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Illinois General Assembly

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*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

### ☞ PLANT EXPORT CERTIFICATES

The DEPARTMENT OF AGRICULTURE adopted an amendment to rules titled "Insect Pest and Plant Disease Act" (8 Ill Adm Code 240; 35 Ill Reg 7439), effective 11/1/11, raising the fee for Department-issued phytosanitary certificates from \$75 to \$100 per certificate, as of 1/1/12. (Phytosanitary certificates verify that shipments of plants, seeds, or plant products (e.g., commercial grain shipments) bound for a destination outside Illinois are free of disease or insect infestation that would bar their importation into that state or country.) DOA states that the increase parallels a recent increase in the cost of federal certificates issued by the U.S. Department of Agriculture. Nurseries, tree farms, greenhouses, and other businesses that ship plants or plant products outside of Illinois will be affected by this rulemaking.

### ☞ STATE FAIRGROUNDS

DOA also adopted amendments to "General Operations of the State Fairs and Fairgrounds" (8 Ill Adm Code 270; 35 Ill Reg 4707), effective 12/1/11, concerning rental and use of the State Fairgrounds at Springfield and at

DuQuoin outside of their respective State Fairs. Rules concerning facility availability and rental for non-Fair events, camping, concessions, ticket sales, post-event clean-up, and stabling and quarantine of horses are updated and amended to clarify the sites, events, and situations to which they apply. Facility rentals for non-Fair events at the Springfield fairgrounds between July 15<sup>th</sup> and September 1<sup>st</sup> and at DuQuoin between August 15<sup>th</sup> and September 10<sup>th</sup> will be permitted at the discretion of the DOA director (formerly, these periods were always unavailable). Also, rental and concession fees must be paid further in advance of events. Charges for use of the Springfield fairgrounds by any department of State government or other governmental entity will be waived unless the director determines that the usage places a financial hardship upon the Department (formerly, a blanket waiver was granted to all government entities). Move-in and move-out deadlines specified in rule for certain events are stricken. Instead, the director will determine move-in and move-out dates for all events. Also, at non-Fair events, games of chance or skill, raffles, prize drawings, and gambling devices that are not

(cont'd next page)

## Proposed Regulations

### STATE LIBRARY

The SECRETARY OF STATE (State Library) proposed amendments to "Illinois State Library, Government Documents Section" (23 Ill Adm Code 3020; 35 Ill. Reg. 19127) to reduce the number of copies of most official documents sent to the Library's Government Documents section from 35 to 2, with 26 hard copies sent of documents on the section's core list (documents designated for storage in a "tangible format"). University publication submissions are reduced from three copies to two. The rulemaking also repeals SOS policies regarding inspection of depository libraries.

Questions/requests for copies/comments through 1/3/12: Joe Natale, Illinois State Library, Gwendolyn Brooks Bldg., Springfield IL 62701-1796, 217/558-4185, [jnatale@ilsos.net](mailto:jnatale@ilsos.net).

### LABOR HEARINGS

The ILLINOIS LABOR RELATIONS BOARD proposed an amendment to "General Procedures" (80 Ill Adm Code 1200; 35 Ill. Reg. 19029) to shift the cost of recording and transcribing a Board hearing from the Board to the

(cont'd page 3)

*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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forbidden by statute may be prohibited by the Department. Rules allowing camping any time the entire fairground is not occupied and permitting pets in designated camping areas are amended to apply only to the DuQuoin fairgrounds. Regarding the Springfield fairgrounds, the rulemaking requires the campgrounds to remain open year-round with limited availability from November through March. Water and sewer service is available from April 1<sup>st</sup> to October 31<sup>st</sup>, and electrical service is provided year-round (instead of in "non-freezing months" only). The director may close the Springfield campgrounds for special events, give participants and attendees of non-Fair events priority for camping spaces, and institute a reservation system for non-Fair event camping. Other covered topics include lists of fairground areas available for rent, an increase in lessee required liability insurance, and payment of prevailing wage and overtime at contracted events. Since 1<sup>st</sup> Notice, monetary amounts for space rental and use fees for backstretch camping (\$150/month, plus electrical service) and for stabling horses (\$35/month, plus electrical service) have been added. Another change specifies that the Director may charge State and local government entities for use of the Springfield fairgrounds only in cases of financial hardship to DOA. (As proposed, the rulemaking would have given the Director discretion to determine whether or not governmental entities would be charged.) Other changes include language clarifying that approved service providers must be contracted to clean up after an event, and that trainers of standardbred horses (as well as thoroughbreds, quarter horses, and lead ponies) may camp at the DuQuoin fairgrounds. Those affected by this rulemaking include vendors, exhibitors, individuals, or groups participating in non-Fair events at either fairgrounds; persons using fairground camping areas; and State or local government entities that wish to use fairground facilities.

Questions/requests for copies of the 2

DOA rulemakings above: Linda Rhodes, DOA, State Fairgrounds, Springfield IL 62794-9281, 217/785-5713, Fax 217/785-4505.

## ☞ **CRIME VICTIMS**

The OFFICE OF THE ATTORNEY GENERAL repealed the Part titled "Programmatic and Fiscal Requirements for Administering Funds under the Violent Crime Victims Assistance Act" (89 Ill Adm Code 1100; 34 Ill Reg 17939) and adopted a new Part with the same title and number (89 Ill Adm Code 1100; 34 Ill Reg 17977) both effective 11/4/11. The new Part implements statutory changes to the Violent Crime Victims Assistance Act and the Grant Funds Recovery Act that affect the Attorney General's grant program for agencies that assist crime victims. Public agencies or private non-profit agencies are eligible to apply for these grants. The new Part requires grant applications to be submitted on or before the first Friday of February prior to the fiscal year for which funds are requested, and also requires more detailed information regarding the dollar amount requested, the agency's budget, the positions to be funded by the grant, and the agency's non-discrimination and personnel policies. Applicants must also submit at least three separate letters of support from persons who have interacted with the program in the previous 6 months. Grant periods are limited to no more than one year (instead of being specified in the grant agreement). The rule also specifies services and information that eligible programs must provide to victims (e.g., support programs for victims of sexual assault must provide a 24-hour telephone hotline and 24-hour access to medical advocacy) as well as other services that are recommended but not required (e.g., bilingual and interpretive services, child care, transportation). Grants may be awarded for special projects that have a specific goal and time limit, in addition to ongoing services. Other provisions in the new Part specify expenses that will and will not be funded by these grants, proce-

dures for monitoring how grant funds are spent, and conditions for terminating a grant. Changes since 1<sup>st</sup> Notice add definitions and a list of referenced State and federal statutes. Also, language addressing crime victim services training has been added. Those affected by this rulemaking include local governments and non-profit agencies that provide assistance to victims of domestic violence, child abuse, sexual assault and other crimes.

Questions/requests for copies of the 2 AG rulemakings above: Cynthia Hora, Office of the Attorney General, 100 W. Randolph, 13<sup>th</sup> Fl., Chicago IL 60601, 312/814-1427, fax 312/814-7105.

## ☞ **PSYCHIATRY PROGRAM**

The DEPARTMENT OF PUBLIC HEALTH adopted a new Part titled "Psychiatry Incentive Program Code" (77 Ill Adm Code 577; 35 Ill Reg 11202), effective 11/3/11, to implement Public Act 96-1411 by establishing grants, loans, and loan forgiveness aimed at recruiting and retaining physicians who agree to establish and maintain psychiatric practices in underserved Illinois areas. Grants may be made to Illinois accredited schools of medicine or osteopathy that have a department of psychiatric medicine, any Illinois accredited psychiatric residency program, or any Illinois accredited child and adolescent fellowship program. Covered topics include eligibility criteria, application and evaluation procedures, reporting requirements, and grant fund recovery. The rulemaking also covers scholarship awards to eligible Illinois psychiatric medical students based on need and the student's agreement to serve targeted, underserved populations on a full-time basis. Such students may also be eligible for educational loan repayments up to a maximum \$25,000 per year. Those affected by this rulemaking include medical practices that are established by medical students who take advantage of this program.

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## ☞ HEART DEFIBRILLATORS

DPH also adopted amendments to "Heartsaver AED Grant Code" (77 Ill Adm Code 530; 35 Ill Reg 11197), effective 11/1/11, concerning grants awarded for the purchase of automated heart defibrillators (AEDs). An amendment specifies that the recipient must place the AED into public service within 8 weeks after receipt of grant funds and complete required documentation. Also, the address of DPH's Division of Emergency Medical Systems and Highway Safety in Springfield is updated. Those affected by this rulemaking include both private and public educational entities,

forest preserves and conservation districts, and municipal recreation departments.

## ☞ HOSPITAL CAPITAL GRANTS

DPH adopted an amendment to "Hospital Capital Investments" (77 Ill Adm Code 976; 34 Ill Reg 10652), effective 11/2/11. A companion emergency amendment appeared in the 7/8/11 Illinois Register at 35 Ill Reg 10974. The rulemaking provides that hospitals that apply for and receive a Certificate of Need or Certificate of Exemption from the Illinois Health Facilities and Services Review Board for a change of ownership will be required

to modify the letter of intent and grant application for the Hospital Capital Investment Program to reflect the ownership change. Since 1<sup>st</sup> Notice, modification of the letter of intent and grant application to reflect an ownership change has been made mandatory rather than optional. Those affected by this rulemaking include not-for-profit and public hospitals.

Questions/requests for copies of the 3 DPH rulemakings above: Susan Meister, DPH, 535 W. Jefferson St., 5<sup>th</sup> Fl., Springfield IL 62761-0001, 217/782-2043, e-mail: [dph.rules@illinois.gov](mailto:dph.rules@illinois.gov).

# Proposed Regulations

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parties appearing before the Board. Public employers with fewer than 35 employees or any party meeting the qualifications for appointment of legal counsel pursuant to Board rules will not be required to pay such costs, but will be responsible for the cost of any copies of transcripts they order.

Questions/requests for copies/comments through 1/3/12: Jerald Post, ILRB, 160 N. LaSalle St., Ste. S-400, Chicago IL 60601, 312/793-6400, [Jerald.Post@Illinois.Gov](mailto:Jerald.Post@Illinois.Gov).

lists staffing, training, and other criteria a facility must meet to qualify for reimbursement. Payment formulas for each type of care are also listed. Nursing homes that receive Medicaid funds will be affected by this rulemaking.

Questions/requests for copies/comments through 1/3/12: Jeanette Badrov, DHFS, 201 S. Grand Ave. East, 3<sup>rd</sup> Fl., Springfield IL 62763-0002, 217/782-1233.

## ☞ MOTOR FUEL TAXES

The DEPARTMENT OF REVENUE proposed amendments to rules titled "Motor Fuel Tax" (86 Ill Adm Code 500; 35 Ill Reg 19062) and "Environmental Impact Fee" (86 Ill Adm Code 501; 35 Ill Reg 19123) implementing several Public Acts and the federal International Fuel Tax Agreement (IFTA). The Part 500 amendments add persons who export motor fuel out of Illinois to the definition of "distributor" and add the states of Mexico to the definition of "jurisdiction". The rulemaking allows data from independent surveys to be used in calculating the price per gallon of gasoline, require additional information for distributor

applications for licensure, and extend the sunset date for the tax from 2013 to 2025. Other amendments to Part 500 require suppliers to provide fire and police reports when reporting losses due to fire or theft, require additional documentation of sales exempt from tax or used in another state, and allow motor fuel tax refunds to be claimed for undyed diesel fuel used by tugs and spotters (vehicles that transfer cargo from loading docks to aircraft). (Owners of vehicles that are used only on private property and not on public highways may claim refunds for motor fuel tax paid on fuel used by these vehicles.) Fines for illegal sales of dyed diesel fuel for highway use by licensed distributors or suppliers are reduced to \$1,000 for the first offense and \$5,000 for subsequent offenses (currently, \$5,000 for a first offense and \$10,000 for subsequent offenses). The cost of a motor fuel tax permit for a vehicle making a single trip into or through Illinois is \$40 (currently \$20) and the permit is valid for 96 hours (currently 72 hours). Beginning 1/1/13, prepurchased single trip permits must be applied for and paid for electronically. The rulemaking also includes provisions for decal refunds, clarifies that tax exempt fuel for

## ☞ NURSING HOMES

The DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES proposed amendments to "Reimbursement for Nursing Costs for Geriatric Facilities" (89 Ill Adm Code 147; 35 Ill Reg 19015) implementing provisions of Public Act 96-1530. The PA and the rulemaking allocate \$8 million from the long-term care assessment on nursing homes to pay for services to residents with exceptional needs. "Exceptional needs" are defined as ventilator and tracheotomy care, bariatric care, complex wound care, and traumatic brain injury (TBI) care. For ventilator and TBI care, the rulemaking

# Proposed Regulations

public transportation systems must be used only in the system's jurisdiction, and allows the DOR Director to temporarily waive, for up to 30 days, licensing or single trip permit requirements for commercial vehicles (not normally used on public highways, e.g., earth movers) traveling through Illinois to assist in a disaster relief effort. The rulemaking also requires license and decal applications and renewals (as of 10/1/12), and payment of taxes and filing of tax returns (as of 1/1/13) to be made electronically. The Part 501 amendment extends the sunset date for the environmental impact fee from 2013 to 2025. Those affected by this rulemaking include motor fuel sellers and distributors and small business or non-profit groups organizing disaster relief efforts.

Questions/requests for copies/comments concerning the 2 DOR rulemakings above through 1/3/12: Jerilynn Troxell Gorden, DOR Legal Services Office, 101 W. Jefferson St., Springfield IL 62794, 217/782-2844.

## PROFESSIONAL LICENSURE

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION (DFPR) proposed amendments to "Genetic Counselor Licensing Act" (68 Ill Adm Code 1251; 35 Ill Reg 18986) that allow initial licensure applicants to provide an official transcript and letter of completion from an approved graduate program in lieu of providing an actual diploma. An applicant who does not receive a diploma will have his or her license terminated. The first renewal date for licensure is changed to 1/31/11 (currently 1/31/09). The rulemaking increases the licensure restoration fee from \$20 to \$50 plus payment of all lapsed renewal fees and adds the National Society of Genetic Counselors (NSGC) and other DFPR-DPR approved entities to the list of approved continuing education sponsors/programs. Ge-

netic counselors and their employers are affected by this rulemaking.

DFPR also proposed amendments to "Optometric Practice Act of 1987" (68 Ill Adm Code 1320; 35 Ill Reg 18993). The rulemaking implements a provision of Public Act 97-170 which expanded the definition of ocular pharmaceutical agents to include anti-drying agents and agents for the treatment of hypotrichosis. Another change clarifies that all continuing education (CE) earned in other states being presented in Illinois for credit must be certified by the Council on Optometric Practitioner Education (COPE). The rulemaking also amends the requirements for minimum eye examinations and minimum equipment lists for optometry offices. A new Section clarifies recordkeeping requirements for examinations made and prescriptions written by a licensed optometrist. The rulemaking also changes the ancillary licensure process to an ancillary registration process and removes associated ancillary licensure fees from rule. (Ancillary licenses are currently granted to optometrists practicing at more than one location.) Those affected by this rulemaking include optometrists, vision care facilities and other entities that employ optometrists.

Questions/requests for copies/comments concerning the 2 DFPR rulemakings above through 1/3/12: Craig Cellini, DFPR, 320 W. Washington, 3<sup>rd</sup> Fl., Springfield IL 62767-0001, 217/785-0813.

## COMMERCIAL FISHING

The DEPARTMENT OF NATURAL RESOURCES proposed amendments to "Commercial Fishing and Musseling in Certain Waters of the State" (17 Ill Adm Code 830; 35 Ill Reg 19033) concerning commercial fishing permits. The rulemaking allows the use of trammel and gill nets (in waters where they would otherwise be forbidden) under a special use permit and sets conditions for

issuing such permits for commercial fishing or fish removal on either public or private bodies of water. The rulemaking also clarifies that after the second annual drawing for commercial fishing permits, any remaining permits will be allocated on a first-come, first-served basis. Commercial fishermen will be affected by this rulemaking.

## BOATING

DNR also proposed amendments to "Designation of Restricted Waters in the State of Illinois" (17 Ill Adm Code 2030; 35 Ill Reg 19045) designating a portion of the Vermillion River near the Cement Plant Dam in Oglesby as "no entry" and changing the boundaries of the "no wake" zone at Quincy Bay Harbor along the Mississippi River.

## DNR LICENSES

DNR proposed amendments to "Illinois Resident Armed Forces Fee Exemptions" (17 Ill Adm Code 2510; 35 Ill Reg 19055) reducing fishing, hunting, and sportsmen's (combined fishing and hunting) license fees to half of the usual fee for Illinois residents who are former members of the U.S. armed forces. Eligible veterans must apply in person at a DNR regional office and must present a Form DD-214 and photo identification. After obtaining initial half-price licenses, eligible veterans may renew them through the DNR website or over the counter from any agent that sells licenses. Small businesses that sell hunting and fishing licenses may be affected by this rulemaking.

Questions/requests for copies/comments concerning the 3 DNR rulemakings above through 1/3/12: Nick San Diego for Part 830, Robert Mool for Part 2030 and George Sisk for Part 2510, DNR, One Natural Resources Way, Springfield IL 62702-1271, 217/782-1809.

## Second Notices

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The following rulemakings were moved to Second Notice this week by the agencies below, commencing the JCAR review period. These rulemakings will be considered at JCAR's 12/13/11 meeting.

### SECRETARY OF STATE

"Procedures and Standards" (92 Ill Adm Code 1001) proposed 9/9/11 (35 Ill Reg 14916)

### DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

"Pay Plan" (80 Ill Adm Code 310) proposed 9/23/11 (35 Ill Reg 15345)

### DEPARTMENT OF TRANSPORTATION

"Prequalification of Contractors, Authorization to Bid, and Subcontractor Registration" (44 Ill Adm Code 650) proposed 9/23/11 (35 Ill Reg 15454)

## JCAR 2010 ANNUAL REPORT

The Joint Committee on Administrative Rules' 2010 annual report is now available. The report summarizes agency rulemaking, JCAR actions, and public act reviews in addition to legislative and judicial actions that affected rulemaking.

Copies of this annual report are available to the public. The volume may be ordered for \$2.63 (\$5.11 with postage included) by sending a check to JCAR at the address listed on the front of this newsletter. It is also available on the General Assembly website at [www.ilga.gov/commission/jcar](http://www.ilga.gov/commission/jcar).

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