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Joint Committee on Administrative Rules
Illinois General Assembly

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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

■ RENEWABLE ENERGY

The ILLINOIS COMMERCE COMMISSION adopted two new Parts titled Certification for New Utility-Scale Solar Installers (83 IAC 461; 41 Ill Reg 6776) and Certification for Energy Efficiency Installers (83 IAC 462; 41 Ill Reg 6778) and adopted amendments to the Part titled Renewable Portfolio Standard and Clean Coal Standard for Alternative Retail Electric Suppliers and Utilities Operating Outside Their Service Areas (83 IAC 455; 41 Ill Reg 6753), all effective 10/26/17. These rulemakings, which replace companion emergency amendments that were effective 6/1/17, implement Public Act 99-906, which amends the Public Utilities Act and other statutes related to energy and renewable resources. The new Part 461 institutes certification and annual recertification requirements for

entities that install new utility-scale solar energy projects. A fee of \$3,500 is charged for the initial certification application, but there is no charge for recertification. Since 1st Notice, references to wind projects have been removed in accordance with PA 100-16, which removed wind projects from the scope of the underlying statute. Other changes clarify the definition of a qualified person, approved training programs, and provisions regarding penalties or other sanctions for noncompliance. The new Part 462 institutes certification requirements for installers of energy efficiency devices, with an initial application fee of \$100 and no charge for recertification. Changes since 1st Notice include a provision for revoking the certification of a certificate holder that fails to submit a recertification

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Proposed Rulemakings

STATE EMPLOYEES

The DEPARTMENT OF CENTRAL MANAGEMENT SERVICES proposed amendments to Conditions of Employment (80 IAC 303; 41 Ill Reg 13465) establishing procedures for expedited hearings at Step 4 of the grievance process for State employees. (Grievances are first presented to one's immediate supervisor (Step 1), then, if not resolved, to the next highest supervisor (Step 2), the agency head (Step 3), and finally CMS (Step 4).) Hearing officers shall be appointed from the CMS Division of Legal/Labor Relations and shall have authority to accept or deny all submissions of evidence. They also may attempt to mediate the grievance with the parties prior to the hearing. The hearing officer shall make a written recommendation to the

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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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report within 130 days after the annual 6/1 deadline for recertification. Amendments to Part 455 require retail electric suppliers (RES) and utilities to procure increasing percentages of their statutorily-required renewable energy resources from wind and solar power, beginning with the current compliance year (through 5/31/18) and increasing for subsequent compliance years. An RES may meet this obligation by generating electricity with its own renewable resources, purchasing electricity generated with renewable resources in Illinois or neighboring states, or purchasing renewable energy credits. The rulemaking also addresses compliance options for alternative retail electric suppliers (ARES). Changes since 1st Notice clarify when certain renewable energy credits may be used and clarify how an RES may certify the source of its credits and verify compliance with this Part. Retail electric suppliers, solar project developers, and energy efficiency device installers are affected by these rulemakings.

Questions/requests for copies of the 3 ICC rulemakings: Brian W. Allen, ICC, 527 E. Capitol Ave., Springfield IL 62701, 217/558-2387.

IDENTIFICATION CARDS

The SECRETARY OF STATE adopted amendments to Issuance of Licenses (92 IAC 1030; 41 Ill Reg 8268), effective

10/30/17, establishing procedures under which SOS will issue identification cards to youths under guardianship or custody of the Department of Children and Family Services (e.g., foster children) and to persons recently released from the Department of Corrections or the Department of Juvenile Justice. Those eligible for the ID cards include youths under temporary protective DCFS custody, those placed in custody or guardianship via court order, and children whose parents have signed an adoptive surrender or voluntary placement agreement with DCFS.

TRAFFIC OFFENSES

SOS also adopted amendments to the Part titled Cancellation, Revocation or Suspension of Licenses or Permits (92 IAC 1040; 41 Ill Reg 7809) effective 10/30/17 that add driving under the influence of cannabis (Tetrahydrocannabinol concentration within 2 hours of driving) to the list of traffic offenses for which license sanctions can be imposed. Other added traffic offenses include aggravated speeding in a construction zone, failure to reduce speed and change lanes when approaching a disabled vehicle, and other violations of the Cannabis Control Act. Penalties for possession of cannabis while operating a motor vehicle are revised in accordance with statute.

Questions/requests for copies of the 2 SOS rulemakings: Jennifer

Egizii, SOS, 2701 South Dirksen Parkway, Springfield IL 62723, 217/ 557-4462, jegizii@ilsos.net.

MATERNAL/CHILD HEALTH

The DEPARTMENT OF HUMAN SERVICES adopted an amendment to Maternal and Child Health Services Code (77 IAC 630; 41 Ill Reg 8212), effective 10/26/17, replacing an emergency amendment effective 6/28/17. The amendment allows use of federal maternal and child health grant program funds toward “indirect costs” of serving the target population (pregnant women, infants, and children), such as administrative costs. A change since 1st Notice clarifies that indirect costs are defined in the Grant Accountability and Transparency Act. Those affected by this rulemaking include county health departments, federally qualified health centers, universities, hospitals, and other organizations that participate in the grant program.

Questions/requests for copies: Tracie Drew, DHS, 100 S. Grand Ave. East, 3rd Fl., Springfield IL 62762, 217/785-9772.

INSURANCE

The DEPARTMENT OF INSURANCE adopted amendments to the Part titled Regulation of Insurers (50 IAC 652; 41 Ill Reg 4592), effective 10/27/17, implementing Public Act 98-609, concerning

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Proposed Rulemakings

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Director of CMS within 5 working days after the hearing; the Director may approve, disapprove or modify the recommendation, and the Director's decision is final.

Questions/requests for copies/comments through 12/27/17: Matt Goldie, CMS, 100 W. Randolph St., Suite 4-500, Chicago IL 60601, 312/793-3736.

CMS also proposed amendments to Pay Plan (80 IAC 310; 41 Ill Reg 13473) reflecting a recent decision by the Illinois Labor Relations Board to exclude the Internal Security Investigator I and II titles from bargaining unit

representation. The rulemaking removes these titles from the list of divided classes (titles represented by more than one bargaining unit), repeals an appendix listing their bargaining unit pay rates (Metropolitan Alliance of Police, RC-090), and updates the merit compensation system (MS) salary ranges assigned to these titles.

Questions/requests for copies/comments through 12/27/17: Jason Doggett, CMS, 503 Stratton Bldg., Springfield IL 62706, 217/524-1055, fax 217/558-4497, e-mail: CMS.PayPlan@illinois.gov

MEDICAID FRAUD

The DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES proposed amendments to General Administrative Provisions (89 IAC 101; 41 Ill Reg 13526) and Medical Payment (89 IAC 140; 41 Ill Reg 13532) updating contact information for the HFS Office of Inspector General. The Part 101 amendments also update timeframes for the HFS-OIG to acknowledge (within 45 days; currently 30 days) and evaluate (within 90 days; currently 60 days) reports of suspected financial or benefit fraud. Programs administered by the Department on Aging are also added to the list of programs and agencies in Part 101 for which the HFS-OIG has authority to investigate fraud allegations.

Questions/requests for copies/comments on the 2 HFS

rulemakings through 12/27/17: Mollie Zito, HFS, 201 S. Grand Ave. East, 3rd Fl., Springfield IL 62763-0002, 217/782-1233, HFS.Rules@illinois.gov

AFFORDABLE HOUSING

The ILLINOIS HOUSING DEVELOPMENT AUTHORITY proposed amendments to State Housing Appeals Board (47 IAC 395; 41 Ill Reg 13556) implementing recent changes to the Affordable Housing Planning and Appeal Act. The amendments update IHDA's office address, require the Board to hold regular meetings at least annually (currently, quarterly), and allow regular meetings to be canceled by the Chairman if there is no business to be presented to the Board. Notice of a rescheduled meeting must be given in accordance with the Open Meetings Act. Members of the Board may not participate in any hearing or other proceeding regarding an affordable housing development in which the member has a direct or indirect financial interest. Other provisions address various aspects of the appeal and hearing process. Those affected by this rulemaking include local governments and small businesses or non-profits seeking to build affordable housing developments.

Questions/requests for copies/comments through 12/27/17: Karri E. Kartes, IHDA, 111 E. Wacker Dr., Suite 1100, Chicago IL 60601.

New Rules

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registration reporting of Illinois domestic insurance companies. The rulemaking requires affected insurers to file their annual enterprise risk reports no later than May 1; outlines how incorporations by reference and summaries of other documents may be included in these reports; and provides an example of the form to be used. It also adds a severability clause allowing other Sections or provisions of this Part to remain in effect if any Section or provision is held invalid by a court.

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New Rules

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DOI also repealed the Part titled Adoption by Fraternal Benefit Societies of CSO 1958 Mortality Table (50 IAC 1706; 41 Ill Reg 4960) effective 10/27/17. This Part implemented portions of the Illinois Insurance Code that were repealed in 1986.

Questions/requests for copies of the 2 DOI rulemakings: Eric Moser (Part 652, 217/557-3759) or Sara Ross (Part 1706, 782-9760), DOI, 320 W. Washington St., Springfield IL 62767.

IEMA REPEALERS

The ILLINOIS EMERGENCY MANAGEMENT AGENCY repealed the Parts titled Fees for Analytical Testing of Community Drinking Water Supply Samples for Radionuclides (32 IAC 336; 41 Ill Reg 7075) and Certification and Operation of Radiochemistry Laboratories (32 IAC 406; 41 Ill Reg 7082), effective 10/30/17, since IEMA no longer maintains a laboratory certified to test drinking water samples and no longer has personnel certified to

audit other laboratories performing these tests.

Questions/requests for copies of the 2 IEMA rulemakings: Traci Burton, IEMA, 1035 Outer Park Drive, Springfield IL 62704, 217/785-9860.

NO SECOND NOTICES

JCAR did not receive any Second Notices in time for publication in this week's *Illinois Register*.

JCAR Meeting Action

At its 11/7/17 meeting, the Joint Committee on Administrative Rules approved the following actions:

OBJECTIONS

JCAR objects to the Department of Children and Family Services' rulemaking titled Appeal of Child Abuse and Neglect Investigation Findings (89 IAC 336; 40 Ill Reg 16103) because DCFS has not responded to public comment or to JCAR inquiries regarding this rulemaking in a timely manner and in a way that would adequately explain DCFS' position on outstanding substantive issues.

JCAR objects to the Department of Commerce and Economic Opportunity's emergency rulemaking titled Economic Development for a Growing Economy Program (EDGE) (14 IAC 527; 41 Ill Reg 13104) because the Department, in its definition of "Underserved Area", applied a 2-year look back to the criteria regarding a community's extent of participation in the federal Free Lunch or Reduced-Price Meal program and SNAP, thus exceeding its statutory authority.

EXTENSIONS

JCAR and the respective agencies agreed to extend Second Notice periods for the following rulemakings an additional 45 days:

Board of Higher Education, Dual Credit Courses (23 IAC 1009; 41 Ill Reg 7259), Program Review (Private Colleges and Universities) (23 IAC 1030; 41 Ill Reg 7266), Approval of New Units of Instruction, Research and Public Service at Public Institutions (23 IAC 1050; 41 Ill Reg 7319) and Private Business and Vocational Schools (23 IAC 1095; 41 Ill Reg 7349), all proposed 6/30/17

Illinois Gaming Board, Riverboat Gambling (86 IAC 3000; 41 Ill Reg 7728) proposed 7/7/17

Illinois State Toll Highway Authority, State Toll Highway Rules (92 IAC 2520; 41 Ill Reg 11225) proposed 9/8/17

Department of Financial and Professional Regulation, Licensing and Registration of Pawnbrokers (38 IAC 360; 41 Ill Reg 7385) proposed 6/30/17