

TITLE 17: CONSERVATION
CHAPTER V: NATURE PRESERVES COMMISSION

PART 4010
REGISTER OF LAND AND WATER RESERVES

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SUBPART A: GENERAL PROVISIONS

Section 4010.110 Definitions

As used in this Part, the following terms have the meanings indicated, except where context requires otherwise:

"Commission" means the Illinois Nature Preserves Commission.

"Department" means the Illinois Department of Natural Resources.

"Illinois Natural Areas Inventory" is a comprehensive list of natural areas of statewide significance as defined in the Illinois Natural Areas Inventory - Technical Report (White, 1978). The Illinois Natural Areas Inventory is maintained by the Department.

"Natural heritage resource" is a community of wild plants and animals, a population of a species of plant or animal, or a physical feature which was present as part of the Illinois landscape prior to settlement by immigrants from Europe and is now rare, declining, or less abundant than formerly.

"Register of Land and Water Reserves (or register)" is a list of areas registered in accordance with the Illinois Natural Areas Preservation Act [525 ILCS 30], together with records concerning them.

"Registration agreement" is a legal instrument that conveys conservation rights consistent with the provisions of the Real Property Conservation Rights Act [765 ILCS 120].

(Source: Recodified by changing the agency name from Department of Conservation to the Department of Natural Resources at 21 Ill. Reg. 9573.

Section 4010.120 The Register of Land and Water Reserves

The Register of Land and Water Reserves constitutes a land and water protection program wherein lands and waters supporting significant natural heritage resources or archaeological resources are recognized and provided protection and management pursuant to this Part commensurate with the interest of the public in their long term protection and stewardship. Registered areas may be in public or private ownership. The registration may be either donative or for a consideration.

Section 4010.130 The Registration Agreement

- a) The provisions of the registration agreement shall be as required by the Real Property Conservation Rights Act. It may recognize pre-existing encumbrances upon the property and may otherwise be in a form approved by the Commission and the Department.
- b) The registration agreement shall be executed by the landowner, the Commission, and the Director of the Department.

- c) The registration agreement shall provide specifically for the maintenance of significant natural features and associated ecological processes on the registered area and for conformity to this Part. The registration agreement shall contain by reference a management program as provided in Section 4010.220.
- d) The registration agreement shall provide representatives of the Department and Commission reasonable access to the registered property.

Section 4010.140 The Registration Process

- a) A proposed registration agreement is first executed by the landowner. It is then presented to the Commission with a statement of the natural heritage or archaeological significance of the property and citation of specific provisions of this Part under which the property qualifies for registration.
- b) The Commission shall determine at a meeting if the area qualifies for the Register of Land and Water Reserves, based on its intrinsic ecological or archaeological values and if the registration agreement, including any referenced management program, is consistent with the purposes of the Illinois Natural Areas Preservation Act. If the Commission determines the area qualifies for the register, it shall approve by resolution the registration and sign the registration agreement and present it to the Director of the Department. If the Commission rejects the agreement, the Commission shall provide the landowner a written explanation of why the area was rejected.
- c) Upon receipt of a registration agreement signed by the landowner and the Commission, the Director of the Department shall execute or reject it. If the Director rejects the agreement, the Department shall provide the landowner a written explanation of why the area was rejected. The Department shall cause an executed registration agreement to be recorded by the Registrar of Titles or the County Recorder of the county in which the property is located and filed with the State Archives.

Section 4010.150 Eligible Lands and Waters

- a) Eligibility of lands and waters for registration is determined by the Commission. Only land supporting natural heritage resources or archaeological resources of statewide significance shall be considered for eligibility. Developed, cultivated, or landscaped land does not qualify unless it has been committed to a program of restoration management designed to return the land to a condition supporting significant natural heritage resources.
- b) Lands and waters eligible for registration include the following:
 - 1) lands and waters included on the Illinois Natural Areas Inventory, specifically:

Category I areas - high quality remnants of the original natural communities of Illinois

Category II areas - habitats of State listed endangered species of animals or plants

Category III areas - relic species habitat

Category IV areas - outstanding representatives of Illinois' geologic diversity

Category V areas - restorations of the original natural communities of Illinois or relocated populations of endangered or threatened species of animals or plants

Category VI areas - lands or waters supporting unusual concentrations of wildlife and other unique natural areas

Category VII areas - outstanding streams, rivers, and lakes;

- 2) habitats of State listed threatened species of animals or plants;
- 3) forests at least 100 acres in size that support breeding populations of area sensitive forest wildlife species;
- 4) grasslands at least 80 acres in size that support breeding populations of area sensitive grassland wildlife species;
- 5) wetlands at least 50 acres in size or an area that includes several wetlands totaling 50 acres in size;
- 6) degraded but restorable prairies at least 20 acres in size (or equivalent to Grade "C" under the Illinois Natural Areas Inventory grading criteria);
- 7) segments of degraded but restorable railroad prairie at least 1 mile in length (or equivalent to Grade "C" under Illinois Natural Areas Inventory grading criteria);
- 8) areas supporting unusual concentrations of wildlife such as nesting colonies; hibernating colonies; and migration stopover, feeding, and rest sites;
- 9) restorations of natural communities of plants and animals that existed in Illinois at the time of settlement by immigrants from Europe for which no high quality examples are known to be extant within the region;
- 10) areas supporting significant archaeological resources; and

- 11) other areas determined by the Commission and Department to be appropriate to register as land and water reserves.
- c) Public entities are encouraged to dedicate as Illinois Nature Preserves lands and waters that are classified as Category I areas - high quality remnants of the original natural communities of Illinois. Registration of category I areas is allowed only upon unanimous approval of the members present at a meeting of the Commission.

Section 4010.160 Administration and Custody

Custody, management, and legal responsibility for a registered land and water reserve remains with the landowner. The landowner shall notify the Department of any delegation of administration or management of the registered area to another person or conveyance of the area to another owner. Representatives of the Department and Commission shall be allowed access to inspect a registered area upon reasonable notice to the landowner.

Section 4010.170 Reports

On or before August 31 of each year ending in 5 or 0, the landowner, or a person designated by the landowner, shall submit to the Department a report on the condition of the registered area and on management activities undertaken on the area and identifying any other significant changes or alterations of the landscape and natural conditions on the area. The report shall identify current management needs. The format of the report shall be as determined by the Department. Upon written request of the landowner, the Department shall prepare the report for a registered area if the landowner does not have a professional land management staff.

SUBPART B: MANAGEMENT AND USE

Section 4010.210 Applicability of the Rules

The registration agreement shall be the prevailing authority with respect to allowable use and management of a registered land and water reserve. A management program, as provided for in Section 4010.220, may allow for deviations from this Part if the deviations do not threaten the natural features or natural quality of the area. Deviations necessary to accommodate existing legal encumbrances on the property may also be allowed.

Section 4010.220 The Management Program

- a) A registered area shall have a management program which shall be prepared and adopted at the time the area is registered. The management program shall be adopted and included by reference in the registration agreement. The management program must be prepared by the landowner. The Commission and Department will assist in preparing the program at the landowner's request. The management program is subject to approval of the owner, Commission, and Department. Revisions to the management program are subject to approval of the owner, Commission, and

Department except that revisions to the multi-year schedule of specific management are subject to approval of the owner and Commission.

- b) The management program shall state the preservation, restoration, and management goals and objectives specific to the registered area.
- c) The management program shall include a multi-year schedule of specific management activities to be undertaken on the area in order to implement the other components of the management program.
- d) The management program shall include a vicinity map locating the area and a detailed map showing features of the area.
- e) The management program shall emphasize preservation and enhancement of the natural heritage resources that qualified the property for inclusion on the register.
- f) The format of the statement of preservation, restoration, and management goals and objectives and the management schedule and map shall be the same as for a master plan for dedicated nature preserves as provided in Section 4000.150.
- g) Requests for approval of specific management activities pursuant to Section 4010.270 will be considered in the context of the management program.
- h) The management program may include a wildlife management plan, fisheries management plan, or forest management plan provided that the plans are consistent with the Illinois Natural Areas Preservation Act as determined by the Commission.

Section 4010.230 Allowable Management

- a) Management activities allowed on Illinois Nature Preserves under the Rules for Management of Illinois Nature Preserves, 17 Ill. Adm. Code 4000.415 through 4000.475, are allowed on registered land and water reserves.
- b) Management that benefits or enhances populations of federally or State listed threatened or endangered species or that restores the quality or extent of natural communities present on registered areas through the removal of exotic species (species that are not native to Illinois) or invasive species (native species that, in the absence of natural disturbance regimes, multiply to a point where they threaten the persistence of the managed native species) and promotion of conservative species (native species with highly specific habitat requirements, species limited in their occurrence to high quality natural communities, or species requiring large tracts of habitat to successfully reproduce) is allowed if not specifically prohibited in Section 4010.240.
- c) Management for the purpose of restoring to natural conditions areas that have been historically farmed, landscaped, paved, graded, grazed, drained, or otherwise

substantially disturbed by human activity is allowed if the restoration does not jeopardize federally or State listed threatened or endangered species.

- d) Management may be undertaken on a registered natural area only by or under direction of, or with the permission of, the landowner.

Section 4010.240 Prohibited Management

- a) Plowing, cultivating, paving, or grading of areas supporting natural vegetation or a natural community (a plant and animal assemblage that existed in Illinois at the time of settlement by immigrants from Europe) is prohibited in registered land and water reserves.
- b) Altering of natural water levels is prohibited in registered areas. Water levels which have been artificially altered may be changed if such change is identified in the management program as being essential for the maintenance and restoration of natural or desired conditions.
- c) Species-specific management in favor of common species (a native species of animal or plant with very general habitat requirements that occurs in a broad range of disturbed and undisturbed habitats) is prohibited unless part of a wildlife management plan or as part of the management program, if it does not include activities prohibited in subsection (a) or (b) above, or Section 4010.260(a).

Section 4010.250 Allowable Uses

- a) Uses allowable on registered land and water reserves include hiking, bird watching, nature observation and study, scientific research, canoeing, hunting, trapping, fishing, and photography. Other activities determined by the Commission to be consistent with the Illinois Natural Areas Preservation Act may also be allowed.
- b) Picnicking and primitive camping may be allowed in designated areas if provided for in the management program or if approved pursuant to Section 4010.270.
- c) Cross-country skiing, horseback riding, and bicycling are allowed on registered areas only on designated trails and if provided for in the management program or if approved pursuant to Section 4010.270.
- d) Operation of off-road vehicles and snowmobiles is allowed only on pre-existing designated surfaced thoroughfares and if provided for in the management program or if approved pursuant to Section 4010.270.
- e) The landowner may close the registered area to public use or restrict its use, including prohibition of uses allowed under this Section.

Section 4010.260 Prohibited Uses

- a) No living or dead plant or animal materials, or organic material including soils, minerals, or water, may be removed from a registered area except as may be provided in the management program or an approved wildlife management plan or forest management plan or for the purposes of scientific research approved by the landowner, consistent with the management program and in consultation with Commission staff.
- b) Federally or State listed threatened or endangered species may not be taken or otherwise harassed on registered areas, except as part of a federal or State approved recovery program, approved research project, or approved management program. No activity allowed as part of the management program or an approved wildlife management plan or forest management plan may jeopardize federally or State listed endangered or threatened species.
- c) Cutting of native trees greater than 4 inches in diameter breast height is not allowed on registered areas except for the purposes of managing or restoring natural communities or populations of threatened or endangered species, or as approved in the management program, or as part of a forest management plan or a wildlife management plan established in accordance with Section 4010.220(b), provided the plan will not jeopardize threatened or endangered species.
- d) Livestock grazing is not allowed on registered areas unless it is provided for in the management program. Stocking rates, season, and duration must be specified and justified in the management program.
- e) Mineral exploration, mining or other mineral extraction, or earth moving is not allowed on registered areas unless mineral rights are excluded from the registration agreement or moving or removal of the material is part of a restoration plan included in the management program.

Section 4010.270 Approval of Specific Management and Uses

Management and uses not otherwise allowed by this Part may be specifically approved by the Department and the Commission where the management or use is consistent with the management program or for the purposes of restoring a high quality natural community (a plant and animal assemblage that existed in Illinois at the time of settlement by immigrants from Europe), enhancing populations of threatened or endangered species, or enhancing the opportunity for scientific research.

Section 4010.280 Emergency Situations

Actions not otherwise allowed by this Part that are immediately necessary to prevent or alleviate injury to persons or property may be undertaken by or under the direction and authority of the landowner, the Department, or the Commission. The landowner and Department shall be notified within 24 hours of action taken under this provision.

SUBPART C: PUBLIC NOTICE AND RECORDS

Section 4010.310 Public Notice

- a) The Department shall, at least biennially, publish a list of registered land and water reserves indicating their locations and sizes.
- b) Before any agency or entity of State or local government may undertake an action that will disrupt natural vegetation or natural communities on a registered area, there must be a finding by the Commission at a meeting and by the Department that the action is in the public interest.

Section 4010.320 Recording of the Registration Agreement

The Department shall cause the registration agreement to be recorded by the Registrar of Titles or the County Recorder for the county in which the registered area is located. The recorded registration agreement shall be filed by the Department with the State Archives.