

*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

### WORKERS' COMPENSATION

The WORKERS' COMPENSATION COMMISSION adopted an emergency amendment to the Part titled Arbitration (50 IAC 9030; 44 Ill Reg 7809) effective 4/16/20 for a maximum of 150 days. **(NOTE: Enforcement of this emergency rule was halted by a temporary restraining order issued on 4/24/20. The Commission's repeal of this rule will appear in next week's Illinois Register and Flinn Report.)** The emergency rule stated that for worker's compensation cases in which the petitioner was a COVID-19 first responder or front-line worker exposed to the COVID-19 virus during the initial Gubernatorial Disaster Proclamation and any subsequent extensions, the exposure would be "rebuttably presumed" to have occurred in the course of his or her employment and the employee's resultant

### COVID-19 ACTIONS

Numerous Executive Orders and emergency rules have been issued in response to the COVID-19 pandemic. Executive Orders of the Governor concerning this pandemic can be accessed at <https://www2.illinois.gov/government/executive-orders>. Emergency rules adopted by State agencies will be summarized in The Flinn Report as they are published in the *Illinois Register*.

illness/condition would be rebuttably presumed to have been caused by that employment (thereby making the employer liable unless the employer could rebut this presumption with evidence that the employee's exposure/infection was not work related). COVID-19 first responders and front-line workers

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## Proposed Rulemaking

### COAL WASTE DISPOSAL

The POLLUTION CONTROL BOARD proposed a new Part titled Standards for the Disposal of Coal Combustion Residuals in Surface Impoundments (35 IAC 845; 44 Ill Reg 6696) implementing Public Act 101-171. The new Part establishes construction and operating permit requirements, design standards, financial assurance, reporting, and closure requirements for surface impoundments of coal ash left over from coal burned at power plants.

*Questions/requests for copies/comments through 6/15/20: Clerk's Office, PCB, 100 W. Randolph St., Suite 11-500, Chicago IL 60601. Please reference docket R19-20. Copies of the Board's opinion and order can be obtained by calling 312/814-3620 or downloaded from the Board's website at [www.pcb.illinois.gov](http://www.pcb.illinois.gov).*

**ADOPTED 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](http://www.cyberdriveillinois.com)) and General Assembly ([www.ilga.gov](http://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.

# Emergency Rules

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were defined in the emergency rule as police and fire personnel; EMTs, paramedics and other emergency responders; health care providers engaged in patient care; corrections officers; and persons defined as essential workers in Executive Order 2020-10 (those employed in healthcare and public health operations, human services operations, essential infrastructure operations, essential governmental functions, or essential businesses).

*Questions/requests for copies: Cole D. Garrett, WCC, 100 W. Randolph St., Suite 8-200, Chicago IL 60601, [Cole.Garrett@illinois.gov](mailto:Cole.Garrett@illinois.gov)*

## ■ HEALTH INSURANCE

The DEPARTMENT OF INSURANCE adopted a new Part by emergency rulemaking titled Temporary Health Coverage Requirements During an Epidemic or Public Health Emergency (50 IAC 2040; 44 Ill Reg 7766) effective 4/20/20 for a maximum of 150 days. An identical proposed amendment appears in this week's *Illinois Register* at 44 Ill Reg 6693. The new Part prevents issuers of group health insurance policies and stand-alone dental plans from canceling coverage for non-payment of premiums during epidemics or public health emergencies when the Governor has issued a stay-at-home order or generally closed non-essential businesses. (These rules do not apply to short-term,

limited duration or excepted benefit policies.) When such an emergency is in effect, issuers must allow employers to continue covering employees that would normally lose coverage due to layoffs or reduction in their working hours. For employers with 20 or more workers, the insurance issuer cannot prevent eligible employees from electing continuation coverage under COBRA or the State's HMO Act as long as at least one worker remains actively employed. For health insurance coverage that is not issued through the Exchange established under the federal Affordable Care Act, special enrollment procedures shall be waived for persons who have lost workplace insurance coverage so that the enrollee's new policy becomes effective the day after the prior coverage terminated. Issuers must also allow insured persons, upon request, to defer premium payments without interest for at least 60 calendar days from each original premium due date. For insured persons who missed premium payments prior to 4/20/20 but whose coverage has not yet been terminated, the issuer shall not cancel or refuse to renew coverage for nonpayment for at least 60 days after this Part takes effect. Deadlines for binder payments must be extended at least 30 days beyond the normal applicable deadline. Communications from an issuer to an insured person must clearly state that the insured still has an obligation to pay back deferred premiums or potentially be subject to billing for unpaid claims.

Policies that cover prescription drugs must cover off-formulary drugs if no formulary drug is available to the insured, without prior authorization, step-therapy requirements, higher cost sharing or other additional conditions. Insured persons must also be allowed to obtain at least 90-day supplies of maintenance medications upon refill of a prescription, except for categories of drugs prone to abuse such as opioids and stimulants. Those affected by this emergency rule include small businesses and other employers that provide health insurance coverage to their employees.

*Questions/requests for copies/ comments on the proposed rulemaking through 6/15/20: Robert Planthold, DOI, 122 S. Michigan Ave., 19<sup>th</sup> Fl., Chicago IL 60603, 312/814-5445, or Susan Anders, DOI, 320 W. Washington St., Springfield IL 62767, 217/558-0957.*

## HOSPITALS

The DEPARTMENT OF PUBLIC HEALTH adopted emergency amendments to Hospital Licensing Requirements (77 IAC 250; 44 Ill Reg 7788) and Hospital Report Card Code (77 IAC 255; 44 Ill Reg 7806), effective 4/17/20 for a maximum of 150 days. This emergency rule establishes procedures for licensed hospitals to set up alternate care facilities for overflow patients during the COVID-19 emergency at remote

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# Emergency Rules

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or temporary locations and also establishes health, safety and other requirements for the operation of alternate care facilities. Licenses granted to alternate care facilities will automatically expire 150 days after the effective date of the emergency rule, and DPH must be notified within 24 hours after an alternate care facility ceases operations. For existing hospitals, the emergency rule also suspends requirements elsewhere in the Part concerning the size, dimension and furnishings of patient rooms; adherence to formal nurse staffing plans; use of verbal or telephone medication orders; notification to patients regarding impending discharge or observation status; and reporting of opioid overdoses.

## HEALTH DATA REPORTING

DPH also adopted emergency amendments to Adverse Health Care Events Reporting Code (77

IAC 235; 44 Ill Reg 7785) and Hospital Report Card Code (77 IAC 255; 44 Ill Reg 7806) both effective 4/17/20 for a maximum of 150 days. These emergency rules suspend all requirements of each Part for the duration of the COVID-19 emergency. (Part 235 requires hospitals and ambulatory care facilities to report adverse events such as surgical mistakes, malfunctions of medical products or devices, or lapses in patient supervision or care management. Part 255 requires hospitals to report, on a quarterly basis, staffing levels, patient care hours, and other data used by DPH to compile hospital report cards.) Hospitals and outpatient facilities are affected by these emergency rules.

*Questions/requests for copies of the 3 DPH emergency rules: Erin Conley, DPH, 535 W. Jefferson St., 5<sup>th</sup> Fl., Springfield IL 62761, 217/782-2043, [dph.rules@illinois.gov](mailto:dph.rules@illinois.gov)*

## ■ PLUMBING INSPECTORS

The POLLUTION CONTROL BOARD adopted an emergency amendment to the Part titled Design, Operation and Maintenance Criteria (35 IAC 604; 44 Ill Reg 7777) effective 4/17/20 for a maximum of 150 days. The emergency rule changes the renewal period for licensing of cross connection control device inspectors (CCCDI) from 5/1 through 6/30/20 to 8/31 through 10/30/20. PCB states that the delay in the renewal period will allow these inspectors to renew their plumbing licenses before applying to renew their CCCDI licenses.

*Questions/requests for copies: Marie Tipsord, PCB, 100 W. Randolph, Suite 11-500, Chicago IL 60601, 312/814-4925, [Marie.Tipsord@illinois.gov](mailto:Marie.Tipsord@illinois.gov). Please reference docket R20-20. Copies of the Board's opinion and order can be obtained by calling 312/814-3620 or downloaded from the Board's website at [www.pcb.illinois.gov](http://www.pcb.illinois.gov).*

# Adopted Rules

## CENSUS EMPLOYMENT

The DEPARTMENT OF HUMAN SERVICES adopted amendments to Child Care (89 IAC 50; 43 Ill Reg 14326), Temporary Assistance for Needy Families (89 IAC 112; 43 Ill Reg 14328), Aid to the Aged, Blind or Disabled (89 IAC 113; 43 Ill Reg 14330) and Supplemental Nutrition Assistance Program (SNAP) (89 IAC 121; 43 Ill Reg 14332), all effective 4/16/20, replacing

emergency amendments that were effective 11/26/19. These rulemakings exempt income earned from temporary employment with the 2020 U.S. Census from consideration in determining financial eligibility for the Child Care Assistance Program, TANF, AABD or SNAP.

*Questions/requests for copies of the 4 DHS rulemakings: Tracie Drew, DHS, 100 S. Grand Ave.*

*East, 3<sup>rd</sup> Fl., Springfield IL 62702, 217/557-1544.*

## STATE EMPLOYEES

The DEPARTMENT OF CENTRAL MANAGEMENT SERVICES adopted amendments to Pay Plan (80 IAC 310; 43 Ill Reg 13835) effective 4/16/20, replacing emergency

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## Adopted Rules

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amendments effective 11/22/19. The rulemaking implements Public Act 101-177 (Equal Pay Act) along with provisions stemming from collective bargaining agreements and various State budgetary measures, including establishment of new minimum and maximum salary ranges for Merit Compensation System (MS) salary schedules. In accordance with the Equal Pay Act, State agencies, boards and commissions may no longer request, seek, verify or require a job candidate's current or past wage or salary history; any requests for this information must be removed from electronic or paper job application forms. If a candidate voluntarily or inadvertently discloses his or her current or past salary, the agency may not consider this information in determining a salary offer. Factors that may be considered in determining a new hire's anticipated starting salary are listed (e.g., scope of responsibilities, compensation in equivalent private sector positions, similarities to positions in other State agencies). An existing provision that allows reinstated

State employees subject to the Personnel Code to receive no more than a 5% increase over their previous State salary now applies only if the reinstated employee had no intervening employment outside of State government. Reinstated employees with intervening employment outside of State government will be paid the entrance base salary for their new position. Effective 9/29/19, trainee and intern positions assigned only to Merit Compensation System (MS) salary ranges are paired with a targeted class title (the first permanent position into which the trainee will move) and assigned a monthly in-hire rate, while obsolete or "inappropriate" MS trainee titles are removed. Additionally, current (as of 11/22/19) MS employees who were on active payroll as of 12/31/18 and did not receive a special salary adjustment on or after 11/1/18 may be eligible for a stipend of up to \$2,500, prorated by 25% for each year of continuous service in an MS position from 7/1/15 through 6/30/19. Current MS employees will also receive a 1.5% cost-of-living raise effective 1/1/20. Finally, the rulemaking repeals provisions for merit incentive and gain sharing programs.

*Questions/requests for copies: Lisa Fendrich, CMS, 504 Stratton Bldg., Springfield IL 62706, 217/782-7976, fax 217/524-4570, [CMS.PayPlan@illinois.gov](mailto:CMS.PayPlan@illinois.gov)*

### ■ WATER TREATMENT

The POLLUTION CONTROL BOARD adopted amendments to Primary Drinking Water Standards (35 IAC 611; 44 Ill Reg 692) effective 4/17/20, implementing U.S. Environmental Protection Agency regulations that were adopted between 7/1/18 and 12/31/18, including updates to analytical methods for water testing. The rulemaking also includes non-substantive corrections and clarifications unrelated to the federal regulations. Those affected by this rulemaking include local governments that operate drinking water treatment facilities.

*Requests for copies: PCB, 100 W. Randolph St., Suite 11-500, Chicago IL 60601. Please reference docket R19-16. Copies of the Board's opinion and order can be downloaded from the PCB website at <http://www.ipcb.state.il.us>.*



## Second Notices

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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 19, 2020 JCAR 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 COMMERCE & ECONOMIC OPPORTUNITY**

Cannabis Social Equity Program (14 IAC 650; 44 Ill Reg 10) proposed 1/3/20

### **DEPT OF NATURAL RESOURCES**

Illinois List of Endangered and Threatened Fauna (17 IAC 1010; 44 Ill Reg 3044) proposed 2/21/20

Illinois List of Endangered and Threatened Flora (17 IAC 1050; 44 Ill Reg 3057) proposed 2/21/20

### **DEPT OF REVENUE**

Income Tax (86 IAC 100; 44 Ill Reg 97) proposed 1/3/20

## **Joint Committee on Administrative Rules**

**Senator Bill Cunningham, *co-chair***

**Representative Tom Demmer**

**Senator John F. Curran**

**Representative Michael Halpin**

**Senator Kimberly Lightford**

**Representative Frances Ann Hurley**

**Senator Tony Muñoz**

**Representative Steven Reick**

**Senator Sue Rezin**

**Representative André Thapedi**

**Senator Paul Schimpf**

**Representative Keith Wheeler, *co-chair***

**Vicki Thomas  
Executive Director**