

The Elevator Safety Review Board proposed amendments that will impact businesses that install, repair, or maintain regulated conveyances:

The Elevator Safety Review Board proposed amendments to "Illinois Elevator Safety Rules" (41 Ill. Adm. Code 1000; 35 Ill. Reg. 15819) to implement Public Act 96-54. The rulemaking concerns local authority to enforce safety rules, licensing and registration requirements, and procedures for dealing with safety violations. The amendments include the addition, modification, clarification, and elimination of various definitions, and text concerning local regulation is rewritten to give the local authority more autonomy and to update applicable safety codes and standards. Additional amendments give the Office of the State Fire Marshal or the local administrator greater authority to make exceptions to codes, standards, or regulations in cases where the exception will not jeopardize public safety. All variance requests must indicate the specific code or standard from which relief is sought. Licensure fees and various registration fees throughout the Part are increased by \$25 to \$100 and several new fees are created. Also, permit fees for a new installation or material alteration are doubled. Manufacturers of new certified technologies must notify the Board before offering the new elevator component/system to the general public and include all relevant information needed for inspection purposes. The rulemaking also creates a new type of OSFM approval called "temporary limited authority" that allows an individual deemed qualified by OSFM to work on a specific type of conveyance, but the individual must then become licensed within one year. Additional covered topics include continuing education requirements, a "contractor license designee" for conveyance work and other changes to conveyance regulations, increased fines and penalties, complaints, and investigations of alleged violations. The amendments to this Part are too numerous to all be included in this summary. For more details, contact the agency person listed below.

Bottom Line: This proposed rulemaking amends the rules to adopt the current national standards and reflects the statutory amendments to the Elevator Safety and Regulation Act in Public Act 96-54. Individuals and companies that install, inspect, repair or maintain regulated conveyances are required to maintain records on license, applications and individual regulated conveyance inspection, repair or maintenance; and units of local government that permit and/or inspect regulated conveyances are required to maintain records on such activity. For questions or comments contact Bob Capuani, Elevator Safety Division Office of the State Fire Marshal at Robert.Capuani@Illinois.gov.

The Department of Transportation proposed amendments that will impact small businesses seeking DOT contracts:

The Chief Procurement Officer for the Department of Transportation (CPO) proposed amendments to "Chief Procurement Officer for Department of Transportation -- Contract Procurement" (44 Ill. Adm. Code 6; 35 Ill. Reg. 16052) implementing Public Act 97-228. The rulemaking details the Department's target market program for certified disadvantaged business enterprises (DBEs), which typically are minority-owned or female owned businesses (MFBs). DOT is required to review any and all evidence of egregious race or gender discrimination related to the performance of all contracts awarded for transportation construction projects each fiscal year and must determine and define a compelling interest in remedying the identified discrimination by documenting evidence disclosed by its review (e.g., the utilization and availability of qualified DBEs and MFBs in DOT's geographic market areas and specific construction markets). DOT may issue findings indicating there is a compelling interest present to remedy egregious discrimination against a specific group and that the only remedy for the discrimination is a narrowly tailored target market remedial action. If the CPO concurs with the DOT findings, a public hearing will be held at which MFB contractors and other parties may appear. The CPO, in consultation with DOT, will make a written determination either to implement a narrowly tailored target remedial action or to discontinue further action. Target market remedial actions may include designation of specific contract work reserved solely for DBEs or MFBs, separate MFB participation goals, establishment of bid incentives for achievement of MFB or DEB goals, or advertisement of specific set-asides. No contract will be eligible for inclusion in any target market action unless there are at least three eligible businesses interested in the contract. participation in the market program is limited to MFBs certified as disadvantaged under Illinois law and federal certification requirements available from the CPO.

Bottom Line: The Chief Procurement Officer (CPO) for the Department of Transportation and the Department of Transportation are amending this Part for consistency with Public Act 97-228, effective July 28, 2011. PA 97-228 amends provisions of DOT Law with respect to the implementation of a target market program by the CPO, in consultation with the Department, to remedy specific instances and patterns of egregious race or gender discrimination within the geographic market area served by the Department or construction market in which the Department operates. The Public Act authorizes the CPO, in consultation with the Department, to determine appropriate contract formation and bidding procedures for target market contracts, including, but not limited to, the dividing of procurements so designated into contract award units in order to facilitate offers or bids from minority-owned businesses and female-owned businesses. **Following are summaries of the significant changes being made to this Part.**

Section 6.610, Notice of Suspension, is being revised, per the Procurement Policy Board's request, to provide that a notice of suspension will be mailed to the Board within five days after contractor notification. A new Subpart, "Subpart J: Target Market Program", is being added to the Part with Sections 6.800 – 6.860 prescribing program provisions. A new Section 6.800, Purpose and Objective, is being added to provide a general overview of the target market program provisions, including the reason for the target market program. A new Section 6.810, Definitions, is being added to provide a list of terms used throughout the new Subpart J, including definitions of "Egregious Race or Gender Discrimination" and "Strong Basis in Evidence". A new Section 6.820, Implementation Procedures, is being added prescribing the type of evidence of egregious racial or gender discrimination, related to the performance of contracts awarded to complete transportation construction projects during the course of each fiscal year that will be reviewed and evaluated by the Department. Additionally, this Section includes procedures utilized by the CPO and the Department to remedy the egregious discrimination in the event that a finding of egregious discrimination has been identified, such as, the conducting and recording of a public hearing at which minority, female, general contractors, contracting organizations, community organizations and other interested parties may provide comments, and, the issuance of a written determination either to implement a narrowly tailored target market remedial action or to discontinue further action.

A new Section 6.830, Target Market Remedial Actions, is being added to prescribe target market remedial measures, including, but not limited to, contract formation actions, contract goal actions, contract incentive actions, and contract set-aside actions. Additionally, this Section prescribes that no contract will be eligible for inclusion in any target market action unless the Department, in consultation with the CPO, determines that there are at least 3 eligible businesses interested in participating in the contract. A new Section 6.840, Participation Eligibility, is being added to prescribe that participation of eligible businesses in the target market program is limited to minority-owned and female-owned businesses certified as disadvantaged businesses in accordance with 30 ILCS 575 and 49 CFR 26, which is being incorporated by reference as of the October 1, 2010 edition. A new Section 6.850, Limitations Applicable to Participation, is being added to prescribe provisions concerning market domination prevention, training courses and audits of books and records by the Department or CPO, and a provision on exclusion from participation in the target market program due to a failure to cooperate. Finally, a new Section 6.860, Severability, is being added to prescribe that invalidation of any portion of Subpart J by a court of competent jurisdiction will not operate to invalidate the entire Part.

For questions, comments and concerns regarding this rulemaking, contact s. Christine Caronna-Beard, Rules Manager, IDOT, at (217) 524-3838, or Christine.Caronna-Beard@Illinois.gov.

The Environmental Protection Agency proposed amendments which will impact small businesses that must file annual pollutant emission reports with the Agency:

The Environmental Protection Agency proposed amendments to "Procedures for Collection of Air Pollution Site Fees" (35 Ill. Adm. Code 251; 35 Ill. Reg. 16172) and "Annual Emissions Report" (35 Ill. Adm. Code 254; 35 Ill Reg. 16178) concerning site fees for facilities that emit EPA-regulated pollutants

and greenhouse gas emissions. Amendments to both parts exclude greenhouse gases from consideration as regulated pollutants when calculating facility operating permit fees. The Part 251 amendments define "greenhouse gas" as an air pollutant containing any of 6 types of gases that accumulate in the atmosphere (carbon dioxide, nitrous oxide, methane, hydrofluorocarbons, perfluorocabons, and sulfur hexafluoride) and raise site fees for facilities that generate regulated pollutants. Fees range from \$235 (currently \$200) for facilities generating less than 25 tons of emissions annually to \$4,112 (currently \$2500) for facilities that emit more than 191 tons.

Bottom Line: The rulemakings will amend the regulations to allow greater fees and to exclude greenhouse gas emissions from the fee structure (sources do not have to pay fees for greenhouse gas emissions). The type of Annual Emission Report an entity files will not be based upon the entity's greenhouse gas emissions, instead the criteria pollutant emissions will continue to control whether the entity files the long or short form. Small businesses with emission permits will have to pay higher fees. For questions or comments contact Charles Matoesian, Assistant Counsel, IEPA at (217) 782-5544 or email Charles.Matoesian@Illinois.gov.

The Pollution Control Board proposed amendments which will impact owners or operators of Underground Storage Tanks (USTs) or perform cleanup work on leaking USTs:

The Pollution Control Board proposed amendments to "Underground Storage Tanks" (35 Ill. Adm. Code 731; 35 Ill. Reg. 16183) and "Petroleum Underground Storage Tanks (Releases Reported on or after June 24, 2002)" (35 Ill. Adm. Code 734; 35 Ill. Reg. 16338) and proposed repeal of the Part titled "Petroleum Underground Storage Tanks (Releases Reported September 23, 1994 through June 23, 2002)" (35 Ill. Adm. Code 732; 35 Ill. Reg. 16191)/ The rulemakings implement PA 96-908, which amends provisions of the IEPA concerning cleanup of leaking underground petroleum storage tanks (USTs). Amendments to Part 731 clarify that owners and operators of heating oil USTs are subject to rules in Part 734, while the repeal of Part 732 reflects removal of pre-2002 provisions from the Act. The Part 734 amendments list the types of corrective action costs that are and are not eligible for reimbursement from the State's UST Fund; establish procedures for UST owners and operators to seek competitive bids on cleanup projects when the work cannot be done for less than the maximum payment amounts specified elsewhere in the part; and remove the requirement to obtain a minimum of 3 bids on such projects. Also, new sections are added concerning use of PCB's Tiered Approach to Corrective Action Objectives (TACO) and corrective action costs that are eligible for payment from the UST Fund.

Bottom Line: The IEPA initiated this rulemaking by filing a proposal intended to update the Board's underground storage tank regulations to reflect the adoption of PA 96-908. PA 96-908 enacted a number of amendments to Title XVI of the Environmental protection Act which addresses USTs. The proposed amendment to Part 731 requires owners and operators subject to Title XVI of the Act to address releases according to Part 734, which now includes various reporting procedures. For questions or comments contact John Therriault at the PCB at (312) 814-3629.

The Environmental Protection Agency proposed amendments that will impact businesses that own vehicles required to undergo vehicle emission inspections:

The Environmental Protection Agency proposed amendments to rules titled "Procedures to be Followed in the Performance of Inspections of Motor Vehicle Emissions" (35 Ill. Adm. Code 276; 35 Ill. Reg. 16918) that implement Public Act 97-106. Steady-state idle exhaust and evaporative system integrity inspection tests are repealed. Pre-2007 heavy-duty vehicles with a gross vehicle weight rating (GVWR) between 8,501 and 14,000 pounds and any heavy-duty vehicles with a GVWR greater than 14,000 pounds are exempted from testing requirements, and a visual inspection test is added as a substitute for the on-board diagnostic (OBD) test for vehicles that cannot be tested due to their design or with known OBD software or communication problems.

Bottom Line: The Illinois Environmental Protection Agency's (Illinois EPA) proposal amends Part 276 to reflect an amendment to the Vehicle Emissions Inspection Law of 2005 (VEIL of 2005) [625 ILCS 5/13C] (P.A. 97-106). Public Act 97-106 amends the VEIL of 2005 by repealing the steady-state idle exhaust and evaporative system integrity inspection tests. These inspection tests were substituted for the on-board diagnostic (OBD) test for heavy-duty vehicles not required to be equipped with OBD systems meeting federal OBD II specifications and certain vehicles that could not receive the OBD test due to their design or with known OBD communication or software problems. P.A. 97-106 exempts pre-2007 heavy-duty vehicles with a gross vehicle weight rating (GVWR) between 8,501 and 14,000 pounds and any heavy-duty vehicles with a GVWR greater than 14,000 pounds from the requirement to be tested. These heavy-duty vehicles are not all required to be equipped with OBD systems meeting federal OBD II specifications. Also, P.A. 97-106 adds a visual inspection test as a new substitute for the OBD test for vehicles that cannot receive the OBD test due to their design or with known OBD communication or software problems. In addition, it revises the definition of "malfunction indicator lamp" and "OBD system". Finally, it corrects an error with respect to the exemption for vehicles located and primarily used outside of the affected counties and in other jurisdictions where vehicle emissions tests are not required. This exemption applies to vehicles that are located and primarily used outside of the affected counties and in other jurisdictions where vehicle emissions tests are not required. P.A. 97-106 is effective February 1, 2012. For questions or comments contact Kent Mohr at Kent.Mohr@Illinois.gov, or call (217) 782-5544.
