

Claire B. Eberle, Editor  
Elaine Spencer, Assoc. Editor

Joint Committee on Administrative Rules  
Illinois General Assembly

700 Stratton Office Bldg., Springfield IL 62706  
217/785-2254 [ilga.gov/commission/jcar](http://ilga.gov/commission/jcar)

VOL. 35

November 4, 2011

Issue 45

*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

### ELECTRICITY BROKERS

The ILLINOIS COMMERCE COMMISSION adopted amendments to "Licensure of Retail Electric Agents, Brokers and Consultants" (83 Ill Adm Code 454; 35 Ill Reg 333), effective 11/1/11, that implement Public Act 96-1385. The Part concerns licensing requirements for persons engaged in the procurement or sale of retail electricity supplies for third parties. The Illinois Power Agency is exempted by these amendments from the Part's requirements, as are persons acting exclusively on behalf of a retail electric supplier on condition that exclusivity is disclosed to the customer. Further amendments impose the following additional disclosure requirements to the customer on licensees: (1) the fact that they are not employed by the utility operating in the applicable service area and they will be receiving compensation from the supplier and (2) on or after 7/1/11, the total price per kilowatt-hour and the total anticipated costs, inclusive of all fees or commissions received by the licensee, that will be paid by the customer over the period of the contract. Also, a public, redacted version of the licensee's required, verified annual report may be submitted to ICC

along with a proprietary version to protect against disclosure of competitively sensitive market share information. The redacted information will be afforded proprietary status for 2 years. A change since 1<sup>st</sup> Notice adds statutory language requiring licensees to use one electric supply estimate prepared for a particular customer consistently in all service offers presented to that customer. Those affected by this rulemaking include electric utilities and alternative retail electric suppliers that are small businesses.

Questions/requests for copies: Conrad Rubinkowski, ICC, 527 E. Capitol Ave., Springfield IL 62701, 217/785-3922. Please reference docket 10-0733.

### OCCUPATIONAL THERAPISTS

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION adopted amendments to rules titled "Illinois Occupational Therapy Practice Act" (68 Ill Adm Code 1315; 35 Ill Reg 6253), effective 11/4/11. The rulemaking increases the fee for restoration of a license from other than inactive status from \$20 to \$50 plus all lapsed renewal fees and expands the

(cont'd next page)

### SCHOOLS

The STATE BOARD OF EDUCATION proposed amendments to its rules titled "Public Schools Evaluation, Recognition and Supervision" (23 Ill. Adm. Code 1; 35 Ill. Reg. 17572) to implement provisions in 3 Public Acts, update a document incorporated by reference and reflect current requirements for special education supervisors. PA 97-8 requires that all voting school board members elected or appointed after June 2011 complete 4 hours of professional development leadership training in education and labor law, financial oversight and accountability and fiduciary responsibilities of a school board member. The training may be provided by an association responsible for training school board members or by another qualified provider approved by SBE. The requirements for providers seeking SBE approval to provide this training to school board members are set out, as well as SBE's approval criteria. SBE will post the names of all approved providers on its website. Approval is valid for 2 calendar years. The rulemaking also implements a provision in PA 97-339 that specifies how pupils enrolled in a remote edu-

(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

---

list of approved continuing education (CE) sponsors and programs. Further amendments remove the complete work history requirement from licensure by endorsement requirements, and individuals seeking restoration of a license must provide proof of completion of 24 hours of CE completed within 24 months prior to submitting a licensure restoration application. The rulemaking also removes obsolete rule provisions and makes numerous nonsubstantive corrections. Since 1<sup>st</sup> Notice, the Illinois Physical Therapy Association has been restored to the list of approved CE sponsors and the term "occupational therapy personnel" has been changed to "occupational therapy practitioner" throughout. Licensed occupational therapists and those who employ them may be affected by this rulemaking.

Questions/requests for copies: Craig Cellini, DFPR, 320 W. Washington St., 3<sup>rd</sup> Fl., Springfield IL 62786, 217/785-0813, Fax 217/557-4451.

to Generators of Hazardous Waste" (35 Ill Adm Code 722; 35 Ill Reg 9484); "Standards Applicable to Transporters of Hazardous Waste" (35 Ill Adm Code 723; 35 Ill Reg 9555); "Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities" (35 Ill Adm Code 724; 35 Ill Reg 9561); "Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities" (35 Ill Adm Code 725; 35 Ill Reg 9648); "Standards for the Management of Specific Hazardous Waste and Specific Types of Hazardous Waste Management Facilities" (35 Ill Adm Code 726; 35 Ill Reg 9713); and "Land Disposal Restrictions" (35 Ill Adm Code 728; 35 Ill Reg 9727) all effective 10/14/11. The rulemakings update hazardous waste rules to reflect certain federal amendments adopted by the federal Environmental Protection Agency (USEPA) during the year 2010. Amendments to Parts 720 through 725 update the Parts to reflect changes in the agreements relating to trans-boundary shipments of hazardous waste among countries that belong to the Organization for Economic Cooperation and Development. The rulemakings also establish notice and consent requirements for spent lead-acid batteries intended for reclamation in a foreign country; specify that all exception reports relating to hazardous waste exports must be filed with the USEPA, Office of Enforcement and Compliance Assurance, Office of Federal Activities, and the International Compliance Assurance Division in Washington, DC; and require domestic receiving facilities to match USEPA-provided import consent documentation to shipments of imported hazardous waste and submit a copy of the matched documentation together with the RCRA hazardous waste manifest for each shipment to USEPA. Also, obsolete references to the terminated Performance Track Program are stricken. Amendments to Parts 721 and 728 remove saccharin and saccharin salts from the list of hazardous constituents and from the list of commercial chemical products,

manufacturing chemical intermediates, and off-specification chemical products that are listed as hazardous waste when discarded and also remove certain land disposal restrictions on the constituents. Part 722 amendments make clarifying corrections to the alternative hazardous waste management standards for unwanted material generated by laboratories at eligible academic entities. Part 726 amendments specify notice and consent requirements for spent lead-acid batteries that are exported for reclamation in a foreign country. Finally, amendments to all 9 Parts correct typographical errors in national emissions standards for the control of hazardous air pollutant emissions from asphalt processing and asphalt roofing manufacturing sources. Those affected by these rulemakings include entities that generate, transport, treat, store, or dispose of hazardous waste.

Requests for copies of the 9 PCB rulemakings above: Michael J. McCambridge, PCB, 100 W. Randolph, Ste. 11-500, Chicago IL 60601, 312/814-3620 or 312/814-6924, e-mail: [mccambm@ipcb.state.il.us](mailto:mccambm@ipcb.state.il.us). Please reference docket R11-2/R11-16.

## ☞ SNOWMOBILE TRAIL GRANTS

The DEPARTMENT OF NATURAL RESOURCES adopted an amendment to "Snowmobile Trail Establishment Fund Grant Program" (17 Ill Adm Code 3020; 35 Ill Reg 12624), effective 10/19/11, removing language restricting the grant length to 18 months or less. This rulemaking may affect not-for-profit snowmobile clubs or organizations that desire to apply for a DNR grant.

Questions/requests for copies: George Sisk, DNR, One Natural Resources Way, Spfld. IL 62702-1271, 217/782-1809.

## HAZARDOUS WASTE

The POLLUTION CONTROL BOARD adopted amendments for "RCRA and UIC Permit Programs" (35 Ill Adm Code 702; 35 Ill Reg 9243); "Hazardous Waste Management System: General" (35 Ill Adm Code 720; 35 Ill Reg 9268); "Identification and Listing of Hazardous Waste" (35 Ill Adm Code 721; 35 Ill Reg 9330); "Standards Applicable

## ☞ EMERGENCY SERVICES

The DEPARTMENT OF PUBLIC HEALTH adopted amendments to "Emergency Medical Services and Trauma Center Code" (77 Ill Adm Code 515; 35 Ill Reg 7926), effective 10/21/11, that implement the following 4 Public Acts: PA 96-540 (Emergency Medical Technician (EMT)) licensure, PA 96-702 and PA 96-1469 (stretcher vans), and PA 96-1009 (veterans health administration facilities). Subject to patient preference, emergency medical services (EMS) providers may transport patients to veterans health administration facilities that voluntarily participate in an EMS system. Facilities must meet the minimum standards for a basic or comprehensive emergency department as set forth in rules titled "Hospital Licensing Requirements" (77 Ill Adm Code 250). Application must be made in writing

# New Regulations

---

to the EMS medical director indicating the level at which the facility seeks to participate, and approval is based on the facility's demonstration that it can provide care at that level. Compliance with the EMS System Plan, System protocols, and this Part is required. A process for DPH review of EMT licensure applications from honorably discharged U.S. armed forces members with military emergency medical training is set forth. Applications must be filed within one year after military discharge and contain specified information. Evaluation of the application, and the applicant's training and experience, must be consistent with statutory standards for supplying services for advanced, intermediate, and basic life support and first response. If the applicant meets these standards, he or she must be offered the opportunity to successfully complete a DPH-approved EMT exam and, upon passage, be licensed at the level for which he or she is qualified. Concerning "stretcher vans", additional requirements for registration, insurance, body type, operating conditions, and provider licensure are prescribed. (Stretcher vans are vehicles providing non-emergency transportation of passengers on stretchers.) A fee of \$25 for each vehicle included in the license application up to 100 vehicles is imposed, and a fee of \$2500 is charged for applications covering 100 or more vehicles. Licenses are valid for one year and are not transferrable. The rulemaking also lists conditions under which passengers may and may not be transported. Entities affected by this rulemaking include veterans health administration facilities that participate in an EMS System, certain U.S. veterans who wish to become EMTs, and stretcher van providers.

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

## **SOS INSPECTOR GENERAL**

The SECRETARY OF STATE adopted

an amendment to "Departmental Duties" (2 Ill Adm Code 552; 35 Ill Reg 12267) effective 10/20/11 to clarify that the SOS Inspector General Department includes the SOS executive inspector general.

Questions/ requests for copies: Paul Thompson, SOS, 324 W. Monroe St., Springfield IL 62704, 217/785-2012.

## **STATE LIBRARY GRANTS**

The SECRETARY OF STATE adopted amendments to "Illinois State Library Grant Programs" (23 Ill Adm Code 3035; 35 Ill Reg 12686) effective 10/18/11 implementing the Public Library Construction Act included in Public Act 96-37, which authorizes various capital construction projects. With the exception of reflecting Fiscal Year 2013 funding, this rulemaking is the final version of a rulemaking proposed by the Secretary on 12/3/10, but which was withdrawn due to litigation involving the State capital program. The rulemaking implements a new, expanded capital library construction program and changes the name of an existing public library construction grant program to the "Live and Learn" program. Grants under the Public Library Construction Act will be awarded on a priority basis if funding is insufficient to meet all requests. Priority will be granted in descending order to (1) replacement or reconstruction of library facilities following a disaster, (2) projects intended to replace aging facilities or accommodate population growth, (3) replacement of existing facilities with serious health or safety hazards, (4) alterations necessary to accommodate persons with disabilities, and (5) other unique solutions to facility needs related to square footage per capita or building age. Criteria considered in awarding grants include the age of an existing building, amount of floor space, the population served, and how recently other substantial construction or repair projects were completed. The rulemaking addresses site selection criteria for a new library, costs that will and will not be covered by a grant, and other

restrictions mandated by statute (e.g., compliance with the Prevailing Wage Act). The rulemaking also requires the Secretary of State to submit an assessment of capital needs for all public libraries in Illinois to the General Assembly every 2 years. Amendments to the Live and Learn construction grant program expand the eligibility criteria so that more libraries will qualify for grants and specify that a public library may apply either for a Live and Learn Construction Grant or a Public Library Construction Grant in the same award year. Since 1<sup>st</sup> Notice, the January 2010 start date for the biennial capital needs assessment has been changed to January 2012. Those affected by this rulemaking include small businesses seeking to participate in grant-funded construction projects and units of local government seeking grants for library construction.

Questions/requests for copies: Joe Natale, Illinois State Library, Gwendolyn Brooks Bdg., Springfield IL 62701-1796, 217/558-4185, e-mail: [jnatale@ilsos.net](mailto:jnatale@ilsos.net).

## **STATE TOLL HIGHWAYS**

The ILLINOIS STATE TOLL HIGHWAY AUTHORITY (ISTHA) adopted a new Part titled "Office of the Inspector General" (OIG) (2 Ill Adm Code 3430; 35 Ill Reg 10298), effective 10/19/11, that establishes criteria for initiating, conducting, and completing investigations conducted by the Authority's inspector general concerning alleged violations of the State Officials and Employees Ethics Act. The rulemaking covers the OIG's jurisdiction over ISTHA and its Board members, officers, employees, vendors, subcontractors, and anyone else doing business with the Authority; sets a 5-year statute of limitations for investigating alleged violations; provides that all preliminary investigations, inquiries, investigations, and recommendations for discipline will be in accordance with applicable collective bargaining agreements; and sets confidentiality requirements. Additional regulations establish procedures for initiating an

# New Regulations

---

investigation, which may be complaint-driven or self-initiated, and include timelines for notification of affected parties. The rulemaking also outlines the investigation process; provisions for interacting with law enforcement and other agencies; and requirements for a summary report, written statement, recommendations, and responses. The inspector general will release summary reports to the appropriate authority and allow 20 days for its response to the report. The inspector general's office will also provide a summary of its reports and investigations twice yearly to

the Governor, the ISTHA Board, and the General Assembly.

Questions/requests for copies: James W. Wagner, ISTHA-OIG, 2700 Ogden Ave., Downers Grove IL 60515, 630/241-6800, ext. 1300.

## HORSE RACING

The ILLINOIS RACING BOARD adopted an emergency repeal of emergency amendments to "Medication" (11 Ill Adm Code 603; 35 Ill Reg 18434), effective 10/24/11, for the remainder of the 150 days the original emergency rulemaking was

to have been in effect. The repeal returns lavamisole to the list of drugs that may be present in a horse participating in a race. An emergency rulemaking adopted on 9/2/11 reflected an outdated version of the Association of Racing Commissioners International Uniform Classification of Foreign Substances. As a result, lavamisole was inadvertently excluded from the list of permitted substances.

Questions/requests for copies: Mickey Ezzo, IRB, 100 W. Randolph, Suite 7-701, Chicago IL 60601, 312/814-5017.

# Proposed Regulations

---

cational program will have their clock hours of instruction counted for purposes of general State aid (each clock hour of remote educational program instruction equals 1/5 day of attendance). SBE is also implementing PA 97-87 that extends violence prevention and conflict resolution education to kindergarten students (now grades 1 through 12). Other amendments update national standards for eye and face protection devices and clarify that special education supervisors holding a teaching certificate must have that certificate endorsed for supervision. Those affected by this rulemaking include small business or non profit entities that offer school board members professional development leadership training.

SBE also proposed amendments to its rules titled "School Construction Program" (23 Ill. Adm. Code 151; 35 Ill. Reg. 17597) to implement Public Act 97-205 extending school energy efficiency project grants to special education cooperatives that serve multiple school districts. Those affected by this rulemaking include special education cooperatives.

Questions/requests for copies/comments on the 2 SBE rulemakings above through 12/19/11: Shelley Helton, SBE, 100 N. First St., S-493, Springfield IL 62777, 217/782-5270, e-mail: [rules@isbe.net](mailto:rules@isbe.net).

## DHS CREDENTIALS

The DEPARTMENT OF HUMAN SERVICES proposed amendments to "Child Care" (89 Ill Adm Code 50; 35 Ill Reg 17560) implementing PA 96-864 which created the Gateways to Opportunity Program (the Illinois professional development system). This rulemaking provides the framework for awarding Gateways to Opportunity credentials in 5 categories: early care and education; directors; infant/toddler; school-age/youth development; and family services. The rulemaking also details the 2 credential application processes (direct route application and entitled route program) and lists required documentation for each. The rulemaking also breaks credentials down into 4 components (general education; education and training specific to each credential; work and practical experience specific to each credential; and professional contributions specific to a

credential). All credentials are reviewed every 5 years. The rulemaking also sets professional knowledge standards for adults working with children, youth, and families that address content areas, competency levels, and alignment with other professional standards. Those affected by this rulemaking include small businesses and non-profits that provide child care, youth or family services.

Questions/requests for copies/comments through 12/19/11: Tracie Drew, DHS, 100 S. Grand Ave. E., 3<sup>rd</sup> Fl., Springfield IL 62762, 217/785-9772.

## DCFS CREDENTIALS

The DEPARTMENT OF CHILDREN AND FAMILY SERVICES proposed amendments to "Licensing Standards for Day Care Homes" (89 Ill Adm Code 406; 35 Ill Reg 17491), "Licensing Standards for Day Care Centers" (89 Ill Adm Code 407; 35 Ill Reg 17511) and "Licensing Standards for Group Day Care Homes" (89 Ill Adm Code 408; 35 Ill Reg 17541) implementing PA 96-864, which created the Gateways

# Proposed Regulations

---

to Opportunity Program (the Illinois professional development system). These rulemakings require, effective 7/1/12, new day care home applicants and assistants, existing home caregivers and assistants, new and current day care center providers and staff, new group day care home applicants and assistants, and currently licensed home caregivers and assistants to register and establish profiles in the Gateways to Opportunity Registry maintained by the Department of Human Services (DHS) in coordination with the State Board of Education (SBE). The rulemakings also allow DCFS to enroll licensees at time of initial licensure or renewal in the Tiered Quality Rating and Improvements System administered jointly by DHS and SBE. (The system is designed to improve the

quality of early childhood care by providing a uniform system throughout the State for comparing licensee operations.) This rulemaking may impact DCFS licensed day care homes, day care centers and group day care homes and entities seeking initial licensure.

Questions/requests for copies/comments concerning the 3 DCFS rulemakings above through 12/19/11: Jeff Osowski, DCFS, 406 E. Monroe, Station #65-D, Springfield IL 62701-1498, 217/524-1983, TTY 217/524-3715, Fax 217/557-0692, e-mail: [cfpolicy@idcfs.state.il.us](mailto:cfpolicy@idcfs.state.il.us).

## FLINN REPORT CORRECTION

A summary of the BOARD OF HIGHER EDUCATION'S proposed amendments to "Approval of

Noninstructional Capital Projects" (23 Ill Adm Code 1040; 35 Ill Reg 17173) published in the 10/28/11 *Flinn Report* contained incorrect information concerning institutions affected by the rulemaking. Only State-supported public universities are affected by these amendments, which establish a minimum cost of \$2 million for projects to qualify for BHE noninstructional capital project grants. The newsletter summary incorrectly stated that private, non-profit and proprietary institutions might also be affected. The Joint Committee on Administrative Rules regrets this error and any inconvenience it may have caused.

Questions/requests for copies: Brad Taylor, JCAR, 700 Stratton Office Bldg., Springfield IL 62706, 217/785-2254.

# Second Notices

---

The following rulemakings were moved to Second Notice this week by the agencies below, commencing the JCAR review period. The Department of Labor, Teachers' Retirement System, and State Board of Elections rulemakings will be considered at JCAR's 11/8/11 meeting, while the remaining 8 rulemakings will be considered at the 12/13/11 JCAR meeting.

## DEPARTMENT OF LABOR

"Illinois Child Labor Law" (56 Ill Adm Code 250) proposed 7/8/11 (35 Ill Reg 10476)

## TEACHERS' RETIREMENT SYSTEM OF THE STATE OF IL

"The Administration and Operation of the Teachers' Retirement System" (80 Ill Adm Code 1650) proposed 8/26/11 (35 Ill Reg 14259)

## STATE BOARD OF ELECTIONS

"Miscellaneous" (26 Ill Adm Code 207) proposed 8/12/11 (35 Ill Reg 13098)

## DEPT. OF HUMAN SERVICES

"Child Care" (89 Ill Adm Code 50) proposed 8/12/11 (35 Ill Reg 13024)

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

"Private Detective, Private Alarm, Private Security, and Locksmith Act of 2004" (68 Ill Adm Code 1240) proposed 4/22/11 (35 Ill Reg 6687)

## IL COMMERCE COMMISSION

"Provision of Advanced Telecommunications Services" (83 Ill Adm Code 733) proposed 6/17/11 (35 Ill Reg 8915)

"Money Pool Agreements" (83 Ill Adm Code 340) proposed 6/10/11 (35 Ill Reg 8615)

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

"Processing, Classification Policies and Review Criteria" (77 Ill Adm Code 1110) proposed 7/8/11 (35 Ill Reg 10442)

"Narrative and Planning Policies" (77 Ill Adm Code 1100) proposed 7/8/11 (35 Ill Reg 10415)

## DEPT. OF TRANSPORTATION

"Minimum Safety Standards for Construction of Multifunction School Activity Buses" (92 Ill Adm Code 435) proposed 8/26/11 (35 Ill Reg 14271)

"Inspection Procedures for Multifunction School Activity Buses" (92 Ill Adm Code 436) proposed 8/26/11 (35 Ill Reg 14321)

**The Flinn  
Report**

**Illinois  
Regulation**

*Illinois General Assembly*

Joint Committee on Administrative Rules  
700 Stratton Building Springfield IL 62706

PRSRT STD  
U.S. Postage  
PAID  
Springfield IL  
Permit NO. 870

RETURN SERVICE REQUESTED

***Joint Committee on Administrative Rules***

**Senator Pamela Althoff**

**Representative Gregory Harris**

**Senator Maggie Crotty**

**Representative Louis Lang**

**Senator Don Harmon**

**Representative Don Moffitt**

**Senator John O. Jones**

**Representative Rosemary Mulligan**

**Senator Dale A. Righter**

**Representative Angelo "Skip" Saviano**

**Senator Ira Silverstein**

**Representative Andre Thapedi**

**Vicki Thomas  
Executive Director**