

*Illinois Regulation is a summary of the weekly regulatory decisions of State agencies published in the Illinois Register and action taken by the Illinois General Assembly's Joint Committee on Administrative Rules. Illinois Regulation is designed to inform and involve the public in changes taking place in agency administration.*

## New Regulations

## Proposed Regulations

### SECURITIES

The SECRETARY OF STATE (Department of Securities) adopted amendments to "Regulations under Illinois Securities Law of 1953" (14 Ill Adm Code 130; 35 Ill Reg 15979), effective 2/8/12. The rulemaking adds a definition for the Financial Industry Regulatory Authority (FINRA), which is the successor for the National Association of Security Dealers. Outdated references to federal law or regulations are updated, and obsolete references are stricken. Individuals wishing to deal in investment banking will be affected by this rulemaking.

Questions/requests for copies: Tanya Solov, SOS, 69 W. Washington, Ste. 1220, Chicago IL 60602, 312/793-3384.

### SCHOOL BUSES

The DEPARTMENT OF TRANSPORTATION adopted two new Parts titled "Minimum Safety Standards for Construction of Multifunction School Activity Buses" (92 Ill Adm Code 435; 35 Ill Reg 14271) and "Inspection Procedures for Multifunction School Activity Buses" (92 Ill Adm Code 436; 35 Ill Reg 14321), both effective 2/10/12, that implement Public Acts 96-410

and 97-378. The statute requires DOT to codify construction standards and inspection criteria for "multifunction school activity buses" (MFSAB) manufactured on or after 7/1/12. An MFSAB is designed to transport 11 or more persons, including the driver, and is not used for transporting students to and from home or school bus stops. Part 435 establishes requirements for the construction of MFSABs, including construction standards in the 2011 federal motor vehicle safety standards that are incorporated by reference. The rulemaking provides definitions for use throughout the Part and separates specific MFSAB construction standards into appendices (e.g., brakes, electrical system, seats). Part 436 establishes MFSAB inspection procedures and related operational requirements through references to the 2011 federal standards. The rulemaking provides definitions for use throughout the Part and separates specific MFSAB inspection procedures and specifications into appendices (e.g., brake performance test). Since 1<sup>st</sup> Notice, the maximum passenger limit of 15 for an MFSAB has been removed from both rulemakings in accordance with PA 97-378. Those affected by these 2 rulemakings in-

(cont'd next page)

### SIGN LANGUAGE INTERPRETERS

The DEAF AND HARD OF HEARING COMMISSION (DHHHC) proposed amendments to "Interpreter for the Deaf Licensure Act of 2007" (68 Ill Adm Code 1515; 36 Ill Reg 2607) that institute a mentoring program for sign language interpreters, allowing an interpreter to work at one level above his or her current licensed proficiency level under the direct supervision of a currently licensed Illinois interpreter holding an Advanced or Master proficiency level. The rulemaking outlines requirements and responsibilities for the mentor and mentee. In addition, upon successful completion of the mentoring program, a licensed interpreter can earn up to 10 continuing education (CE) hours per year. However, the awarding of CE is limited to initial completion of the mentorship. Mentors and mentees may not earn additional CE for repeated mentoring relationships with the same individuals. Sign language interpreters and their employers are affected by this rulemaking.

Questions/requests for copies/comments through 4/9/12: Tonia Bogener, DHHHC, 1630 S. 6<sup>th</sup> St., Spfld. IL 62703, 217/557-4495. (cont'd next page)

*NEW REGULATIONS: Rules adopted by agencies this week:*

*PROPOSED REGULATIONS: Rules proposed by agencies this week, commencing a 45-day First Notice period. Public comments must be accepted by the agency for the period of time indicated.*

*☞: Symbol designating rules of special interest to small businesses, small municipalities, and not-for-profit corporations. Agencies are required to consider comments from these groups and minimize the regulatory burden on them.*

*QUESTIONS/COMMENTS/RULE TEXT: Direct mail or phone calls to the agency personnel listed below each summary. Providing volume and issue number of The Flinn Report or the Illinois Register will expedite the process. Some agencies charge copying fees. However, copy requests do not have to be made under the Freedom of Information Act.*

# New Regulations

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clude small businesses that manufacture, own, or operate multifunction school activity buses.

Questions/requests for copies: Catherine Allen, DOT, 1340 N. 9th St., Spfld., IL 62794-9212, 217/785-3031.

## HIGHER EDUCATION

The BOARD OF HIGHER EDUCATION adopted amendments to "Approval of Noninstructional Capital Projects" (23 Ill Adm Code 1040; 35 Ill Reg 17173), effective 2/10/12. In accordance with Public Act 97-610, the definition of "noninstructional capital project" specifies that the project costs must be in excess of \$2 million in order to qualify for project approval from BHE. The amendments also expand the definition of a "governing board" to

include calling it a "board of control". Public universities are affected by this rulemaking.

## VOCATIONAL SCHOOLS

BHE also adopted a new Part by emergency rulemaking titled "Private Business and Vocational Schools" (23 Ill Adm Code 1095; 35 Ill Reg 3067), effective 2/8/12 for a maximum of 150 days, establishing procedures for BHE to grant permits of approval to such schools. The rulemaking lists institutions required to receive approval before operating, establishes procedures for obtaining a permit of approval, and sets criteria for evaluation of an application. Procedures for addressing student complaints and investigating allegations of fraud or lack of compliance with this Part are in-

cluded. Other topics covered include maintenance of approval through annual reviews and other measures, revoking authority for an institution to operate (either voluntarily or by order of BHE), technologically mediated instruction offered from a distance, change of location, classroom extensions, change of ownership, application and renewal fees, refunds, and requests for academic records or transcripts. Small businesses or non-profits that own or operate business and vocational schools will be affected by this rulemaking.

Questions/requests for copies of the 2 BHE rulemakings: Karen Helland, BHE, 431 E. Adams Street, 2<sup>nd</sup> Floor, Springfield IL 62701-1404. 217/557-7358. Fax: 217/782-8548. Email: [helland@ibhe.org](mailto:helland@ibhe.org).

# Proposed Regulations

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## SAFE DRINKING WATER

The POLLUTION CONTROL BOARD proposed amendments to rules titled "Primary Drinking Water Standards" (35 Ill Adm Code 611; 36 Ill Reg 2566) that reflect federal Safe Drinking Water Act amendments adopted by the U.S. Environmental Protection Agency (USEPA) during the 1/1/11-6/30/11 time period. USEPA-approved alternative testing methods for use in demonstrating compliance with the drinking water standards are added, including 11 alternative methods for analyzing various inorganic and organic chemical parameters and one radionuclide. Entities affected by this rulemaking include small municipalities that own or operate a public water supply.

Agency, authority to determine when farm owners and operators will be granted exemptions from statutory limits on landscape waste composting without an EPA permit. (Composting landscape waste on farms is allowed without a permit if no more than 2% of the farm's acreage is devoted to landscape waste composting and no more than 20 tons of landscape waste per acre per year are applied to the land. To go beyond these limits without a permit, a landowner must request an exemption.) The rulemaking establishes a process for initiating and filing petitions for exemptions, sets content requirements for petitions, and sets time frames for PCB and EPA to respond to petitions. The burden of proof is upon the petitioner to demonstrate that a site's soil or crop characteristics demand a larger composting facility or a higher rate of landscape waste application. In response to public comment, PCB intends to withdraw an earlier proposed rulemaking (35 Ill Reg. 18492) on the same Part that appeared in the 11/14/11 *Illinois Register*. The new rulemaking enhances public notice requirements. Farm

owners and operators who compost landscape waste will be affected by this rulemaking.

## LANDSCAPE WASTE DISPOSAL

PCB also proposed amendments to "Proceedings Pursuant to Specific Rules or Statutory Provisions" (35 Ill Adm Code 106; 36 Ill Reg 2643) implementing PA 97-220. The PA and this rulemaking give PCB, instead of the Illinois Environmental Protection

## CONSTRUCTION DEBRIS

PCB proposed amendments to "Clean Construction or Demolition Debris Fill" (35 Ill Adm Code 1100; 36 Ill Reg 2801) that allow for use of uncontaminated clean construction or demolition debris (CCDD) and uncontaminated soil as fill at quarries, mines and other excavations. The rulemaking also sets standards for levels of constituents in uncontaminated soil, requires certifications for soil and details registration for soil fill sites. Those affected by this rulemaking include small businesses that generate or accept construction or demolition debris.

Requests for copies/comments on the above 3 rulemakings until 4/9/12: John T. Therriault, PCB, 100 W. Randolph, Ste. 11-500, Chicago IL 60601, 312/814-3620. Questions, at the same address: Part 611: Michael J. McCambridge, 312/814-6924, e-mail: [mccambm@ipcb.state.il.us](mailto:mccambm@ipcb.state.il.us). Please

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reference docket R12-4; Part 106: Kathleen Crowley, 312/814-6929, email: [crowleyk@ipcb.state.il.us](mailto:crowleyk@ipcb.state.il.us). Please reference docket R12-11; Part 1100: Marie Tipsord, 312/814-4925, e-mail: [tipsordm@ipcb.state.il.us](mailto:tipsordm@ipcb.state.il.us). Please reference docket R12-09.

to "Organization, Information, Rulemaking and Hearings" (2 Ill Adm Code; 36 Ill. Reg. 2618). The rulemaking lists standards to be used in determining the amount of a fine for an ethics violation, including the nature and scope of the violation; whether premeditation was present; the use of one's title or position and the extent of the use of State resources, time or funds; and prior disciplinary record. Concerning the revolving door prohibition (which forbids former State employees that participated in contract or regulatory decisions from accepting employment with firms affected by those decisions for 1 year after their departure from State employment), the rulemaking clarifies how self-employed individuals fulfill their duty to notify former State employers of potential conflicts of interest. In such cases, notification to the employee's appropriate Executive Inspector General (EIG) shall include a list of known clients which the employee or his or her business intends to contact. The list is to be updated with the former employee's agency Ethics Officer, and the appropriate Inspector General and agency ethics officers must notify the appropriate EIG of contacts the employee had with any companies that had regulatory, licensing or contractual activity with the agency. Any employee subject to the revolving door prohibition who accepts non-State employment in violation of the prohibition, or that does not provide a required notice to the appropriate Inspector General, shall be subject to a fine. Additional information that must be reported includes a description of the positions held by an employee, the title of the non-State government position, the name and ownership of the prospective employer, and potential clients. A new Subpart lists procedures for the removal and disciplining of Chief Procurement Officers (CPOs), State Purchasing Officers (SPOs), Procurement Compliance Monitors (PCMs) and Chief Internal Auditors that are appointed to 5 year terms and who are subject to discipline only after a hearing by the EEC.

Complaints against CPOs may be filed by the Governor or the director of an agency responsible to the Governor; against SPOs and PCMs, by the CPO or the executive officer of an agency housing the SPO or PCM; and against Chief Internal Auditors, by the chief executive officer of one of the designated State agencies listed in the Fiscal Control and Internal Auditing Act. Other provisions in this rulemaking include procedures for service of process after a complaint has been filed, rules for conduct of hearings, grounds for qualification and disqualification of an Administrative Law Judge (ALJ), and the authority and powers of the ALJ. Those affected by this rulemaking include small businesses or non-profits that employ or do business with former State employees subject to the revolving door prohibition.

Questions/requests for copies/comments through 4/9/12: Chad Fornoff, EEC, 401 S. Spring St., 401 Stratton Bldg., Springfield IL 62706, 217/558-1393.

## MINORITY CONTRACTING

The DEPARTMENT OF CENTRAL MANAGEMENT SERVICES proposed amendments to "Business Enterprise Program: Contracting with Businesses Owned and Controlled by Minorities, Females and Persons with Disabilities" (44 Ill Adm Code 10; 36 Ill. Reg. 2594). The rulemaking raises the goal for the total percentage of State agency contracts awarded to minority, female, or disabled business owners from 12% to 20%, with 11% of contracts targeted to minority owned businesses, 7% to female owned businesses and 2% to businesses owned by persons with disabilities. The rulemaking also raises the annual sales limitation for eligible businesses to participate in this program from \$31.4 million to \$75 million. This rulemaking may affect small businesses seeking State contracts.

## CHARITABLE ACTIVITIES

DCMS also proposed amendments to "Solicitation for Charitable Payroll Deductions" (80 Ill Adm Code 2650; 36 Ill. Reg. 2602) to increase the maximum period of time a State employee representative may serve on the State Employees Combined Appeal (SECA) Advisory Board from three consecutive 1-year terms (3 years) to two consecutive 3-year terms (6 years).

Questions/requests for copies/comments concerning the 2 DCMS rulemakings above through 4/9/12: Mary Matheny, DCMS, 720 Stratton Bldg., Springfield IL 62706, 217/557-5404.

## ETHICS

The EXECUTIVE ETHICS COMMISSION (EEC) proposed amendments

## PROCUREMENT HEARINGS

The CHIEF PROCUREMENT OFFICER FOR GENERAL SERVICES filed a Notice of Correction to Notice Only for a proposed rulemaking titled "Chief Procurement Officer for General Services - Standard Procurement" (44 Ill Adm Code 1; 36 Ill Reg 1820) that appeared in the 2/10/12 *Illinois Register*. The correction changes the location of a previously scheduled public hearing on the rulemaking and adds two new hearings. Hearings will take place Wednesday, March 14<sup>th</sup>, 11 a.m. - 1 p.m. in the Crisp Room at John A. Logan College, 700 Logan College Road, Carterville; Thursday, March 15<sup>th</sup>, 3-5 p.m. in Room C-D at the Public Affairs Center, University of Illinois Springfield, One University Plaza, Springfield; and Monday, March 19<sup>th</sup>, 11 a.m.-1 p.m., in Room 9-036, James R. Thompson Center, 100 W. Randolph, Chicago. The location of the Springfield hearing has been changed and a teleconference that had been planned in conjunction with

# Proposed Regulations

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the hearing has been canceled. The rulemaking makes extensive changes to State procurement procedures.

Questions/requests for copies/com-

ments on the proposed rulemaking through 3/26/12, or on the public hearings: Margaret van Dijk, Senior Policy Advisor, Chief Procurement Office-General Services, 712 Stratton Office Bldg.,

Springfield IL 62706, 217/558-2228, e-mail: [Margaret.vanDijk@illinois.gov](mailto:Margaret.vanDijk@illinois.gov).

## Second Notice

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The following rulemakings were moved to Second Notice this week by the agencies listed below, commencing the JCAR review period. These rulemakings will be considered at JCAR's March 6, 2012 meeting.

### STATE UNIVERSITIES CIVIL SERVICE SYSTEM

"State Universities Civil Service System" (80 Ill Adm Code 250) proposed 10/28/11 (35 Ill Reg 17415)

### DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

"Electronic Health Information Technology" (89 Ill Adm Code 150) proposed 12/2/11 (35 Ill Reg 19392)

### DEPARTMENT OF REVENUE

"Retailers' Occupation Tax" (86 Ill Adm Code 130) proposed 12/9/11 (35 Ill Reg 19649)

"Motor Fuel Tax" (86 Ill Adm Code 500) proposed 11/18/11 (35 Ill Reg 19062)

### BOARD OF HIGHER EDUCATION

"Program Review (Private Colleges and Universities)" (23 Ill Adm Code 1030) proposed 12/23/11 (35 Ill Reg 19824)

"Approval of New Units of Instruction, Research and Public Service at Public Institutions" (23 Ill Adm Code 1050) proposed 12/23/11 (35 Ill Reg 19865)

### DEPARTMENT OF NATURAL RESOURCES

"Hound Running Areas" (17 Ill Adm Code 970) proposed 4/22/11 (35 Ill Reg 6742)