

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

HORSE RACING

The ILLINOIS RACING BOARD adopted amendments to Entries, Subscriptions, and Declarations (11 IAC 1413; 40 Ill Reg 7295), effective 9/1/16, implementing provisions for carding, substitute races and extra races. These amendments replace an emergency rule (40 Ill Reg 7482) that was effective 5/1/16. The rulemaking provides that for the next 5 years (until 6/30/21) all non-claiming races (except maiden races) and all claiming races with a value of \$20,000 or more must be carded and run if 8 or more separate interests have entered. Races in which Illinois owners or Illinois-bred horses are entered must be carded and run with 6 or 7 betting interests. If scratches reduce the number of interests in any race to less than 6, the race may be run as a non-wagering exhibition and a substitute race run for wagering

purposes. For substitute and extra races, scheduling priority must be given to races with Illinois-bred horses. The amendments also include the carding and scheduling provisions that will apply beginning 7/1/21.

Questions/requests for copies: Mickey Ezzo, IRB, 100 W. Randolph, Suite 5-700, Chicago IL 60601, 312/814-5017, mickey.ezzo@illinois.gov

DISABILITY SERVICES

The DEPARTMENT OF HUMAN SERVICES adopted an amendment to the Part titled Developmental Disabilities Services (89 IAC 144; 40 Ill Reg 7600) effective 8/26/16. The amendment replaces an emergency rule (40 Ill Reg 7855) that was effective 5/13/16. The rulemaking concerns payment of

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Emergency Rulemaking

PREPAID TUITION

The ILLINOIS STUDENT ASSISTANCE COMMISSION adopted emergency amendments to Illinois Prepaid Tuition Program (23 IAC 2775; 40 Ill Reg 13029) effective 8/29/16 for a maximum of 150 days. A companion proposed rulemaking appears in this week's *Illinois Register* at 40 Ill Reg 12942. These rulemakings implement Public Act 99-842, which expands eligibility for the College Illinois! 529 Prepaid Tuition Program to include all educational institutions whose students are eligible for prepaid tuition benefits under section 529 of the federal Internal Revenue Code. Additional State criteria for institutional eligibility regarding types of degrees offered, accreditation, and for-profit institutions have been removed.

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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.

Proposed Rulemakings

SCHOOLS

The STATE BOARD OF EDUCATION proposed an amendment to Public Schools Evaluation, Recognition and Supervision (23 IAC 1; 40 Ill Reg 12896) implementing Public Act 98-859. The rulemaking updates the web address for Brockport

Physical Fitness Testing materials that are used to conduct physical fitness assessments in public schools; requires school districts to report the number, grade and gender of students who test in the health risk zone for aerobic capacity; and changes the due date for annual reporting of fitness assessment data from May 1 to

June 30. SBE also proposed an amendment to Charter Schools (23 IAC 650; 40 Ill Reg 12908) implementing PA 98-1048 by removing a requirement that parties to a charter school contract report all contract revisions to the State Superintendent. The amendment makes the change in a Section that was inadvertently omitted from an earlier rulemaking implementing the PA.

Emergency Rulemaking

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The rulemakings also remove the 12-month Illinois residency requirement for benefit recipients and persons who purchase College Illinois benefits for nonresidents; now, the recipient or the purchaser qualify if they are Illinois residents on the due date of the first payment. College Illinois prepaid tuition

purchasers, beneficiaries, and institutions are affected by this emergency rule.

Questions/requests for copies/comments on the proposed rulemaking through 10/24/16: Lynn Hynes, ISAC, 1755 Lake Cook Rd., Deerfield IL 60015, 847/948-9500, ext. 18032, lynn.hynes@isac.illinois.gov

Questions/requests for copies/comments on the 2 SBE rulemakings through 10/24/16: Lindsay Bentivigna, SBE, 100 N. First St. S-493, Springfield IL 62777-0001, 217/782-5270, rules@isbe.net

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New Rules

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enhanced rates for residents with high medical/high personal care needs to Intermediate Care Facilities for the Developmentally Disabled (ICF/DDs) that have more than 16 licensed beds. Dually licensed facilities that hold more than one type of Department of Public Health license (e.g., ICF/DD and nursing home) are now also eligible to receive the enhanced rate. The rate for affected facilities will be redetermined annually based on the percentage of residents classified as Medical Level III (those requiring the most intensive care). DHS states that this emergency rule enables the ICF/DD facility at Clinton Manor,

New Baden, to receive the enhanced rate.

Questions/requests for copies: Tracie Drew, DHS, 100 S. Grand Ave. East, 3rd Fl., Springfield IL 62762.

RADIOACTIVE MATERIAL

The ILLINOIS EMERGENCY MANAGEMENT AGENCY adopted amendments to Licensing of Radioactive Material (32 IAC 330; 40 Ill Reg 8979), effective 8/25/16, reflecting updates to federal compatibility requirements in regulations issued by the federal Nuclear Regulatory Commission (NRC) in 2013. These changes establish new handling and reporting

requirements for radioactive source materials and revise exemptions from IEMA licensing requirements to better reflect current market conditions and risk assessment. IEMA also adopted amendments to General Provisions for Radiation Protection (32 IAC 310; 40 Ill Reg 8957) effective 8/25/16 to reflect the federal changes to the definition of “unrefined and unprocessed ore”. Since 1st Notice, IEMA has made some technical corrections to both rulemakings.

Questions/requests for copies: Louise Michels, IEMA, 1035 Outer Park Drive, Springfield IL 62704; 217/785-9876.

Proposed Rulemakings

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UNIVERSITIES EMPLOYMENT

The STATE UNIVERSITIES CIVIL SERVICE SYSTEM proposed amendments to State Universities Civil Service System (80 IAC 250; 40 Ill Reg 12912) addressing leaves of absence, layoffs, job abandonment, and related issues. The rulemaking clarifies that leaves of absence imposed for disciplinary reasons will be without pay; requires employers to maintain records of all resignations and leaves of absence for inspection by the Executive Director or designee during on-site audits or at other times; and allows termination of employees who fail to report to work after exhausting their federal Family and Medical Leave Act benefits. An employee

who fails to report for work for 3 consecutive scheduled work days without notice to or contact with the employer may be terminated under certain conditions. The rulemaking also adds a definition of “layoff” (management-imposed work stoppage, discontinuance or termination for business reasons); adds provisions addressing an employee’s or employer’s failure to appear at a scheduled discharge or demotion hearing; and allows the Merit Board to impose unpaid disciplinary suspensions of 60 to 120 days (currently, only 60 days).

Questions/requests for copies/comments through 10/24/16: David L. DeThorne, SUCSS, 1717 Philo Rd., Suite 24, Urbana IL 61802, 217/278-3150, ext. 226, davidd@sucss.illinois.gov

PUBLIC WATER SUPPLIES

The ILLINOIS ENVIRONMENTAL PROTECTION AGENCY proposed amendments to Permits (35 IAC 652; 40 Ill Reg 12868) that change the name of the Part to “Public Water Supply Capacity” and repeal all Sections that have been incorporated into the Pollution Control Board’s rules for public drinking water supply permits in 35 IAC 602. The only rules remaining in this Part address public water supply capacity and supporting data.

Questions/requests for copies/comments through 10/24/16: Stephanie Flowers, IEPA, 1021 N. Grand Ave. East, P.O. Box 19276, Springfield IL 62794-9276, 217/782-5544, stephanie.flowers@illinois.gov

No Second Notices This Week

JCAR Meeting Action

At its 9/6/16 meeting, the Joint Committee on Administrative Rules took the following actions:

RECOMMENDATIONS

With regard to the Department of Central Management Services’ rulemaking titled Joint Rules of the Comptroller and the Department of Central Management Services: Prompt Payment (74 IAC 900; 40 Ill Reg 6891) and the Office of the Comptroller’s rulemaking with the same title (74 IAC 330; 40 Ill Reg 7519), JCAR recommends that CMS and the Comptroller be more timely in reflecting new statutory requirements in their rules. The statute changing the interest payment threshold from 60 to 90 days took effect 6/30/11 and was applicable beginning 7/1/12.

Regarding the Illinois Community College Board’s rulemaking titled Administration of the Illinois Public Community College Act (23 IAC 1501; 40 Ill Reg 6923), JCAR recommends that ICCB be more timely in implementing new statute. PA 96-194, which is being implemented by this rulemaking, was effective 1/1/10.

EXTENSION

JCAR and the State Universities Civil Service System agreed to extend the Second Notice period for the rulemaking titled State Universities Civil Service System (80 IAC 250; 40 Ill Reg 7537) an additional 45 days. This rulemaking will be considered again at JCAR’s 10/11/16 meeting.