

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

■ SALES TAX RECORDS

The DEPARTMENT OF REVENUE adopted amendments to the Parts titled Retailers' Occupation Tax (86 IAC 130; 43 Ill Reg 1251), Service Occupation Tax (86 IAC 140; 43 Ill Reg 1277), Cigarette Tax Act (86 IAC 440; 43 Ill Reg 1287), Cigarette Use Tax Act (86 IAC 450; 43 Ill Reg 1303) and Tobacco Products Tax Act of 1995 (86 IAC 660; 43 Ill Reg 1312), all effective 7/30/19, implementing Public Act 100-940. These rulemakings require retailers that are subject to these taxes to produce their books and records for examination when requested by DOR, and impose penalties of \$1,000 for the first instance and \$3,000 for each subsequent instance of failure to do so. During normal business hours, retailers must have someone present who is authorized to produce books and records if a DOR agent requests

them. If the only employee on duty at the time of a DOR inspection is not authorized to access the requested records, the business will not be penalized if a person who can access those records is contacted and can produce them within 2 hours. If records are not produced at the time of an in-person request, DOR must send a written notice listing the requested records. The recipient of the notice has at least 10 business days to produce these documents, after which DOR may issue a notice of penalty. Anyone receiving a notice of penalty has 20 days to appeal and request a hearing. No more than one penalty per calendar month may be imposed. Penalties for failure to produce books and records may also be imposed if a retailer fails to schedule an audit within 6 months after DOR has given notice of an impending audit. The amendments to Parts 440 and

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Proposed Rulemakings

■ TAX AMNESTY

The DEPARTMENT OF REVENUE proposed amendments to the Part titled Amnesty Regulations (86 IAC 520; 43 Ill Reg 8677) implementing Public Act 101-9, a recently enacted short-term tax amnesty program that will be in effect from Oct. 1 through Nov. 15, 2019. Eligible Illinois income tax liabilities based on income earned or received in calendar years 2011 through 2017, and other eligible tax liabilities incurred from 7/1/11 through 6/30/18, can be paid without penalty during the amnesty period. The rulemaking abolishes the "200% sanction" that doubles rates of penalty and interest on certain tax liabilities for taxpayers who could have qualified for the amnesty program but failed to participate. Additionally, tax liabilities that are

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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

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450 impose additional requirements and penalties upon sellers of cigarettes and other tobacco products, prohibit sale of individual or loose cigarettes, and require that cigarettes be sold only in packages of 20 or 25. Open or empty packages found at or behind a sales counter by an authorized DOR agent will be considered prima facie evidence of a violation, with a penalty of \$1,000 for the first violation and \$3,000 for each subsequent violation. The Part 440 and 450 rulemakings also list records that must be kept by cigarette retailers, distributors, secondary distributors, and manufacturer representatives. Failure to keep the required records or falsification of these records is a Class 4 felony with a potential fine of up to \$5,000. The Part 660 rulemaking affects retailers who sell other tobacco products (e.g., rolled tobacco) and in addition to the records provisions, requires retailers of tobacco rolls to keep invoices stating the weight of the rolls (less than 4 pounds per 1,000, or 4 pounds or more per 1,000). Retail businesses subject to sales taxes and tobacco taxes are affected by these rulemakings.

Questions/requests for copies: Richard Wolters, DOR, 101 W. Jefferson, Springfield IL 62794, 217/782-2844.

■ BUILDING CODES

The CAPITAL DEVELOPMENT BOARD adopted amendments to the Part titled Illinois Energy Conservation Code (71 IAC 600; 42 Ill Reg 21491), effective 8/5/19, updating its incorporation of the International Energy Conservation Code (IECC) from the 2015 to the 2018 edition. The rulemaking also implements Illinois-specific adaptations and exceptions to the IECC; requires State-funded facilities to comply with the IECC (formerly, with ASHRAE standards); removes the variance process for State-funded facilities; and allows exemptions for State buildings that are currently allowed for private commercial buildings. Changes since 1st Notice clarify provisions that apply to roof replacements. Those affected by this rulemaking include construction, renovation, and architectural businesses; businesses or non-profits seeking building permits; and municipalities.

Questions/requests for copies: Lisa Hennigh, CDB, 401 S. Spring St., 3rd Fl, Springfield IL 62706, 217/524-6408, fax 217/524-4208.

■ PROCUREMENT

The SECRETARY OF STATE adopted an amendment to Secretary of State Standard Procurement (44 IAC 2000; 43 Ill Reg 3868), effective 8/2/19, implementing Public Act 100-801, which adjusts the aspirational goal of awarding at least 20% of the dollar value of

State contracts to businesses owned by minorities, women or persons with disabilities. The rulemaking provides that of this 20% goal, 11% (formerly, 5%) shall be awarded to other minority-owned businesses, in addition to the existing goals of 7% to women-owned businesses and 2% to businesses owned by persons with disabilities and not-for-profit agencies for the disabled. These goals may be partially or entirely satisfied by counting expenditures made by SOS vendors to subcontractors. The rulemaking also allows SOS to consider other forms of certification besides those performed by the Business Enterprise Council. Other means to achieve the contracting goals may include: focusing solicitation upon vendors certified by the Council or by other means; advertising in appropriate media; dividing job or project requirements into smaller tasks or quantities when feasible; eliminating extended experience or capitalization requirements if feasible; and identifying specific projects that are particularly appropriate for minority/women/disabled set-asides. If there are an insufficient number of minority, women or disabled-owned businesses to insure adequate competition for bids or proposals on a specific contract or expenditure, the CPO may exempt the contract or expenditure from the goal. This rulemaking will sunset on 6/30/

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Proposed Rulemakings

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in the process of being reviewed by the Illinois Independent Tax Tribunal or are the subject of Fast Track Resolution Program audits during the amnesty period will be eligible for amnesty under certain conditions. If DOR ultimately determines that a deficiency for a particular tax period was greater than the amount the taxpayer paid during the amnesty period, the 200% sanction will no longer be imposed on the unpaid amount. Those affected by this rulemaking include individuals and businesses with unpaid income tax, sales tax, use tax or other tax liabilities from the eligible tax periods.

Questions/requests for copies/comments through 9/30/19: Brian Fliflet, DOR, 101 W. Jefferson St., MC5-500, Springfield IL 62794, 217/782-2844.

■ PURCHASED CARE

The ILLINOIS PURCHASED CARE REVIEW BOARD proposed amendments to the Part titled Illinois Purchased Care Review Board (89 IAC 900; 43 Ill Reg 8670) implementing recent amendments to Section 14-7.02 of the School Code (PA 100-587) affecting private education providers who serve, at school district/State expense, students with significant disabilities whose needs cannot be met by their local school district. The rulemaking provides that the Board may grant an increase in allowable costs for services when the General Assembly has

approved wage increases to front-line personnel (including direct support persons; aides; nurses; front-line supervisors; qualified intellectual disabilities professionals; and non-administrative support staff working in community based settings) and the provider has given the same wage increases to similar personnel in the provider's special education program. Private educational providers serving special education students may be affected.

Questions/requests for copies/comments through 9/30/19: Azita Kakvand, Illinois State Board of Education, 100 N. First St., E-222, Springfield IL 62777-0001, 217/782-5270, rules@isbe.net

■ DNR GRANTS

The DEPARTMENT OF NATURAL RESOURCES proposed a new Part titled Illinois Natural Areas Stewardship Grant Program (17 IAC 3051; 43 Ill Reg 8657) implementing PA 100-420, which instituted a grant program for non-profit conservation land trusts to manage natural areas such as nature preserves, land and water reserves, or dedicated buffer areas. Annual funding for the grant program will not exceed the lesser of \$2 million or 10% of the fiscal year capital appropriations to the Natural Areas Acquisition Fund. The maximum grant award to a single project is \$100,000, and the grant can reimburse up to 100% of approved project costs. Grant terms are normally 2 years, but DNR can grant

extensions for reasons beyond the grantee's control. The new Part outlines the application, evaluation, selection, award and accounting process and cross references applicable Grant Accountability and Transparency Act (GATA) rules. Conservation land trusts and small businesses they hire to assist with maintenance or management of natural areas are affected by this rulemaking.

Questions/requests for copies/comments through 9/30/19: Robert G. Mool, DNR, One Natural Resources Way, Springfield IL 62702, 217/524-6111.

INSURANCE

The DEPARTMENT OF INSURANCE proposed amendments to the Parts titled Annual Financial Reporting (50 IAC 925; 43 Ill Reg 8615) and Credit for Reinsurance Ceded (50 IAC 1104; 43 Ill Reg 8627) implementing recently enacted National Association of Insurance Commissions (NAIC) accreditation standards. The Part 925 amendments require large insurers to establish an internal audit process. Companies are exempt from this requirement if their direct written and unaffiliated assumed premiums total less than \$500 million annually, or if they belong to a group of insurers whose annual direct written and unaffiliated assumed premiums total less than \$1 billion annually. The Part

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New Rules

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20. Small businesses seeking contracts with SOS may be affected.

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

UNCLAIMED LIFE INSURANCE

The DEPARTMENT OF INSURANCE adopted a new Part titled Unclaimed Life Insurance Benefits (50 IAC 920; 42 Ill Reg 19362), effective 7/30/19, implementing provisions of the Unclaimed Life Insurance Benefits Act [215 ILCS 185] that require DOI to establish a Lost Policy Finder Service. All Illinois insurers must register for the service within 30 days after the new Part takes effect or within 30 days after they are authorized to sell life insurance products in Illinois. Each insurer must designate a Primary Policy Search Coordinator who will ensure that the company properly responds to requests for information and makes required reports to DOI. Requests to use the service may be submitted at the DOI website or via a paper form and must include a copy of the insured's death certificate or other proof of death. Any insurer receiving a Lost Policy Finder request must respond within 30 or 45 days (depending on the type of request) and use all reasonable efforts to search for any in-force policies, annuity contracts, or retained asset accounts belonging to the

deceased person identified in the request. Within 30 days after the final disposition of a Lost Policy Finder request, the insurer must report to DOI whether the claim was paid and the amount paid, or if the claim was not paid, the reason for nonpayment. Insurers must also perform a comparison of their electronic searchable files concerning policies, annuities, and retained asset accounts with a master death record file. Upon receiving notice of an insured's death, an insurer must: check its records to determine if the deceased had any other policies, annuities or accounts with that company; notify any affiliate, parent or subsidiary company of the death or of a match in the master file; and make good faith efforts to contact beneficiaries at least once at their last known addresses. Good faith efforts to discover beneficiary contact information include, but are not limited to, searching the insurer's electronic files, using internet search engines, or searching the State Board of Elections voter registration database. When a policy, annuity or account is established or when the insured or the beneficiary changes, the insurer must request sufficient information to ensure that benefits or proceeds will be properly distributed upon the insured's death, and must update its records whenever it receives or gains knowledge of a relevant change. Since 1st Notice, DOI has added a requirement that insurers notify DOI of the extent to which their policy, annuity contract and retained asset account files are

electronically searchable, along with any future plans regarding conversion of files to electronic formats. Those affected by this rulemaking include insurance companies, executors or legal representatives of estates, and potential beneficiaries of unclaimed policies.

Questions/requests for copies: Michael Chrysler, DOI, 320 W. Washington St., Springfield IL 62767, 217/558-2744.

UTILITIES

The ILLINOIS COMMERCE COMMISSION adopted an amendment to Qualifying Infrastructure Plant Surcharge (83 IAC 656; 42 Ill Reg 16789), effective 8/2/19, updating the incorporated edition of the Prospective Financial Information Guide published by the American Institute of Certified Public Accountants to the 2017 edition. This rulemaking also corrects a technical error in the formula used to calculate infrastructure plant costs.

Questions/requests for copies: Brian W. Allen, ICC, 527 E. Capitol Ave., Springfield IL 62701, 217/558-2387.

STATE EMPLOYEES

The DEPARTMENT OF CENTRAL MANAGEMENT SERVICES adopted amendments to Pay Plan (80 IAC 310; 43 Ill Reg 4543) effective 7/31/19, making the Part generally effective for the 2020

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Second Notice

The following rulemaking was moved to Second Notice this week by the agency listed, commencing the JCAR review period. This rulemaking will be considered at the September 17, 2019 JCAR meeting. Other items not published in the *Illinois Register* or The Flinn Report may also be considered. Further comments concerning this rulemaking should be

addressed to JCAR using the contact information on page 1.

DEPT OF INSURANCE

Preferred Provider Programs (50 IAC 2051; 42 Ill Reg 17368) proposed 10/5/18

Proposed Rulemakings

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1104 rulemaking implements an NAIC model regulation designed to establish consistent collateral requirements for reinsurance in all states. Instead of requiring 100% collateral, the rule allows foreign reinsurers to post less collateral provided that the reinsurer has been evaluated and certified. Certification criteria include, but are not limited to, financial strength, timely claims payments, and licensure in a qualified jurisdiction.

Questions/requests for copies/comments through 9/30/19: Susan Anders, DOI, 320 W. Washington St., Springfield IL 62767, 217/558-0957, or Robert Planthold, DOI, 122 S. Michigan Ave., 19th Fl., Chicago IL 60603, 312/814-5445.

OPEN MEETINGS

The HUMAN RIGHTS AUTHORITY proposed an amendment to the Part titled Human Rights Authority (59 IAC 310; 43 Ill Reg 8610) aligning its requirements for public notice of meetings with the Open Meetings Act. Regional authorities must give public notice of any special meeting or reconvened regular meeting at least 48 hours (currently, 24 hours) in advance.

Questions/requests for copies/comments through 9/30/19: Kenya A. Jenkins-Wright, GAC, 160 N. La Salle, S-500, Chicago IL 60601, 312/793-5900, TTY 866-333/3362.

DFPR RULE WITHDRAWAL

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION, in response to a JCAR Objection, has withdrawn proposed amendments to Illinois Dental Practice Act (68 IAC 1220; 42 Ill Reg 19144) that were published in the 10/26/18 *Illinois Register*. The rulemaking would have established new educational requirements for public health dental hygienists employed by State or local agencies or school-based programs. Recently enacted PA 101-64 establishes different requirements for public health dental hygienists.

New Rules

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fiscal year. The rulemaking also adjusts in-hire rates for Physician Specialist Options C and D titles to reflect closure of the Singer Mental Health Center (Rockford) and addition of the Ludeman Developmental Center (Park Forest); updates the list of divided classes (those represented by

more than one bargaining unit); adds or removes titles recently created or abolished by the Civil Service Commission and assigns Merit Compensation System (MS) salary ranges to the new titles; and updates pay rates for Boiler Safety Specialists and Boiler Safety Audit Specialists (employed by the Office of the

State Fire Marshal) based on prevailing wages in the Central and Southern regions.

Questions/requests for copies: Lisa Fendrich, CMS, 504 Stratton Bldg. Springfield IL 62706, 217/782-7976, fax 217/524-4570, e-mail: CMS.PayPlan@illinois.gov

JCAR Meeting Action

At its 8/13/19 meeting, the Joint Committee on Administrative Rules approved the following actions:

RECOMMENDATION

With respect to the Illinois Racing Board rulemaking titled Illinois Racing Board (11 IAC 200; 43 Ill Reg 5189) JCAR recommends that the Board be more timely in implementing statute. The statute requiring the Board to appoint a Director of Inter-Track and Simulcast Wagering was enacted in 1983. Additionally, if the Board believes it to be advisable that this position be merged with that of the State Director of Mutuels, it should request a change in the statute that currently requires the Board to fill 2 separate positions.

EXTENSIONS

JCAR, with the concurrence of the respective agencies, extended the Second Notice periods for the following rulemakings an additional 45 days. These rulemakings will be considered again at the September 17 meeting:

Department of Insurance, Managed Care Reform & Patient Rights (50 IAC 4520; 42 Ill Reg 17521) and Health Carrier External Review (50 IAC 4530; 42 Ill Reg 20226).

Department of Natural Resources, The Illinois Oil and Gas Act (62 IAC 240; 43 Ill Reg 6113)

Joint Committee on Administrative Rules

Senator Don Harmon, *co-chair*

Representative Tom Demmer

Senator Kimberly Lightford

Representative Michael Halpin

Senator Tony Muñoz

Representative Frances Ann Hurley

Senator Sue Rezin

Representative Steven Reick

Senator Paul Schimpf

Representative Andre Thapedi

Senator Chuck Weaver

Representative Keith Wheeler, *co-chair*

**Vicki Thomas
Executive Director**