

*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

### PROCUREMENT

The OFFICE OF THE ATTORNEY GENERAL adopted amendments to "Attorney General's Procurement" (44 Ill Adm Code 1300; 35 Ill Reg 20859), effective 7/13/12, implementing statutory amendments to the Illinois Procurement Code. Obsolete transition provisions for implementing the OAG's procurement rules in 1998 are repealed, and new terms (e.g., concession, consulting services, subcontractor) are defined. The OAG will designate a chief procurement officer (CPO) with at least 5 years of State budgeting or procurement experience or who is a certified professional public buyer or certified public purchasing officer. The Attorney General must appoint a Procurement Policy and Compliance Monitoring Board (PPCMB) consisting of 5 members and a chief internal auditor for the OAG, but also must defer to the State Procurement Policy Board for purposes of following the small purchase threshold under the Procurement Code. State purchasing officers (SPOs) appointed by the AG must maintain procurement files on procurements including such items as bid and solicitation documents; Procurement Bulletin postings; the contract and any change order, amend-

ment, or extension; any bid protests and resolution; vendor communications; evaluation material (e.g., scoring formulas); and contractor performance reviews. Statutory procedures such as filing an explanation with the OAG's Procurement Policy Board and the Legislative Audit Commission must be followed when the low bid or offer is not accepted. New procedures concerning required public hearings on sole source procurements, emergency procurements, or emergency procurement extensions are added. An SPO may, prior to issuing a solicitation, issue a Request For Proposal to obtain pre-solicitation assistance to help the OAG develop procurement strategy, specifications, and documents and to address related needs. When contract renewals or extensions involve \$250,000 or more, the PPCMB must review the proposal. Subcontractors are to be identified in competitive sealed proposals or prior to award, and the small business sales thresholds for potential purchasing preferences are raised. Regulations concerning vendor registration, certification, and prohibited political contributions are added, as well as procurement communication policies required by statute. Since 1<sup>st</sup> Notice,

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### CREDIT UNIONS

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION proposed amendments to "Illinois Credit Union Act" (38 Ill Adm Code 190; 36 Ill Reg 11777) implementing Public Act 97-133. The rulemaking clarifies the roles of the Director of Financial Institutions and Secretary of DFPR. Remedial actions to address civil penalties assessed under the new Section 8(6) of the Credit Union Act must be performed to the satisfaction of the Secretary, with the amount of time granted to remediate a violation dependent on the nature and extent of the remedial action to be taken. Charges for examiners are being raised from a flat charge of \$190 per day for all credit unions to \$245 per day for credit unions with assets of more than \$5 million and \$380 per day for those with assets of more than \$100 million. Fees for credit unions failing to have their books and records posted when examined by DFPR's Division of Financial Institutions (DFI) are being raised 30%, depending on the assets of the credit union (\$65 for assets of less than \$1 million, up to \$6,500 for an institution with \$500 million or more in assets). Lending limits for consumer

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*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.*

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four new Sections have been added outlining the OAG's real estate lease procedures in greater detail. A Request for Information (RFI) process will generally be used, except for: leases of under 10,000 square feet for less than \$100,000 per year; leases of less than one year that cannot be renewed; leases of specialized property available in only one location; renewals or extensions of existing leases under certain conditions; and leases of property from another unit of government. Other changes specify information, publication, and review procedures for RFIs and requirements for leases. Language was also added to clarify the small purchase threshold (\$30,000, adjustable for inflation), the responsibility of the OAG's CPO for construction procurements, and documentation required in procurement contract files. Finally, provisions for quick purchases for entertainment have been removed. This rulemaking will affect small businesses seeking to do business with the Attorney General's office.

Questions/requests for copies: Melissa Mahoney, Office of the Attorney General, 100 W. Randolph St., 12<sup>th</sup> Fl., Chicago Illinois 60601, 312/814-3950.

## ☞ WATER SUPPLY OPERATORS

The ILLINOIS ENVIRONMENTAL PROTECTION AGENCY adopted amendments to "Water Supply Operator Certification" (35 Ill Adm Code 680; 36 Ill Reg 4001), effective 8/1/12, establishing procedures for approving contracts between community water supplies and individuals hired as certified operators in accordance with the Environmental Protection Act. The Act requires every community water supply to employ, either directly or by a contract approved by IEPA, at least one individual certified as a competent water supply operator. The rulemaking specifies the provisions that must be contained in a contract and the duties the contracted operator must perform or assign to others (e.g., daily equipment checks, collection of testing samples, maintain-

ing and submitting required records and reports). It also provides for IEPA to withdraw approval of a contract that does not meet its specifications and requires water supply owners or operators to notify IEPA at least 15 days in advance if a contract with an operator is terminated prior to its expiration date. Any contract extension or modification must be submitted to IEPA for approval. This rulemaking will affect small municipalities and other entities that hire certified water supply operators.

Questions/requests for copies: Joanne M. Olson, IEPA, 1021 N. Grand Ave. East, P.O. Box 19726, Springfield IL 62794-9276, 217/782-5544, e-mail: [joanne.olson@illinois.gov](mailto:joanne.olson@illinois.gov).

## GUARDIANSHIP FEES

The ILLINOIS GUARDIANSHIP AND ADVOCACY COMMISSION (GAC) adopted amendments to "Fee Schedule for the Office of the State Guardian" (59 Ill Adm Code 301; 36 Ill Reg 708), effective 8/1/12, that update its fee schedule for the first time since 2000. The rulemaking increases case opening fees and monthly guardianship services fees, and sets flat rate fees for guardianship petitioning (\$500) and real estate property sales (\$1,000). Case opening and monthly guardianship services fees are divided into 3 rate categories based on whether the Office of the State Guardian serves as guardian of the person, guardian of the estate, or guardian of both the person and the estate. The new fees range from \$300 to \$1,000 for case opening (currently \$200 to \$500) and \$150 to \$1,000 for monthly guardianship services (currently \$100 to \$350). The rulemaking also removes the lower limit on protected assets (\$6,500). GAC clarified that no service fees would be assessed on an estate if the assessment would result in financial hardship for the ward and fees are terminated in the month following the ward's death. The rulemaking also amends the fee schedule in rules, including the above referenced fees and miscellaneous fees (income tax return filings, settlement

personal injury cause of action, establishment of trusts, etc.). Since 1<sup>st</sup> Notice, GAC corrected a typographical error in the minimum fee for monthly guardianship services.

Questions/requests for copies: Danielle Welliever, GAC, 160 N. LaSalle St., Suite S-500, Chicago IL 60601, 312/793-5919, Fax 312/793-4311, e-mail: [danielle.welliever@illinois.gov](mailto:danielle.welliever@illinois.gov).

## ☞ CHILD CARE

The DEPARTMENT OF HUMAN SERVICES adopted amendments to "Child Care" (89 Ill Adm Code 50; 35 Ill Reg 18475), effective 7/10/12, limiting the number of times a family may receive child care assistance while seeking employment or between school semesters. Families eligible for child care services (CCS) are limited to utilizing these provisions no more than 3 times in any 12 month period and payments will not be approved if the child does not attend day care. The rulemaking requires a CCS recipient to report loss of employment or break in an approved activity (e.g., school) within 10 days after the date of loss or break in activity. The rulemaking also repeals provisions offering an extension of CCS for job search activities paid for with ARRA funding and limits the job search grace period for child care assistance provided by an approved Child Care Collaboration Program to one 90-day job search in a 12-month period. The rulemaking also updates DHS' Child Care Bureau's mailing address. Child care providers will be affected by this rulemaking.

## VOCATIONAL REHABILITATION

DHS also adopted amendments to "Closure of a Rehabilitation Case" (89 Ill Adm Code 595; 35 Ill Reg 18485) adding provisions that notify customers of their right to contact a hearings coordinator to request a mediation or impartial hearing regarding the closure of a vocational rehabilitation (VR) case. The rulemaking also updates this Part to reflect changes made in

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other VR rules and makes technical changes for consistency.

Questions/requests for copies of the 2 DHS rulemakings above: Tracie Drew, DHS, 100 S. Grand Ave. E., 3<sup>rd</sup> Fl., Springfield IL 62762, 217/785-9772.

## COMMERCIAL FISHING

The DEPARTMENT OF NATURAL RESOURCES adopted an amendment to "Commercial Fishing and Musseling in Certain Waters of the State" (17 Ill Adm Code 830; 35 Ill Reg 722), effective 7/16/12, increasing the length of the Embarras River in east-central Illinois that is open to commercial fishing. Commercial fishermen will be affected by this rulemaking.

Questions/requests for copies: George Sisk, DNR, One Natural Resources Way, Springfield IL 62702-1271, 217/782-1809.

## STATE PERSONNEL

The SECRETARY OF STATE adopted amendments to "Department of Per-

sonnel" (80 Ill Adm Code 420; 36 Ill. Reg. 3625), effective 7/16/12. The amendments expand the definition of "immediate family" to include a party to a civil union. Employee absences from work during a trainee period may, if necessary, extend the length of the trainee period, but no longer than the term of the trainee period for the job classification. Layoffs shall be within organizational units justified by operations and approved prior to the layoff by the Director of Personnel. Within selected designations and organizational units, employees will be laid off in order of length of service with the Secretary of State. A new category of leave, national service leave, is created for SOS employees accepted for service in the Peace Corps, Job Corps, AmeriCorps VISTA, or other equivalent national service. Military leave may last up to 4 years. Other provisions address blood, organ, or tissue donation leave, school visitation, leave under the Family and Medical Leave Act, and Victims Economic Security and Safety Leave (for victims of domestic violence).

Questions/requests for copies: Stephen Roth, SOS Personnel Dept., Rm. 197, Howlett Bdg., Springfield IL 62756, 217/782-1750.

## UNCLAIMED PROPERTY

The STATE TREASURER proposed amendments to "Uniform Disposition of Unclaimed Property Act" (74 Ill Adm Code 760; 36 Ill. Reg. 6008), effective 7/12/12, to change the time frame for sale of unclaimed securities to between 1 and 2 years after publication pursuant to Section 12 of the Act (currently, no later than one year after the securities' receipt). The minimum amount of property requiring a claimant's signature to be notarized or guaranteed by an officer of a financial institution where the claimant does business is reduced from \$500 to \$100. Those affected by this rulemaking include small businesses or non-profits with unclaimed securities.

Questions/requests for copies: Bradley Rightnowar, Office of the Treasurer, 1 West Old State Capitol Plaza, Ste. 400, Springfield IL 62701, 217/557-9360.

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loans are being raised, based on the size of the credit union, ranging from \$4,000 for an unsecured loan at a credit union with less than \$500,000 in assets to \$180,000 for a secured loan at a credit union with more than \$100 million in assets. Business loan terms' definitions are being altered to conform to the National Credit Union Administration's (NCUA) business lending rule at 12 CFR 723. A credit union seeking to exceed the aggregate business loan limit authorized by federal law must submit an application that includes the union's current business loan policies; confirms the union is in compliance with all other aspects of DFI's business loan requirements; reports the credit union's proposed limit on the amount of nonmember business loans if the application is granted; and attests that its proposed action is not in conjunction with other credit

union(s) which would have the effect of trading member business loans that would otherwise exceed the aggregate limit. DFI, if it approves the application to exceed the aggregate business loan limit, shall forward the information to the federal NCUA's regional director for decision. Collateral requirements for business loans are slightly revised: a federally insured credit union must obtain the personal liability and guarantee of principals, but a union that has met the "well capitalized" standards stated in the rule is exempt from this requirement. Credit unions and their customers are affected by this rulemaking.

Questions/requests for copies/comments through 9/10/12: Craig Cellini, DFPR, 320 W. Washington, 3<sup>rd</sup> Fl., Springfield IL 62786, 217/785-0813 Fax: 217/557-4451.

## TANF & SNAP ELIGIBILITY

The DEPARTMENT OF HUMAN SERVICES (DHS) proposed amendments to "Temporary Assistance for Needy Families" (89 Ill Adm Code 112; 36 Ill Reg 11855) and "Supplemental Nutrition Assistance Program" (89 Ill Adm Code 121; 36 Ill Reg 11869) that require DHS to approve EZ REDE cases for 12 months of eligibility rather than the current 6 months. (EZ REDE is an expedited Department process for redetermining a client's eligibility for assistance benefits.) DHS must also send an Interim Report Form to each client, in the 5<sup>th</sup> month between redeterminations, reporting any changes or updates to financial information. Changes in income shall be reported on both the redetermination forms and Interim Report Form. The Part 121 amendment also clarifies that any

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reported change in income that results in an increase in benefits will become effective for the month following the month in which the change was reported.

## SCHOOL TRANSPORTATION

DHS proposed amendments to "Special Transportation" (89 Ill Adm Code 815; 36 Ill Reg 11884) clarifying that transportation costs for trips home for children attending State Schools (DHS funded schools) will be included in the child's Individualized Education Program (IEP) by agreement between DHS and the local school district. The local school district is responsible for these costs. The State School will send a reconciliation statement and bill to each local school district for payment at the end of the year or when the child withdraws from the School. The rulemaking also makes technical changes for consistency. Local school districts may be impacted by this rulemaking.

HEALTH proposed amendments to "Skilled Nursing and Intermediate Care Facilities Code" (77 Ill Adm Code 300; 36 Ill Reg 11894), "Sheltered Care Facilities Code" (77 Ill Adm Code 330; 36 Ill Reg 11911), and "Illinois Veterans' Homes Code" (77 Ill Adm Code 340; 36 Ill Reg 11926), requiring any facility reporting an incident or accident that results in death to notify DPH's Regional Office by phone only, after the facility has contacted local law enforcement. DPH clarifies that notifying the Regional Office by phone only means that the facility representative has spoken with a DPH representative who confirms over the phone that this notification requirement has been met. The rulemakings also correct internal cross-references for consistency. Long term care facilities are affected by this rulemaking.

## EMERGENCY MEDICAL SERVICES

Also, DPH proposed amendments to "Emergency Medical Services and Trauma Center Code" (77 Ill Adm Code 515; 36 Ill Reg 11937). The rulemaking revises the list of recommended pediatric equipment for emergency departments to include pediatric and adult sized clear, standard masks and pediatric and adult sized, clear partial-non-rebreather or non-rebreather masks and removes gastric lavage equipment from the list. DPH also modified Pediatric Critical Care Center plan application requirements to require submission of a completed Credentials of Fast Track Physicians form for physician staff, a completed pediatric disaster preparedness checklist and a curriculum vitae for the pediatric physician champion on staff. Emergency medical service providers and hospitals are affected.

Questions/requests for copies/comments concerning the 4 DPH rulemakings above through 9/10/12: Susan Meister, DPH, 535 W. Jefferson St., 5<sup>th</sup> Fl., Springfield IL, 62761, 217/782-2043, e-mail: [dph.rules@illinois.gov](mailto:dph.rules@illinois.gov).

## ADMINISTRATIVE HEARINGS

The ILLINOIS EMERGENCY MANAGEMENT AGENCY proposed amendments to "Administrative Hearings" (32 Ill Adm Code 200; 36 Ill Reg 11772) updating contact information for the agency. The rulemaking also stipulates that orders and notices to parties involved in a hearing shall be considered served if they are sent by certified or registered mail to the party's last address on file with IEMA and returned unclaimed or refused.

## PROGRAM REPEALER

IEMA also proposed repeal of the Part titled "Radiological Protection" (29 Ill Adm Code 320; 36 Ill Reg 11738) because the program outlined in the Part no longer exists. The Part contains rules for an obsolete program of the former Illinois Department of Nuclear Safety that provided radiation detection equipment to local emergency services agencies.

Questions/requests for copies/comments on the 2 IEMA rulemakings through 9/10/12: Traci Burton, IEMA, 1035 Outer Park Drive, Springfield IL 62704, 217/785-9860, TDD: 217/782-6133.

## RACING PURSES

The ILLINOIS RACING BOARD proposed amendments to "Entries and Declarations" (11 Ill Adm Code 1312; 36 Ill Reg 11965) and "Entries, Subscriptions and Declarations" (11 Ill Adm Code 1413; 36 Ill Reg 11969) placing restrictions on when a purse may be changed. The Part 1312 amendments apply to harness races and the Part 1413 amendments apply to thoroughbred races. In both cases, a purse cannot be changed after it has been publicized and before any entries unless approved by the Executive Director of the Board. Once approved, the Racing Secretary must post the change in his or her office and in the overnight sheets (lists of entries for upcoming races). Any

## LEKOTEK PROGRAM

Also, DHS proposed repealing "Lekoteks" (89 Ill Adm Code 899; 36 Ill Reg 11888) due to FY13 budget reductions that eliminated funding for the Lekotek program. (This program granted DHS authority to enter into contracts with public and private Lekotek centers that provide services to DHS special needs children. Lekotek uses interactive play and learning to promote a special needs child's integration into family and community life.) Public and private Lekotek centers contracting with DHS may be impacted by this rulemaking.

Questions/requests for copies/comments concerning the 4 DHS rulemakings above through 9/10/12: Tracie Drew, DHS, 100 S. Grand Ave. East, 3<sup>rd</sup> Fl., Springfield IL 62762, 217/785-9772.

## LONG TERM CARE

The DEPARTMENT OF PUBLIC

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changes to a purse made after an entry must be approved by the Board.

Questions/requests for copies/comments on the 2 IRB rulemakings through 9/10/12: Mickey Ezzo, IRB, 100 W. Randolph, Ste. 7-701, Chicago IL 60601, 312/814-5017.

## **DOR PUBLIC HEARING**

The DEPARTMENT OF REVENUE will

hold a public hearing on proposed amendments to "Retailers' Occupation Tax" (86 Ill Adm Code 130; 36 Ill Reg 7971) on Tuesday, August 21<sup>st</sup>, from 1:30 to 3:30 p.m. at the Illinois Department of Revenue headquarters, 101 W. Jefferson, Springfield. Persons wishing to present testimony should submit a written summary of their testimony to DOR at the address below on or before Friday, August 10<sup>th</sup>. The hearing concerns proposed

amendments that will no longer permit retailers to deduct shipping and handling costs from their taxable gross receipts on or after 10/1/12.

Questions/requests for copies/comments concerning the rulemaking or the public hearing: Debra M. Boggess, Legal Services Division, DOR, 101 W. Jefferson, Springfield IL 62794, 217/782-2844.

# Second Notices

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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 August 14, 2012 meeting.

## **DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION**

"Certified Veterinary Technicians" (68 Ill Adm Code 1505) proposed 4/27/12 (36 Ill Reg 6188)

"Veterinary Medicine and Surgery Practice Act of 2004" (68 Ill Adm Code 1500) proposed 4/27/12 (36 Ill Reg 6178)

## **ILLINOIS COMMERCE COMMISSION**

"Competition Reporting" (83 Ill Adm Code 793) proposed 10/7/11 (35 Ill Reg 15807)

"Public Availability of Inspection Information" (83 Ill Adm Code 596) proposed 10/28/11 (35 Ill Reg 17168)

"Tariff Filings" (83 Ill Adm Code 745) proposed 10/7/11 (35 Ill Reg 15753)"

## **DEPARTMENT OF TRANSPORTATION**

"School Bus Driver's Pretrip Inspection Requirements" (92 Ill Adm Code 458) proposed 5/25/12 (36 Ill Reg 8000)