

*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

### FINGERPRINT VENDORS

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION adopted amendments to "Private Detective, Private Alarm, Private Security, and Locksmith Act of 2004" (68 Ill Adm Code 1240; 35 Ill Reg 6687), effective 2/3/12, implementing Public Act 95-613. The statute requires DFPR to license "fingerprint vendors" and changes the name of the Act to include fingerprint vendors. This rulemaking changes the name of the Part to "Private Detective, Private Alarm, Private Security, Fingerprint Vendor, and Locksmith Act of 2004". It also adds several clarifying definitions and a subpart dedicated to fingerprint vendor licensure standards and training requirements. However, individuals employed by fingerprint vendors who do not have access to confidential documents nor operate fingerprint imaging equipment are exempt from licensure (e.g., cashiers, ushers, receptionists). The rulemaking prohibits unlicensed personnel from operating live-scan fingerprint equipment or other like equipment that can transmit images or demographic information to the Illinois State Police (ISP), and licensed fingerprint vendor employees are prohibited from carry-

ing a firearm while providing fingerprint services unless they are sworn peace officers acting within the scope of their job. DFPR will not grant or authorize the issuance of a firearm authorization card to a fingerprint vendor or any of its employees unless the license-seeking entity or person meets requirements outlined in the rulemaking. Fingerprint vendors must pay a \$150 licensure application fee (including unspecified fees for an ISP fingerprint training course and ISP equipment certification/recertification), meet recordkeeping requirements, and comply with initial licensure application and renewal requirements and standards for employee training. The rulemaking also specifies circumstances that constitute unethical, unauthorized, or unprofessional conduct for licensees that may result in disciplinary action against the licensee. Since 1<sup>st</sup> Notice, the vendor license initial application fee has been reduced from \$500 to \$150 and the renewal fee has been reduced from \$150 to \$50. Rules that apply to software agreements now also apply to hardware. Provisions that would have required branch offices of fingerprint vendor agencies to be separately licensed and would have forbidden

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## Proposed Regulations

### INSURANCE REPORTING

The DEPARTMENT OF INSURANCE proposed amendments to "Insurance Data Reporting Requirements" (50 Ill Adm Code 4203; 36 Ill. Reg. 1100) requiring insurance firms to collect and report data on a calendar year basis and eliminating the options of reporting on an accident year or policy year basis. Data must be reported on coverage for residential fire, homeowners multi-peril, business owners packages, medical malpractice, earthquake, auto, and other liability. Except for medical malpractice data, which must be reported "no later than April" each year, data from other lines of coverage must be submitted electronically no later than 8/1/12 and every August 1<sup>st</sup> thereafter. The rulemaking also repeals a subpart concerning occurrence liability insurance markets within Illinois. Insurance providers will be affected by this rulemaking.

Questions/requests for copies/comments concerning this proposed rulemaking through 3/19/12: Susan Anders, DOI, 320 West Washington St., Springfield IL 62767-0001, 217-785-8220, Fax: 217-524-9033.

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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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fingerprinting of vendor applicants by their employers have been removed. Also removed were proposed requirements that a Social Security number or documentation of legal status be included in work orders and that a reason be given for all re-print requests. Finally, a requirement that work orders include a photograph of the person being fingerprinted has been delayed until 1/1/14. Those affected by this rulemaking include private detectives, security and alarm contractors, locksmiths, and fingerprint vendors.

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

spending thresholds for ICRx or Medicare Part D. Certain prescriptions for Medicare Part D beneficiaries who have been diagnosed with HIV or AIDS are exempt from the cost-sharing provisions. Those affected by this rulemaking include pharmacies.

## CHILD SUPPORT

DHFS also adopted amendments to "Child Support Services" (89 Ill Adm Code 160; 35 Ill Reg 11153), effective 1/23/12, concerning child support cases in which a state, country, or other jurisdiction outside of Illinois (e.g., Native American tribal government) is involved. The rulemaking defines an "intergovernmental" case as one in which the responsible relative lives or works in a different jurisdiction than the custodial parent and the case has been forwarded from an initiating agency to a responding agency. Intergovernmental cases include, but are not limited to, interstate cases. The rulemaking also establishes timelines and procedures to be followed when DHFS is the initiating agency for cases referred to jurisdictions outside of Illinois and when DHFS is the responding agency for incoming cases.

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

## ILLINOIS CARES Rx

The DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES adopted amendments to "Illinois Cares Rx Program" (ICRx) (89 Ill Adm Code 119; 35 Ill Reg 12187), effective 1/23/12, concerning DHFS' prescription drug program for low-income elderly and disabled persons. A companion emergency rulemaking took effect on 9/1/11. The amendments lower the maximum income for eligible individuals from 250% to 200% of the federal poverty level for their household size. DHFS also abolishes the ICRx rebate program that pays \$25 monthly to persons with prescription coverage from private insurance, the federal Veterans Administration, or a non-coordinating Medicare Part D program. For ICRx participants covered by Medicare, the rulemaking increases co-payments to \$5 (currently \$2.50) for generic drugs, \$15 (currently \$6.30) for preferred brand name or specialty drugs, and \$20 (currently \$15) for non-preferred drugs. For non-Medicare ICRx participants, co-payments increase to \$5 for generic drugs and \$15 for brand name drugs (currently \$2.50 and \$6.30). The rulemaking also increases from 20% to 25% the share of reimbursable drug costs participants must pay, in addition to the co-payment, once they exceed the annual

## CHILD CARE

The DEPARTMENT OF HUMAN SERVICES adopted amendments to "Child Care" (89 Ill Adm Code 50; 35 Ill Reg 13024), effective 1/17/12, implementing Public Act 97-422, which requires DHS to establish by rule a co-payment scale for child care services based on family income, family size, and other factors. PA 97-422 also allows DHS to waive copayments for families whose incomes are less than 185% of the most current federal poverty level (FPL). The rulemaking reduces the monthly maximum family income guidelines to reflect the shift

from 200% of the 2009 FPL to 185% of the 2011 FPL. (FPL is set by the federal Census Bureau, and 185% of FPL is \$41,348 per year or \$3446 per month for a family of 4.) The rulemaking clarifies that parents of school-age children who are approved for part-time day care services from September through May are required to pay 50% of the copayment that corresponds to their listed family size and monthly income. It also revises maximum monthly income and parent copayment fees that are payable by corresponding family size and income level. Child care providers may be impacted by this rulemaking.

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

## POLLUTION PERMITS

The POLLUTION CONTROL BOARD adopted amendments to rules titled "RCRA and UIC Permit Programs" (35 Ill Adm Code 702; 35 Ill Reg 17190), "UIC Permit Program" (35 Ill Adm Code 704; 35 Ill Reg 17215), "Procedures for Permit Issuance" (35 Ill Adm Code 705; 35 Ill Reg 17256), and "Underground Injection Control Operating Requirements" (35 Ill Adm Code 730; 35 Ill Reg 17264), all effective 1/20/12. The rulemakings implement federal standards for Class VI carbon geosequestration injection wells in this State and reflect certain federal amendments adopted by the federal Environmental Protection Agency (USEPA) during the 7/1/10 through 12/31/10 time period. Class VI injection wells are wells used for carbon geosequestration that are not experimental in nature and that inject carbon dioxide beneath the lowermost formation that contains an underground source of drinking water (USDW). These wells may also inject carbon dioxide above a formation that contains a USDW pursuant to a waiver of the Class VI injection well depth requirements or may receive an exemption for an existing Class II enhanced oil or gas recovery aquifer expansion. Affected entities include those that own or operate

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underground injection wells.

Requests for copies: Michael J. McCambridge, PCB, 100 W. Randolph, Ste. 11-500, Chicago IL 60601, 312/814-6924, e-mail: [mccambm@ipcb.state.il.us](mailto:mccambm@ipcb.state.il.us). Please reference consolidated docket R11-14.

Questions/requests for copies of the 2 DPH rulemakings above: Susan Meister, DPH, 535 W. Jefferson St., 5<sup>th</sup> Fl., Springfield IL 62761-0001, 217/782-2043, e-mail: [dph.rules@illinois.gov](mailto:dph.rules@illinois.gov).

## TAX RETURNS

The DEPARTMENT OF REVENUE adopted an amendment to "Electronic Filing of Returns or other Documents" (86 Ill Adm Code 760; 35 Ill Reg 16437), effective 1/19/12, lowering the threshold at which an income tax return preparer is required to file Illinois returns and documents electronically. Beginning with calendar year 2012, each preparer who was required to file electronically more than 10 (currently 100) federal tax returns for Illinois customers during the preceding year must also file each customer's Illinois return electronically. Also, any taxpayer who must file federal income tax returns electronically must also file Illinois returns electronically beginning with the taxable year 2011. Tax preparers will be affected by this rulemaking.

Questions/requests for copies: Paul Caselton, DOR, Legal Services Office, 101 W. Jefferson, Springfield IL 62794, 217/782-7055.

## HIGHWAY CONSTRUCTION

The DEPARTMENT OF TRANSPORTATION adopted an amendment to "Prequalification of Contractors, Authorization to Bid, and Subcontractor Registration" (44 Ill Adm Code 650; 35 Ill Reg 15454, effective 1/19/12. An identical emergency rulemaking became effective 9/9/11. The sole change is an increase from \$500,000 to \$750,000 in the maximum threshold of a contractor's financial rating if he or she is seeking to be prequalified to bid on DOT contracts in "unaudited status" (not requiring verification by a certified public accountant). DOT is implementing elements of Public Act 96-795 that empower DOT to establish a committee to evaluate its prequalification rule and determine whether existing rule is any barrier to

small and minority and female-owned business contractors becoming prequalified for DOT projects. This rulemaking was a result of that effort and will affect small businesses in the construction industry that desire to obtain DOT contracts.

Questions/requests for copies: Michael Copp, DOT, 2300 S. Dirksen Pkwy., Rm. 322, Springfield IL 62764, 217/782-3413.

## HOME MORTGAGE PROGRAM

The ILLINOIS HOUSING DEVELOPMENT AUTHORITY adopted a new Part by emergency rulemaking titled "Homeownership Mortgage Loan Program" (47 Ill Adm Code 300; 36 Ill Reg 1783), effective 1/23/12, for a maximum of 150 days. An identical proposed rulemaking appears in this week's *Illinois Register* at 36 Ill Reg 1097. The rulemakings establish a new IHDA home loan program open to low- and moderate-income persons who are not first-time home buyers or who seek to refinance existing mortgages. New or refinanced loans must be made on "qualified dwellings", either existing or newly constructed, that serve as the applicant's primary residence. Topics covered include the application process for lenders to participate in the program and the purchase and sale of mortgage loans and mortgage-backed securities by IHDA. Those affected by this rulemaking include mortgage lenders that desire to participate in the program.

Questions/requests for copies/comments on the proposed rulemaking through 3/19/12: Kristi Poskus, IHDA, 401 N. Michigan Ave., Suite 700, Chicago IL 60611, 312/836-7416.

## SPINAL CORD RESEARCH GRANT

The DEPARTMENT OF PUBLIC HEALTH adopted a new Part titled "Spinal Cord Injury Paralysis Cure Research Code" (77 Ill Adm Code 570; 35 Ill Reg 15959), effective 1/20/12, implementing Public Act 91-737, which authorizes DPH to make grants from a specified trust fund to Illinois research facilities funding research to find a cure for spinal cord injury paralysis. Covered topics include grant eligibility criteria, awards, terms, and conditions; research requirements; proper use of grant funds; and conditions under which grants may be terminated. Affected entities include Illinois nonprofit medical research institutions desiring to apply for the research grants.

## NEWBORN SCREENING

DPH also adopted amendments to "Newborn Metabolic Screening and Treatment Code" (77 Ill Adm Code 661; 35 Ill Reg 12668), effective 1/19/12, to add severe combined immunodeficiency and T cell lymphopenia (SCID) to the list of mandated blood tests performed at the time of a child's birth. The rulemaking additionally states that newborn screening tests will be conducted at a designated DPH laboratory as specified in statute. To establish normal testing parameters and validate the screening technique, a 6-month, phase-in period will commence after 1/1/12 that requires SCID screening of all babies born at a small group of birthing hospitals. In addition, the rulemaking increases the testing fee from \$78 to \$88. Those affected by this rulemaking include birthing hospitals and medical providers who conduct newborn screenings.

# Proposed Regulations

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## ☞ ASSISTED LIVING FACILITIES

The DEPARTMENT OF PUBLIC HEALTH proposed amendments to "Assisted Living and Shared Housing Establishment Code" (77 Ill Adm Code 295; 36 Ill Reg 1442) implementing two public acts. PA 93-141 allows DPH to issue floating licenses to multi-unit assisted living facilities for any number of units below a specified capacity and clarifies standards of care for patients with Alzheimer's or related dementias. The rulemaking adds a definition of "floating license" (a license that can be transferred from one unit to another) and outlines the criteria and application process for obtaining a floating license. It also adds "related dementias" to rules concerning care of Alzheimer's patients. In accordance with PA 96-975, which abolished the Assisted Living and Shared Housing Standards and Quality of Life Advisory Board, the rulemaking removes obsolete references to the board. The amendments also replace existing rule text regarding criminal background checks with a directive to comply with the Health Care Worker Background Check Code (77 Ill Adm Code 955). Assisted living and continuing care facilities will be affected by this rulemaking.

Questions/requests for copies/comments through 3/19/12: 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)

## HAZARDOUS WASTE

The POLLUTION CONTROL BOARD proposed amendments to rules titled "Hazardous Waste Management System: General" (35 Ill Adm Code 720; 36 Ill Reg 1219), "Standards Applicable to Generators of Hazardous Waste" (35 Ill Adm Code 722; 36 Ill Reg 1252) and "Land Disposal Restrictions" (35 Ill Adm Code 728; 36 Ill Reg 1269) The rulemakings implement federal hazardous waste regulations regarding land disposal of carbamate wastes and manifest printing requirements and update incorporations by reference to the Code of Federal Regulations adopted by the federal Environmental Protection Agency (USEPA) during the 7/1/10-6/30/11 period. Amendments to Part 722 revise hazardous waste manifest printing requirements to allow the use of red or other contrasting color ink for copy distributions notations on the manifest form. Amendments to Part 728 revise the land disposal restrictions applicable to carbamate wastes to allow the use of best demonstrated available technologies for treating carbamate wastes instead of applying the existing numerical concentration limits for contaminants. Amendments to Part 720 update incorporations by reference to numerous federal regulations.

Requests for copies/comments through 3/19/12: John Therriault, PCB, 100 W. Randolph, Ste. 11-500, Chicago IL

60601, 312/814-3620. Questions: Michael J. McCambridge the same address, 312/814-6924, e-mail: [mc\\_cambm@ipcb.state.il.us](mailto:mc_cambm@ipcb.state.il.us). Please reference consolidated docket R12-7.

## IEPA PUBLIC HEARINGS

The ILLINOIS ENVIRONMENTAL PROTECTION AGENCY will hold 2 public hearings on proposed amendments to rules titled "Alternate Fuels Program" (35 Ill Adm Code 275; 36 Ill Reg 441). The first hearing is Wednesday, March 7<sup>th</sup>, at 1:30 p.m. in the Sangamo Conference Room at IEPA headquarters, 1021 N. Grand Avenue East, Springfield. The second hearing will be Thursday, March 8<sup>th</sup>, at 1:30 p.m. in the conference room of the IEPA Regional Office at 831 Busse Road, Elk Grove Village. Both hearings concern a proposed IEPA rulemaking, published in the 1/13/12 *Illinois Register*, that establishes an electric vehicle car-sharing grant program in accordance with Public Act 97-90.

Questions/requests for copies/comments concerning the rulemaking or the public hearings: Kent Mohr (217/782-5544) or Dean Studer (217/558-8280), IEPA, 1021 N. Grand Ave. East, Springfield IL 62794-9276.

## 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 March 6, 2012 meeting.

### **POLLUTION CONTROL BOARD**

"Underground Storage Tanks" (35 Ill Adm Code 731) proposed 10/14/11 (35 Ill Reg 16183)

Repeal of "Petroleum Underground Storage Tanks (Releases Reported September 23, 1994 through June 23, 2002)" (35 Ill Adm Code 732) proposed 10/14/11 (35 Ill Reg 16191)

"Petroleum Underground Storage Tanks (Releases Reported On or After June 24, 2002)" (35 Ill Adm Code 734) proposed 10/14/11 (35 Ill Reg 16338)

### **DEPARTMENT OF NATURAL RESOURCES**

"Sport Fishing Regulations for the Waters of Illinois" (17 Ill Adm Code 810) proposed 10/7/11 (35 Ill Reg 15868)

"Designation of Restricted Waters in the State of Illinois" (17 Ill Adm Code 2030) proposed 11/18/11 (35 Ill Reg 19045)

### **ILLINOIS GAMING BOARD**

"Video Gaming (General)" (11 Ill Adm Code 1800) proposed 9/23/11 (35 Ill Reg 15418)

## ***Joint Committee on Administrative Rules***

**Senator Pamela Althoff**

**Senator Maggie Crotty**

**Senator Don Harmon**

**Senator John O. Jones**

**Senator Dale A. Righter**

**Senator Ira Silverstein**

**Representative Greg Harris**

**Representative Lou Lang**

**Representative Don Moffitt**

**Representative Rosemary Mulligan**

**Representative Angelo "Skip" Saviano**

**Representative Andre Thapedi**

**Vicki Thomas  
Executive Director**