

THE FLINN REPORT

ILLINOIS GENERAL ASSEMBLY
JOINT COMMITTEE ON ADMINISTRATIVE RULES

Elaine Spencer, Editor

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The Flinn Report is a weekly summary of regulatory actions of State agencies published in the *Illinois Register* and action taken by the Illinois General Assembly's Joint Committee on Administrative Rules (JCAR). The Flinn Report honors founding JCAR member Representative Monroe Flinn, and is designed to inform and involve the public in changes taking place in agency administration.

Proposed Rulemakings

▪ SALES TAXES

The DEPARTMENT OF REVENUE proposed amendments to Retailers' Occupation Tax (86 IAC 130; 48 Ill Reg 14233) implementing various updates and clarifications. The rulemaking expands the minimum requirements for records to be retained by a retailer to include (in addition to cash register tapes) point-of-sale system printouts and other transaction-level data used to prepare monthly, quarterly, or annual returns. "Transaction level" means that the date, invoice/transaction number, description of items sold, selling price, and amount of tax or proper exemption status for every transaction must be included. Other required documents include bank statements for all accounts associated with the business; federal income tax returns and sales tax returns and all documents used to prepare them; monthly statements supporting all Forms 1099-K received from

marketplace facilitators and payment processors (e.g., Amazon, PayPal); logs of all cash disbursements to employees, vendors, and others; documentation for tax-exempt and other non-taxable receipts; for sales that require delivery, the purchaser's name and complete address, plus the address to which the delivery was

**JCAR Meeting Action, Page 2
Adopted Rules, Page 3
No Second Notices This Week**

made (if different); records required pursuant to a prior audit; and any other records that DOR may request for verification. The rulemaking also specifies that a taxpayer has 15 days to respond to a second Information Document Request from DOR (when the taxpayer has failed to respond within 30 days after the initial request) and that failing to take reasonable steps to safeguard books and records against the elements, or producing records that are illegible or unsafe to

handle, shall be considered a failure to produce books and records. Persons receiving a notice of penalty have 60 days (currently, 20 days) to request an appeal hearing. If penalties and interest exceed \$15,000, the taxpayer has 60 days to file a petition with the Independent Tax Tribunal. Other provisions update language consistent with modern technology for recordkeeping, and clarify what is required for documenting deductions. Retailers subject to sales tax are affected.

Questions/requests for copies/comments through 11/19/24: Kimberly Rossini, DOR, 101 W. Jefferson St., Springfield IL 62794, 217-782-2844, rev.gco@illinois.gov

▪ SURGICAL ASSISTANTS

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION has pro-

(cont. page 2)

ADOPTED RULES: Rules adopted by agencies this week. **EMERGENCY RULES:** Temporary rules adopted for no more than 150 days. **PROPOSED RULEMAKINGS:** Rules proposed by agencies this week, commencing a First Notice public comment period of at least 45 days. **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/or non-profit organizations. Agencies must consider comments from these groups and attempt to minimize regulatory burdens on them.

QUESTIONS/COMMENTS: Submit mail, e-mail or phone calls to the agency personnel listed below each summary.

RULE TEXT: First Notice proposed text, emergency rule and peremptory rule text is available at the Secretary of State website (<https://www.ilsos.gov/departments/index/register/home.html>) or at the Illinois General Assembly website (<http://www.ilga.gov>) under "Illinois Register". Second Notice text for proposed rulemakings (original version with any changes made by the agency during First Notice included) is available at the JCAR website.

Proposed Rulemakings

(cont. from page 1)

posed amendments to the Part titled Registered Surgical Assistant and Registered Surgical Technologist Title Protection Act (68 IAC 1485; 48 Ill Reg 14228) that require surgical assistants to have graduated from a program approved by the Commission on Accreditation of Allied Health Care Programs (currently, National Surgical Assistant Association) and remove provisions allowing verified surgical assisting experience to be accepted in place of graduation from an approved education program. Surgical

assistants and their employers are affected.

Questions/requests for copies/comments through 11/19/24: Craig Cellini, DFPR, 320 W. Washington St., 2nd Floor, Springfield IL 62786, 217-785-0810, fax 217-557-4451, Craig.Cellini@illinois.gov

AUDITOR GENERAL PROCUREMENT

The OFFICE OF THE AUDITOR GENERAL proposed amendments to the Part titled Purchases and Contracts (44 IAC 500; 48 Ill Reg 14216) implementing Public Act 103-865. The rulemaking raises the limits for purchases that are exempt from various provisions of the Procurement

Code as follows: \$1,500 (currently \$500) per piece for furniture purchases for which surplus furniture need not be considered before new furniture, and property leases of 10,000 square feet or less with base rent of less than \$200,000 (currently \$100,000) per year. The rulemaking also updates statutory language.

Questions/requests for copies/comments through 11/19/24: Margaret Livingston, Office of the Auditor General, 400 W. Monroe, Suite 306, Springfield IL 62704, 217-782-6046, mlivingston@auditor.illinois.gov

JCAR Meeting Action

At its 10/1/24 meeting, the Joint Committee on Administrative Rules approved the following actions. Proposed rulemakings from this agenda that are not listed below received No Objection and may be adopted by their agencies. Emergency rules not acted upon at this meeting may be reconsidered at later meetings.

OBJECTION

JCAR objects to the Department of Human Services rulemaking titled Minimum Standards for Certification of Developmental Training Programs (59 Ill. Adm. Code 119; 47 Ill. Reg. 14982) because it does not meet the criteria of 1 Ill. Adm. Code 220.900(a)(1)(B) and (E). Public Act 103-1042, which will be effective January 1, 2025, allows the Department to impose progressive sanctions on MH/DD providers that fail to comply with rule or contract conditions and gives providers 30 days to appeal these sanctions. The Public Act requires that the Department adopt rules as necessary to implement these provisions. However, the provisions the Department has placed in this rulemaking do not comply with the Public Act's effective date and do not include clear standards for the exercise of the Department's discretionary authority. The Department has agreed to withdraw this rulemaking in response to this Objection and to propose a new rulemaking no later than January 1, 2025.

RECOMMENDATION

With respect to the Department of Veterans' Affairs rulemaking titled MIA/POW Scholarship (95 Ill. Adm. Code 116; 47 Ill. Reg. 17433), JCAR recommends that the Department be more timely in implementing statute in rule. Public Act 89-267, which became effective January 1, 1996, removed the requirement that a child of an eligible veteran or serviceperson begin using this scholarship prior to age 26 and specified that the scholarship may be used by a spouse or child without regard to age. The Department never removed this age restriction from rule and appears to have continued to enforce the age restriction, contrary to statute, until this day.

EXTENSIONS

JCAR, with the concurrence of the respective agencies, extended the Second Notice periods for the following rulemakings an additional 45 days. These rulemakings will be considered again at the Nov. 12 JCAR meeting.

Department of Financial and Professional Regulation, Medical Practice Act of 1987 (68 IAC 1285; 47 Ill. Reg. 18265)

Department of Revenue, Electricity Excise Tax Law (86 Ill. Adm. Code 511; 48 Ill. Reg. 5635)

Adopted Rules

▪ BUILDING CODES

The CAPITAL DEVELOPMENT BOARD adopted amendments to the Part now titled Illinois Energy Codes (formerly Illinois Energy Conservation Code) (71 IAC 600; proposed at 48 Ill Reg 8158), effective 1/1/25 at 48 Ill Reg 14276.

This rulemaking implements a new Stretch Energy Code as required by the Energy Efficient Building Act. The Stretch Energy Code, which has separate provisions for commercial and residential buildings, will apply to all projects administered by CDB on or after 7/1/24. Municipalities and counties may adopt the Stretch Energy Code if they choose. The Commercial Stretch Energy Code incorporates (with Illinois-specific modifications and amendments) provisions of the 2024 Final Draft version of the International Energy Conservation Code (IECC). The Residential Stretch Energy Code incorporates, with amendments and modifications, the 2021 IECC. The existing Illinois Energy Conservation Code, which establishes minimum energy efficiency requirements for all building projects in Illinois and sets minimum standards for municipal or county building codes, is also updated to include the 2021 IECC. Other provisions allow for public comment at meetings of the Illinois Energy Conservation Advisory Council. Since 1st Notice, CDB has clarified efficiency requirements for water heating systems and provided

that public comment at Advisory Council meetings will be limited to 3 minutes per person. Those affected by this rulemaking include contractors for State building projects and units of local government that adopt the Stretch Energy Code.

Questions/requests for copies: Robert Coslow, CDB, 401 S. Spring St., 3rd Floor, Stratton Building, Springfield IL 62706, 217-685-4079, CDB.EnergyCodes@illinois.gov

▪ SCALE INSPECTIONS

The DEPARTMENT OF AGRICULTURE adopted an amendment to the Part titled Weights and Measures Act (8 IAC 600; proposed at 48 Ill Reg 1) effective 9/18/24 at 48 Ill Reg 14269, increasing the fees DOA charges for inspecting commercial scales, motor fuel pumps, and other weighing and measuring devices. For commercial scales, fees will range from \$30 (previously \$20) for scales with a capacity of up to 30 pounds to \$300 (previously \$200) for scales with a capacity of greater than 2,000 pounds. The fee for livestock scale inspections is being increased from \$300 to \$450. Other fee increases include: motor fuel dispensers up to 20 gallons per minute, \$34 (previously \$23.50); motor fuel dispensers of 20 or more gallons per minute, \$75 (previously \$50); grain moisture meters, \$150 (previously \$100); railroad track

scales, \$187.50 (previously \$125) per hour; use of a scale truck, \$300 (previously \$200) per hour. Gas stations, grocery stores, meat lockers, grain elevators, and other businesses that use DOA-inspected scales are affected.

Questions/requests for copies: Clay Nordsiek, DOA, State Fairgrounds, P. O. Box 19281, Springfield IL 62794-9281, 217-782-9013, Clay.Nordsiek@illinois.gov

DRIVER'S LICENSES

The SECRETARY OF STATE adopted an amendment to Cancellation, Revocation of Suspension of Licenses or Permits (92 IAC 1040; proposed at 48 Ill Reg 5668) effective 9/18/24 at 48 Ill Reg 14369, removing references to judicial driving permits (JDPs), which are no longer issued. SOS also repealed the Part titled License Provisions Violations (92 IAC 1050; proposed at 48 Ill Reg 5690) effective 9/18/24 at 48 Ill Reg 14391. This Part established the practice of accepting a driver's license in lieu of bail for traffic tickets, which was abolished by the SAFE-T Act.

Questions/requests for copies of the 2 SOS rulemakings: Pamela Wright, SOS, 298 Howlett Bldg., Springfield IL 62756, pwright@ilsos.gov

Next JCAR Meeting: Tuesday, Nov. 12, 10:30 a.m.

Room D-1, Stratton Bldg., 401 S. Spring St., Springfield

Meeting will be live streamed on the JCAR website

Joint Committee on Administrative Rules

Senator Bill Cunningham, Co-Chair

Senator Cristina Castro

Senator Donald DeWitte

Senator Dale Fowler

Senator Napoleon Harris, III

Senator Sue Rezin

Representative Ryan Spain, Co-Chair

Representative Eva-Dina Delgado

Representative Jackie Haas

Representative Steven Reick

Representative Curtis Tarver, II

Representative Dave Vella

Kim Schultz, Executive Director ■ Kevin Kulavic, Deputy Director

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