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Joint Committee on Administrative Rules
Illinois General Assembly

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Issue 30

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

Proposed Regulations

PROCUREMENT

The DEPARTMENT OF TRANSPORTATION adopted emergency amendments to "Selection of Architect-Engineer Consultant Firms" (44 Ill Adm Code 625; 33 Ill Reg 11127), effective 7/7/09, for a maximum of 150 days. Identical proposed amendments appear at 33 Ill Reg 11079. The rulemakings repeal cross-references to a previously repealed Part governing selection of consultants and instead state that the solicitation, preliminary assessment, and evaluation and selection provisions of this Part do not apply to contracts less than \$25,000, which have exemptions stated in the Architectural, Engineering, and Land Surveying Qualifications Based Selection Act. Those same provisions of the Part do not apply when it is in "the best interest of the State" to proceed with immediate selection of a firm or in emergency situations (e.g., earthquake, tornado). Also, provisions and certain exemptions for contracts of \$5,000 or less are stricken. The consultant selection committee is increased from 6 to 7, with the new member selected by the Illinois Society of Professional Engineers. Public members of the committee may not be employed by, associated with, or

have an ownership interest in any firm holding or seeking a contract with the Department. The amendments state the goal of the Department is that 2 or more members of the committee be females or minorities. Further amendments change the title of the Part to "Selection of Architectural, Engineering and Land Surveying Services". This rulemaking may affect small businesses seeking contracts with DOT.

Questions/requests for copies/comments concerning the proposed rulemaking through 9/8/09: Cheryl Cathey, DOT, 2300 S. Dirksen Pkwy., Rm. 330, Springfield IL 62764, 217/782-7557.

STATE EMPLOYEES

The DEPARTMENT OF CENTRAL MANAGEMENT SERVICES adopted peremptory amendments to "Pay Plan" (80 Ill Adm Code 310; 33 Ill Reg. 11082), effective 7/10/09. The amendments implement 7 memoranda of understanding between DCMS and the American Federation of State, County and Municipal Employees (AFSCME) assigning persons holding the title of senior public service administrator, option 8E (professional engineer); senior public service administrator, (cont'd next page)

DEFIBRILLATORS

The DEPARTMENT OF PUBLIC HEALTH proposed amendments to "Physical Fitness Facility Medical Emergency Preparedness Code" (77 Ill Adm Code 527; 33 Ill Reg 10947) to implement 2 public acts. The first, Public Act 95-712, includes among physical fitness facilities required to have at least one automated external defibrillator (AED) football stadiums, soccer fields, and baseball diamonds. Facilities are excluded that are (1) owned or operated by park districts organized under the Park District Code, the Chicago Park District Act, or the Metro-East Park and Recreation District (East St. Louis); (2) owned or operated by a forest preserve district organized under the Downstate Forest Preserve District Act or the Cook County Forest Preserve District Act; or (3) a conservation district organized under the Conservation District Act (currently, any outdoor facility is excluded). "Anticipated" rescuers are encouraged to complete a course of instruction for qualification as trained AED users. The rulemaking also implements provisions of Public Act 95-447, which removes the requirement that AEDs be registered with an Emergency Medical System hospital. It also adds definitions of "assistance", "gaming", "supervising", and "third party operator" and strikes the definition of "resource hospital". Further amendments require an inoperable AED to be replaced or repaired within

(cont'd next page)

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

option 8P (licensed pharmacist); statistical research supervisor; data processing supervisors I, II, and III; human services casework manager; resi-

dential services supervisor; and plumbing consultant (Department of Public Health) to various collective bargaining units.

Questions/requests for copies: Jason Doggett, DCMS, 504 Stratton Bldg., Springfield IL 62706, 217/782-7964, e-mail: CMS.PayPlan@Illinois.gov

Proposed Regulations

30 days (currently, 45) and update incorporations by reference of American Heart Association and American Red Cross standards. Those affected by this rulemaking include certain indoor and outdoor physical fitness facilities.

Questions/requests for copies/comments through 9/8/09: Susan Meister, DPH, 535 W. Jefferson St., 5th Fl., Springfield IL 62761-0001, 217/782-2043, e-mail: dph.rules@illinois.gov

DRIVER'S LICENSES

The SECRETARY OF STATE proposed amendments to "Cancellation, Revo-

cation or Suspension of Licenses or Permits" (92 Ill Adm Code 1040; 33 Ill Reg 10959) that update the Illinois Offense Table to reflect required revisions by the American Association of Motor Vehicle Administrators (AAMVA) in compliance with federal regulations. AAMVA maintains a listing of universally applicable codes that represent vehicular offenses including, but not limited to, moving violations and alcohol-related offenses. Each state maintains a corresponding table (e.g., Illinois Offense Table) that cross-references its own statutory offenses and the related AAMVA code. AAMVA codes ensure reciprocity among states in the event that an individual

attempts to obtain a driver's license in another state after his or her license has been cancelled, revoked, or suspended in a different state. The individual's driving record reflects any offenses via AAMVA code that he or she may have in another state, thus preventing issuance of a new license in another jurisdiction. The rulemaking also adds new definitions and updates existing definitions to reflect corresponding AAMVA revisions.

Questions/requests for copies/comments through 9/8/09: Arlene J. Pulley, DOT, 2701 S. Dirksen Pkwy., Springfield IL 62723, 217/557-4462.

Second Notices

The following rulemakings were moved to second notice this week by the agencies listed below, commencing the JCAR review period. The rulemakings will be considered at JCAR's August 18, 2009 meeting.

IL COMMERCE COMMISSION

"The Provision, Construction and Maintenance of Sanitation and Shelter Facilities for Rail Carrier Employees" (92 Ill Adm Code 1545) proposed 3/6/09 (33 Ill Reg 3793)

"Electric Interconnection of Large Distributed Generation Facilities" (83 Ill Adm Code 467) proposed 3/6/09 (33 Ill Reg 3718)

DEPT. OF HUMAN SERVICES

"Temporary Assistance for Needy Families" (89 Ill Adm Code 112) proposed 4/10/09 (33 Ill Reg 5201)

"Aid to the Aged, Blind or Disabled" (89 Ill Adm Code 113) proposed 4/17/09 (33 Ill Reg 5699)

"General Assistance" (89 Ill Adm Code 114) proposed 4/10/09 (33 Ill Reg 5228)

"Food Stamps" (89 Ill Adm Code 121) proposed 4/10/09 (33 Ill Reg 5248)

"Food Stamps" (89 Ill Adm Code 121) proposed 4/17/09 (33 Ill Reg 5710)

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

"Medical Assistance Programs" (89 Ill

Adm Code 120) proposed 4/17/09 (33 Ill Reg 5683)

"Hospital Services" (89 Ill Adm Code 148) proposed 2/27/09 (33 Ill Reg 3588)

"Hospital Services" (89 Ill Adm Code 148) proposed 4/17/09 (33 Ill Reg 5685)

DEPARTMENT OF AGRICULTURE

"Weights and Measures Act" (8 Ill Adm Code 600) proposed 5/29/09 (33 Ill Reg 7047)

JCAR Meeting Action

At its 7/14/09 meeting, the Joint Committee on Administrative Rules withdrew two previous Filing Prohibitions and issued one Objection and Filing Prohibition.

DEPARTMENT OF NATURAL RESOURCES

JCAR objects to, and prohibits the filing of, a new Part titled "Dam Safety Requirements" (17 Ill Adm Code 3703; 32 Ill Reg 14445). The proposed rulemaking creates an exclusion zone 300' upstream and 50' downstream from 31 named "run-of-river" dams throughout the State on rivers, streams, and waterways considered to be public waters. No one would be allowed inside the zone except for specified purposes (e.g., police). The Committee finds that the rulemaking poses a threat to the public interest by imposing significant costs on public landowners, imposing costs and property right restrictions on private landowners not specifically authorized by statute, greatly restricting recreational uses of some public waterways, and potentially exposing public and private landowners to increased legal liabilities.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

JCAR withdraws its Filing Prohibition on amendments for "Medical Payment" (89 Ill Adm Code 140; 32 Ill Reg 14003) that was issued on 3/17/09 and published in the *Illinois Register* on 4/3/09 contingent and effective upon HFS withdrawal of Section 140.14 from the rulemaking at adoption. Section 140.14 proposed denying a medical provider's application to participate in the medical assistance program if the provider owed a debt to the Department.

JCAR also withdraws its Filing Prohibition on other amendments for "Medical Payment" (89 Ill Adm Code 140; 32 Ill Reg 13791) that was issued on 6/16/09 and published in the *Illinois Register* on 7/6/09 contingent upon the Department's agreement to modify the rulemaking as indicated in its Modifications in Response to JCAR's Objection. Topics covered in the modifications include a cap of 2 psychotherapy treatments per week reimbursed under this particular assistance program; a standard therapy session length of 45 minutes; a cap of 12 participants per session; and a requirement that the psychotherapy sessions be led, beginning on 1/1/10, by a physician who has completed a psychiatric residency or certain medical students and medical school physicians involved in psychiatric residency programs.

FLINN REPORT MAILING LIST

In light of rising production and mailing costs, it is again time to survey *Flinn Report* readers concerning the method by which you want to receive this newsletter. You may help JCAR economize by accessing the *Flinn Report* free of charge at the Illinois General Assembly website listed in the newsletter's heading on the first page. Also, you may receive it by bulk mail if you complete and return the form below by 9/1/09 to JCAR, 700 Stratton Bldg., Springfield IL 62706, or e-mail us at jcar@ilga.gov.

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Illinois Regulation

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