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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

■ INDUSTRIAL HEMP

The DEPARTMENT OF AGRICULTURE adopted a new Part titled Industrial Hemp Act (8 IAC 1200; 42 Ill Reg 24360), effective 4/24/19, implementing licensing, reporting, inspection, and other procedures for individuals or businesses producing industrial hemp. "Industrial hemp" is defined as a Cannabis sativa plant or any part that contains no more than 0.3% THC. All cultivators, processors and handlers of industrial hemp must obtain a license from DOA and must not knowingly grow or process any cannabis plants with a THC concentration of more than 0.3%. Cultivation licenses apply to contiguous land areas of at least 1/4 acre for outdoor cultivation or 500 square feet for indoor cultivation. Application fees are \$100 and licensing fees, paid upon approval of an application,

are \$375 for 1 year, \$700 for 2 years and \$1,000 for 3 years. Other provisions address information to be provided on license applications, including criminal background checks; information to be submitted on pre-planting and harvest reports for each crop; and inspection and sampling by DOA, for which the agency must provide the licensee at least 5 business days' notice. Violations of the Act or this Part may incur fines of up to \$10,000 per violation. Since 1st Notice, DOA has made numerous changes, including provisions for 1- and 2-year licenses with reduced licensing fees; removing a requirement for annual mandatory inspections; expanding provisions for persons who may work with industrial hemp; allowing any seeds accompanied by a certificate of analysis to be used;

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Proposed Rulemakings

■ SUBSTITUTE TEACHERS

The STATE BOARD OF EDUCATION proposed amendments to Public Schools Evaluation, Recognition and Supervision (23 IAC 1; 43 Ill Reg 4963) implementing two Public Acts that concern licensure and recruitment of substitute teachers. The rulemaking implements PA 100-596, which establishes short-term substitute teaching licenses that are valid only through 6/30/23, and clarifies that persons who already hold valid and active educator licenses and have completed at least an associate degree may serve as short-term substitute teachers without also having to obtain the short-term substitute license. A short-term substitute may be employed for no more than 5 consecutive days per licensed teacher under contract. The rulemaking also

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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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and allowing licenses to be transferable. Other provisions remove the application deadline of 90 days prior to planting (so that seeds may be planted in spring 2019); remove a requirement that proposed planting grounds meet the definition of a farm under the Property Tax Code; and narrow limitations applicable to persons with prior felony convictions. Businesses seeking licenses to cultivate or process industrial hemp are affected.

Questions/requests for copies: Albert A. Coll, DOA, State Fairgrounds, PO Box 19281, Springfield IL 62794-9281, 217/782-5051, fax 217/785-4505.

■ MEDICAL CANNABIS

The DEPARTMENT OF PUBLIC HEALTH adopted amendments to the Part titled Compassionate Use of Medical Cannabis Pilot Program (77 IAC 946; 42 Ill Reg 21571) effective 4/17/19, replacing emergency amendments (42 Ill Reg 22254) that were effective 12/1/18. The rulemaking implements Public Act 100-1114, which creates the Opioid Alternative Pilot Program (OAPP) through which patients with diseases or conditions for which an opioid has been, or could be, prescribed may obtain medical cannabis instead. DPH is also allowing provisional registration of patients and caregivers awaiting approval of an application for enrollment in the DPH cannabis patient registry

or who are terminally ill, eliminating the requirement of a fingerprint-based background check, and removing references to disqualifying criminal offenses. Provisional registration is valid for 90 days and may be renewed for an additional 90 days if DPH has not yet approved or denied the patient's application. To participate in OAPP, patients must be Illinois residents at least 21 years old, and must submit a co-payment of \$10 for each 90-day registration period. The patient's physician must verify the patient's eligibility to participate in the program, but this verification will not constitute a prescription for medical cannabis. OAPP participants will not be registered as medical cannabis cardholders but will have the same access to licensed cannabis dispensing organizations as registered patients. The rulemaking also implements provisions of the School Code allowing students who have been prescribed medical cannabis to use and possess it on school grounds or on school buses; expands eligibility for reduced patient registration and renewal fees to include persons receiving railroad retirement, Teachers' Retirement System or State Universities Retirement System disability benefits; and allows for physicians to notify DPH if they believe that a registered cannabis patient no longer suffers a debilitating medical condition, no longer has a bona fide patient relationship with the physician, or that continued use

of medical cannabis is contraindicated for that patient (e.g., due to interaction with other medication). If DPH receives such notification from a physician, the patient's registry ID card will be revoked. Those affected by these rulemakings include medical cannabis dispensing organizations and physicians.

■ SEXUAL ASSAULT

DPH also adopted amendments to Sexual Assault Survivors Emergency Treatment Code (77 IAC 545; 43 Ill Reg 971), effective 4/17/19, replacing emergency rules (43 Ill Reg 1089) that were effective 1/1/19. The rulemaking implements Public Act 100-775, which provides that pediatric (under age 13) sexual assault survivors may be treated at a hospital or at an approved pediatric health care facility. Hospitals may implement their own treatment plans for pediatric sexual assault survivors, or they may implement transfer plans under which these survivors will be transferred to an approved pediatric health care facility for treatment. Pediatric health care facilities, including physician's offices and clinics, may be affected by these rules.

Questions/requests for copies of the 2 DPH rulemakings: Erin Conley, DPH, 535 W. Jefferson St., 5th Fl. Springfield IL, 62761, 217/782-2043, dph.rules@illinois.gov

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Proposed Rulemakings

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implements PA 100-813, which allows school districts to use recruitment firms to supplement their recruitment of substitute teachers. All school districts who seek permission from SBE to use recruitment firms for substitutes must verify that they have not been able to find an adequate number of substitute teachers and have exhausted all other efforts to recruit substitute teachers. The Chicago Public Schools district must additionally verify that it has given existing substitute teachers priority over those hired from recruiting firms and must file copies of all substitute teacher contracts with its Regional Office of Education. Local school districts are affected by this rulemaking.

Questions/requests for copies/ comments through 6/17/19: Rachel Diamond, SBE, 100 W. Randolph St., Suite 14-300, Chicago IL 60601-3268, 312/814-3587, rules@isbe.net

■ PCB PROCEEDINGS

The POLLUTION CONTROL BOARD proposed amendments to General Rules (35 IAC 101; 43 III Reg 4883) updating various rules of procedure for Board hearings and other actions. The rulemaking clarifies the applicability of the Part to hearings on Time Limited Water Quality Standards (TLWQS), which do not fall within either of the traditional types of PCB proceedings (rulemakings and adjudicatory cases), and

provides that persons offering exhibits at TLWQS hearings must e-file their exhibits after the hearing unless the hearing officer determines that it is not practicable. The rulemaking also implements PA 100-880, which provides that effective 1/1/19, PCB will serve final adjudicatory orders (other than final enforcement orders) by e-mail on parties that consent to e-mail service. Other, non-substantive changes clarify and update the Part. Small businesses, municipalities or non-profit organizations that wish to testify at PCB proceedings are affected.

Questions/requests for copies/ comments through 6/17/19: Clerks' Office On-Line (COOL) at <https://pcb.illinois.gov>. Please reference Docket R19-19. Comments must be filed electronically unless the Clerk grants permission to file public comment by another means. For questions regarding comment filing, call 312/814-3620 or e-mail PCB.Clerks@illinois.gov.

INSURANCE

The DEPARTMENT OF INSURANCE proposed amendments to Derivative Instruments (50 IAC 806; 43 III Reg 4848) and Health Maintenance Organization (50 IAC 4521; 43 III Reg 4877) updating incorporations by reference of publications issued by the National Association of Insurance Commissioners (NAIC). The Part 4521 rulemaking also repeals an outdated Section referencing a

repealed statute. DOI also proposed amendments to Advertising and Sales Promotion of Life Insurance and Annuities (50 IAC 909; 43 III Reg 4862) and Individual and Group Life Insurance Policy Illustrations (50 IAC 1406; 43 III Reg 4868) updating references to the Actuarial Standard of Practice (ASOP) promulgated by the Actuarial Standards Board to the most recent edition (December 2016).

Questions/requests for copies/ comments on the 4 DOI rulemakings through 6/17/19: Susan Anders, DOI, 320 W. Washington St., 4th Fl., Springfield IL 62767-0001, 217/558-0957.

STATE EMPLOYEES

The DEPARTMENT OF CENTRAL MANAGEMENT SERVICES proposed an amendment to the Part titled Travel (80 IAC 2800; 43 III Reg 4848) updating claims procedures for State travel vouchers to allow submission of electronic as well as print vouchers. The amendment includes in the definition of "signature" any security procedure employed or adopted, by electronic means or otherwise, by or on behalf of a person with intent to authenticate that person's record.

Questions/requests for copies/ comments through 6/17/19: Ennedy Rivera, CMS, 100 W. Randolph St., Suite 4-500, Chicago IL 60601, 312/814-2322.

New Rules

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TEACHERS' RETIREMENT

The TEACHERS' RETIREMENT SYSTEM adopted amendments to The Administration and Operation of the Teachers' Retirement System (80 IAC 1650; 43 Ill Reg 1500), effective 4/22/19, implementing pension buyout programs established by PA 100-587, clarifying provisions for leaves and days of service credit, and updating TRS Board election rules. The Accelerated Annual Increase (AAI) Program allows Tier 1 System members (hired before 1/1/11) who retire prior to 6/30/21 to forgo a 3% compounded automatic annual increase in exchange for a 1.5%, non-compounded AAI that begins on Jan. 1 following their 1st anniversary of retirement, or on their 67th birthday, whichever is later. Members who choose this option will receive a lump sum payment equal to 70% of the difference between the present value of the 3% compounded AAI and the 1.5% non-compounded AAI. The Accelerated Pension Benefit (APB) program allows inactive members with sufficient service credit to vest into the retirement plan to forfeit all service credit and rights to future retirement benefits in exchange for a lump sum payment equal to 60% of the present value of their earned benefits. Applications for accelerated benefit payments in 2019 must be submitted within 180 days after notification of eligibility; after that, applications must be made during the 2020 application window (180 days) or

the 2021 application window (1/1 through 6/30/21). The rulemaking also includes provisions for including accelerated benefits in Qualified Illinois Domestic Relations Orders (QILDROs) that allow pension benefits to be divided between spouses as part of a divorce or separation agreement, and for correcting overpayment or underpayment errors in an accelerated benefit. Regarding leaves and service days, the rulemaking clarifies that administrative leaves with pay can be counted as service credit up to a maximum of one year or until the date the TRS member resigns, whichever occurs first.

Questions/requests for copies: Cynthia Fain, TRS, 2815 W. Washington, PO Box 19253, Springfield IL 62794-9243, 217/814-2041.

■ SALES TAXES

The DEPARTMENT OF REVENUE adopted amendments to Retailers' Occupation Tax (86 IAC 130; 42 Ill Reg 8404), effective 4/17/19, implementing PA 100-303 by requiring retailers and service providers with annual gross receipts of \$20,000 or more to file returns electronically beginning 1/1/18, 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. The amendments also 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 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. DOR also adopted amendments to the Part titled Hotel Operators' Occupation Tax Act (86 IAC 480; 42 Ill Reg 8804), effective 4/17/19, to remove out of date and obsolete provisions.

Questions/requests for copies of the 2 DOR rulemakings: Debra Boggess, DOR, 101 W. Jefferson, Springfield IL 62794, 217/782-2844.

■ IEMA CONFERENCES

The ILLINOIS EMERGENCY MANAGEMENT AGENCY adopted a new Part titled Conference Registration and Fees (29 IAC 115; 43 Ill Reg 1347), effective 4/18/19, implementing provisions of the Illinois Emergency Management Agency Act. Fees for all IEMA-sponsored conferences are limited to \$100 or less, and will be set by IEMA based on federal

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New Rules

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and State funding available for each conference. IEMA will provide online registration, fee schedules and, if applicable, a deadline for claiming refunds at the time it begins accepting registrations for a conference. Employees of IEMA and conference speakers are exempt from these fees, and the IEMA Director may waive conference fees for other individuals, although persons exempt from fees must still register for the conference. Those affected by this rulemaking include representatives of local governments, small businesses, or non-profits who attend IEMA-sponsored conferences.

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

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 May 14, 2019 JCAR meeting. Further comments concerning these rulemakings should be addressed to JCAR using the contact information on page 1.

IL COMMERCE COMMISSION

Telecommunications Access for Persons with Disabilities (83 IAC 755; 42 Ill Reg 16796) proposed 9/21/18

Rules of Practice (83 IAC 200; 42 Ill Reg 19323) proposed 11/2/18

IL ENVIRONMENTAL PROTECTION AGENCY

Clean Air Act Permit Program Procedures (35 IAC 270; 43 Ill Reg 1456) proposed 2/1/19

Procedures for Collection of Air Pollution Site Fees (35 IAC 251; 43 Ill Reg 1452) proposed 2/1/19

DEPT OF PUBLIC HEALTH

AIDS Drug Assistance Program (77 IAC 692; 43 Ill Reg 3124) proposed 3/8/19

STATE UNIVERSITIES CIVIL SERVICE SYSTEM

State Universities Civil Service System (80 IAC 250; 43 Ill Reg 3129) proposed 3/8/19

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