

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

☞ WATER SUPPLY OPERATORS

The ENVIRONMENTAL PROTECTION AGENCY adopted a new Part titled "Water Supply Operator Certification" (35 Ill Adm Code 681; 37 Ill Reg 15799) and repealed a Part with the same title (35 Ill Adm Code 680; 37 Ill Reg 15771) both effective 4/1/14. The Public Water Supply Operations Act requires each community water supply to be under the supervision of a certified operator. Under the repealed Part 680, a water supply operator had to apply to the EPA for certification, and then was given permission to take a written test based on the level of experience the water supply operator had at the time of application. Under the new Part 681, water supply operators may take the certification examination without first demonstrating the necessary experience and training requirements have been met. After obtaining a passing score, a water supply operator may apply for a certificate of competency, but must be able to demonstrate at that time that the operator has the required experience.

Those operators who pass the certification examination but do not have the required experience will be considered an Operator in Training. Other major changes in the new Part include modifying certificate renewal training by specifying in that a certain portion of the required hours must be technical training and modifying sanction provisions to provide more detail in the Agency hearing process. Appendix A includes a table with cross references between Sections of the two Parts. Since 1st Notice, EPA has added a Section listing statutory fees applicable to the new Part (\$30 for a certificate of competency, \$10 for renewals, duplicates, restorations, and examinations). Businesses, municipalities or not for profit corporations that are owners of community water supplies are affected.

Questions/requests for copies of the 2 EPA rulemakings: Joanne M. Olson, EPA, 1021 N. Grand Avenue East, PO Box 19276, Springfield, IL 62794-9276, 217/782-5544; email: joanne.olson@illinois.gov.

☞ WORKING CONDITIONS

The DEPARTMENT OF LABOR proposed amendments to the Part titled "Payment and Collection of Wages or Final Compensation" (56 Ill Adm Code 300; 38 Ill Reg 7052) implementing PA 98-527 and making other changes. The rulemaking establishes that DOL can assert jurisdiction in wage/compensation cases when the work was performed in Illinois or was performed out of State for an employer located in Illinois. Other provisions update the circumstances under which employees can receive earned bonuses and commissions; clarify that employers cannot make employees forfeit earned vacation days in a written employment policy or practice; add a Section stating that employees are entitled to severance pay pursuant to an employment agreement; and clarify that expenses related to services provided for the employer must be included in calculating final compensation. Payment of wages may be made by check or direct deposit, or by payroll cards issued by financial insti-

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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

GROUP THERAPY

The DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES adopted an amendment to "Medical Payment" (89 Ill Adm Code 140; 37 Ill Reg 12637) effective 3/13/14 concerning coverage of group psychotherapy at federally qualified health centers (FQHCs) and rural health clinics (RHCs). For dates of service on or after 2/1/13, the rulemaking allows group therapy sessions at FQHCs and RHCs to be conducted by advanced practice nurses with mental health certification, psychologists, licensed clinical social workers, licensed marriage and family therapists, and licensed clinical professional counselors (in addition to psychiatrists and psychiatric resident physicians). Other restrictions that now apply to payment for group psychotherapy sessions conducted by psychiatrists (e.g., payment is limited to 2 sessions per week of at least 45 minutes each, for groups of no more than 12 patients at a time) are extended to FQHCs and RHCs. DHFS states that the rulemaking clarifies the payment status of group therapy sessions at facilities which utilize mid-level practitioners. Since 1st Notice DHFS has added licensed marriage and family therapists to the list of practitioners who may conduct group therapy. Health facilities that provide group therapy services are affected.

HFS RULE REPEAL

DHFS also repealed emergency amendments to the Part titled "Medical Assistance Programs" (89 Ill Adm Code 120; 38 Ill Reg 7368) by emergency rule effective 3/24/14. The repealed emergency rules, effective 1/1/14 (38 Ill Reg 1139) and 1/10/14 (38 Ill Reg 2925) for a maximum of 150 days, clarified which categories of medical assistance recipients can and cannot use spenddown (deducting medical expenses from income) to qualify, and which Sections apply to eligibility for long-term care assistance. DHFS will replace the repealed emergency rules with new emergency

rules, effective 3/24/14 for a maximum of 150 days, to be published with companion proposed amendments in next week's *Illinois Register*.

Questions/requests for copies of the 2 DHFS rulemakings: Jeanette Badrov, DHFS, 201 S. Grand Ave. East, 3rd Fl., Springfield IL 62763-0002, 217/782-1233

HAZARDOUS WASTE

The POLLUTION CONTROL BOARD adopted 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 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) all effective 3/13/14. 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 of the 5 PCB rulemakings through 2/3/14: Michael J. McCambridge, PCB, 100 W. Randolph St., Suite 11-500, Chicago IL 60601, 312/814-6924, e-mail: michael.mccambridge@illinois.gov. Please reference consolidated docket R14-1/R14-2/R14-3.

VETERANS

The DEPARTMENT OF VETERANS' AFFAIRS repealed the Part titled "Rules Governing Educational Opportunities for Children of Deceased Veterans" (95 Ill Adm Code 101; 37 Ill Reg 16325) and adopted a new Part with the same name (95 Ill Adm Code 101; 37 Ill Reg 16332) effective 3/12/14. DVA also repealed the Part titled "Payment of Vietnam Veterans Compensa-

tion Act" (95 Ill Adm Code 104; 37 Ill Reg 16339) and adopted a replacement Part titled "Viet Nam Veterans Compensation" (95 Ill Adm Code 104; 37 Ill Reg 16350) effective 3/12/14. These rulemakings update various citations and cross-references add new definitions, update terminology (e.g., expanding the definition of an eligible child) and restructure language for clarity as both Parts have not been amended since 1982. (Part 101 applies to children of veterans of the Spanish-American War, World Wars I and II, Korean Conflict, or Vietnam Conflict, as well as children of persons drafted into military service between the Korean and Vietnam conflicts, who suffered a service-connected death or disability. Part 104 governs a cash bonus payment program for Vietnam veterans and survivors of Vietnam veterans who died of a service-related condition.) DVA also adopted amendments to "Veterans' Scratch-Off Lottery Grant Program" (95 Ill Adm Code 125; 37 Ill Reg 16359) effective 3/12/14 making an exception to rules banning use of Lottery-funded grants to pay salaries. The exception allows such grants to be made to veteran service organizations that assist veterans or survivors in obtaining federal benefits and that meet other statutory requirements. Finally, DVA adopted amendments to "Survivors Compensation Act Program" (95 Ill Adm Code 120; 36 Ill Reg 4226) that add the Persian Gulf War (8/2/90 through ending date to be determined by Congress) to the definition of "wartime period". A further change reflects a statutory requirement of a payment of \$3,000 to be made to survivors when a death was service connected and a result of hostile action on or after 9/11/01 until Congress declares those deceased service personnel ineligible for the Global War on Terrorism Expeditionary Medal or Service Medal. Those affected by these rulemakings include veterans of the listed conflicts, their survivors, and certain veteran's assistance organizations.

Questions/requests for copies of the 6

New Regulations

DVA rulemakings: Jaime Martinez, DVA, 100 W. Randolph St., Ste. 5-570 Chicago IL 60601-3219, 312/814-5391.

IGB RULE REPEAL

The ILLINOIS GAMING BOARD repealed emergency amendments to the Part titled "Video Gaming (General)" (11 Ill Adm Code 1800; 38 Ill Reg 7337) via emergency rulemaking, ef-

fective 3/24/14 for a maximum of 150 days. The repealed emergency rule (38 Ill Reg 19882), which was effective 11/26/13 for a maximum of 150 days, contained provisions regarding use agreements and created a Video Gaming Exclusion List of persons barred from video gaming licensure, ownership, or other activities regulated under the Video Gaming Act. Similar provisions are contained in a pro-

posed rulemaking published in the 12/13/13 *Illinois Register* at 38 Ill Reg 19812.

Questions/requests for copies of the repealer or the proposed rulemaking: Emily Mattison, Illinois Gaming Board, 160 N. LaSalle St, Chicago, IL 60601, 312/814-7253, emily.mattison@igb.illinois.gov.

Proposed Regulations

tutions if the employee agrees to receive wages in this manner. Corporate officers, agents or other employees may be liable for wages or final compensation. Employees must be informed in writing of their rate of pay and no modifications can be made unless the employee is informed, in writing, before the effective date. Wage deductions that will continue for a period of time and documented in writing for that period are considered to be freely entered into. Employers must pay undisputed wages within 20 (currently 15) days after receipt of a claim notice. Other topics addressed in the rulemaking include acceptable methods of service of documents (which may include e-mail), administrative hearing procedures, and procedures for filing complaints of retaliation against and employee. If an employer does not file an answer to a complaint, the allegations will be deemed to have been admitted as true. The \$3000 limit on claims that can be admitted to an expedited hearing process is removed. A new Section is also added to address consolidation, severance, and class action claims in formal hearings. Employees and businesses who perform work in Illinois or are located in Illinois may be interested in these amendments.

Questions/requests for copies/comments through 5/12/14: Jim Preckwinkle, DOL, 900 S. Spring St., Springfield, IL 62704, 217/558-1270.

ABUSE INVESTIGATIONS

The DEPARTMENT OF HUMAN SERVICES proposed amendments to the Part titled "Office of Inspector General Investigations of Alleged Abuse or Neglect in State-Operated Facilities and Community Agencies" (59 Ill Adm Code 50; 38 Ill Reg 6999) stating that failure to report incidents or allegations of abuse or neglect within the required timeframe is a Class A misdemeanor and clarifying that no representative of the agency or facility that employs a person being interviewed by the DHS OIG in the course of an investigation may be present at the interview. The rulemaking also adds a definition of "victim" (an individual regarding whom there is an allegation of abuse, neglect or financial exploitation) and makes other updates to the Part. Agencies that provide services to persons with disabilities, and employees of these agencies, are affected by this rulemaking.

CHILD CARE

DHS also proposed an amendment to the Part titled "Child Care" (89 Ill Adm Code 50; 38 Ill Reg 7018) implementing PA 98-61, which makes juvenile records involving offenders under age 18 (formerly, under age 17) confidential. The rulemaking requires fingerprint-based criminal history record checks for persons 18 or older (currently, 17 or older) who reside in a

child care home exempt from licensing even if they are not usually present in the home while children are being cared for. (Persons age 13 and older who have been tried and convicted as adults for certain crimes remain subject to the background check.) Child care providers are affected by this rulemaking.

PUBLIC ASSISTANCE

DHS also proposed amendments to "Temporary Assistance for Needy Families" (89 Ill Adm Code 112; 38 Ill Reg 7028) and "Aid to the Aged, Blind or Disabled" (89 Ill Adm Code 113; 38 Ill Reg 7041) updating various requirements. The Part 112 amendments implement a provision of the federal Affordable Care Act that makes adults who qualify for TANF presumptively eligible for medical assistance by eliminating references to a separate starting date for medical assistance. The Part 113 amendments implement the annual grant adjustment benefit increase for AABD recipients, which is \$11 for 2014. Elderly or disabled persons receiving in-home care or nursing home care are affected by this rulemaking.

Questions/requests for copies/comments on the 4 DHS rulemakings through 5/12/14: Tracie Drew, DHS, 100 S. Grand Ave. East, 3rd Fl., Springfield IL 62762, 217/785-9772.

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Proposed Regulations

SCHOOLS

The STATE BOARD OF EDUCATION proposed amendments to “Educator Licensure” (23 IAC 25; 38 Ill Reg 7096) acknowledging the new requirements for the superintendent endorsement (for which SBE will be introducing a new Part within the next few weeks). Superintendent endorsements under the current standards will not be issued after 9/1/19, and candidates will not be admitted to superintendent endorsement programs under the current standards after 8/31/16. School districts may be affected by this rulemaking.

Questions/requests for copies/comments through 5/12/14: Shelley Helton, SBE, 100 North First Street, S-493, Springfield, Illinois 62777-0001, 217/782-5270, rules@isbe.net.

BUSINESS RECORDS

The SECRETARY OF STATE (Business Services Department) proposed

amendments to the Part titled “Uniform Commercial Code” (14 Ill Adm Code 180; 38 Ill Reg 7088) to update its policies. Names and addresses of debtors and secured parties may be in all capital letters on forms submitted to the SOS. The full address of a debtor must be disclosed, including street address, route number or P.O. Box, city, state, and zip code. Information requirements pertaining to organization debtors is being stricken. The SOS shall refuse a UCC record if it lists more than one debtor. This rulemaking may affect small businesses.

Questions/requests for copies/comments through 5/12/14: Michelle Nijm, SOS, 100 W. Randolph St., #5-400 Chicago IL 60601, 312/814-7246.

STATE EMPLOYEES

The DEPARTMENT OF CENTRAL MANAGEMENT SERVICES proposed amendments to “Pay Plan” (80 Ill Adm Code 310; 38 Ill Reg 6751) updating

various provisions for State fiscal year 2015. The rulemaking removes obsolete pay rate tables from previous fiscal years, adds new titles to the list of divided classes represented by multiple bargaining units with different pay grades, updates the list of current Public Service Administrator (PSA) and Senior Public Service Administrator (SPSA) options, and adds two new trainee titles (Corrections Nurse Trainee and Firearms Eligibility Analyst Trainee). Also, references to the SPSA Option 7 (captain) title for Conservation Police at the Department of Natural Resources are amended to reflect the removal of this title from bargaining unit representation effective 10/7/13.

Questions/requests for copies/comments through 5/12/14: Jason Doggett, DCMS, 504 Stratton Bldg., Springfield IL 62706, 217/782-7964, fax 217/524-4570, e-mail: CMS.PayPlan@illinois.gov.

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**

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 April 7, 2014 meeting.

DEPARTMENT OF HUMAN SERVICES

"Provider Requirements, Type Services, and Rates of Payment" (89 Ill. Adm. Code 686) proposed 1/24/14 (38 Ill. Reg. 2560)

DEPARTMENT OF PUBLIC HEALTH

"Grade A Pasteurized Milk and Milk Products" (77 Ill. Adm. Code 775) proposed 1/17/14 (38 Ill. Reg. 1794)

"Tanning Facilities Code" (77 Ill. Adm. Code 795) proposed 1/17/14 (38 Ill. Reg. 1801)

"Food Service Sanitation Code" (77 Ill. Adm. Code 750) proposed 1/24/14 (38 Ill. Reg. 2787)

"Children's Community-Based Health Care Center Code" (77 Ill. Adm. Code 260) proposed 5/10/13 (37 Ill. Reg. 6135)

POLLUTION CONTROL BOARD

"Standards and Limitations for Certain Sources of Lead" (35 Ill. Adm. Code 226) proposed 12/6/13 (37 Ill. Reg. 19490)

DEPARTMENT OF INSURANCE

"IRS Qualification Status Requirements for Article 4 Firefighter Pension Funds" (50 Ill. Adm. Code 4445) proposed 1/10/14 (38 Ill. Reg. 686)

"IRS Qualification Status Requirements for Article 3 Police Pension Funds" (50 Ill. Adm. Code 4440) proposed 1/10/14 (38 Ill. Reg. 679)

DEPARTMENT OF HUMAN RIGHTS

"Procedures of the Department of Human Rights" (56 Ill. Adm. Code 2520) proposed 1/17/14 (38 Ill. Reg. 1765)