

*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

### RADIOACTIVE MATERIAL

The ILLINOIS EMERGENCY MANAGEMENT AGENCY adopted an amendment to "Licensing of Radioactive Material" (32 Ill Adm Code 330; 37 Ill Reg 2597), effective 5/31/13, to clarify that all measuring, gauging or controlling devices containing 37 MBq or greater of radioactive materials based on the activity indicated on the label, other than strontium-90, radium-226 or polonium-210, must be registered with the Agency. The proposed amendment will ensure compatibility with US Nuclear Regulatory Commission regulations currently in place for use of radioactive materials.

Questions/requests for copies: Louise Conway, IEMA, 1035 Outer Park Drive, Springfield IL 62704, 217/785-9876.

Cancer Quality Screening and Treatment Initiative to be reimbursed at the Medicare rate for mammography services, provided they meet reporting requirements and other criteria outlined in the rulemaking. Since 1<sup>st</sup> Notice HFS has clarified qualifications of participating practitioners and set 6/1/13 (was 1/1/13) as the start date for enhanced payments. Medical providers participating in the screening program will be affected by this rulemaking.

### CHILD SUPPORT

DHFS also adopted an amendment to "Child Support Services" (89 Ill Adm Code 160; 37 Ill Reg 661), effective 5/28/13, implementing Public Act 97-878. The rulemaking adds life insurance premiums that a non-custodial parent or other responsible relative has been court-ordered to pay to the list of expenses deducted from a responsible relative's total income to determine his or her net income for purposes of calculating child support.

Questions/requests for copies of the 2 DHFS rulemakings above: Jeanette Badrov, DHFS, 210 S. Grand Ave. East,

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### REAL ESTATE APPRAISERS

The DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION proposed amendments to "Real Estate Appraiser Licensing" (68 Ill Adm. Code 1455; 37 Ill Reg 7851) making updates to comply with the federal Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010. The rulemaking changes the number of appraisals and appraisal reports a person with a temporary practice permit can perform to one or more (currently, no more than 5). Supervisors must provide the contact information of each trainee within 10 days after engagement and notify the Department immediately upon termination. Additionally, the supervisor must be personally and physically present for the first 500 hours, but not less than 25 assignments. If the supervisor is a General Real Estate Appraiser, than all appraisals completed during the first 500 hours must be non-residential. A supervising appraiser must have an active license, be in good standing, and not have been disciplined within the last two years. A trainee must provide the contact information of his/her supervisor within 10 days after engagement and inform the De-

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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

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3<sup>rd</sup> Fl., Springfield IL 62763-0002, 217/782-1233.

## POLICE PHOTOS & DOCUMENTS

The DEPARTMENT OF STATE POLICE adopted amendments to "Imaging Products" (20 Ill Adm Code 1298; 37 Ill Reg 1585), effective 6/3/13, concerning procedures and fees for requesting copies of photos, documents, data collection files and other items produced by State Police personnel. Imaging request forms must be used within 30 calendar days after they are sent to the requester; if not used within that period, the request is invalidated and a new request must be

submitted. All imaging products except for photographs (whether digital or non-digital) shall be provided in either a printed or digital format. Photographs shall be provided in the form of 4 x 6-inch prints and an accompanying CD-ROM or DVD containing copies of the printed digital images. Images that will no longer be provided include 8 x 10-inch photographs and 8½ x 11-inch diagrams, illustrations, or color index pages. The rulemaking defines "graphic images" as those which depict nude, deceased, or severely injured human bodies in a manner that could reasonably be considered an unwarranted invasion of personal privacy if made public.

Graphic images shall be redacted from any requests made without a subpoena. A fee of \$5 to \$50, depending on the size of the case file requested, shall be charged for redacting graphic images from a case file. A fee of \$20 for a request of "total station electronic data" is also added. Those affected by this rulemaking include local police agencies, private investigators, news media or others who may request data or documents from the State Police.

Questions/requests for copies: Suzanne L.Y. Bond, DSP, 801 S. 7<sup>th</sup> St., Suite 1000-S, Springfield IL 62703, 217/782-9356.

# Proposed Regulations

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partment immediately upon termination. Trainees must maintain a log for each supervisor that minimally includes the following: type of property, date of report, property description, description of work performed and scope of review and supervision, number of actual work hours, and signature and license number of supervisor. Finally, the Department is creating a Coordinator of Real Estate Appraisal. The Coordinator will not have an active license during his/her tenure but must meet all continuing education requirements. The Coordinator's license may be reactivated once his/her tenure is complete if all the requirements are met. Those affected by this rulemaking include licensed real estate appraisers and those who wish to become licensed real estate appraisers.

Questions/requests for copies/comments through 7/29/13: Craig Cellini, 320 W. Washington, 3<sup>rd</sup> Floor, Springfield IL 62786, 217/785-0813.

## DHS SCHOOLS

The DEPARTMENT OF HUMAN SERVICES proposed amendments to the Part titled "Admission Procedures" (89

Ill Adm Code 755; 37 Ill Reg 7860) updating various provisions related to admission procedures for residential schools for persons with disabilities operated by DHS. The amendments replace the term "multidisciplinary conference" with "eligibility review"; add a vision screening requirement for admission to the Illinois School for the Deaf (ISD) and Illinois Center for Rehabilitation and Education-Roosevelt (ICRE-R); extend eligibility for educational services to the day before the student's 22<sup>nd</sup> birthday; add information concerning ICRE-R's transition program for students who have completed high school but still need Individualized Education Plan (IEP) services; and update language regarding development of the IEP.

Questions/requests for copies/comments through 7/29/13: Tracie Drew, DHS, 100 S. Grand Ave. East, 3<sup>rd</sup> Fl., Springfield IL 62762, 217/557-1544.

## HUNTING

The DEPARTMENT OF NATURAL RESOURCES proposed amendments to "Cock Pheasant, Hungarian Partridge, Bobwhite Quail and Rabbit Hunting" (17 Ill Adm Code 530; 37 Ill Reg 7892)

that change the dates of the youth pheasant hunting program and the rabbit hunting season, consolidate rabbit hunting to one statewide season and make approximately 45 site specific changes.

## MINING

DNR also proposed an amendment to "Abandoned Mined Lands Reclamation" (62 Ill Adm Code 2501; 37 Ill Reg 7924) that removes an obsolete reference to non-coal reclamation expenditures that were to have been completed by 8/31/99.

Questions/requests for copies/comments on the 2 DNR rulemakings above through 7/29/13: Nick San Diego for Part 530 and Robert G. Mool for Part 2501, DNR, One Natural Resources Way, Springfield IL 62702-1271, 217/782-1809.

## STATE LIBRARY

The SECRETARY OF STATE (State Library) proposed an amendment to "Illinois State Library, Government Documents Section" (23 Ill Adm Code 3020; 37 Ill Reg 7929) abandoning the requirement that a depository library

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may discard a publication deposited in an electronic format only if it keeps the document in a tangible format for the current and previous year.

SOS also proposed amendments to "Illinois State Library Grant Programs" (23 Ill Adm Code 3035; 37 Ill Reg 7933) completely reordering the organizational structure of regional library systems in the State and their subordinate service entities, such as Talking Book Centers (TLCs), and newly created Advisory and Outreach Centers (AOCs) and Machine Sub-Lensing Agencies (MSLAs), primarily due to State funding shortages. The restriction that no more than one grant contract may be issued to any one applicant in the same fiscal year is being lifted.

Questions/requests for copies/comments on the 2 SOS rulemakings through 7/29/13: Joe Natale, Illinois State Library, Gwendolyn Brooks Bldg., Springfield IL 62701-1796, 217/558-4185, e-mail: [jnatale@ilsos.net](mailto:jnatale@ilsos.net).

## PROCUREMENT

The DEPARTMENT OF CENTRAL MANAGEMENT SERVICES (DCMS) proposed a new Part, "Service-Disabled and Veteran-Owned Small Businesses" (44 Ill Adm Code 20; 37 Ill Reg 7820) to implement a Illinois Procurement Code preference for that category of vendor. The rule repeats statutory definitions for "Qualified Service-Disabled Veteran" (QSDV), QSDV-Owned Business (QSDVOB), "Qualified Veteran-Owned Small Business" (VOSB) and "Veteran" and announces a procurement target that no less than 3% of the dollar amount of State contracts be for such businesses. Exempt contracts include: inter-agency contracts; categories of central university services, such as data processing, plant, supply, telecommunications and transportation services; contracts with payment to other governmental entities; employee wage and associated costs; unemployment compensation payments; legislative staff services; workers' compensation awards

or settlements; various government payouts (lottery prizes, tort claim payments, assistance payments to individuals, awards and grants to students, etc.); debt retirement; refunds; utility payments; State grants; real estate acquisition; association dues and periodical subscriptions. Agency request procedures for specific exemptions are prescribed. Goals may be satisfied by payments to eligible businesses as subcontractors. Each September 1, Chief Procurement Officers shall report to CMS on QSDVOB and VOSB contracting and make recommendations that shall be included in a CMS report to the General Assembly. A QSDOSB or QVOSB must have annual sales of less than \$75 million and must be an authorized business registered in Illinois; the veteran must hold 51% of the business; and the business home office must be in Illinois. Certification protocols include maintaining a list of businesses certified and naming federal documents it will accept as proof of veteran or disabled veteran status. Other certifying entities, such as a federal or local government program, that have requirements as stringent as the Illinois program requirements will be recognized. Persons seeking recognition under the program must have residency in Illinois. Detailed protocols for examining the bona fides of a claimed 51% ownership interest of a veteran or disabled veteran business are added. Individuals claiming ownership of a business must actually control the business and factors demonstrating that control are listed in the rule. Applicants for certification will be notified of CMS's decision, with a review and reconsideration process stated in the rulemaking. The State or any third party may challenge certification status at any time, leading to a CMS investigation, again with notification and possible appeal of any adverse decision. Certified businesses must file annual confirmations with CMS that there is no change in their status, again with notification and appeal procedures. Purchasing agencies may waive or reduce bond requirements for certified vendors, as

well as permitting advance or progress payments or both. Any contract awarded to a QSDOSB or QVOSB may not be assigned without approval of the CPO, in consultation with CMS. If a certified vendor cannot meet the goal stated in a solicitation, it must offer evidence of good faith efforts to meet the goal, such as: various solicitation efforts made to meet the goal, selecting portions of the work to be performed by certified vendors, negotiating in good faith with certified vendors, or aiding certified vendors in obtaining lines of credit. If a certified vendor violates the Procurement Code, this rule, or contracts let pursuant to the program, the Department has the following remedies: decertification from the program; cancellation of contract(s); or suspension of a vendor (from either participation in the program or from further contracting with the State). This rulemaking will affect small businesses owned by veterans or disabled veterans seeking State contracts.

Questions/requests for copies/comments through 7/29/13: Mary Matheny, 720 Stratton Bldg., Springfield IL 62706, 217/557-5404. Fax: 217/558-2697, e-mail: [mary.matheny@illinois.gov](mailto:mary.matheny@illinois.gov).

## PENSION FUNDS

The DEPARTMENT OF INSURANCE proposed a new Part titled "Dissolution and Reestablishment of Inactive Police Pension Funds and Firefighters' Pension Funds" (50 Ill Adm Code 4439; 37 Ill Reg 7871) to implement Public Act 97-99, which allowed the dissolution of fire and police pension funds that no longer have any remaining liabilities. The Public Act required reestablishment of such a fund if a former police officer or firefighter tried to reestablish service time, and directed the Department to adopt rules for dissolution and reestablishment of such funds. The rule defines key terms, such as active member; current value (the fair market value when available or otherwise determined in good faith by a municipality); former firefighter and former police officer; and partici-

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pant (a firefighter, police officer, deferred pensioner or beneficiary of a pension fund), among others. If an independent auditor for a police or firefighter pension fund established under Articles 3 or 4 of the Illinois Pension Code has certified that there are no outstanding liabilities, then a municipality may dissolve that fund. The Pension Division of the Department will perform a final examination of the fund and all former officers and firefighters shall be informed of the intent to dissolve the fund. Minimum audit elements and requirements of the independent auditor's certification to the municipality include a review of the most recent annual report filed with the Pension Division; a review of the assets held by the pension fund; an examination of whether the fund has any remaining participants or beneficiaries; a determination of whether the fund has any remaining liabilities, and if so, a report of those remaining liabilities; and pension information describing the status of any former members of the fund. Corpo-

rate authorities of a municipality dissolving a fund must adopt a resolution or ordinance doing so, and then forward a copy of the signed and dated resolution or ordinance to the Pension Division. If a municipality hires a police officer or firefighter after dissolution of a fund, the fund must be reestablished in the same manner as it was originally established under the Pension Code. This must also be done temporarily for an officer that reestablishes creditable service with a former pension fund, which when restored will be transferred to the officer's current pension fund. For firefighters, the pension fund must be restored and maintained.

Questions/requests for copies/comments through 7/29/13: Amanda Kimble, IDOI, 122 S. Michigan Ave., 19th Fl., Chicago IL 60603, 312-814-5420, e-mail: [amanda.kimble@illinois.gov](mailto:amanda.kimble@illinois.gov), or Susan Anders, IDOI, 320 W. Washington St., Springfield IL 62767-0001, 217-785-8220, Fax: 217-524-9033.

## DEFERRED COMPENSATION

The ILLINOIS STATE BOARD OF INVESTMENT proposed amendments to "State (of Illinois) Employees' Deferred Compensation Plan" (80 Ill Adm Code 2700; 37 Ill Reg 7880) to conform to federal Internal Revenue Service requirements. Criminal defense or civil divorce charges triggering legal fees are no longer a permissible cause for a hardship distribution of a participant's account. The maximum permissible loan amount from a participant's account is clarified to be the lesser of \$50,000, reduced by the highest outstanding balance of loans from all qualified employer plans from the preceding 12 months, or one half the present value of the participant's account.

Questions/requests for copies/comments through 7/29/13: Linsey Schoemehl, Illinois State Board of Investment, 180 N. LaSalle St., Sute. 2015, Chicago IL 60610, 312/793-1486, Fax: 312/793-2266, e-mail: [Linsey.Schoemehl@Illinois.gov](mailto:Linsey.Schoemehl@Illinois.gov).

# JCAR Meeting Action

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At its 6/11/13 meeting, the Joint Committee on Administrative Rules issued an objection to one proposed rulemaking and a recommendation concerning another proposed rulemaking. The Committee and the Illinois Commerce Commission also agreed to extend the Second Notice period an additional 45 days for the ICC rulemaking titled "Certification for the Installation, Maintenance or Repair of Electric Vehicle Charging Stations" (83 Ill Adm Code 469; 36 Ill Reg 16421).

## DEPARTMENT OF VETERANS' AFFAIRS

With respect to the rulemaking titled "Payment of Maintenance Charges and Income Management at the Illinois Veterans' Homes" (95 Ill Adm Code 108; 37 Ill Reg 2471), JCAR objects to DVA implementing the allowance calculation methodology created in this rulemaking prior to adoption of the rule. Section 5-10(c) of the Illinois Administrative Procedure Act specifically states that no agency policy is valid, and shall not be invoked, unless adopted as rule.

## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

With regard to the rulemaking titled "Confidentiality of Personal Information of Persons Served by the Department of Children and Family Services" (89 Ill Adm Code 431; 36 Ill Reg 17289), JCAR recommends that, in the future, the agency reflect statutory changes in a more timely manner. (The rulemaking implements a Public Act that was effective in 2010.)

## **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 July 9, 2013 meeting.

### **ILLINOIS EMERGENCY MANAGEMENT AGENCY**

"Medical Use of Radioactive Material" (32 Ill Adm Code 335) proposed 3/15/13 (37 Ill Reg 2775)

"Accrediting Persons in the Practice of Medical Radiation Technology" (32 Ill Adm Code 401) proposed 3/15/13 (37 Ill Reg 2783)

"Standards for Selection of Contractors" (32 Ill Adm Code 605) proposed 3/15/13 (37 Ill Reg 2807)

Repeal of "Individual and Family Grant Program" (29 Ill Adm Code 410) proposed 3/15/13 (37 Ill Reg 2757)

Repeal of "Public Disaster Assistance Program" (29 Ill Adm Code 420) proposed 3/15/13 (37 Ill Reg 2766)

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

"Massage Licensing Act" (68 Ill Adm Code 1284) proposed 4/12/13 (37 Ill Reg 4413)

### **SECRETARY OF STATE**

"Uniform Partnership Act" (14 Ill Adm Code 166) proposed 4/5/13 (37 Ill Reg 4203)

"Uniform Limited Partnership Act (2001)" (14 Ill Adm Code 171) proposed 4/5/13 (37 Ill Reg 4208)

"Certificates of Title, Registration of Vehicles" (92 Ill Adm Code 1010) proposed 4/19/13 (37 Ill Reg 5133)

## ***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**