

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 5

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

■ SPECIAL EDUCATION

The STATE BOARD OF EDUCATION adopted amendments to Special Education (23 IAC 226; 39 Ill Reg 8906), effective 1/13/16, implementing recent Public Acts. The rulemaking updates references to teacher certification to reflect the current system of educator licensure. It also includes a new Section defining dyslexia and adding it to a list of specific learning disabilities that may qualify a student for special education services. Services under a new or revised Individualized Education Program (IEP) must be provided to students within 10 school attendance days (currently, 10 calendar days) after notification to the student's parents. An "attendance day" is defined as any day, including a partial day, when children are attending school for instructional purposes.

If notification of a new or revised IEP is given to parents with fewer than 10 attendance days left in the school year, implementation may take place in the following school year. IEPs for students 14½ years of age or older must address independent living skills, instead of doing so only "where applicable". Other amendments address timelines for mediation and complaint procedures. Since 1st Notice, SBE has included a definition of dyslexia in the rule text rather than incorporating a definition by reference; required school districts or other entities that are the subject of a complaint to respond to the complaint within 45 days; clarified the title of Section 226.300 (which addresses home or hospital-based instruction for students with serious medical conditions) to refer to "alternative" placements; and clarified other

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Proposed Rulemakings

■ TOBACCO TAXES

The DEPARTMENT OF REVENUE proposed amendments to Tobacco Products Tax Act of 1995 (86 IAC 660; 40 Ill Reg 2156) implementing provisions of Public Acts 97-688, 98-273 and 98-1055. The amendments add a definition of moist snuff and reflect a change in the manner it is taxed from a percentage basis to a weight-based approach; increase the rate of tax on other tobacco products from 18% to 36%; tax packages of 20-25 little cigars as cigarettes; require retailers of tobacco products to obtain a retailer's license; and require stamping distributors to affix stamps on packages of little cigars in the same way cigarettes are stamped. The rulemaking also modifies returns and documentation for distributors collecting taxes on moist snuff

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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.

New Rules

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provisions. School districts, special education cooperatives, and special education facilities will be affected by these rulemakings.

SCHOOL RECORDS

SBE also adopted amendments, both effective 1/13/16, 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, and 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 of the 3 SBE rulemakings: Part 226, David Andel (217/782-4870) and Part 70, Cindy Zumwalt (E-255, 217/524-4835), SBE, 100 N. First St, S-493 Springfield IL 62777. Part 375: Stephanie Donovan, SBE, 100 W. Randolph St., CH 14-300, Chicago IL 60601, 217/782-8535.

Proposed Rulemakings

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and little cigars; requires electronic filing of certain documents; adds new recordkeeping requirements; explains restrictions on purchase, sale and possession of tobacco products; ; reflects changes to conditions for making exempt sales; explains claims made under retailers' provisions; addresses credits for stamps damaged, unused, destroyed or affixed to packages of little cigars returned to the manufacturer; prescribes statutory penalties, interest and procedures; and adds various definitions. Tobacco products retailers, distributors and manufactures may be affected.

Questions/requests for copies/comments through 3/14/16: Richard Wolters, DOR Legal Services, 101 W. Jefferson St, Springfield IL 62794, 217/ 782-2844.

■ OIL & GAS WELLS

The DEPARTMENT OF NATURAL RESOURCES proposed amendments to the Part titled The Illinois Oil and Gas Act (62 IAC 240; 40 Ill Reg 2095). The proposed changes include greater explanation of procedures of how DNR will serve notice upon a permittee and stronger language regarding falsification/misstatement of information. The rulemaking clarifies that civil penalties for falsification/misrepresentation will not exceed \$5,000 per falsification/misrepresentation and \$1,000 per day for each and every violation not subject to the penalty for falsification/misrepresentation. Other provisions add a structure for adding or calculating other falsification/misrepresentation penalties; clarify that a permit applicant must hold 100% of the rights to the land and/or formations applicable to a proposed well; and increase the allowable depth of certain

wells. DNR also clarifies that a permittee is not obligated to drill additional wells in leases in existence prior to the adoption of this rulemaking. Specifications for wells include a 40 ft. level of required surface casing for wells set over bedrock and a permanent well site equipment setback of 200 ft. from the nearest occupied dwelling existing at the time of application, unless the surface land owner of the dwelling agrees otherwise. All flowlines are required to be maintained in a leak-free condition. Procedures for extending the amount of time allowed to complete procedures related to the plugging of a well are included. For drilling test or drill wells, the rulemaking increases the fee to \$300 per section and removes the financial cap. The rulemaking also outlines additional responsibilities for leases or assignees of existing operations; outlines a new lease validation petition process; and

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Proposed Rulemakings

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requires permittees to notify the department within 30 days of any change in mailing address. This rulemaking may affect municipalities, not-for-profits and small business that either lease property for drilling or are themselves engaged in gas/oil production.

Questions/requests for copies/comments through 3/14/16: Daniel Nelson, DNR, One Natural Resources Way, Springfield IL 62702-1271, 217/782-1809.

■ MEDICAL ASSISTANTS

The ILLINOIS STUDENT ASSISTANCE COMMISSION proposed a new Part titled Grant Program for Medical Assistants in Training (23 IAC 2742; 40 Ill Reg 2195), which provides grant assistance to individuals seeking certification in medical assistant programs at Illinois public community colleges for the 2016-

2021 enrollment years. Criteria for receiving grants include being enrolled/accepted on at least a half time basis in a medical assistant program; demonstrating financial need; and making satisfactory academic progress. Benefits are limited to tuition and fees for 2 semesters in any academic year, or \$5,000 total per academic year. Grants are limited by availability of funding. Preference may be given to certain applicants based upon their expected family contribution or to renewal applicants as long as the grantee continues to meet the eligibility requirements. If all other criteria are equal, priority consideration will be given to qualified applicants based upon the date the application is submitted. The rule also includes timelines and institutional procedures for requesting and delivering grant funds. This rulemaking may affect municipalities, not-for-profits,

small business and educational entities engaged in the training of medical assistants.

Questions/requests for copies/comments through 3/14/16: Lynn Hynes, ISAC, 1755 Lake Cook Rd., Deerfield IL 60015, 847/948-8500, ext. 2216, e-mail: lhynes@isac.org.

UTILITIES

The ILLINOIS COMMERCE COMMISSION proposed a new Part titled Donations of Utilities (83 IAC 325; 40 Ill Reg 2088). This Part sets out guidelines for utilities to report charitable contributions exceeding \$1,000 in the financial documents they submit to ICC when requesting rate increases.

Questions/requests for copies/comments through 3/14/16: Elizabeth Rolando, ICC, 527 E. Capitol Ave., Springfield IL 62701, 217/782-7434. Please reference ICC Docket No. 12-457.

Joint Committee on Administrative Rules

Senator Bill Brady
Senator Karen McConaughay
Senator Matt Murphy
Senator Don Harmon
Senator Tony Muñoz
Senator Ira Silverstein

Representative Greg Harris
Representative Lou Lang
Representative David Leitch
Representative Ron Sandack
Representative André Thapedi
Representative Michael Tryon

Vicki Thomas
Executive Director

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 February 16, 2016 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.

CHIEF PROCUREMENT OFFICER - DEPT OF TRANSPORTATION

Chief Procurement Officer for the Department of Transportation - Contract Procurement
(44 IAC 6; 39 Ill Reg 15040) proposed 11/20/15

DEPT OF FINANCIAL AND PROFESSIONAL REGULATION

Dietetic and Nutrition Services Practice Act (68 IAC 1245; 39 Ill Reg 14775) proposed 11/13/15

Illinois Public Accounting Act (68 IAC 1420; 39 Ill Reg 13889) proposed 10/23/15

Public Accounting Act (Professional Conduct) (Repealer) (68 IAC 1430; 39 Ill Reg 13345)
proposed 10/9/15

DEPT OF INSURANCE

Selection of Senior Management (50 IAC 1710; 39 Ill Reg 14822) proposed 11/13/15

ILLINOIS COMMERCE COMMISSION

Net Metering (83 IAC 465; 39 Ill Reg 6134) proposed 5/8/15

DEPT OF REVENUE

Retailer's Occupation Tax (86 IAC 130; 39 Ill Reg 11865) proposed 8/28/15