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Joint Committee on Administrative Rules
Illinois General Assembly

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Issue 6

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

■ MEDICAID ELIGIBILITY

The DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES adopted amendments to Medical Assistance Programs (89 IAC 120; 39 Ill Reg 1403) effective 1/20/16 that, in accordance with the federal Affordable Care Act, allow hospitals that meet listed criteria to become qualified Hospital Presumptive Eligibility (HPE) providers. Qualified HPE providers may determine the following categories of patients to be presumptively eligible for Medicaid if they do not have other health insurance and appear to meet other Medicaid eligibility criteria: pregnant women, children under age 19, breast or cervical cancer patients, parents or other caretaker relatives of minor children, and former foster children ages 19 through 25. Persons ages 19 through 64 who do not have other insurance and

whose incomes are at or below 133% of the Federal Poverty Level (ACA Adults) also may be determined presumptively eligible. Presumptive eligibility begins immediately and continues until HFS makes a final determination of the patient's Medicaid status, or until the last day of the month following the month of presumptive eligibility determination if the patient fails to apply for Medicaid by that date. HFS shall provide training and technical assistance to all HPE providers and assign unique HPE numbers to individuals trained to determine presumptive eligibility. To maintain qualified HPE status, a hospital must achieve specified performance standards, such as having at least 65% of its HPE enrollees submit applications for ongoing Medicaid benefits (increasing to 80% in 2016 and

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Proposed Rulemakings

■ VEHICLE INSPECTION

The DEPARTMENT OF TRANSPORTATION proposed a new Part titled Inspection Procedures for Special Vehicles (92 IAC 438; 40 Ill Reg 2449) and proposed repeal of the Part titled Official Testing Stations (92 IAC 448; 40 Ill Reg 2554). The new Part applies to vehicles such as busses designed to transport 11-15 people, contract carriers, driver education training vehicles, limousines, medical transport vehicles, rebuilt (salvage) vehicles, religious organization busses and tow trucks used intrastate. Much of 92 IAC 448 was incorporated into this Part without change. Changes were made to specifications for emergency/parking brakes; bumpers; doors; exhaust systems; frame, cab and body; fuel storage and delivery

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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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90% in 2017) and less than 5% of its HPE enrollees prove to be ineligible (decreasing to 4% in 2016 and 3% in 2017). Hospitals that fail to meet performance standards will be disqualified and cannot reapply for HPE provider status for 6 months. The rulemaking also updates certain presumptive eligibility requirements for children and for providers participating in the Healthy Start program for pregnant women. For children, the household income threshold (currently 133% of the Federal Poverty Level) and Illinois residency requirements are being removed. For Healthy Start providers, new qualifying criteria for recognition as a qualified Medicaid Presumptive Eligibility provider are being added (e.g., status as a community or migrant health center, reception of WIC grants). Since 1st Notice, HFS has added ACA Adults to the list of patients who may be determined presumptively eligible, and has clarified that the HPE rules will not apply to hospitals until HFS receives federal approval for these rules and the data system that supports the program is functional. Those affected by this rulemaking include hospitals, clinics, and other healthcare providers.

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

■ BUILDING CONSTRUCTION

The CAPITAL DEVELOPMENT BOARD adopted amendments to Illinois Energy Conservation Code (71 IAC 600; 39 Ill Reg 12425) effective 1/20/16 updating incorporations of the International Energy Conservation Code (IECC) from the 2012 to the 2015 edition in accordance with statute. An appendix listing provisions of the IECC that have been adapted for application in Illinois is also amended and updated with provisions related to insulation, ventilation, heating and cooling, and other systems. Those affected by this rulemaking include construction businesses and local governments that issue building permits.

Questions/requests for copies: Lisa Mattingly, CDB, 401 S. Spring St., 3rd Floor Stratton Bldg., Springfield IL 62706, 217/524-6408, fax 217/524-4208, e-mail: lisa.mattingly@illinois.gov

■ LIVESTOCK

The DEPARTMENT OF AGRICULTURE adopted amendments to Diseased Animals (8 IAC 85; 39 Ill Reg 14044), Illinois Dead Animal Disposal Act (8 IAC 90; 39 Ill Reg 14061), Swine Disease Control and Eradication Act (8 IAC 105; 39 Ill Reg 14078) and Animal Disease Laboratories Act (8 IAC 110; 39 Ill Reg 14089), all effective 1/22/16. The Part 85 amendments add polymerase chain reaction (PCR) testing as an

option for detecting paratuberculosis (Johne's Disease) and remove restrictions currently placed on entire herds when an animal tests positive, if the herd is not participating in the voluntary Johne's Disease risk management program. The animal that tests positive may be sold only for slaughter, but no restrictions will be placed on the remainder of the herd. Amendments to Part 90 permit composting of equine (horses), cervid (deer, elk) and small animal carcasses as a method of carcass disposal. The Part 105 rulemaking no longer requires pseudorabies testing for Illinois exhibition swine as long as Illinois maintains pseudorabies-free status, and allows swine from other pseudorabies-free states to be exhibited in Illinois without testing. The Part 110 amendments update DOA's schedule of fees for tests and other services. Submission fees for most tissue samples are increased from \$2 to \$5 per submission; fees for euthanasia, spinal cord removal and for multiple animals are excluded from the \$150 cap for livestock diagnostic cases; and cremation is provided only for animal carcasses weighing 200 pounds or less, among other changes. Those affected by these rulemakings include livestock owners and veterinarians.

■ MEAT INSPECTION

DOA also adopted amendments to Meat and Poultry Inspection

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Proposed Rulemakings

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systems; lights; mirrors; driver's seats; emergency exits; lettering; lights and lenses; passenger seats; steps and floor coverings; and prohibited items requirements. Procedures for driver education training and medical transport vehicles are being established, and the types of proof of ownership that are acceptable for rebuilt vehicles are clarified. Identification requirements for tow trucks are deleted.

Questions/requests for copies/comments concerning the 2 DOT rulemakings through 3/21/16: Catherine Allen, DOT, PO Box 19212, Springfield IL 62794-9212, 217/785-3031.

LABOR RELATIONS BOARD

The ILLINOIS LABOR RELATIONS BOARD proposed amendments to General Procedures (80 IAC 1200; 40 Ill Reg 2414) updating its rules to comply with the Open Meetings Act. The Board is also updating its requirements to allow for e-mail submissions. Motions filed during a hearing must be filed with the Executive Director. Rules for briefs are also updated to include post-hearing and amicus curiae briefs. Individuals and bargaining units who may have a case pending before the Board may be interested in this rulemaking.

Questions/requests for copies/comments through 3/21/16:

Sarah Kerley, ILRB, One Natural Resources Way, Springfield IL 62702, 217/785-4004, Sarah.R.Kerley@illinois.gov.

TOLLWAY SPEED LIMITS

The STATE TOLL HIGHWAY AUTHORITY proposed amendments to State Toll Highway Rules (92 IAC 2520; 40 Ill Reg 2440) increasing the speed limits on portions of the Jane Addams Memorial Tollway (I-90) and the Veterans Memorial Tollway (I-355).

Questions/requests for copies/comments through 3/21/16: David A. Goldberg, ISTHA, 2700 Ogden Ave., Downers Grove IL 60515, 630/241-6800.

ELECTRIC GENERATION

The ILLINOIS COMMERCE COMMISSION proposed amendments to Electric Interconnection of Distributed Generation Facilities (83 IAC 466; 40 Ill Reg 2300) and Electric Interconnection of Large Distributed Generation Facilities (83 IAC 467; 40 Ill Reg 2396), concerning distributed generation (DG) electric power facilities that generate electricity from multiple locations and use a variety of methods (e.g., solar, wind) rather than relying upon a single large generating station. Part 466 addresses distributed generation (DG) facilities of 10 megavolt-amperes (MVA) or smaller, while part 467 addresses DG facilities larger than 10 MVA. These rules streamline the

process by which a DG facility owner applies to a utility to connect that facility to the electric grid. Applications that do not meet the requirements for expedited approval (e.g., because they are more technically complex than routine installations) can be resubmitted for up to three additional phases of review, each of which involves an increasing intensity of technical review. These rulemakings may affect small businesses and local governments that own DG facilities, as well as small businesses and local governments that are electric utility ratepayers.

Questions/comments through 3/21/16: Elizabeth Rolando, Chief Clerk, Illinois Commerce Commission, 527 E. Capitol Ave., Springfield IL 6270, 217/782-7434. Please reference ICC Docket No. 14-0135. Copies of the rulemaking and other associated materials can be found at <http://icc.illinois.gov>.

New Rules

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Act (8 IAC 125; 39 Ill Reg 14101) effective 1/22/16 incorporating recent changes in federal labeling and inspection rules. A descriptive designation must be included in the product name on the label of any raw meat or poultry product that contains an added solution and does not meet a standard of identity. Also, raw or partially cooked needle- or blade-tenderized beef products, including those injected with a marinade or other solution, must be described as “mechanically tenderized”, “blade tenderized”, or “needle tenderized” unless they will be fully cooked or otherwise treated before sale. Meat and poultry processors will be affected by this rulemaking.

Questions/requests for copies of the 5 DOA rulemakings: Susan Baatz, DOA, State Fairgrounds, Springfield IL 62794-9281, 217/524-6905, fax 217/785-4505.

■ ELECTIONS

The STATE BOARD OF ELECTIONS adopted amendments to Established Political Party and Independent Candidate Nominating Petitions (26 IAC 201; 39 Ill Reg 12485) and New Political Party Nominating Petitions (26 IAC 202; 39 Ill Reg 12490), both effective 1/25/16, establishing ballot placement lotteries for candidates who file nominating petitions at the end of a filing period. The Part 201 rulemaking, which concerns petition filings for

candidates of established political parties and for independent candidates, provides that when more than one candidate files petitions for the same office during the last hour on the last day of filing, the petitions will be treated as if they were filed simultaneously and a random drawing will take place to determine the order of names on the ballot. The candidate whose name is drawn first will appear last on the ballot, the candidate whose name is drawn second will appear in the second to last ballot position, and so on until all names are drawn. The Part 202 rulemaking extends similar lottery provisions to petitions filed at the same time by more than one newly formed political party with a full slate of candidates for various offices. If these petitions are filed simultaneously at 8 a.m. on the first day of filing, the lottery winner will appear first on the ballot; if these petitions are filed during the last hour on the last day of filing, the winner of the drawing will appear last on the ballot. Since 1st Notice, SBEL has clarified in both Parts that petitions are not accepted after 5 p.m. on the last day of filing. Candidates for political office and local election officials will be affected by these rulemakings.

Questions/requests for copies of the 2 SBEL rulemakings: Kenneth R. Menzel, SBEL, 2329 S. MacArthur Blvd., Springfield IL 62708, 217/782-4141, fax 217/782-5959, e-mail: kmenzel@elections.il.gov

■ LIBRARIES

The SECRETARY OF STATE adopted amendments to Illinois State Library Grant Programs (23 IAC 3035; 39 Ill Reg 13147) effective 1/22/16 clarifying that per capita funds may be used for capital improvements. Public libraries with limited funds may also apply for mini-grants for construction projects. Library Grants to Veterans’ Homes will be subject to the same application, reporting and appeal process as other grants. Reporting requirements are standardized for Educate and Automation/Technology, Talking Book and Braille Service and Library Service and Technology Grants. The definition of intersystem reciprocal borrowing is being deleted and statewide reciprocal borrowing is being added. The ADA self-evaluation requirement is being removed and public libraries will no longer have to submit a list of all applicable bidding ordinances. Public libraries may also deposit grant funds in interest bearing accounts. Since 1st Notice, SOS has added reporting narrative and financial reporting requirements for grants. Local library districts may be affected by this rulemaking.

Questions/requests for copies: Joseph Natale, Illinois State Library (SOS), Gwendolyn Brooks Bldg., Springfield IL 62701-1796, 217/558-4185, jnatale@ilsos.net

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 March 8, 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.

POLLUTION CONTROL BOARD

Introduction (35 IAC 601; 39 Ill Reg 14224) proposed 11/6/15

Ownership and Responsible Personnel (35 IAC 603; 39 Ill Reg 14289) proposed 11/6/15

Permits (35 IAC 309; 39 Ill Reg 15103) proposed 11/20/15

Permits (35 IAC 602; 39 Ill Reg 14239) proposed 11/6/15

DEPT OF NATURAL RESOURCES

Conservation Reserve Enhancement Program (CREP) (17 IAC 1515;39 Ill Reg 15664)
proposed 12/11/15

Joint Committee on Administrative Rules

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Representative Greg Harris

Senator Karen McConnaughay

Representative Lou Lang

Senator Matt Murphy

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**Vicki Thomas
Executive Director**