

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 MINING

The DEPARTMENT OF NATURAL RESOURCES adopted 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 adopted a new Part titled Exemption for Coal Extraction Incident to Government-Financed Highway or Other Construction (62 IAC 1703; 42 Ill Reg 23620), all effective 10/16/19. 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 Public Act 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

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Proposed Rulemakings

■ VIDEO GAMING

The ILLINOIS GAMING BOARD proposed amendments to Video Gaming (General) (11 IAC 1800; 43 Ill Reg 12767) implementing provisions of Public Act 101-31. Companion emergency rules (43 Ill Reg 11688) were effective 9/26/19. The proposed rulemaking creates a new Subpart T governing in-location progressive jackpot games (in which the jackpot escalates with each play until the game is won). Licensed gaming locations shall designate one or more owners or employees to implement the procedures required by these rules. Each terminal operator must employ a person of significant influence or control (e.g., an owner) as its progressive jackpot coordinator to handle all aspects of the progressive jackpot operation, winning or withholding process.

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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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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.

(Formerly, revision was required if the land use change affected 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 of the 5 DNR rulemakings: Amy Oakes, DNR, One Natural Resources Way, Springfield IL 62702-1271, 217/782-1809.

Proposed Rulemakings

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Each progressive game shall be conducted only within a single video gaming location. If a progressive jackpot of \$1,200 or more is won, the video gaming terminal (VGT) shall immediately issue a voucher with the date, time and amount won, identifying the terminal operator and the terminal on which the prize was won, and giving a phone number to call for payment instructions. Terminal operators must pay jackpot winners within 3 days after a win, after retaining any applicable withholdings; no prize or portion thereof may be paid in the form of credits for further play on a VGT. Before operating an in-location progressive jackpot game, a terminal operator must obtain authorization from the Department of Healthcare and Family Services to intercept past-due child support and to access the HFS database of persons with past-due child support subject to withholding. If past-due child support is withheld from a jackpot and remitted to HFS, the terminal operator may

additionally claim an administrative fee of 4% of the winnings (up to a maximum of \$150). At least one designated owner or employee must be at the gaming location whenever a progressive jackpot game is being played. The winner of a progressive jackpot must present government or military-issued personal identification to the designated owner/employer and must sign a form provided by the terminal operator. Completed progressive jackpot forms, payment receipts/confirmations, gaming tickets, and other related documentation of a progressive jackpot win must be retained for audit and inspection by IGB or its agents for the time period prescribed by the Administrator of IGB. Businesses or non-profit entities that offer progressive jackpot video gaming are affected by this rulemaking.

CASINOS

IGB also proposed amendments to Riverboat Gambling (86 IAC 3000; 43 Ill Reg 12784)

implementing other provisions of PA 101-31. Companion emergency rules (43 Ill Reg 10512 and 10733) were effective 9/5/19 and 9/13/19, respectively. The proposed rulemaking implements a new Section of the Illinois Gambling Act (formerly titled the Riverboat Gambling Act) that broadens the definition of a gaming operation to include land-based casinos and organization gaming facilities (casinos established by horse racing tracks, also known as "racinos") as well as riverboat casinos. The name of the Part is changed to "Riverboat and Casino Gambling" and references to "riverboat gaming operations" are changed to "gaming operations". An organization gaming facility is defined as the portion of an organization licensee's racetrack facilities where gaming takes place, including both publically accessible areas and restricted areas such as storage, repair, surveillance, and counting rooms.

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Proposed Rulemakings

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The licensing requirements for owners, suppliers, and occupational licensees that applied to riverboat casinos are extended to include all casinos and organization gaming licensees. Limitations on the number of gaming positions allowed per owners license or organization gaming license are also amended to remove the cap of 1,200 gaming participants per owner's license. The existing formula for computing the number of available gaming positions remains valid for positions in existence prior to 9/1/19. The number of gaming positions allowed to a licensee shall not include devices that are not currently operational; promotional give-aways that require no entry fee; sports wagering; or pari-mutuel wagering under the Horse Racing Act. Prior written notice must be given to IGB of any reallocation of gaming positions. Restrictions on the hours when alcoholic beverages may be sold or consumed at riverboat casinos (generally, 9:30 a.m. until 4 a.m. or until one hour before the close of gaming operations) are extended to other gaming operations that do not operate 24 hours a day. Other provisions require local governments that are seeking to host riverboat or land-based casinos to disclose all communications regarding the local selection and approval process to IGB. The rule defines a "communication" as any written or oral communication, whether directly or through agents, representatives, third parties or

intermediaries, and regardless of whether it occurs in a public forum. An "applicant" is defined as any person or entity that has directly or indirectly expressed interest in obtaining a casino owner's license in the host community, even if they have not yet submitted an application to IGB. Disclosures must be made in a manner consistent with the PA, which requires reporting of any violations of the Illinois Gambling Act by the applicant/licensee or its agents, employees and affiliates, as well as violations by current or former officials or employees of a host community and their immediate relatives.

Questions/requests for copies of the 2 IGB rulemakings through 12/16/19: Agostino Lorenzini, IGB, 160 N. La Salle St., Chicago IL 60601, fax 312/814-7253, Agostino.lorenzini@igb.illinois.gov

■ EDUCATOR LICENSURE

The STATE BOARD OF EDUCATION proposed amendments to Standards for Endorsements in Specific Teaching Fields (23 IAC 27; 43 Ill Reg 12246), Standards for Endorsements in Special Education (23 IAC 28; 43 Ill Reg 12600), and Standards for Administrative Endorsement (23 IAC 29; 43 Ill Reg 12727). The Part 27 and 29 rulemakings align the educator and administrator licensure/endorsement standards for various positions and fields of study with national standards prescribed by the Council for the Accreditation of Educator

Preparation (CAEP). Amendments to Part 28 implement revisions to special education endorsements recommended by the national Collaboration for Educator Effectiveness, Development, Accountability and Reform (CEEDAR) and the Council for Exceptional Children (CEC). Those affected by these rulemakings include candidates for educator and administrator licensure and educator preparation programs.

Questions/requests for copies/ comments on the 3 SBE rulemakings through 12/16/19: Azita Kakvand, SBE, 100 N. First St., Springfield IL 62777-0001, 217/782-6510, rules@isbe.net

■ MEDICATION DISPENSING

The DEPARTMENT ON AGING proposed amendments to Community Care Program (89 IAC 240; 43 Ill Reg 12209) concerning requirements for automated medication dispensing (AMD) services to Community Care Program (CCP) participants. Certain technical specifications for AMD systems are updated, and providers must make every effort to schedule and conduct installation when the participant, his/her authorized representative if any, and an assisting (currently, "responsible") party are present. A CCP participant may qualify for AMD services if he or she takes 1 (currently, 5) or more medications that must be administered on a set schedule and has any 1 (currently,

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Proposed Rulemakings

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2 or more) of the following diagnoses: cognitive impairment, diabetes, congestive heart failure, hypertension, depression/mental illness, or cancer. CCP clients and agencies and AMD service providers are affected by this rulemaking.

Questions/requests for copies/comments through 12/16/19: Tracey Trigillo, DonA, One Natural Resources Way #100, Springfield IL 62702, 217/785-3346, Tracey.Trigillo@illinois.gov

CHILD SUPPORT

The DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES proposed amendments to Child Support Services (89 IAC 160; 43 Ill Reg 12811) implementing updates to the Illinois Marriage and Dissolution of Marriage Act (IMDMA), the Illinois Parentage Act of 2015, and the federal Social Security Act. For non-TANF cases, an annual collection fee of \$35 (currently \$25) will be imposed if at least \$550 (currently, \$500) has been collected by HFS. The definition of “needs of the child” as it is used in the IMDMA and the definitions of terms such as “alleged father”, “acknowledged father”, and “parent” contained in the Parentage Act are applied to the Part’s rules for support obligations. The process for determining a non-custodial parent’s financial ability to pay child support has been revised to include factors outlined in IMDMA, including health care,

standardized and individualized tax amounts, business income, and any school expenses or extracurricular activities for which one or both parents are responsible. The Basic Child Support Obligation Table and procedures for conversion of gross to net income, currently contained in rule, are now published on the Department’s website. Other provisions specify the information to be contained in administrative support orders and how retroactive support will be calculated.

Questions/requests for copies/comments through 12/16/19: Christopher Gange, HFS, 201 S. Grand Ave. East, 3rd Fl., Springfield IL 62763, 217/782-1233, HFS.Rules@illinois.gov

UTILITIES

The ILLINOIS COMMERCE COMMISSION proposed a new Part titled Regulatory Accounting Treatment for Third-Party Cloud-Based Computing Solutions (83 IAC 289; 43 Ill Reg 12237) that establishes comparable accounting treatment for on-premises and off-premises or cloud-based computing systems utilized by utility companies. A utility that uses third-party, cloud-based computing services may treat the cost of the system as a regulatory asset, similar to the cost of operating an on-premises system, and may include these costs in its consumer rate base subject to ICC’s determination that the costs are prudent and reasonable. Criteria for treating cloud-based systems as a regulatory asset are

listed; utilities must document their service contracts and the related operational costs. Reporting requirements include initial reporting within 6 months after the effective date of the rule; semi-annually every March 31 and September 30 through 2024; and thereafter, when regulatory assets exceed specified cost thresholds.

Questions/requests for copies/comments through 12/16/19: Elizabeth Rolando, ICC, 527 E. Capitol Ave., Springfield IL 62701, 217/782-7434.

DFPR RULE WITHDRAWAL

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION has withdrawn a proposed new Part titled Student Loan Servicing Rights Act (38 IAC 101; 42 Ill Reg 20189) that was published in the 11/16/18 *Illinois Register*. The rulemaking would have established a system of licensing, licensing requirements and fees for financial institutions that issue student loans. DFPR states that its Division of Banking wishes to reassess this rulemaking.

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 November 12, 2019 JCAR meeting. Further comments concerning these rulemakings should be addressed to JCAR using the contact information on page 1.

IL COMMERCE COMMISSION

Competitive Reporting (Repealer) (83 IAC 793; 43 Ill Reg 7891) proposed 7/26/19

IL GAMING BOARD

Video Gaming (General) (11 IAC 1800; 42 Ill Reg 22336) proposed 12/14/18

Video Gaming (General) (11 IAC 1800; 43 Ill Reg 9312) proposed 9/6/19

Riverboat Gambling (86 IAC 3000; 43 Ill Reg 9315) proposed 9/6/19

IL STUDENT ASSISTANCE COMMISSION

General Provisions (23 IAC 2700; 43 Ill Reg 7966) proposed 8/9/19

Monetary Award Program (MAP) (23 IAC 2735; 43 Ill Reg 7988) proposed 8/9/19

Optometric Education Scholarship Program (23 IAC 2741; 43 Ill Reg 7999) proposed 8/9/19

Minority Teachers of Illinois (MTI) Scholarship Program (23 IAC 2763; 43 Ill Reg 8006) proposed 8/9/19

DEPT OF INSURANCE

Annual Financial Reporting (50 IAC 925; 43 Ill Reg 8615) proposed 8/16/19

DEPT OF REVENUE

Uniform Penalty and Interest (86 IAC 700; 43 Ill Reg 9010) proposed 8/23/19

Joint Committee on Administrative Rules

Senator Don Harmon, *co-chair*

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, *co-chair*

**Vicki Thomas
Executive Director**