

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

■ SALES & USE TAXES

The DEPARTMENT OF REVENUE proposed amendments to Retailers' Occupation Tax (86 IAC 130; 46 Ill Reg 14995) and Use Tax (86 IAC 150; 46 Ill Reg 15021) 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

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**Next JCAR Meeting:
Tues. Sept. 13, 11 a.m.
160 N. LaSalle St., Chicago**

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

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Adopted Rules

■ CHILD WELFARE

The DEPARTMENT OF CHILDREN AND FAMILY SERVICES adopted amendments to Licensing Standards for Child Welfare Agencies (89 IAC 401; 46 Ill Reg 653), Licensing Standards for Group Homes (89 IAC 403; 46 Ill Reg 657) and Licensing Standards for Child Care Institutions and Maternity Centers (89 IAC 404; 46 Ill Reg 661), all effective 8/26/22, replacing emergency amendments that expired on 5/20/22. These amendments, in response to agency staffing shortfalls, broaden the acceptable academic and experience qualifications for child welfare supervisors and child care supervisors at the agencies and institutions regulated under each Part. In Part 401, the previously established requirements for

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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

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agency child welfare supervisors to hold a master's degree in social work or a human services field and have at least 2 years full-time supervisory experience in a social work setting now apply to a minimum of 70% of an agency's child welfare supervisors. The remaining 30% of an agency's child welfare supervisors may be hired with: a master's degree in a non-human services field plus 3 years' experience in child welfare or social services; a bachelor's degree in a human service field with 3 years' experience and a commitment to enroll in a graduate level human services program within 18 months after hiring; or a bachelor's degree in a non-human services field with 5 years' experience and a commitment to enroll in a graduate level human services program within 18 months after hiring. The Part 403 and 404 amendments, which apply to residential child care programs, require child care supervisors who do not meet the previously established qualifications (at least 25 years old, with at least 60 credit hours/2 years college and 2 years full time residential child care experience) to have either a bachelor's degree in a social work or human services field, or at least 5 years' experience in a congregate care environment. For all 3 Parts, applicants with alternate qualifications must be approved by DCFS' transcript review committee and the Associate Deputy of Agencies and Institutions Licensing before an employment offer is made.

Employing agencies and institutions must document whether persons hired with alternate qualifications have undergone training and are making progress toward goals established in their hiring plans. Agencies must make efforts to recruit applicants who meet the previously established requirements and state that applicants meeting those requirements are preferred when posting openings. All 3 rulemakings additionally update the list of degrees that will be accepted as human services degrees. Since 1st Notice, for Parts 403 and 404, DCFS removed the 30% cap on the percentage of child care supervisors that can be hired with alternate qualifications; no longer requires these individuals to obtain additional college education after hiring; and no longer requires all child care supervisors to complete the licensing process for DCFS caseworkers and other direct child welfare employees (this would have required current child care supervisors to attain or hold bachelor's degrees as a condition of continued employment). DCFS also revised the education and experience requirements for alternate hires and clarified that all persons employed as child care supervisors as of 12/22/22 remain qualified for those positions. Child welfare agencies and residential facilities are affected by these rulemakings.

Questions/requests for copies of the 3 DCFS rulemakings: Jeff Oowski, DCFS, 406 E. Monroe

St., Station #65, Springfield IL 62701-1498, 217/524-1983, TDD: 217/524-3715, DCFS.Policy@illinois.gov

■ MENTAL HEALTH

The DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES adopted a new Part titled Social Service for Non-Waiver Home and Community Based Services (89 IAC 141; 45 Ill Reg 10913) effective 8/26/22 that outlines the requirements for the Children's Mental Health – Home and Community-Based Services program (Pathways to Success), which will provide access to new care coordination and home and community-based services for children with complex behavioral health needs. Participants must be Illinois residents under age 21 who are eligible for medical assistance and have been diagnosed with a severe and persistent mental illness, or demonstrate a serious emotional disturbance, that limits their ability to function in the family, school or community setting. Individuals seeking these services must have an Integrated Assessment and Treatment Plan (IATP) completed by a qualified provider of their choice; HFS will use the information from the IATP to determine if the individual qualifies for the program. Eligibility will be redetermined every 6 months with a reassessment of the individual's IATP. The rule outlines the types and intensity of services

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Proposed Rulemakings

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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/ comments on the 2 DOR rulemakings through 10/24/22: Alexis K. Overstreet, DOR, 101 W. Jefferson St., Springfield IL 62794, 217/782-2844.

DEER HUNTING

The DEPARTMENT OF NATURAL RESOURCES proposed amendments to White-Tailed Deer Hunting by Use of Firearms (17 IAC 760; 46 Ill Reg 14848) implementing Public Act

Emergency Rule

COMMUNITY COLLEGES

The ILLINOIS COMMUNITY COLLEGE BOARD adopted emergency amendments to the Part titled Administration of the Illinois Public Community College Act (23 IAC 1501; 46 Ill Reg 15357) effective 8/24/22 for a maximum of 150 days. Identical proposed amendments appear in this week's *Illinois Register* at 46 Ill Reg 14828. These rulemakings implement Public Act 102-699, which creates the Pipeline for the Advancement of The Healthcare (PATH) Workforce Program and requires ICCB to establish the funding formula and other provisions in rule. The program provides grants to community college districts for the purpose of creating, supporting and expanding opportunities for students enrolled in healthcare pathways (certificate, credential or degree programs that allow the student to enter or advance in the healthcare industry). The funding formula includes a base grant of \$100,000 per district, plus additional amounts based on the number of students in each district who completed eligible healthcare programs in the most recent

academic year for which ICCB has collected data; this completion data shall be weighted based on industry workforce demand. Target populations for each district receiving grant funds shall include, but are not limited to, current healthcare workers seeking advancement and new students with an identified need for support. Eligible programs and grant application information will be posted, and priority programs identified, on the ICCB website, along with the planned PATH grant allocations to each district when sufficient funding is available. Districts have 30 days to submit grant applications when PATH funding becomes available. Allowable expenditures, reporting requirements and other requirements for grants shall be specified in the grant agreements between ICCB and each community college district.

Questions/requests for copies/ comments on the proposed rulemaking through 10/24/22: Matt Berry, ICCB, 401 E. Capitol Ave., Springfield IL 62701-1711, 217/785-7411, matt.berry@illinois.gov

102-932, which adds centerfire rifles to the firearms that may be used in deer hunting, effective 1/1/23. The rulemaking also clarifies that hunters may carry multiple firearms in the field so long as they are legal hunting devices, and that

non-hunting firearms may be carried only in accordance with the Firearm Concealed Carry Act.

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Adopted Rules

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that will be covered, the professional qualifications required of service providers, and appeal processes for individuals or providers denied access to the program. Since 1st Notice, HFS has clarified aspects of the application and reassessment process, services that are covered and professional qualifications. Mental health treatment providers participating in the Pathways program will be affected by this rulemaking.

Questions/requests for copies: Steffanie Garrett, HFS, 201 S. Grand Ave. East, 3rd Fl., Springfield IL 62763-0002, HFS.Rules@illinois.gov

■ INCOME TAX

The DEPARTMENT OF REVENUE adopted an amendment to Income Tax (86 IAC 100; 46 Ill Reg 5856) effective 8/24/22, aligning a Section regarding tax liability to another country with the model rule of the Multistate Tax Commission. Current rule stipulates that an Illinois taxpayer is not subject to income taxation by a foreign country if that country has a treaty with the U.S. exempting the taxpayer or the taxpayer's business or activities from taxation. The rulemaking limits this rule to taxable years beginning prior to 1/1/21; for subsequent tax years, this provision will not apply and the existence of a treaty will not override the other country's tax jurisdiction.

■ SALES TAX

DOR also adopted an amendment to Retailers' Occupation Tax (86 IAC 130; 46 Ill Reg 8044) effective 8/23/22, aligning DOR's rules for the application of interest to unpaid sales tax due with the current language of the Uniform Penalty and Interest Act. Interest on unpaid sales tax due on and after 1/1/01 applies only to the unpaid tax, not to any penalty. Small businesses that owe unpaid sales tax may be affected.

Questions/requests for copies of the 2 DOR rulemakings: Part 100, Brian Fliflet; Part 130, Alexis K. Overstreet; DOR, 101 W. Jefferson St., Springfield IL 62794, 217/782-2844.

STATE POLICE

The ILLINOIS STATE POLICE MERIT BOARD adopted amendments to the Part titled Procedures of the Department of State Police Merit Board (80 IAC 150; 46 Ill Reg 2607) effective 8/24/22, replacing emergency amendments that expired 6/26/22. This rulemaking allows applicants for employment or advancement in the Illinois State Police to request a waiver of application and testing fees if their available income is 200% or less of the current Federal Poverty Level, or if payment of the fee would cause the applicant or the applicant's family substantial hardship. Waivers based on income will be granted or denied within 30 days after the ISPMB receives the request.

Waivers based on hardship will be reviewed at the next scheduled Board meeting, or at the following meeting if received less than 7 days before a scheduled meeting. A majority affirmative vote of Board members is required to approve a hardship waiver; in the event of a tie vote the request will be denied. Applicants shall be notified of the ISPMB's decision within 10 days.

Questions/requests for copies: Daniel Dykstra, ISPMB, 531 Sangamon Ave. East, Springfield IL 62702, fax: 217/786-0181, ddykstra@ispmeritboard.org

DHS RULES UPDATE

The DEPARTMENT OF HUMAN SERVICES adopted an amendment to Appeals and Hearings (89 IAC 510; 46 Ill Reg 8477) effective 8/29/22 that removes the acronym "DHS-DRS" from the title of the Client Assistance Program for consistency throughout the Part. (The obsolete acronym refers to the former DHS Division of Rehabilitation Services, which is now the Office of Rehabilitation Services.)

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

Proposed Rulemakings

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■ FISHING

DNR also proposed amendments to Sport Fishing Regulations for the Waters of Illinois (17 IAC 810; 46 Ill Reg 14854) 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 (currently, 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 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. Finally, DNR also proposed repeal of the

Part titled Competitive Tournament Fishing on State Owned and/or Leased Water Areas (17 IAC 115; 46 Ill Reg 14843) because its provisions conflict with the fishing tournament rules in 17 IAC 810.90. Those affected by these rulemakings include businesses or non-profits that sponsor fishing tournaments.

Questions/requests for copies/ comments on the 3 DNR rulemakings through 10/24/22: John Fischer, DNR, One Natural Resources Way, Springfield IL 62702, 217/782-1809.

■ GRAIN DEALERS

The DEPARTMENT OF AGRICULTURE proposed amendments to Grain Code (8 IAC 281; 46 Ill Reg 14808) that allow “price later” contracts to be recorded electronically and require these contracts to be kept in a grain dealer’s central electronic filing system. (A price later contract allows the seller to set the price of grain after it has been delivered to the grain dealer, according to a pricing formula established in the contract.) Electronic price later contracts must meet the criteria established in the Uniform Electronic Transactions Act, including requirements for security and electronic signatures. If a dealer issues an electronic price later contract and the seller prefers a written contract, the dealer must cancel the electronic contract and issue a written contract. Contracts must be kept on file for 6 (currently, 5) years. The rulemaking also requires grain dealers to keep

monthly grain inventory accountability reports, either written or electronic, for each commodity (e.g., corn, soybeans) with an option to skip one monthly report per calendar year. The accountability report must include the total grain inventory in each licensed storage structure (i.e., elevator or grain bin); bin worksheets and inventory calculations derived from the worksheet data; and a comparison of the monthly total inventory report for each commodity against the daily inventory reports. Grain farmers, sellers and dealers are affected by this rulemaking.

Questions/requests for copies/ comments through 10/24/22: Brian Navarrete, DOA, State Fairgrounds, P. O. Box 19281, Springfield IL 62794-9281, 217/557-6660, fax 217/785-4505.

■ FIREFIGHTERS

The OFFICE OF THE STATE FIRE MARSHAL proposed amendments to the Part titled Policy and Procedures Manual for Fire Protection Personnel (41 IAC 141; 46 Ill Reg 15078) reflecting the current requirements, practices and terminology of OSFM’s Division of Personnel Standards and Education. The rulemaking updates National Fire Protection Association (NFPA) standards and editions incorporated in OSFM rules for individual firefighter certification requirements; allow computerized

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Proposed Rulemakings

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access to training records, testing, certifications, training facility approvals and course approvals; eliminate obsolete Sections and create new Sections to align with the most effective procedures and with statutory revisions; and consolidate and revise claims reimbursement provisions. Those affected by this rulemaking include local fire departments and fire service personnel.

Questions/requests for copies/ comments through 10/24/22: Nancy Robinson, OSFM, 1035 Stevenson Drive, Springfield IL 62703, 217/785-7629, Fax: 217/524-5487.

HOSPITAL ASSISTANCE

The OFFICE OF THE ATTORNEY GENERAL proposed amendments to Hospital Financial Assistance under the Fair Patient Billing Act (77 IAC 4500; 46 Ill Reg 14822) that define the Federal Poverty Income Guidelines upon which the income criteria for assistance under this Part are based, refer to the federal Department of Health and Human Services website address where current and updated guidelines are posted, and repeal an

appendix that lists the current calendar year's poverty income levels.

Questions/requests for copies/ comments through 10/24/22: Kristin Creel, OAG, 500 S. Second St., Springfield IL 62701, 217/524-1504, or David F. Buysse, OAG, 100 W. Randolph St., 12th Fl., Chicago IL 60601, 312/814-7236.

INSURANCE

The DEPARTMENT OF INSURANCE proposed amendments to Registration of Insurers (50 IAC 652; 46 Ill Reg 14831) that allow insurance holding company groups to request an exemption from the requirement for a full Group Capital Calculation filing in their first year, or to request permission for a limited filing, under certain conditions and at the discretion of the DOI Director. DOI also proposed amendments to Insurance Department Consumer Complaints (50 IAC 926; 46 Ill Reg 14838) clarifying Section 926.20, which as currently written could be interpreted to exclude certain individual licensees such as public adjusters, navigators, or pharmacy benefits managers from regulation under this Part. The rulemaking

clarifies that the Part is intended to apply to all entities and individuals licensed or otherwise approved by DOI to do business in Illinois.

Questions/requests for copies/ comments on the 2 DOI rulemakings through 10/24/22: Part 652, Laura Kotelman (312/814-8214, Laura.Kotelman@illinois.gov); Part 926, Kathryn Williams (217/843-0050); DOI, 122 S. Michigan Ave., 19th Fl., Chicago IL 60603. Both Parts: Susan Anders, DOI, 320 W. Washington St., 4th Fl., Springfield IL 62767-0001, 217/558-0957.

DISABILITY SERVICES

The SECRETARY OF STATE proposed an amendment to Issuance of Licenses (92 IAC 1030; 46 Ill Reg 15069) implementing PA 102-1011 by including licensed physical therapists among the medical professionals who may certify a person's disability for purposes of obtaining a Person with a Disability Identification Card.

Questions/requests for copies/ comments through 10/24/22: Pamela Wright, SOS, 298 Howlett Building, Springfield IL 62756, pwright@ilsos.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 appear in next week's *Illinois Register* and be considered at the September 13, 2022, meeting in Chicago. 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 HEALTHCARE AND FAMILY SERVICES

Specialized Eligibility Groups (89 IAC 118; 46 III Reg 11643) proposed 7/15/22

HUMAN RIGHTS COMMISSION

Procedural Rules (56 IAC 5300; 46 III Reg 11645) proposed 7/15/22

DEPT OF PUBLIC HEALTH

Skilled Nursing and Intermediate Care Facilities Code (77 IAC 300; 46 III Reg 9478)
proposed 6/10/22

Specialized Mental Health Rehabilitation Facilities Code (77 IAC 380; 46 III Reg 9520)
proposed 6/10/22

Joint Committee on Administrative Rules

Senator Bill Cunningham, <i>co-chair</i>	Representative Tom Demmer
Senator John F. Curran	Representative Michael Halpin
Senator Donald DeWitte	Representative Frances Ann Hurley
Senator Kimberly Lightford	Representative Steven Reick
Senator Tony Muñoz	Representative Curtis Tarver, II
Senator Sue Rezin	Representative Keith Wheeler, <i>co-chair</i>

Kim Schultz
Executive Director