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Joint Committee on Administrative Rules
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, 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

■ DRIVER'S LICENSES

The SECRETARY OF STATE adopted amendments to Cancellation, Revocation or Suspension of Licenses or Permits (92 IAC 1040; 37 Ill Reg 3635) effective 6/23/15 to implement provisions from several Public Acts. PA 98-122, which created the Compassionate Use of Medical Cannabis Pilot Program, allows a registered user or his/her registered caregiver to legally possess no more than 2.5 ounces of usable cannabis during a 14-day period. The rulemaking provides that persons who legally possess medical cannabis under this Act will not be penalized with regard to their driver's licenses. PA 98-285 increases the penalty for driving with a suspended or revoked license to a Class 4 felony if the violation is not the

person's first and if the person is involved in an accident that causes bodily injury. PA 98-726 allows SOS to suspend or revoke the driving privileges of a person convicted by court-martial or through a non-judicial military punishment for violations in another state if the offense would have resulted in a suspension or revocation had it been committed in Illinois.

Questions/requests for copies: Jennifer Egizii, SOS, Driver Services Department, 2701 S. Dirksen Parkway, Springfield IL 62723, 217/557-4462.

■ OUTFITTERS

The DEPARTMENT OF NATURAL RESOURCES adopted amendments to Outfitter Regulations (17 IAC 640; 39 Ill Reg 2487) effective 6/26/15 that

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Proposed Rulemakings

■ ANHYDROUS AMMONIA

The DEPARTMENT OF AGRICULTURE proposed amendments to the Part titled Anhydrous Ammonia, Low Pressure Nitrogen Solutions, Equipment, Containers, and Storage Facilities (8 IAC 215; 39 Ill Reg 9065) concerning safety requirements for anhydrous ammonia storage and application equipment and implementing new certification requirements for persons handling anhydrous. The rulemaking extends the Part's applicability to include non-commercial (including on-farm) anhydrous storage and handling systems and requires any person who handles or stores anhydrous in vessels of greater than 3,000 gallons to be a certified competent attendant. Railroad tank cars may no longer be used

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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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implement a new permit system, clarify related definitions, and make provisions for waterfowl outfitting. The rulemaking establishes two classes of permits: Class A for deer and turkey outfitters and Class B for waterfowl outfitters. Class B annual permit fees of \$250 for Illinois residents and \$2,500 for non-Illinois residents are added; existing outfitter fees (Class A) remain unchanged but are attached to the new permit structure. Additional application requirements, unlawful activities and penalties are also listed. Violations of the Part are raised to Class B misdemeanors (currently, petty offenses). Since 1st Notice, DNR has removed a separate definition of “agent/broker”, eliminated proposed Class C and D permits for agent/brokers, and expanded the definition of “outfitting services” to include the services of agent/brokers. Small businesses engaged in outfitting or other hunting-related activities are affected.

Questions/requests for copies: Virginia Yang, DNR, One Natural Resources Way, Springfield IL 62702-1271, 217/782-1809.

STATE RETIREMENT SYSTEM

The STATE EMPLOYEES’ RETIREMENT SYSTEM OF ILLINOIS (SERS) adopted amendments to The Administration and Operation of the State Employees’ Retirement System of Illinois (80 IAC 1540;

39 Ill Reg 2538) effective 6/26/15. A companion emergency rule effective 2/6/15 appeared in the *Illinois Register* at 39 Ill Reg 2792. The rulemaking implements Public Act 98-1117, which gave the System authority to adjust benefits payments to members when it determines that a benefit payment had been set incorrectly. Recipients shall be notified in writing of any incorrect benefit payment, the correct amount to be paid, when the corrected amount will begin to be paid, and the procedure for appealing such action. If SERS determines that a recipient has been underpaid, it will pay a lump sum benefit to compensate for past diminished payments. If SERS determines that a recipient has been overpaid, repayment of the overpaid portion of benefits is required in all cases if the overpayment has occurred for less than 3 years. If overpayments have occurred for 3 years or longer, the recipient will not be required to repay unless the recipient, beneficiary or his/her authorized representative was ultimately responsible for providing SERS with the incorrect information upon which the overpayments were based. Overpayments may be collected via a reduction in remaining payments, direct repayment by the recipient, or by other means legally available to the System. Since 1st Notice, SERS removed provisions that applied these rules to the Judges’ Retirement System and the General Assembly Retirement System. It also removed a provision that required repayment of

overpayments of 3 years or more in duration when incorrect information had been supplied by an employing State agency or another State retirement system.

Questions/requests for copies: Jeff Houch, State Retirement Systems, 2101 S. Veterans Parkway, PO Box 19255, Springfield IL 62794-9255, 217/524-8105 Fax: 217/557-3943, jeff.houch@srs.illinois.gov

PREPAID TUITION

The ILLINOIS STUDENT ASSISTANCE COMMISSION adopted amendments to Illinois Prepaid Tuition Program (23 IAC 2775; 39 Ill Reg 2133), effective 7/1/15, implementing Public Act 98-1022. The rulemaking implements new statutory requirements for transparency in procurement of investment services and requires disclosure of diversity (ownership or participation by minority, female, or disabled persons) on the part of investment providers prior to their being awarded a contract. A new Section is also added that establishes competitive selection procedures for procurement of investment services. Changes since 1st Notice clarify various definitions and also clarify the applicability of the Illinois Procurement Code and other statutes to the Program.

Questions/requests for copies: Lynn Hynes, ISAC, 1755 Lake Cook Rd., Deerfield IL 60015, 847/948-8500, ext. 2305, fax 847/831-8299, lynn.hynes@isac.illinois.gov

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Proposed Rulemakings

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for anhydrous storage, and permanently mounted tank cars currently in use must be removed from service by 12/1/25. Container pressure relief devices may not be used more than 5 years beyond their date of manufacture; all facilities must comply with this requirement by 12/1/20. Regulated entities with multiple storage facilities must bring at least 25% of their vessels into compliance with this Part each year, beginning 12/1/16. The rulemaking adds new definitions and expands the definition of a public assembly (from which storage vessels must maintain a setback of 200 or 400 feet). A certified competent attendant must be on site during operations at any commercial or non-commercial storage facility, and attendants must attend refresher training every 3 years. A voluntary anhydrous safety training program will be offered for growers producing crops on their own land. Records of all inspections and maintenance on storage vessels must be kept at the facility for at least 5 years. Other provisions address specifications for new and existing storage vessels, pressure testing and repair criteria, container markings, shutoff valves, portable “nurse tanks”, and other system components. Those affected by this rulemaking include farmers, fertilizer companies, and other businesses that store or supply anhydrous ammonia.

Questions/requests for copies/comments through 8/24/15: Susan Baatz, DOA, State Fairgrounds, P.O. Box 19281, Springfield IL 62794-9281, 217.524-6905, fax 217/785-4505.

■ COMMERCIAL TRANSPORT

The DEPARTMENT OF TRANSPORTATION proposed amendments to 13 Parts: Procedures For Transportation Workplace Drug and Alcohol Testing Programs (92 IAC 340; 39 Ill Reg 9213), Special Training Requirements (92 IAC 380; 39 Ill Reg 9217), Controlled Substance and Alcohol Use and Testing (92 IAC 382; 39 Ill Reg 9221), Commercial Driver’s License Standards; Requirements and Penalties (92 IAC 383; 39 Ill Reg 9226), Procedures and Enforcement (92 IAC 386; 39 Ill Reg 9231), Minimum Levels of Financial Responsibility for Motor Carriers (92 IAC 387; 39 Ill Reg 9238), Motor Carrier Safety Regulations: General (92 IAC 390; 39 Ill Reg 9242), Qualification of Drivers (92 IAC 391; 39 Ill Reg 9276), Driving of Commercial Motor Vehicles (92 IAC 392; 39 Ill Reg 9283), Parts and Accessories Necessary for Safe Operation (92 Ill Adm Code 393; 39 Ill Reg 9287), Hours-of-Service of Drivers (92 IAC 395; 39 Ill Reg 9291), Inspection, Repair and Maintenance (92 IAC 396; 39 Ill Reg 9298), and Transportation of Hazardous Materials; Driving and Parking (92 IAC 397; 39 Ill Reg 9302), all of which implement recent changes or updates to federal rules and

update references to the most recent edition of the applicable federal rules for each Part (dated 10/1/14). The amendments to Parts 382, 383, 390 and 391 also implement exemptions for covered farm vehicles, and the Part 390 rulemaking applies a \$10 surcharge to registration fees for second division motor vehicles of 12,000 pounds or less that an owner wishes to classify as a covered farm vehicle. Commercial drivers, trucking firms, and owners of covered farm vehicles are affected by these rulemakings.

■ SCHOOL BUSES

DOT also proposed amendments to School Bus Driver’s Pretrip Inspection Requirements (92 IAC 458; 39 Ill Reg 9317) clarifying the length of time inspection forms documenting repairs or adjustments must be kept. The original copy of an inspection form must be retained by the bus owner/operator for 6 months (currently, 180 business days) after the date of inspection, while duplicate copies must remain in the bus for 1 month (currently, 30 business days) following the inspection. School bus owners, drivers and mechanics are affected by this rulemaking.

MOTORCYCLE SAFETY

Finally, DOT proposed an amendment to Illinois Cycle Rider Safety Training Program (92 IAC 455; 39 Ill Reg 9306)

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New Rules

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■ HIV/AIDS

The DEPARTMENT OF PUBLIC HEALTH adopted a new Part titled Quality of Life Code (77 IAC 974; 38 Ill Reg 22435) effective 6/25/15 establishing a board to oversee grants from the Quality of Life Fund established to support HIV prevention and treatment programs. (The fund is supported by an Instant Lottery scratch-off game.) The new Part establishes criteria for Quality of Life grant eligibility; application and grant issuance guidelines and procedures; and requirements for intervention staff training and service documentation. Since 1st Notice, a scoring system for evaluating grant applications has been added. Those affected by this rulemaking include small businesses and non-profits that provide counseling, treatment or other services to persons at risk of or living with HIV.

Questions/requests for copies: Elizabeth Paton, DPH, 535 W. Jefferson St., 5th Fl., Springfield IL 62761, 217/782-2043, dph.rules@illinois.gov

■ WATER POLLUTION

The POLLUTION CONTROL BOARD adopted amendments to Water Quality Standards (35 IAC 302; 38 Ill Reg 19366), Water Use Designations and Site-Specific Water Quality Standards (35 IAC 303; 38 Ill Reg 19401), and Permits (35 IAC 309; 38 Ill Reg

19416), implementing a recent opinion and order (R08-09(D)) affecting the Chicago Area Waterways System (CAWS) and the Lower Des Plaines River (LDPR). The Part 302 and 303 rulemakings, effective 7/1/15, implement various pollutant, water temperature and chemical concentration standards and establish the waterways to which these standards apply. Changes since 1st Notice to these Parts include modification of the proposed water temperature standards and an increase in the allowable concentrations of chloride and dissolved solids during the period 12/1 through 4/30 (when road salt runoff may affect these waterways). The amendment to Part 309, effective 6/26/15, allows entities with National Pollutant Discharge Elimination Permits to use established best management practices for chloride discharges. Businesses and municipalities along these waterways may be affected.

Questions/requests for copies of the 3 PCB rulemakings: Marie Tipsord, PCB, 100 W. Randolph St., Suite 11-500, Chicago IL 60601, 312/814-4925 or marie.tipsord@illinois.gov. Please reference docket R08-09(D). Copies can also be downloaded at www.ipcb.state.il.us.

PUBLIC RECORDS

The DEPARTMENT OF HUMAN RIGHTS repealed a Part titled Access to Public Records of the Department of Human Rights (2

IAC 926; 39 Ill Reg 9327) and adopted a new Part with the same name, Title and Part number (2 IAC 926; 39 Ill Reg 9330), both effective 6/24/15, in accordance with the required rulemaking process in Section 5-15 of the Illinois Administrative Procedure Act. The rulemakings implement recent revisions of the Illinois Freedom of Information Act (FOIA). The new Part lists information that will be disclosed and information that is exempt from disclosure. Other provisions specify how and to whom a request for public information should be submitted, establish response timelines of 5 business days for non-commercial requests and 21 working days for commercial requests or those from recurrent requesters, and list conditions under which the agency may deny a request or extend the timeline. The new Part also lists charges for copies made in various formats. New provisions for appealing a denial of requested documents to the Attorney General's Public Access Counselor are also included. Those affected by these rulemakings include individuals, groups, or business entities seeking public information or documents from DHR.

Questions/requests for copies: David T. Rothal, DHR, 100 W. Randolph St., Suite 10-100, Chicago IL 60601, 312/814-6257, TTY 866/740-3953.

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New Rules

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INSURANCE

The DEPARTMENT OF INSURANCE adopted an amendment to Variable Contracts (50 IAC 1451; 39 Ill Reg 2810) effective 6/26/15 clarifying the definition of a variable contract to include contracts and policies that do not require registration with the federal Securities and Exchange Commission.

Questions/requests for copies: Susan Christy, DOI, 320 W. Washington St., Springfield IL 62767, 217/782-1759.

IEMA REPEALER

The ILLINOIS EMERGENCY MANAGEMENT AGENCY repealed the Part titled Training and Education Program (29 IAC 110; 39 Ill Reg 3450) effective 6/23/15 because the Part is obsolete. The Part concerned training for former Emergency Services and Disaster Agency (ESDA) programs.

Questions/requests for copies: Traci Burton, IEMA, 1035 Outer Park Dr., Springfield IL 62704, 217/785-9860, TDD 217/782-6133.

Proposed Rulemakings

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clarifying that Temporary Visitor's Driver's Licenses (TVDLs) can be used to verify the program enrollment requirements of age, Illinois residency, and possession of a valid driver's license or permit.

Questions/requests for copies/comments on the 15 DOT rulemakings through 8/24/15: Catherine Allen, DOT Division of Traffic Safety, 1340 N. 9th St., P.O. Box 19212, Springfield IL 62794-9212, 217/785-3031 or Sannaz Etemadi, DOT Asst. Chief Counsel, 2300 S. Dirksen Pkwy, Rm. 313, Springfield IL 62764, 217/524-7763.

SALES TAX EXEMPTIONS

The DEPARTMENT OF REVENUE proposed amendments to Retailers' Occupation Tax (86 IAC 130; 39 Ill Reg 9126) implementing various PAs concerning exemptions from the tax. The rulemaking includes a new process for documenting the building materials exemption and the reporting of incentives in enterprise zones and high impact businesses. It also removes obsolete provisions for the building materials exemption and adds exemptions for building materials used to construct the South Suburban Airport and the Illiana Expressway. The rulemaking clarifies that exemptions for items used or consumed in manufacturing or assembly of

goods for wholesale or retail sale, and for repair and replacement parts for machinery used in the manufacturing/assembly process, do not apply to items used or consumed in the generation of electricity or natural gas or the treatment of water. Other amendments provide clearer explanations of existing rules. Businesses subject to retailers' occupation tax are affected.

Questions/requests for copies/comments through 8/24/15: Richard Wolters, DOR Legal Services, 101 W. Jefferson St, Springfield IL 62794, 217/782-2844.

EQUAL PAY

The DEPARTMENT OF LABOR and the DEPARTMENT OF HUMAN RIGHTS proposed Joint Rules of the Department of Labor and Department of Human Rights: Rules on Investigation of Equal Pay Act Cases (56 IAC 325; 39 Ill Reg 9115 and 56 IAC 2525; 39 Ill Reg 9112) implementing PA 98-1051. The rules explain the roles and responsibilities of DOL and DHR in investigations and processing of complaints filed under the Illinois Equal Pay Act.

Questions/requests for copies/comments through 8/24/15: Chris Wieneke, DOL, 900 S. Spring St., Springfield IL 62704, 217/558-1270 or David Rothal, DHR-Legal Division, 100 W. Randolph St., Ste 10-100, Chicago IL 60601, 312/814-6257, (TTY) 866/740-3953.

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 Committee's August 11, 2015 meeting. Other items not published in the *Illinois Register* or The Flinn Report may also be considered. Further comments concerning these rulemakings should be addressed to JCAR using the contact information on page 1.

DEPT OF NATURAL RESOURCES

Off-Highway Vehicle Recreational Trails Grant Program (17 IAC 3045; 39 Ill Reg 6013)
proposed 5/1/15

DEPT OF REVENUE

Retailers' Occupation Tax (86 IAC 130; 39 Ill Reg 252) proposed 1/2/15

IL EMERGENCY MANAGEMENT AGENCY

Financial Assurance Requirements (32 IAC 326; 39 Ill Reg 6743) proposed 5/15/15

Licensing of Radioactive Material (32 IAC 330; 39 Ill Reg 6748) proposed 5/15/15

Fees for Radioactive Material Licenses (32 IAC 331; 39 Ill Reg 6824) proposed 5/15/15

Joint Committee on Administrative Rules

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Representative Greg Harris

Senator Bill Brady

Representative Lou Lang

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