

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

■ SEXUAL ASSAULT

The DEPARTMENT OF PUBLIC HEALTH adopted amendments to Sexual Assault Survivors Emergency Treatment Code (77 IAC 545; 42 Ill Reg 6577), effective 8/2/18, implementing two Public Acts concerning collection and handling of sexual assault evidence kits. PA 99-801 directs hospitals to complete evidence collection kits for any sexual assault survivor who presents for emergency services within 7 days after the assault. Written consent to release an evidence kit for testing may be signed by a survivor 13 years of age or older. For minors under age 13, consent may be signed by the parent, guardian, the investigating law enforcement officer, or the Department of Children and Family Services. For adults who have appointed guardians or health care surrogates, the guardian,

surrogate or investigating law enforcement officer may consent to release the kit. If written consent to release an evidence kit is not obtained before the survivor leaves the hospital, the kit must be stored for 5 years after its completion or (if the survivor is a minor) 5 years after the survivor's 18th birthday. During the 5-year storage period, anyone authorized to consent to testing of

Emergency Rule, Page 3

the evidence kit may obtain and sign a release form from the law enforcement agency with jurisdiction over the case, the law enforcement agency contacted by the hospital, or from a rape crisis center. The survivor's discharge instructions from the hospital must include notice of the 5-year storage period and contact information for obtaining release

(cont. page 2)

Proposed Rulemakings

■ LEAD MITIGATION

The DEPARTMENT OF PUBLIC HEALTH proposed amendments to Lead Poisoning Prevention Code (77 IAC 845; 42 Ill Reg 15784) implementing Public Act 98-690 with numerous updates and clarifications regarding lead testing and mitigation procedures. The amendments reduce the blood lead poisoning level from 10 to 5 micrograms per deciliter (mg/dL), lower regulatory limits on lead in dust, soil, drinking water or on surfaces, and incorporate updated federal regulations and guidelines. Physicians and health care providers treating children ages 6 and younger must administer the DPH Childhood Lead Risk Questionnaire to assess the child's risk of lead poisoning, test the child for lead poisoning, or

(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)

of the evidence kit. A hospital must notify the relevant law enforcement agency, within 4 hours after completing treatment and evidence collection, that it has an evidence kit in its possession. If the law enforcement agency fails to respond within 5 days, the hospital must notify the agency again; if no response is received within 10 days after the initial contact, the hospital must notify the State's Attorney of the county in which the law enforcement agency is located. The rulemaking also implements PA 99-173, which removes a requirement that advanced practice nurses and physician assistants who examine and treat sexual assault survivors must have collaborative agreements with a physician (in addition to clinical privileges at the treating hospital). Those affected by this rulemaking include hospitals, law enforcement agencies, and agencies that assist sexual assault survivors.

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

ADOPTION & GUARDIANSHIP

The DEPARTMENT OF CHILDREN AND FAMILY SERVICES adopted amendments to Services Delivered by the Department of Children and Family Services (89

IAC 302; 41 Ill Reg 13887), effective 8/2/18, that align DCFS policies with federal reimbursement guidelines for youth who are adopted or have their guardianship transferred after they reach age 16. The adoptive parents of youths who were adopted on or after 7/1/17 and were 16 or older when the adoption was finalized may continue to receive adoption assistance payments until the child turns 21, if the child is completing his or her high school education, enrolled in a post-secondary or vocational program, employed at least 80 hours per month, participating in a program designed to remove barriers to employment, or is incapable of working or attending school due to a medical condition. Similar conditions are also applied to subsidized guardianships. Since 1st Notice, DCFS has reinstated provisions regarding respite care for medically fragile/technology dependent children that were stricken in the original proposed rulemaking.

Questions/requests for copies: Jeff Osowski, DCFS, 406 E. Monroe St., Station #65, Springfield IL 62701-1498, 217/524-1983, TDD 217/524-3715, fax 217/557-0692, email: cfpolicy@idcfs.state.il.us

■ CDL COURSES

The SECRETARY OF STATE adopted amendments to Commercial Driver Training Schools (92 IAC 1060; 42 Ill Reg 4512), effective 8/3/18, defining

two types of 30-hour classroom commercial driving courses: the defined time frame course (scheduled sessions over a period of at least 4 weeks, with a fixed start and end date and an enrollment limit of 30-35 students) and the sequential module course (no fixed start or end date; students have 9 months after the first classroom session to complete their 30 hours of instruction in the order prescribed by the school). Both types of courses must include information regarding appropriate interaction with law enforcement (e.g., during traffic stops) and awareness of human trafficking. Other amendments address the types of violation dispositions that SOS may consider when issuing a commercial school owner or instructor license (since 1st Notice, SOS has revised these provisions to conform more closely to statute), remove a prohibition on possession of written tests by commercial driving school owners and instructors, and clarify the effect of various violations of the Vehicle Code upon eligibility for a commercial driver training instructor's license. Commercial driver training schools, their instructors and their students are affected by this rulemaking.

Questions/requests for copies: Jennifer Egizii, SOS, 2701 S. Dirksen Pkwy., Springfield IL 62723, 217/557-4462.

(cont. page 4)

Proposed Rulemakings

(cont. from page 1)

both. The DPH questionnaire may also be administered to anyone who is pregnant or to children ages 7 and older. A statement from the physician or health care provider verifying that the child has been either screened for lead poisoning risk, tested for lead poisoning, or both must be provided by the parent prior to enrolling a child age 6 or younger in day care, preschool, kindergarten, or any other child care facility. An exemption for parents who object to lead blood level testing on religious grounds is being removed. Blood lead test results of 5 mg/dL or more must be reported to DPH within 48 hours. Instead of providing aggregated medical data in response to Freedom of Information Act requests, DPH will issue an annual lead poisoning surveillance report using aggregated medical data that does not identify patients, reporting entities, or care providers. Any researcher (currently, only medical or epidemiologic researchers) may request confidential data on lead poisoning from DPH in writing, subject to conditions in existing rule. DPH will conduct inspections of regulated facilities when an occupant or frequent visitor is reported to have a confirmed blood lead level of 10 mg/dL or higher (currently, 20 mg/dL); if the person tested is a child under 3 years old, the child's dwelling unit and common areas of the regulated facility must be inspected. Potential hazards that the owner

Emergency Rule

■ NURSING SCHOOLS

The BOARD OF HIGHER EDUCATION adopted emergency amendments to the Part titled Nursing School Grant Program (23 IAC 1100; 42 Ill Reg 16096), effective 8/6/18 for a maximum of 150 days. The emergency rule combines what were formerly two categories of grants to nursing schools (expansion grants and improvement grants) into a single category, include master's degree entry programs as well as bachelor's degree programs, establish priorities for program appropriations, list acceptable uses of grant funds, and outline the application and award

of a regulated facility will be asked about during an inspection will now include any products recently recalled due to the presence of lead, such as imported toys or jewelry. Procedures for certification of lead safety and mitigation training providers, abatement contractors, abatement supervisors, and other persons or entities involved in lead mitigation have been updated, along with environmental lead sampling protocols and procedures for lead mitigation in buildings and other environments. Fines for violations are raised from \$1,000 to \$5,000 per violation. Finally, emergency stop work orders for activities that may disturb lead-bearing surfaces may be enforced by the

determination process. Factors to be considered in awarding grants include performance measures from the previous 3 years, such as the number of nursing degrees conferred, the first-year retention rate, the nursing exam pass rate for first-time test takers, and job placement within 6 months after degree completion. Institutions of higher education that offer nursing degrees are affected by this emergency rule.

Questions/requests for copies: Karen Helland, BHE, 1 N. Old State Capitol Plaza, Suite 333, Springfield IL 62701, 217/557-7358, fax 217/782-8548, e-mail: Helland@ibhe.org

Attorney General or the sheriff or State's Attorney of the county in which the property is located. This rulemaking will affect owners of facilities or properties in which lead may be present; health care and child care providers; businesses involved in building construction or renovation; lead inspectors; and lead abatement workers and contractors.

Questions/requests for copies/comments through 10/1/18: Erin Conley, DPH, 535 W. Jefferson St., 5th Fl., Springfield IL 62761, 217/782-2043, dph.rules@illinois.gov.

(cont. page 5)

New Rules

(cont. from page 2)

■ EMERGENCY MANAGEMENT

The ILLINOIS EMERGENCY MANAGEMENT AGENCY adopted amendments to the Part titled Political Subdivision Emergency Services and Disaster Agencies (29 IAC 301; 42 Ill Reg 7603), effective 7/31/18, that update standards, review processes, guidelines and practices for city, county, and other local ESDAs. The rulemaking adopts the National Standard for emergency management programs developed by the Emergency Management Accreditation Program and requires mandated ESDAs to meet these requirements in its Emergency Operations Plans (EOPs) within 2 years after the rulemaking is adopted. EOPs must include specific assignment of responsibility for functions such as administration, finance, infrastructure restoration, debris management, volunteer management, and other tasks to be carried out after an emergency or disaster. EOPs must also include annexes that address specific hazards (e.g., earthquakes in certain areas of southern Illinois) and include the details of how damage assessment, evacuation/population protection, mass care, public information, and other functions will be carried out. Each ESDA must also have a documented emergency management program that is consistent with the national standard and includes

completion of a threat and hazard identification risk assessment; operational planning for emergency operations, recovery and continuity of government; mutual aid; communication and warning capabilities; use and testing of facilities; training and exercise programs; and public information, crisis communication and education programs. A full-scale exercise approved by IEMA must be conducted at least every 4 years, but the requirement may be waived if an actual disaster occurs at any time during the 4-year cycle (formerly, if the disaster occurred during a year in which an exercise was required). The rulemaking also clarifies the procedure under which a municipality that falls within more than one county may choose a single responsible county jurisdiction for planning and exercise purposes. Multiple counties may also share responsibility for planning and exercises. Changes since 1st Notice include clarification of timelines for applying for emergency management assistance grants. Municipalities and local governments will be affected by this rulemaking.

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

IEPA NOTICES

The ILLINOIS ENVIRONMENTAL PROTECTION AGENCY adopted amendments to Procedures of Informational and Quasi-

Legislative Hearings (35 IAC 164; 41 Ill Reg 14851), Procedures for Permit and Closure Plan Hearings (35 IAC 166; 41 Ill Reg 14856) and Public Participation in the Air Pollution Control Permit Program (35 IAC 252; 41 Ill Reg 14862), all effective 8/1/18, that permit notice of hearings under each of these Parts (including hearings concerning closure of hazardous waste facilities or issuance of permits under the federal Clean Air Act) to be posted on the IEPA website. Electronic notices must remain posted for the duration of the public comment period. Notice will also be published in a newspaper of general circulation in the affected area, or in the *Illinois Register*, if required by law or if the IEPA Director or designee determines that additional notice would serve the interests of the public or of the Agency.

Questions/requests for copies: Charles Matoesian, IEPA, 1021 N. Grand Ave. East, P.O. Box 19276, Springfield IL 62794-9276, 217/782-5544.

ADMINISTRATIVE HEARINGS

The OFFICE OF THE COMPTROLLER adopted amendments to the Part titled Rules of Practice in Administrative Hearings (74 IAC 310; 42 Ill Reg 3818), effective 8/1/18, to reflect the expansion of the Comptroller's administrative authority to include hearings and decisions regarding oversight of cemeteries, crematories, and pre-

(cont. page 5)

New Rules

(cont. from page 4)

need funeral or burial sales. Other changes update references to the obsolete Illinois Revised Statutes to the Illinois Compiled Statutes, reflect various statutory changes, and institute gender-neutral language. Those affected by this rulemaking may include funeral homes, cemeteries and crematories.

Questions/requests for copies: Adam Alstott, Office of the Comptroller, 325 W. Adams St., Springfield IL 62704, 217/558-5157.

MEDICAID FRAUD

The DEPARTMENT OF HEALTHCARE AND FAMILY

SERVICES adopted an amendment to General Administrative Provisions (89 IAC 101; 41 Ill Reg 13526) effective 8/1/18, updating contact information for the HFS Office of Inspector General and updating timeframes for the HFS-OIG to acknowledge (within 45 days; formerly 30 days) and evaluate (within 90 days; formerly 60 days) reports of suspected financial or benefit fraud. Programs administered by the Department on Aging are also added to the list of programs and agencies in Part 101 for which the HFS-OIG has authority to investigate fraud allegations.

Questions/requests for copies: Christopher Gange, HFS, 201 S. Grand Ave. East, 3rd Fl., Springfield

IL 62763-0002,
HFS.Rules@illinois.gov

PUBLIC INFORMATION

The AUDITOR GENERAL adopted an amendment to Freedom of Information (2 IAC 601; 42 Ill Reg 16032) effective 8/1/18, updating the telephone number and e-mail address for the Auditor General's Freedom of Information officer (to whom any requests for public records of the AG's office must be submitted).

Questions/requests for copies: Katie Antonacci, Office of the Auditor General, 740 E. Ash St., Springfield IL 62703, 217/782-6046, TTY 888/261-2887.

Proposed Rulemakings

(cont. from page 3)

■ REAL ESTATE APPRAISERS

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION proposed amendments to Real Estate Appraiser Licensing (68 IAC 1455; 42 Ill Reg 15525) implementing new educational requirements that align with the minimum criteria adopted by the national Appraiser Qualifications Board of The Appraisal Foundation. Licensure as a residential real estate appraiser will now require 1,500 hours of experience obtained over at least 12 months (currently, 2,500 hours over 24 months) and other formal education options have been

added for persons who do not hold a bachelor's degree (currently, a bachelor's degree or higher is required). For licensure as a general real estate appraiser, 3,000 hours experience over at least 18 months (currently, at least 30 months) will be required. The rulemaking also allows DFPR to send notices by e-mail (instead of U.S. Mail) when a license holder may lose a license due to unpaid taxes, child support or State-guaranteed student loans, and updates an incorporation of the national Real Property Appraiser Qualification Criteria. Real estate appraisers and their employers are affected by this rulemaking.

Questions/requests for copies/comments through 10/1/18: Craig Cellini, DFPR, 320 W. Washington St., 3rd Fl., Springfield IL 62786, 217/785-0813, fax 217/557-4451.

■ HAZARDOUS WASTE

The POLLUTION CONTROL BOARD proposed amendments to Hazardous Waste Management System: General (35 IAC 720; 42 Ill Reg 15551), Identification and Listing of Hazardous Waste (35 IAC 721; 42 Ill Reg 15602), Standards Applicable to Generators of Hazardous Waste (35 IAC 722; 42 Ill Reg 15671), Standards

(cont. page 6)

Proposed Rulemakings

(cont. from page 5)

Applicable to Transporters of Hazardous Waste (35 IAC 723; 42 Ill Reg 15694), Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities (35 IAC 724; 42 Ill Reg 15711), and Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage and Disposal Facilities (35 IAC 725; 42 Ill Reg 15748). These rulemakings implement new hazardous waste disposal, transportation and storage regulations adopted by the federal Environmental Protection Agency from 1/1/18 through 6/30/18. Owners and operators of hazardous waste facilities may be affected by these rulemakings.

Requests for copies/comments on the 6 PCB rulemakings through 10/1/18: Don A. Brown, PCB, 100 W. Randolph St., Chicago IL 60601, 312/814-3620. Please reference Docket R19-3. Questions: Michael J. McCambridge, same address, 3 1 2 / 8 1 4 - 6 9 2 4 , michael.mccambridge@illinois.gov. Copies of the Board's opinion and order can be downloaded from the

PCB website at <http://www.ipcb.state.il.us>.

GAS PIPELINES

The ILLINOIS COMMERCE COMMISSION proposed amendments to the Parts titled Minimum Safety Standards for Transportation of Gas and for Gas Pipeline Facilities (83 IAC 590; 42 Ill Reg 15516) and Reports of Accidents or Incidents by Persons Engaged in the Transportation of Gas, or Who Own or Operate Gas Pipeline Facilities (83 IAC 595; 42 Ill Reg 15521). The Part 590 amendments incorporate federal gas pipeline safety standards in compliance with State statute requiring ICC's rules to be at least as stringent as federal standards, and clarify reporting requirements for underground natural gas storage facilities (which are federally regulated). The Part 595 rulemaking removes obsolete references, updates statutory citations, and allows electronic filing of certain reports.

Questions/requests for copies/comments on the 2 ICC rulemakings through 10/1/18: Elizabeth Rolando, ICC, 527 E.

Capitol Ave., Springfield IL 62701, 217/782-7434.

■ DCEO RULE WITHDRAWAL

The DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY has withdrawn proposed amendments to Enterprise Zone and High Impact Business Programs (14 IAC 520; 42 Ill Reg 10709) that were published in the 6/22/18 *Illinois Register*. The amendments would have disqualified businesses from designation as high impact businesses and from the tax exemptions attached to enterprise zones if they were not in good standing with the Secretary of State or other applicable State authorities; operating under a cease and desist order or another formal or informal regulatory action; or were under investigation by any State or federal law enforcement, regulatory or legal authority. DCEO states that it withdrew the rulemaking after determining that unintended consequences could occur as a result of the changes proposed (e.g., delays within SOS could result in DCEO failing to receive notice within the required 30 days).

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 September 18, 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 REVENUE

Income Tax (86 IAC 100; 42 Ill Reg 9160) proposed 6/8/18

DEPT OF STATE POLICE

Intergovernmental Drug Enforcement (20 IAC 1220; 42 Ill Reg 10375) proposed 6/15/18

JCAR Meeting Action

At its 8/14/18 meeting, the Joint Committee on Administrative Rules approved the following actions.

EXTENSIONS

JCAR and the respective agencies agreed to extend the Second Notice periods for the listed rulemakings an additional 45 days. These rulemakings will be considered again at the September 18, 2018 meeting.

Department of Natural Resources, Duck, Goose and Coot Hunting (17 IAC 590; 42 Ill Reg 4286) proposed 3/9/18

Department of Revenue, Invest in Kids Act (86 IAC 1000; 42 Ill Reg 7448) proposed 4/20/18

Illinois State Board of Investment, Rules and Regulations of the Board (74 IAC 800; 42 Ill Reg 6630) proposed 4/13/18

Joint Committee on Administrative Rules

Senator Pamela Althoff

Representative Peter Breen

Senator Karen McConnaughay

Representative Barbara Flynn Currie

Senator Don Harmon

Representative Tom Demmer

Senator Tony Muñoz

Representative Greg Harris

Senator Ira Silverstein

Representative André Thapedi

Senator Chuck Weaver

Representative Keith Wheeler

**Vicki Thomas
Executive Director**