

From: [Knudson, Cheryl J.](#)
To: [McGill, Richard](#)
Cc: [Eastvold, Jonathan C.](#)
Subject: [External] RE: First Notice Documents from JCAR
Date: Wednesday, May 25, 2022 4:09:09 PM
Attachments: [35-618NT-P JCAR.docx](#)
[35-618RG-P r01 \(46-22\).docx](#)
[Redline - 35-618RG-P Agency for Delta and 35-618RG-P r01 \(46-22\).pdf](#)

First Notice documents are attached for your review:

- [Notice Page](#)
- **Ist Notice** – [Numbered Line Version](#)
- [Agency vs. JCAR r01](#)

If you have any questions or concerns, please contact Jonathan Eastvold @ 217-524-9010.

Thank you,
Cheryl

Cheryl Knudson
Joint Committee on Administrative Rules
Illinois General Assembly
700 Stratton Building
Springfield, IL 62706

217.785.8993
cherylk@ilga.gov

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Maximum Setback Zones
- 2) Code Citation: 35 Ill. Adm. Code 618
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
618.105	Amendment
618.110	Amendment
618.200	Amendment
618.205	Amendment
618.210	Amendment
- 4) Statutory Authority: Implementing Section 14.3 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/14.3 and 27].
- 5) A Complete Description of the Subjects and Issues Involved: The rulemaking pertains to the Board's public water supply rules and contain the requirements necessary for owners and official custodians of public water supplies in the State to provide, "continuous operation and maintenance of public water supply facilities to assure that the water is safe in quality, clean, adequate in quantity, and of satisfactory mineral characteristics for ordinary domestic consumption." 35 Ill. Adm. Code 601.101(a). In this rulemaking, the Board proposes non-substantive amendments to remove redundant or unnecessary language, replace outdated language, update statutory references, and reorganize provisions for clarity. The rulemaking also proposes amendments to delete outdated provisions, appropriately match incorporations by reference, eliminate redundancies and correct citations.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: No
- 7) Will this proposed rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this proposed rulemaking contain incorporations by reference? No
- 10) Are there any proposed rulemakings to this Part pending? No
- 11) Statement of Statewide Policy Objectives: This proposed amendment does not create or enlarge a State mandate as defined in Section 3(b) of the State Mandates Act. [30 ILCS 805/3].

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comments on this proposal for a period of at least 45 days after the date of publication in the *Illinois Register*. Public comments should refer to Docket R18-26 and be filed electronically through the Clerk's Office On-Line (COOL) on the Board's website at pcb.illinois.gov. Public comments may be addressed to:

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

Interested persons may download copies of the Board's opinions and orders in R18-26 from the Board's Web site at pcb.illinois.gov and may also request copies by calling the Clerk's office at 312-814-3620.

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: The proposed amendments in this rulemaking will not themselves require recordkeeping or reporting procedures for compliance.
 - C) Types of professional skills necessary for compliance: None
- 14) Small Business Impact Analysis: The Board does not expect that the proposed rules will impact small business.
- 15) Regulatory Agenda on which this rulemaking was summarized: This rule did not appear in a regulatory agenda.

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Maximum Setback Zones
- 2) Code Citation: 35 Ill. Adm. Code 618
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POLLUTION CONTROL BOARD

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- A) Types of small businesses, small municipalities and not for profit corporations affected: None
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The full text of the Proposed Amendments begins on the next page:

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE F: PUBLIC WATER SUPPLIES
CHAPTER I: POLLUTION CONTROL BOARD

PART 618
MAXIMUM SETBACK ZONES

SUBPART A: GENERAL

10	Section	
11	618.100	Purpose and Applicability
12	618.105	Definitions
13	618.110	Regulated Activities, Facilities or Units
14	618.115	Prohibitions

SUBPART B: ESTABLISHED MAXIMUM SETBACK ZONES

18	Section	
19	618.200	Purpose
20	618.205	Marquette Heights' Maximum Setback Zone
21	618.210	Fayette Water Company's Maximum Setback Zone.
22		
23	618.APPENDIX A	Boundaries of Marquette Heights' Maximum Setback Zone
24	618.APPENDIX B	Boundaries of Fayette Water Company's Maximum Setback Zone

AUTHORITY: Implementing Section 14.3 and authorized by Section 27 of the Illinois Environmental Protection Act [415 ILCS 5/14.3 and 27].

SOURCE: Adopted in R05-9 at 30 Ill. Reg. 10448, effective May 23, 2006; amended in R11-25 at 36 Ill. Reg. 10042, effective June 27, 2012; amended in R18-26 at 46 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL

Section 618.105 Definitions

- a) Unless specified otherwise, all terms ~~will~~**shall** have the meanings set forth in the Illinois Environmental Protection Act [415 ILCS 5], the Illinois Groundwater Protection Act [415 ILCS 55], and 35 Ill. Adm. Code 671.
- b) For the purposes of this Part, the following definitions apply:
 - "Act" means the Illinois Environmental Protection Act [415 ILCS 5].

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"Agency" means the Illinois Environmental Protection Agency.

"Board" means the Illinois Pollution Control Board.

"Facility" means *the buildings and all real property contiguous thereto, and the equipment at a single location used for the conduct of business* [430 ILCS 45/3].

"New Potential Primary Source" means:

a potential primary source which is not in existence or for which construction has not commenced at its location as of January 1, 1988; or

a potential primary source which expands laterally beyond the currently permitted boundary or, if the primary source is not permitted, the boundary in existence as of January 1, 1988; or

a potential primary source which is part of a facility that undergoes major reconstruction. Such reconstruction shall be deemed to have taken place where the fixed capital cost of the new components constructed within a 2-year period exceed 50% of the fixed capital cost of a comparable entirely new facility [415 ILCS 5/3.345].

"New Potential Route" means:

a potential route which is not in existence or for which construction has not commenced at its location as of January 1, 1988; or

a potential route which expands laterally beyond the currently permitted boundary or, if the potential route is not permitted, the boundary in existence as of January 1, 1988 [415 ILCS 5/3.350].

"New Potential Secondary Source":

means a potential secondary source which:

is not in existence or for which construction has not commenced at its location as of July 1, 1988; or

expands laterally beyond the currently permitted boundary or, if the secondary source is not permitted, the boundary in existence as of July 1, 1988, other than an expansion for handling of livestock waste or for treating domestic wastewaters; or

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88 *is part of a facility that undergoes major reconstruction. Such*
89 *reconstruction shall be deemed to have taken place where the fixed*
90 *capital cost of the new components constructed within a 2-year*
91 *period exceed 50% of the fixed capital cost of a comparable*
92 *entirely new facility [415 ILCS 5/3.355]; but*

93
94 *excludes an agrichemical facility that modifies on-site storage capacity*
95 *such that the volume of the pesticide storage does not exceed 125% of the*
96 *available capacity in existence on April 1, 1990, or the volume of fertilizer*
97 *storage does not exceed 150% of the available capacity in existence on*
98 *April 1, 1990; provided that a written endorsement for an agrichemical*
99 *facility permit is in effect under Section 39.4 of the Act and the maximum*
100 *feasible setback is maintained. This on-site storage capacity includes*
101 *mini-bulk pesticides, package agrichemical storage areas, liquid or dry*
102 *fertilizers, and liquid or dry pesticides. [415 ILCS 5/14.2(g)(4)]*

103
104 "Potential Primary Source" means *any unit at a facility or site not currently*
105 *subject to a removal or remedial action which:*

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107 *is utilized for the treatment, storage, or disposal of any hazardous or*
108 *special waste not generated at the site; or*

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110 *is utilized for the disposal of municipal waste not generated at the site,*
111 *other than landscape waste and construction and demolition debris; or*

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113 *is utilized for the landfilling, land treating, surface impounding or piling*
114 *of any hazardous or special waste that is generated on the site or at other*
115 *sites owned, controlled or operated by the same person; or*

116
117 *stores or accumulates at any time more than 75,000 pounds above ground,*
118 *or more than 7,500 pounds below ground, of any hazardous substances*
119 *[415 ILCS 5/3.345].*

120
121 "Potential route" means *abandoned and improperly plugged wells of all kinds,*
122 *drainage wells, all injection wells, including closed loop heat pump wells, and*
123 *any excavation for the discovery, development or production of stone, sand or*
124 *gravel [415 ILCS 5/3.350].*

125
126 "Potential secondary source" means *any unit at a facility or a site not currently*
127 *subject to a removal or remedial action, other than a potential primary source,*
128 *which:*

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130 *is utilized for the landfilling, land treating, or surface impounding of*
131 *waste that is generated on the site or at other sites owned, controlled or*
132 *operated by the same person, other than livestock and landscape waste,*
133 *and construction and demolition debris; or*
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135 *stores or accumulates at any time more than 25,000 but not more than*
136 *75,000 pounds above ground, or more than 2,500 but not more than 7,500*
137 *pounds below ground, of any hazardous substances; or*
138
139 *stores or accumulates at any time more than 25,000 gallons above*
140 *ground, or more than 500 gallons below ground, of petroleum, including*
141 *crude oil or any fraction thereof which is not otherwise specifically listed*
142 *or designated as a hazardous substance; or*
143
144 *stores or accumulates pesticides, fertilizers, or road oils for purposes of*
145 *commercial application or for distribution to retail sales outlets; or*
146
147 *stores or accumulates at any time more than 50,000 pounds of any de-*
148 *icing agent; or*
149
150 *is utilized for handling livestock waste or for treating domestic*
151 *wastewaters other than private sewage disposal systems as defined in the*
152 *Private Sewage Disposal Licensing Act [415 ILCS 5/3.355].*
153
154 *"Setback zone" means a geographic area, designated pursuant to the Act,*
155 *containing a potable water supply well or a potential source or potential route,*
156 *having a continuous boundary, and within which certain prohibitions or*
157 *regulations are applicable in order to protect groundwaters [415 ILCS 5/3.450].*
158
159 *"Site" means any location, place, tract of land, and facilities, including but not*
160 *limited to buildings, and improvements used for purposes subject to regulation or*
161 *control by the Act or regulations thereunder [415 ILCS 5/3.460].*
162
163 *"Unit" means any device, mechanism, equipment, or area (exclusive of land*
164 *utilized only for agricultural production). This term includes secondary*
165 *containment structures and their contents at agrichemical facilities. [415 ILCS*
166 *5/3.515]*
167
168 *"Unit boundary" means a line at the land's surface circumscribing the area on*
169 *which, above which, or below which waste, pesticides, fertilizers, road oils or de-*
170 *icing agents will be placed during the active life of the facility. The space taken*
171 *up by any liner, dike or other barrier designed to contain waste, pesticides,*
172 *fertilizer, road oils, or de-icing agents falls within the unit boundary.*

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(Source: Amended at 46 Ill. Reg. _____, effective _____)

Section 618.110 Regulated Activities, Facilities or Units

All new or existing activities, facilities or units located wholly or partially in any maximum setback zone created by this Part will be subject to the groundwater rules ~~set forth~~ in Section 14.4 of the Act and any Board ~~rules~~ regulations promulgated ~~under~~ pursuant to Section 14.4 of the Act, including, ~~but not limited to~~, 35 Ill. Adm. Code 615 and 616.

(Source: Amended at 46 Ill. Reg. _____, effective _____)

SUBPART B: ESTABLISHED MAXIMUM SETBACK ZONES

Section 618.200 Purpose

This Subpart ~~describes~~ prescribes maximum setback zones for individual community water supply wells in the interest of securing the public health, safety, and welfare; to preserve the quality and quantity of groundwater resources in order to assure a safe and adequate water supply for present and future generations; and to preserve groundwater resources currently in use and those aquifers having a potential for future use as a public water supply.

(Source: Amended at 46 Ill. Reg. _____, effective _____)

Section 618.205 Marquette Heights' Maximum Setback Zone

The Marquette Heights' maximum setback zone is established ~~as delineated~~ in Appendix A ~~of this Part~~.

(Source: Amended at 46 Ill. Reg. _____, effective _____)

Section 618.210 Fayette Water Company's Maximum Setback Zone

The Fayette Water Company's maximum setback zone is established as delineated in Appendix B ~~of this Part~~.

(Source: Amended at 46 Ill. Reg. _____, effective _____)



~~POLLUTION CONTROL BOARD~~

~~NOTICE OF PROPOSED AMENDMENTS~~

0 TITLE 35: ENVIRONMENTAL PROTECTION
1 SUBTITLE F: PUBLIC WATER SUPPLIES
2 CHAPTER I: POLLUTION CONTROL BOARD
3

4 PART 618
5 MAXIMUM SETBACK ZONES
6

7 SUBPART A: GENERAL
8

9Section

- 10618.100 Purpose and Applicability
- 11618.105 Definitions
- 12618.110 Regulated Activities, Facilities or Units
- 13618.115 Prohibitions

14
15 SUBPART B: ESTABLISHED MAXIMUM SETBACK ZONES
16

17Section

- 18618.200 Purpose
- 19618.205 Marquette Heights' Maximum Setback Zone
- 20618.210 Fayette Water Company's Maximum Setback Zone.

- 21
- 22618.APPENDIX A Boundaries of Marquette Heights' Maximum Setback Zone
- 23618.APPENDIX B Boundaries of Fayette Water Company's Maximum Setback Zone

24
25AUTHORITY: Implementing Section 14.3 and authorized by Section 27 of the Illinois
26Environmental Protection Act [415 ILCS 5/14.3 and 27].
27

28SOURCE: Adopted in R05-9 at 30 Ill. Reg. 10448, effective May 23, 2006; amended in R11-25
29at 36 Ill. Reg. 10042, effective June 27, 2012; amended in R18-26 at 46 Ill. Reg. ,
30effective .

31
32 SUBPART A: GENERAL
33

34Section 618.105 Definitions
35

~~POLLUTION CONTROL BOARD~~

~~NOTICE OF PROPOSED AMENDMENTS~~

- 36 a) Unless specified otherwise, all terms will have the meanings set forth in the
37 Illinois Environmental Protection Act [415 ILCS 5], the Illinois Groundwater
38 Protection Act [415 ILCS 55], and 35 Ill. Adm. Code 671.
39
- 40 b) For the purposes of this Part, the following definitions apply:
41
- 42 "Act" means the Illinois Environmental Protection Act [415 ILCS 5].
43
- 44 "Agency" means the Illinois Environmental Protection Agency.
45
- 46 "Board" means the Illinois Pollution Control Board.
47
- 48 "Facility" means *the buildings and all real property contiguous thereto, and the*
49 *equipment at a single location used for the conduct of business* [430 ILCS 45/3].
50
- 51 "New Potential Primary Source" means:
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- 53 *a potential primary source which is not in existence or for which*
54 *construction has not commenced at its location as of January 1, 1988; or*
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- 56 *a potential primary source which expands laterally beyond the currently*
57 *permitted boundary or, if the primary source is not permitted, the*
58 *boundary in existence as of January 1, 1988; or*
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- 60 *a potential primary source which is part of a facility that undergoes major*
61 *reconstruction. Such reconstruction shall be deemed to have taken place*
62 *where the fixed capital cost of the new components constructed within a*
63 *2-year period exceed 50% of the fixed capital cost of a comparable*
64 *entirely new facility* [415 ILCS 5/3.345].
65
- 66 "New Potential Route" means:
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- 68 *a potential route which is not in existence or for which construction has*
69 *not commenced at its location as of January 1, 1988; or*
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- 71 *a potential route which expands laterally beyond the currently permitted*
72 *boundary or, if the potential route is not permitted, the boundary in*
73 *existence as of January 1, 1988* [415 ILCS 5/3.350].

POLLUTION CONTROL BOARD

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"New Potential Secondary Source":

means a potential secondary source which:

is not in existence or for which construction has not commenced at its location as of July 1, 1988; or

expands laterally beyond the currently permitted boundary or, if the secondary source is not permitted, the boundary in existence as of July 1, 1988, other than an expansion for handling of livestock waste or for treating domestic wastewaters; or

is part of a facility that undergoes major reconstruction. Such reconstruction shall be deemed to have taken place where the fixed capital cost of the new components constructed within a 2-year period exceed 50% of the fixed capital cost of a comparable entirely new facility [415 ILCS 5/3.355]; but

excludes an agrichemical facility that modifies on-site storage capacity such that the volume of the pesticide storage does not exceed 125% of the available capacity in existence on April 1, 1990, or the volume of fertilizer storage does not exceed 150% of the available capacity in existence on April 1, 1990; provided that a written endorsement for an agrichemical facility permit is in effect under Section 39.4 of the Act and the maximum feasible setback is maintained. This on-site storage capacity includes mini-bulk pesticides, package agrichemical storage areas, liquid or dry fertilizers, and liquid or dry pesticides. [415 ILCS 5/14.2(g)(4)]

"Potential Primary Source" means *any unit at a facility or site not currently subject to a removal or remedial action which:*

is utilized for the treatment, storage, or disposal of any hazardous or special waste not generated at the site; or

is utilized for the disposal of municipal waste not generated at the site, other than landscape waste and construction and demolition debris; or

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

112 *is utilized for the landfilling, land treating, surface impounding or piling*
113 *of any hazardous or special waste that is generated on the site or at other*
114 *sites owned, controlled or operated by the same person; or*

115
116 *stores or accumulates at any time more than 75,000 pounds above*
117 *ground, or more than 7,500 pounds below ground, of any hazardous*
118 *substances [415 ILCS 5/3.345].*

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120 "Potential route" means *abandoned and improperly plugged wells of all kinds,*
121 *drainage wells, all injection wells, including closed loop heat pump wells, and*
122 *any excavation for the discovery, development or production of stone, sand or*
123 *gravel [415 ILCS 5/3.350].*

124
125 "Potential secondary source" means *any unit at a facility or a site not currently*
126 *subject to a removal or remedial action, other than a potential primary source,*
127 *which:*

128
129 *is utilized for the landfilling, land treating, or surface impounding of*
130 *waste that is generated on the site or at other sites owned, controlled or*
131 *operated by the same person, other than livestock and landscape waste,*
132 *and construction and demolition debris; or*

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134 *stores or accumulates at any time more than 25,000 but not more than*
135 *75,000 pounds above ground, or more than 2,500 but not more than 7,500*
136 *pounds below ground, of any hazardous substances; or*

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138 *stores or accumulates at any time more than 25,000 gallons above*
139 *ground, or more than 500 gallons below ground, of petroleum, including*
140 *crude oil or any fraction thereof which is not otherwise specifically listed*
141 *or designated as a hazardous substance; or*

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143 *stores or accumulates pesticides, fertilizers, or road oils for purposes of*
144 *commercial application or for distribution to retail sales outlets; or*

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146 *stores or accumulates at any time more than 50,000 pounds of any*
147 *de-icing agent; or*

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~~POLLUTION CONTROL BOARD~~

~~NOTICE OF PROPOSED AMENDMENTS~~

149 *is utilized for handling livestock waste or for treating domestic*
150 *wastewaters other than private sewage disposal systems as defined in the*
151 *Private Sewage Disposal Licensing Act [415 ILCS 5/3.355].*

152
153 "Setback zone" means a geographic area, designated pursuant to the Act,
154 containing a potable water supply well or a potential source or potential route,
155 having a continuous boundary, and within which certain prohibitions or
156 regulations are applicable in order to protect groundwaters [415 ILCS 5/3.450].
157

158 "Site" means any location, place, tract of land, and facilities, including but not
159 limited to buildings, and improvements used for purposes subject to regulation or
160 control by the Act or regulations thereunder [415 ILCS 5/3.460].
161

162 "Unit" means any device, mechanism, equipment, or area (exclusive of land
163 utilized only for agricultural production). This term includes secondary
164 containment structures and their contents at agrichemical facilities. [415 ILCS
165 5/3.515]
166

167 "Unit boundary" means a line at the land's surface circumscribing the area on
168 which, above which, or below which waste, pesticides, fertilizers, road oils or
169 de-icing agents will be placed during the active life of the facility. The space
170 taken up by any liner, dike or other barrier designed to contain waste, pesticides,
171 fertilizer, road oils, or de-icing agents falls within the unit boundary.
172

173 (Source: Amended at 46 Ill. Reg. ~~—~~, effective)
174

175 **Section 618.110 Regulated Activities, Facilities or Units**
176

177 All new or existing activities, facilities or units located wholly or partially in any maximum
178 setback zone created by this Part will be subject to the groundwater rules in Section 14.4 of the
179 Act and any Board rules promulgated under Section 14.4 of the Act, including 35 Ill. Adm.
180 Code 615 and 616.
181

182 (Source: Amended at 46 Ill. Reg. ~~—~~, effective)
183

184 SUBPART B: ~~MARQUETTE HEIGHTS~~ESTABLISHED MAXIMUM SETBACK
185 ZONE~~ZONES~~
186

~~POLLUTION CONTROL BOARD~~

~~NOTICE OF PROPOSED AMENDMENTS~~

187 **Section 618.200 Purpose**

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189 This Subpart describes maximum setback zones for individual community water supply wells in
190 the interest of securing the public health, safety, and welfare; to preserve the quality and quantity
191 of groundwater resources in order to assure a safe and adequate water supply for present and
192 future generations; and to preserve groundwater resources currently in use and those aquifers
193 having a potential for future use as a public water supply.

194

195 (Source: Amended at 46 Ill. Reg. , effective)

196

197 **Section 618.205 Marquette Heights' Maximum Setback Zone**

198

199 The Marquette Heights' maximum setback zone is established in Appendix A.

200

201 (Source: Amended at 46 Ill. Reg. , effective)

202

203 **Section 618.210 Fayette Water Company's Maximum Setback Zone**

204

205 The Fayette Water Company's maximum setback zone is established as delineated in Appendix
206 B.

207

209 (Source: Amended at 46 Ill. Reg. , effective)

Document comparison by Workshare Compare on Wednesday, May 25, 2022
3:22:35 PM

Input:	
Document 1 ID	file:///I:\Input\Agency Rulemakings - Files Received\2022\Volume 46, Issue 22\35-618RG-P Agency for Delta.docx
Description	35-618RG-P Agency for Delta
Document 2 ID	file:///I:\Input\Agency Rulemakings - Files Received\2022\Volume 46, Issue 22\35-618RG-P r01 (46-22).docx
Description	35-618RG-P r01 (46-22)
Rendering set	Standard

Legend:	
<u>Insertion</u>	
Deletion	
Moved from	
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Style change	
Format change	
Moved deletion	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
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Insertions	10
Deletions	11
Moved from	0
Moved to	0
Style changes	0
Format changes	0

Total changes	21
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