**Section 240.1520 Bond Requirements**

a) Form

Bonds shall be in such form and content as the Department prescribes, payable to the "Illinois Department of Natural Resources."

b) Conditions Generally

1) Each bond shall conform with the requirements of the Act and this Part and with the declared purpose for which the bond is required.

2) Bonds shall remain in effect until the obligations for which it is given have been satisfied and the bond has been released by the Department, pursuant to the Act and this Subpart.

c) Surety Bond Requirements

1) Bonds shall be signed by the permittee as principal, and by a good and sufficient corporate surety, authorized to transact business as a surety in Illinois.

2) Each surety bond shall provide that the bond shall not be cancelled by the surety except after not less than 90 days notice to the Department. Such notice shall be served upon the Department in writing by registered or certified mail to the Department's Springfield offices.

3) Prior to the expiration of the 90 days notice of cancellation, the permittee shall deliver to the Department a replacement bond. If such bond is not delivered, all activities covered by the permit and bond shall cease at the expiration of the 90 day period.

4) If the license to transact business in Illinois of any surety upon a bond filed with the Department shall be suspended or revoked, the permittee, within 30 days after receiving notice thereof from the Department, shall make substitution by providing a surety bond or other security as required by this Subpart. Upon the failure of the permittee to make the substitution of bond, all activities covered by the permit and bond shall cease until substitution has been made.

d) Other Securities Requirements

1) Letters of credit shall be subject to the following conditions:

A) The letter may only be issued by a bank organized or authorized to do business in the United States ("issuing bank"). If the issuing bank does not have an office for collection in Illinois, there shall be a confirming bank designated that is authorized to accept, negotiate and pay the letter upon presentment in Illinois.

B) Letters of credit shall be irrevocable during their terms. A letter of credit shall be forfeited and shall be collected by the Department if not replaced by other suitable bond or letter of credit at least 30 days before its expiration date.

C) The letter of credit shall be payable to the Department upon demand, in part or in full, upon receipt from the Department of a notice of forfeiture issued in accordance with Section 240.1530.

D) The Department shall not accept a letter of credit in excess of 10% of the issuing bank's total capital and surplus accounts, as certified by the President of the bank providing the letter of credit and as evidenced by the most recent quarterly Call Report provided to the Federal Deposit Insurance Corporation.

E) The letter of credit shall provide on its face that the Department, its lawful assigns, or the attorneys for the Department or its assigns, may sue, waive notice and process, appear on behalf of, and confess judgment against the issuing bank (and any confirming bank) in the event that the letter of credit is dishonored. The letter of credit shall be deemed to be made in Sangamon County, Illinois, for the purpose of enforcement and any actions thereon shall be enforceable in the Courts of Illinois, and shall be construed under Illinois law.

2) Certificates of deposit shall be subject to the following conditions:

A) The Department shall require that certificates of deposit be made payable to or assigned to the Department both in writing and upon the records of the bank issuing the certificates. If assigned, the Department shall require the banks issuing these certificates to waive all rights of setoff or liens against those certificates.

B) The Department shall not accept an individual certificate of deposit in an amount in excess of the maximum insurable amount as determined by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation.

C) Any interest accruing on a certificate of deposit shall be for the benefit of the permittee except that accrued interest shall first be applied to any prepayment penalty when a certificate of deposit is forfeited by the Department.

D) The certificate of deposit, if a negotiable instrument, shall be placed in the Department's possession. If the certificate of deposit is not a negotiable instrument, a withdrawal receipt, endorsed by the permittee, shall be placed in the Department's possession.

(Source: Amended at 22 Ill. Reg. 22314, effective December 14, 1998)