

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.

Proposed Rulemakings

STATE PROCUREMENT

The CHIEF PROCUREMENT OFFICER FOR GENERAL SERVICES (CPO-GS) proposed amendments to the Part titled Chief Procurement Officer for General Services Standard Procurement (44 IAC 1; 45 Ill Reg 10293) to reflect 7 Public Acts enacted since 2013, update the structure and procurement authority of the CPO-GS, revise various definitions, clarify certain procedures, and provide direction to State agencies regarding procurement matters. The rulemaking raises the small purchase limit (below which competitive bidding is not required) to \$100,000, removes the \$20,000 limit on professional and artistic services procurements that do not require bidding, and addresses adjustments for inflation and periodic review by the various Chief Procurement Officers and the Procurement

COVID-19 ACTIONS

Executive Orders of the Governor concerning the COVID-19 public health emergency 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*.

JCAR Meeting Action, Page 3

Policy Board. Procurements of legal, accounting, medical/dental and clinical psychology services are no longer required to be procured as professional and artistic services; factors for evaluating these procurements are included. Statutory exemptions from the Illinois Procurement Code for procurements that are

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Adopted Rule

HORSE RACING

The ILLINOIS RACING BOARD adopted an amendment to Claiming Races (11 IAC 510; 45 Ill Reg 5333) effective 8/3/21 that allows a recently claimed thoroughbred horse to race for the same claiming price or higher for 30 days after it is claimed. (Previously, a horse could not run for less than 125% of its original claiming price for the first 20 days after it was claimed.) Beginning with the 31st day after the claim, the horse may race for less than its original claiming price. IRB states that this rulemaking enables smaller stables to race recently claimed horses that may not be ready to compete at a higher level.

Questions/requests for copies: Bob Denneen, IRB, 100 West Randolph St., Suite 5-700, Chicago IL 60601, 312/814-5017, Bob.Denneen@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) 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.

Proposed Rulemakings

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necessary for the implementation of the Cannabis Regulation and Tax Act by the Departments of Public Health, Agriculture, Financial and Professional Regulation, Human Services, and Commerce and Economic Opportunity are implemented. The Illinois Procurement Bulletin is replaced with an e-procurement system and procedures for accepting and opening electronic bids, offers, and other procurement-related submissions are specified. Additionally, the CPO-GS' website replaces the official State newspaper as a method of supplemental notice. Numerous other amendments address issues such as renewals and emergency procurements, sole source procurement, documentation and review of property leases, preference for Illinois products and vegetable-based inks, small business set-asides, financial disclosures, conflicts of interest, joint/cooperative purchasing, cancellation of contracts, and suspension and debarment procedures. Those affected by this rulemaking include small businesses seeking State contracts.

Questions/requests for copies/ comments through 10/4/21: Alexandria Wilson, CPO-GS, 401 S. Spring St., Room 712, Stratton Office Building, Springfield IL 62706, 217/685-0568, Alexandria.Wilson@Illinois.gov

■ RADIOACTIVE MATERIALS

The ILLINOIS EMERGENCY MANAGEMENT AGENCY proposed amendments to the Parts titled Licensing of Radioactive Material (32 IAC 330; 45 Ill Reg 10497) and Medical Use of Radioactive Material (32 IAC 335; 45 Ill Reg 10598) updating these rules to align with U.S. Nuclear Regulatory Commission standards adopted in 2018 and 2020. The Part 330 amendments add a definition for Associate Radiation Safety Officer and Preceptor and also add training and experience requirements for Associate Radiation Safety Officers and Nuclear Pharmacists. Sealed sources of radiation may not be stored without use for more than 2 years unless additional oversight is provided. Other changes set procedural deadlines, eliminate requirements that applications be submitted in duplicate, and eliminate outdated cross-references and redundant language. Amendments to Part 335 also add the Associate Radiation Safety Officer position as well as the position of Ophthalmic Physicist to assist with treatment planning for eye treatments. Other provisions allow physicians more flexibility in permanent brachytherapy treatment and reporting, remove certain requirements for amending a license, and add exemptions for certain board-certified individuals from training and experience requirements. Those affected by these rulemakings include physicians, technicians and others licensed to use radioactive materials in medical treatment.

Questions/requests for copies/ comments on the 2 IEMA rulemakings through 10/4/21: Traci Burton, IEMA, 1035 Outer Park Drive, Springfield IL 62704, 217/785-9860.

ENVIRONMENTAL LABS

The ILLINOIS ENVIRONMENTAL PROTECTION AGENCY proposed amendments to Accreditation of Environmental Laboratories (35 IAC 186; 45 Ill Reg 10689) that update minimum standards for analyses and laboratory testing at environmental laboratories and also update incorporations by reference of federal regulations.

Questions/requests for copies/ comments through 10/4/21: Clayton J. Ankney, IEPA, 1021 N. Grand Ave. East, Springfield IL 62794-9276, 217/782-5544, clayton.ankney@illinois.gov

OST REPEALER

The OFFICE OF THE STATE TREASURER proposed repeal of the Part titled Home Ownership Made Easy Act (74 IAC 750; 45 Ill Reg 10701) because the underlying statute has been repealed by PA 100-621.

Questions/requests for copies/ comments through 10/4/21: Sara Meek, Office of the State Treasurer, 219 State House, Springfield IL 62706, 217/524-0530, fax: 217/785-2777, email: SMeek@illinoistreasurer.gov

JCAR Meeting Action

At its 8/18/21 meeting, the Joint Committee on Administrative Rules took the following actions. All other rulemakings on this month's agenda received No Objection.

SUSPENSIONS

JCAR objects to and suspends the Department of Revenue emergency rulemaking titled Leveling the Playing Field for Illinois Retail Act (86 IAC 131; 45 Ill Reg 9625) because the emergency rule does not meet the criteria of 1 IAC 230.400 (Criteria for Review of emergency rulemakings) and meets one or more of the criteria of 1 IAC 230.550 (Suspension Criteria for emergency rulemakings). DOR implemented many changes to the rules that implemented the Leveling the Playing Field for Illinois Retail Act and SB 2066 of the 102nd General Assembly via emergency rulemaking on July 13, 2021. These changes are occurring in the middle of a tax year, do not specify whether the changes apply to the entire tax year or only prospectively, and did not permit affected entities adequate time to implement required changes to their tax systems. Additionally, DOR has employed "anticipatory rulemaking" in advance of the enactment of SB 2066, which contains the necessary statutory authorization for changes contained in this rulemaking. While JCAR appreciates that DOR is working to place these policies of general applicability into rule in a timely manner, the general rulemaking procedures of Section 5-40 of the IAPA should have been used. JCAR finds the adoption of this emergency rule constitutes a serious threat to the public interest and welfare because DOR has failed to: provide an adequate explanation in writing of the emergency situation that warranted immediate adoption of this rule without public comment, limit the

rule to matters that are required to meet the emergency situation, produce a rulemaking that complies with the statutory authority upon which it is based, and consider the economic effects of the rules upon those regulated.

JCAR objects to and suspends Subpart B (Responsible Vendor Program) of the Department of Financial and Professional Regulation emergency rulemaking titled Cannabis Regulation and Tax Act (68 IAC 1291; 45 Ill Reg 9586) because the emergency rule does not meet the criteria of 1 IAC 230.400 and meets one or more of the criteria of 1 IAC 230.550. DFPR implemented a Responsible Vendor Program outside of rule in 2019 and is now placing and changing program requirements via emergency rule without adequately explaining, in writing, the emergency situation that warranted immediate adoption of the rule without public comment and review and that the emergency situation arose through no fault of the agency. While JCAR appreciates DFPR working to place these policies of general applicability into rule, the general rulemaking procedures of Section 5-40 of the IAPA should have been used. JCAR finds that Subpart B does not address a valid emergency and that any emergency situation which may exist has been created solely by the failure of the agency to act in a timely fashion, and therefore constitutes a serious threat to the public interest and welfare.

EXTENSION

JCAR and the Illinois Gaming Board agreed to extend the Second Notice period for the rulemaking titled Riverboat and Casino Gambling (86 IAC 3000; 45 Ill Reg 6565) an additional 45 days.

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 listed in the 9/3/21 *Illinois Register* and considered at the September 14, 2021 JCAR meeting in Chicago. Further comments concerning this rulemaking should be addressed to JCAR using the contact information on page 1.

SECRETARY OF STATE

Procedures and Standards (92 IAC 1001; 44 Ill Reg 17902) proposed 11/13/20