

*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 is designed to inform and involve the public in changes taking place in agency administration.*

## New Regulations

### MEDICAL ASSISTANCE

The DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES adopted amendments to "Practice in Administrative Hearings" (89 Ill Adm Code 104; 35 Ill Reg 19322) and "Medical Payment" (89 Ill Adm Code 140; 35 Ill Reg 19368), effective 5/7/12, concerning recovery of medical assistance benefits obtained in a fraudulent manner (e.g., by altering a medical card or using a card issued to another person). The Part 140 amendments authorize DHFS to recover improperly paid medical assistance through direct payments to the Department, recoupment from other public aid payments or Supplemental Nutrition Assistance Program (SNAP) benefits, wage garnishment, referral to a private collection agency, deduction from federal income tax refunds or other U.S. Treasury payments, action by the Comptroller, or civil court action. The Department may also assess civil penalties of up to \$2,000 for each improperly received benefit or payment and must notify affected persons of the amount of the penalty being sought and the reasons for the penalty. After a final decision has been made regarding a case and all appeals exhausted or waived, the De-

partment may place a judgment lien upon property and assets of the affected person until all outstanding debts and penalties have been paid. Amendments to Part 104 allow a medical assistance recipient, after notification of DHFS' intent to recover benefits, an opportunity to request a hearing before an administrative law judge. The hearing must be scheduled within 30 days after DHFS receives the request, and may be postponed or continued once for up to 30 days at the request of any party to the hearing (further continuances are allowed only for serious reasons such as illness that are beyond the control of the requesting party). The recommendation of the administrative law judge must be issued within 60 days after the hearing and submitted to the DHFS director for a final decision. A change since 1<sup>st</sup> Notice clarifies that the final decision will be made as soon as practicable. Medical providers may be affected by these rulemakings.

Questions/requests for copies of the 2 DHFS rulemakings above: Jeanette Badrov, DHFS, 201 S. Grand Ave. East, 3<sup>rd</sup> Fl., Springfield IL 62763-0002, 217/782-1233.

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## Proposed Regulations

### TEMPORARY REGISTRATION

The SECRETARY OF STATE proposed an amendment to "Certificates of Title, Registration of Vehicles" (92 Ill Adm Code 1010; 36 Ill Reg 7520) that changes the length of time that a temporary registration permit is valid from 5 days to 7 days. The rulemaking also revises circumstances under which a seven-day permit will be issued to include driving a homemade trailer to an SOS facility for inspection, driving a vehicle that has a registration renewal hold due to failure to comply with emissions requirements, and driving a vehicle to an authorized inspection site for inspection of a rebuilt vehicle or safety test inspection.

Questions/requests for copies/comments through 7/2/12: Cynthia Grant, SOS, 298 Howlett Building, Springfield IL 62756, 217/785-3094, email: [cgrant@ilsos.net](mailto:cgrant@ilsos.net).

### INDOOR POLLUTANTS

The POLLUTION CONTROL BOARD proposed amendments to rules titled "Tiered Approach to Corrective Action Objectives" (TACO) (35 Ill Adm

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*NEW REGULATIONS: Rules adopted by agencies this week.*

*PROPOSED REGULATIONS: Rules proposed by agencies this week, commencing a 45-day First Notice period. Public comments must be accepted by the agency for the period of time indicated.*

*☞: Symbol designating 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/RULE TEXT: Direct mail or phone calls to the agency personnel listed below each summary. Providing volume and issue number of The Flinn Report or the Illinois Register will expedite the process. Some agencies charge copying fees. However, copy requests do not have to be made under the Freedom of Information Act.*

# New Regulations

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## AIR POLLUTANTS

The POLLUTION CONTROL BOARD adopted amendments to "Standards and Limitations for Organic Material Emissions for Area Sources" (35 Ill Adm Code 223; 36 Ill Reg 727), effective 5/4/12, that prohibit the sale or manufacture of adhesive removers, contact adhesives, electrical cleaners, electron cleaners, footwear or leather care products, general purpose degreasers, or graffiti removers manufactured on or after 7/1/12 that contain methylene chloride, perchloroethylene, or trichloroethylene. Also included are limits in the percentage of volatile organic material contents that may be contained in adhesive removers, contact adhesives, non-aerosol antistatic products, electrical cleaners, engine degreasers, fabric refreshers, footwear or leather care products, graffiti removers, hair styling products, shaving gels, and wood cleaners sold after 7/1/12. Affected entities include those selling or manufacturing such products.

Questions/requests for copies: Tim Fox, PCB, 100 W. Randolph, Ste. 11-500, Chicago IL 60601, 312/814-3620 or download copies at [www.ipcb.state.il.us](http://www.ipcb.state.il.us). Please reference docket R12-8.

## HIV/AIDS

The DEPARTMENT OF PUBLIC HEALTH adopted amendments to "HIV/AIDS Confidentiality and Testing Code" (77 Ill Adm Code 697; 36 Ill Reg 960), effective 5/4/12, that update the Part in accordance with Public Act 96-7, the federal Centers for Disease Control and Prevention's (CDC) current testing and treatment recommendations, and the federal Food and Drug Administration's approved HIV testing methods. Existing advisory provisions for HIV counseling and testing centers are repealed since the CDC now recommends universal HIV testing during routine checkups, hospital admissions, and in other health care settings. Also, appendices containing sample consent forms for HIV testing are removed from the Part because PA

96-7 permits patients to consent to HIV testing either verbally or in writing. Those affected by this rulemaking include health care professionals, providers, and facilities that provide or process HIV tests.

Questions/requests for copies: Susan Meister, DPH, 535 W. Jefferson St., 5<sup>th</sup> Fl., Springfield IL 62761, 217/782-2043, e-mail: [dph.rules@illinois.gov](mailto:dph.rules@illinois.gov).

## CAPITOL COMPLEX USE

The SECRETARY OF STATE adopted amendments to "Public Use of the Capitol Complex and Springfield Facilities" (71 Ill Adm Code 2005; 36 Ill Reg 814), effective 5/2/12, concerning use of the State Capitol grounds, adjacent State buildings, and other State government facilities in Springfield. The rulemaking changes public business hours for all Capitol complex buildings, unless otherwise posted, to 8 a.m. to 5 p.m. (formerly, 7 a.m. to 6 p.m.) Monday through Friday, excluding State holidays. (When the General Assembly is in session, the complex is open to the public from 1 hour prior to the first session or committee hearing until 1 hour after the last session or hearing.) Visitors without a State-issued photo identification card must undergo security screening before entering any Capitol complex building (except for emergency personnel responding to an emergency), and employees entering or leaving buildings outside of business hours may be required to sign in or out. The rulemaking forbids commercial activity or direct solicitation of donations for any organization or cause, and allows only non-profit organizations to apply for permission to hold sales of baked goods or other items. Distribution of leaflets or other printed material is permitted if permission is sought in writing at least 48 hours in advance. An existing ban on firearms and knives is expanded to include firearm ammunition; flammable, corrosive, or explosive chemicals: incendiary devices; irritants such as pepper spray or tear gas; toy or dummy weapons; and any item

deemed to be inappropriate or that could be used as a weapon. Exceptions may be made for law enforcement, military, and ceremonial personnel performing official duties. An obsolete reference to designated smoking areas is stricken and replaced with a blanket ban on smoking in any building. Groups seeking permission to hold a demonstration or gathering in the Capitol complex must submit the name, telephone number and address of an event contact person (formerly, all officers or leaders of the group had to submit contact information). A group event may be rescheduled or cancelled if it is determined that the activity will unreasonably interfere with the legislative process. A change since 1<sup>st</sup> Notice clarifies that a ban on solicitation or acceptance of contributions refers to contributions regulated by the Election Code and State Officials and Employees Ethics Act. Those affected by this rulemaking include persons or organizations planning gatherings, demonstrations, or other activities at the Capitol or other State facilities in Springfield.

## VEHICLE REGISTRATION

SOS also adopted amendments to "Certificates of Title, Registration of Vehicles" (92 Ill Adm Code 1010; 36 Ill Reg 826), effective 5/2/12, requiring all new vehicle dealers to utilize SOS' Electronic Registration and Titling (ERT) program. (The ERT program allows vehicle dealers to submit title and registration documents to SOS electronically.) The rulemaking increases costs for unaccounted for vehicle registration stickers, vehicle plates intended for sale as a set, and vehicle plates intended for individual sale from \$100 to \$125. Beginning 7/1/12, ERT service providers must post a \$1.5 million performance bond. (Formerly, ERT service providers were required to post a \$1 million performance bond.) This rulemaking will impact car, truck and other vehicle dealers and other businesses providing ERT services.

Questions/requests for copies of the 2

# New Regulations

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SOS rulemakings above: Cynthia Grant, SOS, 298 Howlett Building, Springfield IL 62756, 217/785-3094, e-mail: [cgrant@ilsos.net](mailto:cgrant@ilsos.net).

to reflect "process-related changes" made in the last year. The TRS board will authorize investment allocation targets and investment management structure by recorded vote, and TRS staff may initiate searches as necessary to implement the System's asset allocation and fill vacancies within the "manager structure". Board staff will notify the board's investment committee of any new manager search, the status and outcome of existing searches, and whether there are any "emerging investment managers" (minority, female, or disabled managers with a managed portfolio of \$10 million to \$10 billion) who meet the minimum search criteria. The selection process is explained, and similar selection protocols are stated for small

and mid-cap equity firm selections. For private market and commingled fund investment firm searches, all contracts and related documentation relative to hiring a fund or manager should be negotiated in a final form prior to System investment committee selection, but disclosure must be made to the investment committee prior to consideration, and new provisions concerning "co-investment opportunities" are introduced. This rulemaking may affect a very small number of small businesses seeking business with TRS.

Questions/requests for copies: Cynthia M. Fain Gray, TRS, 2815 W. Washington, Springfield IL 62794-9253, 217/753-0375.

## TEACHERS' RETIREMENT

The TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS adopted amendments to "The Administration and Operation of the Teachers' Retirement System" (80 Ill Adm Code 1650; 35 Ill Reg 21013), effective 5/4/12. One change restores prior limitations on post-retirement teaching service that may be performed by annuitants to 100 days (currently 120 days) or 500 hours (currently 600). Revisions are also made to the System's investment policies and procedures

# Proposed Regulations

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Code 742; 36 Ill Reg 7340) concerning methods for remediating environmental hazards. The amendments add indoor inhalation (e.g., seepage of vapors into a building from chemicals in soil or groundwater) as a possible exposure route for pollutants, list various substances that can pose such a hazard, and revise the levels of toxicity in accordance with USEPA standards. Provisions for addressing an

indoor inhalation hazard via the TACO program tiered approach are added, and means for managing a hazard via building control technologies are included. Other changes, too numerous to mention in their entirety, are included. Those affected by this rulemaking include small business, municipal, or non-profit facilities that may be exposed to an indoor inhalation hazard.

Requests for copies/comments through 7/2/12: John Thierriault, PCB, 100 W. Randolph, Ste. 11-500, Chicago IL 60601, 312/814-3620 or download copies at [www.ipcb.state.il.us](http://www.ipcb.state.il.us). For more information: Richard McGill at the same address, 312/814-6983, e-mail: [mcgillr@ipbc.state.il.us](mailto:mcgillr@ipbc.state.il.us). Please reference docket R11-9.

# JCAR Meeting Action

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At its 5/15/12 meeting, the Joint Committee on Administrative Rules voted to issue a recommendation concerning one proposed rulemaking. Also, the Committee and the Department of Human Services agreed to extend the Second Notice period for the rulemaking "Child Care" (89 Ill Adm Code 50; 35 Ill Reg 17560) an additional 45 days.

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

With regard to the rulemaking titled "Conditions of Employment" (80 Ill Adm Code 303; 36 Ill Reg 3153), JCAR recommends that DCMS be more timely in adopting rules implementing new Public Acts. This rulemaking implements Public Acts that became effective in 2005 and 2009.

## **Second Notice**

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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 JCAR's June 12, 2012 meeting.

### **DEPARTMENT OF CENTRAL MANAGEMENT SERVICES**

"Merit and Fitness" (80 Ill Adm Code 302) proposed 3/16/12 (36 Ill Reg 3990)

### **ILLINOIS COMMERCE COMMISSION**

"Standards of Service for Local Exchange Telecommunications Carriers" (83 Ill Adm Code 730) proposed 10/7/11 (35 Ill Reg 15695)

### **DEPARTMENT OF NATURAL RESOURCES**

"Illinois Youth Recreation Corps Grant Program" (17 Ill Adm Code 3075) proposed 3/9/12 (36 Ill Reg 3618)

### **SECRETARY OF STATE**

"Department of Personnel" (80 Ill Adm Code 420) proposed 3/9/12 (36 Ill Reg 3625)

### **DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION**

"Private Detective, Private Alarm, Private Security, Fingerprint Vendor, and Locksmith Act of 2004" (68 Ill Adm Code 1240) proposed 3/23/12 (36 Ill Reg 4215)

## ***Joint Committee on Administrative Rules***

**Senator Pamela Althoff**

**Representative Greg Harris**

**Senator Maggie Crotty**

**Representative Lou Lang**

**Senator Don Harmon**

**Representative Don Moffitt**

**Senator John O. Jones**

**Representative Rosemary Mulligan**

**Senator Dale A. Righter**

**Representative Angelo "Skip" Saviano**

**Senator Ira Silverstein**

**Representative Andre Thapedi**

**Vicki Thomas  
Executive Director**