

*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

## Proposed Regulations

### PERCH FISHING

The DEPARTMENT OF NATURAL RESOURCES adopted emergency amendments to "Sport Fishing Regulations for the Waters of Illinois" (17 Ill Adm Code 810; 38 Ill Reg 13022), effective 6/9/14, for a maximum of 150 days. The rulemaking opens fishing for Lake Michigan perch prior to 5/1 and after 6/15 each summer. Previously the fishing season was completely closed during the month of July except for youth under the age of 16. This change to the fishing season is a result of an agreement between the states bordering Lake Michigan.

Questions/requests for copies: Nick San Diego, DNR, One Natural Resources Way, Springfield IL 62702-1271, 217/782-1809.

### INSURANCE

The DEPARTMENT OF INSURANCE adopted amendments to the Part titled "The Minimum Mortality Standard for Valuation of Annuity and Pure Endowment Contracts" (50 Ill Adm Code 935; 37 Ill Reg 13094) effective 1/1/15 to update an annuity mortality table not

revised since 1999. The revisions will include the 2012 Individual Annuity Reserving Table which was adopted by the American Academy of Actuaries and the Society of Actuaries. The new table will be used for determining the minimum standard of valuation for any individual annuity or pure endowment contract issued after 1/1/15. Another 1983 table currently in use is to be employed solely when a contract is based on life contingencies and is issued to fund periodic benefits arising from settlements of various claims pertaining to court settlements or out of court settlements; settlements involving similar actions, such as workers' compensation claims; or settlements of long term disability claims where a temporary or life annuity has been used in lieu of continuing disability payments. Appendices to this Part include the new table, as well as a formula for its use. Since 1<sup>st</sup> Notice, the effective date of the new table was changed from 1/1/14 to 1/1/15.

Questions/requests for copies: Susan Christy, DOI, 320 W. Washington St., Springfield IL 62767-001, 217/782-1759.

### ✂️ AVIATION SAFETY

The DEPARTMENT OF TRANSPORTATION proposed amendments to "Aviation Safety" (92 Ill Adm Code 14; 38 Ill Reg 12836) removing approximate time frames from the FAA on the determination of favorable airspace. Also, two new illustrations depicting Ultralight/STOL restricted landing area minimum dimensional standards and separation and gradient standards were added. Pilots and airports may be interested in this rulemaking.

Questions/requests for copies/comments rulemaking through 8/4/14: Linda Schumm, DOT, 1 Langhorne Bond Dr., Spfld, IL 62707, 217/785-4215.

### DRIVER'S LICENSES

The SECRETARY OF STATE proposed amendments to the Part titled "Illinois Safety Responsibility Law" (92 Ill Adm Code 1070; 38 Ill Reg 12826) clarifying that a court order may be issued to certify a request for suspending the driver's license of a person more than 90 days in arrears of child support. If the obligor's driver's license number or social security number is not on the

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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

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## AIR POLLUTION

The POLLUTION CONTROL BOARD has adopted amendments to "Definitions and General Provisions" (35 Ill Adm Code 211; 38 Ill Reg 7749) and "Air Quality Standards" (35 Ill Adm Code 243; 38 Ill Reg 7774) both effective 6/9/14. The amendments to Part 211 update the definition of volatile organic material to include 2,3,3,3-Tetrafluoropropene to reflect USEPA's most recent exemptions of chemical compounds from regulation as ozone precursors. Affected entities include those that use or emit the chemical. The amendment to Part 243 updates Illinois ambient air quality requirements to correspond with amendments to the federal National Ambient Air Quality Standards USEPA adopted during the period 7/1/13-12/31/13. Affected entities include those that emit pollutants that could potentially affect ambient air quality in any area of Illinois.

Requests for copies of the above two rulemakings: Michael J. McCambridge, PCB, 100 W. Randolph, Ste. 11-500, Chicago IL 60601, 312/814-6924, e-mail: [Michael.McCambridge@Illinois.Gov](mailto:Michael.McCambridge@Illinois.Gov). Please reference docket R14-16 for the amendment to Part 211 and R14-17 for the amendment to Part 243.

## SALES TAXES

The DEPARTMENT OF REVENUE adopted amendments to "Retailer's Occupation Tax" (86 Ill Adm Code 130; 38 Ill Reg 1818) effective 6/9/14 implementing various Public Acts. The rulemaking exempts from taxation sales of electricity delivered to customers by wire and sales of water or artificial gas delivered through pipes, pipelines or mains. A tax exemption

for purchases of coal and aggregate exploration, mining, hauling, processing, maintenance or reclamation equipment is retroactively reinstated. New criteria are also imposed upon air carriers wishing to claim an exemption for fuel and petroleum products consumed in international trade, or trade between the U.S. and any of its possessions. Sunset dates for tax exemptions on food, medicines, medical appliances, and diabetic supplies such as insulin are extended. The types of motor vehicles subject to the Automobile Renting Occupation and Use Tax instead of sales tax are expanded. Other sales tax exemptions addressed in this rulemaking affect game birds and aircraft materials, parts, equipment and furnishings. Businesses that sell or purchase goods listed in this rulemaking will be affected.

## VEHICLE RENTAL

DOR also adopted an amendment to "Automobile Renting Occupation Tax" (86 Ill Adm Code 180; 38 Ill Reg 1843) effective 6/9/14 implementing PA 98-574. The rulemaking amends the definition of an automobile subject to the rental tax to include vehicles with a gross vehicle weight rating of 8,000 pounds or less, including certain types of pickup trucks and sport utility vehicles (SUVs). Businesses that provide rental vehicles are affected by this rulemaking.

Questions/requests for copies of the 2 DOR rulemakings: Debra Boggess, DOR, 101 W. Jefferson, Springfield IL 62794, 217/782-2844.

## SCHOOL BUSES

The DEPARTMENT OF TRANSPORTATION adopted amendments to "Non-

scheduled Bus Inspections" (92 Ill Adm Code 456; 37 Ill Reg 14785) effective 6/4/14 to include references to Multi-function School Activity Buses (MFSABs) and incorporating updated violation criteria for MFSABs that are manufactured on or after July 1, 2012. Examples of items inspected include air cleaner, brakes, bumpers, child check system, drive shaft guard, federal certification label, interior grab handles, and interior/exterior lights and lamps. Additionally, separate violation criteria for MFSABs manufactured before 7/1/12 are being added. Examples of items inspected include axles and tag axles, brakes, bumpers, exhaust system, and interior/exterior lights and lamps. Also, if a nonscheduled inspection reveals brakes, the exhaust system, the steering system, or tires are in violation the bus will be immediately be placed out-of-service. Sections regarding violation criteria for school buses and special education buses are being updated to provide, when possible, the actual requirements instead of cross references. Since 1<sup>st</sup> Notice DOT has added federal definitions of the paint colors glossy black and National School Bus Glossy Yellow; stated that buss will be taken out of service if they meet (as wells as exceed) out of service criteria; and added a provision allowing bus owners, at the discretion of DOT, to repair or replace defective items while the officers are still on location. Those affected by these amendments include school districts, private schools and transportation contractors.

Questions/requests for copies: Christine Caronna-Beard, IDOT, 2300 S. Dirksen Parkway, Room 317, Springfield, IL 62764, 217/524-3838.

# Proposed Regulations

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certification, then it must contain the obligor's name, date of birth, gender and case number. Those involved with child support cases may be affected.

Questions/requests for copies/comments through 8/4/14: Jennifer Egizii, SOS, 2701 S. Dirksen Parkway, Springfield IL 62723, 217/557-4462.

## VIDEO GAMING

The ILLINOIS GAMING BOARD proposed amendments to "Video Gaming (General)" (11 Ill Adm Code 1800; 38 Ill Reg 12655) requiring licensed manufacturers and licensed distributors to inform the terminal operators with whom they do business if the video gaming terminal's hardware or software has been revoked for any reason. Terminal operators must provide the Board with a monthly list of video gaming terminals in Illinois. Licensed video gaming locations must promptly report to the terminal operator any unlawful activity on the property or in the location that involves or affects terminals or other gaming devices or services. Licensed video gaming locations must also report to the Board's administrator or designee: failure of the terminal operator to service and repair video gaming terminals, unauthorized or illegal video gaming terminals or devices, action against the licensed location's liquor license, and unlawful or unwarranted entry onto the property or location that involves or affects terminals or other gaming devices or services. All licensed video gaming locations must have a sign that states video gaming is restricted to people 21 years old and older. Licensed terminal operators, distributors and locations might be interested in this rulemaking.

Questions/requests for copies/comments through 8/4/14: Emily Mattison, IGB, 160 N. LaSalle St, Chicago, IL 60601, 312/814-7253, [emily.mattison@igb.illinois.gov](mailto:emily.mattison@igb.illinois.gov).

## HEALTH INSURANCE

The DEPARTMENT OF INSURANCE proposed a repeal of the Part titled "Notice of Eligibility" (50 Ill Adm Code 5301; 38 Ill Reg 12669), which outlines a notice insurers are required to give persons rejected for health insurance under the Comprehensive Health Insurance Plan Act. DOI explains that this Part is no longer needed due to the federal Affordable Care Act's ban on denial of health insurance based upon pre-existing conditions and its requirement that policies issued on the Illinois Exchange must be issued.

Questions/requests for copies/comments concerning the above rulemakings through 8/4/14: Susan Anders, DOI, 320 W. Washington St., Springfield IL 62767-0001, 217-785-8220, Fax: 217-524-9033.

## HOSPITAL ASSISTANCE

The ATTORNEY GENERAL proposed an amendment to "Hospital Financial Assistance under the Fair Patient Billing Act" (77 Ill Adm Code 4500; 38 Ill Reg 12673) to make technical revisions to the Part. Appendix A is being updated to reference 2014 federal poverty guidelines, and an internal effective date of 1/1/14 within the Rule is being removed since it is no longer needed.

Questions/requests for copies/comments through 8/4/14: Lynn Patton, Office of the Attorney General, 500 S. 2<sup>nd</sup> St., Spfld IL 62706, 217/524-1504.

## PCB PROCEEDINGS

The POLLUTION CONTROL BOARD proposed amendments to "General Rules" (35 Ill Adm Code 101; 38 Ill Reg 12685), "Regulatory and Informational Hearings and Proceedings" (35 Ill Adm Code 102; 38 Ill Reg 12740), "Enforcement" (35 Ill Adm Code 103; 38 Ill Reg 12757), "Regulatory Relief Mechanisms" (35 Ill Adm Code 104; 38 Ill Reg 12766), "Appeals of Final Decisions of State Agencies" (35 Ill Adm Code 105; 38 Ill Reg 12779), "Proceedings Pursuant to Specific Rules or Statutory Provisions" (35 Ill Adm Code 106; 38 Ill Reg 12785), "Petition to Review Pollution Control Facility Siting Decisions" (35 Ill Adm Code 107; 38 Ill Reg 12802), "Administrative Citations" (35 Ill Adm Code 108; 38 Ill Reg 12809), "Tax Certifications" (35 Ill Adm Code 125; 38 Ill Reg 12814) and "Identification and Protection of Trade Secrets and Other Non-Disclosable Information" (35 Ill Adm Code 130; 38 Ill Reg 12821). All these amendments provide for electronic filing in all Board proceedings, permit most kinds of filing to be done via e-mail, align procedural standards for public input at PCB's open meetings with the Open Meetings Act, and make several smaller changes.

Requests for copies/comments for the above 10 rulemakings through 8/4/14: John Therriault, PCB, 100 W. Randolph, Ste. 11-500, Chicago IL 60601, 312/814-3629. Questions: Mark Powell, the same address, 312/814-6887, e-mail: [Mark.Powell@illinois.gov](mailto:Mark.Powell@illinois.gov). Please reference docket R14-21.

## Second Notices

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The following rulemakings were moved to Second Notice this week by the agencies listed below, commencing the JCAR review period. The DHFS rulemakings were considered at JCAR's June 17, 2014 meeting; all other rulemakings will be considered at JCAR's July 15, 2014 meeting.

### DEPT OF HEALTHCARE AND FAMILY SERVICES

"Specialized Health Care Delivery Systems" (89 Ill Adm Code 146) proposed 3/21/14 (38 Ill Reg 6499)

"Specialized Health Care Delivery Systems" (89 Ill Adm Code 146) proposed 2/21/14 (38 Ill Reg 4628)

"Diagnosis Related Grouping (DRG) Prospective Payment System (PPS)" (89 Ill Adm Code 149) proposed 2/21/14 (38 Ill Reg 4932)

"Hospital Reimbursement Changes" (89 Ill Adm Code 152) proposed 2/21/14 (38 Ill Reg 4977)

"Medical Payment" (89 Ill Adm Code 140) proposed 2/21/14 (38 Ill Reg 4559)

"Hospital Services" (89 Ill Adm Code 148) proposed 3/21/14 (38 Ill Reg 6505)

"Hospital Services" (89 Ill Adm Code 148) proposed 2/21/14 (38 Ill Reg 4640)

### DEPT OF REVENUE

"Retailers' Occupation Tax" (89 Ill Adm 130) proposed 4/4/14 (38 Ill Reg 7555)

### DEPT OF CENTRAL MANAGEMENT SERVICES

"Pay Plan" (80 Ill Adm 310) proposed 4/25/14 (38 Ill Reg 4640)

### DEPT OF INSURANCE

"License, Documents Necessary to Engage in Activities and Examinations" (50 Ill Adm. Code 752) proposed 3/28/14 (38 Ill Reg 7715)

### DEPT OF HUMAN SERVICES

"Child Care" (89 Ill Adm Code 50) proposed 3/28/14 (38 Ill Reg 7018)

## JCAR Meeting Action

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### JCAR MEETING ACTION

At its 6/17/14 meeting, the Joint Committee on Administrative Rules voted to issue a Filing Prohibition against two proposed rulemakings and to issue Recommendations concerning 10 other proposed rulemakings. The Committee and the Department of Human Services also agreed to extend the Second Notice period an additional 45 days for the rulemaking titled "Rules of Conduct, Discipline, Suspension and Discharge Procedures" (89 Ill Adm Code 827; 38 Ill Reg 4292).

### DEPARTMENT OF HUMAN SERVICES

JCAR objects to and prohibits the filing of the DHS rulemaking titled "Partner Abuse Intervention" (89 Ill Adm Code 501; 37 Ill Reg 19457) and the accompanying repeal of the existing Part with the same title (89 Ill Adm Code 501; 37 Ill Reg 19437) because the rulemakings contain language that makes assumptions and generalizations that may be unfounded and thus would not be appropriate for State administrative law. JCAR believes the proposed language is not in the public interest.

### DEPARTMENT OF REVENUE

With respect to the DOR rulemakings titled "Home Rule County Retailers' Occupation Tax" (86 Ill Adm Code 220, 38 Ill Reg 6549); "Home Rule Municipal Retailers' Occupation Tax" (86 Ill Adm Code 270; 38 Ill Reg 6562); "Regional Transportation Authority Retailers' Occupation Tax" (86 Ill Adm Code 320; 38 Ill Reg 6575); "Metro East Mass Transit District Retailers' Occupation Tax" (86 Ill Adm Code 370; 38 Ill Reg 6588); "Metro-East Park and Recreation District Retailers' Occupation Tax" (86 Ill Adm Code 395; 38 Ill Reg 6601); "County Water Commission Retailers' Occupation Tax" (86 Ill Adm Code 630; 38 Ill Reg 6614); "Special County Retailers' Occupation Tax for Public Safety" (86 Ill Adm Code 670; 38 Ill Reg 6627); "Salem Civic Center Retailers' Occupation Tax" (86 Ill Adm Code 690; 38 Ill Reg 6640); "Non-Home Rule Municipal Retailers' Occupation Tax" (86 Ill Adm Code 693; 38 Ill Reg 6653); and "County Motor Fuel Tax" (86 Ill Adm Code 695; 38 Ill Reg 6666), JCAR recommends that DOR continue to work with the affected taxpayers and local governments in an attempt to mitigate remaining concerns with the proposed language. The rulemakings implement an Illinois Supreme Court decision (Hartney Fuel Oil Co. v. Hamer) concerning the location of sales for purposes of determining local sales tax.