

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

OFF-ROAD VEHICLES

The DEPARTMENT OF NATURAL RESOURCES proposed a new Part titled Off-Highway Vehicle Trails on Properties Owned, Leased or Managed by the Department of Natural Resources (17 IAC 135; 47 Ill Reg 15080) establishing procedures by which DNR will establish off-highway vehicle sites, trailside facilities and trails open to the public on DNR-owned or managed sites. These facilities will be open for use only by All-Terrain Vehicles (ATVs) with at least 3 wheels and weighing 1,500 pounds or less; Off-Highway Motorcycles (OHMs, i.e., dirt bikes); and recreational Off-Highway Vehicles (OHVs) up to 2,000 pounds in weight if gas powered or 3,000 pounds if electric powered, and with 4 or more wheels. Vehicle operators 16 years of age or older must have a valid driver’s license and operators under 16 must be under the direct supervision of a licensed driver age 18 or older. All

operators under 18 must also have signed waivers from a parent or guardian. Operators must register with and obtain a usage permit from DNR. Permits are \$20 per vehicle for one day and \$65 per vehicle for 4 days. DNR will determine dates and hours of operation for off-highway vehicle

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No Adopted Rules This Week

sites, which will be posted at the site and also by electronic means. Each site shall also publish the number of vehicles it will allow to operate that day. Vehicle drivers and all passengers must wear USDOT approved safety helmets unless their vehicles are enclosed or have roll bars and seatbelts. ATVs and OHVs must additionally carry an orange flag on a flexible mast at least 72 inches (6 feet) long. Vehicles also cannot generate sound exceeding 96 decibels and are

subject to sound testing at DNR’s request. Regulations applicable to all DNR owned or managed properties in 17 IAC 110 and 130 will apply to these sites unless the rules in this Part are more restrictive.

A public hearing on this rulemaking is scheduled for **Tuesday, Nov. 14**, from **10 a.m. to noon** in the Lower Level Conference Room at DNR Headquarters, One Natural Resources Way (State Fairgrounds), Springfield. Requests to speak at this hearing or for other information should be directed to John Fischer at the DNR address and phone number below.

Questions/requests for copies/comments through 12/11/23: Renee Snow, DNR, One Natural Resources Way, Springfield, IL 62702, 217-782-1809, dnr.rules@illinois.gov

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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

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• DISABILITY SERVICES

The DEPARTMENT OF HUMAN SERVICES proposed amendments to the Part titled Minimum Standards for Certification of Developmental Training Programs (59 IAC 119; 47 Ill Reg 14982). The proposed amendments include changing the name of the Part (last amended in 1999) to “Minimum Standards for Certification of Day Programs” and distinguishing between requirements for programs serving individuals residing in an Intermediate Care Facility for individuals with developmental disabilities (ICF/DD), a Medically Complex for the Developmentally Disabled (MC/DD) facility, or a State Operated Developmental Center (SODC) from those programs serving individuals who are enrolled in the DD Adult Waiver and living in the community or with their families. These amendments also update and add various definitions and requirements to align the rule with current DHS policies and federal Centers for Medicare and Medicaid Services requirements. These include: requiring a periodically updated Personal Plan and Implementation Strategy (for DD Adult Waiver clients) or Individual Services Plan (for ICF/DD, MC/DD or SODC residents) outlining the needs of each individual and the services to be provided; outlining the responsibilities of Independent Service Coordination (ISC) agencies and agencies providing services to DD Adult Waiver clients; requiring background checks, including of the Illinois Sex Offender Registry, DPH Health Care Worker Registry, and DCFS Child Abuse and Neglect Tracking System (CANTS), for

prospective and current employees of a day program; and behavior management provisions, including prohibitions against seclusion, coercion, or most forms of restraint. The proposed amendments will increase flexibility in descriptions and supports to include community integration/non-site-based day programs as a separate billable service. Those affected by this rulemaking include non-profit agencies that operate day programs for individuals with developmental disabilities.

Questions/requests for copies/comments through 12/11/23: Tracie Drew, DHS, 100 S. Grand Ave. East, 3rd Fl., Springfield IL 62762, 217-785-9772, DHS.AdministrativeRules@illinois.gov

• HOME INSPECTORS

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION proposed amendments to the Part titled Home Inspector License Act (68 IAC 1410; 47 Ill Reg 14917) that implement 2 Public Acts and make other updates and clarifications. The rulemaking implements PA 102-20 (sunset renewal of the Act through 1/1/27) and 102-970, updates the training curriculum and standards of practice, and requires sexual harassment prevention training as part of continuing education (CE). Provisions for online/virtual CE are added, and licensure applicants have 3 years to complete the application process from start to finish. Home inspector entities (e.g., partnerships, corporations, LLCs) must designate a managing home inspector who is licensed by DFPR. If an initial license is granted within 90 days of the blanket expiration date for all home inspector licenses (Nov. 30 of even-numbered years) the licensee will not have to complete CE requirements for the next license term. Inspectors whose

licenses expire while they are on active military duty or are employed by DFPR may renew their licenses within 2 years after honorable discharge or completion of their employment, without paying late renewal fees or taking an exam or additional CE. Other provisions add, effective 1/1/25, a second pre-license course with 5 field inspection events and a field inspection examination to the currently required 60-credit-hour pre-license course; clarify procedures for obtaining licensure by endorsement or claiming CE credit earned out of State; outline disclaimers and exclusions that may be included in a home inspection contract (e.g., the inspector is not required to enter areas that are unsafe or not readily accessible); list items to be included in inspection reports and allow reports to be completed in electronic format; add liability insurance requirements; and remove (in accordance with statute) provisions allowing a license to be suspended for failure to pay child support, taxes or student loans. Licensing fees for inspectors and for continuing education or pre-license education providers are generally unchanged, except that education providers must pay \$150 for initial licensure of a field inspection course and \$150 (currently \$100) for the 60-hour pre-license course. Home inspectors, their employers, and their continuing education providers are affected by this rulemaking.

Questions/requests for copies/comments through 12/11/23: Craig Cellini, DFPR, 320 W. Washington St., 2nd Floor, Springfield IL 62786, 217-785-0810, fax 217-557-4451, Craig.Cellini@illinois.gov

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Proposed Rulemakings

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NURSING HOMES

The DEPARTMENT OF PUBLIC HEALTH proposed amendments to Skilled Nursing and Intermediate Care Facilities Code (77 IAC 300; 47 Ill Reg 15090) updating statutory language concerning the issuance of probationary licenses to new facilities, licenses for facilities in receivership, and the timeline for DPH to complete inspections during a statewide public health emergency; repealing obsolete provisions for a congregate living arrangement demonstration program; updating incorporated and referenced regulations and statutes; updating statutory provisions for informed consent to psychotropic medication; allowing more time for nurse aides to complete training during a public health emergency; and requiring nurses to be informed of employee assistance programs.

SHELTERED CARE

DPH also proposed amendments to Sheltered Care Facilities Code (77 IAC 330; 47 Ill Reg 15139) implementing 7 Public Acts and aligning the Part with the Nursing Home Care Act. This rulemaking clarifies the definition of a sheltered care facility; provides for facilities to obtain either 1- or 2-year licenses (currently, all licenses are annual); provides that willful submission of false information on a license application, interference with a DPH survey or inspection, or failure to implement a plan of correction are business offenses subject to a fine of up to \$10,000; clarifies how certain penalties are assessed; requires 60 days (currently 90 days) notice of a facility's closure; requires the facility to submit a closing plan to DPH with

ISP Public Hearings

ASSAULT WEAPONS REGISTRATION

The ILLINOIS STATE POLICE will hold 3 public hearings on proposed amendments to Firearm Owner's Identification Card Act (20 IAC 1230; 47 Ill Reg 13846) at the following times and locations:

- **Thursday, Nov. 2, 9:30 a.m.**, Room D-1, Stratton Building, 401 S. Spring St. (Capitol Complex), **Springfield**. Live stream via WebEx at: <https://illinois.webex.com/illinois/j.php?MTID=m92efde0ddc54f674c2674789f974829f>. Password for access is **TmXUtWsn232**.
- **Friday, Nov. 3, 9:30 a.m.**, Room C600, Bilandic Building, 160 N. La Salle St., **Chicago**. Live stream via WebEx at: <https://illinois.webex.com/illinois/j.php?MTID=m3cf053a59d5463686a21c2c6dffa267>. Password for access is **VyNEdUQd968**.
- **Monday, Nov. 6, 9:30 a.m.**, Caseyville Community Center (Village Hall), 909 S. Main St., **Caseyville**. Live stream via WebEx at: <https://illinois.webex.com/illinois/j.php?MTID=mc5a9b639be91200599fcf2d92e7874a5>. Password for access is **fdHGXTNc838**.

These hearings concern proposed amendments published in the 9/29/23 *Illinois Register* that implement the Protect Illinois Communities Act (PICA) portion of PA 102-1116 (SAFE-T Act), requiring Illinois residents who legally possessed, prior to 1/10/23, firearms now classified as assault weapons to register these firearms with ISP no later than 1/1/24. These provisions were also enacted in an identical emergency rule effective 9/15/23.

Requests to speak at any of these hearings in person, submit written comments, or provide disability accommodations must be e-mailed to ISP.Legal.PublicComments@illinois.gov no later than: **9:30 a.m. Tuesday, Oct. 31** for requests to submit written comment; **12:30 p.m. Wednesday, Nov. 1**, for requests to speak at any hearing; and **as soon as possible** for disability support requests. The e-mail subject line should be "Request to Provide Public/Written Comment (or Request for Disability Support) for ISP's PICA Rulemaking Public Hearing(s)".

Questions regarding the rulemaking or the public hearings: Kelly Griffith, ISP, 801 S. Seventh St., Suite 1001-S, Springfield IL 62704.

provisions for the safe and orderly transfer of residents; and prohibits referrals of residents or their families to any unlicensed home health, home services or home nursing agency. Other provisions update staff training and infection control requirements; limit use of physical restraints and update requirements for informed consent to use physical restraints or to

administer psychotropic medications; require DPH to be notified and a contingency plan submitted if direct care staff have given notice of intent to go on strike; require nursing staff to be notified of employee assistance programs; require information on the Long-Term Care Ombudsman Program

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Proposed Rulemakings

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and filing of complaints to be made available to the public, residents and visitors; clarify the timeline for issuing administrative warnings and requiring corrective action for less serious violations; require compliance with the Alzheimer's Disease and Related Dementias Act, the Authorized Electronic Monitoring in Long-Term Care Facilities Act, and their related DPH rules; require closed captioning to be left on TV sets in common areas; and update statutory references and incorporations by reference of federal regulations and professional standards. Sheltered care facilities licensed under this Part are affected.

Questions/requests for copies/comments on the 2 DPH rulemakings through 12/11/23: Tracey Trigillo, DPH, 524 S. Second St., 6th Floor, Springfield IL 62701, dph.rules@illinois.gov

SCHOOL BUSES

The DEPARTMENT OF TRANSPORTATION proposed a new Part titled School Bus Safety Equipment Test Pilot Program (92 IAC 448; 47 Ill Reg 15257) implementing Section 12-182 of the Illinois Vehicle Code, which authorizes IDOT to develop a program allowing school districts to test pilot newly introduced school bus safety equipment by installing it in certain school buses for a minimum of 90 days and gathering data on its performance. School districts must request permission from DOT to test equipment and must specify, in their requests, the equipment to be tested; the VIN and manufacturer of the chassis and body of each bus in which the tested equipment will be installed; the bus

routes where the equipment will be tested; the testing method to be used; the start date of the test; any known crash tests or safety studies related to the equipment; and certification from the manufacturer that the equipment meets or exceeds all federal safety standards. Requests will be denied if State or federal regulations prohibit use of the equipment, or if another school district has already received permission to test pilot the equipment, unless DOT determines a need for testing by additional school districts. DOT may also place limits on the number of buses to be used in the test pilot, the routes to be used, and other factors. School districts are responsible for installing and maintaining the equipment being tested and ensuring that drivers are trained to properly operate it. Data from and results of these programs will be used by DOT to formulate rules governing general use of the tested equipment. School districts are affected by this rulemaking.

Questions/requests for copies/comments through 12/11/23: Gabriella Moretti, DOT, 69 West Washington, 21st Floor, Chicago IL 60602, DOT.AdminRules@illinois.gov

• CPA EXAMS

The BOARD OF EXAMINERS proposed amendments to Certificate of Education and Examination Requirements (23 IAC 1400; 47 Ill Reg 14911) that increase the amount of time a candidate has to pass all sections of the Certified Public Accountant (CPA) examination from 18 months after the candidate takes a section of the examination to 30 months after scores for that section are released to candidates. Candidates for CPA certification and their employers are affected.

Questions/requests for copies/comments through 12/11/23:

Carlarta Ratchford, BOE, 1120 E. Diehl Road, Suite 107, Naperville IL 60563, 847-753-8900, cratchford@ilboe.org

ATTY GENERAL'S PROCUREMENT

The OFFICE OF THE ATTORNEY GENERAL proposed amendments to Attorney General's Procurement (44 IAC 1300; 47 Ill Reg 14857) that reflect Public Act 101-657, which transferred responsibility for implementing the Business Enterprise for Minorities, Women and Persons with Disabilities Act in relation to State contracts from the Department of Central Management Services to the Commission on Equity and Inclusion. This rulemaking replaces references to the CMS website with the CEI website. Additionally, these amendments update the definition of "Bulletin" to include a website address for BidBuy, replace "State Purchasing Officer" with "Purchasing Officer", and amend provisions relating to the appointment, qualifications, and duties of the Chief Procurement Officer and Purchasing Officer in order to allow for increased flexibility in selecting such officers.

Questions/requests for copies/comments through 12/11/23: Karla Schreiber, OAG, 100 W. Randolph St., 12th Floor, Chicago IL 60601, 312-881-0500 or Kristin Creel, OAG, 500 S. Second St., Springfield IL 62701, 217-524-1504.

BOILER SAFETY

The BOARD OF BOILER AND PRESSURE VESSEL RULES proposed amendments to Boiler and Pressure Vessel Safety (41 IAC 2120; 47 Ill Reg 14904) that update, to the most recent versions, the national technical codes incorporated by reference in this Part as required by Section 2 of the Boiler and Pressure Vessel Safety Act.

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Proposed Rulemakings

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Questions/requests for copies/comments through 12/11/23: Ashley Vincent, Office of the State Fire Marshal, Attn: Part 2120 Rules, 1035 Stevenson Dr., Springfield IL 62703, 217-606-9822, fax 217-524-5487, SFM.2120rulemaking@fdmail.sfm.illinois.gov

OSFM REPEALER

The OFFICE OF THE STATE FIRE MARSHAL proposed repeal of the Part titled Furniture Fire Safety Regulations (41 IAC 300; 47 Ill Reg 15247) in response to a Public Act and federal regulations adopted in 2021. The federal regulations at 16 CFR 1640 created a federal standard for the flammability of upholstered furniture and preempts state regulation on this topic. PA 103-151 amended the Furniture Fire Safety Act (425 ILCS 45) and recognized the federal regulation.

Questions/requests for copies/comments through 12/11/23: Katherine Nunes, OSFM, 555 W. Monroe St., Suite 1300-N, Chicago IL 60661, 312-814-8959, fax 312-814-3459, SFM.300rulemaking@fdmail.sfm.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 be considered at the November 7, 2023 meeting in Springfield. Further comments concerning these rulemakings should be addressed to JCAR at jcar@ilga.gov.

IL EDUCATIONAL LABOR RELATIONS BOARD

Representation Procedures (80 IAC 1110; 47 Ill Reg 11509) proposed 8/4/23

Unfair Labor Practice Procedures (80 IAC 1120; 47 Ill Reg 11525) proposed 8/4/23

DEPT OF HEALTHCARE AND FAMILY SERVICES

Rights and Responsibilities (89 IAC 102; 47 Ill Reg 6230) proposed 5/5/23

DEPT OF HUMAN SERVICES

Child Care (89 IAC 50; 47 Ill Reg 8806) proposed 6/23/23

DEPT OF FINANCIAL AND PROFESSIONAL REGULATION

Collection Agency Act (38 IAC 150; 47 Ill Reg 11949) proposed 8/11/23

Collection Agency Act (Repealer) (68 IAC 1210; 47 Ill Reg 11964) proposed 8/11/23

DEPT OF REVENUE

Retailer's Occupation Tax (86 IAC 130; 47 Ill Reg 12680) proposed 8/25/23

Next JCAR Meeting: Tues. Nov. 7, 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 Kimberly Lightford
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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