

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

■ LEAD MITIGATION

The DEPARTMENT OF PUBLIC HEALTH adopted amendments to Lead Poisoning Prevention Code (77 IAC 845; 42 Ill Reg 15784), effective 2/8/19, implementing Public Act 98-690 with numerous updates and clarifications regarding lead testing and mitigation procedures. The amendments reduce the blood lead poisoning level from 10 to 5 micrograms per deciliter (mg/dL), lower regulatory limits on lead in dust, soil, drinking water or on surfaces, and incorporate updated federal regulations and guidelines. Physicians and health care providers treating children ages 6 and younger must administer the DPH Childhood Lead Risk Questionnaire to assess the child's risk of lead poisoning, test the child for lead poisoning, or both. The DPH questionnaire

may also be administered to anyone who is pregnant or to children ages 7 and older. A statement from the physician or health care provider verifying that the child has been either screened for lead poisoning risk, tested for lead poisoning, or both must be provided by the parent prior to enrolling a child age 6 or younger in day care, preschool, kindergarten, or any other child care facility. An exemption for parents who object to lead blood level testing on religious grounds is being removed. Blood lead test results of 5 mg/dL or more must be reported to DPH within 48 hours; other test results must be reported within 30 to 60 days. Instead of providing aggregated medical data in response to Freedom of Information Act requests, DPH will issue an annual lead poisoning surveillance report using

(cont. page 2)

Proposed Rulemakings

■ PRESCHOOLS

The STATE BOARD OF EDUCATION proposed amendments to the Part titled Early Childhood Block Grant (23 IAC 235; 43 Ill Reg 2343) implementing Public Act 100-105. The Act and the rulemaking require early childhood programs that receive State funding to insure that children who exhibit persistent and serious challenging behaviors continue to receive services rather than simply being expelled. The rulemaking sets forth a process by which an early childhood program must document these behaviors, communicate with parents, and utilize a range of community resources that may include, but are not limited to, developmental screenings, special education programs, and early childhood

(cont. page 3)

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

(cont. from page 1)

aggregated medical data that does not identify patients, reporting entities, or care providers. Any researcher (formerly, only medical or epidemiologic researchers) may request confidential data on lead poisoning from DPH in writing, subject to conditions in existing rule. DPH will charge a fee for testing of each blood sample submitted in accordance with its laboratory service fee schedule (formerly, \$25.75). DPH will conduct inspections of regulated facilities when an occupant or frequent visitor is reported to have a confirmed blood lead level of 10 mg/dL or higher (formerly, 20 mg/dL); a change since 1st Notice also requires inspection if the person tested is a child or is pregnant and has a blood lead level of 5 mg/dL or more. If the person tested is a child under 3 years old, the child's dwelling unit and common areas of the regulated facility must be inspected. Potential hazards that the owner of a regulated facility will be asked about during an inspection will now include any products recently recalled due to the presence of lead, such as imported toys or jewelry. Deadlines for lead mitigation in a dwelling or facility may be extended if DPH determines that the owner is making substantial progress toward mitigation, or that failure to meet the deadline is due to a shortage of licensed lead abatement contractors or a delay in obtaining review and approval of a mitigation plan.

Procedures for certification of lead safety and mitigation training providers, abatement contractors, abatement supervisors, and other persons or entities involved in lead mitigation have been updated, along with environmental lead sampling protocols and procedures for lead mitigation in buildings and other environments. Fines for violations are raised from \$1,000 to \$5,000 per violation. Finally, emergency stop work orders for activities that may disturb lead-bearing surfaces may be enforced by the Attorney General or the sheriff or State's Attorney of the county in which the property is located. Numerous changes since 1st Notice clarify various provisions and add the following new provisions: environmental follow-up inspection must include evaluation of plumbing and water service lines, and provision of information on mitigating lead in water; soil sampling must be performed anywhere in a yard that bare soil is present; and the minimum amount of time for collecting a post-abatement clearance sample is one hour. Additionally, the term "lead exposure" has been replaced with the statutory term "lead poisoning" throughout the rule. This rulemaking will affect owners of facilities or properties in which lead may be present; health care and child care providers; businesses involved in building construction or renovation; lead inspectors; and lead abatement workers and contractors.

■ FLU VACCINATIONS

DPH also adopted amendments to Health Care Employee Vaccination Code (77 IAC 956; 42 Ill Reg 17545), effective 2/6/19, replacing emergency amendments that were effective 9/18/18. The rulemaking implements Public Act 100-1029, which clarifies the circumstances under which health care employees may decline annual influenza vaccinations offered by their employers: if the employee has already been vaccinated, if the vaccine is medically contraindicated for the employee, or the vaccination is against the employee's religious belief. A general philosophical or moral objection to vaccination is not considered a basis for an exemption. The rule also updates statutory and regulatory references to the types of health care settings subject to the Part. Persons working in the health care field and their employers are affected by these rules.

■ MANUFACTURED HOMES

DPH adopted amendments to Manufactured Home Community Code (77 IAC 860; 42 Ill Reg 18682), effective 2/6/19, updating requirements for water supplies, sewage disposal systems, electrical systems and refuse disposal in mobile home parks and manufactured home communities. The rulemaking distinguishes between community and non-community

(cont. page 3)

Proposed Rulemakings

(cont. from page 1)

mental health services. If a child continues to demonstrate inability to benefit from the type of care or activity offered by a particular preschool program, the child may be transitioned to a different preschool program and a transition plan to ensure continuity of services must be created. Preschool programs must also collect and report annually to SBE the following data: total number of children

(ages birth to 5) served; the number of children who left the program; the number of planned transitions due to behavior, broken down by race, gender, disability, language, class/group size, teacher-child ratio, and length of program day; number of temporary removals of a child from group settings due to a serious safety threat, also broken down by race, gender, disability, etc.; the hours of contact between infant/early childhood mental health consultants and program

leaders, staff, and families during the program year; and the total number of children returned to the program after a planned transition. Early childhood/preschool programs that receive State funding are affected by this rulemaking.

Questions/requests for copies/comments through 4/8/19: Cara Wiley, SBE, 100 N. First St. S-493, Springfield IL 62777-0001, 217/782-5270, rules@isbe.net

New Rules

(cont. from page 2)

water systems and public water systems; updates incorporated standards and other documents; and classifies violations of each requirement as Type A, B or C violations. Type C violations are those that may cause serious injury or death to residents, employees or the public; DPH may take immediate action, including closure, to abate Type C violations and will impose fines of \$100 per violation, per day. Type A violations carry no penalty if corrected within 10 days. Type B violations and uncorrected Type A violations carry fines of \$25 per violation, per day. Owners and managers of mobile home parks and manufactured home communities are affected by this rulemaking.

■ DISEASE PRECAUTIONS

DPH adopted amendments to Control of Communicable Diseases Code (77 IAC 690; 42

Ill Reg 5729), effective 2/8/19, providing that food handlers, healthcare workers and day care workers suspected of having an E. coli infection who do not comply with stool testing cannot return to work for 30 days after diarrhea has ceased. (Workers who comply with testing may return to work after at least 24 hours without diarrhea and 2 consecutive negative tests.) If an E. coli outbreak occurs in a facility where food handling takes place, all food handlers working in the facility will be required to submit stool samples for testing. Persons infected with E. coli also may not swim or bathe in public water facilities, including swimming pools, spas, water parks, or lakes, for 2 weeks after symptoms cease. The rulemaking also removes methicillin resistant staphylococcus aureus (MRSA) occurring in community settings or in infants under 2 months of age, Creutzfeldt-Jakob Disease, leprosy, streptococcus pneumoniae in children, and

yersiniosis from the list of diseases that must be reported to DPH. Those affected by this rulemaking include restaurants, hospitals, nursing homes, day care facilities and other businesses or agencies that employ food handlers.

Questions/requests for copies of the 4 DPH rulemakings: Erin Conley, DPH, 535 W. Jefferson St., 5th Fl., Springfield IL 62761, 217/782-2043, dph.rules@illinois.gov

■ QUINCY VETERANS' HOME

The CAPITAL DEVELOPMENT BOARD adopted a new Part titled Capital Development Board Procurement Practices for the Quincy Veterans' Home (44 IAC 930; 42 Ill Reg 17282), effective 2/11/19, replacing emergency rules that were effective 9/13/18. The new Part implements Public Act 100-610, which requires CDB

(cont. page 4)

New Rules

(cont. from page 3)

to promulgate procurement rules for renovation, restoration, rehabilitation and rebuilding of the Illinois Veterans' Home at Quincy (due to recent outbreaks of Legionnaires' Disease) and exempts procurements for these purposes from all requirements of the Illinois Procurement Code other than those specified in the PA. The provisions of the Procurement Code that apply to these procurements are listed in the rulemaking and include prevailing wage requirements, prohibited bidders and contracts, conflicts of interest, responsible bidder requirements, financial disclosure, prohibition of political contributions, lobbying restrictions, and disclosure of business in Iran. Procurement of

construction and construction-related services shall be completed via the selection method determined by the Chief Procurement Officer (the Executive Director of CDB) to be most appropriate to the circumstances. Methods that may be used are outlined in the rulemaking and include design-build contracts, competitive contracts, small purchase contracts and emergency contracts. Design services contracts with an estimated professional services fee of less than \$25,000, and any other contract not exceeding \$100,000, may be treated as a small purchase and will not require notice, competitive bidding or other measures outlined in this Part. For design-build contracts, the public members of the

selection committee must include one resident of the Quincy Veteran's Home and one resident of the City of Quincy. For design services and construction management contracts, interviews are not required unless the basic services fee will exceed \$300,000. Since 1st Notice, requirements for participation by minority, veteran, and women-owned businesses have been strengthened. Those affected by this rulemaking include small businesses seeking contracts for Quincy Veterans' Home construction projects.

Questions/requests for copies: Amy Romano, CDB, 401 S. Spring St., 3rd Fl., Stratton Bldg., Springfield IL 62706, 217/782-0700, amy.romano@illinois.gov

JCAR Meeting Action

At its 2/19/19 meeting, the Joint Committee on Administrative Rules approved the following actions:

OBJECTIONS

JCAR objected to the Department of Labor rulemaking titled Minimum Wage Law (56 IAC 210; 42 Ill Reg 17091) because the Department has not sufficiently responded to JCAR inquiries about the rulemaking.

JCAR objected to the Department of Insurance rulemaking titled Premium Trust Fund Account (Repealer) (50 IAC 3113; 42 Ill Reg 18372) because DOI has not addressed JCAR's concerns about the possibility of policy outside of rule. Sec. 1-70 of the Illinois Administrative Procedure Act requires agency statements of general applicability that implement, apply, interpret, or prescribe policies affecting the rights

of persons outside the agency to be expressed in rule. Sec. 5-20 of the IAPA requires standards for an agency's use of discretionary powers in implementing a statute to be stated in rule.

EXTENSION

JCAR and the Department of Children and Family Services agreed to extend 2nd Notice for the rulemaking titled Placement and Visitation Services (89 IAC 301; 42 Ill Reg 7710) an additional 45 days. This rulemaking will be considered again at the March 12 JCAR meeting.

POSTPONEMENT

JCAR postponed action on the Department of Healthcare and Family Services rulemaking titled Medical Payment (89 IAC 140; 42 Ill Reg 18242), which is currently on extended 2nd Notice, until the March 12 meeting.

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 March 12, 2019 JCAR 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.

Diseased Animals (8 IAC 85; 42 Ill Reg 19125) proposed 10/26/18

Equine Infectious Anemia Control (8 IAC 116; 42 Ill Reg 19132) proposed 10/26/18

Meat and Poultry Inspection Act (8 IAC 125; 42 Ill Reg 19136) proposed 10/26/18

DEPT OF AGRICULTURE

Animal Welfare Act (8 IAC 25; 42 Ill Reg 19115) proposed 10/26/18

Hatcheries, Poultry Flocks, and Produce Thereof (8 IAC 55; 42 Ill Reg 19120) proposed 10/26/18

JCAR MEMBERSHIP CHANGE

JCAR welcomes new member Rep. Frances Ann Hurley, D-Mt. Greenwood. She replaces Rep. Greg Harris, D-Chicago, who was recently appointed House Majority Leader.

Joint Committee on Administrative Rules

Senator Don Harmon

Representative Tom Demmer

Senator Kimberly Lightford

Representative Michael Halpin

Senator Tony Muñoz

Representative Frances Ann Hurley

Senator Sue Rezin

Representative Steven Reick

Senator Paul Schimpf

Representative André Thapedi

Senator Chuck Weaver

Representative Keith Wheeler

Vicki Thomas
Executive Director