

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

STATE RETIREMENT

The DEPARTMENT OF CENTRAL MANAGEMENT SERVICES adopted amendments to the Part titled "State Employees Group Insurance Program Retiree Premium Contributions" (80 Ill Adm Code 2200; 37 Ill Reg 11832), effective 10/31/13. This new Part implements Public Act 97-695, which imposes charges on annuitants of the 5 major State retirement plans (State employees, teachers, judges, university employees, and General Assembly members) for health insurance in an amount determined by the Director of DCMS. The Part defines key terms, such as annuitant, retired employee (a person retired before 1/1/66 or a former member of University of Illinois Cooperative Extension Service), and survivor. Agencies are required to provide records and certifications as may be required by CMS. DCMS shall establish premium contributions, consistent with the law and this Part and shall calculate the premium contribution owed by each annuitant, retiree, or survivor and transmit that calculation to the appropriate retirement system on a monthly basis to allow for collection of the premium. CMS will determine

the benefits available to annuitants, retirees, survivors and dependents. DCMS will comply with the federal Health Insurance Portability and Accountability Act (HIPPA) and Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA). Retirement systems must report the value of the annuity of each annuitant, retired employee and survivor to DCMS on a monthly basis. The systems must also enroll and terminate their annuitants, survivors, dependents, etc., pursuant to DCMS policies and procedures and State law. DCMS shall calculate the premiums due from retired individuals, said premium to be 2% of the total annual annuity received by the retired person, and 1% if the retired person is under Medicare or that would have been under Medicare but for the fact they were unable to contribute to Medicare while actively working. Any State, university retired person, or retired teacher, that retired with less than 20 years' of service, must also pay 5% of the cost of the coverage for each year of less than 20 years of service. Retired persons shall pay the amount that would have been paid by the primary retired person for each depen-

(cont'd next page)

FRACKING RULES

The DEPARTMENT OF NATURAL RESOURCES proposed a new Part titled "The Hydraulic Fracturing Regulatory Act" (62 Ill Adm Code 245; 37 Ill Reg 18097) implementing the Act, which authorizes and regulates the practice of hydraulic fracturing (fracking) to unearth oil deposits. The new Part defines terms related to fracking, incorporates national standards, and addresses topics such as bond and collateral security; the process for obtaining permits; public comment and hearings; well site preparation and construction; water quality monitoring; plugging and restoration of land after the fracking process is complete; and enforcement of the Act and rules through administrative penalties, remediation or other measures. Applicants for fracking permits must pay a non-refundable fee of \$13,500, plus a permit bond of \$50,000 per permit or a blank bond of \$500,000 for multiple permits, and must show DNR proof of at least \$5 million in insurance coverage. Non-refundable fees for modification of a permit or permit application are \$13,500 for significant modifications and \$5,000

(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

dent. Optional coverage must also be paid for.

Questions/requests for copies: Mary Matheny, 720 Stratton Bdg., Springfield IL 62706, 217/557-5404. Fax: 217/558-2697, email: mary.matheny@illinois.gov.

RIVERBOAT GAMING

The ILLINOIS GAMING BOARD adopted amendments to "Riverboat Gambling" (86 Ill Adm Code 3000; 37 Ill Reg 9855), effective 11/1/13, amending the definition of adjusted gross receipts to mean gross receipts minus the winnings paid to wagers including the value of any expired vouchers. Promotional coupons may now be used as wagers in accordance with the owner's licensee's Internal Control System and rules about match play coupons are being repealed. Finally, vouchers may now be issued or redeemed at cashier cages as well as voucher printers connected to an electronic gaming device.

Questions/requests for copies: Emily Mattison, IGB, 160 N. LaSalle St, Chicago, IL 60601, 312/814-7253, email: emily.mattison@igb.illinois.gov.

CARE AND FAMILY SERVICES adopted an amendment to "Medical Payment" (89 Ill Adm Code 140; 37 Ill Reg 5243), effective 11/4/13, implementing the SMART Act (Public Act 97-689). An identical emergency amendment, effective 4/8/13 through 6/30/13, appeared in the Illinois Register at 37 Ill Reg 5170. The amendment defines "wholesale price" for durable medical equipment such as wheelchairs and walkers as the actual acquisition cost including all discounts. (DHFS uses wholesale price plus 50% as a benchmark payment rate for durable medical equipment covered by Medicaid.) Medical equipment vendors are affected by this rulemaking.

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

COMMERCIAL DRIVERS

The DEPARTMENT OF TRANSPORTATION adopted amendments to the following 11 Parts: "Procedures for Transportation Workplace Drug and Alcohol Testing Programs" (92 Ill Adm Code 340; 37 Ill Reg 12711), "Special Training Requirements" (92 Ill Adm Code 380; 37 Ill Reg 12715), "Safety Fitness Procedures" (92 Ill Adm Code 385; 37 Ill Reg 12729), "Procedures and Enforcement" (92 Ill Adm Code 386; 37 Ill Reg 12735);

"Minimum Levels of Financial Responsibility for Motor Carriers" (92 Ill Adm Code 387; 37 Ill Reg 12749); "Qualification of Drivers" (92 Ill Adm Code 391; 37 Ill Reg 12787); "Driving of Commercial Motor Vehicles" (92 Ill Adm Code 392; 37 Ill Reg 12794); "Parts and Accessories Necessary for Safe Operation" (92 Ill Adm Code 393; 37 Ill Reg 12798); "Hours-of-Service of Drivers" (92 Ill Adm Code 395; 37 Ill Reg 12802); "Inspection, Repair and Maintenance" (92 Ill Adm Code 396; 37 Ill Reg 12811); and "Transportation of Hazardous Materials; Driving and Parking" (92 Ill Adm Code 397; 37 Ill Reg 12818), all effective 11/4/13. The rulemakings add and update incorporations of federal laws by reference effective 10/1/12 and amendments to federal regulations effective 3/14/13, along with the DOT address where copies of the incorporated material can be obtained. Those affected by these rulemakings include small businesses that own or operate commercial vehicles.

Questions/requests for copies of the 11 DOT rulemakings: Catherine Allen, DOT, PO Box 19212, Springfield IL 62794-9212, 217/785-3031.

MEDICAL EQUIPMENT

The DEPARTMENT OF HEALTH-

Proposed Regulations

for insignificant modifications. These amendments are too detailed to describe in their entirety; for further information see this week's Illinois Register or contact the agency. Those affected by this rulemaking include small businesses involved in oil extraction, municipalities, non-profits and other landowners.

DNR also proposed amendments to the Part titled "The Illinois Oil and Gas Act" (62 Ill Adm Code 240; 37 Ill

Reg 18081) concerning mandatory reporting and operating requirements for wells connected to a fracking operation when detectable seismic activity occurs. Class II wells regulated under this rulemaking must record pressure and flow data on a monthly basis and maintain these records for at least 5 years. The rulemaking establishes green light (magnitude less than 3.0), yellow light (magnitude 3.0 through 4.9), or red light (magnitude 5.0 or

greater) alerts of seismic activity detected by the US Geological Survey or Illinois State Geological Survey. If USGS or ISGS detects seismic activity sufficient to trigger a yellow light or red light alert, DNR will notify Class II well permittees within a designated radius (3 miles for a yellow light alert, 6 miles for a red light alert) of the epicenter. Permittees that receive a certain number of yellow or red alerts may be ordered to cease operations under certain conditions.

Proposed Regulations

If DNR determines, after consultation with ISGS, that induced seismicity (an earthquake attributable to high pressure hydraulic fracturing) has occurred, an affected permittee must meet with representatives of DNR and ISGS within 30 days after a cessation order is issued to determine mitigation measures. Businesses with Class II well permits are affected by this rulemaking.

Questions/requests for copies/comments concerning the 2 DNR rulemakings above through 12/30/13: Robert G. Mool, DNR, One Natural Resources Way, Springfield IL 62702-1271, 217/782-1809. Public hearings on both rulemakings are currently scheduled for Tuesday, Nov. 26, 6:30-8:30 p.m., at the University of Illinois-Chicago Student Center and for Tuesday, Dec. 3, 6:30-8:30 p.m., at Rend Lake College Theater, Ina.

FIRE EQUIPMENT CONTRACTORS

The OFFICE OF THE STATE FIRE MARSHAL proposed amendments to "Fire Sprinkler Contractor Licensing Rules" (41 Ill Adm Code 109; 37 Ill Reg 18236) and "Fire Equipment Administrative Procedures" (41 Ill Adm Code 109; 37 Ill Reg 18240). In Part 109, OSFM is setting the fee for a duplicate license at \$50. In Part 280, OSFM is implementing a flat \$50 reinstatement fee instead of a structured one for distributors and individuals. These two rulemakings may affect small businesses.

Questions/requests for copies/comments on the 2 OSFM rulemakings through 12/30/13: Kevin Switzer, OSFM, 1035 Stevenson Dr., Springfield IL 62703-4259, 217/557-3131.

BIRTH CENTERS

The DEPARTMENT OF HEALTH-CARE AND FAMILY SERVICES proposed an amendment to "Specialized Health Care Delivery Systems" (89 Ill Adm Code 146; 37 Ill Reg 18005) concerning payment rates for freestanding birth centers. The rulemaking establishes payment rates for uncomplicated hospital-based deliveries in Cook County as the benchmark for payments to freestanding birth centers located in Cook County. For birth centers located outside of Cook County, the statewide average rate for uncomplicated hospital-based deliveries will be used as the benchmark. In both cases, birth centers receive 75 percent of the benchmark hospital rate if delivery takes place at the center or 15 percent if the mother is transferred to a hospital for delivery. Freestanding birth centers are affected by this rulemaking.

HOSPITALS

DHFS also proposed an amendment to "Hospital Services" (89 Ill Adm Code 148; 37 Ill Reg 18011) concerning payments to long term stay hospitals. The rulemaking replaces annual supplemental payments to long term stay hospitals with a per diem rate added to payments made for current claims beginning with admissions on or after 11/16/13. For payments due for the period 7/1/13 through 11/15/13, hospitals will receive the former annual supplemental payment prorated over 137 days.

CHILD SUPPORT

DHFS proposed amendments to

"Child Support Services" (89 Ill Adm Code 160; 37 Ill Reg 18022) that implement several Public Acts. The rulemaking implements PA 98-318, which gives DHFS authority to intercept gambling winnings from non-custodial parents who are delinquent in paying child support. Gaming establishments (e.g., racetracks, off-track betting facilities, riverboat casinos) have authority to withhold winnings and transmit them to DHFS for disbursement to custodial parents who are owed child support. An administrative appeals process is provided for persons affected by withholding of gambling winnings. The rulemaking also implements PA 97-926 and PA 98-563, which allow registration of final administrative child support orders initiated by DHFS without the requirement of personal service upon the other party in certain circumstances. PA 98-653 also allows DHFS to send a one-time notice to persons who may be owed interest on unpaid child support cases prior to 1/1/06 (obligees) that they have 60 days to request that DHFS calculate the interest and add it to the case account. If the obligee does not respond within 60 days, he or she must pursue any unpaid interest in court instead of through DHFS. Those affected by this rulemaking include licensed gaming establishments.

Questions/requests for copies/comments on the 3 DHFS rulemakings through 12/30/13: Jeanette Badrov, DHFS, 201 S. Grand Ave. East, 3rd Fl., Springfield IL 62763-0002, 217/782-1233, e-mail: HFS.Rules@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 December 17, 2013 meeting.

DEPARTMENT OF INSURANCE

"Premium Increase Justification and Reporting" (50 Ill Adm Code 2026) proposed 9/13/13 (37 Ill Reg 14515)

"Health Maintenance Organization" (50 Ill Adm Code 5421) proposed 9/20/13 (37 Ill Reg 15270)

"Construction and Filing of Accident and Health Insurance Policy Forms" (50 Ill Adm Code 2001) proposed 9/13/13 (37 Ill Reg 14404)

IL COMMERCE COMMISSION

"Qualifying Infrastructure Plant Surcharge" (83 Ill Adm Code 556) proposed 8/16/13 (37 Ill Reg 12950)

DEPARTMENT OF NATURAL RESOURCES

"Falconry and the Captive Propagation of Raptors" (17 Ill Adm Code 1590) proposed 9/13/13 (37 Ill Reg 14526)

IL HOUSING DEVELOPMENT AUTHORITY

"Abandoned Residential Property Municipality Relief Program" (47 Ill Adm Code 381) proposed 8/9/13 (37 Ill Reg 12670)

"State Housing Appeals Board" (47 Ill Adm Code 396) proposed 9/13/13 (37 Ill Reg 14392)

POLLUTION CONTROL BOARD

"Permits and General Provisions" (35 Ill Adm Code 201) proposed 5/10/13 (37 Ill Reg 6028)

"Organic Material Emission Standards and Limitations for the Metro East Area" (35 Ill Adm Code 219) proposed 5/10/13 (37 Ill Reg 6083)

"Organic Material Emission Standards and Limitations for the Chicago Area" (35 Ill Adm Code 218) proposed 5/10/13 (37 Ill Reg 6054)

Joint Committee on Administrative Rules

Senator Pamela Althoff

Senator Don Harmon

Senator Tony Munoz

Senator Sue Rezin

Senator Dale A. Righter

Senator Ira Silverstein

Representative Greg Harris

Representative Lou Lang

Representative David Leitch

Representative Don Moffitt

Representative Tim Schmitz

Representative Andre Thapedi

**Vicki Thomas
Executive Director**