030.15	Designation of Restricted Waters by the Department of Natural Resources
2030.20	Region I – Designated Restricted Boating Areas
2030.30	Region II – Designated Restricted Boating Areas
2030.40	Region III – Designated Restricted Boating Areas
2030.50	Region IV – Designated Restricted Boating Areas
2030.60	Region V – Designated Restricted Boating Areas
2030.70	Riverboat Gambling Casinos – Designated Restricted Boating Areas
2030.80	Hazardous Navigation Conditions – Designated Restricted Boating Areas

**AUTHORITY:** Implementing and authorized by Sections 5-7 and 5-12 of the Boat Registration and Safety Act [625 ILCS 45/5-7 and 5-12].

**SOURCE:** Adopted at 5 Ill. Reg. 8763, effective August 25, 1981; codified at 5 Ill. Reg. 10617; amended at 9 Ill. Reg. 4789, effective April 2, 1985; amended at 11 Ill. Reg. 9519, effective May 5, 1987; emergency amendment at 12 Ill. Reg. 8745, effective May 15, 1988, for a maximum of 150 days; emergency expired September 20, 1988; emergency amendment at 12 Ill. Reg. 12111, effective July 6, 1988, for a maximum of 150 days; emergency expired December 12, 1988; amended at 12 Ill. Reg. 16707, effective September 30, 1988; amended at 12 Ill. Reg. 20472, effective November 28, 1988; corrected at 13 Ill. Reg. 967; emergency amendment at 13 Ill. Reg. 2878, effective February 21, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 12814, effective July 21, 1989; amended at 16 Ill. Reg. 8483, effective May 26, 1992; amended at 19 Ill. Reg. 7549, effective May 26, 1995; emergency amendment at 19 Ill. Reg. 11967, effective August 3, 1995, for a maximum of 150 days; amended at 20 Ill. Reg. 750, effective December 29, 1995; amended at 20 Ill. Reg. 7864, effective June 3, 1996; recodified by changing the agency name from Department of Conservation to Department of Natural Resources at 20 Ill. Reg. 9389; amended at 20 Ill. Reg. 15692, effective December 2, 1996; amended at 23 Ill. Reg. 6822, effective May 20, 1999; amended at 27 Ill. Reg. 8871, effective May 19, 2003; amended at 29 Ill. Reg. 15550, effective September 27, 2005; amended at 30 Ill. Reg. 11576, effective June 23, 2006; emergency amendment at 31 Ill. Reg. 8348, effective May 25, 2007, for a maximum of

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## NOTICE OF ADOPTED AMENDMENT

150 days; amended at 31 Ill. Reg. 14522, effective October 5, 2007; amended at 34 Ill. Reg. 7720, effective May 20, 2010; amended at 36 Ill. Reg. 5565, effective March 22, 2012; amended at 37 Ill. Reg. 827, effective January 9, 2013; amended at 37 Ill. Reg. 11366, effective July 5, 2013; amended at 42 Ill. Reg. 13251, effective June 22, 2018.

**Section 2030.10 General Regulations**

- a) All waters designated as Restricted Boating Areas shall be posted in accordance with the United States Coast Guard's [U.S. Aids to Navigation Uniform Waterway Marking](#) System, contained in 33 CFR ~~6266~~, Subpart ~~62.166.10~~, except as provided in subsections (b) and (c).
- b) The use of regulatory markers prescribed by the [U.S. Aids to Navigation Uniform State Waterway Marking](#) System shall be further restricted as follows:
  - 1) ~~When~~[Where](#) a sign is used as a marker, the sign shall be of square or rectangular shape. The sign shall be white, with an international orange border and an international orange geometric shape centered on the signboard.
  - 2) The minimum size of any sign used as a marker shall be 24 inches on each side.
  - 3) The minimum size of any buoy used as a marker shall be 9 inches in diameter.
  - 4) The minimum size of any alpha or numeric characters used on any sign or buoy shall be 1 inch of height for every 50 feet of intended visibility, provided that in no case shall the height of the characters be less than 3 inches.
  - 5) The minimum height of any geometric shape used on any sign or buoy shall be 12 inches.
  - 6) The minimum band width of any border or geometric shape used on a sign or buoy shall be 2 inches.
- e) ~~No existing Restricted Boating Areas designated prior to July 1, 1995 shall be~~

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~~required to comply with the provisions of subsection (a) until July 1, 1998.~~

(Source: Amended at 42 Ill. Reg. 13251, effective June 22, 2018)

## DEPARTMENT OF PUBLIC HEALTH

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- 1) Heading of the Part: AIDS Drug Assistance Program
- 2) Code Citation: 77 Ill. Adm. Code 692
- 3) Section Number: 692.Appendix A                      Adopted Action: Amendment
- 4) Statutory Authority: Ryan White HIV/AIDS Treatment Extension Act of 2009 [Public Law 111-87]; Section 314 of the Civil Administrative Code of Illinois [20 ILCS 2310/315]
- 5) Effective Date of Rule: June 21, 2018
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rule, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 42 Ill. Reg. 5167; March 23, 2018
- 10) Has JCAR issued a State 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? No changes were made.
- 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 updates Section 692.Appendix A with respect to the federal poverty level changing from the 2017 federal poverty level to the 2018 federal poverty level.
- 16) Information and questions regarding this adopted rule shall be directed to:

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Erin Conley  
Rules Coordinator  
Division of Legal Services  
Illinois Department of Public Health  
535 W. Jefferson St., 5th floor  
Springfield IL 62761

217/782-2043  
e-mail: [dph.rules@illinois.gov](mailto:dph.rules@illinois.gov)

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



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TITLE 77: PUBLIC HEALTH  
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH  
SUBCHAPTER k: COMMUNICABLE DISEASE CONTROL AND IMMUNIZATIONSPART 692  
AIDS DRUG ASSISTANCE PROGRAM

## Section

692.5	Definitions
692.6	Incorporated and Referenced Materials
692.10	Drugs to Prolong the Lives of Non-Medicaid Persons with Acquired Immunodeficiency Syndrome (AIDS) or Human Immunodeficiency Virus (HIV) Infection
692.15	Application Requirements
692.16	Non-Discrimination
692.APPENDIX A	<a href="#">20182017</a> Poverty Income Guidelines
692.APPENDIX B	Ryan White HIV/AIDS Treatment Extension Act of 2009 Sliding Fee Scale

AUTHORITY: Implementing the Ryan White HIV/AIDS Treatment Extension Act of 2009 (P.L. 111-87) and authorized by Section 315 of the Civil Administrative Code of Illinois [20 ILCS 2310/315].

SOURCE: Emergency rule adopted at 15 Ill. Reg. 14699, effective September 30, 1991, for a maximum of 150 days; adopted at 16 Ill. Reg. 4052, effective February 27, 1992; emergency amendment at 17 Ill. Reg. 12913, effective July 23, 1993, for a maximum of 150 days; emergency expired December 20, 1993; amended at 18 Ill. Reg. 1427, effective January 20, 1994; amended at 18 Ill. Reg. 17678, effective November 30, 1994; amended at 20 Ill. Reg. 7531, effective May 15, 1996; emergency amendment at 20 Ill. Reg. 8353, effective June 4, 1996, for a maximum of 150 days; emergency expired November 1, 1996; amended at 21 Ill. Reg. 1203, effective January 10, 1997; amended at 22 Ill. Reg. 14468, effective July 24, 1998; amended at 24 Ill. Reg. 11876, effective August 1, 2000; emergency amendment at 35 Ill. Reg. 16105, effective September 26, 2011, for a maximum of 150 days; amended at 36 Ill. Reg. 3909, effective February 22, 2012; peremptory amendment at 37 Ill. Reg. 2563, effective February 15, 2013; emergency amendment at 37 Ill. Reg. 3899, effective March 18, 2013, for a maximum of 150 days; amended at 37 Ill. Reg. 11371, effective July 2, 2013; emergency amendment at 38 Ill. Reg. 7997, effective March 28, 2014, for a maximum of 150 days; amended at 38 Ill. Reg.

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17363, effective August 1, 2014; amended at 39 Ill. Reg. 9978, effective July 2, 2015; amended at 40 Ill. Reg. 9527, effective June 29, 2016; amended at 41 Ill. Reg. 10657, effective August 2, 2017; amended at 42 Ill. Reg. 13256, effective June 21, 2018.

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Section 692.APPENDIX A ~~2018~~2017 Poverty Income Guidelines2018~~2017~~ Health and Human Services Poverty Guidelines

Persons in Family	100% Poverty Guideline	Maximum Gross Annual Income ADAP 300% Eligibility
1	\$ <del>12,140</del> <u>12,060</u>	\$ <del>36,420</del> <u>36,180</u>
2	<del>16,460</del> <u>16,240</u>	<del>49,380</del> <u>48,720</u>
3	<del>20,780</del> <u>20,240</u>	<del>62,340</del> <u>61,260</u>
4	<del>25,100</del> <u>24,600</u>	<del>75,300</del> <u>73,800</u>
5	<del>29,420</del> <u>28,780</u>	<del>88,260</del> <u>86,240</u>
6	<del>33,740</del> <u>32,960</u>	<del>101,220</del> <u>98,880</u>
7	<del>38,060</del> <u>37,140</u>	<del>114,180</del> <u>111,420</u>
8	<del>42,380</del> <u>41,320</u>	<del>127,140</del> <u>123,960</u>
For additional persons, add	<del>4,320</del> <u>4,180</u>	<del>12,960</del> <u>12,540</u>

See: Federal Register: ~~83 FR 2642, January 18, 2018~~82 FR 8831, January 31, 2017

(Source: Amended at 42 Ill. Reg. 13256, effective June 21, 2018)

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- 1) Heading of the Part: Campaign Financing
- 2) Code Citation: 26 Ill. Adm. Code 100
- 3) 

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
100.10	Amendment
100.APPENDIX A	
100.TABLE A	Amendment
- 4) Statutory Authority: Section 1A-8 (9) of the Illinois Election Code [10 ILCS 5/1-1 et seq.]
- 5) Effective Date of Rules: June 19, 2018
- 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 by reference, are on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 42 Ill. Reg. 6612, April 13, 2018
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: In Section 100.10 3) E) i), strike "candidate and "or" and delete "a", add "including a candidate" before "political"
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rule currently in effect? No
- 14) Are there any other rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: This rulemaking addresses situations where a candidate political committee attempts to change its committee type or the candidate supported by the committee. Specifically, it ensures that such changes are subject to

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contribution limits and that a candidate owing fines cannot avoid ballot forfeiture by changing the committee type to a non-candidate committee. The rulemaking additionally updates the contribution limits listed in the appendix to reflect current levels, after the most recent changes in the limits mandated by statute.

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

Kenneth R. Menzel, General Counsel  
Heather V Kimmons, Deputy General Counsel  
State Board of Elections  
2329 S. MacArthur Blvd.  
Springfield IL 62704

217/782-4141  
kmenzel@elections.il.gov  
hkimmons@elections.il.gov

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

## STATE BOARD OF ELECTIONS

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## TITLE 26: ELECTIONS

## CHAPTER I: STATE BOARD OF ELECTIONS

## PART 100

## CAMPAIGN FINANCING

Section	
100.10	Definitions
100.20	Official Forms
100.30	Forwarding of Documents (Repealed)
100.40	Vacancies in Office – Custody of Records
100.50	Multiple Filings by State and Local Committees (Repealed)
100.60	Filing Option for a Federal Political Committee
100.70	Reports of Contributions and Expenditures
100.75	Limitation on Campaign Contributions
100.80	Report Forms
100.85	Independent Expenditures
100.90	Provision Circumvention
100.100	Proof of Identification; Application for Inspection and Copying (Repealed)
100.110	Responsibility for Committee Debts or Penalties
100.120	Receipt of Campaign Contributions
100.125	Receipt by Mail of Quarterly Reports of Campaign Contributions and Expenditures
100.130	Reporting by Certain Nonprofit Organizations (Repealed)
100.140	Prohibited Contributions – State Property
100.150	Electronic Filing of Reports
100.160	Good Faith
100.170	Sponsoring Entity
100.175	Audit Findings for Political Committees
100.180	Business Entity Registration Procedures
100.185	Assessment of Civil Penalties
100.APPENDIX A	Contributions Allowed Per Election Cycle
100.TABLE A	Contribution Limits Per Election Cycle
100.TABLE B	Election Cycles

AUTHORITY: Implementing Article 9 of the Election Code [10 ILCS 5/Art. 9] and authorized by Section 9-15(3) of the Election Code [10 ILCS 5/9-15(3)].

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SOURCE: Amended at 5 Ill. Reg. 1337, effective January 30, 1981; amended at 5 Ill. Reg. 12115, effective October 26, 1981; codified at 6 Ill. Reg. 7211; amended at 7 Ill. Reg. 225, effective December 16, 1982; amended at 14 Ill. Reg. 10824, effective June 22, 1990; amended at 16 Ill. Reg. 6982, effective April 21, 1992; amended at 18 Ill. Reg. 14707, effective September 9, 1994; amended at 21 Ill. Reg. 10044, effective July 21, 1997; emergency amendment at 23 Ill. Reg. 719, effective January 4, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 6796, effective May 24, 1999; emergency amendment at 24 Ill. Reg. 13039, effective August 9, 2000, for a maximum of 150 days; emergency expired January 5, 2001; amended at 24 Ill. Reg. 14214, effective September 11, 2000; amended at 29 Ill. Reg. 18785, effective November 7, 2005; amended at 30 Ill. Reg. 10261, effective June 1, 2006; amended at 30 Ill. Reg. 17496, effective November 3, 2006; amended at 31 Ill. Reg. 7142, effective May 1, 2007; emergency amendment at 33 Ill. Reg. 332, effective January 1, 2009, for a maximum of 150 days; emergency expired May 30, 2009; emergency amendment at 33 Ill. Reg. 9809, effective June 29, 2009, for a maximum of 150 days; emergency expired November 25, 2009; amended at 34 Ill. Reg. 274, effective December 15, 2009; amended at 34 Ill. Reg. 10521, effective July 9, 2010; amended at 35 Ill. Reg. 2295, effective February 4, 2011; amended at 35 Ill. Reg. 12973, effective July 19, 2011; amended at 39 Ill. Reg. 8060, effective May 19, 2015; amended at 42 Ill. Reg. 4977, effective February 28, 2018; amended at 42 Ill. Reg. 13261, effective June 19, 2018.

**Section 100.10 Definitions**

## a) General Definitions

"Article 9" means Article 9 of the Election Code (campaign disclosures, contributions and expenditures).

"Board" means the Illinois State Board of Elections.

"Election Code" or "Code" means 10 ILCS 5.

"File", "Filed" or "Filing" means:

The statement, report or document being filed is in apparent and substantial conformity with the requirements of the Election Code. Apparent and substantial conformity requires that the filing contain the following:

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The signature of the person making the filing;

Completion of all applicable sections of the report; and

Attachment of all appropriate schedules.

Inadvertent error or omission of a de minimus nature in the completion of a report, statement or document shall not be deemed to be a "willful failure to file or a willful filing of false or incomplete information" under Code Section 9-26.

"Immediate Family" means the spouse, parent or child of the public official, candidate or any other person referred to in this Part. A parent shall include a stepparent or adoptive parent. A child shall mean a biological, adopted or stepchild.

"Labor Union" means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and that exists for the purpose, in whole or in part, of bargaining with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment or conditions of work.

"Public Office" means, among other things, an elective office. The term includes the political party offices of state central, county, ward, township and precinct committeeman.

"Signature" or "Signed", as used in Article 9 and this Part, includes electronic signatures attached and made a part of electronic records submitted to the State Board of Elections pursuant to Code Section 9-28.

"Submit" or "Submitting", as used in Code Section 9-11, means actually filing a report with the Board through the following methods:

uploading a report electronically or, if accomplished at a Board office or with the assistance of Board staff, the committee representative is present and/or authorizing the report filing;

using the U.S. Postal Service, overnight delivery, or any other delivery



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service;

hand delivering a report to the Board; or

faxing a Schedule A-1 to the Board.

With the exception of the chairman or the treasurer, the person submitting the report on behalf of the committee must list himself or herself as having submitted the report.

- b) Definitions Interpreting Specific Sections of the Election Code
  - 1) Assets
    - A) Reference: This definition of assets interprets or applies to Code Section 9-5.
    - B) An asset is an item of property, other than cash or services, of any kind, tangible or intangible, that has either a fair market or salvage value in excess of \$150.
  - 2) Candidate
    - A) Reference: This subsection (b)(2) interprets or applies to Code Section 9-1.3.
    - B) "Candidate", as that term is defined in Code Section 9-1.3, shall include, but not be limited to:
      - i) A person who circulates or authorizes the circulation of nominating petitions on his or her behalf for public office;
      - ii) An individual who receives contributions or makes expenditures or gives consent for any other person to receive contributions or make expenditures for the purpose of bringing about his or her nomination for election or re-election to any office;

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- iii) Any judicial incumbent who qualifies for retention.
- 3) Contributions and Anything of Value
- A) Reference: This subsection (b)(3) interprets or applies Code Sections 9-1.4, 9-1.5, 9-1.8, 9-1.12, 9-1.14 and 9-1.15.
  - B) The term "anything of value", as used in Code Sections 9-1.4, 9-1.5 and 9-1.12, means any item, thing, service or goods, regardless of whether valued in monetary terms according to ascertainable market value.
  - C) "Anything of value" that does not have an ascertainable market value may be reported by describing the item, thing, service or goods contributed; however, nothing in this subsection (b)(3) relieves a committee or a contributor of the duty to provide as accurate an assessment of value as possible.
  - D) Interest, other investment income, earnings or proceeds, and refunds and returns shall not be reported as a contribution, but shall be reported as a receipt according to this subsection (b)(3). For purposes of reporting campaign receipts and expenses, income from investments shall be included as receipts during the reporting period they are actually received. The gross purchase price of each investment shall be reported as an expenditure at time of purchase. Net proceeds from the sale of an investment shall be reported as a receipt. During the period investments are held, they shall be identified by name and quantity of security or instrument on each quarterly report during the period. The value of each instrument as of the day the reporting period closes shall be included for each asset held as an investment.
  - E) In addition to the items expressly excluded in the Election Code, the terms "anything of value" and "contribution" shall not be deemed to include:
    - i) Any unreimbursed payments for travel or living expenses related to travel made by an individual who volunteers

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services on behalf of a ~~candidate~~ political ~~committee~~,  
including a candidate political committee;

- ii) Any news story, commentary, endorsement or editorial of any broadcasting station, newspaper, magazine or other periodical publication;
  - iii) Any publication by a membership association or corporation to its officers, employees, members, stockholders, or members of the immediate families of these persons, so long as the membership association or corporation is not organized primarily for the purpose of influencing the nomination for election, election, or retention of any candidate, or supporting or opposing any question or questions of public policy;
  - iv) The occasional use of real property of a person or whoever, as defined in Code Section 9-1.6, and as defined in Section 100.10(b)(4), for the purpose of conveying information to officers, employees, members or stockholders of an association or a corporation, and the immediate families of these persons, including but not limited to the use of the premises for the purpose of a candidate communicating directly with officers, employees, members or stockholders and the immediate families of these persons;
  - v) Unrealized appreciation or loss of value of investments during the period they are held.
- F) A loan of money from a bank, credit union, or other financial institution to a candidate or public official, or his or her political committee, shall not be listed as a contribution from that institution, but shall instead be listed on the committee's disclosure filings as a contribution from the person or persons endorsing the loan. Security for a loan, if provided by a person other than the candidate or the candidate political committee, does qualify as a contribution and shall be reported as having come from the person who provided it and shall be subject to contribution limits. A loan

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of money from a bank, credit union or other financial institution to a committee other than a candidate political committee shall not be considered a contribution from that institution, and shall not be subject to the contribution limits if the guarantor for the loan is the committee itself or if the loan agreement is signed by an authorized officer of the committee acting on the committee's behalf. These loans shall be reported on disclosure filings by listing the committee as endorser and also listing the financial institution from which the loan is obtained.

- G) Independent expenditures are not contributions, as that term is defined in Code Section 9-1.4. Independent expenditures are those made for the purpose of electioneering communication, as that term is defined in Code Section 9-1.14, or that expressly advocates the election, nomination or defeat of a public official or candidate or for or against any question of public policy to be submitted to the voters and that is not made in cooperation, concert or consultation with, or at the request or suggestion of, the public official or candidate. Communications that expressly advocate the election, nomination or defeat of a public official or candidate or for or against any question of public policy to be submitted to the voters are those that unequivocally state in the communication that the public official or candidate ought to be elected, nominated or defeated or the question of public policy ought to be approved or defeated. These communications typically contain the terms "vote for", "elect" or, in the case of expressly advocating the defeat of a candidate, "vote against", "vote no", "defeat", etc.
- H) "Clearly identifiable candidate" means the candidate's name (first name and surname) but does not necessarily have to include the candidate's middle name or middle initial. A clearly identifiable candidate can also be one that is described in such a way as to exclude any other candidate so as to leave no doubt in the mind of the person being communicated to as to whom the communication is referring. For example: "The Democratic Party's candidate for Mayor", "Congressman Jones", or "the former Republican candidate for Congressman who was defeated at the most recent General Election". A clearly identifiable candidate can also be

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described by use of a photograph or other visual image or likeness.

- I) A communication by a corporation, a limited liability company, or an association to its members or stockholders and executive or administrative personnel, or the immediate families of these persons, is not a contribution. For purposes of this Part, a corporation is one that is registered with the Business Services Division of the Illinois Secretary of State or is similarly registered with any other state in compliance with that state's laws or that operates as or holds itself out as a corporation so that it would be required to register with the Illinois Secretary of State, regardless if it has taken affirmative action to so register. For purposes of this Part, an association is defined broadly to include any group of persons or entities that have a common purpose and that have an organizational structure with an existing membership roster and governing by-laws or other similar rules. An association includes those that are both for-profit and not-for-profit (however the entity does not necessarily have to be organized under the laws of this or any other state) and includes a labor union as that term is defined in subsection (a).
  - J) A voter registration campaign or other Get Out The Vote (GOTV) activity is not deemed to be "anything of value" or a "contribution", so long as the campaign or activity makes no mention of any clearly identified candidate, public question, political party, group or combination of these entities.
- 4) Person or Whoever
- A) Reference: This subsection (b)(4) interprets or applies Code Section 9-1.6.
  - B) The terms "other organizations" and "groups of persons" as defined in Code Section 9-1.6 shall include, but not be limited to, all corporations, labor unions, trade associations or other such groups, religious organizations, fraternal societies, luncheon and dinner organizations, etc.

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- 5) Political Committee
- A) Reference: This subsection (b)(5) interprets or applies Code Sections 9-1.8 and 9-1.9.
- B) A person or whoever, as defined in Code Section 9-1.6 and in subsection (b)(4) of this Section, does not qualify as a political committee pursuant to Article 9 of the Election Code by simply making a contribution from his or her personal income or profits, regardless of the amount of the donations. If an entity, other than a natural person, makes an independent expenditure or expenditures in aggregate within a 12 month period in excess of \$3,000 supporting or opposing public officials or candidates, then the entity qualifies as a political committee.
- C) If a person or whoever solicits or receives funds for political purposes, he or she would, in fact, become a political committee and would have to comply with all provisions of Article 9. The provisions of this subsection (b)(5) shall not apply to those persons who accept contributions from at least 5 individuals as provided in Code Section 9-6.
- D) Political committees shall include candidate political committees, political party committees, political action committees, ballot initiative committees and independent expenditure committees, as those terms are defined in Code Section 9-1.8. Candidates who form a new political party under Code Section 10-2 by running a full slate may collectively form a political party committee to support their candidacy or each candidate may individually form a candidate political committee. Groups of candidates who run as either independents under Code Section 10-3, or as non-partisan candidates by virtue of the office being non-partisan pursuant to statute, may collectively form a political action committee to support their candidacy, or each candidate may individually form a candidate political committee. In no case may a candidate form both a candidate political committee and a political action committee to support his or her own candidacy. Candidates of established political parties may collectively form a political action

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committee to support their candidacy or each candidate may individually form a candidate political committee. Candidates who exercise the option of forming a political action committee may not include the names of any of the candidates in the name of the political action committee. A political action committee must, however, include the name of the office that the candidates are seeking and the name of the political subdivision or unit of local government to which the office pertains. In all cases except political party committees, political committees are limited to those that accept contributions or make expenditures or independent expenditures in an aggregate amount exceeding \$5,000 on behalf of or in opposition to candidates, or, in the case of a ballot initiative committee, in support of or opposition to questions of public policy.

- i) Political Party Committees referred to in Code Section 9-1.8(c) include "legislative caucus committees" and are defined as caucuses that are established by either 5 or more members of the same caucus in the Senate or 10 or more members of the same caucus in the House of Representatives. These committees shall include any caucus declared by its membership to be a caucus. If the number of caucus members of a given caucus committee decreases below the designated threshold (5 Senate/10 House members), the caucus committee shall become a political action committee, as that term is defined in Code Section 9-1.8, and be subject to the contribution limits pertaining to political action committees established in Code Section 9-8.5(d), unless the caucus committee either fills the vacancy or dissolves within 5 business days after the date the vacancy occurred.
- ii) A committee formed by a ward or township committeeman of a political party shall be designated as a political party committee. Pursuant to Code Section 7-8(b), only ward committeemen in the City of Chicago and township committeemen in Cook County qualify for this designation. Nothing in this subsection (b)(5)(D)(ii) shall be construed

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to limit the ability of a ward or township committeeman to form a candidate political committee in support of his or her own candidacy.

- iii) For purposes of Code Section 9-1.9, a judicial candidate running for retention subsequent to his or her first retention candidacy following the candidate's election shall be subject to the election cycle established in Code Section 9-1.9(3), except that the period shall begin on January 1 following the candidate's retention (as opposed to his or her election) and extending to the day the candidate files his or her next declaration to seek retention and the period beginning after that day and extending to December 31 following the candidate's retention election. This judicial retention election cycle is subject to the fundraising restrictions contained in Canon 7 of Rule 67 of the Rules of the Illinois Supreme Court (committees established to support judicial candidates may not solicit contributions more than 1 year preceding the election in which the candidate is seeking judicial office or retention thereto, and no later than 90 days following such election).
- iv) Any corporation, labor organization or association that acts as a conduit in facilitating the delivery of dues, levies or similar assessments to a political action committee as provided in Code Section 9-8.5(i) shall not, solely as a result of this activity, be considered to be a political action committee within the meaning of the disclosure and regulation requirements of Article 9 of the Code.
- v) These election cycles apply regardless of whether the candidate only appears on either the consolidated primary ballot or the consolidated election ballot. For purposes of Code Section 9-1.9(4), the election cycle for a candidate political committee organized to support a candidate to be nominated or elected at a consolidated primary election or elected at a consolidated election, or municipal or runoff election in cities of 1,000,000 or more population occurring



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on the date of the regularly scheduled consolidated primary or consolidated election, shall run from:

- the period beginning July 1 following the consolidated election for which the candidate seeks election and ending on the day of the next consolidated primary election for that office; or
- the period beginning the day after the consolidated primary election for the office to which the candidate seeks nomination or election and through June 30 following the consolidated election held that year.

vi) If a candidate political committee established for multiple offices elected at different elections changes its election cycle pursuant to Code Section 9-2(b), the committee shall be subject to the new election cycle established under Code Section 9-1.9 and to the contribution limits for the new election cycle contained in Code Section 9-8.5(b). Contributions received by the committee prior to the date of the establishment of the new election cycle will be counted towards the contribution limit for each contributor, with the following exception: the contributions shall not be considered to have been received in excess of contribution limits if the limit was exceeded solely because of the establishment of the new election cycle. However, for the remainder of the new election cycle, the committee would be considered to have received the maximum allowable contribution from that contributor for that election cycle and would be prohibited from receiving any additional contributions from that contributor during the remainder of the new election cycle.

E) If an entity forming a political action committee under Code Section 9-2(d) is not a clearly identifiable trust, partnership, committee, association, corporation or other organization, but rather a group of persons lacking any formal organizational structure, the name of the political committee shall include the

## STATE BOARD OF ELECTIONS

## NOTICE OF ADOPTED AMENDMENTS

name (first and last) of the person or persons responsible for its formation or its continuing operation. This Section shall not apply to established party candidates who collectively form a political action committee to support their candidacies pursuant to subsection (b)(5)(D).

- F) The name of a ballot initiative committee must include a brief description of the question or questions and whether the committee is organized to support or oppose the question or questions. The name shall not exceed 70 characters (based on U.S. Post Office restrictions applicable to mailing labels) and shall include keywords that would provide a reasonable person with a general understanding of the subject matter of the question or questions and whether the committee was formed to support or oppose the question or questions.
- G) A candidate political committee of a former officeholder or supporting a now deceased candidate or officeholder may, subject to the applicable contribution limits, maintain the committee as a candidate political committee, close the committee and dispose of any remaining funds as indicated on its D-1 Statement of Organization, or convert the committee to a political action committee by filing an amended D-1 Statement of Organization amending the committee type, as well as the name, purpose of the committee, and any other information that has changed.
- H) A political committee that converts to a new committee type as defined in Code Section 9-1.8 is limited in the amount of funds that it may retain under the new committee type designation to the contribution limits in Code Section 9-8.5. The applicable limit shall be determined by the amount of funds allowed to be contributed from the original committee type to the new committee type. If the committee has a fund balance that exceeds the normal contribution limit from the original committee type to the new committee type, it must first dispose of the excess funds before making the conversion. A candidate political committee changing the candidate it is supporting shall be considered to be transferring funds from one candidate political committee to another, and shall

## STATE BOARD OF ELECTIONS

## NOTICE OF ADOPTED AMENDMENTS

be limited in the amount of funds it may retain to the contribution limits between two candidate political committees. If the committee has a fund balance that exceeds that limit, it must first dispose of the excess funds before making the conversion. A candidate political committee that owes outstanding fines is prohibited from changing its committee type or the candidate supported by the committee until the fines are paid in full.

- 6) Statement of Organization
  - A) Reference: This subsection (b)(6) interprets Code Section 9-3.
  - B) A committee officer must, in filling out the Form D-1, use the name that appears on his or her birth certificate, baptismal record, voter's registration card, statement of candidacy or nominating petition, or any other name by which the officer is commonly known in the community in which the officer resides. Aliases created for the purpose of filing under Article 9 of the Election Code may not be used.
  - C) The prohibitions contained in Code Section 9-3(d)(iii) and (d-5)(iii) against making contributions from a ballot initiative committee or an independent expenditure committee to a candidate or candidates for nomination for election, election or retention to public office shall not include refunds of contributions to the candidate so long as the refund does not exceed the amount the candidate originally contributed. Nothing in Code Section 9-3(d)(i) prohibits an independent expenditure committee from making expenditures on its own behalf for the customary and reasonable expenses of operating a political committee, provided that the expenditures are not made in connection, consultation or concert with, or at the request or suggestion of, any other political committee, public official or candidate, or the agent or agents of the committee, public official or candidate.
  - D) For the purpose of this subsection (b)(6), the term "person" contained in the definition of "sponsoring entity" shall not include a political committee. The term "sponsoring entity" is defined in

STATE BOARD OF ELECTIONS

NOTICE OF ADOPTED AMENDMENTS

Section 100.170.

- E) A complaint for willfully filing a false or incomplete Statement of Organization shall be subject to the provisions of Code Sections 9-20 and 9-21.

(Source: Amended at 42 Ill. Reg. 13261, effective June 19, 2018)

## STATE BOARD OF ELECTIONS

## NOTICE OF ADOPTED AMENDMENTS

**Section 100.APPENDIX A Contributions Allowed Per Election Cycle****Section 100.TABLE A Contribution Limits Per Election Cycle**

- a) CANDIDATE POLITICAL COMMITTEE
  - 1) ~~\$5,600~~\$5,400 from an individual
  - 2) ~~\$11,100~~\$10,800 from a corporation, labor organization or association
  - 3) ~~\$55,400~~\$53,900 from a candidate political committee or political action committee
  - 4) No limits from political party committee except during an election cycle in which the candidate seeks nomination at a primary election
  - 5) During an election cycle in which the candidate seeks nomination at a primary election, a political party committee may contribute:
    - A) ~~\$221,800~~\$215,800 to a candidate for statewide office
    - B) ~~\$138,700~~\$134,900 to a candidate for Senate, Supreme or Appellate Court in Cook County, county-wide office in Cook County
    - C) ~~\$83,200~~\$80,900 to a candidate for House of Representatives, Supreme or Appellate Court outside of Cook County, county-wide office outside of Cook County, and local candidates within Cook County
    - D) ~~\$55,400~~\$53,900 to any other candidate
- b) POLITICAL PARTY COMMITTEE
  - 1) ~~\$11,100~~\$10,800 from an individual
  - 2) ~~\$22,200~~\$21,600 from a corporation, labor organization or association

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- 3) ~~\$55,400~~~~\$53,900~~ from a political action committee
  - 4) No transfers permitted between legislative caucus committees
  - 5) A political party committee may accept contributions in any amount from a candidate committee or political party committee
  - 6) No limits on transfers between a State political committee and a federal political committee
- c) POLITICAL ACTION COMMITTEE
- 1) ~~\$11,100~~~~\$10,800~~ from an individual
  - 2) ~~\$22,200~~~~\$21,600~~ from a corporation, labor organization, political party committee or association
  - 3) ~~\$55,400~~~~\$53,900~~ from a political action committee or candidate political committee
- d) BALLOT INITIATIVE COMMITTEE
- No limits from any source – cannot contribute to any other type of committee
- e) INDEPENDENT EXPENDITURE COMMITTEE
- No limits from any source – cannot make direct contributions or coordinated expenditures.

(Source: Amended at 42 Ill. Reg. 13261, effective June 19, 2018)

JOINT COMMITTEE ON ADMINISTRATIVE RULES  
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received during the period of June 19, 2018 through June 25, 2018. The rulemakings are scheduled for the July 17, 2018 meeting. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rulemaking should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

<u>Second Notice Expires</u>	<u>Agency and Rule</u>	<u>Start of First Notice</u>	<u>JCAR Meeting</u>
8/4/18	<u>Department of Human Services</u> , Office of the Inspector General Investigations of Alleged Abuse or Neglect in State-Operated Facilities and Community Agencies (59 Ill. Adm. Code 50)	3/30/18 42 Ill. Reg. 5667	7/17/18
8/4/18	<u>Department of Human Services</u> , Program Definitions (89 Ill. Adm. Code 521)	3/30/18 42 Ill. Reg. 5687	7/17/18
8/4/18	<u>Department of Human Services</u> , Services (89 Ill. Adm. Code 590)	3/30/18 42 Ill. Reg. 5705	7/17/18
8/4/18	<u>Department of Human Services</u> , Closure of Rehabilitation Case (89 Ill. Adm. Code 595)	3/30/18 42 Ill. Reg. 5718	7/17/18
8/4/18	<u>Department of Human Services</u> , Illinois Center for Rehabilitation and Education/Community Residential Services for the Blind and Visually Impaired (89 Ill. Adm. Code 730)	4/13/18 42 Ill. Reg. 6551	7/17/18
8/4/18	<u>Department of Transportation</u> , Minimum Safety Standards for Construction of School	5/4/18 42 Ill. Reg. 7753	7/17/18

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Buses Used in Special Education Transportation  
(92 Ill. Adm. Code 444)



## POLLUTION CONTROL BOARD

## NOTICE OF PUBLIC INFORMATION PURSUANT TO 415 ILCS 5/28.1(d)(3)

LISTINGS OF ADJUSTED STANDARDS AND COMBINED SEWER OVERFLOW  
EXCEPTIONS GRANTED BY THE BOARD DURING FISCAL YEAR 2018

Section 28.1(d)(3) of the Environmental Protection Act (Act) (415 ILCS 5/28.1(d)(3) (2016)) requires the Board to annually publish in the *Illinois Register* and *Environmental Register* a listing of all determinations made pursuant to Section 28.1 at the end of each fiscal year. This notice sets forth all adjusted standard and combine sewer overflow exception determinations made by the Board during the fiscal year 2018.

Final Actions Taken by the Pollution Control Board in Adjusted Standard Proceedings During  
Fiscal Year 2018 (July 1, 2017 through June 30, 2018)

The Board did not make any determinations in adjusted standard proceedings.

Final Actions Taken by the Pollution Control Board in Combine Sewer Overflow Exception  
Proceedings During Fiscal Year 2018 (July 1, 2017 through June 30, 2018)

The Board took no action in combined sewer overflow exception proceedings, as none were filed with the Board or pending during fiscal year 2018.

Address questions concerning this notice to:

Carol Webb  
Pollution Control Board  
1021 North Grand Avenue East  
Springfield IL 62794-9274

217/524-8509  
Carol.Webb@illinois.gov

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## JULY 2018 REGULATORY AGENDA

a) Part (Heading and Code Citations): Pay Plan 80 Ill. Adm. Code 3101) Rulemaking: Proposed and Peremptory AmendmentsA) Description: Projected amendments to the Department of Central Management Services' Pay Plan include revisions to the following sections:

In Section 310.47, the revisions are to in-hiring rates based on bargaining unit agreements, trainee programs or the Director of Central Management Services decision.

In Section 310.Appendix A, the revisions are to negotiated rate tables based on bargaining unit agreements that are signed before mid-December 2018.

In Section 310.410, the revisions are to include MS-salary range assignments to newly established classifications or to existing classifications when bargaining unit negotiations are complete or when the Illinois Labor Relations Board issues a decision regarding bargaining unit representation.

In various sections, the revisions are to include provisions contained within bargaining unit agreements, when the Illinois Labor Relations Board issues a decision regarding bargaining unit representation or when a court issues a decision.

In various sections, the revisions are to classifications established, revised or abolished with the approval of the Civil Service Commission.

In various sections, the revisions are to the format of the Pay Plan to reduce duplicate information and provide easier access to information contained within the Pay Plan.

B) Statutory Authority: Authorized by Sections 8, 8a and 9(7) of the Personnel Code [20 ILCS 415/8, 20 ILCS 415/8a, 20 ILCS 415/8c, 20 ILCS 415/8e, 20 ILCS 415/9(7) and 20 ILCS 415/9(14)], subsection (d) of Section 1-5 of the Illinois Administrative Procedure Act [5 ILCS 100/1-

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## JULY 2018 REGULATORY AGENDA

5(d)] and by Sections 4, 6, 15 and 21 of the Illinois Public Labor Relations Act [5 ILCS 315/4, 5 ILCS 315/6, 5 ILCS 315/15 and 5 ILCS 315/21].

- C) Scheduled meeting/hearing dates: Interested persons may send specific criticisms, suggestions, and/or comments to the Department of Central Management Services in writing during the First Notice Period of the Pay Plan amendments.
- D) Date Agency anticipates First Notice: Peremptory amendments based on new memoranda of understanding or other bargaining unit agreements will be filed as negotiations are completed. Peremptory amendments based on court order directed to the Department of Central Management Services will be filed when received.

Proposed amendments based on new, revised, or abolished classifications not represented by the bargaining units will be filed as the classification actions are approved by the Civil Service Commission.

Proposed amendments for the other revisions will be filed as the policies are prepared by the Director of Central Management Services after consultation with operating agency heads and the Director of the Governor's Office of Management and Budget and approved by the Governor.

- E) Affect on small businesses, small municipalities or not-for-profit corporations: These amendments to the Pay Plan pertain only to state employees subject to the Personnel Code under the Governor. They do not set out guidelines that are to be followed by local or other jurisdictional bodies within the State.
- F) Agency contact person for information:

Lisa Fendrich  
Compensation Section  
Division of Technical Services  
Bureau of Personnel  
Department of Central Management Services  
504 William G. Stratton Building

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DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

JULY 2018 REGULATORY AGENDA

401 South Spring Street  
Springfield IL 62706

217/782-7976  
fax: 217/524-4570  
CMS.PayPlan@Illinois.gov

- G) Related rulemakings and other pertinent information: Other amendments may be necessary based on emergent issues regarding state employee salary rates and policies.

CHIEF PROCUREMENT OFFICER FOR THE  
ILLINOIS DEPARTMENT OF TRANSPORTATION

JULY 2018 REGULATORY AGENDA

- a) Part (Heading and Code Citation): Chief Procurement Officer for the Department of Transportation – Contract Procurement; 44 Ill. Admin. Code 6
- 1) Rulemaking:
- A) Description: The Chief Procurement Officer for the Department of Transportation (CPO) will be amending this Part, as necessary to reflect changes made to 30 ILCS 500 by the 100th General Assembly.
- B) Statutory Authority: 30 ILCS 500
- C) Scheduled meeting/hearing dates: None scheduled
- D) Date Agency anticipates First Notice: Fall 2018
- E) Effect on small businesses, small municipalities or not-for-profit corporations: Small businesses could be affected.
- F) Agency contact person for information:
- Bill Grunloh, Chief Procurement Officer  
Illinois Department of Transportation  
2300 South Dirksen Parkway  
Springfield IL 62764
- 217/558-5434
- G) Related rulemakings and other pertinent information: None

## ENVIRONMENTAL PROTECTION AGENCY

## JULY 2018 REGULATORY AGENDA

a) Part (Heading and Code Citation): Environmental Laboratory Certification Fee Rules (35 Ill. Adm. Code 185)

1) Rulemaking:

- A) Description: The Agency plans to propose amendments updating existing regulations pertaining to the annual administrative assessment and the annual laboratory certification assessments from environmental laboratories. The proposed amendments will address environmental laboratories that request modification after its annual certification has been issued.
- B) Statutory Authority: Implementing and authorized by Section 17.8 of the Environmental Protection Act [415 ILCS 5/17.8].
- C) Scheduled meeting/hearing dates: The Agency has not yet scheduled meetings or hearings on this proposal.
- D) Date Agency anticipates First Notice: Fall 2018
- E) Effect on small businesses, small municipalities or not-for-profit corporations: Small businesses, small municipalities, or not-for-profit corporations that request modification of its annual certification is issued could be impacted.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking as follows:

Rex L. Gradeless  
Division of Legal Counsel  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield IL 62794-9276

217/782-5544  
Rex.Gradeless@Illinois.gov

## ENVIRONMENTAL PROTECTION AGENCY

## JULY 2018 REGULATORY AGENDA

- G) Related rulemakings and other pertinent information: None
- b) Part (Heading and Code Citation): Accreditation of Environmental Laboratories (35 Ill. Adm. Code 186)
- 1) Rulemaking:
- A) Description: The Agency plans to propose amendments updating the minimum standards for the operation of environmental laboratories. The proposed amendments will address updates to methodologies already within the existing rule.
- B) 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)].
- C) Scheduled meeting/hearing dates: The Agency has not yet scheduled meetings or hearings on this proposal.
- D) Date Agency anticipates First Notice: Fall 2018
- E) Effect on small businesses, small municipalities or not-for-profit corporations: Small businesses, small municipalities, or not-for-profit corporations that operate environmental laboratories could be affected.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking as follows:

Rex L. Gradeless  
Division of Legal Counsel  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield IL 62794-9276

## ENVIRONMENTAL PROTECTION AGENCY

## JULY 2018 REGULATORY AGENDA

217/782-5544

Rex.Gradeless@Illinois.gov

G) Related rulemakings and other pertinent information: Nonec) Part (Heading and Code Citation): Collection of Out-of-Service Mercury Thermostats (35 Ill. Adm. Code 190)

1) Rulemaking:

- A) Description: This rulemaking will amend the annual collection goals for calendar years 2018 through 2020 for mercury thermostat collection programs established by thermostat manufacturers pursuant to the Mercury Thermostat Collection Act.
- B) Statutory authority: Implementing and authorized by Section 25(c) of the Mercury Thermostat Collection Act [415 ILCS 98/25(c)].
- C) Scheduled meeting/hearing dates: The Agency has not yet scheduled meetings or hearings on this proposal.
- D) Date Agency anticipates First Notice: Fall 2018
- E) Effect on small business, small municipalities, or not-for-profit corporations: This rule will not have a direct effect on small businesses, small municipalities, or not-for-profit corporations, unless any such entity (1) manufactures mercury thermostats that are removed, replaced, or otherwise taken out of service in Illinois or (2) is a thermostat wholesaler, thermostat retailer, contractor, or qualified local government authority, as defined in the Mercury Thermostat Collection Act, that is participating in a mercury thermostat collection program administered by a thermostat manufacturer. Because the Mercury Thermostat Collection Act and the existing rules established specific collection goals for calendar years 2011 through 2020, this rule would affect applicable small businesses, small municipalities, or not-for-profit corporations only to the extent that the annual collection goals established by this rule deviate from the current collection goals.



## ENVIRONMENTAL PROTECTION AGENCY

## JULY 2018 REGULATORY AGENDA

- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking as follows:

Gabriel Neibergall  
Division of Legal Counsel  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield IL 62794-9276

217/782-5544  
gabriel.neibergall@illinois.gov

- G) Related rulemakings and other pertinent information: None

- d) Part (Heading and Code Citation): Public Participation in the Air Pollution Control Permit Program (35 Ill. Adm. Code 252)

1) Rulemaking:

- A) Description: The Illinois Environmental Protection Agency (Agency) plans to amend the rules for Public Participation in the Air Pollution Control Permit Program. These changes to the public participation procedures will serve to accommodate a State Implementation Plan (SIP)-approved Prevention of Significant Deterioration (PSD) program in Illinois.
- B) Statutory Authority: Implementing and authorized by Sections 4, 9.1, 39 and 39.1 of the Illinois Environmental Protection Act. [415 ILCS 4, 9.1, 39 and 39.1].
- C) Scheduled meeting/hearing dates: The Agency has not yet scheduled meetings or hearings on this proposal.
- D) Date Agency anticipates First Notice: Fall 2018

## ENVIRONMENTAL PROTECTION AGENCY

## JULY 2018 REGULATORY AGENDA

- E) Effect on small business, small municipalities or not-for-profit corporations: Small businesses, small municipalities, or not-for-profit corporations would not likely be affected by this rulemaking given the PSD program is a preconstruction permitting program that, when applicable to a proposed project, typically only applies to the largest of projects that are not routinely undertaken by these parties.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking as follows:  
Sally Carter  
Division of Legal Counsel  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield IL 62794-9276  
  
217/782-5544  
sally.carter@illinois.gov
- G) Related rulemakings and other pertinent information: This Agency rulemaking will be in conjunction with a related Pollution Control Board (Board) rulemaking. In the Board rulemaking, proposed new 35 Ill. Adm. Code Part 204, would create a state PSD permitting program. It would also include relevant amendments to the Board's procedural regulations necessary to accommodate appeals of PSD permits to the Board in 35 Ill. Adm. Code 101, General Rules, and 35 Ill. Adm. Code 105, Appeals of Final Decisions of State Agencies. Finally, the Board proposal would include relevant amendments to the Board's regulations, 35 Ill. Adm. Code 203, Major Stationary Sources Construction and Modification, 35 Ill. Adm. Code 211, Definitions and General Provisions, 35 Ill. Adm. Code 215, Organic Material Emission Standards and Limitations. The revisions to these regulations would update these provisions so that they address both the federal PSD program, which the Illinois EPA has historically implemented, and new Part 204.
- e) Part (Heading and Code Citations): Annual Emissions Report (35 Ill. Adm. Code 254)
- 1) Rulemaking:

## ENVIRONMENTAL PROTECTION AGENCY

## JULY 2018 REGULATORY AGENDA

- A) Description: The Illinois Environmental Protection Agency (Agency) plans to propose amendments removing reporting requirements related to the Emissions Reduction Market System ("ERMS") from the Annual Emissions Report rule, and to clarify and eliminate other unnecessary reporting requirements in the rule, such as provisions for annual throughput and tanks.
- B) Statutory Authority: Implementing and authorized by Section 4(b) of the Environmental Protection Act [415 ILCS 5/4(b)].
- C) Scheduled meeting/hearing dates: The Agency has not yet scheduled meetings or hearings on this proposal.
- D) Date Agency anticipates First Notice: Summer or Fall 2018
- E) Effect on small businesses, small municipalities or not-for-profit corporations: Small businesses, small municipalities, or not-for-profit corporations subject to reporting obligations under Part 254 could be impacted.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking as follows:
- Annet Godiksen  
Division of Legal Counsel  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
P. O. Box 19276  
Springfield IL 62794-9276
- 217/782-5544  
Annet.Godiksen@Illinois.gov
- G) Related rulemakings and other pertinent information: The Annual Emissions Report rule requires permitted sources to report air pollution emissions data of regulated air pollutants. The Agency has proposed that the Illinois Pollution Control Board sunset the ERMS program, as it no

## ENVIRONMENTAL PROTECTION AGENCY

## JULY 2018 REGULATORY AGENDA

longer effectively provides environmental benefit. With said sunset, sources that participated in ERMS will no longer be required to submit to the Agency seasonal emissions data under Part 254.

- f) Part (Heading and Code Citation): Procedures for Issuing Loans from the Water Pollution Control Loan Program (35 Ill. Adm. Code 365)
- 1) Rulemaking:
- A) Description: The Illinois Environmental Protection Agency (Agency) plans to update the rules for scoring and prioritizing loan applicants for the Water Pollution Control Loan Program. The Agency plans to consolidate and amend into 35 Ill. Adm. Code 365 the scoring rules from 35 Ill. Adm. Code 366, Procedures and Requirements for Determining Loan Priorities for Municipal Wastewater Treatment Works.
- B) Statutory Authority: Implementing and authorized by Sections 19.1 through 19.10 of the Illinois Environmental Protection Act. [415 ILCS 19.1 - 19.10].
- C) Scheduled meeting/hearing dates: The Agency has not yet scheduled meetings or hearings on this proposal.
- D) Date Agency anticipates First Notice: Fall 2018
- E) Effect on small business, small municipalities or not-for-profit corporations: Small businesses, small municipalities, or not-for-profit corporations seeking loans under the Water Pollution Control Loan Program could be affected by this rulemaking.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking as follows:

Joanne Olson  
Division of Legal Counsel  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
P.O. Box 19276

## ENVIRONMENTAL PROTECTION AGENCY

## JULY 2018 REGULATORY AGENDA

Springfield IL 62794-9276

217/782-5544

Joanne.Olson@illinois.gov

- G) Related rulemakings and other pertinent information: This rulemaking will be in conjunction with the repeal of 35 Ill. Adm. Code 366, Procedures and Requirements for Determining Loan Priorities for Municipal Wastewater Treatment Works.
- g) Part (Heading and Code Citation): Procedures and Requirements for Determining Loan Priorities for Municipal Wastewater Treatment Works (35 Ill. Adm. Code 366)
- 1) Rulemaking:
- A) Description: The Illinois Environmental Protection Agency (Agency) is repealing Part 366. The regulations are being incorporated into 35 Ill. Adm. Code 365, Procedures for Issuing Loans from the Water Pollution Control Loan Program.
- B) Statutory Authority: Implementing and authorized by Sections 19.1 through 19.10 of the Illinois Environmental Protection Act. [415 ILCS 19.1 - 19.10].
- C) Scheduled meeting/hearing dates: The Agency has not yet scheduled meetings or hearings on this proposal.
- D) Date Agency anticipates First Notice: Fall 2018
- E) Effect on small business, small municipalities or not-for-profit corporations: Small businesses, small municipalities, or not-for-profit corporations seeking loans under the Water Pollution Control Loan Program could be affected by this rulemaking.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking as follows:

Joanne Olson

## ENVIRONMENTAL PROTECTION AGENCY

## JULY 2018 REGULATORY AGENDA

Division of Legal Counsel  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield IL 62794-9276

217/782-5544  
Joanne.Olson@illinois.gov

- G) Related rulemakings and other pertinent information: This rulemaking is in conjunction with amendments to 35 Ill. Adm. Code 365, Procedures for Issuing Loans from the Water Pollution Control Loan Program.
- h) Part (Heading and Code Citation): Introduction and Definitions (35 Ill. Adm. Code 651)
- 1) Rulemaking:
- A) Description: In 2017 the Agency proposed comprehensive rules governing community water supplies to the Illinois Pollution Control Board. Upon adoption by the Illinois Pollution Control Board, the agency plans to repeal its rules for public water supplies in Parts 651, 653 and 654.
- B) Statutory Authority: Implementing and authorized by Sections 14 through 19 of the Illinois Environmental Protection Act [415 ILCS 5/Title IV].
- C) Scheduled meeting/hearing dates: The Agency has not yet scheduled meetings or hearings on this proposal.
- D) Date Agency anticipates First Notice: Fall 2018
- E) Effect on small businesses, small municipalities or not-for-profit corporations: Small businesses, small municipalities, or not-for-profit corporations that are, or operate, a community water supply will not be affected.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking as follows:

## ENVIRONMENTAL PROTECTION AGENCY

## JULY 2018 REGULATORY AGENDA

Joanne Olson  
Division of Legal Counsel  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield IL 62794-9276

217/782-5544  
Joanne.Olson@Illinois.gov

- G) Related rulemakings and other pertinent information: None
- i) Part (Heading and Code Citation): Public Water Supply Capacity (35 Ill. Adm. Code 652)
- 1) Rulemaking:
- A) Description: The Agency plans to propose amendments updating rules pertaining to community water supplies. The proposed amendments address electronic reporting of information to the Agency and corrosion prevention projects for community water supplies.
- B) Statutory Authority: Implementing and authorized by Sections 14 through 19 of the Illinois Environmental Protection Act [415 ILCS 5/Title IV].
- C) Scheduled meeting/hearing dates: The Agency has not yet scheduled meetings or hearings on this proposal.
- D) Date Agency anticipates First Notice: Fall 2018
- E) Effect on small businesses, small municipalities or not-for-profit corporations: Small businesses, small municipalities, or not-for-profit corporations that are, or operate, a community water supply could be affected.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking as follows:

## ENVIRONMENTAL PROTECTION AGENCY

## JULY 2018 REGULATORY AGENDA

Rex L. Gradeless  
Division of Legal Counsel  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield IL 62794-9276

217/782-5544  
Rex.Gradeless@Illinois.gov

G) Related rulemakings and other pertinent information: None

j) Part (Heading and Code Citation): Design, Operation, and Maintenance Criteria (35 Ill. Adm. Code 653)

1) Rulemaking:

- A) Description: In 2017 the Agency proposed comprehensive rules governing community water supplies to the Illinois Pollution Control Board. Upon adoption by the Illinois Pollution Control Board, the Agency plans to repeal its rules for public water supplies in Parts 651, 653 and 654.
- B) Statutory Authority: Implementing and authorized by Sections 14 through 19 of the Illinois Environmental Protection Act [415 ILCS 5/Title IV].
- C) Scheduled meeting/hearing dates: The Agency has not yet scheduled meetings or hearings on this proposal.
- D) Date Agency anticipates First Notice: Fall 2018
- E) Effect on small businesses, small municipalities or not-for-profit corporations: Small businesses, small municipalities, or not-for-profit corporations that are, or operate, a community water supply will not be affected.



## ENVIRONMENTAL PROTECTION AGENCY

## JULY 2018 REGULATORY AGENDA

- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking as follows:

Joanne Olson  
Division of Legal Counsel  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield IL 62794-9276

217/782-5544  
Joanne.Olson@Illinois.gov

- G) Related rulemakings and other pertinent information: None

- k) Part (Heading and Code Citation): Raw and Finished Water Quality and Quantity (35 Ill. Adm. Code 654)

1) Rulemaking:

- A) Description: In 2017 the Agency proposed comprehensive rules governing community water supplies to the Illinois Pollution Control Board. Upon adoption by the Illinois Pollution Control Board, the Agency plans to repeal its rules for public water supplies in Parts 651, 653 and 654.
- B) Statutory Authority: Implementing and authorized by Sections 14 through 19 of the Illinois Environmental Protection Act [415 ILCS 5/Title IV].
- C) Scheduled meeting/hearing dates: The Agency has not yet scheduled meetings or hearings on this proposal.
- D) Date Agency anticipates First Notice: Fall 2018
- E) Effect on small businesses, small municipalities or not-for-profit corporations: Small businesses, small municipalities, or not-for-profit corporations that are, or operate, a community water supply will not be affected.

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- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking as follows:

Joanne Olson  
Division of Legal Counsel  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield IL 62794-9276

217/782-5544  
Joanne.Olson@Illinois.gov

- G) Related rulemakings and other pertinent information: None

- l) Part (Heading and Code Citation): Procedures for Issuing Loans from the Public Water Supply Loan Program (35 Ill. Adm. Code 662)

1) Rulemaking:

- A) Description: The Illinois Environmental Protection Agency (Agency) plans to update the rules for scoring and prioritizing loan applicants for the Public Water Supply Loan Program. The Agency plans to consolidate and amend into 35 Ill. Adm. Code 662 the scoring rules from 35 Ill. Adm. Code 663, Procedures and Requirements for Determining Loan Priorities of Projects in the Public Water Supply Loan Program.
- B) Statutory Authority: Implementing and authorized by Sections 19.1 through 19.10 of the Illinois Environmental Protection Act. [415 ILCS 19.1 - 19.10].
- C) Scheduled meeting/hearing dates: The Agency has not yet scheduled meetings or hearings on this proposal.
- D) Date Agency anticipates First Notice: Fall 2018

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- E) Effect on small business, small municipalities or not-for-profit corporations: Small businesses, small municipalities, or not-for-profit corporations seeking loans under the Public Water Supply Loan Program could be affected by this rulemaking.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking as follows:
- Joanne Olson  
Division of Legal Counsel  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield IL 62794-9276
- 217/782-5544  
Joanne.Olson@illinois.gov
- G) Related rulemakings and other pertinent information: This rulemaking will be in conjunction with the repeal of 35 Ill. Adm. Code 663, Procedures and Requirements for Determining Loan Priorities of Projects in the Public Water Supply Loan Program.
- m) Part (Heading and Code Citation): Procedures and Requirements for Determining Loan Priorities of Projects in the Public Water Supply Loan Program (35 Ill. Adm. Code 663)
- 1) Rulemaking:
- A) Description: The Illinois EPA is repealing Part 663. The regulations are being incorporated into 35 Ill. Adm. Code 662, Procedures for Issuing Loans from the Public Water Supply Loan Program.
- B) Statutory Authority: Implementing and authorized by Sections 19.1 through 19.10 of the Illinois Environmental Protection Act. [415 ILCS 19.1 - 19.10].
- C) Scheduled meeting/hearing dates: The Agency has not yet scheduled meetings or hearings on this proposal.

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- D) Date Agency anticipates First Notice: Fall 2018
- E) Effect on small business, small municipalities or not-for-profit corporations: Small businesses, small municipalities, or not-for-profit corporations seeking loans under the Public Water Supply Loan Program could be affected by this rulemaking.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking as follows:

Joanne Olson  
Division of Legal Counsel  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield IL 62794-9276

217/782-5544  
Joanne.Olson@illinos.gov

- G) Related rulemakings and other pertinent information: This rulemaking is in conjunction with amendments to 35 Ill. Adm. Code 662, Procedures for Issuing Loans from the Public Water Supply Loan Program.
- n) Part (Heading and Code Citation): Water Supply Operator Certification (35 Ill. Adm. Code 681)
- 1) Rulemaking:
- A) Description: The Agency plans to propose amendments updating rules pertaining to public water supply operators. The proposed amendments address responsible operators in charge of multiple facilities.
- B) Statutory Authority: Implementing and authorized by Section 10 of the Public Water Supply Operations Act [415 ILCS 45].

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- C) Scheduled meeting/hearing dates: The Agency has not yet scheduled meetings or hearings on this proposal.
- D) Date Agency anticipates First Notice: Fall 2018
- E) Effect on small businesses, small municipalities or not-for-profit corporations: Small businesses, small municipalities, or not-for-profit corporations employing public water supply operators could be affected.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking as follows:

Rex L. Gradeless  
Division of Legal Counsel  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield IL 62794-9276

217/782-5544  
Rex.Gradeless@Illinois.gov

- G) Related rulemakings and other pertinent information: None

## DEPARTMENT OF INSURANCE

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a) Part (Heading and Code Citation): Acquisition of Control of a Domestic Company (50 Ill. Adm. Code 651)1) Rulemaking:

A) Description: 50 Ill. Adm. Code 913.Illustration A is being repealed and replaced by the use of the NAIC Biographical Affidavit form. Item 3 of Part 651.Illustration A will be revised to reflect this change.

B) Statutory Authority: Implementing Article VIII½ and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/Art. VIII½ and Section 401].

C) Scheduled meeting/hearing dates: None scheduled

D) Date Agency anticipates First Notice: August 2018

E) Effect on small businesses, small municipalities or not-for-profit corporations: None

F) Agency contact person for information:

Kevin Fry, Deputy Director  
Financial/Corporate Regulatory Division  
Illinois Department of Insurance  
320 West Washington  
Springfield IL 62767

217/782-1756

G) Related rulemakings and other pertinent information: 50 Ill. Adm. Code 913, 915, 2051, 2905, 4520, 4530

b) Part (Heading and Code Citation): Internal Security Standard and Fidelity Bonds (50 Ill. Adm. Code 904)1) Rulemaking:

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- A) Description: Due to the fact that most investment transfers are done electronically, and with the amount of transactions that a company can make, it is not practical to require two actual signatures for each transaction. No one is manually exchanging funds for security transactions. Therefore, Part 904.20(b) will be amended so that in place of the requirement that securities transactions shall include the signature of at least two officers or employees who shall have been so authorized by the Board of Directors, or by a committee of the Board charged with the duty of supervising investments and loans, the Department will verify that sufficient internal controls were a component of the transaction's approval.
- B) Statutory Authority: Implementing and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/401].
- C) Scheduled meeting/hearing dates: None are scheduled.
- D) Date Agency anticipates First Notice: July 2018
- E) Effect on small businesses, small municipalities or not-for-profit corporations: The amendments will reduce the regulatory burden by removing the requirement for two signatures for each security transaction.
- F) Agency contact person for information:
- Kevin Fry, Deputy Director  
Financial/Corporate Regulatory Division  
Illinois Department of Insurance  
320 West Washington  
Springfield IL 62767
- 217/782-1756
- G) Related rulemakings and other pertinent information: None
- c) Part (Heading and Code Citation): Securities Regulation (50 Ill. Adm. Code 913)
- 1) Rulemaking:

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- A) Description: Part 913.ILLUSTRATION A is an outdated biographical affidavit form that is no longer being used; the NAIC form is currently in use. Part 913.Illustration A needs to be repealed and references to it need to be changed to refer to the NAIC Biographical Affidavit form instead. Additionally, housekeeping changes will be made throughout the rule.
- B) Statutory Authority: Implementing Sections 20, 32, 32.1 and 147.1 and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/20, 32, 32.1, 147.1 and 401].
- C) Scheduled meeting/hearing dates: None scheduled
- D) Date Agency anticipates First Notice: July 2018
- E) Effect on small businesses, small municipalities or not-for-profit corporations: None
- F) Agency contact person for information:

Kevin Fry, Deputy Director  
Financial/Corporate Regulatory Division  
Illinois Department of Insurance  
320 West Washington  
Springfield IL 62767

217/782-1756

- G) Related rulemakings and other pertinent information: 50 Ill. Adm. Code 651, 915, 2051, 2905, 4520, 4530

d) Part (Heading and Code Citation): Management Information Reports (50 Ill. Adm. Code 915)

1) Rulemaking:

- A) Description: Part 913.ILLUSTRATION A is an outdated biographical affidavit form that is no longer being used; the NAIC form is currently in use. Part 913 is being amended to remove ILLUSTRATION A, and



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references to it within Part 915 need to be changed to refer to the NAIC Biographical Affidavit form instead. Additionally, housekeeping changes will be made throughout the rule.

- B) Statutory Authority: Implementing Section 155.04 and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/155.04 and 401].
- C) Scheduled meeting/hearing dates: None scheduled.
- D) Date Agency anticipates First Notice: August 2018
- E) Effect on small businesses, small municipalities or not-for-profit corporations: None
- F) Agency contact person for information:

Kevin Fry, Deputy Director  
Financial/Corporate Regulatory Division  
Illinois Department of Insurance  
320 West Washington  
Springfield IL 62767

217/782-1756

- G) Related rulemakings and other pertinent information: Parts 651, 913, 2051, 2905, 4520, 4530

e) Part (Heading and Code Citation): Improper Claims Practice (50 Ill. Adm. Code 919)

1) Rulemaking:

- A) Description: The purpose of this rule is to set forth minimum standards for insurers when investigating claims arising under contracts and certificates issued to residents of Illinois. It provides criteria for the Director to determine what companies and areas are to be examined and provides the minimum standards for recordkeeping to aid the companies in compliance. It has been a significant period of time since the rule has been updated; the amendments to Part 919 will modernize its provisions

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and practices. Some of the anticipated amendments include adding several definitions; listing additional criteria that would constitute improper practices or procedures if conducted by an insurance company; providing more detail and guidance in regard to unresolved claims; and providing further guidance in regard to unreasonable delays, the imposition of towing charges and betterment deductions.

- B) Statutory Authority: Sections 154.5, 154.6 and 401 of the Illinois Insurance Code [215 ILCS 5/154.5, 154.6 and 401], Section 10 of the Voluntary Health Services Plans Act [215 ILCS 165/10], Section 25 of the Dental Service Plan Act [215 ILCS 110/25] and Section 5-3 of the Health Maintenance Organization Act [215 ILCS 125/5-3].
- C) Scheduled meeting/hearing dates: None are scheduled.
- D) Date Agency anticipates First Notice: Summer 2018
- E) Effect on small businesses, small municipalities or not-for-profit corporations: Difficult to determine at this time.
- F) Agency contact person for information:

Reid McClintock, Deputy Director  
Property and Casualty Products/Agent Services  
Illinois Department of Insurance  
320 W. Washington St.  
Springfield IL 62767-0001

217/558-3952

- G) Related rulemakings and other pertinent information: None
- f) Part (Heading and Code Citation): Construction and Filing of Life Insurance and Annuity Forms, (50 Ill. Adm. Code 1405)
- 1) Rulemaking:

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- A) Description: Section 1405.70 will be amended by adding clarifying language consistent with Illinois law. Also, the amendments will clean the rule up for consistency, expand on explanations, add a requirement for Company name and phone number on applications, outline requirements for electronic applications, add language prohibiting amendments to applications and reorganize to provide clarification regarding the applicability of requirements for specific products.
- B) Statutory Authority: 215 ILCS 5/143 and 5/401
- C) Scheduled meeting/hearing dates: None are scheduled.
- D) Date Agency anticipates First Notice: Summer 2018
- E) Effect on small businesses, small municipalities or not-for-profit corporations: None anticipated.
- F) Agency contact person for information:
- Michael Chrysler, Deputy Director  
Life & Annuities and Health Products  
Illinois Department of Insurance  
320 W. Washington St.  
Springfield IL 62767-0001
- 217/558-2744
- G) Related rulemakings and other pertinent information: 50 Ill. Adm. Code 916
- g) Part (Heading and Code Citation): Construction and Filing of Accident and Health Insurance Policy Forms (50 Ill. Adm. Code 2001)
- 1) Rulemaking:
- A) Description: PA 100-386, effective January 1, 2018, adds a new paragraph 215 ILCS 5/356z.25 to the Illinois Insurance Code which provides that "No policy of individual or group accident and health

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insurance issued, amended, delivered, or renewed on or after the effective date of this amendatory Act of the 100th General Assembly may impose any preexisting condition exclusion, as defined in the Illinois Health Insurance Portability and Accountability Act, with respect to such plan or coverage". This language makes Section 2001.5 (Prohibition of Preexisting Condition Exclusions) unnecessary, so this Section will be removed from the rule.

B) Statutory Authority: Implementing Sections 143, 355 and 356a and Articles IX and XX of the Illinois Insurance Code [215 ILCS 5/143, 355, 356a, Arts. IX and XX] and Section 4-13 of the Health Maintenance Organization Act [215 ILCS 125/4-13] and authorized by Section 401 of the Code [215 ILCS 5/401].

C) Scheduled meeting/hearing dates: None

D) Date Agency anticipates First Notice: July 2018

E) Effect on small businesses, small municipalities or not-for-profit corporations: None anticipated.

F) Agency contact person for information:

Michael Chrysler, Deputy Director  
Life & Annuities and Health Products  
Illinois Department of Insurance  
320 W. Washington St.  
Springfield IL 62767-0001

217/558-2744

G) Related rulemakings and other pertinent information: None

h) Part (Heading and Code Citation): Preferred Provider Programs (50 Ill. Adm. Code 2051)

1) Rulemaking:

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- A) Description: Appendices A, B, C, and D of Part 2051 are checklists that merely repeat language already established in the rule. Appendix E consists of the Illinois Biographical Affidavit form and an outdated NAIC Biographical Affidavit form. The requirements for these affidavits are now contained in the current NAIC Biographical Affidavit form. Therefore, Appendix E is no longer necessary.

The checklists in Appendices A, B, C and D, as well as the Preferred Provider Program Administrator Bond/Fiduciary Account Requirement form contained in Appendix F, are being placed on the Department's website with other checklists for continuity. As a result, these appendices are unnecessary and are being removed from Part 2051. References to the forms and checklists will replace references to the appendices throughout the rule, and several other housekeeping changes are also being made to Part 2051.

- B) Statutory Authority: Implementing Article XX½ of the Illinois Insurance Code [215 ILCS 5/Art. XX½] and the Workers' Compensation Act [820 ILCS 305], and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/401].
- C) Scheduled meeting/hearing dates: None are scheduled.
- D) Date Agency anticipates First Notice: July 2018
- E) Effect on small businesses, small municipalities or not-for-profit corporations: None anticipated.
- F) Agency contact person for information:

Michael Chrysler, Deputy Director  
Life & Annuities and Health Products  
Illinois Department of Insurance  
320 W. Washington St.  
Springfield IL 62767-0001

217/558-2744

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- G) Related rulemakings and other pertinent information: Parts 651, 913, 915, 2905, 4520, 4530
- i) Part (Heading and Code Citation): Required Procedures for Group Inland Marine Insurance (50 Ill. Adm. Code 2302)
- 1) Rulemaking:
- A) Description: The rule is being updated to reflect the Department's use of the National Association of Insurance Commissioners (NAIC) System for Electronic Rate and Form Filing (SERFF). This is just a housekeeping change to reflect current practice. Since 2012, DOI has required insurance companies to submit policy form filings electronically.
- B) Statutory Authority: Implementing Section 400.1 and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/400.1 and 401].
- C) Scheduled meeting/hearing dates: None
- D) Date Agency anticipates First Notice: July 2018
- E) Effect on small businesses, small municipalities or not-for-profit corporations: Difficult to determine at this time.
- F) Agency contact person for information:
- Reid McClintock, Deputy Director  
Property and Casualty Products/Agent Services  
Illinois Department of Insurance  
320 W. Washington St.  
Springfield IL 62767-0001
- 217/558-3952
- G) Related rulemakings and other pertinent information: None
- j) Part (Heading and Code Citation): Registration of Workers' Compensation Utilization Review Organizations (50 Ill. Adm. Code 2905)

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- 1) Rulemaking:
- A) Description: Exhibit B is the Utilization Review Organization Officers and Directors Biographical Affidavit. The requirements in Exhibit B are contained in the current NAIC Biographical Affidavit. 50 IAC 2905.20 will be revised to note the use of the current NAIC Biographical Affidavit and remove the reference to Exhibit B. Housekeeping changes will also be made to the Definitions Section.
- B) Statutory Authority: Implementing Section 8.7 of the Workers' Compensation Act [820 ILCS 305/8.7] and authorized by Section 8.7 of the Workers' Compensation Act and Section 401 of the Illinois Insurance Code [215 ILCS 5/401].
- C) Scheduled meeting/hearing dates: None are currently scheduled.
- D) Date Agency anticipates First Notice: Summer 2018
- E) Effect on small businesses, small municipalities or not-for-profit corporations: None anticipated.
- F) Agency contact person for information:
- Michael Chrysler, Deputy Director  
Life & Annuities and Health Products  
Illinois Department of Insurance  
320 W. Washington St.  
Springfield IL 62767-0001
- 217/558-2744
- G) Related rulemakings and other pertinent information: Parts 651, 913, 915, 2051, 4520, 4530
- k) Part (Heading and Code Citation): Pre-Licensing and Continuing Education (50 Ill. Adm. Code 3119)

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1) Rulemaking:

- A) Description: 3119.60(c)(2) specifies that no course can be approved for less than 1 hour of continuing education (CE) credit. The rule doesn't specify the maximum course approval for hours. Part 3119 will be amended to reflect that, in keeping with longstanding DOI practice, 12 hours of CE credit is the maximum number to be approved for a course filing.
- B) Statutory Authority: Implementing Sections 500-25, 500-30 and 500-35 and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/500-25, 500-30, 500-35, and 401].
- C) Scheduled meeting/hearing dates: None scheduled.
- D) Date Agency anticipates First Notice: August 2018
- E) Effect on small businesses, small municipalities or not-for-profit corporations: None
- F) Agency contact person for information:

Reid McClintock, Deputy Director  
Property and Casualty Products/Agent Services  
Illinois Department of Insurance  
320 W. Washington St.  
Springfield IL 62767-0001

217/558-3952

- G) Related rulemakings and other pertinent information: None

- 1) Part (Heading and Code Citation): Summary Document and Disclaimer (50 Ill. Adm. Code 3401)

1) Rulemaking:



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- A) Description: The Illinois Life and Health Insurance Guaranty Association has informed us that they are moving and changing their address. We need to amend the rule to update the address in 3401.ILLUSTRATION A.
- B) Statutory Authority: Implementing and authorized by Section 531.19 of the Illinois Insurance Code [215 ILCS 5/531.19].
- C) Scheduled meeting/hearing dates: None scheduled.
- D) Date Agency anticipates First Notice: July 2018
- E) Effect on small businesses, small municipalities or not-for-profit corporations: None
- F) Agency contact person for information:
- Kevin Fry, Deputy Director  
Financial/Corporate Regulatory Division  
Illinois Department of Insurance  
320 West Washington  
Springfield IL 62767
- 217/782-1756
- G) Related rulemakings and other pertinent information: None
- m) Part (Heading and Code Citation): Navigator, In-Person Counselor and Certified Application Counselor Certification (50 Ill. Adm. Code 4515)
- 1) Rulemaking:
- A) Description: In Section 4515.50, the amendments to paragraphs (f), (g), and (h) remove textual redundancy, as the requirements currently provided in Section 4515.50(f) and (g) are already wholly incorporated in Section 4515.50(h). Amendments throughout the rule remove provisions applicable to training providers and courses that are certified by the State of Illinois, as those provisions have become obsolete now that the State no longer offers that programming. The amendments also add requirements

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for federal training to comply with federal law. The amendments indicate that the Department will designate federal training courses provided online for Navigators, In-Person Counselors, and Certified Application Counselors to satisfy their initial training and continuing education requirements.

- B) Statutory Authority: Implementing and authorized by the Navigator Certification Act [215 ILCS 121]; 42 USC 300gg-22; and 45 CFR 150.101(b)(2) and 150.201.
- C) Scheduled meeting/hearing dates: None scheduled.
- D) Date Agency anticipates First Notice: July 2018
- E) Effect on small businesses, small municipalities or not-for-profit corporations: Difficult to determine at this time.
- F) Agency contact person for information:

Reid McClintock, Deputy Director  
Property and Casualty Products/Agent Services  
Illinois Department of Insurance  
320 W. Washington St.  
Springfield IL 62767-0001

217/558-3952

- G) Related rulemakings and other pertinent information: None

n) Part (Heading and Code Citation): Managed Care Reform & Patient Rights, (50 Ill. Adm. Code 4520)

1) Rulemaking:

- A) Description: Exhibits C and D will be removed from the rule. Exhibit C is the Utilization Review Organization Officers and Directors Biographical Affidavit. Exhibit D is an outdated version of the NAIC Biographical Affidavit. The requirements for these affidavits are now

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contained in the current NAIC Biographical Affidavit form. Therefore, Exhibits C and D are no longer necessary. Exhibit B(7)(i) is being revised to note the use of the current NAIC Biographical Affidavit and remove the reference to Exhibits C and D.

- B) Statutory Authority: Implementing the Managed Care Reform and Patient Rights Act [215 ILCS 134] and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/401]; 42 USC 300gg-22; and 45 CFR 150.101(b)(2) and 150.201.
- C) Scheduled meeting/hearing dates: None currently scheduled.
- D) Date Agency anticipates First Notice: July 2018
- E) Effect on small businesses, small municipalities or not-for-profit corporations: None anticipated.
- F) Agency contact person for information:  
Michael Chrysler, Deputy Director  
Life & Annuities and Health Products  
Illinois Department of Insurance  
320 W. Washington St.  
Springfield IL 62767-0001  
  
217/558-2744
- G) Related rulemakings and other pertinent information: 50 Ill. Adm. Code 651, 913, 915, 2051, 2905 and 4530.
- o) Part (Heading and Code Citation): Health Carrier External Review, (50 Ill. Adm. Code 4530)
  - 1) Rulemaking:
    - A) Description: Appendix E is being removed from the rule. Appendix E is the Illinois Biographical Affidavit form and an outdated NAIC Biographical Affidavit form. The requirements for these affidavits are now contained in the current NAIC Biographical Affidavit form.

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Therefore, Appendix E is no longer necessary. Appendix C(6)(g) will also be revised to note the use of the current NAIC Biographical Affidavit and remove the reference to Appendix E.

- B) Statutory Authority: Implementing the Health Carrier External Review Act [215 ILCS 180] and authorized by Section 50(h) of the Act [215 ILCS 180/50(h)] and Section 401 of the Illinois Insurance Code [215 ILCS 5/401].
- C) Scheduled meeting/hearing dates: None currently scheduled.
- D) Date Agency anticipates First Notice: July 2018
- E) Effect on small businesses, small municipalities or not-for-profit corporations: None anticipated.
- F) Agency contact person for information:
- Michael Chrysler, Deputy Director  
Life & Annuities and Health Products  
Illinois Department of Insurance  
320 W. Washington St.  
Springfield IL 62767-0001
- 217/558-2744
- G) Related rulemakings and other pertinent information: Parts 651, 913, 915, 2051, 2905, 4520.

## DEPARTMENT OF NATURAL RESOURCES

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- a) Part (Heading and Code Citation): White-Tailed Deer Hunting By Use of Bow and Arrow (17 Ill. Adm. Code 670)
- 1) Rulemaking:
- A) Description: This Part will be amended to make statewide program changes.
- B) Statutory Authority: Implementing and authorized by Sections 1.2, 1.3, 1.4, 2.1, 2.2, 2.5, 2.20, 2.24, 2.25, 2.26, 2.33, 3.5 and 3.36 of the Wildlife Code [520 ILCS 5/1.2, 1.3, 1.4, 2.1, 2.2, 2.5, 2.20, 2.24, 2.25, 2.26, 2.33, 3.5 and 3.36] .
- C) Scheduled meeting/hearing dates: None
- D) Date agency anticipates First Notice: July 2018
- E) Effect on small businesses, small municipalities or not-for-profit corporations: None
- F) Agency contact person for information:
- Javonna Ackerman, Legal Counsel  
One Natural Resources Way  
Springfield IL 62702-1271  
  
217/782-1809
- G) Related rulemakings and other pertinent information: None
- b) Part (Heading and Code Citation): Injurious Species (17 Ill. Adm. Code 805)
- 1) Rulemaking:
- A) Description: This Part is being amended to update injurious species with new invasive species threatening the state of Illinois.

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- B) Statutory Authority: Implementing and authorized by Sections 1-125, 1-150, 5-10, 10-100, 20-90 and 20-100 of the Fish and Aquatic Life Code [515 ILCS 5/1-125, 1-150-5-10, 10-100, 20-90 and 20-100, and Sections 1.4, 1.10, .2, 2.3 and 3.22 of the Wildlife Code [520 ILCS 5/1.4, 1.10, 2.2, 2.3 and 3.22].
- C) Scheduled meeting/hearing dates: None
- D) Date agency anticipates First Notice: August 2018
- E) Effect on small businesses, small municipalities or not-for-profit corporations: None
- F) Agency contact person for information:
- Javonna Ackerman, Legal Counsel  
One Natural Resources Way  
Springfield IL 62702-1271
- 217/782-1809
- G) Related rulemakings and other pertinent information: None
- c) Part (Heading and Code Citation): Commercial Fishing and Musseling in Certain Waters of the State (17 Ill. Adm. Code 830)
- 1) Rulemaking:
- A) Description: This Part is being amended to update regulations for certain waters in the State.
- B) Statutory Authority: Implementing and authorized by Sections 1-60, 1-65, 1-120, 10-120, 15-35, 15-40, 20-35 and 25-5 of the Fish and Aquatic Life Code [515 ILCS 5/1-60, 1-65, 1-120, 10-120, 15-35, 15-40, 20-35 and 25-5].
- C) Scheduled meeting/hearing dates: None

## DEPARTMENT OF NATURAL RESOURCES

## JULY 2018 REGULATORY AGENDA

- D) Date Agency anticipates First Notice: September 2018
- E) Effect on small businesses, small municipalities or not-for-profit corporations: None
- F) Agency contact person for information:  
  
Javonna Ackerman, Legal Counsel  
One Natural Resources Way  
Springfield, IL 62702-1271  
  
217/782-1809
- G) Related rulemakings and other pertinent information: None
- d) Part (Heading and Code Citation): Sport Fishing Regulations for the Waters of Illinois (17 Ill. Adm. Code 810)
- 1) Rulemaking:
- A) Description: This Part is being amended to update sportfishing regulations.
- B) Statutory Authority: Implementing and authorized by Sections 1-120, 1-125, 1-150, 5-5, 10-5, 10-10, 10-15, 10-20, 10-25, 10-30, 10-35, 10-45, 10-50, 10-60, 10-75, 10-90, 10-95, 15-50, 20-5, 20-35 and 25-5 of the Fish and Aquatic Life Code [515 ILCS 5/1-120, 1-125, 1-150, 5-5, 10-5, 10-10, 10-15, 10-20, 10-25, 10-30, 10-35, 10-45, 10-50, 10-60, 10-75, 10-90, 10-95, 15-50, 20-5, 20-35, 25-5, and 5/5-15].
- C) Scheduled meeting/hearing dates: None
- D) Date agency anticipates First Notice: September 2018
- E) Effect on small businesses, small municipalities or not-for-profit corporations: None
- F) Agency contact person for information:

## DEPARTMENT OF NATURAL RESOURCES

## JULY 2018 REGULATORY AGENDA

Javonna Ackerman, Legal Counsel  
One Natural Resources Way  
Springfield IL 62702-1271

217/782-1809

G) Related rulemakings and other pertinent information: None

e) Part (Heading and Code Citation): Aquaculture, Transportation, Stocking, Importation and/or Possession of Aquatic Life (17 Ill. Adm. Code 870)

1) Rulemaking:

A) Description: This Part is being amended to update the regulations on the sale of Grass Carp and to clarify the need for aquaculture permits for those engaged in aquaculture activities.

B) Statutory Authority: Implementing and authorized by Sections 1-20, 1-105, 1-125, 1-135, 1-140, 1-145 and 20-90 of the Fish and Aquatic Life Code [515 ILCS 5/1-20, 1-105, 1-125, 1-135, 1-140, 1-145 and 20-90].

C) Scheduled meeting/hearing dates: None

D) Date agency anticipates First Notice: September 2018

E) Effect on small businesses, small municipalities or not-for-profit corporations: None

F) Agency contact person for information:

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

217/782-1809

G) Related rulemakings and other pertinent information: None



## DEPARTMENT OF NATURAL RESOURCES

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f) Part (Heading and Code Citation): Boat and Snowmobile Registration and Safety (17 Ill. Adm. Code 2010)

1) Rulemaking:

- A) Description: Pursuant to PA 100-0469, this Part is being amended to remove the water usage stamp requirements.
- B) Statutory Authority: Implementing and authorized by Sections 3-1, 3-1.5, 3-2, 3-3, 4-1 and 9-1 of the Boat Registration and Safety Act [625 ILCS 45/3-1, 3-1.5, 3-2, 3-3, 4-1 and 9-1] and the Snowmobile Registration and Safety Act [625 ILCS 40].
- C) Scheduled meeting/hearing dates: None
- D) Date agency anticipates First Notice: July 2018
- E) Effect on small businesses, small municipalities or not-for-profit corporations: None
- F) Agency contact person for information:  
  
John Heidinger, Legal Counsel  
One Natural Resources Way  
Springfield IL 62702-1271  
  
217/782-1809
- G) Related rulemakings and other pertinent information: None

g) Part (Heading and Code Citation): Revocation Procedures for Conservation Offenses (17 Ill. Adm. Code 2530)

1) Rulemaking:

- A) Description: This Part is being amended to include the Herptiles-Herps Act.

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

C) Scheduled meeting/hearing dates: None

D) Date agency anticipates First Notice: July 2018

E) Effect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

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

217/782-1809

G) Related rulemakings and other pertinent information: None

h) Part (Heading and Code Citation): Regulation of Public Waters (17 Ill. Adm. Code 3704)

1) Rulemaking:

A) Description: This Part is being amended pursuant to Executive Order 2016-13 to update, clarify or simplify the current rule.

B) Statutory Authority: Implementing and authorized by the Rivers, Lakes and Streams Act [615 ILCS 5].

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- C) Scheduled meeting/hearing dates: Nothing scheduled as of this Regulatory Agency
- D) Date agency anticipates First Notice: October 2018
- E) Effect on small businesses, small municipalities or not-for-profit corporations: None
- F) Agency contact person for information:

Robert G. Mool, Legal Counsel  
One Natural Resources Way  
Springfield IL 62702-1271

217/782-1809

- G) Related rulemakings and other pertinent information: None

i) Part (Heading and Code Citation): General Definitions (62 Ill. Adm. Code 1701)

1) Rulemaking:

- A) Description: Definitions are being added, revised or deleted to comport with the federal regulations found at 30 CFR 701.5.
- B) Statutory Authority: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720].
- C) Scheduled meeting/hearing dates: None
- D) Date agency anticipates First Notice: September 2018
- E) Effect on small businesses, small municipalities or not-for-profit corporations: None
- F) Agency contact person for information:

Amy Oakes, Legal Counsel

## DEPARTMENT OF NATURAL RESOURCES

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One Natural Resources Way  
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G) Related rulemakings and other pertinent information: None

j) Part (Heading and Code Citation): Requirements for Permits and Permit Processing  
(62 Ill. Adm. Code 1773)

1) Rulemaking:

A) Description: This Part is being amended to comport with changes made to the federal Office of Surface Mining's regulations.

B) Statutory Authority: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720].

C) Scheduled meeting/hearing dates: None

D) Date agency anticipates First Notice: September 2018

E) Effect on small businesses, small municipalities or not-for-profit corporations: None

F) Agency contact person for information:

Amy Oakes, Legal Counsel  
One Natural Resources Way  
Springfield IL 62702-1271

217/782-1809

G) Related rulemakings and other pertinent information: None

k) Part (Heading and Code Citation): Revision; Renewal; and Transfer, Assignment, or Sale of Permit Rights (62 Ill. Adm. Code 1774)

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- 1) Rulemaking:
  - A) Description: This Part is being amended to provide further clarification as to what reclamation plan land use changes require an application for significant revision.
  - B) Statutory Authority: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720].
  - C) Scheduled meeting/hearing dates: None
  - D) Date agency anticipates First Notice: September 2018
  - E) Effect on small businesses, small municipalities or not-for-profit corporations: None
  - F) Agency contact person for information:

Amy Oakes, Legal Counsel  
One Natural Resources Way  
Springfield IL 62702-1271  
  
217/782-1809
  - G) Related rulemakings and other pertinent information: None

- l) Part (Heading and Code Citation): Permit Applications – Minimum Requirements for Legal, Financial, Compliance, and Related Information (62 Ill. Adm. Code 1778)

- 1) Rulemaking:
  - A) Description: This Part is being amended to comport with federal regulations at 30 CFR 778.9.
  - B) Statutory Authority: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720].
  - C) Scheduled meeting/hearing dates: None

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- D) Date agency anticipates First Notice: September 2018
- E) Effect on small businesses, small municipalities or not-for-profit corporations: None
- F) Agency contact person for information:  
  
Amy Oakes, Legal Counsel  
One Natural Resources Way  
Springfield IL 62702-1271  
  
217/782-1809
- G) Related rulemakings and other pertinent information: None

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a) Parts (Heading and Code Citations):

Permits and General Provisions (35 Ill. Adm. Code 201)  
Alternative Control Strategies (35 Ill. Adm. Code 202)  
Major Stationary Sources Construction and Modification (35 Ill. Adm. Code 203)  
Vehicle Scrappage Activities (35 Ill. Adm. Code 207)  
Definitions and General Provisions (35 Ill. Adm. Code 211)  
Visible and Particulate Matter Emissions (35 Ill. Adm. Code 212)  
Sulfur Limitations (35 Ill. Adm. Code 214)  
Organic Material Emission Standards and Limitations (35 Ill. Adm. Code 215)  
Carbon Monoxide Emissions (35 Ill. Adm. Code 216)  
Nitrogen Oxides Emissions (35 Ill. Adm. Code 217)  
Organic Material Emission Standards and Limitations for The Chicago Area (35 Ill. Adm. Code 218)  
Organic Material Emission Standards and Limitations for The Metro East Area (35 Ill. Adm. Code 219)  
Nonmethane Organic Compounds (35 Ill. Adm. Code 220)  
Standards and Limitations for Organic Material Emissions for Area Sources (35 Ill. Adm. Code 223)  
Control of Emissions from Large Combustion Sources (35 Ill. Adm. Code 225)  
Asbestos (35 Ill. Adm. Code 228)  
Hospital/Medical/Infectious Waste Incinerators (35 Ill. Adm. Code 229)  
New Source Performance Standards (35 Ill. Adm. Code 230)  
Hazardous Air Pollutants (35 Ill. Adm. Code 231)  
Toxic Air Contaminants (35 Ill. Adm. Code 232)  
Open Burning (35 Ill. Adm. Code 237)

1) Rulemaking: Docket R18-21

A) Description: On January 10, 2018, the Illinois Environmental Protection Agency filed a rulemaking proposal to update various subtitles of the Board's rules. The Agency stated that it reviewed Board rules to identify provisions to revise or repeal in response to the Governor's Executive Order 2016-13. The Executive Order requires each State agency under the jurisdiction of the Governor to review its regulations to determine which of them are outdated, repetitive, confusing, unnecessary, or harmful to the economy. The Agency proposes amendments to Parts 201, 211, 212, 214, 215, 216, 217, 218, 219, 225, 228, 232, 237, which the Agency considers to be non-substantive. Independent of the Agency's proposal, the Board

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reviews its Subtitle B air regulations and intends to propose additional amendments that remove obsolete, repetitive, confusing, or otherwise unnecessary rule language through all Parts of Subtitle B, except for Part 205, which is under review in a separate docket, docket R18-22.

- B) Statutory Authority: Implementing and authorized by Sections 13 and 27 of the Environmental Protection Act [415 ILCS 5/13 & 27].
- C) Scheduled meeting/hearing dates: Hearings have not been scheduled.
- D) Date Agency anticipates First Notice: The Board anticipates that a Notice of Proposed Rules will be published in the *Illinois Register* within the next twelve months.
- E) Effect on small businesses, small municipalities or not-for-profit corporations: This rulemaking is not expected to affect any small business, small municipality, or not-for-profit corporations because the proposed amendments are non-substantive. The Board expects to propose only non-substantive changes.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking to:

Don Brown, Clerk  
Pollution Control Board  
100 West Randolph Street, Suite 11-500  
Chicago IL 60601

[don.brown@illinois.gov](mailto:don.brown@illinois.gov)

Address questions concerning this regulatory agenda to:

Tetyana Rabczak  
Pollution Control Board  
100 W. Randolph St.  
Chicago IL 60601

312/814-6931  
[tetyana.rabczak@illinois.gov](mailto:tetyana.rabczak@illinois.gov)



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And

Jason James  
Pollution Control Board  
100 W. Randolph St.  
Chicago IL 60601

312/814-6931  
jason.james@illinois.gov

- G) Related rulemakings and other pertinent information: In a separate docket, Docket R18-22, the Board is revising Part 205 of Subtitle B Air Pollution regulations concerning Emissions Reduction Market System.
- b) Part (Heading and Code Citation): Definitions and General Provisions (35 Ill. Adm. Code 211)
- 1) Rulemaking: Docket number R19-6
- A) Description: Section 9.1(e) of the Environmental Protection Act [415 ILCS 5/9.1(e)] mandates that the Board update the Illinois definition of volatile organic material (VOM) to reflect the additions made by the United States Environmental Protection Agency (USEPA) to the list of compounds exempt from regulation as ozone precursors. Those compounds are determined by USEPA to be exempt from regulation under the state implementation plan (SIP) for ozone in the federal "Recommended Policy on the Control of Volatile Organic Compounds" (Recommended Policy) due to their negligible photochemical reactivity. On February 3, 1992 (57 Fed. Reg. 3945), USEPA codified its definition of VOM at 40 CFR 51.100(s), which now embodies the former Recommended Policy. This codified definition now includes all the compounds and classes of compounds previously exempted in the former Recommended Policy. The Illinois definition of VOM is presently codified at 35 Ill. Adm. Code 211.7150.

The Board has reserved docket number R19-6 to accommodate any federal amendments to the 40 CFR 51.100(s) definition of VOM that USEPA may make in the period January 1, 2018 through June 30, 2018. The Board is

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presently not aware of any federal action during this update period that affected the federal definition of VOM. In coming weeks, by about mid-August 2018, the Board will verify the existence of any additional federal actions that may affect the definition of VOM and determine the Board action required in response to each. The Board will then propose corresponding amendments to the Illinois definition of VOM using the identical-in-substance procedure in docket R19-6, as necessary and appropriate.

Section 9.1(e) mandates that the Board complete amendments within one year of the date on which USEPA adopted the earliest action upon which the amendments are based. Assuming USEPA adopted an amendment that will require Board action on the first day of the update period, January 1, 2018, the due date for Board adoption of amendments in docket R19-6 would be January 1, 2019.

To meet a due date of January 1, 2019, the Board would vote to propose amendments and cause a Notice of Proposed Amendments to appear in the *Illinois Register* by late September 2018. This would be sufficiently in advance of the due date to allow the Board to accept public comments on the proposal for 45 days before acting to adopt any amendments. Alternatively, if no amendment to the Illinois definition is needed, the Board will promptly dismiss the reserved docket R19-6.

- B) Statutory Authority: Implementing and authorized by Sections 7.2, 9.1(e), and 27 of the Environmental Protection Act [415 ILCS 5/7.2, 9.1(e) & 27].
- C) Scheduled meeting/hearing dates: None scheduled at this time. The Board will vote to propose any amendments at an open meeting in accordance with requirements established by Sections 27 and 28 of the Act [415 ILCS 5/27 & 28]. The Board will then schedule and conduct at least one public hearing, as required by Section 110(a) of the federal Clean Air Act (42 USC § 7410(a)) for amendment of the Illinois ozone SIP.
- D) Date Agency anticipates First Notice: The Board cannot project an exact date for publication at this time. The Board expects to verify any other federal actions by mid-August 2018, after which time the Board will propose any amendments to the Illinois definition of VOM that are necessary in response to the federal amendments that have occurred. If

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the due date for Board adoption of amendments in this docket is January 1, 2019, the Board will vote to propose amendments and cause a Notice of Proposed Amendments to appear in the *Illinois Register* by late September 2018. This would be sufficiently in advance of the due date to allow the Board to accept public comments on the proposal for 45 days before acting to adopt any amendments.

- E) Effect on small business, small municipalities, or not-for-profit corporations: This rulemaking may affect any small business, small municipality, or not-for-profit corporation that engages in the emission of a chemical compound that is the subject of a proposed exemption or proposed deletion from the USEPA list of exempted compounds.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking, noting docket number R19-6, as follows:

Don Brown, Clerk  
Pollution Control Board  
100 West Randolph Street, Suite 11-500  
Chicago IL 60601

Address questions concerning this regulatory agenda, noting docket number R19-6, as follows:

Michael J. McCambridge, Attorney  
Pollution Control Board  
100 West Randolph Street, Suite 11-500  
Chicago IL 60601

312/814-6924  
michael.mccambridge@illinois.gov

- G) Related rulemakings and other pertinent information: No other rulemaking that would affect 35 Ill. Adm. Code 211 is planned at this time. Receipt of a rulemaking proposal pursuant to 415 ILCS 5/27 and 28, however, could cause the Board to initiate a rulemaking at any time.

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Section 9.1(e) of the Environmental Protection Act [415 ILCS 5/9.1(e)] provides that Title VII of the Act and Section 5 of the Administrative Procedure Act (APA) [5 ILCS 100/5-35, 40] shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules. Rather, the Board will cause a Notice of Proposed Amendments to appear in the *Illinois Register*, and it will accept public comments on the proposal for 45 days after the date of publication.

- c) Part (Heading and Code Citation): Definitions and General Provisions (35 Ill. Adm. Code 243)
- 1) Rulemaking: Docket number R19-5
- A) Description: Section 10(H) to the Environmental Protection Act [415 ILCS 5/10(H)] mandates that the Board adopt ambient air quality standards that are identical-in-substance to the National Ambient Air Quality Standards (NAAQS) adopted by USEPA pursuant to section 109 of the federal Clean Air Act (42 USC § 7409). USEPA has codified the primary and secondary NAAQS at 40 CFR 50, including provisions relative to methods for monitoring ambient air quality for the several contaminants (particulate matter, nitrogen oxides, sulfur oxides, ozone, carbon monoxide, and lead). Various other federal regulations relate to aspects of the NAAQS, such as 40 CFR 53 prescribing the procedure for approval of equivalent and reference methods and 40 CFR 81 designating air quality monitoring regions and setting forth their attainment/non-attainment status.

The Board has reserved docket number R19-5 to accommodate any federal amendments to the NAAQS that USEPA may make during the period January 1, 2018 through June 30, 2018. The Board is presently aware of one federal action with regard to the federal NAAQS that occurred during this update period. That action, and the Board action in response, is described as follows:

February 13, 2018 (83 Fed. Reg. 6174): USEPA designated one new FRM for nitrogen oxides (NO<sub>x</sub>) in ambient air. The Board must incorporate this designation by reference in the Illinois rules.

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In coming weeks, by about mid-August 2018, the Board will verify the existence of any other federal actions that may affect the federal NAAQS and determine the Board action required in response to each. The Board will then include that action in this docket to make the Illinois ambient air quality standards identical-in-substance to the federal NAAQS in this docket R19-5, as necessary and appropriate.

Section 10(H) mandates that the Board complete amendments within one year of the date on which USEPA adopted the earliest action upon which the amendments are based. Since the earliest USEPA action that will require Board action occurred on February 13, 2018, the due date for Board adoption of amendments in docket R19-5 would be February 13, 2019.

To meet a due date of February 13, 2019, the Board would vote to propose amendments and cause a Notice of Proposed Amendments to appear in the *Illinois Register* by late October 2018. This would be sufficiently in advance of the due date to allow the Board to accept public comments on the proposal for 45 days before acting to adopt any amendments. Alternatively, if no amendment to the Illinois definition is needed, the Board will promptly dismiss the reserved docket R19-5.

- B) Statutory Authority: Implementing and authorized by Sections 7.2, 10(H), and 27 of the Environmental Protection Act [415 ILCS 5/7.2, 10(H) & 27].
- C) Scheduled meeting/hearing dates: None scheduled at this time. The Board will vote to propose any amendments at an open meeting in accordance with requirements established by Sections 27 and 28 of the Act [415 ILCS 5/27 & 28]. The Board may then schedule and conduct at least one public hearing, if required by Section 110(a) of the federal Clean Air Act (42 USC § 7418) for amendment of the Illinois SIP for any air contaminant, should the Board deem such authorized and required.
- D) Date Agency anticipates First Notice: The Board cannot project an exact date for publication at this time. The Board expects to verify any federal actions by mid-August 2018, after which time the Board will either propose any necessary amendments to the Illinois ambient air quality standards that are necessary to ensure that they are identical-in-substance

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to the federal NAAQS. Since the due date for Board adoption of amendments in this docket is February 13, 2019, the Board will vote to propose amendments and cause a Notice of Proposed Amendments to appear in the *Illinois Register* by Late October 2018. This would be sufficiently in advance of the due date to allow the Board to accept public comments on the proposal for 45 days before acting to adopt any amendments.

- E) Effect on small business, small municipalities, or not-for-profit corporations: This rulemaking may affect any small business, small municipality, or not-for-profit corporation that engages in the emission of an air contaminant or precursor to an air contaminant that is the subject of an NAAQS.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking, noting docket number R19-5, as follows:

Don Brown, Clerk  
Pollution Control Board  
100 West Randolph Street, Suite 11-500  
Chicago IL 60601

Address questions concerning this regulatory agenda, noting docket number R19-5, as follows:

Michael J. McCambridge, Attorney  
Pollution Control Board  
100 West Randolph Street, Suite 11-500  
Chicago IL 60601

312/814-6924  
michael.mccambridge@illinois.gov

- G) Related rulemakings and other pertinent information: No other rulemaking that would affect 35 Ill. Adm. Code 243 is planned at this time. Receipt of a rulemaking proposal pursuant to 415 ILCS 5/27 and 28, however, could cause the Board to initiate a rulemaking at any time.

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Section 10(H) of the Environmental Protection Act [415 ILCS 5/10(H)] provides that Title VII of the Act and Section 5 of the Administrative Procedure Act (APA) [5 ILCS 100/5-35, 40] shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules. Rather, the Board will cause a Notice of Proposed Amendments to appear in the *Illinois Register*, and it will accept public comments on the proposal for 45 days after the date of publication.

d) Parts (Heading and Code Citation):

Introduction (35 Ill. Adm. Code 301)

Water Quality Standards (35 Ill. Adm. Code 302)

Water Use Designations and Site-Specific Water Quality Standards (35 Ill. Adm. Code 303)

Effluent Standards (35 Ill. Adm. Code 304)

Monitoring and Reporting (35 Ill. Adm. Code 305)

Performance Criteria (35 Ill. Adm. Code 306)

Sewer Discharge Criteria (35 Ill. Adm. Code 307)

Disposal of Wastes from Watercraft (35 Ill. Adm. Code 308)

Permits (35 Ill. Adm. Code 309)

Pretreatment Programs (35 Ill. Adm. Code 310)

Treatment Plant Operator Certification (35 Ill. Adm. Code 312)

1) Rulemaking: Docket number R18-23

- A) Description: On January 10, 2018, the Illinois Environmental Protection Agency filed a rulemaking proposal to update various subtitles of the Board's rules. The Agency stated that it reviewed Board rules to identify provisions to revise or repeal in response to the Governor's Executive Order 2016-13. The Executive Order requires each State agency under the jurisdiction of the Governor to review its regulations to determine which of them are outdated, repetitive, confusing, unnecessary, or harmful to the economy. The Agency proposes amendments to Parts 301-304, 306, 309 and considers these amendments to be non-substantive. Independent of the Agency's proposal, the Board is reviewing its Subtitle C water pollution regulations (35 Ill. Adm. Code 301-312) to propose additional amendments that remove obsolete, repetitive, confusing, or otherwise unnecessary rule language.

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- B) Statutory Authority: Implementing and authorized by Sections 13 and 27 of the Environmental Protection Act [415 ILCS 5/13 & 27].
- C) Scheduled meeting/hearing dates: Hearings have not been scheduled.
- D) Date Agency anticipates First Notice: The Board anticipates that a Notice of Proposed Rules will be published in the *Illinois Register* within the next twelve months.
- E) Effect on small businesses, small municipalities or not-for-profit corporations: This rulemaking is not expected to affect any small business, small municipality, or not-for-profit corporations because the proposed amendments are non-substantive. The Board expects to propose only non-substantive changes so that this rule continues to apply to the maintenance, enhancement, and restoration of waters of the State and the prevention of water pollution.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking to:

Don Brown, Clerk  
Pollution Control Board  
100 West Randolph Street, Suite 11-500  
Chicago IL 60601

[don.brown@illinois.gov](mailto:don.brown@illinois.gov)

Address questions concerning this regulatory agenda to:

Natalie Winqvist  
Pollution Control Board  
100 W. Randolph St.  
Chicago IL 60601

312/814-6931  
[natalie.winqvist@illinois.gov](mailto:natalie.winqvist@illinois.gov)



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- G) Related rulemakings and other pertinent information: In R 2014-024, Proposed Site-Specific Rule for Sanitary District of Decatur form 35 Ill. Adm. Code 302.208(e), the District has proposed to add 35 Ill. Adm. Code 303.410 establishing a site-specific chronic water quality standard for dissolved nickel. The Board may adopt a first-notice proposal in the second half of calendar year 2018.

e) Parts (Headings and Code Citations):

Sewer Discharge Criteria (35 Ill. Adm. Code 307)  
Pretreatment Programs (35 Ill. Adm. Code 310)

1) Rulemaking: Docket number R19-4

- A) Description: Section 13.3 of the Environmental Protection Act [415 ILCS 5/13.3] mandates that the Board update the Illinois wastewater pretreatment regulations to reflect revisions made to the federal wastewater pretreatment rules made by the United States Environmental Protection Agency (USEPA).

The Board has reserved docket number R19-4 to accommodate any amendments to the federal wastewater pretreatment rules, 40 CFR 400 through 499, that the USEPA may have made in the period January 1, 2018 through June 30, 2018. The Board is presently aware of one federal action during this update period that may affect the federal wastewater pretreatment regulations. Those actions, and the Board actions in response, are described as follows:

February 6, 2018 (83 Fed. Reg. 5200): USEPA delayed the effective date of the definition of "waters of the United States. If the Board determines that this delay affects the applicability or effect of the wastewater pretreatment rules, the Board must incorporate the delay into the Illinois regulations.

The Board will verify the existence of any other federal actions that may affect the text of the federal wastewater pretreatment regulations and determine the Board action required in response to each set of federal amendments in coming weeks, by about mid-August 2018. The Board will then propose corresponding amendments to the Illinois wastewater

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pretreatment regulations using the identical-in-substance procedure under docket R19-4, as necessary and appropriate.

Section 13.3 of the Act mandates that the Board complete amendments within one year of the date on which USEPA adopted the earliest action upon which the amendments are based. Since the earliest USEPA action that may require Board action occurred on February 6, 2018, the due date for Board adoption of amendments in docket R19-4 would be February 6, 2019.

- B) Statutory Authority: Implementing and authorized by Sections 7.2, 13, 13.3, and 27 of the Environmental Protection Act [415 ILCS 5/7.2, 13, 13.3 & 27].
- C) Scheduled meeting/hearing dates: None scheduled at this time. The Board will vote to propose any amendments at an open meeting in accordance with requirements established by Sections 27 and 28 of the Act [415 ILCS 5/27 & 28]. No hearing is required in identical-in-substance proceedings.
- D) Date Agency anticipates First Notice: The Board cannot project an exact date for publication at this time. The Board expects to verify any federal actions by mid-August 2018, after which time the Board will propose any amendments to the Illinois wastewater treatment rules that are necessary in response to the federal amendments that have occurred. If the due date for Board adoption of amendments in this docket is assumed to be February 6, 2019, the Board will vote to propose amendments and cause a Notice of Proposed Amendments to appear in the *Illinois Register* by late October 2018. This would be sufficiently in advance of the due date to allow the Board to accept public comments on the proposal for 45 days before acting to adopt any amendments. Alternatively, if no amendment to the Illinois wastewater pretreatment rules is needed, the Board will promptly dismiss this reserved docket.
- E) Effect on small business, small municipalities, or not-for-profit corporations: This rulemaking may affect any small business, small municipality, or not-for-profit corporation that engages in the discharge of pollutants into the collection system of a publicly-owned treatment works that is the subject of any federal amendments.

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- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking, noting docket number R19-4, as follows:

Don Brown, Clerk  
Pollution Control Board  
100 West Randolph Street, Suite 11-500  
Chicago IL 60601

Address questions concerning this regulatory agenda, noting docket number R19-4, as follows:

Michael J. McCambridge, Attorney  
Pollution Control Board  
100 West Randolph Street, Suite 11-500  
Chicago IL 60601

312/814-6924  
michael.mccambridge@illinois.gov

- G) Related rulemakings and other pertinent information: No other rulemaking that would affect 35 Ill. Adm. Code 307 or 310 is planned at this time. Receipt of a rulemaking proposal pursuant to 415 ILCS 5/27 and 28, however, could cause the Board to initiate a rulemaking at any time.

Section 13.3 of the Environmental Protection Act provides that Title VII of the Act and Section 5 of the Administrative Procedure Act (APA) [5 ILCS 100/5-35, 5-40] shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules. Rather, the Board will cause a Notice of Proposed Amendments to appear in the Illinois *Register*, and it will accept public comments on the proposal for 45 days after the date of publication.

- f) Parts (Heading and Code Citation):

General Provisions (35 Ill. Adm. Code 401)

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Definitions (35 Ill. Adm. Code 402)

NPDES Permits (35 Ill. Adm. Code 403)

State Permits (35 Ill. Adm. Code 404)

State and NPDES Permits (35 Ill. Adm. Code 405)

Mine Waste Effluent and Water Quality Standards (35 Ill. Adm. Code 406)

- 1) Rulemaking: Docket number R18-24
  - A) Description: On January 10, 2018, the Illinois Environmental Protection Agency filed a rulemaking proposal to update various subtitles of the Board's rules. The Agency stated that it reviewed Board rules to identify provisions to revise or repeal in response to the Governor's Executive Order 2016-13. The Executive Order requires each State agency under the jurisdiction of the Governor to review its regulations to determine which of them are outdated, repetitive, confusing, unnecessary, or harmful to the economy. The Agency proposes amendments to Parts 401-405 and considers these amendments to be non-substantive. Independent of the Agency's proposal, the Board is reviewing its Subtitle D mine related water pollution regulations (35 Ill. Adm. Code 401-406) to propose additional amendments that remove obsolete, repetitive, confusing, or otherwise unnecessary rule language.
  - B) Statutory Authority: Implementing and authorized by Sections 12, 13, and 27 of the Environmental Protection Act [415 ILCS 5/12, 13, & 27].
  - C) Scheduled meeting/hearing dates: Hearings have not been scheduled.
  - D) Date Agency anticipates First Notice: The Board anticipates that a Notice of Proposed Rules will be published in the *Illinois Register* within the next twelve months.
  - E) Effect on small businesses, small municipalities or not-for-profit corporations: This rulemaking is not expected to affect any small business, small municipality, or not-for-profit corporations because the proposed amendments are non-substantive. The Board expects to propose only non-substantive changes so that this rule continues to apply to water pollution caused by mine discharges and non-point source mine discharges.

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- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking to:

Don Brown, Clerk  
Pollution Control Board  
100 West Randolph Street, Suite 11-500  
Chicago IL 60601

don.brown@illinois.gov

Address questions concerning this regulatory agenda to:

Natalie Winqvist  
Pollution Control Board  
100 W. Randolph St.  
Chicago IL 60601

312/814-6931  
natalie.winqvist@illinois.gov

- G) Related rulemakings and other pertinent information: No other rulemaking that would affect the proposed amendments to Subtitle D is now planned.

g) Parts (Heading and Code Citation):

General Provisions (35 Ill. Adm. Code 501)  
Permits (35 Ill. Adm. Code 502)  
Other Agricultural and Silvicultural Activities (35 Ill. Adm. Code 503)  
Livestock Waste Regulations (35 Ill. Adm. Code 506)

1) Rulemaking: Docket number R18-25

- A) Description: On January 10, 2018, the Illinois Environmental Protection Agency filed a rulemaking proposal to update various subtitles of the Board's rules. The Agency stated that it reviewed Board rules to identify provisions to revise or repeal in response to the Governor's Executive Order 2016-13. The Executive Order requires each State agency under the jurisdiction of the Governor to review its regulations to determine which

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of them are outdated, repetitive, confusing, unnecessary, or harmful to the economy. The Agency proposes limited amendments to Part 501 and considers these amendments to be non-substantive. Independent of the Agency's proposal, the Board is reviewing its Subtitle E agriculture related water pollution regulations (35 Ill. Adm. Code 501-506) to propose additional amendments that remove obsolete, repetitive, confusing, or otherwise unnecessary rule language.

- B) Statutory Authority: Implementing and authorized by Sections 9, 12, 13, 21, 22, and 27 of the Environmental Protection Act [415 ILCS 5/9, 12, 13, 21, 22, & 27].
- C) Scheduled meeting/hearing dates: Hearings have not been scheduled.
- D) Date Agency anticipates First Notice: The Board anticipates that a Notice of Proposed Rules will be published in the *Illinois Register* within the next twelve months.
- E) Effect on small businesses, small municipalities or not-for-profit corporations: This rulemaking is not expected to affect any small business, small municipality, or not-for-profit corporations because the proposed amendments are non-substantive. The Board expects to propose only non-substantive changes so that this rule continues to apply to the equipment or facilities capable of causing air and water pollution.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking to:

Don Brown, Clerk  
Pollution Control Board  
100 West Randolph Street, Suite 11-500  
Chicago IL 60601

[don.brown@illinois.gov](mailto:don.brown@illinois.gov)

Address questions concerning this regulatory agenda to:

Natalie Winquist  
Pollution Control Board

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100 W. Randolph St.  
Chicago IL 60601

312/814-6931  
natalie.winqvist@illinois.gov

- G) Related rulemakings and other pertinent information: No other rulemaking that would affect the proposed amendments to Subtitle E is now planned.

h) Parts (Heading and Code Citation):

Introduction (35 Ill. Adm. Code 601)

Permits (35 Ill. Adm. Code 602)

Ownership and Responsible Personnel (35 Ill. Adm. Code 603)

Operation and Record Keeping (35 Ill. Adm. Code 607)

Primary Drinking Water Standards (35 Ill. Adm. Code 611)

Existing Activities in a Setback Zone or Regulated Recharge Area (35 Ill. Adm. Code 615)

New Activities in A Setback Zone or Regulated Recharge Area (35 Ill. Adm. Code 616)

Regulated Recharge Areas (35 Ill. Adm. Code 617)

Maximum Setback Zones (35 Ill. Adm. Code 618)

Groundwater Quality (35 Ill. Adm. Code 620)

1) Rulemaking: Docket number R18-26

- A) Description: On January 10, 2018, the Illinois Environmental Protection Agency filed a rulemaking proposal to update various subtitles of the Board's rules. The Agency stated that it reviewed Board rules to identify provisions to revise or repeal in response to the Governor's Executive Order 2016-13. The Executive Order requires each State agency under the jurisdiction of the Governor to review its regulations to determine which of them are outdated, repetitive, confusing, unnecessary, or harmful to the economy. The Agency proposes amendments to Parts 611, 615-617 and considers these amendments to be non-substantive. Independent of the Agency's proposal, the Board is reviewing its Subtitle F public water supply regulations (35 Ill. Adm. Code 601-620) to propose additional amendments that remove obsolete, repetitive, confusing, or otherwise unnecessary rule language.

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- B) Statutory Authority: Implementing and authorized by Sections 17 and 27 of the Environmental Protection Act [415 ILCS 5/17 & 27].
- C) Scheduled meeting/hearing dates: Hearings have not been scheduled.
- D) Date Agency anticipates First Notice: The Board anticipates that a Notice of Proposed Rules will be published in the *Illinois Register* within the next twelve months.
- E) Effect on small businesses, small municipalities or not-for-profit corporations: This rulemaking should not affect any small business, small municipality, or not-for-profit corporations because the proposed *amendments* are non-substantive. The Board expects to propose only non-substantive changes so that this rule continues to apply to the operation and maintenance of public water supply facilities and the safety, quality, quantity, and characteristics of water for consumption.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking to:

Don Brown, Clerk  
Pollution Control Board  
100 West Randolph Street, Suite 11-500  
Chicago IL 60601

[don.brown@illinois.gov](mailto:don.brown@illinois.gov)

Address questions concerning this regulatory agenda to:

Natalie Winqvist  
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- G) Related rulemakings and other pertinent information: A pending rulemaking before the Board, R 2018-017, may affect the proposed amendments to Subtitle F.
- i) Part (Heading and Code Citation): Primary Drinking Water Standards (35 Ill. Adm. Code 611)
- 1) Rulemaking: Docket number R19-7
- A) Description: Section 17.5 of the Environmental Protection Act [415 ILCS 5/17.5] mandates that the Board update the Illinois drinking water regulations to reflect the USEPA amendments to the federal Safe Drinking Water Act (SDWA) primary drinking water regulations.
- The Board has reserved docket number R19-7 to accommodate any amendments to the SDWA National Primary Drinking Water Standards (NPDWRs), 40 CFR 141 through 143, that the United States Environmental Protection Agency (USEPA) may make in the period January 1, 2018 through June 30, 2018. The Board is presently not aware of any federal action during this update period that affected the federal definition of VOM.
- In coming weeks, by about mid-August 2018, the Board will verify the existence of any federal actions that affect the federal NPDWRs and determine any action required in response. The Board will then propose corresponding amendments to the Illinois SDWA primary drinking water regulations using the identical-in-substance procedure or dismiss docket R19-7, as necessary and appropriate.
- Section 17.5 mandates that the Board complete amendments within one year of the date on which USEPA adopted the earliest action upon which the amendments are based. Assuming USEPA adopted an amendment that will require Board action on the first day of the update period, January 1, 2018, the due date for Board adoption of amendments in docket R19-7 would be January 1, 2019.
- B) Statutory Authority: Implementing and authorized by Sections 17, 17.5, and 27 of the Environmental Protection Act [415 ILCS 5/17, 17.5 & 27].

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- C) Scheduled meeting/hearing dates: None scheduled at this time. The Board will vote to propose any amendments at an open meeting in accordance with requirements established by Sections 27 and 28 of the Act [415 ILCS 5/27 & 28]. No hearing is required in identical-in-substance proceedings.
- D) Date Agency anticipates First Notice: The Board cannot project an exact date for publication at this time. The Board expects to verify any federal actions by mid-August 2018, after which time the Board will propose any amendments to the Illinois SDWA drinking water rules that are necessary in response to the federal amendments that have occurred. If the due date for Board adoption of amendments in this docket were assumed to be January 1, 2019, the Board will vote to propose amendments and cause a Notice of Proposed Amendments to appear in the *Illinois Register* before late-September 2018. This would be sufficiently in advance of the due date to allow the Board to accept public comments on the proposal for 45 days before acting to adopt any amendments. Alternatively, if no amendment to the Illinois definition is needed, the Board will promptly dismiss this reserved docket.
- E) Effect on small business, small municipalities, or not-for-profit corporations: This rulemaking may affect any small business, small municipality, or not-for-profit corporation in Illinois that owns or operates a "public water supply," as defined by Section 3.28 of the Act, i.e., it has at least fifteen service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year, or it is assisting a public water supply to demonstrate compliance.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking, noting docket number R19-7, as follows:

Don Brown, Clerk  
Pollution Control Board  
100 West Randolph Street, Suite 11-500  
Chicago IL 60601

Address questions concerning this regulatory agenda, noting docket number R19-7, as follows:

## POLLUTION CONTROL BOARD

## JULY 2018 REGULATORY AGENDA

Michael J. McCambridge, Attorney  
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Chicago IL 60601

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- G) Related rulemakings and other pertinent information: No other rulemaking that would affect 35 Ill. Adm. Code 611 is planned at this time. Receipt of a rulemaking proposal pursuant to 415 ILCS 5/27 and 28, however, could cause the Board to initiate a rulemaking at any time.

Section 17.5 of the Environmental Protection Act [415 ILCS 5/17.5] provides that Title VII of the Act and Section 5 of the Administrative Procedure Act (APA) shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules. Rather, the Board will cause a Notice of Proposed Amendments to appear in the *Illinois Register*, and it will accept public comments on the proposal for 45 days after the date of publication.

j) Parts (Heading and Code Citation):

Outline of Waste Disposal Regulations (35 Ill. Adm. Code 700)  
RCRA And UIC Permit Programs (35 Ill. Adm. Code 702)  
RCRA Permit Program (35 Ill. Adm. Code 703)  
UIC Permit Program (35 Ill. Adm. Code 704)  
Procedures for Permit Issuance (35 Ill. Adm. Code 705)  
Wastestream Authorizations (35 Ill. Adm. Code 709)  
Fees (35 Ill. Adm. Code 718)  
Hazardous Waste Management System: General (35 Ill. Adm. Code 720)  
Identification and Listing of Hazardous Waste (35 Ill. Adm. Code 721)  
Standards Applicable to Generators of Hazardous Waste (35 Ill. Adm. Code 722)  
Standards Applicable to Transporters of Hazardous Waste (35 Ill. Adm. Code 723)  
Standards for Owners and Operators of Hazardous Waste Treatment, Storage, And Disposal Facilities (35 Ill. Adm. Code 724)

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Interim Status Standards for Owners and Operators Of Hazardous Waste Treatment, Storage, and Disposal Facilities (35 Ill. Adm. Code 725)

Standards for The Management of Specific Hazardous Waste And Specific Types Of Hazardous Waste Management Facilities (35 Ill. Adm. Code 736)

Standards for Owners and Operators of Hazardous Waste Facilities Operating Under a RCRA Standardized Permit (35 Ill. Adm. Code 727)

Land Disposal Restrictions (35 Ill. Adm. Code 728)

Prohibited Hazardous Wastes In Land Disposal Units (35 Ill. Adm. Code 729)

Underground Injection Control Operating Requirements (35 Ill. Adm. Code 730)

Underground Storage Tanks (35 Ill. Adm. Code 731)

Petroleum Underground Storage Tanks (Releases Reported September 23, 1994, Through June 23, 2002) (35 Ill. Adm. Code 732)

Standards for Universal Waste Management (35 Ill. Adm. Code 733)

Petroleum Underground Storage Tanks (Releases Reported On Or After June 24, 2002) (35 Ill. Adm. Code 734)

Hazardous Waste Injection Restrictions (35 Ill. Adm. Code 738)

Standards for The Management of Used Oil (35 Ill. Adm. Code 739)

Site Remediation Program (35 Ill. Adm. Code 740)

Proportionate Share Liability (35 Ill. Adm. Code 741)

Tiered Approach to Corrective Action Objectives (35 Ill. Adm. Code 742)

Prior Conduct Certification (35 Ill. Adm. Code 745)

Illinois Hazardous Substances Pollution Contingency Plan (35 Ill. Adm. Code 750)

Solid Waste (35 Ill. Adm. Code 807)

Special Waste Classifications (35 Ill. Adm. Code 808)

Nonhazardous Special Waste Hauling and the Uniform Program (35 Ill. Adm. Code 809)

Solid Waste Disposal: General Provisions (35 Ill. Adm. Code 810)

Standards for New Solid Waste Landfills (35 Ill. Adm. Code 811)

Information to Be Submitted in A Permit Application (35 Ill. Adm. Code 812)

Procedural Requirements for Permitted Landfills (35 Ill. Adm. Code 813)

Standards for Existing Landfills and Units (35 Ill. Adm. Code 814)

Procedural Requirements for All Landfills Exempt from Permits (35 Ill. Adm. Code 815)

Alternative Standards for Coal Combustion Power Generating Facilities Waste Landfills (35 Ill. Adm. Code 816)

Requirements for New Steel and Foundry Industry Wastes Landfills (35 Ill. Adm. Code 817)

Standards for Compost Facilities (35 Ill. Adm. Code 830)

Information to Be Submitted in A Compost Facility Permit Application (35 Ill. Adm. Code 831)

Procedural Requirements for Permitting Compost Facilities (35 Ill. Adm. Code 832)

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Site-Specific Closures of Coal Combustion Waste Surface Impoundments (35 Ill. Adm. Code 840)

Management of Used and Waste Tires (35 Ill. Adm. Code 848)

Management of Scrap Tires (35 Ill. Adm. Code 849)

1) Rulemaking: Docket Number R18-27

- A) Description: The Illinois Environmental Protection Agency (IEPA) filed a proposal on January 10, 2018 to update the Board's rules. The IEPA's filing was prompted by Executive Order 2016-13, which requires each State agency under the jurisdiction of the Governor to review its regulations to determine which of them are outdated, repetitive, confusing, unnecessary, or harmful to the economy. The Board accepted IEPA's proposal in Amendments to 35 Ill. Adm. Code Subtitle B: Air Pollution, docket R18-21, on February 8, 2018. To avoid duplication with the Board's review of its rules, the Board opened eight additional rulemaking dockets—each one limited to a subtitle of the Board's rules—on March 22, 2018.

In this rulemaking, the Board will consider amendments to its waste disposal regulations, within Subtitle G of the Illinois Administrative Code's Title 35, that are not identical in substance to U.S. Environmental Protection Agency regulations. IEPA proposes amendments to four Parts in the Subtitle (Parts 722, 711, 813, and 855) that it believes addresses provisions that are obsolete, duplicative, or otherwise unnecessary.

The Board expects to adopt proposed amendments that incorporate the IEPA's proposal for public comment, without submitting it to the *Illinois Register* for first notice publication, in Summer/Fall of 2018. The Board intends to propose amendments that remove legalese and redundant and superfluous language, as well as reorganize provisions for clarity when appropriate.

- B) Statutory Authority: Implementing Sections 5, 7.2, 10, 13, 21, 21.1, 22, 22.01, 22.2, 22.4–22.7, 22.9, 22.12, 22.13(d), 22.17, 22.26, 22.33–22.35, 22.39, 22.40, 28.1, 39, 40, 55.2, 57.19, 58–58.9, and 58.10–58.15, and Title XVI and Title XVII of the Illinois Environmental Protection Act (415 ILCS 5/5, 7.2, 10, 13, 21, 21.1, 22, 22.01, 22.2, 22.4–22.7, 22.9, 22.12, 22.13(d), 22.17, 22.26, 22.33–22.35, 22.39, 22.40, 28.1, 39, 40,

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55.2, 57.19, 58–58.9, and 58.10–58.15, and Title XVI and Title XVII) and Section 8 of the Illinois Groundwater Protection Act (415 ILCS 55/8).

Authorized by Sections 5, 22, 22.6, 22.7, 27, 28, 57.14A, 58.5–58.7, 58.9(d), 58.11, 58.14, and 58.15 of the Illinois Environmental Protection Act (415 ILCS 5/5, 22, 22.6, 22.7, 27, 28, 57.14A, 58.5–58.7, 58.9(d), 58.11, 58.14, and 58.15) and Section 8 of the Illinois Groundwater Protection Act (415 ILCS 55/8).

- C) Scheduled meeting/hearing dates: The Board intends to hold at least two hearings during the public comment period by videoconference in Chicago and Springfield.
- D) Date Agency anticipates First Notice: The Board expects to consider this rulemaking for first notice publication in the *Illinois Register* in the Winter of 2018-2019.
- E) Effect on small business, small municipalities or not-for-profit corporations: This rulemaking may have an effect any small business, small municipality, or not-for-profit in Illinois that dispose of waste.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking to:

Don Brown, Clerk  
Pollution Control Board  
100 W Randolph, Suite 11-500  
Chicago IL 60601

Address questions concerning this regulatory agenda to:

Martín Klein  
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## POLLUTION CONTROL BOARD

## JULY 2018 REGULATORY AGENDA

And

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

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- G) Related rulemakings and other pertinent information: On May 24, 2018, the Board proposed amendments to several Parts in 35 Ill. Adm. Code Subtitle G in an identical in substance rulemaking. The proposed amendments can be found in RCRA Subtitle D Update (July 1, 2016 through December 31, 2016) (Docket No. R17-14), RCRA Subtitle C Update (July 1, 2016 through December 31, 2016) (Docket No. R17-15), RCRA Subtitle C Update (January 1, 2016 through June 30, 2017) (Docket No. R18-12), UIC Update: Miscellaneous Non-Substantive Revisions and Corrections to 35 Ill. Adm. Code 704, 705, 730, and 738 (Docket No. R18-31) (consolidated) (May 24, 2018).

For information regarding the Agency's development of this proposal, please contact:

Gabriel H. Neibergall  
Division of Legal Counsel  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield IL 62794-9276

Gabriel.Neibergall@Illinois.Gov

- k) Parts (Headings and Code Citations):

RCRA and UIC Permit Programs (35 Ill. Adm. Code 702)  
UIC Permit Program (35 Ill. Adm. Code 704)  
Procedures for Permit Issuance (35 Ill. Adm. Code 705)  
Hazardous Waste Management System: General (35 Ill. Adm. Code 720)

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Underground Injection Control Operating Requirements (35 Ill. Adm. Code 730)  
Hazardous Waste Injection Restrictions (35 Ill. Adm. Code 738)

1) Rulemaking: Presently reserved docket number R19-1

- A) Description: Section 13(c) of the Environmental Protection Act [415 ILCS 5/13(c)] mandates that the Board update the Illinois underground injection control (UIC) regulations to reflect amendments to the United States Environmental Protection Agency (USEPA) UIC regulations.

The Board has reserved docket number R19-1 to accommodate any amendments to the federal UIC regulations, 40 CFR 144 through 148, during the period January 1, 2018 through June 30, 2018. The Board is presently not aware of any federal amendments to the federal UIC rules that occurred during this update period.

The Board will verify the existence of any federal actions that affect the UIC regulations and determine the Board action required in response to each in coming weeks, by about mid-August 2018. The Board will then propose corresponding amendments to the Illinois UIC regulations using the identical-in-substance procedure or dismiss docket R19-1, as necessary and appropriate.

Section 13(c) mandates that the Board complete amendments within one year of the date on which USEPA adopted the earliest action upon which the amendments are based. Assuming for the purposes of illustration that USEPA adopted an amendment that will require Board action on the first day of the update period, on January 1, 2018, the due date for Board adoption of amendments in docket R19-1 would be January 1, 2019.

- B) Statutory Authority: Implementing and authorized by Sections 7.2, 13(c) and 27 of the Environmental Protection Act [415 ILCS 5/7.2, 13(c) & 27].
- C) Scheduled meeting/hearing dates: None scheduled at this time. The Board will vote to propose any amendments at an open meeting in accordance with requirements established by Sections 27 and 28 of the Act [415 ILCS 5/27 & 28]. No hearing is required in identical-in-substance proceedings.



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- D) Date Agency anticipates First Notice: The Board cannot project an exact date for publication at this time. The Board expects to verify any federal actions by mid-August 2018, after which time the Board will propose any amendments to the Illinois UIC rules that are necessary in response to the federal amendments that have occurred. If the due date for Board adoption of amendments in this docket were assumed to be January 1, 2019, the Board will vote to propose amendments and cause a Notice of Proposed Amendments to appear in the *Illinois Register* by late September 2018. This would be sufficiently in advance of the due date to allow the Board to accept public comments on the proposal for 45 days before acting to adopt any amendments. Alternatively, if no amendment to the Illinois definition is needed, the Board will promptly dismiss this reserved docket.
- E) Effect on small business, small municipalities, or not-for-profit corporations: This rulemaking may affect any small business, small municipality, or not-for-profit corporation in Illinois to the extent the affected entity engages in the underground injection of waste.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking, noting docket number R19-1, as follows:

Don Brown, Clerk  
Pollution Control Board  
100 West Randolph Street, Suite 11-500  
Chicago IL 60601

Address questions concerning this regulatory agenda, noting docket number R19-1, as follows:

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## POLLUTION CONTROL BOARD

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- G) Related rulemakings and other pertinent information: The pending consolidated RCRA Subtitle D and RCRA Subtitle C update for the periods and July 1, 2016 through December 31, 2016 and UIC corrections docket (R17-14/R17-15/R18-12/R18-31) affects 35 Ill. Adm. Code 35 Ill. Adm. Code 702, 705, and 720. The reserved RCRA Subtitle C update docket for the period January 1, 2018 through June 30, 2018 (R19-2) (see item (I) below), and other, as yet unknown, unrelated Board proceedings may affect 35 Ill. Adm. Code 702, 705, or 720. Receipt of a rulemaking proposal pursuant to 415 ILCS 5/27 and 28, however, could cause the Board to initiate a rulemaking at any time.

Section 13(c) of the Environmental Protection Act [415 ILCS 5/13(c)] provides that Title VII of the Act and Section 5 of the Administrative Procedure Act (APA) shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules. Rather, the Board will cause a Notice of Proposed Amendments to appear in the *Illinois Register*, and it will accept public comments on the proposal for 45 days after the date of publication.

1) Parts (Headings and Code Citations):

RCRA AND UIC Permit Programs (35 Ill. Adm. Code 702)  
RCRA Permit Program (35 Ill. Adm. Code 703)  
Procedures for Permit Issuance (35 Ill. Adm. Code 705)  
Hazardous Waste Management System: General (35 Ill. Adm. Code 720)  
Identification and Listing of Hazardous Waste (35 Ill. Adm. Code 721)  
Standards Applicable to Generators of Hazardous Waste (35 Ill. Adm. Code 722)  
Standards Applicable to Transporters of Hazardous Waste (35 Ill. Adm. Code 723)  
Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities (35 Ill. Adm. Code 724)  
Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities (35 Ill. Adm. Code 725)  
Standards for the Management of Specific Hazardous Waste and Specific Types of Hazardous Waste Management Facilities (35 Ill. Adm. Code 726)  
Land Disposal Restrictions (35 Ill. Adm. Code 728)  
Standards for Universal Waste Management (35 Ill. Adm. Code 733)  
Hazardous Waste Injection Restrictions (35 Ill. Adm. Code 738)  
Standards for the Management of Used Oil (35 Ill. Adm. Code 739)

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1) Rulemaking: Docket number R19-2

- A) Description: Section 22.4(a) of the Environmental Protection Act [415 ILCS 5/22.4(a)] mandates that the Board update the Illinois rules implementing Subtitle C of the federal Resource Conservation and Recovery Act (RCRA) to reflect the United States Environmental Protection Agency (USEPA) amendments to the federal RCRA Subtitle C regulations.

The Board has reserved docket number R19-2 to accommodate any amendments to the federal RCRA Subtitle C program, 40 CFR 260 through 270, 273, and 279, that USEPA made in the period January 1, 2018 through June 30, 2018. The Board is presently aware of two federal action during this update period that affected the federal RCRA Subtitle C hazardous waste regulations:

January 3, 2018 (83 Fed. Reg. 420): USEPA modified the hazardous waste manifest requirements and adopted rules instituting user fees for use of the Electronic Hazardous Waste Manifest System. The Board must incorporate the revisions to the manifest requirements that are federally authorizable into the Illinois rules. The Board will need to ignore segments of the user fees provisions that are not federally authorizable because USEPA will directly implement them.

May 30, 2018 (83 Fed. Reg. 24664): USEPA revised the Definition of Solid Waste Rule in response to a judicial vacatur. The Board must make corresponding changes in the Illinois rules to avoid them continuing to be more stringent than the federal DSWR.

The Board will verify the existence of any federal actions that affect the RCRA Subtitle C regulations and determine the Board action required in response to each in coming weeks, by about mid-August 2018. The Board will then propose corresponding amendments to the Illinois federal RCRA Subtitle C-derived hazardous waste regulations using the identical-in-substance procedure or dismiss docket R19-2, as necessary and appropriate.

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Section 22.4(a) mandates that the Board complete amendments within one year of the date on which USEPA adopted the earliest action upon which the amendments are based. Since the earliest USEPA action that requires Board action occurred on January 3, 2018, the due date for Board adoption of amendments in docket R19-2 is January 3, 2019.

- B) Statutory Authority: Implementing and authorized by Sections 7.2, 22.4(a), and 27 of the Environmental Protection Act [415 ILCS 5/7.2, 22.4(a) & 27].
- C) Scheduled meeting/hearing dates: None scheduled at this time. The Board will vote to propose any amendments at an open meeting in accordance with requirements established by Sections 27 and 28 of the Act [415 ILCS 5/27 & 28]. No hearing is required in identical-in-substance proceedings.
- D) Date Agency anticipates First Notice: The Board cannot project an exact date for publication at this time. The Board expects to verify any federal actions by mid-August 2018, after which time the Board will propose any amendments to the Illinois RCRA Subtitle C hazardous waste rules that are necessary in response to the federal amendments that have occurred. If the due date for Board adoption of amendments in this docket is January 3, 2019, the Board will vote to propose amendments and cause a Notice of Proposed Amendments to appear in the *Illinois Register* before early September 2018. This would be sufficiently in advance of the due date to allow the Board to accept public comments on the proposal for 45 days before acting to adopt any amendments. It would also allow 30 days from the date of a Board vote to adopt amendments for USEPA to review the amendments before they are filed with the Office of the Secretary of State.
- E) Effect on small business, small municipalities, or not-for-profit corporations: This rulemaking may affect any small business, small municipality, or not-for-profit corporation that engages in the generation, transportation, treatment, storage, or disposal of hazardous waste.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking, noting docket number R19-2, as follows:

## POLLUTION CONTROL BOARD

## JULY 2018 REGULATORY AGENDA

Don Brown, Clerk  
Pollution Control Board  
100 West Randolph Street, Suite 11-500  
Chicago IL 60601

Address questions concerning this regulatory agenda, noting docket number R19-2, as follows:

Michael J. McCambridge, Attorney  
Pollution Control Board  
100 West Randolph Street, Suite 11-500  
Chicago IL 60601

312/814-6924  
michael.mccambridge@illinois.gov

- G) Related rulemakings and other pertinent information: The pending consolidated RCRA Subtitle D and RCRA Subtitle C update for the periods and July 1, 2016 through December 31, 2016 and UIC corrections docket (R17-14/R17-15/R18-12/R18-31) affects 35 Ill. Adm. Code 35 Ill. Adm. Code 702, 703, 705, 720 through 728, and 733, 738, and 739. The reserved UIC update docket for the period January 1, 2018 through June 30, 2018 (R19-7) (see item (k) above) and other, as yet unknown, unrelated Board proceedings may affect any of 35 Ill. Adm. Code 702, 705, and 720. will affect 35 Ill. Adm. Code 35 Ill. Adm. Code. Receipt of a rulemaking proposal pursuant to 415 ILCS 5/27 and 28, however, could cause the Board to initiate a rulemaking at any time.

Section 22.4(a) of the Environmental Protection Act [415 ILCS 5/22.4(a)] provides that Title VII of the Act and Section 5 of the Administrative Procedure Act (APA) shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules. Rather, the Board will cause a Notice of Proposed Amendments to appear in the *Illinois Register*, and it will accept public comments on the proposal for 45 days after the date of publication.

- m) Part (Heading and Code Citation): Underground Storage Tanks (35 Ill. Adm. Code 731)

## POLLUTION CONTROL BOARD

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- 1) Rulemaking: Docket number R19-3
  - A) Description: Section 22.4(d) of the Environmental Protection Act [415 ILCS 5/22.4(d)] mandates that the Board update the Illinois underground storage tank (UST) regulations to reflect amendments to the United States Environmental Protection Agency (USEPA) UST regulations. The mandate specifically excludes federal amendments relating to the design, construction, installation, general operation, release detection, release reporting, release investigation, release confirmation, out-of-service systems, and closure or financial responsibilities for USTs.

The Board has reserved docket number R19-3 to accommodate any amendments to 40 CFR 281 through 283 that USEPA may make in the period January 1, 2018 through June 30, 2018. The Board is presently not aware of any federal amendments to the federal UST regulations that occurred during this update period. The Board will verify the existence of any federal actions and determine the Board action required in response to each in coming weeks, by about mid-August 2018. The Board will then propose corresponding amendments to the Illinois UST regulations using the identical-in-substance procedure or dismiss docket R19-3, as necessary and appropriate.

Section 22.4(d) mandates that the Board complete amendments within one year of the date on which USEPA adopted the earliest action upon which the amendments are based. Assuming for the purposes of illustration that USEPA adopted an amendment that will require Board action on the first day of the update period, on January 1, 2018, the due date for Board adoption of amendments in docket R19-3 is January 1, 2019.
  - B) Statutory Authority: Implementing and authorized by Sections 7.2, 22.4(d), and 27 of the Environmental Protection Act [415 ILCS 5/7.2, 22.4(d) & 27].
  - C) Scheduled meeting/hearing dates: None scheduled at this time. The Board will vote to propose any amendments at an open meeting in accordance with requirements established by Sections 27 and 28 of the Act [415 ILCS 5/27 & 28]. No hearing is required in identical-in-substance proceedings.

## POLLUTION CONTROL BOARD

## JULY 2018 REGULATORY AGENDA

- D) Date Agency anticipates First Notice: The Board cannot project an exact date for publication at this time. The Board expects to verify any federal actions by mid-August 2018, after which time the Board will propose any amendments to the Illinois UST regulations that are necessary in response to the federal amendments that have occurred. If the due date for Board adoption of amendments in this docket were assumed to be January 1, 2019, the Board will vote to propose amendments and cause a Notice of Proposed Amendments to appear in the *Illinois Register* before late September 2018. This would be sufficiently in advance of the due date to allow the Board to accept public comments on the proposal for 45 days before acting to adopt any amendments. Alternatively, if no amendment to the Illinois regulations is needed, the Board will promptly dismiss this reserved docket.
- E) Effect on small business, small municipalities, or not-for-profit corporations: This rulemaking may affect any small business, small municipality, or not-for-profit corporation that owns or operates a UST.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking, noting docket number R19-3, as follows:

Don Brown, Clerk  
Pollution Control Board  
100 West Randolph Street, Suite 11-500  
Chicago IL 60601

Address questions concerning this regulatory agenda, noting docket number R19-3, as follows:

Michael J. McCambridge, Attorney  
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## POLLUTION CONTROL BOARD

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- G) Related rulemakings and other pertinent information: No other rulemaking that would affect 35 Ill. Adm. Code 731 is planned at this time. Receipt of a rulemaking proposal pursuant to 415 ILCS 5/27 and 28, however, could cause the Board to initiate a rulemaking at any time.

Section 22.4(d) of the Environmental Protection Act [415 ILCS 5/22.4(d)] provides that Title VII of the Act and Section 5 of the Administrative Procedure Act (APA) [5 ILCS 100/5-35, 40] shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules. Rather, the Board will cause a Notice of Proposed Amendments to appear in the *Illinois Register*, and it will accept public comments on the proposal for 45 days after the date of publication.

- n) Parts (Headings and Code Citations):

Solid Waste (35 Ill. Adm. Code 807)

Solid Waste Disposal: General Provisions (35 Ill. Adm. Code 810)

Standards for New Solid Waste Landfills (35 Ill. Adm. Code 811)

Information to Be Submitted in a Permit Application (35 Ill. Adm. Code 812)

Procedural Requirements for Permitted Landfills (35 Ill. Adm. Code 813)

Interim Standards for Existing Landfills and Units (35 Ill. Adm. Code 814)

Procedural Requirements for All Landfills Exempt from Permits (35 Ill. Adm. Code 815)

- 1) Rulemaking: Presently reserved docket number R19-1

- A) Description: Section 22.40(a) of the Environmental Protection Act [415 ILCS 5/22.40(a)] mandates that the Board update the Illinois Resource Conservation and Recovery Act (RCRA) Subtitle D municipal solid waste landfill (MSWLF) regulations to reflect the United States Environmental Protection Agency (USEPA) amendments to the federal RCRA Subtitle D MSWLF rules.

The Board has reserved docket number R19-1 to accommodate any amendments to the RCRA Subtitle D MSWLF regulations, 40 CFR 258, that USEPA may make in the period January 1, 2018 through June 30, 2018. The Board is presently not aware of any federal action during this update period that affected the federal RCRA Subtitle D Municipal Solid Waste Landfill regulations. The Board will verify the existence of any



## POLLUTION CONTROL BOARD

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federal actions and determine the Board action required in response to each in coming weeks, by about mid-August 2018. The Board will then propose corresponding amendments to the Illinois RCRA Subtitle D MSWLF regulations using the identical-in-substance procedure or dismiss docket R19-1, as necessary and appropriate.

Section 22.40(a) mandates that the Board complete amendments within one year of the date on which USEPA adopted the earliest action upon which the amendments are based. Assuming USEPA adopted an amendment that will require Board action on the first day of the update period, January 1, 2018, the due date for Board adoption of amendments in docket R19-1 would be January 1, 2019.

- B) Statutory Authority: Implementing and authorized by Sections 7.2, 22.40(a) and 27 of the Environmental Protection Act [415 ILCS 5/7.2, 22.40(a) & 27].
- C) Scheduled meeting/hearing dates: None scheduled at this time. The Board will vote to propose any amendments at an open meeting in accordance with requirements established by Sections 27 and 28 of the Act [415 ILCS 5/27 & 28]. No hearing is required in identical-in-substance proceedings.
- D) Date Agency anticipates First Notice: The Board cannot project an exact date for publication at this time. The Board expects to verify any federal actions by mid-August 2018, after which time the Board will propose any amendments to the Illinois RCRA Subtitle D MSWLF rules that are necessary in response to the federal amendments that have occurred. If the due date for Board adoption of amendments in this docket is January 1, 2019, the Board will vote to propose amendments and cause a Notice of Proposed Amendments to appear in the *Illinois Register* by late September 2018. This would be sufficiently in advance of the due date to allow the Board to accept public comments on the proposal for 45 days before acting to adopt any amendments.
- E) Effect on small business, small municipalities, or not-for-profit corporations: This rulemaking may affect any small business, small municipality, or not-for-profit that engages in the land disposal of municipal solid waste.

## POLLUTION CONTROL BOARD

## JULY 2018 REGULATORY AGENDA

- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking, noting docket number R19-1, as follows:

Don Brown, Clerk  
Pollution Control Board  
100 West Randolph Street, Suite 11-500  
Chicago IL 60601

Address questions concerning this regulatory agenda, noting docket number R19-1, as follows:

Michael J. McCambridge, Attorney  
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100 West Randolph Street, Suite 11-500  
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- G) Related rulemakings and other pertinent information: The pending consolidated RCRA Subtitle D and RCRA Subtitle C update for the periods and July 1, 2016 through December 31, 2016 and UIC corrections docket (R17-14/R17-15/R18-12/R18-31) affects 35 Ill. Adm. Code 35 Ill. Adm. Code 810, 811, and 812. No other rulemaking that would affect any of 35 Ill. Adm. Code 807 and 810 through 815 is planned at this time. Receipt of a rulemaking proposal pursuant to 415 ILCS 5/27 and 28, however, could cause the Board to initiate a rulemaking at any time.

Section 22.40(a) of the Environmental Protection Act [415 ILCS 5/22.40(a)] provides that Title VII of the Act and Section 5 of the Administrative Procedure Act (APA) shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules. Rather, the Board will cause a Notice of Proposed Amendments to appear in the *Illinois Register*, and it will accept public comments on the proposal for 45 days after the date of publication.

## POLLUTION CONTROL BOARD

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o) Parts (Heading and Code Citations):

Radiation Hazards (35 Ill. Adm. Code 1000)

Procedures for Reporting Releases of Radionuclides at Nuclear Power Plants (35 Ill. Adm. Code 1010)

1) Rulemaking: Docket R18-28

- A) Description: On January 10, 2018, the Illinois Environmental Protection Agency filed a rulemaking proposal to update various subtitles of the Board's rules. The Agency stated that it reviewed Board rules to identify provisions to revise or repeal in response to the Governor's Executive Order 2016-13. The Executive Order requires each State agency under the jurisdiction of the Governor to review its regulations to determine which of them are outdated, repetitive, confusing, unnecessary, or harmful to the economy. The Agency proposes amendments to Part 1000, which the Agency considers to be non-substantive. Independent of the Agency's proposal, the Board reviews its Subtitle I Atomic Radiation and intends to propose additional amendments that remove obsolete, repetitive, confusing, or otherwise unnecessary rule language through all Parts of Subtitle I.
- B) Statutory Authority: Implementing and authorized by Sections 13 and 27 of the Environmental Protection Act [415 ILCS 5/13 & 27].
- C) Scheduled meeting/hearing dates: Hearings have not been scheduled.
- D) Date Agency anticipates First Notice: The Board anticipates that a Notice of Proposed Rules will be published in the *Illinois Register* within the next twelve months.
- E) Effect on small businesses, small municipalities or not-for-profit corporations: This rulemaking is not expected to affect any small business, small municipality, or not-for-profit corporations because the proposed amendments are non-substantive. The Board expects to propose only non-substantive changes.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking to:

## POLLUTION CONTROL BOARD

## JULY 2018 REGULATORY AGENDA

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And

Jason James  
Pollution Control Board  
100 W. Randolph St.  
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312/814-6931  
jason.james@illinois.gov

G) Related rulemakings and other pertinent information: None

p) Parts (Heading and Code Citation):

General Provisions (35 Ill. Adm. Code 1420)  
Activity Standards (35 Ill. Adm. Code 1421)  
Design and Operation of Facilities (35 Ill. Adm. Code 1422)

1) Rulemaking: Docket Number R18-29

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- A) Description: The Illinois Environmental Protection Agency (IEPA) filed a proposal on January 10, 2018 to update the Board's rules. The IEPA's filing was prompted by Executive Order 2016-13, which requires each State agency under the jurisdiction of the Governor to review its regulations to determine which of them are outdated, repetitive, confusing, unnecessary, or harmful to the economy. IEPA's proposal would amend regulations that it believes are obsolete, duplicative, or otherwise unnecessary. The Board accepted IEPA's proposal in Amendments to 35 Ill. Adm. Code Subtitle B: Air Pollution, docket R18-21, on February 8, 2018. To avoid duplication with the Board's review of its rules, the Board opened eight additional rulemaking dockets—each one limited to a subtitle of the Board's rules—on March 22, 2018. Among the eight dockets opened by the Board were dockets for Subtitles M and O, for which IEPA proposed no amendments.

In this rulemaking, the Board considers amendments to its potentially infectious medical waste (PIMW) regulations, within Subtitle M of the Illinois Administrative Code's Title 35. The PIMW rules regulate the treatment, packaging, labeling, storage, transportation, and disposal of this type of waste, and apply to generators, transporters, and receiving facilities of this waste.

The Board adopted proposed amendments for public comment, without submitting it to the Illinois Register for first notice publication, on May 10, 2018. The proposed amendments remove legalese and redundant and superfluous language, as well as reorganize some provisions for clarity. In addition, four deletions are proposed for obsolete or unnecessary provisions. The amendments also make additions consistent with amendments to the Act, and change citations and statutory language to comply with the style requirements of the Illinois Administrative Code.

- B) Statutory Authority: Implementing Section 56.2 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/56.2 & 27].
- C) Scheduled meeting/hearing dates: The Board intends to hold at least two hearings during the public comment period by videoconference in Chicago and Springfield.

## POLLUTION CONTROL BOARD

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- D) Date Agency anticipates First Notice: The Board expects to consider this rulemaking for first notice publication in the *Illinois Register* in the Summer of 2018.
- E) Effect on small business, small municipalities or not-for-profit corporations: This rulemaking may have an effect any small business, small municipality, or not-for-profit corporation that engages in the treatment, packaging, labeling, storage, transportation, and disposal of PIMW.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking to:

Don Brown, Clerk  
Pollution Control Board  
100 W Randolph, Suite 11-500  
Chicago IL 60601

Address questions concerning this regulatory agenda to:

Martín Klein  
Pollution Control Board  
100 W Randolph, Suite 11-500  
Chicago IL 60601

312/814-3665  
Martin.E.Klein@Illinois.Gov

- G) Related rulemakings and other pertinent information: None
- q) Part (Heading and Code Citation): Standards and Requirements for Potable Water Supply Well Surveys and for Community Relations Activities Performed in Conjunction with Agency Notice of Threats from Contamination (35 Ill. Adm. Code 1600)
- 1) Rulemaking: Docket number R18-30
- A) Description: On January 10, 2018, the Illinois Environmental Protection Agency filed a rulemaking proposal to update various subtitles of the Board's rules. The Agency stated that it reviewed Board rules to identify

## POLLUTION CONTROL BOARD

## JULY 2018 REGULATORY AGENDA

provisions to revise or repeal in response to the Governor's Executive Order 2016-13. The Executive Order requires each State agency under the jurisdiction of the Governor to review its regulations to determine which of them are outdated, repetitive, confusing, unnecessary, or harmful to the economy. The Agency considers its proposed amendments to be non-substantive. Independent of the Agency's proposal, the Board reviewed its Subtitle O right to know regulations (35 Ill. Adm. Code 1600) to propose amendments that remove obsolete, repetitive, confusing, or otherwise unnecessary rule language as the Agency proposed no such amendments to Part 1600 of the Board's Rules.

- B) Statutory Authority: Implementing and authorized by Sections 25d-3(c), 25d-7(a), and 27 of the Environmental Protection Act [415 ILCS 5/25d-3(c), 25d-7(a), & 27].
- C) Scheduled meeting/hearing dates: Hearings have not been scheduled.
- D) Date Agency anticipates First Notice: The Board anticipates that a Notice of Proposed Rules will be published in the *Illinois Register* within the next twelve months.
- E) Effect on small businesses, small municipalities or not-for-profit corporations: This rulemaking is not expected to affect any small business, small municipality, or not-for-profit corporations because the proposed amendments are non-substantive. The Board expects to propose non-substantive changes so that the rule continues to apply to soil and groundwater contamination threatening potable water supply wells and the response action required in handling these threats
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking to:

Don Brown, Clerk  
Pollution Control Board  
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POLLUTION CONTROL BOARD

JULY 2018 REGULATORY AGENDA

Address questions concerning this regulatory agenda to:

Natalie Winqvist  
Pollution Control Board  
100 W. Randolph St.  
Chicago IL 60601

312/814-6931  
natalie.winqvist@illinois.gov

- G) Related rulemakings and other pertinent information: No other rulemaking that would affect the proposed amendments to Subtitle O is now planned.



## DEPARTMENT OF PUBLIC HEALTH

## JULY 2018 REGULATORY AGENDA

- a) Parts (Heading and Code Citations): Home Health, Home Services, and Home Nursing Agency Code (77 Ill. Adm. Code 245); Alzheimer's Disease and Related Dementias Services Code (77 Ill. Adm. Code 973) (New Part)

1) Rulemaking:

- A) Description: The Department of Public Health will introduce several rulemakings to implement federal regulations for home health agencies to be in compliance with infection control, quality improvement and staffing requirements; and to implement PA 99-822 regarding amendments to the Alzheimer's Disease and Related Dementias Act requiring these agencies that advertise and offer Alzheimer's disease and related dementias management and care for patients and clients to comply with this Part.
- B) Statutory Authority: Home Health, Home Services, and Home Nursing Agency Licensing Act [210 ILCS 55]
- C) Scheduled meeting/hearing dates: Summer 2018
- D) Date Agency anticipates First Notice: Fall 2018
- E) Effect on small businesses, small municipalities or not-for-profit corporations: Home health agencies may be required to develop and implement policies and procedures for a quality assessment and performance improvement (QAPI) program to be in compliance with Medicare regulations that were effective in January 2018. Facilities that advertise services to Alzheimer's and other dementia patients will be required to comply with the Act and the new Part 973.
- F) Agency contact person for information:

Erin Conley  
Rules Coordinator  
Division of Legal Services  
Illinois Department of Public Health  
535 W. Jefferson St., 5th Floor  
Springfield IL 62761

217/782-2043

## DEPARTMENT OF PUBLIC HEALTH

## JULY 2018 REGULATORY AGENDA

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G) Related rulemakings and other pertinent information: None

b) Parts (Heading and Code Citations): Hospital Licensing Requirements (77 Ill. Adm. Code 250); Birth Center Demonstration Program Code (77 Ill. Adm. Code 265)

1) Rulemaking:

A) Description: This rulemaking will implement PA 99-834 regarding mandatory hearing testing for newborn infants, and birth center follow-up program care and postpartum evaluation written policies and procedures regarding, but not limited to, newborn hearing screening.

B) Statutory Authority: Hospital Licensing Act [210 ILCS 85]

C) Scheduled meeting/hearing dates: Summer 2018

D) Date Agency anticipates First Notice: Summer 2018

E) Effect on small businesses, small municipalities or not-for-profit corporations: This rulemaking will impact facilities regulated under the Hospital Licensing Act.

F) Agency contact person for information:

Erin Conley  
Rules Coordinator  
Division of Legal Services  
Illinois Department of Public Health  
535 W. Jefferson St., 5th Floor  
Springfield IL 62761

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G) Related rulemakings and other pertinent information: The Department will propose additional amendments to Part 250 as described in this regulatory agenda.

## DEPARTMENT OF PUBLIC HEALTH

## JULY 2018 REGULATORY AGENDA

c) Part (Heading and Code Citation): Hospital Licensing Requirements (77 Ill. Adm. Code 250)1) Rulemaking:

- A) Description: The Department will introduce several rulemaking to implement the following: PA 100-306, which prohibits hospitals from maintaining a list of who may not be admitted to the hospital; new requirements on anesthesia; requirement for strike notifications; and amend notification requirements related to allegation of abuse.
- B) Statutory Authority: Hospital Licensing Act [210 ILCS 85]
- C) Scheduled meeting/hearing dates: August 2018
- D) Date Agency anticipates First Notice: Fall 2018
- E) Effect on small businesses, small municipalities or not-for-profit corporations: This rulemaking will impact facilities regulated under the Hospital Licensing Act.
- F) Agency contact person for information:

Erin Conley  
Rules Coordinator  
Division of Legal Services  
Illinois Department of Public Health  
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- G) Related rulemakings and other pertinent information: The Department will propose additional amendments to Part 250 as described in this regulatory agenda.

## DEPARTMENT OF PUBLIC HEALTH

## JULY 2018 REGULATORY AGENDA

d) Part (Heading and Code Citation): Skilled Nursing and Intermediate Care Facilities Code (77 Ill. Adm. Code 300)

1) Rulemaking:

A) Description: The Department will introduce several rulemakings to implement the following: prohibit photographing residents without the permission of the resident; update the rules to comply with the National Labor Relations Act for strike and picket contingency plans; and amend drug treatment protocol language and a protocol for obtaining informed consent regarding psychotropic medication.

B) Statutory Authority: Nursing Home Care Act [210 ILCS 45]

C) Scheduled meeting/hearing dates: November 2018

D) Date Agency anticipates First Notice: Winter 2019

E) Effect on small businesses, small municipalities or not-for-profit corporations: This rulemaking will affect facilities regulated under the Nursing Home Care Act.

F) Agency contact person for information:

Erin Conley  
Rules Coordinator  
Division of Legal Services  
Illinois Department of Public Health  
535 W. Jefferson St., 5th Floor  
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G) Related rulemakings and other pertinent information: The Department will propose additional amendments to Part 300 as described in this regulatory agenda.

## DEPARTMENT OF PUBLIC HEALTH

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- e) Parts (Heading and Code Citations): Skilled Nursing and Intermediate Care Facilities Code (77 Ill. Adm. Code 300); Sheltered Care Facilities Code (77 Ill. Adm. Code 330); Illinois Veterans' Homes Code (77 Ill. Adm. Code 340)

1) Rulemaking:

- A) Description: The Department will introduce several rulemakings to implement the following: PA 99-376 regarding compliance with the National Fire Protection Association 101 Life Safety Code; PA 98-834 regarding requirements for voluntary closure of a facility; and amendments to update language regarding the Department's deadline for informing facilities of a violation.
- B) Statutory Authority: Nursing Home Care Act [210 ILCS 45]
- C) Scheduled meeting/hearing dates: Fall 2018
- D) Date Agency anticipates First Notice: Fall 2018
- E) Effect on small businesses, small municipalities or not-for-profit corporations: Skilled nursing and intermediate care facilities will be required to comply with the updated life safety requirements.
- F) Agency contact person for information:

Erin Conley  
Rules Coordinator  
Division of Legal Services  
Illinois Department of Public Health  
535 W. Jefferson St., 5th Floor  
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- G) Related rulemakings and other pertinent information: The Department will propose additional amendments to Part 300 as described in this regulatory agenda.

## DEPARTMENT OF PUBLIC HEALTH

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f) Part (Heading and Code Citation): Intermediate Care for the Developmentally Disabled Facilities Code (77 Ill. Adm. Code 350)

1) Rulemaking:

A) Description: The Department will introduce several rulemakings to this Part to implement the following: amend drug treatment protocol language and the protocol for obtaining informed consent regarding psychotropic medication; and implement new Centers for Medicare and Medicaid Services (CMS) requirements regarding compliance with the National Fire Protection Association 101 Life Safety Code.

B) Statutory Authority: ID/DD Community Care Act [210 ILCS 47]

C) Scheduled meeting/hearing dates: Fall 2018

D) Date Agency anticipates First Notice: Winter 2018

E) Effect on small businesses, small municipalities or not-for-profit corporations: These rulemakings will affect ID/DD facilities licensed under the ID/DD Community Care Act.

F) Agency contact person for information:

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Rules Coordinator  
Division of Legal Services  
Illinois Department of Public Health  
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G) Related rulemakings and other pertinent information: None

g) Part (Heading and Code Citation): Specialized Mental Health Rehabilitation Facilities Code (77 Ill. Adm. Code 380)

## DEPARTMENT OF PUBLIC HEALTH

## JULY 2018 REGULATORY AGENDA

- 1) Rulemaking:
  - A) Description: The Department will introduce several rulemakings to implement the following: PA 99-712 regarding changing the start of the provisional licensure period to the date a facility's provisional license is issued; and PA 100-365 regarding provisional licenses for recovery and rehabilitation support centers.
  - B) Statutory Authority: Specialized Mental Health Rehabilitation Act of 2013 [210 ILCS 49]
  - C) Scheduled meeting/hearing dates: Summer 2018
  - D) Date Agency anticipates First Notice: Summer 2018
  - E) Effect on small businesses, small municipalities or not-for-profit corporations: Specialized mental health rehabilitation facilities responsible for provisional license compliance.
  - F) Agency contact person for information:

Erin Conley  
Rules Coordinator  
Division of Legal Services  
Illinois Department of Public Health  
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  - G) Related rulemakings and other pertinent information: None
- h) Part (Heading and Code Citation): Long-Term Care For Under Age 22 Facilities Code (77 Ill. Adm. Code 390)

- 1) Rulemaking:

## DEPARTMENT OF PUBLIC HEALTH

## JULY 2018 REGULATORY AGENDA

- A) Description: The Department will introduce several rulemakings to implement the following: PA 99-180, which created the MC/DD Act; and new Centers for Medicare and Medicaid Services (CMS) requirements regarding compliance with the National Fire Protection Association 101 Life Safety Code.
- B) Statutory Authority: MC/DD Act [210 ILCS 46]
- C) Scheduled meeting/hearing dates: Summer 2018
- D) Date Agency anticipates First Notice: Summer 2018
- E) Effect on small businesses, small municipalities or not-for-profit corporations: This rulemaking will affect Long-Term Care for Under Age 22 facilities regulated under the MC/DD Act.
- F) Agency contact person for information:

Erin Conley  
Rules Coordinator  
Division of Legal Services  
Illinois Department of Public Health  
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- G) Related rulemakings and other pertinent information: None
- i) Part (Heading and Code Citation): Central Complaint Registry (77 Ill. Adm. Code 400)
- 1) Rulemaking:
- A) Description: This rulemaking will make substantive and technical changes to bring Part 400 into compliance with current complaint procedures within the Department.



## DEPARTMENT OF PUBLIC HEALTH

## JULY 2018 REGULATORY AGENDA

- B) Statutory Authority: Abused and Neglected Long Term Care Facility Residents Reporting Act [210 ILCS 30]; Nursing Home Care Act [210 ILCS 45]; MC/DD Act [210 ILCS 46]; ID/DD Community Care Act [210 ILCS 47]; and Specialized Mental Health Rehabilitation Act of 2013 [210 ILCS 49]
- C) Scheduled meeting/hearing dates: Fall 2018
- D) Date Agency anticipates First Notice: Winter 2018
- E) Effect on small businesses, small municipalities or not-for-profit corporations: This rulemaking will impact long-term care and health care facilities licensed by the Department.
- F) Agency contact person for information:

Erin Conley  
Rules Coordinator  
Division of Legal Services  
Illinois Department of Public Health  
535 W. Jefferson St., 5th Floor  
Springfield IL 62761

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dph.rules@illinois.gov

- G) Related rulemakings and other pertinent information: None
- j) Part (Heading and Code Citation): Illinois Vital Records Code (77 Ill. Adm. Code 500)
- 1) Rulemaking:
- A) Description: This rulemaking will implement PA 100-526 to establish a registry and procedures to monitor and review information related to the disposition of remains for low-income decedents.
- B) Statutory Authority: Disposition of Remains of the Indigent Act [755 ILCS 66]

## DEPARTMENT OF PUBLIC HEALTH

## JULY 2018 REGULATORY AGENDA

- C) Scheduled meeting/hearing dates: None
- D) Date Agency anticipates First Notice: Fall 2018
- E) Effect on small businesses, small municipalities or not-for-profit corporations: This rulemaking will impact Coroners/Medical Examiners, Funeral Directors and state facility administrators.
- F) Agency contact person for information:
- Erin Conley  
Rules Coordinator  
Division of Legal Services  
Illinois Department of Public Health  
535 W. Jefferson St., 5th Floor  
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- 217/782-2043  
dph.rules@illinois.gov
- G) Related rulemakings and other pertinent information: None
- k) Part (Heading and Code Citations): Emergency Medical Services, Trauma Center, Comprehensive Stroke Center, Primary Stroke Center, and Acute Stroke Ready Hospital Code (77 Ill. Adm. Code 515)
- 1) Rulemaking:
- A) Description: The Department will introduce several rulemakings to implement the following: PA 100-255 regarding approvals for in-field service level upgrades for ambulance assist vehicle; PA 100-108 regarding transportation of police dogs injured in the line of duty; SB 3255 regarding providers that can staff ambulances, once signed into law by the Governor; amendments to provisions related to the Emergency Medical Services for Children (EMSC) Advisory Board members; and training requirements and general provisions related to emergency department professionals.
- B) Statutory Authority: Emergency Medical Services (EMS) Systems Act [210 ILCS 50]

## DEPARTMENT OF PUBLIC HEALTH

## JULY 2018 REGULATORY AGENDA

- C) Scheduled meeting/hearing dates: Spring 2018
- D) Date Agency anticipates First Notice: Summer 2018
- E) Effect on small businesses, small municipalities or not-for-profit corporations: These rulemakings will affect Emergency Medical Service providers licensed under the Emergency Medical Services (EMS) Systems Act.
- F) Agency contact person for information:

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- G) Related rulemakings and other pertinent information: None

- 1) Parts (Heading and Code Citations): Maternal and Child Health Services Code (77 Ill. Admin. Code 630); Family Planning Services Code (77 Ill. Admin. Code 635); Problem Pregnancy Health Services and Care Projects (77 Ill. Admin. Code 655); School-Based/Linked Health Centers (77 Ill. Admin. Code 641)

- 1) Rulemaking:

- A) Description: The Department will introduce several rulemakings to implement PA 99-901 which transferred Maternal and Child Health (MCH) programs from the Department of Human Services (DHS) to the Department of Public Health (DPH). Additionally, amendments will be proposed to Part 641 to add requirements around Department policies and procedures.

## DEPARTMENT OF PUBLIC HEALTH

## JULY 2018 REGULATORY AGENDA

- B) Statutory Authority: Advisory Board for the Maternal and Child Health Block Grant Act [410 ILCS 221]
- C) Scheduled meeting/hearing dates: None scheduled
- D) Date Agency anticipates First Notice: Spring 2019
- E) Effect on small businesses, small municipalities or not-for-profit corporations: None anticipated
- F) Agency contact person for information:

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- G) Related rulemakings and other pertinent information: The Department will propose additional amendments to Part 641 as described in this regulatory agenda.
- m) Parts Heading and Code Citations: Maternal and Child Health Services Code (77 Ill. Admin. Code 630); Child Health and Student Examination and Immunization Code (77 Ill. Admin. Code 665); Socio-Emotional and Developmental Screening (77 Ill. Admin. Code 664) (New Part)
- 1) Rulemaking:
    - A) Description: The Department will introduce several rulemakings to implement PA 99-927 which requires DPH to promulgate rules regarding: age-appropriate social, emotional, and developmental screenings of school-aged children; revise the Child Health Examination Form; and promulgate rules for the use of validated socio-emotional and developmental screening tools appropriate to a child's age or grade.

## DEPARTMENT OF PUBLIC HEALTH

## JULY 2018 REGULATORY AGENDA

- B) Statutory Authority: School Code [105 ILCS 5]
- C) Scheduled meeting/hearing dates: None scheduled
- D) Date Agency anticipates First Notice: Spring 2019
- E) Effect on small businesses, small municipalities or not-for-profit corporations: None anticipated
- F) Agency contact person for information:

Erin Conley  
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- G) Related rulemakings and other pertinent information: None

n) Part (Heading and Code Citation): Control of Communicable Diseases Code (77 Ill. Adm. Code 690)

1) Rulemaking:

- A) Description: This rulemaking contains changes to improve control measure implementation and testing requirements to prevent further spread of diseases.
- B) Statutory Authority: Implementing the Communicable Disease Report Act [745 ILCS 45] and implementing and authorized by the Department of Public Health Act [20 ILCS 2305]
- C) Scheduled meeting/hearing dates: Fall 2018
- D) Date Agency anticipates First Notice: Winter 2018

## DEPARTMENT OF PUBLIC HEALTH

## JULY 2018 REGULATORY AGENDA

E) Effect on small businesses, small municipalities or not-for-profit corporations: None

F) Agency contact person for information:

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Rules Coordinator  
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G) Related rulemakings and other pertinent information: None

o) Part (Heading and Code Citation): Field Sanitation Code (77 Ill. Adm. Code 910)

1) Rulemaking:

A) Description: This rulemaking proposes changes to incorporated materials, amends definitions, and provides current requirements for water provisions, handwashing and restroom facilities.

B) Statutory Authority: Mobile Home Park Act [210 ILCS 115]

C) Scheduled meeting/hearing dates: Fall 2018

D) Date Agency anticipates First Notice: Fall 2018

E) Effect on small businesses, small municipalities or not-for-profit corporations: The economic impact of this proposed rulemaking is unknown.

F) Agency contact person for information:

Erin Conley  
Rules Coordinator

## DEPARTMENT OF PUBLIC HEALTH

## JULY 2018 REGULATORY AGENDA

Division of Legal Services  
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- G) Related rulemakings and other pertinent information: None
- p) Part (Heading and Code Citation): Migrant Labor Camp Code (77 Ill. Adm. Code 935)

1) Rulemaking:

- A) Description: This rulemaking will update and clarify the incorporated materials, add definitions and provide current requirements for water, sewer, electric and buildings.
- B) Statutory Authority: Migrant Labor Camp Law [210 ILCS 110]
- C) Scheduled meeting/hearing dates: Fall 2018
- D) Date Agency anticipates First Notice: Fall 2018
- E) Effect on small businesses, small municipalities or not-for-profit corporations: The economic impact of this proposed rulemaking is unknown.
- F) Agency contact person for information:

Erin Conley  
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## DEPARTMENT OF PUBLIC HEALTH

## JULY 2018 REGULATORY AGENDA

G) Related rulemakings and other pertinent information: None

q) Part (Heading and Code Citation): Recreational Area Code (77 Ill. Adm. Code 800)

1) Rulemaking:

A) Description: This rulemaking will update existing language to provide clarity to existing processes utilized by the Department.

B) Statutory Authority: Campground Licensing and Recreational Act [210 ILCS 95]

C) Scheduled meeting/hearing dates: Fall 2018

D) Date Agency anticipates First Notice: Fall 2018

E) Effect on small businesses, small municipalities or not-for-profit corporations: The economic impact of this proposed rulemaking is unknown.

F) Agency contact person for information:

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G) Related rulemakings and other pertinent information: None

r) Part (Heading and Code Citation): Youth Camp Act (77 Ill. Adm. Code 810)

1) Rulemaking:



## DEPARTMENT OF PUBLIC HEALTH

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- A) Description: This rulemaking will update and clarify the incorporated materials, add definitions, provide a section for camp safety program, and provide for current requirements for water, sewer, electric and buildings.
- B) Statutory Authority: Youth Camp Act [210 ILCS 100]
- C) Scheduled meeting/hearing dates: Fall 2018
- D) Date Agency anticipates First Notice: Fall 2018
- E) Effect on small businesses, small municipalities or not-for-profit corporations: The economic impact of this proposed rulemaking is unknown.
- F) Agency contact person for information:

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- G) Related rulemakings and other pertinent information: None
- s) Parts (Heading and Code Citation): Water Well Construction Code (77 Ill. Adm. Code 920)
- 1) Rulemaking:
    - A) Description: This rulemaking will amend permitting requirements and update construction materials to utilize modern technology.
    - B) Statutory Authority: Illinois Water Well Construction Code [415 ILCS 30]

## DEPARTMENT OF PUBLIC HEALTH

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- C) Scheduled meeting/hearing dates: Fall 2018
- D) Date Agency anticipates First Notice: Fall 2018
- E) Effect on small businesses, small municipalities or not-for-profit corporations: The rulemaking may result in a reduction in water well construction permits.
- F) Agency contact person for information:
- Erin Conley  
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dph.rules@illinois.gov
- G) Related rulemakings and other pertinent information: None
- t) Part (Heading and Code Citation): Health Care Worker Background Check Code (77 Ill. Adm. Code 955)
- 1) Rulemaking:
- A) Description: This rulemaking will implement PA 100-432 related to the Health Care Worker Registry (HCWR) and will implement PA 99-872 regarding accessible information by employers in the HCWR.
- B) Statutory Authority: Health Care Worker Background Check Act [225 ILCS 46]
- C) Scheduled meeting/hearing dates: Fall 2018
- D) Date Agency anticipates First Notice: Fall 2018

## DEPARTMENT OF PUBLIC HEALTH

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- E) Effect on small businesses, small municipalities or not-for-profit corporations: This rulemaking will impact long-term care facilities, hospitals, and other health care facilities that are subject to the Health Care Worker Background Check Act.
- F) Agency contact person for information:
- Erin Conley  
Rules Coordinator  
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- G) Related rulemakings and other pertinent information: None

## STATE BOARD OF EDUCATION

## JULY 2018 REGULATORY AGENDA

- a) Part (Heading and Code Citation): Public Schools Evaluation, Recognition and Supervision (23 Ill. Adm. Code 1)

1) Rulemaking:

- A) Description: This rulemaking will update the existing rules of the Competency-Based High School Graduation Requirements Pilot Program. Additionally, this rulemaking will implement the provisions of PA 99-623, which authorizes the State Board of Education to adopt administrative rules to administer the College and Career Pathway Endorsement programs prior to implementation of the interagency plan in 2018.

This rulemaking will implement PA 98-1102, which required the State Board to determine school districts that fall in the top 20 percent of any of the listed discipline categories to submit a plan identifying how the school districts will reduce exclusionary disciplinary practices or racial disproportionality or both. The identified school districts must submit progress reports to the State Board.

Finally, this rulemaking will update assessment rules to align to current practices. In addition, this rulemaking will change references to foreign language to world language.

- B) Statutory Authority: 105 ILCS 5/2-3.6 and 110 ILCS 148 20, 25, 80 and 900
- C) Scheduled meeting/hearing date: To be announced
- D) Date Agency anticipates First Notice: December 2018
- E) Effect on small businesses, small municipalities, or not-for-profit corporations: None
- F) Agency contact person for information:

Lindsay Bentivegna  
Agency Rules Coordinator  
Illinois State Board of Education  
100 North First Street, E-222

## STATE BOARD OF EDUCATION

## JULY 2018 REGULATORY AGENDA

Springfield IL 62777

217/782-5270

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G) Related rulemakings and other pertinent information: Noneb) Part (Heading and Code Citation): Standards for Endorsements in Special Education (23 Ill. Adm. Code 28)1) Rulemaking:A) Description: This rulemaking will update special education endorsement standards to align with national standards, where applicable. In areas where national standards do not exist, the current state standards will be reviewed and revised accordingly.B) Statutory Authority: 105 ILCS 5/2-3.6 and 21B-10(d)C) Scheduled meeting/hearing date: To be announcedD) Date Agency anticipates First Notice: December 2018E) Effect on small businesses, small municipalities, or not-for-profit corporations: NoneF) Agency contact person for information:Lindsay Bentivegna  
Agency Rules Coordinator  
Illinois State Board of Education  
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G) Related rulemakings and other pertinent information: None

## STATE BOARD OF EDUCATION

## JULY 2018 REGULATORY AGENDA

- c) Part (Heading and Code Citation): Special Education (23 Ill. Adm. Code 226)
- 1) Rulemaking:
- A) Description: This rulemaking will update the requirements for obtaining a Learning Behavior Specialist I endorsement.
- B) Statutory Authority: 105 ILCS 5/2-3.6 and 21B-10
- C) Scheduled meeting/hearing date: To be announced
- D) Date Agency anticipates First Notice: December 2018
- E) Effect on small businesses, small municipalities, or not-for-profit corporations: None
- F) Agency contact person for information:
- Lindsay Bentivegna  
Agency Rules Coordinator  
Illinois State Board of Education  
100 North First Street, E-222  
Springfield IL 62777
- 217/782-5270  
rules@isbe.net
- G) Related rulemakings and other pertinent information: None
- d) Part (Heading and Code Citation): Gifted Education (23 Ill. Adm. Code 227)
- 1) Rulemaking:
- A) Description: This rulemaking will make updates to this Part in accordance with recently enacted Public Acts.
- PA 99-706 updated the Section of the School Code that pertains to funding gifted education programs. The PA updated the assessment methods to

## STATE BOARD OF EDUCATION

## JULY 2018 REGULATORY AGENDA

identify students who are eligible for gifted education. This rulemaking will update those methods in the rules to be consistent with statute.

PA 100-421 specifies guidelines for school districts to develop accelerated placement policies to allow students early entrance to kindergarten or first grade, accelerating a child in a single subject, and grade acceleration. Under the Act, ISBE is required to adopt rules to determine data to be collected regarding accelerated placement and a method of making that information available to the public.

Other technical changes will be made as necessary to align this Part with the School Code.

- B) Statutory Authority: 105 ILCS 5/Art. 14A-55
- C) Scheduled meeting/hearing date: To be announced
- D) Date Agency anticipates First Notice: July 2018
- E) Effect on small businesses, small municipalities, or not-for-profit corporations: None
- F) Agency contact person for information:

Lindsay Bentivegna  
Agency Rules Coordinator  
Illinois State Board of Education  
100 North First Street, E-222  
Springfield IL 62777

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rules@isbe.net

- G) Related rulemakings and other pertinent information: None

e) Part (Heading and Code Citation): Alternative Learning Opportunities Program (23 Ill. Adm. Code 240)

- 1) Rulemaking:

## STATE BOARD OF EDUCATION

## JULY 2018 REGULATORY AGENDA

- A) Description: This rulemaking will update assessment procedures for students in Alternative Learning Opportunities Programs.
- B) Statutory Authority: 105 ILCS 5/Art. 13B
- C) Scheduled meeting/hearing date: To be announced
- D) Date Agency anticipates First Notice: December 2018
- E) Effect on small businesses, small municipalities, or not-for-profit corporations: None
- F) Agency contact person for information:

Lindsay Bentivegna  
Agency Rules Coordinator  
Illinois State Board of Education  
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- G) Related rulemakings and other pertinent information: None

f) Part (Heading and Code Citation): Vocational Education (23 Ill. Adm. Code 254)

1) Rulemaking:

- A) Description: Part 254 will be repealed and will be replaced with new Part 254.
- B) Statutory Authority: 105 ILCS 435/2(d)
- C) Scheduled meeting/hearing date: To be announced
- D) Date Agency anticipates First Notice: December 2018



## STATE BOARD OF EDUCATION

## JULY 2018 REGULATORY AGENDA

E) Effect on small businesses, small municipalities, or not-for-profit corporations: None

F) Agency contact person for information:

Lindsay Bentivegna  
Agency Rules Coordinator  
Illinois State Board of Education  
100 North First Street, E-222  
Springfield IL 62777

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G) Related rulemakings and other pertinent information: None

2) Rulemaking:

A) Description: This rulemaking replaces the repealed Part setting forth the criteria and standards, including the grant process, to be used to award funding under the Vocational Education Act and the federal Carl D. Perkins Vocational Education Act (20 USC 2301 et seq.).

B) Statutory Authority: 105 ILCS 435/2(d)

C) Scheduled meeting/hearing date: To be announced

D) Date Agency anticipates First Notice: September 2018

E) Effect on small businesses, small municipalities, or not-for-profit corporations: None

F) Agency contact person for information:

Lindsay Bentivegna  
Agency Rules Coordinator  
Illinois State Board of Education  
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## STATE BOARD OF EDUCATION

## JULY 2018 REGULATORY AGENDA

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G) Related rulemakings and other pertinent information: None

g) Part (Heading and Code Citation): General Grantmaking (44 Ill. Adm. Code 7200)

1) Rulemaking:

A) Description: This rulemaking will incorporate, by reference, the rules of the Governor's Office of Management and Budget, Grant Accountability and Transparency Unit, regarding standards and criteria for awarding and monitoring State and federal grants. In addition, this rulemaking will provide standards for the release of funding opportunities.

B) Statutory Authority: 30 ILCS 708/50

C) Scheduled meeting/hearing date: To be announced

D) Date Agency anticipates First Notice: December 2018

E) Effect on small businesses, small municipalities, or not-for-profit corporations: None

F) Agency contact person for information:

Lindsay Bentivegna  
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Illinois State Board of Education  
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G) Related rulemakings and other pertinent information: None

## STATE BOARD OF EDUCATION

## JULY 2018 REGULATORY AGENDA

h) Part (Heading and Code Citation): Public Information, Rulemaking and Organization (2 Ill. Adm. Code 5000)

1) Rulemaking:

A) Description: Updates Appendix B to reflect the current organizational structure of the State Board of Education and the agency.

B) Statutory Authority: 5 ILCS 100/5-15

C) Scheduled meeting/hearing date: To be announced

D) Date Agency anticipates First Notice: December 2018

E) Effect on small businesses, small municipalities, or not-for-profit corporations: None

F) Agency contact person for information:

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Illinois State Board of Education  
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G) Related rulemakings and other pertinent information: None

## OFFICE OF THE STATE TREASURER

## JULY 2018 REGULATORY AGENDA

- a) Part (Heading and Code Citation): Uniform Disposition of Unclaimed Property Act (74 Ill. Adm. Code 760)
- 1) Rulemaking:
- A) Description: PA 100-22, effective January 1, 2018, repealed the Uniform Disposition of Unclaimed Property Act and replaced it with the Revised Uniform Unclaimed Property Act (RUUPA). The RUUPA is the first comprehensive revision of Illinois' unclaimed property statute since the Uniform Disposition of Unclaimed Property Act was passed in 1961. This rulemaking will repeal the existing Uniform Disposition of Unclaimed Property Act rule and replace it with the Revised Uniform Unclaimed Property Act rule in the same Part.
- B) Statutory Authority: Section 15-104 of the Revised Uniform Unclaimed Property Act [765 ILCS 1026/15-104] in PA 100-22 specifically authorizes the State Treasurer to adopt rules to implement and administer the Act. PA 100-22 also repeals the Uniform Disposition of Unclaimed Property Act, thus necessitating the repeal of the administrative rules related to the previous unclaimed property statute.
- C) Scheduled meeting/hearing dates: None
- D) Date Agency anticipates First Notice: July 2018
- E) Effect on small businesses, small municipalities or not-for-profit corporations: PA 100-22 reduced the period of abandonment for many types of unclaimed property from 5 years to 3 years. PA 100-22 also raised the threshold for due diligence mailings from \$10 to \$50, which should reduce compliance costs for small businesses, small municipalities or not-for-profit corporations. PA 100-22 also added new statutory due process provisions for holders of unclaimed property that are undergoing an examination for compliance with the Revised Uniform Unclaimed Property Act. Numerous other technical changes in unclaimed property reporting are required pursuant to PA 100-22.
- F) Agency contact person for information:

G. Allen Mayer

## OFFICE OF THE STATE TREASURER

## JULY 2018 REGULATORY AGENDA

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G) Related rulemakings and other pertinent information: None

b) Part (Heading and Code Citation): Illinois Public Treasurers' Investment Pool for Public Treasurers in the State of Illinois (74 Ill. Adm. Code 740)

1) Rulemaking:

A) Description: This rulemaking updates the existing rule and provides further guidance on the process for state and local governments to utilize this convenient investment pool option, including the Treasurer's responsibilities, the custodian bank's responsibilities, and the enrollment process.

B) Statutory Authority: Section 17 of the State Treasurer Act [15 ILCS 505/17]

C) Scheduled meeting/hearing dates: None

D) Date Agency anticipates First Notice: July 2018

E) Effect on small businesses, small municipalities or not-for-profit corporations: None

F) Agency contact person for information:

Akili Estrella  
Assistant General Counsel  
Illinois State Treasurer  
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## OFFICE OF THE STATE TREASURER

## JULY 2018 REGULATORY AGENDA

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G) Related rulemakings and other pertinent information: Nonec) Part (Heading and Code Citation): Procurement (44 Ill. Adm. Code 1400)1) Rulemaking:A) Description: This rulemaking updates the existing rule to adopt the small purchase limit of \$100,000 included in PA 100-43, effective August 9, 2017. Additionally, professional and artistic contracts are brought into the same small purchase limit and are no longer held to a separate limit.B) Statutory Authority: Section 20-20 of the Illinois Procurement Code [30 ILCS 500/20-20]C) Scheduled meeting/hearing dates: NoneD) Date Agency anticipates First Notice: August 2018E) Effect on small businesses, small municipalities or not-for-profit corporations: NoneF) Agency contact person for information:Chris Flynn  
Assistant General Counsel  
Illinois State Treasurer  
400 W. Monroe St., Suite 401  
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217/558/0115

fax: 217/785-2777

e-mail: CFlynn@illinoistreasurer.gov

G) Related rulemakings and other pertinent information: None

## OFFICE OF THE STATE TREASURER

## JULY 2018 REGULATORY AGENDA

- d) Part (Heading and Code Citation): Rules for Charitable Trust Stabilization Committee (74 Ill. Adm. Code 650)
- 1) Rulemaking:
- A) Description: This rulemaking provides further guidance for applicants located in a depressed area as defined in Section 3 of the Illinois Enterprise Zone Act [20 ILCS 655].
- B) Statutory Authority: Section 10 of the Charitable Trust Stabilization Act [30 ILCS 790/10]
- C) Scheduled meeting/hearing dates: None
- D) Date Agency anticipates First Notice: August 2018
- E) Effect on small businesses, small municipalities or not-for-profit corporations: The Charitable Trust Program is funded by non-profits and exists to help other non-profits with annual budgets of \$1 million or less. The purpose of the Program is to offer grants of up to \$25,000 to small non-profits in Illinois. These changes will clarify which applicants may receive special attention based on location within a "depressed area."
- F) Agency contact person for information:
- Laura Duque  
Assistant General Counsel  
Illinois State Treasurer  
100 W. Randolph Street, Suite 15-600  
Chicago IL 60601
- 312/814-3573  
fax: 217/785-2777  
e-mail: LDuque@illinoistreasurer.gov
- G) Related rulemakings and other pertinent information: None

## OFFICE OF THE STATE TREASURER

## JULY 2018 REGULATORY AGENDA

e) Part (Heading and Code Citation): Technology Development Account (TDA) Program (74 Ill. Adm. Code 719)

1) Rulemaking:

A) Description: The Technology Development Account Program was created by the Technology Development Act [30 ILCS 265] in 2002 to allow the Treasurer's Office to use a portion of the State's Investment Portfolio to provide capital to technology funds in Illinois that finance technology businesses seeking to locate, expand, or remain in Illinois. This rulemaking will provide guidance to interested parties.

B) Statutory Authority: Section 15 of the Technology Development Act [30 ILCS 265/15]

C) Scheduled meeting/hearing dates: None

D) Date Agency anticipates First Notice: October 2018

E) Effect on small businesses, small municipalities or not-for-profit corporations: None

F) Agency contact person for information:

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Illinois State Treasurer  
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fax: 217/785-2777  
e-mail: LDuque@illinoistreasurer.gov

G) Related rulemakings and other pertinent information: None



## TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

## JULY 2018 REGULATORY AGENDA

- a) Part (Heading and Code Citation): The Administration and Operation of the Teachers' Retirement System, 80 Ill. Adm. Code 1650
- 1) Rulemaking:
- A) Description: Update benefit administration rules, including: records, disability, service credit, mandatory distribution, salary, presumption of death, overpayments, survivor benefits, Tier II, Tier III.
- B) Statutory Authority: Implementing and authorized by Article 16 of the Illinois Pension Code [40 ILCS 5/Art. 16].
- C) Scheduled meeting/hearing dates: There is no proposed schedule of dates for meetings/hearings at this time.
- D) Date Agency anticipates First Notice: Unknown.
- E) Effect on small businesses, small municipalities or not-for-profit corporations: None
- F) Agency contact person for information:
- Sandy Cochran  
Teachers' Retirement System  
Office of Legal Counsel  
P.O. Box 19253  
2815 West Washington  
Springfield IL 62794-9253
- 217/814-2041
- G) Related rulemakings and other pertinent information: None

## DEPARTMENT OF TRANSPORTATION

## JULY 2018 REGULATORY AGENDA

- a) Part (Heading and Code Citation): Vending Machines in Rest Areas (92 Ill. Adm. Code 534)
- 1) Rulemaking:
- A) Description: The Department will propose amendments to this Part to correct dated information.
- B) Statutory Authority: 605 ILCS 5/9-113.1
- C) Scheduled meeting/hearing date: None scheduled
- D) Date Agency anticipates First Notice: Within six months
- E) Effect on small businesses, small municipalities, or not-for-profit corporations: This rulemaking could potentially affect small businesses that are licensed by the Illinois Department of Human Services to provide vending services at interstate rest areas.
- F) Agency contact person for information:
- Greg Stucka, Rules Manager  
Illinois Department of Transportation  
2300 S. Dirksen Parkway, Room 317  
Springfield IL 62764
- G) Related rulemakings and other pertinent information: None
- b) Part (Heading and Code Citation): Oversize and Overweight Permit Movements on State Highways (92 Ill. Adm. Code 554)
- 1) Rulemaking:
- A) Description: The Department will propose amendments to this Part to address changes in statute and in the permitting process. The Department will also reorganize and simplify this rule by eliminating redundant language and unnecessary sections.
- B) Statutory Authority: 625 ILCS 5/15, Art. III

## DEPARTMENT OF TRANSPORTATION

## JULY 2018 REGULATORY AGENDA

- C) Scheduled meeting/hearing date: None scheduled
- D) Date Agency anticipates First Notice: Within six months
- E) Effect on small businesses, small municipalities, or not-for-profit corporations: This rulemaking will affect small businesses, small municipalities, and not-for-profit corporations that transport oversize or overweight loads on or across roads under the jurisdiction of the Department.
- F) Agency contact person for information:
- Greg Stucka, Rules Manager  
Illinois Department of Transportation  
2300 S. Dirksen Parkway, Room 317  
Springfield IL 62764
- G) Related rulemakings and other pertinent information: None

## EXECUTIVE ORDER

**2018-8****EXECUTIVE ORDER REFORMING THE ADMINISTRATION AND ELIMINATING THE BACKLOG OF ANTI-DISCRIMINATION AND EQUAL OPPORTUNITY HEARINGS AT THE HUMAN RIGHTS COMMISSION**

**WHEREAS**, it has been one of the signature achievements of this administration to track, rationalize, and reform the administrative hearings system within the State of Illinois; and

**WHEREAS**, more than 150,000 administrative hearings are requested each year across State agencies, and the conduct of these hearings operates as a quasi-judicial court system within State government; and

**WHEREAS**, our constitutional, democratic principles require the State to afford due process to people and businesses affected by the decisions of agencies that come out of administrative hearings; and

**WHEREAS**, due process should ensure a speedy disposition of hearings so that people in Illinois receive State services and obtain resolution of their rights and privileges in a timely manner; and

**WHEREAS**, to ensure this quasi-judicial system operates in a fair, efficient, and transparent way, I signed Executive Order 2016-06 to create a pilot Bureau of Administrative Hearings ("Bureau") within the Department of Central Management Services ("CMS") to provide central, uniform administrative support to State agencies and to recommend consolidation of hearing functions as appropriate; and

**WHEREAS**, in its pilot year, the Bureau initiated case sharing between the Department of Public Health, the Department of Revenue, and the Department of Labor and doubled the speed of Labor adjudications with no expense to the State; and

**WHEREAS**, the Bureau has initiated the State's first comprehensive professional development program for administrative law judges, including providing over 1200 hours of professional training, promulgating the State's first bench manual for adjudicators, and developing the State's first orientation program for adjudicators; and

**WHEREAS**, in recognition of these efforts and the success of the Bureau, I signed Executive Order 2017-04, making the Bureau a permanent part of CMS and directing it to continue and expand its work; and

## EXECUTIVE ORDER

**WHEREAS**, recognizing a uniquely problematic backlog in the adjudication of hearings at the Human Rights Commission ("HRC"), I signed Executive Order 2017-02 to consolidate HRC with the Department of Human Rights ("DHR"); and

**WHEREAS**, DHR receives, investigates, and conciliates charges of unlawful discrimination and undertakes affirmative action and public education activities to prevent discrimination; and

**WHEREAS**, HRC is a body that hears and adjudicates discrimination cases; and

**WHEREAS**, although a single statute governs these two State agencies, HRC and DHR often have different, conflicting, and inconsistent rules of administrative procedure, which confuse parties, impede transparency, and create redundancies, backlog, and delay; and

**WHEREAS**, the consolidation of these two State agencies was intended to produce faster investigative and adjudicative processes, because they would have been able to share resources effectively and cut bureaucratic red tape; and

**WHEREAS**, the General Assembly rejected my reorganization of DHR and HRC and the backlog of cases at HRC continues to grow; and

**WHEREAS**, under our current outdated and unproductive structure, people and businesses wait at least four years, on average, after filing a charge of discrimination for DHR to investigate and HRC to issue its final decision on their cases; and

**WHEREAS**, HRC currently has over 1,000 backlogged cases pending two years or more without a decision, and some parties wait as long as three years for a resolution to their case by HRC; and

**WHEREAS**, these delays are unacceptable and unfair to aggrieved parties and businesses and to the general public; and

**WHEREAS**, individuals and groups most often harmed by delay are impoverished and minority parties and small businesses without the resources to obtain counsel and pay expensive legal fees to appear in Illinois courts; and

**WHEREAS**, the State and the public recognize, perhaps more than ever before, the critical importance of ensuring due process in discrimination cases, including discrimination complaints regarding sexual harassment; and

**WHEREAS**, it is the continued obligation of the Governor as the chief executive of the State to oversee executive branch processes and track and resolve process and organizational problems as

## EXECUTIVE ORDER

they are identified, and my administration is still resolved to cure this backlog despite the General Assembly's rejection of my previous Executive Order; and

**WHEREAS**, collaboration with the Bureau has proven successful for State agencies, and DHR and HRC can benefit from meaningful partnership with each other and the Bureau to realize better hearings processes; and

**WHEREAS**, addressing this backlog must feature honest and transparent accounting, rooted in thorough data collection, to understand the scope of problems and opportunities in the hearings process;

**THEREFORE, I**, Bruce Rauner, Governor of Illinois, by virtue of the executive authority vested in me by Section 11 of Article V of the Constitution of the State of Illinois, do hereby order as follows:

**I. DEFINITIONS**

"Bureau" means the Bureau of Administrative Hearings at CMS.

"CMS" means the Department of Central Management Services.

"DHR" means the Department of Human Rights.

"DoIT" means the Department of Innovation and Technology.

"HRC" means the Human Rights Commission.

"Rapids Results training" means training provided by the Office of Rapid Results, created under this administration based on the State's philosophy of continuous improvement that encourages State employees to find and eliminate process waste and improve the efficiency and quality of State products and services.

**II. COORDINATION BETWEEN THE BUREAU, HRC, AND DHR REQUIRED**

Coordination between State agencies to identify economies of scale, model best practices, and develop thoughtful approaches to all aspects of administrative hearings work is a proven success. The Bureau is empowered to partner with State agencies to provide administrative hearings support by entering into interagency contracts with participating State agencies, as authorized by the Intergovernmental Cooperation Act and other applicable law. It develops training programs for adjudicators, promotes shared resources among participating agencies, develops uniform rules of procedure, and recommends revisions, where appropriate, to agency administrative rules

## EXECUTIVE ORDER

on administrative hearings. The Bureau is required to cooperate with DoIT to implement modern, uniform filing and case management systems.

With this model in mind, pursuant to this Executive Order, the Bureau, DHR, and HRC shall coordinate to achieve efficiencies and eliminate backlogs. Coordination shall include:

1. Developing a benchmarking system and a plan for the elimination of the backlog, which will require, at a minimum, the complete elimination of backlog in HRC cases within 18 months. This plan shall be submitted to the Governor within 60 days of the effective date of this Executive Order.
2. Reviewing rights and requirements at DHR and HRC and identifying where legislation, administrative rules, and internal policies can be proposed or amended to highlight similarities between DHR and HRC, thereby streamlining the hearings process for parties.
3. Executing intergovernmental agreements to share resources and smooth workloads through the administrative hearings process.
4. Developing, with DoIT, technological solutions and shared case management systems.
5. Tracking, and reporting at least quarterly to the Governor and the Director of CMS, the total number of pending cases, average and median length of time for resolution to cases, and any other information necessary to capture backlog or delays in processing of cases.
6. Soliciting feedback and surveying parties appearing before HRC and DHR and incorporating, as appropriate, their suggestions for better, and not simply faster, service in the hearings process.
7. Developing and participating in training programs, including at least one Rapid Results training program.

No aspect of coordination should work to limit the constitutional or statutory due process rights of parties before DHR or HRC.

### **III. REPORT TO THE GOVERNOR'S OFFICE**

The Bureau shall, no later than December 31, 2018, and annually thereafter for three years, provide a report to the Governor and the Director of CMS on the coordination efforts and data reporting of the Bureau, DHR, and HRC pursuant to this Executive Order. The report shall include: (1) an analysis of current case backlogs and projected backlog reductions; (2) a

## EXECUTIVE ORDER

description of due process and operational improvements at the HRC and DHR; and (3) the effect of such improvements on State government and the public. The report shall also provide recommendations for further executive or legislative action relating to the implementation of this Executive Order. The Bureau shall work with DHR and HRC to prepare this report. The Bureau shall further work with DoIT to include any proposed or implemented technological changes affecting the operations of DHR and HRC. A copy of such report shall be filed with the General Assembly.

**IV. SAVINGS CLAUSE**

1. This Executive Order does not, and shall not be construed to, transfer any rights, powers, duties, functions, property, personnel, or funds from, to, or among State agencies; each State agency continues to have whatever authority is provided to it pursuant to the Intergovernmental Cooperation Act and other applicable law to enter into interagency contracts, which may include permissible transfers.
2. This Executive Order shall not affect any act undertaken, ratified, or cancelled or any right occurring or established or any action or proceeding commenced in an administrative, civil, or criminal case before this Executive Order takes effect, but these actions or proceedings may be prosecuted and continued by the Bureau in cooperation with the State agency, if necessary.
3. This Executive Order shall not affect the legality of any rules in the Illinois Administrative Code that are in force on the effective date of this Executive Order, which rules have been duly adopted by the pertinent agencies. If necessary, however, the affected agencies shall propose, adopt, or repeal rules, rule amendments, and rule recodifications as appropriate to effectuate this Executive Order.
4. This Executive Order does not contravene, and shall not be construed to contravene, any federal law, State statute, or collective bargaining agreement.

**V. PRIOR EXECUTIVE ORDERS**

This Executive Order supersedes any contrary provision of any other prior Executive Order.

**VI. SEVERABILITY CLAUSE**

If any part of this Executive Order is found invalid by a court of competent jurisdiction, the remaining provisions shall remain in full force and effect. The provisions of this Executive Order are severable.



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EXECUTIVE ORDER

**VII. EFFECTIVE DATE**

This Executive Order shall take effect upon filing with the Secretary of State.

Issued by the Governor: June 20, 2018

Filed with Secretary of State: June 20, 2018