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Joint Committee on Administrative Rules  
Illinois General Assembly

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217/785-2254 [ilga.gov/commission/jcar](http://ilga.gov/commission/jcar)

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*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

### ■ TIRE DISPOSAL

The POLLUTION CONTROL BOARD adopted amendments to Management of Used and Waste Tires (35 IAC 848; 39 Ill Reg 2814), effective 9/8/15, implementing Public Act 98-656 and other provisions related to the storage, processing, and disposal of used or waste tires. Effective 7/1/16, tire storage sites containing more than 10,000 passenger tires or their equivalent, and those processing more than 500 tons of used tires per calendar year, must obtain permits from the Illinois Environmental Protection Agency. Permit applications must be submitted to IEPA at least 90 days before the date on which a permit is required, and permits are not transferable. A new Subpart outlines the permit application process and conditions for granting, revising

and revoking permits. Other provisions increase the required firebreaks between tire piles and buildings and between piles; require sites with more than 60 tons of tires (formerly, more than 500 tires) to maintain tire storage plans and contingency/emergency response plans; require facilities to keep tire tracking receipts whenever waste tires are received by or

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transported from a site; require tire transporters to file annual reports to IEPA; replace self-insurance provisions with provisions for surety bonds; and repeal exemptions for tire retreading, stamping, and die cutting facilities. Changes since 1<sup>st</sup> Notice include removing or modifying proposed exemptions for tires that have been shredded, sliced or cut into small pieces;

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## Proposed Rulemakings

### ■ STUDENT ASSISTANCE

The ILLINOIS STUDENT ASSISTANCE COMMISSION proposed amendments to General Provisions (23 IAC 2700; 39 Ill Reg 12813) stating that ISAC will audit institutions that receive assistance based upon risk assessments and ISAC resources, instead of every 3 years as currently specified. Factors used in risk assessment include amount of ISAC assistance, time since last ISAC review, institution internal/external audit findings, Education Department findings/issues, investigations by inspectors general or attorneys general, substantial increases in awarded ISAC gift assistance, evidence that the institution is experiencing difficulty meeting ISAC rules or federal regulations, or issues raised in past audits by ISAC.

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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](http://www.cyberdriveillinois.com)) and General Assembly ([www.ilga.gov](http://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

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removing existing and proposed exemptions for tire retreading and stamping facilities; adding precautions against water accumulations that could allow mosquito breeding; and changing recordkeeping and financial assurance requirements. Other changes set a deadline of 120 days for IEPA to respond to itemized removal action bills and retain three appendices illustrating forms necessary to comply with these rules. Those affected by this rulemaking include tire disposal or recycling facilities, auto salvage or scrap facilities, and businesses that transport used or waste tires.

Questions/requests for copies: Chad M. Kruse, PCB, 100 W. Randolph St., Suite 11-500, Chicago IL 60601, 312/814-3665, [chad.kruse@illinois.gov](mailto:chad.kruse@illinois.gov). Copies may also be obtained at [www.ipcb.state.il.us](http://www.ipcb.state.il.us). Please reference docket R15-19.

## PCB PROCEDURES

PCB also adopted amendments to General Rules (35 IAC 101; 39 Ill Reg 7791), Enforcement (35 IAC 103; 39 Ill Reg 7842), Regulatory Relief Mechanisms (35 IAC 104; 39 Ill Reg 7849), Proceedings Pursuant to Specific Rules or Statutory Provisions (35 IAC 106; 39 Ill Reg 7857) and Administrative Citations (35 IAC 108; 39 Ill Reg 7864), all effective 9/8/15, amending various procedural rules. These

rulemakings address procedures for out of State attorneys, service of filings, and administrative citations under the Public Water Supply Operations Act and Electronic Products Recycling and Reuse (EPRR) Act. Amendments to Parts 101, 103, 106 and 108 reflect EPA's request that administrative citations under the EPRR Act be included in these procedural rules. The proposed amendments to Part 104 clarify the decision deadline for variance requests.

Requests for copies: Daniel Robertson, PCB, 100 W. Randolph St., Suite 11-500, Chicago IL 60601, 312/814-6931, [Daniel.Robertson@illinois.gov](mailto:Daniel.Robertson@illinois.gov). Please reference docket R15-20. Copies may also be obtained at [www.ipcb.state.il.us](http://www.ipcb.state.il.us).

## HOSPITALS

The DEPARTMENT OF PUBLIC HEALTH adopted amendments to Hospital Licensing Requirements (77 IAC 250; 39 Ill Reg 6184), effective 9/3/15, implementing two Public Acts. The rulemaking requires hospitals other than Critical Access Hospitals or Safety Net Hospitals to pay annual license fees of \$55 per bed. Rehabilitation hospitals may discontinue, or not provide, emergency services provided they refrain from using the term "hospital" in their name or signage and notify local emergency responders that they do not offer or no longer offer emergency services. Other

provisions require hospitals to provide educational materials on Sudden Infant Death Syndrome to new mothers; implement provisions of the Gestational Surrogacy Act allowing a newborn infant to be discharged to an intended mother or father when a surrogate has given birth to the child; update requirements for disposal of waste; and establish minimum requirements for hospital-based outpatient surgery programs housed in separate buildings. Since 1<sup>st</sup> Notice, DPH has added provisions regarding surrogacy. Hospitals are affected by this rulemaking.

## EMERGENCY RESPONDERS

DPH also adopted amendments to Emergency Medical Services, Trauma Center, Primary Stroke Center and Emergent Stroke Ready Hospital Code (77 IAC 515; 39 Ill Reg 6217), effective 9/8/15, that implement three Public Acts. The rulemaking permits rural ambulance service providers (those serving populations of 7,500 or fewer residents), with approval of the local EMS System and IDPH, to implement in-field service level upgrades of ambulances or other emergency vehicles to the highest level of Emergency Medical Technician or Pre-Hospital RN license held by any person staffing the vehicle at that time. (For example, a vehicle normally used for Basic Life Support can be upgraded to

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# Proposed Rulemakings

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## EXONEREES

ISAC also proposed a new Part titled Grant Program for Exonerees (23 IAC 2743; 39 Ill Reg 12818) implementing PA 99-199, which establishes an educational grant program for persons exonerated of wrongful criminal convictions by receiving a pardon from the Governor on the basis of innocence or a certificate of innocence from a circuit court. To qualify, exonerees must be Illinois residents enrolled in an Illinois public university or community college (for whom the grant will cover tuition and mandatory fees) or in studies toward a high school equivalency certificate (for whom the grant will cover costs associated with obtaining the certificate). Recipients do not have to prove financial need, but qualified applicants who accept or receive assistance through the Monetary Award Program (MAP) cannot receive the exoneree grant during the same school year for which they receive MAP funds. Benefits are limited to 8 semesters or 12 quarters of payment for undergrad/grad study, and recipients may accumulate up to 48 eligibility units. Grants will be limited by the availability of funding as of the date ISAC receives a completed application. Preference may be given to renewal applicants as long as they continue to meet the eligibility requirements.

## DEER HUNTING

The DEPARTMENT OF NATURAL RESOURCES adopted an emergency amendment to the Part titled White-Tailed Deer Hunting By Use of Bow and Arrow (17 IAC 670; 39 Ill Reg 13125), effective 9/3/15 for a maximum of 150 days. An identical proposed amendment appears in this week's *Illinois Register* at 39 Ill Reg 12723. The emergency and proposed rulemakings implement recent statutory changes that allow youth hunters to use crossbows. Persons with a valid youth hunting license, an archery deer

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Questions/requests for copies/comments concerning the 2 ISAC rulemakings through 11/2/15: Lynn Hynes, ISAC, 1755 Lake Cook Rd, Deerfield IL 60015, 847/948-8500, ext. 2216, e-mail: [lhynes@isac.org](mailto:lhynes@isac.org).

## ■ VETERINARIANS

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION proposed amendments to the Parts titled Veterinary Medicine and Surgery Practice Act of 2004 (68 IAC 1500; 39 Ill Reg 12677) and Certified Veterinary Technicians (68 IAC 1505; 39 Ill Reg 12699) updating these Parts in accordance with PA 98-339, the sunset reauthorization of the Veterinary Medicine and Surgery Practice Act of 2004.

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hunting permit and under the direct supervision of a parent, grandparent or guardian who is at least 21 years of age (and also has a valid hunting license and archery deer permit) may hunt deer with a crossbow. Being accompanied by a parent, grandparent or guardian implies express permission of an adult to have obtained the deer permit.

Questions/requests for copies/comments on the proposed rulemaking through 11/2/15: Robert G. Mool, DNR, One Natural Resources Way, Springfield IL 62702-1271, 217/782-1809.

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Questions/requests for copies/comments on the 2 DFPR rulemakings through 11/2/15: Craig Cellini, 320 W. Washington, 3<sup>rd</sup> Floor, Springfield IL 62786, 217/785-0813.

## LAND CONSERVATION

The DEPARTMENT OF NATURAL RESOURCES proposed amendments to Regulations for the Letting of Concessions, Farm Leases, Sale of Buildings and Facilities, and Demolitions (17 IAC 150; 39 Ill Reg 12719). DNR is clarifying that some agricultural management leases for the Conservation Reserve Program are for up to 15 years, and exceed the standard lease timeline of up to 4 years.

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## New Rules

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Advanced Life Support when an EMT licensed at the higher level is on duty.) Providers seeking approval of in-field upgrades must submit a plan for securing and storing advanced life support equipment, supplies and medications; agree to have the vehicle inspected by IDPH annually; and agree to advertise only the level of care that can be provided 24 hours a day. More advanced equipment, supplies, and medications intended for in-field service level upgrades must be secured and accessible only to personnel authorized by the EMS System Medical Director to utilize these items. The rulemaking also requires EMS Systems to notify DPH's Division of Emergency Medical Services

and Highway Safety whenever an EMS crew member is killed in the line of duty. Small municipalities, rural ambulance service providers, EMS Systems, and hospitals are affected by this rulemaking.

Questions/requests for copies of the 2 DPH rulemakings: Elizabeth Paton, DPH, 535 W. Jefferson St., 5<sup>th</sup> Fl., Springfield IL 62761, 217/782-2043, [dph.rules@illinois.gov](mailto:dph.rules@illinois.gov)

### ■ MEDICAL ASSISTANCE

The DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES adopted an amendment to Medical Payment (89 IAC 140; 38 Ill Reg 18308), effective 9/4/15, that eliminates the requirement of HFS prior approval for medical assistance

coverage of hearing aids. Since 1<sup>st</sup> Notice, HFS has clarified that these rules apply to both monaural (one ear) and binaural (both ears) hearing aids, and has required a licensed physician to submit a written statement documenting that the patient's hearing was medically evaluated within 6 months prior to the sale of the hearing device. Also, no payment will be made if the patient waives medical evaluation prior to purchasing a hearing aid. Those affected by this rulemaking include audiologists and providers of hearing aids.

Questions/requests for copies: Mollie Zito, HFS, 201 S. Grand Ave. East, 3<sup>rd</sup> Fl., Springfield IL 62763-0002, 217/782-1233.

## Proposed Rulemakings

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Questions/requests for copies/comments through 11/2/15: Craig Colbrook, DNR, One Natural Resources Way, Springfield IL 62702-1271, 217/782-1809.

### ■ DRIVER'S LICENSES

The SECRETARY OF STATE proposed amendments to Motor Vehicle Accident Prevention Courses for Liability Insurance Premium Reduction (50 IAC 8000; 39 Ill Reg 12796) that allow SOS to approve motor vehicle accident prevention course instructors if an instructor's driver's license has lapsed for

less than 10 days. SOS also proposed amendments to Issuance of Licenses (92 IAC 1030; 39 Ill Reg 12800) updating requirements for CDL holders operating in non-excepted interstate commerce to obtain a medical examiner's certificate, including the process used if SOS will investigate whether the certificate is fraudulent. Commercial drivers and their employers may be affected.

Questions/requests for copies/comments on the 2 SOS rulemakings through 11/2/15: Jennifer Egizii, SOS, 2701 S. Dirksen Parkway, Springfield IL 62723, 217/557-4462.

### FOSTER CARE

The DEPARTMENT OF CHILDREN AND FAMILY SERVICES proposed amendments to Service Appeal Process (89 IAC 337; 39 Ill Reg 12658) that clarify the effect of certain juvenile court decisions upon the DCFS foster care placement appeal process. The rulemaking states that if a juvenile court determines current foster care placement to be "necessary and appropriate" for a particular child, that determination does not constitute a ruling on the merits of any appeal filed by a former

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# Proposed Rulemakings

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foster parent or relative caregiver concerning placement of the child. Other amendments replace the term Child and Youth Investment Team (CAYIT) with Clinical Intervention for Placement Prevention (CIPP).

Questions/requests for copies/comments through 11/2/15: Jeff Osowski, DCFS, 406 E. Monroe, Station 65-D, Springfield IL 62701-1498, 217/524-1983, fax 217/557-0692, TTY 217/524-3715, e-mail: [cfpolicy@idcfs.state.il.us](mailto:cfpolicy@idcfs.state.il.us)

## INSURANCE

The DEPARTMENT OF INSURANCE proposed amendments to Accident and Health Reserves (50 IAC 2004; 39 III Reg 12715) updating accounting standards used by accident and health insurers in calculating reserves (and reporting information to DOI) to the most recent edition of the Accounting Practices and Procedures Manual (APPM) as prescribed by the National Association of Insurance Commissioners (NAIC). Exceptions and qualifications are made for certain policies issued and claims made prior to 2008. The new standards may also be applied to claims occurring after 2002 provided that all future calculations are made on the basis of the new standards.

Questions/requests for copies/comments through 11/2/15: Susan Anders, DOI, 320 W.

Washington St., Springfield IL 62767-0001, 217-785-8220, Fax: 217-524-9033.

## PROCUREMENT

The PROCUREMENT POLICY BOARD proposed amendments to Rulemaking and Organization (2 IAC 3000; 39 III Reg 12725), Freedom of Information (2 IAC 3001; 39 III Reg 12730) and General Policies (2 IAC 3002; 39 III Reg 12767). Amendments to Part 3000 change the address of the Board to 222 South College St. (Suite 231) in Springfield and add a new Assistant Director position in lieu of the existing Staff Analyst position. The Part 3001 rulemaking implements recent changes to the Freedom of Information Act (FOIA), including new definitions of statutory terms (e.g., commercial purpose, news media, private information, Public Access Counselor, public body); information that will be disclosed or that is exempt from disclosure; statutory provisions regarding records sought for commercial purposes; timelines for Board response to information requests; agency response to requests the Board considers unduly burdensome; procedures for denying requests for records and for review of denials by the Attorney General's Public Access Counselor; and fees for requested documents. Amendments to Part 3002 clarify operational practices of the Board, largely concerning the conduct of Board meetings. Three members constitute a quorum, and Board members

may participate in meetings by means other than physical presence (e.g., by telephone). Other issues addressed include notices of cancellations or rescheduling of meetings; provisions for special, closed or emergency meetings; recording of meetings; and issues that are statutorily exempt from the Open Meetings Act (e.g., personnel matters concerning Board employees, physical security measures, litigation involving the Board). The rulemaking clarifies the Board's authority to review, study and hold hearings regarding implementation of the Procurement Code and reviews of procurement policy requested by members of the public, the General Assembly or State agencies. If the Board requests documents from an agency or a procurement officer, these documents must be provided within 7 days. A new Section addresses Board reviews of potential conflicts of interest or violations of the Procurement Code, linked with follow-up action by the Executive Ethics Commission and Executive Inspector General. Small purchase contract thresholds are set at \$50,000 for commodities and services and \$70,000 for construction, with current maximums posted on the Board's website. Other new Sections clarify policies and procedures concerning the Board's review of extensions or renewals of contracts over \$249,999; review of leases of

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## 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. These rulemakings will be considered at the Committee's October 13, 2015 meeting. Other items not published in the *Illinois Register* or The Flinn Report may also be considered. Further comments concerning these rulemakings should be addressed to JCAR using the contact information on page 1.

### DEPT OF PUBLIC HEALTH

Home Health, Home Services, and Home Nursing Agency Code (77 IAC 245; 38 Ill Reg 23298) proposed 12/12/14

### DEPT OF FINANCIAL AND PROFESSIONAL REGULATION

Bank Branches and Subsidiaries (38 IAC 305; 39 Ill Reg 10336) proposed 7/24/15

### DEPT OF TRANSPORTATION

Procedures for Transportation Workplace Drug and Alcohol Testing Programs (92 IAC 340; 39 Ill Reg 9213) proposed 7/10/15

Special Training Requirements (92 IAC 380; 39 Ill Reg 9217) proposed 7/10/15

Controlled Substance and Alcohol Use and Testing (92 IAC 382; 39 Ill Reg 9221) proposed 7/10/15

Commercial Driver's License Standards; Requirements and Penalties (92 IAC 383; 39 Ill Reg 9229) proposed 7/10/15

Procedures and Enforcement (92 IAC 386; 39 Ill Reg 9231) proposed 7/10/15

Minimum Levels of Financial Responsibility for Motor Carriers (92 IAC 387; 39 Ill Reg 9238) proposed 7/10/15

Motor Carrier Safety Regulations: General (92 IAC 390; 39 Ill Reg 9242) proposed 7/10/15

Qualification of Drivers (92 IAC 391; 39 Ill Reg 9276) proposed 7/10/15

Driving of Commercial Motor Vehicles (92 IAC 392; 39 Ill Reg 9283) proposed 7/10/15

Parts and Accessories Necessary for Safe Operation (92 IAC 393; 39 Ill Reg 9287) proposed 7/10/15

Hours-of-Service of Drivers (92 IAC 395; 39 Ill Reg 9291) proposed 7/10/15

Inspection, Repair and Maintenance (92 IAC 396; 39 Ill Reg 9298) proposed 7/10/15

Transportation of Hazardous Materials; Driving and Parking (92 IAC 397; 39 Ill Reg 9302) proposed 7/10/15

Illinois Cycle Rider Safety Training Program (92 IAC 455; 39 Ill Reg 9306) proposed 7/10/15

School Bus Driver's Pretrip Inspection Requirements (92 IAC 458; 39 Ill Reg 9317) proposed 7/10/15

## New Rules

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10,000 or more square feet or annual rent of \$100,000 or more; and recommending professional development and training programs to the Chief Procurement Officers. Those affected by these rulemakings include entities that seek information from PPB or that seek contracts with State agencies.

Questions/requests for copies/comments concerning the 3 PPB rulemakings through 11/2/15: Will Blount, PPB, 222 South College St., Suite 231, Springfield IL 62704, 217/785-3988, will.blount@illinois.gov