

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

■ OIL & GAS DRILLING

The DEPARTMENT OF NATURAL RESOURCES adopted amendments to the Part titled The Illinois Oil and Gas Act (62 IAC 240; 42 Ill Reg 23546), effective 9/6/19, aligning the Part more closely with the Act. The rulemaking institutes notices of noncompliance for oil and gas permittees who are not fully compliant with the Act or the Part due to unintentional violations not causing significant environmental harm (formerly, these did not require a formal notice of violation, but could be appended to another written notification or report). A permittee may request an extension of time to abate a violation or instance of noncompliance, which cannot exceed 180 (formerly 120) days from the date the noncompliance was determined. For more serious violations resulting from wilful misconduct or negligence, a

notice of violation will be issued; violations for which a penalty is assessed will be counted for 3 (formerly 2) years after DNR's final administrative order or a final judicial decision upholding the order. Penalties will be assessed from the date that a permittee knew or should have known of the violation. DNR will also have discretion to impose civil penalties

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for certain violations (e.g., drilling a well without a permit or permit transfer, failing to report a crude oil spill or natural gas release) even if the violation is abated within the required timeframe. Provisions setting dollar amounts for penalties based on the type of violation and number of occurrences are being removed. Provisions allowing existing wells

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Proposed Rulemakings

■ NURSING ASSISTANTS

The DEPARTMENT OF PUBLIC HEALTH proposed amendments to Long-Term Care Assistants and Aides Training Programs Code (77 IAC 395; 43 Ill Reg 10275) aligning the requirements for nursing assistant training with federal regulations. New Sections have been added that establish an Advanced Nursing Assistant Training Program (ANATP) leading to certification as a Certified Nursing Assistant II, in addition to the existing Basic Nursing Assistant Training Program (BNATP) for certification as a CNA. The rulemaking sets forth the criteria for individuals to become certified as a CNA II, and for ANATPs to earn DPH approval. An ANATP must be sponsored by a community college, vocational or private business school, long term

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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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to be moved up to 30 feet without prior DNR approval are also being removed, but a proposed drilling location can be moved up to 60 feet without prior DNR approval before drilling commences. Other changes clarify processes for settlement agreements, enforcement and temporary relief hearings (which can be conducted by telephone or video conference), orders to cease operations, and obtaining permission to use alternative construction methods for containment dikes. Those affected by this rulemaking include oil and gas drilling companies and holders of oil and gas permits.

Questions/requests for copies: Daniel Brennan, DNR, One Natural Resources Way, Springfield IL 62702-1271, 217/782-1809.

■ HOME LOAN PROGRAM

The ILLINOIS HOUSING DEVELOPMENT AUTHORITY adopted an amendment to Homeownership Mortgage Loan Program (47 IAC 300; 43 Ill Reg 5178), effective 9/5/19, updating certain requirements for eligible borrowers. The rulemaking amends the definition of “household income” to include only the income of persons living in the home who are liable or secondarily liable for payment of the mortgage. (Formerly, any person age 18 and older who lived in the home was included in the income calculation.) Affordable housing developers and local governments may be affected by this rulemaking.

Questions/requests for copies: Karri E. Kartes, IHDA, 111 E. Wacker Dr., Suite 1000, Chicago IL 60601, 312/836-5313.

ELECTRIC SUPPLIERS

The ILLINOIS COMMERCE COMMISSION adopted amendments to Certification of Alternative Retail Electric Suppliers (83 IAC 451; 42 Ill Reg 21556), effective 9/3/19, concerning information provided to customers and to ICC by alternative retail electric suppliers (ARES) and electric utilities. The amendments require ARES to provide ICC’s electric education internet address to all residential and small commercial retail customers, and allow annual compliance reports to be submitted electronically.

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

Proposed Rulemakings

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care facility, or licensed home health agency, and must already have a Department-approved BNATP. An ANATP course must include a minimum of 120 hours of instruction consisting of 80 hours of classroom or laboratory instruction and 40 hours clinical practicum. ANATP instructors must be registered professional nurses with specified levels of teaching experience, or who have successfully completed a DPH Train the Trainer course. ANATP programs will be reviewed for recertification at least every 2

years. The rulemaking also updates requirements for BNATP instructors. Entities that sponsor CNA training programs are affected by this rulemaking.

Questions/requests for copies/ comments through 11/4/19: Erin Conley, DPH, 535 W. Jefferson St., 5th Fl., Springfield IL 62761, 217/782-2043, dph.rules@illinois.gov

■ INCOME TAX

The DEPARTMENT OF REVENUE proposed an amendment to Income Tax (86 IAC

100; 43 Ill Reg 10387) that defines “taxable year” (the calendar year or fiscal year used to determine base income, or the fractional part of the year for which an income tax return covering less than 1 year is made) and explains how taxable years are determined. Generally, the taxable year for Illinois income tax purposes will be the same as the taxable year that the taxpayer uses for federal income tax purposes. Exceptions (e.g., for taxable periods of less than 12 months or of 52-53 weeks) are listed in the rulemaking.

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Proposed Rulemakings

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Businesses and individuals filing Illinois income tax may be affected.

Questions/requests for copies/comments through 11/4/19: Brian Fliflet, DOR, 101 W. Jefferson St., MC 5-500, Springfield IL 62794, 217/782-2844.

■ ACCOUNTANTS

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION proposed amendments to the Part titled Illinois Public Accounting Act (68 IAC 1420; 43 Ill Reg 10233) implementing Public Act 100-419. The amendments eliminate fees for duplicate and replacement licenses, wall certificates, changes of name or address, and rosters of licensed/registered Certified Public Accountants. If a CPA firm or sole practitioner receives 2 successive peer reviews with a rating of “fail” or “pass with deficiencies”, it must complete remedial actions and another peer review within 3 ½ years after the due date of the prior review. A third “fail” or “pass with deficiencies” review requires the DFPR Peer Review Committee to refer the CPA or firm to the AICPA Peer Review Board for possible termination from the Peer Review Program. Licensees whose licenses expire while they are in military service do not have to pay their lapsed renewal fees if they apply for license restoration within 2 years after honorable discharge (currently, termination) from military service. Continuing professional education (CPE) hours in excess

Emergency Rule

■ CASINO LICENSES

The ILLINOIS GAMING BOARD adopted an emergency amendment to Riverboat Gambling (86 IAC 3000; 43 Ill Reg 10512) effective 9/5/19 for a maximum of 150 days. The emergency rule implements provisions of Public Act 101-31 requiring local governments that are seeking to host riverboat or land-based casinos to disclose all communications regarding the local selection and approval process to IGB. The rule defines a “communication” as any written or oral communication, whether directly or through agents, representatives, third parties or intermediaries, and regardless of whether it occurs in a public forum. An “applicant” is defined as any

of the 120 hours required during a 3-year renewal period cannot be credited to a subsequent renewal cycle. The rulemaking also updates the required subjects to be covered in CPE; require CPE sponsors to keep attendance records for 6 (currently 5) years; updates American Institute of Certified Public Accountants (AICPA) standards for peer review and states that DFPR adopts “but is not bound by” these standards; and requires CPA firms/practitioners to post peer review documents to the AICPA Facilitated State Board Access website where DFPR can access them (currently, these documents can also be submitted directly to DFPR by U.S. mail or

person or entity that has directly or indirectly expressed interest in obtaining a casino owner’s license in the host community, even if they have not yet submitted an application to IGB. Disclosures must be made in a manner consistent with the PA, which requires reporting of any violations of the Illinois Gambling Act by the applicant/licensee or its agents, employees and affiliates, as well as violations by current or former officials or employees of a host community and their immediate relatives. Municipalities may be affected by this emergency rule.

Questions/requests for copies: Agostino Lorenzini, IGB, 160 N. LaSalle St., Chicago IL 60601, fax 3 1 2 / 8 1 4 - 7 2 5 3 , Agostino.lorenzini@igb.illinois.gov

electronically). Certified public accountants and accounting firms are affected by this rulemaking.

■ REAL ESTATE APPRAISERS

DFPR also proposed amendments to the Part titled Real Estate Appraiser Licensing (68 IAC 1455; 43 Ill Reg 10260) that set Sept. 30 of each odd-numbered year as the deadline for both renewing appraiser licenses and completing required continuing education. (Currently, the CE completion deadline is June 30 of the renewal year.) Real estate appraisers are affected.

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Proposed Rulemakings

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Questions/requests for copies/ comments on the 2 DFPR rulemakings through 11/4/19: Craig Cellini, DFPR, 320 W. Washington St. 3rd Fl., Springfield IL 62786, 217/785-0813, fax 217/557-4451.

■ LIBRARIES

The SECRETARY OF STATE proposed amendments to the Parts titled Illinois State Library, Government Documents Section (23 IAC 3020; 43 Ill Reg 10404), Illinois State Library Grant Programs (23 IAC 3035; 43 Ill Reg 10408) and Public Library Non-Resident Services (23 IAC 3050; 43 Ill Reg 10430). The Part 3020 rulemaking changes, from January 15 to July 15, the date for State agencies to annually notify SOS of the person who will be responsible for submitting publications to the Government Document Section. (The date change allows more time to update information if agency personnel changes occur after a

general election.) Amendments to Part 3035 update the definition of “instructional material” to include electronic material; state that the Literacy Advisory Board “may” (currently, shall) consider specified selection criteria when reviewing adult literacy grant applications; require a deed of ownership or proof of long-term occupancy of at least 20 years for all library construction grants (currently, mini-grants are exempt); and update various incorporations and cross references. The Part 3050 rulemaking provides that nonresident library fees shall not be charged to nonresidents of a library district who own or lease (currently, own) property that is taxed for library services, and also allows more than one nonresident per parcel of taxable property to take advantage of nonresident library privileges. Small businesses and small municipalities may be affected.

Questions/requests for copies/ comments on the 3 SOS rulemakings through 11/4/19:

Joseph Natale, Illinois State Library (SOS), Gwendolyn Brooks Bldg., Springfield IL 62701-1796, 217/558-4185, jnatale@ilsos.net

CAMPAIGN FINANCING

The STATE BOARD OF ELECTIONS proposed an amendment to Campaign Financing (26 IAC 100; 43 Ill Reg 10434) clarifying how loans made by a political committee are treated for disclosure purposes. Any loan from a political committee that has not been repaid or forgiven must be reported as an asset held as an investment by the campaign to which the loan was made.

Questions/requests for copies/ comments through 11/4/19: Kenneth R. Menzel, SBEL, 2329 S. MacArthur Blvd., Springfield IL 62704, 217/782-4141, 217/782-5959 (fax), kmenzel@elections.il.gov

Second Notice

The following rulemaking was moved to Second Notice this week by the agency listed below, commencing the JCAR review period. This rulemaking will be will be considered at the October 8, 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.

STATE BOARD OF EDUCATION

Public Schools Evaluation, Recognition and Supervision (23 IAC 1; 43 Ill Reg 4963) proposed 5/3/19

JCAR Meeting Action

At its 9/17/19 meeting, the Joint Committee on Administrative Rules took the following actions:

SUSPENSION

With regard to the emergency rule of the Illinois Gaming Board titled Video Gaming (General) (11 IAC 1800; 43 Ill Reg 9261), JCAR objects to and suspends all of the emergency rule except for the progressive jackpot provisions in Section 1800.110 (definition of “in-location bonus jackpot game” or “in-location progressive game” and the definition of “progressive jackpot”) and Section 1800.250(x), for which automatic emergency rulemaking authority has been granted by Public Act 101-31. The Board invoked Section 78 of the Video Gaming Act [230 ILCS 40], which granted emergency authority for initial adoption of this Part, not later amendments, rather than validating use of emergency rulemaking for the suspended provisions on their merits. JCAR finds that the Board’s unauthorized invocation of Section 78 of the Act poses a threat to the public interest.

POSTPONEMENT

JCAR postponed action on the Department of Healthcare and Family Services rulemaking titled Medical Payment (89 IAC 140; 43 Ill Reg 5143) until the Oct. 8 meeting. The current Second Notice period for this rulemaking continues through Oct. 12.

Joint Committee on Administrative Rules

Senator Don Harmon, *co-chair*

Representative Tom Demmer

Senator Kimberly Lightford

Representative Michael Halpin

Senator Tony Munoz

Representative Frances Ann Hurley

Senator Sue Rezin

Representative Steven Reick

Senator Paul Schimpf

Representative André Thapedi

Senator Chuck Weaver

Representative Keith Wheeler, *co-chair*

**Vicki Thomas
Executive Director**