**Section 1535.16 Bonding Requirements**

a) Surety Bond Requirements

1) Bonds shall be signed by the timber buyer 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 60 days notice to the Department. The 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 60 days notice of cancellation, the timber buyer shall deliver to the Department a replacement bond. If the bond is not delivered, all activities covered by the permit and bond shall cease at the expiration of the 60 day period.

b) 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 either a confirming bank designated that is authorized to accept, negotiate and pay the letter upon presentment in Illinois, or an Illinois registered agent designated by the issuing bank.

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 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) Any interest accruing on a certificate of deposit shall be for the benefit of the timber buyer.

C) 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 timber buyer, shall be placed in the Department's possession.

(Source: Added at 27 Ill. Reg. 7761, effective April 21, 2003)