

ILLINOIS POLLUTION CONTROL BOARD

March 20, 1997

IN THE MATTER OF:)
)
) R96-18
AMENDMENTS TO 35 ILL. ADM. CODE) (Rulemaking-Public Water Supplies)
SUBTITLE F (Parts 601 through 620))

Proposed Rule. Second Notice.

OPINION AND ORDER OF THE BOARD (by R.C. Flemal):

This matter comes before the Board on an amended petition¹ for general rulemaking filed by the Illinois Environmental Protection Agency (Agency) on September 4, 1996, and a second amended petition filed by the Agency on October 16, 1996. The Agency requests that the Board amend various provisions of 35 Ill. Adm. Code: Subtitle F. Subtitle F houses the Board's Public Water Supply regulations (Parts 601 through 611) and the Board's groundwater regulations (Parts 615 through 620).

The Board adopted its first notice opinion and order on November 21, 1996. First notice publication occurred at 20 Ill. Reg. 15863 et seq. (December 20, 1996). Hearings in this matter were held on October 25 and 30, 1996. The first notice public comment period closed on February 10, 1997. Six public comments were received during the first notice period and are addressed in this opinion and order.

The Board today adopts the proposed amendments for second notice review by the Joint Committee on Administrative Rules (JCAR), pursuant to the Illinois Administrative Procedure Act. (5 ILCS 100/1-1 et seq. (1994).) The changes made since first notice are those suggested or agreed to by the Agency. In addition, JCAR made several typographical corrections after its first notice review. These corrections are also noted in the Board's order today.

The majority of the proposed amendments are of a non-substantive, "housekeeping" nature, including items such as replacing citations to Illinois Revised Statutes with citations to Illinois Compiled Statutes. The proposed amendments also include several definitions needing modification to reflect current concerns in protection of public water supplies. Finally, the proposed amendments also contain two substantive items. The first would allow the Agency to issue construction permits notwithstanding the fact that a public water supply is on the restricted status list for a violation of the radium maximum concentration level (MCL). The second would, through revision of the authority note for the groundwater quality regulations,

¹ The petition amends comments and correspondence filed by the Agency on April 4, 1996 and on June 17, 1996 in docket R95-17, a Safe Drinking Water Act (SDWA) update docket, upon which the Board reserved this docket.

note that the groundwater regulations were adopted pursuant to the Environmental Protection Act (Act). (415 ILCS 5/1 *et seq.* (1994).)

PROCEDURAL HISTORY

The Board's responsibility in this matter arises from the Act. The Board is charged therein to "determine, define and implement the environmental control standards applicable in the State of Illinois". (415 ILCS 5/5(b)(1994).) More generally, the Board's rulemaking charge is based on the system of checks and balances integral to Illinois environmental governance: the Board bears responsibility for the rulemaking and principal adjudicatory functions; the Agency has primary responsibility for administration of the Act and the Board's regulations, including the regulations today proposed for amendment.

On March 4, 1996 the Board received a letter from the Agency suggesting in excess of one hundred non-substantive, housekeeping amendments, including several citational, cross-referencing, and definitional changes to Subtitle F. The suggested amendments were identified by the Agency during a detailed proofreading of Subtitle F occasioned by the Agency's submission of a Safe Drinking Water Act (SDWA) primacy renewal to the United States Environmental Protection Agency (USEPA).

Among these suggested amendments were a number that occurred in the Board's identical-in substance public water supply regulations, which are found principally at 35 Ill. Adm. Code 611. These amendments were proposed for adoption by the Board on April 18, 1996 in the identical-in-substance rulemaking, Docket R95-17 (In the Matter of: Safe Drinking Water Act Update). The rules were adopted by orders of September 5 and October 17, 1996.

The Board in its April 18, 1996 order in Docket R95-17 also observed, however, that many of the suggested amendments could be addressed only in a regular rulemaking conducted pursuant to Section 27 of the Act. In response, the Agency on June 13, 1996 requested that the Board treat the March 4, 1996 filing as a petition for modification of the rules. On June 20, 1996 the Board opened the instant docket for this purpose.

On September 4, 1996 the Agency filed its amended petition, accompanied by various documents including a motion to amend the petition², text of the proposed amendments, statement of reasons, synopsis of witness testimony, and exhibits. In addition to the non-substantive, citational, cross-referencing and definitional corrections, the amended petition also introduced the two substantive proposed amendments which are part of today's action.

On October 16, 1996 the Agency made various additional filings. These included copies of prefiled testimony and a motion to further amend the petition. The latter consisted of two additional substantive amendments.

² The motion to amend was granted by Board order of September 19, 1996.

Public hearings were held before hearing officer Michael McCambridge in Geneva on October 25, 1996 and in Springfield on October 30, 1996. The Agency and members of the public attended and presented testimony at both hearings.

The Agency presented the testimony of Susan Konzelmann, Lynn E. Dunaway, Donald E. Dillenburg, Tracey Virgin, and Charles Bell, each of whom is an Agency employee who participated in preparing the original and amended petitions. Testimony was also received from Matt Zimmerman, Administrator of the Village of Elburn; Dennis L. Duffield, Director of Public Works and Utilities for the City of Joliet; and Gerald Bever, Superintendent of Water for the City of DeKalb. Prefiled testimony was received from the Children of DeKalb, filed by Dorianne Burg, but no-one appeared prior to the adjournment of the hearing to deliver the material as testimony. The prefiling was admitted as a public comment. (Oct. 25, 1996 Tr. at 77)

PUBLIC COMMENTS

The Board received six public comments on the first notice proposal. These comments are:

- PC 1 Prefiled testimony of Children of DeKalb, filed October 11, 1996 by Dorianne Burg and the Children of DeKalb³ (admitted as a public comment, see Oct. 25, 1996 Tr. at 77)

- PC 2 Agency's post-hearing comments, filed November 6, 1996 by Connie L. Tonsor

- PC 3 Comments of the City of West Chicago, filed November 12, 1996 by Robin N. Jones

- PC 4 Comments of the City of Lockport, filed January 31, 1997 by The Honorable Richard C. Dystrup, Mayor of the City of Lockport

³ In PC 6, Children of DeKalb (CD) took exception to the fact that the names of individual members of the group were not listed as commenters. (PC 6 at 4.) Given the numbers of associations and citizens groups who file comments with the Board, and that fact that these entities often have hundreds of members, it is the Board's usual practice to list in its opinions only the name of the association and the signature of the person filing the comment. This practice was followed in our first notice opinion. As CD has specifically requested that all names be listed, and since there are less than a dozen names, we will do so here as a special accommodation only. This is not to be interpreted as a precedent or as an indication that we will list their entire membership in any future rulemaking in which they may participate. The CD signatories are, in the order of their listing on page 4 of PC 6: Dorianne Burg, John T. Hepperly, Jr., Jacob Dumelle, P.E., Clyde Brown, Maureen Brown, Jonathan Reich, Dr. Bruce Von Zellen, Jacque D. Suding, Robert A. Suding, P.E., Linda L. Lahey, Dr. James M. Lahey.

- PC 5 Agency's comments, filed February 10, 1997 by Connie L. Tonsor
- PC 6 Post-hearing comments of Children of DeKalb filed on February 11, 1997 by Dorianne Burg and the Children of DeKalb

The Agency commented about the various sections of the rules in detail. The other commenters focused only on the changes related to the issues of restricted status for radium violations and the proposed amendments to Sections 602.105 and 602.106. To avoid unnecessary repetition, we will discuss the comments in our Overview of the Rules (see *supra*) of the rules rather than laying them out in detail here.

Procedural Issues of October 25, 1996 Hearing.

As a threshold matter, however, we will discuss the procedural issues raised by CD. First, CD maintains that the hearings, specifically the hearing in Geneva on October 5, 1996 were "conducted in such a summary fashion that citizens had no effective opportunity to testify." (PC 6 at 3.) CD contends that prior to the October 25, 1996 hearing, it was told by Board staff that the hearing was "expected to last all day." (PC 6 at 3.) CD maintains it was informed that government witnesses were testifying and that residents of DeKalb would be permitted to testify only at the end of the day and only if there was time after the government witnesses were finished. (PC 6 at 3.) CD alleges that it arrived at 11:15 a.m. on October 25, 1996 and the hearing had already concluded. (PC 6 at 3.) Therefore, CD could not testify. (PC 6 at 3.) Subsequent events that day involving CD were placed on the record at the October 30, 1996 hearing.

Upon review of the record and CD's comments, the Board finds that the October 25, 1996 hearing was conducted properly and afforded CD the opportunity to testify. At the October 25, 1996 the hearing officer indicated that CD had pre-filed testimony. (10/25/96 Tr. at 77.) The hearing officer requested on several occasions if CD were available to testify. (10/25/96 Tr. at 10, 77.) At the close of hearing, the hearing officer asked whether anyone else wanted to testify regarding this proceeding. (10/25/96 Tr. at 87.) No one identified themselves and the hearing adjourned at 11:15 a.m. At approximately 11:45 a.m., after the court reporter, the Board Members, and the Agency representatives had left, Ms. Burg appeared, identifying herself as a member of CD. (10/30/96 Tr. at 4.) Ms. Burg indicated that she was prepared to offer testimony on behalf of CD. (10/30/96 Tr. at 4.) The hearing officer and Agency indicated that another hearing was being held on October 30, 1996 in Springfield at which time CD could present its testimony. (10/30/96 Tr. at 5.) Ms. Burg indicated that CD would not be attending the October 30, 1996 hearing. (10/30/96 Tr. at 5.)

The Board feels that it has provided CD with ample opportunity to testify at hearing. Prior to any hearing, the Board's hearing officer issues an order indicating at which time the hearing will begin. If a hearing is in fact scheduled to last all day, the notice will also contain an end time, e.g., 10:00 a.m. - 5:00 p.m. If no end time is listed, a hearing is closed when there is no one else present who wishes to speak. None of the notices of hearing issued by the

hearing officer September 20, 1996, or the notices of hearing published in Chicago, Springfield, and Kane County on September 24 and 25, 1996 contained hearing close times.

While the Board and its staff makes every effort to provide accurate estimates in response to questions about how long hearings will run, estimates are simply "best guesses". Person who are not present in reliance thereon do so at their own risk.

Although, CD was unable to present testimony at the October 25, 1996 hearing, it was encouraged to attend the October 30, 1996 hearing in Springfield. (10/30/96 Tr. at 5.) CD chose not to attend the second hearing. Consequently, CD's pre-filed testimony was admitted as a public comment and has been considered by the Board prior to issuance of this second notice opinion and order.

On March 5, 1997, CD filed a statement with the Board further reiterating their objection to the adoption of R96-18 as proposed, and requesting another public hearing in this matter. Because the statement was filed after the close of the public comment period, the statement was admitted as a request for hearing rather than as a public comment. In their statement, CD maintain that R96-18 "sets a very dangerous precedent by which any drinking water standards may be loosened and relaxed without accountability to the Federal regulations and without the authorization of Illinois residents". (CD req. at 2.) The Board notes, as it has many times, that it has no authority to relax the radium standard, or otherwise modify it in any way. Therefore, any hearing to this end would be useless and wasteful of limited resources. As far as the subject matter of the instant proceeding, the Board again notes that the statutory two hearings have already been held, that there has been opportunity for public comment, and that the Board must now move toward a decision.

Conduct of Hearings.

In PC 6, CD also expresses objections to the manner in which the October 25, 1996 hearing was conducted. (PC 6 at 1.) Specifically, CD maintains that, at that hearing, Agency officials were permitted to testify on the health effects of the current and proposed radium standards even though the hearing officer indicated that he would not allow testimony on the merits of the current or proposed standard. (PC 6 at 1.)

The Board finds that CD is correct that the comments from Dr. Richard E. Toohey and the testimony at hearing from Agency representative, Tracy Virgin, addressed the merits of the proposed and current radium and gross alpha particle activity standards. (See Agency proposal, Ex. B; 10/25/96 Tr. at 43-44.) This material will accordingly be given weight only to the extent that it speaks to the merits of amending the current restricted status procedure (outlined in detail at p. 9, *supra*). We have considered the material included as exhibits to PC 6, submitted by CD concerning the merits of the standard for the same limited purpose.

OVERVIEW OF THE RULES

“Housekeeping” Amendments

The Board from time to time “housekeeps” and updates its regulations by revising outdated references, citations, and the like, and by correcting non-substantive constructional or format errors that have found their way into the regulations. These efforts have been undertaken sometimes on Board initiative, and in other cases, as is the case here, on request from the Agency. The Board notes its appreciation of the effort that the Agency has undertaken to identify these matters and direct them to our attention.

It is the nature of housekeeping amendments that they change neither the intention nor the interpretation of the rule. The Agency believes that all of the housekeeping amendments herein are of that nature. (10/25/96 Tr. at 74.) The Board has also reviewed each of the proposed amendments, and agrees with the Agency.

Today’s proposal is devoted largely to such housekeeping. Its focus is Subtitle F, which currently consists of nine active⁴ parts, the subject matter headings of which are:

Part 601	Introduction
Part 602	Permits
Part 603	Ownership and Responsible Personnel
Part 607	Operation and Record Keeping
Part 611	Primary Drinking Water Standards
Part 615	Existing Activities in a Setback Zone or Regulated Recharge Area
Part 616	On-Site Landfills
Part 617	Regulated Recharge Areas
Part 620	Groundwater Quality

All of the nine parts, with the exception of Part 611, are included in today’s proposal.

The most common amendment is the updating of citations of Illinois statutes from Illinois Revised Statutes (Ill. Rev. Stat.) to Illinois Compiled Statutes (ILCS). (10/25/96 Tr. at 15-24.) ILCS has replaced Ill. Rev. Stat. as the official version of Illinois statutory law. Related amendments update citations to repealed statutes with citations to the current statutes that replaced them.

A second major category is correction of cross-references. (10/25/96 Tr. at 15-24.) A cross-reference is a reference within one provision of a rule to a provision in some other part,

⁴ Subtitle F also contains three parts, Parts 604, 605, and 606, which have been repealed as part of an effort to consolidate all drinking water standards into Part 611.

section, or subsection. As rules are amended and renumbered over time, these cross-references sometimes get disjointed.

Among other kinds of housekeeping amendments in today's proposal are nonsubstantive punctuation, grammatical, and word selection changes that should eliminate confusion with regard to the interpretation of the regulations. (10/25/96 Tr. at 24-32; 33-42.) There are also a few corrections of typographical errors such as the listing twice in Section 620.420(b)(1) of the compound dichloromethane. Dichloromethane is denoted as a carcinogen once and as a noncarcinogen once in Section 620.410(b)(1). (10/25/96 Tr. at 27.) The table lists the same numerical (0.05 milligrams per liter) for dichloromethane each time. (10/25/96 Tr. at 28.) Therefore, the listing of dichloromethane as a carcinogen in 620.420(b)(1) should be maintained with the current Class II numerical standard of 0.05 milligrams per liter. (10/25/96 Tr. at 28.) This is an apparent typographical error and the listing of dichloromethane as a noncarcinogen should be deleted.

Definitional Changes

The Agency has identified, in hearing and in comments, several definitions in Section 601.105 that need slight modifications. As no objection has been raised to these changes as proposed, we will incorporate them into the proposal as submitted.

"Boil Order." Currently, the definition of "boil order" applies only to supplies that have become contaminated with "bacteriological" organisms. The proposal is to delete "bacteriological" and to replace it with the word "microbiological." A public water supply issues a boil (water) order when circumstances are such that the supply is, based on microbiological samples, contaminated or when the conditions are such that the supply is subjected to microbiological contamination that will be killed by boiling the potable water for a specific length of time. (10/26/96 Tr. at 50-51.) The intent of the boil order is to protect consumers from known and potential contamination. The Board agrees with the Agency that contamination with microbiological organisms other than bacterial organisms should also trigger a boil order. *Cryptosporidium*, *giardia lamblia*, and viruses are examples of microorganisms that may be killed by boiling water and that are not bacterial in nature. Clarifying that boiling water is effective for more than bacterial contamination and that it will kill microbes such as viruses, amoebas, and parasites will provide a more accurate description of the circumstances under which a boil order should be issued.

"Certified Laboratory." The current definition does not include all of the State agencies that certify laboratories. (10/25/96 Tr. at 54-55.) When the Board first adopted this definition in 35 Ill. Adm. Code 601.105, the radiological laboratory certification program was administered by the Illinois Department of Public Health. Subsequently, the Illinois Department of Nuclear Safety was created and, pursuant to a memorandum of agreement between it and the Agency, it was given the authority to certify laboratories for analyses of radionuclides in drinking water. (10/25/96 Tr. at 54-55.) Accordingly, the definition of "certified laboratory" is amended here to include all of the State agencies that certify laboratories.

“Persistent Contamination.” “Persistent contamination” occurs in a public water supply after an initial analysis is performed of a set of routine samples, those samples are coliform positive, and three or more subsequent sampling events reveal that the potable water supply still contains contamination. The subsequent sampling events, referred to as “check samples” in the present definition of “persistent contamination”, are samples taken to confirm the continued existence of contamination in the new coliform regulations.

This proposal deletes the word “check” and replaces it with “repeat” to make the definition terminology consistent with other portions of the rules. When the new total coliform regulations were adopted in R88-26, the term used to confirm “persistent contamination” was changed to “repeat samples”. (10/25/96 Tr. at 52-54.) Moreover, the method of collecting “repeat samples” was changed to provide data that is statistically more significant. (10/25/96 Tr. at 52-54.) There are no longer bacteriological samples that are defined as “check samples.” (10/25/96 Tr. at 52-54.)

“Recurring Contamination.” “Recurring contamination” occurs when a public water supply has total coliform positive analysis results in one or more samples in a routine sampling set during four or more sampling periods in a calendar year. (10/25/96 Tr. at 55-56.) As the definition of “recurring contamination” is written, it provides an opportunity for inconsistent application to public water supplies. Specifically, the use of the term “calendar year” in the definition provides for uneven protection of public health by allowing varying lengths of time that contamination may exist before a public water supply must follow the provisions of 35 Ill. Adm. Code 607.103, would be subject to the loss of any chlorination exemption, or would have an exemption request denied by the Agency. (10/25/96 Tr. at 55-56.) The proposal corrects this by substituting the time frame “twelve consecutive month period” for “calendar year”.

“Re-Sell Water.” The Agency proposes modifying the definition of “re-sell water” to “sell water.” (10/25/96 Tr. at 56-57.) Modifying the definition of “re-sell water” to simply rename it as “sell water” will provide identity between the terminology of 35 Ill. Adm. Code 611 and 35 Ill. Adm. Code 601. The purpose of the modification is to simplify application of the provisions of 35 Ill. Adm. Code 611 by clarifying when systems meet its applicability requirements.

Construction Permits/Restricted Status/Local Government Concerns

The most substantive amendments in today’s proposal consist of provisions in Sections 602.105 and 602.106 that would allow the Agency to issue public water supply construction permits even though the public water supply is on the restricted status list for a violation of the radium standard. (35 Ill. Adm. Code 602.105, 602.106.) These provisions would remain in effect until the United States Environmental Protection Agency (USEPA) makes a final determination regarding the magnitude of the radium drinking water standard(s).

Under existing Illinois regulations the Agency may not grant construction permits to a public water supply unless the public water supply can provide proof that the construction will not cause a violation of the Act or regulations. (35 Ill. Adm. Code 602.105.) Restricted status is imposed whenever a public water supply is in violation of one or more drinking water standard. Thus, being on restricted status constitutes a determination that a public water supply can no longer be issued a construction permit without causing a violation of the Act. (35 Ill. Adm. Code 602.106.)

Illinois currently has a 5 pCi/L standard for the sum of radium-226 and radium-228, plus a gross alpha particle standard of 15.0 pCi/L⁵. (35 Ill. Adm. Code 611.330.) This standard is based upon the National Primary Drinking Water Standard for radium, adopted pursuant to the Safe Drinking Water Act (SDWA). (42 U.S.C. 300(f) et seq.) Many of the deep groundwaters in Illinois exceed these standards naturally, and thus public water supplies drawing from them tend to have water in excess of the standards.

In the area of drinking water regulations, the General Assembly has determined that in general the federal standards adopted by USEPA are to be the standards enforced in this State. Under the terms of Section 17.5 of the Act (415 ILCS 5/17.5 (1994)), the Board is mandated to adopt regulations that are identical in substance to federal National Primary Drinking Water Standards adopted pursuant to the SDWA. The General Assembly has been even more emphatic in regards to some specific standards. Specifically, Section 17.6 of the Act (415 ILCS 5/17.6 (1994)) provides that the standards for radium-226, radium-228, and gross alpha particle activity (among others) “are the enforceable maximum concentration limits (MCL) promulgated by the USEPA.” The Board is required to adopt standards by APA peremptory rulemaking, a rulemaking method allowing even less discretion and opportunity for public comment than does Section 17.5 identical in substance rulemaking. (415 ILCS 5/17.5 (1994).)

The current standards are National Interim Primary Drinking Water Regulations Regulations adopted in 1976. As interim standards they are under review by the USEPA, and have been for some time. Indeed, USEPA has had pending since 1991 a proposal to adopt final regulations, in which the radium standards would increase to 20 pCi/L for each of the two radium isotopes. (56 Fed. Reg. 33050, July 18, 1991). Public hearings on the proposed federal standard began on September 6, 1991. In an amended consent order in Miller v. Browner, (No. 89-6328HO (Dist. OR 1990), amended order February 22, 1994), the federal district court for Oregon ordered the USEPA to take final action on the radiological rule with respect to the radium-226 and radium-228 standards no later than April 30, 1995. However, Congress prohibited funding during 1994 and 1995, necessary for the promulgation of a radon standard. Since radon was a part of the radionuclide proposal, no standards for radium-226 and radium-228 were adopted. USEPA has proposed a modification to the Miller v. Browner consent order; however, it has not yet committed to a time for developing a new promulgation schedule. If the proposed federal standard is adopted, almost no public water supply in Illinois

⁵ Gross alpha particle activity correlates strongly with radium content.

would exceed the radium standard. Today's proposal would allow public water supplies to continue to operate, without the construction permit ban (or the need to seek variance from the ban⁶), pending final action by USEPA.

Since 1991 when the USEPA proposed increasing the radium and gross alpha particle standards, the Agency placed those public water supplies that exceed the 5 pCi/L combined level or 15 pCi/L gross alpha particle MCL on restricted status pursuant to Section 601.106 of the Board regulations. (35 Ill. Adm. Code 602.106.) (10/25/96 Tr. at 61.) Consequently, at the time of the October hearings in this docket, the Agency had placed 69 water utilities on restricted status due to the radium MCL violation. (10/25/96 Tr. at 61-62.) Placement on restricted status prevents a public water supply from receiving a permit from the Agency to expand its system in any way. However, a public water supply may petition the Board for a variance from restricted status. (415 ILCS 5/35 (1994).) Again, as of the October hearings, of the 69 water utilities in violation, 34 had variances from restricted status. (10/25/96 Tr. at 61-62.)

The variance process is costly to communities and expends Agency and Board resources. (10/25/96 Tr. at 62-63; See, PCs 2, 3, 4.) At the time of the October hearings in this docket, the Board had issued 134 variances from restricted status for 83 public water supplies that exceeded the 5 pCi/L combined radium standard. (10/25/96 Tr. at 63.) Thirty-five (26%) of these public water supplies have received more than one variance. (10/25/96 Tr. at 63.)

This rulemaking exempts from the restricted status regulations those facilities that currently exceed the radium or gross alpha activity MCLs, but whose contaminants are in compliance with the proposed federal radium MCLs. The language we propose today differs in detail from the language originally proposed by the Agency. Our intent is to make it clear that the construction permit ban would remain lifted until the USEPA adopts a final radium standard⁷.

This exemption would be in effect for a limited time and would alleviate some of the regulatory burden placed upon public water supplies that are waiting for federal action on the proposed radium MCL. Exemption of certain public water supplies from the provisions of 35 Ill. Adm. Code 602.105 and 602.106 provides a common sense approach to alleviating the financial and regulatory burden placed upon public water supplies due to the failure of the USEPA to adopt the proposed radium and gross alpha particle standards in a timely fashion.

⁶ Nothing in today's proposal would alter existing variances from restricted status.

⁷ Again, under Section 17.6 of the Act, any revised federal standards for radium-226, radium-228, and gross alpha particle activity become the state standards in Illinois upon their federal effective dates.

The Agency agreed with the Board's proposed amendments in its first notice, specifically as the amendments relate to the two substantive areas of standards of issuance and restricted status. (PC 5 at 3.) Allowing the Agency to issue public water supply construction and operating permits, even though the public water supply is in violation of the radium standards, will alleviate the dilemma existing for many public water supplies in the State of Illinois. (PC 5 at 3.) While the Agency agreed with the Board's proposed language changes to Sections 602.105(d) and 602.106(d), it expressed concern that, should the USEPA formally withdraw its proposed standards and return to the interim standards, the language of Sections 602.105(d) and 602.106(d) could be read as affording an exemption from restricted status provisions that would be of an indefinite duration. (PC 5 at 3-4.) In response to several questions concerning the impact of the amendment upon current variances, the Agency noted that the Board addressed this concern in footnote 6 of the first notice opinion and order in which it states that nothing in the current proposal alters existing variances.

Further, the Agency proposed amendments to Sections 602.105 and 602.106 in light of the costs associated with applying for variances from restricted status. (10/25/96 Tr. at 64.) The variance process is costly for the regulated community and expends both Agency and Board resources. (10/25/96 Tr. at 64.) In its post hearing comments, the Agency attached a letter from the Village of Oswego, illustrating its costs in obtaining a variance from restricted status regulations. (PC 2 at 3.)

The Agency also argued that CD's comments should be discounted because it is merely rearguing a variance granted to the City of DeKalb. (PCB 91-34 (June 21, 1991); PC 2 at 3-4.) Further, the Agency maintains that, according to Board regulations and Illinois law, restricted status cannot be utilized as an enforcement tool. (PC 2 at 3-4.)

Richard C. Dystrup, Mayor of the City of Lockport, submitted pre-filed testimony outlining the City of Lockport's support for the amendments to restricted status and standards for issuance rules. (PC 4 at 1.) Mayor Dystrup did not attend the hearings; consequently, his pre-filed testimony was admitted as a public comment. The City of Lockport supports the changes because it believes that the amendments will eliminate the burden on municipalities and the regulatory uncertainty imposed upon municipalities that do not meet the current standards. (PC 4 at 2.)

Meeting the current radium and gross alpha particle activity standards for drinking water through treatment of deep well water or by obtaining alternative sources of potable water has proven costly and difficult for the City of Lockport. (PC 4 at 2-4.) In response to its first variance granted in PCB 87-16 (June 10, 1987), the City of Lockport retained a consultant to investigate compliance alternatives. (PC 4 at 4.) The consultant concluded that ion exchange treatment for the City of Lockport's deep well water, at a cost of \$3 million, would be the most cost effective compliance option. (PC 4 at 4.) The City of Lockport received no bids to its first offer. (PC 4 at 4.) Upon resubmitting the project for bids, the second offer resulted in only one bid for \$4 million. (PC 4 at 4.) As a result of the unexpectedly high cost of the compliance plan and the unfortunate veto of funding by then Governor James Thompson, the

Lockport City Counsel voted not to pursue the compliance alternative because it was not economically feasible. (PC 4 at 4.)

In May 1990, the City of Lockport moved forward with an allocation of Lake Michigan water so that it could implement the Lake Michigan water compliance alternative. (PC 4 at 4.) Anticipating that it would receive an allocation of Lake Michigan water from IDOT, the City of Lockport representatives met with the City of Orland Park to discuss obtaining an allocation from Orland Park through its transmission from Oak Lawn. (PC 4 at 4.) For unknown reasons, the City of Orland Park notified the City of Lockport that it would not provide the City of Lockport with Lake Michigan water on a long-term basis. (PC 4 at 4.) While the City of Lockport has pursued other compliance alternatives, they were determined to be unfeasible due to high costs. (PC 4 at 5.) The City of Lockport continues to search for compliance alternatives that are economically feasible and that will comply with the current radium and gross alpha particle activity standards. (PC 4 at 5.)

The regulatory uncertainty with regard to the federal standards has greatly complicated planning efforts for the City of Lockport. (PC 4 at 3.) The City of Lockport is placed in an untenable position about whether to pursue the difficult and costly route of obtaining a compliant potable water supply or whether to wait until the USEPA takes final action with regard to the radium and gross alpha particle standards.

Robin N. Jones representing the City of West Chicago submitted prefiled testimony detailing the costs incurred by the City of West Chicago in its efforts to obtain a variance from the current radium and gross alpha particle standards. (PC 3 at 1.) Ms. Jones did not attend the hearings. Accordingly, her testimony was admitted as a public comment. The City of West Chicago incurred \$4749.00 in filing, legal, and city staff fees in obtaining its variance from the current radium and gross alpha particle standards. (PC 3 at 1.) In PC 3, the City of West Chicago submitted the fees incurred in obtaining a variance from the current radium standard.

Matthew Zimmerman, Village Administrator for the Village of Elburn, expressed the Village of Elburn's support for the proposed amendments to restricted status. (10/25/96 Tr. at 79.) The Village of Elburn spent approximately \$1,000.00 to obtain a variance. (10/25/96 Tr. at 85.) In an effort to meet the current standards, the Village of Elburn, has issued \$975,000 in bonds in an effort to secure water with lower radium levels. (10/25/96 Tr. at 79.) The Village of Elburn has also designed plans for a facility that will meet the current standards; however, it will cost \$2 million to build such a facility. (10/25/96 Tr. at 80.) Complying with the current standards are onerous given the Village of Elburn has a \$2 million budget. (10/25/96 Tr. at 80.) Mr. Zimmerman expressed that it was difficult for the Village of Elburn, with only twelve full-time employees, to comply with the notification requirements that must be met under the terms of the variance. (10/25/96 Tr. at 81.) The Agency responded that the proposed amendments to restricted status and standards of issuance will not affect the obligation of a community to provide notice to its consumers because there is both a state and federal obligation to provide notice the a public water supply exceeds the MCL. (10/25/96 Tr. at 83.)

Dennis L. Duffield, Director of Public Works and Utilities for the City of Joliet, testified at the October 30, 1996 hearing that the failure of USEPA to finalize its amendments to the radium and gross alpha particle activity standards has left the City of Joliet in a difficult position. (10/30/96 Tr. at 8.) If, for instance, the City of Joliet completes construction plans and awards construction contracts, the radium standard will be changed by USEPA prior to the completion of construction. (10/30/96 Tr. at 8.) Therefore, the funds used for construction will appear to the citizens of Joliet to have been wasted. (10/30/96 Tr. at 8.) The City of Joliet further supports the amendments to the radium and gross alpha particle activity standards because it will no longer require the City of Joliet to expend staff resources and money to apply for variances from the current standards. (10/30/96 Tr. at 9.) Moreover, the City of Joliet has spend an amount in “the thousands of dollars” in its efforts to obtain variances from restricted status. (10/30/96 Tr. at 11.) While the City of Joliet has examined alternative compliance plans, it has confronted problems in implementing these proposed plans. (10/30/96 Tr. at 10-11.)

Gerald Bever, Water Superintendent for the City of DeKalb, testified at the October 30, 1996 hearing that the City of DeKalb supports the amendments to the radium and gross alpha activity standards. Considerable time and money was expended by the Board, Agency and the City of DeKalb during the town’s recent variance request. (PCB 91-34 (June 20, 1991); 10/30/96 Tr. at 13.) In light of the federal government’s pending changes to the current radium and gross alpha particle standards, it does not seem fiscally responsible to continue to require state and local citizens to spend money to acquire a variance from local standards that will inevitably be changed. (10/30/96 Tr. at 14.) In response to a Board Member’s question, Mr. Bever testified that the City of DeKalb spent more than \$20,000.00 to prepare, argue and obtain a variance from the existing radium and gross alpha particle activity standards. (10/30/96 Tr. at 19-20.)

In their objection to the proposed amendments to 35 Ill. Adm. Code 602.105 and 602.106, CD submitted two public comments. CD argues that the City of DeKalb has consistently failed to comply with the federal standard for radium. (PC 1 at 1.) Further, CD argues that the purpose of the ban on construction under Section 602.106 is a means of enforcing compliance with the radium standard. (PC 1 at 2.) It contends that, because the Agency adopted the federal standard, it was intending that more than one enforcement mechanism should be used to ensure compliance with the federal standard. (PC 1 at 2.) Moreover, CD asserts that the Agency’s immediate approval of variances from the existing radium standard suggests that the standard was never intended to be enforced. (PC 1 at 3.) CD maintains that the Agency acts as if the proposed federal standard has the force of law. (PC 1 at 3.) It also argues that several public water supplies were able to achieve compliance with the current radium standard, therefore, the City of DeKalb and other noncompliant cities should be able to achieve the current radium standard. (PC 6 at 2.) Finally, CD maintains that, while the municipalities incur costs associated with achieving compliance, they never consider the costs assumed by the community that purchases bottled water rather than drinking radium-contaminated water. (PC 6 at 3.) In support of its arguments, CD filed an exhibit with public comment 1. This exhibit details a letter written by CD to USEPA outlining the

adverse health effects of radium in drinking water and the City of DeKalb's failure to comply with current radium standard.(PC 1 at 5.)

In its post hearing public comment, CD alleges that no one at hearing addressed the fiction that only new users, and not current water system users, are adversely affected by the allowance of increased radium standards. (PC 6 at 2.) CD further questions why no one has considered the costs incurred by consumers who have purchased bottled water rather than drinking radium-contaminated water. (PC 6 at 3.) CD contends that the hearings treated the proposed federal standard as if it were a duly promulgated standard. (PC 6 at 2.) Further, CD asserts that, in Agency testimony from the hearings, officials discussed the public water supplies that were out of compliance, rather than addressing the public water supplies that were out of compliance at one time and came into compliance. (PC 6 at 2.)

Part 620 and Authority Note

The Agency requests, and the Board today proposes, an amendment to the authority note of 35 Ill. Adm. Code 620 that adds Section 27 of the Environmental Protection Act as the one of the two authorities for adoption of Part 620.

The Agency expressed concern that the current authority note, which lists only Section 8 of the Groundwater Protection Act (415 ILCS 55/8 (1994); IGPA), raises confusion regarding the enforceability of Part 620. (Statement of Reasons at 9; 10/25/96 Tr. at 26-27.) The Agency notes that the IGPA does not provide for independent enforcement of standards adopted pursuant to it. (Statement of Reasons at 9.)

The Agency observes, and the Board agrees, that Part 620 was adopted pursuant to both the IGPA and the Environmental Protection Act. Section 8 of the IGPA indeed mandated that the Board adopt the groundwater standards of Part 620 in compliance with the rulemaking requirements and authorities specified at Title VII, which includes Section 27, of the Environmental Protection Act. Section 27 specifically provides that:

Within 2 years after the date upon which the Illinois EPA files the proposed regulations, the Board shall promulgate the water quality standards for groundwater. In promulgating these regulations, the Board shall, in addition to the factors set forth in Title VII of the Environmental Protection Act, consider the following ...[six criteria]. (415 ILCS 55/8(b) (1994); emphasis added.)

ECONOMIC CONSIDERATIONS AND CONCLUSIONS

Section 27(b) of the Act requires that the Board determine whether the proposed regulations have any adverse economic impact on the people of the State of Illinois." (415ILCS 5/27(b) (1994).) The record indicates that the proposed housekeeping and the definitional amendments do not involve any added costs to the regulated community or to any administrative agency involved. The record indicates that it is its failure to adopt, rather than

the adoption of, the proposed amendments, that would impose the greatest adverse economic impact.

As to the substantive amendments, the record substantiates the Board's first notice observations that the adoption of the proposal to remove the radium-related construction permit ban would produce cost savings to the regulated community, in that it would need neither to forgo construction in the absence of construction permits nor to seek variance where the need to lift the construction ban became paramount. Costs for seeking a variance are estimated by the City of Joliet to be in excess of \$1,000 (10/25/96 Tr. at 85) when a hearing is not held and \$20,000 by the City of DeKalb when a hearing is held. (10/30/96 Tr. at 19-20.) Further, the City of West Chicago provided comment that it incurred \$4,749.00 in fees in order to obtain a variance. Moreover, the costs associated with finding and implementing an alternate compliance plan have proven economically unfeasible for the City of Lockport. (PC 4 at 3-5.)

The Agency estimates that its cost, in terms of personnel, to process a variance request where no hearing is held consists of 2 hours of clerical time, 32.5 hours of legal time, and 15 hours of technical time. (Amended Petition Exh. G.) A variance petition that involves a hearing is estimated by the Agency to involve twice as many resources. (Amended Petition Exh. G.) The Board similarly has resource expenditures associated with processing variances that would no longer need to be expended if the amendments are adopted.

Much larger costs, however, are the actual costs of compliance. As detailed in testimony here and in the many restricted status variances processed by the Board, these costs have proved to total anywhere from hundreds of thousands to millions of dollars.

The restricted status limitation on permit issuance is purely a state law construct. It protects against extension of substandard systems, at the same time that it offers an economic development incentive for bringing systems into compliance. The Board continues to believe that restricted status is a very valuable provision as applied in almost all circumstances.

The current radium situation, however, is an exception. The Board believes that it would not be prudent stewardship of scarce public resources to require a universal movement towards compliance with the "moving target" of the radium standards. We believe that the judicious approach is to let the federal debate play out. This we do today in amending the Illinois restricted status rules. This does not prevent local assessment and action based on the quality of a community's health priorities and resources; it is intended instead to facilitate it. Local communities and groups remain free to choose to meet today's standards' immediately.

ORDER

The Board hereby proposes for second notice the following amendments to 35 Ill. Adm. Code 601 through 620.

TITLE 35: ENVIRONMENTAL PROTECTION

SUBTITLE F: PUBLIC WATER SUPPLIES
CHAPTER I: POLLUTION CONTROL BOARD

PART 601
INTRODUCTION

Section	
601.101	General Requirements
601.102	Applicability
601.103	Severability
601.104	Analytical Testing
601.105	Definitions

Appendix A References to Former Rules

AUTHORITY: Implementing Section 17 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/17 and 5/27]~~(Ill. Rev. Stat. 1985, ch. 111 1/2, pars. 1017 and 1027).~~

SOURCE: Filed with Secretary of State January 1, 1978; amended at 2 Ill Reg. 36, p. 72, effective August 29, 1978; amended at 3 Ill. Reg. 13, p. 236, effective March 30, 1979; amended and codified at 6 Ill. Reg. 14344, effective November 3, 1982; amended in R84-12 at 14 Ill. Reg. 1379, effective January 8, 1990; amended in R89-5 at 16 Ill. Reg. 1585, effective January 10, 1992; amended in R96-18 at 21 Ill. Reg. _____, effective _____.

NOTE: CAPITALIZATION DENOTES STATUTORY LANGUAGE.

Section 601.101 General Requirements

Owners and official custodians of a public water supply in the State of Illinois shall provide pursuant to the Environmental Protection Act [415 ILCS 5]~~(Ill. Rev. Stat. 1981, ch. 111 1/2, pars. 1001 et seq.~~ (Act), the Pollution Control Board (Board) Rules, and the Safe Drinking Water Act (42 U.S.C. 300f et seq.) continuous operation and maintenance of public water supply facilities so that the water shall be assuredly safe in quality, clean, adequate in quantity, and of satisfactory mineral characteristics for ordinary domestic consumption.

(Source: Amended at 21 Ill. Reg. _____, effective _____.)

Section 601.105 Definitions

For purposes of this Chapter:

"Act" means the Environmental Protection Act, as amended, [415 ILCS 5]~~(Ill. Rev. Stat. 1989, ch. 111 1/2, pars. 1001 et seq.).~~

"Agency" means the Illinois Environmental Protection Agency.

"Board" means the Illinois Pollution Control Board.

"Boil Order" means a notice to boil all drinking and culinary water for at least five minutes before use, issued by the proper authorities to the consumers of a public water supply affected, whenever the water being supplied may have become microbiologically~~bacteriologically~~ contaminated.

"Certified Laboratory" means any laboratory approved by Agency, the Illinois Department of Nuclear Safety or the Illinois Department of Public Health for the specific parameters to be examined, as set out in rules adopted pursuant to the Illinois Administrative Procedure Act [5 ILCS 100]~~(Ill. Rev. Stat. 1989, ch. 127, pars. 1001 et seq.)~~.

"Confined Geologic Formations" are geologic water bearing formations protected against the entrance of contamination by other geologic formations.

"Disinfectant" means any oxidant, including but not limited to chlorine, chlorine dioxide, chloramines, and ozone, added to water in any part of the treatment or distribution process, which is intended to kill or inactivate pathogenic microorganisms.

"Dose Equivalent" means the product of the absorbed dose from ionizing radiation and such factors as account for differences in biological effectiveness due to the type of radiation and its distribution in the body as specified by the International Commission of Radiological Units and Measurements (ICRU).

"Gross Alpha Particle Activity" means the total radioactivity due to alpha particle emission as inferred from measurements on a dry sample.

"Gross Beta Particle Activity" means the total radioactivity due to beta particle emission as inferred from measurements on a dry sample.

"GROUNDWATER" MEANS UNDERGROUND WATER WHICH OCCURS WITHIN THE SATURATED ZONE AND GEOLOGIC MATERIALS WHERE THE FLUID PRESSURE IN THE PORE SPACE IS EQUAL TO OR GREATER THAN ATMOSPHERIC PRESSURE. (Section 3.64 of the Act)

"Halogen" means one of the chemical elements chlorine, bromine or iodine.

"Man-Made Beta Particle and Photon Emitters" means all radionuclides emitting beta particles and/or photons listed in Maximum Permissible Body Burdens and Maximum Permissible Concentration of Radionuclides in Air or Water for

Occupational Exposure, National Bureau of Standards (NBS) Handbook 69, except the daughter products of thorium-232, uranium-235 and uranium-238.

"Maximum Residence Time Concentration (MRTC)" means the concentration of total trihalomethanes found in a water sample taken at a point of maximum residence time in the public water supply distribution system.

"Maximum Total Trihalomethane Potential (MTP)" means the maximum concentration of total trihalomethanes produced in a given water containing a disinfectant residual after 7 days at a temperature of 25 degrees C or above.

"Official Custodian" means any officer of an organization which is the owner or operator of a public water supply, and who has direct administrative responsibility for the supply.

"Persistent Contamination" exists when analysis for total coliform is positive in one or more samples of a routine sample set, and when three or more subsequent ~~repeate~~recheck samples indicate the presence of contamination.

"Picocurie (pCi)" means that quantity of radioactive material producing 2.22 nuclear transformations per minute.

"Point Of Maximum Residence Time" means that part of the active portion of the distribution system remote from the treatment plant where the water has been in the distribution system for the longest period of time.

"Recurring Contamination" exists when analysis of total coliform is positive in one or more samples of a routine sample set, if this occurs four or more times in a twelve consecutive month period~~calendar year~~.

"Rem" means the unit of dose equivalent from ionizing radiation to the total body or any internal organ or organ system. A "millirem (mrem)" is 1/1000 of a rem.

"Sell ~~Re-sell~~Water" means to deliver or provide potable water, obtained from a public water supply subject to these regulations, to the consumer, who is then individually or specifically billed for water service, or where any monetary assessment is levied or required and specifically used for water service. Water supply facilities owned or operated by political subdivisions, homeowners associations, and not-for-profit associations, as well as privately owned utilities regulated by the Illinois Commerce Commission, are considered to sell water whether or not a charge is specifically made for water.

"Service Connection" is the opening, including all fittings and appurtenances, at the water main through which water is supplied to the user.

"Surface Water" means all tributary streams and drainage basins, including natural lakes and artificial reservoirs, which may affect a specific water supply above the point of water supply intake.

"Surface Water Supply Source" means any surface water used as a water source for a public water supply.

"Supply" means a public water supply.

"Total Trihalomethanes (TTHM)" means the sum of the concentration in milligrams per liter of the trihalomethane compounds trichloromethane (chloroform), dibromochloromethane, bromodichloromethane and tribromomethane (bromoform), rounded to two significant figures.

"Trihalomethane (THM)" means one of the family of organic compounds named as derivatives of methane, wherein three of the four hydrogen atoms in methane are each substituted by a halogen atom in the molecular structure.

"Water Main" means any pipe for the purpose of distributing potable water which serves or is accessible to more than one property, dwelling, or rental unit, and is exterior to buildings.

(Source: Amended at 21 Ill. Reg. _____, effective _____.)

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

PART 602
PERMITS

Section	
602.101	Construction Permit
602.102	Operating Permit
602.103	Algicide Permit
602.104	Emergency Permit
602.105	Standards for Issuance
602.106	Restricted Status
602.107	Signatory Requirement for Permit Applications
602.108	Construction Permit Applications
602.109	Operating Permit Applications
602.110	Algicide Permits Applications
602.111	Application Forms and Additional Information

602.112	Filing and Final Action by Agency on Permit Application
602.113	Duration
602.114	Conditions
602.115	Design, Operation and Maintenance Criteria
602.116	Requirement for As-Built Plans
602.117	Existence of Permit No Defense
602.118	Appeals from Conditions
602.119	Revocations
602.120	Limitations

Appendix: References to Former Rules

AUTHORITY: Implementing Section 17 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/17 and 5/27]~~(Ill. Rev. Stat. 1985, ch. 111 1/2, pars. 1017 and 1027).~~

SOURCE: Filed with Secretary of State January 1, 1978; amended and codified at 6 Ill. Reg. 11497, effective September 14, 1982; amended at 8 Ill. Reg. 2157, effective February 7, 1984; emergency amendment at 9 Ill. Reg. 13371, effective August 16, 1985, for a maximum of 150 days; amended at 10 Ill. Reg. 7337, effective April 22, 1986, amended in R96-18 at 21Ill. Reg. _____, effective _____.

Section 602.105 Standards for Issuance

- a) The Agency shall not grant any construction or operating permit required by this Part, except as otherwise provided in subsection (d) of this section, unless the applicant submits adequate proof that the public water supply will be constructed, modified or operated so as not to cause a violation of the Environmental Protection Act [415 ILCS 5]~~(Ill. Rev. Stat. 11981, ch. 111 1/2, pars. 1001 et seq.)~~.
- b) The Agency shall not grant any construction or operating permit required by this Part unless the applicant submits adequate proof that the public water supply facility conforms to the design criteria promulgated by the Agency under Section 39(a) of the Act or Section 602.115 or is based on such other criteria which the applicant proves will produce consistently satisfactory results.
- c) The Agency shall not grant any construction permit required by this Part unless the applicant submits proof that any plan documents required by this Section and Section 602.108 have been prepared by a person qualified under the Illinois Architecture Practice Act [225 ILCS 305]~~(Ill. Rev. Stat. 1981, ch. 111, pars. 1201 et seq.)~~, the Illinois Professional Engineering Practice Act [225 ILCS 325]~~(Ill. Rev. Stat. 1981, ch. 111, pars. 5101 et seq.)~~, the Illinois Structural Engineering Licensing Act [225 ILCS 340]~~(Ill. Rev. Stat. 1981, ch. 111, pars. 6501 et seq.)~~, or any required combination thereof.

- d) Until the effective date of either a National Primary Drinking Water Regulation for radium-226, radium-228, or gross alpha particle activity that replaces the National Interim Primary Drinking Water Regulations for these contaminants, adopted by USEPA on July 9, 1976, or the formal withdrawal of the proposed National Primary Drinking Water Regulations for these contaminants, as proposed by USEPA on July 18, 1991 (56 Fed. Reg. 33050), the Agency shall not deny for the following reasons any construction or operating permit required by this part:
- 1) the radium-226 level is less than or equal to 20 pCi/L;
 - 2) the radium-228 level is less than or equal to 20 pCi/L; or
 - 3) the gross alpha particle activity level minus the radium-226 level is less than or equal to 15 pCi/L.

(Source: Amended at 21 Ill. Reg. _____, effective _____.)

Section 602.106 Restricted Status

- a) Restricted status shall be defined as the Agency determination, pursuant to Section 39(a) of the Act and Section 602.105, that a public water supply facility may no longer be issued a construction permit without causing a violation of the Act or this Chapter.
- b) The Agency shall publish and make available to the public at intervals of not more than six months, a comprehensive and up-to-date list of supplies subject to restrictive status and the reasons why.
- c) The Agency shall notify the owners or official custodians of supplies when the supply is initially placed on restricted status by the Agency.
- d) Until the effective date of either a National Primary Drinking Water Regulation for radium-226, radium-228, or gross alpha particle activity that replaces the National Interim Primary Drinking Water Regulations for these contaminants, adopted by USEPA on July 9, 1976, or the formal withdrawal of the proposed National Primary Drinking Water Regulations for these contaminants, as proposed by USEPA on July 18, 1991 (56 Fed. Reg. 33050), the Agency shall not place public water supplies on restricted status when:
 - 1) the radium-226 level is less than or equal to 20 pCi/L;
 - 2) the radium-228 level is less than or equal to 20 pCi/L; or

- 3) the gross alpha particle activity level minus the radium-226 level is less than or equal to 15 pCi/L.

(Source: Amended at 21 Ill. Reg. _____, effective _____.)

Section 602.108 Construction Permit Applications

All applications for any construction permit required under this Chapter shall contain, where appropriate, the following information and documents:

- a) A summary of the design basis;:-
- b) Operation requirements;:-
- c) General Layout;:-
- d) Detailed Plans;:-
- e) Specifications;:-
- f) A professional seal to satisfy Section 602.105 (cb) requirements; and-
- g) Any other information required by the Agency for proper consideration of the permit.

(Source: Amended at 21 Ill. Reg. _____, effective _____.)

Section 602.110 Algicide Permit Applications

- a) All applications for algicide permits shall contain:
 - 1) the name and certificate number of the certified operator supervising the application of the algicide;
 - 2) a statement describing the extent of the algae problem, history of any past algae problems, and algicide treatments, and a description of any fish kills which have resulted from treatments in the past; and
 - 3) adequate information to support exceeding the limits as stated in 35 Ill. Adm. Code 302: Water Quality Standards.
- b) After any algicide permit is issued, and before the permit expires by its stated terms, if there is any major change either in the operation of the public water

supply, or in algae growth, which affects the use of the algicide as outlined in the permit, the public water supply shall submit an application for modification of its permit. This application shall contain all the information required by this subsection (b) and subsection (a) above.

- c) Any algicide permit issued under this Section shall exempt the permittee from obtaining an aquatic pesticide permit as provided in 35 Ill. Adm. Code 652.601.

(Source: Amended at 21 Ill. Reg. _____, effective _____.)

Section 602.114 Conditions

In addition to specific conditions authorized under this Part, the Agency may impose such conditions in a permit as may be necessary to accomplish the purposes of the Act and as are not inconsistent with regulations promulgated by the Illinois Pollution Control Board (Board).

(Source: Amended at 21 Ill. Reg. _____, effective _____.)

Section 602.115 Design, Operation, and Maintenance Criteria

- a) The Agency may adopt criteria, published in the form of Technical Policy Statements, for the design, operation, and maintenance of public water supply facilities as necessary to insure safe, adequate, and clean water. These criteria shall be revised from time to time to reflect current engineering judgment and advances in the state of the art.
- b) Before adopting new criteria or making substantive changes to any Technical Policy Statements, the Agency shall comply with the provisions of the Administrative Procedure Act [5 ILCS 100](Ill. Rev. Stat. 1981, ch. 127, pars. 1001 et seq.).

(Source: Amended at 21 Ill. Reg. _____, effective _____.)

Section 602.120 Limitations

Any permit issued under this Part shall not be considered to be valid unless and until all applicable permits from State agencies, including but not limited to those listed below, have been applied for:

AGENCY	PERMIT DESCRIPTION
Illinois Commerce Commission	Certificate of Convenience and Necessity
Dept. of Mines and Minerals	

Div. of Oil and Gas	Well Drilling
<u>Dept. of Natural Resources</u>	
Dept. of Transportation	Changes to Existing
<u>Office of Water Resources</u>	
Division of Water Resource Management	Waterways

(Source: Amended at 21 Ill. Reg. _____, effective _____.)

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

PART 603
 OWNERSHIP AND RESPONSIBLE PERSONNEL

- Section
- 603.101 Ownership
- 603.102 Responsible Personnel
- 603.103 Certified Operator
- 603.104 Registered Person in Responsible Charge
- 603.105 Notification of Change of Ownership or Responsible Personnel

Appendix: References to Former Rules

AUTHORITY: Implementing Section 17 and authorized by Section 27 of the Environmental Protection Act (~~Ill. Rev. Stat. 1981, ch. 111 1/2, pars. 1017 and 1027~~)[415 ILCS 5/17 and 5/27].

SOURCE: Filed with Secretary of State January 1, 1978; amended and codified at 6 Ill. Reg. 11497, effective September 14, 1982; amended in R96-18 at 21 Ill. Reg. _____, effective _____.

Section 603.102 Responsible Personnel

Each public water supply shall have designated an individual in responsible charge of the operation of that supply properly qualified and registered pursuant to " Public Water Supply Operations Act [415 ILCS 45](~~Ill. Rev. Stat. 1981, ch. 111 1/2, pars. 501 et seq.~~)Water Supply Operator Certification Law", with all provisions of the Public Water Supply Operations Act ~~Water Supply Operator Certification Law~~ complied with.

(Source: Amended at 21 Ill. Reg. _____, effective _____.)

Section 603.103 Certified Operator

- a) Each public water supply, unless exempted under Section 603.104, shall have a certified operator, qualified and registered in accordance with the Public Water Supply Operations Act~~Water Supply Operator Certification Law~~, designated in responsible charge off~~er~~ the supply's operation.
- b) The owner or official custodian and the certified operator designated in responsible charge shall file a signed statement identifying the certified operator in responsible charge on forms provided by the Agency.
 - 1) Both the treatment and distribution facilities of each supply must have responsible personnel indicated.
 - 2) One properly certified operator may supervise both the treatment and distribution facilities of the supply.
- c) Completion of the above forms shall indicate acceptance of the duties and responsibilities for the proper operation and maintenance of the public water supply facilities by both owner or official custodian and certified operator.

(Source: Amended at 21 Ill. Reg. _____, effective _____.)

Section 603.104 Registered Person in Responsible Charge

- a) A public water supply may seek an exemption from the requirement of a certified operator in responsible charge.
- b) Each public water supply seeking such exemption shall so request in writing to the Agency.
- c) Each public water supply exempted from the certified operator requirement by the Agency, pursuant to the Public Water Supply Operations Act~~Water Supply Operator Certification Law~~, shall have either a certified operator or person registered in accordance with the Public Water Supply Operations Act~~Water Supply Operator's Law~~, designated in responsible charge off~~er~~ the supply's operation.
- d) Each public water supply exempted by the Agency and retaining a registered person in responsible charge shall file with the Agency a signed statement identifying the registered person in responsible charge on forms provided by the Agency. Such statement shall also be signed by the registered person in responsible charge.

- 1) Both the treatment and distribution facilities of each supply must have responsible personnel indicated.
 - 2) One properly registered person in responsible charge may supervise both the treatment and distribution facilities of the supply.
- e) Completion of the above forms shall indicate acceptance of the duties and responsibilities for the proper operation and maintenance of the public water supply facilities by both owner or official custodian and registered person in responsible charge.

(Source: Amended at 21 Ill. Reg. _____, effective _____.)

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

PART 607
OPERATION AND RECORD KEEPING

Section

607.101	Protection During Repair Work (Repealed)
607.102	Disinfection Following Repair or Reconstruction (Repealed)
607.103	Emergency Operation
607.104	Cross Connections
607.105	Laboratory Testing Equipment (Repealed)
607.106	Record Maintenance (Repealed)

Appendix References to Former Rules (Repealed)

AUTHORITY: Implementing Section 17 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/17 and 5/27]~~(Ill. Rev. Stat. 1981, ch. 111 1/2, pars 1017 and 1027).~~

SOURCE: Filed with Secretary of State January 1, 1978; amended and codified at 6 Ill. Reg. 11497, effective September 14, 1982; amended in R88-26 at 14 Ill. Reg. 16512, effective September 20, 1990; amended in R95-17 at 20 Ill. Reg. 14423, effective October 22, 1996; amended in R96-18 at 21 Ill. Reg. _____, effective _____..

Section 607.103 Emergency Operation

- a) Whenever contamination is determined to persist in a public water supply, as demonstrated by ~~microbiological~~bacteriological analysis results, the owners or official custodians of the supply shall notify all consumers to boil for five

minutes all water used for drinking or culinary purposes. This boil order shall remain in effect until microbiological~~bacteriological~~ samples demonstrate that the water is safe for domestic use, or until appropriate corrective action approved by the Agency is taken. If the owner or official custodian of the supply fails to take such action on his own or at the recommendation of the Agency, the Agency may issue a boil order directly to the consumers affected.

- b) Any emergency which results in water pressures falling below twenty pounds per square inch on any portion of the distribution system shall be reason for immediate issuance of a boil order by the owner or official custodian of the supply to those consumers affected unless:
- 1) There is a historical record of adequate chlorine residual and approved turbidity levels in the general area affected covering at least twelve monthly readings; ~~and-~~
 - 2) Samples for bacteriological examination are taken in the affected area immediately and approximately twelve hours later; and-
 - 3) Tests for residual chlorine and turbidity taken at not more than hourly intervals in the affected area for several hours do not vary significantly from the historical record. If significant decrease in chlorine residual or increase in turbidity occurs, a boil order shall be issued.
- c) Whenever the safety of a supply is endangered for any reason, including but not limited to spillage of hazardous substances, the Agency shall be notified immediately by the owner, official custodian or his authorized representative, and the supply officials shall take appropriate action to protect the supply. The owner, official custodian or his authorized representative shall notify all consumers of appropriate action to protect themselves against any waterborne hazards. If the owner or official custodian of the supply fails to take such action on his own or at the recommendation of the Agency, the Agency shall notify directly the consumers affected.

(Source: Amended at 21 Ill. Reg. _____, effective _____.)

Section 607.104 Cross Connections

- a) No physical connection shall be permitted between the potable portion of a supply and any other water supply not of equal or better bacteriological and chemical quality as determined by inspection and analysis by the Agency, except as provided for in subsection (d) of this Section.
- b) There shall be no arrangement or connection by which an unsafe substance may enter a supply.

- c) Control of all cross-connections to a supply is the responsibility of the owner or official custodian of the supply. If a privately owned water supply source meets the applicable criteria, it may be connected to a water supply upon approval by the owner or official custodian and by the Agency. Where such connections are permitted, it is the responsibility of the public water supply officials to assure submission from such privately owned water supply source or sources samples and operating reports as required by 35 Ill. Adm. Code ~~611605 and 606~~ as applicable to the cross-connected source.
- d) The Agency may adopt specific conditions for control of unsafe cross-connections, which shall be complied with by the supplies of this State, as applicable. These conditions shall be adopted and/or changed by the Agency as prescribed in 35 Ill. Adm. Code 602.115.
- e) Each community water supply exempted pursuant to 35 Ill. Adm. Code 603.104103 or ^sSection 17(b) of the Act ~~604.402~~ shall provide an active program approved by the Agency to continually educate and inform water supply consumers regarding prevention of the entry of contaminants into the distribution system. Conditions under which the Agency will approve this active program shall be adopted or changed by the Agency as prescribed in 35 Ill. Adm. Code 602.115.

(Source: Amended at 21 Ill. Reg. _____, effective _____.)

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

PART 615

EXISTING ACTIVITIES IN A SETBACK ZONE OR REGULATED RECHARGE AREA

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AUTHORITY: Implementing and authorized by Sections 5, 14.4, 21, 22, and 27 of the Environmental Protection Act [415 ILCS, 5/5, 14.4, 21, 22, and 27](~~Ill. Rev. Stat. ch. 1991, ch. 111 1/2, pars. 1005, 1014.4, 1021 and 1027~~).

SOURCE: Adopted in R89-5 at 16 Ill. Reg. 1538, effective January 10, 1992; amended in R92-20 at 17 Ill. Reg. 1871, effective January 28, 1993; amended in R96-18 at 21 Ill. Reg. , effective _____.

NOTE: CAPITALIZATION DENOTES STATUTORY LANGUAGE.

SUBPART A: GENERAL

Section 615.102 Definitions

Except as stated in this Section, and unless a different meaning of a word or term is clear from the context, the definitions of words or terms in this Part shall be the same as those used in the Act or the Illinois Groundwater Protection Act [415 ILCS 55]~~(Ill. Rev. Stat. 1989, ch. 111 1/2, pars. 7451 et seq.)~~:

"Above-ground storage tank" means a storage tank that is not an underground storage tank.

"Act" means the Environmental Protection Act [415 ILCS 5]~~(Ill. Rev. Stat. 1989, ch. 111 1/2, pars. 1001 et seq.)~~.

"Agency" means the Illinois Environmental Protection Agency.

"Board" means the Illinois Pollution Control Board.

"Certification" means a statement of professional opinion based upon knowledge and belief.

"COMMUNITY WATER SUPPLY" MEANS A PUBLIC SUPPLY WHICH SERVES OR IS INTENDED TO SERVE AT LEAST 15 SERVICE CONNECTIONS USED BY RESIDENTS OR REGULARLY SERVES AT LEAST 25 RESIDENTS. (Section 3.05 of the Act)

"Compliance point" means any point in groundwater designated at 35 Ill. Adm. Code 620.Subpart B as a Class I through III groundwater at which a contaminant released from the unit could pass underneath the unit boundary. There may be more than one compliance point for a particular unit.

"Commencement of construction" means that ALL NECESSARY FEDERAL, STATE, AND LOCAL APPROVALS HAVE BEEN OBTAINED, AND WORK AT THE SITE HAS BEEN INITIATED AND PROCEEDS IN A REASONABLY CONTINUOUS MANNER TO COMPLETION. (Section 3.58 of the Act)

"Container" means any portable device (including, but not limited to, 55 gallon drums) in which material is stored, treated, disposed of or otherwise handled. The term "container" does not include a vehicle used to transport material.

"Containerized" means being in a container.

"CONTAMINANT" IS ANY SOLID, LIQUID, OR GASEOUS MATTER, ANY ODOR, OR ANY FORM OF ENERGY, FROM WHATEVER SOURCE. (Section 3.06 of the Act)

"CONTAMINATION" OR "CONTAMINATE", WHEN USED IN CONNECTION WITH GROUNDWATER, MEANS WATER POLLUTION OF SUCH GROUNDWATER. (Section 3.63 of the Act)

"Date of first applicability" means the effective date of this Part for any unit located within a minimum setback zone, except that:

If a unit is first incorporated into any setback zone by an ordinance or regulation that establishes a maximum setback zone, the date of first applicability is the effective date of this Part or the effective date of the ordinance or regulation that establishes the maximum setback zone, whichever is later; or

If a unit is located in a part of a regulated recharge area that was not previously part of a setback zone, the date of first applicability is the effective date of the regulation that establishes the regulated recharge area.

"De-Icing agent" means a chemical used for de-icing, including but not limited to sodium chloride and calcium chloride. Sand, ashes, or other abrasive materials that do not alter the freezing point of water are not de-icing agents.

"Detection" means the identification of a contaminant in a sample at a value equal to or greater than the:

"Method Detection Limit" or "MDL", which means the minimum concentration of a substance that can be measured as reported with 99 percent confidence that the true value is greater than zero pursuant to 56 Fed. Reg. 3526-3597; incorporated by reference at Section 615.103; or

"Method Quantitation Limit" or "MQL", which means the minimum concentration of a substance that can be measured and reported pursuant to "Test Methods for Evaluating Solid Wastes, Physical/ Chemical Methods", incorporated by reference at Section 615.103.

"Dike" means an embankment or ridge of either natural or manmade materials used to prevent the movement of liquids, sludges, solids, or other materials.

"Discharge" means the accidental or intentional spilling, leaking, pumping, pouring, emitting, emptying or dumping of any material onto or on any land or water.

"DISPOSAL" MEANS THE DISCHARGE, DEPOSIT, INJECTION, DUMPING, SPILLAGE, LEAKING OR PLACING OF ANY WASTE OR HAZARDOUS WASTE INTO OR ON ANY LAND OR WATER OR INTO ANY WELL SO THAT SUCH WASTE OR HAZARDOUS WASTE OR ANY CONSTITUENT THEREOF MAY ENTER THE ENVIRONMENT OR BE EMITTED INTO THE AIR OR DISCHARGED INTO ANY WATERS, INCLUDING GROUNDWATERS. (Section 3.08 of the Act)

"Existing unit" means a unit that was in operation or for which there is commencement of construction on or before the date of first applicability, except that a unit is not an existing unit if the unit:

Expands laterally beyond the currently permitted boundary, or the unit boundary if the unit is not permitted, in existence after the date of first applicability; or

Is part of a facility that undergoes major reconstruction after the date of first applicability; or

Reopens at any time after having submitted a certification of closure to the Agency.

"Facility" means all contiguous land and structures, other appurtenances and improvements on the land used for the treating, storing, handling, or disposal of any material which causes that unit to be regulated under this Part. A facility may consist of one or more units.

"Freeboard" means the vertical distance between the top of a tank or dike and the surface of the material contained therein.

"Free liquids" means liquids which readily separate from the solid portion of a waste under ambient temperature and pressure. To demonstrate the absence or presence of free liquids in either a containerized or a bulk waste, the following test must be used: Method 9095 (Paint Filter Liquids Test) as described in "Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods" (EPA Publication No. SW-846), incorporated by reference at Section 615.103.

"GROUNDWATER" MEANS UNDERGROUND WATER WHICH OCCURS WITHIN THE SATURATED ZONE AND GEOLOGIC MATERIALS WHERE THE FLUID PRESSURE IN THE PORE SPACE IS EQUAL TO OR GREATER THAN ATMOSPHERIC PRESSURE. (Section 3.64 of the Act)

"Groundwater standards" means the water quality standards for groundwater adopted by the Board under Section 8 of the Illinois Groundwater Protection Act [415 ILCS 55/8](~~Ill. Rev. Stat. 1989, ch. 111 1/2, par. 7458~~) and found at 35 Ill. Adm. Code 620.

"HAZARDOUS WASTE" MEANS A WASTE, OR COMBINATION OF WASTES, WHICH BECAUSE OF ITS QUANTITY, CONCENTRATION, OR PHYSICAL, CHEMICAL, OR INFECTIOUS CHARACTERISTICS MAY CAUSE OR SIGNIFICANTLY CONTRIBUTE TO AN INCREASE IN MORTALITY OR AN INCREASE IN SERIOUS, IRREVERSIBLE, OR INCAPACITATING REVERSIBLE, ILLNESS; OR POSE A SUBSTANTIAL PRESENT OR POTENTIAL HAZARD TO HUMAN HEALTH OR THE ENVIRONMENT WHEN IMPROPERLY TREATED, STORED, TRANSPORTED, OR DISPOSED OF, OR OTHERWISE MANAGED, AND WHICH HAS BEEN IDENTIFIED, BY CHARACTERISTICS OR LISTING, AS HAZARDOUS PURSUANT 35 Ill. Adm. Code 721. (Section 3.15 of the Act)

"Incompatible material" means a material which may:

Cause corrosion or decay of containment materials (e.g., container inner liners or tank walls); or

When commingled with another material, produces heat or pressure, fire, explosion, violent reaction, toxic dusts, mists, fumes or gases, or flammable fumes or gases.

"Landfill" means a unit or part of a facility in or on which waste is placed and accumulated over time for disposal, and which is not a land application unit, a surface impoundment or an underground injection well.

"LANDSCAPE WASTE" MEANS ALL ACCUMULATIONS OF GRASS OR SHRUBBERY CUTTINGS, LEAVES, TREE LIMBS AND OTHER MATERIALS ACCUMULATED AS THE RESULT OF THE CARE OF LAWNS, SHRUBBERY, VINES AND TREES. (Section 3.20 of the Act)

"Land application unit" means an area where wastes are agronomically spread over or disked into land or otherwise applied so as to become incorporated into the soil surface.

"Land treatment" means the application of waste onto or incorporation of waste into the soil surface. For the purposes of this Part a land application unit is a land treatment unit.

"Leachate" means any liquid, including suspended components in the liquid, that has percolated through or drained from a material.

"Licensed water well contractor" means a person licensed under the Water Well and Pump Installation Contractor's License Act [225 ILCS 345]~~(Ill. Rev. Stat. 1989, ch. 111, pars. 7101 et seq.)~~.

"Liner" means a continuous layer of natural or manmade materials beneath or on the side of a surface impoundment, landfill, landfill cell, waste pile, or storage pile which restricts the downward or lateral escape of waste, waste constituents, leachate or stored materials.

"Major reconstruction" means commencement of construction at a facility where the fixed capital cost of the new components constructed within a 2-year period exceeds 50% of the fixed capital cost of a comparable entirely new facility. New components do not include any new components necessary for compliance with this Part.

"New unit" means a unit that is not an existing unit.

"NON-COMMUNITY WATER SUPPLY" MEANS A PUBLIC WATER SUPPLY THAT IS NOT A COMMUNITY WATER SUPPLY. (Section 3.05 of the Act)

"Non-special waste" means a waste that is not a special waste.

"Off-site" means not on-site.

"On-site", "on the site", or "on the same site" means the same or geographically contiguous property which may be divided by public or private right-of-way, provided the entrance and exit between the properties is at a crossroads intersection and access is by crossing as opposed to going along the right-of-way. Noncontiguous properties owned by the same person but connected by a right-of-way which he controls and to which the public does not have access is also considered on-site property.

"Operator" means the person responsible for the operation of a site, facility or unit.

"Owner" means the person who owns a site, facility or unit or part of a site, facility or unit, or who owns the land on which the site, facility or unit is located.

"PESTICIDE" MEANS ANY SUBSTANCE OR MIXTURE OF SUBSTANCES INTENDED FOR PREVENTING, DESTROYING,

REPELLING, OR MITIGATING ANY PEST OR ANY SUBSTANCE OR MIXTURE OF SUBSTANCES INTENDED FOR USE AS A PLANT REGULATOR, DEFOLIANT OR DESICCANT. (Section 3.71 of the Act)

"Pile" means any noncontainerized accumulation of solid, non-flowing material that is used for treatment, storage or disposal.

"POTABLE" MEANS GENERALLY FIT FOR HUMAN CONSUMPTION IN ACCORDANCE WITH ACCEPTED WATER SUPPLY PRINCIPLES AND PRACTICES. (Section 3.65 of the Act)

"Practical Quantitation Limit" or "PQL" means the lowest concentration or level that can be reliably measured within specified limits of precision and accuracy during routine laboratory operating conditions in accordance with "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, incorporated by reference at Section 615.103.

"PUBLIC WATER SUPPLY" MEANS ALL MAINS, PIPES AND STRUCTURES THROUGH WHICH WATER IS OBTAINED AND DISTRIBUTED TO THE PUBLIC, INCLUDING WELLS AND WELL STRUCTURES, INTAKES AND CRIBS, PUMPING STATIONS, TREATMENT PLANTS, RESERVOIRS, STORAGE TANKS AND APPURTENANCES, COLLECTIVELY OR SEVERALLY, ACTUALLY USED OR INTENDED FOR USE FOR THE PURPOSE OF FURNISHING WATER FOR DRINKING OR GENERAL DOMESTIC USE AND WHICH SERVE AT LEAST 15 SERVICE CONNECTIONS OR WHICH REGULARLY SERVE AT LEAST 25 PERSONS AT LEAST 60 DAYS PER YEAR. A PUBLIC WATER SUPPLY IS EITHER A "COMMUNITY WATER SUPPLY" OR A "NON-COMMUNITY WATER SUPPLY". (Section 3.28 of the Act)

"Reactive material" means a material which meets one or more of the following criteria:

It is normally unstable and readily undergoes violent change without detonating;

It reacts violently with water;

It forms potentially explosive mixtures with water;

When mixed with water, it generates toxic gases, vapors, or fumes in a quantity sufficient to present a danger to human health or the environment;

It is capable of detonation or explosive reaction if it is subject to a strong initiating source, or if heated under confinement;

It is readily capable of detonation or explosive decomposition or reaction at standard temperature and pressure; or

It is a forbidden explosive as defined in 49 CFR 173 incorporated by reference at Section 615.103, or a Class A explosive as defined in 49 CFR 173.53 or a Class B explosive as defined in 49 CFR 173.88.

"Registered land surveyor" means a person registered under the Illinois Professional Land Surveyors Act of 1989 [225 ILCS 330]~~(Ill. Rev. Stat. 1989, ch. 111, pars. 3201 et seq.)~~.

"Registered professional engineer" means a person registered under the Illinois Professional Engineering Practice Act of 1989 [225 ILCS 325]~~(Ill. Rev. Stat. 1989, ch. 111, pars. 5101 et seq.)~~.

"REGULATED RECHARGE AREA" MEANS A COMPACT GEOGRAPHIC AREA, AS DETERMINED BY THE BOARD pursuant to Section 17.4 of the Act, THE GEOLOGY OF WHICH RENDERS A POTABLE RESOURCE GROUNDWATER PARTICULARLY SUSCEPTIBLE TO CONTAMINATION. (Section 3.67 of the Act)

"Road oil" means slow-curing asphaltic oils which show no separation on standing and which are used for road construction, maintenance or repair.

"Runoff" means any rainwater, leachate or other liquid that drains over land from any part of a facility.

"Run-on" means any rainwater, leachate or other liquid that drains over land onto any part of a facility.

"Secondary containment structure" means any structure or basin intended to contain spills and prevent runoff or leaching from piles, containers, or tanks and related piping.

"SETBACK ZONE" MEANS A GEOGRAPHIC AREA, DESIGNATED PURSUANT TO THIS ACT, CONTAINING A POTABLE WATER SUPPLY WELL OR A POTENTIAL SOURCE OR POTENTIAL ROUTE HAVING A CONTINUOUS BOUNDARY, AND WITHIN WHICH CERTAIN PROHIBITIONS OR REGULATIONS ARE APPLICABLE IN ORDER TO PROTECT GROUNDWATERS. (Section 3.61 of the Act)

"SITE" MEANS ANY LOCATION, PLACE, TRACT OF LAND, AND FACILITIES, INCLUDING BUT NOT LIMITED TO BUILDINGS, AND IMPROVEMENTS USED FOR PURPOSES SUBJECT TO REGULATION OR CONTROL BY THIS ACT OR REGULATIONS THEREUNDER.
(Section 3.43 of the Act)

"SLUDGE" MEANS ANY SOLID, SEMI-SOLID, OR LIQUID WASTE GENERATED FROM A MUNICIPAL, COMMERCIAL, OR INDUSTRIAL WASTEWATER TREATMENT PLANT, WATER SUPPLY TREATMENT PLANT, OR AIR POLLUTION CONTROL FACILITY OR ANY OTHER SUCH WASTE HAVING SIMILAR CHARACTERISTICS AND EFFECTS.
(Section 3.44 of the Act)

"SPECIAL WASTE" MEANS ANY INDUSTRIAL PROCESS WASTE, POLLUTION CONTROL WASTE OR HAZARDOUS WASTE, EXCEPT AS DETERMINED PURSUANT TO SECTION 22.9 OF the Act and 35 Ill. Adm. Code 808. (Section 3.45 of the Act)

"STORAGE" means the holding or containment of a material, either on a temporary basis or for a period of years, in such manner as not to constitute disposal of such material.

"Surface impoundment" means a natural topographical depression, man-made excavation, or diked area that is designed to hold liquid wastes or wastes containing free liquids.

"Surface water" means all waters that are open to the atmosphere.

"Tank" means a stationary device, designed to contain an accumulation of material which is constructed of non-earthen materials (e.g., wood, concrete, steel, plastic) which provide structural support. The term "tank" does not include areas used to accumulate materials prior to pumping to tanks or containers (i.e., sump pits) or associated piping. The term "tank" does not include vehicles used to transport material.

"Treatment" means any method, technique or process, including neutralization, designed to change the physical, chemical or biological character or composition of any material so as to neutralize such material, or so as to recover energy or material resources from the material or so as to render such material nonhazardous or less hazardous, safer to transport, store or dispose of, or amenable for recovery, amenable for storage or reduced in volume.

"Underground storage tank" means a storage tank as defined at 35 Ill. Adm. Code 731.101(f).

"UNIT" MEANS ANY DEVICE, MECHANISM, EQUIPMENT, OR AREA (EXCLUSIVE OF LAND UTILIZED ONLY FOR AGRICULTURAL PRODUCTION). (Section 3.62 of the Act)

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

"WASTE" MEANS ANY GARBAGE, SLUDGE FROM A WASTE TREATMENT PLANT, WATER SUPPLY TREATMENT PLANT, OR AIR POLLUTION CONTROL FACILITY OR OTHER DISCARDED MATERIAL, INCLUDING SOLID, LIQUID, SEMI-SOLID, OR CONTAINED GASEOUS MATERIAL RESULTING FROM INDUSTRIAL, COMMERCIAL, MINING AND AGRICULTURAL OPERATIONS, AND FROM COMMUNITY ACTIVITIES, BUT DOES NOT INCLUDE:

INDUSTRIAL DISCHARGES WITH NPDES PERMITS ISSUED PURSUANT TO 35 ILL. ADM. CODE 309;

SOURCE, SPENT NUCLEAR, OR BY-PRODUCT MATERIALS AS DEFINED BY THE ATOMIC ENERGY ACT OF 1954 (42 U.S.C. 2014);

ANY SOLID OR DISSOLVED MATERIAL FROM ANY MATERIAL SUBJECT TO 62 ILL. ADM. CODE 1700 THROUGH 1850. (Section 3.53 of the Act)

"Waste pile" means a pile consisting of waste that has a total volume greater than 10 cubic yards or within which the waste remains for more than 90 days.

"WATERS" MEANS ALL ACCUMULATIONS OF WATER, SURFACE AND UNDERGROUND, NATURAL AND ARTIFICIAL, PUBLIC AND PRIVATE, OR PARTS THEREOF, WHICH ARE WHOLLY OR PARTLY WITHIN, FLOW THROUGH, OR BORDER UPON THIS STATE. (Section 3.56 of the Act)

"WELL" MEANS A BORED, DRILLED OR DRIVEN SHAFT, OR DUG HOLE, THE DEPTH OF WHICH IS GREATER THAN THE LARGEST SURFACE DIMENSION. (Section 3.57 of the Act)

(Source: Amended at 21 Ill. Reg. _____, effective _____.)

SUBPART B: GROUNDWATER MONITORING REQUIREMENTS

Section 615.204 Groundwater Monitoring System

- a) Except as provided otherwise in subsection (b) of this Section, the groundwater monitoring system must consist of a sufficient number of wells, installed at appropriate locations and depths to yield groundwater samples, that:
 - 1) Represent the quality of background water that has not been affected by contamination from the facility or unit; and
 - 2) Represent the quality of groundwater at the compliance point or points.
- b) If a potable water well or other water well can be used as a monitoring well pursuant to this subsection, no additional monitoring wells are required under this Section. A potable water well or other water well may be used as a monitoring well if:
 - 1) For a potable water well other than a community water supply well, a construction report has been filed with the Illinois Department of Public Health for such well, or such well has been located and constructed (or reconstructed) to meet the Illinois Water Well Construction Code [415 ILCS 30]~~(Ill. Rev. Stat. 1989, ch. 111 1/2, pars. 116.111 et seq.)~~ and 35 Ill. Adm. Code 920;
 - 2) For a water well other than a potable water well (e.g., a livestock watering well or an irrigation well), the owner or operator of the unit seeking to use the well as a monitoring well certifies to the Agency that a construction report has been filed with the Illinois Department of Public Health or the Illinois Department of Mines and Minerals for such well, or that such well has been located and constructed (or reconstructed) to meet the Illinois Water Well Construction Code [415 ILCS 30]~~(Ill. Rev. Stat. 1989, ch. 111 1/2, pars. 116.111 et seq.)~~, and 35 Ill. Adm. Code 920; and
 - 3) The unit contains solely non-special waste if the unit is a surface impoundment.
- c) If a facility contains more than one unit, separate groundwater monitoring systems are not required for each unit, provided that provisions for sampling the groundwater will enable detection and measurement of contaminants that have entered the groundwater from all units.
- d) All monitoring wells must meet the following requirements:

- 1) Construction must be done in a manner that will enable the collection of groundwater samples;
- 2) Casings and screens must be made from durable material that is resistant to expected chemical or physical degradation and that does not interfere with the quality of groundwater samples being collected; and
- 3) The annular space opposite the screened section of the well (i.e., the space between the bore hole and well screen) must be filled with gravel or sand if necessary to collect groundwater samples. The annular space above and below the well screen must be sealed to prevent migration of water from overlying adjacent formations and the surface to the sampled depth.

(Source: Amended at 21 Ill. Reg. _____, effective _____.)

SUBPART G: ON-SITE WASTE PILES

Section 615.462 Required Closure

A waste pile is deemed to be a landfill and thereby subject to the closure requirements of Subpart ~~D~~E unless the operator can demonstrate to the Agency that the wastes are not accumulated over time for disposal. At the minimum, such demonstration shall include photographs, records, or other observable or discernable information, maintained on a yearly basis, that show that within the preceding year the waste has been removed for utilization or disposed elsewhere.

(Source: Amended at 21 Ill. Reg. _____, effective _____.)

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616.724 Design and Operating Requirements for Indoor Storage Facilities

616.725 Closure

AUTHORITY: Implementing Sections 5, 14.4, 21, and 22, and authorized by Section 27, of the Environmental Protection Act [415 ILCS 5/5, 14.4, 21, 22, 27]~~(Ill. Rev. Stat. 1991, ch. 111 1/2, pars. 1005, 1014.4, 1021, 1022, and 1027).~~

SOURCE: Adopted in R89-5 at 16 Ill. Reg. 1592, effective January 10, 1992; amended in R89-14(C) at 16 Ill. Reg. 14676, effective September 11, 1992; amended in R92-20 at 17 Ill. Reg. 1878, effective January 28, 1993; amended in R96-18 at 21 Ill. Reg. _____, effective .

NOTE: Capitalization denotes statutory language.

SUBPART A: GENERAL

Section 616.101 Purpose

This Part prescribes requirements and standards for the protection of groundwater for certain types of new facilities or units located wholly or partially within a setback zone regulated by the Act or within a regulated recharge area as delineated pursuant to Section 17.4 of the Illinois Environmental Protection Act (Act) [415 ILCS 5]~~(Ill. Rev. Stat. 1989, ch. 111 1/2, pars. 1001 et seq.).~~

(Source: Amended at 21 Ill. Reg. _____, effective _____.)

Section 616.102 Definitions

Except as stated in this Section, and unless a different meaning of a word or term is clear from the context, the definitions of words or terms in this Part shall be the same as those used in 35 Ill. Adm. Code 615.102, the Act, or the Illinois Groundwater Protection Act [415 ILCS 55]~~(Ill. Rev. Stat. 1989, ch. 111 1/2, pars. 7451 et seq.).~~

"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.

(Section 3.59 of the Act)

"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.

(Section 3.58 of the Act)

"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

A POTENTIAL SECONDARY SOURCE WHICH 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

A POTENTIAL SECONDARY 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.

(Section 3.60 of the Act)

"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

IS UTILIZED FOR THE LANDFILLING, LAND TREATING, SURFACE IMPOUNDING OR PILING OF ANY HAZARDOUS OR SPECIAL WASTE THAT IS GENERATED ON THE SITE OR AT OTHER SITES OWNED, CONTROLLED OR OPERATED BY THE SAME PERSON; OR

STORES OR ACCUMULATES AT ANY TIME MORE THAN 75,000 POUNDS ABOVE GROUND, OR MORE THAN 7,500 POUNDS BELOW GROUND, OF ANY HAZARDOUS SUBSTANCES.

(Section 3.59 of the Act)

"POTENTIAL ROUTE" MEANS ABANDONED AND IMPROPERLY PLUGGED WELLS OF ALL KINDS, DRAINAGE WELLS, ALL INJECTION WELLS, INCLUDING CLOSED LOOP HEAT PUMP WELLS, AND ANY EXCAVATION FOR THE DISCOVERY, DEVELOPMENT OR PRODUCTION OF STONE, SAND OR GRAVEL. (Section 3.58 of the Act)

"POTENTIAL SECONDARY SOURCE" MEANS ANY UNIT AT A FACILITY OR A SITE NOT CURRENTLY SUBJECT TO A REMOVAL OR REMEDIAL ACTION, OTHER THAN A POTENTIAL PRIMARY SOURCE, WHICH:

IS UTILIZED FOR THE LANDFILLING, LAND TREATING, OR SURFACE IMPOUNDING OF WASTE THAT IS GENERATED ON THE SITE OR AT OTHER SITES OWNED, CONTROLLED OR OPERATED BY THE SAME PERSON, OTHER THAN LIVESTOCK AND LANDSCAPE WASTE, AND CONSTRUCTION AND DEMOLITION DEBRIS; OR

STORES OR ACCUMULATES AT ANY TIME MORE THAN 25,000 BUT NOT MORE THAN 75,000 POUNDS ABOVE GROUND, OR MORE THAN 2,500 BUT NOT MORE THAN 7,500 POUNDS BELOW GROUND, OF ANY HAZARDOUS SUBSTANCES; OR

STORES OR ACCUMULATES AT ANY TIME MORE THAN 25,000 GALLONS ABOVE GROUND, OR MORE THAN 500 GALLONS BELOW GROUND, OF PETROLEUM, INCLUDING CRUDE OIL OR ANY FRACTION THEREOF WHICH IS NOT OTHERWISE SPECIFICALLY LISTED OR DESIGNATED AS A HAZARDOUS SUBSTANCE; OR

STORES OR ACCUMULATES PESTICIDES, FERTILIZERS, OR ROAD OILS FOR PURPOSES OF COMMERCIAL APPLICATION OR FOR DISTRIBUTION TO RETAIL SALES OUTLETS; OR

STORES OR ACCUMULATES AT ANY TIME MORE THAN 50,000 POUNDS OF ANY DE-ICING AGENT; OR

IS UTILIZED FOR HANDLING LIVESTOCK WASTE OR FOR TREATING DOMESTIC WASTEWATERS OTHER THAN PRIVATE SEWAGE DISPOSAL SYSTEMS AS DEFINED IN THE PRIVATE SEWAGE DISPOSAL LICENSING ACT [225 ILCS 225]~~(Ill. Rev. Stat. 1989, ch. 111 1/2, par. 116.301 et seq.)~~

(Section 3.60 of the Act)

(Source: Amended at 21 Ill. Reg. _____, effective _____.)

Section 616.104 Exceptions to Prohibitions

- a) THE OWNER OF A NEW POTENTIAL PRIMARY SOURCE OR A POTENTIAL SECONDARY SOURCE MAY SECURE A WAIVER FROM THE prohibitions specified in Sections 616.402(a), 616.422(a), 616.442, 616.462(a), 616.602, 616.622, 616.702 or 616.722(a) against construction or operation within the setback zone FOR A POTABLE WATER SUPPLY WELL OTHER THAN A COMMUNITY WATER SUPPLY. A WRITTEN REQUEST FOR A WAIVER SHALL BE MADE TO THE OWNER OF THE WATER WELL AND THE AGENCY. SUCH REQUEST SHALL IDENTIFY THE NEW OR PROPOSED POTENTIAL SOURCE, SHALL GENERALLY DESCRIBE THE POSSIBLE EFFECT OF SUCH POTENTIAL SOURCE UPON THE WATER WELL AND ANY APPLICABLE TECHNOLOGY-BASED CONTROL WHICH WILL BE UTILIZED TO MINIMIZE THE POTENTIAL FOR CONTAMINATION, AND SHALL STATE WHETHER, AND UNDER WHAT CONDITIONS, THE REQUESTOR WILL PROVIDE

AN ALTERNATIVE POTABLE WATER SUPPLY. WAIVER MAY BE GRANTED BY THE OWNER OF THE WATER WELL NO LESS THAN 90 DAYS AFTER RECEIPT UNLESS PRIOR TO SUCH TIME THE AGENCY NOTIFIES THE WELL OWNER THAT IT DOES NOT CONCUR WITH THE REQUEST. (Section 14.2(b) of the Act)

- b) THE AGENCY SHALL NOT CONCUR WITH ANY SUCH REQUEST WHICH FAILS TO ACCURATELY DESCRIBE REASONABLY FORESEEABLE EFFECTS OF THE POTENTIAL SOURCE OR POTENTIAL ROUTE UPON THE WATER WELL OR ANY APPLICABLE TECHNOLOGY-BASED CONTROLS. SUCH NOTIFICATION BY THE AGENCY SHALL BE IN WRITING, AND SHALL INCLUDE A STATEMENT OF REASONS FOR THE NONCONCURRENCE. WAIVER OF THE MINIMUM SETBACK ZONE SHALL EXTINGUISH THE WATER WELL OWNER'S RIGHTS UNDER SECTION 6b OF THE ILLINOIS WATER WELL CONSTRUCTION CODE BUT SHALL NOT PRECLUDE ENFORCEMENT OF ANY LAW REGARDING WATER POLLUTION. IF THE OWNER OF THE WATER WELL HAS NOT GRANTED A WAIVER WITHIN 120 DAYS AFTER RECEIPT OF THE REQUEST OR THE AGENCY HAS NOTIFIED THE OWNER THAT IT DOES NOT CONCUR WITH THE REQUEST, THE OWNER OF A POTENTIAL SOURCE OR POTENTIAL ROUTE MAY FILE A PETITION FOR AN EXCEPTION WITH THE BOARD AND THE AGENCY PURSUANT TO subsection (b) OF THIS SECTION. (Section 14.2(b) of the Act)
- c) NO WAIVER UNDER THIS SECTION IS REQUIRED WHERE THE POTABLE WATER SUPPLY WELL IS PART OF A PRIVATE WATER SYSTEM AS DEFINED IN THE ILLINOIS GROUNDWATER PROTECTION ACT, AND THE OWNER OF SUCH WELL WILL ALSO BE THE OWNER OF A NEW POTENTIAL SECONDARY SOURCE OR A POTENTIAL ROUTE. IN SUCH INSTANCES, A PROHIBITION OF 75 FEET SHALL APPLY AND THE OWNER SHALL NOTIFY THE AGENCY OF THE INTENDED ACTION SO THAT THE AGENCY MAY PROVIDE INFORMATION REGARDING THE POTENTIAL HAZARDS ASSOCIATED WITH LOCATION OF A POTENTIAL SECONDARY SOURCE OR POTENTIAL ROUTE IN CLOSE PROXIMITY TO A POTABLE WATER SUPPLY WELL. (Section 14.2(b) of the Act)
- d) THE BOARD MAY GRANT AN EXCEPTION FROM THE SETBACK REQUIREMENTS OF THIS SECTION AND SECTION 14.3 TO THE OWNER OF A NEW POTENTIAL PRIMARY SOURCE OTHER THAN LANDFILLING OR LAND TREATING, OR A NEW POTENTIAL SECONDARY SOURCE. THE OWNER SEEKING AN EXCEPTION WITH RESPECT TO A COMMUNITY WATER SUPPLY WELL SHALL FILE A PETITION WITH THE BOARD AND THE AGENCY. THE OWNER

SEEKING AN EXCEPTION WITH RESPECT TO A POTABLE WATER SUPPLY WELL SHALL FILE A PETITION WITH THE BOARD AND THE AGENCY, AND SET FORTH THEREIN THE CIRCUMSTANCES UNDER WHICH A WAIVER HAS BEEN SOUGHT BUT NOT OBTAINED PURSUANT TO subsection (a) OF THIS SECTION. A PETITION SHALL BE ACCOMPANIED BY PROOF THAT THE OWNER OF EACH POTABLE WATER SUPPLY WELL FOR WHICH SETBACK REQUIREMENTS WOULD BE AFFECTED BY THE REQUESTED EXCEPTION HAS BEEN NOTIFIED AND BEEN PROVIDED WITH A COPY OF THE PETITION. A PETITION SHALL SET FORTH SUCH FACTS AS MAY BE REQUIRED TO SUPPORT AN EXCEPTION, INCLUDING A GENERAL DESCRIPTION OF THE POTENTIAL IMPACTS OF SUCH POTENTIAL SOURCE OR POTENTIAL ROUTE UPON GROUNDWATERS AND THE AFFECTED WATER WELL, AND AN EXPLANATION OF THE APPLICABLE TECHNOLOGY-BASED CONTROLS WHICH WILL BE UTILIZED TO MINIMIZE THE POTENTIAL FOR CONTAMINATION OF THE POTABLE WATER SUPPLY WELL. (Section 14.2(c) of the Act)

- e) THE BOARD SHALL GRANT AN EXCEPTION, WHENEVER IT IS FOUND UPON PRESENTATION OF ADEQUATE PROOF, THAT COMPLIANCE WITH THE SETBACK REQUIREMENTS OF THIS SECTION WOULD POSE AN ARBITRARY AND UNREASONABLE HARDSHIP UPON THE PETITIONER, THAT THE PETITIONER WILL UTILIZE THE BEST AVAILABLE TECHNOLOGY CONTROLS ECONOMICALLY ACHIEVABLE TO MINIMIZE THE LIKELIHOOD OF CONTAMINATION OF THE POTABLE WATER SUPPLY WELL, THAT THE MAXIMUM FEASIBLE ALTERNATIVE SETBACK WILL BE UTILIZED, AND THAT THE LOCATION OF SUCH POTENTIAL SOURCE OR POTENTIAL ROUTE WILL NOT CONSTITUTE A SIGNIFICANT HAZARD TO THE POTABLE WATER SUPPLY WELL. (Section 14.2(c) of the Act)
- f) A DECISION MADE BY THE BOARD PURSUANT TO THIS SUBSECTION SHALL CONSTITUTE A FINAL DETERMINATION. (Section 14.2(c) of the Act)
- g) THE GRANTING OF AN EXCEPTION BY THE BOARD SHALL NOT EXTINGUISH THE WATER WELL OWNER'S RIGHTS UNDER SECTION 6b OF THE ILLINOIS WATER WELL CONSTRUCTION CODE IN INSTANCES WHERE THE OWNER HAS ELECTED NOT TO PROVIDE A WAIVER PURSUANT TO subsection (a) OF THIS SECTION. (Section 14.2(c) of the Act)

(Source: Amended at 21 Ill. Reg. _____, effective _____.)

SUBPART F: ON-SITE SURFACE IMPOUNDMENTS

Section ~~Subpart~~ 616.447 Closure and Post-Closure Care

- a) If closure is to be by removal, the owner or operator shall remove all waste, all waste residues, contaminated containment system components (liners, etc.), contaminated subsoils and structures and equipment contaminated with waste and leachate; and, if disposed of in the State of Illinois, dispose of them at a disposal site permitted by the Agency under the Act.
- b) If closure is not to be by removal, the owner or operator shall comply with the requirements of Subpart C and shall:
 - 1) Eliminate free liquids by removing liquid wastes or solidifying the remaining wastes and waste residues.
 - 2) Stabilize remaining wastes to a bearing capacity sufficient to support final cover.
 - 3) Cover the surface impoundment unit with a final cover designed and constructed to:
 - A) Provide long-term minimization of the migration of liquids through the closed impoundment unit;
 - B) Function with minimum maintenance;
 - C) Promote drainage and minimize erosion or abrasion of the final cover;
 - D) Accommodate settling and subsidence so that the cover's integrity is maintained; and
 - E) Have a permeability less than or equal to the permeability of any bottom liner system.
- c) If some waste residues or contaminated materials are left in place at final closure, the owner or operator shall comply with the requirements of Subpart C and shall for a period of 5 years after closure:
 - 1) Maintain the integrity and effectiveness of the final cover, including making repairs to the cap as necessary to correct the effects of settling, subsidence, erosion or other events;

- 2) Maintain and monitor the groundwater monitoring system; and
- 3) Prevent run-on and run-off from eroding or otherwise damaging the final cover.

(Source: Amended in R96-18 at _____ Ill. Reg. _____, effective _____.)

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

PART 617
REGULATED RECHARGE AREAS

SUBPART A: GENERAL

Section

617.101 Purpose
617.102 Definitions

AUTHORITY: Implementing Sections 17.4, and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/17.4 and 27]~~(Ill. Rev. Stat. 1991, ch. 111 1/2, pars. 1017.4, and 1027).~~

SOURCE: Adopted in R89-5 at 16 Ill. Reg. 1592, effective January 10, 1992; amended in R96-18 at 21 Ill. Reg. _____, effective _____.)

SUBPART A:GENERAL

Section 617.101 Purpose

This Part sets out regulated recharge areas as delineated pursuant to Section 17.4 of the Illinois Environmental Protection Act (Act) [415 ILCS 5]~~(Ill. Rev. Stat. 1989, ch. 111 1/2, pars. 1001 et seq.).~~

(Source: Amended at 21 Ill. Reg. _____, effective _____.)

Section 617.102 Definitions

Unless a different meaning of a word or term is clear from the context, the definitions of words or terms in this Part shall be the same as those used in 35 Ill. Adm. Code 615.102, the Act, or the Illinois Groundwater Protection Act [415 ILCS 55]~~(Ill. Rev. Stat. 1989, ch. 111 1/2, pars 7451 et seq.).~~

(Source: Amended at 21 Ill. Reg. _____, effective _____.)

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

PART 620
 GROUNDWATER QUALITY

SUBPART A: GENERAL

Section	
620.105	Purpose
620.110	Definitions
620.115	Prohibition
620.125	Incorporations by Reference
620.130	Exemption from General Use Standards and Public and Food Processing Water Supply Standards
620.135	Exclusion for Underground Water in Certain Man-Made Conduits

SUBPART B: GROUNDWATER CLASSIFICATION

Section	
620.201	Groundwater Designations
620.210	Class I: Potable Resource Groundwater
620.220	Class II: General Resource Groundwater
620.230	Class III: Special Resource Groundwater
620.240	Class IV: Other Groundwater
620.250	Groundwater Management Zone
620.260	Reclassification of Groundwater by Adjusted Standard

SUBPART C: NONDEGRADATION PROVISIONS FOR APPROPRIATE
 GROUNDWATERS

Section	
620.301	General Prohibition Against Use Impairment of Resource Groundwater
620.302	Applicability of Preventive Notification and Preventive Response Activities
620.305	Preventive Notification Procedures
620.310	Preventive Response Activities

SUBPART D: GROUNDWATER QUALITY STANDARDS

Section	
620.401	Applicability
620.405	General Prohibitions Against Violations of Groundwater Quality Standards
620.410	Groundwater Quality Standards for Class I: Potable Resource Groundwater
620.420	Groundwater Quality Standards for Class II: General Resource Groundwater
620.430	Groundwater Quality Standards for Class III: Special Resource Groundwater

- 620.440 Groundwater Quality Standards for Class IV: Other Groundwater
 620.450 Alternative Groundwater Quality Standards

SUBPART E: GROUNDWATER MONITORING AND ANALYTICAL PROCEDURES

- Section
 620.505 Compliance Determination
 620.510 Monitoring and Analytical Requirements

SUBPART F: HEALTH ADVISORIES

- Section
 620.601 Purpose of a Health Advisory
 620.605 Issuance of a Health Advisory
 620.610 Publishing Health Advisories
 620.615 Additional Health Advice for Mixtures of Similar-Acting Substances

620.Appendix A Procedures for Determining Human Threshold Toxicant Advisory Concentration for Class I: Potable Resource Groundwater

620.Appendix B Procedures for Determining Hazard Indices for Class I: Potable Resource Groundwater for Mixtures of Similar-Acting Substances

620.Appendix C Guidelines for Determining When Dose Addition of Similar-Acting Substances in Class I: Potable Resource Groundwaters is Appropriate

620.Appendix D Confirmation of an Adequate Corrective Action Pursuant to 35 Ill. Adm. Code 620.250 (a)(2).

AUTHORITY: Implementing Section 8 of the Illinois Groundwater Protection Act [415 ILCS 55/8] and authorized by Section 27 of the Illinois Environmental Protection Act [415 ILCS 5/27](Ill. Rev. Stat. 1981, ch. 111 1/2, par. 7458).

SOURCE: Adopted in R89-14(B) at 15 Ill. Reg. 17614, effective November 25, 1991; amended in R89-14(C) at 16 Ill. Reg. 14667, effective September 11, 1992; amended at 18 Ill. Reg. 14084, effective August 24, 1994; amended in R96-18 at 21 Ill. Reg. _____, effective _____.

NOTE: Capitalization denotes statutory language.

SUBPART A: GENERAL

- Section 620.110 Definitions

The definitions of the Environmental Protection Act [415 ILCS 5]~~(Ill. Rev. Stat. 1989, ch. 111 1/2, par. 1001 et seq.)~~ and the Groundwater Protection Act [415 ILCS 55] ~~(Ill. Rev. Stat. 1989, ch. 111 1/2, pars. 7451 et seq.)~~ apply to this Part. The following definitions also apply to this Part.

"Act" means the Environmental Protection Act [415 ILCS 5]~~(Ill. Rev. Stat. 1989, ch. 111 1/2, pars. 1001 et seq.)~~.

"Agency" means the Illinois Environmental Protection Agency.

"AQUIFER" MEANS SATURATED (WITH GROUNDWATER) SOILS AND GEOLOGIC MATERIALS WHICH ARE SUFFICIENTLY PERMEABLE TO READILY YIELD ECONOMICALLY USEFUL QUANTITIES OF WATER TO WELLS, SPRINGS, OR STREAMS UNDER ORDINARY HYDRAULIC GRADIENTS. (Section 3(b) of the IGPA)

"BETX" means the sum of the concentrations of benzene, ethylbenzene, toluene, and xylenes.

"Board" means the Illinois Pollution Control Board.

"Carcinogen" means a chemical, or complex mixture of closely related chemicals, which has been listed or classified in the Integrated Risk Information System or as specified in a final rule adopted by USEPA in accordance with USEPA Guidelines for Carcinogenic Risk Assessment, incorporated by reference at Section 620.125, to be a group A, B₁, or B₂ carcinogen.

"COMMUNITY WATER SUPPLY" MEANS A PUBLIC SUPPLY WHICH SERVES OR IS INTENDED TO SERVE AT LEAST 15 SERVICE CONNECTIONS USED BY RESIDENTS OR REGULARLY SERVES AT LEAST 25 RESIDENTS. (Section 3.05 of the Act)

"CONTAMINANT" MEANS ANY SOLID, LIQUID, OR GASEOUS MATTER, ANY ODOR, OR ANY FORM OF ENERGY, FROM WHATEVER SOURCE. (Section 3.06 of the Act)

"Corrective action process" means those procedures and practices that may be imposed by a regulatory agency when a determination has been made that contamination of groundwater has taken place, and are necessary to address a potential or existing violation of the standards set forth in Subpart D.

"Cumulative impact area" means the area, including the coal mine area permitted under the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720]~~(Ill. Rev. Stat. 1989, ch. 96 1/2, pars. 7901.01 et seq.)~~

and 62 Ill. Adm. Code 1700 through 1850, within which impacts resulting from the proposed operation may interact with the impacts of all anticipated mining on surface water and groundwater systems.

"Detection" means the identification of a contaminant in a sample at a value equal to or greater than the:

"Method Detection Limit" or "MDL" which means the minimum concentration of a substance that can be measured as reported with 99 percent confidence that the true value is greater than zero, pursuant to 56 Fed. Reg. 3526-3597, incorporated by reference at Section 620.125; or

"Method Quantitation Limit" or "MQL" which means the minimum concentration of a substance that can be measured and reported pursuant to "Test Methods for Evaluating Solid Wastes, Physical/ Chemical Methods", incorporated by reference at Section 620.125.

"Department" means the Illinois Department of Energy and Natural Resources.

"GROUNDWATER" MEANS UNDERGROUND WATER WHICH OCCURS WITHIN THE SATURATED ZONE AND GEOLOGIC MATERIALS WHERE THE FLUID PRESSURE IN THE PORE SPACE IS EQUAL TO OR GREATER THAN ATMOSPHERIC PRESSURE. (Section 3.64 of the Act)

"Hydrologic balance" means the relationship between the quality and quantity of water inflow to, water outflow from, and water storage in a hydrologic unit such as a drainage basin, aquifer, soil zone, lake, or reservoir. It encompasses the dynamic relationships among precipitation, runoff, evaporation, and changes in ground and surface water storage.

"IGPA" means the Illinois Groundwater Protection Act [415ILCS 55]. (~~Ill. Rev. Stat. 1989, ch. 111 1/2, pars. 7451 et seq.~~)

"LOAEL" or "Lowest observable adverse effect level" means the lowest tested concentration of a chemical or substance which produces a statistically significant increase in frequency or severity of non-overt adverse effects between the exposed population and its appropriate control. LOAEL may be determined for a human population (LOAEL-H) or an animal population (LOAEL-A).

"NOAEL" or "No observable adverse effect level" means the highest tested concentration of a chemical or substance which does not produce a statistically significant increase in frequency or severity of non- overt adverse effects between the exposed population and its appropriate control. NOAEL may be

determined for a human population (NOAEL-H) or an animal population (NOAEL-A).

"NON-COMMUNITY WATER SUPPLY" MEANS A PUBLIC WATER SUPPLY THAT IS NOT A COMMUNITY WATER SUPPLY. (Section 3.05)

"Off-site" means not on-site.

"On-site" means on the same or geographically contiguous property which may be divided by public or private right-of-way, provided the entrance and exit between properties is at a crossroads intersection and access is by crossing as opposed to going along the right-of-way. Noncontiguous properties owned by the same person but connected by a right-of-way which he controls and to which the public does not have access is also considered on-site property.

"Operator" means the person responsible for the operation of a site, facility or unit.

"Owner" means the person who owns a site, facility or unit or part of a site, facility or unit, or who owns the land on which the site, facility or unit is located.

"POTABLE" MEANS GENERALLY FIT FOR HUMAN CONSUMPTION IN ACCORDANCE WITH ACCEPTED WATER SUPPLY PRINCIPLES AND PRACTICES. (Section 3.65 of the Act)

"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

IS UTILIZED FOR THE LANDFILLING, LAND TREATING, SURFACE IMPOUNDING OR PILING OF ANY HAZARDOUS OR SPECIAL WASTE THAT IS GENERATED ON THE SITE OR AT OTHER SITES OWNED, CONTROLLED OR OPERATED BY THE SAME PERSON; OR

STORES OR ACCUMULATES AT ANY TIME MORE THAN 75,000 POUNDS ABOVE GROUND, OR MORE THAN 7,500 POUNDS BELOW GROUND, OF ANY HAZARDOUS SUBSTANCES. (Section 3.59 of the Act)

"POTENTIAL ROUTE" MEANS ABANDONED AND IMPROPERLY PLUGGED WELLS OF ALL KINDS, DRAINAGE WELLS, ALL INJECTION WELLS, INCLUDING CLOSED LOOP HEAT PUMP WELLS, AND ANY EXCAVATION FOR THE DISCOVERY, DEVELOPMENT OR PRODUCTION OF STONE, SAND OR GRAVEL. (Section 3.58 of the Act)

"POTENTIAL SECONDARY SOURCE" MEANS ANY UNIT AT A FACILITY OR A SITE NOT CURRENTLY SUBJECT TO A REMOVAL OR REMEDIAL ACTION, OTHER THAN A POTENTIAL PRIMARY SOURCE, WHICH:

IS UTILIZED FOR THE LANDFILLING, LAND TREATING, OR SURFACE IMPOUNDING OF WASTE THAT IS GENERATED ON THE SITE OR AT OTHER SITES OWNED, CONTROLLED OR OPERATED BY THE SAME PERSON, OTHER THAN LIVESTOCK AND LANDSCAPE WASTE, AND CONSTRUCTION AND DEMOLITION DEBRIS; OR

STORES OR ACCUMULATES AT ANY TIME MORE THAN 25,000 BUT NOT MORE THAN 75,000 POUNDS ABOVE GROUND, OR MORE THAN 2,500 BUT NOT MORE THAN 7,500 POUNDS BELOW GROUND, OF ANY HAZARDOUS SUBSTANCES; OR

STORES OR ACCUMULATES AT ANY TIME MORE THAN 25,000 GALLONS ABOVE GROUND, OR MORE THAN 500 GALLONS BELOW GROUND, OF PETROLEUM, INCLUDING CRUDE OIL OR ANY FRACTION THEREOF WHICH IS NOT OTHERWISE SPECIFICALLY LISTED OR DESIGNATED AS A HAZARDOUS SUBSTANCE; OR

STORES OR ACCUMULATES PESTICIDES, FERTILIZERS, OR ROAD OILS FOR PURPOSES OF COMMERCIAL APPLICATION OR FOR DISTRIBUTION TO RETAIL SALES OUTLETS; OR

STORES OR ACCUMULATES AT ANY TIME MORE THAN 50,000 POUNDS OF ANY DE-ICING AGENT; OR

IS UTILIZED FOR HANDLING LIVESTOCK WASTE OR FOR TREATING DOMESTIC WASTEWATERS OTHER THAN PRIVATE SEWAGE DISPOSAL SYSTEMS AS DEFINED IN THE PRIVATE

SEWAGE DISPOSAL LICENSING ACT [225 ILCS 225]. (~~Ill. Rev. Stat. 1989, ch. 111 1/2, par. 16.301 et seq.~~)

"Practical Quantitation Limit" or "PQL" means the lowest concentration or level that can be reliably measured within specified limits of precision and accuracy during routine laboratory operating conditions in accordance with "Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods", EPA Publication No. SW-846, incorporated by reference at Section 620.125.

"Previously mined area" means land disturbed or affected by coal mining operations prior to February 1, 1983.

(Board Note: February 1, 1983, is the effective date of the Illinois permanent program regulations implementing the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720 et seq.] (~~Ill. Rev. Stat. 1989, ch. 96 1/2, pars. 7901.1 et seq., as amended~~) as codified in 62 Ill. Adm. Code 1700 through 1850.)

"Property class" means the class assigned by a tax assessor to real property for purposes of real estate taxes.

(Board Note: The property class (rural property, residential vacant land, residential with dwelling, commercial residence, commercial business, commercial office, or industrial) is identified on the property record card maintained by the tax assessor in accordance with the Illinois Real Property Appraisal Manual (February 1987), published by the Illinois Department of Revenue, Property Tax Administration Bureau.)

"PUBLIC WATER SUPPLY" MEANS ALL MAINS, PIPES AND STRUCTURES THROUGH WHICH WATER IS OBTAINED AND DISTRIBUTED TO THE PUBLIC, INCLUDING WELLS AND WELL STRUCTURES, INTAKES AND CRIBS, PUMPING STATIONS, TREATMENT PLANTS, RESERVOIRS, STORAGE TANKS AND APPURTENANCES, COLLECTIVELY OR SEVERALLY, ACTUALLY USED OR INTENDED FOR USE FOR THE PURPOSE OF FURNISHING WATER FOR DRINKING OR GENERAL DOMESTIC USE AND WHICH SERVE AT LEAST 15 SERVICE CONNECTIONS OR WHICH REGULARLY SERVE AT LEAST 25 PERSONS AT LEAST 60 DAYS PER YEAR. A PUBLIC WATER SUPPLY IS EITHER A "COMMUNITY WATER SUPPLY" OR A "NON-COMMUNITY WATER SUPPLY".
(Section 3.28 of the Act)

"Regulated entity" means a facility or unit regulated for groundwater protection by any state or federal agency.

"Regulatory agency" means the Illinois Environmental Protection Agency, Department of Public Health, Department of Agriculture, Department of Mines and Minerals, and the Office of State Fire Marshal.

"REGULATED RECHARGE AREA" MEANS A COMPACT GEOGRAPHIC AREA, AS DETERMINED BY THE BOARD pursuant to Section 17.4 of the Act, THE GEOLOGY OF WHICH RENDERS A POTABLE RESOURCE GROUNDWATER PARTICULARLY SUSCEPTIBLE TO CONTAMINATION. (Section 3.67 of the Act)

"RESOURCE GROUNDWATER" MEANS GROUNDWATER THAT IS PRESENTLY BEING, OR IN THE FUTURE IS CAPABLE OF BEING, PUT TO BENEFICIAL USE BY REASON OF BEING OF SUITABLE QUALITY. (Section 3.66 of the Act)

"SETBACK ZONE" MEANS A GEOGRAPHIC AREA, DESIGNATED PURSUANT TO THIS ACT, CONTAINING A POTABLE WATER SUPPLY WELL OR A POTENTIAL SOURCE OR POTENTIAL ROUTE HAVING A CONTINUOUS BOUNDARY, AND WITHIN WHICH CERTAIN PROHIBITIONS OR REGULATIONS ARE APPLICABLE IN ORDER TO PROTECT GROUNDWATERS. (Section 3.61 of the Act)

"Site" MEANS ANY LOCATION, PLACE, TRACT OF LAND, AND FACILITIES, INCLUDING BUT NOT LIMITED TO, BUILDINGS AND IMPROVEMENTS USED FOR PURPOSES SUBJECT TO REGULATION OR CONTROL BY the ACT OR REGULATIONS THEREUNDER. (Section 3.43 of the Act)

"Spring" means a natural surface discharge of an aquifer from rock or soil.

"Threshold dose" means the lowest dose of a chemical at which a specified measurable effect is observed and below which it is not observed.

"Treatment" means the technology, treatment techniques, or other procedures for compliance with 35 Ill. Adm. Code: Subtitle F.

"UNIT" MEANS ANY DEVICE, MECHANISM, EQUIPMENT, OR AREA (EXCLUSIVE OF LAND UTILIZED ONLY FOR AGRICULTURAL PRODUCTION).(Section 3.62) of the Act)

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

(Source: Amended in R96-18 at _____ Ill. Reg. _____, effective _____.)

SUBPART B: GROUNDWATER CLASSIFICATION

Section 620.230 Class III: Special Resource Groundwater

Except as provided in Section 620.250, Special Resource Groundwater is:

- a) Groundwater that is determined by the Board, pursuant to the procedures set forth in Section 620.260, to be:
 - 1) Demonstrably unique (e.g., irreplaceable sources of groundwater) and suitable for application of a water quality standard more stringent than the otherwise applicable water quality standard specified in Subpart D; or
 - 2) Vital for a particularly sensitive ecological system.
- b) Groundwater that contributes to a dedicated nature preserve that is listed by the Agency as set forth below:
 - 1) A written request to list a dedicated nature preserve under this subsection must contain, at a minimum, the following information:
 - A) A general description of the site and the surrounding land use;
 - B) A topographic map or other map of suitable scale denoting the location of the dedicated nature preserve;
 - C) A general description of the existing groundwater quality at and surrounding the dedicated nature preserve;
 - D) A general geologic profile of the dedicated nature preserve based upon the most reasonably available information, including but not limited to geologic maps and subsurface groundwater flow directions; and
 - E) A description of the interrelationship between groundwater and the nature of the site.
 - 2) Upon confirmation by the Agency of the technical adequacy of a written request, the Agency shall publish the proposed listing of the dedicated nature preserve in the Environmental Register for a 45-day public comment period. Within 60 days after the close of the public comment period, the Agency shall either publish a final listing of the dedicated nature preserve in the Environmental Register or provide a written

response to the requestor specifying the reasons for not listing the dedicated nature preserve.

- 3) At least once annually, the Agency shall publish in the Environmental Register a complete listing of all dedicated nature preserves listed under this subsection (b).
- 4) For purposes of this Section the term "dedicated nature preserve" means a nature preserve that is dedicated pursuant to the Illinois Natural Areas Preservation Act [525 ILCS 30]~~(Ill. Rev. Stat. 1989, ch. 105, pars. 701 et seq.)~~.

(Source: Amended at 21 Ill. Reg. _____, effective _____.)

Section 620.260 Reclassification of Groundwater by Adjusted Standard

Any person may petition the Board to reclassify a groundwater in accordance with the procedures for adjusted standards specified in Section 28.1 of the Act and 35 Ill. Adm. Code 106.Subpart G. In any proceeding to reclassify specific groundwater by adjusted standard, in addition to the requirements of 35 Ill. Adm. Code 106.Subpart G, and Section 28.1(c) of the Act, the petition shall, at a minimum, contain information to allow the Board to determine:

- a) The specific groundwater for which reclassification is requested, including but not limited to geographical extent of any aquifers, depth of groundwater, and rate and direction of groundwater flow and that the specific groundwater exhibits the characteristics of the requested class as set forth in Section 620.210(b), 620.220(b), 620.230, or 620.240;
- b) Whether the proposed change or use restriction is necessary for economic or social development, by providing information including, but not limited to, the impacts of the standards on the regional economy, social benefits such as loss of jobs or closing of facilities, and economic analysis contrasting the health and environmental benefits with costs likely to be incurred in meeting the standards would be beneficial or necessary;
- c) Existing and anticipated uses of the specific groundwater;
- d) Existing and anticipated quality of the specific groundwater;
- e) Existing and anticipated contamination, if any, of the specific groundwater;
- f) Technical feasibility and economic reasonableness of eliminating or reducing contamination of the specific groundwater or of maintaining existing water quality;

- g) The anticipated time period over which contaminants will continue to affect the specific groundwater;
- h) Existing and anticipated impact on any potable water supplies due to contamination;
- i) Availability and cost of alternate water sources or of treatment for those users adversely affected;
- j) Negative or positive effect on property values; and
- k) For special resource groundwater, negative or positive effect on:
 - 1) The quality of surface waters; and
 - 2) Wetlands, natural areas, and the life contained therein, including endangered or threatened species of plant, fish or wildlife listed pursuant to the Endangered Species Act, 16 U.S.C. 1531 et seq., or the Illinois Endangered Species Protection Act [415 ILCS 10](~~Ill. Rev. Stat. 1991, ch. 8, par. 331 et seq.~~).

(Source: Amended at 21 Ill. Reg. _____, effective _____.)

SUBPART C: NONDEGRADATION PROVISIONS FOR APPROPRIATE GROUNDWATERS

Section 620.301 General Prohibition Against Use Impairment of Resource Groundwater

- a) No person shall cause, threaten or allow the release of any contaminant to a resource groundwater such that:
 - 1) Treatment or additional treatment is necessary to continue an existing use or to assure a potential use of such groundwater; or
 - 2) An existing or potential use of such groundwater is precluded.
- b) Nothing in this Section shall prevent the establishment of a groundwater management zone pursuant to Section 620.250 or a cumulative impact area within a permitted site.
- c) Nothing in this Section shall limit underground injection pursuant to a permit issued by the Agency under the Act or issued by the Department of Mines and Minerals under the Illinois Oil and Gas Act [225 ILCS 725] ~~“An Act in relation to oil, gas, coal and other surface and underground resources and to repeal an~~

~~Act herein named" (Ill. Rev. Stat. 1989, ch. 96 1/2, pars. 5401 et seq., as amended).~~

- d) Nothing in this Section shall limit the Board from promulgating nondegradation provisions applicable to particular types of facilities or activities which impact upon groundwater, including but not limited to landfills regulated pursuant to 35 Ill. Adm. Code: Subtitle G.

(Source: Amended at 21 Ill. Reg. _____, effective _____.)

SUBPART D: GROUNDWATER QUALITY STANDARDS

Section 620.420 Groundwater Quality Standards for Class II: General Resource Groundwater

- a) Inorganic Chemical Constituents
- 1) Except due to natural causes or as provided in Section 620.450 or subsection (a)(3) or (d) of this Section, concentrations of the following chemical constituents must not be exceeded in Class II groundwater:

<u>Constituent</u>	<u>Standard</u> (mg/L)
Antimony	0.024
Arsenic	0.2
Barium	2
Beryllium	0.5
Cadmium	0.05
Chromium	1
Cobalt	1
Cyanide	0.6
Fluoride	4.0
Lead	0.1
Mercury	0.01
Nitrate as N	100
Thallium	0.02

- 2) Except as provided in Section 620.450 or subsection (a)(3) or (d) of this Section, concentrations of the following chemical constituents must not be exceeded in Class II groundwater:

<u>Constituent</u>	<u>Standard</u> (mg/L)
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Boron	2.0	
Chloride	200	
Copper		0.65
Iron	5	
Manganese	10	
Nickel	2	
Selenium	0.05	
Total Dissolved Solids (TDS)	1,200	
Sulfate	400	
Zinc	10	

- 3) The standard for any inorganic chemical constituent listed in subsection (a)(2) of this Section, for barium, or for pH does not apply to groundwater within fill material or within the upper 10 feet of parent material under such fill material on a site not within the rural property class for which:
- A) Prior to the effective date of this Part, surficial characteristics have been altered by the placement of such fill material so as to impact the concentration of the parameters listed in subsection (a)(3) of this Section, and any on-site groundwater monitoring of such parameters is available for review by the Agency.
- B) On the effective date of this Part, surficial characteristics are in the process of being altered by the placement of such fill material, which proceeds in reasonably continuous manner to completion, so as to impact the concentration of the parameters listed in subsection (a)(3) of this Section, and any on-site groundwater monitoring of such parameters is available for review by the Agency.
- 4) For purposes of subsection (a)(3) of this Section, the term "fill material" means clean earthen materials, slag, ash, clean demolition debris, or other similar materials.

b) Organic Chemical Constituents

- 1) Except due to natural causes or as provided in Section 620.450 or subsection (b)(2) or (d) of this Section, concentrations of the following organic chemical constituents must not be exceeded in Class II groundwater:

Constituent

Standard

	(mg/L)	
Alachlor*	0.010	
Aldicarb	0.015	
Atrazine	0.015	
Benzene*	0.025	
Benzo(a)pyrene*	0.002	
Carbofuran	0.2	
Carbon Tetrachloride*		0.025
Chlordane*	0.01	
Dalapon	2.0	
Dichloromethane	0.05	
Dichloromethane*	0.05	
Di(2-ethylhexyl)phthalate*	0.06	
Dinoseb	0.07	
Endothall	0.1	
Endrin	0.01	
Ethylene Dibromide*	0.0005	
Heptachlor*	0.002	
Heptachlor Epoxide*	0.001	
Hexachlorocyclopentadiene	0.5	
Lindane (Gamma-Hexachloro cyclohexane)	0.001	
2,4-D	0.35	
ortho-Dichlorobenzene	1.5	
para-Dichlorobenzene	0.375	
1,2-Dibromo-3-Chloropropane*	0.002	
1,2-Dichloroethane*	0.025	
1,1-Dichloroethylene	0.035	
cis-1,2-Dichloroethylene	0.2	
trans-1,2-Dichloroethylene	0.5	
1,2-Dichloropropane*		0.025
Ethylbenzene	1.0	
Methoxychlor	0.2	
Monochlorobenzene	0.5	
Pentachlorophenol*	0.005	
Phenols	0.1	
Picloram	5.0	
Polychlorinated Biphenyls (PCB's) (as decachloro-biphenyl)*	0.0025	
Simazine	0.04	
Styrene		0.5
2,4,5-TP	0.25	
Tetrachloroethylene*	0.025	
Toluene	2.5	

Toxaphene*	0.015
1,1,1-Trichloroethane	1.0
1,2,4-Trichlorobenzene	0.7
1,1,2-Trichloroethane	0.05
Trichloroethylene*	0.025
Vinyl Chloride*	0.01
Xylenes	10

*Denotes a carcinogen.

- 2) The standards for pesticide chemical constituents listed in subsection (b)(1) of this Section do not apply to groundwater within 10 feet of the land surface, provided that the concentrations of such constituents result from the application of pesticides in a manner consistent with the requirements of the Federal Insecticide, Fungicide and Rodenticide Act (7 U. S. C. 136 et seq.) and the Illinois Pesticide Act [415 ILCS 60]~~(Ill. Rev. Stat. 1989, ch. 5, pars. 801 et seq.)~~.

c) Complex Organic Chemical Mixtures

Concentrations of the following organic chemical constituents of gasoline, diesel fuel, or heating fuel must not be exceeded in Class II groundwater:

<u>Constituent</u>	<u>Standard</u> (mg/L)
Benzene*	0.025
BETX	13.525

*Denotes a carcinogen.

d) pH

Except due to natural causes, a pH range of 6.5 - 9.0 units must not be exceeded in Class II groundwater that is within 5 feet of the land surface.

(Source: Amended at 21 Ill. Reg. _____, effective _____.)

SUBPART D: GROUNDWATER QUALITY STANDARDS

Section 620.450 Alternative Groundwater Quality Standards

a) Groundwater Quality Restoration Standards

- 1) Any chemical constituent in groundwater within a groundwater management zone is subject to this Section.

- 2) Except as provided in subsection (a)(3) or (a)(4) below, the standards as specified in Sections 620.410, 620.420, 620.430, and 620.440 apply to any chemical constituent in groundwater within a groundwater management zone.
 - 3) Prior to completion of a corrective action described in Section 620.250(a), the standards as specified in Sections 620.410, 620.420, 620.430, and 620.440 are not applicable to such released chemical constituent, provided that the initiated action proceeds in a timely and appropriate manner.
 - 4) After completion of a corrective action as described in Section 620.250(a), the standard for such released chemical constituent is:
 - A) The standard as set forth in Section 620.410, 620.420, 620.430, or 620.440, if the concentration as determined by groundwater monitoring of such constituent is less than or equal to the standard for the appropriate class set forth in those sections; or
 - B) The concentration as determined by groundwater monitoring, if such concentration exceeds the standard for the appropriate class set forth in Section 620.410, 620.420, 620.430, or 620.440 for such constituent, and:
 - i) To the extent practicable, the exceedence has been minimized and beneficial use, as appropriate for the class of groundwater, has been returned; and
 - ii) Any threat to public health or the environment has been minimized.
 - 5) The Agency shall develop and maintain a listing of concentrations derived pursuant to subsection (a)(4)(B) above. This list shall be made available to the public and be updated periodically, but no less frequently than semi-annually. This listing shall be published in the Environmental Register.
- b) Coal Reclamation Groundwater Quality Standards
- 1) Any inorganic chemical constituent or pH in groundwater, within an underground coal mine, or within the cumulative impact area of groundwater for which the hydrologic balance has been disturbed from a permitted coal mine area pursuant to the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720](Ill. Rev. Stat. 1989,

~~ch. 96 1/2, pars. 7901.1 et seq., as amended~~) and 62 Ill. Adm. Code 1700 through 1850, is subject to this Section.

- 2) Prior to completion of reclamation at a coal mine, the standards as specified in Sections 620.410(a) and (d), 620.420(a) and (d), 620.430 and 620.440 are not applicable to inorganic constituents and pH.
- 3) After completion of reclamation at a coal mine, the standards as specified in Sections 620.410(a) and (d), 620.420(a), 620.430, and 620.440 are applicable to inorganic constituents and pH, except:
 - A) The concentration of total dissolved solids (TDS) must not exceed:
 - i) The post-reclamation concentration or 3000 mg/L, whichever is less, for groundwater within the permitted area; or
 - ii) The post-reclamation concentration of TDS must not exceed the post-reclamation concentration or 5000 mg/L, whichever is less, for groundwater in underground coal mines and in permitted areas reclaimed after surface coal mining if the Illinois Department of Mines and Minerals and the Agency have determined that no significant resource groundwater existed prior to mining (62 Ill. Adm. Code 1780.21(f) and (g));
 - B) For chloride, iron, manganese and sulfate, the post-reclamation concentration within the permitted area must not be exceeded and
 - C) For pH, the post-reclamation concentration within the permitted area must not be exceeded within Class I: Potable Resource Groundwater as specified in Section 620.210(a)(4).
- 4) A refuse disposal area (not contained within the area from which overburden has been removed) is subject to the inorganic chemical constituent and pH requirements of:
 - A) 35 Ill. Adm. Code 302.Subparts B and C, except due to natural causes, for such area that was placed into operation after February 1, 1983, and before the effective date of this Part, provided that the groundwater is a present or a potential source of water for public or food processing;

- B) Section 620.440(c) for such area that was placed into operation prior to February 1, 1983, and has remained in continuous operation since that date; or
 - C) Subpart D of this Part for such area that is placed into operation on or after the effective date of this Part.
- 5) For a refuse disposal area (not contained within the area from which overburden has been removed) that was placed into operation prior to February 1, 1983, and is modified after that date to include additional area, this Section applies to the area that meets the requirements of subsection (b)(4)(C) of this Section and the following applies to the additional area:
- A) 35 Ill. Adm. Code 302.Subparts B and C, except due to natural causes, for such additional refuse disposal area that was placed into operation after February 1, 1983, and before the effective date of this Part, provided that the groundwater is a present or a potential source of water for public or food processing; and
 - B) Subpart D for such additional area that was placed into operation on or after the effective date of this Part.
- 6) A coal preparation plant (not located in an area from which overburden has been removed) which contains slurry material, sludge or other precipitated process material, is subject to the inorganic chemical constituent and pH requirements of:
- A) 35 Ill. Adm. Code 302.Subparts B and C, except due to natural causes, for such plant that was placed into operation after February 1, 1983, and before the effective date of this Part, provided that the groundwater is a present or a potential source of water for public or food processing;
 - B) Section 620.440(c) for such plant that was placed into operation prior to February 1, 1983, and has remained in continuous operation since that date; or
 - C) Subpart D for such plant that is placed into operation on or after the effective date of this Part.
- 7) For a coal preparation plant (not located in an area from which overburden has been removed) which contains slurry material, sludge or other precipitated process material, that was placed into operation prior to February 1, 1983, and is modified after that date to include additional

area, this Section applies to the area that meets the requirements of subsection (b)(6)(C) of this Section and the following applies to the additional area:

- A) 35 Ill. Adm. Code 302.Subparts B and C, except due to natural causes, for such additional area that was placed into operation after February 1, 1983, and before the effective date of this Part, provided that the groundwater is a present or a potential source of water for public or food processing; and
- B) Subpart D for such additional area that was placed into operation on or after the effective date of this Part.

(Source: Amended at 21, Ill Reg. _____, effective _____.)

SUBPART E: GROUNDWATER MONITORING AND ANALYTICAL PROCEDURES

Section 620.505 Compliance Determination

- a) Compliance with standards at a site is to be determined as follows:
 - 1) For a structure (e.g., buildings), at the closest practical distance beyond the outermost edge for the structure.
 - 2) For groundwater that underlies a potential primary or secondary source, the outermost edge as specified in Section 620.240(e)(1).
 - 3) For groundwater that underlies a coal mine refuse disposal area, a coal combustion waste disposal area, or an impoundment that contains sludge, slurry, or precipitated process material at a coal preparation plant, the outermost edge as specified in Section 620.240(f)(1) or location of monitoring wells in existence as of the effective date of this Part on a permitted site.
 - 4) For a groundwater management zone, as specified in a corrective action process.
 - 5) At any point at which groundwater monitoring is conducted using any water well or monitoring well that meets the following conditions:
 - A) For a potable well other than a community water supply well, a construction report has been filed with the Department of Public Health for such potable well, or such well has been located and constructed (or reconstructed) to meet the Illinois Water Well

Construction Code [415 ILCS 30](~~Ill. Rev. Stat. 1989, ch. 111 1/2, pars. 116.111 et. seq., as amended~~) and 35 Ill. Adm. Code 920.

- B) For a community water supply well, such well has been permitted by the Agency, or has been constructed in accordance with 35 Ill. Adm. Code 602.115.
- C) For a water well other than a potable water well (e.g., a livestock watering well or an irrigation well), a construction report has been filed with the Department of Public Health or the Department of Mines and Minerals for such well, or such well has been located and constructed (or reconstructed) to meet the Illinois Water Well Construction Code [415 ILCS 30, as amended](~~Ill. Rev. Stat. 1989, ch. 111 1/2, pars. 116.111 et. seq., as amended~~) and 35 Ill. Adm. Code 920.
- D) For a monitoring well, such well meets the following requirements:
 - i) Construction must be done in a manner that will enable the collection of groundwater samples;
 - ii) Casings and screens must be made from durable material resistant to expected chemical or physical degradation that do not interfere with the quality of groundwater samples being collected; and
 - iii) The annular space opposite the screened section of the well (i.e., the space between the bore hole and well screen) must be filled with gravel or sand if necessary to collect groundwater samples. The annular space above and below the well screen must be sealed to prevent migration of water from adjacent formations and the surface to the sampled depth.
- b) For a spring, compliance with this Subpart shall be determined at the point of emergence.

(Source: Amended at 21, Ill Reg. _____, effective _____.)

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above opinion and order was adopted on the _____ day of _____, 1997 by a vote of _____.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board