

*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

### ☞ DAY CARE HOMES

The DEPARTMENT OF CHILDREN AND FAMILY SERVICES adopted amendments to "Licensing Standards for Day Care Homes" (89 Ill Adm Code 406; 37 Ill Reg 6939) and "Licensing Standards for Group Day Care Homes" (89 Ill Adm Code 408; 37 Ill Reg 6962) all effective 11/30/13, 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 permanently 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 to be cared for. Since 1st Notice, DCFS has clarified the Part 406 and 408 rulemakings to state written approval from the licensing representative in order to extend capacity to include their own children. 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](mailto:CFpolicy@idcfs.state.il.us).

### ☞ VEHICLE CHARGING STATIONS

The ILLINOIS COMMERCE COMMISSION adopted a new Part titled "Certification for the Installation, Maintenance or Repair of Electric Vehicle Charging Stations" (83 Ill Adm Code 469; 36 Ill Reg 16421) (EVCS), effective

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### ☞ AGRICULTURAL POLLUTION

The POLLUTION CONTROL BOARD proposed amendments to parts titled "General Provisions" (35 Ill Adm Code 501; 37 Ill Reg 18974) and "Permits" (35 Ill Adm Code 502; 37 Ill Reg 19005) and proposed the repeal of "Implementation Program" (35 Ill Adm Code 504; 37 Ill Reg 19074) to make Illinois' concentrated animal feeding operations (CAFO) regulations consistent with, and as stringent as, current federal CAFO regulations, and to establish technical standards as required by federal rule. Part 504 is being repealed because it will become obsolete when the first 2 rulemakings are adopted. Amendments to Parts 501 and 502 are too detailed to describe in their entirety. For further information contact the agency individual noted below.

Requests for copies/comments through 1/15/14: John Therriault, PCB, 312/814-3620 or download copies at [www.ipcb.state.il.us](http://www.ipcb.state.il.us). For more information: Tim Fox at the same address, 312/814-6085, e-mail: [Tim.Fox@Illinois.gov](mailto:Tim.Fox@Illinois.gov). Please reference docket R12-23.

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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.*

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tive 12/1/13, to implement Public Acts 97-616 and 97-1128. These rules apply to entities/persons that install, maintain or repair EVCS. After 1/1/14, these entities must be certified by ICC prior to conducting business in Illinois, except for "self-installers" who buy EVCS for their personal use and install them on their own premises without assistance from others. Covered topics include requirements governing application information; certification, recertification and reporting; complaint procedures; and ICC oversight. Certification and recertification fees are set and obligations of installers, maintainers and repairers are prescribed. Changes since 1<sup>st</sup> Notice include a revised definition of "qualified person" to include persons who have completed at least 5 successful EVCS installations or received specified training and certification. Liability insurance requirements have also been added. Small businesses that use or install EVCS are affected by this rulemaking.

Questions/requests for copies: Brian Allen, ICC, 527 E. Capitol Ave., Springfield IL 62701, 217/558-2387.

## REAL ESTATE APPRAISERS

The DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION adopted amendments to "Real Estate Appraiser Licensing" (68 Ill Adm. Code 1455; 37 Ill Reg 7851), effective 12/31/15, 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 day 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 Department 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: Craig Cellini, 320 W. Washington, 3<sup>rd</sup> Floor, Springfield IL 62786, 217/785-0813.

## PENSION FUNDS

The DEPARTMENT OF INSURANCE adopted 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), effective 11/18/13, 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 participant (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. Corporate 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: Scott

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J. Brandt, IDOI, 320 W. Washington St., Springfield IL 62767-0001, 217-785-7410.

## HUNTING AND TRAPPING

The DEPARTMENT OF NATURAL RESOURCES adopted amendments to the Parts titled "Duck, Goose and Coot Hunting" (17 Ill Adm Code 590; 37 Ill Reg 13148); "Youth Hunting Seasons" (17 Ill Adm Code 685; 37 Ill Reg 13219); "The Taking of Wild Turkeys -Fall Gun Season" (17 Ill Adm Code 715; 37 Ill Reg 13270) and "The Taking of Wild Turkeys -Fall Archery Season" (17 Ill Adm Code 720; 37 Ill Reg 13284), all effective 11/14/13. These rulemakings include numerous site specific changes related to the use of windshield cards at DNR sites. In Part 590, individuals exempt from possessing a hunting license or waterfowl stamp are required to have a valid driver's license or FOID. The rulemaking also opens up Jim Edgar Panther Creek State Fish and Wildlife Area to waterfowl hunting and makes specific changes at approximately 34 sites. In Part 685, DNR is making one site specific change. In Parts 715 and 720, generally, the counties open to turkey hunting are increased, upcoming hunting dates are changed, clarifications are made regarding aspects of landowner/tenant permits, technical clarifications are made regarding archery equipment allowed to be used and numerous site specific changes are made, mostly in regard to use of windshield cards. Site specific changes made in Parts 730 and 740 are again mostly related to the use of windshield cards. Since 1<sup>st</sup> Notice, DNR has amended the Part 720 rulemaking to clarify the application address and the formula for calculating acreage on landowner/tenant permits.

Questions/requests for copies of the 4 DNR rulemakings above: for Parts 570 and 685, George Sisk; for Parts 710 and 720, Shelly Knuppel; all DNR, One Natural Resources Way, Springfield IL 62702-1271, 217/782-1809.

## PROCUREMENT

The CHIEF PROCUREMENT OFFICER FOR THE DEPARTMENT OF TRANSPORTATION (CPO-DOT) adopted amendments to the Part titled "Chief Procurement Officer for the Department of Transportation Contract Procurement" (44 Ill Adm Code 6; 37 Ill Reg 12620), effective 11/15/13, to implement recent Illinois Procurement Code changes made by Public Act 97-895. The CPO-DOT shall be responsible for publishing the Department's volume of the Illinois Procurement Bulletin. The monetary threshold for subcontractor reporting and compliance elements under the Code is being raised from \$25,000 to \$50,000. Public sole source contract hearings are triggered by the request of an interested party. Procurement files must not include trade secrets or other competitively sensitive, confidential or proprietary information. Businesses seeking contracts with DOT are affected.

Questions/requests for copies: Bill Grunloh, CPO-DOT, 2300 S. Dirksen Parkway, Room 200, Springfield IL 62764, 217/558-5434.

The OFFICE OF THE ATTORNEY GENERAL adopted amendments to "Attorney General's Procurement" (44 Ill Adm Code 1300; 37 Ill Reg 12696), effective 11/12/13, to align the OAG's procurement rules with Public Act 97-895. The rulemaking revises policies pertaining to the award of sole source contracts. Publication of intent to enter into the sole source contract with a justification for the contract, a description of goods or services to be procured, the intended contractor, and notice of any requested public hearing to be held 15 days after the publication, giving the date, time and place of the potential hearing, are all required. In competitive sealed proposals, the identity of subcontractors for the vendor will be identified, as well as the general type of work to be performed by the subcontractors.

The OAG Chief Procurement Officer shall determine whether a business entity is required to register with the State Board of Elections, and if so, whether the entity is in compliance with the registration requirements of the Board on the date a bid or proposal is due. If not, the OAG Procurement Officer shall not accept the entity's bid or proposal. Since 1<sup>st</sup> Notice, a new Section has been added to clarify protocols for making a determination of false certification or inaccurate, incomplete, or misleading disclosure. This rulemaking will affect small businesses seeking contracts with the OAG.

Questions/requests for copies: Melissa Mahoney (312/814-3950) or Rocco LaSalvia (312/814-3667), OAG, 100 W. Randolph St., 11<sup>th</sup> Fl., Chicago IL 60601.

## HEARING AIDS

The DEPARTMENT OF PUBLIC HEALTH adopted amendments to "Hearing Instrument Consumer Protection Code" (77 Ill Adm Code 682; 37 Ill Reg 7713), effective 11/13/13. DPH defined "authorized designee" and revised its definition of reciprocity. The rulemaking also expanded requirements for written and practical examinations administered by hearing aid dispensers to allow administration of DPH-approved examinations that are developed and or sanctioned by the Department. The tests will be administered at least 4 times per calendar year (currently once every 2 months). The rulemaking establishes a minimum passing score of 70% on the written examination and 70% on each section of the practical examination. (Currently, passing scores are those recommended by the International Hearing Society.) Businesses that sell hearing aids are affected by this rulemaking.

Questions/requests for copies: Susan Meister, DPH, 535 W. Jefferson St., 5<sup>th</sup> Fl., Springfield IL, 62761, 217/

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782-2043, e-mail: [dph.rules@illinois.gov](mailto:dph.rules@illinois.gov).

## DRIVER'S LICENSES

The SECRETARY OF STATE adopted amendments to "Issuance of Licenses" (92 Ill. Adm. Code 1030; 37 Ill Reg 13339), effective 11/18/13, implementing Public Act 97-1157 that provides for temporary visitor driver's licenses (TVDL) and instruction permits to be issued to non-visa status immigrants. The rulemaking places all provisions for TVDLs into separate Sections, one outlining procedures for foreign nationals legally residing in the U.S. (who are eligible for TVDLs under existing rules) and the other outlining procedures for non-visa status immigrants. To apply for a TVDL, a non-visa status immigrant must make an appointment at a designated SOS facility and present a valid passport or unexpired consular identification document from his or her country of origin (rather than the U.S.-government-issued photo identification required of legal immigrants). Applicants also must submit acceptable

documents verifying their written signature, name and date of birth, current Illinois residence address, and Illinois residency of more than 1 year. Examples of acceptable and unacceptable documents are listed. A verification of residency form is also required. All TVDLs must include the license holder's picture (unless the applicant invokes a religious exemption) and will be mailed to the applicant directly from SOS instead of being issued at driver's services facilities. Applicants for TVDLs or temporary visitor's instruction permits are subject to the same testing requirements as other driver's license or permit applicants. Unmarried applicants under age 18 are subject to general requirements for parental consent, instructional permits and behind-the-wheel instruction prior to receiving a license. Male TVDL applicants ages 18-25 are not exempt from the general requirement of registration with the Selective Service system. TVDLs expire 3 years from the date of issuance (sooner for applicants age 81 and older) and are not renewable; upon expiration, TVDL holders must reap-

ply for new licenses and submit all necessary documents again. Since 1<sup>st</sup> Notice, SOS has replaced the term "undocumented immigrant" with "non-visa status immigrant" throughout the rulemaking. Other changes allow SOS to eliminate the appointment requirement in the future based upon the operational needs of the office, allow religious exemptions to the TVDL photo requirement, allow TVDL applicants to verify under penalty of perjury that they are ineligible for a social security number (instead of submitting documentation from the Social Security Administration), and delete a requirement to provide contact information for building owners or landlords on the residence verification form. Those affected by this rulemaking include undocumented immigrants seeking driver's licenses and businesses who employ them in duties that involve driving.

Questions/requests for copies: Brenda Glahn, SOS, 298 Howlett Building, Springfield IL 62756, 217/785-3094, e-mail: [TVDLrules@ilsos.net](mailto:TVDLrules@ilsos.net).

# Proposed Regulations

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## INCOME TAX

The DEPARTMENT OF REVENUE proposed an amendment to "Income Tax" (86 Ill Adm Code 100; 37 Ill Reg 19082) offering financial organizations guidance on claiming the 0.5% High Impact Business Investment credit against interest income derived from loans made to high income businesses. High impact businesses include businesses establishing new electric generating facilities; gasification facilities; new, expanding or re-establishing coal mines; new or expanded transmission facilities; new wind power facilities; and a fertilizer plant. Other provisions regarding to investment amount and job creation apply.

Questions/ requests for copies/ com-

ments through 1/15/14: Paul Caselton, DOR, Legal Services, 101 W. Jefferson, Springfield IL 62794, 217/782-7055.

## AFFORDABLE CARE ACT

The DEPARTMENT OF HEALTH-CARE AND FAMILY SERVICES proposed amendments to Parts titled "Specialized Health Care Delivery Systems" (89 Ill Adm Code 146; 37 Ill Reg 18951) and "Hospital Services" (89 Ill Adm Code 148; 37 Ill Reg 18959) that implement provisions of Public Act 98-104 and of the federal Affordable Care Act (ACA). The rulemakings require participants in the State-funded hemophilia treatment program (Part 146) and in the chronic renal disease program (Part 148) to obtain and provide proof of

health insurance coverage as a condition of eligibility. These programs supplement Medicare or private insurance coverage for hemophilia and kidney patients who do not qualify for medical assistance.

Questions/requests for copies/comments on the 2 DHFS rulemakings through 1/15/14: Jeanette Badrov, DHFS, 201 S. Grand Ave. East, 3rd Fl., Springfield IL 62763-0002, 217/782-1233, e-mail: [HFS.Rules@illinois.gov](mailto:HFS.Rules@illinois.gov).

## DHFS RULE WITHDRAWAL

DHFS also has withdrawn proposed amendments to "Medical Payment" (89 Ill Adm Code 140; 37 Ill Reg 13853) and "Long Term Care Reimbursement Changes" (89 Ill Adm Code

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153; 37 Ill Reg 13877), both of which appeared in the 8/30/13 *Illinois Register*. These rulemakings would have replaced a former system of payments to long term care facilities for developmental disabilities aide, child

care aide and habilitation aide training with a blanket increase in rates for resident care and general staff training at Intermediate Care Facilities for the Developmentally Disabled. DHFS states that it has with-

drawn the rulemakings to allow sufficient time to address public comments and concerns before proposing further rulemaking.

## 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 December 17, 2013 meeting.

### ILLINOIS COMMERCE COMMISSION

"Guidelines for Carbon Dioxide Transportation and Sequestration" (83 Ill Adm Code 302) proposed 6/21/13 (37 Ill Reg 8076)

### DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

"Residential Mortgage License Act of 1987" (38 Ill Adm Code 1050) proposed 10/4/13 (37 Ill Reg 15590)

## ***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**