

The Department of Financial and Professional Regulation proposed amendments that will impact mortgage loan originators and mortgage brokers:

The Department of Financial and Professional Regulation proposed amendments to rules titled "Residential Mortgage License Act of 1987" (38 Ill. Adm. Code 1050; 35 Ill. Reg. 14574) to raise fees, revise reporting and new regulatory provisions regarding mortgage loan originators, and update regulatory requirements in conformity with Public Act 96-112. (A mortgage loan originator is an individual who, for compensation, takes a residential mortgage application or offers or negotiates terms of a residential mortgage loan). Fee increases concern bounced checks (\$50 in addition to any other fee); mortgage loan license application and renewal fees increased from \$125 to \$200 and \$100 to \$150. Leased facilities used to provide a full-service office must have minimum lease term of 12 months and must cover the full period of a licensee's license. The rulemaking forbids licensees to charge a late fee for any payment that is received in full by 5:00 p.m. on the due date and requires them to produce documentation of the date any payment was received upon DFPR demand. Regarding licensure application and approval, the rulemaking requires mortgage loan originators to complete applications for licensure within 90 days after initial filing through the Nationwide Mortgage Licensing system and Registry; otherwise the application will be considered withdrawn. Applications will also be deemed withdrawn if an applicant fails to respond to a DFPR request within 15 days. The rulemaking sets timelines for mortgage loan originators to notify DFPR of certain adverse actions against them (e.g., license revocation, bankruptcy, criminal conviction), allows DFPR to create an inactive licensure status, and requires licensees to file an annual report of purchasing activity.

Bottom Line: The proposed amendments will increase Mortgage Loan Originator License fees, reestablish and update license and reporting provisions pertaining to Mortgage Loan Originators including through use of the Nationwide Mortgage Licensing System and Registry, and add a new purchasing activity report and new standard for payment processing by servicers. For questions or to submit comments, contact Craig Cellini at Craig.Cellini@Illinois.gov, or call (217) 785-0813. **NOTE: There will be a public hearing on these rules on Monday, October 17th** from 1:00 pm to 3:00 pm at the Department of Financial and Professional Regulation, 9511 Harrison Street, the LGI Room, Des Plaines, IL 60016. The hearing will be held for the sole purpose of gathering public comments on the Proposed Amendments. Persons interested in presenting testimony must submit written comments of their testimony at the time oral testimony is presented. Nor oral testimony will be accepted without written copy of the testimony being provided. Testimony cannot exceed 10 minutes. **INDIVIDUALS UNABLE TO ATTEND THE HEARING MAY STILL SUBMIT COMMENTS.** Comments must be received by IDFPFR by October 17th 2011.

The Pollution Control Board proposed amendments that will impact "smaller sources" of air pollution (some example industries include: grain handling operations, ready-mix concrete plants, mining and quarrying of non metallic minerals processes, bulk terminals, and dry cleaners as well as several others.)

The Pollution Control Board proposed an amendment to "Permits and General provisions" (35 Ill. Adm. Code 201; 35 Ill. Reg. 14616) that allows qualifying "smaller sources" of air pollution to register with the Environmental Protection Agency as an alternative to applying for a permit. (A small source emits relatively low quantities of such hazardous air pollutants as carbon monoxide, lead, mercury, and nitrogen oxides and meets other specified criteria). Owners and operators of such qualifying sources will no longer be required to apply for construction or operating permits, await review of permit applications and permit issuance, pay construction and operating permit fees, and submit an annual emissions report. Instead, they will pay an annual fee, submit initial and annual certifications stating that the source continues to meet program criteria, and keep records supporting the certification. Covered topics include how to determine whether emissions meet statutory criteria, initial and renewal registration, recordkeeping, source changes that require notification or a permit, and re-entry into the program. Several thousand small source entities may be affected by this rulemaking.

Bottom Line: The IEPA proposes to add a program allowing qualifying smaller sources to register as an alternative to permitting obligations. Owners and operators of qualifying sources would no longer be required to apply for construction or operating permits, await review of permit applications and issuance of a permit, pay construction and operating permit fees, or submit annual emissions report. Instead, qualifying owners or operators would pay an annual fee of \$235, submit initial and annual certification that the source continues to meet program criteria and keep records supporting the certification. **NOTE: The PCB is holding two hearings on this rule and is accepting public comment on the proposal.** If you would like to comment on any of the provisions of the rule you should send your comments to Tim Fox at foxt@ipcb.state.il.us. For questions on how to submit comments, you may call Tim Fox, at 312-814-6085. All comments should reference the Board's docket for this rule: (R012-10) In the Matter of: Registration of Smaller Sources (ROSS): New 35 Ill. Adm. Code 201.175.

The ROSS rule does not follow the usual rulemaking process and has a specific timeline for adoption. The Board has until December 13, 2011 to adopt the final rules, and because of the tightened timelines established in the Act for this rule the Board is not required to go through the first and second notice process (including the second notice JCAR review).

The hearings will be held in Springfield on **October 5, 2011 at 1:00 pm** in the Board's Conference Room on the first floor of the Illinois EPA building at 1021 N. Grand Avenue East (North Entrance), AND in Chicago on **October 27, 2011, at 1:00 pm** in the Board's Conference Room, 11-512, in the James R. Thompson Center, 100 W. Randolph Street.

The rule is available at: <http://www.ipcb.state.il.us/COOL/External/CaseView.aspx?case=14205>.

General information about the ROSS program can be found in the August 2011 issue of the Clean Air Clips at:

<http://archive.constantcontact.com/fs041/1102843861425/archive/1103324989813.html>

The Office of the State Fire Marshal proposed amendments which will impact small businesses, small municipalities and not-for-profit entities that have underground storage tanks on their property:

The Office of the State Fire Marshal proposed amendments to "Administrative Requirements for Underground Storage Tanks and the Storage, Transportation, Sale and Use of Petroleum and other Regulated Substances" (41 Ill. Adm. Code 176; 35 Ill. Reg. 14895) implementing federal requirements creating three classes of operators for underground storage tank facilities *USTs) designated Class A, B and C and specifying their responsibilities, minimum training requirements, examinations, fees, and continuing education. Class A and B operators must be trained within 30 days after assuming operation of the facility, and Class C operators must complete training before assuming responsibility for emergency responses. The training programs must be OSFM-approved and may include in-class, online, or hands-on training. A facility may not operate after 8/8/12 unless Class A, B, and C operators have been designated and trained for each UST operated at each facility, and a Class A, B, or C operator must be onsite at a manned facility at all times. Unmanned facilities must post the emergency contact information for the Class A, B, and C operators. No Class B operator may be assigned to more than 50 facilities at the same time. If a facility fails to remain in compliance with these rules, OSFM may prohibit any further operation of the facility until it is compliant. Additionally, the rulemaking outlines recordkeeping requirements fore each facility, retraining for out-of-compliance personnel following a Notice of Violation, inspection procedures, and maintenance plans.

Bottom Line: The rulemaking implements a federal requirement, pursuant tot he federal Energy Policy Act of 2005 that state underground storage tank (UST) system regulatory programs receiving federal funding require and implement operator training programs for personnel at underground storage tank facilities. Under the federal requirements, three classes of operators must be trained in specific areas, and retraining is required not less than once every two years and when a notice of noncompliance with

UST technical requirements is issued. The federal retraining requirement requires facilities to keep UST records on site if they wish to avoid having to retrain personnel in response to a Notice of Violation. Under the federal requirements, unmanned facilities must also designate Class A, B, and C operators, though one person properly trained can fulfill multiple rules. Records of training completion and emergency response plans and phone numbers must be kept at the facility. For questions or to submit comments, contact Shelly Bradley, Manager, Division of Petroleum and Chemical Safety at (217) 557-3131 or Shelly.Bradley@Illinois.gov.

The Department of Financial and Professional Regulation proposed amendments which will impact real estate appraisal schools and businesses that use the services of real estate appraisers:

The Department of Financial and Professional Regulation proposed an amendment to "Real Estate Appraiser Licensing" (68 Ill. Adm. Code 1455; 35 Ill. Reg. 14235) that increases the initial application fee (\$75 to \$90) and licensure renewal fee (\$250 to \$265 annually) for appraisers to reflect a \$15 increase (from \$25 to \$40) in the federal Appraisal Subcommittee's (ASC) Annual National Registry fee, effective 1/1/12. ASC requires states to collect the National Registry fee and, in turn, lists a licensure applicant's credentials in the National Registry.

Bottom Line: Under authority in the Dodd-Frank Wall Street Reform and Consumer Protection Act, the federal Appraisal Subcommittee (ASC) approved a modification of the annual National Registry fee to \$40 from the current \$25, effective January 1, 2012. Accordingly, on or after that date, for all new appraiser credentials and all renewals of existing credentials, states are required to collect and transmit to the ASC the modified annual Registry fee of \$40 in order for a credential to be reflected on the National Registry. States were given this delayed effective date to provide a reasonable transition period to implement this modified registry fee, which is accomplished by the rulemaking. For questions or comments, contact Craig Cellini at Craig.Cellini@Illinois.gov or call (217) 785-0813.

The Department of Transportation proposed amendments which will impact small businesses in the construction industry that desire to obtain DOT contracts:

The Department of Transportation also adopted an emergency amendment for "Prequalification of Contractors, Authorization to Bid, and Subcontractor Registration" (44 Ill. Adm. Code 650; 35 Ill. Reg. 15485, effective 9/9/11 for a maximum of 150 days. An identical proposed rulemaking is published in the September 23 Illinois Register at 35 Ill. Reg. 15454. 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 reports that it 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.

Bottom Line: In an effort to increase competition and bidding opportunities for small contractors and women and minority contractors on the 11/18/11 IDOT construction letting, the Department filed an emergency amendment to this Part. This proposed amendment is identical to the emergency amendment and will replace the emergency amendment at the expiration of the 150-day emergency period. In order to fully comply with the mandates of PA 96-795, resulting in 20 ILCS 2705/2705-595 of the Civil Administrative Code of Illinois (Department of Transportation Law), the Department established a Prequalification Barriers Committee (Committee), chaired by the Department's Chief of Staff, to review this Part to identify barriers to minority and women-owned firms in becoming prequalified to bid or make proposals on Department contracts. After five meetings with members from the Department, Federal Highway Administration, industry, and several small business concerns, including certified Disadvantaged

Business Enterprises (DBEs), the Committee made a recommendation for a change to this Part that was included in its final report to the Secretary of Transportation and is publicly available on the Department's website at <http://www.dot.il.gov/reform8.htm>. The change, i.e., raising the unaudited financial status from \$500,000 to \$750,000 under Section 650.170(c)(1)(A), must be made expeditiously before the major lettings scheduled for 11/18/11 and 1/12 to allow more firms to compete by providing small firms with an increased bidding capacity. Additionally, the change allows more opportunities for small firms, specifically some minority- and women-owned firms that will be precluded from participating in the 11/18 letting if not for the change, by streamlining part of the prequalification process for those firms impacted by the new threshold. An unaudited status releases the applicant from the requirement of providing a financial statement that must be prepared by a Certified Public Accountant. Thus, the financial statement for an unaudited status may be prepared by the applicant and may, potentially, provide a shortened application process. Under the new threshold, more small firms will be able to become prequalified in a shorter amount of time which will increase competition for state construction projects. DOT determined that this change had to be made expeditiously in the best interest and welfare of the State, in response to the appeal of the General Assembly, and to reduce barriers to small firms interested in bidding on Department construction projects; therefore, an emergency amendment to this Part was filed and has been published in this same issue of the *Illinois Register*. This proposed amendment will replace the emergency amendment at the expiration of the 150-day emergency period.
