

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

☞ CAPITAL PROCUREMENT

The CAPITAL DEVELOPMENT BOARD adopted amendments to "Selection of Architects/Engineers (A/E)" (44 Ill Adm Code 1000; 36 Ill. Reg. 17192), effective 5/9/13, to address minority and female contracting initiatives for architects and engineers in capital construction projects. The agency's selection committee has added minority and/or female ownership status of the A/E firm or its consultants as a criterion for making recommendations. For projects with an estimated basic services fee of \$75,000 or more, CDB shall set goals for minority and female owned businesses, which will be described in the CDB Professional Services Bulletin. Such goals shall be based on the availability of minority or female business in the area of the work. CDB may waive goals for a project if it determines there are no eligible firms to perform the work in the area, or if the work does not lend itself to the use of consultants. No A/E firm that fails to meet the goal shall be considered unless it provides sufficient evidence that, after a good faith effort, it was unable to find sufficient minority and female businesses able to perform the work. An A/E firm attempting to demonstrate a good

faith effort to meet the minority and female business goals shall submit all information stating why the goal could not be met; a list of firms that were contacted; copies of all solicitation letters to minority and female firms stating the project title and location, classification of work for which consultants were sought, and response information; and return acknowledgments of the solicitations, among other information. In evaluating whether an A/E firm made a good faith effort, CDB shall consider the number of minority and female firms contacted; whether the work to be allocated to minority and female business was selected in order to increase the likelihood of achieving the goal; whether the A/E firm negotiated in good faith with minority and female businesses; and, whether the firm engaged CDB's Fair Employment Practices Division to provide referrals. This rulemaking will affect small businesses that bid on State capital construction projects.

Questions/requests for copies: Thomas Klein, CDB, 401 S. Spring St., 3rd Fl., Stratton Building, Springfield IL 62706, 217/782-0700, e-mail: Thomas.klein@illinois.gov, Fax: 217/524-0565.

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☞ ADOPTION

The DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES proposed amendments to "Licensing Standards for Child Welfare Agencies" (89 Ill Adm Code 401; 37 Ill Reg 6927) incorporating federal requirements for prospective parents seeking to adopt internationally. These requirements include at least 10 clock hours of training with at least 4 hours in-person training (parents seeking domestic adoptions must receive at least 6 total clock hours of training). The rulemaking also requires licensed child welfare agencies to inform DCFS within 30 days after making an agreement with an independent adoption contractor and must include independent adoption contractors in their personnel reporting requirements. Those affected by this rulemaking include child welfare agencies, independent adoption contractors and persons seeking to adopt children from foreign countries.

☞ DAY CARE HOMES

DCFS also proposed amendments to "Licensing Standards for Day Care Homes" (89 Ill Adm Code 406; 37 Ill Reg 6939) and "Licensing Standards

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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.

New Regulations

EMERGENCY MEDICAL SERVICES

The DEPARTMENT OF PUBLIC HEALTH adopted amendments to "Emergency Medical Services and Trauma Center Code" (77 Ill Adm Code 515; 37 Ill Reg 21), effective 5/13/13. The rulemaking requires registered nurses, nurse practitioners and physician assistants employed by out of State hospitals that participate in the Illinois trauma center or pediatric EMS programs to hold an unencumbered license in the state in which they practice. The rulemaking also requires hospitals to report bypass status (temporarily unable to receive patients because operating rooms or beds are at capacity or due to an internal emergency such as a power outage) via online status updates entered into the Illinois Hospital Bypass/State Disaster Reporting System. If the hospital is unable to access the online system, it shall notify the system of its bypass status via fax. Other provisions set requirements for Veterans' Administration facilities that wish to participate in an EMS system, including agreement to accept non-veteran patients during disaster, overload or bypass situations; provide for administrative hearings conducted by the DPH

director or a designee; and clarify that an EMT candidate who has failed the licensing exam twice can take a refresher course instead of repeating the initial training program. Hospitals and EMS services are affected by this rulemaking.

MILK PRODUCTS

DPH also adopted amendments to "Grade A Pasteurized Milk and Milk Products" (77 Ill Adm Code 775; 37 Ill Reg 98), effective 5/13/13, updating incorporations by reference of federal Food and Drug Administration documents. The updated documents and standards cover, among other topics, testing of nonfat dry milk and dry dairy products, reading of thermometers and other equipment, chemical and bacteriological testing, and sampling and testing of heat-treated milk products. Dairy producers and processors, bulk milk haulers and samplers, and owners of milk trucks are affected by this rulemaking.

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

VETERANS

The DEPARTMENT OF VETERANS' AFFAIRS adopted a new Part titled "Rules Governing Payment From the Disabled Veterans Property Tax Relief Fund" (95 Ill Adm Code 130; 36 Ill Reg 8241), effective 5/8/13. The rulemaking distributes payments from the disabled Veterans Property Tax Relief Fund to 100% permanently disabled Illinois veterans. Eligible veterans must be current residents who have received a Notice of Approval for a Special Adapted Housing Grant from the VA. The Illinois DVA must also receive annual notice that the veteran receives the tax exemption for specially adapted housing. On October 1st of each year, DVA will divide the balance of the fund by the number of qualified veterans. Changes since 1st Notice clarify how the adaptive housing tax exemption is certified and state that widows or widowers of qualified veterans will be included in the annual allocation of funds.

Questions/requests for copies: Jaime E. Martinez, DVA, 833 S. Spring St., Springfield IL 62794-9432, 312/814-5391.

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for Group Day Care Homes" (89 Ill Adm Code 408; 37 Ill Reg 6962) implementing Public Act 97-981. The act and this rulemaking require day care homes, centers or group day care homes to submit proof of a radon test within the last 3 years when applying for initial licenses or license renewals on or after 1/1/14. The rulemaking also requires day care homes newly built or undergoing substantial structural or electrical renovation on or after 12/15/11 to permanently wire smoke detectors into the structure's AC power line. These detectors must also be set so that all alarms sound if one detector is triggered. DCFS may allow facilities that did not have per-

manently wired smoke detectors before 12/15/11 to meet this requirement by installing battery-operated smoke detectors in each room where children nap or sleep. Other provisions allow caregivers to include their own children in the 4 additional school-age children (above the posted capacity of the day care home) that they may care for if a qualified assistant is present, and add the illness of the provider's own children to the list of circumstances that permit caring for additional children beyond posted capacity. This rulemaking affects licensed child-care facilities and radon detection contractors.

Questions/requests for copies/comments on the 3 DCFS rulemakings above through 7/8/13: Jeff Osowski, DCFS, 406 E. Monroe, #65, Springfield IL 62701-1498, 217/524-1983, TDD 217/524-3715, fax 217/557-0692, e-mail: CFpolicy@idcfs.state.il.us.

ENVIRONMENTAL DATA

The NATURE PRESERVES COMMISSION (Department of Natural Resources) proposed a new Part titled "Inventories, Registers and Records" (17 Ill Adm Code 4020; 37 Ill Reg 7111) addressing the type of data to be maintained in the Commission's Natural Heritage Database, conditions

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for using such data and fees to be charged for the use of this data. The rule defines "natural heritage data" as information on the biology, existence and locations of threatened and endangered species and these species' protective status; inventories of natural features including, but not limited to, Illinois Natural Areas; and information on land and water reserves. Persons requesting information from the database for research, educational, or other purposes must file requests online or in writing and must sign a 1-year, renewable data licensing agreement stipulating conditions for use of the data. Data cannot be transferred to third parties, and data users must take reasonable precautions to keep the precise locations of threatened and endangered species confidential. A base fee of \$75 applies to each request, with additional fees of \$25 for detailed data requests on particular threatened and endangered species and \$50 per quadrangle for data on any of the 1,071 U.S. Geological Survey quadrangles in Illinois. Users of quadrangle data may request up to 3 updates in a calendar year. For an annual subscription fee of \$20,000 per year, users may obtain data for the entire State, updated at the beginning of each calendar quarter. Fees for custom data requests will be determined on a case-by-case basis. For natural heritage data accessed through DNR's EcoCAT system, a fee of \$25 will be charged and the base fee will be waived. The rulemaking allows discounts and waivers of additional fees when the request furthers the mission of DNR or the Commission (e.g., students working on a thesis or research project), but the base fee will still be charged, and the State

retains ownership and licensing rights to the data provided. All fees will be deposited in DNR's Natural Areas Acquisition Fund. Those affected by this rulemaking include researchers, land developers, environmental groups and others who may request natural heritage data from the State.

Questions/requests for copies/comments through 7/8/13: Nick San Diego, DNR, One Natural Resources Way, Springfield IL 62701-1271, 217/558-1224.

☞ **MEDICAID VERIFICATION**

The DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES proposed an amendment to "Medical Payment" (89 Ill Adm Code 140; 37 Ill Reg 7078) that replaces the current Recipient Eligibility Verification (REV) system with a new Electronic Data Interchange (EDI) process. The EDI process is compliant with federal HIPAA medical privacy laws and allows participants to verify recipient eligibility, submit medical claims and check medical claim status. Requests can be made in real time mode (to which HFS responds immediately) for single individuals or claims or in batch mode for all other requests (to which HFS will respond within 24 processing hours). Existing REV vendor contracts are terminated effective 6/30/13 and REV vendors must apply to participate in the new system if they wish to continue performing eligibility verification services. The rulemaking includes criteria and procedures for prospective EDI participants. Those affected by this rulemaking include Medicaid providers and current or prospective vendors of eligibility verification services.

Questions/requests for copies/comments through 7/8/13: Jeanette Badrov, DHFS, 201 S. Grand Ave. East, 3rd Fl., Springfield IL 62763-0002, 217/782-1233.

☞ **RADON SERVICE PROVIDERS**

The ILLINOIS EMERGENCY MANAGEMENT AGENCY proposed amendments to "Regulations for Radon Service Providers" (32 Ill Adm Code 422; 37 Ill Reg 6987) that update the Part and reflect changes to statutes. The amendments allow IEMA to conduct performance audits of licensees' records at the Agency office; clarify license application and termination requirements; allow variances for building contractors; allow for an exam fee and remove fee waivers; allow licensed home inspectors to perform required activities during a measurement; clarify quality control requirements for school and commercial building measures; clarify device protocol to ensure only labs authorized by the manufacturer perform calibration and maintenance on electret devices; and allow drain tile to be used beneath soil gas retarders. Entities affected include most radon licensees (except for some who work for county health departments). Licensees who are employees of small municipalities will no longer be granted a fee waiver.

Questions/requests for copies/comments through 7/8/13: Traci Burton, IEMA, 1035 Outer Park Drive, Springfield IL 62704, 217/785-9860, Fax 217/524-3698.

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.

DEPARTMENT OF VETERANS' AFFAIRS

"Payment of Maintenance Charges and Income Management at the Illinois Veterans' Homes" (95 Ill Adm Code 108) proposed 2/22/13 (37 Ill Reg 2471)

"MIA/POW Scholarship" (95 Ill Adm Code 116) proposed 2/8/13 (37 Ill Reg 1591)

"Veterans' Scratch-Off Lottery Grant Program" (95 Ill Adm Code 125) proposed 2/1/13 (37 Ill Reg 1184)

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

"Pay Plan" (80 Ill Adm Code 310) proposed 3/29/13 (37 Ill Reg 3462)

STATE BOARD OF EDUCATION

"Mentoring Program for New Principals" (23 Ill Adm Code 35) proposed 2/8/13 (37 Ill Reg 1550)

"Student Records" (23 Ill Adm Code 375) proposed 2/8/13 (37 Ill Reg 1556)

DEPARTMENT OF NATURAL RESOURCES

"Consultation Procedures for Assessing Impacts of Agency Actions on Endangered and Threatened Species and Natural Areas" (17 Ill Adm Code 1075) proposed 3/22/13 (37 Ill Reg 3390)

"Designation of Restricted Waters in the State of Illinois" (17 Ill Adm Code 2030) proposed 3/22/13 (37 Ill Reg 3397)

COMPTROLLER

"Illinois Funeral or Burial Funds Act" (38 Ill Adm Code 610) proposed 2/22/13 (37 Ill Reg 2382)

"Claim Eligible to be Offset" (74 Ill Adm Code 285) proposed 2/22/13 (37 Ill Reg 2393)

SECRETARY OF STATE

"Cancellation, Revocation or Suspension of License or Permits" (92 Ill Adm Code 1040) proposed 3/29/13 (37 Ill Reg 3635)

ILLINOIS GAMING BOARD

"Riverboat Gambling" (86 Ill Adm Code 3000) proposed 2/15/13 (37 Ill Reg 1837)