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Joint Committee on Administrative Rules
Illinois General Assembly

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217/785-2254 ilga.gov/commission/jcar

VOL. 33

August 21, 2009

Issue 34

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

MEDICAL PAYMENTS

The DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES adopted amendments to "Medical Payment" (89 Ill Adm Code 140; 32 Ill Reg 14003), effective 8/17/09, concerning termination or suspension of a Medical Assistance Program vendor. Termination or suspension of eligibility may occur if the vendor, manager, officer or person owning 5% or more of the corporate shares, an owner of a sole proprietorship, or partner in a partnership has been convicted of a Class X felony or murder. Also, DHFS is given authorization to withhold payments to a provider or alternate payee if DHFS receives evidence that may show fraud or willful misrepresentation under the medical assistance program. The Department must send notice of the withholding within 5 days after taking action and must include the statutory basis for withholding, explain that the withholding is temporary and the circumstances under which withholding will be terminated, specify the type of claim affected by the withholding, explain that the provider or alternate payee may submit written evidence for reconsideration, and state that a written request for release of the withheld payments may

be made to DHFS at any time. Withholding will be for a maximum of 3 years. A change since 1st Notice omits proposed text from the adopted rulemaking that would have allowed the Department to deny an application to participate in the program if the medical provider owed a debt to DHFS. Medicaid-funded providers and the entities that employ them may be affected by this rulemaking.

Questions/requests for copies: Tamara Tanzillo Hoffman, DHFS, 201 S. Grand Ave. E., 3rd Fl. Springfield IL 62763-0002, 217/557-7157.

AIR POLLUTION LIMITS

The POLLUTION CONTROL BOARD adopted amendments to 3 Parts titled "Permits and General Provisions" (35 Ill Adm 201; 32 Ill Reg 17035), "Definitions and General Provisions" (35 Ill Adm Code 211; 32 Ill Reg 17055), and "Nitrogen Oxides Emissions" (35 Ill Adm Code 217; 32 Ill Reg 17075), all effective 8/6/09. The changes are intended to control nitrogen oxide emissions into the air from turbines and engines with a capacity at or greater than 500 brake horsepower or 3.5 megawatts that emit, or have the

(cont'd next page)

RIVER EDGE REDEVELOPMENT

The DEPARTMENT OF REVENUE proposed amendments to "Retailers' Occupation Tax" (86 Ill Adm Code 130; 33 Ill Reg 11921) creating an exemption from the tax for certain building materials incorporated into commercial and industrial projects in a River Edge Redevelopment Zone. Such materials must be physically incorporated into the project, and wall, window, and roofing materials; heating, ventilation, plumbing, and electrical systems; built-in cabinets; built-in appliances; and attached floor coverings are examples of tax-exempt materials. Free-standing appliances, floor coverings that can easily be removed, fuel, tools, and machinery are not eligible for the tax exemption. If the development includes residential use, the tax exemption will be adjusted to apply only to the commercial or industrial areas. The amendments also detail documentation requirements. Those affected by this rulemaking include retailers selling tangible personal property for incorporation into such redevelopment zones.

Questions/requests for copies/comments through 10/5/09: Richard S. Wolters, DOR, Legal Services Office, 101 W. Jefferson, Springfield IL 62794, 217/782-2844.

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

potential to emit, 100 tons/year of nitrogen oxide and that are located in the Greater Chicago and Metro East/St. Louis nonattainment areas. The regulations address construction and operating permits for specified internal combustion engines, the operation of emergency or standby units, requirements for control and maintenance, emissions averaging plans, compliance, testing and monitoring, recordkeeping, and reporting. The rulemaking is intended to help Illinois meet federal Clean Air Act standards.

Questions/requests for copies of the 3 rulemakings above: Tim Fox, PCB, 100 W. Randolph, Ste. 11-500, Chicago IL 60601, 312/814-6085, e-mail: foxt@ipcb.state.il.us. Please reference docket R07-19.

Questions/requests for copies: Linda Rhodes, DOA, State Fairgrounds, Springfield, IL 62794-9281, Fax 217/785-4505, 217/785-5713.

STATE EMPLOYEE FURLOUGHS

The DEPARTMENT OF CENTRAL MANAGEMENT SERVICES adopted an emergency amendment to "Conditions of Employment" (80 Ill Adm Code 303; 33 Ill Reg 12032), effective 8/7/09, for a maximum of 150 days. An identical proposed amendment is also published in this week's *Illinois Register* at 33 Ill Reg 11919. The amendments set out the provisions of a State employee furlough program that agencies may implement when conditions require curtailing operations. The agency must provide advance notice to affected employees and their supervisors stating the effective date and number of furlough days required and must track furloughed employees and cost savings to the State. Cost savings will be computed per furlough day by dividing the employee's annualized rate of pay by the number of work days in a year. The employee's creditable service for purposes of annual evaluation; retirement; longevity; health/life insurance coverage; or vacation, sick, or personal time will not be affected. Furloughs will not replace appropriate permanent or temporary layoffs or emergency shutdowns, substitute for permanent part-time employment, or be used as a

form of discipline. Employees on leave of absence will not be scheduled for furlough. Also, furloughed employees are not allowed to be at work, on call, or performing State work. Agency heads may designate furlough-exempt employees. Examples of such employees include those in facilities that are open 24 hrs./day who would have to be replaced at a higher cost than the savings; who perform critical functions; who are paid with 100% federal funds; or who are in positions that generate more money than the cost savings. Furloughs will be taken in full or half day increments. Unpaid time (used when no vacation, sick time, etc. is available) accrued before a furlough day is designated cannot be used to satisfy furlough obligations. Furlough time will be prorated for employees on shortened workweeks, and holiday pay will be unaffected by the scheduling of furlough time. Also, furlough requirements cannot be satisfied by relinquishing accrued compensation time or other paid time (e.g., vacation, sick, personal, holiday).

Questions/requests for copies/comments concerning the proposed rulemaking through 10/5/09: Jeff Shuck (217/782-5778) or Gina Wilson (217/785-1793), DCMS, 720 Stratton Bldg., Springfield IL 62706.

MEAT & POULTRY INSPECTION

The DEPARTMENT OF AGRICULTURE adopted a peremptory amendment to rules titled "Meat and Poultry Inspection Act" (8 Ill Adm Code 125; 33 Ill Reg 12040), effective 8/5/09. The amendment incorporates by reference a section number correction made in federal regulations by the federal Food Safety and Inspection Service concerning recordkeeping provisions in its meat and poultry inspection rules. Illinois rules will thereby remain consistent with federal rules. Those affected by this rulemaking include meat and poultry processors.

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 September 15, 2009 meeting.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

"Indian Child Welfare Services" (89 Ill Adm Code 307) proposed 4/24/09 (33 Ill Reg 5990)

ILLINOIS EMERGENCY MANAGEMENT AGENCY

"Administrative Hearings" (32 Ill Adm Code 200) proposed 5/15/09 (33 Ill Reg 6592)

SECRETARY OF STATE

"Issuance of Licenses" (92 Ill Adm Code 1030) proposed 6/26/09 (33 Ill Reg 8890)

DEPARTMENT OF HUMAN SERVICES

"Electronic Prescription Monitoring Program" (77 Ill Adm Code 2080) proposed 5/29/09 (33 Ill Reg 7060)

DEPARTMENT OF STATE POLICE

"Bait Car Procedures" (20 Ill Adm Code 1297) proposed 6/26/09 (33 Ill Reg 8900)

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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