

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

PROCUREMENT

The DEPARTMENT OF CENTRAL MANAGEMENT SERVICES adopted a new Part, "Service-Disabled and Veteran-Owned Small Businesses" (44 Ill Adm Code 20; 37 Ill Reg 7820), effective 12/5/13, 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

(cont'd next page)

DRIVER'S LICENSES

The SECRETARY OF STATE proposed amendments to "Issuance of Licenses" (92 Ill Adm Code 1030; 37 Ill Reg 20117) exempting military personnel applying for a commercial driver's license (CDL) from the skills test under certain conditions. An applicant must, in the 2 years before applying for a CDL, not have had more than one license (except for a military-issued license); not have had any driver's license suspended, revoked or cancelled; not have had more than one conviction in any motor vehicle while driving impaired or using the vehicle to commit a felony; not have had more than one conviction for speeding or other driving offenses listed in federal regulations (49 CFR 383.51(c)); and not have had any conviction for a violation of military, state or local law relating to motor vehicle traffic control or an automobile accident. The applicant must certify that he or she is currently employed or was employed within the last 90 days as military personnel operating a commercial motor vehicle (CMV); that he or she is exempt from the regulation because of military service; and

(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

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). Since 1st Notice CMS has added definitions of "construction", "construction-related services", and "construction agency" and allowed the procuring agency to set goals for construction or construction-related contracts. Other changes clarify documentation requirements, exemptions, and when contracts may be canceled. This rulemaking will affect small busi-

nesses owned by veterans or disabled veterans seeking State contracts.

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

☛ RADIATION SAFETY

The ILLINOIS EMERGENCY MANAGEMENT adopted amendments to "Standards for Protection Against Laser Radiation" (32 Ill Adm Code 315, 37 Ill Reg 13013) and "Certification of Individuals to Perform Industrial Radiography" (32 Ill Adm Code 405; 37 Ill Reg 13038), both effective 12/9/13. Amendments to Part 315 impose an annual registration fee of \$50 on laser installations and change references from "Department" to "Agency" to reflect the 2003 merger of the Department of Nuclear Safety with IEMA. Amendments to Part 405 increase the fees for industrial radiography exam applications and certification from \$100 to \$150 for the exam application and from \$100 to \$125 for certification as a radiographer or radiographer trainee to reflect the cost of providing the exam and certification. Persons or entities that use lasers or employ radiographers are affected.

IEMA also adopted amendments to the Part titled "Fees for Radioactive Material Licensees" (32 Ill Adm Code 331; 37 Ill Reg 13677), effective 12/9/13, increasing radioactive material license fees to cover operating costs for security, licensing and inspection programs. The hourly rate for full cost recovery is increased from \$202 to \$263. Increases in the annual fees in most licensure categories range from \$50 to \$5,802 per year, depending upon the type and scale of the licensee's activity (e.g., broad scope manufacturing, research and development, medical/veterinary). Increases in the remote site fees in most categories range from \$97 to \$2,316 annually. In some

cases a specified flat fee is replacing a "full cost" fee charged by the hour. General license fees are increasing by \$50. Those affected by this rulemaking include businesses that handle or use radioactive material and require a license.

☛ RADON SERVICE PROVIDERS

IEMA adopted amendments to "Regulations for Radon Service Providers" (32 Ill Adm Code 422; 37 Ill Reg 6987), effective 12/9/13, 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. Licensees who are employees of small municipalities will no longer be granted a fee waiver. Entities affected include most radon licensees (except for some who work for county health departments). Changes since 1st Notice include postponing the effective date for the \$125 license exam fee from 7/1/13 to 1/1/14; more detail regarding the number of spiked measurements (those taken in a controlled radon chamber to verify measurement accuracy) required monthly for passive monitoring systems; and clarifying that radon resistant construction is required in new 1- and 2-family residences. Other technical changes were also made.

Questions/requests for copies of the 4 IEMA rulemakings: Traci Burton, IEMA, 1035 Outer Park Drive, Springfield IL 62704, 217/785-9860, Fax 217/524-3698.

New Regulations

MEDICAL TRANSPORTATION

The DEPARTMENT OF HEALTH-CARE AND FAMILY SERVICES adopted amendments to "Medical Payment" (89 Ill Adm Code 140; 37 Ill Reg 12317), effective 12/9/13, increasing reimbursement rates for medical transportation services for dates of service beginning 7/1/13. The rulemaking establishes the service rates in effect on 6/30/12 as the standard for ground ambulance transportation and for helicopter transportation, with add-on payments for Basic Life Support (BLS) and Advanced Life Support (ALS) services. For Specialty Care Transport services, payment will be the lesser of the ALS rate in effect on 6/30/12 plus \$75, or the provider's usual and customary charge to the public. Mileage reimbursement for loaded miles (distance that a patient is actually transported) will be the lesser of \$5 per mile or the provider's usual and customary charge to the public, regardless of the county in which the vehicle is based. When a patient is transported by medicar, taxicab or other non-ambulance vehicle with the assistance of an attendant, payment for the attendant's services is subject to the Department's general criteria for medical transportation reimbursement. Ambulance services and other medical transportation providers 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, e-mail: HFS.Rules@illinois.gov.

HEALTH adopted amendments to "Food Service Sanitation Code" (77 Ill Adm Code 750; 37 Ill Reg 11867), effective 12/6/13, that update the definition of food service establishment to reflect the inclusion of retail food stores. The rulemaking clarifies circumstances in which whole and unprocessed fresh raw vegetables and fresh raw fruit are exempt from rule provisions. The rulemaking also exempts display shelving units and refrigeration and freezer units from floor-mounted equipment requirements if they are installed to allow cleaning of the floor beneath them, clarifies when shielding requirements apply to storing foods, and clarifies when poisonous or toxic materials will be allowed in food service establishments. Since 1st Notice DPH has clarified when floor-mounted equipment requirements apply. DPH also repealed the Part titled "Retail Food Store Sanitation Code" (77 Ill Adm Code 760; 37 Ill Reg 11894) since rules governing retail food stores are now included in Part 750. Food stores are affected by this rulemaking.

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

HORSE RACING

The ILLINOIS RACING BOARD adopted amendments to 3 Parts, all effective 12/16/13: "Hearings and Enforcement Proceedings" (11 Ill Adm Code 204; 37 Ill Reg 11971), allowing only the petitioner, and no longer the Board, to request a postponement of a hearing; "Race Track Operations and Their Duties" (11 Ill Adm Code 1305; 37 Ill Reg 11976)

changing where drugs are stored from an ambulance to a locked box in the State Veterinarian's office; and "Security and Admissions" (11 Ill Adm Code 1325; 37 Ill Reg 11981) removing a requirement for those in the stable area to wear IDs or badges. Racetrack owners, horse owners, jockeys, trainers or others with business at race tracks may be affected by these rulemakings.

Questions/requests for copies of the 3 IRB rulemakings: Mickey Ezzo, IRB, 100 W. Randolph, Ste. 7-701, Chicago IL 60601, 312/814-5017.

STATE EMPLOYEES

The DEPARTMENT OF CENTRAL MANAGEMENT SERVICES adopted peremptory amendments to "Pay Plan" (80 Ill Adm Code 310; 37 Ill Reg 20411) effective 12/6/13. The rule updates pay rates for boiler safety specialists represented by the International Brotherhood of Boiler Makers, Iron Ship Builders, Blacksmiths, Forgers and Helpers in accordance with a collective bargaining agreement. It also implements an agreement with the Illinois Nurses Association applying a longevity pay increase and 2% pay raise effective 7/1/13 and 7/1/14 to certain employees of the Department of Healthcare and Family Services with the Public Service Administrator Option 8L title.

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.

FOOD SERVICE

The DEPARTMENT OF PUBLIC

Proposed Regulations

that the CMV operated in the military is representative of that which the applicant operates or intends to operate for at least 2 years immediately prior to discharge. Additionally, SOS is updating the questions for driver's license applicants to include a question asking graduated license applicants if they have been issued a citation whose disposition is not yet finalized. Finally, peace officers may use their business addresses, instead of their residential addresses, on identification cards or driver's licenses by submitting a Secretary of State Request to Change Residence/Mailing Address form and showing their badge. Military personnel who wish to drive CMVs, minors applying for graduated driver's licenses, and peace officers may be affected by this rulemaking.

Questions/requests for copies/comments through 2/3/14: Jennifer Egizii, SOS, 2701 S. Dirksen Parkway, Springfield IL 62723, 217/557-4462.

727; 37 Ill Reg 20035), "Solid Waste Disposal: General Provisions" (35 Ill Adm Code 810; 37 Ill Reg 20067), "Standards for New Solid Waste Landfills" (35 Ill Adm Code 811; 37 Ill Reg 20073), and "Standards for Existing Landfills and Units" (35 Ill Adm Code 814; 37 Ill Reg 20108). The proposed amendments update incorporations of federal regulations by reference to the most recent versions. Owners and operators of hazardous waste facilities may be affected.

Requests for copies/comments on the 5 PCB rulemakings through 2/3/14: John Therriault, PCB, 100 W. Randolph St., Suite 11-500, Chicago IL 60601, 312/814-3620. Questions: Michael J. McCambridge at the same address, 312/814-6924, e-mail: michael.mccambridge@illinois.gov. Please reference consolidated docket R14-1/R14-2/R14-3.

☞ CONTRACT PHARMACIES

The DEPARTMENT OF HEALTH-CARE AND FAMILY SERVICES proposed amendments to "Medical Payment" (89 Ill Adm Code 140; 37 Ill Reg 19971) exempting healthcare providers that are eligible for the federal 340B Drug Pricing Program but exclusively use outside contract pharmacies from HFS' requirement to enroll in the 340B program and adopt a Medicaid carve-in policy.

Currently, HFS requires most 340B-eligible providers to enroll in 340B by 7/1/13 or earlier and to dispense only 340B-purchased drugs to Medicaid patients (Medicaid carve-in). This rulemaking affects healthcare providers that use contract pharmacy services.

Questions/requests for copies/comments through 2/3/14: Jeanette Badrov, DHFS, 201 S. Grand Ave. East, 3rd Fl., Springfield IL 62763-0002, 217/782-1233, e-mail: HFS.Rules@illinois.gov.

INSURANCE

The DEPARTMENT OF INSURANCE proposed amendments to the Part titled "Summary Document and Disclaimer" (50 Ill Adm Code 3401; 37 Ill Reg 19998) changing the address of the Illinois Life and Health Insurance Guaranty Association in Illustration A for this Part. The new address for the Association is 1520 Kensington Road, Suite 112, Oak Brook, IL, 60523-214. The former address was in Springfield.

Questions/requests for copies/comments through 2/3/14: Susan Anders IDOI, 320 W. Washington St., Springfield IL 62767-0001, 217-785-8220, Fax: 217-524-9033.

☞ HAZARDOUS WASTE

The POLLUTION CONTROL BOARD proposed amendments to "Hazardous Waste Management System: General" (35 Ill Adm Code 720; 37 Ill Reg 20003), "Standards for Owners and Operators of Hazardous Waste Facilities Operating Under RCRA Standard Permit" (35 Ill Adm Code

JCAR Meeting Action

At its 12/17/13 meeting, the Joint Committee on Administrative Rules extended the Second Notice periods an additional 45 days for two rulemakings: Illinois Housing Development Authority, "Abandoned Residential Property Municipality Relief Program" (47 Ill Adm Code 381; 37 Ill Reg 12670) and Department of Commerce and Economic Opportunity, "International Tourism Program" (14 Ill Adm Code 555; 37 Ill Reg 642).

Second Notices

The following rulemakings were moved to Second Notice this week by the agencies listed below, commencing the JCAR review period. The rulemakings will be considered at JCAR's January 14, 2014 meeting.

STATE EMPLOYEES' RETIREMENT SYSTEM

"The Administration and Operation of the State Employees' Retirement System of Illinois" (80 Ill Adm Code 1540) proposed 10/25/13 (37 Ill Reg 16901)

ILLINOIS STATE BOARD OF INVESTMENT

"Rules and Regulations of the Board" (74 Ill Adm Code 800) proposed 10/18/13 (37 Ill Reg 16310)

DEPT. OF CENTRAL MANAGEMENT SERVICES

"Pay Plan" (80 Ill Adm Code 310) proposed 10/18/13 (37 Ill Reg 16048)

IL ENVIRONMENTAL PROTECTION AGENCY

"Water Supply Operator Certification" (35 Ill Adm Code 303) proposed 3/15/13 (37 Ill Reg 2851) proposed 10/11/13 (37 Ill Reg 15799)

DEPARTMENT OF HUMAN SERVICES

"General Administrative Provisions" (89 Ill Adm Code 10) proposed 10/18/13 (37 Ill Reg 16300)

"Temporary Assistance for Needy Families" (89 Ill Adm Code 112) proposed 9/20/13 (37 Ill reg 15185)

"Refugee/Repatriate Program" (89 Ill Adm Code 115) proposed 9/20/13 (37 Ill Reg 15187)

"Supplemental Nutrition Assistance Program (SNAP)" (89 Ill Adm Code 121) proposed 9/20/13 (37 Ill Reg 15189)

"Supplemental Nutrition Assistance Program (SNAP)" (89 Ill Adm Code 121) proposed 10/18/13 (37 Ill Reg 16302)

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**