

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

■ SCHOLARSHIP TAX CREDITS

The DEPARTMENT OF REVENUE adopted a new Part titled Invest in Kids Act (86 IAC 1000; 42 Ill Reg 7448), effective 10/31/18, implementing Public Act 100-465, which grants income tax credits for tax years 2017 through 2022 to taxpayers who make qualified contributions to approved scholarship granting organizations (SGOs) for scholarships to students attending non-public schools recognized by the State Board of Education. (This rulemaking replaces emergency rules that expired on 4/11/18.) A tax credit equal to 75% of the taxpayer's total qualified SGO contributions during a tax year may be claimed, up to a maximum annual credit of \$1 million. DOR may award a maximum of \$75 million in credits per tax year. Contributions may be directed to a particular school or subset of

schools, but may not be directed to particular students or groups of students. The credit cannot be claimed for any contribution for which the taxpayer also claims a federal income tax deduction. In order to claim tax credit for a contribution, the taxpayer must apply for and receive a contribution authorization certificate from DOR before making the contribution. SGOs

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must also receive approval from DOR to issue Certificates of Receipt to taxpayers for qualified contributions before they can accept such contributions and begin awarding scholarships. Other provisions address the criteria that SGOs must follow in awarding scholarships; determination of scholarship amounts; responsibilities of

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Proposed Rulemakings

DRIVER'S LICENSES

The SECRETARY OF STATE proposed amendments to Issuance of Licenses (92 IAC 1030; 42 Ill Reg 20247) providing Illinois driver's license/ID card applicants and holders the option of obtaining a license or card compliant with the federal REAL ID Act. (REAL ID compliant licenses and ID cards bear marks approved by the U.S. Department of Homeland Security and may be used for boarding domestic commercial airline flights, entering secure federal facilities, and other purposes.) To obtain a REAL ID compliant license or card, the applicant must meet all criteria for a standard license plus the following: a photograph must be taken (religious exceptions permitted for standard licenses do not apply); the applicant's Social Security number must be

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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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qualified schools that accept scholarship students; annual recertification of SGOs; and electronic notice and filing requirements. Recognized non-public schools, scholarship awarding organizations, and businesses or non-profits that contribute to SGOs are affected.

Questions/requests for copies: Richard S. Wolters, DOR, 101 W. Jefferson St., Springfield IL 62794, 217/782-2844.

■ CHILD CARE INSTITUTIONS

The DEPARTMENT OF CHILDREN AND FAMILY SERVICES adopted amendments to Licensing Standards for Foster Family Homes (89 IAC 402; 42 Ill Reg 1942), Licensing Standards for Group Homes (89 IAC 403; 42 Ill Reg 1957) and Licensing Standards for Child Care Institutions and Maternity Centers (89 IAC 404; 42 Ill Reg 1970), all effective 10/31/18, implementing Public Act 99-839. The PA and all three rulemakings establish the “reasonable and prudent parent standard” as the criteria for foster parents or staff at DCFS licensed child care institutions to use in deciding whether to allow a youth to participate in extracurricular, enrichment, cultural or social activities (e.g., school sports). Additionally, the Part 403 and 404 rulemakings implement revisions to federal law concerning the definitions of “appropriate activities” and “child with a disability”. Foster

parents and certain child care institutions are affected by these rulemakings.

Questions/requests for copies of the 3 DCFS rulemakings: Jeff Osowski, DCFS, 406 E. Monroe St., Station #65, Springfield IL 62701, 217/524-1983, TDD 217/524-3715, fax 217/557-0692, e-mail: cfpolicy@idcfs.state.il.us

■ DRIVER’S LICENSES

The SECRETARY OF STATE adopted amendments to Issuance of Licenses (92 IAC 1030; 42 Ill Reg 14350) effective 10/30/18, affecting the third-party certification program for commercial driver’s license (CDL) testing and licensure. Third-party certifying entities must notify SOS of its CDL testing appointments, including the dates, times and locations of each test, at least 2 business days prior to each test. Failure to maintain required testing records, or maintenance of incomplete records, will be deemed evidence that required testing was not administered. SOS may (formerly, shall) annually re-examine a percentage of certified employees or members of a third-party certifying entity, and safety officers who have not administered at least 10 skills tests in a calendar year may take a refresher course in lieu of having SOS observe the officer’s administration of a skills test. The rulemaking also exempts active duty military personnel who have completed a training course certified by the Motorcycle Safety

Foundation within the previous year from road testing prior to issuance of a Class M or L (motorcycle or motor-driven cycle) license. Since 1st Notice, SOS added specific dimensions for required skills tests and topics to be covered in refresher training; required (rather than permitting) SOS to conduct inspections and covert skills testing of sample drivers at least every 2 years; and updated references to federal regulations. Those affected by this rulemaking include third-party CDL certifying entities and their employees.

Questions/requests for copies: Jennifer Egizii, SOS, 2701 S. Dirksen Pkwy., Springfield IL 62723, 217/557-4462.

■ NOISE POLLUTION

The POLLUTION CONTROL BOARD adopted amendments to General Provisions (35 IAC 900; 42 Ill Reg 5946), Sound Emission Standards and Limitations for Property Line-Noise Sources (35 IAC 901; 42 Ill Reg 5967), Sound Emission Standards and Limitations for Motor Vehicles (35 IAC 902; 42 Ill Reg 5988) and Measurement Procedures for the Enforcement of 35 Ill. Adm. Code 900 & 901 (35 IAC 910; 42 Ill Reg 6001), all effective 11/1/18. Amendments to Part 900 add or clarify definitions of terms and update incorporations by reference related to PCB’s noise pollution rules. The Part 901

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Proposed Rulemakings

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verified and re-verified upon every renewal; and passports and birth certificates presented as identification documents will be electronically verified. Documents submitted for purposes of obtaining a REAL ID compliant license will be photocopied or scanned and the copies maintained by SOS. Limited term REAL ID compliant licenses or cards may be issued to persons who are not U.S. citizens or permanent residents. Standard licenses/ID cards that do not meet REAL ID criteria remain available, but will be marked "Federal Limits Apply" and may not be accepted for air travel, etc. The rulemaking also allows standard and REAL ID compliant licenses that have been expired for less than one year to be renewed upon presentation of the expired license, without requiring other documentation, if the holder is a U.S. citizen. Noncitizens must present current proof of lawful resident status in order to renew a REAL ID compliant license or a visa-status Temporary Visitor's Driver's License (TVDL). Documents required to obtain a REAL ID compliant license are listed and the list of documents required to obtain a standard license or TVDL is also updated.

■ DRIVING SCHOOLS

SOS also proposed an amendment to Commercial Driver Training Schools (92 IAC 1060; 42 Ill Reg 20315) removing

■ SOS GRANT PROGRAMS

The SECRETARY OF STATE will hold a public hearing on a proposed new Part titled Grant Application and Award Procedures – Census Participation and Immigrant Community Assistance Grants (89 IAC 1500; 42 Ill Reg 18440), **Monday, Nov. 26, at 11 a.m.** in Room C-600 of the Michael A. Bilandic Building, 160 N. La Salle St., Chicago. The proposed rulemaking and a companion emergency rule, effective 9/25/18, implement two grant programs for which SOS was appropriated funds in the Fiscal Year 2019 State budget: \$1.5 million for grants to encourage federal census participation and \$2.5 million for grants to assist immigrant communities in navigating government services.

the requirement that an applicant for the position of instructor at a commercial driver training school pass a vision screening and road test. Because driving school instructors are already required to hold a valid driver's license, for which a vision screening would normally be required at renewal and a road exam would be required for initial licensure, and must also have a clean driving record (no more than 2 moving violations or 1 violation causing an accident in the 24 months prior to application) SOS determined that this requirement was unnecessary. Commercial driving schools will be affected.

SOS Public Hearing

The rulemakings establish the application process for community organizations seeking either or both types of grants, which will be awarded on a competitive basis. Non-profit organizations, corporations and partnerships seeking grant funds are affected. Persons interested in testifying at the hearing must send their name and the name of the organization they represent in advance to SBricevich@ilsos.net. One representative of each group may speak for a maximum of 3 minutes.

Questions/requests for copies/comments on the proposed rulemaking through 11/26/18: Amy Williams, SOS, 298 Howlett Bldg., Springfield IL 62756, 217/785-3094, Awilliams3@ilsos.net

Questions/requests for copies/comments on the 2 SOS rulemakings through 12/31/18: Jennifer Egizii, SOS, 2701 S. Dirksen Pkwy., Springfield IL 62723, 217/557-4462.

■ STUDENT LOANS

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION, Division of Banking, proposed a new Part titled Student Loan Servicing Rights Act (38 IAC 101; 42 Ill Reg 20189) implementing

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New Rules

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amendments remove obsolete compliance dates and specific provisions for sites that are no longer in operation. Amendments to Part 902 remove obsolete provisions and reference federal regulations concerning noise limitations on motor vehicles, and the Part 910 amendments update definitions, references and sound measurement procedures. Businesses subject to the noise pollution standards in these Parts may be affected.

Questions/requests for copies of the 4 PCB rulemakings: Tetyana Rabczak, PCB, 100 W. Randolph St., Suite 11-500, Chicago IL 60601, 312/814-5053, Tetyana.Rabczak@illinois.gov. Please reference Docket R18-19.

■ INSURANCE

The DEPARTMENT OF INSURANCE adopted

amendments to Insurance Data Reporting Requirements (50 IAC 4203; 41 Ill Reg 15485), effective 11/1/18, updating data collection procedures for reports that are now submitted to DOI electronically instead of by mail. The definitions of certain data elements have also been revised for consistency among insurers. DOI also adopted amendments to Registration of Worker's Compensation Utilization Review Organizations (50 IAC 2905; 41 Ill Reg 15182), Managed Care Reform & Patient Rights (50 IAC 4520; 42 Ill Reg 12511) and Health Carrier External Review (50 IAC 4530; 42 Ill Reg 12520), all effective 11/1/18. The Part 2905 and 4520 rulemakings recognize the Accreditation Association for Ambulatory Health Care as an accrediting organization for utilization review providers. Amendments to Part 4530 change the annual deadline for health carriers to submit external review reports to DOI from March 1 to June 1.

Questions/requests for copies of the 4 DOI rulemakings: Part 4203, C.J. Metcalf (217/558-0853); Parts 2905, 4520 and 4530, Jennifer Reif (217/577-7311), DOI, 320 W. Washington St., Springfield IL 62767.

BICYCLE SAFETY

The DEPARTMENT OF TRANSPORTATION adopted amendments to Bicycle Reflex Reflector Requirements (92 IAC 426; 42 Ill Reg 13446), effective 10/30/18, that repeal obsolete State regulations and adopt federal regulations (16 CFR 1512) as DOT's requirements for bicycle reflectors and similar materials required under the Illinois Vehicle Code.

Questions/requests for copies: Greg Stucka, DOT, 2300 S. Dirksen Pkwy, Room 317, Springfield IL 62764.

Proposed Rulemakings

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Public Act 100-540. The new Part implements a system of licensing and fees for financial institutions that issue student loans. Licenses are renewed annually at a fee of \$1,000. A \$500 fee is charged for notices of change of ownership and a fee of \$50 is charged for notices of a change of name, address, or officers/directors. Additional fees are charged for examinations and

for hearings. All licensees must maintain secured-access websites, allow student loan borrowers to access their account information via the website, and allow same-day crediting of electronic payments if made prior to the posted cut-off time. Licensees must also provide borrowers information concerning the application process, affordable alternative repayment options, loan forgiveness benefits, and other

issues. Other provisions address records retention, audits, and hearing procedures. Financial institutions that issue student loans are affected by this rulemaking.

Questions/requests for copies/comments through 12/31/18: Craig Cellini, DFPR, 320 W. Washington St., 3rd Fl., Springfield

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Proposed Rulemakings

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IL 62786, 217/785-0813, fax 217/557-4451.

■ MEAT INSPECTION

The DEPARTMENT OF AGRICULTURE proposed amendments to Meat and Poultry Inspection Act (8 IAC 125; 42 Ill Reg 20174) incorporating federal regulations that were effective 7/30/18. The federal regulations eliminate outdated requirements that pork and pork products be treated to destroy trichinosis bacteria and consolidate other regulations regarding canned food products containing meat or poultry.

Questions/requests for copies/comments through 12/31/18: Albert Coll, DOA, State Fairgrounds, PO Box 19821, Springfield IL 62974-9281, 217/782-5051, Albert.coll@illinois.gov

INSURANCE

The DEPARTMENT OF INSURANCE proposed amendments to Health Carrier External Review (50 IAC 4530; 42 Ill Reg 20226) removing an outdated biographical affidavit form that has been replaced by a National Association of Insurance Commissioners (NAIC) standard affidavit form which is available through the DOI website. DOI also proposed

amendments to Construction and Filing of Life Insurance and Annuity Forms (50 IAC 1405; 42 Ill Reg 20207) removing outdated or duplicative provisions, including a provision that, as worded, would require an insurer to continue offering coverage under a rider even if the policy to which the rider was attached lapses.

Questions/requests for copies/comments on the 2 DOI rulemakings through 12/31/18: Susan Anders, DOI, 320 W. Washington St., Springfield IL 62767.

NO SECOND NOTICES THIS WEEK

JCAR Meeting Action

At its 11/13/18 meeting, the Joint Committee on Administrative Rules took the following actions:

OBJECTION AND FILING PROHIBITION

JCAR objected to, and prohibited the filing of, the Property Tax Appeal Board rulemaking titled Practice and Procedure for Appeals Before the Property Tax Appeal Board (86 IAC 1910; 42 Ill Reg 3862) because the Board has no statutory authority to take the action embodied in this rulemaking (prohibiting members of the General Assembly from taking part in representation cases before PTAB). JCAR finds that this rulemaking represents a severe threat to the public interest.

OBJECTIONS

JCAR objected to the Pollution Control Board rulemaking titled Emissions Reduction Market System (35 IAC 205; 42 Ill Reg 6572) because it sets a retroactive sunset date for the system that predates any possible adoption date for this rulemaking. Additionally, JCAR objected to the

Illinois Environmental Protection Agency's implementation of the policy stated in this rulemaking prior to its adoption by PCB.

JCAR objected to the Department of Human Services' use of emergency rulemaking to adopt rules titled Temporary Assistance for Needy Families (89 IAC 112; 42 Ill Reg 18495) because Section 4-2(h) of the Public Aid Code prohibits the use of emergency rulemaking to increase TANF grants and PA 100-587, which requires this increase in TANF grants, did not specifically authorize DHS to use emergency rulemaking for that purpose.

RECOMMENDATIONS

With respect to the Secretary of State emergency rule titled Grant Application and Award Procedures-Census Participation and Immigrant Community Assistance Grants (89 IAC 1500; 42 Ill Reg 18511),

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JCAR Meeting Action

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JCAR recommended that, when this emergency rule is replaced by permanent rule, the permanent rule contain more specific information about the administration of these grants, including, but not limited to, the application evaluation and approval process, eligibility to apply for the grant, and grant accountability standards.

With respect to the Pollution Control Board rulemaking titled Emissions Reduction Market System (35 IAC 205; 42 Ill Reg 6572) JCAR recommended that, if PCB and the Illinois Environmental Protection Agency believe this program is no longer warranted, they should seek repeal of Section 9.8 of the Environmental Protection Act, which requires IEPA to design and carry out an emissions market program.

With respect to the Health Facilities and Services Review Board rulemaking titled Processing, Classification Policies and Review Criteria (77 IAC 1110; 42 Ill Reg 16119), JCAR recommended that, in the future, the Board be more timely in reflecting statutory changes in the related rules. (The rulemaking implements a Public Act that became effective in 2012.)

EXTENSIONS

JCAR and the respective agencies agreed to extend Second Notice for the following rulemakings an additional 45 days. These rulemakings will be reconsidered at the December 11 JCAR meeting.

Department of Human Services, Medicaid Community Mental Health Services Program (Repealer) (59 IAC 132; 42 Ill Reg 7322) and Medicaid Community Mental Health Services Program (New Part) (59 IAC 132; 42 Ill Reg 7408), proposed 4/20/18

Department of Natural Resources, Public Use of State Parks and Other Properties of the Department of Natural Resources (17 IAC 110; 42 Ill Reg 7905), proposed 5/11/18

Department of Financial and Professional Regulation, Optometric Practice Act of 1987 (68 IAC 1320; 41 Ill Reg 15448), proposed 12/29/17

Joint Committee on Administrative Rules

Senator Don Harmon
Senator Tony Muñoz
Senator Sue Rezin
Senator Paul Schimpf
Senator Ira Silverstein
Senator Chuck Weaver

Representative Peter Breen
Representative Barbara Flynn Currie
Representative Tom Demmer
Representative Greg Harris
Representative André Thapedi
Representative Keith Wheeler

Vicki Thomas
Executive Director