

## **Background**

House Bill 0352 was adopted as Public Act 99-0033 on July 14, 2015. The law, which took effect on January 1, 2016, made the following changes to Sections 2.30, 2.30b, 2.33, and 2.33a of the Wildlife Code (520 Illinois Compiled Statutes):

- Removed the prohibition on taking bobcats in the State.
- Provided that it shall be unlawful for any person to trap or to hunt bobcats with gun, dog, dog and gun, or bow and arrow, except during the open season which will be set annually by the Director of Natural Resources between 12:01 a.m., November 1 to 12:00 midnight, February 15, both inclusive.
- Provided that the season limit for bobcat shall not exceed one bobcat per permit.
- Provided that the pelts of bobcats shall be tagged in accordance with federal regulations and the Department of Natural Resources may require harvest registration and set forth procedures, fees for registration, and the process of tagging pelts in administrative rules.
- Provided that before any person may lawfully hunt or trap a bobcat, he or she shall first obtain a "Bobcat Hunting and Trapping Permit".
- Provided the fee for a Bobcat Hunting and Trapping Permit shall not exceed \$5.
- Allowed the Department of Natural Resources to limit the number of Bobcat Hunting and Trapping Permits that are made available each season.
- Provided that the harvest of bobcats in this State shall be non-detrimental, as defined by federal regulations (50 CFR 23.61), and as determined by the United States Fish and Wildlife Service in accordance with 50 CFR 23.69.

The Department of Natural Resources (Department) drafted administrative rules to implement and interpret statutory provisions. This required amendments to 17 Illinois Administrative Code Part 550 [Raccoon, opossum, striped skunk, red fox, gray fox, coyote, and woodchuck (groundhog) hunting] and 17 Illinois Administrative Code Part 570 [Muskrat, mink, raccoon, opossum, striped skunk, weasel, red fox, gray fox, coyote, badger, river otter, beaver, and woodchuck (groundhog) trapping]. Amended rules were placed on first notice on January 22, 2016 (Illinois Register; Volume 40, Issue 4).

## **Public Notice**

Notice of proposed amendments to Administrative Rules 550 and 570 was published in Volume 40, Issue 4 of the Flinn Report. The Department also issued a news release to announce the 45-day public comment period and procedures for participation.

## **Comments**

The Department received 73 individual comments; 20 of these were submitted by 10 people who commented about methods of issuing Bobcat Hunting and Trapping Permits or extension of season dates for trapping certain species of fur-bearing mammals. The Humane Society of the United States (HSUS) submitted 2,094 comments on behalf of Illinois citizens who completed an online form letter about proposed amendments. In addition, HSUS submitted 2,280 comments on behalf of Illinois citizens who completed an online form letter opposed to bobcat hounding,

use of steel-jawed leghold traps, and sale of bobcat pelts; these were collected before administrative rules went on first notice, but the agency allowed submittal as part of the public record. The Illinois Environmental Council and Illinois Chapter of the Sierra Club submitted comments on behalf of their members (4,247 names and addresses provided in a spreadsheet).

## **Review of Comments**

In conducting its review of public comments, the Department separated comments by administrative rule (550 or 570 if referenced specifically) and by subject matter or common interests. The varying subject matter of the comments included requests for repeal of PA 99-0033, methods of take, season dates, sale of pelts, zone boundaries, distribution of Bobcat Hunting and Trapping Permits, adequacy of scientific information for a non-detriment finding, and “other”.

The Department considered all comments it received in the context of the biological, societal, fiscal, and the operational implications of requests made in comments. Comments were also considered in the context of the statutory authority granted to the Department, as the Department’s authority is constrained by the statutes it implements.

## **Consideration of Comments**

### ***Repeal of PA 99-0033***

The Department has authority to manage wildlife and regulate the taking of wildlife for the purposes of providing public recreation and controlling wildlife populations (520 ILCS 5/1.3). Hunting and trapping of bobcats is authorized by 520 ILCS 5/2.30.

Many comments supported repeal of PA 99-0033 or voiced opposition to removing statutory protection of bobcats. The Department does not have the authority to repeal PA 99-0033 and restoring statutory protection of bobcats would require legislative action. Further, as PA 99-0033 currently authorized hunting and trapping of bobcats, administrative rules are needed to avoid conflicts with the existing statute and to implement the statute that directs the Department to implement and open seasons for the take of bobcats. No changes were made to Administrative Rules 550 or 570.

### ***Season Dates***

Sixteen comments supported extension of trapping season dates from January 20 or 25 (depending on zone) to February 15 for raccoon, opossum, striped skunk, red fox, gray fox, coyote, badger, bobcat, and weasel (Section 570.20). Reasons included parity with hunting season dates (for raccoon and opossum, which closes February 10 in the northern zone and February 15 in the southern zone) and greater ability to control “predators” on properties leased for deer hunting (because property owners/lessors often deny access to trappers until after the archery deer season closes on January 15). One comment recommended opening the hunting season for bobcats during firearm deer hunting seasons.

### *Statutory Authority*

Seasons during which wildlife may be taken, methods for taking wildlife, daily bag limits, and possession limits are established by the Department through administrative rule (520 ILCS 5/1.4). However, the Department may not provide for a longer season, a larger daily bag limit, or a larger possession limit than is provided by Statute (520 ILCS 5/1.3). The Wildlife Code currently allows the Department to set season dates for trapping raccoon, opossum, striped skunk, red fox, gray fox, badger, bobcat, and weasel between 12:01 a.m., November 1 to 12:00 midnight, February 15, both inclusive (520 ILCS 5/2.30). The Department may set season dates for trapping coyote between September 1 to March 1, both inclusive (520 ILCS 5/2.30). The Department may allow hunting of fur-bearing mammals during the firearm deer seasons through administrative rules [520 ILCS 5/2.25; 520 ILCS 2.33(l); 520 ILCS 2.33(ee)]. While the Department has the ability to limit the bobcat or coyote season within the dates provided in the Wildlife Code, the Department lacks the statutory authority to extend the season beyond the dates set out in the Code.

### *Taking bobcats during firearm deer seasons*

Coyotes may be hunted in counties open for firearm deer hunting during seasons and hours for firearm deer hunting by persons in possession of valid unfilled firearms deer permits using types of guns allowed for firearm deer hunting (Section 550.10). The Department considered adding bobcats to this exception (hunting seasons for other species of fur-bearing mammals are closed during firearm deer seasons as defined by 17 Ill. Adm. Code 650.10).

Allowing take of bobcats during the firearm deer season would cause confusion among deer hunters and possibly result in illegal take of bobcats. For example, a deer hunter might not be aware of permit requirements for taking bobcats. This type of confusion is less of a concern for coyotes, because there is no bag limit and no permit required for taking coyotes. Closure during the firearm deer affects 7 days, reducing the bobcat hunting season from a possible 83 days to 76 days.

The proposed regulations allow adequate opportunities to hunt bobcats. No changes were made to Administrative Rule 550.

### *Extending trapping seasons to February 15*

The Department considered extending trapping seasons from January 20 (northern zone) or January 25 (southern zone) to February 15 (statewide). In setting the trapping season the Department considered the following:

- Department policy, which is to “Develop hunting and fishing regulations which are designed to conserve the State’s fish and wildlife resources, protect public safety and encourage responsible behavior” (Chapter 5, Section 5G-3)
- Pelt quality, which generally improves from October to November and declines from January to February for affected species

- Past history of changes to season dates, which included expansion of trapping seasons for affected species from 47 days to 82 days during the 1990's
- Adequacy of recreational opportunities for trappers
- Impacts on populations of fur-bearing mammals, which the Department considered negligible due to low harvest because of low participation/effort. Opinions of trappers, who were asked about season dates during a survey administered in 2005 by the Illinois Natural History Survey on behalf of the Department. In the northern zone, 63% of trappers felt a closing date of January 20 was "about right" and 23% felt it was "too early". In the southern zone, 49% of trappers felt a closing date of January 25 was "about right", 39% believed it was "too early", and 10% had no opinion.
- Opinions of all residents of the State, who, in general, desire regulatory oversight by the Department and are opposed to waste of natural resources
- Season frameworks in neighboring states at the same latitude

Based on these considerations and after considering comments received, the Department concluded that the season dates set out in the proposed rules are appropriate. No changes were made at this time. The Department may consider changes to season dates in future rulemakings after assessing: (1) the outcome of an annual opinion survey of 1000 trappers administered by the Illinois Natural History Survey on behalf of the Department and (2) end of season reviews by field staff relating to impacts of the trapping season dates on other recreational activities at sites owned, managed, or leased by the Department.

### *Methods of Take*

The Department has authority to manage wildlife and regulate the taking of wildlife for the purposes of providing public recreation and controlling wildlife populations (520 ILCS 5/1.3). Hunting and trapping of fur-bearing mammals is authorized by 520 ILCS 5/2.30.

Comments expressed opposition to methods of take allowed by Administrative Rules 550 and 570. In particular, letters submitted by HSUS opposed use of hounds to hunt bobcats and use of foothold traps to capture them because of concerns about animal welfare.

Hunting, trapping, and fishing, when properly regulated, are biologically sound means of managing fish and wildlife populations. The Department supports regulated trapping and efforts to address societal concerns through appropriate education, research, enforcement and regulatory programs. Pursuant to Department policy, "such programs shall be designed to increase awareness and acceptance of trapping by seeking to enhance animal welfare while maintaining management capabilities and other benefits associated with this activity." (See Department Policy and Procedure Manual Chapter 5, Section 5G-1). Further, the Department considered its policy which requires judgments on hunting and fishing and the welfare of fish and wildlife to be guided by both biological and societal considerations. (Chapter 5, Section 5G-3)

Some specific examples of the Department's commitment to this policy include enforcement of laws that prohibit certain types and sizes of traps, prohibit use of traps with teeth, and require trappers to check sets daily [520 ILCS 5/2.33a (a), (b), (c), (d), (f), (h), (l), (m)]. The Department also requires trappers to obtain permission of landowners or their designees before setting traps

on their properties, to tag devices with their name and address, and to successfully complete a trapper education course prior to purchasing a license (520 ILCS 2.33 (t); 520 ILCS 5/3.3). Further, the Department limits open seasons for trapping to times of the year when mothers are not raising dependent young (520 ILCS 5/2.30), and has conducted research to support development of Best Management Practices for Trapping based on animal welfare, efficiency, selectivity, and other attributes (<http://www.fishwildlife.org>).

The Department does not have the authority to prohibit use of foothold traps or hounds for taking bobcats; these changes would require legislative action. Further, as PA 99-0033 currently authorized hunting and trapping of bobcats, administrative rules are needed to avoid conflicts with the existing statute and to implement the statute that directs the Department to implement and open seasons for the take of bobcats. No changes were made to Administrative Rules 550 or 570.

### ***Sale of Bobcat Pelts***

Comments suggested the Department should prohibit sale of bobcat pelts. However, the sale of legally taken fur-bearing mammals, or any parts thereof, is specifically allowed by 520 ILCS 5/2.36(5). Any prohibition of their sale would require legislative action.

No changes were made to Administrative Rules 550 or 570, as the Department lacks the authority to prohibit the sale of bobcat pelts.

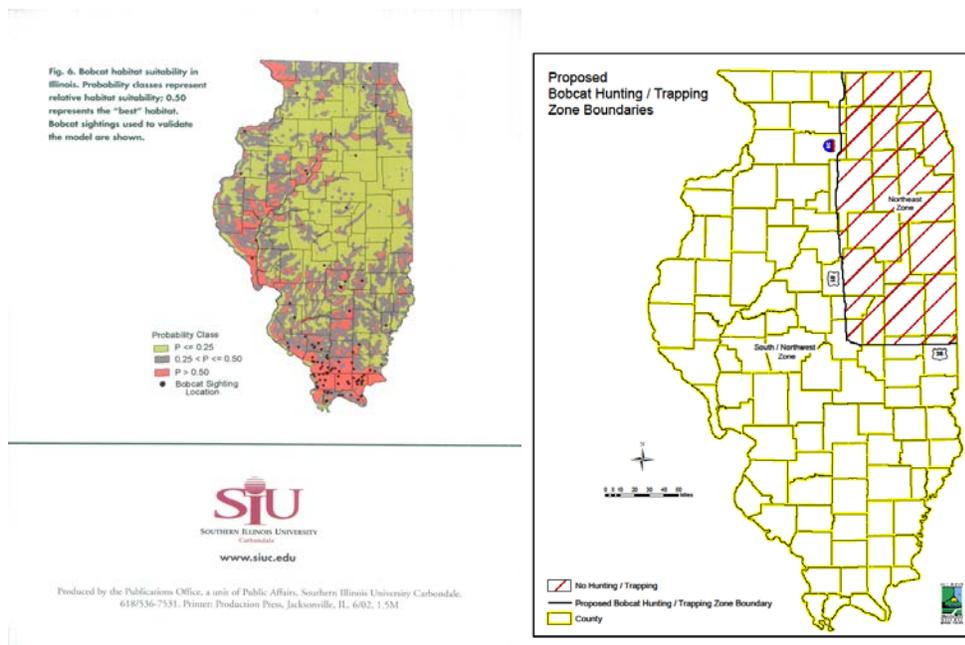
### ***Zone Boundaries***

The Department may divide the state into zones for purposes of managing fur-bearing mammals (520 ILCS 5/2.30).

Comments suggested the Department should expand the area closed to bobcat hunting and trapping to include about 2/3 of the State (e.g., north of I-64) rather than limiting it to east-central and northeastern Illinois [as described in 550.20 (e) and 570.15].

In setting proposed zone boundaries, the Department considered distribution of suitable habitat, timing of colonization by bobcats, consistency with existing zones used for fur hunting and trapping (e.g., Route 36 divides north and south zones), ability of fur harvesters and enforcement officers to easily recognize boundaries, and concerns expressed by Humane Society of the United States, Illinois Chapter of the Sierra Club, and Illinois Environmental Council prior to rulemaking.

No changes were made to administrative rules 550 and 570, as the Department considered the proposed zones adequate for restricting harvest in certain parts of the State. Boundaries will be modified during future rulemaking if the U.S. Fish and Wildlife determines proposed zones are inadequate, and, if that is the case, we will consider public comments when formulating alternatives.



Left: Habitat suitability classes from Woolf et al. (2002); mauve = high, gray = medium, green = low. Right: zone boundaries for area closed to bobcat hunting and trapping (cross-hatched).

### ***Distribution of Bobcat Hunting and Trapping Permits***

The Department may issue Bobcat Hunting and Trapping Permits and set forth regulations in an administrative rule (520 ILCS 5/2.30c).

Eleven commenters favored a "lottery" system of distributing Bobcat Hunting and Trapping Permits, rather than the "first-come, first-served" delivery system proposed in the rule. One comment suggested the \$5 permit fee could be a non-refundable application fee submitted with the application.

After considering these comments, the Department agrees a lottery would work well to allocate permits. However, costs associated with tracking and issuing refunds to unsuccessful applicants would be significant and allocation by lottery would be cost prohibitive if the \$5 permit fee is refunded to unsuccessful applicants. The Department has amended the proposed rules to allocate permits by lottery. In the amended proposed rules, the \$5 permit fee will have to be submitted with each application and will not be refundable, if an applicant is not issued a permit.

### ***Adequacy of Scientific Studies for a Non-detriment Finding***

520 ILCS 5/2.30c provides, “The harvest of bobcats in this State shall be non-detrimental, as defined by federal regulations (50 CFR 23.61), and as determined by the United States Fish and Wildlife Service in accordance with 50 CFR 23.69.”

Comments expressed concerns about adequacy of scientific studies and other data used to develop restrictions on harvest.

Federal laws pertaining to international trade of fur skins and fur skin products of bobcat provide, “States and Tribes set up and maintain management and harvest programs designed to monitor and protect CITES furbearers from over-harvest. When a State or Tribe provides us with the necessary information, we make programmatic findings and have specific requirements that allow export under CITES. A State or Tribe must provide sufficient information for us to determine that its management program and harvest controls are appropriate to ensure that CITES furbearers harvested within its jurisdiction are legally acquired and that harvest will not be detrimental to the survival of the species in the wild.” (50 CFR 23.69b). Information required for a determination includes:

- An assessment of the condition of the population and a description of the types of information on which the assessment is based, such as an analysis of carcass demographics, population models, analysis of past harvest levels as a function of fur prices or trapper effort, or indices of abundance independent of harvest information, such as scent station surveys, archer surveys, camera traps, track or scat surveys, or road-kill counts.
- Current harvest control measures, including laws regulating harvest seasons and methods.
- Total allowable harvest of the species.
- Distribution of harvest.
- Indication of how frequently harvest levels are evaluated.
- Tagging or marking requirements for fur skins.
- Habitat evaluation.
- If available, copies of any furbearer management plans or other relevant reports that the State or Tribe has prepared as part of its existing management program.

Research funded by the Department has resulted in 14 publications in peer-reviewed scientific journals. Examples include:

Lesmeister, D.B., C.K. Nielsen, E.M. Schaubert, and E.C. Hellgren. 2015. Spatial and temporal structure of a mesocarnivore guild in Midwestern North America. *Wildlife Monographs* 191:1-61.

Croteau, E.K., E.J. Heist, and C.K. Nielsen. 2010. Fine-scale population structure and sex-biased dispersal in bobcats (*Lynx rufus*) from southern Illinois. *Canadian Journal of Zoology* 88:536-545.

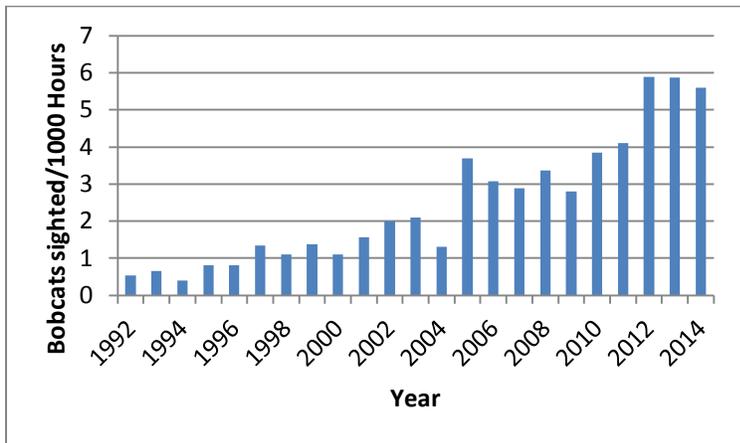
Nielsen, C.K., and A. Woolf. 2002. Survival of unexploited bobcats in southern Illinois. *Journal of Wildlife Management* 66:833-838.

Nielsen, C.K., and A. Woolf. 2002. Habitat-relative abundance relationship for bobcats in southern Illinois. *Wildlife Society Bulletin* 30:222-230.

Woolf, A., C.K. Nielsen, T. Weber, and T.J. Gibbs-Kieninger. 2002. Statewide modeling of bobcat, *Lynx rufus*, habitat in Illinois, USA. *Biological Conservation* 104:191-198.

Nielsen, C.K., and A. Woolf. 2001. Spatial organization of bobcats (*Lynx rufus*) in southern Illinois. *American Midland Naturalist* 146:43-52.

The Department also contracted Southern Illinois University to conduct demographic analyses and population modelling. In addition, the Department has administered an archer survey since 1992, and routinely collected other data to assist the United States Fish and Wildlife Service (USFWS) in making its determination.



Relative abundance of bobcats in Illinois. Data are from archer surveys conducted by the Department during 1992-2014.

Bobcat populations can sustain harvest rates of 14-20% without declining (Roberts 2010, Knick 1990). Demographic analyses and population modeling conducted by Nielsen (2009) suggested a rate of 10% was more in line with the Department’s goal of allowing Illinois’ bobcat population to grow, albeit at a slower rate of increase. Based on Nielsen’s (2009) modeling, we consider 500 bobcats the maximum allowable harvest at this time. Our goal is a harvest of 300 bobcats per season, which is based on the most conservative population estimate of 3,000 bobcats. Initially, the Department plans to issue 500 Bobcat Hunting and Trapping Permits which reflects our maximum allowable harvest. Like other Department hunting rules, the number of bobcat permits allocated is not set by administrative rule, allowing the Department needed flexibility to adjust mid-season if the success rate is much higher or lower than expected. Actual harvest is likely to be much lower than 500 because a success rate of 100% is unrealistic. Sales of Bobcat Registration Permits will provide information about the actual number of bobcats harvested, as well as geographic distribution and method of harvest. This information will be used to set permit quotas for future seasons.

No changes were made to Administrative Rules 550 and 570. The proposed rules prevent detriment to the species as defined by Federal regulations (50 CFR 23.61) and required by State and Federal laws (520 ILCS 5/2.30c; 50 CFR 23.69). USFWS will make an independent determination when the Department submits an application for export authority in accordance

with 50 CFR 23.69. The proposed rules will be amended if USFWS denies export authority based on its non-detriment finding or other federal requirements.

***“Other”***

One comment expressed concern that opening hunting and trapping seasons for bobcats would create problems for landowners because of trespass. State laws require hunters and trappers to obtain permission from landowners or their designees (520 ILCS 5/2.33). State laws also prohibit hunting and trapping within certain distances of inhabited dwellings without the occupants' permission (520 ILCS 5/2.33u). Therefore, this concern is best addressed through enforcement of existing laws. No change was made to administrative rules 550 and 570.

One comment supported a preference system for landowners to obtain Bobcat Hunting and Trapping Permits. Landowners and bona fide tenants who meet eligibility requirements can obtain free permits for deer and turkey hunting, and do not have to apply during the general lottery (520 ILCS 5/2.26). The Department believes that costs of administering a preference system for landowners and tenants could well exceed revenue from sales of \$5 Bobcat Hunting and Trapping Permits. No changes were made to administrative rules 550 or 570.

Two comments suggested the fee for a Bobcat Hunting and Trapping Permit should be greater than \$5. PA 99-0033 states the Department can set a fee of up to \$5 (520 ILCS 5/2.30c). Charging a fee less than \$5 would reduce the Department's ability to recoup administrative costs. Charging a fee greater than \$5 would require legislative action. No changes were made to administrative rules 550 and 570.

Several comments suggested the Department should defer implementation of hunting and trapping seasons until the agency develops a management plan for the bobcat. Existing statutes do not require the Department to develop management plans for bobcats or other species that are hunted or trapped in the State. Federal law requires submission of a management plan “if available” [50 CFR 23.69 (1) (viii)]. Information required by USFWS (50 CFR 23.69b) contains important elements of a management plan, some of which are subject to change during this rulemaking. PA 99-0033 authorized hunting and trapping of bobcats, so administrative rules are needed to avoid conflicts with the existing statute and to implement the statute that directs the Department to implement and open seasons for the take of bobcats. No changes were made to Administrative Rules 550 or 570.

One comment related problems with obtaining a trapping license because of requirements for completing a trapper education course. As the trapper education course is required by statute (520 ILCS 5/3.3), legislative action is required to change this education requirement. No changes were made to administrative rules 550 or 570.

One comment expressed support for changes proposed by administrative rules 550 and 570. No changes were made to the rules.

One commenter noted that the notice of proposed rulemaking does not list any reports or studies. The Department did in fact consult studies and scientific research in formulating its general

position on Bobcat hunting and on PA 99-0033; some such studies are cited in this comment response. Sound scientific data are also consulted in determining the numbers of permits distributed each season. While these studies are related to the proposed rule, they were not used to develop the language of the proposed rule and are not required to be cited in the notice of proposed rulemaking. (5 ILCS 100/5-40).

One commenter noted bobcats were listed as a “Species in Greatest Need of Conservation” (SGNC) in the Illinois Comprehensive Wildlife Plan – Strategy (Illinois Department of Natural Resources 2005), and as a “critical species” in some parts of the state. Eight criteria were used to select SGNC (see page 294). Some of these addressed rarity of species or their habitats. The bobcat was chosen as a SGNC because it was considered “representative of a broad array of other species found in a particular habitat” (see page 309). In other words, presence of bobcats in forests and woodlands was considered indicative of the health of these ecosystems - and other species that inhabit them. The terms “SGNC” and “critical species” are not defined by statute. No changes were made to administrative rules 550 and 570.

One comment recognized the Department has authority “to manage wildlife and regulate the taking of wildlife for the purposes of providing public recreation and controlling wildlife populations (520 ILCS 5/1.3), but argued trapping is a commercial enterprise rather than a recreational activity. Sale of legally taken fur-bearing mammals, or any parts thereof, is specifically allowed by 520 ILCS 5/2.36(5). The value of a bobcat is \$25 (520 ILCS 5/2.36a). Motivations for trapping vary, but income ranks low for most participants. For example, during a survey conducted by Miller and Campbell (2013) few Illinois trappers agreed strongly with the statement, “I trap for the extra income it provides” (4.9%). More important reasons included testing outdoor skill and knowledge (42.6% strongly agreed), tradition (44.4%), challenge (27.0%), and family (25.1%). No changes were made to administrative rules 550 or 570.