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Issue 21

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

INSURANCE AUDITS

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION adopted amendments to "Annual Financial Reporting" (50 Ill Adm Code 925; 32 Ill Reg 17619), effective 5/11/09, to conform to a National Association of Insurance Commissioners (NAIC) model reporting format, as well as update other provisions within the rule. Exemptions for foreign insurers from this reporting rule are specified, new terms and phrases are defined, and exclusion criteria for an independent certified public accountant performing an audit report are prescribed. Revised standards for performing an audit report are incorporated by reference. Insurance companies are to report to DFPR any unremediated material weaknesses noted in the audit report within 60 days after the audit report is filed with DFPR. New sections address audit committee requirements for oversight purposes, procedures, and committee composition; an inventory of improper insurance company conduct during the preparation of a required DFPR report; and a report of a company's internal control, such as scope of included work and processes by which management evaluated the effectiveness of internal control over financial reporting. Such

reporting will begin under these new requirements for the calendar year 2010. A change since 1st Notice slightly modified the Part's title.

Questions/requests for copies: Paul Ebelherr, DFPR, 320 W. Washington, 4th Fl., Springfield IL 62767-0001, 217/785-5755.

STUDENT HEALTH EXAMS

The DEPARTMENT OF PUBLIC HEALTH adopted an amendment to "Child Health Examination Code" (77 Ill Adm Code 665; 32 Ill Reg 8545), effective 5/11/09. A companion emergency amendment became effective 5/30/08 and expired on 10/26/08. The rulemaking implements a provision of Public Act 95-422 that requires a child's health exam to be conducted within 1 year prior to the date of entering the 6th (was 5th) grade. However, the rulemaking specifies that for the 2008-09 school year only, an exam conducted from 8/06 through 9/07 (for a child who was entering 5th grade for the 2007-08 school year) meets the requirements of the School Code governing physical examinations and immunizations. For students in schools with no assigned grade levels, exams must be completed within 1 year prior

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Proposed Regulations

RADON SERVICE PROVIDERS

The ILLINOIS EMERGENCY MANAGEMENT AGENCY proposed amendments to "Licensing of Radon Detection and Mitigation Services" (32 Ill Adm Code 422; 33 Ill Reg 6786) changing the title of the Part to "Regulations for Radon Service Providers" to more accurately describe the contents and applicability of the Part. Additional amendments clarify that records must be maintained after license expiration or termination for a specified time; licensed activities must cease at license expiration; and the licensee must return his or her valid license to IEMA if the licensee ceases to perform such activities. Criteria for continuing education course approval are added, and further amendments add disciplinary action for making material false statements; failing to respond to IEMA requests for records; failing to provide access to records for an audit or inspection; and failing to pay taxes. The licensed radon professional is required to provide on-site supervision of all radon activities at schools and commercial buildings and to maintain public liability and property damage insurance. Licensing provisions for radon measurement of multi-family buildings are added, as well as a requirement for laboratories to submit radon measurement reports. The current requirement that licensees maintain copies of federal Environmental Protection Agency publications is stricken. Laboratory and

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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

to the school year in which the child reaches the age of 11 (was 10).

Questions/requests for copies: Susan Meister, DPH, 535 W. Jefferson St., 5th Fl., Springfield IL 62761-0001, 217/782-2043, e-mail: DPH.RULES@illinois.gov

maker, chore, and housekeeping services to persons with disabilities. The rulemaking applies to HSP a provision of Public Act 95-713, effective 7/1/08, which authorized the Department on Aging to reimburse Community Care Program (CCP) providers at an enhanced rate (an additional \$1.33 per hour) if they offer health insurance coverage to their employees. (DHS states that because HSP, which serves disabled persons, and CCP, which serves the elderly, are "sister programs" operating under similar federal Medicaid waivers, the 2 agencies' rules should be consistent.) HSP providers qualify for the enhanced rate if they offer health insurance to all employees who work an average of at least 20 hours per week and if at least ¼ of eligible employees accept such coverage. Providers must also docu-

ment their continued eligibility for the enhanced rate when they submit their annual financial reports, which are due within 60 days (currently, 6 months) after the end of the reporting period. The rulemaking additionally states that an HSP provider may appeal any Department decision (currently, only compliance reviews can be appealed) in writing within 30 days after the decision. Small businesses and non-profit agencies that participate, or seek to participate, in the Home Services Program will be affected by this rulemaking.

Questions/requests for copies/comments concerning the proposed rulemaking through 7/6/09: Tracie Drew, DHS, 100 S. Grand Ave. East, 3rd Fl., Springfield IL 62762, 217/785-9772.

☞ HOME CARE SERVICES

The DEPARTMENT OF HUMAN SERVICES adopted emergency amendments to "Provider Requirements, Type Services, and Rates of Payment" (89 Ill Adm Code 686; 33 Ill Reg 7017), effective 5/5/09, for a maximum of 150 days. An identical proposed rulemaking appears in this week's issue of the *Illinois Register* at 33 Ill Reg 6894. The amendments affect DHS' Home Services Program (HSP), which reimburses private agencies that provide home-

Proposed Regulations

license fees are increased, and an appendix containing a room worksheet for radon measurement is added. Additionally, terms are revised or defined, and obsolete provisions (e.g., obsolete technology devices) are stricken. Those affected by this rulemaking include small businesses and small municipalities (e.g., county health departments) that provide radon measurement services.

Questions/requests for copies/comments through 7/6/09: Kevin T. McClain, IEMA, 1035 Outer Park Dr., Springfield IL 62704, 217/524-0770, TDD 217/782-6133.

AIR POLLUTION

The POLLUTION CONTROL BOARD proposed amendments to "Definitions and General Provisions" (35 Ill Adm Code 211; 33 Ill Reg 6896) and "Nitrogen Oxides Emissions" (35 Ill Adm

Code 217; 33 Ill Reg 6921). Amendments to Part 217 are intended to meet State obligations under the federal Clean Air Act by further controlling nitrogen oxides (NO_x) emissions from major "stationary sources" of pollution that have NO_x emissions of or greater than 100 tons/year in "nonattainment areas". New regulations impose pollution caps for the following individual emission units at such major sources: industrial boilers, process heaters, glass melting furnaces, cement and lime kilns, furnaces used in iron and steelmaking and aluminum melting, and fossil fuel-fired stationary boilers that have NO_x emissions of or greater than 15 tons/year and equal to or greater than 5 tons/ozone season. (The Chicago "nonattainment area" includes Cook, DuPage, Kane, Lake, McHenry, and Will counties; Goose Lake and Aux Sable townships in Grundy County; and Oswego Township in Kendall

County. The Metro East "nonattainment area" includes Jersey, Madison, Monroe, and St. Clair counties plus Baldwin Township in Randolph County.) Amendments to Part 211 add 12 new definitions of terms used in the new regulations proposed for Part 217 above. For example, a definition of "load shaving unit" is added, which means a device used to generate electricity for sale or use during high electricity demand days, including, but not limited to, stationary reciprocating internal combustion engines or turbines.

Requests for copies/comments through 7/6/09: John Therriault, Clerk, 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 R08-19.

JCAR Meeting Action

At its 5/19/09 meeting, the Joint Committee on Administrative Rules approved one Recommendation concerning the proposed rulemaking below and extended the Second Notice period for the Department of Healthcare and Family Services rulemaking titled "Medical Payment" (89 Ill Adm Code 140; 32 Ill Reg 13761) for an additional 45 days. The DHFS rulemaking will be considered at JCAR's 6/16/09 meeting.

ENVIRONMENTAL PROTECTION AGENCY

With regard to the EPA rulemaking titled "Permit Fees for Installing or Extending Sewers" (35 Ill Adm Code 320; 33 Ill Reg 3576), JCAR recommends that the agency be more timely in updating its rules to reflect statutory changes. The rulemaking codifies statutory fee changes that went into effect in 2003 and that have been collected since that time.

Second Notices

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 June 16, 2009 meeting.

DEPARTMENT OF EMPLOYMENT SECURITY

"Employment" (56 Ill Adm Code 2732) proposed 7/18/08 (32 Ill Reg 10716)

"General Application" (56 Ill Adm Code 2712) proposed 7/18/08 (32 Ill Reg 10687)

"Employees' General Rights and Duties" (56 Ill Adm Code 2815) proposed 7/18/08 (32 Ill Reg 10744)

"Notices, Records, Reports" (56 Ill Adm Code 2760) proposed 7/18/08 (32 Ill Reg 10722)

"Payment of Unemployment Contributions, Interest and Penalties" (56 Ill Adm Code 2765) proposed 7/18/08 (32 Ill Reg 10728)

"Administrative Hearings and Appeals" (56 Ill Adm Code 2725) proposed 7/18/08 (32 Ill Reg 10711)

SECRETARY OF STATE

"Cancellation, Revocation or Suspension of Licenses or Permits" (92 Ill Adm Code 1040) proposed 3/20/09 (33 Ill Reg 4283)

"Issuance of Licenses" (92 Ill Adm Code 1030) proposed 3/27/09 (33 Ill Reg 4559)

DEPARTMENT OF NATURAL RESOURCES

"Raccoon, Opossum, Striped Skunk, Red Fox, Gray Fox, Coyote and Woodchuck (Groundhog) Hunting" (17 Ill Adm Code 550) proposed 3/13/09 (33 Ill Reg 4064)

"Muskrat, Mink, Raccoon, Opossum, Stripped Skunk, Weasel, Red Fox, Gray Fox, Coyote, Badger, Beaver and Woodchuck (Groundhog) Trapping" (17 Ill Adm Code 570) proposed 3/13/09 (33 Ill Reg 4075)

"Dove Hunting" (17 Ill Adm Code 730) proposed 3/13/09 (33 Ill Reg 4086)

"Crow, Woodcock, Snipe, Rail and Teal Hunting" (17 Ill Adm Code 740) proposed 3/13/09 (33 Ill Reg 4103)

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