

2008

ILLINOIS

REGISTER

RULES
OF GOVERNMENTAL
AGENCIES



Volume 32, Issue 3
January 18, 2008
Pages 798-1005

Index Department
Administrative Code Division
111 East Monroe Street
Springfield, IL 62756
(217) 782-7017
<http://www.cyberdriveillinois.com>

Printed on recycled paper

PUBLISHED BY JESSE WHITE • SECRETARY OF STATE

TABLE OF CONTENTS

January 18, 2008 Volume 32, Issue 3

PROPOSED RULES

REVENUE, DEPARTMENT OF

Income Tax

86 Ill. Adm. Code 100798

SECRETARY OF STATE

Uniform Partnership Act (Repealer)

14 Ill. Adm. Code 165828

Revised Uniform Limited Partnership Act (Repealer)

14 Ill. Adm. Code 170830

Certificates of Title, Registration of Vehicles

92 Ill. Adm. Code 1010833

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

Americans With Disabilities Act Grievance Procedure

4 Ill. Adm. Code 1775847

The Administration and Operation of the Teachers' Retirement System

80 Ill. Adm. Code 1650854

ADOPTED RULES

PUBLIC HEALTH, DEPARTMENT OF

Podiatric Scholarship and Residency Programs Code

77 Ill. Adm. Code 593863

REVENUE, DEPARTMENT OF

Income Tax

86 Ill. Adm. Code 100872

EMERGENCY RULES

SECRETARY OF STATE

Uniform Partnership Act (Repealer)

14 Ill. Adm. Code 165901

Revised Uniform Limited Partnership Act (Repealer)

14 Ill. Adm. Code 170910

SECOND NOTICES RECEIVED

JOINT COMMITTEE ON ADMINISTRATIVE RULES

Second Notices Received.....922

REGULATORY AGENDA

AGRICULTURE, DEPARTMENT OF

Livestock Waste Regulations

35 Ill. Adm. Code 506923

EMPLOYMENT SECURITY, DEPARTMENT OF

Claims, Adjudication, Appeals and Hearings

56 Ill. Adm. Code 2720948

POLLUTION CONTROL BOARD

General Rules

35 Ill. Adm. Code 101949
TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS
The Administration and Operation of the Teachers' Retirement System
80 Ill. Adm. Code 16501005

INTRODUCTION

The Illinois Register is the official state document for publishing public notice of rulemaking activity initiated by State governmental agencies. The table of contents is arranged categorically by rulemaking activity and alphabetically by agency within each category.

Rulemaking activity consists of proposed or adopted new rules; amendments to or repealers of existing rules; and rules promulgated by emergency or peremptory action. Executive Orders and Proclamations issued by the Governor; notices of public information required by State Statute; and activities (meeting agendas; Statements of Objection or Recommendation, etc.) of the Joint Committee on Administrative Rules (JCAR), a legislative oversight committee which monitors the rulemaking activities of State Agencies; is also published in the Register.

The Register is a weekly update of the Illinois Administrative Code (a compilation of the rules adopted by State agencies). The most recent edition of the Code, along with the Register, comprise the most current accounting of State agencies' rulemakings.

The Illinois Register is the property of the State of Illinois, granted by the authority of the Illinois Administrative Procedure Act [5 ILCS 100/1-1, et seq.].

2008 REGISTER SCHEDULE VOLUME #32

<u>Issue #</u>	<u>Rules Due Date</u>	<u>Date of Issue</u>
1	December 21, 2007*	January 4, 2008
2	December 31, 2007	January 11, 2008
3	January 7, 2008	January 18, 2008
4	January 14, 2008	January 25, 2008
5	January 22, 2008	February 1, 2008
6	January 28, 2008	February 8, 2008
7	February 4, 2008	February 15, 2008
8	February 11, 2008	February 22, 2008
9	February 19, 2008	February 29, 2008
10	February 25, 2008	March 7, 2008
11	March 3, 2008	March 14, 2008
12	March 10, 2008	March 21, 2008
13	March 17, 2008	March 28, 2008
14	March 24, 2008	April 4, 2008
15	March 31, 2008	April 11, 2008
16	April 7, 2008	April 18, 2008
17	April 14, 2008	April 25, 2008
18	April 21, 2008	May 2, 2008
19	April 28, 2008	May 9, 2008
20	May 5, 2008	May 16, 2008
21	May 12, 2008	May 23, 2008
22	May 19, 2008	May 30, 2008
23	May 27, 2008	June 6, 2008

24	June 2, 2008	June 13, 2008
25	June 9, 2008	June 20, 2008
26	June 16, 2008	June 27, 2008
27	June 23, 2008	July 7, 2008
28	June 30, 2008	July 11, 2008
29	July 7, 2008	July 18, 2008
30	July 14, 2008	July 25, 2008
31	July 21, 2008	August 1, 2008
32	July 28, 2008	August 8, 2008
33	August 4, 2008	August 15, 2008
34	August 11, 2008	August 22, 2008
35	August 18, 2008	August 29, 2008
36	August 25, 2008	September 5, 2008
37	September 2, 2008	September 12, 2008
38	September 8, 2008	September 19, 2008
39	September 15, 2008	September 26, 2008
40	September 22, 2008	October 3, 2008
41	September 29, 2008	October 10, 2008
42	October 6, 2008	October 17, 2008
43	October 14, 2008	October 24, 2008
44	October 20, 2008	October 31, 2008
45	October 27, 2008	November 7, 2008
46	November 3, 2008	November 14, 2008
47	November 10, 2008	November 21, 2008
48	November 17, 2008	December 1, 2008
49	November 24, 2008	December 5, 2008
50	December 1, 2008	December 12, 2008
51	December 8, 2008	December 19, 2008
52	December 15, 2008	December 26, 2008
53	December 22, 2008	January 2, 2009

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Income Tax
- 2) Code Citation: 86 Ill. Adm. Code 100
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
100.3380	Amendment
100.9700	Amendment
- 4) Statutory Authority: 35 ILCS 5/304(f), 1401 and 1501(a)(27)
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking addresses issues that have arisen in the application of 86 Ill. Adm. Code 100.3380(d), dealing with partnerships that are members of the same unitary business group as one or more of their partners. This regulation was adopted pursuant to the Department's authority under Section 304(f) of the Illinois Income Tax Act to provide alternative methods of apportioning business income when the statutory provisions fail to accurately and fairly reflect the taxpayer's business activity in Illinois. This regulation currently provides that a partnership cannot be included in a unitary business group because to do so would distort the income of non-unitary partners. The Department has determined that the provisions of the existing regulation can result in distortion in the computation of the income of the unitary business group in cases where there is no significant ownership of the partnership by any person outside the group. In such cases, failure to treat the partnership as a member of the group creates an additional sales factor for all transactions between the partnership and group members and can cause the partnership's apportionment fraction to be different from the group's fraction. This is inconsistent with the unitary business concept, which treats the group as a single taxpayer, and is not required by considerations of non-unitary partners, and allows tax planning opportunities for sophisticated taxpayers while creating pitfalls for taxpayers unaware of this provision. For the same reasons, the provision in the existing regulation that states intercompany transactions are not eliminated is amended to provide that such transactions are eliminated for purposes of computing the unitary business group's apportionment factors, but not for purposes of computing the factors of the partnership itself or the income of the non-unitary partners. Finally, issues arising from the application to partnerships of the "common ownership" requirement for inclusion in a unitary business group are addressed in the amendments to Section 100.9700.
- 6) Published studies or reports and sources of underlying data used to compose this rulemaking: None

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? Yes

<u>Section Numbers:</u>	<u>Proposed Action:</u>	<u>Illinois Register Citation:</u>
100.2110	Amendment	31 Ill. Reg. 13086; September 14, 2007
100.2160	Amendment	31 Ill. Reg. 13331; September 21, 2007
100.5070	New Section	31 Ill. Reg. 13697; October 5, 2007
100.5080	New Section	31 Ill. Reg. 13697; October 5, 2007
100.2197	Amendment	31 Ill. Reg. 14217; October 12, 2007
100.2406	New Section	31 Ill. Reg. 15240; November 16, 2007
100.2450	New Section	31 Ill. Reg. 15744; November 26, 2007
100.3420	New Section	31 Ill. Reg. 16428; December 14, 2007
100.2405	New Section	31 Ill. Reg. 16695; December 21, 2007
100.3010	Amendment	32 Ill. Reg. 97; January 4, 2008

- 11) Statement of Statewide Policy Objective: This rulemaking does not create a State mandate, nor does it modify any existing State mandates.
- 12) Time, Place and Manner in which interested persons may comment on this rulemaking: Persons who wish to submit comments on this rulemaking may submit them in writing by no later than 45 days after publication of this Notice to:

Paul Caselton
 Deputy General Counsel - Income Tax
 Illinois Department of Revenue
 Legal Services Office
 101 West Jefferson
 Springfield, Illinois 62794

217/524-3951

- 13) Initial Regulatory Flexibility Analysis:

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

- A) Types of small businesses, small municipalities and not-for-profit corporations affected: This rulemaking will provide guidance for small businesses necessary to accurate computation of their Illinois income tax liabilities. Municipalities and not-for-profit corporations are not affected.
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2008

The full text of the Proposed Amendments begins on the next page:

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUEPART 100
INCOME TAX

SUBPART A: TAX IMPOSED

Section

- 100.2000 Introduction
100.2050 Net Income (IITA Section 202)

SUBPART B: CREDITS

Section

- 100.2100 Replacement Tax Investment Credit Prior to January 1, 1994 (IITA 201(e))
100.2101 Replacement Tax Investment Credit (IITA 201(e))
100.2110 Investment Credit; Enterprise Zone (IITA 201(f))
100.2120 Jobs Tax Credit; Enterprise Zone and Foreign Trade Zone or Sub-Zone (IITA 201(g))
100.2130 Investment Credit; High Impact Business (IITA 201(h))
100.2140 Credit Against Income Tax for Replacement Tax (IITA 201(i))
100.2150 Training Expense Credit (IITA 201(j))
100.2160 Research and Development Credit (IITA 201(k))
100.2163 Environmental Remediation Credit (IITA 201(l))
100.2165 Education Expense Credit (IITA 201(m))
100.2170 Tax Credits for Coal Research and Coal Utilization Equipment (IITA 206)
100.2180 Credit for Residential Real Property Taxes (IITA 208)
100.2185 Film Production Services Credit (IITA 213)
100.2190 Tax Credit for Affordable Housing Donations (IITA Section 214)
100.2195 Dependent Care Assistance Program Tax Credit (IITA 210)
100.2196 Employee Child Care Assistance Program Tax Credit (IITA Section 210.5)
100.2197 Foreign Tax Credit (IITA Section 601(b)(3))
100.2198 Economic Development for a Growing Economy Credit (IITA 211)
100.2199 Illinois Earned Income Tax Credit (IITA 212)

SUBPART C: NET OPERATING LOSSES OF UNITARY BUSINESS GROUPS
OCCURRING PRIOR TO DECEMBER 31, 1986

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

Section

- 100.2200 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group. (IITA Section 202) - Scope
- 100.2210 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group (IITA Section 202) - Definitions
- 100.2220 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group. (IITA Section 202) - Current Net Operating Losses: Offsets Between Members
- 100.2230 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group. (IITA Section 202) - Carrybacks and Carryforwards
- 100.2240 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (IITA Section 202) - Effect of Combined Net Operating Loss in Computing Illinois Base Income
- 100.2250 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (IITA Section 202) - Deadline for Filing Claims Based on Net Operating Losses Carried Back From a Combined Apportionment Year

SUBPART D: ILLINOIS NET LOSS DEDUCTIONS FOR LOSSES
OCCURRING ON OR AFTER DECEMBER 31, 1986

Section

- 100.2300 Illinois Net Loss Deduction for Losses Occurring On or After December 31, 1986 (IITA 207)
- 100.2310 Computation of the Illinois Net Loss Deduction for Losses Occurring On or After December 31, 1986 (IITA 207)
- 100.2320 Determination of the Amount of Illinois Net Loss for Losses Occurring On or After December 31, 1986
- 100.2330 Illinois Net Loss Carrybacks and Net Loss Carryovers for Losses Occurring On or After December 31, 1986
- 100.2340 Illinois Net Losses and Illinois Net Loss Deductions for Losses Occurring On or After December 31, 1986, of Corporations that are Members of a Unitary Business Group: Separate Unitary Versus Combined Unitary Returns
- 100.2350 Illinois Net Losses and Illinois Net Loss Deductions, for Losses Occurring On or After December 31, 1986, of Corporations that are Members of a Unitary

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

Business Group: Changes in Membership

SUBPART E: ADDITIONS TO AND SUBTRACTIONS FROM TAXABLE INCOME OF
INDIVIDUALS, CORPORATIONS, TRUSTS AND ESTATES AND PARTNERSHIPS

Section

- 100.2410 Net Operating Loss Carryovers for Individuals, and Capital Loss and Other Carryovers for All Taxpayers (IITA Section 203)
- 100.2430 Addition and Subtraction Modifications for Transactions with 80-20 Companies
- 100.2470 Subtraction of Amounts Exempt from Taxation by Virtue of Illinois Law, the Illinois or U.S. Constitutions, or by Reason of U.S. Treaties or Statutes (IITA Sections 203(a)(2)(N), 203(b)(2)(J), 203(c)(2)(K) and 203(d)(2)(G))
- 100.2480 Enterprise Zone Dividend Subtraction (IITA Sections 203(a)(2)(J), 203(b)(2)(K), 203(c)(2)(M) and 203(d)(2)(K))
- 100.2490 Foreign Trade Zone/High Impact Business Dividend Subtraction (IITA Sections 203(a)(2)(K), 203(b)(2)(L), 203(c)(2)(O), 203(d)(2)(M))

SUBPART F: BASE INCOME OF INDIVIDUALS

Section

- 100.2580 Medical Care Savings Accounts (IITA Sections 203(a)(2)(D-5), 203(a)(2)(S) and 203(a)(2)(T))
- 100.2590 Taxation of Certain Employees of Railroads, Motor Carriers, Air Carriers and Water Carriers

SUBPART G: BASE INCOME OF TRUSTS AND ESTATES

Section

- 100.2680 Capital Gain Income of Estates and Trusts Paid to or Permanently Set Aside for Charity (Repealed)

SUBPART I: GENERAL RULES OF ALLOCATION AND
APPORTIONMENT OF BASE INCOME

Section

- 100.3000 Terms Used in Article 3 (IITA Section 301)
- 100.3010 Business and Nonbusiness Income (IITA Section 301)
- 100.3015 Business Income Election (IITA Section 1501)
- 100.3020 Resident (IITA Section 301)

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

SUBPART J: COMPENSATION

Section

- 100.3100 Compensation (IITA Section 302)
- 100.3110 State (IITA Section 302)
- 100.3120 Allocation of Compensation Paid to Nonresidents (IITA Section 302)

SUBPART K: NON-BUSINESS INCOME OF PERSONS OTHER THAN RESIDENTS

Section

- 100.3200 Taxability in Other State (IITA Section 303)
- 100.3210 Commercial Domicile (IITA Section 303)
- 100.3220 Allocation of Certain Items of Nonbusiness Income by Persons Other Than Residents (IITA Section 303)

SUBPART L: BUSINESS INCOME OF PERSONS OTHER THAN RESIDENTS

Section

- 100.3300 Allocation and Apportionment of Base Income (IITA Section 304)
- 100.3310 Business Income of Persons Other Than Residents (IITA Section 304) - In General
- 100.3320 Business Income of Persons Other Than Residents (IITA Section 304) - Apportionment (Repealed)
- 100.3330 Business Income of Persons Other Than Residents (IITA Section 304) - Allocation
- 100.3340 Business Income of Persons Other Than Residents (IITA Section 304)
- 100.3350 Property Factor (IITA Section 304)
- 100.3360 Payroll Factor (IITA Section 304)
- 100.3370 Sales Factor (IITA Section 304)
- 100.3380 Special Rules (IITA Section 304)
- 100.3390 Petitions for Alternative Allocation or Apportionment (IITA Section 304(f))
- 100.3400 Apportionment of Business Income of Financial Organizations (IITA Section 304(c))
- 100.3500 Allocation and Apportionment of Base Income by Nonresident Partners

SUBPART M: ACCOUNTING

Section

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

100.4500 Carryovers of Tax Attributes (IITA Section 405)

SUBPART N: TIME AND PLACE FOR FILING RETURNS

Section

100.5000 Time for Filing Returns: Individuals (IITA Section 505)
100.5010 Place for Filing Returns: All Taxpayers (IITA Section 505)
100.5020 Extensions of Time for Filing Returns: All Taxpayers (IITA Section 505)
100.5030 Taxpayer's Notification to the Department of Certain Federal Changes Arising in Federal Consolidated Return Years, and Arising in Certain Loss Carryback Years (IITA Section 506)
100.5040 Innocent Spouses
100.5050 Frivolous Returns
100.5060 Reportable Transactions

SUBPART O: COMPOSITE RETURNS

Section

100.5100 Composite Returns: Eligibility
100.5110 Composite Returns: Responsibilities of Authorized Agent
100.5120 Composite Returns: Individual Liability
100.5130 Composite Returns: Required forms and computation of Income
100.5140 Composite Returns: Estimated Payments
100.5150 Composite Returns: Tax, Penalties and Interest
100.5160 Composite Returns: Credits for Resident Individuals
100.5170 Composite Returns: Definition of a "Lloyd's Plan of Operation"

SUBPART P: COMBINED RETURNS

Section

100.5200 Filing of Combined Returns
100.5201 Definitions and Miscellaneous Provisions Relating to Combined Returns
100.5205 Election to File a Combined Return
100.5210 Procedures for Elective and Mandatory Filing of Combined Returns
100.5215 Filing of Separate Unitary Returns
100.5220 Designated Agent for the Members
100.5230 Combined Estimated Tax Payments
100.5240 Claims for Credit of Overpayments
100.5250 Liability for Combined Tax, Penalty and Interest

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

100.5260	Combined Amended Returns
100.5265	Common Taxable Year
100.5270	Computation of Combined Net Income and Tax
100.5280	Combined Return Issues Related to Audits

SUBPART Q: REQUIREMENT AND AMOUNT OF WITHHOLDING

Section

100.7000	Requirement of Withholding (IITA Section 701)
100.7010	Compensation Paid in this State (IITA Section 701)
100.7020	Transacting Business Within this State (IITA Section 701)
100.7030	Payments to Residents (IITA Section 701)
100.7040	Employer Registration (IITA Section 701)
100.7050	Computation of Amount Withheld (IITA Section 702)
100.7060	Additional Withholding (IITA Section 701)
100.7070	Voluntary Withholding (IITA Section 701)
100.7080	Correction of Underwithholding or Overwithholding (IITA Section 701)
100.7090	Reciprocal Agreement (IITA Section 701)
100.7095	Cross References

SUBPART R: AMOUNT EXEMPT FROM WITHHOLDING

Section

100.7100	Withholding Exemption (IITA Section 702)
100.7110	Withholding Exemption Certificate (IITA Section 702)
100.7120	Exempt Withholding Under Reciprocal Agreements (IITA Section 702)

SUBPART S: INFORMATION STATEMENT

Section

100.7200	Reports for Employee (IITA Section 703)
----------	---

SUBPART T: EMPLOYER'S RETURN AND PAYMENT OF TAX WITHHELD

Section

100.7300	Returns of Income Tax Withheld from Wages (IITA Section 704)
100.7310	Quarterly Returns Filed on Annual Basis (IITA Section 704)
100.7320	Time for Filing Returns (IITA Section 704)
100.7330	Payment of Tax Deducted and Withheld (IITA Section 704)

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

100.7340 Correction of Underwithholding or Overwithholding (IITA Section 704)

SUBPART U: COLLECTION AUTHORITY

Section

100.9000 General Income Tax Procedures (IITA Section 901)
100.9010 Collection Authority (IITA Section 901)
100.9020 Child Support Collection (IITA Section 901)

SUBPART V: NOTICE AND DEMAND

Section

100.9100 Notice and Demand (IITA Section 902)

SUBPART W: ASSESSMENT

Section

100.9200 Assessment (IITA Section 903)
100.9210 Waiver of Restrictions on Assessment (IITA Section 907)

SUBPART X: DEFICIENCIES AND OVERPAYMENTS

Section

100.9300 Deficiencies and Overpayments (IITA Section 904)
100.9310 Application of Tax Payments Within Unitary Business Groups (IITA Section 603)
100.9320 Limitations on Notices of Deficiency (IITA Section 905)
100.9330 Further Notices of Deficiency Restricted (IITA Section 906)

SUBPART Y: CREDITS AND REFUNDS

Section

100.9400 Credits and Refunds (IITA Section 909)
100.9410 Limitations on Claims for Refund (IITA Section 911)
100.9420 Recovery of Erroneous Refund (IITA Section 912)

SUBPART Z: INVESTIGATIONS AND HEARINGS

Section

100.9500 Access to Books and Records (IITA Section 913)

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

100.9505	Access to Books and Records - 60-Day Letters (IITA Section 913) (Repealed)
100.9510	Taxpayer Representation and Practice Requirements
100.9520	Conduct of Investigations and Hearings (IITA Section 914)
100.9530	Books and Records

SUBPART AA: JUDICIAL REVIEW

Section

100.9600	Administrative Review Law (IITA Section 1201)
----------	---

SUBPART BB: DEFINITIONS

Section

100.9700	Unitary Business Group Defined (IITA Section 1501)
100.9710	Financial Organizations (IITA Section 1501)
100.9720	Nexus
100.9750	Corporation, Subchapter S Corporation, Partnership and Trust Defined (IITA Section 1501)

SUBPART CC: LETTER RULING PROCEDURES

Section

100.9800	Letter Ruling Procedures
----------	--------------------------

SUBPART DD: MISCELLANEOUS

Section

100.9900	Tax Shelter Voluntary Compliance Program
----------	--

100.APPENDIX A Business Income Of Persons Other Than Residents

100.TABLE A	Example of Unitary Business Apportionment
100.TABLE B	Example of Unitary Business Apportionment for Groups Which Include Members Using Three-Factor and Single-Factor Formulas

AUTHORITY: Implementing the Illinois Income Tax Act [35 ILCS 5] and authorized by Section 1401 of the Illinois Income Tax Act [35 ILCS 5/1401].

SOURCE: Filed July 14, 1971, effective July 24, 1971; amended at 2 Ill. Reg. 49, p. 84, effective November 29, 1978; amended at 5 Ill. Reg. 813, effective January 7, 1981; amended at

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

5 Ill. Reg. 4617, effective April 14, 1981; amended at 5 Ill. Reg. 4624, effective April 14, 1981; amended at 5 Ill. Reg. 5537, effective May 7, 1981; amended at 5 Ill. Reg. 5705, effective May 20, 1981; amended at 5 Ill. Reg. 5883, effective May 20, 1981; amended at 5 Ill. Reg. 6843, effective June 16, 1981; amended at 5 Ill. Reg. 13244, effective November 13, 1981; amended at 5 Ill. Reg. 13724, effective November 30, 1981; amended at 6 Ill. Reg. 579, effective December 29, 1981; amended at 6 Ill. Reg. 9701, effective July 26, 1982; amended at 7 Ill. Reg. 399, effective December 28, 1982; amended at 8 Ill. Reg. 6184, effective April 24, 1984; codified at 8 Ill. Reg. 19574; amended at 9 Ill. Reg. 16986, effective October 21, 1985; amended at 9 Ill. Reg. 685, effective December 31, 1985; amended at 10 Ill. Reg. 7913, effective April 28, 1986; amended at 10 Ill. Reg. 19512, effective November 3, 1986; amended at 10 Ill. Reg. 21941, effective December 15, 1986; amended at 11 Ill. Reg. 831, effective December 24, 1986; amended at 11 Ill. Reg. 2450, effective January 20, 1987; amended at 11 Ill. Reg. 12410, effective July 8, 1987; amended at 11 Ill. Reg. 17782, effective October 16, 1987; amended at 12 Ill. Reg. 4865, effective February 25, 1988; amended at 12 Ill. Reg. 6748, effective March 25, 1988; amended at 12 Ill. Reg. 11766, effective July 1, 1988; amended at 12 Ill. Reg. 14307, effective August 29, 1988; amended at 13 Ill. Reg. 8917, effective May 30, 1989; amended at 13 Ill. Reg. 10952, effective June 26, 1989; amended at 14 Ill. Reg. 4558, effective March 8, 1990; amended at 14 Ill. Reg. 6810, effective April 19, 1990; amended at 14 Ill. Reg. 10082, effective June 7, 1990; amended at 14 Ill. Reg. 16012, effective September 17, 1990; emergency amendment at 17 Ill. Reg. 473, effective December 22, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 8869, effective June 2, 1993; amended at 17 Ill. Reg. 13776, effective August 9, 1993; recodified at 17 Ill. Reg. 14189; amended at 17 Ill. Reg. 19632, effective November 1, 1993; amended at 17 Ill. Reg. 19966, effective November 9, 1993; amended at 18 Ill. Reg. 1510, effective January 13, 1994; amended at 18 Ill. Reg. 2494, effective January 28, 1994; amended at 18 Ill. Reg. 7768, effective May 4, 1994; amended at 19 Ill. Reg. 1839, effective February 6, 1995; amended at 19 Ill. Reg. 5824, effective March 31, 1995; emergency amendment at 20 Ill. Reg. 1616, effective January 9, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 6981, effective May 7, 1996; amended at 20 Ill. Reg. 10706, effective July 29, 1996; amended at 20 Ill. Reg. 13365, effective September 27, 1996; amended at 20 Ill. Reg. 14617, effective October 29, 1996; amended at 21 Ill. Reg. 958, effective January 6, 1997; emergency amendment at 21 Ill. Reg. 2969, effective February 24, 1997, for a maximum of 150 days; emergency expired July 24, 1997; amended at 22 Ill. Reg. 2234, effective January 9, 1998; amended at 22 Ill. Reg. 19033, effective October 1, 1998; amended at 22 Ill. Reg. 21623, effective December 15, 1998; amended at 23 Ill. Reg. 3808, effective March 11, 1999; amended at 24 Ill. Reg. 10593, effective July 7, 2000; amended at 24 Ill. Reg. 12068, effective July 26, 2000; emergency amendment at 24 Ill. Reg. 17585, effective November 17, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 18731, effective December 11, 2000; amended at 25 Ill. Reg. 4640, effective March 15, 2001; amended at 25 Ill. Reg. 4929, effective March 23, 2001; amended at 25 Ill. Reg. 5374, effective April 2, 2001; amended at 25 Ill. Reg. 6687,

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

effective May 9, 2001; amended at 25 Ill. Reg. 7250, effective May 25, 2001; amended at 25 Ill. Reg. 8333, effective June 22, 2001; amended at 26 Ill. Reg. 192, effective December 20, 2001; amended at 26 Ill. Reg. 1274, effective January 15, 2002; amended at 26 Ill. Reg. 9854, effective June 20, 2002; amended at 26 Ill. Reg. 13237, effective August 23, 2002; amended at 26 Ill. Reg. 15304, effective October 9, 2002; amended at 26 Ill. Reg. 17250, effective November 18, 2002; amended at 27 Ill. Reg. 13536, effective July 28, 2003; amended at 27 Ill. Reg. 18225, effective November 17, 2003; emergency amendment at 27 Ill. Reg. 18464, effective November 20, 2003, for a maximum of 150 days; emergency expired April 17, 2004; amended at 28 Ill. Reg. 1378, effective January 12, 2004; amended at 28 Ill. Reg. 5694, effective March 17, 2004; amended at 28 Ill. Reg. 7125, effective April 29, 2004; amended at 28 Ill. Reg. 8881, effective June 11, 2004; emergency amendment at 28 Ill. Reg. 14271, effective October 18, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 14868, effective October 26, 2004; emergency amendment at 28 Ill. Reg. 15858, effective November 29, 2004, for a maximum of 150 days; amended at 29 Ill. Reg. 2420, effective January 28, 2005; amended at 29 Ill. Reg. 6986, effective April 26, 2005; amended at 29 Ill. Reg. 13211, effective August 15, 2005; amended at 29 Ill. Reg. 20516, effective December 2, 2005; amended at 30 Ill. Reg. 6389, effective March 30, 2006; amended at 30 Ill. Reg. 10473, effective May 23, 2006; amended by 30 Ill. Reg. 13890, effective August 1, 2006; amended at 30 Ill. Reg. 18739, effective November 20, 2006; amended at 31 Ill. Reg. 16240, effective November 26, 2007; amended at 32 Ill. Reg. _____, effective _____.

SUBPART L: BUSINESS INCOME OF PERSONS OTHER THAN RESIDENTS

Section 100.3380 Special Rules (IITA Section 304)a) Determining Business Activity Within Illinois1) Petition

IITA Section 304(f) provides that *if the allocation and apportionment provisions of subsections (a) through (e) and of subsection (h) do not fairly represent the extent of a person's business activity in this State, the person may petition for, or the Director may require, in respect of all or any part of the person's business activity, if reasonable:*

A)1) *Separate accounting;*

B)2) *The exclusion of any one or more factors;*

C)3) *The inclusion of one or more additional factors which will fairly represent the person's business activities in this State; or*

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

~~D)4)~~ *The employment of any other method to effectuate an equitable allocation and apportionment of the person's business income.*

2) Director's Determination

The Director has determined that, in the instances described in this Section, the apportionment provisions provided in subsections (a) through (e) and (h) of IITA Section 304 do not fairly represent the extent of a person's business activity within Illinois. For tax years beginning on or after the effective date of a rulemaking amending this Section to prescribe a specific method of apportioning business income, all nonresident taxpayers are directed to apportion their business income employing that method in order to properly apportion their business income to Illinois. Taxpayers whose business activity within Illinois is not fairly represented by a method prescribed in this Section and who do not want to use that method for a tax year beginning after the effective date of the rulemaking adopting that method must file a petition under Section 100.3390 of this Part requesting permission to use an alternative method of apportionment. For tax years beginning prior to the effective date of the rulemaking adopting a method of apportioning business income, the Department will not require a taxpayer to adopt that method; provided, however, if any taxpayer has used that method for any such tax year, the taxpayer must continue to use that method that tax year. Moreover, a taxpayer may file a petition under Section 100.3390 of this Part to use a method of apportionment prescribed in this Section for any open tax year beginning prior to the effective date of the rulemaking adopting that method, and such petition shall be granted in the absence of facts showing that such method will not fairly represent the extent of a person's business activity in Illinois.

- b) Property ~~Factor~~~~factor~~. The following special rules are established in respect to the property factor in IITA Section 304(a)(1):
- 1) If the subrents taken into account in determining the net annual rental rate under Section 100.3350(c) of this Part produce a negative or clearly inaccurate value for any item of property, another method which will properly reflect the value of rented property may be required by the Director or requested by the person. In no case however shall such value be less than an amount which bears the same ratio to the annual rental rate

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

paid by the person for such property as the fair market value of that portion of the property used by the person bears to the total fair market value of the rented property.

Example: A corporation rents a 10-story building at an annual rental rate of \$1,000,000. The corporation occupies two stories and sublets eight stories for \$1,000,000 a year. The net annual rental rate of the taxpayer must not be less than two-tenths of the corporation annual rental rate for the entire year, or \$200,000.

- 2) If property owned by others is used by the person at no charge or rented by the person for a nominal rate, the net annual rental rate for such property shall be determined on the basis of a reasonable market rental rate for such property.
- c) Sales ~~Factor~~factor. The following special rules are established in respect to the sales factor in IITA Section 304(a)(3):
- 1) In the case of sales where neither the origin nor the destination of the sale is within this State, and the person is taxable in neither the state of origin nor the state of destination, the sale will be attributed to this State (and included in the numerator of the sales factor) if the person's activities in this State in connection with the sales are not protected by the provisions of P.L. 86-272, 15 USC 381-385. Although P.L. 86-272, by its terms covers only sales of tangible personal property, its rules regarding a state's power to impose a net income tax, for purposes of this special rule, will be applied whether the sale is of tangible or intangible property.

Example: A corporation's salesman operates out of an office in Illinois. He regularly calls on customers both within and without Illinois. Orders are approved by him and transmitted to the corporation's headquarters in State A. If the property sold by the salesman is shipped from a state in which the corporation is not taxable to a purchaser in a state in which the corporation is not taxable, the sale is attributable to Illinois.
 - 2) Where gross receipts arise from an incidental or occasional sale of assets used in the regular course of the person's trade or business, such gross receipts shall be excluded from the sales factor. For example, gross receipts from the sale of a factory or plant will be excluded.

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

- 3) Where the income producing activity in respect to business income from intangible personal property can be readily identified, such income is included in the denominator of the sales factor and, if the income producing activity occurs in this State, in the numerator of the sales factor as well. For example, usually the income producing activity can be readily identified in respect to interest income received on deferred payments on sales of tangible property (Section 100.3370(a)(1)(A) of this Part).
- 4) Where business income from intangible property cannot readily be attributed to any income producing activity of the person, such income cannot be assigned to the numerator of the sales factor for any state and shall be excluded from the denominator of the sales factor. The following provisions illustrate this concept:
 - A) Subpart F (26 USCA 951-964) income is passive income generated by the mere holding of an intangible. For taxable years ending on or after December 31, 1995, Subpart F income is excluded from the sales factor under IITA Section 304(a)(3)(D). For prior taxable years, there is a rebuttable presumption that Subpart F income is not includable in either the numerator or the denominator of the sales factor. If a taxpayer wishes to include Subpart F income in either the numerator or the denominator of the sales factor, the burden of proof is on the taxpayer to identify the income producing activities and to situs those activities within a particular state, or
 - B) where business income in the form of dividends received on stock during taxable years ending before December 31, 1995, or interest received on bonds, debentures or government securities results from the mere holding of intangible personal property by the person, such dividends and interest shall be excluded from the denominator of the sales factor.
- 5) In the case of sales of business intangibles (including, by means of example, without limitation, patents, copyrights, bonds, stocks and other securities), gross receipts shall be disregarded and only the net gain (loss) therefrom shall be included in the sales factor.

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

Example: In 1990, Corporation A, a calendar year taxpayer, sells stock with an adjusted basis of \$98,000,000 for \$100,000,000, realizing a federal net capital gain of \$2,000,000. Only the net capital gain of \$2,000,000 is reflected in A's sales factor for the taxable year ending December 31, 1990.

- d) Unitary Partners: Inclusion of shares of partnership unitary business income and factors in combined unitary business income and factors of partners.
- 1) IITA Section 304(e) provides that whenever *2 or more persons are engaged in a unitary business as described in IITA Section 1501(a)(27), a part of which is conducted in this State by one or more members of the group, the business income attributable to this State by any such member or members shall be apportioned by means of the combined apportionment method.* Because partnerships may be members of a unitary business group within the meaning of IITA Section 1501(a)(27), this provision requires a partnership to use combined apportionment when it is engaged in a unitary business with one or more of its partners. However, partners who are not engaged in a unitary business with the partnership are required to include their shares of the partnership's business income apportioned to Illinois in their Illinois net incomes under IITA Section 305(a), and those partners' business activities in Illinois would not be represented fairly by their shares of partnership income computed by combining the business income and apportionment factors of the partnership with the business income and apportionment factors of its unitary partners.
 - 2) Accordingly, except in a case in which substantially all of the interests in the partnership are owned or controlled by members of the same unitary business group, when the business activities of a partnership and any of its partners' business activities constitute a unitary business:
 - A) The partner's distributive share of the business income and apportionment factors of the partnership shall be included in that partner's business income and apportionment factors. In determining the business income ~~and apportionment factors~~ of the partnership, transactions between the unitary partner (or members of its unitary business group) and the partnership shall not be eliminated. However, all transactions between the unitary business

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

group and the partnership shall be eliminated for purposes of computing the apportionment factors of the partner and of any other member of the unitary business group.

Example: Partner and Partnership are engaged in a unitary business. Partner owns a 20% interest in Partnership. Partnership has \$10,000,000 in sales everywhere, \$3,000,000 of which are to Partner, and \$4,000,000 in Illinois sales, \$1,000,000 of which are to Partner. In computing its apportionment factor, Partner will include \$1,400,000 from Partnership in its everywhere sales (20% of Partnership's \$10,000,000 in everywhere sales, after eliminating the \$3,000,000 in sales to Partner) and \$600,000 from Partnership in its Illinois sales (20% of Partnership's \$4,000,000 in Illinois sales, after eliminating the \$1,000,000 in sales to Partner). Also, Partner must eliminate any sales it made to Partnership.

- B) If a partnership and one of its partners are engaged in a unitary business and the partnership is itself a partner in a second partnership:
- i) If the partner is not engaged in a unitary business with the second partnership, the partner's share of the first partnership's share of the business income and apportionment factors of the second partnership shall not be included in the partner's business income and apportionment factors. Instead, the partner's share of the first partnership's share of the base income apportioned to Illinois by the second partnership will be included in the partner's Illinois net income.
 - ii) If the partner is engaged in a unitary business with the second partnership, the partner's share of the first partnership's share of the business income and apportionment factors of the second partnership shall be included in the partner's business income and apportionment factors.
- 3) This subsection (d) shall not apply to a partner's shares of business income and apportionment factors from any partnership that cannot be included in

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

a unitary business group with that partner because:

- A) the partner and the partnership are required to apportion their business income using different apportionment formulas under IITA Section 304, and therefore cannot be members of a unitary business group under IITA Section 1501(a)(27); or
- B) the business activities of either the partner or the partnership outside the United States are equal to or greater than 80% of the total worldwide business activities of that partner or partnership, as determined under Section 1502(a)(27) of the IITA. In applying this 80-20 test to a taxpayer, no apportionment factors of any partnership shall be included in the apportionment factors of that taxpayer pursuant to this subsection (d).

If the partnership is itself a partner in a second partnership, and one of its partners is engaged in a unitary business with the second partnership and is not prohibited from being a member of a unitary business group that includes the second partnership under subsection (d)(3)(A) or (B), that partner shall include in its business income and apportionment factors its share of the partnership's share of the second partnership's business income and apportionment factors.

- 4) If substantially all of the interests in a partnership are owned or controlled by members of the same unitary business group, the partnership shall be treated as a member of the unitary business group for all purposes, and, for purposes of applying IITA Section 305(a) to any nonresident partner who is not a member of the same unitary business group, the business income of the partnership apportioned to this State shall be determined using the combined apportionment method prescribed by IITA Section 304(e). For purposes of this subsection (d), substantially all of the interests in a partnership are owned or controlled by members of the same unitary business group if more than 90% of the federal taxable income of the partnership is allocable to one or more of the following persons:

- A) any member of the unitary business group;

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

- B) any person who would be a member of the unitary business group if not for the fact that 80% or more of such person's business activities are conducted outside the United States;
- C) any person who would be a member of the unitary business group except for the fact that such person and the partnership apportion their business incomes under different subsections of IITA Section 304; or
- D) any person who would be disallowed a deduction for losses by paragraphs (b), (c), and (f)(1) of section 267 of the Internal Revenue Code by virtue of being related to any person described in subsections (d)(4)(A), (B) or (C) of this Section, as well as any partnership in which a person described in subsections (d)(4)(A), (B) or (C) is a partner.

- 5) Example: Corporation A owns a 50% interest in P-1, a partnership. Corporation A and P-1 are engaged in a unitary business within the meaning of IITA Section 1501(a)(27). P-1 itself conducts no business activities in Illinois, and the Illinois numerator of its apportionment factor is zero. P-1 holds a 50% interest in P-2, a partnership doing business exclusively in Illinois. P-1 has \$1.4 million of taxable business income, not including any income from P-2. P-2 has base income of \$1 million, all of which is business income, and on a separate-entity basis, all of its business income would be apportioned to Illinois.

If Corporation A and P-2 are not members of the same unitary business group, Corporation A would compute its business income apportioned to Illinois by including \$700,000 (50% of \$1.4 million) of P-1's business income in Corporation A's business income, and 50% of P-1's apportionment factors in its apportionment factors. Corporation A also would include in its Illinois net income its 50% share of P-1's 50% share of the base of P-2 apportionable to Illinois, or \$250,000 (50% of 50% of \$1 million).

If Corporation A, P-1 and P-2 are members of the same unitary business group, P-1 will include 50% of P-2's business income and 50% of P-2's apportionment factors in its own business income and apportionment factors. Accordingly, P-1's business income will be \$1.9 million (the \$1.4

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

million it earned directly plus its 50% share of P-2's \$1 million in business income). Corporation A will then compute its business income apportioned to Illinois by including its 50% share of P-1's business income, or \$950,000 (50% of \$1.9 million) with its business income and its 50% share of P-1's apportionment factors (which will include P-1's share of P-2's apportionment factors) in its apportionment factors.

If Corporation A, P-1 and P-2 are unitary, but P-1 cannot be included in a unitary business group with Corporation A and P-2 because those entities apportion their business income under IITA Section 304(a) and P-1 is a financial organization that apportions its business income under IITA Section 304(c), Corporation A will include in its business income and apportionment factors its 50% share of P-1's 50% share of the business income and apportionment factors of P-2. Also, Corporation A's Illinois net income will include 50% of the business income of P-1 apportioned to Illinois by P-1 using its own apportionment factors. Because, in this example, P-1 is not doing business in Illinois, none of its business income will be included in Corporation A's Illinois net income.

e) Apportionment of Business Income by Foreign Taxpayers.

- 1) Under 26 USCA 882, foreign corporations include only effectively-connected income in their federal taxable income. Foreign taxpayers may exclude other items of income from their federal taxable income if authorized under treaty, as provided in 26 USCA 894. Using a foreign taxpayer's worldwide apportionment factors to determine how much of its domestic business income should be apportioned to Illinois would not fairly represent that taxpayer's business activities within Illinois.

Accordingly, a foreign taxpayer shall use only the apportionment factors related to its domestic business income when apportioning its business income to Illinois. Similarly, in determining whether 80% or more of a foreign taxpayer's total business activity is conducted outside the United States for purposes of IITA Section 1501(a)(27), that taxpayer must use only the apportionment factors related to the business income included in its federal taxable income (plus addition modifications), rather than use all of its worldwide factors.

- 2) Foreign Sales Corporations. Under 26 USC 921, "exempt foreign trade income" of a foreign sales corporation is treated as foreign source income

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

excluded from gross income. "Exempt foreign trade income" is defined in 26 USC 923 to equal the sum of the amounts of income derived from various categories of transaction, with the income from each category multiplied by specific percentages. As a general rule, there is no systematic relationship between transactions qualifying for this treatment and any particular item of property or payroll of a foreign sales corporation. Accordingly, the provisions of subsection (e)(1) of this Section shall not apply to a foreign sales corporation and, in apportioning its business income and in determining whether 80% or more of its business activity is conducted outside the United States, a foreign sales corporation shall use all of its apportionment factors.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

SUBPART BB: DEFINITIONS

Section 100.9700 Unitary Business Group Defined (IITA Section 1501)

- a) **Scope**
This regulation is designed to clarify the meaning of IITA Section 1501(a)(27), defining "unitary business group", which definition became effective for tax years ending on or after December 31, 1982.
- b) **Persons required to use combined apportionment related through common ownership**
Any person subject to Illinois income taxation may be a member of a unitary business group and required to use combined apportionment under IITA Section 304(e). Corporations (other than Subchapter S corporations) who are members of a unitary business group are required to file combined returns under IITA Section 502(e). For the treatment of certain partners and partnerships engaged in a unitary business, see Section 100.3380(d) of this Part. Every member of a unitary business group who is neither a corporation required to join in a combined return nor a partnership excluded from combined apportionment under Section 100.3380 of this Part shall determine the Illinois portion of its business income pursuant to IITA Section 304(e) by computing the combined business income of the unitary business group in the manner prescribed in Section 100.5270(a) of this Part, and apportioning such unitary business income to Illinois using the combined "everywhere" apportionment factors of the unitary business group and that person's own "Illinois" apportionment factors. If one or more other members of

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

~~the unitary business group have taxable years different from the taxable year of the taxpayer filing the return, that taxpayer shall compute the combined business income of the group for its taxable year by including the incomes of the members using a different taxable year in the manner prescribed by Section 100.5265 of this Part. A unitary business group will be composed exclusively of business corporations. However, see the special rule at Section 3380(c) of this Part regarding inclusion of shares of partnership unitary business income and factors.~~

- c) The 80-20 U.S. business activity test for prospective members
The factors to be used in determining whether 80% or more of a person's business activity is conducted outside the United States shall be gross figures without eliminations premised on the person's membership in any unitary business group. However, the factors should relate to the common taxable year, as defined in Section 100.5265 of this Part, of the unitary business group of which the person being tested could become a member were the person's business activity found to be less than 80% outside the United States. The factors to be used are as follows:
- 1) persons required to apportion business income under IITA Section 304(a) will use property and payroll,
 - 2) persons required to apportion business income under IITA Sections 304(b), 304(c) or 304(d) will use the respective factors prescribed in those provisions.
 - A) In accordance with IITA Section 102 and 26 USC 7701(b)(9), the phrase "United States" as used in IITA Section 1501(a)(27) shall include only the fifty states and the District of Columbia.
 - B) Mechanically, the computation of the 80-20 U.S. business activity test requires the formation of one or two fractions, as the case may be, and the subsequent averaging of those fractions to arrive at an overall U.S. business activity in relation to world-wide business activity. The numerators of the fraction represents U.S. property, U.S. payroll, U.S. revenue miles, insurance premiums on property or risk in the U.S. or financial organization business income from sources within the U.S.; the respective denominators are world-wide figures.
 - C) In the case of a person who would be a member of a unitary

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

business group for only part of a taxable year if less than 80% of its business activities were conducted outside the United ~~States~~State, the 80-20 U.S. business activity test shall be applied only to that part of the person's taxable year for which the prospective member otherwise qualifies for membership in the unitary business group. If that person is a corporation and is a prospective member of a unitary business group required to file combined returns under IITA Section 502(f), the 80-20 U.S. business activity test shall be applied only to that part of the combined group's common taxable year for which that person otherwise qualifies for membership in the combined group.

- d) Entities using different apportionment formulas under IITA Section 304
- 1) All members of a unitary business group must be eligible under IITA Section 304 to use the same apportionment formula. As a consequence, a corporation required to use the three factor apportionment formula of Section 304(a) cannot be a member of the same unitary group as a corporation required to use the one factor apportionment formula of IITA Section 304(c), nor may a corporation required to use the one factor apportionment formula of IITA Section 304(c) be a member of the same unitary business group as a corporation required to use the one factor apportionment formula of IITA Section 304(b). The proper method for determining unitary business group memberships under IITA Section 1501(a)(27) is first to identify all entities that are related through common ownership and engaged in either horizontally or vertically integrated enterprises with the requisite exercise of strong centralized management and second, to create from the population of entities thus identified one unitary business group composed of entities required to apportion under IITA Section 304(a), one unitary business group composed of entities required to apportion under IITA Section 304(b), one unitary business group composed of entities required to apportion under IITA Section 304(c) and one unitary business group composed of entities required to apportion under IITA Section 304(d).
 - 2) EXAMPLE:
 - A) FACTS: Corporation A owns all of the outstanding common stock of Corporations B and C. Corporations B and C each own 30% of

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

the outstanding common stock of Corporation D. Corporation D owns 60% of the outstanding common stock of Corporation E. Corporation A is a mining company operating exclusively in Illinois. Corporation D is a manufacturing company with factories in Illinois and Indiana. Corporation C is an insurance company earning premiums for insuring property and risks located in Illinois and Indiana. Corporation B is an air freight company and Corporation E is a trucking company, both operating nationwide. In their relationships to one another, the five companies: are "steps in a vertically structured enterprise or process" and are "functionally integrated through the exercise of strong centralized management."

- B) ANALYSIS AND CONCLUSION: As a result of these facts, Corporations A and D, which would ordinarily be required to apportion business income by means of the three factor apportionment formula of IITA Section 304(a), will constitute one unitary business group; Corporations B and E, which would ordinarily be required to apportion business income by means of the one factor transportation formula IITA Section 304(d) will constitute a second unitary business group; and Corporation C will compute its liability on a non-combined apportionment basis under IITA Section 304(b).

- e) Common ownership

In the case of a corporation, common ownership means direct or indirect control or ownership of more than 50% of outstanding voting stock. In the case of any other entity, common ownership means direct or indirect ownership of an interest sufficient to exercise control over the activities of the entity. For example, ownership of a general partnership interest gives the partner the authority to act on behalf of the partnership and bind the partnership, regardless of actual ownership share. See Section 9 of the Uniform Partnership Act [805 ILCS 205/9]. Accordingly, a general partner in any partnership has an interest in the partnership sufficient to establish common ownership. Insofar as corporations are concerned, one has direct ownership of the outstanding voting stock of another to the extent that it owns such stock and indirect control to the extent that it owns the voting stock of a third corporation which itself owns such stock. Any combination of direct and indirect control or ownership aggregating more than 50% will suffice to qualify the corporation whose stock is owned for

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

membership in the unitary business group if other tests unrelated to ownership are met.

- 1) Corporation A owns 60% of the outstanding voting stock of Corporation B which in turn owns 60% of the outstanding voting stock of Corporation C. There is common ownership of Corporations A, B and C by reason of Corporation A's direct ownership of more than 50% of the outstanding voting stock of Corporation B and indirect control of more than 50% of the outstanding voting stock of Corporation C.
- 2) Corporation A owns 60% of the outstanding voting stock of Corporation B and 60% of the outstanding voting stock of Corporation C. Corporations B and C in turn each own 30% of the outstanding voting stock of Corporation D. Corporations A, B, C and D are all under common ownership by reason of Corporation A's direct ownership of more than 50% of the outstanding voting stock of Corporations B and C and by reason of Corporation A's indirect control of more than 50% of the outstanding voting stock of Corporation D.
- 3) Corporation A owns 60% of the outstanding voting stock of Corporation B and 40% of the outstanding voting stock of Corporation C. Corporations B and C each in turn own 30% of the outstanding voting stock of Corporation D. Corporations A and B are under common ownership by reason of Corporation A's direct ownership of more than 50% of the outstanding voting stock of Corporation B, but neither Corporations C or D are under common ownership with Corporations A and B because neither Corporation A nor Corporation B has direct or indirect control or ownership of more than 50% of the outstanding voting stock of Corporations C or D.
- 4) Corporation A owns 60% of the outstanding voting stock of Corporation B and 40% of the outstanding voting stock of Corporation C. Corporation B owns 30% of the outstanding voting stock of Corporation D and Corporation C owns 60% of the outstanding voting stock of Corporation D. Corporations A and B are under common ownership by reason of the fact that Corporation A owns more than 50% of the outstanding voting stock of Corporation B, and Corporations C and D are under separate common ownership by reason of the fact that Corporation C owns more than 50% of the outstanding voting stock of ~~Corporation~~ Corporation D.

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

- f) Attribution of stock ownership among certain ~~persons~~ individuals
For the purpose of IITA Section 1501(a)(27), ~~a person~~ an individual shall be considered to have indirect control over any stock that ~~that person~~ he is considered as owning under ~~IRC section 26- USC~~ IRC section 318(a)(1). EXAMPLE: Strictly as an investment, Mr. X and his wife, Mrs. X, each individually own 30% of the outstanding voting stock of Corporation A and 30% of the outstanding voting stock of Corporation B. Corporations A and B are under common ownership within the meaning of Section 1501(a)(27), and assuming that they meet the other requirements of IITA Section 1501(a)(27), they will be members of the same unitary business group. The common ownership stems from the fact that, under ~~IRC section 318(a)(1) of the Internal Revenue Code~~, the stock holdings of Mr. X are imputed to his wife and vice versa. Note that it is not necessary in order for Corporations A and B to be members of a unitary business group that the "person" in whom the common ownership is embodied also be a member of the unitary business group.
- g) Strong centralized management
Under IITA Section 1501(a)(27), no group of persons can be a unitary business group unless they are functionally integrated through the exercise of strong centralized management. It is this exercise of strong centralized management that is the primary indicator of mutual dependency, mutual contribution and mutual integration between persons that is necessary to constitute them members of the same unitary business group. The exercise of strong centralized management will be deemed to exist where authority over such matters as purchasing, financing, tax compliance, product line, personnel, marketing and capital investment is not left to each member. Thus, some groups of persons may properly be considered as constituting a unitary business group under IITA Section 1501(a)(27) when the executive officers of one of the persons are normally involved in the operations of the other persons in the group and there are centralized units which perform for some or all of the persons functions which truly independent persons would perform for themselves. Note in this connection that neither the existence of central management authority, nor the exercise of that authority over any particular function (through centralized operations), is determinative in itself; the entire operations of the group must be examined in order to determine whether or not strong centralized management exists. A finding of "strong centralized management" cannot be supported merely by showing that the requisite ownership percentage exists or that there is some incidental economic benefit accruing to a group because such ownership improves its financial position. Both

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

elements of strong centralized management, i.e., strong central management authority and the exercise of that authority through centralized operations, must be present in order for persons to be a unitary business group under IITA Section 1501(a)(27). Finally, a finding of strong centralized management can be supported even though the authority resides in a person that is not a member of the group, provided that the authority is actually exercised by such person.

- h) General line of business and vertically structured enterprises
- 1) Section 1501(a)(27) of the Act establishes that persons meeting all of the other tests for inclusion in a unitary business group, including common ownership, strong centralized management and comparability of apportionment method, will ordinarily be in one of the following relationships to one another:
 - A) in the same general line of business, or
 - B) steps in a vertically structured enterprise or process.
 - 2) IITA Section 1501(a)(27) recites that two persons will ordinarily be considered to be in the same general line of business if they are both involved in one of the following activities:
 - A) manufacturing
 - B) wholesaling
 - C) retailing
 - D) insurance
 - E) transportation, or
 - F) finance
 - 3) IITA Section 1501(a)(27) does not contemplate that the above list be exclusive. For example, two persons that are both involved in rendering services to the public would ordinarily be considered to be in the same general line of business. In this regard, a retailer that renders services that

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

are incidental to its retail business will not be in the same general line of business as a person that is primarily a service dispenser.

- 4) It is not a requirement of IITA Section 1501(a)(27) that the activities of the two persons in whichever category is applicable relate to the same product or product line in order for the two persons to be in the same general line of business.
- 5) Two persons are steps in a vertically structured enterprise or process under IITA Section 1501(a)(27) even though other persons who are also steps in that enterprise or process are not members of the same unitary business group because of the intervention of: the 80-20 U.S. business activity test or the rules stated in subsection (d) of this Section, relating to the comparability of apportionment formulas of members of a unitary business group.

EXAMPLE 1:

- A) **FACTS:** Corporation A manufactures furniture. Corporation C retails the furniture manufactured by Corporation A. Corporation B is a furniture finisher and wholesaler operating exclusively in Mexico which purchases Corporation A's unfinished furniture, applies the appropriate finishing materials in its Mexican plants, and sells the finished furniture to Corporation C.
- B) **ANALYSIS AND CONCLUSION:** Corporations A and C are steps in a vertically structured enterprise and as such can be members of the same unitary business group. They do not lose their status as steps in a vertically structured enterprise by reason of the fact that they never directly deal with one another, since they both deal with Corporation B which is also a step in the vertically structured enterprise and which would be a member of the unitary business group were it not for the intervention of the 80/20 U.S. business activity test.
- 6) A person will not be a step in a vertically structured enterprise or process unless it is connected to one or more other persons that are steps in the vertically structured enterprise or process by a flow of goods or services, including management services, to itself or from itself. However, if such a

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

flow of goods or service is present with respect to a particular person, that person's status as a step in the vertically structured enterprise or process shall not depend on the relationship between the price at which such flow exists and the fair market price at which such flow would exist in an arm's length transaction.

EXAMPLE 2:

- A) **FACTS:** Same facts as in the previous example, except that Corporation A can establish that it sells its unfinished furniture to Corporation B at a fair market arm's length price and Corporation C can establish that it purchases the finished furniture from Corporation B at a fair market arm's length price.
- B) **ANALYSIS AND CONCLUSION:** Even with their respective showings that the flow of furniture connecting them to Corporation B existed at an arm's length price, Corporations A and C are still steps in a vertically structured enterprise and can still be members of the same unitary business group.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

SECRETARY OF STATE

NOTICE OF PROPOSED REPEALER

- 1) Heading of the Part: Uniform Partnership Act
- 2) Code Citation: 14 Ill. Adm. Code 165
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
165.10	Repeal
165.20	Repeal
165.30	Repeal
165.40	Repeal
165.50	Repeal
165.60	Repeal
165.70	Repeal
165.80	Repeal
165.90	Repeal
- 4) Statutory Authority: Implementing and authorized by the Uniform Partnership Act [805 ILCS 205]
- 5) A Complete Description of the Subjects and Issues Involved: Each Section number discussed below is being repealed to coincide with the repeal of 805 ILCS 205. The following is a brief description of the Sections:
 - Section 165.10 pertains to definitions;
 - Section 165.20 pertains to applicability;
 - Section 165.30 pertains to filing locations;
 - Section 165.40 pertains to business hours;
 - Section 165.50 pertains to fees;
 - Section 165.60 pertains to forms requirements;
 - Section 165.70 pertains to service of process;
 - Section 165.75 pertains to sale of information;
 - Section 165.80 pertains to right to counsel;
 - Section 165.90 pertains to interrogatories.
- 6) Will this rulemaking replace any emergency rulemaking currently in effect? Yes, an emergency repealer is being submitted simultaneously with this proposed repealer.
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking contain incorporations by reference? No

SECRETARY OF STATE

NOTICE OF PROPOSED REPEALER

- 9) Are there any other proposed rulemakings pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking:
- Tony Gordon
Assistant General Counsel
Secretary of State
100 W. Randolph St.
Suite 5-400
Chicago, IL 60601
- Phone: 312/814-9509
Email: tgordon1@ilsos.net
- 12) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: This repealer affects all partnerships.
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None
- 13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas as a cautionary measure. The Secretary of State's Department of Business Services wanted to be sure 14 Ill. Adm. Code 166 and 14 Ill. Adm. Code 171 were in place before 14 Ill. Adm. Code 165 was repealed. This proposed repealer is being submitted now on JCAR's recommendation.

The full text of the Proposed Repealer is identical to the text of the Emergency Repealer and can be found in this issue of the *Illinois Register* on page 901.

SECRETARY OF STATE

NOTICE OF PROPOSED REPEALER

- 1) Heading of the Part: Revised Uniform Limited Partnership Act
- 2) Code Citation: 14 Ill. Adm. Code 170
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
170.10	Repeal
170.11	Repeal
170.12	Repeal
170.13	Repeal
170.14	Repeal
170.15	Repeal
170.16	Repeal
170.17	Repeal
170.20	Repeal
170.30	Repeal
170.40	Repeal
- 4) Statutory Authority: Implementing and authorized by the Revised Uniform Limited Partnership Act [805 ILCS 210]
- 5) A Complete Description of the Subjects and Issues Involved: Each Section number discussed below is being repealed to coincide with the repeal of 805 ILCS 210. The following is a brief description of the Sections:
 - Section 170.10 pertains to definitions;
 - Section 170.11 pertains to filing locations;
 - Section 170.12 pertains to business hours;
 - Section 170.13 pertains to fees;
 - Section 170.14 pertains to service of process;
 - Section 170.15 pertains to additional requirements for forms;
 - Section 170.16 pertains to assumed names;
 - Section 170.17 pertains to sale of information;
 - Section 170.20 pertains to filing requirements;
 - Section 170.30 pertains to refunds; and
 - Section 170.40 pertains to interrogatories.
- 6) Will this rulemaking replace any emergency rulemaking currently in effect? Yes, an emergency repealer is being submitted simultaneously with this proposed repealer.

SECRETARY OF STATE

NOTICE OF PROPOSED REPEALER

- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking contain incorporations by reference? No
- 9) Are there any other proposed rulemakings pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking:
- Tony Gordon
Assistant General Counsel
Secretary of State
100 W. Randolph St.
Suite 5-400
Chicago, IL 60601
- Phone: 312-814-9509
Email: tgordon1@ilsos.net
- 12) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: All limited partnerships
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None
- 13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the two most recent regulatory agendas as a cautionary measure because the Secretary of State's Department of Business Services wanted to be sure 14 Ill. Adm. Code 166 and 14 Ill. Adm. Code 171 were in place before 14 Ill. Adm. Code 170 was repealed. This proposed repealer is being submitted now on JCAR's recommendation.

SECRETARY OF STATE

NOTICE OF PROPOSED REPEALER

The full text of the Proposed Repealer is identical to the text of the Emergency Repealer and can be found in this issue of the *Illinois Register* on page 910.

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Certificates of Title, Registration of Vehicles
- 2) Code Citation: 92 Ill. Adm. Code 1010
- 3) Section Number: 1010.245 Proposed Action: Amendment
- 4) Statutory Authority: Implementing Chapter 3 and authorized by Section 2-104(b) of the Illinois Vehicle Title & Registration Law of the Illinois Vehicle Code [625 ILCS 5/Ch. 3 and 2-104(b)]
- 5) Complete Description of the Subjects and Issues Involved: This rulemaking amends the provisions of the Electronic Registration and Titling (ERT) program. This program permits the sale of vehicle registration plates and stickers by retail vendors, such as vehicle dealerships. ERT service providers administer the distribution of the plates and stickers, collection of fees and sales taxes, and electronic communications between the retail vendors and the Secretary of State's office. This rulemaking clarifies the responsibilities of the ERT service providers and the retail vendors.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency amendments currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: The proposed amendment does not require expenditures by units of local government.
- 12) Time, Place and Manner in Which Interested Persons May Comment on this Proposed Rulemaking: Written comments may be submitted within 45 days to:

Nathan Maddox, Senior Legal Advisor
Office of the General Counsel
298 Howlett Bldg.

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT

Springfield, IL 62756
Email: nmaddox@ilsos.net

The Department will consider all written comments it receives during the first notice period as required by Section 5-40 of the Illinois Administrative Procedure Act [5 ILCS 100/5-40].

This proposed amendment may have an impact on small businesses, small municipalities, and not-for-profit corporations as defined in Sections 1-75, 1-80 and 1-85 of the Illinois Administrative Procedure Act [5 ILCS 100/1-75, 1-80, 1-85]. These entities may submit comments in writing to the Department at the above address in accordance with the regulatory flexibility provisions in Section 5-30 of the Illinois Administrative Procedure Act [5 ILCS 100/5-30]. These entities shall indicate their status as small businesses, small municipalities, or not-for-profit corporations as part of any written comments they submit to the Department.

13) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Small businesses, including motor vehicle dealerships, currency exchanges, banks and retail merchants, are permitted to sell vehicle registration plates and stickers under this program. Participation is voluntary.
- B) Reporting, bookkeeping or other procedures required for compliance: Participating businesses must track the receipt, sale and return of all plates and stickers, and record vehicle and ownership information when plates or stickers are sold.
- C) Types of professional skills necessary for compliance: Basic computer skills, including word processing and database entry.

14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because: the Department did not anticipate this rulemaking at the time the agendas were filed.

The full text of the Proposed Amendment begins on the next page:

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT

TITLE 92: TRANSPORTATION
CHAPTER II: SECRETARY OF STATEPART 1010
CERTIFICATES OF TITLE, REGISTRATION OF VEHICLES

SUBPART A: DEFINITIONS

Section	
1010.10	Owner – Application of Term
1010.20	Secretary and Department

SUBPART B: TITLES

Section	
1010.110	Salvage Certificate – Additional Information Required to Accompany Application for a Certificate of Title for a Rebuilt or a Restored Vehicle Upon Surrendering Salvage Certificate
1010.120	Salvage Certificate – Assignments and Reassignments
1010.130	Exclusiveness of Lien on Certificate of Title
1010.140	Documents Required to Title and Register Imported Vehicles Not Manufactured in Conformity with Federal Emission or Safety Standards
1010.150	Transferring Certificates of Title Upon the Owner's Death
1010.160	Repossession of Vehicles by Lienholders and Creditors
1010.170	Junking Notification
1010.180	Specially Constructed Vehicles – Defined
1010.185	Specially Constructed Vehicles – Required Documentation for Title and Registration
1010.190	Issuance of Title and Registration Without Standard Ownership Documents - Bond

SUBPART C: REGISTRATION

Section	
1010.210	Application for Registration
1010.220	Vehicles Subject to Registration – Exceptions
1010.230	Refusing Registration or Certificate of Title
1010.240	Registration Plates To Be Furnished by the Secretary of State
1010.245	Electronic Registration and Titling (ERT) Program Provisions

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT

1010.250 Applications For Reassignment

SUBPART D: REVOCATION, SUSPENSION AND CANCELLATION OF REGISTRATION

Section

- 1010.300 Operation of Vehicle after Cancellation, Suspension, or Revocation of any
Registration
- 1010.310 Improper Use of Evidences of Registration
- 1010.320 Suspension, Cancellation or Revocation of Illinois Registration Plates and Cards
and Titles
- 1010.330 Operation of Vehicle Without Proper Illinois Registration
- 1010.350 Suspension or Revocation
- 1010.360 Surrender of Plates, Decals or Cards

SUBPART E: SPECIAL PERMITS AND PLATES

Section

- 1010.410 Temporary Registration – Individual Transactions
- 1010.420 Temporary Permit Pending Registration In Illinois
- 1010.421 Issuance of Temporary Registration Permits by Persons or Entities Other Than the
Secretary of State
- 1010.425 Non-Resident Drive-Away Permits
- 1010.426 Five Day Permits
- 1010.430 Registration Plates for Motor Vehicles Used for Transportation of Persons for
Compensation and Tow Trucks
- 1010.440 Title and Registration of Vehicles with Permanently Mounted Equipment
- 1010.450 Special Plates
- 1010.451 Purple Heart License Plates
- 1010.452 Special Event License Plates
- 1010.453 Retired Armed Forces License Plates
- 1010.454 Gold Star License Plates
- 1010.455 Collectible License Plates
- 1010.456 Sample License Plates For Motion Picture and Television Studios
- 1010.457 Korean War Veteran License Plates
- 1010.458 Collegiate License Plates
- 1010.460 Special Plates for Members of the United States Armed Forces Reserves
- 1010.470 Dealer Plate Records
- 1010.480 State of Illinois In-Transit Plates

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT

SUBPART F: FEES

Section

1010.510	Determination of Registration Fees
1010.520	When Fees Returnable
1010.530	Circuit Breaker Registration Discount
1010.540	Fees

SUBPART G: MISCELLANEOUS

Section

1010.610	Unlawful Acts, Fines and Penalties
1010.620	Change of Engine

SUBPART H: SECOND DIVISION VEHICLES

Section

1010.705	Reciprocity
1010.710	Vehicle Proration
1010.715	Proration Fees
1010.720	Vehicle Apportionment
1010.725	Trip Leasing
1010.730	Intrastate Movements, Foreign Vehicles
1010.735	Interline Movements
1010.740	Trip and Short-term Permits
1010.745	Signal 30 Permit for Foreign Registration Vehicles (Repealed)
1010.750	Signal 30-Year-round for Prorated Fleets of Leased Vehicles (Repealed)
1010.755	Mileage Tax Plates
1010.756	Suspension or Revocation of Illinois Mileage Weight Tax Plates
1010.760	Transfer for "For-Hire" Loads
1010.765	Suspension or Revocation of Exemptions as to Foreign Registered Vehicles
1010.770	Required Documents for Trucks and Buses to detect "intrastate" movements
1010.775	Certificate of Safety

1010.APPENDIX A Uniform Vehicle Registration Proration and Reciprocity Agreement

1010.APPENDIX B International Registration Plan

AUTHORITY: Implementing Chapter 3 and authorized by Section 2-104(b) of the Illinois Vehicle Title and Registration Law of the Illinois Vehicle Code [625 ILCS 5/Ch. 3 and 2-

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT

104(b)].

SOURCE: Filed and effective December 15, 1970; emergency amendment at 2 Ill. Reg. 25, p. 119, effective June 14, 1978, for a maximum of 150 days; amended at 3 Ill. Reg. 12, p. 76, effective March 23, 1979; amended at 3 Ill. Reg. 29, p. 123, effective July 20, 1979; amended at 4 Ill. Reg. 17, p. 247, effective April 11, 1980; emergency amendment at 4 Ill. Reg. 21, p. 99, effective May 14, 1980, for a maximum of 150 days; amended at 6 Ill. Reg. 2241, effective February 1, 1982; amended at 6 Ill. Reg. 11076, effective August 26, 1982; codified at 6 Ill. Reg. 12674; amended at 7 Ill. Reg. 1432, effective January 21, 1983; amended at 7 Ill. Reg. 1436, effective January 21, 1983; amended at 8 Ill. Reg. 5329, effective April 6, 1984; amended at 9 Ill. Reg. 3358, effective March 1, 1985; amended at 9 Ill. Reg. 9176, effective May 30, 1985; amended at 9 Ill. Reg. 12863, effective August 2, 1985; amended at 9 Ill. Reg. 14711, effective September 13, 1985; amended at 10 Ill. Reg. 1243, effective January 6, 1986; amended at 10 Ill. Reg. 4245, effective February 26, 1986; amended at 10 Ill. Reg. 14308, effective August 19, 1986; recodified at 11 Ill. Reg. 15920; amended at 12 Ill. Reg. 14711, effective September 15, 1988; amended at 12 Ill. Reg. 15193, effective September 15, 1988; amended at 13 Ill. Reg. 1598, effective February 1, 1989; amended at 13 Ill. Reg. 5173, effective April 1, 1989; amended at 13 Ill. Reg. 7965, effective May 15, 1989; amended at 13 Ill. Reg. 15102, effective September 15, 1989; amended at 14 Ill. Reg. 4560, effective March 1, 1990; amended at 14 Ill. Reg. 6848, effective April 18, 1990; amended at 14 Ill. Reg. 9492, effective June 1, 1990; amended at 14 Ill. Reg. 19066, effective November 15, 1990; amended at 15 Ill. Reg. 12782, effective August 15, 1991; amended at 16 Ill. Reg. 12587, effective August 1, 1992; amended at 19 Ill. Reg. 11947, effective August 1, 1995; amended at 19 Ill. Reg. 16289, effective November 27, 1995; amended at 20 Ill. Reg. 11349, effective August 1, 1996; amended at 21 Ill. Reg. 8408, effective June 23, 1997; amended at 21 Ill. Reg. 13372, effective September 17, 1997; amended at 22 Ill. Reg. 8521, effective April 28, 1998; amended at 22 Ill. Reg. 22059, effective January 1, 1999; amended at 25 Ill. Reg. 7731, effective June 6, 2001; emergency amendment at 25 Ill. Reg. 14201, effective October 22, 2001, for a maximum of 150 days; emergency expired March 20, 2002; amended at 26 Ill. Reg. 14282, effective September 16, 2002; amended at 27 Ill. Reg. 4790, effective February 27, 2003; amended at 29 Ill. Reg. 8915, effective June 10, 2005; amended at 31 Ill. Reg. 2668, effective January 29, 2007; amended at 32 Ill. Reg. _____, effective _____.

SUBPART C: REGISTRATION

Section 1010.245 Electronic Registration and Titling (ERT) Program Provisions

- a) The Secretary may, in his or her discretion, establish a program for the electronic registration and titling (ERT) of motor vehicles. Transactions that may be

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT

conducted pursuant to an ERT program may include transmitting applications for titles and registration of motor vehicles, renewal of motor vehicle registrations, creating and removing liens from motor vehicle records, applying for salvage or junking certificates, and issuing registration plates and stickers by motor vehicle dealers, financial institutions and retail merchants, except that licensees under the Sales Finance Agency Act [205 ILCS 660] and the Consumer Installment Loan Act [205 ILCS 670] shall only be authorized to apply for titles and create and remove liens from motor vehicle records. Insurance companies shall only be permitted to apply for salvage or junking certificates and retail merchants shall only be authorized to issue registration renewal stickers.

- b) Upon the establishment of an ERT program, the Secretary may enter into agreements with ERT service providers to serve as intermediaries between the Secretary of State's office and motor vehicle dealers, financial institutions and retail merchants (collectively referred to in this Section as "vendors"). For the purposes of this Section, the term "financial institution" shall mean any federal or state chartered bank, savings and loan, credit union, and armored carrier, and any currency exchange, either directly or indirectly through an armored carrier. The term shall also include insurance companies and licensees under the Sales Finance Agency Act and the Consumer Installment Loan Act. The term "retail merchant" shall mean a business that is engaged in the sale of goods or services to the general public and that has one or more permanently established places of business in Illinois.
- c) The ERT service provider shall be responsible for the following:
- 1) establishing a computerized communication link between the vendors and the Secretary of State for the transmission of titling, registration, registration renewal and lien information, in compliance with all specifications of the Secretary of State's office;
 - 2) transmitting all fees associated with the title and registration transactions to the Secretary of State and transmitting all sales taxes due and owing for the sales of motor vehicles to the Illinois Department of Revenue;
 - 3) maintaining an inventory of registration plates and stickers, and distributing those plates and stickers to vendors as necessary, receiving unused, expired, damaged and voided plates and stickers and reports of lost or stolen plates and stickers from vendors, and forwarding those

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT

reports and returning those unused, expired, damaged and voided plates and stickers to the Secretary. For purposes of this Section, the term "plates" shall mean vehicle registration license plates, and the term "sticker" shall mean the adhesive sticker affixed to license plates and the form, with a pre-printed control number and barcode, to which the sticker is attached when shipped and printed. When this Section provides for shipping, inventory, accounting or reconciliation of, or credit for returned stickers, the sticker must be attached to the original form or affixed to a plate and recorded as issued with that plate. The inventory control system shall accurately track all registration plates and stickers shipped to the service provider by the Secretary, those distributed by the provider to vendors (including tracking which specific plates and stickers were shipped to individual vendors), those returned by vendors to the provider, and those returned by the provider to the Secretary. The inventory yet to be shipped and the returned inventory shall be stored separately. In addition, the inventory system shall comply with one of the following:

- A) All inventory shall be maintained in sequential order, according to document number, including inventory being held for shipping to vendors and inventory returned by vendors.
- B) The computerized inventory control system must utilize barcode readers that enable the service provider or Secretary of State employees to scan and accurately record inventory items yet to be shipped and returned inventory. Secretary of State employees must have access to a computer terminal at the service provider's site during inventory and reconciliation procedures, and the system must allow the printing of necessary inventory reports during these procedures.
- C) Real-time access to the inventory control system shall be provided to Secretary of State staff, auditors and Secretary of State Police for review, reconciliation, auditing and inventory verification to ensure compliance with rules, policies and regulations, and for locating individual registration plates and stickers and determining to which vendor the individual registration plates and stickers were issued. All electronic information shall be maintained for not less than five years after receipt of the inventory by the service provider.

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT

- D) Bulk inventories of registration plates and stickers will be delivered by the Secretary to the service provider as needed. The service provider shall acknowledge receipt of the inventory in a manner approved by the Secretary and is responsible for the inventory upon receipt. The service provider shall store the inventory within the State of Illinois. The service provider shall distribute registration plates and stickers to vendors, as necessary, and shall accept returns from the vendors of unused, expired, damaged and voided plates and stickers.
- E) Vendors shall not return unused, expired, damaged or voided plates and stickers directly to the Secretary. The Secretary shall not be responsible for inventory incorrectly returned.
- F) Vendors who have inventory **that** is damaged, voided, missing, lost or stolen during a given month shall report those occurrences to the service provider not later than the final day of the following month. (Example: Inventory items damaged during August must be reported and returned to the service provider not later than the following September 30.) Credit for returned plates will only be granted **when** both plates in the set have been returned or accounted for, if the plates were of the type issued as a pair. All or as much as possible of the damaged or voided stickers must be returned to receive credit for returned inventory. **When** it is not possible to return any portion of a damaged or voided plate or sticker, an explanation as to the circumstances causing the plate or sticker to be voided or damaged, and the reasons no portion can be returned, must be provided. The Secretary shall have the right to determine whether the explanation will be accepted and whether inventory credit will be given for the plates or stickers not returned in whole or in part. In making this determination, the Secretary shall consider whether the vendor is able to retain and return the form on which the sticker is issued; whether matters beyond the control of the vendor may have contributed to the complete loss of the stickers (e.g., fires or industrial accidents **that** are accompanied by police reports, fire reports or insurance claims); and the history of the individual vendor with regard to the loss of stickers.

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT

- G) Service providers may be relieved of responsibility for payment for plates and stickers reported as stolen only if a copy of a police report concerning the theft is provided to the Secretary.
- H) Not later than March 31 of each calendar year, vendors shall return to service providers all remaining stickers in their possession of the type and color that expire during that calendar year. (Example: During 2007, vendors sell stickers that expire during 2008, such that a sticker sold in March 2007 expires in March 2008. As of January 2008, vendors will be selling stickers of the type and color that expire in 2009. Therefore, not later than March 31, 2008, vendors shall return to the service provider all remaining stickers in their possession of the type and color that expire during 2008).
- I) On a periodic basis, but not less than monthly, the Secretary and the service provider shall reconcile their records of plates and stickers shipped by the Secretary to the service provider, plates and stickers issued by vendors to vehicle owners and for which the appropriate documentation and fees were received by the Secretary, plates and stickers returned by vendors to the service provider as unused, expired, damaged or voided, explanations provided by vendors for damaged or voided stickers and plates that have not been returned in whole or in part, and plates and stickers still in the actual possession of the service providers and vendors. The review and accounting of inventory and returned items shall be conducted in the manner prescribed by the Secretary. After these periodic reconciliations, the unused, expired, damaged or voided plates and stickers shall be returned to the Secretary and the Secretary shall issue the service provider a receipt for the returned inventory.
- J) Following the first reconciliation after June 30, September 30 and December 31, the Secretary shall invoice the service provider for all plates or stickers unaccounted for during the preceding quarter. These reconciliations will be based on the reported inventory still in the possession of vendors. At the conclusion of the first reconciliation after March 31 of each year, following the return of all calendar year stickers (as provided in subsection (c)(3)(G)), the Secretary shall issue a final invoice to the service provider for all

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT

plates or stickers unaccounted for during the preceding calendar year. (Example: Not later than March 31, 2008, each vendor must return to the service provider all stickers of the type and color that expire during 2008. During the first reconciliation after this date, a final accounting shall be made of all plates and all 2008 stickers delivered to the service provider and all unused, expired, damaged or voided plates and stickers returned by the service provider to the Secretary.) Service providers shall not receive credit for unaccounted for inventory items that are located after this annual reconciliation and billing.

- K) The unaccounted for inventory shall be invoiced at the following rates. For unaccounted for stickers, the rate shall be \$100 per sticker. For unaccounted for plates that are intended to be sold as a set (e.g., passenger vehicle or truck plates) the rate shall be \$100 per set of plates. For unaccounted for plates that are intended to be sold individually (e.g., motorcycle or trailer plates) the rate shall be \$100 per plate. Payment in full must be made to the Secretary within 45 days after receipt of the notice from the Secretary of the amount due. Service providers may recover such payments from vendors pursuant to the contracts between the service providers and the vendors.
- L) Certain types of registration stickers are sold outside of the one-year process noted in subsection (c)(3)(G) (e.g., registrations of fleet vehicles). To accommodate these sales, after the return and reconciliation of all inventory as provided in subsections (c)(3)(H) and (I), the Secretary may re-issue preceding year stickers to service providers for the use of vendors engaging in sales of vehicles requiring these registrations. These re-issued stickers shall be tracked separately in the service provider's inventory control system. Not less than three months after these re-issued stickers may no longer be legally sold, all remaining inventory of these stickers shall be returned to the service provider by the vendor, and the stickers shall be subject to the final reconciliation and billing process set forth in subsection (c)(3)(I).

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT

- M) The Secretary shall have the right to conduct physical inspections of the inventory of service providers and vendors during normal business hours.
- N) The Secretary shall have the right to suspend or revoke the right of service providers and/or vendors to participate in the ERT program for failure to comply with the inventory control provisions set forth in this subsection (c)(3), or for excessive or repeated incidents of unaccounted for inventory;
- 4) complying with all requirements of the Secretary of State and the Department of Revenue concerning the security of the electronic information and funds transmissions, the security of the registration plates and stickers, and maintaining an electronic inventory control system for the registration plates and stickers;
- ~~5) providing real time access to the inventory control system by Secretary of State staff, auditors and Secretary of State Police for review, auditing, and inventory verification to ensure compliance with rules, policies and regulations, and for locating individual registration plates and stickers and determining to which vendor the individual registration plates and stickers were issued;~~
- ~~56)~~ retaining records of all ERT transactions as directed by the Secretary;
- ~~67)~~ posting a performance bond in an amount set by the Secretary, not to exceed \$1,000,000;
- ~~78)~~ registering as a remittance agent pursuant to 625 ILCS 5/Ch. 3, Art. IX; and
- ~~89)~~ complying with all other terms and conditions set forth in the agreement between the Secretary of State and the ERT service provider.
- d) The ERT service provider shall enter into agreements with vendors for participation in the ERT program.
- 1) All vendors must be currently licensed and in good standing with their regulatory agencies before being selected to participate in this program.

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT

- 2) The Secretary shall have the sole discretionary right to review and approve these agreements and shall have the right to approve, deny or revoke the right to participate in the ERT program by individual vendors. Retail merchants wishing to serve as vendors must be approved in advance by the Secretary. Any decision to deny or revoke an individual vendor's right to participate in the ERT program shall be based on:
- A) the vendor's prior compliance with or violations of applicable statutes, rules and regulations;
 - B) the vendor's participation in the Secretary's temporary registration permit program and any violations of the rules and regulations of the temporary registration permit program found in Section 1010.421;
 - C) violations by the vendor of this Section or violations of the terms of agreements entered into by the vendor in the ERT program;
 - D) the benefit to the public to be derived by the vendor's participation in the program; ~~and~~
 - E) the resources of the Secretary of State's office to support the vendor's participation in the program; ~~and-~~
 - F) The factors set forth in Section 1010.240(b)(2)(E)-(J) and (R)-(V).
- 3) Vendors shall inform customers that utilizing the electronic registration and titling system is optional.
- 4) The ERT program shall not be used to request or obtain specialty, vanity or personalized registration plates.
- 5) Fees collected for ERT transactions are nonrefundable by the Secretary.
- 6) Registration plates and stickers may only be issued at the time an ERT transaction is processed.

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT

7) Title, registration and registration renewal applications and other required documents shall be delivered to the Office of the Secretary of State within 20 days after vehicle sale, registration or registration renewal.

- e) Except as permitted by the Secretary during a transition period, no vendor may simultaneously participate in the ERT program and the Over-the-Counter Sales Program (see Section 1010.240).

(Source: Amended at 32 Ill. Reg. _____, effective _____)

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF PROPOSED RULES

- 1) Heading of the Part: Americans With Disabilities Act Grievance Procedure
- 2) Code Citation: 4 Ill. Adm. Code 1775
- 3)

<u>Section Numbers</u> :	<u>Proposed Action</u> :
1775.10	New
1775.20	New
1775.30	New
1775.40	New
1775.50	New
1775.60	New
1775.70	New
- 4) Statutory Authority: Implementing and authorized by the Americans With Disabilities Act of 1990 (42 USC 12101 et seq.) and authorized by Article 16, Section 168 [40 ILCS 5/16-168] of the Illinois Pension Code
- 5) A Complete Description of the Subjects and Issues Involved: In compliance with JCAR's direction to promulgate ADA grievance procedure rules, these rules set forth the process to resolve grievances asserted by qualified individuals with disabilities.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace an emergency amendment currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State mandate under the State Mandates Act [30 ILCS 805].

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF PROPOSED RULES

- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed amendment may be submitted in writing for a period of 45 days following publication of this Notice to:

Office of the General Counsel
Thomas S. Gray, General Counsel
Teachers' Retirement System
2815 West Washington,
P. O. Box 19253
Springfield, Illinois 62794-9253

217/753-0375

- 13) Initial Regulatory Flexibility Analysis: These rules will not affect small businesses.
- A) Types of small businesses, small municipalities and not for profit corporations affected: None
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: None

The full text of the Proposed Rules begin on the next page:

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF PROPOSED RULES

TITLE 4: DISCRIMINATION PROCEDURES
CHAPTER LXV: TEACHERS' RETIREMENT SYSTEMPART 1775
AMERICANS WITH DISABILITIES ACT GRIEVANCE PROCEDURE

Section	
1775.10	Purposes
1775.20	Definitions
1775.30	Procedure
1775.40	Designated Coordinator Level
1775.50	Final Level
1775.60	Accessibility
1775.70	Case-By-Case Resolution

AUTHORITY: Implementing the Americans With Disabilities Act of 1990 (42 USC 12101 et seq.) and authorized by Section 16-168 of the Pension Code [40 ILCS 5/16-168].

SOURCE: Adopted at 32 Ill. Reg. _____, effective _____.

Section 1775.10 Purposes

- a) This grievance procedure is established pursuant to the Americans With Disabilities Act of 1990 (42 USC 12101 et seq.) (ADA) and specifically Section 35.107 of the Title II regulations, 28 CFR 35, requiring that a grievance procedure be established to resolve grievances asserted by qualified individuals with disabilities. Should any individual desire to review the ADA or its regulations to understand the rights, privileges and remedies afforded by it, please contact the Designated Coordinator.
- b) In general, the ADA requires that each program, service and activity offered by the Teachers' Retirement System (System), when viewed in its entirety, be readily accessible to and usable by qualified individuals with disabilities.
- c) It is the intention of the System to foster open communication with all individuals requesting readily accessible programs, services and activities. The System encourages supervisors of programs, services and activities to respond to requests for modifications before they become grievances.

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF PROPOSED RULES

Section 1775.20 Definitions

"Act" or "ADA" means the Americans With Disabilities Act of 1990 (42 USC 12101 et seq.).

"Complainant" is an individual with a disability who files a Grievance Form provided by the System under this procedure.

"Designated Coordinator" is the person appointed by the System who is responsible for the coordination of efforts of the System to comply with and carry out its responsibilities under Title II of the ADA, including investigation of grievances filed by complainants. The Designated Coordinator may be contacted at Teachers' Retirement System, ADA Coordinator, 2815 W. Washington St., Springfield IL 62702, 217/753-0311. (See 28 CFR 35.107.)

"Director" means the Executive Director of the System.

"Disabilities" shall have the same meaning as set forth in the Americans With Disabilities Act.

"Grievance" is any complaint under the ADA that is reduced to writing by an individual with a disability who meets the essential eligibility requirements for participation in or receipt of the benefits of a program, activity or service offered by the System and believes he or she has been excluded from participation in, or denied the benefits of, any program, service or activity of the System or has been subject to discrimination by the System. The ADA grievance procedures set forth in this Part do not supersede or provide an alternative to the System's administrative review appeal process set forth in 80 Ill. Adm. Code 1650.Subpart H.

"Grievance Form" is prescribed for the purpose of filing a grievance under this Part and includes information such as name, address, phone number, nature of the grievance, with specificity, including date of incident, time, place and witnesses if applicable.

"Qualified individual with a disability" means an individual with a disability who, with or without reasonable modifications to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF PROPOSED RULES

requirements for the receipt of services or participation in programs or activities provided by the System.

Section 1775.30 Procedure

- a) Grievances must be submitted in accordance with procedures established in Sections 1775.40 and 1775.50 of this Part. It is mutually desirable and beneficial that grievances be satisfactorily resolved in a prompt manner. Time limits established in this procedure are in calendar days, unless otherwise stated, and may be extended by mutual agreement, in writing, by the complainant and the reviewer, at the Designated Coordinator and/or the Final Levels described in Sections 1775.40 and 1775.50.
- b) A complainant's failure to submit a grievance, or to submit or appeal it to the next level of procedure within the specified time limits, shall mean that the complainant has withdrawn the grievance or has accepted the last response from the System given in the grievance procedure.
- c) The System shall, upon being informed of individual's desire to file a formal grievance, instruct the individual how to receive a copy of this procedure and the Grievance Form.

Section 1775.40 Designated Coordinator Level

- a) If an individual desires to file a grievance, the individual shall promptly, but no later than 180 days after the alleged discrimination, submit the grievance to the Designated Coordinator in writing on the Grievance Form prescribed for that purpose. The Grievance Form must be completed in full in order to receive proper consideration by the Designated Coordinator.
- b) Upon request, assistance in completing the Grievance Form shall be provided by the System.
- c) The Designated Coordinator, or his/her representative, shall investigate the grievance and, if the grievance is found to be valid, shall make reasonable efforts to resolve it. The Designated Coordinator shall provide a written response to the complainant and Director within 15 business days after receipt of the Grievance Form.

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF PROPOSED RULES

Section 1775.50 Final Level

- a) If the grievance is not resolved at the Designated Coordinator Level to the satisfaction of the complainant, the complainant may submit a copy of the Grievance Form and Designated Coordinator's response to the Director for final review. The complainant shall submit these documents to the Director, together with a short written statement explaining the reasons for dissatisfaction with the Designated Coordinator's written response, within 15 business days after receipt by the complainant of the Designated Coordinator's response.
- b) Within 15 business days, the Director shall appoint a three-member panel to review the grievance at the Final Level. One member shall be designated chairman. The panel shall schedule a review of the grievance, which shall commence no later than 15 business days after the last member of the panel is appointed.
- c) Complainant shall be afforded an opportunity to appear before the panel. Complainant shall have a right to appoint a representative to appear on his or her behalf. The panel shall review the Designated Coordinator's written response and may conduct interviews and seek advice as it deems appropriate.
- d) Upon agreement of at least two of the panel members, but not later than 15 business days after the review described in subsection (b), the panel shall make recommendations in writing to the Director as to the proper resolution of the grievance. All recommendations shall include reasons for such recommendations and shall bear the signatures of the concurring panel members. A dissenting member of the panel may make a recommendation to the Director in writing and shall sign the recommendation.
- e) Within 15 business days after receipt of recommendations from a panel, the Director or designee shall approve, disapprove or modify the panel recommendations; shall render a decision on those recommendations in writing; shall state the basis for his or her decision; and shall cause a copy of the decision to be served on the parties. The Director's decision shall be final. If the Director disapproves or modifies the panel's recommendations, the Director may include written reasons for such disapproval or modification.
- f) The Grievance Form, the Designated Coordinator's response, the statement of the reasons for dissatisfaction, the recommendations of the panel, and the decision of

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF PROPOSED RULES

the Director shall be maintained in accordance with the State Records Act [5 ILCS 160] or as otherwise required by law.

Section 1775.60 Accessibility

The System shall ensure that all stages of the grievance procedure are readily accessible to and usable by individuals with disabilities.

Section 1775.70 Case-By-Case Resolution

Each grievance involves a unique set of factors that includes but is not limited to: the specific nature of the disability; the essential eligibility requirements, the benefits to be derived, and the nature of the service, program or activity at issue; the health and safety of others; and whether an accommodation would constitute a fundamental alteration to the program, service or activity or undue hardship on the System. Accordingly, termination of a grievance at any level, whether through the granting of relief or otherwise, shall not constitute a precedent on which any other complainants should rely.

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: The Administration and Operation of the Teachers' Retirement System
- 2) Code Citation: 80 Ill. Adm. Code 1650
- 3) Section Number: 1650.561 Proposed Action: New
- 4) Statutory Authority: Implementing and authorized by Article 16 [40 ILCS 5/16] and Article 1, Section 119 [40 ILCS 5/1-119] of the Illinois Pension Code
- 5) A Complete Description of the Subjects and Issues Involved: New TRS Rule 1650.561 clarifies that survivor and death benefit beneficiary designations must be received and date stamped by the System on or prior to the date of death of a member or annuitant to be valid.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State mandate under the State Mandates Act [30 ILCS 805].
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed amendment may be submitted in writing for a period of 45 days following publication of this Notice to:

Thomas S. Gray
General Counsel
Teachers' Retirement System
2815 West Washington,
P. O. Box 19253

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF PROPOSED AMENDMENT

Springfield, Illinois 62794-9253

217/753-0375

- 13) Initial Regulatory Flexibility Analysis: These rules will not affect small businesses.
- A) Types of small businesses, small municipalities and not for profit corporations affected: None
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2006

The full text of the Proposed Amendment begins on the next page:

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF PROPOSED AMENDMENT

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES

SUBTITLE D: RETIREMENT SYSTEMS

CHAPTER III: TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

PART 1650

THE ADMINISTRATION AND OPERATION OF THE
TEACHERS' RETIREMENT SYSTEM

SUBPART A: REPORTS BY BOARD OF TRUSTEES

Section

1650.10 Annual Financial Report (Repealed)

SUBPART B: BASIC RECORDS AND ACCOUNTS

Section

1650.110 Membership Records
1650.120 Claims Records (Repealed)
1650.130 Individual Accounts (Repealed)
1650.140 Ledger and Accounts Books (Repealed)
1650.150 Statistics (Repealed)
1650.160 Confidentiality of Records
1650.180 Filing and Payment Requirements
1650.181 Early Retirement Incentive Payment Requirements
1650.182 Waiver of Additional Amounts Due
1650.183 Definition of Employer's Normal Cost

SUBPART C: FILING OF CLAIMS

Section

1650.201 Disability Benefits – Application Procedure
1650.202 Disability and Occupational Disability Benefits – Definitions
1650.203 Disability Retirement Annuity – Definitions
1650.204 Gainful Employment – Consequences
1650.205 Medical Examinations and Investigation of Disability Claims
1650.206 Physician Certificates
1650.207 Disability Due to Pregnancy
1650.208 Disability Payments
1650.209 Computation of Annual Salary When Member Has Different Semester Salary

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF PROPOSED AMENDMENT

	Rates
1650.210	Claim Applications
1650.211	Disability Recipient Eligible to Receive an Age or Disability Retirement Annuity
1650.220	Reclassification of Disability Claim (Repealed)
1650.221	When Member Becomes Annuitant
1650.222	Death Out of Service
1650.230	Medical Examinations and Investigations of Claims (Repealed)
1650.240	Refunds; Impermissible Refunds; Canceled Service; Repayment
1650.250	Death Benefits
1650.260	Evidence of Age
1650.270	Reversionary Annuity – Evidence of Dependency
1650.271	Evidence of Parentage
1650.272	Eligible Child Dependent By Reason of a Physical or Mental Disability
1650.280	Evidence of Marriage
1650.290	Offsets

SUBPART D: MEMBERSHIP AND SERVICE CREDITS

Section	
1650.301	Early Retirement Without Discount – Return to Teaching from a Break in Service
1650.310	Effective Date of Membership
1650.320	Method of Calculating Service Credits
1650.325	Method of Calculating Service Credit for Recipients of a Disability Benefit or Occupational Disability Benefit
1650.330	Duplicate Service Credit
1650.335	Unreported Regular Service Credit and Earnings
1650.340	Service Credit for Leaves of Absence
1650.341	Service Credit for Involuntary Layoffs
1650.345	Service Credit for Periods Away From Teaching Due to Pregnancy
1650.346	Service Credit for Periods Away From Teaching Due to Adoption
1650.350	Service Credit for Unused Accumulated Sick Leave Upon Retirement
1650.351	Employer Contribution for Excess Sick Leave
1650.355	Purchase of Optional Service – Required Minimum Payment
1650.356	Payroll Deduction Program (Repealed)
1650.357	Employer Payment of Member's Optional Service and/or Upgrade Contribution Balance (Repealed)
1650.360	Settlement Agreements and Judgments
1650.370	Calculation of Average Salary (Renumbered)
1650.380	Definition of Actuarial Equivalent

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF PROPOSED AMENDMENT

- 1650.390 Independent Contractors
- 1650.391 Optional 2.2 Upgrade of Earned and Credited Service
- 1650.392 2.2 Upgrade of Optional Service Not Credited at Initial Upgrade

SUBPART E: CONTRIBUTION CREDITS AND PAYMENTS

Section

- 1650.410 Return of Contributions for Duplicate or Excess Service
- 1650.415 Return of Optional Increase in Retirement Annuity Contributions
- 1650.416 Optional Increase in Retirement Annuity – 1% Contribution Reduction
- 1650.420 Interest on Deficiencies (Repealed)
- 1650.430 Installment Payments (Repealed)
- 1650.440 Small Deficiencies, Credits or Death Benefit Payments
- 1650.450 Definition of Salary
- 1650.451 Reporting of Conditional Payments
- 1650.460 Calculation of Average Salary
- 1650.470 Rollover Distributions
- 1650.480 Rollovers to the System
- 1650.481 Employer Contribution Required for Salary Increases in Excess of 6%
- 1650.482 Contracts and Collective Bargaining Agreements – Loss of Exemption from Employer Contributions
- 1650.483 Employer Contributions for Salary Increases in Excess of 6% and Excess Sick Leave Exemption from Contributions
- 1650.484 Members Not Covered by Collective Bargaining Agreements or Employment Contracts
- 1650.485 Employer Contributions for Salary Increases in Excess of 6% - Receipt of Bill

SUBPART F: RULES GOVERNING ANNUITANTS AND BENEFICIARIES

Section

- 1650.505 Beneficiary (Repealed)
- 1650.510 Re-entry Into Service
- 1650.520 Suspension of Benefits
- 1650.530 Power of Attorney
- 1650.540 Conservators/Guardians
- 1650.550 Presumption of Death
- 1650.560 Benefits Payable on Death
- [1650.561 Valid Beneficiary Designations](#)
- 1650.570 Survivors' Benefits

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF PROPOSED AMENDMENT

1650.571	Payment of Monthly Survivor Benefits to a Trust
1650.575	Full-time Student – Receipt of Survivors Benefits Until Age 22
1650.580	Evidence of Eligibility
1650.590	Comptroller Offset
1650.595	Overpayments

SUBPART G: ATTORNEY GENERALS' OPINION

Section	
1650.605	Policy of the Board Concerning Attorney Generals' Opinion (Repealed)

SUBPART H: ADMINISTRATIVE REVIEW

Section	
1650.610	Staff Responsibility
1650.620	Right of Appeal
1650.630	Form of Written Request
1650.635	Presiding Hearing Officer – Duties and Responsibilities
1650.640	Prehearing Procedure
1650.641	Claims Hearing Committee Hearing Packet
1650.650	Hearing Procedure
1650.660	Rules of Evidence (Repealed)

SUBPART I: AMENDMENTS TO BYLAWS AND RULES

Section	
1650.710	Amendments

SUBPART J: RULES OF ORDER

Section	
1650.810	Parliamentary Procedure

SUBPART K: FREEDOM OF INFORMATION ACT REQUESTS

Section	
1650.910	Summary and Purpose
1650.920	Definitions
1650.930	Submission of Requests

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF PROPOSED AMENDMENT

- 1650.940 Form and Content of FOIA Requests
- 1650.950 Appeal of a Denial
- 1650.960 Executive Director's Response to Appeal
- 1650.970 Response to FOIA Requests
- 1650.980 Inspection of Records at System Office
- 1650.990 Copies of Public Records
- 1650.995 Materials Available Under Section 4 of FOIA

SUBPART L: BOARD ELECTION PROCEDURES

Section

- 1650.1000 Nomination of Candidates
- 1650.1001 Elections Date/Election Day – Defined
- 1650.1010 Petitions
- 1650.1020 Eligible Voters
- 1650.1030 Election Materials
- 1650.1040 Marking of Ballots
- 1650.1050 Return of Ballots
- 1650.1060 Observation of Ballot Counting
- 1650.1070 Certification of Ballot Counting
- 1650.1080 Challenges to Ballot Counting
- 1650.1090 Special Election to Fill Un-Expired Term of Elected Trustee

SUBPART M: QUALIFIED ILLINOIS DOMESTIC RELATIONS ORDERS

Section

- 1650.1110 Definitions
- 1650.1111 Requirements for a Valid Qualified Illinois Domestic Relations Order
- 1650.1112 Requirements for a Valid QILDRO Calculation Order
- 1650.1113 Required Forms
- 1650.1114 Filing a QILDRO or a Calculation Order with the System
- 1650.1115 Benefits Affected by a QILDRO
- 1650.1116 Effect of a Valid QILDRO
- 1650.1117 QILDROs Against Persons Who Became Members Prior to July 1, 1999
- 1650.1118 Alternate Payee's Address
- 1650.1119 Electing Form of Payment
- 1650.1120 Automatic Annual Increases
- 1650.1121 Reciprocal Systems QILDRO Policy Statement (Repealed)
- 1650.1122 Providing Benefit Information for Divorce Purposes

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF PROPOSED AMENDMENT

- 1650.1123 Suspension and Expiration of a QILDRO
1650.1124 Income Tax Reporting

SUBPART N: PAYROLL DEDUCTION PROGRAM

Section

- 1650.1200 Payroll Deduction Program Guidelines
1650.1201 Employer Responsibility Under the Payroll Deduction Program Upon Execution of a Payroll Deduction Agreement
1650.1202 Payroll Deduction Agreements – Suspensions and Terminations
1650.1203 Payroll Deduction Program – Full Time Employment Defined
1650.1204 Payroll Deduction Program – Disability Defined
1650.1205 Employer Payment of Member's Optional Service, Refund and/or Upgrade Contribution Balance

SUBPART O: RETIREMENT BENEFITS

Section

- 1650.2900 Excess Benefit Arrangement

AUTHORITY: Implementing and authorized by Articles 1 and 16 of the Illinois Pension Code [40 ILCS 5/Arts. 1 and 16]; Freedom of Information Act [5 ILCS 140]; Internal Revenue Code (26 USC 1 et seq.); Section 5-15 of the Illinois Administrative Procedure Act [5 ILCS 100/5-15].

SOURCE: Filed June 20, 1958; emergency rules adopted at 2 Ill. Reg. 49, p. 249, effective November 29, 1978, for a maximum of 150 days; adopted at 3 Ill. Reg. 9, p. 1, effective March 3, 1979; codified at 8 Ill. Reg. 16350; amended at 9 Ill. Reg. 20885, effective December 17, 1985; amended at 12 Ill. Reg. 16896, effective October 3, 1988; amended at 14 Ill. Reg. 18305, effective October 29, 1990; amended at 15 Ill. Reg. 16731, effective November 5, 1991; amended at 17 Ill. Reg. 1631, effective January 22, 1993; amended at 18 Ill. Reg. 6349, effective April 15, 1994; emergency amendment at 18 Ill. Reg. 8949, effective May 24, 1994, for a maximum of 150 days; emergency modified at 18 Ill. Reg. 12880; amended at 18 Ill. Reg. 15154, effective September 27, 1994; amended at 20 Ill. Reg. 3118, effective February 5, 1996; emergency amendment at 21 Ill. Reg. 483, effective January 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 2422, effective January 31, 1997; amended at 21 Ill. Reg. 4844, effective March 27, 1997; emergency amendment at 21 Ill. Reg. 17159, effective December 9, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 7243, effective April 9, 1998; emergency amendment at 22 Ill. Reg. 7314, effective April 9, 1998, for a maximum of 150 days; emergency amendment at 22 Ill. Reg. 9374, effective May 14, 1998, for a maximum of 150 days;

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF PROPOSED AMENDMENT

emergency rule modified in response to JCAR Objection at 22 Ill. Reg. 11640; emergency amendment at 22 Ill. Reg. 13151, effective June 29, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 15620, effective August 17, 1998; amended at 22 Ill. Reg. 19079, effective October 1, 1998; amended at 22 Ill. Reg. 22090, effective December 1, 1998; amended at 23 Ill. Reg. 3079, effective February 23, 1999; amended at 24 Ill. Reg. 2440, effective January 27, 2000; amended at 24 Ill. Reg. 10300, effective June 26, 2000; amended at 25 Ill. Reg. 203, effective December 22, 2000; amended at 26 Ill. Reg. 2758, effective February 11, 2002; amended at 26 Ill. Reg. 11476, effective July 11, 2002; amended at 27 Ill. Reg. 1668, effective January 17, 2003; amended at 27 Ill. Reg. 9209, effective May 28, 2003; amended at 28 Ill. Reg. 10055, effective June 29, 2004; amended at 29 Ill. Reg. 1546, effective January 14, 2005; amended at 29 Ill. Reg. 13244, effective August 9, 2005; amended at 30 Ill. Reg. 194, effective December 23, 2005; amended at 30 Ill. Reg. 472, effective December 21, 2005; amended at 30 Ill. Reg. 11728, effective June 23, 2006; amended at 30 Ill. Reg. 17525, effective October 18, 2006; amended at 31 Ill. Reg. 10688, effective July 13, 2007; amended at 32 Ill. Reg. _____, effective _____.

SUBPART F: RULES GOVERNING ANNUITANTS AND BENEFICIARIES

Section 1650.561 Valid Beneficiary Designations

To be considered valid and timely filed, a beneficiary designation under 40 ILCS 5/16-138, 16-141 and 16-142 must be received and date stamped by the System prior to or on the date of the death of the member or annuitant.

(Source: Added at 32 Ill. Reg. _____, effective _____)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Podiatric Scholarship and Residency Programs Code
- 2) Code Citation: 77 Ill. Adm. Code 593
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
593.10	Amendment
593.20	Amendment
593.200	Amendment
593.240	Amendment
- 4) Statutory Authority: Podiatry Scholarship and Residency Act [110 ILCS 978]
- 5) Effective Date of Rulemaking: January 4, 2008
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposed Amendments Published in Illinois Register: 31 Ill. Reg. 10626; July 27, 2007
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version: None
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? No changes were requested.
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rulemaking: This rulemaking expands the podiatric scholarship and residency program to increase the number of years that a student is eligible to receive the scholarship from two to the full four years that it takes to complete podiatric medical school. The current rules provide scholarship recipients with full

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

tuition and mandatory fees. This rulemaking will provide for the award of a monthly living stipend to the scholarship recipients. The rulemaking also adds definitions of "rural" and "urban" and updates referenced materials.

- 16) Information and questions regarding these adopted amendments shall be directed to:

Susan Meister
Division of Legal Services
Department of Public Health
535 West Jefferson, 5th Floor
Springfield, Illinois 62761

217/782-2046
e-mail: dph.rules@illinois.gov

The full text of the Adopted Amendments begins on the next page:

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

TITLE 77: PUBLIC HEALTH

CHAPTER I: DEPARTMENT OF PUBLIC HEALTH

SUBCHAPTER g: GRANTS TO DENTAL AND MEDICAL STUDENTS

PART 593

PODIATRIC SCHOLARSHIP AND RESIDENCY PROGRAMS CODE

SUBPART A: GENERAL PROVISIONS

Section

- 593.10 Definitions
593.20 ~~Referenced~~Incorporated Materials
593.30 Administrative Hearings

SUBPART B: GRANTS TO PODIATRIC PRACTICE RESIDENCY PROGRAMS

Section

- 593.100 Eligibility for Grants
593.110 Limitations on Use of Grant Funds
593.120 Project Requirements
593.130 Application for Grants
593.140 Selection Criteria

SUBPART C: PODIATRIC MEDICAL STUDENT SCHOLARSHIPS

Section

- 593.200 Limitations on Use of Scholarship Funds
593.210 Eligibility for Application
593.220 Criteria for Selecting Scholarship Recipients
593.230 Terms of Performance
593.240 Scholarship Repayments

AUTHORITY: Podiatry Scholarship and Residency Act [110 ILCS 978]

SOURCE: Adopted at 17 Ill. Reg. 11987, effective July 20, 1994; amended at 32 Ill. Reg. 863, effective January 4, 2008.

SUBPART A: GENERAL PROVISIONS

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

Section 593.10 Definitions

"Act" means the Podiatric Scholarship and Residency Act [110 ILCS 978].

"Department" means the Illinois Department of Public Health. ([Section 10 of the Act](#))

"Designated Shortage Area" means an area designated by the Director as a physician shortage area, a medically underserved area, or a critical health manpower shortage area as defined by the United States Department of Health and Human Services, or as further defined by the Department to enable it to effectively fulfill the purpose stated in Section 5 of the Act. These areas may include the following:

an urban or rural area;

a population group; or

a public or nonprofit private medical facility. (Section 10 of the Act)

"Director" means the Director of the Illinois Department of Public Health. (Section 10 of the Act)

"Eligible Podiatry Student" means a person who meets all of the following qualifications:

He or she is an Illinois resident at the time of application for scholarship under the program established by ~~the~~^{this} Act.

He or she is studying podiatric medicine in a podiatry school located in Illinois.

He or she exhibits financial need as determined by the Department.

He or she agrees to practice full-time in a designated shortage area as a primary care physician one year for each year he or she is a scholarship recipient. (Section 10 of the Act)

"Full-time [Practicepractice](#)" means maintaining office hours for patient care for at

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

least 20 hours per week.

"Medical Facility" means a facility for the delivery of Health Services and includes a hospital, State mental health institution, public health center, outpatient medical facility, rehabilitation facility, long-term care facility, community mental health center, migrant health center, a community health center, or a State correctional institution. (Section 10 of the Act)

"Minority" means any person or group of persons who are: African-American (a person having origins in any of the black racial groups in Africa); Hispanic (a person of Spanish or Portuguese culture with origins in Mexico, South or Central America, or the Caribbean Islands, regardless of race); Asian American (a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent or the Pacific Islands); or American Indian or Alaskan Native (a person having origins in any of the original peoples of North America).

"Podiatric Practice Residency Program" means a program accredited by the Council of Podiatric Medical Education. Residencies may be primary care or rotating. (Section 10 of the Act)

"Primary Care Physician" means a person licensed to practice podiatric medicine under the Podiatric Medical Act of 1987 [\[225 ILCS 100\]](#). (Section 10 of the Act)

"Residency ~~Matching Process~~[matching process](#)" means the matching of podiatric medical students with residency training programs in the student's selected specialty.

"Residency ~~Training~~[training](#)" means the years of graduate medical education ~~that which~~ follow podiatric medical school and ~~that which~~ train the new podiatric physician in his or her chosen specialty.

"Rural" means any geographic area not located in a U.S. Bureau of the Census Metropolitan Statistical Area; or a county located within a Metropolitan Statistical Area but having a population of 60,000 or less; or a community located within a Metropolitan Statistical Area but having a population of 2,400 or less or a RUCA Code 4 or above on the Rural-Urban Commuting Area list as defined by the U.S. Department of Agriculture Economic Research Service. The list of Rural-Urban Commuting Area Codes can be found at: <http://www.fammed.washington.edu/wwamirhrc/rucas/rucas.html>

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

"Urban" means all territory, population and housing units in urban areas, which include urbanized areas and urban clusters. An urban area generally consists of a large central place and adjacent, densely settled census blocks that together have a total population of at least 2,500 for urban clusters, or at least 50,000 for urbanized areas. Urban classification cuts across other hierarchies and can be in metropolitan or non-metropolitan areas.

(Source: Amended at 32 Ill. Reg. 863, effective January 4, 2008)

Section 593.20 ~~Referenced~~Incorporated Materials

The following materials are ~~incorporated or~~ referenced in this Part:

- a) Illinois Statutes
 - 1) Podiatric Scholarship and Residency Act [110 ILCS 978]
 - 2) Illinois Podiatric Medical Practice Act of 1987 (~~Ill. Rev. Stat. 1991, ch. 111, par. 4801 et seq.~~) [225 ILCS 100]
- b) Illinois ~~and Federal~~ Rules: Rules of Practice and Procedure in Administrative Hearings (77 Ill. Adm. Code 100)
- e) ~~All incorporations by reference of standards of nationally recognized organizations refer to the standards on the date specified and do not include any additions or deletions subsequent to the date specified.~~

(Source: Amended at 32 Ill. Reg. 863, effective January 4, 2008)

SUBPART C: PODIATRIC MEDICAL STUDENT SCHOLARSHIPS

Section 593.200 Limitations on Use of Scholarship Funds

- a) Scholarships shall cover the cost of tuition and matriculation fees and provide a monthly living stipend for selected podiatric medical students.
- b) Scholarship funds shall be expended by the recipient only while enrolled and in good academic standing at a podiatric medical school.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- c) Scholarship funds shall not be awarded for expenses incurred when the student must repeat ~~more than once~~ an academic term or terms, if the repetition is necessary because the student has an academic performance below an acceptable level, as determined by the student's podiatric medical school.
- d) Scholarship funds shall be provided to the recipient's podiatric medical school. All funds for tuition and fees are to be expended only on the podiatric medical student's behalf. All stipend monies are to be provided directly to the podiatric medical student.
- e) Scholarship funds shall not be awarded to any podiatric medical student for more than ~~four~~two academic years.

(Source: Amended at 32 Ill. Reg. 863, effective January 4, 2008)

Section 593.240 Scholarship Repayments

- a) Upon the Illinois licensure of the scholarship recipient to practice podiatric medicine, the recipient shall provide podiatric~~primary~~ health care in a designated shortage area of Illinois. The term of this service shall be one year for each academic year he or she is a scholarship recipient.
- b) Service as a podiatric physician shall begin no later than 30 days after the licensure of the recipient to practice podiatric medicine. Service shall be deferred by the Department until the recipient completes a podiatric care residency; service shall begin no later than 30 days after completion.
 - 1) ~~Service shall be deferred by the Department until recipient completes a podiatric care residency; service shall begin no later than 30 days after completion.~~
 - 2) ~~If recipient leaves the residency program prior to completion, service shall begin with 30 days.~~
- c) The recipient's internship, residency or other advanced clinical training does not qualify as service repayment of the scholarship obligation.
- d) Written approval of the Department for a proposed practice location shall be

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

requested and received by the scholarship recipient.

- 1) Without such approval, time in practice at such a location shall not meet the scholarship recipient's service obligation.
 - 2) The scholarship recipient may request approval for a practice location up to 18 months preceding the time practice at the location is to begin.
 - 3) Approval for a practice location is granted for the duration of the scholarship recipient's service obligation.
- e) The scholarship recipient's practice shall meet the following requirements:
- 1) be located in a designated shortage area;
 - 2) be a full-time, office-based practice providing direct patient care; and
 - 3) provide continuous service at the rate of 12 months for each academic year of podiatric medical school supported by the scholarship.
- f) Scholarship recipients may relocate to another practice location, or practice in more than one location, if prior written approval is granted by the Department.
- g) Scholarship recipients shall enter into a written contract with the Department that which describes terms of the service obligation and contains provisions for enforcement of the contract.
- h) *Scholarship recipients who fail to fulfill their ~~obligation~~ obligation to practice in designated shortage areas shall pay to the Department a sum equal to 3 times the amount of the annual scholarship grant for each year the recipient fails to fulfill that obligation. (Section 30 of the Act)*
- 1) Payment shall be made in equal monthly installments in such amounts so that all sums due shall be paid within a period of time equal to the recipient's service term, or remaining portion of the term~~thereof~~, or as otherwise agreed to by the recipient and the Department.
 - 2) The recipient~~Recipient~~ and Department shall enter into a written contract that which describes terms of the repayment and contains provisions for

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

enforcement of the contract.

- i) ~~If in the event~~ a scholarship recipient fails to pay monies owed the Department, the Department may refer the matter to the Attorney General or to a collection agency.

(Source: Amended at 32 Ill. Reg. 863, effective January 4, 2008)

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Income Tax
- 2) Code Citation: 86 Ill. Adm. Code 100
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
100.2110	Amendment
100.2160	Amendment
100.5070	New Section
100.5080	New Section
- 4) Statutory Authority: 35 ILCS 5/201(f) and 1401; 35 ILCS 5/201(k) and 1401; 35 ILCS 5/1405.5; 35 ILCS 5/1405.6
- 5) Effective Date of Amendments: January 7, 2008
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposals Published in Illinois Register: 31 Ill. Reg. 13086, September 14, 2007; 31 Ill. Reg. 13331, September 21, 2007; 31 Ill. Reg. 13697, October 5, 2007
- 10) Has JCAR issued a Statement of Objection to any of these amendments? No
- 11) Differences between proposal and final version:

In Section 100.2110(d) and (g), changed "section" to "Section".

In Sections 100.5070(a)(1) and 100.5080(a)(1), changed "IRC section" to "26 USC".

In Section 100.5070(a)(1), changed "Treasury Regulations section" to "26 CFR".

In Section 100.5070(a)(1), after "301.6112-1", added "(2007)".

In Section 100.5070(a)(3)(A)(i), changed "section" to "26USC".

In Section 100.5070(a)(3)(A)(i), deleted "of the Internal Revenue Code".

In Section 100.5070(b)(1)(B)(ii) and (b)(2)(A)(iii), changed the text to "February 10, 2008".

In Section 100.5070(b)(4), changed "Treasury" to "26 CFR".

In Section 100.5070(b)(4), deleted "Regulation section" and after "(f)", added "(2007)".

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

This is a consolidated rulemaking, which means 3 separate proposed rulemakings comprise this one adopted rulemaking. See #9 above for a listing of the 3 rulemakings.

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? Yes

<u>Section Numbers:</u>	<u>Proposed Action:</u>	<u>Illinois Register Citation:</u>
100.2197	Amendment	31 Ill. Reg. 14217; October 12, 2007
100.2406	New Section	31 Ill. Reg. 15240; November 16, 2007
100.2450	New Section	31 Ill. Reg 15744; November 26, 2007
100.3420	New Section	31 Ill. Reg. 16428; December 14, 2007
100.2405	New Section	31 Ill. Reg. 16695; December 21, 2007
100.3010	Amendment	32 Ill. Reg. 97; January 4, 2008
100.3380	Amendment	32 Ill. Reg. 798; January 18, 2008
100.9700	Amendment	32 Ill. Reg. 798; January 18, 2008

- 15) Summary and Purpose of Amendments: Section 100.2110 - This amendment updates the guidance provided for taxpayers claiming the credit for business assets used in an enterprise zone to reflect the provisions of Public Act 94-1021, which expanded the credit to apply to assets used in a river edge redevelopment zone.

Section 100.2160 - This change amends Section 100.2160 to reflect the repeal of the research and development credit in Public Act 93-029 and its re-enactment in Public Act 93-840.

Sections 100.5070 & 100.5080 - These amendments provide guidance to persons required to register with the Department a tax shelter or listed transaction under IITA Section 1405.5 and to persons required to furnish the Department an investor list with respect to a potentially abusive tax shelter or listed transaction under IITA Section 1405.6.

- 16) Information and questions regarding these adopted amendments shall be directed to:

Paul Caselton

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

Deputy General Counsel - Income Tax
Legal Services Office
Illinois Department of Revenue
101 West Jefferson
Springfield, Illinois 62794

217/782-7055

The full text of the Adopted Amendments begins on the next page:

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

TITLE 86: REVENUE

CHAPTER I: DEPARTMENT OF REVENUE

PART 100
INCOME TAX

SUBPART A: TAX IMPOSED

Section

- 100.2000 Introduction
100.2050 Net Income (IITA Section 202)

SUBPART B: CREDITS

Section

- 100.2100 Replacement Tax Investment Credit Prior to January 1, 1994 (IITA 201(e))
100.2101 Replacement Tax Investment Credit (IITA 201(e))
100.2110 Investment Credit; Enterprise Zone [and River Edge Redevelopment Zone](#) (IITA 201(f))
100.2120 Jobs Tax Credit; Enterprise Zone and Foreign Trade Zone or Sub-Zone (IITA 201(g))
100.2130 Investment Credit; High Impact Business (IITA 201(h))
100.2140 Credit Against Income Tax for Replacement Tax (IITA 201(i))
100.2150 Training Expense Credit (IITA 201(j))
100.2160 Research and Development Credit (IITA 201(k))
100.2163 Environmental Remediation Credit (IITA 201(l))
100.2165 Education Expense Credit (IITA 201(m))
100.2170 Tax Credits for Coal Research and Coal Utilization Equipment (IITA 206)
100.2180 Credit for Residential Real Property Taxes (IITA 208)
100.2185 Film Production Services Credit (IITA 213)
100.2190 Tax Credit for Affordable Housing Donations (IITA Section 214)
100.2195 Dependent Care Assistance Program Tax Credit (IITA 210)
100.2196 Employee Child Care Assistance Program Tax Credit (IITA Section 210.5)
100.2197 Foreign Tax Credit (IITA Section 601(b)(3))
100.2198 Economic Development for a Growing Economy Credit (IITA 211)
100.2199 Illinois Earned Income Tax Credit (IITA 212)

SUBPART C: NET OPERATING LOSSES OF UNITARY BUSINESS GROUPS
OCCURRING PRIOR TO DECEMBER 31, 1986

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

Section

- 100.2200 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group. (IITA Section 202) – Scope
- 100.2210 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group (IITA Section 202) – Definitions
- 100.2220 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group. (IITA Section 202) – Current Net Operating Losses: Offsets Between Members
- 100.2230 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group. (IITA Section 202) – Carrybacks and Carryforwards
- 100.2240 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (IITA Section 202) – Effect of Combined Net Operating Loss in Computing Illinois Base Income
- 100.2250 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (IITA Section 202) – Deadline for Filing Claims Based on Net Operating Losses Carried Back From a Combined Apportionment Year

SUBPART D: ILLINOIS NET LOSS DEDUCTIONS FOR LOSSES
OCCURRING ON OR AFTER DECEMBER 31, 1986

Section

- 100.2300 Illinois Net Loss Deduction for Losses Occurring On or After December 31, 1986 (IITA 207)
- 100.2310 Computation of the Illinois Net Loss Deduction for Losses Occurring On or After December 31, 1986 (IITA 207)
- 100.2320 Determination of the Amount of Illinois Net Loss for Losses Occurring On or After December 31, 1986
- 100.2330 Illinois Net Loss Carrybacks and Net Loss Carryovers for Losses Occurring On or After December 31, 1986
- 100.2340 Illinois Net Losses and Illinois Net Loss Deductions for Losses Occurring On or After December 31, 1986, of Corporations that are Members of a Unitary Business Group: Separate Unitary Versus Combined Unitary Returns
- 100.2350 Illinois Net Losses and Illinois Net Loss Deductions, for Losses Occurring On or

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

After December 31, 1986, of Corporations that are Members of a Unitary Business Group: Changes in Membership

SUBPART E: ADDITIONS TO AND SUBTRACTIONS FROM TAXABLE INCOME OF INDIVIDUALS, CORPORATIONS, TRUSTS AND ESTATES AND PARTNERSHIPS

Section	
100.2410	Net Operating Loss Carryovers for Individuals, and Capital Loss and Other Carryovers for All Taxpayers (IITA Section 203)
100.2430	Addition and Subtraction Modifications for Transactions with 80-20 Companies
100.2470	Subtraction of Amounts Exempt from Taxation by Virtue of Illinois Law, the Illinois or U.S. Constitutions, or by Reason of U.S. Treaties or Statutes (IITA Sections 203(a)(2)(N), 203(b)(2)(J), 203(c)(2)(K) and 203(d)(2)(G))
100.2480	Enterprise Zone Dividend Subtraction (IITA Sections 203(a)(2)(J), 203(b)(2)(K), 203(c)(2)(M) and 203(d)(2)(K))
100.2490	Foreign Trade Zone/High Impact Business Dividend Subtraction (IITA Sections 203(a)(2)(K), 203(b)(2)(L), 203(c)(2)(O), 203(d)(2)(M))

SUBPART F: BASE INCOME OF INDIVIDUALS

Section	
100.2580	Medical Care Savings Accounts (IITA Sections 203(a)(2)(D-5), 203(a)(2)(S) and 203(a)(2)(T))
100.2590	Taxation of Certain Employees of Railroads, Motor Carriers, Air Carriers and Water Carriers

SUBPART G: BASE INCOME OF TRUSTS AND ESTATES

Section	
100.2680	Capital Gain Income of Estates and Trusts Paid to or Permanently Set Aside for Charity (Repealed)

SUBPART I: GENERAL RULES OF ALLOCATION AND APPORTIONMENT OF BASE INCOME

Section	
100.3000	Terms Used in Article 3 (IITA Section 301)
100.3010	Business and Nonbusiness Income (IITA Section 301)
100.3015	Business Income Election (IITA Section 1501)

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

100.3020 Resident (IITA Section 301)

SUBPART J: COMPENSATION

Section

100.3100 Compensation (IITA Section 302)
100.3110 State (IITA Section 302)
100.3120 Allocation of Compensation Paid to Nonresidents (IITA Section 302)

SUBPART K: NON-BUSINESS INCOME OF PERSONS OTHER THAN RESIDENTS

Section

100.3200 Taxability in Other State (IITA Section 303)
100.3210 Commercial Domicile (IITA Section 303)
100.3220 Allocation of Certain Items of Nonbusiness Income by Persons Other Than Residents (IITA Section 303)

SUBPART L: BUSINESS INCOME OF PERSONS OTHER THAN RESIDENTS

Section

100.3300 Allocation and Apportionment of Base Income (IITA Section 304)
100.3310 Business Income of Persons Other Than Residents (IITA Section 304) – In General
100.3320 Business Income of Persons Other Than Residents (IITA Section 304) – Apportionment (Repealed)
100.3330 Business Income of Persons Other Than Residents (IITA Section 304) – Allocation
100.3340 Business Income of Persons Other Than Residents (IITA Section 304)
100.3350 Property Factor (IITA Section 304)
100.3360 Payroll Factor (IITA Section 304)
100.3370 Sales Factor (IITA Section 304)
100.3380 Special Rules (IITA Section 304)
100.3390 Petitions for Alternative Allocation or Apportionment (IITA Section 304(f))
100.3400 Apportionment of Business Income of Financial Organizations (IITA Section 304(c))
100.3500 Allocation and Apportionment of Base Income by Nonresident Partners

SUBPART M: ACCOUNTING

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

Section
100.4500 Carryovers of Tax Attributes (IITA Section 405)

SUBPART N: TIME AND PLACE FOR FILING RETURNS

Section
100.5000 Time for Filing Returns: Individuals (IITA Section 505)
100.5010 Place for Filing Returns: All Taxpayers (IITA Section 505)
100.5020 Extensions of Time for Filing Returns: All Taxpayers (IITA Section 505)
100.5030 Taxpayer's Notification to the Department of Certain Federal Changes Arising in Federal Consolidated Return Years, and Arising in Certain Loss Carryback Years (IITA Section 506)
100.5040 Innocent Spouses
100.5050 Frivolous Returns
100.5060 Reportable Transactions
[100.5070 List of Investors in Potentially Abusive Tax Shelters](#)
[100.5080 Registration of Tax Shelters \(IITA Section 1405.5\)](#)

SUBPART O: COMPOSITE RETURNS

Section
100.5100 Composite Returns: Eligibility
100.5110 Composite Returns: Responsibilities of Authorized Agent
100.5120 Composite Returns: Individual Liability
100.5130 Composite Returns: Required forms and computation of Income
100.5140 Composite Returns: Estimated Payments
100.5150 Composite Returns: Tax, Penalties and Interest
100.5160 Composite Returns: Credits for Resident Individuals
100.5170 Composite Returns: Definition of a "Lloyd's Plan of Operation"

SUBPART P: COMBINED RETURNS

Section
100.5200 Filing of Combined Returns
100.5201 Definitions and Miscellaneous Provisions Relating to Combined Returns
100.5205 Election to File a Combined Return
100.5210 Procedures for Elective and Mandatory Filing of Combined Returns
100.5215 Filing of Separate Unitary Returns
100.5220 Designated Agent for the Members

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

100.5230	Combined Estimated Tax Payments
100.5240	Claims for Credit of Overpayments
100.5250	Liability for Combined Tax, Penalty and Interest
100.5260	Combined Amended Returns
100.5265	Common Taxable Year
100.5270	Computation of Combined Net Income and Tax
100.5280	Combined Return Issues Related to Audits

SUBPART Q: REQUIREMENT AND AMOUNT OF WITHHOLDING

Section

100.7000	Requirement of Withholding (IITA Section 701)
100.7010	Compensation Paid in this State (IITA Section 701)
100.7020	Transacting Business Within this State (IITA Section 701)
100.7030	Payments to Residents (IITA Section 701)
100.7040	Employer Registration (IITA Section 701)
100.7050	Computation of Amount Withheld (IITA Section 702)
100.7060	Additional Withholding (IITA Section 701)
100.7070	Voluntary Withholding (IITA Section 701)
100.7080	Correction of Underwithholding or Overwithholding (IITA Section 701)
100.7090	Reciprocal Agreement (IITA Section 701)
100.7095	Cross References

SUBPART R: AMOUNT EXEMPT FROM WITHHOLDING

Section

100.7100	Withholding Exemption (IITA Section 702)
100.7110	Withholding Exemption Certificate (IITA Section 702)
100.7120	Exempt Withholding Under Reciprocal Agreements (IITA Section 702)

SUBPART S: INFORMATION STATEMENT

Section

100.7200	Reports for Employee (IITA Section 703)
----------	---

SUBPART T: EMPLOYER'S RETURN AND PAYMENT OF TAX WITHHELD

Section

100.7300	Returns of Income Tax Withheld from Wages (IITA Section 704)
----------	--

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

100.7310	Quarterly Returns Filed on Annual Basis (IITA Section 704)
100.7320	Time for Filing Returns (IITA Section 704)
100.7330	Payment of Tax Deducted and Withheld (IITA Section 704)
100.7340	Correction of Underwithholding or Overwithholding (IITA Section 704)

SUBPART U: COLLECTION AUTHORITY

Section

100.9000	General Income Tax Procedures (IITA Section 901)
100.9010	Collection Authority (IITA Section 901)
100.9020	Child Support Collection (IITA Section 901)

SUBPART V: NOTICE AND DEMAND

Section

100.9100	Notice and Demand (IITA Section 902)
----------	--------------------------------------

SUBPART W: ASSESSMENT

Section

100.9200	Assessment (IITA Section 903)
100.9210	Waiver of Restrictions on Assessment (IITA Section 907)

SUBPART X: DEFICIENCIES AND OVERPAYMENTS

Section

100.9300	Deficiencies and Overpayments (IITA Section 904)
100.9310	Application of Tax Payments Within Unitary Business Groups (IITA Section 603)
100.9320	Limitations on Notices of Deficiency (IITA Section 905)
100.9330	Further Notices of Deficiency Restricted (IITA Section 906)

SUBPART Y: CREDITS AND REFUNDS

Section

100.9400	Credits and Refunds (IITA Section 909)
100.9410	Limitations on Claims for Refund (IITA Section 911)
100.9420	Recovery of Erroneous Refund (IITA Section 912)

SUBPART Z: INVESTIGATIONS AND HEARINGS

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

Section

100.9500	Access to Books and Records (IITA Section 913)
100.9505	Access to Books and Records – 60-Day Letters (IITA Section 913) (Repealed)
100.9510	Taxpayer Representation and Practice Requirements
100.9520	Conduct of Investigations and Hearings (IITA Section 914)
100.9530	Books and Records

SUBPART AA: JUDICIAL REVIEW

Section

100.9600	Administrative Review Law (IITA Section 1201)
----------	---

SUBPART BB: DEFINITIONS

Section

100.9700	Unitary Business Group Defined (IITA Section 1501)
100.9710	Financial Organizations (IITA Section 1501)
100.9720	Nexus
100.9750	Corporation, Subchapter S Corporation, Partnership and Trust Defined (IITA Section 1501)

SUBPART CC: LETTER RULING PROCEDURES

Section

100.9800	Letter Ruling Procedures
----------	--------------------------

SUBPART DD: MISCELLANEOUS

Section

100.9900	Tax Shelter Voluntary Compliance Program
----------	--

100.APPENDIX A	Business Income Of Persons Other Than Residents
100.TABLE A	Example of Unitary Business Apportionment
100.TABLE B	Example of Unitary Business Apportionment for Groups Which Include Members Using Three-Factor and Single-Factor Formulas

AUTHORITY: Implementing the Illinois Income Tax Act [35 ILCS 5] and authorized by Section 1401 of the Illinois Income Tax Act [35 ILCS 5/1401].

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

SOURCE: Filed July 14, 1971, effective July 24, 1971; amended at 2 Ill. Reg. 49, p. 84, effective November 29, 1978; amended at 5 Ill. Reg. 813, effective January 7, 1981; amended at 5 Ill. Reg. 4617, effective April 14, 1981; amended at 5 Ill. Reg. 4624, effective April 14, 1981; amended at 5 Ill. Reg. 5537, effective May 7, 1981; amended at 5 Ill. Reg. 5705, effective May 20, 1981; amended at 5 Ill. Reg. 5883, effective May 20, 1981; amended at 5 Ill. Reg. 6843, effective June 16, 1981; amended at 5 Ill. Reg. 13244, effective November 13, 1981; amended at 5 Ill. Reg. 13724, effective November 30, 1981; amended at 6 Ill. Reg. 579, effective December 29, 1981; amended at 6 Ill. Reg. 9701, effective July 26, 1982; amended at 7 Ill. Reg. 399, effective December 28, 1982; amended at 8 Ill. Reg. 6184, effective April 24, 1984; codified at 8 Ill. Reg. 19574; amended at 9 Ill. Reg. 16986, effective October 21, 1985; amended at 9 Ill. Reg. 685, effective December 31, 1985; amended at 10 Ill. Reg. 7913, effective April 28, 1986; amended at 10 Ill. Reg. 19512, effective November 3, 1986; amended at 10 Ill. Reg. 21941, effective December 15, 1986; amended at 11 Ill. Reg. 831, effective December 24, 1986; amended at 11 Ill. Reg. 2450, effective January 20, 1987; amended at 11 Ill. Reg. 12410, effective July 8, 1987; amended at 11 Ill. Reg. 17782, effective October 16, 1987; amended at 12 Ill. Reg. 4865, effective February 25, 1988; amended at 12 Ill. Reg. 6748, effective March 25, 1988; amended at 12 Ill. Reg. 11766, effective July 1, 1988; amended at 12 Ill. Reg. 14307, effective August 29, 1988; amended at 13 Ill. Reg. 8917, effective May 30, 1989; amended at 13 Ill. Reg. 10952, effective June 26, 1989; amended at 14 Ill. Reg. 4558, effective March 8, 1990; amended at 14 Ill. Reg. 6810, effective April 19, 1990; amended at 14 Ill. Reg. 10082, effective June 7, 1990; amended at 14 Ill. Reg. 16012, effective September 17, 1990; emergency amendment at 17 Ill. Reg. 473, effective December 22, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 8869, effective June 2, 1993; amended at 17 Ill. Reg. 13776, effective August 9, 1993; recodified at 17 Ill. Reg. 14189; amended at 17 Ill. Reg. 19632, effective November 1, 1993; amended at 17 Ill. Reg. 19966, effective November 9, 1993; amended at 18 Ill. Reg. 1510, effective January 13, 1994; amended at 18 Ill. Reg. 2494, effective January 28, 1994; amended at 18 Ill. Reg. 7768, effective May 4, 1994; amended at 19 Ill. Reg. 1839, effective February 6, 1995; amended at 19 Ill. Reg. 5824, effective March 31, 1995; emergency amendment at 20 Ill. Reg. 1616, effective January 9, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 6981, effective May 7, 1996; amended at 20 Ill. Reg. 10706, effective July 29, 1996; amended at 20 Ill. Reg. 13365, effective September 27, 1996; amended at 20 Ill. Reg. 14617, effective October 29, 1996; amended at 21 Ill. Reg. 958, effective January 6, 1997; emergency amendment at 21 Ill. Reg. 2969, effective February 24, 1997, for a maximum of 150 days; emergency expired July 24, 1997; amended at 22 Ill. Reg. 2234, effective January 9, 1998; amended at 22 Ill. Reg. 19033, effective October 1, 1998; amended at 22 Ill. Reg. 21623, effective December 15, 1998; amended at 23 Ill. Reg. 3808, effective March 11, 1999; amended at 24 Ill. Reg. 10593, effective July 7, 2000; amended at 24 Ill. Reg. 12068, effective July 26, 2000; emergency amendment at 24 Ill. Reg. 17585, effective November 17, 2000, for a

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

maximum of 150 days; amended at 24 Ill. Reg. 18731, effective December 11, 2000; amended at 25 Ill. Reg. 4640, effective March 15, 2001; amended at 25 Ill. Reg. 4929, effective March 23, 2001; amended at 25 Ill. Reg. 5374, effective April 2, 2001; amended at 25 Ill. Reg. 6687, effective May 9, 2001; amended at 25 Ill. Reg. 7250, effective May 25, 2001; amended at 25 Ill. Reg. 8333, effective June 22, 2001; amended at 26 Ill. Reg. 192, effective December 20, 2001; amended at 26 Ill. Reg. 1274, effective January 15, 2002; amended at 26 Ill. Reg. 9854, effective June 20, 2002; amended at 26 Ill. Reg. 13237, effective August 23, 2002; amended at 26 Ill. Reg. 15304, effective October 9, 2002; amended at 26 Ill. Reg. 17250, effective November 18, 2002; amended at 27 Ill. Reg. 13536, effective July 28, 2003; amended at 27 Ill. Reg. 18225, effective November 17, 2003; emergency amendment at 27 Ill. Reg. 18464, effective November 20, 2003, for a maximum of 150 days; emergency expired April 17, 2004; amended at 28 Ill. Reg. 1378, effective January 12, 2004; amended at 28 Ill. Reg. 5694, effective March 17, 2004; amended at 28 Ill. Reg. 7125, effective April 29, 2004; amended at 28 Ill. Reg. 8881, effective June 11, 2004; emergency amendment at 28 Ill. Reg. 14271, effective October 18, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 14868, effective October 26, 2004; emergency amendment at 28 Ill. Reg. 15858, effective November 29, 2004, for a maximum of 150 days; amended at 29 Ill. Reg. 2420, effective January 28, 2005; amended at 29 Ill. Reg. 6986, effective April 26, 2005; amended at 29 Ill. Reg. 13211, effective August 15, 2005; amended at 29 Ill. Reg. 20516, effective December 2, 2005; amended at 30 Ill. Reg. 6389, effective March 30, 2006; amended at 30 Ill. Reg. 10473, effective May 23, 2006; amended by 30 Ill. Reg. 13890, effective August 1, 2006; amended at 30 Ill. Reg. 18739, effective November 20, 2006; amended at 31 Ill. Reg. 16240, effective November 26, 2007; amended at 32 Ill. Reg. 872, effective January 7, 2008.

SUBPART B: CREDITS

Section 100.2110 Investment Credit; Enterprise Zone and River Edge Redevelopment Zone (IITA 201(f))

- a) A taxpayer shall be allowed a credit against the tax imposed by IITA ~~Section~~Sections 201(a) and (b) for investment in qualified property ~~which is~~ placed in service in an enterprise zone ~~Enterprise Zone~~ created pursuant to the Illinois Enterprise Zone Act [20 ILCS 655] or for qualified property placed in service on or after July 1, 2006 in a river edge redevelopment zone established pursuant to the River Edge Redevelopment Zone Act [65 ILCS 115]. ~~The credit is reported on Schedules 1299 A, C, or D. Recapture (see subsection (g) below) is computed on Schedule 4255.~~
- b) For partners and shareholders of Subchapter S corporations, there shall be allowed an enterprise zone or river edge redevelopment zone investment credit to be

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

determined in accordance with the determination of income and distributive share of income under ~~sections~~Sections 702 and 704 and ~~subchapter~~Subchapter S of the Internal Revenue Code.

- c) The credit shall be .5% of the basis for ~~such~~ property in a zone.
- d) The credit shall be available only in the taxable year in which the property is placed in service in the enterprise zone or river edge redevelopment zone~~Enterprise Zone~~ and shall not be allowed to the extent that it would reduce a taxpayer's liability for the tax imposed by IITA ~~Section~~Sections 201(a) and (b) below zero.
 - 1) Qualifying property shall be considered placed in service in an Illinois enterprise zone or river edge redevelopment zone ~~Enterprise Zone~~ on the date on which the property is placed in a condition or state of readiness and availability for a specifically assigned function.
 - 2) Property that is disposed of, is moved out of the enterprise zone or river edge redevelopment zone~~Enterprise Zone~~, or ~~which~~ ceases to qualify for any other reason during the same taxable year it was placed in service in an enterprise zone or river edge redevelopment zone ~~Enterprise Zone~~ will not be considered in computing the credit for the taxable year.
 - 3) The credit shall be allowed for the tax year in which the property is placed in service, or, if the amount of the credit exceeds the original liability or the liability as later amended, ~~the such~~ excess may be carried forward and applied to the tax liability of the 5 taxable years following the excess credit year.
 - 4) The credit shall be applied to the earliest year for which there is a liability.
 - 5) If there is credit for more than one tax year that is available to offset a liability, the credit accruing first in time shall be applied first.
- e) The term "qualified property" means property ~~that~~which is:
 - 1) tangible, whether new or used. The terms "new" and "~~or~~used" shall have their commonly ascribed meanings. Buildings and structural components of buildings may be qualified property. The term tangible property

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

generally includes:

- A) objects or things that are physically capable of being touched and seen and over which a person may assert rights of ownership.
 - B) personalty or realty, which may consist of such items as buildings, component parts of buildings, machinery, equipment and vehicles.
 - C) ~~items~~Items such as stock certificates, bonds, notes and the like are not tangible personal property. While the certificate or paper may be tangible, the item itself, the share of ownership of a corporation or the promise to pay, is an intangible that is memorialized by the paper.
- 2) depreciable pursuant to IRC ~~section~~Section 167, except that 3-year property as defined in IRC ~~section~~Section 168(c)(2)(A) is not eligible for the credit.
- A) Depreciable property is property used in the trade or business of a taxpayer, or held for production of income, ~~that~~which is subject to wear and tear, exhaustion, or obsolescence.
 - B) Property that is depreciated under the Modified Accelerated Cost Recovery System (~~MACRS~~MARCS), as provided by IRC section~~Section~~ 168 of the Internal Revenue Code, is considered depreciable pursuant to IRC section~~Section~~ 167 for purposes of the enterprise zone or river edge redevelopment zone ~~Enterprise Zone~~ Investment Credit.
 - C) Examples of tangible property that is not depreciable include land, inventories or stock-in-trade, natural resources, and coin or currency.
 - D) The provisions of IRC section~~Internal Revenue Code Section~~ 1.167(a)-4 will be utilized in making determinations as to whether particular leasehold improvements are depreciable.
 - E) IRC section 179 allows taxpayers, under certain circumstances, to expense a designated dollar amount of equipment purchased in a

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

single tax year. Based on this provision, if the total cost of the property was equal to or less than the amount specified under IRC section 179, the taxpayer has the option of expensing the cost all in one year as a depreciation expense. While the property does have a useful life of four or more years, since the election was made to completely expense the cost of the property in one year, the property has no federal depreciable basis and does not have a basis upon which to compute the Illinois investment tax credit. Property not fully expensed under section 179 would qualify for the credit based on the cost of the depreciable property reduced by the section 179 deduction.

- 3) acquired by purchase as defined in IRC ~~section~~Section 179(d).
- A) A purchase is any acquisition of property except:
- i) an acquisition from a person whose relationship to the acquiring person is such that a resulting loss would be disallowed under IRC ~~section~~Sections 267 or 707(b);
 - ii) an acquisition by one component member of a controlled group from another component member of the group;
 - iii) an acquisition of property if the basis of the property in the hands of the person acquiring it is determined in whole or in part by its adjusted basis in the hands of the person from whom the property was acquired; or
 - iv) an acquisition of property, the basis of which is determined under IRC ~~section~~Section 1014(a). IRC ~~section~~Section 1014(a) covers property received from a decedent. Property acquired by bequest or demise is not acquired by purchase.
- B) For purposes of determining whether property is acquired by purchase as defined by IRC ~~section~~Section 179(d), the family of an individual includes only his or her spouse and ancestral and lineal descendants of the individual and his or her spouse.

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

- C) For purposes of determining whether property is acquired by purchase only, a controlled group has the same meaning as in IRC ~~section~~Section 1563(a), except stock ownership of only 50% or more is required (~~also see 26 CFR~~Also See IRS Regulation Section 1.179-4).
- D) Property that the taxpayer constructs, reconstructs or erects is generally considered acquired by purchase.
- 4) used in the enterprise zone or river edge redevelopment zone ~~Enterprise Zone~~ by the taxpayer.
- A) The term "used in an Illinois enterprise zone or river edge redevelopment zone ~~Enterprise Zone~~" means that the property for which the credit is being claimed is physically located within the boundaries of an Illinois enterprise zone ~~Enterprise Zone~~ certified by the Illinois Department of Commerce and Economic Opportunity or river edge redevelopment zone established pursuant to the River Edge Redevelopment Zone Act ~~Community Affairs~~ from the time it is placed in service and while it is being utilized by the taxpayer claiming the credit in that taxpayer's business operation.
- i) Storage of property in an enterprise zone or river edge redevelopment zone ~~Enterprise Zone~~ will not constitute use. The taxpayer must make use of, convert to its service, avail itself of, or employ the property in the enterprise zone or river edge redevelopment zone ~~Enterprise Zone~~ in order to demonstrate use of the property in the enterprise zone or river edge redevelopment zone ~~Enterprise Zone~~.
- ii) A lessor may claim the credit for otherwise qualified property if the property is physically located in an Illinois enterprise zone or river edge redevelopment zone ~~Enterprise Zone~~ from the time it is placed in service and all other conditions of eligibility for the credit are met.
- iii) A lessee of tangible property may never claim the credit because a lessee has not acquired the property by purchase.

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

- B) Mobile property, such as vehicles, must be used predominantly in an Illinois enterprise zone or river edge redevelopment zone ~~Enterprise Zone~~ in order to qualify for the credit.
- i) Removal of such property from the enterprise zone or river edge redevelopment zone ~~Enterprise Zone~~ for a temporary or transitory purpose will not disqualify the property so long as it continues to be used predominantly in the enterprise zone or river edge redevelopment zone ~~Enterprise Zone~~.
- ii) Mobile property is considered to be predominantly used in an ~~enterprise~~ Enterprise zone or river edge redevelopment zone if usage in the enterprise zone or river edge redevelopment zone ~~Enterprise Zone~~ exceeds usage outside of the enterprise zone or river edge redevelopment zone ~~Enterprise Zone~~.
- 5) not property that has been previously used in Illinois in such a manner and by such a person as would qualify for the credit.
- A) Generally, used property will not qualify for the credit if it was previously used in Illinois in such a manner that it could have qualified for the credit.
- B) However, property that would otherwise qualify for the credit will not be disqualified because it was previously used in Illinois in such a manner that it could have qualified for the credit, if that use pre-dated the effective date of the law that established the credit.

EXAMPLE 1: Corporation A purchases a used pickup truck for use in its manufacturing business in Illinois from an Illinois resident who used the truck for personal purposes in Illinois. If the truck meets all other requirements for the credit, it will not be disqualified because it has been previously used in Illinois for a non-qualifying purpose.

EXAMPLE 2: Corporation A purchases a used pickup truck from Corporation B. Corporation B used the truck in its business in a

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

qualifying manner and could have claimed the credit for the truck, but did not. Corporation A may not claim the credit for the truck because the truck has been previously used in Illinois in such a manner that it could have qualified for the credit.

- f) The basis of qualified property shall be the basis used to compute the depreciation deduction for federal income tax purposes. If the basis of the property for federal income tax depreciation purposes is increased after it has been placed in service in the enterprise zone or river edge redevelopment zone ~~Enterprise Zone~~ by the taxpayer, the amount of ~~the such~~ increase shall be deemed property placed in service on the date of the such increase in basis.
- g) If, during any taxable year, any property ceases to be qualified property in the hands of the taxpayer within 48 months after being placed in service, or the situs of any qualified property is moved outside the enterprise zone or river edge redevelopment zone ~~Enterprise Zone~~ within 48 months after being placed in service, the tax imposed under IITA ~~Section~~ Sections 201(a) and (b) for ~~the such~~ taxable year shall be increased.
- 1) Any property disposed of by the taxpayer within 48 months after being placed in service ceases to qualify.
- A) A taxpayer disposes of property when he or she sells the property, exchanges or trades-in worn-out property for new property, abandons the property or retires it from use.
- B) Property destroyed by casualty, stolen, or transferred as a gift is disposed of property.
- C) Property that is mortgaged or used as security for a loan is not disposed of property, provided that the taxpayer continues to use the property in its business within an Illinois enterprise zone or river edge redevelopment zone ~~Enterprise Zone~~.
- D) Property transferred to a trustee in bankruptcy is considered disposed of property.
- E) A transfer of property by foreclosure is a disposition of property.

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

- F) A reduction in the basis of qualified property resulting from a redetermination of the purchase price of the property is a disposition of property to the extent of ~~the such~~ reduction in basis in the year in which the reduction takes place. For example, this would occur when property is purchased and placed in service in one year, and in a later year the taxpayer receives a refund of a portion of the original purchase price.
- 2) Any property converted to personal use ceases to qualify for the credit.
- 3) The increase in tax shall be determined by:
- A) recomputing the investment credit ~~that which~~ would have been allowed for the year in which credit for ~~the such~~ property was originally allowed by eliminating ~~the such~~ property from ~~the such~~ computation, and
- B) subtracting ~~the such~~ computed credit from the amount of credit previously allowed. The difference between the recomputed credit and the credit actually claimed is added to the income tax for the year in which the property ceased to qualify or was moved outside of the ~~enterprise zone or river edge redevelopment zone Enterprise Zone~~.

EXAMPLE: In ~~2007~~~~1985~~, Corporation A places qualifying property with a basis of \$55,000 into service in an ~~enterprise zone or river edge redevelopment zone Enterprise Zone~~ located in Illinois and computes a Section 201(f) ~~enterprise zone or river edge redevelopment zone Enterprise Zone~~ Investment Tax Credit of \$275.~~00~~ (\$55,000 x .5%). Corporation A's ~~2007~~~~1985~~ income tax liability is \$420. After the application of the credit, Corporation A has remaining income tax liability of \$145. In the following year, Corporation A moved a qualifying asset having a basis in ~~2007~~~~1985~~ of \$5,000 from the ~~enterprise zone or river edge redevelopment zone Enterprise Zone~~ to another location in Illinois. As a result, Corporation A is required to recapture a portion of the ~~enterprise zone or river edge redevelopment zone Enterprise Zone~~ Investment Credit that was applied against its ~~2007~~~~1985~~ income tax liability. In order to determine its additional income tax for ~~2008~~~~1986~~, Corporation A must recompute its ~~2007~~~~1985~~ ~~enterprise zone~~ ~~Enterprise~~

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

~~Zone~~ Investment Tax Credit by eliminating the disqualified property (\$55,000 - \$5,000 x .5% = \$250). This recomputed credit is subtracted from the ~~enterprise zone Enterprise Zone~~ Investment Tax Credit actually used in 1985 (\$260 - \$250 = \$10), and the difference is added to Corporation A's ~~2008~~1986 income tax after application of the Investment Tax Credit~~1986 investment credit~~.

(Source: Amended at 32 Ill. Reg. 872, effective January 7, 2008)

Section 100.2160 Research and Development Credit (IITA 201(k))

- a) ~~For Beginning with~~ For Beginning with tax years ending after July 1, 1990 and prior to December 31, 2003, and beginning again for tax years ending on or after December 31, 2004, a taxpayer shall be allowed a credit against the tax imposed by IITA ~~Section Sections~~ 201(a) and (b) for increasing research activities in this State (IITA 201(k)).
- b) *The credit allowed shall be equal to 6½% of the qualifying expenditures for increasing research activities in this State (IITA Section 201(k)).*
- c) Not all "research" will qualify for the credit. Nor will every expenditure associated with research qualify for the credit. Qualified research is defined in IRC Section 41(d). Qualifying expenditures means the qualifying expenditures as defined for the federal credit for increasing research activities which would be allowable under IRC Section 41 and which are conducted in this State.
 - 1) IRC Section 41(b) defines "qualifying research expenses" as the sum of the in-house research expenses and the contract research expenses paid or incurred by the taxpayer during the taxable year in carrying on any trade or business of the taxpayer.
 - 2) Qualifying expenditures also include basic research payments. Basic research payments are defined in IRC Section 41(e).
- d) Qualifying expenditures for increasing research activities in this State means the excess of qualifying expenditures for the taxable year in which incurred over qualifying expenditures for the base period. Qualifying expenditures for the base period means the average of the qualifying expenditures for each year in the base period.

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

- e) Base period means the 3 taxable years immediately preceding the taxable year for which the determination is being made. For purposes of computing the average qualifying expenditures for the base period:
- 1) For taxable years after a taxpayer has succeeded to the tax items of a corporation under IITA Section 405(a), qualifying expenditures incurred by the corporation during the base period shall be deemed to be qualifying expenditures of the taxpayer.
 - 2) If the taxpayer incurred no qualifying expenditures during a base period year, the qualifying expenditures for that year are zero, even if the taxpayer was not in existence or conducting any business in Illinois during that year.
 - 3) If the taxpayer was doing business in this State for only part of a base period year, the qualifying expenditures for that year shall be equal to the qualifying expenditures actually incurred, multiplied by 365 and divided by the number of days in the portion of the taxable year during which the taxpayer was doing business in this State.
 - 4) Qualifying expenditures incurred in taxable years in which the taxpayer did not qualify for the credit, including taxable years ending on or after December 31, 2003 and prior to December 31, 2004 must be included in the computation of qualifying expenditures for the base period.
- f) *Any credit in excess of the tax liability for the taxable year may be carried forward to offset the income tax liability of the taxpayer for the next 5 years or until it has been fully utilized, whichever occurs first (IITA Section 201(k)), provided that no credit earned in a tax year ending prior to December 31, 2003 may be carried forward to any year ending on or after December 31, 2003.* If an unused credit is carried forward to a given year from 2 or more earlier years, that credit arising in the earliest year is applied first. If a tax liability for the given year remains, the credit from the next earliest year is applied. Any remaining unused credit or credits can be carried forward to the next following year in which a tax liability exists. However, the credit can only be carried forward 5 years from the year in which the taxpayer incurred the expense for which the credit was given. Any unused credit is then forfeited.

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

- g) Combined returns. In the case of taxpayers filing combined returns, Section 100.5270(d) of this Part details the manner in which the credit is determined.
- h) Pass-through of credits to partners and Subchapter S corporation shareholders.
- 1) For tax years beginning on and after January 1, 1999, partners and shareholders of Subchapter S corporations *shall be allowed a credit under this subsection to be determined in accordance with the determination of income and distributive share of income under Sections 702 and 704 and Subchapter S of the Internal Revenue Code.* No inference shall be drawn from the enactment of Public Act 91-644, which expressly allows this pass-through of credits, in construing IITA Section 201(k) for tax years beginning prior to January 1, 1999.
- 2) Repeal and re-enactment of the credit. Due to the repeal of the credit for taxable years ending on or after December 31, 2003, and the re-enactment of the credit for taxable years ending on or after December 31, 2004:
- A) A partner or shareholder may not claim a credit passed through from a partnership or Subchapter S corporation for any taxable year of the partner or shareholder ending on or after December 31, 2003 and prior to December 31, 2004, even if the credit was earned in a taxable year of the partnership or Subchapter S corporation ending prior to December 31, 2003.
- B) No credit may be earned by a partnership or Subchapter S corporation for a taxable year ending on or after December 31, 2003 and prior to December 31, 2004, and passed through to a partner or shareholder, even if the partner or shareholder would have reported the credit for a taxable year ending on or after December 31, 2004.

(Source: Amended at 32 Ill. Reg. 872, effective January 7, 2008)

SUBPART N: TIME AND PLACE FOR FILING RETURNS

Section 100.5070 List of Investors in Potentially Abusive Tax Shelters

- a) Requirement to Furnish List of Investors in Potentially Abusive Tax Shelters

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

- 1) In General. Under IITA Section 1405.6(a), any person required to maintain a list with respect to a "potentially abusive tax shelter" in accordance with 26 USC 6112 and 26 CFR 301.6112-1 (2007) and who is required to furnish the list to the Internal Revenue Service on or after July 30, 2004 shall furnish the list to the Department at the time and in the manner provided under subsection (b) of this Section. 26 USC 6111 and 6112 were amended by Public Law 108-357 to delete any reference to "tax shelter". Accordingly, IITA Section 1405.6(a) has no application after October 22, 2004, the effective date of Public Law 108-357.
- 2) Special Rule for Listed Transactions. Under IITA Section 1405.6(b), any person required for federal income tax purposes to maintain a list with respect to a transaction entered into on or after February 28, 2000 that becomes a listed transaction at any time shall furnish the list to the Department, regardless of whether the list is furnished to the Internal Revenue Service, at the time and in the manner provided under subsection (b) of this Section.
- 3) Nexus with this State. Furnishing an investor list under IITA Section 1405.6 is required only if the potentially abusive tax shelter or the listed transaction has nexus with this State.
 - A) Potentially Abusive Tax Shelters
 - i) IITA Section 1405.6(d) provides that, if the transaction with respect to which list maintenance is required is a tax shelter (other than a listed transaction) as defined in 26 USC 6111, then the provisions of IITA Section 1405.6(a) and subsection (a) of this Section do not apply unless the tax shelter is:
 - Organized in Illinois,
 - Doing Business in Illinois, or
 - Deriving income from sources within Illinois.

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

- A) Any list that includes a listed transaction having nexus with Illinois shall be furnished as provided in this Section, regardless of whether the list is furnished to the Internal Revenue Service, by the later of:
- i) 60 days after entering into the transaction having nexus with Illinois,
 - ii) 60 days after the transaction having nexus with Illinois becomes a listed transaction, or
 - iii) February 10, 2008.
- B) The list shall include all of the same information required to be included for federal income tax purposes (including any statement regarding claims of privilege) as of the date the investor list is required to be furnished to the Department, plus any additional information required by the Department by published guidance. If, after the date in which a list is required to be furnished to the Department under this subsection (b)(2), a transaction having Illinois nexus is entered into that is required for federal income tax purposes to be included on a list previously furnished the Department, then the previously furnished list must be supplemented no later than 60 days after the transaction is entered into. The supplement must include, with respect to the transaction, all of the same information required to be included on the list for federal income tax purposes. In the event that the requirement to maintain a list with respect to a transaction described in this subsection (b)(2) is suspended under federal law on account of a ruling request at the time disclosure is otherwise required under this Section, the list shall be furnished by the date the federal suspension period terminates.
- 3) Special Rule. IITA Section 1007(c) allows the Director to rescind all or any portion of the penalty imposed for failure to comply with the requirements of IITA Section 1405.6 when, among other circumstances, imposing the penalty would be against equity and good conscience, or when rescinding the penalty would promote compliance with the requirements of the IITA and effective tax administration. Pursuant to

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

IITA Section 1007(c), with respect to any transaction entered into prior to the time the transaction becomes a listed transaction, no penalty shall be imposed under Section 1007 if the person properly furnishes the list required under this Section not later than 120 days after the transaction becomes a listed transaction. Failure to furnish the list within the time required in this subsection (b)(3) does not preclude rescission of the penalty in accordance with IITA Section 1007(c).

- 4) Dissolution or Liquidation of Material Advisor. In any case in which a list is furnished to the Office of Tax Shelter Analysis pursuant to 26 CFR 301.6112-1(f) (2007), the list shall also be furnished to the Department by the date on which the list is required to be furnished to the Internal Revenue Service. The list shall include all of the same information required to be included for federal income tax purposes (including any statement regarding claims of privilege), plus any additional information required by the Department by published guidance.
- 5) Place for Filing. Lists required to be furnished to the Department under this Section shall be sent to:

Illinois Department of Revenue
P.O. Box 19029
Springfield IL 62794-9029

- c) Exceptions. A list is not required to be furnished under IITA Section 1405.6 and this Section if:
- 1) At the time a list is otherwise required to be furnished to the Department under this Section on the basis that the transaction is a listed transaction, the Internal Revenue Service has removed the identification of transactions that are the same as or substantially similar to the transaction as listed transactions;
- 2) Before the time in which the list is otherwise required to be furnished to the Department under this Section, the Department makes a determination by published guidance that a list is not required to be furnished with respect to a particular transaction or type of transaction; or

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

- 3) With respect to a listed transaction for which, at the time the list is required to be furnished to the Internal Revenue Service, the same list had previously been furnished the Department pursuant to this Section, provided the list furnished the Internal Revenue Service does not contain additional information.
- d) Protective Filing. If a person required to furnish a list with respect to a transaction believes in good faith that the State lacks jurisdiction to require the person to comply with this Section or that any information required to be disclosed under this Section is privileged or otherwise exempt from disclosure, the person may file a statement with the Department setting forth the basis of any claim of lack of jurisdiction. If the statement contains a detailed description of the transaction that describes both the tax structure and its expected tax treatment, discloses the number of investors the person is required to include on the list, and includes an explanation of the basis for believing that disclosure is not required, then the filing of the statement shall abate the penalty otherwise imposed under IITA Section 1007 for failing to furnish a list. However, failure to furnish the statement does not preclude rescission of the penalty in accordance with IITA Section 1007(c).

(Source: Added at 32 Ill. Reg. 872, effective January 7, 2008)

Section 100.5080 Registration of Tax Shelters (IITA Section 1405.5)

- a) Requirement to Register Tax Shelters and Listed Transactions.
- 1) Under IITA Section 1405.5(a), any tax shelter organizer required to register a "tax shelter" under 26 USC 6111 is required to register that tax shelter with the Department. 26 USC 6111 was amended by Public Law 108-357 to delete any reference to "tax shelter". Accordingly IITA Section 1405.5(a) has no application after October 22, 2004, the effective date of Public Law 108-357.
- 2) Under IITA Section 1405.5(b), registration *in the form and manner prescribed by the Department* is required for any transactions entered into after February 28, 2000 that become listed transactions (as defined in Section 100.5060 of Subpart N of this Part) at any time. Transactions requiring registration under this provision are those transactions for which

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

a list is required to be furnished to the Department pursuant to IITA Section 1405.6(b) and Section 100.5070(a)(2) of this Part.

- b) Time and Manner for Making Registration. Registration under IITA Section 1405.5(b) and this Section shall be required only of the person required to furnish the investor list with respect to the transaction under Section 100.5070 of this Part. Registration will be due at the time the investor list is required to be furnished to the Department, and properly furnishing the investor list for a transaction (including the name, address, and taxpayer identification number of the person required to furnish the list) shall be deemed to be registration of the transaction for purposes of IITA Section 1405.5(b) and this Section.

(Source: Added at 32 Ill. Reg. 872, effective January 7, 2008)

SECRETARY OF STATE

NOTICE OF EMERGENCY REPEALER

- 1) Heading of the Part: Uniform Partnership Act
- 2) Code Citation: 14 Ill. Adm. Code 165
- 3)

<u>Section Numbers:</u>	<u>Emergency Action:</u>
165.10	Repeal
165.20	Repeal
165.30	Repeal
165.40	Repeal
165.50	Repeal
165.60	Repeal
165.70	Repeal
165.80	Repeal
165.90	Repeal
- 4) Statutory Authority: Implementing and authorized by the Uniform Partnership Act [805 ILCS 205]
- 5) Effective Date of Repealer: January 3, 2008
- 6) If this emergency repealer is to expire before the end of the 150-day period, please specify the date on which it is to expire: Not set to expire before the end of the 150-day period.
- 7) Date Filed with the Index Department: January 3, 2008
- 8) A copy of the emergency repealer, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Reason for Emergency: The corresponding statute, 805 ILCS 205, is set to expire January 1, 2008.
- 10) A Complete Description of the Subjects and Issues Involved: Each Section number discussed below is being repealed to coincide with the repeal of 805 ILCS 205. The following is a brief description of the Sections:

Section 165.10 pertains to definitions;
Section 165.20 pertains to applicability;
Section 165.30 pertains to filing locations;

SECRETARY OF STATE

NOTICE OF EMERGENCY REPEALER

Section 165.40 pertains to business hours;
Section 165.50 pertains to fees;
Section 165.60 pertains to forms requirements;
Section 165.70 pertains to service of process;
Section 165.75 pertains to sale of information;
Section 165.80 pertains to right to counsel;
Section 165.90 pertains to interrogatories.

- 11) Are there any proposed rulemakings pending on this Part? No
- 12) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.
- 13) Information and questions regarding this emergency repealer shall be directed to:

Tony Gordon
Assistant General Counsel
Secretary of State
100 W. Randolph St.
Suite 5-400
Chicago, IL 60601

Phone: 312/814-9509
Email: tgordon1@ilsos.net

The full text of the Emergency Repealer begins on the next page:

SECRETARY OF STATE

NOTICE OF EMERGENCY REPEALER

TITLE 14: COMMERCE
SUBTITLE A: REGULATION OF BUSINESS
CHAPTER I: SECRETARY OF STATEPART 165
UNIFORM PARTNERSHIP ACT [\(REPEALED\)](#)

Section

165.10	Definitions
165.20	Applicability
165.30	Filing Locations
165.40	Business Hours
165.50	Fees
165.60	Forms Requirements
165.70	Service of Process
165.75	Sale of Information
165.80	Right to Counsel
165.90	Interrogatories

AUTHORITY: Implementing and authorized by the Uniform Partnership Act [805 ILCS 205].

SOURCE: Adopted at 19 Ill. Reg. 1915, effective February 15, 1995; amended at 21 Ill. Reg. 16188, effective December 1, 1997; repealed by emergency rulemaking at 32 Ill. Reg. 901, effective January 3, 2008.

Section 165.10 Definitions

In addition to the definitions contained in Section 2 of the Uniform Partnership Act [805 ILCS 205/2 et seq.] the following definitions shall apply:

"Department" shall mean the Department of Business Services of the Office of the Secretary of State.

"Director" shall mean the Director of the Department of Business Services.

"Interrogatories" shall mean a written request for information to ascertain whether the limited liability partnership has complied with the provisions of the UPA.

"RLLP" shall mean Registered Limited Liability Partnership.

SECRETARY OF STATE

NOTICE OF EMERGENCY REPEALER

"Secretary" shall mean the Secretary of State of Illinois.

"UPA" shall mean the Uniform Partnership Act [805 ILCS 205 et seq.].

"UPA Division" shall mean that unit of the Department which administers the provisions of the UPA.

Section 165.20 Applicability

The provisions of this Part shall be applicable to all registered limited liability partnerships which are, will or may become subject to the provisions of the UPA.

Section 165.30 Filing Locations

- a) All documents required to be filed with the Secretary of State pursuant to the UPA shall be filed with the Department.
- b) Documents submitted for filing in Springfield, the Department's headquarters, shall be filed at the following address.

Department of Business Services
Uniform Partnership Division
Room 357, Howlett Building
Springfield, Illinois 62756

- c) Documents submitted by mail for filing should be sent to the Department's Springfield office.

Section 165.40 Business Hours

The Department of Business Services' business hours in Springfield are 8:00 a.m. to 4:30 p.m., Monday through Friday, except holidays.

Section 165.50 Fees

All documents required by this Act to be filed in the Office of the Secretary of State must include the fees set forth in the UPA. All fees for filing of any document, or copies of any document, shall be paid only by money order, certified check, cashier's check, or a check drawn on the

SECRETARY OF STATE

NOTICE OF EMERGENCY REPEALER

account of an Illinois licensed attorney or certified public accountant, made payable to the "Secretary of State," or by approved credit card. No refund of any fees shall be paid by the Department.

Section 165.60 Forms Requirements

- a) All documents required by this Act to be filed in the Office of Secretary of State shall be made on forms prescribed and furnished by the Secretary of State.
- b) All documents required by this Act to be filed in the Office of the Secretary of State shall contain the federal employer identification number of the registered limited liability partnership with respect to which the document is filed.
- c) All attachments submitted by a registered limited liability partnership shall be typewritten or printed on 8½ x 11 white paper.

Section 165.70 Service of Process

- a) For the purposes of Section 8.1 of the UPA, the procedures set forth in this Section shall apply.
- b) Any process, notice or demand to be served under this Part shall be made upon the Secretary, the Director, or any employee of the Department designated by the Director to accept such service for him or her, in the following manner:
 - 1) Service shall comply with the provisions of Part 2 of the Civil Practice Law [735 ILCS 5/2-201 et seq.], the Federal Rules of Civil Procedure (28 USCA), or any administrative rule of service, as may be appropriate.
 - 2) An affidavit of compliance in the form prescribed and furnished by the Secretary of State must be appended to the process, notice or demand to be served, contain the information described in this subsection (b) herein, be signed by the person instituting the action, suit or proceeding or by an attorney of record, and the signature of the affiant, without more, shall constitute the affirmation or acknowledgement, under penalties of perjury, that the affidavit is the act or deed of the affiant and that the facts stated therein are true.
- c) Each process, notice or demand shall be submitted with a separate payment fee.

SECRETARY OF STATE

NOTICE OF EMERGENCY REPEALER

- d) The Department of Business Services shall maintain original file copies which shall be in paper form or an acceptable archival medium, and originals may be discarded upon verification of archival medium (microfilm or electronic imaging) and upon approval by the State Records Commission [5 ILCS 160/16].

Section 165.75 Sale of Information

- a) Information concerning any registered partnership shall be available to the public from the Department of Business Services upon written request, or by telephone or in person with advance payment, using check or approved credit card, at the office of the Department as stated in Section 165.30.
- b) Information concerning the registered partnerships on file with the Department shall be in the form of an abstract of record, printed from the computer file of the Department, and shall consist of the registered partnership name, its date of registration, its registered agent, the address of the office at which the records are maintained, the foreign jurisdiction where formed (if applicable), the date of filing with the Department, and the file number with the Department. The fee for each abstract of record shall be \$25.
- c) Computer connections by non-Department users
- 1) Computer terminal connections to the Secretary's computer may be provided to other State agencies. This service may be made available at no charge so long as the requesting agency commits to pay all costs and so long as the service does not substantially increase costs or network traffic on the Secretary's computer.
 - 2) Computer terminal connection may be allowed to commercial users provided that all costs are borne by the commercial user. The allowance of computer terminal connections shall be contingent upon the best interests of the Office of the Secretary of State, which is based upon the volume of requests received, the computer terminal connections as opposed to other methods, and other factors which may impede the operations of the Office of the Secretary of State. This service will be suspended at anytime, should the connection interfere with the Secretary's internal work schedule and processing.

SECRETARY OF STATE

NOTICE OF EMERGENCY REPEALER

- 3) Fees for information supplied by means of computer connections between the Secretary of State's computers and those of any other agency, corporation, or person may be paid on a monthly basis for all information delivered during that month, as determined by the Secretary and the agency or person to be the most economic way of billing. The proper fee shall be determined by negotiation between the agency or commercial user and the Director based upon telephone line charges, rental or purchase fees for terminals, and other appropriate factors, such as statutory fees for certain types of information and the requirements of this Part.
 - 4) No user may reproduce any list or abstract from the computer connection. Lists of information, including the names and information concerning all registered partnerships, may only be purchased pursuant to the provisions of this Part. Computer connections are to be used only to look up information. No changes on the Department's files may be made by any computer connection user.
- d) Terms and conditions for computer maintained information
- 1) The information supplied by the Department to other agencies, commercial users, or other persons shall be in the abstract format only, as specified in subsection (b) of this Section.
 - 2) The fee for the entire file of current and expired registered limited liability partnerships shall be \$1500. The monthly update shall cost \$400 per update. The update is available through modem access only. If the file is purchased on computer tape, the purchaser shall supply the Department with a computer tape or tapes compatible with the Secretary's computer equipment, on to which tapes the information shall be transferred.
 - 3) All purchase requests shall be submitted in writing to the Director. Payment shall be made to the Department before delivery of the information to the purchaser. No refunds will be made after the request is approved by the Director. Payment shall be made by check, money order made payable to the "Secretary of State" or credit card.
 - 4) All commercial or other type purchasers shall sign a written agreement setting forth the terms and conditions required by Illinois law, and as may be deemed appropriate after negotiation between the Department and the

SECRETARY OF STATE

NOTICE OF EMERGENCY REPEALER

purchaser.

- 5) The commercial purchaser shall not resell to any other purchaser the information obtained from the Department in the same form or format in which it is obtained from the Department. Resale of information in the same form or format shall result in cancellation of access to information by the Department. The commercial purchaser may sell the information to the subscribers of its computer or business information services only to the extent that its subscribers request on an individual entity by entity basis.

Section 165.80 Right to Counsel

- a) Hearing procedures will be governed by 14 Ill. Adm. Code 150.Subpart A.
- b) Any party may appear and be heard through an attorney at law licensed to practice in the State of Illinois.
 - 1) Attorneys admitted to practice in states other than the State of Illinois may appear and be heard by special leave of the hearing officer appointed to conduct the hearing, upon the attorney's verbal representation or written documentation as to the attorney's admission to the practice of law.
 - 2) A natural person may appear and be heard on his or her own behalf.
 - 3) A corporation, association, or partnership may appear and present evidence by any bonafide officer, employee or representative.
- c) Only an attorney properly licensed shall represent anyone else in any hearing in any matter involving the exercise of legal skill or knowledge. The standards of conduct shall be the same as before the Courts of the State of Illinois.
- d) A hearing officer may be disqualified from presiding over a hearing wherein the hearing officer has an ethical conflict of interest or has an economic interest in the outcome of the proceeding.

Section 165.90 Interrogatories

- a) The Secretary of State may propound to any registered limited liability partnership subject to the provisions of the Act, and to any partner, such

SECRETARY OF STATE

NOTICE OF EMERGENCY REPEALER

interrogatories as may be reasonably necessary and proper to enable the Secretary of State to ascertain whether the registered limited liability partnership has complied with all the applicable provisions of the Act and this Part. The interrogatories shall be answered within 30 days after the mailing thereof, or within such additional time as shall be fixed by the Secretary of State, and the answers thereto shall be full and complete and shall be made in writing and under oath. If the interrogatories are directed to a person, they shall be answered by him or her, and if directed to a registered limited liability partnership, they shall be answered by the managing partner/s or management committee thereof. The Secretary of State need not file any document to which the interrogatories relate until the interrogatories are answered as herein provided and not then if the answers thereto disclose that the document is not in conformity with the provisions of the Act and this Part. The Secretary of State shall certify to the Attorney General, for such action as the Attorney General may deem appropriate, all interrogatories and answers thereto that disclose a violation of any of the provisions of the Act and this Part.

- b) Interrogatories propounded by the Secretary of State and the answers thereto shall not be open to public inspection, nor shall the Secretary of State disclose any facts or information obtained therefrom, except insofar as official duty may require them to be made public or in the event the interrogatories or the answers thereto are required for evidence in any criminal proceeding or in any other action by the State.

SECRETARY OF STATE

NOTICE OF EMERGENCY REPEALER

- 1) Heading of the Part: Revised Uniform Limited Partnership Act
- 2) Code Citation: 14 Ill. Adm. Code 170
- 3)

<u>Section Numbers</u> :	<u>Emergency Action</u> :
170.10	Repeal
170.11	Repeal
170.12	Repeal
170.13	Repeal
170.14	Repeal
170.15	Repeal
170.16	Repeal
170.17	Repeal
170.20	Repeal
170.30	Repeal
170.40	Repeal
- 4) Statutory Authority: Implementing and authorized by the Revised Uniform Limited Partnership Act [805 ILCS 210]
- 5) Effective Date of Repealer: January 3, 2008
- 6) If this emergency repealer is to expire before the end of the 150-day period, please specify the date on which it is to expire: Not set to expire before end of 150-day period.
- 7) Date Filed with the Index Department: January 3, 2008
- 8) A copy of the emergency repealer, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Reason for Emergency: Corresponding statute, 805 ILCS 210, is slated to expire January 1, 2008, thus invalidating Part 170.
- 10) A Complete Description of the Subjects and Issues Involved: Each Section number discussed below is being repealed to coincide with the repeal of 805 ILCS 210. The following is a brief description of the Sections:

Section 170.10 pertains to definitions;
Section 170.11 pertains to filing locations;

SECRETARY OF STATE

NOTICE OF EMERGENCY REPEALER

Section 170.12 pertains to business hours;
Section 170.13 pertains to fees;
Section 170.14 pertains to service of process;
Section 170.15 pertains to additional requirements for forms;
Section 170.16 pertains to assumed names;
Section 170.17 pertains to sale of information;
Section 170.20 pertains to filing requirements;
Section 170.30 pertains to refunds; and
Section 170.40 pertains to interrogatories.

- 11) Are there any proposed rulemakings pending on this Part? Yes the permanent replacement repealer for this Part.
- 12) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.
- 13) Information and questions regarding this emergency repealer shall be directed to:

Tony Gordon
Assistant General Counsel
Secretary of State
100 W. Randolph St.
Suite 5-400
Chicago, IL 60601

Phone: 312-814-9509
Email: tgordon1@ilsos.net

The full text of the Emergency Repealer begins on the next page:

SECRETARY OF STATE

NOTICE OF EMERGENCY REPEALER

TITLE 14: COMMERCE
SUBTITLE A: REGULATION OF BUSINESS
CHAPTER I: SECRETARY OF STATEPART 170
REVISED UNIFORM LIMITED PARTNERSHIP ACT [\(REPEALED\)](#)

Section

170.10	Definitions
170.11	Filing Locations
170.12	Business Hours
170.13	Fees
170.14	Service of Process
170.15	Additional Requirements for Forms
170.16	Assumed Names
170.17	Sale of Information
170.20	Filing Requirements
170.30	Refunds
170.40	Interrogatories

AUTHORITY: Implementing and authorized by the Revised Uniform Limited Partnership Act [805 ILCS 210].

SOURCE: Adopted at 11 Ill. Reg. 10314, effective July 1, 1987; amended at 14 Ill. Reg. 1480, effective January 15, 1990; amended at 16 Ill. Reg. 11196, effective July 1, 1992; amended at 17 Ill. Reg. 427, effective January 1, 1993; amended at 20 Ill. Reg. 7056, effective May 8, 1996; amended at 21 Ill. Reg. 16184, effective December 1, 1997; amended at 27 Ill. Reg. 8880, effective May 19, 2003; repealed by emergency rulemaking at 32 Ill. Reg. 910, effective January 3, 2008.

Section 170.10 Definitions

In addition to the definitions contained in Section 101 of the Revised Uniform Limited Partnership Act [805 ILCS 210] the following definitions shall apply:

"Abstracts of Limited Partnerships" shall consist of a hard copy print-out of the information shown on the computer records of the Department of Business Services of the Office of the Secretary of State.

SECRETARY OF STATE

NOTICE OF EMERGENCY REPEALER

"Department" shall mean the Department of Business Services of the Office of the Secretary of State.

"Director" shall mean the Director of the Department of Business Services.

"RULPA" shall mean the Revised Uniform Limited Partnership Act [805 ILCS 210].

"RULPA Division" shall mean that unit of the Department which administers the provisions of RULPA.

"Secretary" shall mean the Secretary of State of Illinois.

Section 170.11 Filing Locations

- a) All documents required to be filed with the Secretary of State pursuant to the RULPA shall be filed with the Department.
- b) Documents submitted for filing in Springfield, the Department's headquarters, shall be filed at the following address.

Department of Business Services
Limited Partnership Division
Room 330, Howlett Building
Springfield, Illinois 62756

- c) Documents submitted by mail for filing should be sent to the Department's Springfield office.

Section 170.12 Business Hours

The Department of Business Services business hours are 8:00 a.m. to 4:30 p.m. in Springfield, Monday through Friday, except holidays.

Section 170.13 Fees

All fees for filing of any document, as set forth in this Part or in Section 1102 of the RULPA, shall be paid only by money order, certified check, cashier's check, or a check drawn on the account of an Illinois licensed attorney or certified public accountant, made payable to the

SECRETARY OF STATE

NOTICE OF EMERGENCY REPEALER

"Secretary of State" or by a credit card approved by the Secretary of State's Department of Accounting Revenue through contracts let pursuant to bid. Any check that is returned by the bank to the Secretary of State's Office for any reason will immediately void the transaction for which it was intended and the Secretary of State will treat the filing event as never occurring.

Section 170.14 Service of Process

- a) For the purposes of Sections 107 and 909 of the RULPA, the procedures set forth in this Section shall apply.
- b) Any process, notice or demand to be served under this Part shall be made upon the Secretary, or the Director, or any employee of the Department designated by the Director to accept such service for him or her, in the following manner:
 - 1) Service shall comply with the provisions of Part 2 of the Civil Practice Law [735 ILCS 5/Art. II, Part 2], the Federal Rules of Civil Procedure (28 USCA), or any administrative rules of service, as may be appropriate.
 - 2) The affidavit of compliance required by Section 107 and 909 of the RULPA to be appended to the process, notice or demand to be served, containing the information described in subsection (b) of this Section, shall be signed by the person instituting the action, suit or proceeding or by an attorney of record, and the signature of the affiant, without more, shall constitute the affirmation of acknowledgment, under penalties of perjury, that the affidavit is the act or deed of the affiant and that the facts stated therein are true.
- c) The affidavit of compliance shall state:
 - 1) the title of the court or administrative agency;
 - 2) the title of the case, showing the names of the first named plaintiff and the first named defendant;
 - 3) the number of the case;
 - 4) the title of the instrument;
 - 5) the title of the limited partnership to be served;

SECRETARY OF STATE

NOTICE OF EMERGENCY REPEALER

- 6) the basis for service on the Secretary;
 - 7) the address to which the instrument is to be sent (by registered or certified mail) by the affiant;
 - 8) the name, address and telephone number of the attorney of records for the plaintiff or other affiant.
- d) Service of any process, notice or demand made under this Part shall be had with the Department at Room 330, Howlett Building, Springfield, Illinois 62756.
 - e) At the time of any service under this Part, there shall be paid a fee of \$25.00 (see 805 ILCS 210), payable by check or money order to the "Illinois Secretary of State". Each process, notice or demand shall be submitted with a separate payment.
 - f) The Department of Business Services shall maintain original file copies which shall be in paper form or an acceptable archival medium, and originals may be discarded upon verification of archival medium (microfilm or electronic imaging) and upon approval by the State Records Commission (see 5 ILCS 160/16).

Section 170.15 Additional Requirements for Forms

- a) All forms filed with the Department, except the original certificates of limited partnership, application for admission of a foreign limited partnership, and election to be governed by RULPA, shall contain the file number assigned to the partnership by the Department.
- b) All forms and attachments submitted by a limited partnership shall be typewritten on 8½ x 11" white paper.

Section 170.16 Assumed Names

- a) A limited partnership may adopt, change, renew or cancel its assumed name by filing an application with the Department and paying the fee stated at Section 1102(b)(4) of the RULPA. The application shall contain the name of the limited partnership, the file number, the Federal Employer Identification Number (FEIN), and the assumed name to be adopted, changed, renewed or cancelled.

SECRETARY OF STATE

NOTICE OF EMERGENCY REPEALER

- b) The application to adopt, change, or cancel an assumed name shall be on a separate form from the application to renew an assumed name.

Section 170.17 Sale of Information

- a) The Department of Business Services shall not reproduce, or sell any list of limited partnerships on file until July 1, 1991.
- b) Information concerning any limited partnership or limited partnerships shall be available to the public from the Department of Business Services upon written request, or by telephone request with advance payment using an approved credit card when submitted by mail or in person at the offices of the Department as stated in Section 170.11.
- c) Information concerning the limited partnerships on file with the Department shall be in the form of an abstract or record, printed from the computer file of the Department, and shall consist of the limited partnership name, its date of formation, any assumed name, its registered agent, the address of the office at which the records are maintained, the latest date at which the limited partnership will dissolve, the foreign jurisdiction where formed (if applicable), the date of filing with the Department, and the file number with the Department. The fee for each abstract of record shall be \$10.
- d) Copies of all documents pertaining to limited partnerships on file with the Department are available upon written request submitted either by mail, in person or by telephone request with advance payment using an approved credit card to the Springfield office of the Department. The fee for such copies, and certification of any documents, is at least \$10, as stated in 805 ILCS 210/1102.
- e) Computer connections by non-department users
 - 1) Computer terminal connections to the Secretary's computer may be provided to other State agencies. This service may be made available at no charge so long as the requesting agency incurs all costs and so long as the service does not substantially increase costs or network traffic on the Secretary's computer.
 - 2) Computer terminal connection may be allowed to commercial users

SECRETARY OF STATE

NOTICE OF EMERGENCY REPEALER

provided that all costs are borne by the commercial user. The allowance of computer terminal connections shall be contingent upon the best interests of the Office of the Secretary of State, which is based upon the volume of requests received, the cost-effectiveness of providing the information through computer terminal connections as opposed to other methods, and other factors which may impede the operations of the Office of the Secretary of State. This service will be suspended at any time, should the connection interfere with the Secretary's internal work schedules and processing.

- 3) Fees for information supplied by means of computer connections between the Secretary of State's computers and those of any other agency, corporation, or person may be paid on a monthly basis for all information delivered during that month, as determined by the Secretary and the agency or person to be the economically simplest way of billing. The proper fee shall be determined by negotiation between the agency or commercial user and the Director based upon telephone line charges, rental or purchase fees for terminals, and any other appropriate factors, such as statutory fees (see 805 ILCS 210/1102) for certain types of information and the requirements of this Part.
 - 4) No users may print any list or abstract from the computer connection. Lists of RULPA information including the names and information concerning all limited partnerships may only be purchased pursuant to the provisions of this Part. Computer connections are to be used only to look up information. No changes on the Department's RULPA files may be made by any computer connection user.
- f) Terms and conditions for computer maintained RULPA information
- 1) The information supplied by the Department to other agencies, commercial users, or other person, shall be in the abstract format only, as specified in subsection (c) of this Section.
 - 2) The fee for the entire file of current and dissolved limited partnerships, and assumed names, shall be \$1,500. The monthly update shall cost \$400 per update. The update is available by electronic transfer only. If the file is purchased on computer tape, the purchaser shall supply the Department with a computer tape or tapes compatible with the Secretary's computer

SECRETARY OF STATE

NOTICE OF EMERGENCY REPEALER

equipment, on to which tapes the information shall be transferred.

- 3) All purchase requests shall be submitted in writing to the Director. Payment shall be made to the Department before delivery of the information to the purchaser. No refunds will be made after the request is approved by the Director. Payment shall be made by check, money order, or an approved credit card made payable to the "Secretary of State".
- 4) All commercial or other type purchasers shall sign a written agreement setting forth the terms and conditions required by Illinois law, and as may be deemed appropriate after negotiation between the Department and the purchaser.
- 5) The commercial purchaser shall not resell to any other purchaser the information obtained from the Department in the same form or format in which it is obtained from the Department. Resale of information in the same form or format shall result in cancellation of access to information by the Department. The commercial purchaser may sell the information to the subscribers of its computer or business information services only on the basis of each limited partnership as needed by the subscriber.

Section 170.20 Filing Requirements

- a) Corporations serving as general partners in limited partnerships or foreign limited partnerships must comply with the following:
 - 1) a domestic corporation shall be in good standing in Illinois and the partnership registration application shall be executed by a corporate officer.
 - 2) a foreign corporation qualified in Illinois shall be in good standing in Illinois and the partnership registration application shall be executed by a corporate officer.
 - 3) a foreign corporation not qualified in Illinois shall be in good standing in its state of formation and provide a certificate to that effect of such state or jurisdiction with the partnership registration application which shall be executed by a corporate officer.

SECRETARY OF STATE

NOTICE OF EMERGENCY REPEALER

- b) Limited partnerships serving as general partners in limited partnerships or foreign limited partnerships must comply with the following:
- 1) a domestic limited partnership must be in good standing in Illinois and the partnership registration application shall be executed by a general partner.
 - 2) a foreign limited partnership qualified in Illinois shall be in good standing in Illinois and the partnership registration application shall be executed by a general partner.
 - 3) a foreign limited partnership not qualified in Illinois shall be in good standing in its state or jurisdiction of formation and provide a certificate to that effect of such state or jurisdiction with the partnership registration application which shall be executed by a general partner.
- c) General partnerships serving as general partners in limited partnerships must comply with the following requirements:
- 1) both domestic and foreign general partnerships must identify their state of formation, the county of their formation, and their office of records address.
 - 2) all partners are to be identified by name and those partners which are partnerships or corporations, or other non-personal entities, shall provide documentation of their existence in good standing in the state of formation or organization.
 - 3) only one partner of a general partnership need execute any documents required by this Part on the RULPA for filing with the Department.
- d) A trust serving as general partners in limited partnership must comply with the following requirement: provide to the Secretary of State evidence of existence by a copy of the trust agreement and statement of trustee, dated and executed.
- e) Estates serving as general partners in limited partnerships must comply with the following requirement: provide the Secretary of State evidence of existence by a copy of the relevant court order, dated and executed.
- f) All entities, other than natural persons, serving as general partners in limited

SECRETARY OF STATE

NOTICE OF EMERGENCY REPEALER

partnerships must provide evidence of its existence upon request of the Secretary of State.

- g) Entities, other than natural persons, serving as general partners in limited partnerships shall comply with the following:
 - 1) any sole general partner of a domestic limited partnership or foreign limited partnership must be qualified in Illinois.
 - 2) where there are two or more general partners of a limited partnership or foreign limited partnership, all general partners using an Illinois address must be qualified in Illinois. Those general partners with a foreign address and not qualified in Illinois shall provide a certificate of good standing from their state of formation. At all times there will be at least one Illinois qualified general partner in good standing with the Office of the Secretary of State in order to file and remain in good standing.
- h) Any foreign limited partnership shall submit a certificate of existence issued by the state of organization when the foreign limited partnership files its admission to transact business pursuant to Section 902 of the RULPA. The Department shall reject any proposed filing which does not contain the certificate of existence or good standing issued by the state of organization.
- i) When a limited partnership is a general partner in a newly formed limited partnership, or when the limited partnership is substituted by amendment as a general partner, then the name of the limited partnership shall be written, typed or printed in the space for the general partner on the certificate of authority or amendments to the certificate.

Section 170.30 Refunds

No refunds of any fees shall be paid by the Department if deficiency in filings are not corrected within the required time periods.

Section 170.40 Interrogatories

- a) The Secretary of State may propound to any limited partnership subject to the provisions of the Act, and to any partner, such interrogatories as may be reasonably necessary and proper to enable the Secretary of State to ascertain

SECRETARY OF STATE

NOTICE OF EMERGENCY REPEALER

whether the limited partnership has complied with all the applicable provisions of the Act and this Part. The interrogatories shall be answered within 30 days after the mailing thereof, or within such additional time as shall be fixed by the Secretary of State, and the answers thereto shall be full and complete and shall be made in writing and under oath. If the interrogatories are directed to a person, they shall be answered by him or her, and if directed to a limited partnership, they shall be answered by the general partners or limited partners. The Secretary of State need not file any document to which the interrogatories relate until the interrogatories are answered as herein provided and not then if the answers thereto disclose that the document is not in conformity with the provisions of the Act and this Part. The Secretary of State shall certify to the Attorney General, for such action as the Attorney General may deem appropriate, all interrogatories and answers thereto that disclose a violation of any of the provisions of the Act and this Part.

- b) Interrogatories propounded by the Secretary of State and the answers thereto shall not be open to public inspection, nor shall the Secretary of State disclose any facts or information obtained therefrom, except insofar as official duty may require them to be made public or in the event the interrogatories or the answers thereto are required for evidence in any criminal proceeding or in any other action by the State.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of January 1, 2008 through January 7, 2008 and have been scheduled for review by the Committee at its February 14, 2008 meeting. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rulemaking should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

<u>Second Notice Expires</u>	<u>Agency and Rule</u>	<u>Start Of First Notice</u>	<u>JCAR Meeting</u>
2/16/08	<u>State Fire Marshal</u> , Fire Equipment Distributor and Employee Standards (41 Ill. Adm. Code 251)	9/21/07 31 Ill. Reg. 13290	2/14/08
2/16/08	<u>State Fire Marshal</u> , Fire Equipment Administrative Procedures (41 Ill. Adm. Code 280)	9/21/07 31 Ill. Reg. 13300	2/14/08

DEPARTMENT OF AGRICULTURE

JANUARY 2008 REGULATORY AGENDA

a) Part: Livestock Waste Regulations (35 Ill. Adm. Code 506)1) Rulemaking:

- A) Description: The current regulations require the owner or operator of a livestock waste handling facility constructed with concrete to provide a storage volume of at least 150 days and facilities holding solid livestock waste to provide a storage volume of at least 6 months. The proposed rulemaking, as required by recent amendments to the Act, would allow for a reduction in the required storage volumes for facilities with animal unit capacities of 300 or less if the owner or operator can demonstrate to the Department that adequate land area is available for the agronomic application of the manure or another manure disposal method is proposed that would allow for the reduced storage design capacity.
- B) Statutory Authority: Livestock Management Facilities Act [510 ILCS 77]
- C) Schedule meeting/hearing date: Written comments may be submitted during the 45-day public comment period following publication of the proposed rule in the *Illinois Register*. A public hearing will be held near the end of the public comment period.
- D) Date Agency anticipates First Notice: April 2008
- E) Effect on small businesses, small municipalities or not for profit corporations: This rulemaking will have a positive effect on small livestock businesses because of the possible reduction in manure storage design volumes. The rulemaking should have no impact on small municipalities or not-for-profit corporations.
- F) Agency contact person for information:

Warren D. Goetsch, P.E.
Illinois Department of Agriculture
P.O. Box 19281
Springfield, IL 62794-9281

217/785-2427
FAX: 217/524-4882

DEPARTMENT OF AGRICULTURE

JANUARY 2008 REGULATORY AGENDA

G) Related rulemakings and other pertinent information: None

b) Part: Insect Pest and Plant Disease Act (8 Ill. Adm. Code 240)

1) Rulemaking:

A) Description: Create a new section of the rule regarding limitations on the importation of firewood into the State of Illinois to control insect pests such as the Emerald Ash Borer

B) Statutory Authority: Insect Pest and Plant Disease Act [505 ILCS 90]

C) Scheduled meeting/hearing dates: Written comments may be submitted during the 45-day public comment period following publication of proposed rulemaking in the *Illinois Register*.

D) Date Agency anticipates First Notice: April 2007

E) Effect on small businesses, small municipalities or not for profit corporations: This rulemaking will impact small businesses that engage in the importation of firewood into the State of Illinois. It will create certain state registration requirements for such businesses.

F) Agency contact person for information:

Warren D. Goetsch, P.E.
Illinois Department of Agriculture
P.O. Box 19281
Springfield, IL 62794-9281

217/785-2427
FAX: 217/524-4882

G) Related rulemakings and other pertinent information: None

c) Part: Livestock Management Facility Regulations (8 Ill. Adm. Code 900)

1) Rulemaking:

DEPARTMENT OF AGRICULTURE

JANUARY 2008 REGULATORY AGENDA

- A) Description: The current regulations require owners of livestock facilities with an animal unit capacity of 1,000 or greater to develop and maintain a formal waste management plan, the components of which are defined in the Livestock Management Facilities Act and regulations. One component in a waste management plan from which manure application rates are determined is the targeted crop yield goal. The present regulation stipulates the sources of targeted crop yield goals that can be used in the development of plans but somewhat limits those sources. The proposed rulemaking would expand approved yield goal sources to include county crop yield averages as well as soil-based yield goals as published by the University of Illinois.
- B) Statutory Authority: Livestock Management Facilities Act [510 ILCS 77]
- C) Schedule meeting/hearing date: Written comments may be submitted during the 45-day public comment period following publication of the proposed rule in the *Illinois Register*. A public hearing will be held near the end of the public comment period.
- D) Date Agency anticipates First Notice: March 2008
- E) Effect on small businesses, small municipalities or not for profit corporations: This rulemaking will have no effect on municipalities or not-for-profit corporations. Small businesses, such as some types of livestock facilities, may benefit from the additional approved data sources.
- F) Agency contact person for information:
- Warren D. Goetsch, P.E.
Illinois Department of Agriculture
P.O. Box 19281
Springfield, IL 62794-9281
- 217/785-2427
FAX: 217/524-4882
- G) Related rulemakings and other pertinent information: None

DEPARTMENT OF AGRICULTURE

JANUARY 2008 REGULATORY AGENDA

- d) Part: Illinois Pesticide Act (8 Ill. Adm. Code 250)
- 1) Rulemaking:
- A) Description: Amend the licensing provisions of the regulation to allow for an abbreviated pesticide certification and licensing process for volunteers working on public lands such as park districts, forest preserves, or other natural areas under public ownership. The new provisions would only be applicable to volunteers who would be working under the direct supervision of a public employee charged with the oversight of the public land and would be limited to a very narrow scope of pesticide application.
- B) Statutory Authority: Illinois Pesticide Act [415 ILCS 60]
- C) Scheduled meeting/hearing dates: Written comments may be submitted during the 45-day public comment period following publication of proposed rulemaking in the *Illinois Register*.
- D) Date Agency anticipates First Notice: April 2007
- E) Effect on small businesses, small municipalities or not for profit corporations: This rulemaking should have little impact on small businesses. The rulemaking may have a limited impact on some municipalities or not for profit corporations that have responsibility for natural areas and currently utilize volunteers to conduct pest control activities. In such cases, the rulemaking will reduce the pesticide certification and licensing requirements for some volunteers.
- F) Agency contact person for information:
- Warren D. Goetsch, P.E.
Illinois Department of Agriculture
P.O. Box 19281
Springfield, IL 62794-9281
- 217/785-2427
FAX: 217/524-4882
- G) Related rulemakings and other pertinent information: None

DEPARTMENT OF AGRICULTURE

JANUARY 2008 REGULATORY AGENDA

- e) Part: Farmland Preservation Act (8 Ill. Adm. Code 700)
- 1) Rulemaking:
- A) Description: The Farmland Preservation Act requires that state agency policy statements and working agreements on farmland preservation shall be updated by the state agency and reviewed and approved by the Department of Agriculture every three years. The purpose of the rulemaking activity is to update the policy statements and working agreements, as necessary, to protect Illinois' agricultural land base from needless state agency farmland conversion impacts.
- B) Statutory Authority: Farmland Preservation Act [505 ILCS 75/1-8]
- C) Schedule meeting/hearing date: Written comments may be submitted during the 45-day public comment period following publication of the proposed rule in the *Illinois Register*. A public hearing will be held near the end of the public comment period.
- D) Date Agency anticipates First Notice: March 2008
- E) Effect on small businesses, small municipalities or not for profit corporations: None anticipated
- F) Agency contact person for information:
- Steve Chard
Illinois Department of Agriculture
P.O. Box 19281
Springfield, IL 62794-9281
- 217/785-2661
FAX: 217/524-4882
- G) Related rulemakings and other pertinent information: None
- f) Part: Definitions (8 Ill. Adm. Code 20)

DEPARTMENT OF AGRICULTURE

JANUARY 2008 REGULATORY AGENDA

- 1) Rulemaking:
- A) Description: Cites to the Code of Federal Regulations will be updated to 2008.
- B) Statutory Authority: Section 15 of the Illinois Swine Disease Control and Eradication Act [510 ILCS 100/15]; Section 15 of the Illinois Feeder Swine Dealer Licensing Act [225 ILCS 620/15]; Section 15 of the Illinois Livestock Dealer Licensing Act [225 ILCS 645/15]; Section 18 of the Illinois Bovine Tuberculosis Eradication Act [510 ILCS 35/18]; Section 10 of the Illinois Bovine Brucellosis Eradication Act [510 ILCS 30/10] as amended by HB1020; Section 7 of the Illinois Swine Brucellosis Eradication Act [510 ILCS 95/7]; Section 12 of the Illinois Dead Animal Disposal Act [225 ILCS 610/12]; Section 2 of the Illinois Diseased Animals Act [510 ILCS 50/2] as amended by HB1019; Sections 8a and 11 of the Livestock Auction Market Law [225 ILCS 640/8a and 11]; Section 2.3 of the Poultry Inspection Act [510 ILCS 85/2.3]; and Section 5 of the Illinois Pseudorabies Control Act [510 ILCS 90/5].
- C) Scheduled meeting/hearing dates: The Advisory Board of Livestock Commissioners will meet in Spring 2008.
- D) Date Agency anticipated First Notice: March 2008
- E) Effect on small businesses, small municipalities or not for profit corporations: None anticipated
- F) Agency contact person for information:
- Dr. Colleen O'Keefe
Illinois Department of Agriculture
P.O. Box 19281
State Fairgrounds
Springfield, IL 62794-9281
- 217/782-4944
FAX: 217/524-7702
- G) Related rulemakings and other pertinent information: None

DEPARTMENT OF AGRICULTURE

JANUARY 2008 REGULATORY AGENDA

- g) Part: Animal Welfare Act (8 Ill. Adm. Code 25)
- 1) Rulemaking:
- A) Description: Cites to the Code of Federal Regulations will be updated to 2008.
- Language will be added regarding how quarantines will be released.
- Section 25.70 and 25 80 may be revised or combined.
- B) Statutory Authority: Animal Welfare Act [225 ILCS 605]
- C) Scheduled meeting/hearing dates: The Advisory Board of Livestock Commissioners will meet in Spring 2008.
- D) Date Agency anticipated First Notice: March 2008
- E) Effect on small businesses, small municipalities or not for profit corporations: The proposed rule will further define how quarantines are released by the Department, positively affecting small businesses impacted by quarantines as the rule will provide better notice on how to remediate the quarantine restrictions.
- F) Agency contact person for information:
- Dr. Colleen O'Keefe
Illinois Department of Agriculture
P.O. Box 19281
State Fairgrounds
Springfield, IL 62794-9281
- 217/782-4944
FAX: 217/524-7702
- G) Related rulemakings and other pertinent information: None
- h) Part: Horsemeat (8 Ill. Adm. Code 70)

DEPARTMENT OF AGRICULTURE

JANUARY 2008 REGULATORY AGENDA

- 1) Rulemaking:
- A) Description: Cites to the Code of Federal Regulations will be updated to 2008. Section 70.70 will be repealed. Section 70.80 will be amended to remove the exemption for horsemeat slaughtered in a federally inspected plant that is under the supervision of the United States Department of Agriculture.
- B) Statutory Authority: Illinois Horse Meat Act [225 ILCS 635] as amended by PA 95-0002.
- C) Scheduled meeting/hearing dates: The Advisory Board of Livestock Commissioners will meet in Spring 2008.
- D) Date Agency anticipated First Notice: March 2008
- E) Effect on small businesses, small municipalities or not for profit corporations: None anticipated
- F) Agency contact person for information:
- Dr. Colleen O'Keefe
Illinois Department of Agriculture
P.O. Box 19281
State Fairgrounds
Springfield, IL 62794-9281
- 217/782-4944
FAX: 217/524-7702
- G) Related rulemakings and other pertinent information: PA 95-0002

i) Part: Swine Brucellosis (8 Ill. Adm. Code 100)

- 1) Rulemaking:
- A) Description: Cites to the Code of Federal Regulations will be updated to 2008.

DEPARTMENT OF AGRICULTURE

JANUARY 2008 REGULATORY AGENDA

- B) Statutory Authority: Illinois Swine Brucellosis Eradication Act [510 ILCS 95/1], the Illinois Pseudorabies Control Act [510 ILCS 90/1] and the Illinois Diseased Animals Act [510 ILCS 50/1]
- C) Scheduled meeting/hearing dates: The Advisory Board of Livestock Commissioners will meet in Spring 2008.
- D) Date Agency anticipated First Notice: March 2008
- E) Effect on small businesses, small municipalities or not for profit corporations: None anticipated
- F) Agency contact person for information:
- Dr. Colleen O'Keefe
Illinois Department of Agriculture
P.O. Box 19281
State Fairgrounds
Springfield, IL 62794-9281
- 217/782-4944
FAX: 217/524-7702
- G) Related rulemakings and other pertinent information: None

j) Part: Pseudorabies Control Act (8 Ill. Adm. Code 115)1) Rulemaking:

- A) Description: Cites to the Code of Federal Regulations will be updated to 2008.
- The site to the State-Federal-Industry Program Standards will be updated to November 1, 2003.
- B) Statutory Authority: Illinois Pseudorabies Control Act [510 ILCS 90/1]

DEPARTMENT OF AGRICULTURE

JANUARY 2008 REGULATORY AGENDA

- C) Scheduled meeting/hearing dates: The Advisory Board of Livestock Commissions will meet in Spring 2008.
- D) Date Agency anticipated First Notice: March 2008
- E) Effect on small businesses, small municipalities or not for profit corporations: None anticipated
- F) Agency contact person for information:

Dr. Colleen O'Keefe
Illinois Department of Agriculture
P.O. Box 19281
State Fairgrounds
Springfield, IL 62794-9281

217/782-4944
FAX: 217/524-7702

- G) Related rulemakings and other pertinent information: None

k) Part: Diseased Animals (8 Ill. Adm. Code 85)

1) Rulemaking:

A) Description:

The reportable diseases and contagious or infectious diseases lists will be reviewed for possible changes or additions.

Changes may need to be made in Johne's disease program to reflect possible changes in the U.S. Department of Agriculture's program.

Section 85.120 will be revised to include brucellosis testing for all cervidae entering Illinois (currently only elk). Animals will be required to originate from a certified brucellosis-free herd or be negative to an official test within 30 days prior to entry on all animals six months of age and older. The Department may also change the brucellosis certification method for cervids.

DEPARTMENT OF AGRICULTURE

JANUARY 2008 REGULATORY AGENDA

General regulations will be added for removal of quarantines for diseases not specifically covered in other laws.

References to the Code of Federal Regulations will be updated to 2008.

Regulation changes may be needed to deal with contamination of livestock.

- B) Statutory Authority: Illinois Diseased Animals Act [510 ILCS 50/1] as amended by PA95-0554, Section 6 of the Illinois Bovine Brucellosis Eradication Act [510 ILCS 30/6] as amended by PA-0093, Livestock Auction Market Law [225 ILCS 640/1], and Equine Infectious Anemia Control Act [510 ILCS 65] as amended by PA 95-0002..
- C) Scheduled meeting/hearing dates: The Advisory Board of Livestock Commissioners will be meeting in Spring 2008.
- D) Date Agency anticipates First Notice: March 2008
- E) Effect on small businesses, small municipalities or not for profit corporations: Will require additional testing on cervidae entering Illinois which will affect cervid producers outside of Illinois. No effect on Illinois producers.
- F) Agency contact person for information:

Dr. Colleen O'Keefe
Illinois Department of Agriculture
P.O. Box 19281
State Fairgrounds
Springfield, IL 62794-9281

217/782-4944
FAX: 217/524-7702

- G) Related rulemakings and other pertinent information:

- l) Part: Animal Disease Laboratories Act (8 Ill. Adm. Code 110)

DEPARTMENT OF AGRICULTURE

JANUARY 2008 REGULATORY AGENDA

1) Rulemaking:

- A) Description: Disposal fees will be added for all necropsy cases, regardless of species.

Distribution of laboratory reports will be clarified. They will be issued once (by US mail, faxed or email). If a second delivery method is requested, a charge will be assessed.

Various laboratory fees will be reviewed and increased for serology and immunohistochemistry samples. A fee for pooled Johne's disease samples may be established.

Persons who do not have an account with the Department of Agriculture and do not create one, will be required to pay in advance of services rendered. The laboratory has many submissions from individuals who only use their services once, then do not pay when billed.

Other fees will be reviewed for possible increase or addition.

- B) Statutory Authority: Animal Disease Laboratories Act [510 ILCS 10/0.01]
- C) Scheduled meeting/hearing dates: The Advisory Board of Livestock Commissioners will be meeting in Spring 2008.
- D) Date Agency anticipates First Notice: March 2008
- E) Effect on small businesses, small municipalities or not for profit corporations: Veterinarians, livestock producers and others using the animal disease laboratories will pay higher laboratory fees for requested tests. There is no change for testing mandated by state laws or regulations.
- F) Agency contact person for information:

Dr. Colleen O'Keefe
Illinois Department of Agriculture

DEPARTMENT OF AGRICULTURE

JANUARY 2008 REGULATORY AGENDA

P.O. Box 19281
State Fairgrounds
Springfield, IL 62794-9281

217/782-4944
FAX: 217/524-7702

- G) Related rulemakings and other pertinent information: None
- m) Part: Humane Slaughter of Livestock (8 Ill. Adm. Code 50)
- 1) Rulemaking:
- A) Description: References to the Code of Federal Regulations will be updated to 2008. A definition of livestock will be added that will exclude members of the equine family.
- Sections 50.20, 50.30, 50.40, and 50.50 will be rewritten to adopt the corresponding Code of Federal Regulations pertaining to humane slaughter of livestock and the present wording will be deleted.
- New sections will be added to adopt the Code of Federal Regulations that address livestock pens, driveways and ramps (9 CFR 313.1), handling of livestock (9 CFR 313.2) and tagging of equipment, alleyways, pens, or compartments to prevent inhumane slaughter or handling in connection with slaughter (9 CFR 313.50)
- B) Statutory Authority: Humane Slaughter of Livestock Act [510 ILCS 75] as amended by PA95-0002.
- C) Scheduled meeting/hearing dates: The Advisory Board of Livestock Commissions will meet in Spring 2008.
- D) Date Agency anticipated First Notice: March 2008
- E) Effect on small businesses, small municipalities or not for profit corporations: None anticipated as the Code of Federal Regulations pertaining to humane slaughter are identical to the Illinois regulations, with the exception that they also apply to members of the equine family.

DEPARTMENT OF AGRICULTURE

JANUARY 2008 REGULATORY AGENDA

F) Agency contact person for information:

Dr. Colleen O'Keefe
Illinois Department of Agriculture
P.O. Box 19281
State Fairgrounds
Springfield, IL 62794-9281
217/782-4944
FAX: 217/524-7702

G) Related rulemakings and other pertinent information: PA95-0002n) Part: Animal Control Act (8 Ill. Adm. Code 30)1) Rulemaking:

A) Description: Cites to the Code of Federal Regulations will be updated to 2008.

B) Statutory Authority: Animal Control Act [510 ILCS 5/1]

C) Scheduled meeting/hearing dates: The Advisory Board of Livestock Commissions will meet in Spring 2008.

D) Date Agency anticipated First Notice: March 2008

E) Effect on small businesses, small municipalities or not for profit corporations: None anticipated

F) Agency contact person for information:

Dr. Colleen O'Keefe
Illinois Department of Agriculture
P.O. Box 19281
State Fairgrounds
Springfield, IL 62794-9281

217/782-4944

DEPARTMENT OF AGRICULTURE

JANUARY 2008 REGULATORY AGENDA

FAX: 217/524-7702

- G) Related rulemakings and other pertinent information: None
- o) Part: Bovine Brucellosis (8 Ill. Adm. Code 75)
- 1) Rulemaking:
- A) Description: Cites to the Code of Federal Regulations will be updated to 2008. Regulations changes may be required as a result of P.A. 92-0093.
- B) Statutory Authority: Illinois Bovine Brucellosis Eradication Act [510 ILCS 30] as amended by HB1020.
- C) Scheduled meeting/hearing dates: The Advisory Board of Livestock Commissions will meet in Spring 2008.
- D) Date Agency anticipated First Notice: March 2008
- E) Effect on small businesses, small municipalities or not for profit corporations: None anticipated
- F) Agency contact person for information:
- Dr. Colleen O'Keefe
Illinois Department of Agriculture
P.O. Box 19281
State Fairgrounds
Springfield, IL 62794-9281
- 217/782-4944
FAX: 217/524-7702
- G) Related rulemakings and other pertinent information: HB1020
- p) Part: Swine Disease Control and Eradication Act (8 Ill. Adm. Code 105)
- 1) Rulemaking:

DEPARTMENT OF AGRICULTURE

JANUARY 2008 REGULATORY AGENDA

- A) Description: Cites to the Code of Federal Regulations will be updated to 2008.

The site to the State-Federal-Industry Program Standards will be updated to November 1, 2003.

The Department may consider recognizing split state status in regards to pseudorabies and may delete references to Stage I and Stage II stage states, as the U.S. is currently Pseudorabies Free and it is unlikely that any state would regress to Stage I or Stage II.

- B) Statutory Authority: Illinois Swine Brucellosis Eradication Act [510 ILCS 95/1], the Illinois Pseudorabies Control Act [510 ILCS 90/1] and the Illinois Diseased Animals Act [510 ILCS 50/1]

- C) Scheduled meeting/hearing dates: The Advisory Board of Livestock Commissions will meet in Spring 2008.

- D) Date Agency anticipated First Notice: March 2008

- E) Effect on small businesses, small municipalities or not for profit corporations: None anticipated

- F) Agency contact person for information:

Dr. Colleen O'Keefe
Illinois Department of Agriculture
P.O. Box 19281
State Fairgrounds
Springfield, IL 62794-9281

217/782-4944
FAX: 217/524-7702

- G) Related rulemakings and other pertinent information: None

- q) Part: New Regulations Pertaining to the Animals Intended for Food Act

- 1) Rulemaking:

DEPARTMENT OF AGRICULTURE

JANUARY 2008 REGULATORY AGENDA

- A) Description: The Department may need to formulate regulations pertaining to the Animal Intended For Food Act as a result of PA95-002 and PA-95-0554. Regulations may include provisions for quarantining and release of quarantines.
- B) Statutory Authority: Animals Intended For Food Act [410 ILCS 605] as amended by PA95-0002 and the Illinois Diseased Animals Act [510 ILCS 50/1] as amended by PA-0554.
- C) Scheduled meeting/hearing dates: The Advisory Board of Livestock Commissions will meet in Spring 2008.
- D) Date Agency anticipated First Notice: March 2008
- E) Effect on small businesses, small municipalities or not for profit corporations: None anticipated
- F) Agency contact person for information:
- Dr. Colleen O'Keefe
Illinois Department of Agriculture
P.O. Box 19281
State Fairgrounds
Springfield, IL 62794-9281
- 217/782-4944
FAX: 217/524-7702
- G) Related rulemakings and other pertinent information: None

r) Part: Grain Code (8 Ill. Adm. Code 281)

1) Rulemaking:

- A) Description: The administrative rules are being updated pursuant to the statutory changes made to the Grain Code. Statutory amendments include the use of electronic warehouse receipts and other electronic documents to be used in the industry.

DEPARTMENT OF AGRICULTURE

JANUARY 2008 REGULATORY AGENDA

- B) Statutory Authority: Grain Code [240 ILCS 40]
- C) Scheduled meeting/hearing dates: Written comments may be submitted during the 45-day public comment period following publication of the proposed rule in the *Illinois Register*.
- D) Date Agency anticipated First Notice: January 2008
- E) Effect on small businesses, small municipalities or not for profit corporations: The rule change will allow electronic warehouse receipts, allowing business to be transacted electronically with transactions being completed expeditiously and having a positive impact for small business.
- F) Agency contact person for information:

Stuart Jackson
Illinois Department of Agriculture
P.O. Box 19281
State Fairgrounds
Springfield, IL 62794-9281

217/785-8302
FAX: 217/524-7801

- G) Related rulemakings and other pertinent information: None

s) Part: Weights and Measures Act (8 Ill. Adm. Code 600)

1) Rulemaking:

- A) Description: Define and provide enforcement for Maintenance Requirement contained in the General Code of the National Institute of Standards and Technology's Handbook 44.

Repeal implementation date for Grain Moisture Meter specifications and tolerances. Rule provided an extension to the implementation date contained in Handbook 44. (Effective date in rule is January 1, 2000.)

DEPARTMENT OF AGRICULTURE

JANUARY 2008 REGULATORY AGENDA

Repeal exemption of the ticket printer requirement for vehicle-tank meters. This requirement was adopted by the National Conference on Weights and Measures in 1992. The ticket printer requirement is contained in the Vehicle-Tank Meter User Requirement Section of NIST Handbook 44. This handbook is adopted as regulation in Illinois. However, the requirement for the ticket printers on vehicle-tank meters was rejected by regulation. The national requirement was retroactive as of January 1, 1999, to provide device owners a reasonable period of time to install printers. The requirement for a printed ticket enables customers to receive accurate delivery information to evaluate transactions and invoices. The repeal of this exemption will include an effective date to allow device owners time to be in compliance with the printer requirement. The exemption should be repealed to protect consumers and to be consistent with national regulations.

Repeal requirement that the advertised price for liquid petroleum products be equal to the price setting shown on the pump. This requirement prohibits the discounting of petroleum products unless the pump is capable of computing the discounted price. There are many marketing strategies which allow discounts for petroleum products such as with purchase of car wash, with use of a company credit card, or by participation in a discount club. Eliminating this requirement will enable companies to offer these discounts without violating advertising regulations.

Repeal requirement that the type of service (full-service, self-service, etc.) be displayed in the advertisement of petroleum products. The majority of businesses do not include the type of service in the advertisement since many stations no longer offer full service.

- B) Statutory Authority: Weights and Measures Act [225 ILCS 470]
- C) Scheduled meeting/hearing dates: Written comments may be submitted during the 45-day public comment period following publication of proposed rulemaking in the *Illinois Register*.
- D) Date Agency anticipates First Notice: April 2008
- E) Effect on small businesses, small municipalities or not for profit corporations: This rulemaking will have no effect on municipalities or

DEPARTMENT OF AGRICULTURE

JANUARY 2008 REGULATORY AGENDA

not-for-profit corporations. This rule will only affect small businesses that do not properly maintain their weighing and measuring devices or that do not have ticket printers on their vehicle-tank meters.

F) Agency contact person for information:

Jonelle Brent
Illinois Department of Agriculture
P.O. Box 19281
Springfield, IL 62794-9281
217/785-8301
FAX: 217/524-7801

G) Related rulemakings and other pertinent information: Nonet) Part: Motor Fuel and Petroleum Standards Act (8 Ill. Adm. Code 850)1) Rulemaking:

- A) Description: Amend regulation for Label on Motor Fuel Dispensing Device to clarify placement of label. The current language does not specify that all grades which contain at least 1% by volume of ethanol, of methanol or a combination thereof be labeled with the maximum percentage contained in the motor fuel. The requirement is only that a label be placed on the front or sides of the dispenser and within the top 30% of the height of the dispenser. For dispensers where more than one grade of gasoline is offered for sale, this requirement does not indicate if only one grade or all grades contain ethanol, methanol or combination thereof.
- B) Statutory Authority: Motor Fuel and Petroleum Standards Act [815 ILCS 370]
- C) Scheduled meeting/hearing dates: Written comments may be submitted during the 45-day public comment period following publication of proposed rulemaking in the *Illinois Register*.
- D) Date Agency anticipates First Notice: April 2008

DEPARTMENT OF AGRICULTURE

JANUARY 2008 REGULATORY AGENDA

- E) Effect on small businesses, small municipalities or not for profit corporations: This rulemaking will have no effect on municipalities or not-for-profit corporations. The effect on small businesses would be minimal to properly label all grades of gasoline that contain at least 1% by volume of ethanol.
- F) Agency contact person for information:
- Jonelle Brent
Illinois Department of Agriculture
P.O. Box 19281
Springfield, IL 62794-9281
217/785-8301
FAX: 217/524-7801
- G) Related rulemakings and other pertinent information: None
- u) Part: Standardbred, Thoroughbred and Quarter Horse Breeding and Racing Programs, Illinois (8 Ill. Adm. Code 290)
- 1) Rulemaking:
- A) Description: The Department will amend Section 290.210(a) to change "registered Illinois conceived and foaled horses that were conceived before May 30, 1995" to "registered Illinois conceived and foaled horses prior to May 30, 1995."
- B) Statutory Authority: The Illinois Horse Racing Act of 1975 [230 ILCS 5/30]
- C) Schedule meeting/hearing date: Written comments may be submitted during the 45-day public comment period following publication of proposed rulemaking in the *Illinois Register*.
- D) Date Agency anticipates First Notice: April 2008
- E) Effect on small businesses, small municipalities or not for profit corporations: None anticipated

DEPARTMENT OF AGRICULTURE

JANUARY 2008 REGULATORY AGENDA

F) Agency contact person for information:

Charlyn Fargo
Illinois Department of Agriculture
P. O. Box 19281
Springfield, IL 62794-9281
217/782-4231
FAX: 217/785-4059

G) Related rulemakings and other pertinent information: Nonev) Part: Illinois Seed Law (8 Ill. Adm. Code 230)1) Rulemaking:

- A) Description: The rule changes will allow the Department to offer different tests that are currently available for seed products and allow the establishment of fees for these tests (i.e. TZ, seed count, etc.).

Section 230.70 may be amended to allow the Department to increase seed permit fees.

Section 230.80 may be amended to allow the Department to increase fees for established services offered (i.e. purity, germination and noxious weed seed testing).

These amendments allow for the Department to update its services offered to those groups or individuals wishing to utilize them.

- B) Statutory Authority: The Illinois Seed Law [505 ILCS 110]

- C) Schedule meeting/hearing date: Written comments may be submitted during the 45-day public comment period following publication of proposed rulemaking in the *Illinois Register*.

- D) Date Agency anticipates First Notice: April 2008

DEPARTMENT OF AGRICULTURE

JANUARY 2008 REGULATORY AGENDA

- E) Effect on small businesses, small municipalities or not for profit corporations: Entities utilizing the Department's seed lab will have to pay a fee or increase in fee.
- F) Agency contact person for information:
- Jim Larkin
Illinois Department of Agriculture
P. O. Box 19281
Springfield, IL 62794-9281
- 217/785-8212
FAX: 217/524-7801
- G) Related rulemakings and other pertinent information: None
- w) Part: Illinois AgriFIRST Program Act (8 Ill. Adm. Code 950)
- 1) Rulemaking:
- A) Description: Sections 950.50, 950.130 and 950.220 will be repealed in an effort to improve the program and eliminate delays.
- Other non-substantive changes will be made to the rules to better reflect the Illinois Grant Funds Recovery Act [30 ILCS 705].
- B) Statutory Authority: Illinois AgriFIRST Program Act of 2001 [505 ILCS 19]
- C) Scheduled meeting/hearing dates: Written comments may be submitted during the 45-day public comment period following publication of proposed rulemaking in the *Illinois Register*.
- D) Date Agency anticipates First Notice: March 2008
- E) Effect on small businesses, small municipalities or not for profit corporations: The proposed changes will be beneficial to grant applicants because it will enable the Department to speed up the application review process and award grant funds more quickly.

DEPARTMENT OF AGRICULTURE

JANUARY 2008 REGULATORY AGENDA

F) Agency contact person for information:

Kim Janssen
Illinois Department of Agriculture
State Fairgrounds
Springfield, IL 62794-9281

217/785-5848
FAX: 217/785-4505

G) Related rulemakings and other pertinent information: Nonex) Part: Meat and Poultry Inspection (8 Ill. Adm. Code, Chapter 1, Subpart c, Part 125)1) Rulemaking:

- A) Description: Type II establishments are conducting slaughter and processing activities exempt from the provisions of the Act. Custom exempt product could be consumed only by the owner, owners family and nonpaying guests. Adopting reference to federal regulations 9 CFR 200 to End 303.1(a)(2)(i) and 381.10(3)et seq. will mandate custom operators to observe good sanitation for facilities and products and allow Department to address noncompliance for reoccurring violations in an efficient manner. This will provide additional assurance in protecting public health for Citizens of State of Illinois
- B) Statutory Authority: Meat and Poultry Inspection Act [225 ILCS 650]
- C) Scheduled meeting/hearing dates: Written comments may be submitted during the 45-day public comment period following publication of the proposed rule in the *Illinois Register*.
- D) Date Agency anticipates First Notice: April 2008
- E) Effect on small businesses, small municipalities or not for profit corporations: There are only 19 red meat custom exempt plants states wide and there will be no significant impact on daily operations performed by these establishments

DEPARTMENT OF AGRICULTURE

JANUARY 2008 REGULATORY AGENDA

F) Agency contact person for information:

Kris Mazurczak DVM
Bureau of Meat and Poultry Inspection
Illinois Department of Agriculture
P.O. Box 19281
Springfield, IL 62794-9281

217/782 6684
FAX: 217 558 6033

G) Related rulemakings and other pertinent information: None

DEPARTMENT OF EMPLOYMENT SECURITY

JANUARY 2008 REGULATORY AGENDA

a) Part: Claims, Adjudication, Appeals And Hearings (56 Ill. Adm. Code 2720)1) Rulemaking:

- A) Description: The Department is contemplating promulgating a new rule which would provide that claimants will be given the option to receive the payment of benefits through either direct deposit or a debit card. Where the claimant fails to make an election, he or she will be paid by debit card. Paper checks will be available only upon request and a showing of a compelling reason.
- B) Statutory Authority: Implementing and authorized by Sections 239, 409, 500, 604, 700, 701, 702, 703, 705, 706, 800, 801, 803, 804, 805, 1000, 1001, 1002, 1004, 1200, 1700, 1701, 2300, 2301, 2302 and 2304 of the Unemployment Insurance Act [820 ILCS 405/239, 409, 500, 604, 700, 701, 702, 703, 705, 706, 800, 801, 803, 804, 805, 1000, 1001, 1002, 1004, 1200, 1700, 1701, 2300, 2301, 2302 and 2304].
- C) Scheduled meeting/hearing dates: None
- D) Date agency anticipates First Notice: February 2008
- E) Effect on small businesses, small municipalities or not-for-profit corporations: The proposal would have no direct effect.
- F) Agency contact person for information:
- Gregory J. Ramel, Deputy Legal Counsel
Illinois Department of Employment Security
33 South State Street - 9th Floor
Chicago, IL 60603
- 312/793-4240
- G) Related rulemaking and other pertinent information: None

POLLUTION CONTROL BOARD

JANUARY 2008 REGULATORY AGENDA

- a) Parts (Headings and Code Citations): General Rules (35 Ill. Adm. Code 101), Regulatory and Information Hearings and Proceedings (35 Ill. Adm. Code 102), Enforcement (35 Ill. Adm. Code 103), Regulatory Relief Mechanisms (35 Ill. Adm. Code 104), Appeals of Final Decisions of State Agencies (35 Ill. Adm. Code 105), Proceedings Pursuant to Specific Rules or Statutory Provisions (35 Ill. Adm. Code 106), Petition to Review Pollution Control Facility Siting Decisions (35 Ill. Adm. Code 107), Administrative Citations (35 Ill. Adm. Code 108), Tax Certifications (35 Ill. Adm. Code 125), Identification and Protection of Trade Secrets and Other Non-Disclosable Information (35 Ill. Adm. Code 130)
- 1) Rulemaking: R04-08
- A) Description: The Board is preparing a rulemaking to amend its procedural regulations to allow for electronic filings in all Board proceedings through the Board's new "Clerk's Office On-Line" (COOL). The Board's new filing procedure will allow for electronic filings and payment of filing fees.
- B) Statutory Authority: Implementing Sections 5, 7.1, 7.2, 26, 27, 28, 29, 31, 32, 33, 35, 36, 37, 38, 40, 40.1, 40.2, 41, and 58.7 of the Environmental Protection Act (Act) [415 ILCS 5/5, 7.1, 7.2, 26, 27, 28, 29, 31, 32, 33, 35, 36, 37, 38, 40, 40.1, 40.2, 41, and 58.7] and authorized by Sections 26 and 27 of the Act [415 ILCS 5/26 and 27].
- C) Scheduled meeting/hearing dates: None scheduled at this time. Section 28 of the Act does not require public hearings concerning procedural rules. While the Board does not currently plan to schedule hearings in this rulemaking, the Board would conduct such hearings if the level of public interest indicates that public hearings are desirable.
- D) Date agency anticipates First Notice: The Board anticipates First Notice publication of the proposed rules in the *Illinois Register* in the Spring or Summer of 2008.
- E) Effect on small business, small municipalities, or not-for-profit corporation: There may be an effect on any small business, small municipality, or not-for-profit corporation that appears before the Board in any type of proceeding or which seeks to contact the Board for any reason, including to inspect and copy Board records. Proceedings before the

POLLUTION CONTROL BOARD

JANUARY 2008 REGULATORY AGENDA

Board include enforcement actions, rulemaking proceedings, variance proceedings, adjusted standard proceedings, site-specific rulemaking proceedings, permit appeals, pollution control facility siting appeals, and any other actions provided by law.

- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking as follows:

John Therriault, Acting Clerk
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

Address questions concerning this Regulatory Agenda as follows:

Erin Conley, Rules Coordinator
Pollution Control Board
1021 North Grand Avenue East
P.O. Box 19274
Springfield, Illinois 62794-9274
217/782-2471
conleye@ipcb.state.il.us

- G) Related rulemakings and other pertinent information: No other presently anticipated proceedings would affect the text of Parts 101 through 130.

- b) Part (Heading and Code Citation): Definitions and General Provisions (35 Ill. Adm. Code 211)

- 1) Rulemaking: Docket number R08-12

- A) Description: Section 9.1(e) of the Environmental Protection Act [415 ILCS 5/9.1(e)] mandates that the Board update the Illinois definition of volatile organic material (VOM) to reflect the additions made by the United States Environmental Protection Agency (USEPA) to the list of compounds exempt from regulation as ozone precursors. Those compounds are determined by USEPA to be exempt from regulation under the state implementation plan (SIP) for ozone in the federal "Recommended Policy on the Control of Volatile Organic Compounds"

POLLUTION CONTROL BOARD

JANUARY 2008 REGULATORY AGENDA

(Recommended Policy) due to their negligible photochemical reactivity. On February 3, 1992 (57 Fed. Reg. 3945), USEPA codified its definition of VOM at 40 CFR 51.100(s), which now embodies the former Recommended Policy. This codified definition now includes all the compounds and classes of compounds previously exempted in the former Recommended Policy. The Illinois definition of VOM is presently codified at 35 Ill. Adm. Code 211.7150.

The Board has reserved docket number R08-12 to accommodate any federal amendments to the 40 CFR 51.100(s) definition of VOM that USEPA may make in the period January 1, 2007 through June 30, 2007. At this time, the Board is not aware of any federal amendments to the federal definition of VOM that occurred during this update period.

The Board will verify the existence of any federal actions and the Board action required in response to each in coming weeks, by about mid-February 2008. The Board will then propose corresponding amendments to the Illinois definition of VOM using the identical-in-substance procedure or dismiss docket R08-12, as necessary and appropriate.

Section 9.1(e) mandates that the Board complete amendments within one year of the date on which USEPA adopted the earliest action upon which the amendments are based. In docket R08-12, the earliest federal amendments in the applicable period occurred on July 1, 2007. The due date for Board adoption would be July 1, 2008.

- B) Statutory Authority: Implementing and authorized by Sections 7.2, 9.1(e), and 27 of the Environmental Protection Act [415 ILCS 5/7.2, 9.1(e) & 27].
- C) Scheduled meeting/hearing dates: None scheduled at this time. The Board will vote to propose any amendments at an open meeting in accordance with requirements established by Sections 27 and 28 of the Act [415 ILCS 5/27 & 28]. The Board will then schedule and conduct at least one public hearing, as required by Section 118 of the federal Clean Air Act (42 USC § 7418) for amendment of the Illinois ozone SIP.
- D) Date agency anticipates First Notice: The Board cannot project an exact date for publication at this time. The Board expects to verify any federal actions by mid-February 2008, after which time the Board will propose

POLLUTION CONTROL BOARD

JANUARY 2008 REGULATORY AGENDA

any amendments to the Illinois definition of VOM that are necessary in response to the federal amendments that have occurred. If the due date for Board adoption of amendments in this docket were assumed to be July 1, 2008, for the purposes of illustration, the Board would vote to propose amendments and cause a Notice of Proposed Amendments to appear in the Illinois Register by mid-April 2008. This would be sufficiently in advance of the due date to allow the Board to accept public comments on the proposal for 45 days before acting to adopt any amendments. Alternatively, if no amendment to the Illinois definition is needed, the Board will promptly dismiss this reserved docket.

- E) Effect on small business, small municipalities, or not-for-profit corporations: This rulemaking may affect any small business, small municipality, or not-for-profit corporation that engages in the emission of a chemical compound that is the subject of a proposed exemption or proposed deletion from the USEPA list of exempted compounds.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking, noting docket number R08-12, as follows:

John T. Therriault, Assistant Clerk
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

Address questions concerning this Regulatory Agenda, noting docket number R08-12, as follows:

Michael J. McCambridge, Attorney
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601
312/814-6924
mccambm@ipcb.state.il.us

- G) Related rulemakings and other pertinent information: Section 9.1(e) of the Environmental Protection Act [415 ILCS 5/9.1(e)] provides that Title VII of the Act and Section 5 of the Administrative Procedure Act (APA) [5

POLLUTION CONTROL BOARD

JANUARY 2008 REGULATORY AGENDA

ILCS 100/5-35, 40] shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules. Rather, the Board will cause a Notice of Proposed Amendments to appear in the Illinois Register, and it will accept public comments on the proposal for 45 days after the date of publication.

- c) Parts (Headings and Code Citations): Definitions and General Provisions (35 Ill. Adm. Code 211), Nitrogen Oxides Emissions (35 Ill. Adm. Code 217)
- 1) Rulemaking: No docket presently reserved.
- A) Description: The Illinois Environmental Protection Agency (Agency) is currently developing amendments for proposal to the Board to address part of the State's Clean Air Act obligations to meet nitrogen oxides (NO_x) reasonably available control technology requirements (RACT), reasonable further progress (RFP), and attainment demonstration requirements for the new 8-hour ozone and PM_{2.5} nonattainment areas. Illinois has two 8-hour ozone and PM_{2.5} nonattainment areas, greater Chicago and Metro-East/St. Louis. NO_x is one of the precursors to the formation of both ozone and PM_{2.5}. Control of NO_x emissions from the following types of units may be included in the proposal: ICI boilers less than 250 mmBtu, electric generating less than 25 megawatts, cement kilns, lime kilns, glass melting furnaces, iron and steel plants, and aluminum melting furnaces. In addition, the proposal includes conforming amendments for Part 211, concerning applicable definitions. The requirements are anticipated to apply Statewide.
- B) Statutory Authority: Implementing and authorized by Sections 10, 27 and 28.5 of the Illinois Environmental Protection Act [415 ILCS 5/10, 27 and 28.5].
- C) Scheduled meeting/hearing dates: The Agency has stated that it anticipates submitting its rulemaking proposal to the Board in the Spring or Summer of 2008. Once a proposal is filed, the Board will hold hearings on the schedule established in Section 27 of the Environmental Protection Act [415 ILCS 5/27] for rulemakings that are required under the federal CAA.

POLLUTION CONTROL BOARD

JANUARY 2008 REGULATORY AGENDA

- D) Date agency anticipates First Notice: An Agency submittal of a proposal to the Board would commence this proceeding, and the Agency has stated that it expects to file a proposal in the Spring or Summer of 2008. After the filing of a proposal by the Agency, the Board will cause publication of a Notice of Proposed Amendments in the *Illinois Register*.
- E) Effect on small business, small municipalities, or not-for-profit corporation: Any small businesses, small municipalities, or not-for-profit corporations that owns or operates an affected emission unit could be affected by the proposed amendments.
- F) Agency contact person for information: Address comments concerning the substance of the rulemaking to:

John Therriault, Acting Clerk
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

Address questions concerning this Regulatory Agenda to:

Erin Conley, Rules Coordinator
1021 North Grand Avenue East
P.O. Box 19274
Springfield, Illinois 62794-9274
217/782-2471
conleye@ipcb.state.il.us

- G) Related rulemakings and other pertinent information: For information regarding the Agency's development of this proposal, please contact the following Agency attorney:

Gina Roccaforte
Illinois Environmental Protection Agency
Division of Legal Counsel
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

POLLUTION CONTROL BOARD

JANUARY 2008 REGULATORY AGENDA

- d) Parts (Headings and Code Citations): Nitrogen Oxides Emissions (35 Ill. Adm. Code 217)
- 1) Rulemaking: No docket presently reserved.
- A) Description: The rulemaking would amend Subpart U to provide consistency with recently adopted provisions of 35 Ill. Adm. Code 225.
- B) Statutory Authority: Implementing Section 9.9 and authorized by Sections 10 and 27 of the Environmental Protection Act [415 ILCS 5/9.9, 10 and 27].
- C) Scheduled meeting/hearing dates: The Agency has stated that it anticipates filing a rulemaking proposal with the Board in the Spring or Summer of 2008. No meetings or hearings are scheduled at this time. Once the proposal is filed, the Board will conduct public hearings in accordance with the requirements established by Sections 27 and 28 of the Act [415 ILCS 5/27 & 5/28].
- D) Date agency anticipates First Notice: An Agency submittal of a proposal to the Board would commence this proceeding, and the Agency has stated that it expects to file a proposal in the Spring or Summer of 2008. After the filing of a proposal by the Agency, the Board will cause publication of a Notice of Proposed Amendments in the *Illinois Register*.
- E) Effect on small business, small municipalities, or not-for-profit corporation: This rulemaking may affect any small business, small municipality, or not-for-profit corporation that meets the applicability requirements set forth in 35 Ill. Adm. Code Section 217.454.
- F) Agency contact person for information: Address comments concerning the substance of the rulemaking to:

John Therriault, Acting Clerk
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

Address questions concerning this regulatory agenda to:

POLLUTION CONTROL BOARD

JANUARY 2008 REGULATORY AGENDA

Erin Conley, Rules Coordinator
1021 North Grand Avenue East
P.O. Box 19274
Springfield, Illinois 62794-9274
217/782-2471
conleye@ipcb.state.il.us

- G) Related rulemakings and other pertinent information: For information regarding the Agency's development of this proposal, please contact the following Agency attorney:

John J. Kim, Managing Attorney
Illinois Environmental Protection Agency
1021 North Grand Avenue East
Springfield, IL 62794

- e) Parts (Headings and Code Citations): Definitions and General Provisions (35 Ill. Adm. Code 211), Regional Haze (35 Ill. Adm. Code 226)

- 1) Rulemaking: No docket presently reserved.

- A) Description: The Illinois Environmental Protection Agency (Agency) is currently developing amendments for proposal to the Board. This proposal would address the State's obligation to meet the requirements of the Clean Air Act (CAA) for Regional Haze, specifically the requirement for Best Available Regional Haze (BART). Section 169A of the CAA requires that each major source in existence in 1977, but not in operation before 1962, that may reasonably anticipated to cause or contribute to any impairment of visibility in any Class I area shall procure, install, and operate BART. Major sources are defined as ones that have the potential to emit 250 tons per year or more of a visibility impairing pollutant in one of 26 specified categories, including but not limited to petroleum refineries, lime plants, steel mills, and fossil-fuel fired steam electric plants greater than 250 mmBtu. USEPA has identified sulfur dioxide, NO_x, and primary particulate matter (PM) as visibility impairing pollutants. This rule will affect BART applicable emission units Statewide.

POLLUTION CONTROL BOARD

JANUARY 2008 REGULATORY AGENDA

- B) Statutory Authority: Implementing and authorized by Sections 10 and 27 of the Act [415 ILCS 5/10 and 5/27].
- C) Scheduled meeting/hearing dates: The Agency has stated that it anticipates submitting its rulemaking proposal to the Board in the Spring or Summer of 2008. Once a proposal is filed, the Board will hold hearings on the schedule established in Section 27 of the Environmental Protection Act [415 ILCS 5/27] for rulemakings that are required under the federal CAA.
- D) Date agency anticipates First Notice: An Agency submittal of a proposal to the Board would commence this proceeding, and the Agency has stated that it expects to file a proposal in the Spring or Summer of 2008. After the filing of a proposal by the Agency, the Board will cause publication of a Notice of Proposed Amendments in the *Illinois Register*.
- E) Effect on small business, small municipalities, or not-for-profit corporation: Any small businesses, small municipalities, or not-for-profit corporations that owns or operates an affected emission unit could be affected by the proposed amendments.
- F) Agency contact person for information: Address comments concerning the substance of the rulemaking to:

John Therriault, Acting Clerk
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

Address questions concerning this Regulatory Agenda to:

Erin Conley, Rules Coordinator
1021 North Grand Avenue East
P.O. Box 19274
Springfield, Illinois 62794-9274
217/782-2471
conleye@ipcb.state.il.us

POLLUTION CONTROL BOARD

JANUARY 2008 REGULATORY AGENDA

- G) Related rulemakings and other pertinent information: For information regarding the Agency's development of this proposal, please contact the following Agency attorney:

Rachel L. Doctors
Illinois Environmental Protection Agency
Division of Legal Counsel
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

- f) Parts (Headings and Code Citations): Definitions and General Provisions (35 Ill. Adm. Code 211), Organic Material Emission Standards and Limitations (35 Ill. Adm. Code 215), Organic Material Emission Standards and Limitations for the Chicago Area (35 Ill. Adm. Code 218), Organic Material Emission Standards and Limitations for the Metro East Area (35 Ill. Adm. Code 219)
- 1) Rulemaking: No docket presently reserved.
- A) Description: The Illinois Environmental Protection Agency (Agency) is currently developing amendments for proposal to the Board. The proposal will set forth State-wide regulations pertaining to volatile organic compounds (VOC) from several categories of products, including but not limited to the following: flexible packaging printing materials, lithographic printing materials, letterpress printing materials, industrial cleaning solvents, and flat wood paneling coatings. The proposal will establish VOC content limits for the various product categories as set forth in USEPA's Control Technique Guidelines.
- B) Statutory Authority: Implementing Section 10 of the Act [415 ILCS 5/10] and authorized by Sections 27 and 28 of the Act [415 ILCS 5/27 & 5/28].
- C) Scheduled meeting/hearing dates: The Agency has stated that it anticipates filing a rulemaking proposal with the Board in the Spring or Summer of 2008. No meetings or hearings are scheduled at this time. Once the proposal is filed, the Board will conduct public hearings in accordance with the requirements established by Sections 27 and 28 of the Act [415 ILCS 5/27 & 5/28].

POLLUTION CONTROL BOARD

JANUARY 2008 REGULATORY AGENDA

- D) Date agency anticipates First Notice: An Agency submittal of a proposal to the Board would commence this proceeding, and the Agency has stated that it expects to file a proposal in the Spring or Summer of 2008. After the filing of a proposal by the Agency, the Board will cause publication of a Notice of Proposed Amendments in the *Illinois Register*.
- E) Effect on small business, small municipalities, or not-for-profit corporation: This proposal may affect any small business, small municipality or not-for-profit corporation that produces the various categories of products.
- F) Agency contact person for information: Address comments concerning the substance of the rulemaking to:

John Therriault, Acting Clerk
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

Address questions concerning this regulatory agenda to:

Erin Conley, Rules Coordinator
1021 North Grand Avenue East
P.O. Box 19274
Springfield, Illinois 62794-9274
217/782-2471
conleye@ipcb.state.il.us

- G) Related rulemakings and other pertinent information: For information regarding the Agency's development of this proposal, please contact the following Agency attorney:

Charles Matoesian
Illinois Environmental Protection Agency
Division of Legal Counsel
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

POLLUTION CONTROL BOARD

JANUARY 2008 REGULATORY AGENDA

g) Parts (Headings and Code Citations): Nitrogen Oxides Emissions (35 Ill. Adm. Code 217)

1) Rulemaking: R06-22

A) Description: On January 19, 2006, the Board received a rulemaking proposal submitted by the Illinois Environmental Protection Agency (Agency) pursuant to Section 27 and 28 of the Illinois Environmental Protection Act (Act) (415 ILCS 5/27 and 28 (2004)). Included in this proposal are amendments to the regulations governing Nitrogen Oxide (NO_x) emissions found at 35 Ill. Adm. Code Part 217, Subparts A, T, U, and W.

The amendments propose to update Part 217 to reflect recent amendments made by the United States Environmental Protection Agency (USEPA) to the Code of Federal Regulations concerning several test methods and procedures, and by the Illinois General Assembly to Section 9.9 of the Act concerning the sale of NO_x allowances and the repeal of the stay provisions. The Agency proposes amendments intended to ensure that the NO_x budgets for both the Electrical Generating Units (EGU) and the non-EGUs are not reduced by low-emitters in a way that was not anticipated at the time the rules were originally adopted by the Board. Finally, the Agency proposes clarifications to the dates and timing of allocations designed to simplify the administration of the NO_x Trading Program. The Agency asserts that this proposal does not change the emission limits or require new control devices on affected sources.

B) Statutory Authority: Implementing Sections 9.9 and 10 and authorized by Sections 27 and 28.5 of the Environmental Protection Act [415 ILCS 5/9.9, 10, 27 and 28.5].

C) Scheduled meeting/hearing dates: The Board is currently scheduling hearings in this rulemaking.

D) Date agency anticipates First Notice: The Board anticipates adopting a first notice opinion and order in this rulemaking in the Spring or Summer of 2008.

POLLUTION CONTROL BOARD

JANUARY 2008 REGULATORY AGENDA

- E) Effect on small business, small municipalities, or not-for-profit corporation: This rule change may affect any small business, small municipality, or not-for-profit corporation subject to the Board's nitrogen oxide (NO_x) emission rules.
- F) Agency contact person for information: Address comments concerning the substance of the rulemaking to:

John Therriault, Acting Clerk
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

Address questions concerning this regulatory agenda to:

Erin Conley, Rules Coordinator
1021 North Grand Avenue East
P.O. Box 19274
Springfield, Illinois 62794-9274
217/782-2471
conleye@ipcb.state.il.us

- G) Related rulemakings and other pertinent information: For information regarding the Agency's development of this proposal, please contact the following Agency attorney:

Rachel L. Doctors
Illinois Environmental Protection Agency
Division of Legal Counsel
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

- h) Parts (Headings and Code Citations): Standards and Limitations for Organic Material Emissions for Area Sources (35 Ill. Adm. Code 223)

- 1) Rulemaking: No docket presently reserved.

POLLUTION CONTROL BOARD

JANUARY 2008 REGULATORY AGENDA

- A) Description: The Illinois Environmental Protection Agency (Agency) is currently developing amendments for proposal to the Board. The proposal will set forth state-wide regulations pertaining to emission of volatile organic compounds (VOC) from consumer and commercial products, architectural and industrial maintenance coating operations and aerosol coating products. The proposal will establish VOC content limits for the specific coatings and various product categories.
- B) Statutory Authority: Implementing Section 10 of the Act [415 ILCS 5/10] and authorized by Sections 27 and 28 of the Act [415 ILCS 5/27 & 5/28].
- C) Scheduled meeting/hearing dates: The Agency has stated that it anticipates filing a rulemaking proposal with the Board in the Spring or Summer of 2008. No meetings or hearings are scheduled at this time. Once the proposal is filed, the Board will conduct public hearings in accordance with the requirements established by Sections 27 and 28 of the Act [415 ILCS 5/27 & 5/28].
- D) Date agency anticipates First Notice: An Agency submittal of a proposal to the Board would commence this proceeding, and the Agency has stated that it expects to file a proposal in the Spring or Summer of 2008. After the filing of a proposal by the Agency, the Board will cause a Notice of Proposed Amendments to appear in the *Illinois Register*.
- E) Effect on small business, small municipalities, or not-for-profit corporation: This proposal may affect any small business, small municipality or not-for-profit corporation that operates or manufacturers architectural and industrial maintenance coatings. This proposal may also affect any small business, small municipality or not-for-profit corporation that produces, sells or supplies categories of consumer and commercial products and aerosol coating products.
- F) Agency contact person for information: Address comments concerning the substance of the rulemaking to:

John Therriault, Acting Clerk
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

POLLUTION CONTROL BOARD

JANUARY 2008 REGULATORY AGENDA

Address questions concerning this Regulatory Agenda to:

Erin Conley, Rules Coordinator
1021 North Grand Avenue East
P.O. Box 19274
Springfield, Illinois 62794-9274
217/782-2471
conleye@ipcb.state.il.us

- G) Related rulemakings and other pertinent information: For information regarding the Agency's development of this proposal, please contact the following Agency attorney:

Charles Matoesian
Illinois Environmental Protection Agency
Division of Legal Counsel
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

- i) Parts (Headings and Code Citations): Open Burning (35 Ill. Adm. Code 237)

- 1) Rulemaking: No docket presently reserved

- A) Description: The Illinois Environmental Protection Agency (Agency) is in the process of developing a rulemaking proposal to file with the Board that would amend the time period of permit effectiveness and other related amendments to the regulatory language.
- B) Statutory Authority: Implementing Section 10 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/10, 27].
- C) Scheduled meeting/hearing dates: The Agency has stated that it anticipates filing a rulemaking proposal with the Board in the Spring or Summer of 2008. No meetings or hearings are scheduled at this time. Once the proposal is filed, the Board will conduct public hearings in accordance with the requirements established by Sections 27 and 28 of the Act [415 ILCS 5/27 & 5/28].

POLLUTION CONTROL BOARD

JANUARY 2008 REGULATORY AGENDA

- D) Date agency anticipates First Notice: An Agency submittal of a proposal to the Board would commence this proceeding, and the Agency has stated that it expects to file a proposal in the Spring or Summer of 2008. After the filing of a proposal by the Agency, the Board will cause a Notice of Proposed Amendments to appear in the Illinois Register.
- E) Effect on small business, small municipalities, or not-for-profit corporation: This rulemaking may affect any small business, small municipality, or not-for-profit corporation that has previously obtained an open burning permit from the Agency or will in the future apply for an open burning permit from the Agency.
- F) Agency contact person for information: Address comments concerning the substance of the rulemaking to:

John Therriault, Acting Clerk
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

Address questions concerning this regulatory agenda to:

Erin Conley, Rules Coordinator
1021 North Grand Avenue East
P.O. Box 19274
Springfield, Illinois 62794-9274
217/782-2471
conleye@ipcb.state.il.us

- G) Related rulemakings and other pertinent information: For information regarding the Agency's development of this proposal, please contact the following Agency attorney:

John J. Kim, Managing Attorney
Illinois Environmental Protection Agency
1021 North Grand Avenue East
Springfield, IL 62794

POLLUTION CONTROL BOARD

JANUARY 2008 REGULATORY AGENDA

- j) Parts (Headings and Code Citations): Mobile Sources (35 Ill. Adm. Code 240)
- 1) Rulemaking: No docket presently reserved.
- A) Description: The Illinois Environmental Protection Agency (Agency) is in the process of developing a rulemaking proposal to file with the Board dealing with the Board's regulations for the vehicle inspection and maintenance testing program. The regulations will be revised to reflect changes in relevant law and operational aspects of the underlying vehicle inspection and maintenance testing program.
- B) Statutory Authority: Implementing and authorized by the Vehicle Emissions Inspection Law [625 ILCS 5/ch. 13B] and Section 27 of the Environmental Protection Act [415 ILCS 5/27].
- C) Scheduled meeting/hearing dates: The Agency has stated that it anticipates filing a rulemaking proposal with the Board in the Spring or Summer of 2008. No meetings or hearings are scheduled at this time. Once the proposal is filed, the Board will conduct public hearings in accordance with the requirements established by Sections 27 and 28 of the Act [415 ILCS 5/27 & 5/28].
- D) Date agency anticipates First Notice: An Agency submittal of a proposal to the Board would commence this proceeding, and the Agency has stated that it expects to file a proposal in the Spring or Summer of 2008. After the filing of a proposal by the Agency, the Board will cause a Notice of Proposed Amendments to appear in the *Illinois Register*.
- E) Effect on small business, small municipalities, or not-for-profit corporation: This rulemaking may affect any small business, small municipality, or not-for-profit corporation that owns or operates a motor vehicle that is subject to enhanced I/M testing regulations.
- F) Agency contact person for information: Address comments concerning the substance of the rulemaking to:

John Therriault, Acting Clerk
Pollution Control Board

POLLUTION CONTROL BOARD

JANUARY 2008 REGULATORY AGENDA

100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

Address questions concerning this regulatory agenda to:

Erin Conley, Rules Coordinator
1021 North Grand Avenue East
P.O. Box 19274
Springfield, Illinois 62794-9274
217/782-2471
conleye@ipcb.state.il.us

- G) Related rulemakings and other pertinent information: For information regarding the Agency's development of this proposal, please contact the following Agency attorney:

John J. Kim, Managing Attorney
Illinois Environmental Protection Agency
1021 North Grand Avenue East
Springfield, IL 62794
217/782-5544

- k) Part (Heading and Citation Code): Water Quality Standards (35 Ill. Adm. Code 302) and Water Use Designations and Site Specific Water Quality Standards (35 Ill. Adm. Code 303)

- 1) Rulemaking: No docket presently reserved.

- A) Description: The Illinois Environmental Protection Agency (Agency) is preparing a rulemaking proposal for filing before the Board relating to the water quality standards for the Chicago Area Waterway System. The Agency has established a workgroup to conduct a Use Attainability Analysis (UAA), pursuant to 40 C.F.R. Section 131.10, for the Chicago Area Waterway System, with the primary focus on the Calumet and Chicago River Basin Waterway currently classified as Secondary Contact and Indigenous Aquatic Life and other selected General Use Waterways.
- B) Statutory Authority: Implementing and authorized by Sections 11, 13 and 27 of the Environmental Protection Act [415 5/11, 13 & 27].

POLLUTION CONTROL BOARD

JANUARY 2008 REGULATORY AGENDA

- C) Scheduled meeting/hearing date: No meetings or hearings are scheduled at this time. Once the proposal is filed, the Board will conduct hearings as required by Sections 27 and 28 of the Act [415 ILCS 5/27 & 28].
- D) Date Agency anticipates First Notice: An Agency submittal of a proposal to the Board would commence this proceeding, and the Agency has stated it expects to file a proposal in the Spring or Summer of 2008. After the filing of a proposal by the Agency, the Board will cause publication of a Notice of Proposed Amendments in the *Illinois Register*.
- E) Effect on small businesses, small municipalities or not-for-profit corporations: This rule may affect any small business, small municipality, or not-for-profit corporation that discharges into the Chicago Area Waterway System.
- F) Agency contact person for information: Address written comments concerning the substance of this rulemaking to:

John Therriault, Acting Clerk
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

Address concerning this regulatory agenda to:

Erin Conley
Pollution Control Board
1021 North Grand Avenue East
P.O. Box 19274
Springfield, Illinois 62794-9274
217/782-2471
Iconleye@ipcb.state.il.us

- G) Related rulemaking and other pertinent information: For information regarding the Agency's development of this proposal, please contact:

Stefanie N. Diers
Division of Legal Counsel

POLLUTION CONTROL BOARD

JANUARY 2008 REGULATORY AGENDA

Illinois Environmental Protection Agency
1021 North Grand Ave. East
P.O. Box 19276
Springfield, Illinois 62794-9276
217/782-5544

- l) Part (Heading and Code Citation): Water Use Designations and Site Specific Water Quality Standards (35 Ill. Adm. Code 303)
 - 1) Rulemaking: R08-9
 - A) Description: On November 1, 2007, the Board accepted a proposal for hearing in Water Quality Standards and Effluent Limitations for the Chicago Area Waterway System and the Lower Des Plaines River: Proposed Amendments to 35 Ill. Adm. Code 301, 302, 303, and 304 (R08-9). The proposal filed by the Illinois Environmental Protection Agency (Agency) on October 26, 2007, seeks to amend the Board's water quality standards for the "Chicago Area Water Way System" (CAWS) and the Lower Des Plaines River. On November 15, 2007, after the response time to the motion had run out, the Board granted the Agency's request to hold the hearings in this rulemaking in Chicago and Joliet.

In this rulemaking, the Agency proposes amendments to update the designated uses and criteria necessary to protect the uses for the waters currently designated for Secondary Contact and Indigenous Aquatic Life Uses. These specific designations were for those waters not suited for General Use activities. All waters in Illinois that carry these designations are water bodies that were a part of the engineering effort that reversed the flow of the Chicago River and are known as the CAWS and the Lower Des Plaines River. In 2000 and 2002, the Agency began pilot programs for the Lower Des Plaines River and CAWS to develop use attainability analysis (UAA) for these waters. These proposed rule changes incorporate the findings of the pilot programs.
 - B) Statutory Authority: Implementing and authorized by Sections 11, 13, and 27 of the Environmental Protection Act [415 ILCS 5/11, 13 & 27].
 - C) Scheduled meeting /hearing date: The Board has scheduled two hearings in this rulemaking as required by Sections 27 and 28 of the Act [415 ILCS

POLLUTION CONTROL BOARD

JANUARY 2008 REGULATORY AGENDA

5/27 & 28]. The first hearing will be held in Chicago on January 28, 2008, and the second hearing will be held in Joliet on March 10, 2008.

- D) Date agency anticipates First Notice: The Board will consider this rulemaking for first notice publication in the *Illinois Register* in the Spring or Summer of 2008.
- E) Effect on small businesses, small municipalities or not-for-profit corporations: This rule may affect any small business, small municipality, or not-for-profit corporation that discharges into the lower Des Plaines River.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking to:

John Therriault, Acting Clerk
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

Address concerning this regulatory agenda to:

Erin Conley
Pollution Control Board
1021 North Grand Avenue East
P.O. Box 19274
Springfield, Illinois 62794-9274
217/782-2471
conleye@ipcb.state.il.us

- G) Related rulemaking and other pertinent information: For information regarding the Agency's development of this proposal, please contact:

Deborah J. Williams
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Ave. East
P.O. Box 19276
Springfield, Illinois 62794-9276

POLLUTION CONTROL BOARD

JANUARY 2008 REGULATORY AGENDA

- m) Parts (Headings and Code Citations): Water Use Designations and Site Specific Water Quality Standards (35 Ill. Adm. Code 303)
- 1) Rulemaking: R07-21
- A) Description: On May 30, 2007, the City of Joliet (Joliet) filed a proposal for a site-specific rulemaking with the Board. Joliet's proposal seeks to amend the general use water quality standards for copper and fluoride for the portion of Hickory Creek downstream from the Joliet Street Bridge in Joliet to the juncture with the Des Plaines River. The requested monthly limits are 0.15 mg/l for copper and 3.5 mg/l for fluoride.
- This petition is a follow-up to a March 30, 2007 consent decree entered in Will County Circuit Court case between Joliet, the Illinois Environmental Protection Agency (Agency), and the Attorney General's Office. The court decree had set an interim copper limit (0.1156 daily max) expiring on May 31, 2007 and interim fluoride limit (3.5 mg/l daily max) with no expiration date.
- B) Statutory Authority: Implementing and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/27].
- C) Scheduled meeting/hearing dates: The Board is in the process of scheduling a hearing in this site-specific rulemaking.
- D) Date agency anticipates First Notice: The Board anticipates that it may propose amendments for first notice in the Spring or Summer of 2008.
- E) Effect on small business, small municipalities, or not-for-profit corporation: This rulemaking will impact the City of Joliet.
- F) Agency contact person for information: Address comments concerning the substance of the rulemaking to:

John Therriault, Acting Clerk
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

POLLUTION CONTROL BOARD

JANUARY 2008 REGULATORY AGENDA

Address questions concerning this regulatory agenda to:

Erin Conley, Rules Coordinator
1021 North Grand Avenue East
P.O. Box 19274
Springfield, Illinois 62794-9274
217/782-2471
conleye@ipcb.state.il.us

- G) Related rulemakings and other pertinent information: None
- n) Parts (Headings and Code Citations): Sewer Discharge Criteria (35 Ill. Adm. Code 307), Pretreatment Programs (35 Ill. Adm. Code 310)
- 1) Rulemaking: Docket number R08-11
- A) Description: Section 13.3 of the Environmental Protection Act [415 ILCS 5/13.3] mandates that the Board update the Illinois wastewater pretreatment regulations to reflect revisions made to the federal wastewater pretreatment rules made by the United States Environmental Protection Agency (USEPA).
- The Board has reserved docket number R08-11 to accommodate any amendments to the federal wastewater pretreatment rules, 40 CFR 400 through 499, that the USEPA may have made in the period July 1, 2007 through December 31, 2007. At this time, the Board is not aware of any federal amendments to the federal wastewater pretreatment regulations that occurred during this update period.
- The Board will verify the existence of any federal actions that may affect the text of the federal wastewater pretreatment regulations and the Board action required in response to each set of federal amendments in coming weeks, by about mid-February 2008. The Board will then propose corresponding amendments to the Illinois wastewater pretreatment regulations using the identical-in-substance procedure under docket R08-11, as necessary and appropriate.

POLLUTION CONTROL BOARD

JANUARY 2008 REGULATORY AGENDA

Section 13.3 of the Act mandates that the Board complete amendments within one year of the date on which USEPA adopted the earliest action upon which the amendments are based. In docket R08-11, if the earliest federal amendments in the applicable period occurred on July 1, 2007, the due date for Board adoption would be July 1, 2008.

- B) Statutory Authority: Implementing and authorized by Sections 7.2, 13, 13.3, and 27 of the Environmental Protection Act [415 ILCS 5/7.2, 13, 13.3 & 27].
- C) Scheduled meeting/hearing dates: None scheduled at this time. The Board will vote to propose any amendments at an open meeting in accordance with requirements established by Sections 27 and 28 of the Act [415 ILCS 5/27 & 28]. No hearing is required in identical-in-substance proceedings.
- D) Date agency anticipates First Notice: The Board cannot project an exact date for publication at this time. The Board expects to verify any federal actions by mid-February 2008, after which time the Board will propose any amendments to the Illinois wastewater treatment rules that are necessary in response to the federal amendments that have occurred. If the due date for Board adoption of amendments in this docket were assumed to be July 1, 2008, the Board will vote to propose amendments and cause a Notice of Proposed Amendments to appear in the Illinois Register by mid-April 2008. This would be sufficiently in advance of the due date to allow the Board to accept public comments on the proposal for 45 days before acting to adopt any amendments. Alternatively, if no amendment to the Illinois wastewater pretreatment rules is needed, the Board will promptly dismiss this reserved docket.
- E) Effect on small business, small municipalities, or not-for-profit corporations: This rulemaking may affect any small business, small municipality, or not-for-profit corporation that pretreatment engages in the discharge of pollutants into the collection system of a publicly-owned treatment works that is the subject of any federal amendments.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking, noting docket number R08-11, as follows:

POLLUTION CONTROL BOARD

JANUARY 2008 REGULATORY AGENDA

John T. Therriault, Assistant Clerk
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

Address questions concerning this regulatory agenda, noting docket number R08-11, as follows:

Michael J. McCambridge, Attorney
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601
312/814-6924
mccambm@ipcb.state.il.us

- G) Related rulemakings and other pertinent information: Section 13.3 of the Environmental Protection Act provides that Title VII of the Act and Section 5 of the Administrative Procedure Act (APA) [5 ILCS 100/5-35, 5-40] shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules. Rather, the Board will cause a Notice of Proposed Amendments to appear in the *Illinois Register*, and it will accept public comments on the proposal for 45 days after the date of publication.
- o) Part (Heading and Code Citation): Standards For Sludge Management (35 Ill. Adm. Code 313)
- 1) Rulemaking: No docket presently reserved.
- A) Description: The Illinois Environmental Protection Agency (Agency) is currently preparing a rulemaking proposal for filing before the Board relating to land application of sewage sludge. The rules would establish pollutant limits, pathogen reduction requirements, and vector control measures applicable to sludge applied to land.
- B) Statutory Authority: Implementing and authorized by Sections 11 and 27 of the Environmental Protection Act [415 ILCS 5/11 & 27].

POLLUTION CONTROL BOARD

JANUARY 2008 REGULATORY AGENDA

- C) Schedule meeting/hearing date: No meetings or hearings are scheduled at this time. Once the proposal is filed, the Board will conduct hearings as required by Sections 27 and 28 of the Act [415 ILCS 5/27 & 28].
- D) Date agency anticipates First Notice: An Agency submittal of a proposal to the Board would commence this proceeding, and the Agency has stated that it expects to file a proposal during the Spring or Summer of 2008. After the filing of a proposal by the Agency, the Board will cause a Notice of Proposed Rules to appear in the *Illinois Register*.
- E) Effect on small businesses, small municipalities or not-for-profit corporations: This rule may affect any small business, small municipality, or not-for-profit corporation that generates or uses sewage sludge.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking to:

John Therriault, Acting Clerk
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

Address questions concerning this Regulatory Agenda to:

Erin Conley, Rules Coordinator
Pollution Control Board
1021 North Grand Avenue East
P.O. Box 19274
Springfield, Illinois 62794-9274
217/782-2471
conleye@ipcb.state.il.us

- G) Related rulemakings and other pertinent information: The Agency has stated that it anticipates proposing amendments to its rules entitled "Design Criteria for Sludge Application on Land", 35 Ill. Adm. Code 391, which involve a related subject matter.

POLLUTION CONTROL BOARD

JANUARY 2008 REGULATORY AGENDA

For information regarding the Agency's development of this proposal, please contact the following Agency attorney:

Stefanie Diers
Illinois Environmental Protection Agency
Division of Legal Counsel
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

Interested persons may also contact the following Agency representative about its prospective rulemaking proposal:

Alan Keller, P.E.
Manager, Northern Municipal Unit
Illinois Environmental Protection Agency
Division of Water Pollution Control
Bureau of Water
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
217/782-0810

- p) Parts (Heading and Code Citation): Agriculture Related Water Pollution (35 Ill. Adm. Code Subtitle E)
- 1) Rulemaking: No docket presently reserved.
- A) Description: The Illinois Environmental Protection Agency (Agency) will prepare a rulemaking proposal for filing before the Board relating to the United States Environmental Protection Agency's Environmental Protection Concentrated Animal Feeding Operation National Pollutant Discharge Elimination System (NPDES) regulations that were adopted on December 15, 2002. The Agency anticipates a review of Subtitle E and a proposal to ensure that it remains consistent with the federal regulations and case law reviewing these regulations. See, Waterkeeper Alliance et al. v. USEPA, 399 F.3d 486 (2d Cir. 2005).

POLLUTION CONTROL BOARD

JANUARY 2008 REGULATORY AGENDA

- B) Statutory Authority: Implementing and authorized by Sections 11, 13, and 27 of the Environmental Protection Act [415 ILCS 5/11, 13 & 27].
- C) Scheduled meeting/hearing dates: No meetings or hearings are scheduled at this time. Once the proposal is filed, the Board will conduct hearings as required by Sections 27 and 28 of the Act [415 ILCS 5/27 & 28].
- D) Date agency anticipates First Notice: An Agency submittal of the rulemaking proposal is anticipated by Spring or Summer of 2008. The Board will conduct proceedings pursuant to Sections 27 and 28 of the Environmental Protection Act [415 ILCS 5/27 & 28] upon receipt of the proposal and would cause a Notice of Proposed Amendments to appear in the Illinois Register when it decides to propose amendments for First Notice.
- E) Effect on small businesses, small municipalities or not for profit corporations: This rule could affect any agri-business that meets the federal definition of a Concentrated Animal Feeding Operation.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking to:

John Therriault, Acting Clerk
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

Address questions concerning this Regulatory Agenda to:

Erin Conley, Rules Coordinator
Pollution Control Board
1021 North Grand Avenue East
P.O. Box 19274
Springfield, Illinois 62794-9274
217/782-2471
conleye@ipcb.state.il.us

POLLUTION CONTROL BOARD

JANUARY 2008 REGULATORY AGENDA

- G) Related Rulemaking and other pertinent information: Interested persons may contact the Agency about its prospective rulemaking proposal as follows:

Deborah J. Williams
Illinois Environmental Protection Agency
Division of Legal Counsel
1021 North Grand Avenue East
Post Office Box 19276
Springfield, Illinois 62794-9276
217/782-5544

- q) Part (Heading and Code Citation): Primary Drinking Water Standards (35 Ill. Adm. Code 611)

- 1) Rulemaking: Docket number R08-13

- A) Description: Section 17.5 of the Environmental Protection Act [415 ILCS 5/17.5] mandates that the Board update the Illinois SDWA regulations to reflect the USEPA amendments to the federal Safe Drinking Water Act (SDWA) primary drinking water regulations.

The Board has reserved docket number R08-13 to accommodate any amendments to the SDWA national primary drinking water standards, 40 CFR 141 through 143, that the United States Environmental Protection Agency (USEPA) may make in the period July 1, 2007 through December 31, 2007. At this time, the Board is aware of one set of federal amendments to the federal national primary drinking water regulations that occurred during this update period. The amendments are described as follows:

71 Fed. Reg. 65574 (October 10, 2007)

USEPA amended the lead and copper rule to strengthen its implementation in the areas of monitoring, treatment processes, public education, customer awareness, and lead service line replacement. Compliance by regulated entities is due no later than December 10, 2009.

POLLUTION CONTROL BOARD

JANUARY 2008 REGULATORY AGENDA

The Board will verify the existence of any other federal actions that may affect the text of the federal primary drinking water standards and the Board action required in response to each in coming weeks, by about mid-February 2008. The Board will then propose corresponding amendments to the Illinois SDWA primary drinking water regulations using the identical-in-substance procedure or dismiss docket R08-13, as necessary and appropriate.

Section 17.5 mandates that the Board complete amendments within one year of the date on which USEPA adopted the earliest action upon which the amendments are based. In docket R08-13, if the earliest federal amendments in the applicable period occurred on October 10, 2007, the due date for Board adoption would be October 10, 2008.

- B) Statutory Authority: Implementing and authorized by Sections 17, 17.5, and 27 of the Environmental Protection Act [415 ILCS 5/17, 17.5 & 27].
- C) Scheduled meeting/hearing dates: None scheduled at this time. The Board will vote to propose any amendments at an open meeting in accordance with requirements established by Sections 27 and 28 of the Act [415 ILCS 5/27 & 28]. No hearing is required in identical-in-substance proceedings.
- D) Date agency anticipates First Notice: The Board cannot project an exact date for publication at this time. The Board expects to verify any federal actions by mid-February 2008, after which time the Board will propose any amendments to the Illinois SDWA drinking water rules that are necessary in response to the federal amendments that have occurred. If the due date for Board adoption of amendments in this docket is assumed to be October 10, 2008, for the purposes of illustration, the Board would vote to propose amendments and cause a Notice of Proposed Amendments to appear in the Illinois Register by mid-September. This would be sufficiently in advance of the due date to allow the Board to accept public comments on the proposal for 45 days before acting to adopt any amendments. Alternatively, if no amendment to the Illinois definition is needed, the Board will promptly dismiss this reserved docket.

POLLUTION CONTROL BOARD

JANUARY 2008 REGULATORY AGENDA

- E) Effect on small business, small municipalities, or not-for-profit corporations: This rulemaking may affect any small business, small municipality, or not-for-profit corporation in Illinois that owns or operates a "public water supply", as defined by Section 3.28 of the Act, i.e., it has at least fifteen service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year, or it is assisting a public water supply to demonstrate compliance.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking, noting docket number R08-13, as follows:

John T. Therriault, Assistant Clerk
Pollution Control Board
100 West Randolph Street Suite 11-500
Chicago, Illinois 60601

Address questions concerning this Regulatory Agenda, noting docket number R08-13, as follows:

Michael J. McCambridge, Attorney
Pollution Control Board
100 West Randolph Street Suite 11-500
Chicago, Illinois 60601
312/814-6924
mccambm@ipcb.state.il.us

- G) Related rulemakings and other pertinent information: Section 17.5 of the Environmental Protection Act [415 ILCS 5/17.5] provides that Title VII of the Act and Section 5 of the Administrative Procedure Act (APA) shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules. Rather, the Board will cause a Notice of Proposed Amendments to appear in the *Illinois Register*, and it will accept public comments on the proposal for 45 days after the date of publication.
- r) Part (Headings and Code Citations): Laboratory Accreditation Rules (35 Ill. Adm. Code 611)

POLLUTION CONTROL BOARD

JANUARY 2008 REGULATORY AGENDA

- 1) Rulemaking: No docket presently reserved.
 - A) Description: The Illinois Environmental Protection Agency (Agency) is currently developing a proposal for filing with the Board. The proposal will seek to amend the public water supplies rules found in 35 Ill. Adm. Code 611 to cross reference the Agency's own laboratory accreditation rules found at 35 Ill. Adm. Code 186. These prospective amendments to Sections 611.359, 611.611, 611.646, and 611.648 would cross-reference the laboratory accreditation rules at 35 Ill. Adm. Code 186. Currently, the existing text of Part 611 references 35 Ill. Adm. Code 183, which are joint rules of the Agency, the Illinois Department of Public Health, and the Illinois Department of Nuclear safety. A repeal of Part 183 has been completed.
 - B) Statutory Authority: Sections 27 and 28 of the Illinois Environmental Protection Act [415 ILCS 5/27 & 28].
 - C) Scheduled meeting/hearing dates: No meetings or hearings are scheduled at this time. Once the proposal is filed, the Board will conduct hearings as required by Sections 27 and 28 of the Act [415 ILCS 5/27 & 28].
 - D) Date agency anticipates First Notice: An Agency submittal of the rulemaking proposal is anticipated by Spring or Summer of 2008. The Board will conduct proceedings pursuant to Sections 27 and 28 of the Environmental Protection Act [415 ILCS 5/27 & 28] upon receipt of the proposal and would cause a Notice of Proposed Amendments to appear in the *Illinois Register* when it decides to propose amendments for First Notice.
 - E) Effect on small business, small municipalities or not-for-profit corporations: These amendments may affect small business, small municipalities, and not-for-profit corporations that own or operate a "public water supply", as defined by Section 3.28 of the Act, i.e., it has at least fifteen service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year, or it is assisting a public water supply to demonstrate compliance with the federally-derived National Primary Drinking Water Standards of 35 Ill. Adm. Code 611. However, it is anticipated that the proceeding will not likely have a

POLLUTION CONTROL BOARD

JANUARY 2008 REGULATORY AGENDA

quantifiable affect on these entities because the program for national laboratory certification is voluntary. The burden of compliance with the requirements, such as filing documentation, reporting or completion of the necessary forms, likely will not increase.

- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking to:

John Therriault, Acting Clerk
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

Address questions concerning this Regulatory Agenda to:

Erin Conley, Rules Coordinator
Pollution Control Board
1021 North Grand Avenue East
P.O. Box 19274
Springfield, Illinois 62794-9274
217/782-2471
conleye@ipcb.state.il.us

- G) Other pertinent information concerning these amendments: Interested persons may contact the Agency about its prospective rulemaking proposal as follows:

Jim Shaw
Division of Laboratories
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P. O. Box 19276
Springfield, IL 62794-9276

- s) Part (Heading and Code Citation): Groundwater Quality (35 Ill. Adm. Code 620)

- 1) Rulemaking: No docket presently reserved.

POLLUTION CONTROL BOARD

JANUARY 2008 REGULATORY AGENDA

- A) Description: The Illinois Environmental Protection Agency (Agency) continues to evaluate contaminants of concern that have been commonly detected in Illinois' groundwater for inclusion in 35 Ill. Adm. Code 620. One such constituent is perchlorate. This rocket fuel component has been discovered in Illinois' groundwater, and its occurrence in Illinois is being further evaluated. Another constituent that may be considered for inclusion in the rules is ammonia. While ammonia is not a health concern at the concentrations at which it has been reported, the greater health risk is the conversion of ammonia to nitrite and nitrate within a water distribution system. In addition, the Agency has evaluated contaminants commonly detected in groundwater in association with solid waste and Resource Conservation and Recovery Act (RCRA) sites. Groundwater standards are being developed for approximately 48 contaminants that have been commonly detected in groundwater at these sites where cleanup objectives have already been developed under the Tiered Approach to Corrective Action Objectives (TACO) (35 Ill. Adm. Code 742). Finally, one constituent has had new Maximum Contaminant Levels (MCLs) adopted. Arsenic occurs with some frequency in Illinois' groundwater. Therefore, a groundwater standard amendment consistent with the MCL will be proposed.
- B) Statutory Authority: Implementing and authorized by Section 8 of the Illinois Groundwater Protection Act (IGPA) [415 ILCS 55/1] and Section 27 of the Environmental Protection Act [415 ILCS 5/27].
- C) Scheduled meeting /hearing date: No hearings are scheduled at this time. Once the proposal is filed, the Board will conduct hearings as required by Sections 27 and 28 of the Act [415 ILCS 5/27 & 28].
- D) Date agency anticipates First Notice: The Agency anticipates submitting a proposal to the Board in the Spring or Summer of 2008. After the filing of a proposal by the Illinois EPA, the Board will cause publication of a Notice of Proposed Amendments in the *Illinois Register*.
- E) Effect on small businesses, small municipalities or not-for-profit corporations: The Agency does not anticipate that this rule will have a significant impact on any small business, small municipality, or not-for-profit corporations.

POLLUTION CONTROL BOARD

JANUARY 2008 REGULATORY AGENDA

- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking to:

John Therriault, Acting Clerk
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

Address questions concerning this Regulatory Agenda to:

Erin Conley
Pollution Control Board
1021 North Grand Avenue East
P.O. Box 19274
Springfield, Illinois 62794-9274
217-782-2471
conleye@ipcb.state.il.us

- G) Related rulemaking and other pertinent information: For information regarding the Agency's development of this proposal, please contact:

Richard Cobb
Illinois Environmental Protection Agency
1021 North Grand Ave. East
P.O. Box 19276
Springfield, IL 62794-9276

- t) Parts (Headings and Code Citations): RCRA and UIC Permit Programs (35 Ill. Adm. Code 702), UIC Permit Program (35 Ill. Adm. Code 704), Procedures For Permit Issuance (35 Ill. Adm. Code 705), Hazardous Waste Management System: General (35 Ill. Adm. Code 720), Underground Injection Control Operating Requirements (35 Ill. Adm. Code 730)

- 1) Rulemaking: Presently reserved docket number R08-14.

- A) Description: Section 13(c) of the Environmental Protection Act [415 ILCS 5/13(c)] mandates that the Board update the Illinois underground injection control (UIC) regulations to reflect amendments to the United States Environmental Protection Agency (USEPA) UIC regulations.

POLLUTION CONTROL BOARD

JANUARY 2008 REGULATORY AGENDA

The Board has reserved docket number R08-14 to accommodate any amendments to the federal UIC regulations, 40 CFR 144 through 148, during the period July 1, 2007 through December 31, 2007. At this time, the Board is not aware of any federal amendments to the federal UIC rules that occurred during this update period.

The Board will verify the existence of any federal actions that affect the UIC regulations and the Board action required in response to each in coming weeks, by about mid-February 2008. The Board will then propose corresponding amendments to the Illinois UIC regulations using the identical-in-substance procedure or dismiss docket R08-14, as necessary and appropriate.

Section 13(c) mandates that the Board complete amendments within one year of the date on which USEPA adopted the earliest action upon which the amendments are based. In docket R08-14, if the earliest federal amendments in the applicable period were assumed to have occurred on the first day of the update period, on July 1, 2007, the due date for Board adoption would be July 1, 2008.

- B) Statutory Authority: Implementing and authorized by Sections 7.2, 13(c) and 27 of the Environmental Protection Act [415 ILCS 5/7.2, 13(c) & 27].
- C) Scheduled meeting/hearing dates: None scheduled at this time. The Board will vote to propose any amendments at an open meeting in accordance with requirements established by Sections 27 and 28 of the Act [415 ILCS 5/27 & 28]. No hearing is required in identical-in-substance proceedings.
- D) Date agency anticipates First Notice: The Board cannot project an exact date for publication at this time. The Board expects to verify any federal actions by mid-August 2007, after which time the Board will propose any amendments to the Illinois UIC rules that are necessary in response to the federal amendments that have occurred. If the due date for Board adoption of amendments in this docket were assumed to be July 1, 2008, the Board will vote to propose amendments and cause a Notice of Proposed Amendments to appear in the *Illinois Register* by mid-April 2008. This would be sufficiently in advance of the due date to allow the

POLLUTION CONTROL BOARD

JANUARY 2008 REGULATORY AGENDA

Board to accept public comments on the proposal for 45 days before acting to adopt any amendments. Alternatively, if no amendment to the Illinois definition is needed, the Board will promptly dismiss this reserved docket.

- E) Effect on small business, small municipalities, or not-for-profit corporations: This rulemaking may affect any small business, small municipality, or not-for-profit corporation in Illinois to the extent the affected entity engages in the underground injection of waste.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking, noting docket number R08-14, as follows:

John T. Therriault, Assistant Clerk
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

Address questions concerning this Regulatory Agenda, noting docket number R08-14, as follows:

Michael J. McCambridge, Attorney
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601
312/814-6924
mccambm@ipcb.state.il.us

- G) Related rulemakings and other pertinent information: Section 13(c) of the Environmental Protection Act [415 ILCS 5/13(c)] provides that Title VII of the Act and Section 5 of the Administrative Procedure Act (APA) shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules. Rather, the Board will cause a Notice of Proposed Amendments to appear in the *Illinois Register*, and it will accept public comments on the proposal for 45 days after the date of publication.

POLLUTION CONTROL BOARD

JANUARY 2008 REGULATORY AGENDA

- u) Parts (Headings and Code Citations): RCRA and UIC Permit Programs (35 Ill. Adm. Code 702), RCRA Permit Program (35 Ill. Adm. Code 703), Procedures For Permit Issuance (35 Ill. Adm. Code 705), Hazardous Waste Management System: General (35 Ill. Adm. Code 720), Identification and Listing of Hazardous Waste (35 Ill. Adm. Code 721), Standards Applicable to Generators of Hazardous Waste (35 Ill. Adm. Code 722), Standards Applicable to Transporters of Hazardous Waste (35 Ill. Adm. Code 723), Standards For Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities (35 Ill. Adm. Code 724), Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities (35 Ill. Adm. Code 725), Standards for the Management of Specific Hazardous Waste and Specific Types of Hazardous Waste Management Facilities (35 Ill. Adm. Code 726), Land Disposal Restrictions (35 Ill. Adm. Code 728), Standards for Universal Waste Management (35 Ill. Adm. Code 733), Hazardous Waste Injection Restrictions (35 Ill. Adm. Code 738), Standards for The Management of Used Oil (35 Ill. Adm. Code 739)

1) Rulemaking: Docket number R08-16

- A) Description: Section 22.4(a) of the Environmental Protection Act [415 ILCS 5/22.4(a)] mandates that the Board update the Illinois rules implementing Subtitle C of the federal Resource Conservation and Recovery Act (RCRA) to reflect the United States Environmental Protection Agency (USEPA) amendments to the federal RCRA Subtitle C regulations.

The Board has reserved docket number R08-16 to accommodate any amendments to the federal RCRA Subtitle C program, 40 CFR 260 through 270, 273, and 279, that USEPA made in the period July 1, 2007 through December 31, 2007. At this time, the Board is aware of one set of federal amendments to the federal RCRA Subtitle C hazardous waste regulations that occurred during this update period which will require Board attention. Those amendments are described as follows:

72 Fed. Reg. 39331 (July 18, 2007)

USEPA adopted mandatory criteria for the environmentally protective use of chat in transportation projects funded by the federal government. USEPA added a new part 278 in the federal hazardous waste rules, including the amendment of the general hazardous waste provisions to incorporate one new analytical method by reference. (The Board must likely incorporate

POLLUTION CONTROL BOARD

JANUARY 2008 REGULATORY AGENDA

corresponding changes into the Illinois hazardous waste regulations.)

The Board will verify the existence of any other federal actions that affect the RCRA Subtitle C regulations and the Board action required in response to each in coming weeks, by about mid-February 2008. The Board will then propose corresponding amendments to the Illinois UIC regulations using the identical-in-substance procedure or dismiss docket R08-16, as necessary and appropriate.

Section 22.4(a) mandates that the Board complete amendments within one year of the date on which USEPA adopted the earliest action upon which the amendments are based. In docket R08-16, if the earliest federal amendments in the applicable period were assumed to have occurred on the first day of the update period, on July 18, 2007, the due date for Board adoption would be July 18, 2008.

- B) Statutory Authority: Implementing and authorized by Sections 7.2, 22.4(a), and 27 of the Environmental Protection Act [415 ILCS 5/7.2, 22.4(a) & 27].
- C) Scheduled meeting/hearing dates: None scheduled at this time. The Board will vote to propose any amendments at an open meeting in accordance with requirements established by Sections 27 and 28 of the Act [415 ILCS 5/27 & 28]. No hearing is required in identical-in-substance proceedings.
- D) Date agency anticipates First Notice: The Board cannot project an exact date for publication at this time. The Board expects to verify any federal actions by mid-February 2008, after which time the Board will propose any amendments to the Illinois RCRA Subtitle C hazardous waste rules that are necessary in response to the federal amendments that have occurred. If the due date for Board adoption of amendments in this docket is assumed to be July 18, 2008, the Board will vote to propose amendments and cause a Notice of Proposed Amendments to appear in the Illinois Register by mid-April 2008. This would be sufficiently in advance of the due date to allow the Board to accept public comments on the

POLLUTION CONTROL BOARD

JANUARY 2008 REGULATORY AGENDA

proposal for 45 days before acting to adopt any amendments. Alternatively, if no amendment to the Illinois definition is needed, the Board will promptly dismiss this reserved docket.

- E) Effect on small business, small municipalities, or not-for-profit corporations: This rulemaking may affect any small business, small municipality, or not-for-profit corporation that engages in the generation, transportation, treatment, storage, or disposal of hazardous waste.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking, noting docket number R08-16, as follows:

John T. Therriault, Assistant Clerk
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

Address questions concerning this Regulatory Agenda, noting docket number R08-16, as follows:

Michael J. McCambridge, Attorney
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601
312/814-6924
mccambm@ipcb.state.il.us

- G) Related rulemakings and other pertinent information: Section 22.4(a) of the Environmental Protection Act [415 ILCS 5/22.4(a)] provides that Title VII of the Act and Section 5 of the Administrative Procedure Act (APA) shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules. Rather, the Board will cause a Notice of Proposed Amendments to appear in the *Illinois Register*, and it will accept public comments on the proposal for 45 days after the date of publication.

POLLUTION CONTROL BOARD

JANUARY 2008 REGULATORY AGENDA

- v) Parts (Headings and Code Citations): RCRA and UIC Permit Programs (35 Ill. Adm. Code 702), RCRA Permit Program (35 Ill. Adm. Code 703), Procedures For Permit Issuance (35 Ill. Adm. Code 705), Hazardous Waste Management System: General (35 Ill. Adm. Code 720), Identification and Listing of Hazardous Waste (35 Ill. Adm. Code 721), Standards Applicable to Generators of Hazardous Waste (35 Ill. Adm. Code 722), Standards Applicable to Transporters of Hazardous Waste (35 Ill. Adm. Code 723), Standards For Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities (35 Ill. Adm. Code 724), Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities (35 Ill. Adm. Code 725), Standards for the Management of Specific Hazardous Waste and Specific Types of Hazardous Waste Management Facilities (35 Ill. Adm. Code 726), Land Disposal Restrictions (35 Ill. Adm. Code 728), Standards for Universal Waste Management (35 Ill. Adm. Code 733), Hazardous Waste Injection Restrictions (35 Ill. Adm. Code 738), Standards for The Management of Used Oil (35 Ill. Adm. Code 739)

1) Rulemaking: Docket number R07-5/R07-14(cons.)

- A) Description: Section 22.4(a) of the Environmental Protection Act [415 ILCS 5/22.4(a)] mandates that the Board update the Illinois rules implementing Subtitle C of the federal Resource Conservation and Recovery Act (RCRA) to reflect the United States Environmental Protection Agency (USEPA) amendments to the federal RCRA Subtitle C regulations.

The Board reserved docket number R07-5 to accommodate amendments to the federal RCRA Subtitle C program, 40 CFR 260 through 270, 273, and 279, that USEPA made in the period January 1, 2006 through June 30, 2006. During this period there was one set of federal amendments to the federal RCRA Subtitle C hazardous waste regulations:

71 Fed. Reg. 16862 (April 4, 2006)

USEPA amended various provisions of the hazardous waste regulations to reduce the paperwork burden imposed by the rules. Some of the reduced requirements apply only to members of USEPA's Environmental Performance Track Program. The affected rules include hazardous waste management facility standards and aspects of the permitting requirements and land disposal restrictions.

POLLUTION CONTROL BOARD

JANUARY 2008 REGULATORY AGENDA

The Board reserved docket number R07-14 to accommodate amendments to the federal RCRA Subtitle C program, 40 CFR 260 through 270, 273, and 279, that USEPA made in the period July 1, 2006 through December 31, 2006. During this period there were two sets of federal amendments to the federal RCRA Subtitle C hazardous waste regulations:

71 Fed. Reg. 40254 (July 14, 2006)

USEPA adopted a number of corrections to various of the hazardous waste and used oil management regulations.

71 Fed. Reg. 42928 (July 28, 2006)

USEPA amended the definition of hazardous waste to exclude cathode ray tubes (CRTs) that are managed within specified conditions. USEPA intends to encourage the reuse and recycling of used CRTs and glass from CRTs.

On January 26, 2007, the Board adopted an order to consolidate these identical in substance RCRA rulemakings. In that order the Board also found it necessary to extend the one-year period for completion of these amendments. In a Notice of Public Information, required under Section 7.2(b) of the Illinois Environmental Protection Act (Act), 415 ILCS 5/7.2(b) (2006), the Board explained that it has extended until October 1, 2007, the deadline for adoption and filing of rules in the consolidated identical in substance docket. On September 20, 2007, the Board again extended the deadline for completion of amendments in this consolidated docket. The final date for Board completion of the amendments was extended from October 1, 2007 to April 14, 2008.

- B) Statutory Authority: Implementing and authorized by Sections 7.2, 22.4(a), and 27 of the Environmental Protection Act [415 ILCS 5/7.2, 22.4(a) & 27].
- C) Scheduled meeting/hearing dates: None scheduled at this time. The Board will vote to propose any amendments at an open meeting in accordance with requirements established by Sections 27 and 28 of the

POLLUTION CONTROL BOARD

JANUARY 2008 REGULATORY AGENDA

Act [415 ILCS 5/27 & 28]. No hearing is required in identical-in-substance proceedings.

- D) Date agency anticipates First Notice: As is explained above, the Board anticipates adopting a proposal for public comment in the early Winter of 2008.
- E) Effect on small business, small municipalities, or not-for-profit corporations: This rulemaking may affect any small business, small municipality, or not-for-profit corporation that engages in the generation, transportation, treatment, storage, or disposal of hazardous waste.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking, noting docket number R07-5/R07-14 (cons.), as follows:

John Therriault, Acting Clerk
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

Address questions concerning this Regulatory Agenda, noting docket number R07-5/R07-14 (cons.), as follows:

Michael J. McCambridge, Attorney
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601
312/814-6924
mccambm@ipcb.state.il.us

- G) Related rulemakings and other pertinent information: Section 22.4(a) of the Environmental Protection Act [415 ILCS 5/22.4(a)] provides that Title VII of the Act and Section 5 of the Administrative Procedure Act (APA) shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules. Rather, the Board will cause a Notice of Proposed Amendments to appear in the *Illinois Register*, and it

POLLUTION CONTROL BOARD

JANUARY 2008 REGULATORY AGENDA

will accept public comments on the proposal for 45 days after the date of publication.

w) Part (Heading and Code Citation): Underground Storage Tanks (35 Ill. Adm. Code 731)

1) Rulemaking: Docket number R08-10

- A) Description: Section 22.4(d) of the Environmental Protection Act [415 ILCS 5/22.4(d)] mandates that the Board update the Illinois underground storage tank (UST) regulations to reflect amendments to the United States Environmental Protection Agency (USEPA) UST regulations. The mandate specifically excludes federal amendments relating to the design, construction, installation, general operation, release detection, release reporting, release investigation, release confirmation, out-of-service systems, and closure or financial responsibilities for USTs.

The Board has reserved docket number R08-10 to accommodate any amendments to 40 CFR 281 through 283 that USEPA may make in the period July 1, 2007 through December 31, 2007. At this time, the Board is not aware of any federal amendments that occurred during this update period.

The Board will verify the existence of any federal actions and the Board action required in response to each in coming weeks, by about mid-February 2008. The Board will then propose corresponding amendments to the Illinois UST regulations using the identical-in-substance procedure or dismiss docket R08-10, as necessary and appropriate.

Section 22.4(d) mandates that the Board complete amendments within one year of the date on which USEPA adopted the earliest action upon which the amendments are based. Assuming for the purposes of illustration that USEPA adopted an amendment that will require Board action on the first day of the update period, on July 1, 2007, the due date for Board adoption would be July 1, 2008.

- B) Statutory Authority: Implementing and authorized by Sections 7.2, 22.4(d), and 27 of the Environmental Protection Act [415 ILCS 5/7.2, 22.4(d) & 27].

POLLUTION CONTROL BOARD

JANUARY 2008 REGULATORY AGENDA

- C) Scheduled meeting/hearing dates: None scheduled at this time. The Board will vote to propose any amendments at an open meeting in accordance with requirements established by Sections 27 and 28 of the Act [415 ILCS 5/27 & 28]. No hearing is required in identical-in-substance proceedings.
- D) Date agency anticipates First Notice: The Board cannot project an exact date for publication at this time. The Board expects to verify any federal actions by mid-February 2005, after which time the Board will propose any amendments to the Illinois UST regulations that are necessary in response to the federal amendments that have occurred. If the due date for Board adoption of amendments in this docket were assumed to be July 1, 2008, for the purposes of illustration, the Board would vote to propose amendments and cause a Notice of Proposed Amendments to appear in the *Illinois Register* by mid-April 2008. This would be sufficiently in advance of the due date to allow the Board to accept public comments on the proposal for 45 days before acting to adopt any amendments. Alternatively, if no amendment to the Illinois regulations is needed, the Board will promptly dismiss this reserved docket.
- E) Effect on small business, small municipalities, or not-for-profit corporations: This rulemaking may affect any small business, small municipality, or not-for-profit corporation that owns or operations USTs.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking, noting docket number R08-10, as follows:

John T. Therriault, Assistant Clerk
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

Address questions concerning this Regulatory Agenda, noting docket number R08-10, as follows:

Michael J. McCambridge, Attorney
Pollution Control Board
100 West Randolph Street, Suite 11-500

POLLUTION CONTROL BOARD

JANUARY 2008 REGULATORY AGENDA

Chicago, Illinois 60601
312/814-6924
mccambm@ipcb.state.il.us

- G) Related rulemakings and other pertinent information: Section 22.4(d) of the Environmental Protection Act [415 ILCS 5/22.4(d)] provides that Title VII of the Act and Section 5 of the Administrative Procedure Act (APA) [5 ILCS 100/5-35, 40] shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules. Rather, the Board will cause a Notice of Proposed Amendments to appear in the *Illinois Register*, and it will accept public comments on the proposal for 45 days after the date of publication.
- x) Part (Headings and Code Citation): Tiered Approach to Corrective Action Objectives (35 Ill. Adm. Code 742)
- 1) Rulemaking: No docket presently reserved.
- A) Description: The Illinois Environmental Protection Agency (Agency) is currently developing a proposal for filing with the Board to amend the Board rules for a Tiered Approach to Corrective Action Objectives (TACO)(35 Ill. Adm. Code 742). Amendments will be proposed to establish methodologies for developing remediation objectives from risks due to chemicals moving into buildings via soil vapors from contaminated soil and groundwater.
- B) Statutory Authority: These amendments will be proposed pursuant to Sections 27, and 58.5 of the Environmental Protection Act [415 ILCS 5/27, and 58.5].
- C) Scheduled Meeting/Hearing Dates: None scheduled at this time. Once the proposal is filed, the Board will conduct hearings as required by Sections 27 and 28 of the Act [415 ILCS 5/27 & 28].
- D) Date Agency Anticipates First Notice: The Agency proposal may be filed with the Board as soon as Spring or Summer of 2008, after which the Board will cause publication of a Notice of Proposed Amendments in the *Illinois Register*.

POLLUTION CONTROL BOARD

JANUARY 2008 REGULATORY AGENDA

- E) Effect on small business, small municipalities, or not-for-profit corporations: The amendments may affect any small business, small municipality or not-for-profit corporation subject to the Board's tiered approach to corrective action rules
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking to:

John Therriault, Acting Clerk
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

Address questions concerning this Regulatory Agenda to:

Erin Conley, Rules Coordinator
Pollution Control Board
1021 North Grand Avenue East
P.O. Box 19274
Springfield, Illinois 62794-9274
217/782-2471
conleye@ipcb.state.il.us

- G) Related Rulemaking and other pertinent information: For information regarding the development of these amendments please contact:

Kimberly A. Geving
1021 N. Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

- y) Part (Headings and Code Citation): Solid Waste and Special Waste Hauling (35 Ill. Adm. Code Part 807 and 811)
- 1) Rulemaking: No docket presently reserved.
- A) Description: The Illinois Environmental Protection Agency (Agency) is planning to propose amendments to Part 807 Subpart F and Part 811

POLLUTION CONTROL BOARD

JANUARY 2008 REGULATORY AGENDA

Subpart G relating to Financial Assurance. Among other things, the proposal will include adding "evergreen" renewal language to several financial assurance mechanisms.

- B) Statutory Authority: These amendments will be proposed pursuant to Sections 21.1, 22 and 27 of the Environmental Protection Act [415 ILCS 5/21.1, 22 and 27].
- C) Scheduled Meeting/Hearing Dates: No meetings or hearings are scheduled at this time. Once the proposal is filed, the Board will conduct hearings as required by Sections 27 and 28 of the Act [415 ILCS 5/27 & 28].
- D) Date Agency Anticipates First Notice: The Agency anticipates submitting its proposal in Spring or Summer of 2008, after which the Board will cause publication of a Notice of Proposed Amendments in the *Illinois Register*.
- E) Effect on small business, small municipalities, or not-for-profit corporations: The amendments may affect any small business, small municipality or not-for-profit corporation providing or requesting financial assurance for the closure and post closure care of waste disposal sites.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking to:

John Therriault, Acting Clerk
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

Address questions concerning this Regulatory Agenda to:

Erin Conley, Rules Coordinator
Pollution Control Board
1021 North Grand Avenue East
P.O. Box 19274
Springfield, Illinois 62794-9274
217/782-2471

POLLUTION CONTROL BOARD

JANUARY 2008 REGULATORY AGENDA

conleye@ipcb.state.il.us

- G) Related Rulemaking and other pertinent information: For information regarding the development of these amendments please contact:

Stephanie Flowers
Assistant Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
Stephanie.Flowers@epa.state.il.us

- z) Parts (Headings and Code Citations): Solid Waste (35 Ill. Adm. Code 807), Solid Waste Disposal: General Provisions (35 Ill. Adm. Code 810), Standards for New Solid Waste Landfills (35 Ill. Adm. Code 811), Information to Be Submitted in a Permit Application (35 Ill. Adm. Code 812), Procedural Requirements for Permitted Landfills (35 Ill. Adm. Code 813), Interim Standards for Existing Landfills and Units (35 Ill. Adm. Code 814), Procedural Requirements for All Landfills Exempt from Permits (35 Ill. Adm. Code 815)

- 1) Rulemaking: Presently reserved docket number R08-15.

- A) Description: Section 22.40(a) of the Environmental Protection Act [415 ILCS 5/22.40(a)] mandates that the Board update the Illinois Resource Conservation and Recovery Act (RCRA) Subtitle D municipal solid waste landfill (MSWLF) regulations to reflect the United States Environmental Protection Agency (USEPA) amendments to the federal RCRA Subtitle D MSWLF rules.

The Board has reserved docket number R08-15 to accommodate any amendments to the RCRA Subtitle D regulations, 40 CFR 258, that USEPA may make in the period July 1, 2007 through December 31, 2007. At this time, the Board is not aware of any federal amendments to the federal MSWLF rules that occurred during this update period.

The Board will verify the existence of any additional federal actions that may affect the text of the federal primary drinking water standards and the Board action required in response to each in coming weeks, by about mid-February 2008. The Board will then propose corresponding amendments

POLLUTION CONTROL BOARD

JANUARY 2008 REGULATORY AGENDA

to the Illinois RCRA Subtitle D MSWLF regulations using the identical-in-substance procedure or dismiss docket R08-15, as necessary and appropriate.

Section 22.40(a) mandates that the Board complete amendments within one year of the date on which USEPA adopted the earliest action upon which the amendments are based. In docket R08-15, if the earliest federal amendments in the applicable period were assumed to have occurred on the first day of the update period, on July 1, 2007, the due date for Board adoption would be July 1, 2008.

- B) Statutory Authority: Implementing and authorized by Sections 7.2, 22.40(a) and 27 of the Environmental Protection Act [415 ILCS 5/7.2, 22.40(a) & 27].
- C) Scheduled meeting/hearing dates: None scheduled at this time. The Board will vote to propose any amendments at an open meeting in accordance with requirements established by Sections 27 and 28 of the Act [415 ILCS 5/27 & 28]. No hearing is required in identical-in-substance proceedings.
- D) Date agency anticipates First Notice: The Board cannot project an exact date for publication at this time. The Board expects to verify any federal actions by mid-February 2008, after which time the Board will propose any amendments to the Illinois RCRA Subtitle D MSWLF rules that are necessary in response to the federal amendments that have occurred. If the due date for Board adoption of amendments in this docket were assumed to be July 1, 2008, the Board will vote to propose amendments and cause a Notice of Proposed Amendments to appear in the Illinois Register by mid-April 2008. This would be sufficiently in advance of the due date to allow the Board to accept public comments on the proposal for 45 days before acting to adopt any amendments. Alternatively, if no amendment to the Illinois definition is needed, the Board will promptly dismiss this reserved docket.
- E) Effect on small business, small municipalities, or not-for-profit corporations: This rulemaking may affect any small business, small municipality, or not-for-profit that engages in the land disposal of municipal solid waste.

POLLUTION CONTROL BOARD

JANUARY 2008 REGULATORY AGENDA

- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking, noting docket number R08-15, as follows:

John T. Therriault, Assistant Clerk
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

Address questions concerning this Regulatory Agenda, noting docket number R08-15, as follows:

Michael J. McCambridge, Attorney
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601
312/814-6924
mccambm@ipcb.state.il.us

- G) Related rulemakings and other pertinent information: Section 22.40(a) of the Environmental Protection Act [415 ILCS 5/22.40(a)] provides that Title VII of the Act and Section 5 of the Administrative Procedure Act (APA) shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules. Rather, the Board will cause a Notice of Proposed Amendments to appear in the *Illinois Register*, and it will accept public comments on the proposal for 45 days after the date of publication.

- aa) Part (Headings and Code Citation): Special Waste Classifications (35 Ill. Adm. Code 808), Nonhazardous Special Waste Hauling and the Uniform Program (35 Ill. Adm. Code 809)

- 1) Rulemaking: R06-20

- A) Description: This rulemaking was proposed to the Board on December 13, 2005, by NORA, which stated that it is an association of recyclers formerly known as the National Oil Recycling Association. The proposal

POLLUTION CONTROL BOARD

JANUARY 2008 REGULATORY AGENDA

seeks to amend Parts 808 and 809 of the Board's regulations concerning special waste classifications and nonhazardous special waste hauling as they pertain to used oil recycling in Illinois. NORA seeks to make the Illinois program "substantially equivalent to the federal program", by eliminating the special waste hauling and manifesting requirements imposed on "used oil" as defined and managed under Part 739

- B) Statutory Authority: Implementing and authorized by Sections 27 and 28 of the Environmental Protection Act [415 ILCS 5/27 & 28].
- C) Scheduled meeting/hearing dates: The Board has held hearings in this rulemaking on May 25,2006 in Springfield and on June 29,2006 in Chicago. The Board does not anticipate scheduling additional hearings.
- D) Date agency anticipates First Notice: The Board anticipates that it may adopt a First Notice opinion and order in this rulemaking in the Spring or Summer of 2008.
- E) Effect on small business, small municipalities, or not-for-profit corporations: The amendments may affect any small business, small municipality or not-for-profit corporation that is involved in recycling or transporting used oil.
- F) Agency Contact Person for Information: Address written comments concerning the substance of the rulemaking to:

John Therriault, Acting Clerk
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

Address questions concerning this Regulatory Agenda to:

Erin Conley, Rules Coordinator
Pollution Control Board
1021 North Grand Avenue East
P.O. Box 19274
Springfield, Illinois 62794-9274
217/782-2471

POLLUTION CONTROL BOARD

JANUARY 2008 REGULATORY AGENDA

conleye@ipcb.state.il.us

- G) Related Rulemaking and other pertinent information: None
- bb) Part (Headings and Code Citations): Management of Used and Waste Tires (35 Ill. Adm. Code 848)
- 1) Rulemaking: No docket presently reserved.
- A) Description: The Illinois Environmental Protection Agency (Agency) is planning to propose amendments to the Board's regulations that will allow better implementation of the used and waste tire management program. The proposal will include, among others, changes necessary to make the Board's rules consistent with legislative amendments to Title XIV of the Environmental Protection Act [415 ILCS 5/53 et seq.] resulting from Public Act 92-0024.
- B) Statutory Authority: Sections 27 and 55.2 of the Environmental Protection Act [415 ILCS 5/27 and 55.2].
- C) Scheduled meeting/hearing dates: No meetings or hearings are scheduled at this time. Once the proposal is filed, the Board will conduct hearings as required by Sections 27 and 28 of the Act [415 ILCS 5/27 & 28].
- D) Date agency anticipates First Notice: The Agency may submit a proposal to the Board as soon as the Spring or Summer of 2008, after which the Board will cause publication of a Notice of Proposed Rules in the *Illinois Register*.
- E) Effect on small businesses, small municipalities or not-for-profit corporations: This rulemaking may affect any small business, small municipality or not-for-profit corporation that manages used or waste tires.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking to:

John Therriault, Acting Clerk
Pollution Control Board
100 West Randolph Street, Suite 11-500

POLLUTION CONTROL BOARD

JANUARY 2008 REGULATORY AGENDA

Chicago, Illinois 60601

Address questions concerning this Regulatory Agenda to:

Erin Conley, Rules Coordinator
Pollution Control Board
1021 North Grand Avenue East
P.O. Box 19274
Springfield, Illinois 62794-9274
217/782-2471
conleye@ipcb.state.il.us

- G) Related rulemakings and other pertinent information: For information regarding the development of these rules please contact:

Stephanie Flowers
Assistant Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, IL 62794-9276
217-782-5544
Stephanie.Flowers@epa.state.il.us

- cc) Parts (Headings and Code Citations): Standards and Requirements for New and Existing Municipal Waste Transfer Stations (New Part), Information to Be Submitted in a Permit Application for a Municipal Waste Transfer Station (New Part), Procedural Requirements for Municipal Waste Transfer Station Permits (New Part)

- 1) Rulemaking: No docket presently reserved.

- A) Description: The Illinois Environmental Protection Agency (Agency) is working on a proposal to add new rules to the Board's waste regulations. Municipal waste transfer stations currently are regulated under 35 Ill. Adm. Code 807. The Part 807 rules were developed primarily for solid waste landfills. As applied to transfer stations, they are very general with many of the specific requirements for transfer stations imposed through permit conditions under Section 807.206. Transfer stations are increasing in number and importance in Illinois' waste management system. In

POLLUTION CONTROL BOARD

JANUARY 2008 REGULATORY AGENDA

addition, the United States Environmental Protection Agency published in June 2002 "Waste Transfer Stations: A Manual for Decision-Making" (EPA530-R-02-002), guidance developed to "promote the use of best practices in transfer station siting, design and operation to maximize facilities' effectiveness while minimizing their impact on the community". The Agency is developing new Parts that will provide more specific requirements for the design, construction, operation and closure of municipal waste transfer stations as well as procedures for obtaining permits. Included with municipal waste transfer stations accepting garbage and general household and commercial waste are those transfer stations accepting exclusively construction and demolition debris and those used exclusively for landscape waste.

- B) Statutory Authority: These rules will be proposed pursuant to Sections 4(i), 21(d), 22, 27 and 28 of the Environmental Protection Act [415 ILCS 5/4(i), 21(d), 22, 27, 28].
- C) Scheduled meeting/hearing dates: No meetings or hearings are scheduled at this time. Once the proposal is filed, the Board will conduct hearings in accordance with Sections 27 and 28 of the Act [415 ILCS 5/27, 28].
- D) Date agency anticipates First Notice: The Agency may submit a proposal to the Board as soon as the Spring or Summer of 2008, after which the Board will cause publication of a Notice of Proposed Rules in the *Illinois Register*.
- E) Effect on small businesses, small municipalities or not-for-profit corporations: Generally, small businesses, small municipalities and not-for-profit corporations will not be affected by the proposal unless they receive municipal waste for transfer prior to treatment or disposal. For those that do, the substantive changes in requirements for design, construction and operation are expected to be minimal with many existing transfer stations already in compliance with most of the standards and requirements. However, there may be some expense for upgrading existing transfer stations.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking to:

POLLUTION CONTROL BOARD

JANUARY 2008 REGULATORY AGENDA

John Therriault, Acting Clerk
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

Address questions concerning this Regulatory Agenda to:

Erin Conley, Rules Coordinator
Pollution Control Board
1021 North Grand Avenue East
P.O. Box 19274
Springfield, Illinois 62794-9274
217/782-2471
conleye@ipcb.state.il.us

- G) Related rulemakings and other pertinent information: For information regarding the development of these rules please contact:

Mark Wight
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
217/782-5544
Mark.Wight@illinois.gov

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

JANUARY 2008 REGULATORY AGENDA

- a) Part: The Administration and Operation of the Teachers' Retirement System (80 Ill. Adm. Code 1650)
- 1) Rulemaking:
- A) Description: Update 1650.610, Administrative Review Rule; update 1650.450, Salary Rule; update 1650.201, Disability Rule.
- B) Statutory Authority: Implementing and authorized by Article 16 of the Illinois Pension Code [40 ILCS 5/Art. 16].
- C) Scheduled meeting/hearing dates: There is no proposed schedule of dates for meetings/hearings at this time.
- D) Date agency anticipates First Notice: Unknown
- E) Effect on small businesses, small municipalities or not for profit corporations: None
- F) Agency contact person for information:
- Sandy Cochran
Teachers' Retirement System
Office of the General Counsel
P.O. Box 19253
2815 West Washington
Springfield, Illinois 62794-9253
- 217/753-0375
- G) Related rulemakings and other pertinent information: None

ILLINOIS ADMINISTRATIVE CODE

Issue Index - With Effective Dates

Rules acted upon in Volume 32, Issue 3 are listed in the Issues Index by Title number, Part number, Volume and Issue. Inquires about the Issue Index may be directed to the Administrative Code Division at (217) 782-7017/18.

PROPOSED RULES

86 - 100	.....	798
14 - 165	.....	828
14 - 170	.....	830
92 - 1010	.....	833
4 - 1775	.....	847
80 - 1650	.....	854

ADOPTED RULES

77 - 593	01/04/2008.....	863
86 - 100	01/07/2008.....	872

EMERGENCY RULES

14 - 165	01/03/2008.....	901
14 - 170	01/03/2008.....	910

REGULATORY AGENDA

35 - 506	.....	923
56 - 2720	.....	948
35 - 101	.....	949
80 - 1650	.....	1005

ORDER FORM

<input type="checkbox"/> Subscription to the Illinois Register (52 Issues) <input type="checkbox"/> New <input type="checkbox"/> Renewal	\$290.00 (annually)
<input type="checkbox"/> Electronic Version of the Illinois Register (E-mail Address Required) <input type="checkbox"/> New <input type="checkbox"/> Renewal	\$290.00 (annually)
<input type="checkbox"/> Back Issues of the Illinois Register (Current Year Only) Volume # _____ Issue# _____ Date _____	\$ 10.00 (each)
<input type="checkbox"/> Microfiche sets of the Illinois Register 1977 – 2003 Specify Year(s) _____	\$ 200.00 (per set)
<input type="checkbox"/> Cumulative/Sections Affected Indices 1990 - 2005 Specify Year(s) _____	\$ 5.00 (per set)
(Processing fee for credit cards purchases, if applicable.) \$ 2.00 TOTAL AMOUNT OF ORDER \$ _____	

Check Make Checks Payable To: **Secretary of State**

VISA Master Card Discover (There is a \$2.00 processing fee for credit card purchases.)

Card #: _____ Expiration Date: _____

Signature: _____

Send Payment To: Secretary of State
 Department of Index
 Administrative Code Division
 111 E. Monroe
 Springfield, IL 62756

Fax Order To: (217) 524-0308

Name:	Attention:	ID #:
Address:		
City:	State:	Zip Code:
Phone:	Fax:	E-Mail:

Published by **JESSE WHITE** · Secretary of State
www.cyberdriveillinois.com