

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

■ UNDERGROUND TANKS

The OFFICE OF THE STATE FIRE MARSHAL proposed amendments to Petroleum Equipment Contractor Licensing (41 IAC 172; 46 Ill Reg 15982) that update petroleum equipment contractor licensing rules and reflect the electronic licensure application process and other current licensing procedures. This rulemaking implements Public Act 102-20 by updating the schedule of citations and/or fines that can be issued to petroleum equipment contractors for administrative, quality control, or safety violations. Certified employees of petroleum equipment contractors who are applying to OSFM for a license to inspect and test underground storage tank (UST) equipment, or to precision test tanks and lines, must specify the testing methods for which they are seeking licensure and provide proof of certification by the manufacturer of

the testing equipment. For persons seeking precision testing licensure, this documentation may replace passage of the OSFM approved exam. Contractor employees, both certified and non-certified, must carry OSHA cards or other proof of having completed OSHA initial or refresher training, or proof of having completed OSFM-required exams, in order to remain in a UST excavation zone.

Emergency Rule, Page 3

The rulemaking also provides a hearing/appeal process for contractor notices of violation, removes obsolete phase-in provisions, and cross-references definitions in other Parts.

OSFM also proposed amendments to General Requirements for Underground

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Adopted Rules

■ PRIVATE SECURITY

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION adopted amendments to the Part titled Private Detective, Private Alarm, Private Security, Fingerprint Vendor, and Locksmith Act of 2004 (68 IAC 2140; 46 Ill Reg 5616) effective 9/6/22, implementing Public Act 102-52. The PA and the rulemaking expand training for licensees to include online internet-based training in addition to classroom training. Annual training requirements are 8 hours for private detectives and registered employees of private detective agencies and 4 hours for private security contractors. The required 20- and 40-hour firearm training courses for newly hired security personnel have been expanded to 28 and 48 hours,

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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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which includes 8 hours of range training, and 8 hours of annual refresher firearm training is also required. The rulemaking also clarifies who may provide firearm training and establishes standards for restoring a license or registration following disciplinary actions. Armed proprietary security forces with one (formerly, 5) or more employees must be registered with DFPR and armed security employees must possess a firearm control card (a Firearm Concealed Carry License does not satisfy this requirement). Since 1st Notice, DFPR has added provisions clarifying the status of the retired police card (issued by DFPR to retired peace officers who serve as armed security personnel) and changed “proprietary security force” to “armed proprietary security force” throughout the Part. Those affected by this rulemaking include private detectives, private security

contractors, armed proprietary security forces, and their employees.

■ CREDIT UNIONS

DFPR also adopted amendments to the Part titled Illinois Credit Union Act (38 IAC 190; 46 Ill Reg 5832) effective 9/6/22, replacing emergency amendments that expired 8/25/22. The amendments extend through 3/31/23 (previously, 3/31/22) the temporary suspension of a requirement that credit unions with a net-worth-to-asset ratio between 6% and 7% at the end of a calendar quarter transfer an amount equal to 0.1% of their total assets from undivided earnings to regular reserve at the end of the next calendar quarter and continue to do so quarterly until their net worth to assets ratio is at or above 7%. The rulemakings also permit the DFPR Secretary to require a specific credit union to make this transfer, if necessary, to address safety and soundness

concerns. Credit unions may be affected by this rulemaking.

■ PROFESSIONAL LICENSING

DFPR adopted amendments to the Part titled Orthotics, Prosthetics and Pedorthics Act (68 IAC 1325; 45 Ill Reg 14275), effective 9/6/22, replacing an emergency rule that expired on 3/30/22. The rulemaking allows orthotists, prosthetists and pedorthists (persons who specialize in assessing patients for and fitting devices such as braces, corrective footwear or prosthetic limbs) to complete all current continuing education requirements for license renewal online (formerly, online CE was limited to 15 hours per renewal period).

Questions/requests for copies of the 3 DFPR rulemakings: Craig Cellini, DFPR, 320 W. Washington St., 2nd Floor, Springfield IL 62786, 217/785-0813, fax 217/557-4451.

Proposed Rulemakings

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Storage Tanks and the Storage, Transportation, Sale and Use of Petroleum and Other Regulated Substances (41 IAC 174; 46 Ill Reg 16029) that update UST rules for storage, handling and use of flammable and combustible liquids and update incorporations by reference and definitions generally applicable to all UST rules. The rulemaking clarifies that the requirement in Part 175 to double-wall all underground product piping

by 10/13/28 also applies to dual-purpose USTs that are connected to bulk plants, bulk load-outs or bulk storage. Tampering with an overfill valve to override the tank fill limit is subject to immediate placement of red tags on the affected UST. The rulemaking also removes a ban on the presence of fireworks at UST facilities but retains a long-standing ban on smoking near fuel dispensers and a requirement for attendants to control or prevent ignition sources near dispensers.

OSFM proposed amendments to Technical Requirements for Underground Storage Tanks and the Storage, Transportation, Sale and Use of Petroleum and Other Regulated Substances (41 IAC 175; 46 Ill Reg 16068), that impose the following technical requirements effective 3/1/23: new and replaced spill containment equipment and sumps shall be double-walled; new linings for

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Proposed Rulemakings

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compatibility purposes are only allowed for double-walled tanks; existing single-walled piping must be upgraded to double-walled during tank installation or replacement; new manifolded vent designs must be certified by a licensed petroleum engineer (existing manifolded vents are grandfathered); and manifolded piping above shear valves must be removed when the dispenser is replaced. All underground product piping at UST facilities must be double-walled by 10/13/28. Exposed vents above grade must be made of steel or other approved material and terminate outside buildings at least 15 feet from powered ventilation air intake devices. Other provisions eliminate the 20-foot building separation for indoor fleet dispensing of certain motor fuels under certain conditions; require annual piping leak detection testing to be done at the same time as or within 30 days of the earliest annual due date; prohibit installation of new UST piping under a road; limit use of tripolymer foam for abandoned tank compartments; and provide for electronic submission of reporting forms and various applications.

OSFM also proposed amendments to Administrative Requirements for Underground Storage Tanks and the Storage, Transportation, Sale and Use of Petroleum and Other Regulated Substances (41 IAC 176; 46 Ill Reg 16181) and Compliance Certification for Underground

Emergency Rule

HOSPITALS

The DEPARTMENT OF PUBLIC HEALTH adopted an emergency amendment to Hospital Licensing Requirements (77 IAC 250; 46 Ill Reg 16271) effective 9/13/22 for a maximum of 150 days, renewing provisions of a previous emergency rule that expired on 9/12/22. This emergency rule allows licensed hospitals to increase bed capacity and/or re-allocate bed designations between clinical services (e.g., to/from an Intensive

Care Unit) if necessary to meet extraordinary needs due to the COVID-19 pandemic. Hospitals may increase or re-allocate beds, or take previously increased bed capacity out of circulation, without prior notification to DPH provided DPH is notified within 30 days after the action.

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

Storage Tanks (41 IAC 177; 46 Ill Reg 16206), and proposed a new Part titled Underground Storage Tank Fund Eligibility and Deductible Determinations by the Office of the State Fire Marshal (41 IAC 178; 46 Ill Reg 16212). Amendments to Part 176 revise administrative and technical requirements for USTs, streamline and update submission of reporting forms, and add the requirements for precision testing and inspection by contractor employees that are addressed in the Part 172 rulemaking. The Part 177 rulemaking updates UST compliance certification required under the Gasoline Storage Act and provides that if citations for one or more technical violations of UST rules are not resolved after 60 days, red tags will be applied to all other USTs at the facility as long as the facility operator remains out of compliance. Finally, the new Part 178 implements statutory

criteria for UST owners and operators to obtain reimbursement (subject to a deductible determined by OSFM) from the State Underground Storage Tank Fund for expenses incurred to correct UST leaks. Owners and operators may appeal reimbursement and deductible determinations to the Pollution Control Board within 35 days. Those affected by these rulemakings include gas stations and other businesses that utilize USTs and contractors who install, repair or remove USTs.

Questions/requests for copies/ comments on the 6 OSFM rulemakings through 11/7/22: Tom Andryk, OSFM, 1035 Stevenson Dr., Springfield IL 62703-4259, 217/785-5758, fax 217/524-5487.

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Proposed Rulemakings

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■ PHYSICAL THERAPISTS

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION proposed amendments to the Part titled Illinois Physical Therapy Act (68 IAC 1340; 46 Ill Reg 15922) concerning telehealth services, intramuscular manual therapy (IMT), and initial and continuing education (CE) for physical therapists. The rulemaking provides that physical therapists may use telehealth to address issues such as access to care or to assess how the patient performs in their own environment (e.g., at home or work), but may not use it to perform an initial evaluation or as a primary means of delivering physical therapy, except in documented cases of hardship. A physical therapist providing telehealth services must be capable of providing in-person care within Illinois and must honor any patient request for in-person care. The rulemaking also allows physical therapy assistants to perform IMT if they meet the IMT training requirements established for physical therapists and complete the required 200 patient treatment sessions under direct line of sight supervision by a licensed physical therapist. DFPR may consider therapists who were licensed to perform “dry needling” in Illinois prior to 7/19/18, or in another jurisdiction at any time, as having met the requirements for performing IMT. Applicants for physical therapist licenses who

graduate from a physical therapy program on or after 1/1/22 must have at least a doctoral degree; applicants who graduated from a physical therapy program from 1/1/02 through 12/31/21 must have at least a master’s degree. Means of earning CE credit hours now include editing of professional books or journals or authoring/co-authoring grant proposals (5 hours) or serving on the Board of Directors of the Illinois or American Physical Therapy Associations or a professional physical therapist organization (1 hour per 3 months, maximum 8 hours). Other provisions allow physical therapists to provide services without a referral from a health care professional, provided that the patient’s primary health care professional is notified within 5 business days (or, if the patient does not have a primary care provider, the patient is offered the opportunity to notify a provider of their choice); streamline licensure by endorsement for therapists who have been licensed in another jurisdiction for at least 10 consecutive years without discipline; clarify how endorsement applications from foreign educated applicants are evaluated; clarify remedial training requirements prior to retaking a repeatedly failed licensing exam; and clarify what is and is not considered permissible advertising of physical therapy services. Physical therapists, their assistants, and their employing healthcare providers are affected by this rulemaking.

FINANCIAL INSTITUTIONS

DFPR also proposed amendments to Financial Institutions Code (38 IAC 200; 46 Ill Reg 15908) that clarify the applicability of the Part to entities under the jurisdiction of the DFPR Division of Financial Institutions; update various definitions; establish a \$50 fee for checks or other payments returned due to insufficient funds and a \$1 per page fee for records produced in response to a subpoena; and provide for licensing and examinations to be conducted via third-party, multi-state licensing systems. The Director of the Division of Financial Institutions may grant variances from the rules in this Part or the rules in any other Part that have been promulgated pursuant to the statutory Financial Institutions Code. The rulemaking also clarifies that documents which summarize, or contain information derived from, original documents that are confidential under current rule are also confidential, and that disclosure of documents to a federal or State regulatory or law enforcement agency does not violate these confidentiality provisions.

■ MONEY TRANSMITTERS

DFPR proposed an amendment to Transmitters of Money Act (38 IAC 205; 46 Ill Reg 15919) defining digital currency and establishing that digital currency is not a permissible investment for licensees under the Act (who must

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Proposed Rulemakings

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maintain permissible investments at least equal to the amount of money transmissions outstanding). Businesses that transmit money orders or other financial instruments are affected by this rulemaking.

Questions/requests for copies/comments on the 3 DFPR rulemakings through 11/7/22: Craig Cellini, DFPR, 320 W. Washington St., 2nd Floor, Springfield IL 62786, 217/785-0813, fax 217/557-4451.

■ PUBLIC HEALTH DATA

The DEPARTMENT OF PUBLIC HEALTH proposed amendments to Health Care Data Collection and Submission Code (77 IAC 1010; 46 Ill Reg 15951) that define syndromic surveillance, establish

definitions for terminology and data elements related to syndromic surveillance, and include requirements for syndromic surveillance reporting from healthcare facilities. Syndromic surveillance consists of regular and systematic collection of specified health-related data in near-real time (one to 24 hours after a patient encounter or update of a patient's condition) that provides information on the health of a community and allows DPH to monitor disease trends and emerging events. Data from emergency department visits, inpatient admissions, observation visits stemming from an emergency encounter or prior to an inpatient admission, and urgent care visits must be submitted. Facilities required to provide this data now include urgent care sites (primary care clinics, rural clinics, immediate care facilities,

freestanding emergency departments) as well as hospitals and ambulatory surgical treatment centers, which may be subject to penalties if they fail to comply. The rulemaking also specifies the purposes for which DPH may use or share syndromic surveillance data, establishes procedures for verifying and validating data, and incorporates State and federal regulations and guidelines regarding electronic health data and records. Hospitals, ASTCs, urgent care clinics and other medical facilities are affected by this rulemaking.

Questions/requests for copies/comments through 11/7/22: Tracey Trigillo, DPH, 524 S. Second St., 6th Floor, Springfield IL 62701, 217/782-1159, dph.rules@illinois.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 October 18, 2022, meeting in Chicago. Further comments concerning these rulemakings should be addressed to JCAR using the contact information on page 1.

CAPITAL DEVELOPMENT BOARD

Joint Rules of the Board of Higher Education and the Capital Development Board: Independent Colleges Capital Investment Grant Program (71 IAC 45; 46 Ill Reg 12671) proposed 7/29/22

BOARD OF HIGHER EDUCATION

Joint Rules of the Board of Higher Education and the Capital Development Board: Independent Colleges Capital Investment Grant Program (23 IAC 1031; 46 Ill Reg 12692) proposed 7/29/22

ILLINOIS COMMERCE COMMISSION

Obligations of Retail Electric Suppliers (83 IAC 412; 46 Ill Reg 697) proposed 1/7/22

Obligations of Alternative Gas Suppliers (83 IAC 512; 46 Ill Reg 748) proposed 1/7/22

DEPT OF REVENUE

Income Tax (86 IAC 100; 46 Ill Reg 12704) proposed 7/29/22

OFFICE OF THE STATE TREASURER

Achieving a Better Life Experience (ABLE) Account Program (74 IAC 722; 46 Ill Reg 11427) proposed 7/8/22

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