

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

DRIVER EDUCATION

The STATE BOARD OF EDUCATION adopted revisions to "Driver Education" (23 Ill. Adm. Code 252; 36 Ill. Reg. 18508), effective 5/2/13. Changes would allow school districts to offer the behind-the-wheel portion (BTW) of driver education (DE) courses outside of normal school hours instead of during school hours (formerly districts were required to offer BTW instruction during school hours and could also offer it at other times). This rulemaking provides an explicit exemption from the normal requirement that BTW instruction be provided with student observers in the car for students whose IEPs specify otherwise and incorporates Secretary of State's content standards for commercial driver education into requirements for school-based DE programs. The amendments also update reporting and public transparency requirements for districts offering DE programs through private contractors and reflect statutory changes regarding reimbursement of DE costs for students attending nonpublic schools. Since 1st Notice, SBE has clarified that schools cannot offer BTW only instruction during the summer.

Questions/requests for copies: Tim Imler, ISBE, 100 North First Street, E-326, Springfield, Illinois 62777, 217/782-5256.

BOATING

The DEPARTMENT OF NATURAL RESOURCES adopted amendments to rules titled "Public Use of State Parks and Other Properties of the Department of Natural Resources" (17 Ill Adm Code 110; 36 Ill Reg 16629), effective 5/1/13. The Department added Argyle Lake State Park (McDonough County) to the list of State owned lakes at which motors of 10 horsepower or less may operate at full speed and motors of more than 10 horsepower may be operated at no-wake, idle speed.

FISHING

DNR adopted amendments to "Sport Fishing Regulations for the Waters of Illinois" (17 Ill Adm Code 810; 36 Ill Reg 16635), effective 5/1/13. The rulemaking prohibits intentional leaving or abandoning of fish or fish parts caught by sport fishing methods "resulting in wanton or needless waste" (dumping fish or fish parts on public

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EARLY INTERVENTION

The DEPARTMENT OF HUMAN SERVICES (DHS) proposed amendments to "Early Intervention Program" (89 Ill Adm Code 500; 37 Ill Reg 6417) that implement provisions necessary for compliance with Part C of the federal Individuals with Disabilities Education Act (IDEA) and federal regulations, specifically 34 CFR 303. DHS is revising its process for disseminating early intervention (EI) program information to parents of at risk infants and toddlers through a network of regional intake entities, local interagency councils and primary referral resources. The rulemaking clarifies that the Department is responsible for maintaining a central directory of EI resources accessible to the general public and outlines additional information to be maintained in the central registry. DHS is revising eligibility criteria used for determining eligibility, with parental consent, descriptions of what EI services entail, provider qualifications and credentialing requirements, and provider enrollment criteria. The Department clarifies that any findings from its comprehensive on-site monitoring visits must be addressed as soon as possible but in no case any

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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.

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waterways or highways, or on private property without permission of the owner or tenant). No disposal of fish parts is allowed on State owned or leased properties except at designated fish cleaning stations. Other amendments outline Statewide and site specific bow fishing regulations, species, limits and methods, and prohibit the live possession of Asian carp. The rulemaking also amends the dates of the free fishing days to conform to the 2013 calendar, updates DNR's web address and makes site-specific changes at 12 sites. Since 1st Notice DNR has modified its definition of "wanton or needless waste". Commercial fishermen may be affected.

DNR also adopted amendments to "The Taking of Reptiles and Amphibians" (17 Ill Adm Code 880; 36 Ill Reg 16738), effective 5/1/13, allowing the taking of common snapping turtles by bow and arrow (except in 16 southern Illinois counties) and prohibiting the use of dip nets, landing nets, or any commercial fishing device to take common snapping turtles. The taking of alligator snapping turtles is prohibited. All reptiles and amphibians taken by lethal means must be counted in the daily creel or bag limit. All others may be released unharmed and will not count against any possession or catch limits. No culling of species is permitted. For common snapping turtles, only 2 may be caught and 4 possessed per day. For other amphibians and reptiles including indigenous Illinois amphibians and reptile species (other than common snapping turtles and bullfrogs) the possession limit is 8 per day with no more than 4 of any one species. The rulemaking allows the capture of other reptiles and amphibians by hand only (currently, by any device that does not cause death or injury).

WATER USAGE STAMPS

DNR adopted amendments to "Selling and Consignment of Licenses, Stamps and Permits" (17 Ill Adm Code 2520; 37 Ill Reg 688) and "Boat and Snowmobile Registration and Safety"

(17 Ill Adm Code 2010; 37 Ill Reg 684), both effective 5/1/13. Part 2520 facilitates the over the counter sale of the new Water Usage Stamps and OHV (Off Highway Vehicle) Trail Permits. Part 2010 establishes the procedures and required information for purchasing a Water Usage Stamp for non-powered watercraft. Water Usage Stamps must be renewed annually and expire at the end of each calendar year (December 31st). A change since 1st Notice states that the Water Usage Stamp fee will be established by statute and that purchasers of more than 3 stamps will receive subsequent stamps for half of the statutory price.

MINING

DNR also adopted amendments to rules titled "Procedure for Holding Mining Board Examinations" (62 Ill Adm Code 230; 37 Ill Reg 694) and "Surface Mined Land Conservation and Reclamation Act" (62 Ill Adm Code 300; 37 Ill Reg 701), both effective 5/1/13. In Part 230, DNR is increasing from (70% to 80% or 75%) the minimum test score required to become a State Mine Inspector or Mine Manager or to earn a certificate of competency. Except for the electrical hoisting engineer examination, an individual may not take examinations for more than one certificate of competency on the same day. The exam for shot firer is conducted semi-annually following a mandatory class, the instructor must sign the application and candidates are not held to the standard 30-day application submittal requirement standard for other certificates. The rulemaking also outlines procedures and requirements for taking exams at times other than the semi-annual Mining Board examinations. Fees for all the certificates of competency are set at \$50. Since 1st Notice, DNR has clarified how names of certificate holders and the timeframe for objecting to the qualifications of a certificate candidate. In Part 300, DNR is increasing all the fees for licensure, application, re-examination, etc., related to the use of explosives in non-coal mineral extraction. The cost of surface mining

permits is increasing to \$150 per acre (currently \$100) or fraction of an acre that falls under the permit.

Questions/requests for copies of the 7 DNR rulemakings above: Nick San Diego for Parts 110, 810 and 880 and Julia Lawrence for Parts 2010, 2520, 230 and 300, DNR, One Natural Resources Way, Springfield IL 62702-1271, 217/782-1809.

DPH LAB FEES

The DEPARTMENT OF PUBLIC HEALTH adopted amendments to "Laboratory Service Fees" (77 Ill Adm Code 475; 37 Ill Reg 508), effective 5/6/13, that add a Section including incorporated materials and increase the insufficient payment or returned check fee from \$10 to \$35. Since 1st Notice, DPH removed language that would have replaced the current list of laboratory tests and associated fees. These fees remain in rule. Local governments, healthcare providers and others who request DPH lab tests are affected.

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

SCHOOL BUSES

The DEPARTMENT OF TRANSPORTATION adopted amendments to "Minimum Safety Standards for Construction of Multifunction School Activity Buses" (92 Ill Adm Code 435, 37 Ill Reg 117) and "Inspection Procedures for Multifunction School Activity Buses" (92 Ill Adm Code 436, 37 Ill Reg 148), effective 5/3/13, to apply the standards and procedures to buses owned and operated by private schools. Metric conversion standards are also added to correspond with the federal Motor Vehicle Safety Standards. Additionally, the rulemakings clarify that the child check system is required, not optional and adds requirements for the dashboard. The rulemakings update requirements for the crossing control arm, lettering for emergency

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doors and exists, front turn signals and radio speakers. Changes since 1st Notice modify some mechanical specifications. Finally, the rulemakings remove the restriction on book and luggage racks and deletes the heights requirement for passenger seat back cushions.

Questions/requests for copies of the 2 DOT rulemakings above: Catherine Allen, IDOT, P.O. Box 19212, Spring-

field, IL 62794-9212, 217/785-3031.

MEAT & POULTRY INSPECTION

The DEPARTMENT OF AGRICULTURE adopted a peremptory amendment to rules titled "Meat and Poultry Inspection Act" (8 Ill Adm Code 125; 37 Ill Reg 6870) effective 5/6/13 implementing revised federal meat and poultry inspection standards (published in the Federal Register at 78 FR 14636, ef-

fective 5/6/13) that remove sodium benzoate, sodium propionate and benzoic acid from a list of prohibited substances in meat and poultry products. Meat and poultry processors are affected by this rule.

Questions/requests for copies: Linda Rhodes, DOA, State Fairgrounds, Springfield IL 62794-5261, 217/785-5713, fax 217/785-4505.

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later than 1 year after the identification of noncompliance. The rulemaking also clarifies intake procedure requirements, such as processing deadlines; intake activities; eligibility determination; and individualized family service plan development, implementation and updating. It also revises guidelines for transitioning a child from IDEA Part C services (early intervention for infants and toddlers) to IDEA Part B services (school-age children). DHS revised the billing and enrollment requirements for individuals holding an EI Specialist Developmental Therapist credential on 7/1/13. The rulemaking also addresses case closure guidelines, service provider requirements, payor of last resort and family fee/insurance provisions, request for due process hearing requirements, mediation, confidentiality and privacy provisions, and State complaint procedure requirements.

Questions/requests for copies/comments through 7/1/13: Tracie Drew, DHS, 100 S. Grand Ave. E., 3rd Fl., Springfield IL 62762, 217/785-9772.

DRIVER'S LICENSES

The SECRETARY OF STATE proposed amendments to "Issuance of Licenses" (92 Ill Adm Code 1030, 37 Ill Reg 6630) clarifying the required questions that driver's license applicants must answer with respect to mental health issues. Those applying for driver's licenses may be affected by

these rules.

Questions/requests for copies/comments through 7/1/13: Jennifer Egizii, SOS, 2701 S. Dirksen Parkway, Springfield IL 62723, 217/557-4462.

ETHANOL

The DEPARTMENT OF AGRICULTURE proposed an amendment to rules titled "Motor Fuel and Petroleum Standards Act" (8 Ill Adm Code 850; 37 Ill Reg 6413) adopting the standards for ethanol fuel blends contained in the 2013 (currently, 2011) edition of the National Institute of Standards and Technology (NIST) Handbook 130. Those affected by this rulemaking include petroleum suppliers and motor fuel sellers.

Questions/requests for copies/comments through 7/1/13: Linda Rhodes, DOA, State Fairgrounds, Springfield IL 62794-9281, 217/524-9050, fax 217/785-4505.

DEER HUNTING

The DEPARTMENT OF NATURAL RESOURCES proposed amendments to Parts titled "White-Tailed Deer Hunting By Use of Firearms" (17 Ill Adm Code 650; 37 Ill Reg 6532), "White-Tailed Deer Hunting By Use of Muzzleloading Rifles" (17 Ill Adm Code 660; 37 Ill Reg 6556), "White-Tailed Deer Hunting By Use of Bow and Arrow" (17 Ill Adm Code 670; 37 Ill Reg

6568), "Special White-Tailed Deer Season For Disease Control" (17 Ill Adm Code 675; 37 Ill Reg 6599) and "Late Winter Deer Hunting Season" (17 Ill Adm Code 680; 37 Ill Reg 6606). Amendments to Parts 650 and 670 clarify requirements for landowner/tenant hunting permits. Property deeds or contracts for deed must be recorded or file stamped by a county clerk or recorder of deeds. Tenant applicants must include a copy of the lease or rental agreement with the landowner's and tenant's signatures, description of monetary consideration, specified lease period and acreage. The application must also include a statement that that the lease is for agricultural purposes, or a copy of a current Farm Service Agency 156 EZ form. Non-agricultural or hunting rights leases will no longer be considered a valid basis for issuing landowner or tenant permits. For corporate permit applicants, copies of resolutions or minutes no longer suffice to prove ownership interest in a for-profit corporation; copies of formal agreements must be submitted. The amendments to Parts 650, 660, and 670 also make numerous site-specific changes for the 2013 deer hunting seasons. Part 670 also revises requirements for bow and arrow hunting and states that crossbows may be used by hunters who are age 62 or older or disabled, or on hunting season dates from the second Monday after Thanksgiving through the last day of the archery deer hunting season. Amendments to

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Part 675 allow chronic wasting disease (CWD) season hunting in Kendall County and remove site posting and publication in *Outdoor Illinois* magazine (now defunct) as options for announcing counties open to CWD hunting. For DNR-owned or managed properties, however, site posting remains an option for announcing CWD hunting. The Part 680 amendments eliminate a two-tiered system of counties open to late-winter deer hunting and clarify that Illinois resident hunters may purchase as many permits for this season as they wish. Persons using unfilled permits from the previous firearm, muzzleloader or youth deer season may only harvest antlerless deer if their unfilled permits are for deer of either sex. Publication in *Outdoor Illinois* is also removed as

an option for publicizing rule changes at Department-owned or managed properties. Those affected by these rulemakings include outfitters and business or non-profit corporations that allow hunting on their properties.

DAM PERMITS

DNR also proposed amendments to the Part titled "Construction and Maintenance of Dams" (17 Ill Adm Code 3702; 37 Ill Reg 6614) setting permit application fees and clarifying that when dams are inspected and the owner is notified of the need for a new permit or an amendment to an existing permit, separate permit applications are required for each dam. Permit application fees include an initial review fee of \$500, plus a principal

review fee ranging from \$500 to \$4,500 depending on the type of dam and whether the dam is being newly constructed, modified or removed. Total fees will be capped at \$5,000, and review fees will be adjusted for inflation annually on July 1. The rulemaking also outlines payment methods, states that payments will not be refunded except for overpayment, and states that permits are not transferable. This rulemaking may affect small businesses and units of local government that have or operate dams within their jurisdictions.

Questions/requests for copies/comments on the 6 DNR rulemakings above through 7/1/13: Julia Lawrence, DNR, One Natural Resources Way, Springfield IL 62702-1271, 217/782-1809.

JCAR Meeting Action

At its 5/14/13 meeting, the Joint Committee on Administrative Rules voted to object to three proposed rulemakings. The Committee also extended the Second Notice period an additional 45 days for the Illinois Housing Development Authority rulemaking titled "Abandoned Residential Property Municipality Relief Program" (47 Ill Adm Code 381; 37 Ill Reg 1537)

DEPARTMENT OF PUBLIC HEALTH

With respect to the DPH rulemaking titled "Animal Population Control Code" (77 Ill Adm Code 996; 37 Ill Reg 521), JCAR objects to the Department having operated this program without rules since 2007. This rulemaking was proposed almost 8 years after Public Act 94-639 became effective and almost 6 years after DPH initiated the program.

DEPARTMENT OF REVENUE

JCAR objects to the DOR rulemakings titled "Retailer's Occupation Tax" (86 Ill Adm Code 130; 36 Ill Reg 7971) and "Service Occupation Tax" (86 Ill Adm Code 140; 36 Ill Reg 7990) because the Department is changing Illinois' position with respect to the taxability of shipping and handling charges for delivery of a purchase to a customer without explicit statutory authority to do so. This is a major change in policy that is likely to have an economic impact on retailers and their customers and should be initiated, if warranted, through legislation.

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 JCAR's June 11, 2013 meeting.

ILLINOIS COMMERCE COMMISSION

"Utility Service of Military Personnel in Military Service" (83 Ill Adm Code 281)
proposed 2/15/13 (37 Ill Reg 1835)

"Telephone Assistance Programs" (83 Ill Adm Code 757) proposed 9/7/12 (36 Ill Reg
13749)

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

"Confidentiality of Personal Information of Persons Served by the Department of
Children and Family Services" (89 Ill Adm Code 431) proposed 12/14/12 (36 Ill Reg
17289)

Joint Committee on Administrative Rules

Senator Pamela Althoff

Representative Greg Harris

Senator Don Harmon

Representative Lou Lang

Senator Tony Munoz

Representative David Leitch

Senator Sue Rezin

Representative Don Moffitt

Senator Dale A. Righter

Representative Tim Schmitz

Senator Ira Silverstein

Representative Andre Thapedi

**Vicki Thomas
Executive Director**