

THE FLINN REPORT

ILLINOIS GENERAL ASSEMBLY
JOINT COMMITTEE ON ADMINISTRATIVE RULES

Elaine Spencer, Editor

VOLUME 47

ISSUE 51

December 26, 2023

The Flinn Report is a weekly summary of regulatory actions of State agencies published in the *Illinois Register* and action taken by the Illinois General Assembly's Joint Committee on Administrative Rules (JCAR). The Flinn Report honors founding JCAR member Representative Monroe Flinn, and is designed to inform and involve the public in changes taking place in agency administration.

Proposed Rulemakings

• INDUSTRIAL HEMP

The DEPT OF AGRICULTURE proposed amendments to the Part titled Industrial Hemp Act (8 IAC 1200; 47 Ill Reg xxxxx) implementing U.S. Department of Agriculture industrial hemp regulations that were effective 1/1/22. The rulemaking defines academic research institutions that are eligible to participate in the industrial hemp program as institutions that offer agricultural programs or degrees; offer in-person programs at a physical location in Illinois; are Illinois non-profit entities; and conduct research on hemp. These may include public or private colleges and universities, community colleges, and public or nonpublic high schools registered with the State Board of Education. The acceptable THC level for commercial hemp and hemp products is no more than 0.3 percent by dry weight. Hemp crops may not be harvested until a sample of the lot (entire quantity of a particular plant

variety to be harvested from a single field or farm), gathered at least 30 days prior to the scheduled harvest date, has been laboratory tested to ensure an acceptable THC level. Samples that test higher than 0.3 percent THC may be retested at the licensee's expense; if the initial test result is between 0.3 and 0.7 percent

**Adopted Rules, Page 5
Second Notices, Page 6**

THC the cultivator may remediate the lot by shredding, blending, or sorting the plant material in a manner that reduces the THC concentration to an acceptable level, and then have it retested. If a sample tests above 0.3 percent THC twice (or once if a retest is not requested), the lot from which the sample came must be disposed of. Applicants for an industrial hemp growing license may be required to provide additional personal information for background checks if USDA requires a background check.

Academic research institutions must specify which testing laboratory they will use and consent to DOA collecting and forwarding requested data to USDA, which may include background checks, disposal reporting, and real-time information. The existing prohibition against granting a hemp cultivation license to any person convicted of a controlled substance related felony within the previous 10 years is extended to persons with "executive managerial control" of a corporation, partnership or other entity that applies for a license (but not to any non-executive employees). Processors of industrial hemp may not be located in residentially-zoned areas. Industrial hemp cultivators must file their final annual reports by December 1 (currently, February 1) and licensees must also report their hemp cultivation acreage to the Farm Services Administration (FSA) within 30 days after planting. Other provis-

(cont. page 2)

ADOPTED RULES: Rules adopted by agencies this week. **EMERGENCY RULES:** Temporary rules adopted for no more than 150 days. **PROPOSED RULEMAKINGS:** Rules proposed by agencies this week, commencing a First Notice public comment period of at least 45 days. **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/or non-profit organizations. Agencies must consider comments from these groups and attempt to minimize regulatory burdens on them.

QUESTIONS/COMMENTS: Submit mail, e-mail or phone calls to the agency personnel listed below each summary.

RULE TEXT: First Notice proposed text, emergency rule and peremptory rule text is available at the Secretary of State website (<https://www.ilsos.gov/departments/index/register/home.html>) or at the Illinois General Assembly website (<http://www.ilga.gov>) under "Illinois Register". Second Notice text for proposed rulemakings (original version with any changes made by the agency during First Notice included) is available at the JCAR website.

Proposed Rulemakings

(cont. from page 1)

ions impose an annual licensing fee of \$100 on academic research institutions and government demonstration and research entities (commercial growers and processors pay \$375 per year, \$750 for two years, or \$1000 for 3 years); carve out exceptions to certain testing requirements for hemp grown by these institutions and entities; allow DOA to conduct both scheduled and unannounced annual inspections, random inspections, and inspections for the purpose of auditing; and specify how testing samples are to be collected and how hemp is to be transported. Academic, government and commercial institutions that participate in the industrial hemp program are affected.

Questions/requests for copies/comments through 2/8/24: Sam McGee, DOA, State Fairgrounds, P. O. Box 19281, Springfield IL 62794-9281, 217-558-3741, Samuel.mcgee@illinois.gov

• SOCIAL WORKERS

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION proposed amendments to the Part titled Clinical Social Work and Social Work Practice Act (68 IAC 1470; 47 Ill Reg 18815) implementing Public Act 103-433 and other measures. This rulemaking allows applicants for licensure as Licensed Clinical Social Workers (LCSWs) who have taken but not passed the licensing exam since 1/1/19 to substitute 3,000 hours of supervised clinical experience (in addition to the 3,000 hours currently required of master's-level graduates, or 2,000 hours required of doctoral-level graduates) for passage of the

licensing exam. These additional hours must have been completed under the supervision of specific licensed professionals (e.g., psychiatrist, psychiatric APRN, LCSW, licensed clinical psychologist) and must have been completed within 3 years after the date of initial license application. Applicants for licensure as Licensed Social Workers (LSWs) are no longer required to pass a licensing examination. Effective 1/1/26, an applicant for LCSW licensure who wishes to substitute clinical experience for passage of the licensing exam must be an LSW or be licensed to perform school social work prior to completing the 3,000 additional hours of supervised clinical experience. The minimum 15 hours per week required for part-time clinical experience is removed (29 or fewer hours per week is considered part-time) and clinical professional experience gained in Illinois must be supervised by an LCSW licensed in Illinois. Applicants are no longer required to provide a complete work history since completing their undergraduate education, and applicants with at least 5 consecutive years of practice in another jurisdiction do not have to provide proof of their education and supervised clinical experience. New continuing education (CE) requirements for all health care licensees contained in 68 IAC 1130 (one hour of sexual harassment prevention training and one hour of implicit bias awareness training each renewal cycle) are referenced. Approved CE providers for licensed marriage and family therapists are also approved as CE providers for social workers. Continuing education that is completed remotely is not considered out of State CE and the provider must be approved by DFPR. LCSWs must, after their second renewal, complete a one-time 6-hour course in clinical supervision training. Other provisions clarify procedures for restoring a license following

disciplinary action and add criteria for demonstrating rehabilitation from the violation or deficiency that prompted the disciplinary action; grant LCSW licensees with a clean disciplinary record a one-time waiver from renewal fees and other renewal requirements; allow CE waiver requests for good cause (currently, "extreme hardship"); allow DFPR to deny renewal to a licensee who requests a CE waiver due to incapacitating illness for 2 consecutive license renewal periods; remove fees for duplicate licenses and wall certificates; and require applicants and licensees to provide a physical address and e-mail address to DFPR and keep them updated. Social workers, licensed clinical social workers, and their employers are affected by this rulemaking.

Questions/requests for copies/comments through 2/8/24: Craig Cellini, DFPR, 320 W. Washington, 2nd Floor, Springfield IL 62786, 217-785-0810, fax 217-557-4451, Craig.Cellini@illinois.gov

INSURANCE

The DEPARTMENT OF INSURANCE proposed a new Part titled Supplier Diversity Reports (50 IAC 910; 47 Ill Reg 18845) implementing PA 103-426. The PA and this rulemaking require risk-bearing entities (e.g., insurance companies, dental insurance plans, health maintenance organizations, limited health service organizations, accredited reinsurers) that conduct business in Illinois and have at least \$50 million in assets to file an annual report with DOI indicating whether they have a supplier diversity program that encourages or facilitates procurement of goods and services from "inclusion suppliers". Risk-bearing entities subject to this Part must file this report annually starting

(cont. page 3)

Proposed Rulemakings

(cont. from page 2)

4/1/24 and by April 1 of subsequent years, using a template created by the Department. The rule defines an inclusion supplier as a business with 51% or greater ownership by minority persons, women, veterans, persons with disabilities, or LGBT persons. Entities are not required to have supplier diversity programs, but must report to DOI whether or not they have such a program or, if they do not have one, whether they plan to create or join one in the next 12 months. The rulemaking also lists the types of risk-bearing entities generally excluded from the filing requirement and establishes the method to determine whether a risk-bearing entity meets the \$50 million threshold to file a report in any given year. Affiliated risk-bearing entities may file a single, combined report when they participate in the same supplier diversity program or other procurement program. Reports will be posted on the DOI website and kept publicly available for at least 5 years.

DOI also proposed amendments to the Part titled Licensing of Public Adjusters (50 IAC 3118; 47 Ill Reg 18857) implementing Public Act 103-216, which places a 10% cap on public adjuster fees (taken from the total amount of a claim) for residential insurance claims as a consumer protection measure. A public adjuster also shall not recommend any contractor without verifying that the contractor has liability insurance, a performance bond, any necessary licenses to perform the work, and a written warranty of workmanship. The rulemaking updates the requirements for a consumer rights notice which public adjusters must provide to all clients, makes technical changes to

keep the Rule consistent with its enabling Act, and removes requirements that public adjusters provide each client with at least 2 competitive bids from any contractor, vendor or service provider that the adjuster may recommend, and that the adjuster assume responsibility for any work performed by a recommended contractor that is not completed in a workmanlike manner. Public insurance adjusters are affected.

Questions/requests for copies/comments on the 2 DOI rulemakings through 2/8/24: Part 910, Robert Planthold (312-814-5445, robert.planthold@illinois.gov); Part 3118, Kathryn Williams (217-843-0050, kathryn.a.williams@illinois.gov); DOI, 122 S. Michigan Ave., 19th Floor, Chicago IL 60603. Both rulemakings: Susan Anders, DOI, 320 W. Washington St., 4th Floor, Springfield IL 62767, 217-558-0957, sue.anders@illinois.gov

• USE TAX

The DEPARTMENT OF REVENUE proposed amendments to Use Tax (86 IAC 150; 47 Ill Reg 18900) that reflect new statutory developments, case law, and Department policies. The rulemaking lengthens the presumed average life expectancy of motor vehicles brought into Illinois on or after 1/1/24 from 50 to 60 months for purposes of determining a reasonable allowance for depreciation, and decreases the rate of depreciation from 2% to 1.67% to reflect the federal depreciation rule. Service life for other forms of tangible personal property subject to depreciation is also set according to federal law, or as established in settlement agreements between the taxpayer and DOR or the taxpayer and the Internal Revenue Service. Various definitions are updated to align with statute. An

obsolete exemption for food, drugs, medicines and medical appliances purchased by a Medical Assistance recipient is repealed, along with outdated requirements for calculating dual tax rates on items subject to different sales tax rates. Other provisions update or add statutory language; clarify exemptions intended to avoid double taxation (e.g., items brought into Illinois for temporary use by non-Illinois residents); and remove requirements for display certificates for house trailers. Retailers and purchasers of goods subject to use tax are affected.

Questions/requests for copies/comments through 2/8/24: Kimberly Rossini, DOR, 101 W. Jefferson St., Springfield IL 62794, 217-782-2844, REV.GCO@illinois.gov

• AUTO INSURANCE

The SECRETARY OF STATE proposed amendments to the Part titled Illinois Safety Responsibility Law (92 IAC 1070; 47 Ill Reg 18974) implementing Public Act 103-179, which requires all vehicle insurance companies to transmit proof of insurance documents, as well as cancellations of such policies, to SOS exclusively by electronic means. (Currently, insurance companies may file these documents electronically or by submitting paper forms.) Auto insurance providers are affected by this rulemaking.

Questions/requests for copies/comments through 2/8/24: Pamela Wright, SOS, 298 Howlett Building, Springfield IL 62756, pwright@ilsos.gov

WATER POLLUTION

The POLLUTION CONTROL BOARD proposed amendments to Sewer Dis-

(cont. page 4)

Proposed Rulemakings

(cont. from page 3)

charge Criteria (35 IAC 307; 47 Ill Reg 18866) implementing federal wastewater pretreatment rules adopted by the U.S. Environmental Protection Agency in the first half of 2023. The rulemaking adopts amended USEPA effluent limitation guidelines for water discharged from steam electric power generating facilities. This change has the effect of giving coal-fired power plants more time to phase out coal combustion.

Questions/requests for copies/comments through 2/8/24: Don A. Brown, PCB, 60 E. Van Buren St., Suite 630, Chicago IL 60605, 312-814-3461, don.brown@illinois.gov.

Please reference Docket R24-6. Copies of the Board's opinion and order can be downloaded from the Board website at <http://www.pcb.illinois.gov>

BUILDING CODES

The DEPARTMENT OF PUBLIC HEALTH proposed an amendment to Illinois Modular Dwellings and Mobile Structures Code (77 IAC 880; 47 Ill Reg 18891) updating contact information for obtaining copies of the International Code Council residential construction codes that are incorporated in this Part.

Questions/requests for copies/comments through 2/8/24: Tracey Trigillo, DPH, 524 S. Second St., 6th Floor, Springfield IL 62701, dph.rules@illinois.gov

DOR RULE WITHDRAWAL

The DEPARTMENT OF REVENUE has withdrawn proposed amendments to the Part titled Access to Records of the Illinois Department of Revenue (2 IAC 1201; 47 Ill Reg 15624) that were published in the 11/3/23 *Illinois Register*. These amendments would have updated contact information for DOR regional offices, for obtaining tax forms and tax filing information, and the fee schedule for requesting copies of documents under the Freedom of Information Act (FOIA). DOR has decided to pursue changes in statute before proceeding with a proposed rulemaking.

Adopted Rules

▪ SPRINKLER SYSTEMS

The OFFICE OF THE STATE FIRE MARSHAL adopted amendments to the Part now titled Fire Sprinkler Contractor and Inspector Licensing Rules (41 IAC 109; proposed at 47 Ill Reg 6614) effective 12/6/23 at 47 Ill Reg 19159, implementing Public Act 102-612. This rulemaking changes the name of the Part (formerly Fire Sprinkler Contractor Licensing Rules), extends existing contractor rules for businesses that install or repair sprinkler systems to businesses that perform routine inspection, testing and maintenance of sprinkler systems, and requires fire sprinkler inspectors to be licensed. A contractor that performs routine inspections must employ at least one licensed fire sprinkler inspector, unless the contractor also meets the qualifications for an inspector, in which case that person can hold both licenses and also perform inspections. Contractor and inspector licenses are valid for 2 years. Initial licensure and renewal fees are \$3,000 for contractors and \$500 for inspectors. Applications for an inspector license or renewal must be submitted by the employing business/contractor on behalf of the applicant. If a fire sprinkler inspector terminates employment with a contractor, the inspector's license becomes inactive and the contractor must destroy the inspector's ID card. If the inspector is hired by another contractor, the contractor must submit a new license application for the inspector. When a contractor's license is terminated, expires or is suspended, inspector licenses held by employees of the contractor are also terminated. Unlicensed practice as a fire sprinkler contractor or inspector is subject to a civil penalty of up to \$10,000. Since 1st Notice, OSFM has clarified various aspects of the licensing and review

process. Businesses that install, repair, inspect or service fire sprinkler systems are affected by this rulemaking.

Questions/requests for copies: Nancy Robinson, Office of the State Fire Marshal, 1035 Stevenson Drive, Springfield IL 62703, 217/785-7629, fax 217/524-5487.

SALES TAX

The DEPARTMENT OF REVENUE adopted an amendment to Retailers' Occupation Tax (86 IAC 130; proposed at 47 Ill Reg 12680) effective 12/6/23 at 47 Ill Reg 19135, implementing Public Acts 102-1125 and 103-9. The rulemaking institutes a tax credit of \$1.50 per gallon for purchases of sustainable aviation fuel made in Illinois by air common carriers from 7/1/23 through 12/31/32. The rulemaking includes specifications for the type of fuel that qualifies for the credit and the documentation requirements for purchasers to receive the credit.

Questions/requests for copies: Samuel J. Moore, DOR, 101 W. Jefferson St., Springfield IL 62794, 217/782-7055, REV.GCO@illinois.gov

INVASIVE SPECIES

The DEPARTMENT OF NATURAL RESOURCES adopted amendments to the Part titled Injurious Species (17 IAC 805; proposed at 47 Ill Reg 12345) effective 12/7/23 at 47 Ill Reg 18981, updating the definition of an injurious species to clarify that herptiles (amphibians and reptiles) are excluded and are regulated under separate rules at 17 IAC 885. The rulemaking updates the Part to add federally classified injurious/invasive species of plants and animals,

including brushtail possums, various species of snakehead fish, carp and goby, and New Zealand mud snails. It also clarifies that while Chinese water spinach is federally classified as a noxious weed and cannot be propagated in Illinois, its stems, leaves, and parts other than roots can be possessed and sold for consumption.

Questions/requests for copies: Nicole Thomas, DNR, One Natural Resources Way, Springfield IL 62702, 217/782-1809.

▪ DRINKING WATER

The POLLUTION CONTROL BOARD adopted amendments to Primary Drinking Water Standards (35 IAC 611; proposed at 47 Ill Reg 11586) effective 12/6/23 at 47 Ill Reg 18996, that implement federal regulations adopted by the U.S. Environmental Protection Agency during the second half of 2022. The federal regulations and this rulemaking authorize and incorporate by reference 7 new alternative test procedures for analyzing contaminants in drinking water. Municipalities and other units of local government that operate drinking water systems may be affected.

Questions/requests for copies: Don A. Brown, PCB, 60 E. Van Buren St., Ste. 630, Chicago IL 60605. Please reference Docket R23-9. Copies of the Board's opinions and orders may be requested from the Clerk's office at 312/814-3620 or downloaded from the Board's Web site at pcb.illinois.gov.

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 January 16, 2024 meeting in Springfield. 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 at jcar@ilga.gov.

CAPITAL DEVELOPMENT BOARD

Community Health Center Construction (71 IAC 42; 47 Ill Reg. 11860) proposed 8/11/23

DEPT OF CENTRAL MANAGEMENT SERVICES

Acquisition, Management and Disposal of Real Property (44 IAC 5000; 47 Ill Reg 14141) proposed 10/13/23

Travel (80 IAC 2800; 47 Ill Reg 14148) proposed 10/13/23

IL LABOR RELATIONS BOARD

Access to Records of the Illinois Labor Relations Board (2 IAC 2501; 47 Ill Reg 14683) proposed 10/20/23

DEPT OF REVENUE

Retailers' Occupation Tax (86 IAC 130; 47 Ill Reg 14688) proposed 10/20/23

DEPT OF PUBLIC HEALTH

Hospice Programs (77 IAC 280; 47 Ill Reg 13152) proposed 9/15/23

Intermediate Care for the Developmentally Disabled Facilities Code (77 IAC 350; 47 Ill Reg 14205) proposed 10/13/23

Medically Complex for the Developmentally Disabled Facilities Code (77 IAC 390; 47 Ill Reg 14296) proposed 10/13/23

OFFICE OF THE STATE FIRE MARSHAL

Furniture Fire Safety Regulations (Repealer) (41 IAC 300; 47 Ill Reg 15247) proposed 10/27/23

STATE UNIVERSITIES CIVIL SERVICE SYSTEM

State Universities Civil Service System (80 IAC 250; 47 Ill Reg 13457) proposed 9/22/23

STATE UNIVERSITIES RETIREMENT SYSTEM

Universities Retirement (80 IAC 1600; 47 Ill Reg 13879) proposed 9/29/23

Next JCAR Meeting: Tuesday, Jan. 16, 10:30 a.m.

Room D-1, Stratton Bldg., 401 S. Spring St., Springfield
Meeting will be live streamed on the JCAR website

Joint Committee on Administrative Rules

Senator Bill Cunningham, Co-Chair
Senator Cristina Castro
Senator Donald DeWitte
Senator Dale Fowler
Senator Napoleon Harris, III
Senator Sue Rezin

Representative Ryan Spain, Co-Chair
Representative Eva-Dina Delgado
Representative Jackie Haas
Representative Steven Reick
Representative Curtis Tarver, II
Representative Dave Vella

Kim Schultz, Executive Director ■ Kevin Kulavic, Deputy Director
700 Stratton Office Building, Springfield IL 62706
217-785-2254 ■ jcar@ilga.gov