

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.

Emergency Rules

■ DAY CARE FACILITIES

The DEPARTMENT OF CHILDREN AND FAMILY SERVICES adopted emergency amendments to Licensing Standards for Day Care Homes (89 IAC 406; 42 Ill Reg 8519), Licensing Standards for Day Care Centers (89 IAC 407; 42 Ill Reg 8555) and Licensing Standards for Group Day Care Homes (89 IAC 408; 42 Ill Reg 8593), all effective 5/9/18 for a maximum of 150 days. Identical proposed amendments appear in this week's *Illinois Register* at 42 Ill Reg 8366, 8369, and 8372. The emergency and proposed rules implement mandatory lead testing, by Illinois Environmental Protection Agency certified laboratories, of all sources of drinking water in day care facilities built prior to 1/1/2000 that serve children up to age 6. If a facility's water tests positive (greater than 2.0 parts per

billion), a mitigation plan must be developed and the water must be retested within 6 months. Thereafter, annual retesting is required until at least 2 consecutive tests detect no lead. Retesting is also required if the facility changes its water source, water heater or piping system. New applicants for day care licenses must submit their lead testing results, and mitigation plans if required, to DCFS with their license applications. Parents of enrolled children, and the local DCFS licensing office, must be notified of a facility's test results, any mitigation plans, and where these documents are posted within the facility. DCFS may also require testing if the agency suspects that the age of the building has been misrepresented, that false or altered testing results have been submitted, or that mitigation

(cont. page 2)

Proposed Rulemakings

■ FRACKING TAX

The DEPARTMENT OF REVENUE proposed a new Part titled Illinois Hydraulic Fracturing Tax Act (86 IAC 475; 42 Ill Reg 8453) implementing Public Act 98-22, which implemented a tax on the production of oil and gas by hydraulic fracturing (fracking) from permitted wells that commenced production on or after 7/1/13. The tax (3% of the oil or gas value for the first 24 months of production; thereafter, 6% for gas and 3% to 6% for oil depending on the average daily production of the well) is collected and remitted to DOR by the purchaser, who deducts the amount of tax due from purchase payments to the producer. The tax rate may be reduced 0.25% if at least 50% of work hours at the well site are performed by Illinois construction workers being paid

(cont. page 3)

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

■ CHILD CARE

The DEPARTMENT OF HUMAN SERVICES adopted amendments to Child Care (89 IAC 50; 41 Ill Reg 14884), effective 5/8/18, implementing Public Act 99-699, which exempts certain programs for school-age youth (e.g., after-school programs, summer camps) from licensure as day care centers. The rulemaking allows programs that serve only school-age children (ages 5-13, or up to age 18 in cases of special need) outside of school hours, and are not directly funded by the State or federal government, to receive Child Care Assistance Program (CCAP) subsidies without day care licensure if they meet staff education and training requirements outlined in the rulemaking. Staff, volunteers and

subcontractors serving programs for school-age youth must also complete appropriate background checks, including clearance from the DCFS Child Abuse and Neglect Tracking System (CANTS). Since 1st Notice, DHS has clarified that youth program providers must also maintain the same minimum staff to child ratio and maximum group size that DCFS prescribes for school-age children in day care facilities. Those affected by this rulemaking include municipal and non-profit agencies that operate before/after-school and summer youth programs.

SNAP ELIGIBILITY

DHS also adopted amendments to Supplemental Nutrition

Assistance Program (SNAP) (89 IAC 121; 41 Ill Reg 14898), effective 5/8/18, implementing provisions of the federal Farm Bill of 2014 that expand student eligibility for SNAP to persons ages 18-49 who are enrolled at least half-time in an employment or training program offered by a community college, or are enrolled in remedial, basic adult education, literacy, or English as a Second Language courses. Since 1st Notice, DHS deleted a stipulation that courses taken will lead to employment and updated references to various State and federal programs.

Questions/requests for copies of the 2 DHS rulemakings: Tracie Drew, DHS, 100 S. Grand Ave. East, 3rd Floor, Springfield IL 62762, 217/785-9772.

Proposed Rulemakings

Emergency Rules

(cont. from page 1)

remedies have not been followed. Finally, the rulemakings require DCFS-approved lead safety training for all licensees. Owners and operators of day care homes and day care centers are affected by these emergency rules.

Questions/requests for copies/comments on the 3 proposed DCFS rulemakings through 7/9/18: Jeff Osowski, DCFS, 406 E. Monroe, Station #65, Springfield IL 62701-1498, 217/524-1983, TDD 217/524-3715, e-mail: cfpolicy@idcfs.state.il.us

(cont. from page 1)

at or above prevailing wage. For wells that began operating before 7/1/13, an exemption certificate must be obtained if a first purchaser enters into a new contract with an operator after this rulemaking takes effect. Other provisions of this rulemaking address measurement and determination of average daily production, exemptions, withholding, filing of returns, recordkeeping, penalties for nonpayment, and hearings. Owners and operators of fracking wells and purchasers of oil or gas from fracking operations are affected.

■ INCOME TAX

DOR also proposed amendments to Income Tax (86 IAC 100; 42 Ill Reg 8387) providing guidance on subtractions allowed to individuals, trusts and estates for refunds of State taxes and recoveries of itemized deductions that were subject to federal income tax but should not have been subject to State income tax.

■ SALES & SERVICE TAX

DOR proposed amendments to Retailers' Occupation Tax (86 IAC

(cont. page 3)

Proposed Rulemakings

(cont. from page 2)

130; 42 Ill Reg 8404), Service Occupation Tax (86 IAC 140; 42 Ill Reg 8445), and Electronic Filing of Returns or Other Documents (86 IAC 760; 42 Ill Reg 8484) implementing PA 100-303. Effective 1/1/18, all three rulemakings require retailers and service providers with annual gross receipts of \$20,000 or more to file returns electronically, unless they lack access to the internet or can demonstrate other hardship, in which case they may obtain a waiver from DOR. Retailers or service providers who meet the \$20,000 threshold, fail to file electronically and do not have a waiver cannot claim the 1.75% discount for timely filing. Additionally, the Part 130 amendments repeal the 20% tax exemption for gasohol effective 7/2/18 and extend the 100% exemption for majority blended ethanol, pure biodiesel, and blends of 10%-99% biodiesel through 12/31/23. Other Part 130 provisions extend a manufacturing machinery and

equipment exemption to items used in graphic arts production and provide that certificates of registration issued on or after 7/1/17 will expire annually instead of every 5 years. Retail or service businesses subject to these taxes will be affected.

Questions/requests for copies/comments on the 5 DOR rulemakings through 7/9/18: Part 100, Brian Stocker; Part 130, Debra Boggess; Parts 140, 475 and 760, Richard S. Wolters, DOR, 101 W. Jefferson, Springfield IL 62794, 217/782-2844.

■ ADULT LEARNERS

The ILLINOIS COMMUNITY COLLEGE BOARD proposed a new Part titled High School Diploma for Adult Learners (23 IAC 1506; 42 Ill Reg 8375) implementing PA 100-514. The rulemaking establishes procedures under which eligible entities (community colleges, school districts, intermediate service centers, or non-profit

entities partnering with a Regional Office of Education) may apply to ICCB for authority to issue high school diplomas to adults when the applying entity has been unable to reach an agreement with a local secondary or unit school district for that purpose. Applications must include a statement of need that addresses demographic, economic and employment trends in the area; the program's mission, structure and target audience; a description of the program and its instructional activities; and its recruitment, enrollment and retention strategies. Initial ICCB approvals shall be for 2 years with renewals every 4 years thereafter. Community college districts, school districts and certain non-profits may be affected.

Questions/requests for copies/comments through 7/9/18: Matt Berry, ICCB, 401 E. Capitol Ave., Springfield IL 62701-1711, 217/785-7411, fax 217/524-4981, matt.berry@illinois.gov

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 June 12, 2018 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 INSURANCE

The Minimum Mortality Standard for Valuation of Annuity and Pure Endowment Contracts
(50 Ill. Adm. Code 935); 42 Ill Reg. 1061) proposed 1/19/18

Accelerated Life Benefit/Terminal Illness/Qualified Conditions
(50 Ill. Adm. Code 1407; 42 Ill. Reg. 1066) proposed 1/19/18

Valuation of Life Insurance Policies Including the Use of Select Mortality Factors
(50 Ill. Adm. Code 1409; 42 Ill. Reg. 1070) proposed 1/19/18

Modified Guaranteed Annuity (MGA) Contracts
(50 Ill. Adm. Code 1410; 42 Ill. Reg. 1079) proposed 1/19/18

Recognition of the 2001 CSO Mortality Table for Use in Determining
Minimum Reserve Liabilities and Nonforfeiture Benefits
(50 Ill. Adm. Code 1412; 42 Ill. Reg. 1093) proposed 1/19/18

Recognition of the 2001 CSO Preferred Class Structure Mortality Tables
for Use in Determining Minimum Reserve Liabilities
(50 Ill. Adm. Code 1413; 42 Ill. Reg. 1101) proposed 1/19/18

Preneed Life Insurance Minimum Standards for Determining
Reserve Liabilities and Nonforfeiture Values
(50 Ill. Adm. Code 1414; 42 Ill. Reg. 1104) proposed 1/19/18

Joint Committee on Administrative Rules

Senator Pamela Althoff
Senator Karen McConnaughay
Senator Don Harmon
Senator Tony Muñoz
Senator Ira Silverstein
Senator Chuck Weaver

Representative Peter Breen
Representative Tom Demmer
Representative Greg Harris
Representative Lou Lang
Representative André Thapedi
Representative Keith Wheeler

Vicki Thomas
Executive Director