

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

ELECTRICAL GENERATION

The ILLINOIS COMMERCE COMMISSION adopted a new Part titled "Distributed Generation Installer Certification" (83 Ill Adm Code 468; 36 Ill Reg 15413) implementing a provision of Public Act 97-616. The act requires the Commission to adopt certification requirements ensuring that entities installing distributed generation facilities are in compliance with the Public Utilities Act. (Distributed generation facilities are customer-owned generation facilities, typically of small scale, connected to the power grid. These may include solar, wind, or fossil fuel-powered facilities.) This new Part defines terms; requires certification of installers, except for self-installers; sets application procedures and certification requirements; specifies required application information; requires annual recertification and reporting; references complaint procedures; and sets fees and notification requirements for retail customers seeking net metering service. Since 1st Notice, a compliance date of 12/31/13 has been added and a requirement for qualified installers to perform at least 20 installations has been reduced to 5 installations.

Questions/requests for copies: Conrad Rubinkowski, ICC, 527 E. Capitol Ave., Springfield IL 62701, 217/785-3922.

☞ MEDICAL ASSISTANCE

The DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES adopted an amendment to "Medical Payment" (89 Ill Adm Code 140; 37 Ill Reg 18), effective 4/29/13, that permits federally qualified health centers (FQHCs) and rural health clinics (RHCs) to submit fee-for-service billings for implantable contraceptive devices if the facilities purchase the devices under the federal 340B Drug Pricing Program. A companion emergency amendment effective 1/1/13 appeared in the Illinois Register at 37 Ill Reg 253. For dates of service from 7/1/12 through 6/30/13, a physician or advanced practice nurse may submit fee-for-service billings and designate the FQHC or RHC as the alternate payee. On and after 7/1/13, the facility itself may submit fee-for-service billings. The devices themselves must be billed at the facility's actual acquisition cost. A separate encounter payment will be made to the facility for implanting the device. Clinics and other facilities meeting the definition of an FQHC or

(cont'd next page)

Proposed Regulations

HEALTH CENTERS

The DEPARTMENT OF PUBLIC HEALTH (DPH) proposed amendments to "Children's Community-Based Health Care Center Code" (77 Ill Adm Code 260; 37 Ill Reg 6135) that clarify admission criteria and staff requirements for different children's services provided in these facilities. The rulemaking requires a facility to supply forms for its employees, volunteers or children's representatives to record day, time and nature of complaints. The facility must also provide a phone and the Department's toll free complaint hotline number. Facilities must retain documentation in an employees' file that they have been trained to use a fire extinguisher and have been taught the facility's evacuation plan. The rulemaking also revises the list of medical emergencies that should be addressed with staff and incorporated into the facilities policies and procedures. DPH also clarified eligibility criteria for respite care and transitional care admissions. The rulemaking also requires the facility's medical director to be on-site a minimum of two days per week, provides on-call requirements for facility staff, and outlines standards for the facility's

(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

RHC may be affected.

Questions/requests for copies: Jeanette Badrov, DHFS, 201 S. Grand Ave. East, 3rd Fl., Springfield IL 62763-0002, 217/782-1233.

HEALTH FACILITIES

The HEALTH FACILITIES AND SERVICES REVIEW BOARD adopted amendments to "Health Facilities Planning Procedural Rules" (77 Ill Adm Code 1130; 36 Ill Reg 1130), effective 6/1/13, that reflect recent changes to the Health Facilities Planning Act; clarify and expand operational requirements of the Certificate of Need (CON) process; and repeal obsolete provisions. Amendments reflecting changes to the Act include new definitions; a list of facilities subject to the Act; removal of provisions requiring a CON for long term care change of ownership projects and requiring letters of intent for exemptions and CON applications; and new provisions for relinquishment or revocation of exemptions or CON permits. Changes since 1st Notice include changing various definitions to match the Act; changing the fee for alteration of a permit (to

reflect changes in a project for which a permit has already been granted) to a flat \$1,000; and adding a list of capital expenditure minimums/review thresholds for hospitals, long term care facilities, and other facilities. These amendments are too detailed to describe in their entirety. For further information contact the agency individual noted below. Hospitals, long term care facilities, and other medical facilities will be affected by this rulemaking.

Questions/requests for copies: Claire Burman, HFPB, 122 S. Michigan Ave., 7th Floor, Chicago IL 60603, 312/814-2565, e-mail: Claire.Burman@illinois.gov.

DHS APPEALS

The DEPARTMENT OF HUMAN SERVICES adopted amendments to "Impartial Due Process Hearing" (89 Ill Adm Code 828; 37 Ill Reg 497), effective 4/25/13. The rulemaking adds a cross-reference to applicable definitions (found in 89 Ill Adm Code 751) and updates numerous cross-references to ISBE rules. DHS differentiates which items are appealable un-

der Part 828 and which are appealable under other DHS rules. DHS has included the reference to guardian, applicable to his or her legal relationship with the child receiving services, throughout the rulemaking and allows impartial due process hearings to be conducted via video conference or teleconference.

REHABILITATION SERVICES

DHS also adopted amendments to "Sex Equity" (89 Ill Adm Code 829; 36 Ill Reg 16614), effective 4/25/13, that make a number of technical changes, such as changing references to DHS' Office of Rehabilitation Services to Division of Rehabilitation Services and vocational and career education to technical and career education, for consistency throughout DHS' rules. The rulemaking also removes the provision requiring that only adult female staff may directly supervise female students in their living quarters at night.

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

Proposed Regulations

medical advisory committee. A child's parent or representative may not be retaliated against for filing a complaint or providing information concerning a complaint against the facility. The rulemaking also further clarifies child's rights under this Part, adds a new Section addressing reporting requirements for allegations of abuse and neglect to DCFS, and requires a facility to provide 2 to 4 hours per day, as tolerated by the child, of recreational/leisure activities for children during their stay. Facilities are allowed to stock a small supply of prescription medications approved by the medical director that are available for immediate use. The rulemaking also revises personnel, food service and physical plant guidelines and

quality assessment and improvement standards for facilities. The rulemaking also revises the definitions Section and updates incorporated and referenced materials.

Questions/requests for copies/comments through 6/24/13: Susan Meister, DPH, 535 W. Jefferson St., 5th Fl., Springfield IL, 62761, 217/782-2043, e-mail: dph.rules@illinois.gov.

AIR POLLUTION

The POLLUTION CONTROL BOARD has proposed amendments to "Permits and General Provisions" (35 Ill Adm Code 201; 37 Ill Reg 6028); "Organic Material Emission Standards and Limitations for the Chicago Area"

(35 Ill Adm Code 218; 37 Ill Reg 6054) and "Organic Material Emission Standards and Limitations for the Metro East Area" (35 Ill Adm Code 219; 37 Ill Reg 6083). Amendments to Part 201 correspond to changes made to Parts 218 and 219. Amendments to Part 218 phase out the requirement for gasoline dispensing operations in the Chicago area to install, maintain and operate Stage II vapor recovery systems (begins 1/1/14) and require the decommissioning (from 1/1/14-1/1/16) of existing Stage II equipment in the Chicago ozone nonattainment area. Amendments to Part 219 repeal Stage II vapor recovery test methods and a Stage II vapor recovery guidance document because this program was repealed in 1994. The Stage I vapor

Proposed Regulations

recovery registration permit exemption is also repealed due to overlapping federal notification requirements and other State tracking systems for gasoline dispensing operations. The exemption will be relocated to Part 201 and will not require registration. PCB has also proposed clarifying and cleanup amendments to these 3 Parts.

GROUNDWATER QUALITY

PCB also proposed an amendment to "Groundwater Quality" (35 Ill Adm Code 620; 37 Ill Reg 6123) to correct 3 nonsubstantive technical errors in the Part's list of organic chemicals and corresponding concentrations. One reinstates the Class II GQS of 0.025 mg/L for trichloroethylene; the second reinstates the Class II GQS of 0.05 for 1,1,2-trichloroethane; the third corrected an inadvertent omission of an asterisk to "dibenzo(a,h)anthracene".

Requests for copies/comments on the above 4 rulemakings until 6/24/13: John T. Therriault, PCB, 100 W. Randolph, Ste. 11-500, Chicago IL 60601, 312/814-3620. Questions, at the same address: For more information: Richard McGill at the same address, 312/814-6983, e-mail: mcgillr@ipcb.state.il.us. Please reference docket R13-18 for the first 3 rulemakings and docket R08-18(B) for the 4th.

PROCUREMENT

The EXECUTIVE ETHICS COMMISSION proposed amendments to "Organization, Information, Rulemaking and Hearings" (2 Ill Adm Code 1620; 37 Ill Reg 6008) implementing Public Act 97-895 amending State law on procurement communications, as well as amending procedures within the EEC. Communications regarding an active procurement matter shall be reported to the Procurement Policy Board (PPB) no later than 30 days after they occur.

Communications relating to change orders, contract renewals or contract extensions must also be reported. Specific reporting requirements apply to communications with the Illinois Power Agency concerning procurement of a power supply. All reports must include the names of any party to the communication, the date and time on which the communication occurred, the duration and method of the communication and a summary of the communication. Trade secrets, proprietary information, and material that is privileged or required to be kept confidential under law are not to be reported. Notwithstanding those exceptions, any communication must be reported if the person reasonably believes the communication was made for an improper purpose. Starting in 2014, annual agency ethics training reports will be due to the EEC on or before each Feb. 1 and the reason for any failure to complete ethics training shall be reported. Such reports shall be submitted to the appropriate Executive Inspector General. If the PPB makes a recommendation to void a contract, bid or offer grounded on a potential conflict of interest, and the Chief Procurement Officer (CPO) intends to award the contract, the EEC shall hold a hearing within 30 days after receipt of the Board's recommendation. PPB recommendations shall include the name and contract information of the bidder, offeror or contractor; a statement of all relevant facts and legal conclusions the Board considered in making its recommendation; a written record of the Board's hearing (if one took place); and a copy of all documents relied upon by the Board. The CPO must notify the EEC within 5 days after receipt of the Board's recommendation whether he intends to accept or reject the recommendation. If a hearing is set, public notice is required at least 14 days before the hearing. Within 30 days

after the hearing, the CPO shall publish notice of the action taken toward the potential conflict of interest.

Questions/requests for copies/comments through 6/24/13: Chad Fornoff, EEC, 401 S. Spring St., 513 Stratton Bldg., Springfield IL 62706, 217/558-1393.

SURS TRUSTEE ELECTIONS

The STATE UNIVERSITIES RETIREMENT SYSTEM proposed amendments to "Universities Retirement" (80 Ill Adm Code 1600; 37 Ill Reg 6170) revising SURS Board of Trustees election procedures. No later than Oct. 1 prior to an election, the Board Secretary shall announce the number and type of Board positions to be filled. Prospective candidates must apply by Dec. 31 immediately preceding the election date, and nominating petitions may be circulated between Oct. 1 and Jan. 31. The Board Secretary shall determine the suitability of candidates based on the Pension Code and this Part. Candidates determined to be ineligible shall be removed from the ballot. If a candidate becomes ineligible after ballots are printed, votes for the ineligible candidate shall not be counted. Nomination petitions for Board positions must be signed by an eligible voter and include at least a partial address of the voter. If a vacancy occurs between elections, the Board Secretary will announce the vacancy by press release and accept nominations and the Board will choose the interim appointee by majority vote. If the vacancy occurs within 6 months prior to the next election, the remaining trustees may choose to leave the position vacant.

Questions/requests for copies/comments through 6/24/13: Michael Weinstein, SURS, 1901 Fox Dr., Champaign IL 61820, 217/378-8825.

Second Notices

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 June 11, 2013 meeting.

ILLINOIS COMMERCE COMMISSION

"Certification for the Installation, Maintenance or Repair of Electric Vehicle Charging Stations" (83 Ill Adm Code 469) proposed 11/26/12 (36 Ill Reg 16421)

DEPARTMENT OF PUBLIC HEALTH

"Control of Communicable Diseases Code" (77 Ill Adm Code 690) proposed 11/19/12 (36 Ill Reg 15918)

"Emergency Medical Services and Trauma Center Code" (77 Ill Adm Code 515) proposed 2/15/13 (37 Ill Reg 1850)

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

"Hospital Services" (89 Ill Adm Code 148) proposed 2/1/13 (37 Ill Reg 1018)

Joint Committee on Administrative Rules

Senator Pamela Althoff

Representative Greg Harris

Senator Don Harmon

Representative Lou Lang

Senator Tony Munoz

Representative David Leitch

Senator Sue Rezin

Representative Don Moffitt

Senator Dale A. Righter

Representative Tim Schmitz

Senator Ira Silverstein

Representative Andre Thapedi

**Vicki Thomas
Executive Director**