

Elaine Spencer, Editor
jcar@ilga.gov

Joint Committee on Administrative Rules
Illinois General Assembly

700 Stratton Bldg. Springfield IL 62706
217/785-2254 ilga.gov/commission/jcar

VOL. 40

October 7, 2016

Issue 41

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 Pilot Program (8 IAC 1100; 40 Ill Reg 5741), effective 9/23/16, implementing a provision of the Cannabis Control Act. The new Part establishes a pilot program under which institutions of higher education may receive approval from DOA, for a period of up to 3 years, to cultivate industrial hemp (a variety of cannabis) for research into the growth, cultivation and marketing of industrial hemp. Applications for registration must include a description of the research project, the site where hemp will be grown, contact information for an agent in charge of the project, the names of all persons involved in growing or cultivating hemp, a security plan, and the start date and expected duration of the project. Criteria for evaluation of

a registration application include the feasibility of the project, the adequacy of the security plan, and the project's compliance with federal, local and State law. Other provisions address extensions of the registration period, random inspections of cultivation sites, notification of local law enforcement, penalties for violations, and reporting and recordkeeping. Since 1st Notice, DOA removed a proposed \$100 application fee; required criminal background checks only for persons authorized to work with industrial hemp (instead of any individual identified in the registration application); and clarified the due dates of quarterly reports. Institutions of higher education are affected by this rulemaking.

Questions/requests for copies:
Susan Baatz, DOA, State

(cont. page 2)

Proposed Rulemakings

■ ATHLETIC TRAINERS

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION proposed amendments to the Part titled Illinois Athletic Trainers Practice Act (68 IAC 1160; 40 Ill Reg 13750) implementing PA 99-469, which extended the sunset date of the Act for another 10 years. The rulemaking clarifies when the temporary right to practice in Illinois ends for an out of state license holder applying for Illinois licensure (6 months after the application is filed, or immediately if the application is denied); removes a limit on how many continuing education hours may be earned via webinars; and makes various corrections and updates regarding approved training programs. Those affected by this rulemaking include fitness

(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

(cont. from page 1)

Fairgrounds, P.O. Box 19281, Springfield IL 62794-9281, 217/524-6905, fax 217/785-4505.

■ SURGERY CENTERS

The DEPARTMENT OF PUBLIC HEALTH adopted amendments to Ambulatory Surgical Treatment Center Licensing Requirements (77 IAC 205; 40 Ill Reg 6722) effective 9/21/16, that implement Public Act 98-1123, which amended the definition for ASTCs and added a requirement for compliance with federal rules as a certification prerequisite. The rulemaking revises conditions of licensure provisions, specifically adding change of ownership requirements that are similar to those in DPH's Hospital Licensing Requirements, and clarifies requirements for the post-procedure examination of removed tissues. Healthcare providers that operate ASTCs are affected by this rulemaking.

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

■ STATE PAYMENTS

The DEPARTMENT OF CENTRAL MANAGEMENT SERVICES adopted amendments to the Part titled Joint Rules of the Comptroller and the Department of Central Management Services: Prompt Payment (74 IAC 900; 40 Ill Reg 6891), effective 9/26/16,

implementing statutory changes. The rulemaking begins adding interest penalties under the Prompt Payment Act to unpaid State bills 90 days (formerly 60 days) after the bill is received. The change applies to bills payable from funds appropriated after 12/28/12. Since 1st Notice, CMS has removed provisions that applied interest penalties to late payments for utility services provided by a local government entity. Small businesses with State contracts are affected.

Questions/requests for copies: Kelly Weston, CMS, 720 Stratton Building, Springfield IL 62706, 217/524-7518.

■ PROCUREMENT

The OFFICE OF THE TREASURER adopted amendments to the Part titled Procurement (44 Ill Adm Code 1400; 40 Ill Reg 7602), effective 9/23/16, revising the Office's procurement policies since the rules were last amended in 2000. The rulemaking includes new or revised definitions of the terms contract, contractor or vendor, award, Deputy Treasurer, Request for Information and Request for Proposals (RFP), and authorizes possible joint purchasing under the Governmental Joint Purchasing Act. Provisions that make written minutes of bidders' conferences binding on the parties are being stricken. All existing specific provisions procedures on multi-step bidding are being replaced with a statement that multi-step bidding may be conducted. The

rulemaking also repeals the current requirements that the Treasurer's CPO must make a written finding in favor of competitive sealed proposals in lieu of a bidding process and that proposals and modifications may only be shown to personnel having a legitimate interest in them. The Office is raising its small purchase contract dollar threshold to the maximum recently recommended by the Illinois Procurement Policy Board, from \$25,000 to \$80,000. Contracts for professional and artistic services for less than \$20,000 (changed since 1st Notice from \$30,000) may be made without advance notice, competition or any use of source selection, at the discretion of the Treasurer's CPO. Examples of permissible sole source procurements cited in the rulemaking include media for advertising; radio and television rights; a federal or State grant that requires a named vendor; or an item that is copyrighted or patented. Procedural elements for the solicitation of professional and artistic services are being repealed (e.g., justification of the service procured, qualifications of the provider of the service, publication of forms to be used, and minimum contract requirements). Prequalification of professional and artistic vendors is being repealed. Leases cannot be for a term of more than 10 years. Protocols are also prescribed for vendors seeking to withhold information deemed

(cont. page 3)

Proposed Rulemakings

(cont. from page 1)

centers, schools, park or recreation districts, and other entities that employ athletic trainers.

■ PHYSICAL THERAPY

DFPR proposed amendments to the Part titled Illinois Physical Therapy Act (68 IAC 1340; 40 Ill Reg 13768) implementing a 10-year reauthorization of the Act (PA 99-229). The rulemaking allows physical therapy students to take the licensure exam up to 120 days prior to graduation from a physical therapy program if the applicant provides certification of his or her expected graduation date. If an exam is completed prior to graduation, DFPR will make the results available to the applicant but will not issue the license until it receives confirmation that the applicant has graduated. The rulemaking also includes updates and technical changes. Physical therapy students and training programs are affected by this rulemaking.

OPEN MEETINGS

DFPR also proposed amendments to Recording of Proceedings at Meetings and Hearings (68 IAC 1120; 40 Ill Reg 13745) that update its Open Meetings Act rules applicable to meetings of DFPR boards and committees. Meetings may be recorded by any person, audibly, visually or by any other means, but recording devices must be located at a sufficient distance from the committee or board members to avoid interference with their discussion. Any person may also address a committee or board, subject to time limits, relevance to the meeting agenda or scope of the body's authority, and preservation of decorum. Hearings conducted by administrative law judges are not subject to these rules.

Questions/requests for copies/comments on the 3 DFPR rulemakings through 11/21/16: Craig Cellini, DFPR, 320 W. Washington St., 3rd Fl., Springfield IL 62786, 217/785-0813, fax 217/557-4451.

■ HEALTH FACILITIES

The HEALTH FACILITIES AND SERVICES REVIEW BOARD proposed amendments to Health Facilities and Services Review Operational Rules (77 IAC 1130; 40 Ill Reg 13795). The rulemaking provides that the Board's Inventory of Health Care Facilities will be updated to reflect discontinuation of a health facility or category of service once the permit for discontinuation has been issued. It also clarifies that discontinuation of a facility or category of services is considered a substantial change to a facility's scope or functional operation (which requires a permit). Finally, the Board is reinstating a permit exemption that was repealed in 2015 for projects involving neonatal intensive care beds.

Questions/requests for copies/comments through 11/21/16: Jeannie Mitchell, HFSRB, 69 W. Washington St., Suite 3501, Chicago IL 60602, 312/814-6226, Jeannie.Mitchell@illinois.gov

New Rules

(cont. from page 2)

exempt from the Freedom of Information Act. Since 1st Notice, the Treasurer has also added or incorporated definitions of subcontract, subcontractor, respondent, and Code; added provisions for hearings on objections to a sole source procurement; clarified the 10-year contract limit and the impact

of FOIA on pending or finalized procurements; and added a new Section addressing vendor registration and prohibitions on contributions under the Election Code. This rulemaking affects small businesses seeking contracts with the Treasurer's Office.

Questions/requests for copies: G. Allan Mayer, Office of the State Treasurer, 219 State House, Springfield IL 62706, 217/557-2673.

The SECRETARY OF STATE adopted amendments to Secretary of State Standard

(cont. page 4)

New Rules

(cont. from page 3)

Procurement (44 IAC 2000; 40 Ill Reg 5565), effective 9/23/16, raising the small purchase threshold for contracts exempt from competitive bidding from \$25,000 to \$40,000. Small businesses seeking contracts with SOS may be affected.

Questions/requests for copies: Amy Williams, 298 Howlett Bldg., Springfield IL 62756, 217-785-3094, awilliams3@ilsos.net

AIRPORTS

The DEPARTMENT OF TRANSPORTATION adopted an amendment to Airport Hazard Zoning (92 IAC 16; 40 Ill Reg 7544) effective 9/21/16 adding Marshall County Airport (Lacon), Monmouth Municipal Airport and Lake in the Hills Airport to the list of airports that have adopted DOT's statewide airport zoning rules affecting placement and maintenance of structures and vegetation more than 50 feet

above ground level. An effective date of 1/1/17 has been added since 1st Notice. DOT also repealed the Part titled Marshall County Airport Hazard Zoning Regulations (92 IAC 64; 40 Ill Reg 7550) since these rules are being replaced by the rules in Part 16.

Questions/requests for copies of the 2 DOT rulemakings: Carrie B. Boyd, Esq., DOT, 2300 S. Dirksen Pkwy., Springfield IL 62764, 217/524-3838.

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 October 11, 2016 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.

IL COMMERCE COMMISSION

Standards of Service for Gas Utilities and Alternative Gas Suppliers
(83 IAC 501; 40 Ill Reg 7246) proposed 5/13/16

Standards of Service for Gas Utilities (Repealer)
(83 IAC 500; 40 Ill Reg 7217) proposed 5/13/16

Electronic Interconnection of Distributed Generation Facilities
(83 IAC 466; 40 Ill Reg 2300) proposed 2/5/16

Electronic Interconnection of Large Distributed Generation Facilities
(83 IAC 467; 40 Ill Reg 2396) proposed 2/5/16

SECRETARY OF STATE

Issuance of Licenses (92 IAC 1030; 40 Ill Reg 10754) proposed 8/12/16