

Elaine Spencer
Editor

Joint Committee on Administrative Rules
Illinois General Assembly

700 Stratton Bldg. Springfield IL 62706
217/785-2254 ilga.gov/commission/jcar

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Issue 36

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

■ DISTANCE LEARNING

The BOARD OF HIGHER EDUCATION adopted a new Part titled Higher Education Distance Learning and Interstate Reciprocity (23 IAC 1033; 39 Ill Reg 6985) effective 8/19/15. A companion emergency rule, effective 4/16/15 for a maximum of 150 days, appeared in the *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 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

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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

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Proposed Rulemakings

■ SCHOOL RECORDS

The STATE BOARD OF EDUCATION proposed amendments to Early Childhood Teacher Preparation Assistance Grant (23 IAC 70; 39 Ill Reg 12265) changing references to "teacher certification" to "educator licensure" to reflect current statute. SBE also proposed amendments to Student Records (23 IAC 375; 39 Ill Reg 12285) updating the definition of student permanent transcript to clarify that Advanced Placement computer science fulfills the mathematics requirement. Also, the definition of health record clarifies what is considered part of the record.

Questions/requests for copies/comments on the 2 SBE proposed rulemakings through 10/19/15: Shelley Helton, SBE, 100 N. First

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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.

Emergency Rules

SCHOOLS

The STATE BOARD OF EDUCATION adopted emergency amendments to Public Schools Evaluation, Recognition and Supervision (23 IAC 1; 39 Ill Reg 12369) effective 8/20/15 for a maximum of 150 days. A companion proposed rulemaking appears in this week's *Illinois Register* at 39 Ill Reg 12262. The rulemakings implement Public Act 99-194, which creates a pilot program for electronic learning (e-learning) on snow days or other

emergency days when classes are canceled. No more than three school districts may participate in the pilot program. The emergency rule outlines the applications process and the minimum requirements districts must meet, which include an explanation of how the district will provide 5 clock hours of instructional time for all students on e-learning days.

SBE also adopted emergency amendments to Requirements for Accounting, Budgeting, Financial Reporting and Auditing

(23 IAC 100; 39 Ill Reg 12398), effective 8/20/15 for a maximum of 150 days, adding a revenue line for general State aid supplemental grants that some districts will receive this year. A companion proposed rulemaking appears in this week's *Register* at 39 Ill Reg 12283.

Questions/requests for copies/comments on the 2 SBE proposed rulemakings through 10/19/15: Shelley Helton, SBE, 100 N. First St, S-493 Springfield IL 62777, 217/782-5270, rules@isbe.net.

New Rules

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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: 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

■ RECREATIONAL TRAILS

The DEPARTMENT OF NATURAL RESOURCES adopted a new Part titled Recreational Trails Program (17 IAC 3090; 39 Ill Reg 5325) effective 8/21/15. The

federally funded grant program helps local governments provide and maintain motorized and non-motorized trails. The rulemaking provides 80% reimbursement, up to a maximum of \$200,000, for non-motorized trail projects and sets no limit on funding for motorized trails or for land acquisition. Applicants may also use funds from other DNR grant programs in combination with funds from this program. Grant funds may be used for land acquisition costs, trail development costs, or restoration of trails damaged by unauthorized uses. However, grant funds cannot be used for acquisition of land by eminent domain, nor can they be used for construction of motorized trails in protected U.S. Forest Service areas or other areas protected by a conservation/land management plan. Funded projects must be open to the general public for use during reasonable times and

days of the year. The Part also includes evaluation and program compliance rules that apply for 5 years for any grant under \$50,000; for grants of \$50,000 or more, the compliance rules remain in effect for 1 additional year for every additional \$10,000. The Part also outlines a grant fund reimbursement schedule for affected properties that are sold or transferred within 15 years after the grant is awarded. Changes since 1st Notice include a new Section of definitions, addition of public notice requirements for projects that will establish new trails or open an area to motorized recreational use, and addition of a weighted scoring system for evaluating grant applications. Local governments may be affected by this rulemaking.

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Proposed Rulemakings

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St, S-493 Springfield IL 62777, 217/782-5270, rules@isbe.net.

■ RADIOACTIVE MATERIAL

The ILLINOIS EMERGENCY MANAGEMENT AGENCY proposed amendments to Financial Assurance Requirements (32 IAC 326; 39 Ill Reg 12037), Licensing of Radioactive Material (32 IAC 330; 39 Ill Reg 12046), Licensing Requirements for Source Material Milling Facilities (32 IAC 332; 39 Ill Reg 12059) and Standards for Protection Against Radiation (32 IAC 340; 39 Ill Reg 12068), aligning these Parts with federal Nuclear Regulatory Commission rules adopted in 2011. The amendments to Part 326 concern information to be submitted by a licensee when estimating the cost of a reclamation plan; the Part 330 rulemaking addresses requirements for transferring licensed radioactive material from one entity to another; the Part 332 amendments require additional information for financial surety cost estimates; and the Part 340 rulemaking requires additional surveys of subsurface areas that are potentially contaminated from facility operations. Records of these surveys must be kept until the facility's license is terminated in order to facilitate cleanup and decommissioning of the site when it closes. Businesses licensed to handle radioactive materials or radioactive waste are affected by these rulemakings.

DHS Public Hearings

The DEPARTMENT OF HUMAN SERVICES will hold public hearings on proposed amendments to Child Care (89 IAC 50; 39 Ill Reg 9731) at the following times and locations:

— **Tuesday, Oct. 6, 10 a.m.-noon**, Michael J. Howlett Bldg. Auditorium, Second and Edwards Streets, Springfield.

— **Wednesday, Oct. 7, 1:30-3:30 p.m.**, Michael A. Bilandic Bldg., Room C-500, 5th Floor, 160 N. La Salle, Chicago.

The hearings concern a proposed rulemaking published in the 7/17/15 *Illinois Register* that limits new enrollment in the Child Care Assistance Program (CCAP) to designated priority groups (working families earning 50% or less of FPL, TANF recipients, special needs children, teen parents who are full time high

school/GED students) when DHS lacks sufficient resources to serve all eligible applicants; raises monthly CCAP co-payments; and implements other measures. A companion emergency rule (39 Ill Reg 10072) took effect 7/1/15 for a maximum of 150 days. Persons wishing to comment at these hearings must bring a written (preferably typed) copy of their testimony to submit to the hearing officer. Each commenter's oral testimony is limited to no more than 10 minutes. Persons with disabilities who require reasonable accommodations to participate in these hearings should contact DHS no later than Sept. 22.

Questions/comments concerning the rulemaking or the public hearings: Tracie Drew, DHS, 100 S. Grand Ave. East, 3rd Fl., Springfield IL 62762, 217/785-9772.

Questions/requests for copies/comments on the 4 IEMA rulemakings through 10/19/15: Traci Burton, IEMA, 1035 Outer Park Drive, Springfield IL 62704, 217/785-9860, fax 217/524-3698.

PCB RULES

The POLLUTION CONTROL BOARD proposed amendments to Primary Drinking Water Standards (35 IAC 611; 39 Ill Reg 12078) that make corrections and clarifications to existing rules. No substantive changes are included.

Comments through 10/19/15: John T. Therriault, PCB, 100 W. Randolph St., Suite 11-500, Chicago IL 60601. Questions: Michael J. McCambridge, same address, 312/814-6924, Michael.mccambridge@illinois.gov. Please reference docket R16-4. Copies of the Board's opinion and order can be requested at 312/814-3620 or downloaded at www.ipcb.state.il.us.

New Rules

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DNR also adopted an amendment to Off-Highway Vehicle Recreational Trails Grant Program (17 IAC 3045; 39 Ill Reg 6013), effective 8/21/15, prohibiting possession, consumption or sale of alcoholic beverages at any grant-assisted site.

Questions/requests for copies of the 2 DNR rulemakings: Anne Mergen, DNR, One Natural Resources Way, Springfield IL 62702-1271, 217/782-1809.

■ RIVERBOAT GAMING

The ILLINOIS GAMING BOARD adopted amendments to Riverboat Gambling (86 IAC 3000; 39 Ill Reg 6730), effective 8/18/15, allowing Board members who participate in Board meetings via video

conference from a public building to be counted as part of the quorum. Board members may participate in meetings via video or phone if a quorum is physically present at the main meeting site, prior notice has been given (if practical) and the member has an illness or disability, is elsewhere on Board business, or has a family or other emergency. Members of the public will be permitted to speak at Board meetings for up to 5 minutes provided they give at least 2 days' notice. These provisions also apply to public meetings under the Video Gaming Act. Those involved in riverboat gambling may be interested in these rules.

Questions/requests for copies: James Pllum, IGB, 160 N. LaSalle St, Chicago, IL 60601, 312/814-7253.

WASTEWATER TREATMENT

The POLLUTION CONTROL BOARD adopted amendments to Pretreatment Programs (35 IAC 310; 39 Ill Reg 5762) effective 8/24/15 to incorporate recent changes to federal Clean Water Act rules (40 CFR 136). In particular, this rulemaking updates incorporations by reference to ensure that the methods used for analyzing pollutants and pollutant parameters are sufficiently sensitive to comply with the new federal requirements. This rulemaking also makes numerous minor technical changes.

Questions/requests for copies: Michael J. McCambridge, PCB, 100 W. Randolph St., Suite 11-500, Chicago IL 60601, 312/814-6924, michael.mccambridge@illinois.gov. Please reference docket R15-13.

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 September 16, 2015 meeting. Further comments concerning these rulemakings should be addressed to JCAR using the contact information on page 1.

DEPT OF REVENUE

Cigarette Tax Act (86 IAC 440; 39 Ill Reg 8897) proposed 7/6/15

Liquor Control Act (86 IAC 420; 39 Ill Reg 8879) proposed 7/6/15

Retailers' Occupation Tax (86 IAC 130; 39 Ill Reg 9126) proposed 7/10/15

Motor Fuel Tax (86 IAC 500; 39 Ill Reg 8742) proposed 6/26/15

DEPT OF LABOR

Joint Rules of the Department of Labor and Department of Human Rights: Rules on Investigation of Equal Pay Cases (56 IAC 325; 39 Ill Reg 9115) proposed 7/10/15

DEPT OF HUMAN RIGHTS

Joint Rules of the Department of Labor and Department of Human Rights: Rules on Investigation of Equal Pay Cases (56 IAC 2525; 39 Ill Reg 9112) proposed 7/10/15