

*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

### COAL POWER PLANTS

The POLLUTION CONTROL BOARD adopted an amendment to Control of Emissions from Large Combustion Sources (35 IAC 225; 42 Ill Reg 19158), effective 8/23/19, that modifies emission standards for certain coal-fired electric generating units (EGUs) owned by Vistra Energy (formerly Dynege) in central and southern Illinois. Effective 1/1/19, 8 affected units (located at Baldwin, Coffeen, Duck Creek, Edwards, Havana, Hennepin, Joppa and Newton) are classified into a group that will be monitored for their compliance with Multi-Pollutant Standards (MPS) for nitrogen oxides and sulfur dioxide as a whole, rather than individually. If one or more of the affected EGUs are sold to a different owner, they will become a separate MPS group. The rulemaking also implements combined emission limits for any new MPS group that may be

formed from the affected units, or in case any units are shut down temporarily or permanently, and repeals obsolete standards applying to an Ameren MPS group. Changes since 1st Notice decrease annual caps for sulfur dioxide and nitrogen oxide, as well as the ozone season cap for nitrogen oxide; require a

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permanent reduction of at least 2,000 megawatts of coal-fired generation from one or more units in the MPS group; and require this reduction to be attained by permanently shutting down identified coal-fired units by 12/31/19. (The Coffeen, Duck Creek, Havana and Hennepin plants are

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## Proposed Rulemakings

### MOTOR FUEL TAX

The DEPARTMENT OF REVENUE proposed amendments to the Part titled Motor Fuel Tax (86 IAC 500; 43 Ill Reg 9345) reflecting two Public Acts. Under PA 101-32, the rulemaking raises the general motor fuel tax from 19 to 38 cents per gallon and the tax on diesel fuel from 21.5 to 45.5 cents per gallon effective 7/1/19; these rates will be increased by the rate of inflation annually beginning 7/1/20. In accordance with PA 100-9, the rulemaking also expands the definition of "motor fuel" to include combustible gases used in motor vehicles and recreational watercraft, including, but not limited to, liquefied petroleum gas/propane (LPG), compressed natural gas (CNG) and liquefied natural gas (LNG). For purposes of determining 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](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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now scheduled for permanent shutdown by that date.)

## ■ PCB PROCEEDINGS

PCB also adopted amendments to General Rules (35 IAC 101; 43 Ill Reg 4883) effective 8/22/19, updating various rules of procedure for Board hearings and other actions. The rulemaking clarifies the applicability of the Part to hearings on Time Limited Water Quality Standards (TLWQS), which do not fall within either of the traditional types of PCB proceedings (rulemakings and adjudicatory cases), and provides that persons offering exhibits at TLWQS hearings must e-file their exhibits after the hearing unless the hearing officer determines that it is not practicable. The rulemaking also implements PA 100-880, which provides that effective 1/1/19, PCB will serve final adjudicatory orders (other than final enforcement orders) by e-mail on parties that consent to e-mail service. Other, non-substantive changes clarify and update the Part. Small businesses, municipalities or non-profit organizations that wish to testify at PCB proceedings are affected.

*Questions/requests for copies of the 2 PCB rulemakings: Part 225, Marie Tipsord; Part 101, Richard McGill; PCB, 100 W. Randolph St., Suite 11-500, Chicago IL 60601. Please reference Docket R18-20 for the Part 225 rulemaking and Docket R19-19 for the Part 101 rulemaking. Copies of the Board's opinions*

# Emergency Rules

## ■ GAMING DEVICES

The ILLINOIS GAMING BOARD adopted emergency amendments to Video Gaming (General) (11 IAC 1800; 43 Ill Reg 9788) effective 8/19/19, and to Riverboat Gambling (86 IAC 3000; 43 Ill Reg 9801) effective 8/23/19, both for a maximum of 150 days. Identical proposed amendments appear in this week's *Illinois Register* at 43 Ill Reg 9312 and 9315, respectively. These amendments implement Public Act 101-31, which requires IGB to license independent testing laboratories

and accept test reports from any such laboratory chosen by a gaming machine or gaming equipment manufacturer, whether or not that laboratory has a contract with the State. (Formerly, testing was performed only by laboratories that had entered contracts with IGB via the procurement process.) The rulemaking establishes the application process and criteria for independent testing laboratories to obtain IGB licensure. Laboratories that are accredited

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*and orders can be requested from the Clerk at 312/814-3620.*

## ■ BAT REMOVAL

The DEPARTMENT OF NATURAL RESOURCES adopted amendments to the Part titled Nuisance Wildlife Control Permits (17 IAC 525; 43 Ill Reg 5355), effective 8/23/19, allowing year-round removal, under certain conditions, of bat colonies in residential or business buildings. Formerly, nuisance wildlife control permittees could permanently evict bat colonies from buildings only between March 15 and May 15 (after hibernation and during mating season, but before pups are born) or from Aug. 5 through Oct. 30 (when pups born in early summer are generally old enough to fly). The rulemaking requires that bat eviction during these periods be performed only when outdoor temperatures are forecast to

exceed 50 degrees at dusk for at least 2 consecutive nights. During the remainder of the year (Oct. 31 through March 14, when bats are hibernating, and May 16 through Aug. 4, when pups are born and are not yet capable of flying) bat colony eviction is allowed if the following conditions are met: bats have been found inside the living quarters of a residence, in a place of business, or within a building where people congregate; the permittee has contacted DNR to request authority to evict the bats; a definitive identification of species has been made and proper permits, if applicable, issued; DNR staff has determined whether the bats are causing a human health and safety hazard (DNR may work jointly with a local health department to make this determination); and property owners and residents are advised

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# Proposed Rulemakings

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per gallon tax on combustible gases on and after 7/1/17, a gasoline gallon equivalent (GGE) for CNG is defined as 5.66 pounds; the diesel gallon equivalent (DGE) for LPG is 6.41 pounds and for LNG is 6.06 pounds. Those affected by this rulemaking include businesses and individuals who operate vehicles or watercraft on public roads or waterways.

## LIQUOR CONTROL

DOR also proposed an amendment to the Part titled Liquor Control Act (86 IAC 420; 43 Ill Reg 9334) implementing PA 100-1050, which reestablishes the Liquor Control Commission as a public body independent of DOR. The rulemaking clarifies that representatives of either DOR or the Commission (currently, only DOR) may witness or approve the destruction of alcoholic liquors in order for the licensee to claim exemption from the tax on those liquors.

*Questions/requests for copies/comments on the 2 DOR rulemakings through 10/21/19: Part 500, Jerilyn Gorden; Part 420, Richard S. Wolters; DOR, 101 W. Jefferson, Springfield IL 62794, 217/782-2844.*

## ELEVATOR SAFETY

The ELEVATOR SAFETY REVIEW BOARD proposed an

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## DHS Public Hearing

### DISABILITY SERVICES

The DEPARTMENT OF HUMAN SERVICES will hold a public hearing on a proposed amendment to Developmental Disabilities Services (89 IAC 144; 43 Ill Reg 7596) on **Thursday, Sept. 12, from 1 to 3 p.m.** at the Michael J. Howlett Building, Second and Edwards Streets, Springfield. The amendment, published in the 7/12/19 *Illinois Register*, implements Public Act 101-10, which provides a 3.5% rate increase for developmental disabilities services providers. The rulemaking permits providers to allocate all or a portion of the increase to wages of direct care

personnel. A companion emergency amendment was effective 7/1/19 for a maximum of 150 days. Persons wishing to testify are asked to limit their remarks to 10 minutes and provide a written copy of their testimony. Persons requiring accommodations due to disability must contact DHS by Tuesday, Sept. 10. Developmental disabilities service providers are affected by this rulemaking.

*Questions regarding the rulemaking or the public hearing: Tracie Drew, DHS, 100 S. Grand Ave. East, 3<sup>rd</sup> Fl., Springfield IL 62762, 217/785-9772.*

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## Peremptory Rule

### STATE EMPLOYEES

The DEPARTMENT OF CENTRAL MANAGEMENT SERVICES adopted peremptory amendments to Pay Plan (80 IAC 310; 43 Ill Reg 9886) effective 8/21/19. The peremptory rule implements a collective bargaining agreement with the Fraternal Order of Police for the period 7/1/15 through 6/30/23. The agreement establishes in-hire rates, pay grade assignments, satisfactory performance and merit salary

increases, clothing and equipment reimbursements, and longevity bonuses for Department of Natural Resources Conservation Police lieutenants and sergeants. It also includes a stipend of up to \$2,500 for bargaining unit members employed between 7/1/15 and 7/1/19.

*Questions/requests for copies: Lisa Fendrich, CMS, 504 Stratton Bldg., Springfield IL 62706, 217/782-7976, fax 217/524-4570, [CMS.PayPlan@illinois.gov](mailto:CMS.PayPlan@illinois.gov)*

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## New Rules

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of the secondary health hazards that may result if adult bats are evicted and flightless pups become trapped and die inside the building. The rulemaking also allows capture of live bats without a permit for transport to a local health department, animal control office, or veterinarian when the presence of bats is deemed a health or safety hazard by a local health department or the Illinois Department of Public Health, or if there is reason to suspect that humans or domestic animals may have been exposed to rabies (formerly, when there is reason to suspect a human may have been exposed to rabies, e.g., if a person is bitten or scratched by a bat). Finally, the rulemaking updates the application for a nuisance wildlife control permit to include the applicant's e-mail address and remove the Social Security number. Those affected by this rulemaking include small businesses that perform pest control services and local government health departments or animal control departments.

### ■ HUNTING & TRAPPING

DNR also adopted amendments to the following 15 Parts effective 8/23/19: Cock Pheasant, Hungarian Partridge, Bobwhite Quail, and Rabbit Hunting (17 IAC 530; 43 Ill Reg 5364); Raccoon, Opossum, Striped Skunk, Red Fox, Gray Fox, Coyote, Bobcat and Woodchuck (Groundhog) Hunting (17 IAC 550; 43 Ill Reg 5393); Muskrat, Mink, Raccoon, Opossum, Striped

Skunk, Weasel, Red Fox, Gray Fox, Coyote, Badger, River Otter, Beaver, Bobcat and Woodchuck (Groundhog) Trapping (17 IAC 570; 43 Ill Reg 5411); Duck, Goose and Coot Hunting (17 IAC 590; 43 Ill Reg 5427); White-Tailed Deer Hunting By Use of Firearms (17 IAC 650; 43 Ill Reg 5481); White-Tailed Deer Hunting By Use of Muzzleloading Rifles (17 IAC 660; 43 Ill Reg 5489); White-Tailed Deer Hunting By Use of Bow and Arrow (17 IAC 670; 43 Ill Reg 5500); Youth Hunting (17 IAC 685; 43 Ill Reg 5522); Squirrel Hunting (17 IAC 690; 43 Ill Reg 5531); The Taking of Wild Turkeys – Spring Season (17 IAC 710; 43 Ill Reg 5544); The Taking of Wild Turkeys – Fall Gun Season (17 IAC 715; 43 Ill Reg 5568); The Taking of Wild Turkeys – Fall Archery Season (17 IAC 720; 43 Ill Reg 5575); Dove Hunting (17 IAC 730; 43 Ill Reg 5588); Crow, Woodcock, Snipe, Rail and Teal Hunting (17 IAC 740; 43 Ill Reg 5607); and Falconry and the Captive Propagation of Raptors (17 IAC 1590; 43 Ill Reg 5622). Amendments to Parts 530 through 740 implement DNR's annual updates to hunting and trapping rules, which include opening or closing of State-managed sites to hunting, changes in hunting days or hours, and changes in procedures for obtaining hunting or trapping licenses or reporting the number of animals harvested. The Part 685 rulemaking also allows a non-hunting adult age 21 or older (formerly, a parent, guardian or grandparent) who holds a valid Illinois hunting license to accompany the holder of an

Apprentice Hunter or Youth Hunter license during youth deer hunting season, and also authorizes the use of pink as well as solid blaze orange hunting attire. Finally, amendments to Part 1590 update online contact information for the U.S. Fish and Wildlife Service and allow falconry hunting of foxes and gray squirrels from Aug. 1 through March 31 (formerly Jan. 31). Those affected by these rulemakings include professional outfitters and falconers.

*Questions/requests for copies of the 16 DNR rulemakings: John Heidinger, DNR, One Natural Resources Way, Springfield IL 62702, 217/557-6379.*

### INSURANCE

The DEPARTMENT OF INSURANCE adopted amendments to Derivative Instruments (50 IAC 806; 43 Ill Reg 4848) and Health Maintenance Organization (50 IAC 4521; 43 Ill Reg 4877) effective 8/26/19, updating incorporations by reference of publications issued by the National Association of Insurance Commissioners (NAIC). The Part 4521 rulemaking also repeals an outdated Section referencing a repealed statute. DOI also adopted amendments to Construction and Filing of Accident and Health Insurance Policy Forms (50 IAC 2001; 43 Ill Reg 1468) effective 8/26/19, removing obsolete references to the Illinois Health Care Reform Implementation Council

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## Proposed Rulemakings

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amendment to Illinois Elevator Safety Rules (41 IAC 1000; 43 Ill Reg 9304) incorporating updated editions of nationally recognized elevator safety codes as required by statute. The rulemaking also implements safety testing procedures that require all test activations of initiating devices (e.g., buttons, switches) to be witnessed by an Illinois-licensed elevator inspector. Witnessed tests of initiating devices in the hoistway and machine room must be conducted annually to ensure

proper operation of the fireman's recall system. Witnessed tests of initiating devices on higher floors shall be conducted every two years, with odd numbered floors tested in odd-numbered years and even numbered floors in even numbered years. Buildings on triennial inspection schedules shall have witnessed tests of initiating devices every 3 years. Businesses with elevators and other regulated conveyances, and municipalities that inspect regulated conveyances, are affected.

*Questions/requests for copies/ comments through 10/21/19: Nancy Robinson, Office of the State Fire Marshal, 1035 Stevenson Dr., Springfield IL 62703, 217/785-7629, fax 217/524-5487.*

### HOSPITALS

The DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES proposed an amendment to Diagnosis Related Grouping (DRG) Prospective

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## Emergency Rules

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and are authorized to perform testing services in a gaming jurisdiction similar to Illinois may be licensed by IGB. A "jurisdiction similar to Illinois" includes any jurisdiction in which video gaming or casino gambling is permitted, or any jurisdiction deemed similar by the IGB Administrator. Those affected by these emergency rules include independent gaming equipment testing labs and gaming equipment manufacturers.

*Questions/requests for copies/ comments on the 2 IGB proposed rulemakings through 10/21/19: Agostino Lorenzini, IGB, 160 N. La Salle St., Chicago IL 60601, fax 312/814-7253, [Agostino.lorenzini@igb.illinois.gov](mailto:Agostino.lorenzini@igb.illinois.gov)*

### ■ SALES TAXES

The DEPARTMENT OF REVENUE adopted an

emergency amendment to Retailers' Occupation Tax (86 IAC 130; 43 Ill Reg 9841) effective 8/21/19 for a maximum of 150 days. The emergency rule implements a statutory expansion of the sales tax exemption for manufacturing machinery that applies to production related tangible personal property purchased on or after 7/1/19. Guidance for claiming the tax and examples of when the tax applies are included. Small businesses engaged in manufacturing are affected by this emergency rule.

*Questions/requests for copies: Debra M. Boggess, DOR, 101 W. Jefferson St., Springfield IL 62794, 217/782-2844.*

### HOSPITALS

The DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES adopted an emergency amendment to

Hospital Services (89 IAC 148; 43 Ill Reg 9813) effective 8/26/19 for a maximum of 150 days. An identical proposed amendment appears in this week's *Register* at 43 Ill Reg 9318. The emergency and proposed rules implement PA 100-1181 and provide a 23% increase in the statewide standardized outpatient services rate for critical access hospitals, as well as a one-time supplemental payment to an Illinois critical access hospital.

*Questions/requests for copies/ comments on the proposed rulemaking through 10/21/19: Christopher Gange, HFS, 201 S. Grand Ave. East, 3<sup>rd</sup> Fl., Springfield IL 62763-0002, [HFS.Rules@illinois.gov](mailto:HFS.Rules@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 September 17, 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.

### DEPT OF FINANCIAL & PROFESSIONAL REGULATION

Home Inspector License Act (68 IAC 1410; 43 Ill Reg 81) proposed 1/4/19

Auction License Act (68 IAC 1440; 43 Ill Reg 93) proposed 1/4/19

### DEPT OF HEALTHCARE & FAMILY SERVICES

Medical Payment (89 IAC 140; 43 Ill Reg 5143) proposed 5/10/19

### POLLUTION CONTROL BOARD

Standards and Requirements for Potable Water Supply Well Surveys and for Community Relations Activities Performed in Conjunction with Agency Notices of Threats from Contamination (35 IAC 1600; 43 Ill Reg 6881) proposed 6/14/19

### TEACHERS' RETIREMENT SYSTEM

The Administration and Operation of the Teachers' Retirement System (80 IAC 1650; 43 Ill Reg 7615) proposed 7/12/19

## New Rules

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(abolished in 2018) and updating incorporations of the documents that establish essential health benefits for plan years 2017-2019 and plan years on and after 2020.

*Questions/requests for copies of the 3 DOI rulemakings: Susan Anders, DOI, 320 W. Washington St., 4<sup>th</sup> Fl., Springfield IL 62767-0001, 217/558-0957.*

## Proposed Rulemakings

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Payment System (PPS) (89 IAC 149; 43 Ill Reg 9320) adding new DRG codes for allogenic (from a donor) and autologous (from one's own stem cells) bone marrow transplants and for head trauma with deep coma. (Hospitals use DRG codes to file claims for inpatient treatment.)

*Questions/requests for copies/comments through 10/21/19: Christopher Gange, HFS, 201 S. Grand Ave. East, 3<sup>rd</sup> Fl., Springfield IL 62763-0002, [HFS.Rules@illinois.gov](mailto:HFS.Rules@illinois.gov)*

### SOS PROCEDURES

The SECRETARY OF STATE proposed an amendment to Departmental Duties (2 IAC 552; 43 Ill Reg 9365) updating the addresses where service of process can be made upon SOS and updating various statutory and rule citations. The rulemaking also clarifies that SOS is not a default agent for process service in Illinois and will only accept service of process in instances where it is required by law.

*Questions/requests for copies/comments through 10/21/19: Lana Shatat, SOS, 100 W. Randolph St. Suite 5-400, Chicago IL 60601, [Lshatat@ilsos.gov](mailto:Lshatat@ilsos.gov)*