



ILLINOIS REGULATORY ALERT

PROPOSED STATE OF ILLINOIS RULES AFFECTING SMALL BUSINESS

MAY 17, 2024

The following are proposed rules of possible interest to small businesses published in the Illinois Register. Individuals have opportunity to express their support or opposition to the rule during the comment period. [Subscribe](#) to the Illinois Regulatory Alert.

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ELECTROLOGISTS

[Department of Financial and Professional Regulation](#)

[Electrologist Licensing Act \(68 Ill. Adm. Code 1246\)](#)

[Text of Rulemaking: 48 Ill. Reg. 6718](#)

[Link to Flinn Report summary](#)

Updates incorporations by reference* of electrologist practice and sanitation standards from the 2003 and 2001 versions to the 2023 versions. ■ Allows credit to be awarded for continuing education done by electrolysis schools approved by the Board of Higher Education.

* Incorporation by reference is a shorthand by which a rule can include an entire regulation or document as part of the rule by referring to it without including it in its entirety. See 5 ILCS 100/5-75 for more information.

Comments (**through 6/24/24**), requests for public hearing (**through 5/24/24**), or questions to:

Department of Financial and Professional Regulation

Attention: Craig Cellini

320 West Washington, 2nd Floor

Springfield, IL 62786

217-785-0810

Fax: 217-557-4451

Craig.Cellini@illinois.gov

HOUSING COOPERATIVES

[Illinois Housing Development Authority](#)

Homeowner Mortgage Revenue Bond Program ([47 Ill. Adm. Code 260](#)) and

Homeownership Mortgage Loan Program ([47 Ill. Adm. Code 300](#))

Text of Rulemaking: [48 Ill. Reg. 6726](#) and [6737](#)

[Link to Flinn Report summary](#)

Clarifies that these programs, which assist homeowners with their mortgage loans, apply not simply to fee simple ownership but also leaseholds and cooperative share corporations.

Comments (**through 6/24/24**), requests for public hearing (**through 5/24/24**), or questions to:

Christina McClernon
Associate Corporate & Compliance Counsel
Illinois Housing Development Authority
111 E. Wacker Dr., Suite 1000
Chicago, Illinois 60601

872-271-8481

cmclernon@ihda.org

SALES TAX: AIRCRAFT, FUEL STATIONS

[Department of Revenue](#)

Retailers' Occupation Tax ([86 Ill. Adm. Code 130](#)), Service Occupation Tax ([86 Ill. Adm. Code 140](#)), Use Tax ([86 Ill. Adm. Code 150](#))

Text of Rulemakings: [48 Ill. Reg. 6748](#), [6779](#), and [6807](#)

[Link to Flinn Report summary](#)

Reflects the statutory change exempting aircraft engines and power plants from retailers' occupation and service occupation tax through 12/31/29.

Reflects statutory changes concerning the percentage of gasohol sales taxed and the applicable dates for each rate.

Comments (**through 6/24/24**), requests for public hearing (**through 5/24/24**), or questions to:

Thomas Grudichak
Illinois Department of Revenue
Legal Services Office
101 West Jefferson
Springfield, Illinois 62794

217-782-2844

REV.GCO@illinois.gov

HOTELS

[Department of Revenue](#)

Hotel Operators' Occupation Tax Act ([86 Ill. Adm. Code 480](#))

Text of Rulemaking: [48 Ill. Reg. 6817](#)

[Link to Flinn Report summary](#)

Reflects statutory exemption from the Hotel Operators' Occupation Tax for renting or leasing rooms to organizations like the American Red Cross that are chartered by Congress to provide disaster relief.

Comments (**through 6/24/24**), requests for public hearing (**through 5/24/24**), or questions to:

Thomas Grudichak
Illinois Department of Revenue
Legal Services Office
101 West Jefferson
Springfield, Illinois 62794

217-782-2844

REV.GCO@illinois.gov

EXPANDING OR RELOCATING BUSINESSES: INVEST IN ILLINOIS INCENTIVE PROGRAM

[Department of Commerce and Economic Opportunity](#)

Invest in Illinois Incentive Program (14 Ill. Adm. Code 125 (New Part))

Text of Rulemaking: [48 Ill. Reg. 6423](#)

[Link to Flinn Report summary](#)

Implements the Invest in Illinois Act [\[30 ILCS 751\]](#) by setting out criteria for incentives (grants or loans) DCEO may award to businesses that are relocating into Illinois or expanding their operations in Illinois. In determining whether to award an incentive, DCEO will consider the number of jobs created or retained, the salaries of those jobs, the size of the capital investment made in Illinois, and the spillover effects on the local economy.

Comments (**through 6/17/24**) or questions to:

Gina Arterberry

Department of Commerce & Economic Opportunity

607 E. Adams St. 12th Fl.

Springfield, IL 62701

217-524-8974

Gina.M.Arterberry@Illinois.gov

HOSPITALS, MATERNITY HOMES, AND OTHER HEALTHCARE FACILITIES

[Department of Healthcare and Family Services](#)

[Rights and Responsibilities \(89 Ill. Adm. Code 102\)](#)

[Text of Rulemaking: 48 Ill. Reg. 6433](#)

[Link to Flinn Report summary](#)

Requires hospitals ([broadly defined](#)) to apply for Medicaid on behalf of any infant surrendered to them under the Abandoned Newborn Infant Protection Act [[325 ILCS 2](#)]. This change is required by [Public Act 103-501](#).

Comments (**through 6/17/24**) or questions to:

Katie Hill

General Counsel

Illinois Department of Healthcare and Family Services

201 South Grand Avenue East, 3rd Floor

Springfield IL 62763-0002

217-782-1233

HFS.Rules@illinois.gov

AMUSEMENT RIDE OPERATORS

[Department of Labor](#)

Amusement Ride and Attraction Safety Act ([56 Ill. Adm. Code 6000](#))

Text of Rulemaking: [48 Ill. Reg. 6438](#)

[Link to Flinn Report summary](#)

BACKGROUND CHECK: Subjects carnival volunteers to the same background check requirements as paid carnival workers. ■ INSPECTIONS: DOL may substitute an equally stringent inspection by another public or private agency for DOL's own inspection. If a ride or attraction does not comply with DOL standards but is not an immediate danger to the public or an amusement worker, DOL can issue a correction notice to the owner describing the deficiencies and giving a deadline for compliance; if that deadline is missed, DOL may issue a Stop Operation Order. DOL may assess a \$1,000 fine for each violation of its rules or the underlying statute. ■ NONTRANSFERABLE PERMIT: When a ride or attraction is sold to a new owner, the seller must remove the permit and the buyer must apply for a new permit. DOL can waive the requirement that an operator must apply for a permit at least 30 days before the first day of operation if the operator can prove that they could not have complied with the date requirement and they immediately applied for a permit after the need for a permit was first determined. ■ TRAMPOLINES: Forbids the use of performance trampolines in any regulated trampoline court. ■ HEARINGS: Prescribes method for administrative hearings.

Comments (**through 6/17/24**) or questions to:

Anna Koeppel
Illinois Department of Labor
Lincoln Tower Plaza
524 S. 2nd Street
Suite 400
Springfield, IL 62701

217-558-1270

Anna.Koeppel@illinois.gov

***** NURSE STAFFING AGENCIES – MAJOR UPDATE *****

[Department of Labor](#)

Nurse Agency Licensing Act ([68 Ill. Adm. Code 690](#))

Text of Rulemaking: [48 Ill. Reg. 6519](#)

[Link to Flinn Report summary](#)

Updates, for the first time since 2001, the rules applicable to nurse staffing agencies. Brings rules up to date with current statute and industry practice.

Comments (**through 6/17/24**) or questions to:

Anna Koeppel
Illinois Department of Labor
Lincoln Tower Plaza
524 S. 2nd Street
Suite 400
Springfield, IL 62701

217-558-1270

Anna.Koeppel@illinois.gov

AIR POLLUTION STATIONARY SOURCES – NONATTAINMENT NEW SOURCE REVIEW

[Pollution Control Board](#)

Permits and General Provisions ([35 Ill. Adm. 201](#)), Alternative Control Strategies ([35 Ill. Adm. Code 202](#)), Major Stationary Sources Construction and Modification ([35 Ill. Adm. Code 203](#)), Prevention of Significant Deterioration ([35 Ill. Adm. Code 204](#)), Toxic Air Contaminants ([35 Ill. Adm. Code 232](#)) – [PCB Docket No. R22-17](#)

Text of Rulemakings: [48 Ill. Reg. 6554](#), [6569](#), [6574](#), [6655](#), and [6676](#)

[Link to Flinn Report summary](#)

This package of rulemakings is intended to make the Board's air pollution rules consistent and current with the federal Clean Air Act (42 U.S.C. 7401 et seq.) and the regulations governing the [Nonattainment New Source Review program](#).

Comments (**through 6/17/24**) or questions to:

Clerk's Office
Illinois Pollution Control Board
60 E. Van Buren, Suite 630
Chicago, IL 60605

Don.brown@illinois.gov

COMMUNITY AGENCIES – INSPECTOR GENERAL INVESTIGATIONS

[Department of Human Services](#)

Office of Inspector General Investigations of Alleged Abuse, Neglect, or Financial Exploitation in State-Operated Facilities and Community Agencies ([59 Ill. Adm. Code 50](#))

Text of Rulemaking: [48 Ill. Reg. 6197](#)

[Link to Flinn Report summary](#)

Implements [Public Act 103-76](#), which creates the offense of “material obstruction of an investigation” of alleged abuse, neglect, or exploitation.

Comments (**through 6/10/24**) or questions to:

Tracie Drew, Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
Harris Building, 3rd Floor
Springfield, Illinois 62762

217-785-9772

DHS.AdministrativeRules@illinois.gov

CANNABIS INFUSERS

[Department of Agriculture](#)

Cannabis Regulation and Tax Act (8 Ill. Adm. Code 1300)

Text of Rulemaking: [48 Ill. Reg. 5844](#)

[Link to Flinn Report summary](#)

Reduces the license modification fee from a \$5,000 application fee and additional \$3,000 upon acceptance to a \$1,250 application fee and additional \$750 upon acceptance. The fee for alterations at the facility not requiring a license change is reduced from \$1,000 to \$250. Since DOA believes the higher fee was an error (failing to take into account the smaller scale of most infusers), this fee change is retroactive and DOA will refund the difference for infusers who already paid the higher fee.

Comments (**through 6/3/24**) or questions to:

Sam McGee

Illinois Department of Agriculture
State Fairgrounds, P. O. Box 19281
Springfield, IL 62794-9281

217-558-3741

Samuel.McGee@illinois.gov

ANGEL INVESTMENTS – MINIMUM EMPLOYMENT THRESHOLD

Department of Commerce and Economic Opportunity
Angel Investment Credit Program ([14 Ill. Adm. Code 531](#))
Text of Rulemaking: [48 Ill. Reg. 5851](#)
[Link to Flinn Report summary](#)

Under current rules, for an angel investment in a business to qualify for the tax credit at least 51% of the business's employees must be in Illinois and at least 75% of the business's new positions must be in Illinois. Adapting to post-COVID-19 employment patterns, this rulemaking would change the eligibility threshold to require *either* the principal place of business or at least 51% of the jobs to be in Illinois. ■ Reflects Public Act 103-9, which added a higher tax credit (35% rather than 25%) for investments in qualified businesses that are minority- or women-owned or owned by a person with a disability and increased the yearly cap on tax credits from \$10 million to \$15 million.

Comments (**through 6/3/24**) or questions to:

Gina Arterberry
Department of Commerce & Economic Opportunity
607 E. Adams St. 12th Fl.
Springfield, IL 62701

217-524-8974

Gina.M.Arterberry@Illinois.gov

DEVELOPMENTAL DISABILITIES FACILITIES – CNA INTERNS

[Department of Public Health](#)

Intermediate Care for the Developmentally Disabled Facilities Code ([77 Ill. Adm. Code 350](#)) and Medically Complex for the Developmentally Disabled Facilities Code ([77 Ill. Adm. Code 390](#))

Text of Rulemakings: [48 Ill. Reg. 5862](#) and [48 Ill. Reg. 5877](#)

[Link to Flinn Report summary](#)

Implements [Public Act 102-1037](#), which allows certified nursing assistant interns to work in facilities for persons with developmental disabilities provided they meet statutory qualifications and limit their work to the duties prescribed by statute [[20 ILCS 2310/2310-434](#)].

Comments (**through 6/3/24**) or questions to:

Department of Public Health
Attention: Tracey Trigillo, Rules Coordinator
Lincoln Plaza
524 South 2nd Street, 6th Floor
Springfield, IL 62701

217-782-1159

dph.rules@illinois.gov

***** MAJOR UPDATE: SUBSTANCE USE INTERVENTION AND TREATMENT PROVIDERS**

[Department of Human Services](#)

Substance Use Disorder Treatment and Intervention Services (77 Ill. Adm. Code 2060 (Repealer and New Part))

Text of Rulemaking: [48 Ill. Reg. 5484](#) (Repealer at [48 Ill. Reg. 5389](#))

[Link to Flinn Report summary](#)

Repeals existing rules governing substance abuse treatment/intervention providers and replaces them with a new Part with updated standards, level of care requirements, definitions, and a clearer separation between medical and clinical responsibilities.

Comments (**through 5/27/24**) or questions to:

Tracie Drew, Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
Harris Building, 3rd Floor
Springfield, Illinois 62762

217-785-9772

DHS.AdministrativeRules@illinois.gov

AMBULATORY SURGICAL TREATMENT CENTERS (ASTCs)

[Department of Public Health](#)

Ambulatory Surgical Treatment Center Licensing Requirements ([77 Ill. Adm. Code 205](#))

Text of Rulemaking: [48 Ill. Reg. 5602](#)

Increases the required clearance in laser treatment rooms, gastrointestinal endoscopy rooms, radiographic rooms, and stage 2 recovery rooms from 2'6" to 3". Requires ASTCs to prohibit unauthorized traffic in the surgical area. Requires surgical suites to include a lounge area. No longer allows incineration of medical waste. ■ Incorporates by reference* three test methods from the American Society for Testing and Materials (ASTM), and general handbooks and standards for avoiding legionellosis from the American Society of Heating, Refrigerating, and Air Conditioning Engineers (ASHRAE). Updates the incorporations by reference of the National Fire Protection Association's Life Safety Code, Underwriters Laboratories' (UL) standard for air ducts and connectors, and the American College of Cardiology's standards for cardiac catheterization laboratories. Updates two incorporations by reference of the Code of Federal Regulations.

* Incorporation by reference is a shorthand by which a rule can include an entire regulation or document as part of the rule by referring to it without including it in its entirety. See [5 ILCS 100/5-75](#) for more information.

Comments (**through 5/27/24**) or questions to:

Department of Public Health
Attention: Tracey Trigillo, Rules Coordinator
Lincoln Plaza
524 South 2nd Street, 6th Floor
Springfield, IL 62701

217-782-1159

dph.rules@illinois.gov

BANKS – BANKING DEVELOPMENT DISTRICTS

[Department of Financial and Professional Regulation](#)

Banking Development District Act (38 Ill. Adm. Code 346) (New Part)

Text of Rulemaking: [48 Ill. Reg. 5221](#)

Link to Flinn Report summary

Implements [Public Act 102-802](#), which provides for the creation of banking development districts (BDDs) in unbanked or underbanked areas. Under these rules, a bank and a unit of local government would apply to IDFPR to create a BDD. The State Treasurer is authorized to deposit State funds at a reduced interest rate into banks in approved BDDs.

Comments (**through 5/20/24**) or questions to:

Department of Financial and Professional Regulation

Attention: Craig Cellini

320 West Washington, 2nd Floor

Springfield, IL 62786

217-785-0810

Fax: 217-557-4451

Craig.Cellini@illinois.gov

RECENTLY ADOPTED RULES

Paid Leave for All Workers Act (5/17/24)

The Department of Labor [finalized](#) its rules implementing the Paid Leave for All Workers Act [820 ILCS 192]. The Act and this rule require employers to give employees up to 40 hours of paid leave annually (at the rate of one hour for every 40 worked). Employers have the option of either having the time accrue with time worked or frontloading the time off on hiring or every year.

Employees may not take leave earned under this Act until 90 days after 1/1/24 or their date of hiring, whichever is later. This rulemaking adds the provision that if a tip-reliant employee's income exceeds the full minimum wage, the employer must use the employee's annualized rate of pay (including tips) when compensating for time off. The rule was changed during the rulemaking process to set conditions under which an employer may deny a leave request due to the employer's operational needs.

Community Reinvestment Act (5/17/24)

The Department of Financial and Professional Regulation adopted rules for [credit unions](#), [banks](#), and [mortgage originators](#) implementing the Illinois Community Reinvestment Act [205 ILCS 735], which requires financial institutions to meet the financial services needs of its communities, including areas where there is a lack of access to safe and affordable banking.

Public Insurance Adjusters (5/17/24)

The Department of Insurance [updated](#) the disclosures that public adjusters must give their clients and prohibited them from recommending contractors that do not have liability insurance, a performance bond, any necessary licenses, and a written warranty of workmanship.

Shelter Care Facilities (5/17/24)

The Department of Public Health [updated](#) its rules for shelter care facilities to implement several Public Acts.

Use Tax (5/10/24)

The Department of Revenue [amended](#) its Use Tax rules to extend the depreciation period for motor vehicles and clarify the conditions under which vehicles are exempt from Illinois tax, remove the requirement that mobile homes prominently display certificates of title, and clarify the procedures for retailers to collect and remit use tax.

Higher Education Reciprocity (5/3/24)

The Board of Higher Education [aligned](#) its reciprocity rules with the [National Council for State Authorization Reciprocity Agreements' policy manual](#).

Group Day Care Homes (4/19/24)

DCFS [relaxed](#) the restrictions on capacity for group day care homes (4+ children).

Occupational Therapists/Assistants (4/19/24)

DFPR [revised](#) training and continuing education (CE) requirements.

Optometrists (4/19/24)

DFPR [modified](#) continuing education requirements and allowed optometrists to prescribe up to 7 days of oral steroid treatment.

Physical Therapists/Assistants (4/19/24)

DFPR [clarified](#) that physical therapists may earn up to 10 continuing education hours and physical therapist assistants may earn up to 5 hours for being a clinical instructor.

Rental Purchase Agreements (4/19/24)

DOR [is imposing](#) two taxes on these agreements: a 6.25% occupation tax on the merchant and a 6.25% use tax on the consumer that is collected by the merchant.

Cannabis Growers/Infusers (4/19/24)

DOR [clarified](#) that the transfer of cannabis from a cultivator to an infuser for the purpose of creating cannabis-infused products for the cultivator to sell

does not count as a first sale for taxation purposes if the cultivator retains ownership of the cannabis and the infuser performs its work for a fee pursuant to a contract with the cultivator.

Conservation Stewardship Program Landowners (4/12/24)

DNR [updated](#) the requirements of its Conservation Stewardship Program.

Environmental Laboratories (4/5/24)

EPA adopted rules [creating](#) a new \$500 fee for changes to an environmental laboratory's certificate of accreditation made outside the renewal period and [designating](#) a wastewater/solid material method for testing PFOS and PFOA.

Home-based and Community-based Care for Persons with Developmental Disabilities (4/5/24)

DHS [adopted](#) a major update to its rules governing the Medicaid Home and Community-Based Services Waiver Program for Individuals with Developmental Disabilities.

Restaurants and Other Food Handlers (4/5/24)

DPH [updated](#) its food safety requirements.

ABOUT THE OFFICE OF REGULATORY FLEXIBILITY

We provide timely updates and analysis on Illinois' regulatory developments, focusing on their impact on small businesses. We prepare formal small business impact analyses of proposed rules when they are requested by 25 interested persons, an association representing 100 or more interested persons, the Governor, a unit of local government, or the Joint Committee on Administrative Rules. Requests can be sent to CEO.RegFlex@illinois.gov with subject header "SBIA Request".

Our goal is to educate and empower you to effectively convey your unique concerns during the rulemaking process. For guidance and more information, reach out to us at CEO.RegFlex@illinois.gov. To subscribe to your own copy of this weekly newsletter, click