

*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

### UNIVERSITIES EMPLOYMENT

The STATE UNIVERSITIES CIVIL SERVICE SYSTEM adopted amendments to the Part titled State Universities Civil Service System (80 IAC 250; 41 Ill Reg 15224) effective 12/3/18, making permanent provisions for employee furlough programs that originally were valid only through 9/30/17. Furloughs (temporary non-duty, unpaid status due to lack of funds) may not be used to impose permanent shutdowns, as substitutes for reduced or part-time employment, or as disciplinary measures. Student appointments shall be furloughed for the same amount of time that a traditional civil service employee would be furloughed, and temporary or extra help appointments shall be terminated, unless exceptions are granted for the following reasons: the affected positions

receive mandated funding, or are considered essential to health, welfare, public safety or maintenance of facilities; or the affected students' positions are part of their financial aid package or earn them academic credit. Furloughed employees will continue to accrue seniority and receive benefits such as sick leave, health insurance and vacation time. An employing university must report the following information to the SUCSS office within 10 calendar days after implementing a furlough program: number of furlough days being implemented; how many employees and what classifications of employees are affected; the approximate amount of funds saved due to the furlough; the impact on non-furloughed employees; an explanation of the temporary

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## Proposed Rulemakings

### OIL & GAS WELLS

The DEPARTMENT OF NATURAL RESOURCES proposed amendments to the Part titled The Illinois Oil and Gas Act (62 IAC 240; 42 Ill Reg 23546) aligning the Part more closely with the Act. The rulemaking institutes notices of noncompliance for oil and gas permittees who are not fully compliant with the Act or the Part due to unintentional violations not causing significant environmental harm (currently, these do not require a formal notice of violation, but can be appended to another written notification or report). A permittee may request an extension of time to abate a violation or instance of noncompliance, which cannot exceed 180 (currently, 120) days from the date the noncompliance was determined. For more serious violations resulting from

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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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circumstances prompting the furlough; and other documentation requested by SUCSS. Changes since 1<sup>st</sup> Notice clarify that the intent of furlough programs is to avoid permanent or widespread layoffs, and require that an employer demonstrate “significant financial distress”, which includes elimination of or severe reductions to State appropriations, or budgetary reductions due to fund sweeps by the Governor or General Assembly. Other changes state that student employees shall not be used to replace status employees who are being furloughed and clarify that these rules do not supersede any duty to bargain under a collective bargaining agreement.

Questions/requests for copies: Jeff Brownfield, SUCSS, 1717 Philo Rd., Suite 24, Urbana IL 61802, 217/278-3150, [jeffb@sucss.illinois.gov](mailto:jeffb@sucss.illinois.gov).

### DCEO REPEALERS

The DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY repealed the Parts titled Metropolitan Pier and Exposition Authority or Rosemont Incentive Fund Grant Program (14 IAC 511; 42 Ill Reg 8653), Illinois Network Opportunity Program (14 IAC 530; 42 Ill Reg 8666), Employee Ownership Assistance Program (14 IAC 1230; 42 Ill Reg 8670), and Uniform Fiscal and Administrative Standards for the Job Training Partnership Act (56

IAC 2630; 42 Ill Reg 10723), all effective 12/4/18. These rulemakings eliminate rules for obsolete grant, loan and job training programs that have been abolished or replaced in State or federal law.

Questions/requests for copies of the 4 DCEO rulemakings: Jolene Clarke, DCEO, 500 E. Monroe St., Springfield IL 62701, 217/557-1820, fax 217/524-3701, [jolene.clarke@illinois.gov](mailto:jolene.clarke@illinois.gov)

### FOOD SERVICE

The DEPARTMENT OF PUBLIC HEALTH repealed the Part titled Food Service Sanitation Code (77 IAC 750; 42 Ill Reg 9077) and adopted a new Part titled Food Code (77 IAC 750; 42 Ill Reg 9136), both effective 12/7/18. The new Part implements PA 100-194 with regard to certification of food service sanitation managers; updates the State’s food establishment inspection report to align more closely with the federal Food and Drug Administration’s model report; and removes numerous provisions in the current Part that have either been repealed or replaced by other State or federal rules. Food service establishments, their employees, and local health departments are affected by this rulemaking.

Questions/requests for copies: Erin Conley, 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)

### WASTE DISPOSAL

The POLLUTION CONTROL BOARD adopted amendments to Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities (35 IAC 725; 42 Ill Reg 12003, Standards for Owners and Operators of Hazardous Waste Facilities Operating Under a RCRA Standardized Permit (35 IAC 727; 42 Ill Reg 11136), and Underground Injection Control Operating Requirements (35 IAC 730; 42 Ill Reg 12549), all effective 11/19/18. These rulemakings are part of a consolidated PCB docket correcting and updating hazardous waste handling, storage, transport and disposal rules to align with federal EPA regulations approved during 2016 and 2017. Small businesses and small municipalities that collect, transport, store or dispose of hazardous waste may be affected by these rulemakings.

Requests for copies of the 3 PCB rulemakings: Michael J. McCambridge, PCB, 100 W. Randolph St., Suite 11-500, Chicago IL 60601, 312/814-6924, [michael.mccambridge@illinois.gov](mailto:michael.mccambridge@illinois.gov). Please reference consolidated docket R17-14/R17-15/R18-11/R18-31. Copies of the Board’s opinion and order can be obtained by calling 312/814-3620 or downloaded from the Board’s website at <http://www.ipcb.state.il.us>.

# Proposed Rulemakings

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order or a final judicial decision upholding the order. Penalties will be assessed from the date that a permittee knew or should have known of the violation. DNR will also have discretion to impose civil penalties for certain violations (e.g., drilling a well without a permit or permit transfer, failing to report a crude oil spill or natural gas release) even if the violation is abated within the required timeframe. Provisions setting dollar amounts for penalties based on the type of violation and number of occurrences are being removed. Provisions allowing existing wells to be moved up to 30 feet without prior DNR approval are also being removed, but a proposed drilling location can be moved up to 60 feet without prior DNR approval before drilling commences. Other changes clarify processes for settlement agreements, enforcement and temporary relief hearings (which can be conducted by telephone or video conference), orders to cease operations, and obtaining permission to use alternative construction methods for containment dikes. Those affected by this rulemaking include oil and gas drilling companies and holders of oil and gas permits.

## ■ COAL MINING

DNR also proposed amendments to General Definitions (62 IAC 1701; 42 Ill Reg 23587), Requirements for Permits and Permit Processing

(62 IAC 1773; 42 Ill Reg 23624), Revision; Renewal; and Transfer, Assignment or Sale of Permit Rights (62 IAC 1774; 42 Ill Reg 23636), and Permit Applications—Minimum Requirements for Legal, Financial, Compliance, and Related Information (62 IAC 1778; 42 Ill Reg 23643), and proposed a new Part titled Exemption for Coal Extraction Incident to Government-Financed Highway or Other Construction (62 IAC 1703; 42 Ill Reg 23620). The Part 1701 amendments add or amend various definitions, including a definition of government-financed construction (a project that is 50% or more funded by money appropriated from a unit of government or one of its departments, or obtained via general revenue bonds). The new Part 1703 implements PA 100-936, which provides that incidental extraction of coal performed only to enable a government-financed construction project to begin or continue is exempt from the requirements of the Surface Coal Mining Land Conservation and Reclamation Act and its related rules. However, the entity extracting the coal must keep the documentation required by federal law on site if more than 250 tons of coal are extracted or if the extraction operation affects more than 2 acres. Amendments to Part 1773 remove provisions stating that a surface mining permit will not be issued if any person who owns or controls an applicant entity is currently in violation of State or federal laws

or rules concerning surface coal mining and reclamation. (Only violations by the applicant will be considered.) The Part 1774 rulemaking provides that a significant revision to a surface mining permit is required when the use of any land covered by the permit is changed to residential, industrial/commercial, recreation, or developed water resources. (Currently, revision is required if the land use change affects more than 5% of the acreage covered by the permit.) Finally, the Part 1778 rulemaking sets forth the process of permit application and information that must be included on an application, including information regarding the suspension or revocation of any other surface coal mining permits or forfeiture of any performance bond within the past 5 years. Those affected by these rulemakings include units of local government and businesses seeking surface coal mining permits.

Questions/requests for copies/comments on the 6 DNR rulemakings through 2/4/19: Part 240, Daniel Brennan (217/782-0179); Parts 1701 through 1778, Amy Oakes (217/558-6622), DNR, One Natural Resources Way, Springfield IL 62702-1271.

## ■ ABUSE INVESTIGATIONS

The DEPARTMENT OF HUMAN SERVICES proposed amendments to Office of

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# Proposed Rulemakings

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Inspector General Investigations of Alleged Abuse or Neglect in State-Operated Facilities and Community Agencies (59 IAC 50; 42 Ill Reg 23535) to align the Part with recent statutory changes (Public Acts 100-943, 100-991 and 100-1098). The rulemaking requires all OIG investigators to receive ongoing training regarding the requirements of this Part, as well as the DHS rules for licensure of Community Integrated Living Arrangements (59 IAC 115), medication administration in community settings (59 IAC 116), and certification standards for developmental training programs (59 IAC 119). With regard to investigation reports, the victim or the victim's guardian in substantiated cases of abuse or neglect shall also receive a redacted copy of the OIG report (currently, the named perpetrator must receive a copy). Requests for reconsideration or clarification of OIG findings will be subject to a multi-layer review that must include at least one reviewer who was not involved in the original investigation or approval of the original report. If the OIG determines that further investigation is necessary, the investigation shall be reopened (currently, an amended report shall be issued). Unredacted investigative reports and raw data may be shared, upon written request, with local law enforcement, state's attorneys offices and coroner's offices. Agencies providing care to the

mentally ill or developmentally disabled, and units of local government, may be affected.

Questions/requests for copies/comments through 2/4/19: Tracie Drew, DHS, 100 S. Grand Ave. East, 3<sup>rd</sup> Fl., Springfield IL 62762, 217/785-9772.

## ■ UNEMPLOYMENT BENEFITS

The DEPARTMENT OF EMPLOYMENT SECURITY proposed amendments updating the following 16 Parts: General Application (56 IAC 2712; 42 Ill Reg 23311); Interstate and Federal Cooperation (56 IAC 2714; 42 Ill Reg 23318); Claims, Adjudication, Appeals and Hearings (56 IAC 2720; 42 Ill Reg 23324); Administrative Hearings and Appeals (56 IAC 2725; 42 Ill Reg 23370); Wages (56 IAC 2730; 42 Ill Reg 23379); Employment (56 IAC 2732; 42 Ill Reg 23386); Notices, Records, Reports (56 IAC 2760; 42 Ill Reg 23408); Payment of Unemployment Contributions, Interest and Penalties (56 IAC 2765; 42 Ill Reg 23419); Determination of Unemployment Contributions (56 IAC 2770; 42 Ill Reg 23443); Recovery of Benefits (56 IAC 2835; 42 Ill Reg 23452); Claimant's Reason for Separation from Work (56 IAC 2840; 42 Ill Reg 23457); Claimant's Availability for Work, Ability to Work and Active Search for Work (56 IAC 2865; 42 Ill Reg 23462); Alien Status (56 IAC 2905; 42 Ill Reg 23491); Academic Personnel (56 IAC 2915; 42 Ill Reg 23496);

Disqualifying Income and Reduced Benefits (56 IAC 2920; 42 Ill Reg 23504); and General Provisions (56 IAC 2960; 42 Ill Reg 23525). Amendments to Part 2712 remove obsolete references to the former DES Board of Review Reporter (a complete printed compilation of all Board of Review decisions) and update information for obtaining the shorter Digest of Adjudication Precedents. The Part 2714 rulemaking makes technical updates to document names and cross references. The Part 2720 amendments provide for electronic delivery of notices, decisions and orders, if agreed to by the parties; update to reflect online claim filing procedures; explain when certain hearsay statements may be considered by a referee; clarify the process for submitting written argument or additional evidence to the Board of Review; and update obsolete references. Amendments to Part 2725 clarify how time will be computed for electronic notices and that parties will normally appear for benefit hearings by phone unless at least one party has elected otherwise. Part 2730 is amended to clarify the rules for determining when sick pay must be reported as wages and for determining the employer with respect to sick pay administered by third parties. The Part 2765 rulemaking clarifies the circumstances under which an employer's first penalty may be waived. Amendments to Parts 2732, 2760, 2770, 2835, 2840,

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## Proposed Rulemakings

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2905, 2915, and 2960 update obsolete language; the Part 2835 rulemaking additionally allows recoupment requests to be submitted online or through the Teleserve system. Amendments to Part 2865 reflect the current process of certifying for benefits by phone or online. The Part 2920 rulemaking clarifies that Social Security retirement and disability benefits are not disqualifying income. Small businesses may be affected.

Questions/requests for copies/comments concerning the 16 DES rulemakings through 2/4/19: Thomas D. Chan, DES, 33 S. State

St., Room 933, Chicago IL 60603, 312/793-2338, fax 312/793-5645, [Thomas.D.Chan@illinois.gov](mailto:Thomas.D.Chan@illinois.gov)

### HORSE RACING

The ILLINOIS RACING BOARD proposed amendments to Illinois Race Track Rules for Fire Safety (11 IAC 403; 42 Ill Reg 23677) cross-referencing Office of the State Fire Marshal rules at 41 IAC 150 and removing all Sections that are duplicated in the OSFM rules. IRB also proposed amendments to Definitions (11 IAC 210; 42 Ill Reg 23656) removing definitions that are contained in the Illinois Horse Racing Act, or are outdated, unnecessary, or duplicative.

Finally, IRB proposed repeal of the Parts titled Race Track Surfaces (11 IAC 411; 42 Ill Reg 23703), Prohibited Conduct (11 IAC 423; 42 Ill Reg 23707) and Horseman's Bookkeeping System Licensees (11 IAC 450; 42 Ill Reg 23711), all of which concern outdated practices (e.g., use of third party bookkeepers by racetracks) or duplicate provisions of the Horse Racing Act.

Questions/requests for copies/comments on the 5 IRB rulemakings through 2/4/19: Mickey Ezzo, IRB, 100 W. Randolph, Suite 5-700, Chicago IL 60601, 312/814-5017, [mickey.ezzo@illinois.gov](mailto:mickey.ezzo@illinois.gov)

## 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 January 15, 2019 meeting.

### DEPT OF FINANCIAL AND PROFESSIONAL REGULATION

Real Estate License Act of 2000 (68 IAC 1450; 42 Ill Reg 16804) proposed 9/21/18

### DEPT OF HEALTHCARE AND FAMILY SERVICES

Medical Payment (89 IAC 140; 42 Ill Reg 17067) proposed 9/28/18

### DEPT OF PUBLIC HEALTH

Health Care Employee Vaccination Code (77 IAC 956; 42 Ill Reg 17545) proposed 10/5/18

Manufactured Home Community Code (77 IAC 860; 42 Ill Reg 18682) proposed 10/19/18

Health Care Worker Background Check Code (77 IAC 955; 42 Ill Reg 18271) proposed 10/19/18

Long-Term Care for Under Age 22 Facilities Code (77 IAC 390; 42 Ill Reg 18581) proposed 10/19/18

Skilled Nursing and Intermediate Care Facilities Code (77 IAC 300; 42 Ill Reg 18553) proposed 10/19/18

Sheltered Care Facilities Code (77 IAC 330; 42 Ill Reg 18568) proposed 10/19/18

### OFFICE OF THE TREASURER

Procurement (44 IAC 1400; 42 Ill Reg 18847) proposed 10/19/18