

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

ETHANOL

The DEPARTMENT OF AGRICULTURE adopted an amendment to rules titled "Motor Fuel and Petroleum Standards Act" (8 Ill Adm Code 850; 37 Ill Reg 6413), effective 9/16/13, adopting the standards for ethanol fuel blends contained in the 2013 (formerly, 2011) edition of the National Institute of Standards and Technology (NIST) Handbook 130. Since 1st Notice DOA has stated that only the cited edition of the NIST handbook is adopted and no subsequent amendment or editions are included in this rulemaking. Those affected by this rulemaking include petroleum suppliers and motor fuel sellers.

Questions/requests for copies: Linda Rhodes, DOA, State Fairgrounds, Springfield IL 62794-9281, 217/524-9050, fax 217/785-4505.

RADIOACTIVE MATERIALS

The ILLINOIS EMERGENCY MANAGEMENT AGENCY adopted amendments to "Accrediting Persons in the Practice of Medical Radiation Technology" (32 Ill Adm Code 401; 37 Ill Reg 2783), effective 8/22/13. The amendments define terms; ex-

pand exemptions from the Part; require letters of agreement/delegation for radiologist assistants and nuclear medicine advanced associates as part of the accreditation application process (two new appendices provide examples of letters of agreement for those categories); add nuclear medicine advance associates as an accreditation category; and specify the examination and CE requirements for that category. Since 1st Notice, IEMA has removed a proposed exemption for physician assistants and advanced practice nurses performing interventional fluoroscopic procedures (e.g., guiding catheters or other instruments through the body) under the personal and direct supervision of a licensed practitioner. Those affected by this rulemaking include radiologists and other medical practitioners.

Questions/requests for copies: Traci Burton, IEMA, 1035 Outer Park Drive, Springfield IL 62704, 217/785-9860, TDD-217/782-6133.

MANAGED CARE

The DEPARTMENT OF INSURANCE adopted amendments to "Health

(cont'd next page)

SCHOOL SAFETY GRANTS

The ILLINOIS EMERGENCY MANAGEMENT AGENCY has proposed a new Part titled "School and Campus Safety Grants" (29 Ill Adm Code 310; 37 Ill Reg 13963) that allows grants to public schools and institutions of higher education to implement protective measures to reduce facility vulnerability to emergency situations and enhance preparedness and response. Covered topics include application procedures and requirements; project requirements; grant agreement requirements; and audit and grant recovery procedures.

Questions/requests for copies/comments through 10/21/13: Traci Burton, IEMA, 1035 Outer Park Drive, Springfield IL 62704, 217/785-9860, TDD 217/782-6133.

SEX OFFENDER TREATMENT

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION proposed a new Part titled "Sex Offender Evaluation and Treatment Provider Act" (68 Ill Adm Code 1280; 37 Ill Reg 13970) that implements Public Act 97-1098. Licensed physicians,

(cont'd page 4)

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

Maintenance Organization" (50 Ill Adm Code 5421; 36 Ill Reg 12957), effective 8/26/13, to begin addressing issues concerning the federal Affordable Care Act (ACA). The rulemaking establishes the annual deductible/co-payment cap for high deductible health plans at the federal maximum defined in 26 USC 223. Since 1st Notice, the proposed out-of-pocket annual expense cap of \$6,000 for individuals and \$12,000 for families has been removed and replaced with the federal cap.

Questions/requests for copies: Yvonne Clearwater, DOI, 320 W. Washington, 4th Fl. Springfield IL 62767-0001, 217/785-5987.

COLLECTIVE BARGAINING

The ILLINOIS LABOR RELATIONS BOARD adopted amendments to "General Procedures" (80 Ill Adm Code 1200; 37 Ill Reg 5762) and adopted a new Part titled "Governatorial Designation of Positions Excluded from Collective Bargaining" (80 Ill Adm Code 1300; 37 Ill Reg 7208), both effective 8/23/13. Companion emergency rulemakings appeared in the Illinois Register at 37 Ill Reg 5807 and 5901. The amendments to Part 1200 state that its rules do not apply to cases filed under Part 1300, unless specifically referenced. The new Part 1300 implements PA 97-1172 by establishing procedures used by the Governor to designate positions excluded from collective bargaining and for affected employees and labor organizations to file objections. The Governor must file a designation by electronic mail and deliver a hard copy to ILRB at its Springfield office. The designation must include the following: the job title and duties; name of the current employee, if any; name of the employing State agency, if any; and the category under which the position qualifies for exclusion from collective bargaining. To qualify, the employment position must meet one or more of the following criteria: the position is that of a legislative liaison or high

level agency executive (e.g., Executive Director, Deputy Director, HR Director, General Counsel); the position is Rutan-exempt (i.e., not covered by the U.S. Supreme Court Rutan decision forbidding political considerations in hiring or termination of non-policy-making State employees); the position is term-appointed under Sec. 8b.18 or 8b.19 of the Personnel Code; or the employee has significant and independent discretionary authority. Sections pertaining to administrative hearings are similar to those found in 80 Ill Adm Code 1200 but follow a shorter timeline as required by PA 97-1172. State employees who meet one or more of the stated job categories may be affected by this rulemaking.

Questions/requests for copies: Jerald Post, ILRB, 160 N. LaSalle St., Suite S-400, Chicago, IL 60601, 312/793-6400, e-mail: Jerald.Post@illinois.gov.

EXPLOSIVES

The DEPARTMENT OF NATURAL RESOURCES adopted amendments to the Part titled "The Illinois Explosives Act" (62 Ill Adm Code 200; 37 Ill Reg 7230), effective 8/26/13, that overhaul the explosives code and add numerous new Sections. Topics addressed include marking of explosives, information required on shipping containers, records for transferring explosive materials, availability of records, exemptions, transportation of materials on the same vehicle, scope of the explosives license, notice of licensure/renewal to local law enforcement, application and qualification for licensure, and refusal to issue an individual or temporary license. Other amendments address daily reporting and maintenance of records, inspections by DNR, enforcement actions, notice of violation, assessment of fines and the dollar amount of those fines, suspension or revocation of licenses and storage certificates, disposal of explosives, surrender or seizure of licenses or certificates, notice of DNR's

intended action, request for or notice of a hearing, the proceedings of a hearing, pre-hearing conferences and final administrative decisions. Additionally, the rulemaking updates several appendixes regarding storage of explosives and increases fees for licensure and storage certificates. There are modifications to the construction or use of most types of storage magazines and major modifications to rules governing records of transactions and the reporting of theft or loss of explosive materials, injuries, accidents or incidents. Cross references and incorporations by reference to the Code of Federal Regulations and other national standards are added or updated. Activities and materials that are exempt from the licensing requirements in this Part include agricultural fertilizers (when used for agricultural purposes); contract or common hauling of explosives authorized by the Interstate Commerce Act or the Illinois Commerce Commission; the possession and use of primers or propellant powders for reloading ammunition (5 lbs. of black powder and primers in suitable containers); and the acquisition, possession, use, transfer or disposal of explosives in connection with mine, quarry, construction, manufacturing, or wholesale or retail sales provided that the operation is overseen or monitored by an individual who meets the stated criteria. Changes since 1st Notice clarify that the Part applies to materials classified as Division 1.1, 1.2, 1.3, and 1.5 explosives under federal regulations. A reference to an exemption for smokeless small arms propellant (gunpowder) in quantities less than 25 lbs. was also clarified to reference federal regulations. This rulemaking may affect small businesses, municipalities that use explosives and units of local government that have licensees or storage magazines within their jurisdictions.

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

New Regulations

DRIVER'S LICENSES

The SECRETARY OF STATE adopted amendments to "Issuance of Licenses" (92 Ill Adm Code 1030, 37 Ill Reg 6630), effective 9/1/13, clarifying the required questions that driver's license applicants must answer with respect to mental health issues. Those applying for driver's licenses may be affected by these rules.

Questions/requests for copies: Jennifer Egizii, SOS, 2701 S. Dirksen Parkway, Springfield IL 62723, 217/557-4462.

DEFERRED COMPENSATION

The ILLINOIS STATE BOARD OF INVESTMENT adopted amendments to "State (of Illinois) Employees' Deferred Compensation Plan" (80 Ill Adm Code 2700; 37 Ill Reg 7880), effective 8/23/13, 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: Linsey Schoemehl, Illinois State Board of Investment, 180 N. LaSalle St., Suite 2015, Chicago IL 60610, 312/793-1486, Fax: 312/793-2266, e-mail: Linsey.Schoemehl@Illinois.gov.

LONG TERM CARE

The DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES adopted an emergency amendment to "Medical Payment" (89 Ill Adm Code 140; 37 Ill Reg 14196), effective 8/20/13, implementing Public Act 98-104. A companion proposed amendment appears in this week's *Illinois Register* at 37 Ill Reg 13998. The rulemakings reinstate bed reserve payments for residents of Intermediate Care Facilities for the Developmentally Disabled (ICF/DD) who are 21 years of age or older and are temporarily absent from the facility for reasons other than inpatient hospitalization. For ICF/DD residents under age 21, bed reserve payment for hospitalization is limited to 45 consecutive days, with payment rates decreasing after the 10th and 30th days.

Questions/requests for copies/comments on the proposed rulemaking through 10/21/13: Jeanette Badrov, DHFS, 201 S. Grand Ave. East, 3rd Fl., Springfield IL 62763-0002, 217/782-

1233, e-mail: HFS.Rules@illinois.gov.

STATE EMPLOYEES

The DEPARTMENT OF CENTRAL MANAGEMENT SERVICES adopted peremptory amendments to "Pay Plan" (80 Ill Adm Code 310; 37 Ill Reg 14219) effective 8/23/13, implementing a 3-year collective bargaining agreement with the Teamsters' Cook County bargaining unit, covering the period 7/1/12 through 6/30/15. The contract includes general 2% pay raises effective 7/1/13 and 7/1/14; a one-time stipend equal to 2.25% of salary for employees on the payroll as of 6/1/13; and provisions for an in-hire rate for new employees hired on or after 7/24/13 (75% of full salary, increasing 5% each year and reaching full rate on the employee's 5th anniversary). The peremptory amendments also implement a memorandum of understanding with the American Federation of State, County and Municipal Employees (AFSCME) assigning the State Mine Inspector-at-Large job title (Department of Natural Resources) to an AFSCME bargaining unit.

Questions/requests for copies: Jason Doggett, DCMS, 504 Stratton Bldg., Springfield IL 62706, 217/782-7964, fax 217/524-4570, e-mail: CMS.PayPlan@illinois.gov.

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 September 17, 2013 meeting.

POLLUTION CONTROL BOARD

"Groundwater Quality" (35 Ill Adm Code 620) proposed 5/10/13 (37 Ill Reg 6123)

DEPARTMENT OF HUMAN SERVICES

"Role of Residential Educational Facilities Operated by the Illinois Department of Human Services" (89 Ill Adm Code 750) proposed 1/21/13 (37 Ill Reg 479)

"Admission Procedures" (89 Ill Adm Code 755) proposed 6/14/13 (37 Ill Reg 7860)

Proposed Regulations

advanced practice nurses with psychiatric specialty, licensed clinical psychologists, licensed clinical social workers, licensed clinical professional counselors, and licensed marriage and family therapists are eligible to apply for licenses as sex offender evaluators or treatment providers. A person who has a master's degree or higher in social work, psychology, marriage and family therapy, counseling or a closely related behavioral science, or psychiatry may apply for a license as an associate sex offender treatment provider. Applicants must meet all application requirements. Licenses will be valid for 2 years and must be renewed by July 31 of odd-numbered years. The original application fee and renewal fees are \$150. The fee for restoring a license expired for 5 years or less is \$50 plus all lapsed renewal fees. To restore a license that is 5 years or more expired, the fee is \$50 plus all lapsed renewal fees up to \$500. The fee for a duplicate license is \$20. All licensees must complete 20 hours of continuing education (CE) in the area of sex offender treatment and evaluation. Approved CE sponsors are listed and include,

but are not limited to, the American Psychological Association, American Medical Association, Illinois Association for the Treatment of Sexual Abusers, American Counseling Association, and authorized CE sponsors for the professions eligible for licensure. Other regulations in this rulemaking discuss provisions for supervising associate sex offender providers; unethical, unauthorized or unprofessional conduct; renewal, restoration, inactive status, and granting variances. Those who may be affected by this rulemaking include those eligible licensed professionals who wish to be licensed as well as CE sponsors.

Questions/requests for copies/comments through 10/21/13: Craig Cellini, 320 W. Washington, 3rd Floor, Springfield IL 62786, 217/785-0813.

PARKING SPACES

The SECRETARY OF STATE proposed a new Part titled "Parking Agreements at Secretary of State Facilities" (92 Ill Adm Code 1150; 37 Ill Reg 14000) allowing the SOS to lease parking spaces at his facilities to public or private entities or individuals as

long as it does not interfere with the operational needs of the facility. Those affected by this rulemaking may include small businesses and individuals who work near SOS facilities.

Questions/requests for copies/comments through 10/21/13: Carrie Leitner, SOS, 298 Howlett Building, Springfield, IL 62756, e-mail: cleitner@ilsos.

DCEO RULE WITHDRAWAL

The DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY has withdrawn proposed amendments to the Part titled "Enterprise Zone and High Impact Business Programs" (14 Ill Adm Code 520; 37 Ill Reg 4411) that appeared in the 4/12/13 *Illinois Register*. The rulemaking would have instituted new criteria and timelines for approval of enterprise zones that were implemented by Public Act 98-109. DCEO has also repealed this rulemaking's companion emergency amendments and replaced them with new emergency amendments effective 8/2/13 for a maximum of 150 days.

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**