

From: [McGill, Richard](#)
To: [Brown, Don](#)
Cc: [Horton, Vanessa](#)
Subject: FW: R18-26 proposed first notice changes
Date: Monday, February 27, 2023 5:04:42 PM
Attachments: [image001.png](#)
[35-616 Board responses.pdf](#)
[35-616RG-P r01 \(46-22\).pdf](#)

Good evening, Mr. Clerk:

Please docket this email exchange with JCAR, including the two attachments, as a public comment in R18-26.

Thank you.

Richard R. McGill, Jr.
Senior Attorney for Research & Writing
Illinois Pollution Control Board
60 E. Van Buren St., Suite 630
Chicago, Illinois 60605
richard.mcgill@illinois.gov (312) 814-6983



From: McGill, Richard
Sent: Monday, February 27, 2023 4:57 PM
To: Eastvold, Jonathan C. <JonathanE@ilga.gov>
Subject: RE: R18-26 proposed first notice changes

Good evening, Jonathan:

I've attached two documents. The first document contains Board staff responses to your proposed Part 616 changes emailed to me on June 24, 2022. The second document is the JCAR line-numbered r01 referenced in your changes and our responses. Our responses include related changes prompted by your suggestions.

Thank you for your careful review. Please let me know if you have any questions.

Best regards,

Richard

Richard R. McGill, Jr.
Senior Attorney for Research & Writing
Illinois Pollution Control Board
60 E. Van Buren St., Suite 630
Chicago, Illinois 60605

richard.mcgill@illinois.gov (312) 814-6983



From: Eastvold, Jonathan C. <JonathanE@ilga.gov>
Sent: Friday, June 24, 2022 9:39 AM
To: McGill, Richard <Richard.McGill@illinois.gov>
Subject: [External] R18-26 proposed first notice changes

Here are some possible technical changes, sorted by Part, for the Board to consider. Any of these changes that you wish to make can be simply copied into your first notice changes document.

Thanks in advance for your consideration.

Sincerely,

Jonathan C. Eastvold, Ph.D.
Rules Analyst III

Illinois General Assembly
Joint Committee on Administrative Rules
700 Stratton Building
Springfield IL 62706
217-524-9010

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From: Eastvold, Jonathan C. <JonathanE@ilga.gov>
Sent: Friday, June 24, 2022 9:39 AM
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Board staff responses and related changes (2/27/23) appear in bold, red font below.

Rulemaking: New Activities in a Setback Zone or Regulated Recharge Area (35 Ill. Adm. Code 616; 46 Ill. Reg. 8794)

Changes:

1. In line 333, strike "in a" and the comma.
 - a. **Disagree. Strike "in" and the comma.**
 - b. **In line 25, strike both quotation marks.**
 - c. **In line 132, strike "Act" and add "Environmental Protection Act (Act) [415 ILCS 5]".**
 - d. **In line 133, strike "Illinois Environmental Protection Act (Act)" and add "Act".**
 - e. **In line 140, delete "will" and add "are". Strike "be".**
2. In lines 339 and 340, strike "the purpose of".
 - a. **Agree.**
 - b. **In line 349, delete "will" and add "does".**
3. In line 356, after "rulemaking" add a comma.
Agree. Strike "a".
4. In lines 373 and 377, strike "at" and add "in".
Agree.

5. In line 381, after "components" add a comma.
Agree.
6. In line 404, after "minimum" add a comma.
a. Agree.
b. In line 419, strike "A determination of" and add "Determining".
c. In line 422, strike "A determination" and add "Determining". Strike "of".
7. In line 444, after "submit" add "the".
a. Agree.
b. In line 450, strike both quotation marks.
c. In line 452, strike "beginning no later than the beginning" and add "by the start".
d. In line 453, strike "a period of"
e. In line 454, strike "such".
f. In line 459, strike "analysis" and add "samples".
g. In line 460, after "be" add "analyzed".
8. In line 463, strike "such" and add "the". **a. Agree.** After "treated" add a comma. **b. Agree.**
9. In line 466, strike "such" and add "the".
a. Agree.
b. In line 472, strike "analysis" and add "samples". After "be" add "analyzed".
10. In line 473, after "nitrogen" add a comma. **a. Agree (the second "nitrogen").** Strike "for". **b. Agree.**
11. In lines 476 and 477, strike "such" and add "the".
Agree (for lines 476 and 479).
12. In line 482, after "deviation" add a comma. **a. Agree.** Strike "the". **b. Agree.**
c. In line 483, strike "hereinafter referred to as "MAR"" and add "MAR".
13. In line 488, after "analysis" add a comma.
a. Agree.
b. In line 491, strike "a minimum of".
14. In line 496, strike "calculating" and add "to calculate".
a. Agree.
b. In line 500, strike "is to" and add "must".
c. In line 528, strike "sampling" and add "samples". After "be" add "collected". Strike "analysis" and add "analyzed". Delete "must".
d. In line 529, strike "be".
15. In line 532, strike "such" and add "the". **a. Agree.** After "treated" add a comma. **b. Agree.**

16. In line 535, strike "such" and add "the".
 - a. Agree.
 - b. In line 537, strike "sampling" and add "samples".
 - c. In line 538, after "be" add "collected". Strike "analysis" and add "analyzed".
 - d. In line 539, delete "must" and strike "be".
17. In line 539, after "for" add "the". **a. Agree.** Strike the second "five". **b. Disagree.** **The existing text makes it clearer that either five specific pesticides or five groups are required, rather than, for example, three specific pesticides and two groups, totaling five.** Strike "chemically-similar" and add "chemically similar". **c. Agree.**
18. In line 542, strike the second "five".
 - a. Disagree. *See response 17(b).*
 - b. In line 556, strike "sampling" and add "samples".
 - c. In line 557, after "be" add "collected". Strike "analysis" and add "analyzed".
 - d. In line 558, delete "must" and strike "be".
19. In line 562, strike the second "for".
 - a. Agree.
 - b. In line 563, strike "sampling" and add "samples". After "be" add "collected".
20. In line 571, after "to" add "the".
 - a. Agree.
 - b. In line 571, strike the first "of".
 - c. In line 574, strike "sampling" and add "samples".
21. In line 575, strike "annually" and add "annual".
Disagree. After "be" add "collected". Strike "analysis" and add "analyzed". Delete "must" and strike "be".
22. In line 576, after "carbon" add a comma.
 - a. Agree.
 - b. In line 584, restore "is".
23. In line 593, after "as" add "a".
 - a. Agree.
 - b. In line 602, after "received" add ". The owner or operator must provide preventive notification of the results of the resampling analyses within 30 days after the date on which those analyses are received".
 - c. In line 605, delete "(a)" and restore "(b)".
 - d. In lines 612 and 613, delete "under subsection (c)." and add "of its".
 - e. In line 613, restore "finding that an exceedance has occurred,".
24. In line 644, strike "have".
Agree. After "must" add a comma. After "days" add "after receiving the

response.

25. In line 645, strike "to".
Agree (after "or").
26. In line 646, change the first "of" to "after".
a. Agree. Strike "receipt of" and add "receiving".
b. In line 652, delete "must" and add "is". Strike "be".
27. In line 655, strike "contamination" and add "contaminant".
a. Agree.
b. In line 683, strike "the provisions of".
c. In line 686, strike "all units" and add "a unit".
d. In line 687, strike "the frequency of all". Strike "sampling" and add "samples". After "be" add "collected".
e. In line 692, strike "sampling" and add "samples". After "be" add "collected".
28. In line 701, strike "subsection" and add "subsections".
Agree.
29. In line 719, strike "such" and add "the".
Agree.
30. In line 723, strike "the implementing" and add "implementation".
a. Agree.
b. In line 726, after "must" add a comma. Strike "have". Delete "of" and add "after".
c. In line 727, after "response" add a comma.
d. In line 728, strike "Upon receipt of" and add "Within 30 days after receiving".
e. In line 740, strike "no later than" and add "by".
31. In line 751, strike "where" and add "when".
Disagree. Strike "where" and add "if".
32. In line 756, after "of" add "the".
Disagree. After "of" add "any".
33. In line 764, strike "at" and add "in".
Agree.
34. In line 767, strike "a period of".
Agree.
35. In line 778, after "(c)" add a comma.
a. Agree.
b. In line 792, after "demonstration" add a comma.

36. In line 799, strike "for which he is" and add "owned or operated by".
 - a. Agree.
 - b. In line 819, after "must" add a comma. Delete "of" and add "after".
 - c. In line 820, after "response" add a comma.
 - d. In line 821, strike "Upon receipt of" and add "Within 30 days after receiving".
 - e. In line 822, strike "within 30 days".
37. In line 837, after "minimizes" add a comma.
Agree.
38. In line 839, after "runoff" add a comma.
Agree.
39. In line 863, after "must" add "record with land titles and". **a. Agree.** After "to" add "the Agency and". **b. Agree. c. Strike the comma.**
40. In lines 864-865, strike "and to the Agency, and record with land titles,".
 - a. Agree.
 - b. In line 864, strike the first comma.
41. In line 870, strike the second "for".
Agree.
42. In line 871, strike "state" and add "State". **a. Agree.** Strike "Federal" and add "federal".
b. Agree.
43. In line 880, after "Agency," strike "to". **a. Agree.** After "Recorder" add a comma. **b. Agree. c. Strike "Subparts" and add "Subpart".**
44. In line 881, strike "to" and the comma.
Agree. After "zoning authority" add a comma.
45. In line 915, after "14.2(c)" add a comma.
 - a. Agree.
 - b. In line 929, strike "at" and add "in".
46. In line 950, after "14.2(c)" add a comma.
 - a. Agree.
 - b. In line 961, after "prohibits" add a comma. Strike "land treatment".
 - c. In line 962, after "Act" add a ", land treatment".
 - d. In line 963, strike "of sludge resulting from".
47. In line 964, strike the comma.
Agree. After "if" add "the".

48. In line 1006, after "14.2(c)" add a comma.
Agree.
49. In lines 1027, 1030 (twice), and 1033, strike "such" and add "the".
 - a. **Agree for lines 1027, 1030 (twice), and 1033 (first "such").**
 - b. **In lines 1027-28, strike "The requirement for the installation of" and add "This requirement to install".**
 - c. **In line 1028, strike "in this subsection".**
 - d. **In lines 1028-29, strike "the installation of" and add "installing".**
 - e. **In line 1032, after "operated" add a comma. After "constructed" add "of materials".**
 - f. **In line 1033, strike the second "such" and add "that". Strike "the purpose of".**
 - g. **In line 1034, after "liner" add "satisfies". Delete "is considered" and strike "to satisfy". After "the" add "construction".**
50. In line 1039, after "maintained" add a comma.
Agree.
51. In line 1041, after "alarms" add a comma.
Agree.
52. In line 1044, after "constructed" add a comma.
Agree.
53. In line 1062, after "damage" add a comma. **a. Agree.** After "spots" add a comma. **b. Agree.**
54. In line 1066, after "punctures" add a comma.
Agree.
55. In line 1069, after "holes" add a comma.
Agree.
56. In line 1076, after "malfunctions" add a comma.
 - a. **Agree.**
 - b. **In line 1133, strike "liners, etc." and add "e.g., liners".**
57. In line 1166, strike "a period of" and after "closure" add "and".
Agree. Strike "5" and add "five".
58. In line 1170, after "erosion" add a comma.
Agree.
59. In line 1201, after "14.2(c)" add a comma.
 - a. **Agree.**
 - b. **In line 1215, strike "at" and add "in".**

c. In line 1250, after “etc” delete the period. Strike “liners, etc” and add “e.g., liners”.

60. In line 1280, change "does" to "do".
Agree.
61. In line 1293, strike "the purpose of".
Agree.
62. In line 1305, after "14.2(c)" add a comma.
a. Agree.
b. In line 1340, strike “the purpose of”.
c. In line 1345, after “provide” add “the”.
63. In line 1366, strike "the purpose of".
a. Agree.
b. In line 1369, strike “but not limited to”.
c. In line 1371, strike “(1) and (2)” and add “(a) and (b)”.
64. In line 1378, after "14.2(c)" add a comma.
a. Agree.
b. In line 1413, strike “the purpose of”.
c. In line 1418, after “provide” add “the”.
65. In line 1436, after "14.2(c)" add a comma.
Agree.
66. In line 1469, strike "Such" and add "The".
a. Agree.
b. In line 1494, strike “i.e., collapse, rupture, etc.” and add “e.g., collapse, rupture”.
67. In lines 1525 and 1528, strike "run off" and add "runoff".
Agree.
68. In line 1545, after "14.2(c)" add a comma. **a. Agree.** After "and" strike the opening parenthesis before "14.3(e)". **b. Agree.**
69. In line 1558, strike "at" and add "in".
Agree.

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

PART 616
NEW ACTIVITIES IN A SETBACK ZONE OR REGULATED RECHARGE AREA

SUBPART A: GENERAL

10	Section	
11	616.101	Purpose
12	616.102	Definitions
13	616.104	Exceptions to Prohibitions
14	616.105	General Exceptions

SUBPART B: GROUNDWATER MONITORING REQUIREMENTS

18	Section	
19	616.201	Applicability
20	616.202	Compliance Period
21	616.203	Compliance With Groundwater Standards
22	616.204	Groundwater Monitoring System
23	616.205	Groundwater Monitoring Program
24	616.206	Reporting
25	616.207	Determining Background Values and Maximum Allowable Results ("MARs")
26	616.208	Continued Sampling
27	616.209	Preventive Notification and Preventive Response
28	616.210	Corrective Action Program
29	616.211	Alternative Corrective Action Demonstration

SUBPART C: GENERAL CLOSURE AND POST-CLOSURE REQUIREMENTS

33	Section	
34	616.301	Applicability
35	616.302	Closure Performance Standard
36	616.303	Certification of Closure
37	616.304	Survey Plat
38	616.305	Post-Closure Notice for Waste Disposal Units
39	616.306	Certification of Completion of Post-Closure Care
40	616.307	Post-Closure Care Period

SUBPART D: ON-SITE LANDFILLS

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44 Section

45 616.401 Applicability

46 616.402 Prohibitions

47

48 SUBPART E: ON-SITE LAND TREATMENT UNITS

49

50 Section

51 616.421 Applicability

52 616.422 Prohibitions

53 616.423 Groundwater Monitoring

54 616.424 Design and Operating Requirements

55 616.425 Closure and Post-Closure Care

56

57 SUBPART F: ON-SITE SURFACE IMPOUNDMENTS

58

59 Section

60 616.441 Applicability

61 616.442 Prohibitions

62 616.443 Groundwater Monitoring

63 616.444 Design Requirements

64 616.445 Inspection Requirements

65 616.446 Operating Requirements

66 616.447 Closure and Post-Closure Care

67

68 SUBPART G: ON-SITE WASTE PILES

69

70 Section

71 616.461 Applicability

72 616.462 Prohibitions

73 616.463 Design and Operating Requirements

74 616.464 Closure

75

76 SUBPART H: UNDERGROUND STORAGE TANKS

77

78 Section

79 616.501 Applicability

80 616.502 Design and Operating Requirements

81

82 SUBPART I: PESTICIDE STORAGE AND HANDLING UNITS

83

84 Section

85 616.601 Applicability

86 616.602 Prohibitions

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- 87 616.603 Groundwater Monitoring
- 88 616.604 Design and Operating Requirements
- 89 616.605 Closure and Post-Closure Care

90

91 SUBPART J: FERTILIZER STORAGE AND HANDLING UNITS

92

93 Section

- 94 616.621 Applicability
- 95 616.622 Prohibitions
- 96 616.623 Groundwater Monitoring
- 97 616.624 Design and Operating Requirements
- 98 616.625 Closure and Post-Closure Care

99

100 SUBPART K: ROAD OIL STORAGE AND HANDLING UNITS

101

102 Section

- 103 616.701 Applicability
- 104 616.702 Prohibitions
- 105 616.703 Groundwater Monitoring
- 106 616.704 Design and Operating Requirements for Above-Ground Storage Tanks
- 107 616.705 Closure

108

109 SUBPART L: DE-ICING AGENT STORAGE AND HANDLING UNITS

110

111 Section

- 112 616.721 Applicability
- 113 616.722 Prohibitions
- 114 616.723 Groundwater Monitoring
- 115 616.724 Design and Operating Requirements for Indoor Storage Facilities
- 116 616.725 Closure

117

118 AUTHORITY: Implementing Sections 5, 14.4, 21, and 22, and authorized by Section 27 of the
119 Environmental Protection Act [415 ILCS 5/5, 14.4, 21, 22, 27].

120

121 SOURCE: Adopted in R89-5 at 16 Ill. Reg. 1592, effective January 10, 1992; amended in R89-
122 14(C) at 16 Ill. Reg. 14676, effective September 11, 1992; amended in R92-20 at 17 Ill. Reg.
123 1878, effective January 28, 1993; amended in R96-18 at 21 Ill. Reg. 6543, effective May 8,
124 1997; amended in R18-26 at 46 Ill. Reg. _____, effective _____.

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SUBPART A: GENERAL

127

128 **Section 616.101 Purpose**

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130 This Part ~~specifies the~~prescribes requirements and standards for the protection of groundwater
131 for certain types of new facilities or units located wholly or partially within a setback zone
132 regulated by the Act or within a regulated recharge area ~~under as delineated pursuant to~~ Section
133 17.4 of the Illinois Environmental Protection Act (Act) [415 ILCS 5/17.4].

134
135 (Source: Amended at 46 Ill. Reg. _____, effective _____)
136

137 **Section 616.102 Definitions**
138

139 Except as stated in this Section, and unless a different meaning of a word or term is clear from
140 the context, the definitions of words or terms in this Part ~~will~~shall be the same as those used in
141 35 Ill. Adm. Code 615.102, the Act, or the Illinois Groundwater Protection Act [415 ILCS 55].
142

143 ~~"New Potential Primary Source" means:~~

144
145 ~~A potential primary source which is not in existence or for which~~
146 ~~construction has not commenced at its location as of January 1, 1988; or~~

147
148 ~~A potential primary source which expands laterally beyond the currently~~
149 ~~permitted boundary or, if the primary source is not permitted, the~~
150 ~~boundary in existence as of January 1, 1988; or~~

151
152 ~~A potential primary source which is part of a facility that undergoes major~~
153 ~~reconstruction. Such reconstruction shall be deemed to have taken place~~
154 ~~where the fixed capital cost of the new components constructed within a 2-~~
155 ~~year period exceed 50% of the fixed capital cost of a comparable entirely~~
156 ~~new facility.~~

157
158 (Section 3.59 of the Act)
159

160 ~~"New Potential Route" means:~~

161
162 ~~A potential route which is not in existence or for which construction has~~
163 ~~not commenced at its location as of January 1, 1988; or~~

164
165 ~~A potential route which expands laterally beyond the currently permitted~~
166 ~~boundary or, if the potential route is not permitted, the boundary in~~
167 ~~existence as of January 1, 1988.~~

168
169 (Section 3.58 of the Act)
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171 ~~"New Potential Secondary Source" means:~~
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~~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:~~

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~~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].(Section 3.60 of the Act)~~

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

Section 616.104 Exceptions to Prohibitions

[Section 14.2 of the Act sets forth the process to obtain a waiver or exception from the setback requirements Sections 616.402\(a\), 616.422\(a\), 616.442, 616.462\(a\), 616.602, 616.622, 616.702 or 616.722\(a\).](#)

- a) ~~The owner of a new potential primary source or a potential secondary source may secure a waiver from the prohibitions specified in Section 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~~

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259 ~~shall state whether, and under what conditions, the requestor will provide an~~
260 ~~alternative potable water supply. Waiver may be granted by the owner of the~~
261 ~~water well no less than 90 days after receipt unless prior to such time the Agency~~
262 ~~notifies the well owner that it does not concur with the request. (Section 14.2(b)~~
263 ~~of the Act)~~

264
265 b) ~~The Agency shall not concur with any such request which fails to accurately~~
266 ~~describe reasonably foreseeable effects of the potential source or potential route~~
267 ~~upon the water well or any applicable technology based controls. Such~~
268 ~~notification by the Agency shall be in writing, and shall include a statement of~~
269 ~~reasons for the nonconcurrence. Waiver of the minimum setback zone shall~~
270 ~~extinguish the water well owner's rights under Section 6b of the Illinois Water~~
271 ~~Well Construction Code but shall not preclude enforcement of any law regarding~~
272 ~~water pollution. If the owner of the water well has not granted a waiver within~~
273 ~~120 days after receipt of the request or the Agency has notified the owner that it~~
274 ~~does not concur with the request, the owner of a potential source or potential~~
275 ~~route may file a petition for an exception with the Board and the Agency pursuant~~
276 ~~to subsection (b) of this Section. (Section 14.2(b) of the Act)~~

277
278 e) ~~No waiver under this Section is required where the potable water supply well is~~
279 ~~part of a private water system as defined in the Illinois Groundwater Protection~~
280 ~~Act, and the owner of such well will also be the owner of a new potential~~
281 ~~secondary source or a potential route. In such instances, a prohibition of 75 feet~~
282 ~~shall apply and the owner shall notify the Agency of the intended action so that~~
283 ~~the Agency may provide information regarding the potential hazards associated~~
284 ~~with location of a potential secondary source or potential route in close proximity~~
285 ~~to a potable water supply well. (Section 14.2(b) of the Act)~~

286
287 d) ~~The Board may grant an exception from the setback requirements of this Section~~
288 ~~and Section 14.3 to the owner of a new potential primary source other than~~
289 ~~landfilling or land treating, or a new potential secondary source. The owner~~
290 ~~seeking an exception with respect to a community water supply well shall file a~~
291 ~~petition with the Board and the Agency. The owner seeking an exception with~~
292 ~~respect to a potable water supply well shall file a petition with the Board and the~~
293 ~~Agency, and set forth therein the circumstances under which a waiver has been~~
294 ~~sought but not obtained pursuant to subsection (a) of this Section. A petition shall~~
295 ~~be accompanied by proof that the owner of each potable water supply well for~~
296 ~~which setback requirements would be affected by the requested exception has~~
297 ~~been notified and been provided with a copy of the petition. A petition shall set~~
298 ~~forth such facts as may be required to support an exception, including a general~~
299 ~~description of the potential impacts of such potential source or potential route~~
300 ~~upon groundwaters and the affected water well, and an explanation of the~~
301 ~~applicable technology based controls which will be utilized to minimize the~~

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302 ~~potential for contamination of the potable water supply well. (Section 14.2(c) of~~
303 ~~the Act)~~

304
305 e) ~~The Board shall grant an exception, whenever it is found upon presentation of~~
306 ~~adequate proof, that compliance with the setback requirements of this Section~~
307 ~~would pose an arbitrary and unreasonable hardship upon the petitioner, that the~~
308 ~~petitioner will utilize the best available technology controls economically~~
309 ~~achievable to minimize the likelihood of contamination of the potable water~~
310 ~~supply well, that the maximum feasible alternative setback will be utilized, and~~
311 ~~that the location of such potential source or potential route will not constitute a~~
312 ~~significant hazard to the potable water supply well. (Section 14.2(c) of the Act)~~

313
314 f) ~~A decision made by the Board pursuant to this subsection shall constitute a final~~
315 ~~determination. (Section 14.2(c) of the Act)~~

316
317 g) ~~The granting of an exception by the Board shall not extinguish the water well~~
318 ~~owner's rights under Section 6b of the Illinois Water Well Construction Code in~~
319 ~~instances where the owner has elected not to provide a waiver pursuant to~~
320 ~~subsection (a) of this Section. (Section 14.2(c) of the Act)~~

321
322 (Source: Amended at 46 Ill. Reg. _____, effective _____)

323
324 **Section 616.105 General Exceptions**

325
326 a) This Part does not apply to any facility or unit, or to the owner or operator of any
327 facility or unit, for which:

- 328
- 329 1) The owner or operator obtains certification of minimal hazard
- 330 under ~~pursuant to~~ Section 14.5 of the Act; or
- 331
- 332 2) Alternate requirements are imposed in an adjusted standard proceeding or
- 333 in a site-specific rulemaking, under ~~pursuant to~~ Title VII of the Act; or
- 334
- 335 3) Alternate requirements are imposed in a regulated recharge area
- 336 proceeding under ~~pursuant to~~ Section 17.4 of the Act; or
- 337
- 338 4) The owner or operator of the facility for storage and related handling of
- 339 pesticides or fertilizers for the purpose of commercial application or at a
- 340 central location for the purpose of distribution to retail sales outlets that
- 341 has filed a written notice of intent under ~~pursuant to~~ Section 14.6 of the Act
- 342 *with the Department of Agriculture by January 1, 1993, or within 6*
- 343 *months after the date on which a maximum setback zone is established or*
- 344 *a regulated recharge area regulation is adopted that affects such a*

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345 *facility; or has filed a written certification of intent ~~underpursuant~~ to*
346 *Section 14.6 of the Act on the appropriate license or renewal application*
347 *form submitted to the Department of Agriculture or other appropriate*
348 *agency. [415 ILCS 5/14.6] (~~Section 14.6(a) of the Act~~). This exception*
349 *~~will~~shall not apply to those facilities that are not in compliance with the*
350 *program requirements of ~~Sections~~subsections 14.6(b) and 14.6(c) of the*
351 *Act.*

- 352
- 353 b) Nothing in this Section ~~limits~~shall~~limit~~ the authority of the Board to impose
354 requirements on any facility or unit within any portion of any setback zone or
355 regulated recharge area in any adjusted standard proceeding, site-specific
356 rulemaking or a regulatory proceeding establishing the regulated recharge area.

357
358 (Source: Amended at 46 Ill. Reg. _____, effective _____)

359
360 **SUBPART B: GROUNDWATER MONITORING REQUIREMENTS**

361
362 **Section 616.202 Compliance Period**

363
364 The compliance period is the active life of the unit, including closure and post-closure care
365 periods.

- 366
- 367 a) The active life begins when the unit first begins operation or one year after the
368 date of first applicability, whichever occurs later, and ends when the post-closure
369 care period ends.
- 370
- 371 b) The post-closure care period for units other than pesticide storage and handling
372 units subject to Subpart I and fertilizer storage and handling units subject to
373 Subpart J is five years after closure, except as provided at Section 616.211(e).
- 374
- 375 c) The post-closure care period for pesticide storage and handling units subject to
376 Subpart I and for fertilizer storage and handling units subject to Subpart J is three
377 years after closure, except as provided at Section 616.211(e).
- 378
- 379 d) ~~Despite subsections~~Subsections (a), (b), and (c) ~~notwithstanding~~, no post-closure
380 care period is required if all waste, waste residues, contaminated containment
381 system components and contaminated subsoils are removed or decontaminated at
382 closure, and no ongoing corrective action is required ~~underpursuant to~~ Section
383 616.211.

384
385 (Source: Amended at 46 Ill. Reg. _____, effective _____)

386
387 **Section 616.203 Compliance With Groundwater Standards**

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The owner or operator ~~must~~shall comply with the groundwater standards.

- a) The term of compliance is the compliance period.
- b) Compliance ~~must~~shall be measured at the compliance point, or compliance points if more than one such point exists.

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

Section 616.205 Groundwater Monitoring Program

The owner or operator ~~must~~shall develop a groundwater monitoring program that consists of:

- a) Consistent sampling and analysis procedures that are designed to ensure monitoring results that provide a reliable indication of groundwater quality below the unit. At a minimum the program must include procedures and techniques for:
 - 1) Sample collection;
 - 2) Sample preservation and shipment;
 - 3) Analytical procedures; and
 - 4) Chain of custody control.
- b) Sampling and analytical methods that are appropriate for groundwater monitoring and that allow for detection and quantification of contaminants specified in this Subpart, and that are consistent with the sampling and analytical methods specified in 35 Ill. Adm. Code 620.
- c) A determination of the groundwater head elevation each time groundwater is sampled.
- d) A determination at least annually of the groundwater flow rate and direction.
- e) If the owner or operator determines that the groundwater monitoring program no longer satisfies the requirements of this Section, the owner or operator ~~must~~shall, within 90 days, make appropriate changes to the program. Conditions under which a groundwater monitoring program no longer satisfies the requirements of this Section include, ~~but are not limited to:~~
 - 1) A Maximum Allowable Result (MAR) is exceeded in any monitoring well

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431 that is being used as a background monitoring well or that the owner or
432 operator has previously determined to be hydraulically upgradient from
433 the facility; or
434

435 2) A redetermination of groundwater flow rate and direction conducted
436 ~~underpursuant to~~ subsection (d) shows that the existing monitoring system
437 is not capable of assessing groundwater quality at the compliance points or
438 points.
439

440 (Source: Amended at 46 Ill. Reg. _____, effective _____)
441

442 **Section 616.206 Reporting**
443

444 The owner or operator ~~mustshall~~ submit results of all monitoring required ~~underpursuant to~~ this
445 Subpart to the Agency within 60 days after ~~completion of~~ sampling is completed.
446

447 (Source: Amended at 46 Ill. Reg. _____, effective _____)
448

449 **Section 616.207 Determining Background Values and Maximum Allowable Results**
450 **("MARs")**
451

452 a) The owner or operator ~~mustshall~~, beginning no later than the beginning of
453 operation of the unit and continuing for a period of at least one year, sample each
454 monitoring well at least every two months and analyze each such sample
455 according to the following program:
456

457 1) For a unit subject to Subpart E (land treatment units), Subpart F (surface
458 impoundments), Subpart K (road oil storage and handling units), or
459 Subpart L (de-icing agent storage and handling units), analysis ~~mustshall~~
460 be for pH, specific conductance, total organic carbon, total organic
461 halogen, and any other parameter that meets the following criteria:
462

463 A) Material containing such parameter is stored, treated or disposed of
464 at the unit; and
465

466 B) There is a groundwater standard for such parameter.
467

468 2) For a unit subject to Subpart I for the storage and handling of pesticides,
469 analysis ~~mustshall~~ be for each pesticide stored or handled at the unit.
470

471 3) For a unit subject to Subpart J for the storage and handling of fertilizer,
472 analysis ~~mustshall~~ be for pH, specific conductance, total organic carbon,
473 nitrates as nitrogen, ammonia nitrogen and for any other parameter that

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- 474 meets the following criteria:
475
476 A) Material containing such parameter is stored or handled at the unit;
477 and
478
479 B) There is a groundwater standard for such parameter.
480

481 b) The results obtained under subsection (a) ~~must~~^{shall} be used to calculate the
482 background mean, background standard deviation and the Maximum Allowable
483 Result (hereinafter referred to as "MAR") for each parameter using the following
484 procedures:
485

- 486 1) Results from all samples collected during the year must be used in the
487 calculations unless the owner or operator demonstrates to the Agency that
488 one or more of the results was due to error in sampling, analysis or
489 evaluation.
490
491 2) All calculations must be based on a minimum of at least six sample
492 measurements per parameter per well.
493
494 3) If any measured value is equal to or greater than its PQL, or if any
495 measured value is greater than its corresponding groundwater standard, the
496 actual measured value must be used calculating the mean and standard
497 deviation.
498
499 4) If any measured value is less than its PQL and less than its corresponding
500 groundwater standard, the PQL rather than the measured value is to be
501 used in calculating the mean and standard deviation.
502
503 5) Except for pH, the MAR is the quantity equal to the measured mean value
504 of the contaminant plus the product of the contaminant's standard
505 deviation times the following constant:
506

<u>Sample Size</u>	<u>Constant</u>
6	2.10
7	2.03
8	1.97
9	1.93
10	1.90
11	1.88
12	1.85
13	1.84
14	1.82

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- 6) For pH, the upper limit for the MAR is the quantity equal to the measured background mean pH plus the product of the calculated background standard deviation of the samples times the constant tabulated in subsection ~~(b)(a)~~(5).
 - 7) For pH, the lower limit of the MAR is the quantity equal to the measured background mean pH minus the product of the calculated background standard deviation of the samples times the constant tabulated in subsection ~~(b)(a)~~(5).

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

Section 616.208 Continued Sampling

520
521
522 Upon completion of the background sampling required ~~underpursuant to~~ Section 616.207, the
523 owner or operator ~~must~~~~shall~~ sample each monitoring well for the duration of the compliance
524 period and analyze each sample, except as provided in Section 616.209, according to the
525 following program:

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549
- a) For a unit subject to Subpart E (land treatment units) or Subpart F (surface impoundments), sampling ~~must~~~~shall~~ be at least quarterly and analysis ~~must~~~~shall~~ be for pH, specific conductance, total organic carbon, total organic halogen, and any other parameter that meets the following criteria:
 - 1) Material containing such parameter is stored, treated or disposed of at the unit; and
 - 2) The Board has adopted a groundwater standard for such parameter.
 - b) For a unit subject to Subpart I for the storage and handling of pesticides, sampling ~~must~~~~shall~~ be at least quarterly, except as provided in subsection (d), and analysis ~~must~~~~shall~~ be for five specific pesticides or five groups of chemically-similar pesticides stored or handled at the unit that are the most likely to enter into the groundwater from the unit and that are the most toxic. The owner or operator ~~must~~~~shall~~ choose the five specific pesticides or five groups based upon the following criteria:
 - 1) The volume of the pesticides stored or handled at the unit;
 - 2) The leachability characteristics of the pesticides stored or handled at the unit;

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- 550 3) The toxicity characteristics of the pesticides stored or handled at the unit;
551
552 4) The history of spillage of the pesticides stored or handled at the unit; and
553
554 5) Any groundwater standards for the pesticides stored or handled at the unit.
555
556 c) For a unit subject to Subpart J for the storage and handling of fertilizer, sampling
557 ~~must~~shall be at least quarterly, except as provided in subsection (d), and analysis
558 ~~must~~shall be for pH, total organic carbon, nitrates as nitrogen, ammonia nitrogen,
559 and specific conductance.
560
561 d) ~~Despite subsections~~Subsections (b) and (c) ~~notwithstanding~~, for a unit subject to
562 Subpart I for the storage and handling of pesticides or for a unit subject to Subpart
563 J for the storage and handling of fertilizers, sampling ~~must~~shall be at least semi-
564 annually ~~if provided that~~ all of the following conditions are met:
565
566 1) The unit is in compliance with the containment requirements of 8 Ill.
567 Adm. Code 255; ~~and~~
568
569 2) There have been no detections within the preceding two years in any of
570 the monitoring wells of any contaminant stored or handled at the facility
571 or of any contaminant attributable to operation of the unit. ~~;~~and
572
573 e) For a unit subject to Subpart K for the storage and handling of road oils or subject
574 to Subpart L for the storage and handling of de-icing agents, sampling ~~must~~shall
575 be annually and analysis ~~must~~shall be for pH, specific conductance, total organic
576 carbon and total organic halogen.
577

578 (Source: Amended at 46 Ill. Reg. _____, effective _____)
579

Section 616.209 Preventive Notification and Preventive Response

- 580
581 a) Preventive notification is required for each well in which:
582
583 1) A MAR ~~is found to be~~ exceeded (except for pH);~~;~~ or
584
585 2) There is a detection of any contaminant:
586
587 A) Required to be monitored under Section 616.207(a);
588
589 B) Listed under 35 Ill. Adm. Code 620.310(a)(3)(A) (except due to
590 natural causes and except for pH);
591
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- 593 C) Denoted as carcinogen under 35 Ill. Adm. Code 620.410(b); or
594
595 D) Subject to a standard under 35 Ill. Adm. Code 620.430 (except due
596 to natural causes).
597
- 598 b) Whenever preventive notification is required under subsection (a), the owner or
599 operator of the unit ~~must~~shall confirm the detection by resampling the monitoring
600 well or wells. This resampling ~~must~~shall be analyzed for each parameter found to
601 be present in the first sample and be performed within 30 days after the date on
602 which the first sample analyses are received, but no later than 90 days after the
603 results of the first sample are received.
604
- 605 c) If preventive notification is provided under subsection ~~(a)(b)~~ by the owner or
606 operator and the applicable standard has not been exceeded, the Agency ~~must~~shall
607 determine whether the levels for each parameter as set forth in 35 Ill. Adm. Code
608 620.310(a)(3)(A) are exceeded. If an ~~exceedance~~exceedence is determined, the
609 Agency ~~must~~shall notify the owner or operator in writing regarding ~~the~~such
610 finding.
611
- 612 d) Within 60 days after receiving a notification from the Agency under subsection
613 (c).~~Upon receipt of a finding that an exceedance has occurred,~~ the owner or
614 operator ~~must~~shall submit to the Agency ~~within 60 days~~ a report that includes,~~at a~~
615 ~~minimum, shall include~~ the degree and extent of contamination and the measures
616 that are being taken to minimize or eliminate ~~the~~this contamination, in
617 compliance~~accordance~~ with a prescribed schedule. The owner or operator may
618 also provide a demonstration that:
619
- 620 1) The contamination is the result of contaminants remaining in groundwater
621 from a prior release for which appropriate action was taken in
622 compliance~~accordance~~ with the laws and regulations in existence at the
623 time of the release;
624
- 625 2) The source of contamination is not due to the on-site release of
626 contaminants; or
627
- 628 3) The detection resulted from error in sampling analysis or evaluation.
629
- 630 e) Based upon the report in subsection (d) as well as any other relevant information
631 available to the Agency, the Agency ~~must~~shall provide a written response to the
632 owner or operator that specifies either:
633
- 634 1) Concurrence with the preventive response being undertaken; or
635

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- 636 2) Non-concurrence with the preventive response being undertaken and a
637 description of the inadequacies of such action.
638
- 639 f) An owner or operator who receives a written response of concurrence
640 ~~underpursuant to~~ subsection (e) ~~mustshall~~ provide periodic program reports to the
641 Agency regarding the implementation of the preventive response.
642
- 643 g) An owner or operator who receives a written response of non-concurrence
644 ~~underpursuant to~~ subsection (e) ~~mustshall~~ have ~~within~~ 30 days ~~to~~ correct the
645 inadequacies and ~~to~~ resubmit the report to the Agency or to request a conference
646 with the Agency. ~~Within 30 days of~~ ~~Upon~~ receipt of a written request for ~~such a~~
647 conference, the Agency ~~mustshall~~ schedule and hold the conference ~~within 30~~
648 ~~days~~. Following ~~the~~ a conference, the Agency ~~mustshall~~ provide the owner or
649 operator with a final determination regarding the adequacy of the preventive
650 response.
651
- 652 h) An owner or operator ~~mustshall~~ be responsible for implementing adequate
653 preventive response as determined ~~underpursuant to~~ this Section.
654
- 655 i) After completion of preventive response, the concentration of a contamination
656 listed in 35 Ill. Adm. Code 620.310(a)(3)(A) in groundwater may exceed 50
657 percent of the applicable numerical standard in 35 Ill. Adm. Code 620.Subpart D
658 only if the following conditions are met:
659
- 660 1) The ~~exceedance~~ ~~exceedence~~ has been minimized to the extent practicable;
661
- 662 2) Beneficial use, as appropriate for the class of groundwater, has been
663 assured; and
664
- 665 3) Any threat to public health or the environment has been minimized.
666
- 667 j) Nothing in this Section ~~limits~~ ~~shall in any way limit~~ the authority of the State or
668 the United States to require or perform any corrective action process.
669

670 (Source: Amended at 46 Ill. Reg. _____, effective _____)
671

672 **Section 616.210 Corrective Action Program**
673

674 Whenever any applicable groundwater standard under 35 Ill. Adm. Code 620.Subpart D is
675 exceeded, an owner or operator ~~mustshall be required to~~ undertake the following corrective
676 action:
677

- 678 a) Notify the Agency of the need to undertake a corrective action program when

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- 679 submitting the groundwater monitoring results required ~~underpursuant to~~ Section
680 616.206. The notification must indicate in which wells and for which parameters
681 a groundwater standard was exceeded.
682
- 683 b) Continue to sample and analyze according to the provisions of Section
684 616.208(a), except that:
685
- 686 1) For all units subject to Subpart I for the storage and handling of pesticides,
687 the frequency of all ~~such~~ sampling ~~mustshall~~ be quarterly until no
688 measured values above the groundwater standard have been recorded for
689 any parameter for two consecutive quarters.
690
- 691 2) For a unit subject to Subpart J for the storage and handling of fertilizers,
692 sampling ~~mustshall~~ be quarterly for the parameters ~~specifiedset forth~~ in
693 Section 616.207(a)(3) ~~that are~~ stored or handled at the unit until no
694 measured values above the groundwater standard have been recorded for
695 two consecutive quarters.
696
- 697 c) If sample values above any groundwater standard are confirmed ~~underpursuant to~~
698 Section 616.209(b), the owner or operator ~~mustshall~~:
699
- 700 1) Submit to the Agency an engineering feasibility plan for a corrective
701 action program designed to achieve the requirements of subsection (e)
702 through (i)(j).
703
- 704 A) ~~TheSuch~~ feasibility plan ~~mustshall~~ be submitted to the Agency
705 within 180 days after the date of the sample in which a
706 groundwater standard was initially exceeded.
707
- 708 B) ~~TheThis~~ requirement ~~under subsection (c)~~ is waived if no
709 groundwater standard is exceeded in any sample taken
710 ~~underpursuant to~~ subsection (b) for two consecutive quarters.
711
- 712 d) Except as provided in subsection (c)(1)(B), the Agency ~~mustshall~~ provide a
713 written response to the owner or operator based upon the engineering feasibility
714 plan and any other relevant information that specifies either:
715
- 716 1) Concurrence with the feasibility plan for corrective action; or
717
- 718 2) Non-concurrence with the feasibility plan for corrective action and a
719 description of the inadequacies of such plan.
720
- 721 e) An owner or operator who receives a written response of concurrence

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- 722 ~~underpursuant to~~ subsection (d) ~~mustshall~~ provide periodic progress reports to the
 723 Agency regarding the implementing of the ~~corrective actionpreventive response~~.
- 724
- 725 f) An owner or operator who receives a written response of non-concurrence
 726 ~~underpursuant to~~ subsection (d) ~~mustshall~~ have within 30 days of receiving the
 727 response~~to~~ correct the inadequacies and ~~to~~ resubmit the report to the Agency or ~~to~~
 728 request a conference with the Agency. Upon receipt of a written request for ~~such~~ a
 729 conference, the Agency ~~mustshall~~ schedule and hold the conference ~~within 30~~
 730 days. Following ~~the~~a conference, the Agency ~~mustshall~~ provide the owner or
 731 operator with a final determination regarding the adequacy of the corrective
 732 action.
- 733
- 734 g) An owner or operator ~~isshall be~~ responsible for implementing adequate corrective
 735 actionpreventive response as determined ~~underpursuant to~~ this Section.
- 736
- 737 h) Except as provided in subsection (c)(1)(B), the owner or operator ~~mustshall~~:
- 738
- 739 1) Begin the corrective action program specified in the engineering
 740 feasibility plan no later than the date of receipt of concurrence from the
 741 Agency.
- 742
- 743 2) Establish and implement a groundwater monitoring program to
 744 demonstrate the effectiveness of the corrective action program.
- 745
- 746 3) Take corrective action that results in compliance with the groundwater
 747 standards:
- 748
- 749 A) At all compliance points; and
- 750
- 751 B) Beyond the unit boundary, where necessary to protect human
 752 health and the environment, unless the owner or operator
 753 demonstrates to the Agency that, despite the owner's or operator's
 754 best efforts, the owner or operator was unable to obtain the
 755 necessary permission to undertake such action. The owner or
 756 operator is not relieved of responsibility to clean up a release that
 757 has migrated beyond the unit boundary where off-site access is
 758 denied.
- 759
- 760 4) Continue corrective action measures to the extent necessary to ensure that
 761 no groundwater standard is exceeded at the compliance point or points.
- 762
- 763 5) The owner or operator may terminate corrective action measures taken
 764 beyond the compliance period as identified at Section 616.202 if the

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765 owner or operator can demonstrate, based on data from the post-closure
766 groundwater monitoring program under subsection (h)(2), that no
767 groundwater standard has been exceeded for a period of three consecutive
768 years.

769
770 6) Report in writing to the Agency on the effectiveness of the corrective
771 action program. The owner or operator ~~must~~ **shall** submit these reports
772 semi-annually.

773
774 7) If the owner or operator determines that the corrective action program no
775 longer satisfies the requirements of this Section, the owner or operator
776 ~~must~~ **shall**, within 90 days, make any appropriate changes to the program.

777
778 i) Subsections (b), (c) and (f) do not apply if the owner or operator makes an
779 alternative corrective action demonstration ~~under~~ **pursuant to** Section 616.211.

780
781 (Source: Amended at 46 Ill. Reg. _____, effective _____)

782
783 **Section 616.211 Alternative Corrective Action Demonstration**

784
785 If a corrective action program is required ~~under~~ **pursuant to** Section 616.210, it is presumed that
786 contamination from the facility or unit that is being monitored is responsible for the groundwater
787 standard being exceeded. An owner or operator may overcome that presumption by making a
788 demonstration that a source other than the facility or unit that is being monitored caused the
789 groundwater standard to be exceeded, or that the cause of the groundwater standard being
790 exceeded is due to error in sampling, analysis or evaluation.

791
792 a) In making ~~the~~ **such** demonstration the owner or operator ~~must~~ **shall**:

793
794 1) Notify the Agency that the owner or operator intends to make a
795 demonstration under this Section when submitting the groundwater
796 monitoring results ~~under~~ **pursuant to** Section 616.206; and

797
798 2) Submit a report to the Agency that demonstrates that a source other than a
799 facility or unit for which he is the owner or operator caused the
800 groundwater standard to be exceeded, or that the groundwater standard
801 was exceeded due to an error in sampling, analysis or evaluation.
802 ~~This~~ **Such** report must be included with the next submission of
803 groundwater monitoring results required ~~under~~ **pursuant to** Section
804 616.206. ~~and~~

805
806 b) The Agency ~~must~~ **shall** provide a written response to the owner or operator, based
807 upon the written demonstration and any other relevant information, that specifies

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- 808 either:
- 809
- 810 1) Concurrence with the written demonstration for alternative corrective
- 811 action with requirements to continue to monitor in compliance~~accordance~~
- 812 with the groundwater monitoring program established under~~pursuant to~~
- 813 Sections 616.205 and 616.210; or
- 814
- 815 2) Non-concurrence with the written demonstration for alternative corrective
- 816 action and a description of the inadequacies of such demonstration.
- 817
- 818 c) An owner or operator who receives a written response of non-concurrence
- 819 under~~pursuant to~~ subsection (b) must within~~(e) shall have~~ 30 days of receiving the
- 820 response~~to so~~ respond to the Agency in writing or ~~to~~ request a conference with the
- 821 Agency. Upon receipt of a written request for ~~such~~ a conference, the Agency
- 822 must~~shall~~ schedule and hold the conference within 30 days. Following the
- 823 conference, the Agency must~~shall~~ provide the owner or operator with a final
- 824 determination regarding the adequacy of the alternative corrective action.
- 825
- 826 d) The owner or operator must~~shall~~ begin the corrective action program in
- 827 compliance~~accordance~~ with the requirements of Section 616.210~~(f)~~.
- 828

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

830

831 **SUBPART C: GENERAL CLOSURE AND POST-CLOSURE REQUIREMENTS**

832

833 **Section 616.302 Closure Performance Standard**

834

835 The owner or operator must~~shall~~ close the unit in a manner that:

836

- 837 a) Controls, minimizes or eliminates, to the extent necessary to protect human health
- 838 and the environment, post-closure escape of waste, waste constituents, leachate,
- 839 contaminated runoff or waste decomposition products to soils, groundwaters,
- 840 surface waters, or the atmosphere;
- 841
- 842 b) Minimizes the need for maintenance during and beyond the post-closure care
- 843 period; and
- 844
- 845 c) Complies with the closure requirements of 35 Ill. Adm. Code: Subtitles C and G.
- 846

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

848

849 **Section 616.303 Certification of Closure**

850

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851 Within 60 days after ~~the completion of~~ closure of each unit ~~is completed~~, the owner or operator
852 ~~must shall~~ submit to the Agency, by registered or certified mail, a certification that the unit has
853 been closed in ~~compliance accordance~~ with the closure requirements. The certification must be
854 signed by the owner or operator and by an independent registered professional engineer.
855 Documentation supporting the independent registered professional engineer's certification must
856 be furnished to the Agency upon request.

857
858 (Source: Amended at 46 Ill. Reg. _____, effective _____)
859

Section 616.304 Survey Plat

861
862 a) ~~Before No later than~~ the submission of the certification of closure of each unit, the
863 owner or operator ~~must shall~~ submit to any local zoning authority, or authority
864 with jurisdiction over local land use, and to the Agency, and record with land
865 titles, a survey plat indicating the location and dimensions of any waste disposal
866 units, and any pesticide or fertilizer storage and handling units, with respect to
867 permanently surveyed benchmarks. This plat must be prepared and certified by a
868 registered land surveyor.

869
870 b) For pesticide storage and handling units or for fertilizer storage and handling
871 units, records or reports required under any other state or Federal regulatory
872 program and which contain the information required ~~under subsection (a) above~~
873 may be used to satisfy ~~that this~~ reporting requirement.

874
875 (Source: Amended at 46 Ill. Reg. _____, effective _____)
876

Section 616.305 Post-Closure Notice for Waste Disposal Units

877
878
879 ~~Within No later than~~ 60 days after certification of closure of the unit, the owner or operator of a
880 unit subject to Subparts D, E, or F ~~must shall~~ submit to the Agency, to the County Recorder and
881 to any local zoning authority or authority with jurisdiction over local land use, a record of the
882 type, location and quantity of wastes disposed of within each cell or other area of the unit.

883
884 (Source: Amended at 46 Ill. Reg. _____, effective _____)
885

Section 616.306 Certification of Completion of Post-closure Care

886
887
888 ~~Within No later than~~ 60 days after completion of the established post-closure care period, the
889 owner or operator ~~must shall~~ submit to the Agency, by registered or certified mail, a certification
890 that the post-closure care period for the unit was performed in ~~compliance accordance~~ with the
891 specifications in the approved post-closure plan. The certification must be signed by the owner
892 or operator and an independent registered professional engineer. Documentation supporting the
893 independent registered professional engineer's certification must be furnished to the Agency

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894 upon request.

895
896 (Source: Amended at 46 Ill. Reg. _____, effective _____)
897

898 SUBPART D: ON-SITE LANDFILLS
899

900 **Section 616.401 Applicability**
901

902 This Subpart applies to new landfill units which are located wholly or partially within a setback
903 zone or regulated recharge area and that contain special waste or other waste generated on-site,
904 except that this Subpart does not apply to any new landfill unit that:

- 905
906 a) Contains solely one or more of the following: hazardous waste, livestock waste,
907 landscape waste, or construction and demolition debris; or
908
909 b) Is exempt from this Part ~~under~~pursuant to Section 616.105.
910

911 (Source: Amended at 46 Ill. Reg. _____, effective _____)
912

913 **Section 616.402 Prohibitions**
914

- 915 a) ~~Under Pursuant to~~ Sections 14.2(a), 14.2(c) and 14.3(e) of the Act, a person must
916 ~~not~~no person shall cause or allow the construction or operation of any landfill unit
917 that is:
918
919 1) Located wholly or partially within a minimum setback zone and that is
920 either a new potential primary source or a new potential secondary source,
921 except as specified in Sections 616.104~~(a) and (b)~~; or
922
923 2) Located wholly or partially within a maximum setback zone and that is a
924 new potential primary source, except as specified in Section 616.104~~(b)~~.
925
926 b) A person must not~~No person shall~~ cause or allow the disposal of special waste in
927 a new on-site landfill unit within a regulated recharge area if the distance from the
928 wellhead of the community water supply well to the landfill unit is 2500 feet or
929 less, except as provided at Section 616.105.

930
931 (Source: Amended at 46 Ill. Reg. _____, effective _____)
932

933 SUBPART E: ON-SITE LAND TREATMENT UNITS
934

935 **Section 616.421 Applicability**
936

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937 This Subpart applies to new land treatment units that are located wholly or partially within a
938 setback zone or regulated recharge area and that treat or dispose of special waste or other waste
939 generated on-site, except that this Subpart does not apply to any new land treatment unit that:

940
941 a) Contains solely one or more of the following: hazardous waste, livestock waste,
942 landscape waste, or construction and demolition debris; or

943
944 b) Is exempt from this Part ~~underpursuant to~~ Section 616.105.

945
946 (Source: Amended at 46 Ill. Reg. _____, effective _____)

947 948 **Section 616.422 Prohibitions**

949
950 a) ~~UnderPursuant to~~ Sections 14.2(a), 14.2(c) and 14.3(e) of the Act, a person must
951 ~~notno person shall~~ cause or allow the construction or operation of any land
952 treatment unit that is:

953
954 1) Located wholly or partially within a minimum setback zone and that is
955 either a new potential primary source or a new potential secondary source,
956 except as specified in Sections 616.104~~(a) and (b)~~; or

957
958 2) Located wholly or partially within a maximum setback zone and that is a
959 new potential primary source, except as specified in Section 616.104~~(b)~~.

960
961 b) Nothing in this Section ~~prohibitsshall prohibit~~ land treatment within a maximum
962 setback zone regulated by the Act of sludge resulting from the treatment of
963 domestic wastewater or of sludge resulting from the treatment of water to produce
964 potable water, if land treatment is~~such activities are~~ conducted in
965 compliance~~accordance~~ with the Act and 35 Ill. Adm. Code: Subtitle C.

966
967 (Source: Amended at 46 Ill. Reg. _____, effective _____)

968 969 **Section 616.423 Groundwater Monitoring**

970
971 The owner or operator must~~shall~~ comply with the requirements of Subpart B.

972
973 (Source: Amended at 46 Ill. Reg. _____, effective _____)

974 975 **Section 616.424 Design and Operating Requirements**

976
977 The owner or operator must~~shall~~ design and operate the land treatment site in
978 compliance~~accordance~~ with 35 Ill. Adm. Code: Subtitle C and 35 Ill. Adm. Code: Subtitle G.

979

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

981

982 **Section 616.425 Closure and Post-Closure**

983

984 The owner or operator ~~shall~~ must comply with the requirements of Subpart C.

985

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

987

988 **SUBPART F: ON-SITE SURFACE IMPOUNDMENTS**

989

990 **Section 616.441 Applicability**

991

992 This Subpart applies to new surface impoundment units that are located wholly or partially
993 within a setback zone or regulated recharge area and that contain special waste or other waste
994 generated on-site, except that this Subpart does not apply to any new surface impoundment unit
995 that:

996

997 a) Contains solely one or more of the following: hazardous waste, livestock waste,
998 landscape waste, or construction and demolition debris; or

999

1000 b) Is exempt from this Part ~~underpursuant to~~ Section 616.105.

1001

1002 (Source: Amended at 46 Ill. Reg. _____, effective _____)

1003

1004 **Section 616.442 Prohibitions**

1005

1006 ~~UnderPursuant to~~ Sections 14.2(a), 14.2(c) and 14.3(e) of the Act, a person must not ~~no person~~
1007 ~~shall~~ cause or allow the construction or operation of any surface impoundment unit that is:

1008

1009 a) Located wholly or partially within a minimum setback zone and that is either a
1010 new potential primary source or a new potential secondary source, except as
1011 specified in Sections 616.104~~(a) and (b)~~; or

1012

1013 b) Located wholly or partially within a maximum setback zone and that is a new
1014 potential primary source, except as specified in Section 616.104~~(b)~~.

1015

1016 (Source: Amended at 46 Ill. Reg. _____, effective _____)

1017

1018 **Section 616.443 Groundwater Monitoring**

1019

1020 The owner or operator ~~shall~~ must comply with the requirements of Subpart B.

1021

1022 (Source: Amended at 46 Ill. Reg. _____, effective _____)

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Section 616.444 Design Requirements

- a) The owner or operator of a surface impoundment ~~must~~~~shall~~ install two or more liners and a leachate collection system between such liners. The requirement for the installation of two or more liners in this subsection may be satisfied by the installation of a top liner designed, operated, and constructed of materials to prevent the migration of any constituent into such liner during the period such facility remains in operation (including any post-closure monitoring period), and a lower liner designed, operated and constructed to prevent the migration of any constituent through such liner during such period. For the purpose of the preceding sentence, a lower liner ~~is considered~~~~shall be deemed~~ to satisfy ~~the~~~~such~~ requirement if it is constructed of at least a 5-foot thick layer of recompacted clay or other natural material with a permeability of no more than $1 \times 10^{(-7)}$ centimeter per second.
- b) A surface impoundment must be designed, constructed, maintained and operated to prevent overtopping resulting from normal or abnormal operations; overfilling; wind and wave action; rainfall; run-on; malfunctions of level controllers, alarms and other equipment; and human error.
- c) A surface impoundment must have dikes that are designed, constructed and maintained with sufficient structural integrity to prevent massive failure of the dikes. In ensuring structural integrity, it must not be presumed that the liner system will function without leakage during the active life of the surface impoundment.
- d) The owner or operator ~~must~~~~shall~~ maintain the following items:
 - 1) Records describing the contents of the impoundment; and
 - 2) A map showing the exact location and dimensions of the impoundment, including depth with respect to permanently surveyed benchmarks.

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

Section 616.445 Inspection Requirements

- a) During construction and installation, liners must be inspected for uniformity, damage and imperfections (e.g., holes, cracks, thin spots or foreign materials). Immediately after construction or installation:
 - 1) Synthetic liners and covers must be inspected to ensure tight seams and

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1066 joints and the absence of tears, punctures and blisters; and
1067
1068 2) Soil-based and admixed liners and covers must be inspected for
1069 imperfections including lenses, cracks, channels, root holes or other
1070 structural non-uniformities that may cause an increase in the permeability
1071 of that liner or cover.

1072
1073 b) During operation. ~~While~~ a surface impoundment ~~is in operation, it~~ must be
1074 inspected weekly and after storms to detect evidence of any of the following:

1075
1076 1) Deterioration, malfunctions or improper operation of overtopping control
1077 systems;

1078
1079 2) Sudden drops in the level of the impoundment's contents;

1080
1081 3) Severe erosion or other signs of deterioration in dikes or other
1082 containment devices; or

1083
1084 4) A leaking dike.

1085
1086 (Source: Amended at 46 Ill. Reg. _____, effective _____)

1087
1088 **Section 616.446 Operating Requirements**

1089
1090 a) A person must not ~~No person shall~~ cause or allow incompatible materials to be
1091 placed in the same surface impoundment unit.

1092
1093 b) A surface impoundment unit must be removed from service in
1094 compliance ~~accordance~~ with subsection (c) when:

1095
1096 1) The level of liquids in the unit suddenly drops and the drop is not known
1097 to be caused by changes in the flows into or out of the unit; or

1098
1099 2) The dike leaks.

1100
1101 c) When a surface impoundment unit ~~is~~ must be removed from service as required by
1102 subsection (b), the owner or operator must ~~shall~~:

1103
1104 1) Shut off the flow or stop the addition of wastes into the impoundment unit;

1105
1106 2) Contain any surface leakage that has occurred or is occurring;

1107
1108 3) Stop the leak;

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- 1109
1110 4) Take any other necessary steps to stop or prevent catastrophic failure;
1111
1112 5) If a leak cannot be stopped by any other means, empty the impoundment
1113 unit; and
1114
1115 6) Notify the Agency of the removal from service and corrective actions that
1116 were taken, ~~such notice to be given~~ within 10 days after the removal from
1117 service.
1118
1119 d) ~~A~~ No surface impoundment unit that has been removed from service in
1120 compliance~~accordance~~ with the requirements of this Section may be restored to
1121 service only if~~unless~~ the portion of the unit that failed has been repaired.
1122
1123 e) A surface impoundment unit that has been removed from service in
1124 compliance~~accordance~~ with the requirements of this Section and that is not being
1125 repaired must be closed in compliance~~accordance~~ with the provisions of Section
1126 616.447.
1127

1128 (Source: Amended at 46 Ill. Reg. _____, effective _____)
1129

1130 **Section 616.447 Closure and Post-Closure Care**
1131

- 1132 a) If closure is to be by removal, the owner or operator must~~shall~~ remove all waste,
1133 all waste residues, contaminated containment system components (liners, etc.),
1134 contaminated subsoils and structures and equipment contaminated with waste and
1135 leachate; and, if disposed of in the State of Illinois, dispose of them at a disposal
1136 site permitted by the Agency under the Act.
1137
1138 b) If closure is not to be by removal, the owner or operator must~~shall~~ comply with
1139 the requirements of Subpart C and must~~shall~~:
1140
1141 1) Eliminate free liquids by removing liquid wastes or solidifying the
1142 remaining wastes and waste residues.
1143
1144 2) Stabilize remaining wastes to a bearing capacity sufficient to support final
1145 cover.
1146
1147 3) Cover the surface impoundment unit with a final cover designed and
1148 constructed to:
1149
1150 A) Provide long-term minimization of the migration of liquids through
1151 the closed impoundment unit;

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- 1152
1153 B) Function with minimum maintenance;
1154
1155 C) Promote drainage and minimize erosion or abrasion of the final
1156 cover;
1157
1158 D) Accommodate settling and subsidence so that the cover's integrity
1159 is maintained; and
1160
1161 E) Have a permeability less than or equal to the permeability of any
1162 bottom liner system.
1163
1164 c) If some waste residues or contaminated materials are left in place at final closure,
1165 the owner or operator ~~must~~~~shall~~ comply with the requirements of Subpart C ~~and~~
1166 ~~shall~~ for a period of 5 years after closure must:
1167
1168 1) Maintain the integrity and effectiveness of the final cover, including
1169 making repairs to the cap as necessary to correct the effects of settling,
1170 subsidence, erosion or other events;
1171
1172 2) Maintain and monitor the groundwater monitoring system; and
1173
1174 3) Prevent run-on and run-off from eroding or otherwise damaging the final
1175 cover.
1176

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

SUBPART G: ON-SITE WASTE PILES

Section 616.461 Applicability

1182
1183 This Subpart applies to new waste piles that are located wholly or partially within a setback zone
1184 or regulated recharge area and that contain special waste or other waste generated on-site, except
1185 that this Subpart does not apply to any new waste pile that:

- 1186
1187 a) Contains solely one or more of the following: hazardous waste, livestock waste,
1188 landscape waste, or construction and demolition debris; or
1189
1190 b) Consists of sludge resulting from the treatment of domestic wastewater from a
1191 POTW and the sludge pile is situated on an underdrained pavement and operated
1192 in ~~compliance~~~~accordance~~ with the Act, 35 Ill. Adm. Code: Subtitle C and 35 Ill.
1193 Adm. Code: Subtitle G; or
1194

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1195 c) Is exempt from this Part ~~underpursuant to~~ Section 616.105.

1196
1197 (Source: Amended at 46 Ill. Reg. _____, effective _____)

1198
1199 **Section 616.462 Prohibitions**

1200
1201 a) ~~UnderPursuant to~~ Sections 14.2(a), 14.2(c) and 14.3(e) of the Act, a person must
1202 ~~notno person shall~~ cause or allow the construction or operation of any waste pile
1203 that is:

1204
1205 1) Located wholly or partially within a minimum setback zone and that is
1206 either a new potential primary source or a new potential secondary source,
1207 except as specified in Sections 616.104~~(a) and (b)~~; or

1208
1209 2) Located wholly or partially within a maximum setback zone and that is a
1210 new potential primary source, except as specified in Section 616.104~~(b)~~.

1211
1212 b) A person must not~~No person shall~~ cause or allow the disposal of special waste in
1213 a new waste pile within a regulated recharge area if the distance from the
1214 wellhead of the community water supply well to the waste pile is 2500 feet or
1215 less, except as provided at Section 616.105

1216
1217 c) Nothing in this Section ~~prohibitsshall prohibit~~ a waste pile, within a maximum
1218 setback zone regulated by the Act, of sludge resulting from the treatment of
1219 domestic wastewater or of sludge resulting from the treatment of water to produce
1220 potable water, if such activities are conducted in compliance~~accordance~~ with the
1221 Act, 35 Ill. Adm. Code: Subtitle C, Subtitle~~Subtile~~ F, and Subtitle G.

1222
1223 (Source: Amended at 46 Ill. Reg. _____, effective _____)

1224
1225 **Section 616.463 Design and Operating Requirements**

1226
1227 a) A person must not~~No person shall~~ cause or allow:

1228
1229 1) Disposal or storage in the waste pile of liquids or materials containing free
1230 liquids; or

1231
1232 2) Migration and runoff of leachate into adjacent soil, surface water, or
1233 groundwater.

1234
1235 b) A waste pile must comply with the following standards:

1236
1237 1) The waste pile must be under an impermeable membrane or cover that

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- 1238 provides protection from precipitation;
1239
1240 2) The waste pile must be protected from surface water run-on; and
1241
1242 3) The waste pile must be designed and operated to control wind dispersal of
1243 waste by a means other than wetting.
1244
1245 (Source: Amended at 46 Ill. Reg. _____, effective _____)
1246

Section 616.464 Closure

1248
1249 The owner or operator ~~shall accomplish~~ must complete closure by removing and disposing of all
1250 wastes and containment system components (liners, etc.). If disposed of in the State of Illinois,
1251 the waste and containment system components must be disposed of at a disposal site permitted
1252 by the Agency under the Act.
1253
1254 (Source: Amended at 46 Ill. Reg. _____, effective _____)
1255

SUBPART H: UNDERGROUND STORAGE TANKS

Section 616.501 Applicability

- 1257
1258
1259
1260 This Subpart applies to new underground storage tanks that are located wholly or partially within
1261 a setback zone or regulated recharge area and that contain special waste, except that this Subpart
1262 does not apply to any new underground storage tank that:
1263
1264 a) ~~Under Pursuant to~~ Pursuant to 35 Ill. Adm. Code 731.110(a) must meet the requirements ~~set~~
1265 ~~forth~~ in 35 Ill. Adm. Code 731, unless such a tank is excluded from those
1266 requirements ~~under pursuant to~~ under 35 Ill. Adm. Code 731.110(b); ~~or~~
1267
1268 b) ~~Has Must have~~ interim status or a RCRA permit under 35 Ill. Adm. Code: Subtitle
1269 G; or
1270
1271 c) Is exempt from this Part ~~under pursuant to~~ under Section 616.105.
1272
1273 (Source: Amended at 46 Ill. Reg. _____, effective _____)
1274

Section 616.502 Design and Operating Requirements

1275
1276
1277 Owners and operators of new underground storage tanks that store special waste ~~must shall~~ must meet
1278 the requirements ~~set forth~~ in 35 Ill. Adm. Code 731. ~~These Such~~ These requirements must be met even
1279 if the tanks are excluded from coverage under ~~35 Ill. Adm. Code 731 by~~ 35 Ill. Adm. Code
1280 731.110(b). The exclusions ~~set forth~~ in 35 Ill. Adm. Code 731.110(b) ~~does shall~~ do not apply to any

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1281 underground storage tank that stores special waste.

1282
1283 (Source: Amended at 46 Ill. Reg. _____, effective _____)

1284
1285 **SUBPART I: PESTICIDE STORAGE AND HANDLING UNITS**

1286
1287 **Section 616.601 Applicability**

- 1288
1289 a) This Subpart applies to any new unit for the storage and handling of pesticides
1290 that is located wholly or partially within a setback zone or regulated recharge area
1291 and that:
- 1292 1) Is operated for the purpose of commercial application; or
 - 1293 2) Stores or accumulates pesticides prior to distribution to retail sales outlets,
1294 including ~~but not limited to~~ a unit that is a warehouse or bulk terminal.
- 1295
1296 b) ~~Despite subsections~~ Subsections (a)(1) and (a)(2) ~~notwithstanding~~, this Subpart
1297 does not apply to any unit exempt ~~under~~ pursuant to Section 616.105.

1298
1299 (Source: Amended at 46 Ill. Reg. _____, effective _____)

1300
1301
1302
1303 **Section 616.602 Prohibitions**

1304
1305 ~~Under Pursuant to~~ Sections 14.2(a), 14.2(c) and 14.3(e) of the Act, ~~a person must not~~ ~~no person~~
1306 ~~shall~~ cause or allow the construction or operation of any unit for the storage and handling of
1307 pesticides that is:

- 1308
1309 a) Located wholly or partially within a minimum setback zone and that is either a
1310 new potential primary source or a new potential secondary source, except as
1311 specified in Section 616.104(a) and (b); or
- 1312
1313 b) Located wholly or partially within a maximum setback zone and that is a new
1314 potential primary source, except as specified in Section 616.104(b).

1315
1316 (Source: Amended at 46 Ill. Reg. _____, effective _____)

1317
1318 **Section 616.603 Groundwater Monitoring**

1319
1320 The owner or operator ~~must~~ ~~shall~~ comply with the requirements of Subpart B.

1321
1322 (Source: Amended at 46 Ill. Reg. _____, effective _____)

1323

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1324 **Section 616.604 Design and Operating Requirements**

1325
1326 The owner or operator ~~must~~shall:

- 1327
- 1328 a) Maintain a written record inventorying all pesticides stored or handled at the unit.
 - 1329
 - 1330 b) At least weekly when pesticides are being stored, inspect storage containers,
 - 1331 tanks, vents, valves, and appurtenances for leaks or deterioration caused by
 - 1332 corrosion or other factors. If a leak or deterioration is found in any of these
 - 1333 devices, the owner or operator must immediately repair or replace the device.
 - 1334 The owner or operator ~~must~~shall maintain a written record of all inspections
 - 1335 conducted under this Section and of all maintenance relating to leaks and
 - 1336 deterioration of these devices.
 - 1337
 - 1338 c) Store all containers containing pesticides within a pesticide secondary
 - 1339 containment structure, if ~~such~~ containers are stored outside of a roofed structure
 - 1340 or enclosed warehouse. For the purpose of this subsection, a pesticide secondary
 - 1341 containment structure is a structure that complies with the design standards ~~set~~
 - 1342 ~~forth~~ in 8 Ill. Adm. Code 255.
 - 1343
 - 1344 d) Maintain all written records required under this Section at the site. The owner or
 - 1345 operator ~~must~~shall provide written records~~any such record~~ to the Agency upon
 - 1346 request.
 - 1347

1348 (Board Note: Owners or operators of facilities or units subject to this Part may also be

1349 subject to regulations under 8 Ill. Adm. Code 255.)

1350 (Source: Amended at 46 Ill. Reg. _____, effective _____)

1351

1352

1353 **Section 616.605 Closure and Post-Closure Care**

1354

1355 The owner or operator ~~must~~shall comply with the requirements of Subpart C.

1356 (Source: Amended at 46 Ill. Reg. _____, effective _____)

1357

1358

1359 **SUBPART J: FERTILIZER STORAGE AND HANDLING UNITS**

1360

1361 **Section 616.621 Applicability**

1362

1363 This Subpart applies to any new unit for the storage and handling of fertilizers that is located

1364 wholly or partially within a setback zone or regulated recharge area and that:

- 1365
- 1366 a) Is operated for the purpose of commercial application; or

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- 1367
1368 b) Stores or accumulates fertilizers prior to distribution to retail sales outlets,
1369 including but not limited to a unit that is a warehouse or bulk terminal.
1370
1371 c) ~~Despite subsections~~Subsections (1) and (2)~~notwithstanding~~, this Subpart
1372 ~~does~~shall not apply to any unit exempt ~~under~~pursuant to Section 616.105.
1373
1374 (Source: Amended at 46 Ill. Reg. _____, effective _____)
1375

1376 **Section 616.622 Prohibitions**

1377
1378 ~~UnderPursuant to~~ Sections 14.2(a), 14.2(c) and 14.3(e) of the Act, ~~a person must not~~~~no person~~
1379 ~~shall~~ cause or allow the construction or operation of any unit for the storage and handling of
1380 fertilizers that is:

- 1381
1382 a) Located wholly or partially within a minimum setback zone and that is either a
1383 new potential primary source or a new potential secondary source, except as
1384 specified in Sections 616.104~~(a) and (b)~~; or
1385
1386 b) Located wholly or partially within a maximum setback zone and that is a new
1387 potential primary source, except as specified in Section 616.104~~(b)~~.
1388

1389 (Source: Amended at 46 Ill. Reg. _____, effective _____)
1390

1391 **Section 616.623 Groundwater Monitoring**

1392
1393 The owner or operator ~~must~~shall comply with the requirements of Subpart B.
1394

1395 (Source: Amended at 46 Ill. Reg. _____, effective _____)
1396

1397 **Section 616.624 Design and Operating Requirements**

1398
1399 The owner or operator ~~must~~shall:

- 1400
1401 a) Maintain a written record inventorying all fertilizers stored or handled at the unit.
1402
1403 b) At least weekly when fertilizers are being stored, inspect storage containers,
1404 tanks, vents, valves, and appurtenances for leaks or deterioration caused by
1405 corrosion or other factors. If a leak or deterioration is found in any of these
1406 devices, the owner or operator ~~must~~shall immediately repair or replace the device.
1407 The owner or operator ~~must~~shall maintain a written record of all inspections
1408 conducted under this Section and of all maintenance relating to leaks and
1409 deterioration of these devices.

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1410
1411 c) Store all containers containing fertilizers (except anhydrous ammonia) within a
1412 fertilizer secondary containment structure, if ~~the~~~~such~~ containers are stored outside
1413 of a roofed structure or enclosed warehouse. For the purpose of this subsection, a
1414 fertilizer secondary containment structure is a structure that complies with the
1415 design standards ~~set forth~~ in 8 Ill. Adm. Code 255.

1416
1417 d) Maintain all written records required under this Section at the site. The owner or
1418 operator ~~must~~~~shall~~ provide ~~written records~~~~any such record~~ to the Agency upon
1419 request.

1420
1421 (Board Note: Owners or operators of facilities or units subject to this Part may also be
1422 subject to regulations under 8 Ill. Adm. Code 255.)

1423
1424 (Source: Amended at 46 Ill. Reg. _____, effective _____)

1425
1426 **Section 616.625 Closure and Post-Closure Care**

1427
1428 The owner or operator ~~must~~~~shall~~ comply with the requirements of Subpart C.

1429
1430 (Source: Amended at 46 Ill. Reg. _____, effective _____)

1431
1432 **SUBPART K: ROAD OIL STORAGE AND HANDLING UNITS**

1433
1434 **Section 616.702 Prohibitions**

1435
1436 ~~Under Pursuant to~~ Sections 14.2(a), 14.2(c) and 14.3(e) of the Act, ~~a person must not~~~~no person~~
1437 ~~shall~~ cause or allow the construction or operation of any unit for the storage and handling of road
1438 oils that is:

1439
1440 a) Located wholly or partially within a minimum setback zone and that is either a
1441 new potential primary source or a new potential secondary source, except as
1442 specified in Sections 616.104~~(a) and (b)~~; or

1443
1444 b) Located wholly or partially within a maximum setback zone and that is a new
1445 potential primary source, except as specified in Section 616.104~~(b)~~.

1446
1447 (Source: Amended at 46 Ill. Reg. _____, effective _____)

1448
1449 **Section 616.703 Groundwater Monitoring**

1450
1451 The owner or operator ~~must~~~~shall~~ comply with the requirements of Subpart B.

1452

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1453 (Source: Amended at 46 Ill. Reg. _____, effective _____)

1454

1455 **Section 616.704 Design and Operating Requirements for Above-Ground Storage Tanks**

1456

1457 a) The owner or operator of a tank ~~must~~~~shall~~ not cause or allow:

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1459 1) Materials to be placed in a tank if such materials could cause the tank to
1460 rupture, leak, corrode, or otherwise fail.

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1462 2) Uncovered tanks to be placed or operated so as to maintain less than 60
1463 centimeters (2 feet) of freeboard unless:

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1465 A) The tank is equipped with a containment structure (e.g., dike or
1466 trench), a drainage control system, or a diversion structure (e.g.,
1467 standby tank); and

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1469 B) Such containment structure, drainage control system, or diversion
1470 structure has a capacity that equals or exceeds the volume of the
1471 top 60 centimeters (2 feet) of the tank.

1472

1473 3) Material to be continuously fed into a tank, unless the tank is equipped
1474 with a means to stop this inflow (e.g., a feed cutoff system or a bypass
1475 system to a standby tank).

1476

1477 4) Incompatible materials to be placed in the same tank.

1478

1479 5) Material to be placed in a tank that previously held an incompatible
1480 material unless the incompatible material has been washed from the tank.

1481

1482 6) Ignitable or reactive material to be placed in a tank unless:

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1484 A) The material is stored or treated in such a way that it is protected
1485 from any material or conditions that may cause it to ignite or react;
1486 or

1487

1488 B) The tank is used solely for emergencies.

1489

1490 b) The owner or operator ~~must~~~~shall~~ provide and maintain primary containment for
1491 the tank such that:

1492

1493 1) The tank has a minimum shell thickness that ensures that the tank will not
1494 fail (i.e., collapse, rupture, etc.).

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- 2) The tank is compatible with the material to be placed in the tank or the tank is lined with a substance that is compatible with the material to be placed in the tank.
 - c) The owner or operator ~~must~~~~shall~~ provide and maintain secondary containment for the tank that:
 - 1) Is capable of containing the volume of the largest tank or 10% of the total volume for all tanks, whichever is greater;
 - 2) Is constructed of material capable of containing a spill until cleanup occurs (e.g., concrete or clay). The base of the secondary containment area must be capable of minimizing vertical migration of a spill until cleanup occurs (e.g., concrete or clay);
 - 3) Has cover (e.g., crushed rock or vegetative growth) on earthen embankments sufficient to prevent erosion; and
 - 4) Isolates the tank from storm water drains and from combined storm water drains and sanitary sewer drains.
 - d) If incompatible materials are handled at the site, secondary containment sufficient to isolate the units containing the incompatible materials must be provided.
 - e) The owner or operator of a tank ~~must~~~~shall~~ also:
 - 1) Test above-ground tanks and associated piping every five years for structural integrity.
 - 2) Remove uncontaminated storm water run off from the secondary containment area immediately after a precipitation event.
 - 3) Handle contaminated storm water run off in ~~compliance~~~~accordance~~ with 35 Ill. Adm. Code 302.Subpart A.
 - 4) Provide a method for obtaining a sample from each tank.
 - 5) Install, maintain, and operate a material level indicator on each tank.
 - 6) When not in use, lock all gauges and valves that are used to inspect levels in the tank. All such devices must be located within the containment structure.

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1539 (Source: Amended at 46 Ill. Reg. _____, effective _____)

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1541

SUBPART L: DE-ICING AGENT STORAGE AND HANDLING UNITS

1542

Section 616.722 Prohibitions

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- a) ~~Under Pursuant to~~ Sections 14.2(a), 14.2(c) and (14.3(e) of the Act, a person must not~~no person shall~~ cause or allow the construction or operation of any unit for the storage and handling of de-icing agents that is:

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- 1) Located wholly or partially within a minimum setback zone and that is either a new potential primary source or a new potential secondary source, except as specified in Sections 616.104~~(a) and (b)~~; or

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- 2) Located wholly or partially within a maximum setback zone and that is a new potential primary source, except as specified in Section 616.104~~(b)~~.

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- b) A person must not~~No person shall~~ cause or allow the construction or operation within any setback zone of any outdoor facility for the storage and handling of de-icing agents, except as provided at Section 616.105.

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

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Section 616.723 Groundwater Monitoring

1562

The owner or operator must~~shall~~ comply with the requirements of Subpart B.

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1564

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

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Section 616.724 Design and Operating Requirements for Indoor Storage Facilities

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- a) The base of the facility must be constructed of materials capable of containing de-icing agents (i.e., bituminous or concrete pad).

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- b) The roof and walls of the facility must be constructed of materials capable of protecting the storage pile from precipitation and capable of preventing dissolved de-icing agents from entering into the adjacent soil, surface water, or groundwater. The walls of the facility must be constructed of materials compatible with the de-icing agents to be placed in the facility. Run-off from the roof must be diverted away from the loading pad.

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- c) The loading pad of the facility must be constructed of materials capable of containing a spill (i.e., concrete or bituminous pad). The borders of the loading

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1582 pad must be curbed to prevent dry or dissolved de-icing agents from migrating
1583 from the loading pad into the adjacent soils, surface water, or groundwater. The
1584 loading pad must be covered by a roof of sufficient size to provide the pad and de-
1585 icing agents with protection from precipitation to prevent run-off or dissolved de-
1586 icing agents from entering into the adjacent soil, surface water, or groundwater.

1587
1588 d) All areas surrounding the storage pile, including ~~but not limited to~~ the loading
1589 pad, must be routinely inspected to determine whether any release of de-icing
1590 agents has occurred. ~~These~~~~Such~~ areas ~~must~~~~shall~~ be cleaned as necessary. Spilled
1591 de-icing agents must be placed back under the protective covering of the indoor
1592 storage pile. The storage pile must be reshaped as often as necessary to prevent
1593 leaching.

1594
1595 e) The integrity of the facility and loading pad must be maintained.

1596
1597 f) All areas surrounding the storage facility must be inspected daily to determine
1598 whether any release of de-icing agents has occurred. Spilled de-icing agents must
1599 be placed back into the storage facility.

1600
1601 (Source: Amended at 46 Ill. Reg. _____, effective _____)