

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

🔑 TOURISM FUNDING

The DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY adopted amendments to "Local Tourism and Convention Bureau Program" (14 Ill Adm Code 550; 37 Ill Reg 632), effective 1/15/14. The amendments update tourism grant application/approval procedures and implement a provision of the FY2013 Budget Implementation (Supplemental) Act reducing matching fund requirements for grant recipients. Tourism grant recipients must match 50% (currently 100%) of the grant amount provisions. The rulemaking also clarifies selection criteria for grant applicants and tightens accountability requirements for grant recipients. Local governments, tourism-focused non-profit organizations, and small businesses catering to tourists may be affected by this rulemaking.

🔑 RIVER EDGE ZONES

DCEO also adopted amendments to "River Edge Redevelopment Zone Program" (14 Ill Adm Code 524; 37 Ill Reg 16237), effective 1/15/14, implementing PA 98-109. The amendments update the Part and remove the jobs credit offered to employers for creating jobs in any zone. The amendment also requires geospatial data in the form of an ESRI ARCGIS Shape file to be part of the zone map submitted with an application.

Questions/requests for copies of the 2 DCEO rulemakings: Jolene Clarke, DCEO, 500 E. Monroe St., Springfield IL 62701, 217/557-1820, e-mail: jolene.clarke@illinois.gov.

Proposed Regulations

🔑 EMPLOYEE CLASSIFICATION

The DEPARTMENT OF LABOR proposed amendments to "Employee Classification" (56 Ill Adm Code 240; 38 Ill Reg 3298) expanding the definition of "individual performing services" to include corporations and limited liability companies that carry out daily activities consistent with a corporation or LLC, employs employees to carry out its purposes and principals, and carries the appropriate workers' compensation insurance and has registered with IDES for unemployment insurance. The rulemaking allows any person to file a complaint. The time to file a complaint has been expanded from 180 days to 365 days after the date of the alleged violation. DOL will toll the complaint if another state or federal agency

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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.

Proposed Regulations

is investigating a similar misclassification complaint. DOL will notify the contractor within 120 days after the complaint is filed. The notification must include the locations of the project, affected contractors and the nature of the allegations. The rulemaking establishes reporting requirements for contractors. The contractor's report must be submitted by January 31 after every taxable year and include the contractor's name, address, and identification number; person or entity being paid; and the total amount paid. DOL will access a civil penalty if, after an investigation, it finds no report was made. The reporting requirement does not apply to businesses primarily engaged in the sale of tangible personal property. DOL may seek a settlement after the investigation and may seek informal settlement conferences. If a contractor doesn't voluntarily comply to resolve the matter, DOL must set the matter for a formal hearing. The assigned administrative law judge may order the contractor to end the unlawful practice in addition to the current remedies. If an ALJ finds an employee has been misclassified, he or she is entitled to all rights and benefits he or she would have gotten if correctly classified. The ALJ may order reimbursement for improper deductions. An officer or agent who knowingly permits the employer to violate the Act may also be liable. Criteria is established to define knowingly permits and includes the extent and nature of the misclassification. The rulemaking lowers the civil penalty from \$1500 to \$1000 and establishes hearing procedures. Once DOL issues a complaint, the contractor has 28 days from the date of the complaint to answer. The answer and one copy must be filed with the ALJ and copies must be served on DOL and all other parties. The ALJ may extend the time to answer. If there is no answer and the ALJ grants summary judgment and enters a final order and decision, the contractor may move to vacate the order within 30 days after the final decision. DOL's formal hearing rules also apply. Those who may be im-

pacted by these rules include contractors and employees who may make a complaint.

Questions/requests for copies/comments through 3/17/14: Jim Preckwinkle, DOL, 900 S. Spring St., Springfield, IL 62704, 217/558-1270.

AUTO INSURANCE

The SECRETARY OF STATE proposed amendments to "Mandatory Vehicle Liability Insurance" (50 Ill Adm Code 8010; 38 Ill Reg 3345) requiring insurance cards to have a barcode that contains the following information: VIN, NAIC number, policy number, expiration date and insurance company name. This rulemaking may affect insurance companies and those businesses that print insurance cards.

Questions/requests for copies/comments through 3/17/14: Carrie Leitner, SOS, 298 Howlett Building, Springfield, IL 62756, cleitner@ilsos.net.

PUBLIC HEALTH DATA

The DEPARTMENT OF PUBLIC HEALTH proposed amendments to the Part titled "Collection, Disclosure, and Confidentiality of Health Statistics" (77 Ill Adm Code 1005; 38 Ill Reg 3315) updating the Part (not amended since its adoption in 1983) to conform to federal laws and rules concerning patient privacy and protection of human research subjects. The rulemaking replaces references to the former Data Protection Review Board with references to an Institutional Review Board (IRB) that will review requests for health data and approve or reject proposals for research projects involving human research subjects. The rulemaking prescribes a standard format for submitting requests to DPH for health data. Requests for data must state the specific purpose for the request and the hypothesis that the data will be used to test. If DPH denies a request for data, it must return the request within 90 days and explain why the request was denied. Any request for data that contains

direct identifiers (e.g., birthdates, addresses or zip codes, medical record numbers, account numbers, provider license or certificate numbers) must be reviewed by DPH and the IRB. Conditions for release of individually identifiable health data are also listed in the rulemaking (e.g., if the individual consents to its release or the requesting entity enters into a written confidentiality agreement with DPH), along with standards for disclosing de-identified or aggregate health data that is not linked to an individual patient or health provider. Other provisions specify the composition of the IRB, which must include at least 5 members, at least one of whom must be a scientist or researcher and at least one of whom must be a non-scientist. Those affected by this rulemaking include medical researchers, hospitals, medical schools and universities.

Questions/requests for copies/comments through 3/17/14: Susan Meister, DPH, 535 W. Jefferson St., 5th Fl., Springfield IL 62761, 217/782-2043, e-mail: dph.rules@illinois.gov.

MALPRACTICE INSURANCE

The DEPARTMENT OF INSURANCE proposed amendments to "Medical Liability Insurance Rules and Rate Filings" (50 Ill Adm Code 929; 38 Ill. Reg. 3281), repealing various administrative hearing Sections of the Part linked with DOI review of rate increases for medical malpractice insurance. The rulemaking largely restores the Part to its prior form before various medical malpractice reform measures were initiated by Public Act 94-677 and ruled unconstitutional in *Lebron vs. Gottlieb Memorial Hospital*, a 2010 Illinois Supreme Court case. New provisions calling for submission of documents to DOI by electronic means are being added, as well as revised requirements for company rate change information that is to be reported to DOI. A company is also not required to make filings under this Part for individual risks that cannot be rated in the

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Proposed Regulations

normal course of business as provided in the Insurance Code (because of special or unusual circumstances) but must be rated on the basis of underwriting judgment, and such a company must maintain documentary information regarding rates determined in such a manner.

Questions/requests for copies/comments through 3/17/14: Susan Anders IDOI, 320 W. Washington St., Springfield IL 62767-0001, 217-785-8220, Fax: 217-524-9033.

STATE TRAVEL & VEHICLES

The DEPARTMENT OF CENTRAL MANAGEMENT SERVICES proposed amendments to "Travel" (80 Ill Adm Code 2800; 38 Ill Reg 3273) to make adjustments to that Part. Provisions pertaining to the Government Charge Cards program are being repealed or stricken, as that program has been terminated. Provisions regarding reimbursable travel expenses from an employee's headquarters or residence are being clarified to require reimbursement for a given day. Agencies are no longer to be responsible for monitoring claims for reimbursable mileage expenses. Provisions requiring specific approval by the Chairman of the Governor's Travel Control Board for requests for travel outside of the contiguous United States are being repealed.

CMS also proposed amendments to

"State Vehicles and Garage" (44 Ill Adm Code 5040; 38 Ill Reg 3241) that make extensive changes and updates to the Part. CMS and the Governor (presently, CMS) shall be responsible for State vehicle fleet policy. Vehicle services offered by CMS include: management of State Fleet and vehicle acquisitions; usage/maintenance programs; maintenance and repair policy; and CMS fleet credit card and fuel/vendor fleet car services. The CMS Division of Vehicles (DOV) will make purchases of vehicles for all Executive Branch agencies except for the State Police and Department of Transportation. DOV may recommend to the CMS Bureau of Strategic Sourcing to delegate authority for the purchase of vehicles from other sources when in the best interests of the State. Policies pertaining to agency purchase or lease of a vehicle from the CMS motor pool, and to the CMS motor pool itself, are being repealed. CMS shall set policy on whether to establish contracts for vehicle purchase, lease or rental, using competitively bid contracts established by CMS for this purpose. A State surplus vehicle cannot be obtained by an agency unless the vehicle is inspected, repaired at a State garage, and assigned an equipment number and State credit card. State agencies are advised of a statutory requirement that they must draft a vehicle use policy, which is submitted to CMS and made available on its website. State agencies are responsible for tracking fines and citations

obtained by employees, who are responsible for them unless caused by mechanical failure. CMS shall charge agencies for their use of a State vehicle in accordance with its fee schedule on the CMS website. Duties of State agency vehicle use coordinators/vehicle use officers include: assisting agencies in drafting agency vehicle use policies and distributing and implementing same as well as communicating CMS rules and policies to agency personnel; tracking internal agency vehicle inventory and locations; overseeing agency vehicle logs, monitoring of vehicle use, maintenance, repair, fuel and cost data; tracking vehicle assignment and use and submitting reports to CMS in accordance with rules and policies of CMS. CMS is abandoning its requirement that it publish an Annual Statement concerning its implementation of this Part embracing such topics as rental, use and overhead charges for the current fiscal year, listing CMS Vehicle staff and annual CMS vehicle procurement policy, as well as motor pool rates and usage requirements.

Questions/requests for copies/comments concerning the 2 CMS rulemakings through 3/17/14: Mary Matheny, 720 Stratton Bldg., Springfield IL 62706, 217/557-5404. Fax: 217/558-2697, mary.matheny@illinois.gov.

Second Notices

The following rulemakings were moved to Second Notice this week by the agencies listed below, commencing the JCAR review period. The rulemakings will be considered at JCAR's February 18, 2014 meeting.

DEPARTMENT OF REVENUE

"Income Tax" (86 Ill Adm Code 100) proposed 12/2/13 (37 Ill Reg 19082)

"Live Adult Entertainment Facility Surcharge Act" (86 Ill Adm Code 900) proposed 11/22/13 (37 Ill Reg 18832)

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

"Medical Payment" (89 Ill Adm Code 140) proposed 8/9/13 (37 Ill Reg 12637)

"Child Support Services" (89 Ill Adm Code 160) proposed 11/15/13 (37 Ill Reg 18022)

ILLINOIS RACING BOARD

"Licensing" (11 Ill Adm Code 502) proposed 12/6/13 (37 Ill Reg 19523)

ILLINOIS EDUCATIONAL LABOR RELATIONS BOARD

"General Procedures" (80 Ill Adm Code 1100) proposed 10/4/13 (37 Ill Reg 15559)

"Representation Procedures" (80 Ill Adm Code 1110) proposed 10/4/13 (37 Ill Reg 15563)

"Collective Bargaining and Impasse Resolution" (80 Ill Adm Code 1130) proposed 10/4/13 (37 Ill Reg 15567)

"University of Illinois Bargaining Units" (80 Ill Adm Code 1135) proposed 10/4/13 (37 Ill Reg 15584)

STATE BOARD OF EDUCATION

"Code of Ethics for Illinois Educators" (23 Ill Adm Code 22) proposed 11/8/13 (37 Ill Reg 17352)

"Standards for the School Service Personnel Certificate" (23 Ill Adm Code 23) proposed 11/8/13 (37 Ill Reg 17358)

"Standards for Certification in Special Education" (23 Ill Adm Code 28) proposed 11/8/13 (37 Ill Reg 17439)

"Standards for Administrative Certification" (23 Ill Adm Code 29) proposed 11/8/13 (37 Ill Reg 17551)

"Public Schools Evaluation, Recognition and Supervision" (23 Ill Adm Code 1) proposed 11/8/13 (37 Ill Reg 15635)