

2008

ILLINOIS

REGISTER

RULES
OF GOVERNMENTAL
AGENCIES



Volume 32, Issue 38
September 19, 2008
Pages 14924-15142

Index Department
Administrative Code Division
111 East Monroe Street
Springfield, IL 62756
(217) 782-7017
<http://www.cyberdriveillinois.com>

Printed on recycled paper

PUBLISHED BY JESSE WHITE • SECRETARY OF STATE

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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.].

2008 REGISTER SCHEDULE VOLUME #32

| <u>Issue #</u> | <u>Rules Due Date</u> | <u>Date of Issue</u> |
|----------------|-----------------------|----------------------|
| 1 | December 21, 2007* | January 4, 2008 |
| 2 | December 31, 2007 | January 11, 2008 |
| 3 | January 7, 2008 | January 18, 2008 |
| 4 | January 14, 2008 | January 25, 2008 |
| 5 | January 22, 2008 | February 1, 2008 |
| 6 | January 28, 2008 | February 8, 2008 |
| 7 | February 4, 2008 | February 15, 2008 |
| 8 | February 11, 2008 | February 22, 2008 |
| 9 | February 19, 2008 | February 29, 2008 |
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| 11 | March 3, 2008 | March 14, 2008 |
| 12 | March 10, 2008 | March 21, 2008 |
| 13 | March 17, 2008 | March 28, 2008 |
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| 15 | March 31, 2008 | April 11, 2008 |
| 16 | April 7, 2008 | April 18, 2008 |
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| 19 | April 28, 2008 | May 9, 2008 |
| 20 | May 5, 2008 | May 16, 2008 |
| 21 | May 12, 2008 | May 23, 2008 |
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| 23 | May 27, 2008 | June 6, 2008 |

| | | |
|----|--------------------|--------------------|
| 24 | June 2, 2008 | June 13, 2008 |
| 25 | June 9, 2008 | June 20, 2008 |
| 26 | June 16, 2008 | June 27, 2008 |
| 27 | June 23, 2008 | July 7, 2008 |
| 28 | June 30, 2008 | July 11, 2008 |
| 29 | July 7, 2008 | July 18, 2008 |
| 30 | July 14, 2008 | July 25, 2008 |
| 31 | July 21, 2008 | August 1, 2008 |
| 32 | July 28, 2008 | August 8, 2008 |
| 33 | August 4, 2008 | August 15, 2008 |
| 34 | August 11, 2008 | August 22, 2008 |
| 35 | August 18, 2008 | August 29, 2008 |
| 36 | August 25, 2008 | September 5, 2008 |
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| 42 | October 6, 2008 | October 17, 2008 |
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| 44 | October 20, 2008 | October 31, 2008 |
| 45 | October 27, 2008 | November 7, 2008 |
| 46 | November 3, 2008 | November 14, 2008 |
| 47 | November 10, 2008 | November 21, 2008 |
| 48 | November 17, 2008 | December 1, 2008 |
| 49 | November 24, 2008 | December 5, 2008 |
| 50 | December 1, 2008 | December 12, 2008 |
| 51 | December 8, 2008 | December 19, 2008 |
| 52 | December 15, 2008 | December 26, 2008 |
| 53 | December 22, 2008 | January 2, 2009 |

Editor's Note: The Regulatory Agenda submission period will end July.1, 2008. The Division is no longer accepting Regulatory Agendas. The second filing period for submitting will start October 14, 2008 with the last day to file on January 2, 2009.

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF PROPOSED AMENDMENTS

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

| | |
|-------------------------|-------------------------|
| <u>Section Numbers:</u> | <u>Proposed Action:</u> |
| 170.421 | Amendment |
| 170.530 | Amendment |
| 170.540 | Amendment |
| 170.541 | Amendment |
- 4) Statutory Authority: Implementing the Gasoline Storage Act [430 ILCS 15] and authorized by Section 2 of the Gasoline Storage Act [430 ILCS 15/2]
- 5) Complete Description of Subjects and Issues Involved: These amendments implement a federal requirement that automatic line leak detectors be installed at all existing as well as new underground storage tank ("UST") facilities using pressurized piping. These amendments will also require that owners of existing USTs with interstitial monitoring systems already in place be required to maintain, instead of remove, such systems. It also requires that where interstitial monitoring systems are in place but not functional, they must be repaired or replaced as necessary to make them fully operational. The listed permit fee is also changed from \$100 to \$200 to reflect the current OSFM fee schedule for obtaining a permit.
- 6) Published Studies or Reports, and sources of underlying data used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? Yes
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking could have a minor or minimal impact on those small businesses, not for profit entities, and small municipalities that own and operate USTs having double-wall tanks and pressurized piping with interstitial monitoring systems already in place. Maintenance costs for maintaining

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF PROPOSED AMENDMENTS

interstitial monitoring may be somewhat higher as compared to similar double-wall USTs with interstitial monitoring absent or removed but using annual precision testing combined with automatic line leak detectors as the method of monthly monitoring.

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

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

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

- 13) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: These amendments require that all existing and new USTs having pressurized piping utilize automatic line leak detectors. These amendments also require that existing interstitial monitoring systems on USTs using pressurized piping be maintained if already in place. Therefore, this rulemaking could have a minor or minimal impact on those small businesses, not for profit entities, and small municipalities that own and operate USTs having double-wall tanks and pressurized piping with interstitial monitoring systems already in place. Maintenance costs for maintaining interstitial monitoring may be somewhat higher as compared to similar double-wall USTs with interstitial monitoring absent or removed but using annual precision testing combined with automatic line leak detectors as the method of monthly monitoring for piping.
- B) Reporting, bookkeeping or other procedures required for compliance: UST installations and upgrades have various reporting and permitting requirements as described in Part 170 rules (41 Ill. Adm. Code 170). Typically the contractor obtains the permit on behalf of the owner/operator and maintenance records are kept by the owner/operator at the facility.

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF PROPOSED AMENDMENTS

- C) Types of Professional skills necessary for compliance: Must ensure that all persons installing and doing work on USTs have been trained appropriately and licensed by OSFM.
- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas, because it was not anticipated.

The full text of these Proposed Amendments is identical to the text of the Emergency Amendments that appears in this issue of the *Illinois Register* on page 15100:

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Retailers' Occupation Tax
- 2) Code Citation: 86 Ill. Adm. Code 130
- 3) Section Number: 130.120 Proposed Action:
Amendment
- 4) Statutory Authority: 20 ILCS 2505/2505-90
- 5) A Complete Description of the Subjects and Issues Involved: Section 130.120 is being amended to add sunset dates for the following exemptions:

(1) graphic arts machinery and equipment; (2) jet fuel and petroleum products sold to and used in the conduct of its business of sorting, handling and redistribution of mail, freight, cargo or other parcels in the operation of a high impact service facility located within an enterprise zone; (3) motor vehicles donated to schools; and (4) food for human consumption that is to be consumed off the premises where it is sold.

It is also being amended to add the following exemptions: (1) fly-away aircraft that is purchased in this State, temporarily located in this State for the purpose of a prepurchase evaluation, and temporarily located in this State for the purpose of a post-sale customization, which was created by Public Act 95-305, effective August 20, 2007; (2) tangible personal property sold to a public-facilities corporation, which was created by Public Act 95-0672, effective October 11, 2007; and (3) tangible personal property used in the construction or maintenance of certain community water supplies, which was created by Public Act 95-707, effective January 11, 2008.

Finally, Section 130.120 is being amended to remove the sunset date for certain horses used for purposes of breeding or racing for prizes, and to change a cross reference concerning the drive-away permit.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: No
- 7) Will this rulemaking replace any emergency rulemaking currently in effect: No
- 8) Does this rulemaking contain any automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

- 10) Are there any other proposed rulemakings pending on this Part? Yes

| <u>Section Numbers:</u> | <u>Proposed Action:</u> | <u>Illinois Register Citation:</u> |
|-------------------------|-------------------------|------------------------------------|
| 130.220 | Amendment | 32 Ill. Reg. 8561, June 13, 2008 |
| 130.605 | Amendment | 32 Ill. Reg. 8850, June 20, 2008 |
| 130.2125 | Amendment | 32 Ill. Reg. 9801, July 11, 2008 |
| 130.340 | Amendment | 32 Ill. Reg. 10806, July 18, 2008 |
| 130.2115 | Amendment | 32 Ill. Reg. 10806, July 18, 2008 |

- 11) Statement of Statewide Policy Objective: This rulemaking does not create a State mandate, nor does it modify any existing State mandates.

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

Debra M. Boggess
Associate Counsel, Sales & Excise Taxes
Illinois Department of Revenue
Legal Services Office
101 West Jefferson
Springfield, Illinois 62794

217/782-2844

- 13) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: Businesses selling aircraft, property used in the construction or maintenance of a community water supplies or certain municipal convention halls, as well as sellers of graphic arts machinery and equipment, sellers of jet fuel and petroleum products, persons who donate vehicles to schools, sellers of food for human consumption that is to be consumed off the premises where sold, and breeders and sellers of race horses will be affected by the changes proposed to Section 130.120.
- B) Reporting, bookkeeping or other procedures required for compliance: None

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NOTICE OF PROPOSED AMENDMENT

- C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: July 2008

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

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUEPART 130
RETAILERS' OCCUPATION TAX

SUBPART A: NATURE OF TAX

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| 130.101 | Character and Rate of Tax |
| 130.105 | Responsibility of Trustees, Receivers, Executors or Administrators |
| 130.110 | Occasional Sales |
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| | |
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| 130.321 | Fuel Used by Air Common Carriers in International Flights |
| 130.325 | Graphic Arts Machinery and Equipment Exemption |
| 130.330 | Manufacturing Machinery and Equipment |
| 130.331 | Manufacturer's Purchase Credit |
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| 130.405 | How to Avoid Paying Tax on State or Local Tax Passed on to the Purchaser |
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DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

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DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

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130.ILLUSTRATION A Examples of Tax Exemption Card

130.ILLUSTRATION B Example of Notice of Revocation of Certificate of Registration

AUTHORITY: Implementing the Illinois Retailers' Occupation Tax Act [35 ILCS 120] and authorized by Section 2505-25 of the Civil Administrative Code of Illinois [20 ILCS 2505/2505-25].

SOURCE: Adopted July 1, 1933; amended at 2 Ill. Reg. 50, p. 71, effective December 10, 1978; amended at 3 Ill. Reg. 12, p. 4, effective March 19, 1979; amended at 3 Ill. Reg. 13, pp. 93 and 95, effective March 25, 1979; amended at 3 Ill. Reg. 23, p. 164, effective June 3, 1979; amended at 3 Ill. Reg. 25, p. 229, effective June 17, 1979; amended at 3 Ill. Reg. 44, p. 193, effective October 19, 1979; amended at 3 Ill. Reg. 46, p. 52, effective November 2, 1979; amended at 4 Ill. Reg. 24, pp. 520, 539, 564 and 571, effective June 1, 1980; amended at 5 Ill. Reg. 818, effective January 2, 1981; amended at 5 Ill. Reg. 3014, effective March 11, 1981; amended at 5 Ill. Reg. 12782, effective November 2, 1981; amended at 6 Ill. Reg. 2860, effective March 3, 1982; amended at 6 Ill. Reg. 6780, effective May 24, 1982; codified at 6 Ill. Reg. 8229; recodified at 6 Ill. Reg. 8999; amended at 6 Ill. Reg. 15225, effective December 3, 1982; amended at 7 Ill. Reg. 7990, effective June 15, 1983; amended at 8 Ill. Reg. 5319, effective April 11, 1984; amended at 8 Ill. Reg. 19062, effective September 26, 1984; amended at 10 Ill. Reg. 1937, effective January 10, 1986; amended at 10 Ill. Reg. 12067, effective July 1, 1986; amended at 10 Ill. Reg. 19538, effective November 5, 1986; amended at 10 Ill. Reg. 19772, effective November 5, 1986; amended at 11 Ill. Reg. 4325, effective March 2, 1987; amended at 11 Ill. Reg. 6252, effective March 20, 1987; amended at 11 Ill. Reg. 18284, effective October 27, 1987; amended at 11 Ill. Reg. 18767, effective October 28, 1987; amended at 11 Ill. Reg. 19138, effective October 29, 1987; amended at 11 Ill. Reg. 19696, effective November 23, 1987;

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amended at 12 Ill. Reg. 5652, effective March 15, 1988; emergency amendment at 12 Ill. Reg. 14401, effective September 1, 1988, for a maximum of 150 days, modified in response to an objection of the Joint Committee on Administrative Rules at 12 Ill. Reg. 19531, effective November 4, 1988, not to exceed the 150 day time limit of the original rulemaking; emergency expired January 29, 1989; amended at 13 Ill. Reg. 11824, effective June 29, 1989; amended at 14 Ill. Reg. 241, effective December 21, 1989; amended at 14 Ill. Reg. 872, effective January 1, 1990; amended at 14 Ill. Reg. 15463, effective September 10, 1990; amended at 14 Ill. Reg. 16028, effective September 18, 1990; amended at 15 Ill. Reg. 6621, effective April 17, 1991; amended at 15 Ill. Reg. 13542, effective August 30, 1991; amended at 15 Ill. Reg. 15757, effective October 15, 1991; amended at 16 Ill. Reg. 1642, effective January 13, 1992; amended at 17 Ill. Reg. 860, effective January 11, 1993; amended at 17 Ill. Reg. 18142, effective October 4, 1993; amended at 17 Ill. Reg. 19651, effective November 2, 1993; amended at 18 Ill. Reg. 1537, effective January 13, 1994; amended at 18 Ill. Reg. 16866, effective November 7, 1994; amended at 19 Ill. Reg. 13446, effective September 12, 1995; amended at 19 Ill. Reg. 13568, effective September 11, 1995; amended at 19 Ill. Reg. 13968, effective September 18, 1995; amended at 20 Ill. Reg. 4428, effective March 4, 1996; amended at 20 Ill. Reg. 5366, effective March 26, 1996; amended at 20 Ill. Reg. 6991, effective May 7, 1996; amended at 20 Ill. Reg. 9116, effective July 2, 1996; amended at 20 Ill. Reg. 15753, effective December 2, 1996; expedited correction at 21 Ill. Reg. 4052, effective December 2, 1996; amended at 20 Ill. Reg. 16200, effective December 16, 1996; amended at 21 Ill. Reg. 12211, effective August 26, 1997; amended at 22 Ill. Reg. 3097, effective January 27, 1998; amended at 22 Ill. Reg. 11874, effective June 29, 1998; amended at 22 Ill. Reg. 19919, effective October 28, 1998; amended at 22 Ill. Reg. 21642, effective November 25, 1998; amended at 23 Ill. Reg. 9526, effective July 29, 1999; amended at 23 Ill. Reg. 9898, effective August 9, 1999; amended at 24 Ill. Reg. 10713, effective July 7, 2000; emergency amendment at 24 Ill. Reg. 11313, effective July 12, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15104, effective October 2, 2000; amended at 24 Ill. Reg. 18376, effective December 1, 2000; amended at 25 Ill. Reg. 941, effective January 8, 2001; emergency amendment at 25 Ill. Reg. 1792, effective January 16, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 4674, effective March 15, 2001; amended at 25 Ill. Reg. 4950, effective March 19, 2001; amended at 25 Ill. Reg. 5398, effective April 2, 2001; amended at 25 Ill. Reg. 6515, effective May 3, 2001; expedited correction at 25 Ill. Reg. 15681, effective May 3, 2001; amended at 25 Ill. Reg. 6713, effective May 9, 2001; amended at 25 Ill. Reg. 7264, effective May 25, 2001; amended at 25 Ill. Reg. 10917, effective August 13, 2001; amended at 25 Ill. Reg. 12841, effective October 1, 2001; amended at 26 Ill. Reg. 958, effective January 15, 2002; amended at 26 Ill. Reg. 1303, effective January 17, 2002; amended at 26 Ill. Reg. 3196, effective February 13, 2002; amended at 26 Ill. Reg. 5369, effective April 1, 2002; amended at 26 Ill. Reg. 5946, effective April 15, 2002; amended at 26 Ill. Reg. 8423, effective May 24, 2002; amended at 26 Ill. Reg. 9885, effective June 24, 2002; amended at 27 Ill. Reg. 795, effective January 3, 2003; emergency amendment at 27 Ill. Reg. 11099, effective July 7, 2003,

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for a maximum of 150 days; emergency expired December 3, 2003; amended at 27 Ill. Reg. 17216, effective November 3, 2003; emergency amendment at 27 Ill. Reg. 18911, effective November 26, 2003, for a maximum of 150 days; emergency expired April 23, 2004; amended at 28 Ill. Reg. 9121, effective June 18, 2004; amended at 28 Ill. Reg. 11268, effective July 21, 2004; emergency amendment at 28 Ill. Reg. 15193, effective November 3, 2004, for a maximum of 150 days; emergency expired April 1, 2005; amended at 29 Ill. Reg. 7004, effective April 26, 2005; amended at 31 Ill. Reg. 3574, effective February 16, 2007; amended at 31 Ill. Reg. 5621, effective March 23, 2007; amended at 31 Ill. Reg. 13004, effective August 21, 2007; amended at 31 Ill. Reg. 14091, effective September 21, 2007; amended at 32 Ill. Reg. 4226, effective March 6, 2008; emergency amendment at 32 Ill. Reg. 8785, effective May 29, 2008, for a maximum of 150 days; amended at 32 Ill. Reg. 10207, effective June 24, 2008; amended at 33 Ill. Reg. _____, effective _____.

SUBPART A: NATURE OF TAX

Section 130.120 Nontaxable Transactions

The tax does not apply to receipts from sales:

- a) of intangible personal property, such as shares of stocks, bonds, evidences of interest in property, corporate or other franchises and evidences of debt;
- b) of real property, such as lands and buildings that are permanently attached to the land;
- c) of tangible personal property for purposes of resale in any form as tangible personal property, provided that the purchaser (except in the case of an out-of-State purchaser who will always resell and deliver the property to his customers outside Illinois) has an active registration number or active resale number from the Department and gives the number to the vendor in connection with certifying to the vendor that the sale to the purchaser is nontaxable on the ground of being a sale for resale (see Subparts B and N of this Part);
- d) of personal services, where rendered as such (see various rules relating to particular service occupations); however, for information concerning the tax on persons engaged in the business of making sales of service, see the Regulations pertaining to the Service Occupation Tax Act (86 Ill. Adm. Code 140);

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- e) that are within the protection of the Commerce Clause of the Constitution of the United States (see Subpart F of this Part);
- f) that are isolated or occasional (see Section 130.110 of this Subpart);
- g) of newspapers and magazines (see Section 130.2105 of this Part);
- h) that are made to any corporation, society, association, foundation or institution organized and operated exclusively for charitable, religious or educational purposes, or any not-for-profit corporation, society, association, foundation, institution or organization that has no compensated officers or employees and that is organized and operated primarily for the recreation of persons 55 years of age or older. A limited liability company may qualify for the exemption under this subsection only if the limited liability company is organized and operated exclusively for educational purposes (see Section 130.2005 of this Part);
- i) that are made to any governmental body (see Section 130.2080 of this Part);
- j) through June 30, 2003, of pollution control facilities (see Section 130.335 of this Part);
- k) *of fuel consumed or used in the operation of ships, barges or vessels that are used primarily in or for the transportation of property or the conveyance of persons for hire on rivers bordering on this State if the fuel is delivered by the seller to the purchaser's barge, ship or vessel while it is afloat upon that bordering river [35 ILCS 120/2-5(24)]* (see Section 130.315 of this Part);
- l) of tangible personal property to interstate carriers for hire for use as rolling stock moving in interstate commerce (see Section 130.340 of this Part);
- m) except as otherwise provided in Section ~~130.605(b)(1)(C)~~[130.605\(b\)\(1\)\(A\)](#), of a motor vehicle in this State to a nonresident even though the motor vehicle is delivered to the nonresident in this State, if the motor vehicle is not to be titled in this State, and if a drive-away permit is issued to the motor vehicle as provided in Section 3-603 of the Illinois Vehicle Code [625 ILCS 5/3-603], or if the nonresident purchaser has vehicle registration plates to transfer to the motor vehicle upon returning to his home state (see Section 130.605);

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- n) until December 31, 2001, of merchandise in bulk when sold from a vending machine for 1¢; on and after January 1, 2002, the exemption applies to merchandise in bulk when sold from a vending machine for 50¢ or less (see 35 ILCS 120/1 and Section 130.2135 of this Part);
- o) of food and beverages by a person who is the recipient of a grant or contract under Title VII of the Older Americans Act of 1965 (42 USC 3021) and serves meals to participants in the Federal Nutrition Program for the Elderly in return for contributions established in amount by the individual participant pursuant to a schedule of suggested fees as provided for in the Federal Act;
- p) of farm chemicals (see Section 130.1955 of this Part);
- q) of manufacturing machinery and equipment that qualifies for exemption under provisions of Section 130.330 of this Part;
- r) of services included in gross receipts for purposes of the Retailers' Occupation Tax and that are designated mandatory service charges by vendors of meals to the extent that the proceeds of the service charge are in fact turned over to the employees who would normally have received tips had the service charge policy not been introduced. Service charges that are used to fund or pay wages, labor costs, employee benefits or employer costs of doing business are taxable gross receipts;
- s) *of any petroleum product, if the seller is prohibited by federal law from charging tax to the purchaser* [35 ILCS 120/2-5(16)].
 - 1) For example, federal law prohibits sellers from charging tax to Amtrak when it purchases petroleum products. However, federal law does not relieve the seller of Retailers' Occupation Tax liability in these transactions. For that reason, the exemption set out in this subsection is necessary to relieve the seller of Retailers' Occupation Tax liability when making sales of petroleum products to Amtrak.
 - 2) The nontaxable transaction set out above is also applicable to local Retailers' Occupation Taxes imposed by municipalities, counties, the Regional Transportation Authority and Metro East Mass Transit District;

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- t) *of farm machinery and equipment, both new and used including that manufactured on special order, certified by the purchaser to be used primarily for production agriculture, or state or federal agricultural programs, including individual replacement parts for the machinery and equipment and including machinery and equipment purchased for lease [35 ILCS 120/2-5(2)] (see Section 130.305);*
- u) *through June 30, 2003, of distillation machinery and equipment, sold as a unit or kit, certified by the user to be used only for the production of ethyl alcohol that will be used for consumption as a motor fuel or as a component of motor fuel for personal use of the user and not subject to sale or resale [35 ILCS 120/2-5(3)];*
- v) *through June 30, 2003, and beginning again on September 1, 2004 [through August 31, 2009](#), of graphic arts machinery and equipment, including repair and replacement parts [35 ILCS 120/2-5(4)] (see Section 130.325);*
- w) *through August 31, 2007, and beginning again on January 11, 2008, a motor vehicle of the first division, a motor vehicle of the second division that is a self-contained motor vehicle designed or permanently converted to provide living quarters for recreational, camping, or travel use, with direct walk through access to the living quarters from the driver's seat, or a motor vehicle of the second division that is of the van configuration designed for the transportation of not less than 7 nor more than 16 passengers, as defined in Section 1-146 of the Illinois Vehicle Code that is used for automobile renting as defined in the Automobile Renting Occupation and Use Tax Act [35 ILCS 120/2-5(5)];*
- x) *of personal property sold by a teacher-sponsored student organization affiliated with an elementary or secondary school located in Illinois [35 ILCS 120/2-5(6)] (see Section 130.2006);*
- y) *through June 30, 2003, of that portion of the selling price of a passenger car, the sale of which is subject to the replacement vehicle tax of the Illinois Vehicle Code [625 ILCS 5/3-2001] [35 ILCS 120/2-5(7)];*
- z) *of personal property sold to an Illinois county fair association for use in conducting, operating or promoting the county fair [35 ILCS 120/2-5(8)];*
- aa) *of personal property sold to any not-for-profit arts or cultural organization that establishes that it has received an exemption under Section 501(c)(3) of the*

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Internal Revenue Code (26 USCA 501) and that is organized and operated for the presentation or support of arts or cultural programming, activities, or services. On and after July 1, 2001, the qualifying organizations listed in this subsection (aa) must also be organized and operated primarily for the presentation or support of arts or cultural programming, activities, or services. These organizations include, but are not limited to, music and dramatic arts organizations such as symphony orchestras and theatrical groups, arts and cultural service organizations, local arts councils, visual arts organizations, and media arts organizations [35 ILCS 120/2-5(9)] (see Section 130.2004 of this Part);

- bb) *of personal property sold by a corporation, society, association, foundation, institution or organization that is organized and operated as a not-for-profit service enterprise for the benefit of persons 65 years of age or older if the personal property was not purchased by the enterprise for the purpose of resale by the enterprise [35 ILCS 120/2-5(10)] (see Section 130.2008);*
- cc) *of legal tender, currency, medallions, or gold or silver coinage issued by the State of Illinois, the government of the United States of America or the government of any foreign country and bullion [35 ILCS 120/2-5(11)], unless the items are transferred as jewelry and therefore subject to tax;*
- dd) *through June 30, 2003, of oil field exploration, drilling and production equipment [35 ILCS 120/2-5(19)] (see Section 130.345);*
- ee) *of photoprocessing machinery and equipment, including repair and replacement parts [35 ILCS 120/2-5(20)] (see Section 130.2000);*
- ff) *through June 30, 2003, of coal exploration, mining, off highway hauling, processing, maintenance and reclamation equipment, including replacement parts and equipment [35 ILCS 120/2-5(21)] (see Section 130.350);*
- gg) *of fuel and petroleum products sold to or used by an air common carrier, certified by the carrier to be used for consumption, shipment or storage in the conduct of its business as an air common carrier, for a flight destined for or returning from a location or locations outside the United States without regard to previous or subsequent domestic stopovers [35 ILCS 120/2-5(22)] (see Section 130.321);*

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- hh) *of semen used for artificial insemination of livestock for direct agricultural production.* [35 ILCS 120/2-5(26)] Exemption certifications must be executed by the purchaser. The certificate must include the seller's name and address, the purchaser's name and address, the purchaser's registration number with the Department, the purchaser's signature and date of signing and a statement that the semen purchased will be used for artificial insemination of livestock for direct agricultural production. The certificates shall be retained by the retailer and shall be made available to the Department for inspection or audit;
- ii) *beginning with taxable years ending on or after December 31, 1995 and ending with taxable years ending on or before December 31, 2004, of personal property that is donated for disaster relief to be used in a State or federally declared disaster area in Illinois or bordering Illinois by a manufacturer or retailer that is registered in this State to a corporation, society, association, foundation, or institution that has been issued a sales tax exemption identification number by the Department that assists victims of the disaster who reside within the declared disaster area.* [35 ILCS 120/2-5(30)] Exemption certifications must be executed by the purchaser. The certificate must include the seller's name and address, the purchaser's name and address, the purchaser's registration number with the Department, if applicable, the purchaser's signature and the date of signing, a description of the items being purchased for donation, a statement that the property purchased will be donated for disaster relief to be used in a State or federally declared disaster area in Illinois or bordering Illinois to a corporation, society, association, foundation, or institution that has been issued a sales tax exemption identification number by the Department that assists victims of the disaster who reside within the declared disaster area, and that entity's sales tax exemption identification number. The certificates shall be retained by the retailer and shall be made available to the Department for inspection or audit;
- jj) *beginning with taxable years ending on or after December 31, 1995 and ending with taxable years ending on or before December 31, 2004, of personal property that is used in the performance of infrastructure repairs in this State, including but not limited to municipal roads and streets, access roads, bridges, sidewalks, waste disposal systems, water and sewer line extensions, water distribution and purification facilities, storm water drainage and retention facilities, and sewage treatment facilities, resulting from a State or federally declared disaster in Illinois or bordering Illinois when such repairs are initiated on facilities located in the declared disaster area within 6 months after the disaster.* [35 ILCS 120/2-5(31)] Exemption certifications must be executed by the purchaser. The certificate must

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include the seller's name and address, the purchaser's name and address, the purchaser's registration number with the Department, if applicable, the purchaser's signature and date of signing, a description of the items being purchased, and a statement that the property purchased is for use in the performance of infrastructure repairs initiated on facilities located in the declared disaster area within six months after the disaster in this State resulting from a State or federally declared disaster area in Illinois or bordering Illinois. The certificates shall be retained by the retailer and shall be made available to the Department for inspection or audit;

- kk) *of a transaction in which the purchase order is received by a florist who is located outside Illinois, but who has a florist located in Illinois deliver the property to the purchaser or the purchaser's donee in Illinois* [35 ILCS 120/2-5(23)];
- ll) ~~until June 1, 2000,~~ *of horses, or interests in horses, registered with and meeting the requirements of any of the Arabian Horse Club Registry of America, Appaloosa Horse Club, American Quarter Horse Association, United States Trotting Association, or Jockey Club, as appropriate, used for purposes of breeding or racing for prizes. This exemption applies for all periods beginning May 30, 1995, but no claim for credit or refund is allowed on or after January 1, 2008 for taxes paid during the period beginning May 30, 2000 and ending January 1, 2008* [35 ILCS 120/2-5(27)];
- mm) *effective January 1, 1996 through December 31, 2000, and on and after August 2, 2001, of computers and communications equipment utilized for any hospital purpose and equipment used in the diagnosis, analysis or treatment of hospital patients sold to a lessor who leases the equipment, under a lease of one year or longer executed or in effect at the time of the purchase, to a hospital that has been issued an active tax exemption identification number by the Department under Section 1g of the Retailers' Occupation Tax Act* [35 ILCS 120/2-5(28)] (see Section 130.2011 of this Part);
- nn) *effective January 1, 1996 through December 31, 2000, and on and after August 2, 2001, of personal property sold to a lessor who leases the property, under a lease of one year or longer executed or in effect at the time of the purchase, to a governmental body that has been issued an active tax exemption identification number by the Department under Section 1g of the Retailers' Occupation Tax Act* [35 ILCS 120/2-5(29)] (see Section 130.2012 of this Part);

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- oo) *of tangible personal property sold to a common carrier by rail or motor that receives the physical possession of the property in Illinois and that transports the property, or shares with another common carrier in the transportation of the property, out of Illinois on a standard uniform bill of lading showing the seller of the property as the shipper or consignor of the property to a destination outside Illinois, for use outside Illinois [35 ILCS 120/2-5(17)];*
- pp) *through June 30, 2003, of aggregate exploration, mining, off highway hauling, processing, maintenance, and reclamation equipment, including replacement parts and equipment, and including equipment purchased for lease, but excluding motor vehicles required to be registered under the Illinois Vehicle Code [35 ILCS 120/7];*
- qq) beginning July 20, 1999, game or game birds purchased at:
- 1) a game breeding and hunting preserve area licensed by the Department of Natural Resources (see Section 3.27 of the Wildlife Code [520 ILCS 5/3.27]);
 - 2) an exotic game hunting area licensed by the Department of Natural Resources (see Section 3.34 of the Wildlife Code [520 ILCS 5/3.34]); or
 - 3) a hunting enclosure approved through rules adopted by the Department of Natural Resources;
- rr) *beginning January 1, 2000, personal property, including food, purchased through fundraising events for the benefit of a public or private elementary or secondary school, a group of those schools, or one or more school districts if the events are sponsored by an entity recognized by the school district that consists primarily of volunteers and includes parents and teachers of the school children. This subsection (rr) does not apply to fundraising events:*
- 1) *for the benefit of private home instruction; or*
 - 2) *for which the fundraising entity purchases the personal property sold at the events from another individual or entity that sold the property for the purpose of resale by the fundraising entity and that profits from the sale to the fundraising entity [35 ILCS 120/2-5(34)];*

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- ss) *of machinery or equipment used in the operation of a high impact service facility located within an enterprise zone established pursuant to the Illinois Enterprise Zone Act. "High impact service facility" means a facility used primarily for the sorting, handling and redistribution of mail, freight, cargo, or other parcels received from agents or employees of the handler or shipper for processing at a common location and redistribution to other employees or agents for delivery to an ultimate destination on an item-by-item basis, and which:*
- 1) *will make an investment in a business enterprise project of \$100,000,000 or more;*
 - 2) *will cause the creation of at least 750 to 1,000 jobs or more in an enterprise zone established pursuant to the Illinois Enterprise Zone Act; and*
 - 3) *is certified by the Department of Commerce and Economic Opportunity as contractually obligated to meet the requirements specified in subsection (11)(1) and (2) within the time period as specified by the certification. The certificate of eligibility for exemption shall be presented by the business enterprise to its supplier when making the initial purchase of machinery and equipment for which an exemption is granted by Section 1j of the Act, together with a certification by the business enterprise that such machinery and equipment is exempt from taxation under Section 1j of the Act and by indicating the exempt status of each subsequent purchase on the face of the purchase order [35 ILCS 120/1i];*
- tt) [through December 31, 2002](#), *of jet fuel and petroleum products sold to and used in the conduct of its business of sorting, handling and redistribution of mail, freight, cargo or other parcels in the operation of a high impact service facility located within an enterprise zone established pursuant to the Illinois Enterprise Zone Act, provided that the business enterprise has waived its right to a tax exemption of the charges imposed under Section 9-222.1 of the Public Utilities Act [35 ILCS 120/1j.1]. High impact service facilities qualifying under the Act and seeking the exemption under Section 1j.1 shall be ineligible for the exemptions of taxes imposed under Section 9-222.1 of the Public Utilities Act. High impact service facilities qualifying under the Act and seeking the exemption under Section 9-222.1 of the Public Utilities Act shall be ineligible for the exemptions of taxes as described in Section 1j.1 of the Act. [35 ILCS 120/1j.2]*

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The certification of eligibility for exemption shall be presented by the business enterprise to its supplier when making the purchase of jet fuel and petroleum products for which an exemption is granted by Section 1j.1 of the Act, together with a certification by the business enterprise that such jet fuel and petroleum product is exempt from taxation under Section 1j.1 of the Act, and by indicating the exempt status of each subsequent purchase on the face of the purchase order [35 ILCS 120/1i];

- uu) through August 20, 2004, of a motor vehicle, as that term is defined in Section 1-146 of the Illinois Vehicle Code, that is donated to a corporation, limited liability company, society, association, foundation, or institution that is determined by the Department to be organized and operated exclusively for educational purposes. For purposes of this exemption, "a corporation, limited liability company, society, association, foundation, or institution organized and operated exclusively for educational purposes" means all tax-supported public schools, private schools that offer systematic instruction in useful branches of learning by methods common to public schools and that compare favorably in their scope and intensity with the course of study presented in tax-supported schools, and vocational or technical schools or institutes organized and operated exclusively to provide a course of study of not less than 6 weeks duration and designed to prepare individuals to follow a trade or to pursue a manual, technical, mechanical, industrial, business, or commercial occupation. [35 ILCS 120/2-5(33)]
- Exemption certifications must be executed by the purchaser. The certificate must include: the seller's name and address; the purchaser's name and address; the purchaser's registration number with the Department, if applicable; the purchaser's signature and date of signing; a description of the motor vehicle that is being purchased for immediate donation to a corporation, limited liability company, society, association, foundation, or institution that is determined by the Department to be organized and operated exclusively for educational purposes (see Section 130.2005); the donee's sales tax exemption identification number; and a statement that the motor vehicle is being purchased for immediate donation to a corporation, limited liability company, society, association, foundation, or institution that is determined by the Department to be organized and operated exclusively for educational purposes. The certificates shall be retained by the retailer and shall be made available to the Department for inspection or audit;
- vv) beginning August 23, 2001 and through June 30, 2011, of food for human consumption that is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks, and food that has been prepared for immediate

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consumption) and prescription and nonprescription medicines, drugs, medical appliances, and insulin, urine testing materials, syringes, and needles used by diabetics, for human use, when purchased for use by a person receiving medical assistance under Article 5 of the Illinois Public Aid Code who resides in a licensed long-term care facility, as defined in the Nursing Home Care Act [35 ILCS 120/2-5(35-536)];

ww) *beginning January 1, 2000 through December 31, 2001, of new or used automatic vending machines that prepare and serve hot food and beverages, including coffee, soup, and other items, and replacement parts for these machines. Beginning January 1, 2002 and through June 30, 2003, of machines and parts for machines used in commercial, coin-operated amusement and vending business if a use or occupation tax is paid on the gross receipts from the use of the commercial, coin-operated amusement and vending machines. [35 ILCS 120/2-5(35)] (See Section 130.332 of this Part.);*

xx) *beginning July 1, 2007, of an aircraft, as that term is defined in Section 3 of the Illinois Aeronautics Act, if all of the following conditions are met:*

- 1) *the aircraft leaves this State within 15 days after the later of either the final billing for the sale of the aircraft or the approval for return to service, completion of the maintenance record entry, and completion of the test flight and ground test for inspection, as required by 14 CFR 91.407;*
- 2) *the aircraft is not based or registered in this State after the sale of the aircraft; and*
- 3) *the seller retains documents as required by the Department. [35 ILCS 120/2-5(25-7)] (See Section 130.605);*

yy) *effective October 11, 2007, of tangible personal property sold to a public-facilities corporation, as described in 65 ILCS 5/11-65-10, for purposes of constructing or furnishing a municipal convention hall. If, before the effective date of this amendment, a municipality has incorporated a public-facilities corporation and the public-facilities corporation complies with the requirements set forth in Section 11-65-10, then this exemption applies to that public-facilities corporation. [65 ILCS 5/11-65-10, 15, 25];*

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zz) *beginning January 1, 2008, of tangible personal property used in the construction or maintenance of certain community water supplies. [35 ILCS 120/2-5(39)]*

(Source: Amended at 33 Ill. Reg. _____, effective _____)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Environmental Health Practitioner Licensing Act
- 2) Code Citation: 68 Ill. Adm. Code 1247
- 3)

| <u>Section Numbers:</u> | <u>Adopted Action:</u> |
|-------------------------|------------------------|
| 1247.20 | Amendment |
| 1247.25 | Amendment |
| 1247.30 | Amendment |
| 1247.40 | Amendment |
| 1247.60 | Amendment |
| 1247.70 | Amendment |
| 1247.75 | Amendment |
| 1247.80 | Amendment |
| 1247.90 | Amendment |
| 1247.100 | Amendment |
| 1247.110 | Amendment |
- 4) Statutory Authority: Environmental Health Practitioner Licensing Act [225 ILCS 37]
- 5) Effective Date of Amendments: September 3, 2008
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Date Notice of Proposal Published in Illinois Register: 32 Ill. Reg. 6301; April 18, 2008
- 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 agreement letter issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rulemakings currently in effect? No

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- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendments: The name of the national examination required for licensure has changed; Section 1247.30 is being amended to reflect that change. Section 1247.20 is also being amended to clarify that individuals that have already taken and passed the examination prior to application need not take it again. Makes various non-substantive changes, including changing references throughout the entire Part from "Department" to "Division" to reflect the consolidation of agencies into the Department of Financial and Professional Regulation and the creation of the Division of Professional Regulation. Obsolete language is also being removed and other technical changes are being made.
- 16) Information and questions regarding these adopted amendments shall be directed to:

Department of Financial and Professional Regulation
Attention: Craig Cellini
320 West Washington, 3rd Floor
Springfield, Illinois 62786

217/785-0813 Fax: 217/557-4451

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

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TITLE 68: PROFESSIONS AND OCCUPATIONS

CHAPTER VII: DEPARTMENT OF [FINANCIAL AND](#) PROFESSIONAL REGULATION
SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

PART 1247

ENVIRONMENTAL HEALTH PRACTITIONER LICENSING ACT

Section

| | |
|----------|--|
| 1247.10 | Application for Licensure as an Environmental Health Practitioner Under Section 21(a) or (b) of the Act (Grandfather) (Repealed) |
| 1247.20 | Application for Examination/Licensure as an Environmental Health Practitioner |
| 1247.25 | Application for Licensure as an Environmental Health Practitioner in Training |
| 1247.30 | Examination |
| 1247.40 | Approved Programs of Environmental Health Practitioners |
| 1247.50 | Experience |
| 1247.55 | Supervision |
| 1247.60 | Endorsement |
| 1247.70 | Renewal |
| 1247.75 | Fees |
| 1247.80 | Inactive Status |
| 1247.90 | Restoration |
| 1247.100 | Continuing Education |
| 1247.110 | Granting Variances |

AUTHORITY: Implementing the Environmental Health Practitioner Licensing Act [225 ILCS 37] and authorized by Section 2105-15(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15(7)].

SOURCE: Adopted at 20 Ill. Reg. 2400, effective January 29, 1996; amended at 21 Ill. Reg. 16038, effective November 24, 1997; amended at 22 Ill. Reg. 15612, effective August 12, 1998; amended at 24 Ill. Reg. 537, effective December 31, 1999; amended at 25 Ill. Reg. 2082, effective January 22, 2001; emergency amendment at 27 Ill. Reg. 3143, effective February 19, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 10248, effective June 26, 2003; amended at 32 Ill. Reg. 14951, effective September 3, 2008.

Section 1247.20 Application for Examination/Licensure as an Environmental Health Practitioner

- a) An applicant for ~~examination to obtain~~ licensure as an environmental health

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practitioner on the basis of examination or acceptance of examination shall file an application, on forms provided by the Department of Financial and Professional Regulation-Division of Professional Regulation (Division), ~~at least 90 days prior to the examination date~~. The application shall include:

1)a) Verification, on forms provided by the Division~~Department~~, that the applicant meets one of the following qualifications:

A)1) Holds a bachelor's degree from an accredited college or university approved by the National Environmental Health Science and Protection Accreditation Council for environmental health curricula or its equivalent as approved by the Division~~Department~~ in accordance with Section 1247.40 of this Part;

B)2) Holds a bachelor's degree from an accredited college or university which included a minimum of 30 semester hours, or the equivalent, of basic sciences approved by the Division~~Department~~ in accordance with Section 1247.40 and 12 months of full-time experience as set forth in Section 1247.50; or

C)3) Holds a master's degree in public health or environmental health science from an accredited college or university if the applicant has completed a minimum of 30 semester or equivalent hours of basic science as approved by the Division~~Department~~ in accordance with Section 1247.40;

2)b) ~~A complete work history since receipt of a bachelor's degree;~~ e) The required fee set forth in Section 1247.75; and

3)d) Certification, on forms provided by the Division~~Department~~, from the jurisdiction in which the applicant was originally licensed and the jurisdiction in which the applicant predominantly practices and is currently registered/licensed, if applicable, stating:

A)1) The time during which the applicant was licensed in that jurisdiction, including the date of the original issuance of the license;

B)2) A description of the examination in that jurisdiction; and

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~~C)3)~~ Whether the file on the applicant contains any record of disciplinary actions taken or pending.

b) All applicants shall be required to pass the examination required in Section 1247.30. Those individuals who have already passed the required examination prior to application shall submit proof of passage directly to the Division.

(Source: Amended at 32 Ill. Reg. 14951, effective September 3, 2008)

Section 1247.25 Application for Licensure as an Environmental Health Practitioner in Training

An applicant for licensure as an environmental health practitioner in training shall file an application, on forms provided by the ~~Division~~Department.

- a) Pursuant to Section 21 of the Act, a person who, on August 22, 2002, was certified by his or her employer as serving as a sanitarian or unlicensed environmental health practitioner in environmental health practice in this State may be issued a license as an environmental health practitioner in training upon filing an application by July 1, 2003. The application shall be filed with the ~~Division~~Department on forms supplied by the ~~Division~~Department and shall include:
- 1) ~~A work history for the last 10 years;~~2) Verification of employment signed by the supervisor; and
 - ~~2)3)~~ The required fee set forth in Section 1247.75.
- b) Individuals applying for an environmental health practitioner in training license, except for those qualified pursuant to subsection (a), shall file an application with the ~~Division~~Department, on forms provided by the ~~Division~~Department, that the applicant meets one of the following qualifications:
- 1) Verification
 - A) Holds a bachelor's degree from an accredited college or university approved by the National Environmental Health Science and Protection Accreditation Council for environmental health

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- curricula or its equivalent as approved by the ~~Division~~Department in accordance with Section 1247.40 of this Part;
- B) Holds a bachelor's degree from an accredited college or university that included a minimum of 30 semester hours, or the equivalent, of basic sciences approved by the ~~Division~~Department in accordance with Section 1247.40; or
- C) Holds a master's degree in public health or environmental health science from an accredited college or university if the applicant has completed a minimum of 30 semester or equivalent hours of basic science as approved by the ~~Division~~Department in accordance with Section 1247.40;
- 2) ~~A complete work history since receipt of a bachelor's degree;~~3) The required fee set forth in Section 1247.75; and
- 3)4) Certification, on forms provided by the ~~Division~~Department, from the jurisdiction in which the applicant was originally licensed and the jurisdiction in which the applicant predominantly practices and is currently registered/licensed, if applicable, stating:
- A) The time during which the applicant was licensed in that jurisdiction, including the date of the original issuance of the license;
- B) A description of the examination in that jurisdiction; and
- C) Whether the file on the applicant contains any record of disciplinary actions taken or pending.
- c) An environmental health practitioner in training license will be issued for 3 years. If a person has not passed an examination within the 3 years, an applicant may request an extension.
- 1) The applicant shall request an extension in writing stating the reasons for the extension and shall pay the required fee.

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- 2) Upon the recommendation of the [Environmental Health Practitioners Board \(Board\)](#) and approval by the [DivisionDepartment](#), an environmental health practitioner in training license shall be extended, not to exceed 3 years, for the following reasons:
 - A) Service in the military;
 - B) [Incapacitating](#) illness and/or hospitalization verified by a physician; or
 - C) Other extenuating circumstances.
- 3) In no instance can an environmental health practitioner in training license be extended that would allow an environmental health practitioner in training to practice more than 6 years.

(Source: Amended at 32 Ill. Reg. 14951, effective September 3, 2008)

Section 1247.30 Examination

- a) The examination for licensure as an environmental health practitioner shall be the [National Environmental Health Association \(NEHA\) Registered Environmental Health Specialist/Registered Sanitarian \(REHS/RS\) examinationProficiency Exam](#) administered by the [DivisionDepartment](#) or its designated testing service, [or other testing services approved by the Division](#).
- b) The passing score on the examination shall be 68%, the passing score established by the national testing entity.

(Source: Amended at 32 Ill. Reg. 14951, effective September 3, 2008)

Section 1247.40 Approved Programs of Environmental Health Practitioners

- a) The [DivisionDepartment of Professional Regulation](#) shall approve a bachelor's or master's program if it meets the following minimum criteria:
 - 1) The school or program is accredited by an agency recognized by the Council on Post-secondary Accreditation and the United States Department of Education or the jurisdiction in which it is located.

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- 2) The program has a sufficient number of full-time instructors to assure that educational obligations to the student are fulfilled. The faculty must have demonstrated competence as evidenced by appropriate degrees in their [area\(s\)](#) of teaching from professional colleges or institutions.
 - 3) Has a designated program director.
 - 4) Maintains permanent student records which summarize the credentials for admission, attendance, grades and other records of performance.
 - 5) Has a curriculum with a minimum of 30 semester hours, or the equivalent, of basic sciences with at least 3 hours in each of the following areas:
 - A) Physical Sciences;
 - B) Chemical Sciences;
 - C) Biological Sciences; and
 - D) Math.
- b) The [DivisionDepartment](#) shall accept a program in environmental health science from a college or university approved by the National Environmental Health Science and Protection Accreditation Council.

(Source: Amended at 32 Ill. Reg. 14951, effective September 3, 2008)

Section 1247.60 Endorsement

- a) An applicant who is licensed/registered under the laws of another jurisdiction and who wishes to be licensed in Illinois as an environmental health practitioner shall file an application with the [DivisionDepartment](#), on forms provided by the [DivisionDepartment](#), ~~that~~^{which} includes:
 - 1) Proof of Education and Experience
 - A) Certification of a bachelor's degree from an accredited college or university approved by the National Environmental Health Science

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and Protection Accreditation Council for environmental health curricula or its equivalent as approved by the ~~Division~~Department in accordance with Section 1247.40 of this Part; or

- B) Certification of a bachelor's degree from an accredited college or university which included a minimum of 30 semester hours or the equivalent of basic sciences approved by the ~~Division~~Department in accordance with Section 1247.40 and 12 months of full time experience as set forth in Section 1247.50; or
- C) Certification of a master's degree in public health or environmental health science from an accredited college or university if the applicant has completed a minimum of 30 semester or equivalent hours of basic science as approved by the ~~Division~~Department in accordance with Section 1247.40;

2) ~~Proof of successful completion of the examination required in Section 1247.30~~~~Certification of successful completion of the Professional Examination Service Environmental Health Proficiency Exam~~ or its equivalent;

3) ~~A complete work history;~~ 4) The required fee set forth in Section 1247.75; and

4)5) Certification, on forms provided by the ~~Division~~Department, from the jurisdiction in which the applicant was originally licensed and the state in which the applicant predominantly practices and is currently registered/licensed, if applicable, stating:

- A) The time during which the applicant was licensed in that jurisdiction, including the date of the original issuance of the license;
- B) A description of the examination in that jurisdiction; and
- C) Whether the file on the applicant contains any record of disciplinary actions taken or pending.

b) When the accuracy of any submitted documentation, or the relevance or

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sufficiency of the course work or experience is questioned by the [DivisionDepartment](#) because of a lack of information, discrepancies or conflicts in information given, or a need for clarification, the applicant seeking licensure by endorsement shall be requested to:

- 1) Provide such information as may be necessary; and/or
- 2) Appear for an interview before the [Environmental Health Practitioners Board \(Board\)](#) to explain such relevance or sufficiency, clarify information, or clear up any discrepancies or conflicts in information.

(Source: Amended at 32 Ill. Reg. 14951, effective September 3, 2008)

Section 1247.70 Renewal

- a) Every license issued under the Act shall expire on April 30 of even-numbered years. The holder of a license may renew such license during the month preceding the expiration date by paying the fee required by Section 1247.75 and meeting the continuing education requirements set forth in Section 1247.100.
- b) It is the responsibility of each licensee to notify the [DivisionDepartment](#) of any change of address. Failure to receive a renewal form from the [DivisionDepartment](#) shall not constitute an excuse for failure to pay the renewal fee or to renew one's license.

(Source: Amended at 32 Ill. Reg. 14951, effective September 3, 2008)

Section 1247.75 Fees

The following fees shall be paid to the Department and are not refundable:

- a) Application Fees
 - 1) The fee for application for a license as an environmental health practitioner is \$100. In addition, applicants for an examination shall be required to pay, either to the Department or to the designated testing service, a fee covering the cost of determining an applicant's eligibility and providing the examination. Failure to appear for the examination on the scheduled date, at the time and place specified, after the applicant's

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application for examination has been received and acknowledged by the [DivisionDepartment](#) or the designated testing service, shall result in the forfeiture of the examination fee.

- 2) The fee for application as a continuing education sponsor is \$500. State colleges, universities, and State agencies are exempt from payment of this fee.
- 3) The fee for an application for an environmental health practitioner in training license shall be \$50.

b) Renewal Fees

- 1) The fee for the renewal of a license shall be calculated at the rate of \$75 per year.
- 2) The fee for renewal of continuing education sponsor approval is \$250 for the renewal period (see Section 1247.100(c)(7)).
- 3) The fee for an extension of an environmental health practitioner in training license shall be \$35.

c) General Fees

- 1) The fee for the restoration of a license other than from inactive status is \$20 plus payment of all lapsed renewal fees, not to exceed \$600.
- 2) The fee for the issuance of a duplicate license, for the issuance of a replacement license for a license which has been lost or destroyed or for the issuance of a license with a change of name or address, other than during the renewal period, is \$20. No fee is required for name and address changes on [DivisionDepartment](#) records when no duplicate license is issued.
- 3) The fee for a certification of a licensee's record for any purpose is \$20.
- 4) The fee to have the scoring of an examination administered by the [DivisionDepartment](#) reviewed and verified is \$20, plus any fee charged by the testing service.

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- 5) The fee for a wall certificate showing licensure shall be the actual cost of producing the certificate.
- 6) The fee for a roster of persons licensed as environmental health practitioners in this State shall be the actual cost of producing the roster.

(Source: Amended at 32 Ill. Reg. 14951, effective September 3, 2008)

Section 1247.80 Inactive Status

- a) A licensed environmental health practitioner who notifies the [DivisionDepartment](#), on forms provided by the [DivisionDepartment](#), may place the license on inactive status and shall be excused from paying renewal fees until he/she notifies the [DivisionDepartment](#) in writing of the intention to resume active practice.
- b) Any licensed environmental health practitioner seeking restoration from inactive status shall do so in accordance with Section 1247.90.
- c) Any environmental health practitioner whose license is on inactive status shall not practice as an environmental health practitioner and shall not use the title "registered" or "licensed" environmental health practitioner in the State of Illinois. Any person violating this subsection shall be considered to be practicing without a license and shall be subject to the disciplinary provisions of the Act.

(Source: Amended at 32 Ill. Reg. 14951, effective September 3, 2008)

Section 1247.90 Restoration

- a) Any environmental health practitioner whose license expired or has been placed on inactive status for 5 years or less may have the license restored by paying the fees required by Section 1247.75 and providing proof of meeting continuing education requirements set forth in Section 1247.100 during the 2 years prior to restoration.
- b) Any person seeking restoration of a license that has been expired or placed on inactive status for more than 5 years shall file an application, on forms provided by the [DivisionDepartment](#), for review by the Board, together with the fee

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required by Section 1247.75 and providing proof of meeting continuing education requirements set forth in Section 1247.100 during the 2 years prior to restoration. The applicant shall also submit:

- 1) Sworn evidence of active practice in another jurisdiction. Such evidence shall include a statement from an appropriate board or licensing authority in the other jurisdiction that the licensee/registrant was authorized to practice during the term of active practice; or
 - 2) An affidavit attesting to military service as provided in Section 27(c) of the Act; or
 - 3) Proof of [successful completion of the examination required in Section 1247.30](#)~~passage of the environmental Health Proficiency Examination~~ during the period the license was lapsed or on inactive status.
- c) Any person seeking restoration of a license within 2 years after discharge from military service pursuant to Section 27(c) of the Act will be required to pay only the current renewal fee and will not be required to submit proof of meeting the continuing education requirements.
- d) When the accuracy of any submitted documentation or the relevance or sufficiency of the course work or experience is questioned by the ~~Division~~[Department](#) because of a lack of information, discrepancies or conflicts in information given, or a need for clarification, the registrant seeking restoration shall be requested to:
- 1) Provide such information as may be necessary; and/or
 - 2) Appear for an interview before the Board to explain such relevance or sufficiency, clarify information or clear up any discrepancies or conflicts in information.
- e) Upon the recommendation of the Board and approval of the Director [of the Division of Professional Regulation, with the authority delegated by the Secretary \(Director\)](#), an applicant shall have the registration restored or be notified in writing of the reason for denying the application.

(Source: Amended at 32 Ill. Reg. 14951, effective September 3, 2008)

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Section 1247.100 Continuing Education

- a) Continuing Education Hours Requirements
- 1) In order to renew a license as an environmental health practitioner, a licensee shall be required to complete 20 hours of continuing education (CE) relevant to the practice of environmental health.
 - 2) A prerenewal period is the 24 months preceding April 30 of each even-numbered year.
 - 3) One CE hour shall equal 60 minutes of attendance. After completion of the initial CE hour, credit may be given in one-half hour increments.
 - 4) A renewal applicant shall not be required to comply with CE requirements for the first renewal of an Illinois license.
 - 5) Environmental health practitioners licensed in Illinois but residing and practicing in other states shall comply with the CE requirements set forth in this Section.
 - 6) Continuing education credit hours used to satisfy the CE requirements of another jurisdiction may be applied to fulfill the CE requirements of the State of Illinois.
- b) Approved Continuing Education (CE)
- 1) CE hours shall be earned by verified attendance (e.g., certificate of attendance or certificate of completion) at or participation in a program or course (program) that is offered or sponsored by an approved continuing education sponsor meeting the requirements set forth in subsection (c) [below](#), except for those activities provided in subsections (b)(2), (3), (4) and (5)-[below](#).
 - 2) A maximum of 10 CE credits per prerenewal period may be earned for completion of a correspondence course that is offered by an approved sponsor meeting the requirements set forth in subsection (c)-[below](#). Each correspondence course shall include an examination.

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- 3) CE credit may be earned through postgraduate training programs (e.g., extern, residency or fellowship programs) or completion of environmental health related courses that are a part of the curriculum of a college, university or graduate school. Courses that are part of the curriculum of a university, college or other educational institution shall be allotted CE credit at the rate of 15 CE hours for each semester hour or 10 CE hours for each quarter hour of school credit awarded.
 - 4) CE credit may be earned for verified teaching in the field of environmental health in an accredited college, university or graduate school and/or as an instructor of continuing education programs given by approved sponsors. Credit will be applied at the rate of 2 hours for every hour taught and only for the first presentation of the program (i.e., credit shall not be allowed for repetitious presentations of the same program). A maximum of 10 hours of CE credit may be obtained in this category per prerenewal period.
 - 5) CE credit may be earned for authoring papers, publications, dissertations or books and for preparing presentations and exhibits in the field of environmental health. The preparation of each published paper, book chapter or professional presentation dealing with environmental health may be claimed as 5 hours of credit. A presentation must be before an audience of professionals. Five credit hours may be claimed for only the first time the information is published or presented.
- c) Approved CE Sponsors and Programs
- 1) Sponsor, as used in this Section, shall mean:
 - A) ~~American Association of Safety Engineers~~ B) American Public Health Association
 - B) ~~C)~~ American Society of Safety Engineers
 - C) ~~D)~~ Associated Illinois Milk, Food and Environmental Sanitarians
 - D) ~~E)~~ Association of Food and Drug Officials
 - E) ~~F)~~ Conference for Food Protection

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~~F)G)~~ Illinois Association of Local Environmental Health Administrators

~~G)H)~~ Illinois Association of Ground Water Professionals

~~H)I)~~ Illinois Association of Public Health Administrators

~~I)J)~~ Illinois Environmental Health Association and Affiliates

~~J)K)~~ Illinois Public Health Association

~~K)L)~~ International Association of ~~Food Protection-IAFPMilk, Food, and Environmental Sanitarians~~

~~L)M)~~ Interstate Shellfish Shippers Conference

~~M)N)~~ National Conference of Interstate Milk Shippers

~~N)O)~~ National Environmental Health Association and Affiliates

~~O)P)~~ National Restaurant Association and Educational Foundation

~~P)Q)~~ ~~NSFNational Sanitation Foundation~~ International

~~Q)R)~~ North Central Association of Food and Drug Officials
~~S)Underwriters Laboratory~~

~~R)T)~~ State and federal agencies

~~S)U)~~ Any other accredited school, college or university, or any other person, firm, or association, applying pursuant to subsection (c)(2) ~~that below and~~ has been approved and authorized by the ~~DivisionDepartment~~ to coordinate and present continuing education courses and programs in conjunction with this Section.

- 2) An entity seeking approval as a CE sponsor shall submit an application, on forms supplied by the ~~DivisionDepartment~~, along with the application fee specified in Section 1247.75. The application shall include:

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- A) Certification:
- i) That all programs offered by the sponsor for CE credit shall comply with the criteria in subsection (c)(3) ~~below~~ and all other criteria in this Section;
 - ii) That the sponsor shall be responsible for verifying full-time continuous attendance at each program and provide a certificate of attendance as set forth in subsection (c)(~~89~~) ~~below~~;
 - iii) That, upon request by the ~~Division~~Department, the sponsor shall submit evidence (e.g., certificate of attendance or course material) as is necessary to establish compliance with this Section. Evidence shall be required when the ~~Division~~Department has reason to believe that there is not full compliance with the statute and this Part and that this information is necessary to ensure compliance;
- B) A copy of a sample program, including course materials, syllabi and a list of faculty.
- 3) All programs shall:
- A) Contribute to the advancement, extension and enhancement of the professional skills and scientific knowledge of the licensee in practice of environmental health;
 - B) Foster the enhancement of general or specialized practice and values of environmental health;
 - C) Be developed and presented by persons with education and/or experience in the subject matter of the program;
 - D) Specify the course objectives, course content and teaching methods to be used; and
 - E) Specify the number of CE hours that may be applied to fulfilling the Illinois CE requirements for license renewal.

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- 4) Each CE program shall provide a mechanism for evaluation of the program and instructor to be completed by the participants. The evaluation may be completed on-site immediately following the program presentation or an evaluation questionnaire may be distributed to participants to be completed and returned by mail. The sponsor and the instructor shall review together the evaluation outcome and revise subsequent programs accordingly.
- 5) An approved sponsor may subcontract with individuals and organizations to provide approved programs. All advertising, promotional materials, and certificates of attendance must identify the licensed sponsor and the sponsor's license number. The presenter of the program may also be identified, but should be identified as a presenter. When a licensed sponsor subcontracts with a presenter, the licensed sponsor retains all responsibility for monitoring attendance, providing certificates of attendance and ensuring the program meets all of the criteria established by the Act and this Part, including the maintenance of records.
- 6) All programs given by approved sponsors shall be open to all licensed environmental health practitioners and not be limited to members of a single organization or group.
- 7) To maintain approval as a sponsor, each sponsor shall submit to the ~~Division~~Department by April 30 of each even-numbered year a renewal application, and the fee specified in Section 1247.75 ~~and a list of courses and programs offered within the last 24 months. The list shall include a brief description, location, date and time of each course given by the sponsor and by any subcontractor.~~
- 8) Certification of Attendance. It shall be the responsibility of a sponsor to provide each participant in a program with a certificate of attendance or participation. The sponsor's certificate of attendance shall contain:
 - A) The name, address and license number of the sponsor;
 - B) The name and address of the participant;
 - C) A brief statement of the subject matter;

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- D) The number of hours attended in each program;
 - E) The date and place of the program; and
 - F) The signature of the sponsor.
- 9) The sponsor shall maintain attendance records for not less than 5 years.
- 10) The sponsor shall be responsible for assuring that no renewal applicant shall receive CE credit for time not actually spent attending the program.
- 11) Upon the failure of a sponsor to comply with any of the requirements of this Section, the [Division](#)~~Department~~, after notice to the sponsor and hearing before the Board and recommendation by the Board (see 68 Ill. Adm. Code 1110), shall thereafter refuse to accept for CE credit attendance at or participation in any of that sponsor's CE programs until such time as the [Division](#)~~Department~~ receives assurances of compliance with this Section.
- 12) Notwithstanding any other provision of this Section, the [Division](#)~~Department~~ or Board may evaluate any sponsor of any approved CE program at any time to ensure compliance with requirements of this Section.
- d) Certification of Compliance with CE Requirements
- 1) Each renewal applicant shall certify, on the renewal application, full compliance with the CE requirements set forth in subsections (a) and (b)~~above~~.
 - 2) The [Division](#)~~Department~~ may require additional evidence demonstrating compliance with the CE requirements (e.g., certificate of attendance). This additional evidence shall be required in the context of the [Division's](#)~~Department's~~ random audit. It is the responsibility of each renewal applicant to retain or otherwise produce evidence of compliance.
 - 3) When there appears to be a lack of compliance with CE requirements, an applicant shall be notified in writing and may request an interview with

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the Board. At that time the Board may recommend that steps be taken to begin formal disciplinary proceedings as required by Section 10-65 of the Illinois Administrative Procedure Act [5 ILCS 100/10-65].

- e) Continuing Education Earned in Other Jurisdictions
 - 1) If a licensee has earned or is seeking CE hours offered in another jurisdiction not given by an approved sponsor for which the licensee will be claiming credit toward full compliance in Illinois, the applicant shall submit an individual program approval request form, along with a \$25 processing fee, prior to participation in the program or within 90 days prior to expiration of the license. The Board shall review and recommend approval or disapproval of the program using the criteria set forth in subsection (c)(3) of this Section.
 - 2) If a licensee fails to submit an out of state CE approval form within the required time frame, late approval may be obtained by submitting the approval request form with the \$25 processing fee plus a \$10 per hour late fee not to exceed \$150. The Board shall review and recommend approval and disapproval of the program using the criteria set forth in subsection (c)(3) of this Section.
- f) Restoration of Nonrenewed License. Upon satisfactory evidence of compliance with CE requirements, the ~~Division~~Department shall restore the license upon payment of the required fee as provided in Section 1247.75.
- g) Waiver of CE Requirements
 - 1) Any renewal applicant seeking renewal of a license without having fully complied with these CE requirements shall file with the ~~Division~~Department a renewal application along with the required fee set forth in Section 1247.75, a statement setting forth the facts concerning non-compliance and a request for waiver of the CE requirements on the basis of these facts. A request for waiver shall be made prior to the renewal date. If the ~~Division~~Department, upon the written recommendation of the Board, finds from such affidavit or any other evidence submitted that extreme hardship has been shown for granting a waiver, the ~~Division~~Department shall waive enforcement of CE requirements for the renewal period for which the applicant has applied.

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- 2) Extreme hardship shall be determined on an individual basis by the Board and be defined as an inability to devote sufficient hours to fulfilling the CE requirements during the applicable prerenewal period because of:
 - A) Full-time service in the armed forces of the United States of America during a substantial part of the prerenewal period;
 - B) An incapacitating illness documented by a statement from a currently licensed physician;
 - C) A physical inability to travel to the sites of approved programs documented by a currently licensed physician; or
 - D) Any other similar extenuating circumstances.
- 3) Any renewal applicant who, prior to the expiration date of the license, submits a request for a waiver, in whole or in part, pursuant to the provisions of this Section shall be deemed to be in good standing until the final decision on the application is made by the [DivisionDepartment](#).

(Source: Amended at 32 Ill. Reg. 14951, effective September 3, 2008)

Section 1247.110 Granting Variances

- a) The Director of the [DivisionDepartment](#) may grant variances from [this Partthese rules](#) in individual cases when he/she finds that:
 - 1) The provision from which the variance is granted is not statutorily mandated;
 - 2) No party will be injured by the granting of the variance; and
 - 3) The rule from which the variance is granted would, in the particular case, be unreasonable or unnecessarily burdensome.
- b) The Director shall notify the Board of the granting of [thesueh](#) variance, and the reasons [for granting the variancetherefor](#), at the next meeting of the Board.

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NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 32 Ill. Reg. 14951, effective September 3, 2008)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Registered Surgical Assistant and Registered Surgical Technologist Title Protection Act
- 2) Code Citation: 68 Ill. Adm. Code 1485
- 3)

| | |
|-------------------------|------------------------|
| <u>Section Numbers:</u> | <u>Adopted Action:</u> |
| 1485.10 | Amendment |
| 1485.20 | Amendment |
- 4) Statutory Authority: Registered Surgical Assistant and Registered Surgical Technologist Title Protection Act [225 ILCS 130]
- 5) Effective Date of Amendments: September 3, 2008
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? Yes
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Date Notice of Proposal Published in Illinois Register: 32 Ill. Reg. 6323; April 18, 2008
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: No substantive changes were made.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rulemakings currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendments: This rulemaking amends Section 1485.10 by adding an additional means of verifying experience to make it consistent with the certification requirements of a certifying body (Liaison Council on Certification for Surgical Technologists) we already accept. The Test of English as a Foreign Language (TOEFL) requirement is also being removed because it is not required by the American

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Board of Surgical Assistants and all certifying exams are only administered in English. Obsolete language regarding the work history of applicants is also being removed.

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

Department of Financial and Professional Regulation
Division of Professional Regulation
Attention: Craig Cellini
320 West Washington, 3rd Floor
Springfield, Illinois 62786

217/785-0813 Fax: 217/557-4451

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

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TITLE 68: PROFESSIONS AND OCCUPATIONS
CHAPTER VII: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION
SUBCHAPTER b: PROFESSIONS AND OCCUPATIONSPART 1485
REGISTERED SURGICAL ASSISTANT AND
REGISTERED SURGICAL TECHNOLOGIST TITLE PROTECTION ACT

Section

| | |
|---------|---|
| 1485.10 | Application for Registration as a Surgical Assistant |
| 1485.20 | Application for Registration as a Surgical Technologist |
| 1485.30 | Endorsement |
| 1485.40 | Supervision |
| 1485.50 | Renewal |
| 1485.60 | Inactive Status |
| 1485.70 | Restoration |
| 1485.80 | Fees |
| 1485.90 | Granting Variances |

AUTHORITY: Implementing the Registered Surgical Assistant and Registered Surgical Technologist Title Protection Act [225 ILCS 130] and authorized by Section 2105-15(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15(7)].

SOURCE: Adopted at 28 Ill. Reg. 14447, effective October 20, 2004; amended at 32 Ill. Reg. 14973, effective September 3, 2008.

Section 1485.10 Application for Registration as a Surgical Assistant

An applicant for registration as a surgical assistant shall file an application on forms supplied by the Department of Financial and Professional Regulation-Division of Professional Regulation (Division), together with:

- a) Certification of completion from a medical education program approved by the Division, or has graduated from a United States Military Program that emphasizes surgical assisting. The following applicants are considered from an approved program:
 - 1) Individuals who are graduates of a National Surgical Assistant Association approved program of surgical assisting. The category shall include

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certificate programs, an associate degree or higher, and formal hospital based programs for surgical assisting.

- 2) Individuals with 3 consecutive years experience as a surgical first assistant with 750 hours per year. The individual must provide a signed and notarized affidavit from his or her supervisor attesting to his or her experience and 5 verifiable letters of reference from surgeons he or she has assisted.

- 3) Individuals with 2 full years of first assisting experience during the last 4 years with 350 documented surgical cases.

- 4) Individuals who are graduates of a foreign medical school must submit: a copy of the diploma or a reference letter from their medical school (verifying surgical training and experience) and; a reference letter from a sponsoring U.S. surgeon who has evaluated the individual's technical skills and aseptic technique; ~~and proof of having passed the TOEFL (Test of English as a Foreign Language).~~

- b) ~~A complete work history since completion of the medical education program;~~c) Documentation that the applicant has passed a national certifying examination from the National Surgical Assistant Association on the Certification of Surgical Assistants; the Liaison Council on Certification for Surgical Technologists as a certified first assistant; or the American Board of Surgical Assistants;

- ~~c)~~d) Proof of current certification by one of the following certifying bodies:

- 1) National Surgical Assistant Association for the certification of surgical assistants;
- 2) Liaison Council on Certification for the Surgical Technologist as a certified first assistant; or
- 3) American Board of Surgical Assistants;

- ~~d)~~e) If the applicant has ever been licensed/registered in another state or territory of the United States (jurisdiction), certification, on forms provided by the Division, from the jurisdiction applicant was originally licensed and the jurisdiction applicant predominantly practices and is currently licensed, stating:

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- 1) The time during which the applicant was registered in that jurisdiction, including the date of original issuance of the license; and
- 2) Whether the file on the applicant contains any record of disciplinary actions taken or pending;

~~e)f~~ The required fee as specified in Section 1485.80.

(Source: Amended at 32 Ill. Reg. 14973, effective September 3, 2008)

Section 1485.20 Application for Registration as a Surgical Technologist

An applicant for registration as a surgical technologist shall file an application on forms supplied by the Division, together with:

- a) Proof of completion of a surgical technologist program approved by the Division;
- b) ~~A complete work history since completion of a surgical technologist program;~~ ~~e)~~ Proof of current certification and successful completion of the Surgical Technologist National Certification Examination provided by the Liaison Council on Certification for the Surgical Technologist or its successor agency;

~~c)d~~ If the applicant has ever been licensed/registered in another state or territory of the United States, certification, on forms provided by the Division, from the jurisdiction in which the applicant was originally licensed and the jurisdiction in which the applicant predominantly practices and is currently licensed, stating:

- 1) The time during which the applicant was registered in that jurisdiction, including the date of original issuance of the license; and
- 2) Whether the file on the applicant contains any record of disciplinary actions taken or pending;

~~d)e~~ The required fee as specified in Section 1485.80.

(Source: Amended at 32 Ill. Reg. 14973, effective September 3, 2008)

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- 1) Heading of the Part: Water Quality Standards
- 2) Code Citation: 35 Ill. Adm. Code 302
- 3)

| | |
|-------------------------|------------------------|
| <u>Section Numbers:</u> | <u>Adopted Action:</u> |
| 302.102 | Amend |
| 302.208 | Amend |
- 4) Statutory Authority: Implementing Section 10 and authorized by Sections 27 and 28 of the Environmental Protection Act [415 ILCS 5/10, 27 and 28]
- 5) Effective Date of Amendments: September 8, 2008
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the Board's Chicago office at the James R. Thompson Center, 100 W. Randolph, Suite 11-500 and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: October 5, 2007; 31 Ill. Reg. 13624
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences between proposal and final version:

Added the following appendix to the Table of Contents: "302.APPENDIX D Section 302.206(d): Stream Segments for Enhanced Dissolved Oxygen Protection".

Changed the language in Section 302.102(b)(8) to read: "The area and volume in which mixing occurs, alone or in combination with other areas and volumes of mixing must not contain more than 25% of the cross-sectional area or volume of flow of a stream except for those streams where the dilution ratio is less than 3:1. In streams where the dilution ratio is less than 3:1, the volume in which mixing occurs, alone or in combination with other volumes of mixing, must not contain more than 50 % of the volume flow unless an applicant for an NPDES permit demonstrates, pursuant to subsection (d) of this section, that an adequate zone of passage is provided for pursuant to Section 302.102(b)(6).

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~~Mixing is not allowed in receiving waters which have a zero minimum seven day low flow which occurs once in ten years."~~

Changed the language in Section 302.208(h)(3)(C) to read as follows:

"If the combination of hardness and chloride concentrations of existing waters are not reflected in subsection (h)(3)(A) or (B), the sulfate standard may be determined in a site-specific rulemaking pursuant to section 303(c) of the Federal Water Pollution Control Act of 1972 (Clean Water Act), 33 USC 1313, and Federal Regulations at 40 CFR. 131.10(j)(2)."

Amended the table in Section 302.208(e) to reflect various changes made by the Board.

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements letter issued by JCAR? Yes
- 13) Will these amendments replace any emergency amendments currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendments: This rulemaking is based on a proposal filed with the Board by the Illinois Environmental Agency on October 23, 2006. The rulemaking updates existing general use water quality standards for sulfate and total dissolved solids (TDS) by amending or repealing certain sections and Parts of Title 35 in the *Illinois Administrative Code*: Parts 302, 309, 405, 406, and 407 of the Board's water and mine-related pollution rules.

The amendments to Parts 302, 309, 405, 406, and 407 of Title 35 allow an update of existing general use water quality standards for sulfate and total dissolved solids (TDS) while being protective of the environment and human health. For more detailed information, please refer to R07-09 adopted at the September 4, 2008 meeting of the Pollution Control Board.

- 16) Information and questions regarding these Adopted Amendments shall be directed to:

Marie Tipsord
Illinois Pollution Control Board
100 W. Randolph 11-500
Chicago, IL 60601

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312/814-4925

Copies of the Board's opinions and orders may be requested from the Clerk of the Board at the address listed in #8 above or by calling 312/814-3620. Please refer to the Docket number R07-09 in your request. The Board order is also available from the Board's Web site (www.ipcb.state.il.us)

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

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TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE C: WATER POLLUTION
CHAPTER I: POLLUTION CONTROL BOARD

PART 302
WATER QUALITY STANDARDS

SUBPART A: GENERAL WATER QUALITY PROVISIONS

| | |
|---------|---------------------------------------|
| Section | |
| 302.100 | Definitions |
| 302.101 | Scope and Applicability |
| 302.102 | Allowed Mixing, Mixing Zones and ZIDs |
| 302.103 | Stream Flows |
| 302.104 | Main River Temperatures |
| 302.105 | Antidegradation |

SUBPART B: GENERAL USE WATER QUALITY STANDARDS

| | |
|---------|---|
| Section | |
| 302.201 | Scope and Applicability |
| 302.202 | Purpose |
| 302.203 | Offensive Conditions |
| 302.204 | pH |
| 302.205 | Phosphorus |
| 302.206 | Dissolved Oxygen |
| 302.207 | Radioactivity |
| 302.208 | Numeric Standards for Chemical Constituents |
| 302.209 | Fecal Coliform |
| 302.210 | Other Toxic Substances |
| 302.211 | Temperature |
| 302.212 | Total Ammonia Nitrogen |
| 302.213 | Effluent Modified Waters (Ammonia) (Repealed) |

SUBPART C: PUBLIC AND FOOD PROCESSING WATER SUPPLY STANDARDS

| | |
|---------|-------------------------|
| Section | |
| 302.301 | Scope and Applicability |
| 302.302 | Algicide Permits |

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| | |
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| 302.303 | Finished Water Standards |
| 302.304 | Chemical Constituents |
| 302.305 | Other Contaminants |
| 302.306 | Fecal Coliform |
| 302.307 | Radium 226 and 228 |

SUBPART D: SECONDARY CONTACT AND
INDIGENOUS AQUATIC LIFE STANDARDS

| | |
|---------|----------------------------------|
| Section | |
| 302.401 | Scope and Applicability |
| 302.402 | Purpose |
| 302.403 | Unnatural Sludge |
| 302.404 | pH |
| 302.405 | Dissolved Oxygen |
| 302.406 | Fecal Coliform (Repealed) |
| 302.407 | Chemical Constituents |
| 302.408 | Temperature |
| 302.409 | Cyanide |
| 302.410 | Substances Toxic to Aquatic Life |

SUBPART E: LAKE MICHIGAN BASIN WATER QUALITY STANDARDS

| | |
|---------|--|
| Section | |
| 302.501 | Scope, Applicability, and Definitions |
| 302.502 | Dissolved Oxygen |
| 302.503 | pH |
| 302.504 | Chemical Constituents |
| 302.505 | Fecal Coliform |
| 302.506 | Temperature |
| 302.507 | Thermal Standards for Existing Sources on January 1, 1971 |
| 302.508 | Thermal Standards for Sources Under Construction But Not In Operation on January 1, 1971 |
| 302.509 | Other Sources |
| 302.510 | Incorporations by Reference |
| 302.515 | Offensive Conditions |
| 302.520 | Regulation and Designation of Bioaccumulative Chemicals of Concern (BCCs) |
| 302.521 | Supplemental Antidegradation Provisions for Bioaccumulative Chemicals of Concern (BCCs) |

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- 302.525 Radioactivity
- 302.530 Supplemental Mixing Provisions for Bioaccumulative Chemicals of Concern (BCCs)
- 302.535 Ammonia Nitrogen
- 302.540 Other Toxic Substances
- 302.545 Data Requirements
- 302.550 Analytical Testing
- 302.553 Determining the Lake Michigan Aquatic Toxicity Criteria or Values – General Procedures
- 302.555 Determining the Tier I Lake Michigan Acute Aquatic Toxicity Criterion (LMAATC): Independent of Water Chemistry
- 302.560 Determining the Tier I Lake Michigan Basin Acute Aquatic Life Toxicity Criterion (LMAATC): Dependent on Water Chemistry
- 302.563 Determining the Tier II Lake Michigan Basin Acute Aquatic Life Toxicity Value (LMAATV)
- 302.565 Determining the Lake Michigan Basin Chronic Aquatic Life Toxicity Criterion (LMCATC) or the Lake Michigan Basin Chronic Aquatic Life Toxicity Value (LMCATV)
- 302.570 Procedures for Deriving Bioaccumulation Factors for the Lake Michigan Basin
- 302.575 Procedures for Deriving Tier I Water Quality Criteria and Values in the Lake Michigan Basin to Protect Wildlife
- 302.580 Procedures for Deriving Water Quality Criteria and Values in the Lake Michigan Basin to Protect Human Health – General
- 302.585 Procedures for Determining the Lake Michigan Basin Human Health Threshold Criterion (LMHHTC) and the Lake Michigan Basin Human Health Threshold Value (LMHHTV)
- 302.590 Procedures for Determining the Lake Michigan Basin Human Health Nonthreshold Criterion (LMHHNC) or the Lake Michigan Basin Human Health Nonthreshold Value (LMHHNV)
- 302.595 Listing of Bioaccumulative Chemicals of Concern, Derived Criteria and Values

SUBPART F: PROCEDURES FOR DETERMINING WATER QUALITY CRITERIA

- Section
- 302.601 Scope and Applicability
- 302.603 Definitions
- 302.604 Mathematical Abbreviations
- 302.606 Data Requirements
- 302.612 Determining the Acute Aquatic Toxicity Criterion for an Individual Substance –

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- General Procedures
- 302.615 Determining the Acute Aquatic Toxicity Criterion – Toxicity Independent of Water Chemistry
- 302.618 Determining the Acute Aquatic Toxicity Criterion – Toxicity Dependent on Water Chemistry
- 302.621 Determining the Acute Aquatic Toxicity Criterion – Procedure for Combinations of Substances
- 302.627 Determining the Chronic Aquatic Toxicity Criterion for an Individual Substance – General Procedures
- 302.630 Determining the Chronic Aquatic Toxicity Criterion – Procedure for Combinations of Substances
- 302.633 The Wild and Domestic Animal Protection Criterion
- 302.642 The Human Threshold Criterion
- 302.645 Determining the Acceptable Daily Intake
- 302.648 Determining the Human Threshold Criterion
- 302.651 The Human Nonthreshold Criterion
- 302.654 Determining the Risk Associated Intake
- 302.657 Determining the Human Nonthreshold Criterion
- 302.658 Stream Flow for Application of Human Nonthreshold Criterion
- 302.660 Bioconcentration Factor
- 302.663 Determination of Bioconcentration Factor
- 302.666 Utilizing the Bioconcentration Factor
- 302.669 Listing of Derived Criteria
- 302.APPENDIX A References to Previous Rules
- 302.APPENDIX B Sources of Codified Sections
- 302.APPENDIX C Maximum total ammonia nitrogen concentrations allowable for certain combinations of pH and temperature
- 302.TABLE A pH-Dependent Values of the AS (Acute Standard)
- 302.TABLE B Temperature and pH-Dependent Values of the CS (Chronic Standard) for Fish Early Life Stages Absent
- 302.TABLE C Temperature and pH-Dependent Values of the CS (Chronic Standard) for Fish Early Life Stages Present
- 302.APPENDIX D Section 302.206(d): Stream Segments for Enhanced Dissolved Oxygen Protection

AUTHORITY: Implementing Section 13 and authorized by Sections 11(b) and 27 of the Environmental Protection Act [415 ILCS 5/13, 11(b), and 27].

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SOURCE: Filed with the Secretary of State January 1, 1978; amended at 2 Ill. Reg. 44, p. 151, effective November 2, 1978; amended at 3 Ill. Reg. 20, p. 95, effective May 17, 1979; amended at 3 Ill. Reg. 25, p. 190, effective June 21, 1979; codified at 6 Ill. Reg. 7818; amended at 6 Ill. Reg. 11161, effective September 7, 1982; amended at 6 Ill. Reg. 13750, effective October 26, 1982; amended at 8 Ill. Reg. 1629, effective January 18, 1984; peremptory amendments at 10 Ill. Reg. 461, effective December 23, 1985; amended at R87-27 at 12 Ill. Reg. 9911, effective May 27, 1988; amended at R85-29 at 12 Ill. Reg. 12082, effective July 11, 1988; amended in R88-1 at 13 Ill. Reg. 5998, effective April 18, 1989; amended in R88-21(A) at 14 Ill. Reg. 2899, effective February 13, 1990; amended in R88-21(B) at 14 Ill. Reg. 11974, effective July 9, 1990; amended in R94-1(A) at 20 Ill. Reg. 7682, effective May 24, 1996; amended in R94-1(B) at 21 Ill. Reg. 370, effective December 23, 1996; expedited correction at 21 Ill. Reg. 6273, effective December 23, 1996; amended in R97-25 at 22 Ill. Reg. 1356, effective December 24, 1997; amended in R99-8 at 23 Ill. Reg. 11249, effective August 26, 1999; amended in R01-13 at 26 Ill. Reg. 3505, effective February 22, 2002; amended in R02-19 at 26 Ill. Reg. 16931, effective November 8, 2002; amended in R02-11 at 27 Ill. Reg. 166, effective December 20, 2002; amended in R04-21 at 30 Ill. Reg. 4919, effective March 1, 2006; amended in R04-25 at 32 Ill. Reg. 2254, effective January 28, 2008; amended in R07-9 at 32 Ill. Reg. 14978, effective September 8, 2008.

SUBPART A: GENERAL WATER QUALITY PROVISIONS

Section 302.102 Allowed Mixing, Mixing Zones and ZIDs

- a) Whenever a water quality standard is more restrictive than its corresponding effluent standard, or where there is no corresponding effluent standard specified at 35 Ill. Adm. Code 304, an opportunity shall be allowed for compliance with 35 Ill. Adm. Code 304.105 by mixture of an effluent with its receiving waters, provided the discharger has made every effort to comply with the requirements of 35 Ill. Adm. Code 304.102.
- b) The portion, volume and area of any receiving waters within which mixing is allowed pursuant to subsection (a) shall be limited by the following:
 - 1) Mixing must be confined in an area or volume of the receiving water no larger than the area or volume which would result after incorporation of outfall design measures to attain optimal mixing efficiency of effluent and receiving waters. Such measures may include, but are not limited to, use of diffusers and engineered location and configuration of discharge points.

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- 2) Mixing is not allowed in waters which include a tributary stream entrance if such mixing occludes the tributary mouth or otherwise restricts the movement of aquatic life into or out of the tributary.
- 3) Mixing is not allowed in water adjacent to bathing beaches, bank fishing areas, boat ramps or dockages or any other public access area.
- 4) Mixing is not allowed in waters containing mussel beds, endangered species habitat, fish spawning areas, areas of important aquatic life habitat, or any other natural features vital to the well being of aquatic life in such a manner that the maintenance of aquatic life in the body of water as a whole would be adversely affected.
- 5) Mixing is not allowed in waters which contain intake structures of public or food processing water supplies, points of withdrawal of water for irrigation, or watering areas accessed by wild or domestic animals.
- 6) Mixing must allow for a zone of passage for aquatic life in which water quality standards are met. [However, a zone of passage is not required in receiving streams that have zero flow for at least seven consecutive days recurring on average in nine years out of ten.](#)
- 7) The area and volume in which mixing occurs, alone or in combination with other areas and volumes of mixing, must not intersect any area of any body of water in such a manner that the maintenance of aquatic life in the body of water as a whole would be adversely affected.
- 8) The area and volume in which mixing occurs, alone or in combination with other areas and volumes of mixing must not contain more than 25% of the cross-sectional area or volume of flow of a stream except for those streams where the dilution ratio is less than 3:1. [In streams where the dilution ratio is less than 3:1, the volume in which mixing occurs, alone or in combination with other volumes of mixing, must not contain more than 50% of the volume flow unless an applicant for an NPDES permit](#)

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~~demonstrates, pursuant to subsection (d) of this section, that an adequate zone of passage is provided for pursuant to Section (b)(6). Mixing is not allowed in receiving waters which have a zero minimum seven day low flow which occurs once in ten years.~~

- 9) No mixing is allowed where the water quality standard for the constituent in question is already violated in the receiving water.
 - 10) No body of water may be used totally for mixing of single outfall or combination of outfalls, except as provided in Section 302.102(b)(6).
 - 11) Single sources of effluents which have more than one outfall shall be limited to a total area and volume of mixing no larger than that allowable if a single outfall were used.
 - 12) The area and volume in which mixing occurs must be as small as is practicable under the limitations prescribed in this subsection, and in no circumstances may the mixing encompass a surface area larger than 26 acres.
- c) All water quality standards of this Part must be met at every point outside of the area and volume of the receiving water within which mixing is allowed. The acute toxicity standards of Sections 302.208 and 302.210 must be met within the area and volume within which mixing is allowed, except as provided in subsection (e).
- d) Pursuant to the procedures of Section 39 of the Act and 35 Ill. Adm. Code 309, a person may apply to the Agency to include as a condition in an NPDES permit formal definition of the area and volume of the waters of the State within which mixing is allowed for the NPDES discharge in question. Such formally defined area and volume of allowed mixing shall constitute a "mixing zone" for the purposes of 35 Ill. Adm. Code: Subtitle C. Upon proof by the applicant that a proposed mixing zone conforms with the requirements of Section 39 of the Act, this Section and any additional limitations as may be imposed by the Clean Water Act (CWA) (33 USCU.S.C 1251 et seq.), the Act or Board regulations, the Agency shall, pursuant to Section 39(b) of the Act, include within the NPDES permit a condition defining the mixing zone.

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- e) Pursuant to the procedures of Section 39 of the Act and 35 Ill. Adm. Code 309, a person may apply to the Agency to include as a condition in an NPDES permit a ZID as a component portion of a mixing zone. Such ZID shall, at a minimum, be limited to waters within which effluent dispersion is immediate and rapid. For the purposes of this subsection, "immediate" dispersion means an effluent's merging with receiving waters without delay in time after its discharge and within close proximity of the end of the discharge pipe, so as to minimize the length of exposure time of aquatic life to undiluted effluent, and "rapid" dispersion means an effluent's merging with receiving waters so as to minimize the length of exposure time of aquatic life to undiluted effluent. Upon proof by the applicant that a proposed ZID conforms with the requirements of Section 39 of the Act and this Section, the Agency shall, pursuant to Section 39(b) of the Act, include within the NPDES permit a condition defining the ZID.
- f) Pursuant to Section 39 of the Act and 35 Ill. Adm. Code 309.103, an applicant for an NPDES permit shall submit data to allow the Agency to determine that the nature of any mixing zone or mixing zone in combination with a ZID conforms with the requirements of Section 39 of the Act and of this Section. A permittee may appeal Agency determinations concerning a mixing zone or ZID pursuant to the procedures of Section 40 of the Act and 35 Ill. Adm. Code 309.181.
- g) Where a mixing zone is defined in an NPDES permit, the waters within that mixing zone, for the duration of that NPDES permit, shall constitute the sole waters within which mixing is allowed for the permitted discharge. It shall not be a defense in any action brought pursuant to 35 Ill. Adm. Code 304.105 that the area and volume of waters within which mixing may be allowed pursuant to subsection (b) is less restrictive than the area or volume or waters encompassed in the mixing zone.
- h) Where a mixing zone is explicitly denied in a NPDES permit, no waters may be used for mixing by the discharge to which the NPDES permit applies, all other provisions of this Section notwithstanding.
- i) Where an NPDES permit is silent on the matter of a mixing zone, or where no NPDES permit is in effect, the burden of proof shall be on the discharger to demonstrate compliance with this Section in any action brought pursuant to 35 Ill. Adm. Code 304.105.

(Source: Amended at 32 Ill. Reg. 14978, effective September 8, 2008)

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SUBPART B: GENERAL USE WATER QUALITY STANDARDS

Section 302.208 Numeric Standards for Chemical Constituents

- a) The acute standard (AS) for the chemical constituents listed in subsection (e) shall not be exceeded at any time except as provided in subsection (d).
- b) The chronic standard (CS) for the chemical constituents listed in subsection (e) shall not be exceeded by the arithmetic average of at least four consecutive samples collected over any period of at least four days, except as provided in subsection (d). The samples used to demonstrate attainment or lack of attainment with a CS must be collected in a manner that assures an average representative of the sampling period. For the metals that have water quality based standards dependent upon hardness, the chronic water quality standard will be calculated according to subsection (e) using the hardness of the water body at the time the metals sample was collected. To calculate attainment status of chronic metals standards, the concentration of the metal in each sample is divided by the calculated water quality standard for the sample to determine a quotient. The water quality standard is attained if the mean of the sample quotients is less than or equal to one for the duration of the averaging period.
- c) The human health standard (HHS) for the chemical constituents listed in subsection (f) shall not be exceeded when the stream flow is at or above the harmonic mean flow pursuant to Section 302.658 nor shall an annual average, based on at least eight samples, collected in a manner representative of the sampling period, exceed the HHS except as provided in subsection (d).
- d) In waters where mixing is allowed pursuant to Section 302.102, the following apply:
 - 1) The AS shall not be exceeded in any waters except for those waters for which the Agency has approved a zone of initial dilutions (ZID) pursuant to Section 302.102.
 - 2) The CS shall not be exceeded outside of waters in which mixing is allowed pursuant to Section 302.102.
 - 3) The HHS shall not be exceeded outside of waters in which mixing is

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allowed pursuant to Section 302.102.

e) Numeric Water Quality Standards for the Protection of Aquatic Organisms

| Constituent | STORET Number | AS ($\mu\text{g/L}$) | CS ($\mu\text{g/L}$) |
|---------------------------------------|---------------|--|---|
| Arsenic (trivalent, dissolved) | 22680 | $360 \times 1.0^* = 360$ | $190 \times 1.0^* = 190$ |
| Cadmium (dissolved) | 01025 | $e^{\exp^{A+B\ln(H)}} \times \left\{ \frac{1.138672 - \left[\left[(\ln(H))(0.041838) \right] \right]}{\left[\left[(\ln(H))(0.041838) \right] \right]} \right\}^*$, where $A = -2.918$ and $B = 1.128$ | $e^{\exp^{A+B\ln(H)}} \times \left\{ \frac{1.101672 - \left[\left[(\ln(H))(0.041838) \right] \right]}{\left[\left[(\ln(H))(0.041838) \right] \right]} \right\}^*$, where $A = -3.490$ and $B = 0.7852$ |
| Chromium (hexavalent, total) | 01032 | 16 | 11 |
| Chromium (trivalent, dissolved) | 80357 | $e^{\exp^{A+B\ln(H)}} \times 0.316^*$, where $A = 3.688$ and $B = 0.8190$ | $e^{\exp^{A+B\ln(H)}} \times 0.860^*$, where $A = 1.561$ and $B = 0.8190$ |
| Copper (dissolved) | 01040 | $e^{\exp^{A+B\ln(H)}} \times 0.960^*$, where $A = -1.464$ and $B = 0.9422$ | $e^{\exp^{A+B\ln(H)}} \times 0.960^*$, where $A = -1.465$ and $B = 0.8545$ |
| Cyanide | 00718 | 22 | 5.2 |
| Lead (dissolved) | 01049 | $e^{\exp^{A+B\ln(H)}} \times \left\{ \frac{1.46203 - \left[\left[(\ln(H))(0.145712) \right] \right]}{\left[\left[(\ln(H))(0.145712) \right] \right]} \right\}^*$, where $A = -1.301$ and $B = 1.273$ | $e^{\exp^{A+B\ln(H)}} \times \left\{ \frac{1.46203 - \left[\left[(\ln(H))(0.145712) \right] \right]}{\left[\left[(\ln(H))(0.145712) \right] \right]} \right\}^*$, where $A = -2.863$ and $B = 1.273$ |

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| | | | |
|------------------------|--------|---|--|
| Mercury (dissolved) | 71890 | $2.6 \times 0.85^* = 2.2$ | $1.3 \times 0.85^* = 1.1$ |
| Nickel (dissolved) | 01065 | $e^{\exp^{A+B\ln(H)}} \times 0.998^*$, where $A = 0.5173$ and $B = 0.8460$ | $e^{\exp^{A+B\ln(H)}} \times 0.997^*$, where $A = -2.286$ and $B = 0.8460$ |
| TRC | 500600 | 19 | 11 |
| Zinc (dissolved) | 01090 | $e^{\exp^{A+B\ln(H)}} \times 0.978^*$, where $A = 0.9035$ and $B = 0.8473$ | $e^{\exp^{A+B\ln(H)}} \times 0.986^*$, where $A = -0.8165$ and $B = 0.8473$ |
| Benzene | 78124 | 4200 | 860 |
| Ethylbenzene | 78113 | 150 | 14 |
| Toluene | 78131 | 2000 | 600 |
| Xylene(s) | 81551 | 920 | 360 |

where: $\mu\text{g/L}$ = microgram per liter;
 e^{\exp^x} = base natural logarithms raised to the x-
power;
 $\ln(H)$ = natural logarithm of Hardness (STORET
00900); and
* = conversion factor multiplier for dissolved
metals

f) Numeric Water Quality Standard for the Protection of Human Health

| Constituent | STORET Number | ($\mu\text{g/L}$) |
|-------------|------------------|---------------------|
| Mercury | 71900 | 0.012 |
| Benzene | 78124 | 310 |

where: $\mu\text{g/L}$ = micrograms per liter

g) Concentrations of the following chemical constituents shall not be exceeded except in waters for which mixing is allowed pursuant to Section 302.102.

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| Constituent | Unit | STORET Number | Standard |
|-----------------------------------|-----------------|------------------|-----------------|
| Barium (total) | mg/L | 01007 | 5.0 |
| Boron (total) | mg/L | 01022 | 1.0 |
| Chloride (total) | mg/L | 00940 | 500 |
| Fluoride | mg/L | 00951 | 1.4 |
| Iron (dissolved) | mg/L | 01046 | 1.0 |
| Manganese (total) | mg/L | 01055 | 1.0 |
| Phenols | mg/L | 32730 | 0.1 |
| Selenium (total) | mg/L | 01147 | 1.0 |
| Silver (total) | µg/L | 01077 | 5.0 |
| Sulfate | mg/L | 00945 | 500 |
| Total Dissolved Solids | mg/L | 70300 | 1000 |

where: mg/L = milligram per liter and
µg/L = microgram per liter

h) The following concentrations for sulfate must not be exceeded except in receiving waters for which mixing is allowed pursuant to Section 302.102:

- 1) At any point where water is withdrawn or accessed for purposes of livestock watering, the average of sulfate concentrations must not exceed 2,000 mg/L when measured at a representative frequency over a 30 day period.
- 2) The results of the following equations provide sulfate water quality standards in mg/L for the specified ranges of hardness (in mg/L as CaCO₃) and chloride (in mg/L) and must be met at all times:

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- A) If the hardness concentration of receiving waters is greater than or equal to 100 mg/L but less than or equal to 500 mg/L, and if the chloride concentration of waters is greater than or equal to 25 mg/L but less than or equal to 500 mg/L, then:

$$C = [1276.7 + 5.508 (\text{hardness}) - 1.457 (\text{chloride})] * 0.65$$

where:

C = sulfate concentration

- B) If the hardness concentration of waters is greater than or equal to 100 mg/L but less than or equal to 500 mg/L, and if the chloride concentration of waters is greater than or equal to 5 mg/L but less than 25 mg/L, then:

$$C = [-57.478 + 5.79 (\text{hardness}) + 54.163 (\text{chloride})] * 0.65$$

where:

C = sulfate concentration

- 3) The following sulfate standards must be met at all times when hardness (in mg/L as CaCO₃) and chloride (in mg/L) concentrations other than specified in (h)(2) are present:

- A) If the hardness concentration of waters is less than 100 mg/L or chloride concentration of waters is less than 5 mg/L, the sulfate standard is 500 mg/L.
- B) If the hardness concentration of waters is greater than 500 mg/L and the chloride concentration of waters is 5 mg/L or greater, the sulfate standard is 2,000 mg/L.
- C) If the combination of hardness and chloride concentrations of existing waters are not reflected in subsection (h)(3)(A) or (B), the sulfate standard may be determined in a site-specific rulemaking pursuant to section 303(c) of the Federal Water Pollution Control

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[Act of 1972 \(Clean Water Act\), 33 USC 1313, and Federal Regulations at 40 CFR 131.10\(j\)\(2\).](#)

(Source: Amended at 32 Ill. Reg. 14978, effective September 8, 2008)

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- 1) Heading of the Part: Permits
- 2) Code Citation: 35 Ill. Adm. Code 309
- 3) Section Number: 309.103 Adopted Action:
Amend
- 4) Statutory Authority: Implementing Section 10 and authorized by Sections 27 and 28 of the Environmental Protection Act [415 ILCS 5/10, 27 and 28]
- 5) Effective Date of Amendment: September 8, 2008
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the Board's Chicago office at the James R. Thompson Center, 100 W. Randolph, Suite 11-500 and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: October 5, 2007; 31 Ill. Reg. 13642
- 10) Has JCAR issued a statement of objection to this rulemaking? No
- 11) Differences between proposal and final version: The Board made no changes to the text as it was published in the *Illinois Register* for first notice.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements letter issued by JCAR? No agreements were necessary.
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendment: This rulemaking is based on a proposal filed with the Board by the Illinois Environmental Agency on October 23, 2006. The rulemaking updates existing general use water quality standards for sulfate and total dissolved solids (TDS) by amending or repealing certain sections and Parts of Title 35 of the Illinois

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Administrative Code: Parts 302, 309, 405, 406, and 407 of the Board's water and mine-related pollution rules.

The amendments to Parts 302, 309, 405, 406, and 407 of 35 of the Code allow an update of existing general use water quality standards for sulfate and total dissolved solids (TDS) while being protective of the environment and human health. For more detailed information, please refer to R07-09 adopted at the September 4, 2008 meeting of the Pollution Control Board.

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

Marie Tipsord
Illinois Pollution Control Board
100 W. Randolph 11-500
Chicago, IL 60601

312/814-4925

Copies of the Board's opinions and orders may be requested from the Clerk of the Board at the address listed in #8 above or by calling 312/814-3620. Please refer to the Docket number R07-09 in your request. The Board order is also available from the Board's Web site (www.ipcb.state.il.us)

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

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TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE C: WATER POLLUTION
CHAPTER I: POLLUTION CONTROL BOARDPART 309
PERMITS

SUBPART A: NPDES PERMITS

| Section | |
|---------|---|
| 309.101 | Preamble |
| 309.102 | NPDES Permit Required |
| 309.103 | Application – General |
| 309.104 | Renewal |
| 309.105 | Authority to Deny NPDES Permits |
| 309.106 | Access to Facilities and Further Information |
| 309.107 | Distribution of Applications |
| 309.108 | Tentative Determination and Draft Permit |
| 309.109 | Public Notice |
| 309.110 | Contents of Public Notice of Application |
| 309.111 | Combined Notices |
| 309.112 | Agency Action After Comment Period |
| 309.113 | Fact Sheets |
| 309.114 | Notice to Other Governmental Agencies |
| 309.115 | Public Hearings on NPDES Permit Applications |
| 309.116 | Notice of Agency Hearing |
| 309.117 | Agency Hearing |
| 309.118 | Agency Hearing File |
| 309.119 | Agency Action After Hearing |
| 309.120 | Reopening the Record to Receive Additional Written Comment |
| 309.141 | Terms and Conditions of NPDES Permits |
| 309.142 | Water Quality Standards and Waste Load Allocation |
| 309.143 | Effluent Limitations |
| 309.144 | Federal New Source Standards of Performance |
| 309.145 | Duration of Permits |
| 309.146 | Authority to Establish Recording, Reporting, Monitoring and Sampling Requirements |
| 309.147 | Authority to Apply Entry and Inspection Requirements |
| 309.148 | Schedules of Compliance |

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- 309.149 Authority to Require Notice of Introduction of Pollutants into Publicly Owned Treatment Works
- 309.150 Authority to Ensure Compliance by Industrial Users with Sections 204(b), 307 and 308 of the Clean Water Act
- 309.151 Maintenance and Equipment
- 309.152 Toxic Pollutants
- 309.153 Deep Well Disposal of Pollutants (Repealed)
- 309.154 Authorization to Construct
- 309.155 Sewage Sludge Disposal
- 309.156 Total Dissolved Solids Reporting and Monitoring
- 309.157 Permit Limits for Total Metals
- 309.181 Appeal of Final Agency Action on a Permit Application
- 309.182 Authority to Modify, Suspend or Revoke Permits
- 309.183 Revision of Schedule of Compliance
- 309.184 Permit Modification Pursuant to Variance
- 309.185 Public Access to Information
- 309.191 Effective Date

SUBPART B: OTHER PERMITS

- Section
- 309.201 Preamble
- 309.202 Construction Permits
- 309.203 Operating Permits; New or Modified Sources
- 309.204 Operating Permits; Existing Sources
- 309.205 Joint Construction and Operating Permits
- 309.206 Experimental Permits
- 309.207 Former Permits (Repealed)
- 309.208 Permits for Sites Receiving Sludge for Land Application
- 309.221 Applications – Contents
- 309.222 Applications – Signatures and Authorizations
- 309.223 Applications – Registered or Certified Mail
- 309.224 Applications – Time to Apply
- 309.225 Applications – Filing and Final Action By Agency
- 309.241 Standards for Issuance
- 309.242 Duration of Permits Issued Under Subpart B
- 309.243 Conditions
- 309.244 Appeals from Conditions in Permits
- 309.261 Permit No Defense

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| | |
|---------|--|
| 309.262 | Design, Operation and Maintenance Criteria |
| 309.263 | Modification of Permits |
| 309.264 | Permit Revocation |
| 309.265 | Approval of Federal Permits |
| 309.266 | Procedures |
| 309.281 | Effective Date |
| 309.282 | Severability |

309.APPENDIX A References to Previous Rules

AUTHORITY: Implementing Sections 13 and 13.3 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/13, 13.3 and 27].

SOURCE: Adopted in R71-14, at 4 PCB 3, March 7, 1972; amended in R73-11, 12, at 14 PCB 661, December 5, 1974, at 16 PCB 511, April 24, 1975, and at 28 PCB 509, December 20, 1977; amended in R73-11, 12, at 29 PCB 477, at 2 Ill. Reg. 16, p. 20, effective April 20, 1978; amended in R79-13, at 39 PCB 263, at 4 Ill. Reg. 34, p. 159, effective August 7, 1980; amended in R77-12B, at 41 PCB 369, at 5 Ill. Reg. 6384, effective May 28, 1981; amended in R76-21, at 44 PCB 203, at 6 Ill. Reg. 563, effective December 24, 1981; codified at 6 Ill. Reg. 7818; amended in R82-5, 10, at 54 PCB 411, at 8 Ill. Reg. 1612, effective January 18, 1984; amended in R86-44 at 12 Ill. Reg. 2495, effective January 13, 1988; amended in R88-1 at 13 Ill. Reg. 5993, effective April 18, 1989; amended in R88-21(A) at 14 Ill. Reg. 2892, effective February 13, 1990; amended in R91-5 at 16 Ill. Reg. 7339, effective April 27, 1992; amended in R95-22 at 20 Ill. Reg. 5526, effective April 1, 1996; amended in R99-8 at 23 Ill. Reg. 11287, effective August 26, 1999; amended in R02-11 at 27 Ill. Reg. 202, effective December 20, 2002; amended in R03-19 at 28 Ill. Reg. 7310, effective May 7, 2004; amended in R07-9 at 32 Ill. Reg. 14995, effective September 8, 2008.

SUBPART A: NPDES PERMITS

Section 309.103 Application – General

- a) Application Forms
 - 1) An applicant for a National Pollution Discharge Elimination System (NPDES) Permit shall file an application, in accordance with Section 309.223 ~~hereof~~, on forms provided by the Illinois Environmental Protection Agency (Agency). Such forms shall comprise the NPDES application forms promulgated by the U.S. Environmental Protection

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Agency for the type of discharge for which an NPDES Permit is being sought and such additional information as the Agency may reasonably require in order to determine that the discharge or proposed discharge will be in compliance with applicable state and federal requirements.

- 2) In addition to the above application forms, the Agency may require the submission of plans and specifications for treatment works and summaries of design criteria.
- 3) Effluent toxicity monitoring
 - A) In addition to the above application forms, the Agency may require, pursuant to Section 39 of the Act, the installation, use, maintenance and reporting of results from monitoring equipment and methods, including biological monitoring. The Agency may require, pursuant to Section 39 of the Act, effluent toxicity testing to show compliance with 35 Ill. Adm. Code 302.621 and 302.630. If this toxicity testing shows the effluent to be toxic, the Agency may require pursuant to Section 39 of the Act further testing and identification of the ~~toxicants~~[toxicant\(s\)](#) pursuant to 35 Ill. Adm. Code 302.210(a).
 - B) The following POTWs shall provide the results of valid whole effluent biological toxicity testing to the Agency:
 - i) All POTWs with design influent flows equal to or greater than one million gallons per day;
 - ii) All POTWs with approved pretreatment programs or POTWs required to develop a pretreatment program pursuant to 35 Ill. Adm. Code 310.Subpart E;
 - C) In addition to the POTWs listed in [subsection \(a\)\(3\)\(B\)](#), the Agency may require other POTWs to submit the result of toxicity tests with their permit applications, based on consideration of the following factors.
 - i) The variability of the pollutants or pollutant parameters in the POTW effluent (based on chemical-specific

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information, the type of treatment facility, and types of industrial contributors);

- ii) The dilution of the effluent in the receiving water (ratio of effluent flow to receiving stream flow);
- iii) Existing controls on point or nonpoint sources, including total maximum daily load calculations for the waterbody segment and the relative contribution of the POTW;
- iv) Receiving stream characteristics, including possible or known water quality impairment, and whether the POTW discharges to a coastal water, one of the Great Lakes, or a water designated as an outstanding natural resource; or
- v) Other considerations (including but not limited to the history of toxic impact and compliance problems at the POTW), which the Agency determines could cause or contribute to adverse water quality impacts.

D) The POTWs required under ~~subsections~~ [subsections](#) (a)(3)(B) or (a)(3)(C) to conduct toxicity testing shall use the methods prescribed at 35 Ill. Adm. Code 302.Subpart F. Such testing must have been conducted since the later of the last NPDES permit reissuance or permit modification pursuant to Section 309.182, 309.183 or 309.184 for any of the reasons listed at 40 CFR 122.62(a) (1994), as amended at 60 Fed. Reg. 33926 effective June 29, 1995, herein incorporated by reference (including no later amendments or editions).

- 4) All POTWs with approved pretreatment programs shall provide the following information to the Agency: a written technical evaluation of the need to revise local limits pursuant to 35 Ill. Adm. Code 310.210.

BOARD NOTE: Subsections (a)(3)(B) through (a)(4) are derived from 40 CFR 122.21(j) (1994).

- b) **Animal Waste Facilities**
An applicant for an NPDES Permit in connection with the operation of an animal

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waste facility shall complete, sign, and submit an NPDES application in accordance with the provisions of 35 Ill. Adm. Code: Subtitle E, Chapter I.

c) Mining Activities

- 1) If, as defined by 35 Ill. Adm. Code 402.101, mining activities are to be carried out on a facility for which an NPDES Permit is held or required, the applicant must submit a permit application as required by 35 Ill. Adm. Code 403.103, 403.104 and 405.104. If the facility will have a discharge other than a mine discharge or non-point source mine discharge as defined by 35 Ill. Adm. Code 402.101, the applicant shall also submit an NPDES Permit application in accordance with Section 309.223 on forms supplied by the Agency.
- 2) As provided by 35 Ill. Adm. Code 403.101, except to the extent contradicted in 35 Ill. Adm. Code: Subtitle D, Chapter I, the rules contained in this Subpart apply only to 35 Ill. Adm. Code: Subtitle D, Chapter I NPDES Permits.
- 3) As provided by 35 Ill. Adm. Code 406.100, except to the extent provided in 35 Ill. Adm. Code: Subtitle D, Chapter I, the effluent ~~and water quality~~ standards of 35 Ill. Adm. Code ~~302, 303 and~~ 304 are inapplicable to mine discharges and non-point source mine discharges.

d) New Discharges

Any person whose discharge will begin after the effective date of this Subpart A or any person having an NPDES Permit issued by the U.S. Environmental Protection Agency for an existing discharge which will substantially change in nature, or increase in volume or frequency, must apply for an NPDES Permit either:

- 1) No later than 180 days in advance of the date on which such NPDES Permit will be required; or
- 2) In sufficient time prior to the anticipated commencement of the discharge to insure compliance with the requirements of Section 306 of the Clean Water Act (CWA) (33 ~~USCU.S.C.~~ 1251 et seq), or with any other applicable water quality standards and applicable effluent standards and limitations.

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e) Signatures

An application submitted by a corporation shall be signed by a principal executive officer of at least the level of vice president, or his duly authorized representative, if such representative is responsible for the overall operation of the facility from which the discharge described in the application form originates. In the case of a partnership or a sole proprietorship, the application shall be signed by a general partner or the proprietor, respectively. In the case of a publicly owned facility, the application shall be signed by either the principal executive officer, ranking elected official, or other duly authorized employee.

(Source: Amended at 32 Ill. Reg. 14995, effective September 8, 2008)

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NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: State and NPDES Permits
- 2) Code Citation: 35 Ill. Adm. Code 405
- 3) Section Number: 405.109 Adopted Action:
Amend
- 4) Statutory Authority: Implementing Section 10 and authorized by Sections 27 and 28 of the Environmental Protection Act [415 ILCS 5/10, 27 and 28]
- 5) Effective Date of Amendment: September 8, 2008
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the Board's Chicago office at the James R. Thompson Center, 100 W. Randolph, Suite 11-500 and is available for public inspection.
- 10) Notice of Proposal Published in Illinois Register: October 5, 2007; 31 Ill. Reg. 13653
- 10) Has JCAR issued a Statement of Objection to this amendment? No
- 11) Differences between proposal and final version: The Board made no changes to the text as it was published in the *Illinois Register* for first notice.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements letter issued by JCAR? No agreements were necessary.
- 13) Will this amendment replace any emergency amendment currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendment: This rulemaking is based on a proposal filed with the Board by the Illinois Environmental Agency on October 23, 2006. The rulemaking updates existing general use water quality standards for sulfate and total dissolved solids (TDS) by amending or repealing certain sections and Parts of Title 35 of the *Illinois*

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Administrative Code: Parts 302, 309, 405, 406, and 407 of the Board's water and mine-related pollution rules.

The amendments to Parts 302, 309, 405, 406, and 407 of Title 35 of the Code allow an update of existing general use water quality standards for sulfate and total dissolved solids (TDS) while being protective of the environment and human health. For more detailed information, please refer to R07-09 adopted at the September 4, 2008 meeting of the Pollution Control Board.

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

Marie Tipsord
Illinois Pollution Control Board
100 W. Randolph 11-500
Chicago, IL 60601

312/814-4925

Copies of the Board's opinions and orders may be requested from the Clerk of the Board at the address listed in #8 above or by calling 312/814-3620. Please refer to the Docket number R07-09 in your request. The Board order is also available from the Board's Web site (www.ipcb.state.il.us)

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

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

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

Section

| | |
|----------------|--|
| 405.100 | Preamble |
| 405.101 | Special Conditions; Agency Guidance Document |
| 405.102 | Standard for Permit Issuance or Certification |
| 405.103 | Permit Modification When New Regulations are Adopted |
| 405.104 | Permit Applications |
| 405.105 | Surface Drainage Control |
| 405.106 | Refuse Disposal |
| 405.107 | Experimental Permits for Refuse Disposal |
| 405.108 | Permit for Use of Acid-producing Acid-Producing Mine Refuse |
| 405.109 | Abandonment Plan |
| 405.110 | Cessation, Suspension or Abandonment |
| 405.111 | Emergency Procedures To Control Pollution |
| 405.112 | Mine Entrances |
| 405.113 | Permit Area |
| 405.APPENDIX A | References to Previous Rules |

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

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

Section 405.109 Abandonment Plan

- a) A state or NPDES permit shall include an abandonment plan as a condition.
- b) An abandonment plan shall be incorporated into the permit by reference if it:
 - 1) Includes a time schedule establishing that the abandonment plan will be executed and completed within a reasonable time after abandonment

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considering any potential adverse impact on the environment pending completion of the plan and the amount of time required to carry out the steps in the plan; one year is assumed to be a reasonable time unless the operator demonstrates that a longer time is reasonable; and

- 2) Shows that the mine related facilities and mining activities will be abandoned so as not to cause a violation of the Act or this Chapter;
 - A) ~~If the plan includes a discharge which will remain after abandonment which will not meet the requirements of 35 Ill. Adm. Code 406.202, and if the permit included water quality based conditions under 35 Ill. Adm. Code 406.203 during active mining, the discharge shall be deemed to meet 35 Ill. Adm. Code 406.202 with respect to total dissolved solids, chloride, sulfate, iron and manganese if it will meet the requirements of 35 Ill. Adm. Code 406.106 and 406.203(e)(1) and (e)(2); or~~
 - B) ~~If the plan includes impoundments which will remain after abandonment and which will not meet the water quality standards of 35 Ill. Adm. Code 302.204 or 302.208, with respect to total dissolved solids, chloride, sulfate, iron, manganese and pH, such fact shall not prevent approval of the plan if the impoundment will meet the requirements of 35 Ill. Adm. Code 406.106 and 406.203(e)(1) and (e)(2).~~
- c) If the abandonment plan does not meet the standard of subsection paragraph (b) the Agency may either deny the permit or issue it with an abandonment plan modified by conditions subject to Section 405.101.
- d) The time limit provided by subsection paragraph (b)(1) is inapplicable to abandonment plans for surface coal mines which are approved as reclamation plans under the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720]; (~~Ill. Rev. Stat. 1983, ch. 96½, par. 7902.03~~).
- e) Any abandonment plan constituting a substantial change from the permitted abandonment plan is a revised abandonment plan.
- f) A permittee shall apply for a new or revised or supplemental NPDES or Statestate permit prior to implementation of a revised abandonment plan within

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the time limits provided by 35 Ill. Adm. Code 403.104(c).

- g) ~~An abandonment plan incorporated into a permit pursuant to showing under 35 Ill. Adm. Code 406.203 shall include conditions pursuant to 35 Ill. Adm. Code 406.203(e)(1) and (e)(2).~~

(Source: Amended at 32 Ill. Reg. 15004, effective September 8, 2008)

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

| | |
|--------------------------|-------------------------|
| <u>Section Numbers</u> : | <u>Adopted Action</u> : |
| 406.100 | Amend |
| 406.203 | Repeal |
| 406.209 | Repeal |
- 4) Statutory Authority: Implementing Section 10 and authorized by Sections 27 and 28 of the Environmental Protection Act [415 ILCS 5/10, 27 and 28]
- 5) Effective Date of Amendments: September 8, 2008
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the Board's Chicago office at the James R. Thompson Center, 100 W. Randolph, Suite 11-500 and are available for public inspection.
- 11) Notice of Proposal Published in Illinois Register: October 5, 2007; 31 Ill. Reg. 13660
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences between proposal and final version: The Board made no changes to the text as it was published in the *Illinois Register* for first notice.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements letter issued by JCAR? No agreements were necessary.
- 13) Will this rulemaking replace any emergency amendment currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendments: This rulemaking is based on a proposal filed with the Board by the Illinois Environmental Agency on October 23, 2006. The rulemaking updates existing general use water quality standards for sulfate and total

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dissolved solids (TDS) by amending or repealing certain sections and Parts of Title 35 of the Illinois Administrative Code: Parts 302, 309, 405, 406, and 407 of the Board's water and mine-related pollution rules.

The amendments to Parts 302, 309, 405, 406, and 407 of Title 35 allow an update of existing general use water quality standards for sulfate and total dissolved solids (TDS) while being protective of the environment and human health. For more detailed information, please refer to R07-09 adopted at the September 4, 2008 meeting of the Pollution Control Board.

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

Marie Tipsord
Illinois Pollution Control Board
100 W. Randolph 11-500
Chicago, IL 60601

312-814-4925

Copies of the Board's opinions and orders may be requested from the Clerk of the Board at the address listed in #8 above or by calling 312/814-3620. Please refer to the Docket number R07-09 in your request. The Board order is also available from the Board's Web site (www.ipcb.state.il.us)

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

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE D: MINE RELATED WATER POLLUTION
CHAPTER I: POLLUTION CONTROL BOARDPART 406
MINE WASTE EFFLUENT AND WATER QUALITY STANDARDS

SUBPART A: EFFLUENT STANDARDS

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

SUBPART B: WATER QUALITY STANDARDS

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

406.APPENDIX A References to Previous Rules

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

POLLUTION CONTROL BOARD

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Environmental Protection Act [415 ILCS 5/12, 13 and 27].

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

SUBPART A: ~~GENERAL EFFLUENT AND WATER QUALITY~~ STANDARDS

Section 406.100 Preamble

- a) Part 406 applies to mine discharges and non-point source mine discharges as defined by Section 402.101.
- b) Other discharges, including sanitary sewers, are regulated under Subtitle C, Chapter I: Water Pollution.
- c) A facility which has another discharge will be subject to both Subtitle C and Subtitle D. Subtitle D governs mining activities, including mine discharges and non-point source mine discharges. Subtitle C governs other discharges.
- d) Except to the extent provided in this Part 406, ~~PartParts 302, 303 and~~ 304 of subtitle C ~~is~~are inapplicable to mine discharges and non-point source mine discharges.

(Source: Amended at 32 Ill. Reg. 15009, effective September 8, 2008)

SUBPART B: WATER QUALITY STANDARDS

Section 406.203 TDS Related Permit Conditions (Repealed)

- a) ~~This Section sets forth procedures by which water quality based permit conditions for total dissolved solids, chloride, sulfate, iron and manganese may be established by the Agency for coal mine discharges. These procedures apply instead of Section 406.202 whenever a permit applicant elects to proceed under this Section. A permittee must comply with water quality based permit conditions for total dissolved solids, chloride, sulfate, iron and manganese~~

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

~~established pursuant to this Section instead of Section 406.202. Public hearings may be required pursuant to 35 Ill. Adm. Code 309.115.~~

- b) ~~An applicant may elect to proceed under this Section by providing the required information as part of a new or renewed or supplemental state or NPDES permit application.~~
- e) ~~The Agency shall establish permit conditions under this Section if all of the following conditions are met:~~
 - 1) ~~The applicant proves to the Agency that the discharge will not cause an adverse effect on the environment in and around the receiving stream, by either:~~
 - A) ~~Demonstrating that the discharge will contain a concentration less than or equal to 3500 mg/l sulfate and 1000 mg/l chloride; or,~~
 - B) ~~Through actual stream studies.~~
 - 2) ~~The applicant proves to the Agency that the discharge will not adversely affect any public water supply; and~~
 - 3) ~~The applicant proves to the Agency that it is utilizing good mining practices designed to minimize discharge of total dissolved solids, chloride, sulfate iron and manganese.~~
- d) ~~The Agency may promulgate under 35 Ill. Adm. Code 405.101(c) a code of good mining practices consistent with the definition in Section 406.204. Compliance with the code of good mining practices shall be prima facie evidence that the applicant is utilizing good mining practices within the meaning of paragraph (e)(3).~~
- e) ~~Whenever the Agency issues a permit based on this Section, it shall include such conditions as may be necessary to ensure that:~~
 - 1) ~~There is no adverse effect on the environment in and around the receiving stream;~~
 - 2) ~~The discharge does not adversely affect any public water supply; and~~

POLLUTION CONTROL BOARD

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- 3) ~~The permittee utilizes good mining practices designed to minimize discharge of total dissolved solids, chloride, sulfate, iron and manganese.~~
- f) ~~Whenever the Agency issues a permit pursuant to this Section, it may include as a condition a requirement that the permittee submit to the Agency effluent data for total dissolved solids, chloride, sulfate, iron and manganese.~~

(Source: Repealed at 32 Ill. Reg. 15009, effective September 8, 2008)

Section 406.209 Expiration of Former Exemptions (Repealed)

- a) ~~Exemptions from the water quality standards granted prior to the effective date of Section 406.203 shall continue until any of the following events occurs:~~
 - 1) ~~Any State or NPDES permit for the facility expires, or is revoked, renewed or reissued;~~
 - 2) ~~Any State or NPDES permit for the facility is modified, unless the Agency expressly continues the exemption pending review pursuant to paragraph (b);~~
 - 3) ~~An application period set pursuant to paragraph (b) expires with no application having been received;~~
 - 4) ~~The Agency grants or denies a permit under Section 406.203; or~~
 - 5) ~~January 1, 1987, the final date for continuation of former exemptions.~~
- b) ~~The Agency may require applications for review pursuant to Section 406.203 by notifying individual permittees and setting a date for application not less than 15 months after the date notice is given.~~
- c) ~~If an appeal to the Board is filed, exemptions continue until the Board enters a final order disposing of the appeal.~~

(Source: Repealed at 32 Ill. Reg. 15009, effective September 8, 2008)

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NOTICE OF ADOPTED REPEALER

- 1) Heading of the Part: Compliance and Effective Dates
- 2) Code Citation: 35 Ill. Adm. Code 407
- 3)

| <u>Section Numbers:</u> | <u>Adopted Action:</u> |
|-------------------------|------------------------|
| 407.101 | Repeal |
| 407.102 | Repeal |
| 407.103 | Repeal |
| 407.104 | Repeal |
| 407.APPENDIX A | Repeal |
- 4) Statutory Authority: Implementing Section 10 and authorized by Sections 27 and 28 of the Environmental Protection Act [415 ILCS 5/10, 27 and 28]
- 5) Effective Date of Repealer: September 8, 2008
- 6) Does this repealer contain an automatic repeal date? No
- 7) Does this repealer contain incorporations by reference? No
- 8) A copy of the adopted repealer, including any material incorporated by reference, is on file in the Board's Chicago office at the James R. Thompson Center, 100 W. Randolph, Suite 11-500 and are available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: October 5, 2007; 31 Ill. Reg. 13668
- 10) Has JCAR issued a statement of objection to this rulemaking? No
- 11) Differences between proposal and final version: The Board made no changes to the text as it was published in the *Illinois Register* for first notice.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements letter issued by JCAR? No agreements were necessary.
- 13) Will this repealer replace an emergency repealer currently in effect? No
- 14) Are there any amendments pending on this Part? No

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED REPEALER

- 15) Summary and Purpose of Repealer: This rulemaking is based on a proposal filed with the Board by the Illinois Environmental Agency on October 23, 2006. The rulemaking updates existing general use water quality standards for sulfate and total dissolved solids (TDS) by amending or repealing certain sections and Parts of Title 35 of the Illinois Administrative Code: Parts 302, 309, 405, 406, and 407 of the Board's water and mine-related pollution rules.

The amendments to Parts 302, 309, 405, 406, and 407 of the Code allow an update of existing general use water quality standards for sulfate and total dissolved solids (TDS) while being protective of the environment and human health. For more detailed information, please refer to R07-09 adopted at the September 4, 2008 meeting of the Pollution Control Board.

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

Marie Tipsord
Illinois Pollution Control Board
100 W. Randolph 11-500
Chicago, IL 60601

312/814-4925

Copies of the Board's opinions and orders may be requested from the Clerk of the Board at the address listed in #8 above or by calling 312/814-3620. Please refer to the Docket number R07-09 in your request. The Board order is also available from the Board's Web site (www.ipcb.state.il.us)

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NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Department of Personnel
- 2) Code Citation: 80 Ill. Adm. Code 420
- 3)

| <u>Section Numbers:</u> | <u>Adopted Action:</u> |
|-------------------------|------------------------|
| 420.10 | Amendment |
| 420.200 | Amendment |
| 420.210 | Amendment |
| 420.220 | Amendment |
| 420.300 | Amendment |
| 420.310 | Amendment |
| 420.320 | Amendment |
| 420.330 | Amendment |
| 420.340 | Amendment |
| 420.350 | Amendment |
| 420.360 | Amendment |
| 420.370 | Amendment |
| 420.380 | Amendment |
| 420.390 | Amendment |
| 420.400 | Amendment |
| 420.410 | Amendment |
| 420.420 | Amendment |
| 420.430 | Amendment |
| 420.435 | Amendment |
| 420.600 | Amendment |
| 420.610 | Amendment |
| 420.620 | Amendment |
| 420.630 | Amendment |
| 420.640 | Amendment |
| 420.645 | Amendment |
| 420.650 | Amendment |
| 420.660 | Amendment |
| 420.670 | Repeal |
| 420.680 | Amendment |
| 420.700 | Amendment |
| 420.715 | New |
| 420.720 | Amendment |
| 420.740 | Repeal |
| 420.760 | Amendment |

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| | |
|----------|-----------|
| 420.770 | Amendment |
| 420.800 | Amendment |
| 420.810 | Amendment |
| 420.820 | Amendment |
| 420.825 | Repeal |
| 420.830 | Amendment |
| 420.835 | New |
| 420.1000 | Amendment |
| 420.1010 | Amendment |
| 420.1020 | New |
| 420.1030 | Amendment |

- 4) Statutory Authority: 15 ILCS 310/10
- 5) Effective date of amendments: September 8, 2008
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in Room 197 of the Howlett Building, Springfield, Illinois 62756 and is available for public inspection.
- 9) Notices of Proposal Published in Illinois Register: February 29, 2008; 32 Ill. Reg. 2887
- 10) Has JCAR issued a statement of objection to these amendments? No
- 11) Differences between proposed and final version:

Section 420.10 – Definitions

- Definition of "Allocation" added.
- Definition for "Time of Hostilities" amended to clarify the criteria by which the Director of Personnel will determine "time of hostilities".

Section 420.200 – Positions

- Subsection 420.200(a)(1) added to clarify how the employee's certified status applies upon appointment to an exempt position.
- Subsection 420.200(a)(2) added to clarify the method by which the certified employee can be removed from the exempt position.

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420.210 – Position Classification

- Subsection 420.210(g) was amended to include specific criteria for approval of the temporary assignment of an employee.

420.300 – Application and Examination

- Subsection 420.300(a)(3) was added to identify entrance examinations that are referred to in other parts of this Section.
- Subsection 420.300(a)(4) was added to explain the ranking of applicants on eligibility lists either by numeric or category scoring.
- Subsection 420.300(c) amendments now include the appropriate criteria for awarding of veterans' points on the examination.
- Subsection 420.300(d) was amended to allow the option to post examination announcements and information on the Secretary of State's web site.

420.320 – Trainees

- The new subsection 420.320(a)(5) was amended to delete reference to "socially, culturally or economically disadvantaged", but retain reference to persons with disabilities with regard to providing training or developmental work experience to assist them in acquiring job skills.

420.610 – Sick Leave

- The new subsection 420.610(g) was amended to require proof of the veteran's visit to a veterans hospital prior to granting of the time off with pay.

420.715 – Disaster Services Leave with Pay

- This new Section now allows the leave to be approved or disapproved based on operational needs for Level III (or above) disasters in the United States and its territories. The original rulemaking distinguished between Illinois disasters and those outside of Illinois and required approval of the Director of Personnel without any criteria noted in the rule.

420.800 – Vacation

- Subsection 420.800(b) was submitted with the option for an employee not to lose vacation time in accordance with this provision. The subsection has been amended with a new provision [Section 420.800(b)(2)], which sets the criteria under which vacation time can be carried over and also sets a limit on the length of the carryover.

420.1000 – Records

- Language has been added to subsection 420.1000(a)(1) to identify the types of documents that constitute "performance records".

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

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- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of this rulemaking: This rulemaking seeks to conform with current merit practices, regulations of federal and state legislative enactments, and technical changes.
- 16) Information and questions regarding these adopted amendments shall be directed to:

Stephan Roth or Linda Green
Office of the Secretary of State
Department of Personnel
Room 197 Howlett Building
Springfield, Illinois 62756

217/782-1750

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

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NOTICE OF ADOPTED AMENDMENTS

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES
SUBTITLE B: PERSONNEL RULES, PAY PLANS, AND
POSITION CLASSIFICATIONS
CHAPTER II: SECRETARY OF STATE

PART 420
DEPARTMENT OF PERSONNEL

SUBPART A: INTRODUCTION

Section
420.10 Definitions

SUBPART B: CLASSIFICATION AND PAY

Section
420.200 Positions
420.210 Position Classification
420.220 Pay Plan

SUBPART C: MERIT AND FITNESS

Section
420.300 Application and Examination
420.310 Appointment and Selection
420.320 Trainees
420.330 Intermittents
420.340 Continuous Service
420.350 Performance [Evaluation Forms](#) ~~Review~~
420.360 Probationary Status
420.370 Promotions
420.380 Employee Transfers
420.390 Demotion
420.400 Layoffs and Reemployment
420.410 Voluntary Reduction
420.415 Sworn Personnel – Inter-Agency Assignment
420.420 Resignation and Reinstatement
420.430 Discipline, Discharge, and Termination
420.435 Return of State Property

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SUBPART D: CONDITIONS OF EMPLOYMENT

Section

| | |
|-------------------------|---|
| 420.600 | Grievance Procedure |
| 420.610 | Sick Leave |
| 420.620 | Leave for Personal Leave Business |
| 420.630 | On-The-Job Injury – Industrial Disease |
| 420.640 | Leaves of Absence Without Pay |
| 420.645 | Family Adoption/Child Care Leave |
| 420.650 | Limitations on Leaves of Absence |
| 420.660 | Leaves of Absence – Special |
| 420.665 | Leaves of Absence – Sworn Personnel – Inter-Agency Assignment |
| 420.670 | Leaves of Absence – Special – Salary (Repealed) |
| 420.680 | Employee Rights After Leave |
| 420.690 | Leave of Absence – Election to Public Office |
| 420.700 | Failure to Return from From Leave of Absence |
| 420.710 | Military and Peace Corps Leave |
| 420.715 | Disaster Services Leave with Pay |
| 420.720 | Leave for For Annual Military Reserve Training or Special Duty |
| 420.730 | Leave for Military Physical Examinations |
| 420.740 | Leave to Take Exempt Position (Repealed) |
| 420.760 | Non-service Connected Disability Leave |
| 420.770 | Attendance in Court |
| 420.800 | Vacation |
| 420.810 | Work Schedules |
| 420.820 | Overtime |
| 420.825 | Temporary Assignment (Repealed) |
| 420.830 | Holidays |
| 420.835 | Notification of Absence |

SUBPART E: GENERAL PROVISIONS

Section

| | |
|--------------------------|---|
| 420.1000 | Records |
| 420.1010 | Benefits |
| 420.1020 | Prohibition of Discrimination |
| 420.1030 | Other Provisions |

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AUTHORITY: Implementing and authorized by Section 10 of the Secretary of State Merit Employment Code [15 ILCS 310/10].

SOURCE: Emergency rule adopted December 29, 1977; amended at 3 Ill. Reg. 49, p. 159, effective October 1, 1979; amended at 4 Ill. Reg. 40, p. 219, effective December 1, 1980; amended at 6 Ill. Reg. 3302, effective March 16, 1982; amended at 6 Ill. Reg. 7494, effective June 16, 1982; amended at 7 Ill. Reg. 11526, effective September 7, 1983; codified at 8 Ill. Reg. 2653; recodified at 10 Ill. Reg. 15659; amended at 12 Ill. Reg. 6766, effective April 1, 1988; amended at 17 Ill. Reg. 1652, effective February 1, 1993; emergency amendment at 21 Ill. Reg. 1710, effective January 27, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 5937, effective April 24, 1997; emergency amendment at 27 Ill. Reg. 18259, effective November 17, 2003, for a maximum of 150 days; emergency expired April 14, 2004; amended at 28 Ill. Reg. 7676, effective May 24, 2004; emergency amendment at 32 Ill. Reg. 3013, effective February 13, 2008, for a maximum of 150 days; emergency amendment repealed at 32 Ill. Reg. 6659, effective April 2, 2008; amended at 32 Ill. Reg. 15017, effective September 8, 2008.

SUBPART A: INTRODUCTION

Section 420.10 Definitions

"Allocation": The assignment of a position to a class based on duties, responsibilities and requirements.

"Appropriate Supervisor": An employee who has the authority to resolve an employee's grievance.

"Board": Refers to the Merit Advisory Board.

"Certified Employee": An employee who has successfully completed an appointment and a required probationary period and attained certified status during the employee's most recent period of continuous State service.

"Certified Status": Status achieved through the completion of a probationary period.

"Class": A composite of positions which are sufficiently similar, in terms of duties and responsibilities, requiring the same or related knowledges, skills, abilities and licenses (if required) to fulfill them, and the same title, selection instrument, salary range or rate of pay that would apply equitably to each.

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Example: All Executive I positions in the Office of the Secretary of State are a class.

"Code": The Secretary of State Merit Employment Code [15 ILCS 310].

"Commission": The Secretary of State Merit Commission.

"Continuous Service": The uninterrupted period of service from the date of original appointment to State service.

"Department of Personnel": The Secretary of State Department of Personnel.

"Director of Personnel": The Director of the Secretary of State Department of Personnel.

"Employee": Any employee on the payroll as well as any employee on a leave of absence granted pursuant to this Part.

"Executive or Administrative Employee": Those employees who have principal administrative responsibility for the determination of policy or principal administrative responsibility for the way in which policies are carried out.

"Executive Security Officer": A law enforcement officer charged with executive protective duties.

"Highly Confidential Employee": An employee who occupies a position which, by its nature, is entrusted with private, restricted or privileged information of a type which would preclude its being subject to Jurisdiction B.

"Immediate Family": Father, mother, brother, sister, son, daughter and spouse, including adoptive, custodial and "in-laws" when residing in the employee's household. For bereavement purposes, the term includes grandparents, grandchildren, parents-in-law, brother or sister-in-law, and children-in-law.

"Jurisdiction A": The Section of the Code which deals with the classification and compensation of positions in the Office of the Secretary of State.

"Jurisdiction B": The Section of the Code which deals with merit and fitness as it applies to positions in the Office of the Secretary of State.

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"Jurisdiction C": The Section of the Code which deals with the conditions of employment of positions of the Office of the Secretary of State.

"Licensed Attorney": Attorneys who are licensed to practice law within the State of Illinois.

"Next Higher Supervisor": An employee who is authorized to adjust grievance resolutions offered by an Appropriate Supervisor; an employee who may be locally or regionally assigned to resolve Level 2 grievances.

"Organizational Entity": An organization whose chief executive officer reports directly to the Secretary of State or the Assistant Secretary of State.

["Pay Plan": The plan, authorized by the Secretary of State Merit Employment Code, that sets forth rules for salary treatment when processing personnel transactions and other compensation actions and identifies the various salary schedules.](#)

["Pay Status": An employee who is active on the payroll of the Office of the Secretary of State and who receives wages for hours worked, paid holidays and benefit time used.](#)

"Position": A set of duties, authorities and responsibilities.

["Position Description": The official document that identifies the duties, responsibilities, location and reporting relationships of a position.](#)

"Probationary Period": A period of six calendar months (or 979 hours) immediately following an original appointment or reinstatement, or a period of three months (489.5 hours) following a promotion.

"Seniority": In totality, the unbroken service of an employee by the Office of the Secretary of State, or such service immediately precedent to employment by the Secretary of State which was unbroken and accrued within [State Servicethe employ of an agency covered by the Personnel Code under the Governor or within the University Civil Service System.](#)

"Series": A class series is composed of two or more individual classes which are

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directly related in type of work performed, responsibility exercised and background experience required, while differing in levels, difficulty and/or achievement of these same terms. The classes of a series are similar in title and are usually sequential in nature from lowest to highest. Example: Executive I, II, III, IV and V are a class series.

"Sworn Personnel – Inter-Agency Assignment": Employees of the Office, vested with police authority, who are assigned to an affiliated outside organization for a determined time frame to perform police officer duties.

"Time of Hostilities": Any period of time during which a declaration of war by the United States Congress has been or is in effect or is recognized by the issuance of a Presidential Proclamation or Executive Order as defined in Section 10b.7 of the Secretary of State Merit Employment Code [15 ILCS 310/10b.7]~~The following periods of time: from April 6, 1917 to November 11, 1918; from December 7, 1941 to December 31, 1946; and from June 27, 1950 to December 31, 1976.~~

"Title": A title is the name by which a class is known. Example: Executive I is a title.

"Unskilled Positions": Positions whose primary requirement is that incumbents be of good physical condition.

(Source: Amended at 32 Ill. Reg. 15017, effective September 8, 2008)

SUBPART B: CLASSIFICATION AND PAY

Section 420.200 Positions

A position is a set of duties and responsibilities requiring the appointment of one+ or more persons for the completion of those duties and responsibilities thereof. A written statement of the duties and responsibilities of each position shall be maintained by the Director of Personnel. The following types of positions may be established in the Office of the Secretary of State.

- a) Exempt – Positions established in accordance with sections of the Merit Employment Code describing exempt positions as set forth in Section 420.310(i)(1). If a certified employee accepts an appointment to a position exempt from Jurisdiction B of the Secretary of State Merit Employment Code [15

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ILCS 310], the employee will retain his/her original certified status. If a certified employee's position is declared exempt from Jurisdiction B, certified status shall be retained in the position. Exempt positions may be filled by an employee having certified status without affecting such status.

- 1) A certified employee who accepts appointment to an exempt position will retain his or her certified status only for the highest class title in which certified status was achieved, regardless of the class title of the exempt position.
- 2) With approval of the Director of Personnel, a certified employee may be removed from an exempt position by management directive in accordance with the provisions of Section 420.380 (Employee Transfers). The employee may also accept a voluntary reduction in accordance with Section 420.410 or a promotion in accordance with Section 420.370, or may be removed from the position in accordance with Section 420.390 (Demotion) or Section 420.430(f) (Discharge of Certified Employee), if applicable. The transaction to remove the employee from the position will be predicated on the class title in which the employee was certified prior to the exempt appointment.

- b) Permanent full-time or part-time positions~~Full-time—Positions~~ for which the duties and responsibilities are performed on a regular continuous basis. Any type of appointment described in Section 420.310(i)(1), (4) or (5) or 420.330(a)) may be made to such a position.
- e) ~~Permanent Part-time—Positions for which the duties and responsibilities are performed on a regular but noncontinuous basis such as peak time of day, week, or month. No appointment other than probationary and/or certified may be made to such position.~~
- cd) Temporary – Positions for which the duties and responsibilities are performed for not more than 6 months out of any 12-month period as set forth in Section 420.310(i)(10) in any calendar year.
- de) Permanent Intermittent – positions~~Positions~~ for which the duties and responsibilities are performed on a regular or nonregular, continuous or noncontinuous basis for periods requiring less than full-time but more than temporary employment. No appointment other than probationary and/or certified

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may be made to such a position.

- | [ef](#)) Trainee – For positions established in accordance with an approved training program as set forth in Section 420.320(a).

(Source: Amended at 32 Ill. Reg. 15017, effective September 8, 2008)

Section 420.210 Position Classification

- a) Classification Plan: The Director of Personnel shall maintain, and revise when necessary, a uniform position classification plan for positions under the Merit Employment Code based on the similarity of duties and responsibilities assigned so that the same schedule of pay may be equitably applied to all positions in the same class, under the same or substantially the same employment conditions. It shall be the responsibility of the department directors to report to the Director of Personnel any significant changes in the duties of every position within their department.
- b) Allocation:
- | [1\)](#) At the request of a department, or at the discretion of the Director of Personnel, including when it is evident that the duties of a position deviate from the class specification for that title, or upon reorganization of a department, a survey or audit, or such other investigation by the Department of Personnel shall be made to determine the proper allocation of any position to a class. Upon written request of an employee, a survey or audit by the Director of Personnel shall be made to determine the proper allocation of the employee's position. If the survey or audit does not demonstrate a substantial change in the duties and responsibilities as determined in a previous audit or the existing job description, a determination shall be made as to the proper allocation of the position from a review of the record rather than an individual desk audit. After making such survey, audit, or other investigation, the Department of Personnel shall notify the department in which such position is located of its decision as to the proper allocation of the position in question. It shall be the responsibility of the Department of Personnel to give written notice to the incumbent of said position of its decision.
- | [2\)](#) [An employee who has requested and received the results of an audit on](#)

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his/her current position may request another review no sooner than 12 months following receipt of the prior audit result, and only if there is a change to his/her position duties and responsibilities.

- c) Reconsideration:
- 1) Within 30 calendar days after receiving notice of such decision, the incumbent in such position may make a request in writing of the Director of Personnel for a reconsideration of the decision. Thereafter, the Director of Personnel shall reinvestigate the duties and responsibilities of such position and related positions and the affected employee shall be given a reasonable opportunity to be heard.
 - 2) After such investigation, the Director of Personnel shall render a decision in writing and it shall be served on the employee in person or by certified mail, return receipt requested, at the last address shown in the official personnel file. The effective date of the Director of Personnel's reconsidered decision shall be the same as the effective date of the original allocation decision by the Director of Personnel.
 - 3) An employee wishing to appeal the Director of Personnel's decision shall serve upon the Merit Commission notice of appeal of said reconsidered decision in writing within 15 calendar days after receipt of notice of the reconsidered decision. A copy of the notice of appeal shall also be served upon the Director of Personnel.
- d) Assignment to Other Classes: An employee whose position has been allocated to a class having a higher, lower or same maximum permissible salary or rate may remain in the position, provided, however, that the Director of Personnel shall determine, in the case of allocation to a class having a higher maximum salary or rate, whether, considering the nature of such change in duties, ~~thesueh~~ employee is qualified for the position. In the case of allocation to a class having a lower maximum salary or rate, due to loss of duties or responsibilities after appointment to such position, the pay of such employee shall not be required to be lowered for a period of one year after the position allocation, in accordance with the Secretary of State Pay Plan, Section 10.00(b) (on file in the Secretary of State's Department of Personnel).
- e) Revised Class Requirements: When requirements for a class are revised and the

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duties and responsibilities of positions comprising the class remain essentially unchanged, incumbents in these positions who qualified under the previous requirements for the class will be considered qualified.

- f) Establishment of New Classes: When positions are reclassified resulting from the establishment of a new class, and the duties and responsibilities of such positions remain essentially unchanged, incumbents who qualified under the requirements of the previous class will be considered qualified for the new class.
- g) Temporary Assignment:
 - 1) An employee may be directly assigned (relegated) to perform the duties and responsibilities of another position in a different classification than that to which the employee is incumbent.
 - 2) Temporary assignments shall not be considered the permanent duties and responsibilities of the employee and, therefore, shall not be considered in the proper allocation of the incumbent's position.
 - 3) Additional compensation for temporary assignment of an employee to duties and responsibilities of a higher class shall be in accordance with the applicable provisions of the Department of Personnel Pay Plan. To be eligible for such additional compensation, the employee must be temporarily assigned in accordance with the operational needs of the department and may not become effective without the written approval of the Director of Personnel and acknowledgement by the employee.
 - 4) Temporary assignment of an employee shall not normally exceed 6 months.

(Source: Amended at 32 Ill. Reg. 15017, effective September 8, 2008)

Section 420.220 Pay Plan

- a) Establishment of Plan: The Director of Personnel shall prepare and maintain a Pay Plan for all employees subject to Jurisdiction A of the Merit Employment Code in accordance with the applicable provisions of the Code.
- b) Provisions of the Pay Plan: The Pay Plan shall provide for uniform and equitable

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starting rates of pay, the time and manner in which subsequent changes in salary may be made, the rate each employee is to be paid, and for rates that are fair and reasonable compensation for the type of employment and service rendered. The Pay Plan may also include other provisions not inconsistent with law to assist in the administration of good personnel practices for the Office of the Secretary of State.

- c) Approval of Pay Plan: The Pay Plan and amendments ~~to the Plan~~[thereto](#) shall be prepared by the Director of Personnel ~~after consultation with department directors~~. After preparing the Pay Plan or any amendments, the Director of Personnel shall submit it to the Secretary of State. The Pay Plan, or amendments ~~thereto~~, shall become effective only after approval by the Secretary of State.

(Source: Amended at 32 Ill. Reg. 15017, effective September 8, 2008)

SUBPART C: MERIT AND FITNESS

Section 420.300 Application and Examination

- a) Examinations:
- 1) The Director of Personnel shall conduct examinations to test the relative fitness of applicants for positions subject to Jurisdiction B of the Code. Examinations may include an evaluation of such factors as education, experience, training, capacity, knowledge, manual dexterity, character and physical fitness. Tests shall be job related and may be written, oral, physical demonstration of skill or an evaluation of education and experience. Examinations shall consist of one or more tests in any combination. Where minimum or maximum requirements are established for any examination, they shall be specified in the examination announcement.
 - 2) In lieu of announcing or conducting examinations, the Director of Personnel may accept the results of competitive examinations conducted by any established merit system subject to the [Director of Personnel's](#)~~Director's~~ determination that such examinations are comparable in difficulty and comprehensiveness to those conducted by the Department of Personnel for similar positions.

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- 3) Entrance examination shall mean the examination that resulted in the initial appointment of an applicant to a position in the Office of the Secretary of State.
 - 4) The Director of Personnel may rank applicants participating in competitive examinations on the basis of numeric or category ratings. When numeric ratings are used, applicants will be ranked from the highest passing numeric score to the lowest passing numeric score. When category ratings are used, applicants will be ranked by categories such as excellent, well-qualified and qualified.
- b) Examination – Time and Place: Examinations shall be held at such times and places as are necessary to meet the requirements of the Office of the Secretary of State, provide economical administration, and be generally convenient for applicants. The Director of Personnel may cancel or postpone examinations at any time.
- c) Veterans' Preference: Preference in entrance examinations shall be granted to qualified persons who, while citizens of the United States, were ~~Qualified persons who have passed an examination and who have been~~ members of the Armed Forces of the United States~~armed forces or the armed forces of allies~~ of the United States in times of hostilities with a foreign country (as set ~~forth~~ in the ~~Secretary of State~~ Merit Employment Code Section 10b.7) and to certain other persons as set forth in this Section. To be eligible, an applicant must have proof of his/her service or discharge under honorable conditions. Preference shall be granted as follows:~~or while citizens of the United States were members of the armed forces of allies of the United States in times of hostilities with a foreign country, shall be granted preference in entrance examinations as follows:~~
- 1) Three points or equivalent credit shall be added to the entrance examination grade for veterans who have served in the Armed Forces of the United States, in the Illinois National Guard, or any reserve component of the Armed Forces of the United States and:~~Five points shall be added to the entrance examination grade for such nondisabled veteran eligibles.~~
 - A) Served for at least 6 months and has been discharged under honorable conditions, or
 - B) Has been discharged on the ground of hardship, or

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- C) Was released from active duty because of a service connected disability.
- 2) Five points or equivalent credit shall be added to the entrance examination grade for veterans who have served in the Armed Forces of the United States during time periods of hostility or who, as members of the Illinois National Guard or any reserve component of the Armed Forces of the United States, were called into active duty during time periods of hostility and served under one or more of the following conditions: ~~Ten points shall be added to the entrance examination grade for such veteran eligibles currently receiving compensation from the United States Veteran's Administration or from such allied country for war service connected disabilities.~~
- A) The veteran served a total of at least 6 months, or
- B) The veteran served for the duration of the hostilities regardless of the length of engagement, or
- C) The veteran was discharged on the basis of hardship, or
- D) The veteran was released from active duty because of a service connected disability.
- 3) Ten points or equivalent credit shall be added to the entrance examination grade for veterans who are currently receiving compensation from the United States Veterans' Administration or from such allied country for war service connected disabilities, or if the veteran is a recipient of the Purple Heart.
- 4) If category ratings are used, the veteran eligibles in each category shall be preferred for appointment before the nonveteran eligibles in the same category. Such preference may be disregarded if, during the interview process, an applicant fails to meet the minimum standards set prior to the interview.
- 5) A surviving unremarried spouse of a veteran who suffered a service connected death or disability that prevents the veteran from qualifying for

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employment in a merit system with the State of Illinois shall be entitled to the same preference to which the veteran would have been entitled under this Section.

6) Ten points or equivalent credit shall be added to the examination score for one parent of an unmarried veteran who suffered a service connected death or disability that prevents the veteran from qualifying for employment in a merit system with the State of Illinois. The first parent to receive an appointment in an Illinois merit system shall be the parent entitled to the preference.

- d) Public Notice of Examinations: The Director of Personnel shall publicly announce~~give public notice of~~ examinations at least two weeks in advance of the final date the examination will be given~~such tests~~ except as otherwise noted. Announcements may be advertised through the press, radio or other media. Announcements shall be posted in a conspicuous place in ~~each office of~~ the Department of Personnel in both Chicago and Springfield. Announcements shall specify the date and manner in which an application for examination shall be made. In place of individual announcements, the Director of Personnel may announce the examination process and testing locations and times by various means, including, but not limited to, using the Secretary of State's website, a brochure or a pamphlet.
- e) Notice to Eligibles: In the event a change in the classification or testing standards or other change requires the elimination of an eligible list for a class, or of certain previously qualified eligibles from such a list, the Director of Personnel shall notify each person thus losing eligibility of such new or revised requirements as soon as practicable, and when the revised examination is repeated, shall again notify each person in order that each may be given an opportunity to reestablish eligibility.
- f) Test Ratings – Notice and Review: The rating of each test shall be completed and the resulting list established as quickly as reasonably practicable. Each person competing in any test shall be given written notice of the final earned rating or of the failure to attain a place on the list.
- g) Retaking or Regrading Examinations: The retaking or regrading of examinations will be permitted only in accordance with the following provisions:

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- 1) No applicant may retake a test or tests included within an examination until ~~14~~^{thirty (30)} calendar days have elapsed. ~~This restriction may, however, be waived by the Director of Personnel when the best interest of the Office of the Secretary of State, including but not limited to cases where such restriction would impose undue hardship on an applicant, a department, or the office.~~
 - 2) In all cases of retaking examinations, the most recent passing score obtained on the retake shall be used to determine the candidate's rank on the eligible list.
 - 3) Examination results are valid for 12 months from the original date of examination. An examination shall not be regraded more than 12 months after the original test date. Regraded examinations shall expire on the same date as the original examination.
- h) ~~Equal Opportunity: Applicants or employees shall not be discriminated against on the basis of race, color, age, religion, sex, marital status, national origin, political affiliation or membership in, or activity in, or on behalf of, employee labor organizations or any other nonmerit factor. Applicants capable of performing the duties in the class shall not be discriminated against because of physical or mental handicap.~~
- hi) Removal of Examination Material From Premises: Any applicant or unauthorized employee of the Office of the Secretary of State removing examination materials from the premises at which examinations are being administered or stored, in any manner whatsoever, shall be subject to prosecution and/or discipline up to and including discharge if the individual is an employee of the Office of the Secretary of State.
- ij) Admission to Examinations: ~~All Admission to competitive examinations shall be open to all~~ persons who meet ~~such~~ requirements ~~as have been~~ established by the Director of Personnel may be admitted to competitive examinations and may be lawfully appointed to the position. Following are the only criteria by which the Director of Personnel may reject the application of any person for admission to a test or decline to test or certify for employment:
- 1) ~~subsequent~~^{Subsequent} to participating in the examination, the applicant is found to lack the qualifications prescribed for admission to the test as

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announced in the public notice;

- 2) ~~the applicant is~~ physically unfit to perform effectively the duties of the class;
- 3) ~~the applicant has~~Has used, or attempted to use, bribery or political influence to secure an advantage in testing or appointment;
- 4) ~~the applicant has~~Has made false statements of any material fact or has practiced deception or fraud in the application or test;
- 5) ~~the applicant~~ does not meet the United States Citizenship and Immigration Services~~Department of Justice Immigration and Naturalization Service~~ regulations for permanent employment;~~or~~
- 6) ~~the applicant is~~ found guilty of a violation of ~~this Part~~these rules or any of the provisions of the Merit Employment Code relating to participation in examinations; ~~or~~
- 7) the applicant has been convicted of a crime relevant to the duties and responsibilities of the class of the examination he/she is taking or the position to which he/she is being hired.

~~jk~~) Residency Requirement: Applicants who are not residents of the State of Illinois may be appointed only upon the waiver of residency requirements by the Director of Personnel and only when there are fewer than three qualified residents of Illinois available, including statewide candidates or candidates on the eligibility list for the geographical area in which the position is located.

~~k4~~) Linguistic Requirements: The Director of Personnel may establish linguistic options when it appears that this would benefit the operation of the office by increasing communication with those served by the Office of the Secretary of State.

~~lm~~) Authorization of Investigation: The Director of Personnel shall, when a position is to be filled ~~involves the handling of money, is sensitive in nature and/or entails law enforcement duties~~, require that an applicant seeking employment with the Office of the Secretary of State authorize an investigation to determine if the applicant has ever been convicted of a crime and, if so, the disposition of those

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convictions. ~~Any information derived from this investigation shall, upon request, be provided to the applicant or his designee, prior to any final action by the Director of Personnel on the application. "Only information and standards which bear a reasonable and rational relation to the performance of an employee shall be used by the Director of Personnel."~~

- ~~m#~~) Confidentiality: Any information concerning criminal convictions obtained by the Director of Personnel shall be confidential. "No information obtained from such investigation may be placed in any automated information system." No information may be transmitted to anyone within or outside the Office of the Secretary of State, except as needed for the purposes set forth in subsection Section 420.300(lm). Any violation of this subsection shall result in disciplinary action and possible civil action.

(Source: Amended at 32 Ill. Reg. 15017, effective September 8, 2008)

Section 420.310 Appointment and Selection

- a) Eligible Lists: The Department of Personnel shall establish and maintain lists of qualified applicants for positions covered by Jurisdiction B of the Code. Such applicants shall have successfully qualified through competitive examinations as provided in Section 420.300(a). The names of qualified successful applicants shall be arranged in the order of their relative excellence, whether by numerical grade or category grouping. The length of time an eligible applicant's name may remain appear on the eligible list shall be established by the Director of Personnel specified in the examination announcement.
- b) Responsibilities of Eligibles: It shall be the responsibility of each eligible applicant to inform the Department of Personnel in writing of any changes in name, address or availability for employment.
- c) Geographical Preference: Applicants for employment shall specify one or more of the locations or areas in which they will accept employment from those choices made available at the time of examination or ~~that which~~ may be made available at a later date. Unless otherwise noted in the examination announcement, applicants may select a statewide preference, but will not be considered for employment until all available candidates for the specific geographical location have been exhausted.

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- d) Removal of Names From Eligible Lists:
- 1) The Director of Personnel shall remove names from an eligible list for cause, including but not limited to any of the following reasons:
 - A) Appointment of ~~thean~~ eligible applicant from the eligible list;
 - B) Death of an eligible applicant;
 - C) Notice by postal authorities that they are unable to locate the eligible applicant at his/her last known address;
 - D) Attempt by an eligible applicant to practice any deception or fraud in connection with an examination or application for employment;
 - E) Evidence that the eligible applicant lacks any of the qualifications required for the class for which he/she was erroneously declared eligible;
 - F) Request of an eligible applicant to remove his/her name from the eligible list;
 - G) The applicant's name has remained on the eligible list for 12~~twelve~~ months; or;
 - H) The applicant has been discharged, terminated, or otherwise involuntarily separated from employment with the Office of the Secretary of State.
 - 2) The Director of Personnel may remove names from an eligible list, upon notice to the applicant, for reasons including but not limited to the following: Following are the only criteria by which the Director of Personnel may remove names from an eligible list. Eligibles shall be notified of such removal.
 - A) Failure of an eligible applicant, upon referral, to reply or to report for interview;
 - B) After accepting employment, failure without good cause to report

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to work within the time prescribed by the employing department or the Department of Personnel;

- C) Failure of an eligible applicant, upon request, to furnish written evidence of availability for employment;
- D) Specifying conditions of employment by an eligible applicant ~~that which~~ are not associated with the class for which the applicant is eligible;
- E) Refusal of an eligible applicant to accept ~~3~~ separate offers of employment;
- F) After an eligible applicant has been passed over ~~3~~ times ~~by after referral to the same department, for the appointment of an eligible lower on the eligible list, and the department may request concerned requests~~ removal of the eligible applicant from the list for good and sufficient cause;
- G) Poor work history of the eligible applicant;
- H) Former experience, ~~and~~ history or background of the eligible applicant is not compatible with duties and responsibilities of the class;
- I) Physical inability of eligible applicant to perform the duties and responsibilities of the class;
- J) After eligible applicant accepts promotion;
- K) When a change in ~~either~~ classification or testing standards, or another ~~other~~ change, requires removal ~~such action~~;
- L) Conviction of an eligible applicant of a felony or of a crime that is relevant to the position for which the person is testing or being hired; or
- M) Conviction of a crime involving alcohol or drugs ~~Addiction of an eligible to narcotics or to alcohol.~~

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- e) Replacement of Names on Eligible List:
- 1) The Director of Personnel may restore a name to the same eligible list when ~~that~~such action would be in the best interest of the Office of the Secretary of State, including but not limited to:
 - A) Names of eligible applicants ~~eligibles~~ who, upon removal from list for failure to reply due to powers beyond control, did not receive referral in time to respond in the prescribed amount of time;
 - B) Names of veterans returning from active military service of not more than ~~4~~four years shall be restored to an eligible list for a period of 12 months for the same class if the request is made by the veteran within 90 days after discharge, or after release from hospitalization continuing after discharge but for not more than one year. The eligible applicant must provide evidence of satisfactory completion of training and service when making the request and be qualified to perform the current duties of the class;
 - C) Names of employees who are laid off during their probationary period shall be returned to the eligible list for the class in which the layoff occurred.
 - 2) Names so restored shall be at the grade in effect when the removal from the list was made and may not remain on the list after that period of time ~~which is~~equal to the unexpired time remaining of the original eligibility, except as provided in subsection (e)(1)(B).
- f) Appointment ~~from~~From Eligible List: When an appointment to a position is made from an eligible list resulting from an open competitive examination, ~~the~~such appointment shall be made from among those available persons withof the person standing among those who are available within the 10 highest grades, if ~~the~~such list is in order of numeric examination grade, or from the highest ranking group of ~~3~~three or more available eligibles, if ~~the~~such list is in category groupings, except as provided for under subsection Section 420.310(g).
- g) Extension of Jurisdiction B:

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- 1) Employees in positions to which Jurisdiction B is extended pursuant to Sections 5d and 10d of the Merit Employment Code shall be continued in ~~those~~ such positions and shall attain certified status in those positions ~~therein~~ provided they pass a qualifying examination prescribed by the Director of Personnel within ~~6~~ six months after ~~the~~ such jurisdiction is extended and provided that they satisfactorily complete their respective probationary periods.
- 2) Appropriate standards for probationary appointments shall be prepared by the Director of Personnel and appointments of ~~such~~ employees in accordance with subsection (g)(1) shall be without regard to eligible lists and without regard to the provisions of the Code and this Part requiring the appointment of the person standing among the three highest on the appropriate eligible list to fill a vacancy or from the highest category ranking group if the list is by rankings instead of numerical ratings. Further, these appointments shall be made without regard to the provisions of subsection (f). Nothing in this subsection (g) shall preclude the reclassification or reallocation, as provided by this Part, of any position held by ~~any~~ such incumbent.
- h) Appointments – Positions Subject to Jurisdiction B: Positions ~~which are~~ covered by Jurisdiction B of the Code shall be filled in one of the following ways:
 - 1) By appointment of an eligible applicant standing among the 10 highest scores on an eligible list ~~that~~ which is numerically rated;
 - 2) By appointment of an eligible applicant from the highest ranking group of ~~310~~ or more available eligibles from an eligible list ~~that~~ which is not numerically rated;
 - 3) By present employees (May 24, 1977) who have passed examinations in accordance with the Personnel Code [20 ILCS 415] under the Governor of Illinois and who having passed the probationary period shall be continued in their positions without further examination;
 - 4) By present employees (May 24, 1977) who having been promoted in accordance with the rules under the Personnel Code under the Governor of the State of Illinois (23 Ill. Adm. Code 302) shall be continued in their positions without further examination;

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- 5) By present employees (May 24, 1977) who having passed examinations in accordance with the Personnel Code under the Governor of the State of Illinois, but who have not completed the probationary period shall be continued in their positions and be given credit for such probationary time toward the completion of the probationary period provided by this Part;
- 6) By all other present employees subject to Jurisdiction B who shall be continued in their positions providing that they have passed a qualifying examination within ~~nine~~ months after May 24, 1977;
- 7) By present employees (May 24, 1977) or past employees who have rights or privileges arising under the Personnel Code under the Governor of Illinois or through judicial process and who shall be continued in the extent of such rights and privileges;
- 8) By an appointment to a position through promotion of an employee who is qualified pursuant to Section 420.370(b);
- 9) By emergency appointment for a period not in excess of 90 calendar days to meet emergency situations. Emergency appointments may be made without regard to eligible lists. ~~These~~ Such appointments may not be renewed;
- 10) By temporary appointments to positions ~~that~~ which are temporary or seasonal in nature as determined by the Director of Personnel. ~~These~~ Such appointments shall not exceed ~~6~~ six months out of any ~~12~~ twelve month period;
- 11) By provisional appointments to positions without competitive examination when there is no appropriate eligible list. Provisional appointments may not exceed ~~6~~ six months out of any ~~12~~ twelve month period;
- 12) By the transfer of employees from one position to another if the qualifications, responsibilities, duties and salary range are similar;
- 13) By reinstatement of persons who formerly held certified status under the ~~Code, the~~ Personnel Code [20 ILCS 415], the State Universities Civil Service Act [110 ILCS 70], ~~or~~ the Comptroller Merit Employment Code

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[15 ILCS 410], [or the State Treasurer Employment Code \[15 ILCS 510\]](#). To be eligible for reinstatement, ~~thesueh~~ persons shall have resigned while in good standing or shall have been laid off from employment within their respective merit systems, except as provided in Section 420.430(k).

- 14) By reemployment of an employee whose name appears upon a reemployment list; ~~thesueh~~ reemployment may be made to positions in the same or lower salary range as ~~theto that~~ salary range applicable to the position from which the person to be reemployed was laid off; reemployment appointments shall be of qualified employees and shall be made after consideration of seniority and performance records;
- 15) By the appointment of trainees into training programs approved by the Director of Personnel; ~~thosesueh~~ appointments may be made with or without examination of applicants; trainees do not acquire any rights under Jurisdiction B of the Code by virtue of trainee appointments;
- 16) By the reduction in rank or class of an employee, for cause, with the prior approval of the Director of Personnel;
- 17) By the transfer of active, certified [or probationary](#) employees from the jurisdictions of the Personnel Code ~~of Illinois~~, the [State UniversitiesUniversity](#) Civil Service ~~System Act~~, ~~or~~ the Comptroller Merit Employment Code [or the State Treasurer Employment Code, upon the approval of the Director of Personnel, to comparable positions of employment.](#) ~~A person~~Persons so transferred shall retain the same status under the Code as that which they held under their previous merit employment.
 - i) [AppointmentsTypes of Status](#): The following types of appointments may be made by the Director [of Personnel](#).
 - 1) Exempt: For persons in positions not subject to Jurisdiction B. If an exempt employee's position becomes subject to Jurisdiction B by reason of extension of Jurisdiction B, pursuant to Section 5d and 10d of the Code, ~~thesueh~~ employee shall establish eligibility for ~~thesueh~~ position by passing satisfactorily a qualifying examination prescribed by the Director of Personnel within ~~6six~~ months after the extension of Jurisdiction B to

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~~thesueh~~ position. In all other cases, if an exempt employee's position becomes subject to Jurisdiction B, ~~thesueh~~ employee shall establish eligibility for ~~thesueh~~ position within ~~six~~ months by successfully competing in the open competitive examination and receiving a probationary appointment according to applicable rules.

- 2) Emergency: For persons selected ~~by departments~~ to meet emergency situations. Such appointments shall not exceed 90 ~~calendar~~ days, shall not be renewed, and may be made without regard to an eligible list. Notices of ~~selections and~~ terminations shall be reported to the Director of Personnel.
- 3) Temporary: For persons in positions to perform temporary or seasonal work. No position shall be filled by temporary appointment for more than ~~six~~ months out of any 12 month period.
- 4) Provisional: For persons in positions for which there are fewer than 10 available eligibles on the open competitive eligible list, if the list is in order of numeric examination grade, or fewer than 3 available eligibles, if the list is in category groupings. No positions shall be filled by provisional appointment for more than ~~six~~ months out of any 12 month period. If a provisional employee's position is allocated to a class for which there are available eligibles, eligibility for ~~thesueh~~ positions shall be established within 90 days through successfully competing in the open competitive examination and receiving a probationary appointment according to subsection (i)(5).
- 5) Probationary: For persons appointed from an eligible list, for persons receiving a promotion and for persons being reinstated. If a probationary employee's position is declared exempt from Jurisdiction B, the balance of the probationary period shall be served after which certified status shall be attained.
- 6) ~~Certified: For persons having successfully completed the required probationary period. If a certified employee's position is declared exempt from Jurisdiction B, certified status shall be retained in that position.~~
- 67) Trainee: For persons in positions pursuant to established trainee and apprenticeship programs.

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- j) Permanent Part-Time: Permanent part-time employees shall have all rights and benefits granted by Jurisdictions A, B and C based on the proration of the part-time scheduled hours against the normal 1957.5 hour work year.

(Source: Amended at 32 Ill. Reg. 15017, effective September 8, 2008)

Section 420.320 Trainees

- a) Trainee Appointments: The Director of Personnel may establish trainee or apprenticeship programs for new and/or incumbent employees in accordance with the Position Classification Plan (80 Ill. Adm. Code 410) or at the request of an operating department. No trainee position under this ~~Section~~ shall be established in any class other than a trainee class. A trainee or apprenticeship program shall prescribe the purposes, objectives, curriculum, benefits and duration. Trainee or apprenticeship programs may be established for one or more of the following reasons and purposes and shall be for the duration stated in the class specifications ~~therefor~~:
- 1) To develop ~~qualified employees;~~ through an established program of supervised training and experience, ~~qualified employees for positions which are, in the judgment of the Director of Personnel, difficult to fill with qualified employees;~~
 - 2) To cooperate with recognized educational institutions and organizations by making available opportunities for supervised training and work experience required for satisfactory completion of ~~asueh~~ cooperative or affiliate training program;
 - 3) To provide specialized orientation and training necessary for satisfactory performance of jobs in technical or professional fields;
 - 4) To attract and interest better qualified employees to ~~Statestate~~ service by selecting outstanding persons and giving them supervised work experience during their period of academic training;-
 - 5) In conjunction with Section 18c of the Secretary of State Merit Employment Code [15 ILCS 310/18c], to provide training or developmental work experience for persons with disabilities that would

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assist them in acquiring or augmenting employment skills and/or to provide employment opportunities of limited duration.

b) Limitations on Trainee Appointments:

- 1) Trainees appointed to a position in a trainee class after having qualified by open competitive examination in accordance with ~~the rules of the Department of Personnel concerning Examination and Eligible lists Section 420.300~~ may be promoted after successfully completing the prescribed trainee program and passing an appropriate examination meeting the minimum education and experience requirements for the title for which they are training. A 3 month probationary period will be served in accordance with Section 420.360(a)(2).
- 2) Trainees appointed without~~not selected by~~ open competitive examination ~~shall obtain probationary appointments may be promoted to~~ the titles for which they are training ~~only~~ after successfully completing the prescribed trainee program they have passed and ranking among candidates in a reachable position for appointment on the appropriate open competitive examinations ~~and their names have been reached on the resulting~~ eligible list~~lists~~. A 3 month probationary period will be served in accordance with Section 420.360(a)(2)~~Trainees appointed in such status as the result of an open competitive examination and whose positions are allocated may be placed in probationary status in the class to which said position is allocated.~~
- 3) Trainees appointed to a trainee position without open competitive examination, ~~and~~ whose positions are reallocated or reclassified to a non-trainee class during the trainee period, will~~allocated may~~ be placed in provisional status ~~probationary status~~ in the class to which ~~the~~said position is allocated and shall establish eligibility for that position upon successful completion of an appropriate open competitive examination within 6 months from the effective date of the title change, ~~and their names shall have been reached on the resulting eligible lists.~~
- 4) Trainees appointed to a trainee position after having qualified by open competitive examination in accordance with Section 420.300, whose positions are reallocated or reclassified to a non-trainee class during the trainee period, will be placed in probationary status in the class to which

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the position was allocated and will serve a 6 month probationary period.

(Source: Amended at 32 Ill. Reg. 15017, effective September 8, 2008)

Section 420.330 Intermittents

- a) Intermittent Positions: The Director of Personnel shall, as required to fulfill the operating needs of a department, establish intermittent positions to perform work seasonal in nature or to help in periods of increased workloads. Intermittent positions shall not be established in lieu of permanent positions, but intermittent employees may substitute for absent employees. Appointments will be made to intermittents~~such~~ positions in the same manner as appointments to other permanent positions.
- b) Limitations on Intermittent Employees: An intermittent employee will be subject to the following limitations and conditions of employment, but will otherwise be covered by the full benefits of Jurisdiction A, B and C:
- 1) ~~Intermittent employees shall not be utilized as replacements for permanent employees, but they may substitute for absent employees. An effort will be made to balance the hours worked among intermittents of the same title within the same organizational unit.~~
- 12) Intermittents will work ~~800-1500~~a maximum of 1500 hours per year (12 month period), ~~minimum of 800. There shall not be more than a 10% variance in hours scheduled from the original in-hire Schedule (see the definition of "work schedule" in Section 420.810) in the same title and organizational units. Intermittent employees whose schedules vary more than 10% may grieve or appeal such schedule changes. Intermittents worked more than 1500 hours shall be reallocated in accordance with Section 420.210 (a), (b) and (c) to permanent full-time positions. Intermittents offered work less than their permissible minimum in-hire schedule shall be deemed suspended without cause and may grieve or appeal in accordance with the applicable rules regarding suspensions. Nothing in this subsection shall be deemed to prevent a legitimate reorganization to promote the efficiency of the agency. In the event such a reorganization temporarily precludes full compliance with this subsection, management shall have six months in which to revise its schedules in order to bring the schedules into compliance.~~

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- A) If, as a result of timekeeping error or omission in reporting hours worked, it is determined that an intermittent employee worked more than 1500 hours in the prescribed 12 month period, the employee shall immediately be placed in inactive status until the commencement of the next 12 month period, and the hours worked in the next 12 month period shall be reduced by the excess hours from the previous 12 month period.
- B) Intermittent employees offered less than 800 hours of work in any prescribed 12 month period shall be deemed suspended without cause and may grieve or appeal in accordance with the applicable rules regarding suspensions.
- 2) There shall not be more than a 10% variance in hours scheduled from the original in-hire work schedule of employees in the same title and organizational unit. Intermittent employees whose schedules vary more than 10% may grieve or appeal the schedule changes. An effort will be made to balance the hours worked among intermittent employees of the same title within the same organizational unit.
- 3) The continuous service of an intermittent employee shall be computed on the basis of hours worked, each 7½ hours being equivalent to one day.
- 4) An intermittent employee shall accrue sick and vacation leave on a prorated basis, dependent upon the amount of time in pay status during a given month.
- 5) ~~Intermittent employees shall receive full pay for an official holiday if scheduled to work that day of the week and they have worked the last scheduled work day before the holiday and the first scheduled work day after the holiday.~~
- 56) Employees refusing to be scheduled ~~3~~three times in one calendar quarter shall be considered for discharge for failure to perform assigned duties, if given 24 hour notice of scheduling, unless proof of illness or death in the family is presented.

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- c) Nothing in this Section shall be deemed to prevent a legitimate reorganization to promote the efficiency of the agency. In the event a reorganization temporarily precludes full compliance with this Section, management shall have 6 months in which to revise its schedules in order to bring the schedules into compliance.
- d7) An annual review of the intermittent program will be made by the Director of Personnel to insure compliance with this Part.

(Source: Amended at 32 Ill. Reg. 15017, effective September 8, 2008)

Section 420.340 Continuous Service

- a) Definition:
- 1) Continuous service is the uninterrupted period of service from the date of original appointment to ~~Statestate~~ service or to service in any other system participating in the Retirement Systems Reciprocal Act [40 ILCS 5/20], except as provided in subsection Section 420.340(g).
 - 2) Employees who have accrued continuous service ~~in another merit system~~ in ~~Statestate~~ service or who have accrued continuous service in a position covered by the Retirement Systems Reciprocal Act~~state-service not covered by any merit system~~, and who have been transferred to or who have accepted an appointment to a position in the Office of the Secretary of State~~a department subject to the Merit Employment Code~~, shall be given ~~such~~ credit for the earlier said service to the extent as shall be determined by the Director of Personnel or required by law.
 - 3) Intermittent and permanent~~Permanent~~ part-time ~~and intermittent~~ employees shall accrue continuous service on a prorated basis, determined by the number of hours worked per year.
- b) Interruptions in Continuous Service: Continuous service shall be interrupted by:
- 1) Resignation; provided, however, that ~~such~~ continuous service will not be interrupted by resignation when an employee is employed in another position in State service ~~the Office of the Secretary of State~~ within 4 calendar days after of such resignation;

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- 2) Discharge; provided, however, ~~that such~~ continuous service shall not be interrupted if the employee is retained in the position after a hearing before the Merit Commission, or under other administrative review process, or by the court;
 - 3) Termination; because an employee has not been reemployed within one year after layoff.
- c) Deductions ~~from~~ From Continuous Service: Except as provided in subsection Section 420.340(f), the following shall be deducted from, but not interrupt, continuous service:
- 1) Time away from work for leaves of absence without pay totaling more than 30 days in any 12 month period;
 - 2) Time away from work because of disciplinary suspensions totaling more than 30 days in any 12 month period;
 - 3) Time away from work because of layoff.
- d) Veterans' ~~Veterans~~ Continuous Service:
- 1) Leaves of absence shall be granted to all employees, except temporary or emergency employees, who leave their positions and enter military service for four years or less (exclusive of any additional service imposed pursuant to law). An employee shall be restored to the same or similar position on making an application to the Department of Personnel his employing department within 90 days after separation from active duty, or after release from hospitalization continuing after discharge but for not more than one year. The employee must provide evidence of satisfactory completion of training and military service when making application and must be qualified to perform the duties of the position.
 - 2) Subject to the provisions of Section 420.310(f), a veteran who returns to service with the Office of the Secretary of State after having been granted a leave of absence from provisional status shall be required to pass the same or similar examination for his/her position within 90 days.
 - 3) Trainees who have not previously done so and whose training was

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interrupted by military leave, shall be required to qualify, if necessary, in an examination in the trainee class before granted allocation or noncompetitive promotion to a higher class.

- e) Peace or Job Corps Enrollees Continuous Service: Employees who volunteer and are accepted for service in the overseas or domestic peace or job corps shall be given a leave of absence from their position for the duration of their initial period of service and restored to the same or similar position provided that the employee returns to ~~their~~ employment within 90 days ~~after of the~~ termination of ~~their~~ service or release from hospitalization from a service connected disability.
- f) Accrual and Retention of Continuous Service During Certain Leaves: During an educational, military, peace or job corps, disaster services, family leave/adoption/child care leave (pursuant to Section 420.645), Family and Medical Leave (FMLA), ~~or~~ disability leave, service connected disability leave or leave to accept a temporary, provisional, emergency or exempt assignment in another class, an employee shall retain and accrue continuous service, provided an appropriate application to return is made, pursuant to the requirements specified elsewhere in this Part.
- g) Limitation on Continuous Service: Temporary and emergency employees employed after May 24, 1977, shall not accumulate continuous service except as provided in 20 ILCS 805/240, Ill. Rev. Stat. 1985, ch. 127, par. 63b, 120.1 unless ~~sueh~~the status is acquired as the result of taking a leave of absence to accept a temporary or emergency~~sueh~~ assignment.

(Source: Amended at 32 Ill. Reg. 15017, effective September 8, 2008)

Section 420.350 Performance Evaluation Forms~~Review~~

- a) ~~Performance Records:~~
- 1) ~~Performance records shall constitute all material in an employee's personnel file which, in the judgment of the Director of Personnel, is relevant to determining the appropriateness of proposed or recommended personnel transactions.~~
 - 2) ~~Such records shall be considered by the Director of Personnel in all cases of promotion, demotion, discharge, layoff, recall, reinstatement,~~

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~~geographical transfer and certification.~~

~~b) Performance Evaluation Forms:~~

~~1) The Director of Personnel shall prescribe the form used for performance evaluations. Performance records shall include an evaluation of employee performance prepared by each department on forms prescribed by the Director of Personnel.~~

~~b2) For an employee serving a 6~~six~~ month probationary period, the ~~division~~ department shall prepare and submit to the Department of Personnel 2~~two such~~ evaluations, ~~=~~ one at the end of the third month of the employee's probationary period and another 15~~fifteen~~ days before the conclusion of the probationary period~~thereof~~.~~

~~c3) For an employee serving a 3~~three~~ month probationary period, the ~~division~~ department shall prepare and submit to the Department of Personnel an evaluation form 2½~~two and one half~~ months after the commencement of the probationary period.~~

~~d4) For a certified employee, each department shall prepare an~~such~~ evaluation not less often than each time an employee receives a satisfactory or superior performance increase under the Department of Personnel's Pay Plan.~~

~~e5) A prepared employee evaluation shall not be considered completed or final for any purpose until the employing department director or designee has entered approval directly on the evaluation form by way of signature or other means of identification.~~

~~f6) For purposes of promotion, demotion, layoffs, transfers, reemployment, discipline, ~~or~~ discharge, etc., the Director of Personnel and the employing department director shall give greater weight to an employee's most recent performance evaluation as opposed to earlier evaluations in considering any potential change in the employee's current status with the office.~~

(Source: Amended at 32 Ill. Reg. 15017, effective September 8, 2008)

Section 420.360 Probationary Status

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- a) Probationary Period:
- 1) A probationary period of ~~6~~ 3 months (979 hours for intermittent and permanent part-time) shall be served by:
 - A) an employee who enters service or commences a new period of continuous service;
 - B) an employee who is reinstated as provided under Section 420.420(b);
 - C) an employee who is appointed from an open competitive eligible list, whether or not it is considered an advancement in rank or grade.

~~Trainees whose positions are allocated upward may achieve probationary status pursuant to Section 420.320(b).~~
 - 2) A probationary period of ~~3~~ 3 months (489.5 hours for intermittent and permanent part-time) shall be served by an employee who is promoted. A probationary employee who is demoted or one who accepts a voluntary reduction, shall be required to serve a ~~3~~ 3 month probationary period or the balance of the original probationary period, whichever is greater. If the employee previously held certified status in the class to which demoted or voluntarily reduced, no probationary period will be required. A probationary employee transferred during the probationary period shall serve that portion of the probationary period ~~that~~ which was not completed at the time of ~~such~~ transfer. A probationary period shall not be deemed to be continued by the payment of any sum for vacation or other benefits during ~~the~~ such probationary period.
 - 3) If an employee is absent from work for more than 15 ~~working calendar~~ days during the probationary period ~~because of leave of absence, sick leave or work-related injury or industrial disease~~, ~~the~~ such absence shall serve to extend the probationary period by the length of the absence. Any suspension shall extend the probationary period by the length of the suspension, except that, if the suspension ~~is~~ shall later ~~be~~ reduced or rescinded, ~~the~~ such reduced or rescinded time shall not extend the probationary period.

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- b) Certified Status: A probationary employee shall attain certified status only after successful completion of a probationary period. Notice of certification will be promptly sent to the employee and the employing department by the Director of Personnel ~~promptly thereafter~~.

(Source: Amended at 32 Ill. Reg. 15017, effective September 8, 2008)

Section 420.370 Promotions

- a) Definition: The appointment of an employee who has held certified status during his/her current period of continuous service, with the approval of ~~the department and~~ the Department of Personnel, to a vacant position in a class having a higher qualifications, duties, responsibilities and maximum permissible salary or rate than the former class.
- b) Eligibility for Promotion:
- 1) The Director of Personnel may approve the promotion of qualified employees who have established eligibility for the appropriate class through open competitive examinations in accordance with merit standards set forth in Section 420.300(a).
 - 2) The Director of Personnel may approve the promotion of qualified employees to a class for which the examination is closed, provided the employee meets the minimum requirements of the class. For promotional purposes, the passing examination grade for the appropriate class is valid for a three-year period from the date of the examination.
 - 3) For promotional purposes, a passing examination grade for the appropriate class is valid for a 3 year period from the date of the examination. If the employee retakes the examination within the 3 year period, the most recent passing grade shall be the only one considered.
 - 4) Employees appointed to a trainee class for which an examination was required may be promoted to the title for which they are training by passing the appropriate examination or satisfying the requirements set forth in Section 420.320(b)(2).

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- c) Limitations on Promotions: No provisional, temporary, emergency or exempt employee may be promoted. No probationary employee may be promoted unless the employee has previously held certified status during the current period of continuous service.
- d) Failure to Complete Probationary Period:
- 1) A promoted, certified employee who fails to satisfactorily complete the probationary period in the promoted position because of inability to perform the duties and responsibilities of the new promoted position shall be returned to a position in the class, department and locality and with the status from which promoted.
 - 2) An employee who is demoted, or one who accepts a voluntary reduction, during a probationary period shall serve a probationary period as provided in Section 420.360(a) unless the employee had previously held certified status in the former class, in which case the return shall be to certified status.
 - 3) A promoted employee previously certified may be discharged for cause during the probationary period. ~~The and, in such event, the~~ employee has the same rights to appeal as a certified employee.

(Source: Amended at 32 Ill. Reg. 15017, effective September 8, 2008)

Section 420.380 Employee Transfers

- a) Transfers: A transfer is the assignment of an employee to a vacant position in the same class to which most recently appointed or to a position involving similar qualifications, duties, responsibilities and salary range. Transfers shall not be made without prior approval of the Director of Personnel. ~~A transfer is the assignment of an employee to a vacant position whose classification has the same maximum permissible salary or rate.~~
- b) ~~Intra Agency Transfer: An employee may be transferred to a position in the same class to which appointed or to a position involving similar qualifications, duties, responsibilities and salary range, in another department, division, section or other unit with the Office. No such transfer shall be made without the approval of the Director of Personnel.~~

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- e) ~~Inter Agency Transfer: An employee may be transferred to a position in the same class, or to a position involving similar qualifications, duties, responsibilities and salary range from another agency or jurisdiction, with the approval of both agencies, the Director of Personnel, and with the consent of the employee.~~
- bd) Geographical Transfer: Geographical transfer is the transfer of an employee from one geographical location in the ~~State~~state to another for the performance of duties other than temporary assignments or details for the convenience of the employer. Geographical transfers shall be made only with the approval of the Director of Personnel. An employee who refuses to accept a geographical transfer must report for duty at the new location but may make written appeal of ~~the~~such transfer to the Merit Commission within 15 days after the effective date of the transfer. An employee shall be reimbursed for all reasonable transportation and moving expenses incurred in moving to a new location because of permanent geographical transfer unless ~~the~~such transfer was applied for by the employee. Reasonable transportation and moving expenses shall be the lowest of ~~3~~three bids, unless the lowest bidder is not responsible or available. Notice of an approved management directed geographical transfer shall be served on the employee by the operating department in person or by certified mail, return receipt requested, at the employee's last address appearing in the official personnel file.
- c) Merit System Transfer: An employee of the State of Illinois who holds certified or probationary status in a merit system other than the Secretary of State Merit Employment Code, including employees under jurisdiction of the Personnel Code, the State Universities Civil Service Act, the State Treasurer Employment Code or the Comptroller Merit Employment Code, may be transferred to a position that is subject to Jurisdiction B of the Merit Employment Code. The Director of Personnel will verify that the positions have comparable qualifications, duties, responsibilities and salary range. The transferred employee shall retain the same status and shall be given credit for continuous service for uninterrupted service under the other merit systems.
- de) Rights of Transferred Employees: A transferred employee shall retain status, continuous service and all accrued benefits.
- ef) Transfer of Duties: When the duties of a position are relocated by transfer or by abolition and reestablishment and when ~~the~~said duties are substantially the same, ~~the~~an incumbent employee may elect to relocate and retain the duties of the

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position.

- f) Limitation on Transfers: ~~Temporary~~temporary, emergency, ~~exempt, trainee~~ and provisional employees shall not be transferred.

(Source: Amended at 32 Ill. Reg. 15017, effective September 8, 2008)

Section 420.390 Demotion

- a) Definition:
- 1) Demotion is the assignment of an employee to a vacant position in a class having a lower maximum permissible salary or rate than the class from which the demotion was made for reasons of inability to perform the work of the class from which the demotion was made.
 - 2) ~~Written~~A department may initiate demotion of an employee by filing ~~written~~ statements of reason for demotion ~~shall be filed by a department director or other administrative authority~~ with the Director of Personnel ~~or designee~~ in the form and manner prescribed. ~~The~~~~Such~~ written statement shall be signed ~~by the director of the department~~ and shall contain sufficient facts to show good cause for the demotion. No demotion shall become effective without the prior approval of the Director of Personnel ~~or designee, who shall take into consideration the employee's education, experience and performance records.~~
- b) Notice to Employee: If the statement of reasons for demotion of a certified employee is approved by the Director of Personnel ~~or designee~~, a copy of the approved statement of reasons for demotion shall be served on the employee ~~by the Director of Personnel~~ in person or by certified mail, return receipt requested, at the employee's last address appearing in the ~~official~~ personnel file.
- c) Employee Obligations: Upon receipt by the employee of the approved statement of reasons for demotion or upon the effective date ~~of the demotion~~thereof, whichever is later, the employee shall leave the position ~~to~~in which assigned ~~prior to such statement of reasons~~ and report for duty to the position to which demoted. ~~The and such~~ report shall be without prejudice to right of appeal under ~~subsection~~ Section 420.390(e).

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- d) Salary and Other Benefits of Employee: Upon receipt by the employee of the approved statement of reasons for demotion, or on the effective date of the statement thereof, whichever is later, all salaries and benefits of thesueh employee in the position in which assigned prior to receipt of thesueh statement of reasons shall be adjusted to reflect the demotion.
- e) Appeal by Certified Employee: A certified employee who has been served with an approved statement of reasons for demotion may appeal to the Merit Commission, provided thesueh appeal is made in writing within fifteen (15) days afterof receipt of the approved statement of reasons for demotion.
- f) Demotion of Other Employees: The Director of Personnel or designee may approve the demotion of probationary employees. Notice of such demotion shall be served on the employee by the Director of Personnel or designee in person, or by certified mail, return receipt requested, at the employee's last address appearing in the official personnel file.
- g) Status of Demoted Employees: A demoted certified employee shall be certified in the class to which demoted and shall not be required to serve a new probationary period. Subject to Section 420.360(a), a demoted probationary employee shall serve a new probationary period in the class to which he/she is demoted.

(Source: Amended at 32 Ill. Reg. 15017, effective September 8, 2008)

Section 420.400 Layoffs and Reemployment

- a) Layoff Procedure:
- 1) A department may request the layoff of an employee because of lack of funds, material change in duties or organization, or lack of work, or the abolition of a position for any of these reasons. Based on class, department, county or other designation, layoffs shall be within organizational units justified by operations and approved prior to the layoff by the Director of Personnel.
 - 2) A proposed layoff is subject to the approval of the Department of Personnel before becoming effective and shall include the following in the organizational unit in which the layoff is proposed:

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- A) list of all employees showing status and total continuous service;
 - B) A listing of ~~the~~these employees to be laid off;
 - ~~C)~~ ~~The most recent performance evaluations of all employees in classes affected by layoff plan;~~
 - ~~C~~D) An explanation of any layoff not in order of continuous service;
 - ~~D~~E) An explanation of the organizational unit selected, ~~reflecting identifying the~~ department, division, facility, geographical ~~location~~, operational ~~needs~~ and other elements deemed relevant by the department director.
- b) Order of Layoff:
- 1) The following order shall be observed in ~~implementing~~making layoffs:
 - A) No certified or probationary employee may be laid off until all temporary, emergency, provisional, ~~trainee~~ and exempt employees in the same class and organizational unit are terminated;
 - B) No certified employee may be laid off until all probationary employees in the same class and organizational unit are terminated.
 - 2) Within status groups and in accordance with the layoff plan submitted under ~~subsection Section 420.400~~(a), consideration shall be given to performance records and continuous service as defined in Section 420.340(a).
 - 3) For purposes of this ~~Section~~subsection, "certified employee" shall mean any employee who has satisfactorily completed a required period of probation and/or attained certified status in any position during ~~his/her~~the employee's current period of continuous service.
- c) Effective Date of Layoff: Unless extraordinary operating conditions or events are specified in the proposed layoff plan, no layoff shall be effective until ~~ten~~(10) working days after the Director of Personnel's approval of the layoff plan.

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- d) Disapproval: The Director of Personnel may disapprove or modify any layoff plan ~~that~~which results in a disproportionate impact on any protected class, as defined by federal civil rights laws, judicial decisions and ~~the~~The Illinois Human Rights Act [775 ILCS 5](~~Ill. Rev. Stat. 1985, ch. 68, par. 1-101 et seq., as amended~~), within the layoff unit.
- e) Notice of layoff to the affected employee shall be given within a reasonable time period after approval of the layoff plan by the Director of Personnel.
- f) Reemployment Lists:
- 1) The ~~Director~~Department of Personnel shall, before the effective date of layoff, approve and establish ~~and maintain~~ a reemployment list, by class and department and ~~county, or other~~ designated geographical area ~~approved by the Director of Personnel before layoff~~. A certified employee who has been laid off shall be placed in order of length of continuous service as defined in Section 420.340(a) on a reemployment list for recall to the first available assignment to a position in the class (~~or related classes with substantially similar requirements and duties~~) and department and ~~county or other~~ designated geographical location or area in which the employee was assigned prior to being placed on the reemployment list.
 - 2) Where circumstances warrant, at the discretion of the Director of Personnel, the~~such~~ reemployment list may be established by related classes whose duties are substantially similar to the class from which the employee was laid off.
 - 3) An employee whose name has been placed on the reemployment list will also be eligible for reinstatement in accordance with Section 420.420(b).
- g) Employment from Reemployment List: Whenever there is any person available on a reemployment list for recall to a vacant position for the same class, ~~or related classes where such have been established pursuant to Section 420.400(e)~~, department and ~~county or other designated~~ geographical area, no permanent position may be filled by any of the following means:
- 1) By probationary appointment from the appropriate open competitive list;

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- ~~2)~~ ~~By temporary appointment;~~
- ~~23)~~ By provisional appointment;
- ~~34)~~ By promotion of a certified employee or a probationary employee who has been certified during the current period of continuous service by a qualifying examination;
- ~~45)~~ By reinstatement of a former certified employee;
- ~~56)~~ By ~~intra-agency or inter-agency~~ transfer; or
- ~~7)~~ ~~By demoting an employee after having filed charges; or~~
- ~~68)~~ By ~~accepting an employee's request for a~~ voluntary reduction, except by an employee on the reemployment list, and only if there are no employees on the reemployment list for the same class, department and designated geographical area.

hg) Removal of Names from Reemployment List:

- 1) A laid off employee's name shall be removed from the reemployment list when:
 - A) The employee is recalled from layoff;
 - B) The employee refuses an offer of permanent reemployment;
 - C) The employee's name has remained on the reemployment list for 12 months; or
 - D) The employee has been reinstated in accordance with Section 420.420(b).
- 2) Offers of temporary, ~~exempt~~ or emergency appointment shall not be considered as recall or reinstatement.

ih) Laid Off Probationary Employee:

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- 1) The name of ~~a probationary an original entrance~~ employee who is terminated as a result of layoff before the completion of the probationary period shall be returned to the eligible list with the same grade as when appointed, for the remainder of his/her one year eligibility.
- 2) An employee serving a probationary period but otherwise certified as defined in ~~subsection Section 420.400(b)(3)~~, who is to be laid off, shall be given notice and may request a voluntary reduction pursuant to Section 420.410(a) and (c). If no voluntary reduction is effected, the employee will be laid off and the employee's name placed ~~in seniority order as provided in Section 420.340(a)~~ on the reemployment list in order of continuous service for the department, work location and title in which last certified.

(Source: Amended at 32 Ill. Reg. 15017, effective September 8, 2008)

Section 420.410 Voluntary Reduction

- a) Voluntary Reduction of Certified and Probationary Employees:
 - 1) Certified and probationary employees may voluntarily request or accept assignment to a vacant position in a class having a lower maximum permissible salary or rate. All requests for or acceptances of ~~such~~ voluntary reductions shall be in writing and shall be signed by the employee ~~and be directed to the head of the department in which the vacant position exists~~. No reduction shall become effective without the written approval of the Director of Personnel. A certified employee who is assigned and accepts a voluntary reduction in grade shall be certified in the lower class without serving a probationary period; provided, however, if reduction results in return to a trainee class or other class for which there is no provision for certification in ~~thatsaid~~ class, the individual's certification shall be terminated.
 - 2) A probationary employee who accepts a voluntary reduction to a position in which the employee has not held certified status shall serve the remainder of the probationary period, or a ~~three (3)~~ month probationary period, whichever is greater. If the employee previously held certified status in the class, no probationary period will be required.

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- b) Limitations in Voluntary Reduction: Temporary, emergency, exempt, trainee and provisional employees shall not be granted a request for voluntary reduction.
- c) Employee Opportunity to Seek Voluntary Reduction: A certified employee, as defined in Section 420.400(b)(3), who is subject to layoff as a result of the Director of Personnel's approval of a layoff plan shall be promptly notified of the effective date of layoff and shall then be advised of the opportunity to request voluntary reduction to a current vacant position in accordance with subsection Section 420.410(a). An employee seeking voluntary reduction must submit a request such-in writing to the Director of Personnel~~head of the employing department~~ prior to the proposed effective date of layoff.
- d) Order of Preference in Voluntary Reduction: In the event a certified employee, as defined in Section 420.400(b)(3), requests voluntary reduction as a result of his/her pending layoff, the certified employee shall be preferred in continuous service seniority-order for any current vacant position in a lower class within the same department and location in which the employee is ~~then~~-incumbent at the time of ~~thesuch~~ layoff over any probationary or provisional employees, any applicant on an eligible list for ~~thesuch~~ vacant position, and any certified employee requesting ~~thesuch~~ reduction who is not subject to layoff.

(Source: Amended at 32 Ill. Reg. 15017, effective September 8, 2008)

Section 420.420 Resignation and Reinstatement

- a) Resignation: An employee who voluntarily leaves the Office of the Secretary of State shall, except in emergency circumstances approved by the department director, give advance notice of intent not less than 15 calendar days before the departure's~~sits~~ effective date. Once a resignation has been submitted by the employee, and accepted by the employing department director or by the Department of Personnel, the ~~said~~-resignation shall not be revoked unless the revocation is requested by the employee and the revocation is approved by the employing department director and the Director of ~~the Department of~~ Personnel. Resignation in good standing shall mean that the employee gave the required notice or that the emergency circumstances justified failure to do so, and that the employee's conduct and work performance were satisfactory at the effective date of the resignation~~thereof~~.
- b) Reinstatement:

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- 1) ~~The~~ ~~On request of a department, the~~ Director of Personnel may reinstate an employee who was formerly certified under the Secretary of State Merit Employment Code and who resigned or terminated in good standing or whose name was placed on a reemployment list. ~~The~~ ~~Such~~ reinstatement may be to a position in the class to which the employee was assigned prior to resignation, termination, downward allocation, ~~lateral~~ transfer or layoff or to an equivalent or lower position in a related series. The Director of Personnel may reinstate an employee who was formerly certified under a merit system, including the Personnel Code, the State Universities ~~University~~ Civil Service Act, the State Treasurer Employment Code ~~System of Illinois~~ or the Comptroller Merit Employment Code. A reinstated employee shall serve an additional ~~six~~ months probationary period in the position. Requests for reinstatement shall be accompanied by the employee's performance records when available.
- 2) A certified employee whose name appears on a reemployment list may be reinstated to a position other than the position to which the employee is eligible for reemployment. If reinstated to a position in the same or a higher pay grade than that for which the employee is eligible for reemployment, ~~then,~~ upon satisfactory completion of the new probationary period, the employee's name shall be removed from the reemployment list. Reinstatement to a position in a lower pay grade than that for which the employee is eligible for reemployment, shall have no effect on the employee's reemployment rights.

(Source: Amended at 32 Ill. Reg. 15017, effective September 8, 2008)

Section 420.430 Discipline, Discharge, and Termination

- a) Progressive Corrective Discipline: ~~Employees Unless grounds clearly are present warranting immediate discharge or suspension, employees~~ shall be subject to corrective discipline progressively utilizing counseling, warnings and/or suspensions, as the facts and circumstances dictate, prior to discharge, unless the facts and circumstances warrant immediate discharge or suspension. If an employee's work or work-related conduct remains unacceptable after the application of progressive corrective discipline, ~~the~~ ~~such~~ employee may be discharged in accordance with the appropriate following subsections ~~below~~.

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- b) Discipline – ~~Written Warning Warnings Notices~~: A department director or designee may issue a warning notice~~warn an employee either orally or in writing~~ as a disciplinary measure. A copy of any ~~written~~ warning notice shall be placed in the employee's official personnel file and ~~it~~ may be used in considering further discipline, demotion, withholding of salary increases and other personnel transactions ~~when such actions occur within twelve (12) months of the date of issuance of the written warning~~. Any notice given ~~The written warning~~ shall bear the signature of the issuing official.
- c) Disciplinary Suspensions Suspension Totaling Not More Than Thirty Days in Any Twelve Month Period: Written statements of reason for disciplinary ~~Disciplinary~~ suspensions without pay totaling not more than ~~thirty (30)~~ calendar days in any 12 month period shall be filed by a department director or other administrative authority with the Director of Personnel or designee in the form and manner prescribed. If the employee is certified, and subject to suspensions totaling more than 30 calendar days in any 12 month period, the department director or administrative authority shall file written charges for such suspension with the Director of Personnel or designee in the form and manner prescribed in the Merit Commission Rules (80 Ill. Adm. Code 50). Before a disciplinary suspension shall be effective, a signed request containing a clear and concise statement of facts showing good cause to suspend the employee shall be approved by the Director of Personnel. ~~may be imposed upon an employee by a department director or designee, with prior approval of the Director of Personnel. Unless delay in the imposition of discipline will result in clear harm or damage to a department,~~ The ~~the~~ employee shall be informed in writing of the charges proposed suspension and the reasons therefore at least four (4) working days prior to the effective date of the proposed suspension and be provided with a reasonable summary of the evidence ~~copies of pertinent documents on which the proposed suspension is based~~. The employee shall have four (4) working days after being informed of the proposed suspension within which to address to the department director or designee written rebuttal of the reasons given for the suspension. A decision ~~of a department director or designee~~ not to suspend the employee or to reduce the suspension shall be rendered in writing to the employee and filed with the Director of Personnel. ~~before the proposed suspension date. Written notice of any suspension imposed with the reasons therefore must be served upon the employee in a format prescribed by the Director of Personnel on or before the effective date of the suspension in person or by certified mail, return receipt requested, at the employee's last address appearing in the personnel file.~~ Notice of such suspension imposed must also be filed immediately with the Director of Personnel. If delay

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in the imposition of discipline will result in clear harm or damage to a department, the employee may be suspended prior to the review by the Director of Personnel.

- d) ~~Suspension Totaling More Than Thirty Days in Any Twelve-Month Period: The department director or a designee may, after complying with the procedures set forth in this Section, and with prior approval of the Director of Personnel, initiate a disciplinary suspension of any employee totaling more than 30 days in any 12-month period and if such employee is certified, the department shall file written charges for such suspension with the Director of Personnel in the form and manner prescribed, as specified in the Merit Commission Rules (80 Ill. Adm. Code 50). Such written charges shall be signed by the department director or designee, and shall contain a clear and concise statement of facts showing good cause for such suspension. The charges shall be accompanied by a copy of the employee's performance records. Unless delay in the imposition of discipline will result in clear harm or damage to the department the employee shall be informed in writing of the proposed suspension and the reasons therefore at least four (4) working days prior to the effective date of the proposed suspension and be provided with copies of pertinent documents on which the proposed suspension is based. The employee shall have four (4) working days after being informed of the proposed suspension within which to address to the department director or designee written rebuttal to the reasons given for the suspension. A decision of a department director or designee not to suspend the employee shall be rendered in writing before the proposed suspension date.~~
- de) Suspension Pending Decision on Discharge: A department may suspend an employee, without pay, for up to 30 days pending the decision of the operating department as to whether charges for discharge shall be filed against ~~thesuch~~ employee. The department shall, at the time of ~~thesuch~~ suspension, provide the employee with written reasons for the suspension~~therefore~~ in person or by certified mail, return receipt requested, at the employee's last address appearing in the personnel file. Notice of ~~such~~ suspension must also be filed immediately with the Director of Personnel. The department shall thereafter promptly investigate the facts and circumstances and render its decision. Should the department determine that the facts and circumstances do not warrant disciplinary suspension or charges for discharge, the employee shall be made whole. Should the department determine that a disciplinary suspension is appropriate, subsection (c)Section 420.430(e) or (d), as the case may be, shall apply in its entirety. Should the department determine that discharge of the employee is appropriate, subsection Section 420.430(f) shall apply in its entirety.

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- e) Definition of Day for Suspension Purposes: A day, for purposes of suspension, shall be defined as 7.5 hours, predicated on a 37.5 hour work week, unless the employee is in a position requiring a 40 hour week, in which case the day shall be 8.0 hours. Intermittent and permanent part-time employees' day for purposes of suspension shall be prorated based on their work schedule.
- f) Discharge of Certified Employee:
- 1) Discharge~~The department director or designee may initiate discharge~~ of a certified employee may be initiated by a department director or other administrative authority by filing written charges for discharge with the Director of Personnel in the form and manner prescribed by the Director of Personnel, as specified in the Merit Commission Rules. Written charges shall ~~be signed by the department director and shall~~ contain a clear and concise statement of facts showing good cause for discharge and shall be accompanied by a copy of the employee's performance records and other supporting documentation, if applicable. No discharge of a certified employee shall be effective without the approval of the written charges for discharge by the Director of Personnel or designee.
 - 2) Before a discharge shall be effective, the certified employee shall receive ~~by certified mail or by delivery in person~~ a written copy of the charges and, a copy of a reasonable summary of the ~~the~~ evidence against him or her or a reasonable summary of the evidence designed to give the employee sufficient information to respond to the charges against him or her, and have at least ~~four (4)~~ working days within which to respond to the charges with reasons and evidence why discharge should not occur. The certified employee's response, which should include matters in defense and/or mitigation, ~~shall~~ may be ~~in writing or orally~~ presented to the Director of Personnel before 4:30 p.m. on the fourth working day after the certified employee has received notice of the proposed discharge, counting the day of service as the first day. The certified employee shall be suspended pending discharge for these four working days, and shall remain suspended until a final decision on discharge shall be made, ~~and~~ Section 420.430(e) hereof shall apply. These ~~four (4)~~ working days shall not increase the maximum suspension periods allowed pursuant to subsection Section 420.430(c). If the Director of Personnel has attempted service on the individual through mail or other carrier service and personal

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delivery and yet is unable to make service on the individual, the Director of Personnel may file a motion with the Secretary of State Merit Commission seeking a determination that service has been accomplished through due diligence. The motion may be filed any time after 30 days have lapsed from the date service is first attempted on the individual. Service of the motion on the individual shall be by regular mail at the individual's last known address. The motion shall set forth the actions of the Secretary of State's Office with respect to service on the individual. A hearing shall be scheduled within 10 days after the filing of the motion. An order shall be entered at the conclusion of the hearing. If due diligence is shown, an order shall be entered stating that service has been attempted and accomplished for purposes of this subsection. The time period for the individual to appeal the dismissal with the Merit Commission begins on the date of the order.

- 3) After receipt of the certified employee's ~~written or oral~~ response to the proposed discharge, the Director of Personnel ~~or designee~~ shall carefully consider all matters submitted by the employee. The Director of Personnel ~~or designee may shall~~ consult with the employing department director before a final decision on discharge is made. The Director of Personnel ~~or designee~~ shall make a decision within ~~48 hours after receipt of the employee's response, or the expiration of the four (4) working days if no response is received, but the failure of the Director of Personnel to make a final decision within these limits shall not invalidate in any way the final disciplinary action taken, including the discharge, provided a final decision is made within~~ a reasonable time. If more than ~~10 working days~~ ~~48 hours~~ is required, the employee shall be notified in writing by ~~certified mail or hand delivery, by certified mail, return receipt requested, by courier, or by process server.~~ The final notice of discharge shall contain a statement that the response of the certified employee ~~was~~ ~~has been~~ considered before a final decision was made, or that no response was submitted. The ~~procedures~~ ~~procedure(s)~~ of ~~subsections~~ ~~Section 420.430~~ (f)(1) and ~~Section 420.430~~(g) shall then apply.

- g) Notice to Employee: Notice of approved charges for ~~any~~ disciplinary suspension ~~without pay totaling more than thirty (30) days in any twelve-month period or approved charges for discharge shall be served on the employee by the Director of Personnel, in person or by hand delivery by Secretary of State personnel, by certified mail, return receipt requested, by courier, or by process server~~ at the

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employee's last address appearing in the official personnel file. The notice shall also identify the employee's responsibility to return to the supervisor any items furnished the employee by the Office of the Secretary of State, including any Secretary of State identification, uniforms, keys, supplies, tools or property, and to leave the place of employment as of the effective date of the suspension or discharge.

- h) Employee Obligations: Upon receipt by the employee of ~~any disciplinary suspension without pay or~~ charges for discharge, the employee shall ~~leave the place of employment and~~ return to the supervisor any items belonging to the State, pursuant to Section 420.435 accommodations furnished the employee by the Office of the Secretary of State, including any Secretary of State identification, uniforms, keys, supplies, tools or property and leave the place of employment. The director of the employing department shall ~~withhold the employee's final paycheck or take other such~~ action to insure compliance.
- i) Appeal by Employee: A certified employee who has been served with approved charges for suspension ~~in excess of totaling more than thirty (30)~~ calendar days in a 12twelve month period or approved charges for discharge may make a written request to the Merit Commission for hearing of those charges thereof within ~~fifteen (15)~~ calendar days of receipt of written charges.
- j) Discharge or Suspension of Probationary Employee: Discharge or suspension of a probationary employee may be initiated by filing written charges with the The Director of Personnel in the form and manner prescribed by the Director of Personnel ~~may approve the discharge or suspension of a probationary employee at the request of a department.~~ Written charges shall contain a clear and concise statement of facts showing good cause for suspension or discharge and other supporting documentation if applicable. No suspension or discharge of a probationary employee shall be effective without the approval of the written charges by ~~In determining whether or not to approve the discharge of such employees~~ the Director of Personnel or designees ~~shall consider the employee's employment record.~~
- k) Reinstatement ~~from~~ From Suspension or Discharge: An employee who is reinstated for the following a period for which suspended of suspension or discharged ~~discharged~~ shall receive full compensation for ~~that such~~ period. Full compensation shall represent total ~~mean full~~ pay, with any vacation and sick leave benefits ~~the such~~ suspended or discharged employee would have earned in the

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position classification during the period of suspension or discharge, less amounts earned by the employee from any other source, and unemployment compensation payments received during ~~thesueh~~ period.

1) Suspension or Discharge Resulting from Arrest and/or Criminal Indictment:

1) The arrest or criminal indictment of any employee shall not be grounds for suspension or discharge. However, the facts of an arrest or criminal indictment made known to the Director of Personnel may be grounds for suspension or discharge if they meet one or more of the following criteria:

A) Resulted from an employee's conduct in the course of employment;

B) Occurred on or proximate to State premises and as a result of the employee's conduct, including conduct that may have violated standards of conduct; or

C) Raises reasonable doubt concerning the employee's suitability for continued State employment in the present assignment or position based upon the severity and nature of the offense.

2) If an employee is not subject to suspension or discharge under this Section, the Director of Personnel or designee may, depending upon the needs of the office or at the request of the employee, place the employee on indefinite leave status, without pay, pending a final court determination of innocence or guilt in accordance with Section 420.660.

~~1) Suspension or Discharge Resulting From Arrest and/or Criminal Indictment:~~

~~1) The arrest or criminal indictment of any employee shall not be grounds for suspension or discharge. The facts in support of either made known to the Director of Personnel may be grounds for suspension or discharge if they meet one or more of the following criteria:~~

~~A) Resulted from an employee's conduct in the course of employment duties including a failure to perform such duties;~~

~~B) Occurred on or proximate to state premises and as a result of the employee's conduct thereon, including conduct which may have~~

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~~violated standards of conduct issued by the Director of Personnel;
or~~

~~C) Raise reasonable doubt concerning the employee's suitability for continued state employ in the present assignment or position, based upon the severity and nature of the offense.~~

~~2) If an employee is not subject to suspension or discharge under this Section, the Director of Personnel may, depending upon the needs of the office, at the request of the employee place such employee on indefinite leave status, without pay pending a final court determination of innocence or guilt.~~

m) Termination of Noncertified Employee: No noncertified employee may be terminated without prior approval of the Director of Personnel. The noncertified employee has no recourse with this Part or the Merit Commission.

~~1) No noncertified employee may be terminated without prior approval of the Director of Personnel.~~

~~2) In such cases, the noncertified employee has no recourse with this Part or the Merit Commission.~~

(Source: Amended at 32 Ill. Reg. 15017, effective September 8, 2008)

Section 420.435 Return of State Property

Employee Obligations: In cases of discharge, layoff, leave of absence, resignation, separation, suspension~~Discharge, Layoff, Leave of Absence, Resignation, Separation, Suspension~~, and/or termination of employment, the employee shall leave the place of employment and return to the supervisor any State~~state~~ property or equipment furnished the employee by the Office of the Secretary of State. This includes but is not limited to any Secretary of State identification, uniforms, keys, supplies, tools, cell phones, business cards, laptop computers or other property. The director of the employing department shall ~~withhold the employee's final paycheck or take other such~~ action to insure compliance.

(Source: Amended at 32 Ill. Reg. 15017, effective September 8, 2008)

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Section 420.600 Grievance Procedure

- a) Grievance – Definition: Any employee of the Office of the Secretary of State may grieve as to the application of the Merit Employment Code, this Part or any policy arising ~~under this Part~~hereunder as to the impact of ~~thesueh~~ applications upon the employee's employment condition or status. The grievance must be filed on the form prescribed by the Director of Personnel.
- ~~1)b)~~ Grievance Procedure – Limitation: The Secretary of State Merit Employment Code, ~~this Part~~the Rules of the Department of Personnel and the official policy arising ~~under this Part~~hereunder, the Pay Plan, and the Rules of the Merit Commission (80 Ill. Adm. Code 50) are not grievable matters. Terminations of noncertified employees, layoffs, charges seeking discharge, demotions, suspensions totaling more than 30 days in any 12 month period of certified employees, appeals of allocation of duties, or geographical transfers are not subject to the grievance procedure.
- ~~2)e)~~ Grievance Procedure – Abandonment – Extension: Failure of ~~the grievanteither party~~ to comply with the form or time requirements of the grievance procedure shall result in forfeiture of the grievance, ending the grievance process. Failure of the employer to comply with the time requirements shall automatically advance the grievance to the next level~~resolve the matter in favor of the other~~. The parties may mutually extend the time limits at any level of the procedure, ~~except~~excepting in cases of hearings arising from demotion or discharge of a certified employee.
- ~~b)d)~~ Grievance Procedure – Level 1:
- 1) Employees who believe that they are aggrieved may within ~~five (5)~~ scheduled work days of knowledge of the circumstance giving rise to the grievance~~thereof~~, present their grievance in writing on the prescribed form~~orally~~ to their immediate supervisor and it shall contain a specific statement as to the nature of the grievance. ~~The~~Such supervisor shall attempt to adjust the problem, or, if ~~he/she is~~ they are without authority to do so, ~~he/shethey~~ shall advise the employee as to the appropriate beginning level for institution of their grievances.

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- 2) Immediate supervisors who are authorized to resolve grievances shall note the receipt date ~~and time of the formal presentation~~ of the grievances and shall make response within ~~five (105)~~ working days ~~thereafter~~.

c)e) Grievance Procedure – Level 2:

- 1) If an employee does not accept the response of an appropriate supervisor at Level 1, the employee may ~~present~~reduce the grievance ~~to writing and present it~~ to the department director or designee next higher supervisor. ~~The Such written~~ grievance shall be submitted within ~~10~~five (5) working days of the employee's official notification of the supervisor's decision at Level 1 and it shall contain a specific statement as to the nature of the grievance and as to the reason for rejecting the resolution of the immediate supervisor.
- 2) The ~~department director or designee next higher supervisor~~ shall note the ~~time of~~ receipt date of ~~thea~~ grievance and shall make written response within ~~10~~five (5) working days ~~thereafter~~. ~~The Such~~ written response shall be specific as to the reasons for approval or denial of the grievance. In making a decision, the ~~department director or designee may next higher supervisor shall~~ make an investigation of the problem.

d)f) Grievance Procedure – Level 3:

- 1) An aggrieved employee who does not accept the decision received at Level 2 may forward a written request on the prescribed form for a review to the Director of Personnel. ~~The Such~~ request shall be filed within ~~10~~five (5) working days of the employee's receipt of the Level 2 decision and it shall be specific as to the reasons for rejection of that decision.
- 2) The Director of Personnel or designee, in his or her discretion, shall review the matter on its face or cause a meeting of the parties hearing thereof. Following the review, or upon receipt and review of the recommendation from the designee, the Director of Personnel shall release a decision to all of the parties ~~thereto~~. ~~The Such~~ decision shall be in writing and shall be final and binding upon the parties.

e)g) Grievance Procedure – Representation: At Levels 1, 2 and 3, parties to a grievance may be represented by themselves or by a person of their own

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choosing.

~~f)h)~~ Grievance Procedure – Witnesses and Evidence: The parties to a grievance may introduce such materials, documents and witnesses as are necessary to resolve the problem. A list of all witnesses anticipated to be called and documents to be presented shall be submitted to the Director of Personnel 5 working days prior to the meeting. Necessary documents ~~which are~~ maintained by the Office of the Secretary of State shall be reproduced without cost. Witnesses who are employees of the Office of the Secretary of State shall not be docked for absence from work while testifying at a grievance ~~meeting~~hearing. Should a dispute arise as to the necessity of certain appearances or of the reproduction of certain documents, the Director of Personnel shall be advised and shall resolve the dispute.

~~g)i)~~ Grievance Procedure – Time and Place: At level 3, theThe Director of Personnel or designee shall designate the location and time of grievance ~~meetings~~hearings, and notify in writing all parties involved. The Director of Personnel or designee shall grant a continuance if either party demonstrates good cause.

(Source: Amended at 32 Ill. Reg. 15017, effective September 8, 2008)

Section 420.610 Sick Leave

a) Sick Leave Definition:

- 1) All employees, ~~except~~excepting those in emergency, permanent part-time, intermittent, per diem, or temporary status, unless ~~that such~~ status is the result of accepting a nonpermanent working assignment in another class, shall accumulate sick leave at the rate of one ~~(1) day or (7.5 hours)~~, for each month's service. ~~Intermittent and permanent~~Permanent part-time ~~and intermittent~~ employees shall accrue sick time on a prorated hourly basis determined by a ratio, the numerator of which shall be number of hours in pay status each month, and the denominator of which shall be the number of normal work hours that month.
- 2) Sick leave may be used for illness, disability or injury of the employee or, appointments with doctor, dentist or other professional medical practitioner, and also may be used for not more than 30 days in one calendar year in the event of serious illness, disability, injury, or death of a

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member of the employee's immediate family, unless such time is used pursuant to the Family and Medical Leave Act (29 USC 2601 et seq.).

The employing department or the Department of Personnel shall, when there is apparent abuse, require evidence to substantiate that such leave days were used for the purpose ~~herein~~ set forth in this subsection (a)(2) for periods of absence of ten consecutive workdays or less. For periods of absence for more than ~~5ten~~ consecutive workdays, the employee shall provide verification for ~~thesuch~~ absence in accordance with the provisions of Section 420.760**(b)(4)**. Sick leave may not be used in increments of less than ~~one half (1/2) hour at a time~~.

- b) Accumulation of Sick Leave: Employees shall be allowed to carry over from year to year of continuous service any unused sick leave. An employee shall retain any unused sick leave accumulated prior to the effective date of this Section.
- c) Reinstatement of Sick Leave:
- 1) On or after the effective date of this Section, accumulated sick leave available at the time an employee's continuous service is interrupted shall, upon verification, be reinstated to the employee's account upon return to full-time, ~~or~~ regularly scheduled part-time, or intermittent employment, except in temporary or emergency status. This reinstatement is applicable provided ~~thesuch~~ interruption of service occurred not more than ~~5five~~ years prior to the date the employee reenters service and, provided ~~thesuch~~ sick leave has not been credited by the appropriate retirement system towards retirement benefits.
 - 2) An employee with previous service for which sick leave was granted under provisions other than Jurisdiction C of the Secretary of State Merit Employment Code shall have that sick leavesuch amount reinstated to the extent ~~such sick leave is~~ provided under this SectionSection 420.610 (adopted December 1, 1980).
- d) Advancement of Sick Leave: An employee with more than ~~2two~~ years continuous service whose personnel records warrant it, may be advanced sick leave with pay for not more than ~~ten(10)~~ working days, with the written approval of the department and the Director of Personnel. AdvancesSuch advances will be charged against sick leave accumulated later in subsequent service. No additional advance of sick time will be made until all previously advanced time is repaid.

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- e) Use of Sick Leave: Sick leave shall be used in the following order:
- 1) Sick leave granted prior to January 1, 1984 will be used first;
 - 2) Sick leave granted beginning January 1, 1998 will be used second;
 - 3) Sick leave granted from January 1, 1984 through December 31, 1997 will be used last.
- f) Payment in Lieu of Sick Leave:
- 1) Unless otherwise provided by law, upon~~Upon~~ separation of employment by means of resignation, retirement, death, indeterminate layoff, or discharge, and if the employee is not employed in another position in State~~state~~ service within 4 calendar days of the such separation, an employee is entitled to be paid for unused sick leave which accrued on or after January 1, 1984 and prior to January 1, 1998 in accordance with subsection (e)(3).part of the sick leave earned by not taken or forfeited.
 - 2) ~~For purposes of this Section, sick leave is deemed to be used by an employee in the same order it is granted, that is, the earliest accrued sick leave is deemed to be used first.~~
 - 2)3) The~~In order to determine the~~ amount of sick leave to be paid upon termination of employment will be determined as follows, the employing department will:
 - A) using time records from the employing department, the Department of Personnel will verify~~compute the number of sick leave days earned on and after the employee's sick leave balance for sick leave earned, but not taken, in the period from~~ January 1, 1984 up to and including December 31, 1997;
 - B) compute the employee's sick leave balance at time of separation;
and
 - B)C) the employees will be paid~~pay~~ one-half of the amount of sick leave days determined in subsection (e)(2)(A) ~~or (B), whichever is the~~

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~~lesser amount~~, multiplied by the daily salary rate in effect at the time of separation.

- 34) The method for computing the hourly or daily salary rate for sick leave qualifying for lump sum payment upon separation of employment shall be ~~determined~~~~computed~~ by ~~the Payroll Section, Department of Budget and Fiscal Management~~.
- 45) If an employee has a negative sick leave balance pursuant to subsection Section 420.610(d) when employment is separated, the employing department must submit this negative sick leave balance to ~~the Payroll, where Section, Department of Budget and Fiscal Management. The Payroll Section will do~~ one of the following will be applied:
- A) Subtract the negative sick leave balance from the earning amount still due to ~~thesaid~~ employee by the Secretary of State.
 - B) Contact employing department, stating dollar amount of overpayment to employee. The employing department then has the responsibility of contacting ~~thesaid~~ employee regarding the dollar amount due to the Secretary of State, payable by personal check or money order.
 - C) If no repayment occurs, ~~the Payroll Section~~ will establish a lien against any State of Illinois monetary payment due to ~~thesaid~~ employee through the Comptroller for the negative sick leave balance owed to the Secretary of State.
- 56) An employee who is reemployed, reinstated or recalled from indeterminate layoff and who received lump sum payment in lieu of unused sick days will have ~~thesuch~~ days restored by doing the following:
- A) The employee must notify employing department, requesting that previously paid unused sick days are to be restored to ~~thesaid~~ employee's sick leave account; and
 - B) The employee must repay the gross (total) amount paid by the State (before deductions) to the Secretary of State by personal check or money order. The employing department will forward

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~~the said~~ employee's repayment to ~~the~~ Payroll ~~Section~~ before unused sick days are returned to ~~the said~~ employee's sick leave account.

- g) Pursuant to the Secretary of State Merit Employment Code [15 ILCS 310/10b.18], an employee who is also a veteran shall be permitted 2 days with pay per year to visit a veterans hospital for examination of a military service connected disability. Upon submitting proof of the visit, the 2 days shall not be charged against any sick leave currently available to the employee.

(Source: Amended at 32 Ill. Reg. 15017, effective September 8, 2008)

Section 420.620 ~~Leave for Personal~~ Leave Business

- a) All employees, ~~except~~excepting those in emergency, per diem or temporary status, shall be permitted ~~three (3) personal leave days off, or, 22.5 hours,~~ each calendar year, with pay. ~~Personal~~Such personal leave days may be used for ~~such occurrences as observance of religious holidays, Christmas shopping, absence due to severe weather conditions or for other similar~~ personal reasons but shall not be used to extend a holiday or annual leave except as permitted in advance by the department through ~~prior~~ written approval. Employees entitled to receive ~~personal~~such leave who enter service during the year shall be given credit for ~~personal~~such leave at the rate of ½ day ~~(3.75 hours)~~ for each 2 months service for the calendar year ~~of hire in which hired.~~ Intermittent or part-time employees entitled to receive personal leave who enter the service during year shall be given prorated credit for the leave by calculating the employee's work schedule percentage using a 37.5 hour work week times the number of days that would be granted to a full-time employee, rounded to the nearest quarter hour. ~~Personal~~Such personal leave may not be used in increments of less than ½ hour at a time. Except for those emergency situations ~~that~~which preclude the making of prior arrangements, ~~personal leave such days off~~ shall be scheduled ~~sufficiently~~ in advance ~~to be consistent with operating needs of the employer.~~
- b) Personal leave shall not accumulate from calendar year to calendar year; nor shall any employee be entitled to payment for unused personal leave upon separation from ~~the~~ service, except as provided in Section 10c(2) of the Merit Employment Code.

(Source: Amended at 32 Ill. Reg. 15017, effective September 8, 2008)

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Section 420.630 On-The-Job Injury – Industrial Disease

An employee who suffers an on-the-job injury or who contracts a service-connected disease shall be allowed full pay for ~~three (3)~~ working days of absence without utilization of any accumulated sick leave or other benefits, if a ~~worker's~~workers compensation claim is filed and approved. Thereafter, the employee shall be permitted to utilize accumulated sick leave or other benefit leave time unless the employee has applied for and been granted temporary, total disability benefits in lieu of salary or wages pursuant to provisions of the Workers' Compensation Act [820 ILCS 305] or, upon request, be has been granted a ~~service-connected~~ disability leave of absence in accordance with Section 420.760. Up to 12 weeks of leave time in a 12 month period may be designated as FMLA leave time under the Family & Medical Leave Act and will run concurrently with worker's compensation leave provided the absence is due to a qualifying serious injury or illness. An employee who returns from a service connected disability leave shall be returned to the same or similar position in the same class in which the employee was incumbent at the time the leave commenced. In the event ~~thesuch~~ service connected injury or illness becomes the subject of payment of benefits provided in the Workers' Compensation Act an award by the Illinois Workers' Compensation Commission~~Industrial Commission~~, the employee shall restore to the State the ~~dollar equivalent which duplicates~~ payment received as sick leave or other accumulated benefit leave time~~days/hours~~ and the employee's ~~sick~~ leave account shall be credited with ~~sick~~ leave time~~day/hour~~ equivalents.

(Source: Amended at 32 Ill. Reg. 15017, effective September 8, 2008)

Section 420.640 Leaves of Absence Without Pay

Unless otherwise provided for in a specific leave~~this Part~~ and with ~~the~~ prior approval of the Director of Personnel, leaves of absence~~a department~~ may be granted~~grant leaves of absence~~ without pay to employees for periods not to exceed ~~six (6)~~ months. Employees must provide proper documentation to support their request for leave prior to the approval of the leave. and such leaves~~Leaves~~ may be extended for good cause by the department for additional 6 month periods, with the Director of Personnel's approval.

(Source: Amended at 32 Ill. Reg. 15017, effective September 8, 2008)

Section 420.645 Family Leave~~Adoption/Child Care Leave~~

This leave of absence shall be considered separate and apart from the Family and Medical Leave Act leave that may be provided by law. When FMLA does not apply or the employee does not qualify under FMLA, an~~An~~ employee may request a family~~child care~~ leave for the adoption of a

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child or for parental reasons ~~or other family emergencies, such as care for a seriously ill child, an emotionally disturbed child, or similar serious family dilemmas.~~ This leave can endure from one to ~~90~~ninety calendar days without pay and without deduction of continuous service. If requested and approved by the ~~employing department~~Director of Personnel, an additional 90 days will be allowed. However, the ~~subsequent~~following 90 to 180 calendar days will be deducted from continuous service. This leave may be utilized, if requested and with prior approval by the employing department and the Department of Personnel, for additional leave after a disability leave for maternity purposes. An employee who returns from a ~~family~~child care leave shall have ~~thesueh~~ rights ~~as~~ set forth in Section 420.680.

(Source: Amended at 32 Ill. Reg. 15017, effective September 8, 2008)

Section 420.650 Limitations on Leaves of Absence

No emergency or temporary employee shall be granted leaves of absence except as provided in Section 420.630 ~~(on-the-job injury)~~ and Section 420.760(f) ~~(disability)~~.

(Source: Amended at 32 Ill. Reg. 15017, effective September 8, 2008)

Section 420.660 Leaves of Absence – Special

The Director of Personnel ~~may approve~~shall grant special leaves of absence ~~with or without pay to employees~~ when ~~such leaves~~ in the opinion of the Director of Personnel, they would benefit the Office of the Secretary of State.

(Source: Amended at 32 Ill. Reg. 15017, effective September 8, 2008)

Section 420.670 Leaves of Absence – Special – Salary (Repealed)

~~The Director of Personnel shall determine for each special leave of absence that is approved whether such leave shall be with or without pay, full or partial.~~

(Source: Repealed at 32 Ill. Reg. 15017, effective September 8, 2008)

Section 420.680 Employee Rights After Leave

- a) When an employee returns from a leave of absence of ~~6~~six months or less, the department shall return the employee to the same or similar position in the class in which the employee was incumbent prior to the commencement of ~~thesueh~~ leave.

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- b) Except for those leaves granted under Sections 420.630, 420.665, ~~420.740~~ or 420.710 and when an employee returns from a leave or leaves exceeding ~~six~~ months and there is no vacant position available to ~~the~~ employee in the same class in which the employee was incumbent prior to ~~the~~ leave or leaves commencing, the employee may be laid off without consideration of continuous service and, if laid off, the employee's name shall be placed on the reemployment list.

(Source: Amended at 32 Ill. Reg. 15017, effective September 8, 2008)

Section 420.700 Failure to Return ~~from~~ Leave of Absence

Failure to return from a leave of absence, extend the leave or voluntarily terminate employment within ~~five (5)~~ working days after the expiration or termination date shall be considered grounds for disciplinary action, up to and including discharge for job abandonment in accordance with Section 420.1000(f).

(Source: Amended at 32 Ill. Reg. 15017, effective September 8, 2008)

Section 420.715 Disaster Services Leave with Pay

In accordance with the Disaster Service Volunteer Leave Act [5 ILCS 335], a permanent employee who is a certified disaster service volunteer of the American Red Cross or assigned to the Illinois Emergency Management Agency in accordance with the Illinois Emergency Management Agency Act [20 ILCS 3305], the Emergency Management Assistance Compact Act [45 ILCS 151], or other applicable administrative rules, may be granted leave with pay for up to 20 working days in any 12 month period for disasters in the United States or its territories. The leave may be granted upon request of the American Red Cross or the Illinois Emergency Management Agency. The leave is subject to the approval of the Director of Personnel based upon operational needs. Proper documentation to support the request for leave must be submitted prior to the approval of the leave. Disasters must be designated at a Level III or above in the American National Red Cross Regulations and Procedures. No temporary or emergency employees shall be granted this leave.

(Source: Added at 32 Ill. Reg. 15017, effective September 8, 2008)

Section 420.720 Leave ~~for~~ Annual Military Reserve Training or Special Duty

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- a) Any ~~full-time~~ employee who is a member of a reserve component of the Armed Services, the Illinois National Guard or the Illinois Naval Militia, shall be allowed annual leave with pay for one full pay period during any one State fiscal year and such additions or ~~extensions~~~~extensions~~ to fulfill the military reserve obligation. ~~These~~~~Such~~ leaves will be granted without loss of seniority or other accrued benefits.
- b) In the case of an emergency call-up (or order to State active duty) by the Governor, the leave shall be granted for the duration of ~~the~~~~said~~ emergency with pay and without loss of seniority or other accrued benefit. Military earnings for the emergency call-up paid under ~~the Military Code of Illinois [20 ILCS 1805]"AN ACT to establish a Military and Naval code for the State of Illinois and to establish in the Executive Branch of the State Government a principal department which shall be known as the Military and Naval Department, State of Illinois and to repeal an Act therein named"~~ (Ill. Rev. Stat. 1985, ch. 129, pars. 220.01 et seq.) must be submitted and assigned to the employing department, and the employing department shall return it to the payroll fund from which the employee's payroll check was drawn. If military pay exceeds the employee's earnings for the period, the employing department shall return the difference to the employee.
- c) To be eligible for military reserve leave or emergency call-up pay, the employee must provide the employing department with a certificate, ~~requiring the military reserve or emergency call-up duty,~~ from the commanding officer of his/her unit ~~prior to commencement of the duty~~~~that the leave taken was for either such purpose.~~
- d) Any ~~full-time~~ employee who is a member of any reserve component of the United States Armed Forces or of any reserve component of the Illinois State Militia shall be granted leave from State employment for any period actively spent in ~~such~~ military service, including basic training and special or advanced training, whether or not within the State, and whether or not voluntary.
- e) During ~~such~~ basic training and up to 60 days of special or advanced training, if ~~the~~~~such~~ employee's compensation for military activities is less than his/her compensation as a State employee, he/she shall receive his/her regular compensation as a State employee minus the amount of his/her base pay for military activities. During ~~this~~~~such~~ training, the employee's seniority and other benefits shall continue to accrue.

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(Source: Amended at 32 Ill. Reg. 15017, effective September 8, 2008)

Section 420.740 Leave to Take Exempt Position (Repealed)

~~The Director of Personnel may approve leaves of absence for certified employees who accept appointment in a position which is exempt for Jurisdiction B of the Merit Employment Code. Such leaves of absence may be for a period of one year or less and may be extended for additional one-year periods. At the expiration thereof, an employee shall be restored to the same or similar position upon making application to the employing department with continuous service including the period of such leave.~~

(Source: Repealed at 32 Ill. Reg. 15017, effective September 8, 2008)

Section 420.760 Non-service Connected Disability Leave

- a) Employees who are unable to perform a substantial portion of their regularly assigned duties due to temporary physical or mental disability shall, upon request, be granted a leave for the duration of ~~thesueh~~ disability. Up to 12 weeks out of any 12 month period for a disability leave may be concurrently designated under FMLA.
- b) In granting ~~thisueh~~ leave or use of sick leave as provided in Section 420.610, the department shall apply the following standards:
 - 1) A substantial portion of regularly assigned duties shall be those duties or responsibilities normally performed by the employee ~~thatwhieh~~ constitute a significant portion of the employee's time or ~~thatwhich~~ constitute the ~~differentiating~~ factors ~~differentiatingwhich identify~~ that particular position from other positions, provided the balance of duties can be reassigned by the department;
 - 2) A request for disability leave shall be in writing, except when the department is advised by other appropriate means of the employee's disability. ~~in which~~ In this event, the employee's signature is not required;
 - 3) Except for service connected disability as provided in Section 420.630, the employee shall have exhausted available sick leave provided under Section 420.610 prior to being granted a disability leave; an employee

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- may use other accrued paid time for this purpose, but is not required to do so;
- 4) During a disability leave, the disabled employee shall provide written verification by a person licensed under the Medical Practice Act [of 1987 \[225 ILCS 60\]\(Ill. Rev. Stat. 1985, ch. 111, pars. 4401 et seq.\)](#) or under similar laws of Illinois or of other states or countries, or by an individual authorized by a recognized religious denomination to treat by prayer or spiritual means; ~~such~~ [The](#) verification shall show the diagnosis, prognosis and expected duration of the disability ~~and, such verification~~ shall be made no less often than every 30 days during a period of disability, unless the nature of the disability precludes the need for such frequency of verification;
 - 5) As soon as an employee becomes aware of an impending period of disability, ~~the~~[such](#) employee shall notify the appropriate supervisor ~~of such disability~~ and provide a written statement by the attending physician of the approximate length of time the employee will be unable to perform ~~their~~ regularly assigned duties;
 - 6) If the department has reason to believe that the employee is able or unable to perform a substantial portion of ~~theirsuch employee's~~ regularly assigned duties, it may seek and rely upon the decision of an impartial physician ~~or psychologist~~ or other specialist licensed pursuant to the Medical Practice Act [\[225 ILCS 60\]of 1987 \(P.A. 85-4 effective May 22, 1987\)](#), in the field of the alleged disability chosen by agreement of the parties, or in the absence of such agreement, upon the decision of an impartial physician ~~or psychologist~~ or other ~~licensed~~ specialist [licensed pursuant to the Medical Practice Act](#) ~~who is an employee of the Illinois Secretary of State and~~ who is selected by the Director of Personnel.
- c) Failure of an employee to provide verification of continued disability upon reasonable request shall, on due notice, cause termination of ~~the~~[such](#) leave.
 - d) An employee's disability leave shall terminate when ~~the~~[said](#) employee is no longer temporarily disabled from performing ~~such employee's~~ regularly assigned duties.
- 1) Employees are no longer temporarily disabled when they are able to

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perform their regularly assigned duties upon advice of the appropriate authority ~~(i.e., including the~~ attending physician, an impartial physician, ~~a psychologist or other such~~ authority).

- 2) An employee is no longer temporarily disabled when ~~he/she is~~ found to be permanently disabled and unable to perform a substantial or significant portion of ~~his/hers~~ regularly assigned duties by the appropriate authority, or in the absence of ~~that~~ authority, by the attending physician.
- 3) In determining whether to approve a requested discharge of an employee for failure to return from a disability leave or for physical inability to perform the duties of a position, the Director of Personnel may seek and rely upon the advice of the State Employees Retirement System or other appropriate authority, including an impartial physician selected in accordance with ~~subsection Section 420.760(b)(6) above~~.
- e) An employee who returns from a disability leave shall have ~~the~~ rights ~~as~~ set forth in Section 420.680.
- f) An employee who is on disability leave while in temporary or emergency status, except if ~~that~~ status results from a leave of absence to accept ~~a temporary or emergency~~ position, shall be eligible for ~~disability~~ leave for the balance of ~~the~~ appointment and shall earn or accrue no other benefit arising from this Part.

(Source: Amended at 32 Ill. Reg. 15017, effective September 8, 2008)

Section 420.770 Attendance in Court

- a) Any permanent employee called for jury duty or subpoenaed by any legislative, judicial or administrative tribunal ~~for purposes other than personal private litigation~~, shall be allowed time away from work with pay for such purposes. Upon receiving the sum paid for jury service or witness fee, the employee shall submit the warrant, or its equivalent, to the department to be returned to the fund in the State Treasury from which the original payroll warrant was drawn. Provided, however, an employee may elect to fulfill ~~the~~ call or subpoena on accrued time off ~~or~~ personal leave and retain the full amount received for ~~the~~ service.

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- b) Emergency or temporary employees shall be allowed time off without pay for such purpose and shall be allowed to retain the reimbursement received ~~therefor~~.

(Source: Amended at 32 Ill. Reg. 15017, effective September 8, 2008)

Section 420.800 Vacation

- a) Eligibility:

- 1) ~~All employees in pay status~~Employees, except emergency and temporary, shall earn vacation time. Employees in emergency or temporary status shall not earn vacation time unless on leave of absence to accept an emergency or temporary appointment. No employee on leave of absence may earn vacation time except when the leave was for the purpose of accepting a temporary working assignment in another class.
- 2) Eligible employees shall earn vacation time in accordance with the following schedule:
 - A) From the date of hire until the completion of 5 years of continuous service – 10 work days per year of employment.
 - B) From the completion of 5 years of continuous service until the completion of 9 years of continuous service – 15 work days per year of employment.
 - C) From the completion of 9 years of continuous service until the completion of 14 years of continuous service – 17 work days per year of employment.
 - D) From the completion of 14 years of continuous service until the completion of 19 years of continuous service – 20 work days per year of employment.
 - E) From the completion of 19 years of continuous service until the completion of 25 years of continuous service – 22 work days per year of employment.

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- F) From the completion of 25 years of continuous service until the completion of 30 years of continuous service – 25 work days per year of employment.
- G) From the completion of 30 years of continuous service – 30 work days per year of employment.
- 3) Vacation time may be taken in a minimal initial increment-increments of one hour not less than ½ day at a time, at any time after it is earned. In conjunction with the first one hour increment, vacation time may be taken in additional 15 minute increments. Earned vacation ~~Vacation time may be taken any time after the initial 6 month probationary period and~~ shall not be accumulated for more than 24 months after the end of the calendar year in which it is earned, except as provided by subsection (b)(2).
- 4) Vacation time earned, except by ~~part-time and~~ intermittent and permanent part-time employees, shall be computed in work ~~hours~~ days. After an employee's earned vacation time has been so computed, if there remains a fractional balance ~~of ½ of a work day or less, the employee shall be deemed to have earned vacation time will be rounded to the nearest quarter hour of ½ of a work day in lieu of the fractional balance; if there remains a fractional balance of more than ½ of a work day, the employee shall be deemed to have earned a full work day of vacation time in lieu of a fractional balance.~~
- 5) Prorated Vacation for Intermittent and Permanent Part-Time Employees: Intermittent and permanent part-time employees shall earn vacation in accordance with the schedule set forth in subsection (a)(2) on a prorated hourly basis determined by a ratio, the numerator of which shall be the hours in pay status each month and the denominator of which shall be the normal working hours for that month. Vacation computed on an hourly basis may be used in hourly increments.
- ~~6)5)~~ Computation of vacation time of employees who have interrupted ~~continuous~~ service qualifying for credit as defined in Section 420.340 shall be determined as though all previous state service ~~which qualified for earning of vacation benefits~~ is continuous with present service.
- b) ~~Prorated Vacation For Part-Time and Intermittent Employees: Permanent part-~~

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~~time and intermittent employees shall earn vacation in accordance with the schedule set forth in Section 420.800(a) on a prorated hourly basis determined by a ratio, the numerator of which shall be the hours in pay status each month and the denominator of which shall be normal working hours that month. Vacation computed on an hourly basis may be used in hourly increments.~~

~~b)e)~~ Vacation Schedule and Loss of Earned Vacation:

1) In establishing vacation schedules, the department shall consider both the employee's preference and the operating needs of the department. In any event, upon request, vacation time must be scheduled so that it may be taken not later than 24 months after the expiration of the calendar year in which ~~it such vacation time~~ was earned. If an employee does not request and take accrued vacation within ~~thesuch~~ 24 month period, vacation earned during ~~thatsuch~~ calendar year ~~willshall~~ be lost unless the provisions of subsection (b)(2) apply.

2) If an employee is to lose earned vacation time in accordance with subsection (b)(1), and was unable to use that time due to operational needs, the vacation time scheduled for loss may be retained by the employee for up to 24 additional months if approved by the Personnel Director.

~~c)d)~~ Vacation Scheduling:

1) All eligible employees shall request the scheduling of vacation time at least ~~two-(2)~~ weeks in advance, or in accordance with the scheduling provisions ~~established~~determined by their department director. Supervisors shall grant ~~such~~ requested times unless a bona fide work-related reason exists for denial ~~thereof~~.

2) When two or more employees simultaneously request the same vacation period and not all of them can be excused for the same period, the request of the employee with the greatest amount of continuous serviceseniority shall be honored.

~~d)e)~~ Vacation – Unit Closing: The Department of Personnel may suspend the operation of any work unit or position, workload permitting, for the purpose of vacation.

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e)f Vacation Benefits on Death of Employee:

- 1) Upon the death of an employee, the person or persons specified in Section 14a of the State Finance Act"~~An Act in relation to State finance~~" [30 ILCS 105/14a] (Ill. Rev. Stat. 1985, ch. 127, par. 150a), approved June 10, 1919, ~~as amended~~, shall be entitled to receive, from the appropriation for personal services ~~theretofore~~ available for payment of the employee's compensation, ~~thesueh~~ sum for any accrued vacation period to which the employee was entitled at the time of death.
- 2) ThatSueh sum shall be computed by multiplying the employee's daily (hourly) rate by the number of days (hours) of accrued vacation due.

f)g Payment in Lieu of Vacation:

- 1) Upon separation of employment by means of resignation, retirement, indeterminate layoff, or discharge, and if the employee is not employed in another position in Statestate service within 4 calendar days of ~~sueh~~ separation, an employee is entitled to be paid for any vacation earned but not taken or forfeited pursuant to subsection Section 420.800(b) or the Secretary of State Pay Plan(e). No other payment in lieu of vacation shall be made except as provided by subsection Section 420.800(c)(f).
- 2) The payment provided in subsection (f)(1)-above shall not be deemed to extend the effective date of separationtermination by the number of days represented by thesaid payment.
- 3) The payment provided in subsection (f)(1)-above shall be computed by multiplying the number of days-(hours) of accumulated vacation by the employee's ~~daily~~ (hourly) rate or as determined with Section 420.330 (Intermittents).
- 4) The payment provided in this Section shall not be allowed if the purpose of the separation from employment and any subsequent reemployment is for the purpose of obtaining such payment.

(Source: Amended at 32 Ill. Reg. 15017, effective September 8, 2008)

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Section 420.810 Work Schedules

Work Schedules: Each ~~operating director regional and/or local manager~~ shall ~~establish schedules~~ prepare a schedule of working hours and work days ~~for his /her department pertaining to the work unit.~~ No schedules of less than 37½ hours per week shall be approved as a regular workweek. ~~The~~ Such ~~schedules~~ schedule shall set out starting and quitting times, break times, lunch times and the work days that apply to the employees within the area of supervision. Work schedules shall be submitted to the Director of Personnel for approval. ~~Upon approval, the schedules shall be posted and complied with by all of the employees within the work unit.~~

(Source: Amended at 32 Ill. Reg. 15017, effective September 8, 2008)

Section 420.820 Overtime

- a) Overtime: For those positions approved by ~~the Director of Personnel~~ and designated on lists maintained by the Director of Personnel, authorized work in excess of an approved work schedule shall be overtime. ~~The~~ Such work may be compensated for in cash or compensatory time as determined by the department, provided ~~the~~ such designation is in accordance with the Fair Labor Standard Act (29 USCU.S.C. 201 et seq.), ~~as amended~~. Overtime work shall be distributed as equitably as possible among qualified employees competent to perform the services required when overtime is required, and employees shall be given as much advance notice as possible. Except ~~as~~ where required by law, time spent in travel shall not be considered as overtime.
- b) Compensatory Time: An employee's overtime accumulation shall be liquidated by the utilization of compensatory time off, when ~~such utilization is~~ practical. Where the approved work schedule is less than a ~~forty (40)~~ hour work week, overtime shall be compensated at a straight time rate. Work in excess of a ~~forty (40)~~ hour work week shall be compensated at time and one-half.
- c) Compensatory Time Schedule: ~~Any compensatory~~ Compensatory time ~~accumulated~~ shall be scheduled upon the consideration of the ~~at the~~ employee's preference and operational needs of the department, but within the fiscal year that it is earned. However, compensatory time earned in the last quarter of the fiscal year must be used by the end of the first quarter of the next fiscal year, excepting in those circumstances where, with reasonable certainty, such absence would be harmful to the operation of the work unit.

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- d) Overtime Compensation in Cash: Compensatory time not used within the fiscal year, except for time carried over in accordance with subsection (c), may be liquidated in cash. Whenever it is not practical to liquidate an employee's overtime with compensatory time off, the employee shall be reimbursed in cash. TheSuch payment shall be ~~paid~~ at a straight time rate for work in excess of the approved work schedule but less than a ~~forty (40)~~ hour work week. Work in excess of a ~~forty (40)~~ hour work week shall be paid at time and one-half.
- e) ~~Overtime—Accumulation: All employee overtime compensation shall be liquidated within ninety (90) calendar days of its accumulation.~~
- e)f) Overtime Payable Upon Death: Upon the death of an employee, the person or persons specified in Section 14a of the State Finance Act"~~An Act in relation to State finance,~~" (Ill. Rev. Stat. 1985, ch. 127, par. 150a), ~~as now or hereafter amended,~~ shall be entitled to receive from the appropriation for personal services ~~theretofore~~ available for payment of the employee's compensation thesuch sum for accrued overtime ~~that~~as would have been paid or allowed to thesuch employee had the employee survived.

(Source: Amended at 32 Ill. Reg. 15017, effective September 8, 2008)

Section 420.825 Temporary Assignment (Repealed)

- a) ~~Definition: Temporary Assignment is to direct an employee in a specific position to perform the duties or responsibilities of another position which is equal to or higher than the classification to which the employee is incumbent. This directive must be written, approved by the Director of Personnel, and acknowledged by the employee.~~
- b) ~~Application: This Section does not apply to any assignment of less than thirty (30) calendar days.~~
- e) ~~Filling of Temporary Assignments: Temporary assignments may be granted for the following reasons:~~
- 1) ~~While the operating department posts and/or fills a vacant position.~~
 - 2) ~~While an absent regular incumbent is utilizing extended sick leave.~~

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- ~~3) While an absent regular incumbent is on a leave of absence.~~
- ~~4) While an absent regular incumbent is utilizing extended vacation time.~~
- d) ~~Length of Temporary Assignment: Temporary assignments shall not exceed six (6) months, except for those made in accordance with Section 420.415(e), which may be extended for good cause by the department for additional time periods with the Director of Personnel's approval and the employee's written consent.~~
- e) ~~Identifying Temporary Assignments: The operating department will attempt to assign temporary assignment to the employees in the next lower or equivalent classification and to equitably distribute such assignments on a rotating basis giving due consideration to seniority and the operating needs of the department.~~
- f) ~~Eligibility for Temporary Assignment: To be eligible for temporary assignment pay, employees must be directed to perform the duty or duties which distinguish the higher level position classification and/or be held accountable for the responsibility of the assigned position classification.~~
- g) ~~Temporary Assignment Pay—Equal Classification: Employees temporarily assigned to position classifications in equal pay grades or rates to their permanent position classifications shall be paid their appropriate permanent position classification rate in accordance with the Pay Plan.~~
- h) ~~Temporary Assignment Pay—Higher Classification: Employees temporarily assigned to position classifications having higher pay grades or rates than their permanent position classification, shall be paid as if they had received promotions into such higher pay grades in accordance with the Pay Plan.~~
- i) ~~Termination of Temporary Assignment: Employees' pay shall return to the appropriate permanent rate when the temporary assignment has ended.~~
- j) ~~Indefinite Assignments: Temporary job assignments shall not be of indefinite duration and shall not be considered the permanent position of the employee assigned; therefore, temporary assignment duties shall not be the subject of an allocation appeal.~~

(Source: Repealed at 32 Ill. Reg. 15017, effective September 8, 2008)

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Section 420.830 Holidays

- a) Authorized Holidays: All scheduled employees shall have time off, with full salary payment, on the following holidays [or dates when such holidays are observed](#):

New Year's Day

Martin Luther King Day

Lincoln's Birthday

[Presidents' Day](#)

[Washington's Birthday](#)

Memorial Day

Independence Day

Labor Day

Columbus Day

Veteran's Day

Thanksgiving Day ([which shall include the Friday immediately following](#))

Christmas Day

General Election Day (on which Members of the House of Representatives are elected)

and any additional days proclaimed as holidays or nonworking days by the Governor [or the Secretary of State](#) of the State of Illinois or by the President of the United States.

- b) Holiday Observance: Subject to any applicable [federal](#)~~Federal~~ or State laws, when employees are scheduled and required to work on a holiday, equivalent time

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off will be granted within the following ~~12 twelve~~-month period at a time convenient to the employee and consistent with the department's operating needs.

- c) Holiday During Vacation: When a holiday falls on an employee's regularly scheduled work day during the employee's vacation period, the employee's account will not be charged for accrued vacation time for that day. an extra day shall be added to the employee's vacation.
- d) Eligibility ~~for~~ Holiday Pay: To be eligible for holiday pay, the employee shall be in pay status for the total scheduled hours onwork the employee's last scheduled work day before the holiday and first scheduled work day after the holiday unless absence on either or both of these work days is for good cause and approved by the department. Dock in pay approved in accordance with FMLA shall be deemed the same as pay status for purposes of this Section. Intermittent employees are eligible for holiday pay under conditions stated in Section 420.330(b)(5).
- e) Holidays – Regional or Special: The Secretary or the Director of Personnel may grant employees full or partial days off with pay to meet the unique needs of any region or area within the Statestate. Special Such special-time off shall not accrue to any other employee in any other region or area of the Statestate. The Secretary or the Director of Personnel may grant employees full or partial days off with pay to meet the special needs of the Office of the Secretary of State.

(Source: Amended at 32 Ill. Reg. 15017, effective September 8, 2008)

Section 420.835 Notification of Absence

An employee shall, whenever possible, provide advance notice of absence from work. Absence of an employee for 5 consecutive work days without reporting to the department may be cause for discharge.

(Source: Added at 32 Ill. Reg. 15017, effective September 8, 2008)

SUBPART E: GENERAL PROVISIONS

Section 420.1000 Records

- a) Performance Records:

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- 1) Performance records shall constitute all material in an employee's official personnel file, including, but not limited to, personnel transactions and related documents, performance evaluations, attendance records, disciplinary records, correspondence, and commendations, that, in the judgment of the Director of Personnel, is relevant to determining the appropriateness of proposed or recommended personnel transactions.
 - 2) Performance records shall be considered by the Director of Personnel in all cases of promotion, demotion, discharge, layoff, recall, reinstatement, geographical transfer and certification.
- b)a) Public Records: Except as otherwise provided in this Section, the Freedom of Information Act [5 ILCS 140], the Personnel Records Review Act [820 ILCS 40] or other laws, all records of the Department of Personnel, including eligible lists, shall be public records and shall be available for inspection on request submitted to the Director of Personnel.
- c)b) Time and Manner of Inspection:
- 1) The records of the Department of Personnel shall be available for inspection during regularly scheduled hours of work. Such records may be inspected only in the presence of an authorized employee of the Department of Personnel.
 - 2) ~~In the event the working conditions or the number of persons inspecting such records or the volume of records to be inspected interfere with the operations of the Department of Personnel, the Director of Personnel may schedule appointments for the inspection of such records.~~
- d)e) Employee Roster Files: The Director of Personnel shall establish and maintain official personnel files for employees subject to the Code showing the name, gendersex, county of residence, date of birth, date of original appointment to service, date of promotions, demotions, transfers, and other transactions, present position title, status, salary, and the operating department to whichwherein the employee is assigned.
- e)d) Confidential Records: The following records of the Department of Personnel shall be confidential and not available for public inspection:

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- 1) Personal history ~~and the official personnel file~~ of ~~an~~ employee. ~~However, the~~The employee or authorized agent may inspect the employee's personal history and ~~official~~ personnel file.;
 - 2) Reports of medical, psychological and psychiatric examinations. ~~However, employees~~Employees may inspect ~~such~~ reports pertaining to themselves.
 - 3) All parts of ~~examination~~examination. ~~However, an~~An employee or applicant may inspect ~~his/her~~their own answer sheet.
 - 4) The identity, complete questionnaire, and other documents related to salary surveys. ~~Results of salary surveys shall be confidential.~~
 - 5) No records of personnel transactions including requisitions and referrals will be made available until ~~the~~such transactions have been completed. ~~No personal history contained on the transactions shall be available for public inspection.~~
 - 6) Information concerning criminal convictions of applicants or employees, except as needed for purposes set forth in Section 420.300(~~lm~~).
 - 7) All documentation in files pertaining to selection and appointment of new employees or movement of current employees to other positions.
- ~~e)~~ e) Attendance Records: Each operating department shall maintain accurate, daily attendance records. Employees shall have the right to review their attendance record on file in their operating department.
- ~~f)~~ f) Notification of Absence: ~~An employee shall, whenever possible, provide advance notice of absence from work. Absence of an employee for five (5) consecutive work days without reporting to the department may be cause for discharge.~~
- ~~g)~~ g) Review of Attendance Records: ~~Employees shall have the right to review their attendance record on file in their operating department.~~
- ~~g)h)~~ g)h) Undated Forms: No supervisor or other person in a position of authority shall demand or request that an employee sign an undated resignation or any blank form. No employee shall be required to sign a blanksuch form. Any ~~such~~ demand to sign an undated resignation or blank form shall entitle the employee to

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immediate appeal to the Director of Personnel.

- [h\)+](#) Incomplete Forms: Any information placed on a form or any modification or alteration of existing information made on a form subsequent to having been signed by an employee shall be null and void insofar as it may affect the employee, the employee's position or condition of employment. Any employee required to sign any form prepared pursuant to this Part shall, upon request, be given a copy of the form ~~after at the time~~ the employee's signature is affixed.
- [i\)](#) Reason for Separation: Employees resigning from employment with the Office of the Secretary of State must set forth their reasons for resignation in writing. The document effecting a resignation shall contain or have attached the basis for the separation, including signature and effective date. Failure to include the basis for separation, however, shall not affect the ability to accept and process the separation request.

(Source: Amended at 32 Ill. Reg. 15017, effective September 8, 2008)

Section 420.1010 Benefits

- [a\)](#) Portability of Certain Benefits: Sick and vacation leave earned but not taken by employees in the course of State employment not subject to the Merit Employment Code shall be deemed to have been earned by them at the time they become subject to the Code ~~such jurisdiction~~ to the extent thesuch benefits are provided and would have been earned under this Part ~~hereunder~~.
- [b\)](#) Repayment of Benefit Time: Unless otherwise provided by law, employees who return to employment in any capacity with the Office of the Secretary of State within 30 days after separation of previous employment must, as a condition of their new employment, repay the lump sum amount paid for accrued vacation, overtime and sick leave within 30 days after the new employment commences. The amount repaid shall be deposited into the fund from which the payment was made or the General Revenue Fund. Upon repayment, the accrued time shall be credited to the account of the employee.

(Source: Amended at 32 Ill. Reg. 15017, effective September 8, 2008)

Section 420.1020 Prohibition of Discrimination

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- a) Discrimination against any person in recruitment, examination, appointment, training, promotion, retention, or any other personnel transaction, because of age, disability, gender, marital status, national origin, political affiliation, race, religion, sexual orientation, membership in or activity on behalf of employee labor organizations, or any other nonmerit factor is prohibited. The Director of Personnel will use bona fide occupational qualifications for consistency purposes in making employment decisions.
- b) Any applicant or employee who feels adversely affected in employment because of discrimination shall have resort to the grievance procedure established in Section 420.600.

(Source: Added at 32 Ill. Reg. 15017, effective September 8, 2008)

Section 420.1030 Other Provisions

- a) ~~Effective Date of Rules: This Part and amendments thereto shall become effective upon filing with the Secretary of State, Administrative Code Unit, in accordance with the Illinois Administrative Procedure Act (Ill. Rev. Stat. 1991, ch. 127, pars. 1001-1 et seq.) unless a later date is required by statute or is specified within the rule.~~
- b) ~~Savings Clause: If any Section or part of any Section of this Part shall be held invalid, the remaining provisions of this Part shall have, and be given, full force and effect as completely as if the invalidated part had not been included therein.~~
- ae) Interpretation and Application of Rules: The Director of Personnel shall determine the proper interpretation and application of each provision of this Part~~rule of the Department of Personnel~~. The decision of the Director of Personnel as to the proper interpretation or application of any such rule shall be final and binding upon all departments and employees affected ~~thereby~~ unless or until modified or reversed by the Merit Commission or the courts. All departments and employees shall comply with the Director of Personnel's decision in the absence of a written opinion of the Attorney General or a written directive of the Merit Commission declaring the Director of Personnel's decision to be unlawful.
- d) ~~Prohibition of Discrimination:~~
 - 1) ~~Discrimination against any person in recruitment, examination, appointment, training, promotion, retention, or any other personnel transaction because of religion, race, national origin, sex, age, handicap or any other nonmerit factor is prohibited except where such may be a bona fide job~~

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~~qualification.~~

~~2) Any applicant or employee who feels adversely affected in employment because of such discrimination shall have resort to the grievance procedure hereunder.~~

~~b)e)~~ Policy: The Director of Personnel shall promulgate ~~such~~ policy ~~as is~~ necessary to obtain compliance with this Part and with the Code.

~~f)~~ ~~Retroactivity: This Part shall not be retroactive beyond the date of its effectiveness excepting as herein expressly stated.~~

(Source: Amended at 32 Ill. Reg. 15017, effective September 8, 2008)

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

| | |
|-------------------------|--------------------------|
| <u>Section Numbers:</u> | <u>Emergency Action:</u> |
| 170.421 | Amendment |
| 170.530 | Amendment |
| 170.540 | Amendment |
| 170.541 | Amendment |
- 4) Statutory Authority: Implementing the Gasoline Storage Act [430 ILCS 15] and authorized by Section 2 of the Gasoline Storage Act [430 ILCS 15/2]
- 5) Effective Date of Emergency Amendments: September 8, 2008
- 6) If this emergency amendment will expire before the end of the 150-day period, please specify the date on which it will expire: These emergency amendments will not expire before the end of the 150-day period unless the identical proposed rulemaking is adopted.
- 7) Date filed with the Index Department: September 8, 2008
- 8) A copy of the emergency amendments, including any matter incorporated by reference, are on file in the principal office of the State Fire Marshal, 1035 Stevenson Drive, Springfield, Illinois, and are available for public inspection at that location.
- 9) Reason for Emergency: On February 1, 2008, pursuant to federal mandate, Illinois began to require that newly installed and replaced underground storage tanks ("USTs") and piping be of double-wall construction and equipped with interstitial monitoring. 32 Ill. Reg. 1428. Some months later, in early June 2008, OSFM provided notification to industry groups of an additional federal requirement that all pressurized UST piping systems must utilize automatic line leak detectors. This notification clarified that this requirement is in addition to the requirement for either existing monthly monitoring systems or annual precision testing in order to meet the federal performance standards for USTs. See 40 CFR 280.41(b)(1) and 280.44. OSFM has placed a copy of this notification on its web site (www.state.il.us/osfm).

In response to this notification, owners of existing USTs have begun to apply to have their interstitial monitoring systems removed, since their USTs pre-date the February 1,

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2008 double-wall requirement for new and replaced USTs. Existing facilities in place prior to February 1, 2008 have the option to utilize annual line tightness testing in combination with automatic line leak detectors, as allowed by both federal and State rules, to meet leak detection requirements.

OSFM believes that the removal of existing interstitial monitoring systems, in some cases to avoid maintenance and testing costs for such interstitial monitoring systems, is inconsistent with federal mandates that such systems have effective release detection. See 40 CFR 280.41. With sensors removed from the double-walled UST systems that have been installed in recent years, these UST systems are vulnerable to leaks that would frequently not be discovered until after the release has escaped the double-wall system, defeating the purpose of the double-wall design for tanks and piping.

OSFM believes that were it to issue First Notice of these amendments in a regular amendatory rulemaking, there would be a substantial number of existing systems timely applying to remove their interstitial monitoring before such amendments could become effective, to the detriment of the effectiveness of the release prevention systems on such USTs.

- 10) Complete Description of Subjects and Issues Involved: These emergency amendments require that automatic line leak detectors be installed at all existing as well as new UST facilities using pressurized piping. These emergency amendments will require that owners of existing USTs with interstitial monitoring systems already in place be required to maintain instead of remove such systems. It also requires that where interstitial monitoring systems are in place but not functional, they must be repaired or replaced as necessary to make them fully operational. The listed permit fee is also changed from \$100 to \$200 to reflect the current OSFM fee schedule for obtaining a permit.
- 11) Are there any proposed rulemakings to this Part Pending: No
- 12) Statement of Statewide Policy Objectives: This rulemaking could have a minor or minimal impact on those small businesses, not for profit entities, and small municipalities that own and operate USTs having double-wall tanks and pressurized piping with interstitial monitoring systems already in place. Maintenance costs for maintaining interstitial monitoring may be somewhat higher as compared to similar double-wall USTs with interstitial monitoring absent or removed but using annual precision testing combined with automatic line leak detectors as the method of monthly monitoring for piping.

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- 13) Information and questions regarding these emergency amendments shall be directed to:

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

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

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

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TITLE 41: FIRE PROTECTION

CHAPTER I: OFFICE OF THE STATE FIRE MARSHAL

PART 170

STORAGE, TRANSPORTATION, SALE AND USE OF PETROLEUM
AND OTHER REGULATED SUBSTANCES

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| 170.10 | Definitions |
| 170.11 | Incorporation of National Standards |
| 170.15 | Bulk Sales Prohibited |
| 170.20 | Storage Underground and Limited (Repealed) |
| 170.30 | Setting of Tanks (Repealed) |
| 170.40 | Clearance Required for Underground Tanks (Repealed) |
| 170.41 | Location (Repealed) |
| 170.50 | Material and Construction of Tanks (Repealed) |
| 170.60 | Venting of Tanks (Repealed) |
| 170.65 | Underground Tank Installations (Repealed) |
| 170.70 | Fill Pipes (Repealed) |
| 170.71 | Registration of Underground Storage Tanks and Payment of Annual Fee (Repealed) |
| 170.72 | Late Registration Fee (Repealed) |
| 170.75 | Abandonment of Underground Storage Tanks (Renumbered) |
| 170.76 | Leaking Underground Tanks (Repealed) |
| 170.80 | Unloading Operations |
| 170.90 | Pumps (Repealed) |
| 170.91 | Labeling of Containers and Pumps |
| 170.100 | Piping (Repealed) |
| 170.105 | Approval of Plans (Repealed) |
| 170.106 | Installer, Repairer or Remover of Underground Storage Tanks (Repealed) |
| 170.107 | Tester of Underground Storage Tanks and Cathodic Protection (Repealed) |
| 170.108 | Pressure Testing (Repealed) |
| 170.110 | Building |
| 170.115 | Safe Heat Required |
| 170.120 | No Flammable or Combustible Liquids Within Building – Exception |
| 170.130 | Greasing Pits |
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- 170.145 Fire Extinguishers
- 170.150 Self-Service – No Self-Service Without Permit; Procedures and Regulations
- 170.160 Care and Attendance
- 170.170 Fire Extinguishers (Repealed)
- 170.180 Sale of Fireworks
- 170.190 Approval of Plans (Repealed)
- 170.200 Defective Equipment
- 170.210 Deliveries from Portable Tanks Restricted
- 170.211 Dispensing or Delivery of Flammable or Combustible Motor Fuels from Tank Vehicles
- 170.212 Requirements for Permit to Fuel Motor Vehicles from Portable Tank Trucks and Tank Wagons
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SUBPART B: UNDERGROUND STORAGE TANKS – TECHNICAL REQUIREMENTS

Section

- 170.400 Definitions
- 170.410 Incorporations by Reference
- 170.411 USTs Out of Service
- 170.412 Delegation of Authority to Enforce UST Rules and Regulations
- 170.420 Design, Construction, Installation, Upgrade Procedures and Notification of UST Systems
- 170.421 Piping

[EMERGENCY](#)

- 170.422 Clearance Required for Underground Storage Tanks
- 170.423 Pressure Testing of Existing Tanks or Lines
- 170.424 Venting of Tanks
- 170.425 Fill Pipes
- 170.426 Pumps
- 170.427 Defective or Non-Compliant Equipment
- 170.428 General Requirements for UST Fuel Dispensing Systems
- 170.429 Unloading Operations
- 170.430 Interior Lining and Lining Inspection of UST Systems
- 170.431 Limitation on Interior Lining of USTs (Repealed)
- 170.440 Notification Requirements for Purposes of UST Registration
- 170.441 Payment of 1988 Annual UST Fee
- 170.442 UST Registration Fees
- 170.450 Owner/Operator Spill and Overfill Release Control Responsibilities

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- 170.460 Corrosion Protection
- 170.470 UST Compatibility with Product Stored
- 170.480 Repairs Allowed
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- 170.500 General Release Detection Requirements for All UST Systems
- 170.510 Release Detection Requirements for Petroleum UST Systems (Repealed)
- 170.520 Release Detection Requirements for Hazardous Substance UST Systems
- 170.530 Methods and Requirements of Release Detection for Tanks
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- 170.541 Installer, Repairer, Liner or Remover of USTs and Obtaining Permits
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- 170.542 Site Plans
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Underground Storage Tank Activity
- 170.544 Tester of Underground Storage Tanks, Cathodic Protection and UST Equipment
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- 170.550 Release Detection and Cathodic Protection Recordkeeping
- 170.560 Reporting of Suspected Releases
- 170.570 Investigation Due to Off-Site Impacts (Repealed)
- 170.580 Release Investigation Reporting, Site Assessment, Initial Response
- 170.590 Reporting and Cleanup of Spills and Overfills
- 170.600 Initial Response for UST Systems Containing Petroleum or Hazardous Substances
(Repealed)
- 170.610 Initial Abatement Measures and Site Assessment
- 170.620 Temporary Out-of-Service Status for UST Systems (Repealed)
- 170.630 Change-in-Service of UST Systems
- 170.640 Assessing the Site at Removal of, Previously Removed, or Change-in-Service of,
UST Systems
- 170.650 Applicability to Previously Removed UST Systems (Repealed)
- 170.660 Removal or Change-in-Service Records
- 170.670 Removal or Abandonment-in-Place of Underground Storage Tanks
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SUBPART C: UNDERGROUND STORAGE TANKS –
FINANCIAL RESPONSIBILITY REQUIREMENTS

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| 170.705 | Incorporation by Reference |
| 170.710 | Applicability |
| 170.720 | Amount |
| 170.730 | Mechanisms of Financial Responsibility |
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| 170.750 | Substitution of Financial Responsibility Mechanisms by an Owner or Operator |
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SUBPART D: UNDERGROUND STORAGE TANKS –
ADMINISTRATIVE PROCEDURE RULES FOR ORDERS ISSUED BY
THE DIVISION OF PETROLEUM AND CHEMICAL SAFETY

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| 170.850 | Authority of Hearing Officer |
| 170.860 | Evidence to be Presented by the Owner to Object to the Denial or Revocation of the Registration of an Underground Storage Tank (UST) (Repealed) |
| 170.870 | Briefs |
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| 170.900 | Authority to Enforce Administrative Orders and Assess Fines |
| 170.910 | Suspension or Revocation of the License of a Contractor and Assessment of Fines Against a Contractor or Employee of a Contractor for Violations of Subpart B or E |
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170.940 Hearing Officer Guidelines for Suspension, Revocation or Assessment of Fines

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| 170.TABLE A | Schedule for Phase-In of Release Detection |
| 170.TABLE B | Manual Tank Gauging: Weekly and Monthly Standards |

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

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

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1989, for a maximum of 150 days; emergency expired June 26, 1989; amended at 13 Ill. Reg. 5669, effective April 21, 1989; amended at 13 Ill. Reg. 7744, effective May 9, 1989; amended at 13 Ill. Reg. 8515, effective May 23, 1989; amended at 13 Ill. Reg. 8875, effective May 24, 1989; amended at 13 Ill. Reg. 14992, effective September 11, 1989; amended at 14 Ill. Reg. 5781, effective April 10, 1990; amended at 15 Ill. Reg. 7042, effective April 29, 1991; amended at 16 Ill. Reg. 4845, effective March 12, 1992; emergency amendment at 17 Ill. Reg. 1186, effective January 12, 1993, for a maximum of 150 days; emergency expired June 11, 1993; amended at 19 Ill. Reg. 5467, effective April 1, 1995; amended at 20 Ill. Reg. 4698, effective March 11, 1996; amended at 21 Ill. Reg. 8945, effective July 15, 1997; amended at 22 Ill. Reg. 21339, effective December 1, 1998; amended at 24 Ill. Reg. 12462, effective August 1, 2000; amended at 25 Ill. Reg. 9015, effective July 5, 2001; amended at 27 Ill. Reg. 8164, effective May 1, 2003; emergency amendment at 27 Ill. Reg. 8311, effective May 2, 2003, for a maximum of 150 days; emergency expired September 28, 2003; amended at 32 Ill. Reg. 1428, effective February 1, 2008; emergency amendment at 32 Ill. Reg. 15100, effective September 8, 2008, for a maximum of 150 days.

SUBPART B: UNDERGROUND STORAGE TANKS – TECHNICAL REQUIREMENTS

Section 170.421 Piping**EMERGENCY**

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

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pipe shall not be thinner than standard wall thickness listed in ANSI B36, incorporated by reference in Section 170.410.

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

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accordance with Section 170.460 (the following codes and standards, incorporated by reference in Section 170.410, may be used to comply with this subsection (e)(2): NFPA 30; API Recommended Practice 1615; API Recommended Practice 1632; or NACE RPO285); or

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

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or at the tank for all suction systems on all new installations and when piping is replaced at existing sites and made accessible at grade. Extractor valve will be accepted on European suction instead of positive shut off valve.

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

(Source: Amended by emergency rulemaking at 32 Ill. Reg. 15100, effective September 8, 2008, for a maximum of 150 days)

Section 170.530 Methods and Requirements of Release Detection for Tanks**EMERGENCY**

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

- a) Monthly inventory control.
 - 1) Product inventory control (or another test of equivalent performance) shall be conducted monthly to detect a release of at least 1.0 percent of the flow-through plus 130 gallons on a monthly basis in the following manner:
 - A) Inventory volume measurements for regulated substance inputs, withdrawals and the amount still remaining in the tank are recorded each operating day;
 - B) The equipment used is capable of measuring the level of product over the full range of the tank's height to the nearest one-eighth of an inch;

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- C) The regulated substance inputs are reconciled with delivery receipts by measurement of the tank inventory volume before and after delivery;
- D) Deliveries are made through a drop tube that extends to within 6 inches of the tank bottom;
- E) Product dispensing is metered and recorded pursuant to Section 8 of the Weights and Measures Act [225 ILCS 470/8];
- F) The measurement of any water level in the bottom of the tank is made to the nearest one-eighth of an inch at least once a month (practices described in API Recommended Practice 1621, incorporated by reference in Section 170.410, may be used, where applicable, as guidance in meeting the requirements of this subsection (a));
- G) To the extent the above measurements or recordkeeping are the responsibility of the UST owner, the owner or whoever performs those activities on the owner's behalf, shall be knowledgeable in such performance;
- H) Monthly inventory control records for the previous 3 years must be kept on site;
- I) This method can only be used for a period of 10 years from the date cathodic protection was installed on the tank. A precision tank test must be performed at 5 years and 10 years and these records kept on site for 10 years. At 10 years, another form of leak detection is required;
- J) Inventory control will only be allowed on sites currently using this method until the 10-year time allowance expires. No new sites will be allowed to use this method after May 1, 2003;
- K) Inventory control may not be used on systems with blending pumps or siphon tanks.

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- 2) Monthly inventory control cannot be used as a method of release detection for any tank that, after passing only a noninvasive tank integrity assessment, was upgraded using the cathodic protection method.
- b) Manual tank gauging. Only tanks of 600 gallons or less nominal capacity may use the method described in this subsection as the sole method of release detection. For tanks of 601 to 2,000 gallons, this method may be used for a period of 10 years from the date cathodic protection was installed on the tank. For tanks over 2,000 gallons, this method shall not be used. Tanks 601 to 2,000 gallons must receive a precision tank test once every year. The monthly records required for manual tank gauging and the yearly tank tests must be kept for 3 years on site. At the end of 10 years, another form of tank leak detection is required for tanks 601 gallons to 2,000 gallons.
- 1) Manual tank gauging shall meet the following requirements:
 - A) Tank liquid level measurements are taken at the beginning and ending of a period of at least 36 hours during which no liquid is added to or removed from the tank;
 - B) Level measurements are based on an average of two consecutive stick readings at both the beginning and ending of the period;
 - C) The equipment used is capable of measuring the level of product over the full range of the tank's height to the nearest one-eighth of an inch;
 - D) A leak is suspected and subject to the requirements of Sections 170.560 through 170.610, if the variation between beginning and ending measurements exceeds the weekly or monthly standards in Table B;
 - E) The measurement of any water level in the bottom of the tank is made to the nearest one-eighth of an inch at least once a month (practices described in API Recommended Practice 1621, incorporated by reference in Section 170.410, may be used, where applicable, as guidance in meeting the requirements of this subsection (b)); and

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- F) To the extent the above measurements or recordkeeping are the responsibility of the UST owner, the owner or whoever performs those activities on the owner's behalf, shall be knowledgeable in such performance.
- 2) Manual tank gauging cannot be used as a method of release detection for any tank that, after passing only a noninvasive tank integrity assessment, was upgraded using the cathodic protection method.
- 3) This method will not be allowed for tanks 601 to 2,000 gallons after May 1, 2003, except that, for those tanks for which this method was being used on May 1, 2003, the method may be used until the 10-year allowance expires.
- c) Precision tank tightness testing, as approved by the Office of the State Fire Marshal.
- 1) Tank tightness testing (or another test of equivalent performance) shall be capable of detecting a 0.1 gallon per hour leak rate from any portion of the tank that routinely contains product while accounting for the effects of thermal expansion or contraction of the product, vapor pockets, tank deformation, evaporation or condensation, and the location of the water table. There are four types of precision testing:
- A) 100 percent volumetric overfill;
- B) Volumetric underfill with an approved ullage test of negative pressure or inert gas as approved by the Office of the State Fire Marshal;
- C) A negative pressure; or
- D) Other approved methods, in accordance with subsection (i).
- 2) In the case of a suspected release, tracer elements and ATGs are not an approved method of precision tank testing.
- d) Automatic tank gauging (ATG). Equipment for automatic tank gauging that tests for the loss of product and conducts inventory control shall meet the following

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requirements:

- 1) The automatic product level monitor test can detect a 0.2 gallon per hour leak rate from any portion of the tank that routinely contains product.
 - 2) The ATG must be third party evaluated by and listed in the NWGLDE publication "List of Leak Detection Evaluations for Underground Storage Tank Systems". The ATG must be installed, calibrated and in compliance with the protocol of the third party evaluation.
 - 3) All new or replacement ATG monitors shall be mounted no more than 6 feet from the floor and must remain unobstructed and accessible.
 - 4) All new ATG systems must be equipped with printers. Existing ATG systems must be equipped with printers by May 1, 2004. If a system has to be retrofitted, a permit will be required. Systems with remote printers will be accepted.
- e) Vapor monitoring. Testing or monitoring for vapors within the soil gas of the excavation zone shall meet the following requirements:
- 1) The materials used as a backfill are sufficiently porous (e.g., gravel, sand or crushed rock) to readily allow diffusion of vapor from releases into the excavation area;
 - 2) The stored regulated substance or a tracer compound placed in the tank system is sufficiently volatile (e.g., gasoline) to result in a vapor level that is detectable by the monitoring devices located in the excavation zone in the event of a release from the tank;
 - 3) The measurement of vapors by the monitoring device is not rendered inoperative by groundwater, rainfall, soil moisture or other known interferences so that a release could go undetected for more than 30 days;
 - 4) The level of background contamination in the excavation zone will not interfere with the method used to detect releases from the tank;
 - 5) The vapor monitors are designed and operated to detect any significant increase in concentration above the background of the regulated substance

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stored in the tank system, a component or components of that substance, or a tracer compound placed in the tank system; vapor monitor sensors must be permanently installed in the vapor monitor wells; a monthly inspection of the vapor monitoring system must be made and a log maintained showing the date of inspection, results, and initials of the party doing the inspection;

- 6) In the UST excavation zone, the site is assessed to ensure compliance with the requirements in subsections (e)(1) through (4) of this Section and to establish the number and positioning of monitoring wells that will detect releases within the excavation zone from any portion of the tank that routinely contains product;
 - 7) Monitoring wells are clearly marked and secured to avoid unauthorized access and tampering;
 - 8) Vapor monitoring wells shall be of sufficient design to allow vapors to be detected from any portion of the tank being monitored and shall be a minimum of four inches in diameter or as approved by the Office of the State Fire Marshal on the applicable permit; and
 - 9) An adequate number of vapor monitoring wells shall be provided to ensure that a release can be detected from any portion of the tank. Adequacy of such wells is subject to approval of the Office of the State Fire Marshal on the applicable permit.
- f) Groundwater monitoring. Testing or monitoring for liquids on the groundwater shall meet the following requirements:
- 1) The regulated substance stored is immiscible in water and has a specific gravity of less than one;
 - 2) Groundwater is never more than 20 feet from the ground surface, the hydraulic conductivity of the soil between the UST system and the monitoring wells or devices is not less than 0.01 cm/sec (e.g., the soil should consist of gravels, coarse to medium sands, coarse silts or other permeable materials), and groundwater shall be present in the groundwater monitoring wells at all times;

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- 3) The slotted or perforated portion of the monitoring well casing shall be designed to prevent migration of natural soils or filter pack into the well and to allow entry of regulated substance on the water table into the well under both high and low groundwater conditions;
- 4) Groundwater monitoring wells shall be sealed from the ground surface to the top of the filter pack;
- 5) Monitoring wells or devices intercept the excavation zone or are as close to it as is technically feasible;
- 6) The continuous monitoring devices or manual methods used can detect the presence of at least $\frac{1}{8}$ of an inch of free product on top of the groundwater in the monitoring wells.
 - A) The continuous monitoring devices must be fixed sensors mounted permanently inside the well or samples must be taken by a mechanical bailer capable of detecting the presence of at least $\frac{1}{8}$ -inch of free product on top of the groundwater in the monitoring wells.
 - B) Groundwater monitoring must be done monthly and a log of the inspection made showing the date of the inspection, initials of the person conducting the inspection, and results of the well sampling. This log must be done every 30 days and kept on-site, or available within 30 minutes, for 3 years.
- 7) Within and immediately below the UST system excavation zone, the site is assessed to ensure compliance with the requirements in subsections (f)(1) through (5) of this Section and to establish the number and positioning of monitoring wells or devices that will detect releases from any portion of the tank that routinely contains product;
- 8) Monitoring wells are clearly marked and secured to avoid unauthorized access and tampering;
- 9) The minimum diameter of groundwater monitoring wells shall be 8 inches or as approved by the Office of the State Fire Marshal on the applicable permit; and

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- 10) An adequate number of groundwater monitoring wells shall be provided to ensure that a release can be detected from any portion of the tank. Adequacy of such wells is subject to approval of the Office of the State Fire Marshal on the applicable permit. On new installations, there shall be two 8-inch diameter monitoring wells for the first tanks and 1 additional well for each additional tank installed. The wells will be of manufactured slotted or perforated type. They shall be at opposite ends and corners, one foot below the invert elevations of the lowest UST.
- g) Interstitial monitoring. Interstitial monitoring between the UST system and a secondary barrier immediately around or beneath it, or interstitial monitoring meeting the requirements of this Section as required by Sections 170.420(a) and 170.421(a), may be used but only if the system is designed, constructed and installed to detect a leak from any portion of the tank that routinely contains product. Existing interstitial monitoring systems and sensors shall be maintained and may not be removed irrespective of whether such leak detection is secondary or redundant to other forms of leak detection. If the interstitial monitoring is not functional or not operating properly, it shall promptly be repaired or replaced, and any necessary measures to prevent false positive and false negative readings shall be implemented. Such monitoring must also meet and, also, meets one of the following requirements:
- 1) For double-wall UST systems, the sampling or testing method can detect a release through the inner wall in any portion of the tank that routinely contains product; the provisions specified in STI, "Standard for Dual Wall Underground Storage Tank", incorporated by reference in Section 170.410, may be used as guidance for aspects of the design and construction of underground steel double-wall tanks.
 - 2) For UST systems with a secondary barrier within the excavation zone, the sampling or testing method used can detect a release between the UST system and the secondary barrier.
 - A) The secondary barrier around or beneath the UST system consists of artificially constructed material that is sufficiently thick and impermeable (not in excess of 0.000001 cm/sec for the regulated substance stored) to direct a release to the monitoring point and permit its detection;

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- B) The barrier is compatible with the regulated substance stored so that a release from the UST system will not cause a deterioration of the barrier allowing a release to pass through undetected;
 - C) For cathodically protected tanks, the secondary barrier shall be installed so that it does not interfere with the proper operation of the cathodic protection system;
 - D) The groundwater, soil moisture or rainfall will not render the testing or sampling method used inoperative so that a release could go undetected for more than 30 days;
 - E) The site is assessed to ensure that the secondary barrier is always above the groundwater and not in a 25-year flood plain unless the barrier and monitoring designs are for use under such conditions;
 - F) Monitoring wells are clearly marked and secured to avoid unauthorized access and tampering; and
 - G) An adequate number of monitoring wells shall be provided to ensure that a release can be detected from any portion of the tank. Adequacy of the number of such wells is subject to the approval of the Office of the State Fire Marshal.
- 3) For tanks with an internally fitted liner, an automated device can detect a release between the inner wall of the tank and the liner, and the liner is compatible with the substance stored.
 - 4) The interstitial monitoring system must be tested every 3 years to verify its operation and records from the previous test must be kept on-site, or available within 30 minutes. Testing of the system sensors shall be done in such a way as to verify their function but not damage the sensors.
 - 5) Recordkeeping requirements for interstitial monitoring of tanks and lines requires an inspection once every 30 days and records for the previous 3 years must be kept on-site or available within 30 minutes. The records can be from an ATG system showing the interstitial monitors' status (pass/normal/other/) on a print out tape or by maintaining a log showing

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date of inspection, initials of inspector, status of system (pass/normal/other).

- h) Statistical Inventory Reconciliation (SIR).
- 1) The company that uses this method shall provide the Office of the State Fire Marshal a written affirmation that their data collection staff is trained in the data gathering procedures and that only trained staff will be utilized for data collection. Each tank monitored by SIR shall be identified to the Office in writing within 30 days of the commencement of such monitoring, specifying tank size, product stored, facility location and any other pertinent identification information necessary.
 - 2) SIR methods may only be used in conjunction with precision tank tightness testing conducted yearly.
 - 3) A precision tank tightness test, as approved by the Office of the State Fire Marshal, shall be mandatory, if any data analysis indicates a possible release or is inconclusive or indeterminate, or for any test result other than a pass.
 - 4) The measurement of any water level in the bottom of the tank is made to the nearest $\frac{1}{8}$ -inch at least once a month (practices described in API Recommended Practice 1621, incorporated by reference in Section 170.410, may be used, where applicable, as guidance in meeting the requirements of this subsection (h)).
 - 5) SIR test records for the previous 3 years must be kept on-site (a lag time of 60 days will be allowed for on-site records) or available within 30 minutes.
 - 6) New requests to use SIR after May 1, 2003 will no longer be accepted. If SIR is discontinued at a site, it will not be allowed again.
 - 7) After January 1, 2006, SIR may not be used on systems with blending pumps or siphon tanks.
- i) Other methods. Any other type of release detection method or combination of methods, approved by the Office of the State Fire Marshal, may be used if the

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owner or operator can demonstrate that the method can detect a release as effectively as any of the methods allowed in subsections (c) through (h) of this Section. Demonstration of any such method shall be in writing submitted to the Office of the State Fire Marshal. In comparing methods, the Office shall consider the size of release that the method can detect and the frequency and reliability with which it can be detected. If the method is approved, the owner or operator shall comply with any conditions imposed by the Office on its use to ensure the protection of human health or the environment. Before the utilization of the method, the Office shall issue written approval.

- j) One copy of each independent third-party evaluation and its protocol, for the release detection methods in subsections (c), (d), (e), (g), (h) and (i), shall be submitted to the Office of the State Fire Marshal [as part of the permit application process](#). Any deviation from the third-party evaluation shall be [submitted to OSFM](#)~~resubmitted~~ for approval [with the permit application, including but not limited to an evaluation by a registered professional engineer finding that the release detection system as installed meets all required performance standards](#).
- k) Only one approved method of primary release detection is required for each tank, although multiple methods are acceptable.
- l) No method of release detection shall be used unless that method has been approved by the Office of the State Fire Marshal.

(Source: Amended by emergency rulemaking at 32 Ill. Reg. 15100, effective September 8, 2008, for a maximum of 150 days)

Section 170.540 Methods and Requirements of Release Detection for Piping**EMERGENCY**

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

- a) Line leak detectors for pressurized systems. [Both existing and new pressurized piping installations shall be equipped with automatic line leak detectors](#). Mechanical and electronic line leak detectors which alert the operator to the presence of a leak by restricting or shutting off the flow of regulated substances through piping or triggering an audible or visual alarm may be used only if they

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detect leaks of three gallons per hour at 10 pounds per square inch line pressure within one hour. All line leak detectors must have ~~a functionality~~an operational test performed annually. One copy of an independent third-party evaluation and its protocol for each piping release detection method shall be submitted to the Office of the State Fire Marshal as part of the permit application process. Any deviation from the third-party evaluation shall be ~~submitted to OSFM~~resubmitted for approval with the permit application, including but not limited to an evaluation by a registered professional engineer finding that the release detection system as installed meets all required performance standards.

- b) Line tightness testing requirements may be met by one of the following methods:
- 1) Pressurized lines must have an annual precision test that is capable of detecting a 0.1 gallon per hour leak rate at 1½ times the operating pressure for 30 minutes.
 - 2) Use of an inert gas to pressurize piping as approved by the OSFM is also acceptable.
 - 3) The use of electronic line leak detection that performs a 0.1 gallon per hour test annually is acceptable as the annual test if records can be supplied that confirm a test pass at the 0.1 rate. These records must be kept on site for 3 years, or available within 30 minutes.
 - 4) A method meeting the requirements of the NWGLDE publication "List of Leak Detection Evaluations for Underground Storage Tank Systems".
- c) Suction lines.
- 1) American suction shall be tested annually using any of the following methods in the NWGLDE publication "List of Leak Detection Evaluations for Underground Storage Tank Systems":
 - A) If using positive pressure, use at least 7 psi for 30 minutes.
 - B) The use of a monthly monitoring method.
 - 2) European suction does not require a test if it is designed and constructed to meet the following:

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- A) The below grade piping operates at less than atmospheric pressure;
 - B) The below grade piping is sloped so that the contents of the pipe will drain back into the storage tank if the suction is released;
 - C) Only one check valve is included in each suction line;
 - D) The check valve is located directly below and as close as practical to the suction pump; and
 - E) A method is provided that allows compliance with subsections (c)(2)(B), (D) and (E) of this Section to be readily determined.
- d) Applicable tank methods. Any of the methods in Section [170.530\(e\) through \(g\) and \(i\)](#)~~170.530(a) through (i)~~ may be used if they are designed to detect a release from any portion of the underground piping that routinely contains regulated substances, as approved by the Office of the State Fire Marshal. SIR is not acceptable as a form of line leak detection. [Precision testing is not a stand-alone method for line leak detection or precision test.](#) Interstitial piping leak detection systems that are third party approved and have an audible alarm or shut down the product flow can be used in place of annual [precision line](#) testing [so long as used](#) in conjunction with a mechanical line leak detector.
- e) [Existing interstitial monitoring systems and sensors shall be maintained and may not be removed irrespective of whether the leak detection is secondary or redundant to other forms of leak detection. If the interstitial monitoring is not functional or not operating properly, it shall promptly be repaired or replaced, and any necessary measures to prevent false positive and false negative readings shall be implemented.](#)

(Source: Amended by emergency rulemaking at 32 Ill. Reg. 15100, effective September 8, 2008, for a maximum of 150 days)

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

Any person who is an installer, repairer, liner or remover of underground storage tanks is a contractor. However, in order for a contractor to do lining inspections, lining touch up or

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cathodic protection, or install, repair, line, upgrade, abandon or remove any UST, the contractor is required to be licensed and obtain a permit for that activity, in compliance with the following:

- a) Pay ~~\$200~~\$100 per ~~permitted activity~~site to the Office of the State Fire Marshal for a permit to install, repair, or line, or perform lining touch up, lining inspections, cathodic protection, or abandonment, upgrade or removal of underground storage tanks.
 - 1) A separate fee is required for each type of activity.
 - 2) This fee is to be paid by check or money order made payable to "Office of the State Fire Marshal" and is to be from the installer, repairer, liner or remover.
 - 3) Only contractors licensed and certified in accordance with Subpart E (or their respective employees, who do not have to be licensed and certified), and not barred pursuant to Subpart D, may obtain permits. Contractors are required to be licensed and certified in the UST activity for which they are applying.
 - 4) Only contractors, their employees or subcontractors may perform the permitted UST activity in accordance with Subpart E.
 - 5) Only the most current permit application for the activity is to be submitted.
 - 6) Insufficient information submitted with the permit application or an illegible permit application submission is cause for return or denial.
 - 7) Permits expire 6 months from the date they are issued. The applicant may apply for additional 6 month extensions. Permit extensions that circumvent newly adopted technical requirements will not be allowed. Each extension request must be submitted in writing before the permit lapses and must will be accompanied by a ~~\$200~~\$100 fee. ~~Contractors may apply for one extension at the time of the original application. A new permit application and fee must be submitted if the permit lapses.~~
 - 8) Permit applications denied or rejected the second time will require a new application submission fee.

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- 9) Permit applications and issued permits are not transferable.
- 10) Permit applications and issued permits may only be submitted and amended by contractors licensed and certified in the area of UST activity for which they are applying.
- 11) Amended permits. At the sole discretion of the OSFM, granted~~Granted~~ permits may be amended only once in the office or in the field without a new application fee. Additional amendments may be allowed with an additional permit application and \$200~~\$100~~ fee. For all permit amendments~~except~~, each change that requires a new contractor, a new site plan or another engineering review to determine acceptability will require a new permit application submission and \$200~~\$100~~ fee. "As-built" drawings reflecting any amendment to the site plan shall be submitted to OSFM within 10 days after the amendment. Permit amendments that circumvent newly adopted technical requirements will not be allowed.
- 12) A person who is the owner of a UST for which a permit is obtained shall be listed on the permit application as the owner.
- 13) In the event there is a delegation of authority to the City of Chicago to enforce UST rules and regulations, pursuant to 430 ILCS 15/2, subject to the terms of such an agreement, the City has the authority to modify this subsection (a) to issue the permits and collect the fees for its own use, regarding UST activities within the jurisdiction of the City.
- 14) A permit is closed:
 - A) When the work under the permit is completed and the required notification forms have been submitted to the OSFM; or
 - B) When the permit has lapsed, expired or been revoked.
- b) No permit may be issued when a current owner is listed on a permit application who owes fees pursuant to Section 170.441 or 170.442 until any such fee is paid in full.
- c) No UST activity requiring a permit may proceed without a granted permit in the

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possession of the contractor or representative of the contractor at the UST site, except pursuant to Section 170.481, and the permit shall be available upon request of an Office of the State Fire Marshal representative. Performance by a contractor of a UST activity in violation of this Section may result in the suspension or revocation of the license of that contractor to perform any UST activity. This does not preclude suspension or revocation for a violation of any other applicable Section.

- d) No UST owners or operators may perform any UST activity on their UST, unless the owner complies with the licensing and certification requirements of Subpart E.
- e) UST activity performed that is not in compliance with the conditions of a permit issued to a contractor is cause for permit revocation, or suspension or revocation of the license of that contractor to perform any UST activity. This does not preclude suspension or revocation for a violation of any other applicable Section.
- f) For purposes of this Section, the term "installer" includes "replacer" and "install" includes "replace"; the term "repairer" includes a person who upgrades and "repair" includes "upgrade"; and the term "remover" includes a person who "abandons-in-place" and "remove" includes "abandon-in-place" a UST.
- g) Actions requiring a permit.
 - 1) A permit is required to do any of the following to USTs:
 - A) remove;
 - B) abandon-in-place;
 - C) upgrade;
 - D) repair;
 - E) line;
 - F) inspect linings;
 - G) lining touch ups;

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

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- 2) The exceptions listed in subsection (h)(1) are the only exceptions from the permit requirement. If the equipment is not present or another type of equipment is to be used, a permit shall be required. Any pipe or flex connector work requires a permit.
- 3) In the event that equipment is not installed like-for-like and/or equipment is installed without a permit, the owner/operator will be required to do the following:
 - A) Hire an OSFM recognized contractor other than the contractor who did the unauthorized/non-permitted work.
 - B) OSFM Engineering Department will determine if the equipment is approved for this application.
 - C) Contractor will submit a Date and Time Certain job schedule to review the installation and determine that the equipment has been installed as per manufacturer's specifications.
 - D) Contractor will schedule a Date and Time Certain final inspection. The contractor will have a representative at the final inspection that is knowledgeable and able to work with this equipment. An amended notification form for this installation shall be available for the STSS. The representative will review the equipment with the STSS.
- 4) Replacing of any of the above equipment must be reported in writing, within 24 hours after the activity, to the OSFM, on an OSFM approved form, listing the make, model, and manufacturer of the equipment, indicating where the equipment is being installed.
- 5) When replacing an electronic line leak detector that is capable of detecting a release within 0.1gph with a mechanical line leak detector, notification must be made by the contractor to the OSFM in writing, within 8 working hours after replacement, on an approved OSFM form. An original replacement must be completed within 10 working days and notification of completion shall be submitted to the OSFM within 8 working hours after the replacement.

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- 6) A valid permit does not remedy a violation until the work is completed and does not allow for any extensions of time for compliance.

(Source: Amended by emergency rulemaking at 32 Ill. Reg. 15100, effective September 8, 2008, for a maximum of 150 days)

STATE BOARD OF EDUCATION

NOTICE OF CORRECTION TO NOTICE ONLY

- 1) Heading of the Part: Incentive Grants for Agricultural Science Teacher Education
- 2) Code Citation: 23 Ill. Adm. Code 75
- 3) The Notice of Proposed Rules being corrected appeared at: 32 Ill. Reg. 14489; September 5, 2008
- 4) The information being corrected is as follows: The Notice of Proposed Rules erroneously identified Public Act 94-973 as the enabling legislation for this initiative. The Act that created this program of incentive grants was actually P.A. 95-153, effective January 1, 2008.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of September 3, 2008 through September 8, 2008 and have been scheduled for review by the Committee at its October 16, 2008 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> |
|--------------------------------------|---|--------------------------------------|-------------------------|
| 10/17/08 | <u>Department of Transportation</u> , Minimum Safety Standards for Construction of Type I School Buses (92 Ill. Adm. Code 440) | 7/18/08 32 Ill. Reg. 10841 | 10/16/08 |
| 10/17/08 | <u>Department of Transportation</u> , Minimum Safety Standards for Construction of Type II School Buses (92 Ill. Adm. Code 442) | 7/18/08 32 Ill. Reg. 10889 | 10/16/08 |
| 10/22/08 | <u>Department of Revenue</u> , Cigarette Use Tax Act (86 Ill. Adm. Code 450) | 6/27/08 32 Ill. Reg. 9114 | 10/16/08 |
| 10/22/08 | <u>Department of Revenue</u> , Cigarette Tax Act (86 Ill. Adm. Code 440) | 6/27/08 32 Ill. Reg. 9109 | 10/16/08 |

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2008-347**GUBERNATORIAL PROCLAMATION**

On August 29, 2008, the State of Illinois agreed to provide personnel and equipment to aid in the response to and recovery from Hurricane Gustav as part of the nationwide Emergency Management Assistance Compact.

In the interest of aiding the states impacted by the hurricane that are in need of additional resources, I hereby declare that a disaster exists in the State of Illinois pursuant to the provisions of Section 3305/7 of the Illinois Emergency Management Agency Act, 20 ILCS 3305/7.

This proclamation of disaster will specifically aid in the mobilization of mobile support teams assembled to assist other states that were impacted by Hurricane Gustav.

Issued: September 2, 2008.

Filed: September 2, 2008.

2008-348**Canavan Disease Awareness Month**

WHEREAS, Canavan Research Illinois is an Illinois nonprofit corporation established in April 2000 to meet a critical need to support medical research to treat, cure, and improve the quality of lives of all children battling Canavan disease, a rare fatal genetic neurological disorder; and

WHEREAS, the majority of the victims of Canavan disease do not reach their 15th birthday. These innocent children face the loss of all motor functions, blindness, paralysis, feeding tubes, and eventual disintegration of the brain, at which point they fall into a vegetative state from which they cannot recover; and

WHEREAS, Canavan Research Illinois is an all volunteer charity dedicated to raise funds to support cutting-edge research, increase public awareness, and provide a network for Canavan families; and

WHEREAS, on October 9, 2008, Canavan Research Illinois will honor Max Randell's 11th birthday, a momentous milestone for this inspirational young man living with Canavan disease:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim October 2008 as **CANAVAN DISEASE AWARENESS MONTH** in Illinois, and encourage all citizens to observe this month with appropriate programs, ceremonies, and activities to raise

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awareness of Canavan disease and to improve the quality of life of those who are battling this disease.

Issued by the Governor August 29, 2008

Filed by the Secretary of State September 5, 2008

2008-349**Faith in Action Day**

WHEREAS, throughout the history of our nation, the spirit of volunteerism has been reflected in neighbors helping neighbors to overcome obstacles; and

WHEREAS, in 1993, Faith in Action was established with support from the Robert Wood Johnson Foundation, as a program to provide volunteer care for people with long-term health needs such as arthritis, diabetes, cancer, Alzheimer's, and HIV/AIDS; and

WHEREAS, Faith in Action programs are coalitions of local religious congregations, health care providers, community organizations and service providers who work together to provide those in need with non-medical assistance; and

WHEREAS, through Faith in Action, Americans of every faith including Catholics, Hindus, Jews, Muslims, and Protestants work together to help members of their community with long-term health needs to maintain their independence for as long as possible; and

WHEREAS, there are thirty-three active Faith in Action programs in Illinois where volunteers assist those in need by performing duties such as shopping for groceries, providing rides to medical appointments, cooking meals, doing light housework, running errands, and providing companionship:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim September 21, 2008 as **FAITH IN ACTION DAY** in Illinois, and encourage all citizens to promote the spirit of volunteerism in our families and communities by expressing their gratitude to the noble volunteers across our state.

Issued by the Governor August 29, 2008

Filed by the Secretary of State September 5, 2008

2008-350**One Church One School Week**

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WHEREAS, all children are extremely impressionable, which is why our encouragement and support is critically important for their growth and development; and

WHEREAS, without our encouragement and support, children are unlikely to succeed in school and become productive and valuable members of the community. That is why we are all responsible for their care; and

WHEREAS, One Church One School is a community partnership program based in Chicago that believes we must work together for our children's welfare. Since 1992, they have taken a comprehensive approach to child development; and

WHEREAS, members and participants of One Church One School have formed child-centered community partnerships that support issues such as education and non-violence in schools; and

WHEREAS, this year, One Church One School will host a two day conference in Dallas, Texas from October 23-24 that is expected to draw between 300 and 500 students, parents, and community leaders. The 13th Annual Partnership Conference will include student seminars, plenary sessions, and dynamic workshops:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim October 21-27, 2008 as **ONE CHURCH ONE SCHOOL WEEK** in Illinois in support of their comprehensive approach to child development, and to promote the encouragement and support of all children.

Issued by the Governor August 29, 2008

Filed by the Secretary of State September 5, 2008

2008-351**A Day of Remembrance of Kim E. Rhodes**

WHEREAS, Captain Kim E. Rhodes, a loyal and dedicated public servant to Illinois, passed away on Saturday, August 30. He was 52; and

WHEREAS, Captain Rhodes was born on August 9, 1956 at St. Anthony's Hospital in Effingham, Illinois, the son of Gene and Bernice Rhodes; and

WHEREAS, Captain Rhodes married the former Cheryl McEuen on July 15, 1978 at St. Bernard's Church in Wood River; and

PROCLAMATIONS

- WHEREAS, Captain Rhodes served the Illinois Department of Natural Resources as a conservation officer for more than 28 years, several of which were spent training new officers at the academy; and
- WHEREAS, over the course of his career Captain Rhodes earned numerous awards, including Officer of the Year twice and a Valor Award; and
- WHEREAS, Captain Rhodes also served the community by volunteering with the Jacksonville Fire Department and EMT; and
- WHEREAS, Captain Rhodes was also active in other community organizations as a member of the Bethalto Knights of Columbus and Our Lady Queen of Peace Catholic Church; and
- WHEREAS, Captain Rhodes was a man who enjoyed his job and enjoyed life, playing softball for the Jacksonville Moose and K of C in Bethalto and spending time with family and friends; and
- WHEREAS, Captain Rhodes' years of service have made the State of Illinois a better place and have left behind a legacy that will continue to resonate for many years to come. He will be deeply missed by all who had the opportunity to know him; and
- WHEREAS, funeral services for Captain Rhodes, who is survived by his wife, Cheryl, two sons, Matt and Nick, and a daughter, Ashleigh, will be held Wednesday, September 3:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim September 3, 2008 as **A DAY OF REMEMBRANCE OF KIM E. RHODES** in Illinois.

Issued by the Governor September 2, 2008

Filed by the Secretary of State September 5, 2008

2008-352**Child Passenger Safety Technician Day**

- WHEREAS, this year marks the 25th Anniversary of the passage of the Illinois Child Passenger Protection Act; and
- WHEREAS, by Illinois law all children under the age of eight must be in a child restraint system; and

PROCLAMATIONS

WHEREAS, there are over 1.6 million children in Illinois under the age of 8; and

WHEREAS, Illinois has 1,874 Child Passenger Safety Technicians certified by the National Highway Traffic Safety Administration to educate parents on how to properly install and use child restraint systems; and

WHEREAS, Illinois has more Child Passenger Safety Technicians than any other state; and

WHEREAS, these Child Passenger Safety Technicians dedicate their time, talent and resources to keep Illinois children safe; and

WHEREAS, on September 20, 2008, over 90 child safety seat checkpoints will be held across Illinois as part of National Seat Check Saturday:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim September 20, 2008 as **CHILD PASSENGER SAFETY TECHNICIAN DAY** in Illinois in recognition of our state's Child Passenger Safety Technicians and their dedication to Illinois children's safety.

Issued by the Governor September 3, 2008

Filed by the Secretary of State September 5, 2008

2008-353**Blood Collectors Week**

WHEREAS, approximately four million patients in the United States receive blood transfusions every year, and roughly 38,000 units of blood are required in hospitals and emergency treatment facilities on any given day; and

WHEREAS, unfortunately, blood donations often fall short of demand. While approximately eight million volunteers donate blood every year, just one trauma patient can use more than 100 units of blood, and donated blood has a shelf life of only 42 days; and

WHEREAS, less than 5 percent of the eligible population actually donates blood, and community blood centers rely 100 percent on donations from volunteer donors in order to maintain a safe and viable blood supply; and

WHEREAS, even if volunteers donated blood regularly, donors can give only one unit of blood every eight weeks. Consequently, there is a continual need to recruit more donors; and

PROCLAMATIONS

WHEREAS, each year, members of the Illinois Coalition of Community Blood Centers collect more than 570,000 blood donations to care for patients in 175 hospitals in 71 Illinois counties; and

WHEREAS, the Coalition's nearly 1,500 blood collection professionals in Illinois are the responsible stewards of this blood supply:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim September 14-20, 2008 as **BLOOD COLLECTORS WEEK** in Illinois, in recognition of the vital role blood collectors play in securing a safe and adequate blood supply by creating positive experiences for donors.

Issued by the Governor September 3, 2008

Filed by the Secretary of State September 5, 2008

2008-354**Lions Candy Day**

WHEREAS, the Lions Club was founded in 1917 by Melvin Jones. His goal was to create an organization of businesses who shared a common goal of bettering the community; and

WHEREAS, Lions Club International has grown to incorporate 1.4 million members who participate in 46,000 clubs in 193 countries across the globe; and

WHEREAS, the Lions Club of Illinois has raised an unprecedented amount of money for those who are visually and hearing impaired over the years through events such as Candy Day; and

WHEREAS, Candy Day allows the citizens of Illinois to contribute to an organization that will in turn give back to the public. The candy they receive is a token of appreciation from the Lions Club for their donation; and

WHEREAS, all proceeds from Candy Day will go to the programs the Lions Club of Illinois promotes to continue to help the visually and hearing impaired:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim October 10, 2008 as **LIONS CANDY DAY** in Illinois, and applaud the Lions Club for their continued service to our communities.

PROCLAMATIONS

Issued by the Governor September 3, 2008
Filed by the Secretary of State September 5, 2008

2008-355**National Family Storytelling Day**

WHEREAS, for the sixth consecutive year, the National Parents Association is promoting the first Sunday in October as National Family Storytelling Day; and

WHEREAS, National Family Storytelling Day highlights the importance of dinner together as a time for family bonding and teaching children life skills such as reading, writing, and storytelling; and

WHEREAS, research has shown that eating dinner together is also one great way for families with children to prevent behavioral and social problems; and

WHEREAS, the National Center on Addiction and Substance Abuse (CASA) at Columbia University has consistently found that children are less likely to smoke, drink alcohol, and use illegal drugs the more their families eat together; and

WHEREAS, additionally, other research shows that children who eat dinner with their families are less prone to dangerous and violent activities and more likely to have positive peer relationships and to excel in school:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim October 5, 2008 as **NATIONAL FAMILY STORYTELLING DAY** in Illinois, and encourage all citizens in the state to take part in this opportunity to promote family and the health and well-being of children.

Issued by the Governor September 3, 2008
Filed by the Secretary of State September 5, 2008

2008-356**Jewish Sports Heritage Month**

WHEREAS, sports, physical education and fitness programs are important in fostering active and constructive leisure habits, as well as improving the health and wellbeing and quality of life for all people; and

PROCLAMATIONS

WHEREAS, throughout our nation's history, sports have also served as a forum for combating prejudice and racism by illustrating the ability of men and women from different backgrounds to come together and work toward a common goal; and

WHEREAS, the National Jewish Sports Hall of Fame and Museum is dedicated to honoring the long list of Jewish sports legends who have helped dissolve social stereotypes and prejudice through their accomplishments in the athletic world; and

WHEREAS, the National Jewish Sports Hall of Fame and Museum focuses public attention on the outstanding contributions of Jewish men and women in professional sports; and

WHEREAS, Illinois joins with the directors of the National Jewish Sports Hall of Fame and Museum in expressing our great admiration for the contributions made by Jewish men and women in professional sports throughout the country:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim April 2009 as **JEWISH SPORTS HERITAGE MONTH** in Illinois, and encourage all citizens to recognize Jewish athletes, coaches, broadcasters, and executives who have distinguished themselves in the world of sports and earned the respect of a nation.

Issued by the Governor September 3, 2008

Filed by the Secretary of State September 5, 2008

2008-357**University of Missouri Tigers Day**

WHEREAS, on Sunday August 30, 2008 the University of Illinois Fighting Illini and the University of Missouri Tigers met at the Edward Jones Dome in St. Louis for the State Farm Arch Rivalry game; and

WHEREAS, despite a valiant effort, the University of Missouri Tigers prevailed over the University of Illinois Fighting Illini with a score of 52 to 42; and

WHEREAS, much like last year's match-up, Missouri took control in the second quarter, built a seemingly insurmountable lead in the third quarter, and then allowed Illinois to make a game of it before big defensive plays sealed the deal for the Tigers; and

WHEREAS, after nearly squandering a 37-13 lead in last year's 40-34 squeaker, Mizzou led 45-20 with less than three minutes to go in the third quarter, but it took only a

PROCLAMATIONS

little over three minutes for the Illini to score two touchdowns and pull within 45-35 early in the fourth; and

WHEREAS, however, in the end the University of Missouri Tigers outplayed, outmaneuvered and out-gamed the University of Illinois Fighting Illini; and

WHEREAS, as Sunday's big plays showed, the University of Missouri Tigers' defense could probably teach the Fighting Illini a thing or two; and

WHEREAS, similarly, their offense, which produced 550 yards and a whole bunch of points might have some wisdom to impart as well; and

WHEREAS, throughout the game, Mizzou was capably led by head coach Gary Pinkel, whose coaching proved to be superior to that of Illinois' Ron Zook; and

WHEREAS, after starting and stopping over the years, this exciting game showed that there is plenty of reason to keep the series going:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim September 6, 2008 as **UNIVERSITY OF MISSOURI TIGERS DAY** in Illinois in honor of their State Farm Arch Rivalry win on August 30, 2008.

Issued by the Governor September 4, 2008

Filed by the Secretary of State September 5, 2008

2008-358**Chronic Obstructive Pulmonary Disease Awareness Month**

WHEREAS, lung diseases, known collectively as chronic obstructive pulmonary diseases (COPD), are the fourth leading cause of death in the United States, with over 119,000 Americans dying from this disease each year; and

WHEREAS, COPD encompasses a group of lung diseases that cause blockages to airflow and breathing-related problems, including chronic bronchitis, emphysema, and some extreme cases of asthma; and

WHEREAS, COPD causes the loss of elasticity and swelling of airways, as well as the erosion of air sac walls. Consequently, these problems obstruct airflow in and out of the lungs and the supply of oxygen to the body; and

PROCLAMATIONS

WHEREAS, chronic obstructive pulmonary diseases cost the United States economy an estimated \$31.9 billion every year; and

WHEREAS, 30 million people in the United States have been diagnosed with some form of COPD; and

WHEREAS, COPD has a variety of causes, but the primary source of the disease is cigarette smoking. Most COPD patients are smokers or former smokers, however, breathing other irritants on a regular basis such as air pollution or chemical fumes can also trigger the disease. Damage done to the airways is irreversible, but avoiding cigarette smoke, air pollution, and chemical fumes is the best way a COPD patient can minimize their risk; and

WHEREAS, awareness, early detection and treatment are crucial in the prevention or slowing of the spread of lung disease in this country:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim November 2008 as **CHRONIC OBSTRUCTIVE PULMONARY DISEASE AWARENESS MONTH** in Illinois to call attention to the devastating problem of COPD, and in support of efforts to find a cure.

Issued by the Governor September 4, 2008

Filed by the Secretary of State September 5, 2008

2008-359**Respiratory Care Week**

WHEREAS, respiratory diseases are a major health problem in the United States. Unfortunately, the causes of some respiratory diseases are unknown, and many have no known cure; and

WHEREAS, despite that, appropriate therapy can often slow the progress of respiratory disease, relieve symptoms, reduce the extent of permanent lung damage and respiratory disability, and avert or delay the onset of life-threatening complications; and

WHEREAS, today, there are educational programs for patients and their families, as well as a variety of treatments for respiratory disease such as the administration of life-supporting oxygen, drug therapy, and lung rehabilitation; and

PROCLAMATIONS

WHEREAS, to inform the public about the respiratory care profession and promote lung health, the American Association for Respiratory Care and their affiliate organizations, including the Illinois Society for Respiratory Care, annually sponsors Respiratory Care Week the last week in October; and

WHEREAS, respiratory therapy centers throughout the country participate by hosting educational screenings, programs, and fundraisers for asthma camps for kids, patients in need of assistance, and other worthy causes; and

WHEREAS, legislation to grant Illinois Respiratory Care Practitioners full licensure status became effective January 1, 2006; and

WHEREAS, this year, the American Association and Illinois Society for Respiratory Care will observe Respiratory Care Week from October 19-25:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim October 19-25, 2008 as **RESPIRATORY CARE WEEK** in Illinois in support of the notable efforts by the American Association and Illinois Society for Respiratory Care to raise awareness about respiratory diseases that affect the lives of many citizens of our State.

Issued by the Governor September 4, 2008

Filed by the Secretary of State September 5, 2008

ILLINOIS ADMINISTRATIVE CODE

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