

The Flinn Report **Illinois Regulation**

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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

■ COMMUNITY ASSOCIATIONS

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION proposed amendments to the Part titled Community Association Manager Licensing and Disciplinary Act (68 IAC 1445; 47 III Reg 1742) implementing PA 102-20, the sunset renewal of the Act. (A community association is an organization whose membership is based on ownership or shareholder interest in a residential unit that is part of a residential development; e.g., a homeowners' or condominium owners' association.) The rulemaking adds statutory definitions of a community association manager and a community association management firm, and creates a new position of designated community association manager (person authorized to act on behalf of the manager or the

management firm, with authority to sign/authorize documents and carry out other functions). Qualifications for licensure of a community association management firm are listed, along with the duties and responsibilities of designated community association managers. License applicants must hold at least a high

Emergency Rule, Page 3

**Next JCAR Meeting:
 Tues. Feb. 14, 10:30 a.m.
 Rm C-1, Stratton Bldg.
 Springfield**

Live streaming at JCAR website

school diploma or the equivalent, and applicants and licensees must provide addresses of record. DFPR is also streamlining its disciplinary process and the means by which licensees may comply with, or demonstrate their

(cont. page 3)

Adopted Rules

■ FISHING

The DEPARTMENT OF NATURAL RESOURCES adopted amendments to Sport Fishing Regulations for the Waters of Illinois (17 IAC 810; 46 III Reg 14854) effective 1/30/23 that clarify provisions for fishing tournaments and list harvest and length limits and other regulations that will apply to tournaments at specific sites. A fishing tournament that has at least 20 (formerly, two or more) participants or has requested an exemption to site-specific or statewide fishing regulations is subject to the permitting rules in this Part. Tournament permits for a calendar year cannot be requested prior to 11/1 of the previous year. Fishing tournaments conducted at DNR sites must sign waivers holding DNR harmless against claims for

(cont. page 2)

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.

Adopted Rules

(cont. from page 1)

injury or damage to property caused by the actions of tournament participants. The rulemaking makes site-specific changes and additions, adds a definition of protected slot length limit (size/length range of fish that cannot be harvested, but must be immediately released), and requires abandoned trotlines or other fixed hook and line devices to be removed if they are not checked at least every 24 hours, have hooks with no bait or rotted bait attached or with dead or distressed fish attached, or have been covered with mud or silt. The rulemaking also sets the 2023 Free Fishing Days for June 16-19 and clarifies the extent of various site-specific regulations. DNR also repealed the Part titled Competitive Tournament Fishing on State Owned and/or Leased Water Areas (17 IAC 115; 46 Ill Reg 14843) effective 1/30/23 because its provisions conflict with the fishing tournament rules in 17 IAC 810.90.

Questions/requests for copies of the 2 DNR rulemakings: John Fischer, DNR, One Natural Resources Way, Springfield IL 62702, 217/782-1809.

■ INCOME TAX

The DEPARTMENT OF REVENUE adopted amendments to Income Tax (86 IAC 100; 46 Ill Reg 14608) effective 1/24/23, implementing PA 102-669. This rulemaking extends to 20 years (currently 12 years) the period

during which losses may be carried over to a subsequent tax year. This provision applies to losses incurred in tax years ending on or after 12/31/21 and to any unexpired losses. This rulemaking may affect small businesses.

■ SALES TAXES

DOR also adopted amendments to Retailers' Occupation Tax (86 IAC 130; 46 Ill Reg 14995) and Use Tax (86 IAC 150; 46 Ill Reg 15021) effective 1/24/23 that align the current rules with the Leveling the Playing Field for Illinois Retail Act (governing taxes applicable to internet sales and other purchases involving non-Illinois buyers or sellers) and with 86 IAC 131, which implements the Act. Amendments to Part 130 provide that remote retailers located outside Illinois and marketplace facilitators (third parties through which sales are transacted, e.g., Amazon, eBay) which meet a tax remittance threshold are subject to State and local sales taxes in Illinois. This rulemaking also stipulates that sales made over a marketplace cannot be classified as occasional sales exempt from tax; clarifies the extent of the drop shipments exemption from sales tax for out of State purchasers that do not have nexus in Illinois; and clarifies the tax remittance obligations of online auctioneers on and after 1/1/20, when amendments to the Act affecting online auctions took effect. The Part 150 rulemaking clarifies the applicability of use tax to out of State retailers that sell tangible personal property to Illinois purchasers (on and after 10/

1/18) and to marketplace facilitators (effective 1/1/20). Beginning 1/1/21, retailers without a physical presence in Illinois and marketplace facilitators that meet the tax remittance threshold are also liable for sales tax, as well as use tax, on sales to Illinois purchasers. Other amendments to Part 150 remove the \$10,000 cap on sales tax credits for vehicle trade-ins on and after 1/1/22; clarify the applicability of use tax to remote retailers appearing at Illinois trade shows; clarify the extent of the Wayfair nexus rule (under which out of State sellers become subject to Illinois sales tax when their gross sales or number of sales transactions to Illinois purchasers in a 12-month period meet specified thresholds); require out of State retailers that no longer have a physical presence in Illinois to evaluate whether they have Wayfair nexus before ceasing to collect and pay use tax; and clarify the application of marketplace facilitator rules that were in effect from 1/1 through 12/31/20. Businesses that conduct sales or make purchases via marketplace facilitators or from out of State retailers may be affected by these rulemakings.

Questions/requests for copies of the 3 DOR rulemakings: Part 100, Brian Fliflet; Parts 130 and 150, Alexis K. Overstreet; DOR, 101 W. Jefferson St., Springfield IL 62794, 217/782-2844.

(cont. page 4)

Proposed Rulemakings

(cont. from page 1)

compliance with, continuing education requirements. The rulemaking also adds specific prohibitions against illegal discrimination; allows the Department to use regular or electronic mail for specified purposes; aligns provisions for applicants with criminal history records with similar provisions in the Department of Professional Regulation Law and the Division of Real Estate's other professional licensing laws; streamline re-entry processes for persons who have served in the United States Armed Forces; add grounds for discipline and add a 5-year statute of limitations; and remove provisions allowing DFPR to compel a mental or physical examination of a licensee or unlicensed individual when it is alleged they have violated the Act. Community associations and their managers or other employees are affected.

Questions/requests for copies/comments through 3/27/23: Craig Cellini, DFPR, 320 W. Washington, 2nd Floor, Springfield IL 62786, 217/785-0810, Fax: 217/557-4451.

■ CONSTRUCTION DEBRIS

The POLLUTION CONTROL BOARD proposed a new Part titled Standards for General Construction or Demolition Debris Recovery Facilities (35 IAC 820; 47 Ill Reg 1812) implementing PA 102-310. The new Part establishes rules for permitting,

HOSPITALS

The DEPARTMENT OF PUBLIC HEALTH adopted an emergency amendment to Hospital Licensing Requirements (77 IAC 250; 47 Ill Reg 2189) effective 1/28/23 for a maximum of 150 days. This emergency rule (which replaces an emergency rule that expired 1/27/23) implements a federal waiver allowing qualifying hospitals, with approval from the federal Centers for Medicare and Medicaid Services, to provide limited inpatient services in patients' homes to alleviate hospital overcrowding and prevent spread of COVID-19 infection. DPH's emergency rule requires Illinois hospitals that receive the Acute

operating, and closing recovery facilities for general construction or demolition debris (GCDD). Facilities that accepted GCDD prior to 8/24/09 and were not previously required to obtain permits must apply for a permit within 6 months after the effective date of this Part. Holders of existing permits must apply for a modification of their permit within 1 year after the effective date of this Part. Permit applications must include a map of the facility that shows all adjoining property and any other property within 1,000 meters of the facility's boundary; all surface waters within 1,000 meters of the facility; any nearby wells or sole source aquifers; any 100-year floodplain boundaries that come within 1,000 meters of

Emergency Rule

Hospital Care at Home (AHCH) waiver to provide DPH with specified documents, comply with various hospital health and safety requirements, and comply with all COVID-19 directives and guidance issued by the Centers for Disease Control and Prevention, DPH, other State agencies, and local health departments. Hospitals that have applied for or received the federal AHCH waiver are affected by this emergency rule.

Questions/requests for copies: Tracey Trigillo, DPH, 524 S. Second Street, 6th Floor, Springfield IL 62701, (217)782-1159, dph.rules@illinois.gov

the facility; and all structures, roads and utilities within or entering the facility. The application must also include an estimate of the maximum total amount of GCDD that can be maintained at the facility at any one time, along with a closure cost estimate and financial assurances for that cost. The Part also includes procedures for modifying and transferring permits; establishes operational standards, including requirements for dust control, water drainage and runoff control, and vehicle safety; establishes recordkeeping requirements; requires GCDD facilities to have contingency plans for emergencies; and requires

(cont. page 4)

Adopted Rules

(cont. from page 2)

■ TAX APPEALS

The PROPERTY TAX APPEAL BOARD adopted amendments to the Part titled Practice and Procedure for Appeals Before the Property Tax Appeal Board (86 IAC 1910; 46 Ill Reg 17386) effective 1/27/23 that authorize electronic filing of appeals and supporting evidence with the Property Tax Appeal Board via an

electronic filing portal at its website. Appeals filed by attorneys must be filed electronically on or after 2/1/23 for residential appeals from Cook County; 5/1/23 for all other non-farm property appeals from Cook County; and 7/1/23 for all appeals statewide. Instructions for electronically filing various documents are included. The rulemaking also requires paper documents filed by a delivery service other than U.S. Mail to include a certificate of mailing

indicating the date the delivery service took possession of the document, which will be counted as the date of filing. Persons who have filed or will file cases before PTAB are affected by this rulemaking.

Questions/requests for copies: Michael O'Malley, PTAB, 9511 W. Harrison St., Suite LL-54, Des Plaines IL 60016, 847/294-4121, fax 847/294-4799, Michael.OMalley@illinois.gov

Proposed Rulemakings

(cont. from page 3)

every load of GCDD brought to the facility to be inspected for the presence of any materials that cannot be accepted at the facility (e.g., landscape waste, tires, asbestos, lead-acid or lithium batteries). If a GCDD facility closes, it must notify the Illinois Environmental Protection Agency within 30 days after receiving its final load, move all GCDD and other materials to an appropriate, permitted site, and complete all closure activities within 180 days. Owners and operators of construction/demolition debris facilities are affected by this rule.

Questions/requests for copies/comments through 3/27/23: Clerk's Office, PCB, 60 E. Van Buren, Suite 630, Chicago IL 60605. Please reference docket R23-17. Copies of the Board's opinion and order in R23-17 may be obtained from the Board's Web site at pcb.illinois.gov or by calling the Clerk's office at 312/814-3620.

■ HUNTING DOGS

The DEPARTMENT OF NATURAL RESOURCES proposed amendments to the Parts titled Dog Training on Department-Owned or -Managed Sites (17 IAC 950; 47 Ill Reg 1797) and Hound Running Areas (17 IAC 970; 47 Ill Reg 1804) concerning training of hunting dogs at DNR sites. The Part 950 rulemaking adds a portion of the Clinton Lake State Recreational Area and portions of the Jim Edgar Panther Creek State Fish and Wildlife Area to the list of sites where dog training is permitted year-round. It also adds the World Shooting and Recreational Complex to sites where dog training is permitted from Sept. 1 through March 31. Amendments to Part 970 lower the maximum height of perimeter fences in coyote, fox and raccoon hound running areas from 6 feet to 5 feet and update electric wire requirements for these perimeter fences; allow hound running area permit applicants to update the list

of trappers and game breeders from which they will obtain game animals between Sept. 1 and 14 annually (currently, this update must be done only during March, prior to the March 31 expiration date for all hound running area permits); and update the website address for obtaining permit applications and paying fees. Hunters and trainers of hunting dogs are affected by these rulemakings.

Questions/requests for copies/comments on the 2 DNR rulemakings through 3/27/23: Scott Sievers, DNR, One Natural Resources Way, Springfield IL 62702, 217/782-1809.

■ BIRTH CENTERS

The DEPARTMENT OF PUBLIC HEALTH proposed a new Part titled Birth Center Licensing Code (77 IAC 264; 47 Ill Reg 1846) implementing PA 102-518, the

(cont. page 5)

Proposed Rulemakings

(cont. from page 4)

Birth Center Licensing Act [210 ILCS 170] and PA 102-964, which establishes licensing for certified professional midwives. The Part requires all birth centers in existence as of 8/20/21 (the effective date of the Birth Center Licensing Act) to obtain a license within 2 years after adoption of these rules, and to obtain accreditation from The Joint Commission or the Commission for Accreditation of Freestanding Birth Centers within 2 years after becoming licensed. Birth centers are defined in the Act and in this Part as non-hospital sites with 10 or fewer beds, in which births are planned to occur following uncomplicated, low-risk pregnancies, and in which patients and newborns stay for 48 hours or less following delivery. Each birth center must also have a transfer agreement with a level 1 or higher hospital perinatal center that allows patients and/or infants who develop complications to be admitted to the hospital within 30 minutes. Many of the rules in this Part, including service, equipment and construction standards, have

been carried over from the existing Birth Center Demonstration Program Code (77 IAC 265).

Questions/requests for copies/comments through 3/27/23: Tracey Trigillo, DPH, 524 S. Second St., 6th Floor, Springfield, IL 62701, 217/782-1159, dph.rules@illinois.gov

PRESCRIPTION MONITORING

The DEPARTMENT OF HUMAN SERVICES proposed amendments to the Part titled Electronic Prescription Monitoring Program - Long Term Care (77 Ill. Adm. Code 2081; 47 Ill Reg 1787) updating the Prescription Monitoring Program (PMP) requirements for long term care facility pharmacies. The rulemaking removes two defunct committees, the LTC Advisory Committee and the Long-Term Care Clinical Consulting Advisory Group, that are not required by statute. DHS has determined that neither committee is necessary, as the LTC facilities are actively engaging in connecting to the PMPnow interface.

Questions/requests for copies/comments through 3/27/23: Tracie Drew, DHS, 100 S. Grand Ave. East, Harris Building, 3rd Floor, Springfield IL 62762, 217/785-9772.

CDB RULE WITHDRAWAL

The CAPITAL DEVELOPMENT BOARD has withdrawn proposed amendments to the Part titled Illinois Energy Conservation Code (71 IAC 600; 46 Ill Reg 11581) that were published in the 7/15/22 *Illinois Register*. The rulemaking would have implemented Public Act 102-662, updated the International Energy Conservation Code (IECC) version incorporated in this Part from the 2018 to the 2021 edition, revised Illinois-specific amendments to the IECC, and added 5 new members to the Illinois Energy Conservation Advisory Council. CDB has withdrawn these amendments because they are not consistent with the administration's policy on climate change and energy efficiency. The rules will be revised and resubmitted at a later date.

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 appear in next week's *Illinois Register* and be considered at the February 14, 2023, meeting in Springfield. Other items not published in the *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 FINANCIAL & PROFESSIONAL REGULATION

Consumer Legal Funding Act (38 IAC 170; 46 Ill Reg 17173) proposed 10/21/22

DEPT OF PUBLIC HEALTH

Home Health, Home Services, and Home Nursing Agency Code
(77 IAC 245; 46 Ill Reg 19105) proposed 12/2/22

DEPT OF REVENUE

Retailers' Occupation Tax (86 IAC 130; 46 Ill Reg 17007) proposed 10/14/22

Use Tax (86 IAC 150; 46 Ill Reg 17072) proposed 10/14/22

STATE BOARD OF ELECTIONS

Campaign Financing (26 IAC 100; 46 Ill Reg 5464) proposed 4/1/22

Practice and Procedure (26 IAC 125; 46 Ill Reg 5499) proposed 4/1/22

Joint Committee on Administrative Rules

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Senator Bill Cunningham, *co-chair*
Senator Donald DeWitte
Senator Dale Fowler
Senator Kimberly Lightford
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