

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

TEACHER EDUCATION

The BOARD OF HIGHER EDUCATION adopted a new Part titled "Grow Your Own Teacher Grants" (23 Ill Adm Code 1085; 36 Ill Reg 12666), effective 12/10/12, establishing procedures for BHE to make grants to potential teachers under a program transferred from State Board of Education control. The rulemaking establishes definitions, roles and responsibilities of those in the program and typical grant applications. Candidates must be eligible for student financial aid and must take advantage of existing financial aid resources before using funds from this program. The Board will set a performance level, including numerous outlined requirements, which the candidate must meet or maintain as a condition of continuing in the program. Candidates may have their loans forgiven if they complete 5 years in a hard-to-staff school. Candidates who do not teach within 2 years after receiving their teaching certificate, drop out of the program or have not completed 5 years of service within 10 years of receiving a teaching certificate must begin repayment of the loans. The rulemaking lists extenuating circumstances under which the Board may grant a deferment or waiver

for the repayment of loans. The program also offers planning grants or implantation grants to potential consortia composed of interested educational entities (i.e. school districts, school employee union, regional office of education) and an institution of higher education. A consortium that has received an implementation grant is eligible for a continuation grant to fund ongoing programs. Continuation grants may be received for succeeding years. The rulemaking also addresses the topics of grant agreements, audit guidelines and grant fund recovery. Since 1st Notice, BHE has removed a provision requiring program candidates to pass the Illinois basic skills test before enrolling in coursework beyond 60 semester hours (candidates may substitute a minimum composite score on the ACT or SAT exams). Also, references to teachers receiving licenses rather than certificates have been added for consistency with other SBE proposed rules.

Questions/requests for copies: Karen Helland, BHE, 431 E. Adams Street, 2nd Floor, Springfield IL 62701-1404. 217/557-7358. Fax: 217/782-8548. Email: helland@ibhe.org.

(cont'd next page)

Proposed Regulations

EMERGENCY MEDICAL SERVICES

The DEPARTMENT OF PUBLIC HEALTH proposed amendments to "Emergency Medical Services and Trauma Center Code" (77 Ill Adm Code 515; 36 Ill Reg 17778) implementing Public Act 97-1014, which addresses emergency medical services (EMS) response in rural or understaffed areas. The rulemaking creates provisional first responder (FR) and emergency medical responder (EMR) licenses for 16- and 17-year-olds that can be upgraded to full licenses when the holder reaches age 18. Provisional FR or EMR licensees must complete Department-approved training and may function only under the direct supervision of a full FR or EMR license holder. The rulemaking also implements alternate rural staffing criteria for EMS providers that serve rural or semi-rural areas of 10,000 or fewer residents, rely solely upon volunteers or paid-on-call personnel, and have been unable to recruit sufficient licensed EMS personnel. Applications for alternate rural staffing must be approved by the medical director of the associated EMS system and must be reevaluated at least every 4 years. Vehicle service providers reliant upon

(cont'd page 3)

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

The STATE BOARD OF EDUCATION adopted a repeal of its rules titled "The 'Grow Your Own' Teacher Education Initiative" (23 Ill. Adm. Code 60; 36 Ill. Reg. 9591), effective 12/10/12, to implement Public Act 96-1393, which transfers authority for the program from SBE to the Illinois Board of Higher Education. Under the PA, the SBE rules remained in effect until BHE adopted its own rules for the program (summarized above).

Questions/requests for copies: Kellee Sullivan, SBE, 100 N. First St., E-310, Springfield IL 62777, 217/5576763.

ELECTRIC UTILITIES

The ILLINOIS COMMERCE COMMISSION adopted a new Part titled "Obligations of Retail Electric Suppliers" (83 Ill Adm Code 412; 35 Ill Reg 12996), effective 1/1/13. The rule establishes requirements for consumer education and protection concerning programs for electric customer choice. Topics covered include marketing practices, sales contract rescission, customer deposits, early termination fees, automatic contract renewal, dispute resolution, and customer complaint reports. A temporary or permanent waiver from the Part's regulations may be granted under specified conditions. Changes since 1st Notice include the following: A proposed \$50 cap on early termination fees and penalties and a Section addressing use of affiliate names and logos were removed. The definition of "Do Not Market List" was removed along with provisions restricting retail electric supplier (RES) marketing to customers included on a utility's Do Not Market List. Various definitions were replaced with statutory language. An exception to general restrictions on an RES claiming endorsement by a governmental body or consumer group was made for any RES that enters into a contractual agreement with a governmental body and is authorized by that governmental body to make statements of endorsement or representation. Other changes clarify the formatting of customer con-

tracts and the difference between formal and informal complaints. Entities affected are electric utility or alternative retail electric suppliers serving or seeking to serve residential or small commercial customers.

Questions/requests for copies: Elizabeth Rolando, Chief Clerk, ICC, 527 E. Capitol Ave., Springfield IL 62701, 217/782-7434.

WORKERS' COMPENSATION

The ILLINOIS WORKERS' COMPENSATION COMMISSION adopted amendments to "Arbitration" (50 Ill Adm Code 7030; 36 Ill Reg 13005), effective 12/4/12, revising the grounds for disqualification of a commissioner or arbitrator to conform to the Canons of Judicial Conduct, as required by Section 1.1 of the Workers' Compensation Act. If an arbitrator or commissioner was associated in the last three years in the practice of law with an attorney before the Commission, the rule clarifies that there is no need for disqualification when there was a referral of a case in which no monetary interest was retained, or if 7 years have passed since the arbitrator or commissioner represented a party. Arbitrators and commissioners shall keep informed about their personal and fiduciary economic interests and make a reasonable effort to do so concerning their spouse and minor children. The rulemaking also creates a process for filing of a petition for substitution of an arbitrator or commissioner, which shall be verified by an affidavit of the petitioner. This will trigger a hearing on the petition conducted by another arbitrator or commissioner, as appropriate. Since 1st Notice, IWCC has added a provision for substitution of an arbitrator when reasonable notice is given to the adverse party or his or her attorney, and clarified that petitions to disqualify arbitrators or Commissioners are assigned at random.

WCC also adopted amendments to "Commission Review Board Procedures" (50 Ill Adm Code 7500; 36 Ill

Reg 13029), effective 12/4/12, to address an Auditor General's finding that the Workers' Compensation Commission Review Board had failed to comply with its rule that the Review Board call a meeting within 15 days after receipt of any complaint against an arbitrator or commissioner. The rulemaking removes this rule. It also specifies that a complaint must be in writing, identify the parties and be sufficient to advise the respondent of the misconduct charged. The Executive Director of the Commission shall refer communications to the Commission legal counsel to determine whether a communication constitutes a complaint setting forth sufficient evidence that a respondent engaged in misconduct. If a complaint has merit, it shall be forwarded to the Review Board for consideration at its next regularly scheduled meeting (at least once per calendar quarter, upon the call of the chairman or at the request of three or more Board members). Various technical changes were also made to this Part.

Questions/requests for copies of the 2 WCC rulemakings above: Kimberly Janas, IWCC, 100 W. Randolph St., Ste. 8-200, Chicago IL 60601, 312/814-6559, Fax: 312/814-3520, e-mail: kimberly.janas@illinois.gov.

MEAT & POULTRY INSPECTION

The DEPARTMENT OF AGRICULTURE adopted a peremptory amendment to "Meat and Poultry Inspection Act" (8 Ill Adm Code 125; 36 Ill Reg 17930), effective 12/21/12. The rule implements a federal Food Safety and Inspection Service (FSIS) regulation, effective 11/26/12, that defines the standard 8-hour workday to include time spent by inspectors preparing for various duties (e.g., retrieving documents, sharpening knives for meat inspection) or carrying out administrative activities required by FSIS. Meat and poultry inspectors are affected by this rulemaking.

Questions/requests for copies: Linda Rhodes, DOA, State Fairgrounds, P.O.

New Regulations

Box 19281, Springfield IL 62794-9281, 217/524-9050, fax 217/557-5887.

HIGHER EDUCATION BOARD

The BOARD OF HIGHER EDUCATION adopted amendments to "Pub-

lic Information, Rulemaking, and Organization" (23 Ill Adm Code 5050; 36 Ill Reg 17847, effective 12/6/12, establishing procedures for making a presentation to the Board, audio or video recording of Board meetings and attendance by Board members

via audio or video conferencing.

Question/requests for copies: Karen Helland, at the BHE address and telephone number above.

Proposed Regulations

volunteer or paid-on-call personnel may also apply to DPH for alternate response authorization, which allows, subject to certain conditions, use of secondary vehicles or vehicles staffed by only one licensed emergency responder. Other provisions clarify staffing requirements for basic, intermediate and advanced life support vehicles; require ambulances to have current safety inspection, Illinois Poison Control Center and DPH complaint hotline stickers; and update the list of required medical equipment. Emergency service agencies that are small businesses, non-profits or serve small municipalities may be affected by this rulemaking.

Questions/requests for copies/comments through 2/4/13: Susan Meister, DPH, 535 W. Jefferson St., 5th Fl., Springfield IL 62761, 217/782-2043, e-mail: dph.rules@illinois.gov.

commercial driving school must file a copy of its classroom content and follow that approved content. If a school substantially changes its content, it must submit revised course content to the Commercial Driver Training School Division for review. All students must have a textbook that is used during the class. An instructor may supplement his or her lesson with audio-visual materials. Topics that must be included in classroom course content are listed. They include, for example, basic driving maneuvers, traffic safety laws, and driving on highways. The amendments also set out the requirements for behind-the-wheel instruction. These include a minimum of 6 hours of driving time and a minimum of 6 hours of observation time. Behind-the-wheel instruction cannot start until the student has completed 4 hours of classroom time and has a basic understanding of safe vehicle operation. Cars used in behind-the-wheel instruction must have 2-4 students. Instruction is limited to 90 minutes per student, per day and must be spaced out evenly over a minimum period of 2 weeks. Topics covered in behind-the-wheel instruction are listed and include, for example, stopping, steering and parking. The amendments also require an applicant for a license as a commercial driving school instructor who is a convicted felon to sign a release to allow SOS to do a criminal background check. Additionally, these amendments clarify that a commercial driving school or instructor can only advertise it is accredited once SOS approves. Standards for the instructor's professional conduct are established and it is clarified what records need to be kept by the driving school. Commercial driver training

schools, their students and their employees are affected.

Questions/requests for copies/comments through 2/4/13: Jennifer Egizzi, SOS, 2701 S. Dirksen Parkway, Springfield, IL 62723, 217/557-4462

BANKS

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION proposed amendments to "Lending Limits" (38 Ill Adm Code 330; 36 Ill Reg 17671) that authorize State-chartered banks and savings banks to engage in "derivative transactions" (transactions based upon trading of commodities, securities, currencies, or other assets, or upon changes in interest or other rates). The rulemaking is prompted by a federal law (the Dodd-Frank Act) which prohibits derivative transactions by state-chartered banks after 1/21/13 unless authorized by law in the state where the bank is chartered. The rulemaking defines terms related to derivative transactions and includes such transactions in the calculation of lending limits and credit exposure.

Questions/requests for copies/comments through 2/4/13: Craig Cellini, DFPR, 320 W. Washington St., 3rd Fl, Springfield IL 62786, 217/785-0813, fax 217/557-4451.

☞ COMMERCIAL DRIVING SCHOOLS

The SECRETARY OF STATE proposed amendments to "Commercial Driver Training Schools" (92 Ill Adm Code 1060, 36 Ill Reg 17801) implementing Public Act 97-1025 requiring SOS and the State Board of Education to develop standards for commercial driver education for teens under 18. The rulemaking sets out course objectives, classroom instruction and behind-the-wheel instruction. Classroom provisions include a minimum of 30 hours limited to 2 hours per day per student for a minimum of 4 weeks. SOS must receive an enrollment form within 3 days after the 3rd day of classroom instruction. This form must include the students enrolled and the dates and times of the class. Each

☞ DHR REGISTRATION

The DEPARTMENT OF HUMAN RIGHTS proposed amendments to "Procedures Applicable to All Agencies" (44 Ill Adm Code 750; 36 Ill Reg 17686) updating procedures for businesses who seek to establish eligibil-

New Regulations

ity for public contracts by registering with DHR (to verify compliance with non-discrimination laws). Registration may be performed online at the Department's website and payment of the filing fee may be made via credit card. DHR is also discontinuing its practice of posting registration numbers that are nearing expiration on its website. The rulemaking also adds "order of protection status" as a category protected from discrimination. Small businesses seeking State contracts are affected by this rulemaking.

Questions/requests for copies/comments through 2/4/13: David T. Rothal, DHR, 100 W. Randolph St., Ste. 10-100, Chicago IL 60601, 312/814-6257 or 217/785-5125 (TTY).

STATE EMPLOYEES

The DEPARTMENT OF CENTRAL MANAGEMENT SERVICES proposed amendments to "Extensions of Jurisdiction" (80 Ill Adm Code 305; 36 Ill Reg 17636), "State of Illinois Dependent Care Assistance Plan" (80 Ill Adm Code 2110; 36 Ill Reg 17640), "State of Illinois Medical Care Assistance Plan" (80 Ill Adm Code 2120; 36 Ill Reg 17646), "Commuter Savings Program" (80 Ill Adm Code 2190; 36 Ill Reg 17658) and "The Travel Regulation Council" (80 Ill Adm Code 3000; 36 Ill Reg 17663). The Part 305 amendments add two Illinois Commerce Commission job titles (human resources coordinator and one manager position) to the Personnel Code based on two memoranda of understanding between the American Federation of State, County and Municipal Employees and DCMS. Amendments to Part 2110 lower the minimum dependent care expense reimbursement from \$20 to \$5 and permit participants to be notified of account information electronically on a quarterly (currently monthly) basis. The Part 2120 amendments allow medical expense reimbursement to be claimed for a dependent child until the child is age 26 (currently, 23 for students and 18 for non-students), reduce the maximum allowable contribution to a medical

savings account from \$5,000 to \$2,500, and eliminate the annual \$20 fee for the program's debit card. New electronic notification provisions are also included. Amendments to Part 2190 provide that a participant who fails to notify the program administrator by the 10th of the month prior to their permanent or temporary departure from State employment will be responsible for contributing to the program for the following month. Finally, the Part 3000 amendments change the effective date for changes in mileage reimbursement rates to the effective date of the underlying federal rate.

Questions/requests for copies/comments on the 5 DCMS rulemakings above through 2/4/13: Mary Matheny, 720 Stratton Bldg., Springfield IL 62706, 217/557-5404, fax 217/558-2697, e-mail: mary.matheny@illinois.gov.

PROCUREMENT

The OFFICE OF THE AUDITOR GENERAL (OAG) proposed amendments to "Purchases and Contracts" (44 Ill Adm Code 500; 36 Ill. Reg. 17694) that implement recent amendments to the Illinois Procurement Code. The rulemaking revises defined terms, particularly the definition of subcontractor, now clarified to require a contract worth \$50,000 or more. The Auditor General Procurement Bulletin will be found at the OAG's website. A vendor's offer must be kept firm for at least 30 days after the bid or proposal opening date. Vendors must specify the grounds on which confidential data is exempt from disclosure under the Freedom of Information Act. Small purchase exemptions from bidding requirements are being raised from \$20,000 to \$30,000 for professional and artistic services and from \$40,100 to \$50,000 for construction projects. When a solicitation is cancelled, a notice of cancellation and explanation for that action shall be posted in the OAG Bulletin. Procurement files, open to the public after bid opening, shall not include trade secrets, or other confidential or proprietary infor-

mation. A 20% or less mark-up for parts in conjunction with a service contract does not convert a services contract to a prohibited cost-plus-a-percentage-of-cost contract. Potential grounds for cancellation of a contract are specified (e.g., failure to provide a performance bond or make delivery; products or services rejected for not meeting the terms of the contract; vendor bankruptcy; misrepresentation or fraud). Contracts in excess of \$20,000 shall be filed with the Comptroller within 30 days (presently, \$10,000 and 15 days). Notification of selection and award shall be sent to all respondents making offers. If a false certification is made by a vendor that it or a subcontractor is not barred from being awarded, a contract may be voided. If a false certification is made by a subcontractor, the contract may not be voided unless the contractor refuses to terminate the subcontract. Ex parte procurement communication policy is revised to exclude communications with another State agency employee if the person making the communication is exercising his experience in the normal course of business or oversight authority over the procurement. Communications that are privileged or protected under law are excluded from the reporting requirement, as are routine communications made in the course of the procurement. Protests may be made by any person at every stage of the procurement process, with the Chief Procurement Officer of the OAG acting as protest review officer. Protests must be in writing and physically received at the location specified. Hearing procedures for sole source, emergency procurement and debarment hearings are prescribed. A new Section addressing payment of taxes by vendors is added. Businesses seeking contracts with the Office of the Auditor General are affected.

Questions/requests for copies/comments through 2/4/13: Rebecca Patton, OAG, 740 E. Ash St., Springfield IL 62703, 217/782-6698, Fax: 217/785-8222, TTY 888/261-2887.

Second Notices

The following rulemakings were moved to Second Notice this week by the agencies listed below, commencing the JCAR review period. The rulemakings will be considered at JCAR's January 8, 2013 meeting.

DEPARTMENT OF NATURAL RESOURCES

"General Hunting and Trapping on Department-Owned or -Managed Sites" (17 Ill Adm Code 510) proposed 8/31/12 (36 Ill Reg 13507)

DEPARTMENT OF INSURANCE

"Preferred Provider Programs" (50 Ill Adm Code 2051) proposed 4/27/12 (36 Ill Reg 6356)

POLLUTION CONTROL BOARD

"General Rules" (35 Ill Adm Code 101) proposed 10/12/12 (36 Ill Reg 14971)

DEAF AND HARD OF HEARING COMMISSION

"Interpreter for the Deaf Licensure Act of 2007" (68 Ill Adm Code 1515) proposed 2/24/12 (36 Ill Reg 2607)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

"Non-Binding, Advisory Opinions on Criminal Convictions" (68 Ill Adm Code 1130) proposed 10/19/12 (36 Ill Reg 15175)

SECRETARY OF STATE

"General Rules, Definitions" (92 Ill Adm Code 1000) proposed 9/14/12 (36 Ill Reg 14084)

STATE BOARD OF EDUCATION

"Standards for All Illinois Teachers" (23 Ill Adm Code 24) proposed 10/5/12 (36 Ill Reg 14615)

DEPARTMENT OF HUMAN SERVICES

Repeal of "Lekoteks" (89 Ill Adm Code 899) proposed 7/27/12 (36 Ill Reg 11888)

"Special Transportation" (89 Ill Adm Code 815) proposed 7/27/12 (36 Ill Reg 11884)