

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, also titled The Flinn Report in memory of founding JCAR member Rep. Monroe Flinn, is designed to inform and involve the public in changes taking place in agency administration.

New Rules

■ STATE FAIR CONCESSIONS

The DEPARTMENT OF AGRICULTURE adopted amendments to the Part titled General Operations of the State Fairs and Fairgrounds (8 IAC 270; 38 Ill Reg 23525), effective 5/8/15, amending procedures for applying, reapplying and paying for space rental at the Illinois State Fairs in Springfield and DuQuoin. Concessionaires who are invited to return to the following year's Fair will receive an application no later than 12/15; those who intend to return, either to the same space or a different space, must submit their applications by 2/1. New applications for space rental will be considered after reapplications have been considered and spaces assigned. For inside concessionaires, full payment of space fees, electrical service fees and the space rental contract is due

by 7/1. Outside concessionaires must pay 1/3 of their space, electrical and contract fees by 7/1 and the remaining 2/3 by the Monday preceding the Fair. New outside concessionaires whose applications are approved after 7/1 must submit 1/3 of their fees at the time of application and the remainder by the Monday

Emergency Rules, Page 2

preceding the Fair. Fees may be paid via cash, personal or business checks, money orders, or certified/cashier's checks. Outdoor concessionaires at the Springfield Fair must open no later than 10 a.m. (currently, 8 a.m.) on the opening day of the Fair. Since 1st Notice, DOA has deleted a proposed requirement that returning concessionaires submit a letter of intent to return

(cont. page 2)

Proposed Rulemakings

■ DISTANCE LEARNING

The BOARD OF HIGHER EDUCATION proposed a new Part titled Higher Education Distance Learning and Interstate Reciprocity (23 IAC 1033; 39 Ill Reg 6985). A companion emergency rule, effective 4/16/15 for a maximum of 150 days, appeared in the 5/1/15 *Illinois Register* at 39 Ill Reg 6042. The new Part implements the Higher Education Distance Learning Act, effective 1/1/15, as well as provisions necessary for Illinois to participate in the National Council for State Authorization Reciprocity Agreement (SARA) system. The Part defines "distance learning" as instruction offered by any means that places student and instructor in separate physical locations, including, but not limited to, interactive video or

(cont. page 3)

NEW RULES: Rules adopted by agencies this week. **EMERGENCY RULES:** Adopted for a temporary period not to exceed 150 days.

PROPOSED RULES: Rules proposed by agencies this week, commencing a 45-day First Notice period during which public comments must be accepted.

PEREMPTORY RULES: Rules adopted without prior public notice or JCAR review as authorized by 5 ILCS 100/5-50.

■ Designates 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: Submit mail, email or phone calls to the agency personnel listed below each summary.

RULE TEXT: Available on the Secretary of State (www.cyberdriveillinois.com) and General Assembly (www.ilga.gov) websites under Illinois Register. Second Notice text (original version with changes made by the agency during First Notice included) is available on the JCAR website.

New Rules

(cont. from page 1)

for the next fair, opted to leave in place current conditions for calculating percentage rate splits on gross receipts, and retained its existing prohibition on roving games of chance, raffle ticket sales, and gambling. Concessionaires and vendors at the State Fairs are affected by this rulemaking.

Questions/requests for copies: Susan Baatz, DOA, State Fairgrounds, P.O. Box 19281, Springfield IL 62794-9281, 217/524-6905.

■ DCFS RECORDS

The DEPARTMENT OF CHILDREN AND FAMILY SERVICES adopted amendments to the Part titled Confidentiality of Personal Information of Persons Served by the Department of Children and Family Services (89 IAC 431; 38 Ill Reg 10700), effective 5/7/15, addressing confidentiality and disclosure of Department records and of mental health information. The rulemaking implements PA 96-1164, which requires DCFS to

retain unfounded reports of all allegations for at least 12 months (currently, 60 days or no retention period). It also requires DCFS to redact records as required by law and revises the list of entities with whom child abuse or neglect investigation records can be shared without the subject's consent. Mandated reporters who submit a report will receive appropriate follow-up information, including information regarding DCFS action, in response. The rulemaking clarifies that printouts from the Law Enforcement Agencies Data System (LEADS) must not be shared outside the Department, but summaries can be provided to child welfare workers on a need-to-know basis (currently, this information cannot be shared with child welfare workers). The rulemaking clarifies that mental health records may be released to DCFS during a child abuse/neglect investigation, or to the DCFS Office of Inspector General when the patient is a caretaker facing investigation or an alleged victim who is not a DCFS ward. Other provisions define what information a mental health provider may release to the

parent or guardian of a patient ages 12-17; prohibit re-disclosure of mental health information by someone to whom it was disclosed without the patient's consent; and stipulate that patients are entitled to review their own mental health records. Information regarding substance abuse dependency or treatment cannot be disclosed without the patient's consent, except for information collected by the federal Veterans' Administration or Armed Forces, law enforcement, or qualified service organizations. Since 1st Notice, DCFS has removed schools from the list of entities that it recommends be notified if a child has HIV/AIDS, and clarified other provisions regarding disclosure of a child's personal health information. Child welfare workers, mandated reporters of child abuse or neglect, and law enforcement agencies may be affected by this rulemaking.

Questions/requests for copies: Jeff Osowski, DCFS, 406 E. Monroe St., Station #65, Springfield IL 62701-1498, 217/524-1983; cfpolicy@idcfs.state.il.us

Emergency Rules

HORSE RACING

The ILLINOIS RACING BOARD adopted emergency amendments to Trifecta (11 IAC 360; 39 Ill Reg 7284), Superfecta (11 IAC 311; 39 Ill Reg 7288) and Pentafecta (11 IAC 324; 39 Ill Reg 7292), all effective 5/7/15,

lowering the minimum number of betting interests in Standardbred races to 5, 6 and 7, respectively. Identical proposed rulemakings appear in this week's *Illinois Register* at 39 Ill Reg 7215 (Trifecta), 39 Ill Reg 7217 (Superfecta) and 39 Ill Reg 7221 (Pentafecta).

Questions/requests for copies/comments on the 3 proposed rulemakings through 7/6/15: Mickey Ezzo, IRB, 100 W. Randolph, Ste. 7-701, Chicago IL 60601, 312/814-5017.

Proposed Rulemakings

(cont. from page 1)

correspondence courses. Institutions seeking BHE approval to participate in SARA must be accredited and financially stable. Institutions that are located and chartered in Illinois, as well as out of State institutions with a physical presence in Illinois (e.g., a satellite campus or a class that meets regularly), must have degree granting authority from BHE in order to participate in SARA. Out-of-State institutions that do not have a physical presence in Illinois may offer distance learning courses to Illinois residents through SARA without BHE approval. An annual fee of \$1,750 will be charged to institutions that participate in SARA and whose applications are managed by BHE. Community colleges may participate in SARA with the approval of the Illinois Community College Board. Requirements for renewing membership in SARA and grounds for revocation of eligibility to participate are also included. Higher education institutions offering distance learning programs in Illinois will be affected.

Questions/requests for copies/comments through 7/6/15: Karen Helland, BHE, 1 N. Old State Capitol Plaza, Suite 333, Springfield IL 62701-1377, 217/557-7358, fax 217/782-8548, e-mail: helland@ibhe.org

■ SALES TAX

The DEPARTMENT OF REVENUE proposed an amendment to Retailers' Occupation Tax (86 IAC 130; 39 Ill Reg 7221) clarifying the tax liability of both retailers and purchasers utilizing coupons. If a retailer allows a purchaser a discount from the selling price on the basis of a discount coupon, the retailer's gross receipts subject to tax depend upon whether the retailer receives reimbursement for the amount of the discount. Such reimbursement is considered to be part of the selling price and subject to tax. Businesses that offer coupons or discounts on their merchandise are affected by this rulemaking.

Questions/requests for copies/comments through 7/6/15: Jerilynn Troxell Gorden, DOR Legal Services, 101 W. Jefferson St, Springfield IL 62794, 217/ 782-2844.

■ DCFS RELATIVE PLACEMENT

The DEPARTMENT OF CHILDREN AND FAMILY SERVICES proposed amendments to 12 Parts: Reports of Child Abuse and Neglect (89 IAC 300; 39 Ill Reg 7004), Placement and Visitation Services (89 IAC 301; 39 Ill Reg 7020), Services Delivered by the Department of Children and Family Services (89 IAC 302; 39 Ill Reg 7038), Access to and Eligibility for Child Welfare Services (89 IAC 304; 39 Ill Reg

7049), Adoption Services for Children for Whom the Department of Children and Family Services is Legally Responsible (89 IAC 309; 39 Ill Reg 7061), Permanency Planning (89 IAC 315; 39 Ill Reg 7070), Administrative Case Reviews and Court Hearings (89 IAC 316; 39 Ill Reg 7080), Interstate Placement of Children (89 IAC 328; 39 Ill Reg 7086), Service Appeal Process (89 IAC 337; 39 Ill Reg 7092), Appeal of Foster Family Home License Denials by Relative Caregivers (89 IAC 338; 39 Ill Reg 7102), Authorized Child Care Payments (89 IAC 359; 39 Ill Reg 7109), and Licensing Standards for Foster Family Homes (89 IAC 402; 39 Ill Reg 7114), all of which implement Public Act 98-846. The PA broadens the definition of relative to include step-grandparents and fictive kin (a person unrelated to a child by birth or marriage who had close personal or emotional ties to the child or the child's family prior to the child's placement) and revises the definition of godparent.

Questions/requests for copies/comments through 7/6/15: Jeff Osowski, DCFS, 406 E. Monroe, Station #65-D, Springfield IL 62701-1498, 217/524-1983, TTY 217/524-3715, Fax 217/557-0692, e-mail: cfpolicy@idcfs.state.il.us.

(cont. page 4)

Proposed Rulemakings

(cont. from page 3)

AIR POLLUTION

The POLLUTION CONTROL BOARD proposed amendments to Sulfur Limitations (35 IAC 214; 39 IR 7125), Nitrogen Oxides Emissions (35 IR 217; 39 IR 7164) and Control of Emissions from Large Combustion Sources (35 IR 225; 39 IR 7176), all of which update the State Implementation Plan (SIP) under the federal Clean Air Act (CAA). The amendment to Part 214 updates SIP for areas of Illinois that are out of compliance with CAA limits on sulfur dioxide. The

amendment to Part 217 brings the SIP into compliance with new CAA requirements for nitrogen oxide. Finally, the amendment to Part 225 brings the SIP into compliance with the CAA's visibility protection requirements.

Comments through 7/6/15: John Thierrault, PCB, 100 W. Randolph St., Suite 11-500, Chicago IL 60601. 312/814-3620. Questions: Daniel Robertson, 312/814-6931, Daniel.Robertson@illinois.gov. Please reference docket R15-21. Copies of the Board's opinion and order can be obtained from <http://www.ipcb.state.il.us>.

PCB RULE WITHDRAWAL

PCB has withdrawn proposed amendments to General Rules (35 IAC 101; 39 Ill Reg 3276), Enforcement (35 IAC 103; 39 Ill Reg 3329), Proceedings Pursuant to Specific Rules or Statutory Provisions (35 IAC 106; 39 Ill Reg 3336) and Administrative Citations (35 IAC 108; 39 Ill Reg 3344) that appeared in the 3/6/15 *Illinois Register*. PCB states that it will propose additional substantive amendments to replace the rulemakings that were withdrawn.

Second Notices

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 the Committee's June 16, 2015 meeting in Chicago. Other items that have not been listed in the *Illinois Register* or The Flinn Report may also be considered. Further comments concerning these rulemakings should be sent to JCAR using the contact information on page 1.

DEPT OF STATE POLICE

Testing of Breath, Blood and Urine for Alcohol, Other Drugs, and Intoxicating Compounds (20 IAC 1286) proposed 2/20/15 (39 Ill Reg 2540)

STATE BOARD OF EDUCATION

Requirements for Accounting, Budgeting, Financial Reporting, and Auditing (23 IAC 100) proposed 2/27/15 (39 Ill Reg 2916)

Pupil Transportation Reimbursement (23 IAC 120) proposed 2/27/15 (39 Ill Reg 2961)

Children's Low-cost Laptop Program (Repealer) (23 IAC 365) proposed 2/27/15 (39 Ill Reg 2978)

Regional Offices of Education and Intermediate Services (Repealer) (23 IAC 525) proposed 2/27/15 (39 Ill Reg 2986)

Intermediate Services (23 IAC 525) proposed 2/27/15 (39 Ill Reg 3007)

Parental Participation Pilot Project (Repealer) (23 IAC 560) proposed 2/27/15 (39 Ill Reg 3024)