

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

BIRTH CENTERS

The HEALTH FACILITIES AND SERVICES REVIEW BOARD adopted amendments for 2 Parts titled "Narrative and Planning Policies" (77 Ill Adm Code 1100; 35 Ill Reg 10415) and "Processing, Classification Policies and Review Criteria" (77 Ill Adm Code 1110; 35 Ill Reg 10442), effective 1/31/12. Amendments to Part 1110 set review criteria for a new birth center model demonstration program authorized by the Alternative Health Care Delivery Act. A certificate of need must be obtained from the Board prior to establishing a birth center model. Covered topics include requirements for location, admission policies, bed capacity, staffing availability, emergency surgical backup, prenatal care and community education services, inclusion in the perinatal system, Medicare/Medicaid certification, charity care criteria, and quality assurance. Changes since 1st Notice include private persons or entities (in addition to hospitals and federally qualified health centers) among the entities that may own or operate birth centers. Also, a requirement that birth centers have "signed and dated agreements" with community health care services to provide specific education

services was changed to require a "written narrative" explaining how prenatal care and education services offered by the birth center will be coordinated with other health services in the community. Definitions of "birth center" (10-bed maximum), "federally qualified health center", and "perinatal center" are added to Part 1100. Those affected by these 2 rulemakings include hospitals.

Questions/requests for copies: Claire Burman, HFSRB, 122 S. Michigan Ave., 7th Floor, Chicago IL 60603 312/814-4825, e-mail: Claire.Burman@illinois.gov.

ILLINOIS AMERICORPS

The LIEUTENANT GOVERNOR repealed rules titled "Illinois Americorps Program" (47 Ill Adm Code 610; 35 Ill. Reg. 15553), effective 2/2/12, in order to implement a Public Act that transferred authority over the Illinois Americorps program from the Office of the Lieutenant Governor to the Department of Human Services (DHS) adopted rules for the program on 9/16/11.)

Questions/requests for copies: Mark
(cont'd next page)

Proposed Regulations

TENURED TEACHER DISMISSALS

The STATE BOARD OF EDUCATION proposed amendments to its rules titled "Dismissal of Tenured Teachers under Article 24 and Dismissal of Tenured Teachers and Principals under Article 34 of the School Code" (23 Ill Adm Code 226; 36 Ill Reg 2042) to implement Public Act 97-8. The PA establishes new dismissal procedures for downstate tenured teachers (Article 24) and for tenured teachers and principals in Chicago Public Schools (Article 34) for "other than honorable" causes or reasons (e.g., misconduct or unsatisfactory performance evaluation ratings). The act and this rulemaking create a streamlined optional dismissal process for personnel with poor performance ratings and also shortens timelines for dismissal procedures related to misconduct or repeated poor performance. The rulemaking divides the Part into standard dismissal procedures and optional dismissal procedures, each with separate rules applicable to downstate districts or to Chicago. Standard dismissal procedures apply to tenured teachers who are charged with misconduct or receive a rating of "unsatisfactory" or "needs improve-

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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

Schauerte, Office of the Lieutenant Governor, 100 W. Randolph, Ste. 15-200, Chicago IL 60601, 312/814-3309, e-mail: Mark.Schauerte@Illinois.gov.

☞ WATER POLLUTION

The POLLUTION CONTROL BOARD adopted an amendment for "Effluent Standards" (35 Ill Adm. Code 304; 35 Ill Reg 12634), effective 2/2/12, to cap allowable effluent discharges to the "Primary Contact" waters at 400 fecal coliforms per 100 mL from March 1st through November 30th each year un-

der certain conditions. Affected waterways are segments of the Chicago Waterway System, such as the North Shore Channel, the Chicago River, Little Calumet River, Grand Calumet River, and the Calumet-Sag Channel. Since 1st Notice, the deadline for current effluents to meet the prescribed standard has been changed to 3/1/16. Also, the 400 fecal coliforms per 100mL standard applies only if fewer than 10 samples per month are taken. If 10 or more samples per month are taken, the average reading for each 30 day period shall not ex-

ceed 200 fecal coliforms per 100mL, and no more than 10% of samples during any 30 day period may exceed 400 fecal coliforms per 100mL. Small businesses, nonprofits, and municipalities and also recreational users along these waterways may be affected by this rulemaking.

Questions/requests for copies: Marie Tipsord (312/814-4925), PCB, 100 W. Randolph, Ste. 11-500, Chicago IL 60601, e-mail: tipsorm@ipcb.state.il.us. Please reference docket R08-09(B).

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ment" within 36 months after completing a remediation plan for earlier poor performance. Optional dismissal procedures apply to tenured teachers being dismissed after an initial poor performance rating and include a second evaluation conducted by a qualified evaluator. School districts that choose to use the optional dismissal procedures will be affected by this rulemaking.

Questions/requests for copies/comments through 4/2/12: Shelley Helton, SBE, 100 N. First St., S-493, Springfield IL 62777, 217/782-5270, e-mail: rules@isbe.net.

☞ ELECTRONICS RECYCLING

The POLLUTION CONTROL BOARD proposed amendments to "Proceedings Pursuant to Specific Rules or Statutory Provisions" (35 Ill Adm Code 106; 36 Ill Reg 2469) concerning petitions by county governments or municipal joint action agencies for temporary waivers from the Electronic Products Recycling and Reuse Act's ban on disposal of covered electronic devices (CEDs) and eligible electronic devices (EEDs) in landfills. (Devices banned from landfills under the act include computer hardware and accessories such as keyboards, mice,

scanners, and cables; digital music and video players; cell phones and portable digital assistants; fax machines; video game consoles; DVD and videocassette players or recorders; and cable or satellite television receivers and converter boxes.) Petitions must document that the applying entity lacks both the funding and the collection opportunities needed to comply with the act. The rulemaking covers petition contents, PCB's criteria for granting or denying waivers, action deadlines, appeal processes, and implementation of waivers. Those affected by this rulemaking include small municipalities seeking waivers and small businesses that dispose of CEDs or EEDs.

☞ WASTE FACILITIES

PCB also proposed an amendment to "General Rules" (35 Ill Adm Code 101; 36 Ill Reg 2444) implementing various public acts that expand the definition of "pollution control facility" to include the following sites: 1) those accepting exclusively general construction or demolition debris; 2) those used for composting food scrap, livestock waste, crop residue, uncontaminated wood waste or paper waste; 3) a facility located within a home rule unit of 120,000 to 135,000 popula-

tion, that performs testing of a thermochemical conversion technology using only woody biomass; 4) facilities used to perform limited testing of a gasification conversion technology; and 5) a facility or portion of a facility used to incinerate only pharmaceuticals from residential sources that are collected and transported by law enforcement agencies. Those affected by this rulemaking include small businesses or small municipalities operating sites or facilities that meet any of the above criteria.

Requests for copies/comments on the 2 PCB rulemakings above through 4/2/12: John Therriault, PCB, 100 W. Randolph, Ste. 11-500, Chicago IL 60601, 312/814-3620 or download copies at www.ipcb.state.il.us. For more information: Tim Fox at the same address, 312/814-6085, e-mail: foxt@ipcb.state.il.us. Please reference docket R12-21 for Part 106 and R12-22 for Part 101.

☞ INCOME TAX

The DEPARTMENT OF REVENUE proposed amendments to "Income Tax" (86 Ill Adm Code 100; 36 Ill Reg 2485) clarifying that publishing and advertising services received in Illinois are considered to be sold in the State,

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and therefore taxable. The new Section provides guidance for determining where publishing services are received. Also, the guidelines apply only to gross receipts received from these publishing services by a taxpayer who is required to supply gross receipts in computing his or her sales factor used in determining the tax liability. Small businesses may be affected.

Questions/requests for copies/comments through 4/2/12: Paul Caselton, DOR, 101 W. Jefferson, Springfield IL 62794, 217/782-7055.

RACING BOARD MEETINGS

The ILLINOIS RACING BOARD proposed an amendment to "Board Meetings" (11 Ill Adm Code 206; 36 Ill Reg 2481) that requires individuals seeking Board action to submit copies of additional materials to the staff at least 7 calendar days prior to the meeting; late submission must be approved by the Executive Director. Notification of IRB staff by persons wishing to speak at a Board meeting on a specific agenda matter is required 7 days prior to the meeting and shall include their names, addresses and subject matter. Telephonic attendance at an open Board meeting is permitted if a quorum of members is physically present, upon approval by a majority of members, and if the member cannot otherwise attend because of personal illness or disability,

employment obligations, other Board business, or a family or other emergency.

Questions/requests for copies/comments through 4/2/12: Mickey Ezzo, IRB, 100 W. Randolph, Ste. 7-701, Chicago IL 60601, 312/814-5017

HUMAN RIGHTS COMMISSION

The DEPARTMENT OF HUMAN RIGHTS proposed amendments to "Procedures of the Department of Human Rights" (56 Ill Adm Code 2520; 36 Ill Reg 2408) and "Housing Discrimination" (71 Ill Adm Code 2300; 36 Ill Reg 2440). The amendments to 56 Ill Adm Code 2520 include a change in the definition of "disability" from a mental or physical condition other than pregnancy lasting 6 months or longer that limits one's ability to work, to a "long lasting" impairment to physical, mental, cognitive, sensory, movement, self-care or independent living abilities. Regarding appeal procedures, the rulemaking provides that for charges filed on or after 1/1/08, if DHR issues a notice of default judgment against a respondent who has failed to appear at a hearing, it will also notify the respondent that he or she has 30 days to file a request for review with the Human Rights Commission. Concerning affirmative action obligations of State agencies, the rulemaking requires quarterly reports submitted to DHR to describe hires of

employees with disabilities and any known changes in the employees' disability status. When an agency's Equal Employment Opportunity (EEO) officer reviews hiring or promotion decisions, information made available to the officer must include eligibility lists and other pertinent documents, including Rutan documentation (showing whether the position is covered by, or exempt from, the U.S. Supreme Court's *Rutan* decision forbidding State hiring or promotion based on political affiliation). In cases of underutilization (employment of very few or no members of an affirmative action group), when this occurs in a geographic region with labor market availability rates of less than 2% for a specific group, DHR will consider this in evaluating the agency's performance. Other changes expand affirmative action groups to include native Hawaiians and other Pacific islanders and update the types of information to be included in affirmative action plans. Amendments to 71 Ill Adm Code 2300 make non-substantive changes in a section devoted to definitions. Small businesses, nonprofits and units of local government may be affected by these rulemakings.

Questions/requests for copies/comments concerning the 2 DHR rulemakings through 4/2/12: David T. Rothal, DHR, 100 W. Randolph St., Ste. 10-100, Chicago IL 60601, 312/814-6257 or 217/785-5125 (TTY).

Second Notice

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 March 6, 2012 meeting.

DEPARTMENT OF REVENUE

"Electronic Filing of Returns or Other Documents" (86 Ill Adm Code 760) proposed 12/2/11 (35 Ill Reg 19452)

Repeal of "TeleFile Program" (86 Ill Adm Code 770) proposed 12/2/11 (35 Ill Reg 19459)

"Environmental Impact Fee" (89 Ill Adm Code 501) proposed 11/18/11 (35 Ill Reg 19123)

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

"Pay Plan" (80 Ill Adm Code 310) proposed 12/23/11 (35 Ill Reg 19885)