

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

UNIVERSITY CIVIL SERVICE

The STATE UNIVERSITIES CIVIL SERVICE SYSTEM adopted amendments to "State Universities Civil Service System" (80 Ill Adm Code 250; 35 Ill Reg 17415), effective 4/6/12. Formerly, within the System, employers had to maintain registers indicating reemployment, promotion, and original entry for their employees. These amendments allow names to be removed from an employment register at the expiration of a prescribed time frame in the register posting for vacant positions that are designated by the executive director of the System and the Merit Board. A probationary period may be extended to include a designated off-site formal training session approved by the executive director of the System. A provision permitting an extension of the appeal period for a Merit Board decision and order, if expressly granted by the Merit Board or its chairman, is removed and trainee programs are re-titled intern programs. Since 1st Notice, approval by the Merit Board has been added to the provisions permitting removal of names from an employment register. Criteria

for determining positions affected by these provisions have also been added.

Questions/requests for copies: Abby Daniels, SUCSS, 1717 Philo Rd., Ste. 24, Urbana IL 61802, 217/278-3150, ext. 226.

HORSE RACING

The ILLINOIS RACING BOARD adopted emergency amendments to "Medication" (11 Ill Adm Code 603; 36 Ill Reg 6057), effective 4/6/12, for a maximum of 150 days, that reduce the threshold level for phenylbutazone from 5 to 2 micrograms/milliliter of serum or plasma for horses entered in graded stakes races pursuant to a revised Thoroughbred Owners and Breeders Association drug testing protocol. An identical proposed rulemaking appears in this issue of the *Illinois Register* at 36 Ill Reg 5954.

Questions/requests for copies/comments concerning the proposed rulemaking through 6/4/12: Mickey Ezzo, IRB, 100 W. Randolph, Ste. 7-701, Chicago IL 60601, 312/814-5017.

Proposed Regulations

☞ CELL PHONE RESTRICTIONS

The DEPARTMENT OF TRANSPORTATION proposed amendments to "Motor Carrier Safety Regulations: General" (92 Ill Adm Code 390; 36 Ill Reg 5971), "Qualification of Drivers" (92 Ill Adm Code 391; 36 Ill Reg 5996) and "Driving of Commercial Motor Vehicles" (92 Ill Adm Code 392; 36 Ill Reg 6003) that restrict commercial motor vehicle (CMV) drivers from using hand-held mobile telephones during intrastate transportation. A recent Federal Motor Carrier Safety Administration regulation (76 FR 75470, published 12/2/11, and effective 1/3/12) restricts CMV drivers from utilizing hand-held telephones during interstate transportation, requiring DOT to promulgate this rule covering transportation within Illinois. CMV drivers may use hands-free mobile phones. CMV drivers communicating with law enforcement officials or other emergency services are exempted from this requirement while in contact with those officials. The rulemaking extends these restrictions to farm custom operations, apiarian (beekeeping) industries and certain farm vehicles. Per-

(cont'd next page)

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.

Proposed Regulations

sons operating vehicles related to these industries, and other commercial drivers, are affected by these rulemakings.

Questions/requests for copies/comments on the 3 DOT rulemakings above through 6/4/12: Cathy Allen, DOT, 1340 N. 9th St., Springfield IL 62702, 217/785-3031.

☞ BACKGROUND CHECKS

The DEPARTMENT OF STATE POLICE proposed amendments to "Electronic Transmission of Fingerprints" (20 Ill Adm Code 1265; 36 Ill Reg 5966). The rulemaking requires non-criminal justice entities conducting fingerprint based criminal history background checks to submit a photograph of the individual being fingerprinted. The photograph requirement will be effective 1/1/14. Small businesses, small municipalities, and non-profits that conduct fingerprint-based background checks on employees or volunteers are affected by this rulemaking.

Questions/requests for copies/comments through 6/4/12: Suzanne L.Y. Bond, ISP, 801 S. 7th St, Suite 1000-S, Springfield IL 62703, 217/782-7658.

☞ LIVESTOCK TESTING

The DEPARTMENT OF AGRICULTURE proposed amendments to Parts titled "Livestock Auction Markets" (8 Ill Adm Code 40; 36 Ill Reg 5888), "Bovine Brucellosis" (8 Ill Adm Code 75; 36 Ill Reg 5894), "Swine Brucellosis" (8 Ill Adm Code 100; 36 Ill Reg 5904), "Swine Disease Control and Eradication Act" (8 Ill Adm Code 105; 36 Ill Reg 5907), and "Animal Disease Laboratories Act" (8 Ill Adm Code 110; 36 Ill Reg 5924), all concerning testing of livestock for disease. The Part 40 amendments permit sale of cattle or swine at auction in Illinois without testing for brucellosis (a bacterial disease that causes miscarriage, infertility, and other symptoms in livestock) if the animals enter the livestock market from states or areas certified as

brucellosis class free by the USDA Animal and Plant Health Inspection Service. Cattle that meet this criteria must have an approved eartag. Amendments to Part 75 update references to federal regulations and replace references to the State-Federal Serology Laboratory in Springfield with "Department-approved laboratory". Brucellosis testing prior to sale is required only for unvaccinated heifers or bison more than 6 months of age, or bulls more than 18 months of age, that originate from a non-brucellosis class free state. Female cattle of all breeds (currently, beef breeds only) may enter Illinois for feeding or grazing purposes if they have recently tested negative for brucellosis, have been vaccinated against the disease, or originate from a class free state, area, or herd. Amendments to Parts 100 and 105 update references to federal regulations, require use of USDA approved ear tags to identify disease-free swine, and remove obsolete references to a previously used 7- or 9-digit alphanumeric system for swine ear tags. The Part 110 amendments replace the current \$45 fee per animal or group of animals brought to a laboratory for a necropsy with fees based upon animal size that will be available at Department laboratories or at its website. A fee cap of \$150 applies to cases in which multiple tests and necropsies are required for a diagnosis and to mailed-in cases with multiple tests in which a veterinarian has performed the necropsy. Toxicology tests and disposal costs for the carcasses are not included in the cap. A provision doubling fees on tests requested by out of state animal owners is removed. Finally, fees for *Brucella abortus* bacterial serology tests are raised to \$10 for the rivanol test and \$2.50 for other test methods (currently, no charge or 50 cents per test). Livestock owners, sellers, and veterinarians will be affected by these rulemakings.

Questions/requests for copies/comments on the 5 DOA rulemakings above through 6/4/12: Linda Rhodes, DOA, State Fairgrounds, Springfield IL 62794-

9281, 217/785-5713, fax 217/785-4505.

☞ VIDEO GAMBLING

The ILLINOIS GAMING BOARD proposed amendments to "Video Gaming (General)" (11 Ill Adm Code 1800; 36 Ill Reg 5935) that revise the definition of "licensed technician" to reflect that a licensed technician is not licensed to possess or control a video gaming terminal (VGT) or have access to the inner workings of a VGT (the logic area maintained in a separately locked cabinet of the VGT) that houses electronic components with the potential to significantly influence the operation of the terminal. The definition of a "licensed terminal handler" is revised to include the reference to "logic area". Licensed technicians for video gaming terminals are affected by this rulemaking.

Questions/requests for copies/comments through 6/4/12: Lynn Carter, IGB, 160 N. LaSalle, Chicago IL 60601, 312/814-4143' email, lynn.carter@igb.illinois.gov.

☞ UNCLAIMED PROPERTY

The STATE TREASURER proposed amendments to "Uniform Disposition of Unclaimed Property Act" (74 Ill Adm Code 760; 36 Ill. Reg. 6008) to change the time frame for sale of unclaimed securities to between 1 and 2 years after publication pursuant to Section 12 of the Act (currently, no later than one year after the securities' receipt). The minimum amount of property requiring a claimant's signature to be notarized or guaranteed by an officer of a financial institution where the claimant does business is reduced from \$500 to \$100. Those affected by this rulemaking include small businesses or non-profits with unclaimed securities.

Questions/requests for copies/comments concerning this proposed rulemaking through 6/4/12: Bradley Rightnowar, Office of the Treasurer, 1 West Old State Capitol Plaza, Ste. 400, Springfield IL 62701, 217/557-9360.

Proposed Regulations

HORSE RACING

The ILLINOIS RACING BOARD proposed amendments to "Claiming Races" (11 Ill Adm Code 510; 36 Ill Reg 5950), "Weights, Penalties, and Allowances; Scale of Weights for Age" (11 Ill Adm Code 1412; 36 Ill Reg 5956) and "Regulations for Meetings (Thoroughbred)" (11 Ill Adm Code 1424; 36 Ill Reg 5961). The Part 510

amendment gives an owner, or a trainer acting under the owner's authorization, the option to declare a horse ineligible to be claimed under specified conditions. An amendment to Part 1412 replaces obsolete weight allowances for jockeys racing thoroughbreds with the Association of Racing Commissioners International standards. Finally, an amendment to Part 1424 requires thoroughbred race-

tracks to post a summary of their on-track accident insurance coverage for jockeys and make copies of the policy available upon request.

Questions/requests for copies/comments concerning the 3 rulemakings above through 6/4/12: Mickey Ezzo, IRB, 100 W. Randolph, Ste. 7-701, Chicago IL 60601, 312/814-5017.

JCAR Meeting Action

At its 4/17/12 meeting, the Joint Committee on Administrative Rules withdrew a filing prohibition against a proposed rulemaking and issued recommendations concerning two other proposed rulemakings. The Committee and the affected agencies also agreed to extend Second Notice periods for the following rulemakings an additional 45 days: Illinois Commerce Commission, "Obligations of Retail Electric Suppliers" (83 Ill Adm Code 412; 35 Ill Reg 12996) and "Internet Enrollment Rules" (83 Ill Adm Code 453; 35 Ill Reg 13017); State Board of Education, "Evaluation of Certified Employees Under Articles 24A and 34 of the School Code" (23 Ill Adm Code 50; 35 Ill Reg 19647); Elevator Safety Review Board, "Illinois Elevator Safety Rules" (41 Ill Adm Code 1000; 35 Ill Reg 15819); and Department of Veterans' Affairs, "MIA/POW Scholarship" (95 Ill Adm Code 116; 35 Ill Reg 8413).

SECRETARY OF STATE

With regard to the rulemaking titled "Procedures and Standards" (92 Ill Adm Code 1001; 35 Ill Reg 14916), JCAR has withdrawn the filing prohibition against Sections 1001.444(j)(2), (3), and (4) of the rulemaking contingent upon, and effective with, SOS adopting the above-cited rulemaking with the offered modifications, i.e., removal of the subsections to which the objection and filing prohibition were directed. The Committee originally issued this filing prohibition at its 1/10/12 meeting. The rulemaking concerns installation of Breath Alcohol Ignition Interlock Devices (BAIIDs) on vehicles driven by persons with restricted driving permits due to drunken driving convictions or guilty pleas. The prohibited language concerned employment-related exemptions from the BAIID rules.

ENVIRONMENTAL PROTECTION AGENCY

Concerning the EPA rulemaking titled "Environmental Laboratory Certification Fee Rules" (35 Ill Adm Code 185; 35 Ill Reg 20983), JCAR recommends that EPA update its rules prior to implementing new policies and procedures, not after. EPA has used this fee structure since 2002 without adopting it in rule.

TEACHERS' RETIREMENT SYSTEM

Concerning the TRS rulemaking titled "The Administration and Operation of the Teachers' Retirement System" (80 Ill Adm Code 1650; 35 Ill Reg 21013), JCAR recommends that, in the future, TRS refrain from implementing new policies until rulemaking codifying those policy changes has been adopted. TRS reported it had already implemented the changes proposed in this rulemaking contrary to Sections 1-70 and 5-10(c) of the Illinois Administrative Procedure Act.

Second Notice

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 May 15, 2012 meeting.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

"Solicitation for Charitable Payroll Deductions" (80 Ill Adm Code 2650) proposed 2/24/12 (36 Ill Reg 2602)

ILLINOIS RACING BOARD

"Board Meetings" (11 Ill Adm Code 206) proposed 2/17/12 (36 Ill Reg 2481)

Joint Committee on Administrative Rules

Senator Pamela Althoff

Representative Greg Harris

Senator Maggie Crotty

Representative Lou 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**