

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

• DRIVER’S LICENSES

The SECRETARY OF STATE proposed amendments to Issuance of Licenses (92 IAC 1030; 48 Ill Reg 5082) implementing Public Act 103-210. The PA and this rulemaking abolish Temporary Visitor’s Driver’s Licenses (TVDLs) and allow current holders of visa status TVDLs (foreign nationals granted temporary U.S. residence) or non-visa status TVDLs (persons ineligible for Social Security Numbers (SSNs) and unable to document legal U.S. residence, who have resided in Illinois for at least one year) to obtain regular driver’s licenses and identification cards. If an applicant for a driver’s license or ID card is ineligible to receive an SSN, that person must present either documentation from the U.S. Department of Homeland Security authorizing their presence in the U.S., or proof of Illinois residence of at least 1 year plus a passport or consular document from their country of citizenship. However, applicants for

commercial driver’s licenses (CDLs) must have an SSN and proof of citizenship or legal residency. Limited term Real ID compliant licenses that are currently issued to persons who are not U.S. citizens or permanent residents may now be issued to persons who do not have an approved asylum application or did not enter

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the U.S. in refugee status. The rulemaking also clarifies that 16- and 17-year-old Illinois license applicants who hold valid driver’s licenses from another state must submit proof of having passed an approved driver education course in Illinois or in their previous state. Other provisions extend the term of commercial learner’s permits from 180 days to 12 months; expand the definition of “other state” for CDL application purposes to include the District of Columbia and all Canadian provinces;

and expand the Cooperative Driver Testing Program, which currently allows high school driver education instructors to administer road tests to students with a grade of A or B in the school’s driver education course, to include teen-accredited commercial driver training schools. Students who pass a commercial driver’s training school course with an overall score of 80% or higher may have their road tests administered by a school instructor instead of at an SOS facility. Those affected by this rulemaking include CDL applicants and CDL training schools.

Questions/requests for copies/comments through 5/13/24: Pamela Wright, SOS, 298 Howlett Bldg., Springfield IL 62756, pwright@ilsos.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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▪ LONG TERM CARE

The DEPARTMENT OF PUBLIC HEALTH proposed a new Part titled Essential Support Person Code (77 IAC 50; 48 Ill Reg 4950) implementing Public Act 103-261, the Essential Support Person Act. The Act and this rule require nursing homes, veteran's homes, assisted living facilities, ICF/DDs, MC/DDs, Specialized Mental Health Rehabilitation Facilities, community living facilities, supportive living facilities, and hospices to permit residents to designate essential support persons who may continue to visit them when general restrictions on visitation are in effect. A resident or the resident's representative may designate a primary and a secondary essential support person as part of the person's plan of care. If a resident is receiving end-of-life care, the primary or secondary essential support person shall have unrestricted access to the resident. The designated support person or persons must agree in writing to comply with the facility's safety and infection prevention protocols. If a resident has not designated an essential support person, the facility must work with the resident or the resident's representative, a family member, or a Long Term Care Ombudsman to identify someone who can serve as an essential support person. Facilities must also adopt policies addressing visitation in the event of a public health emergency declared by the Governor; these policies must address alternate arrangements such as outdoor or virtual visitation and permit unlimited (24/7) indoor visitation for residents near the end of life. Long term care facilities are affected by this rulemaking.

▪ HEALTHCARE PROFESSIONALS

DPH also proposed amendments to Health Care Professional Credentials Data Collection Code (77 IAC 965; 48 Ill Reg 4958) implementing PAs 103-96 and 103-436. These Acts and this rulemaking allow credential forms (used to verify licensure/certification of health care professionals) to be prescribed in either print or electronic formats, align the language of the Part with statute, and update the 3-year schedule for health care providers to update credentials. Hospitals, other health care providers, and health care insurance plans are affected.

Questions/requests for copies of the 2 DPH rulemakings through 5/13/24: Tracey Trigillo, DPH, 524 S. Second St., 6th Floor, Springfield IL 62701, 217-782-1159, dph.rules@illinois.gov

▪ PRESCRIPTION MONITORING

The DEPARTMENT OF HUMAN SERVICES proposed amendments to Electronic Prescription Monitoring Program (77 IAC 2080; 48 Ill Reg 4540) implementing PAs 103-425 and 103-477. The PAs and this rulemaking exempt pharmacies that do not have pharmacy management systems or electronic dispensing systems within their location, as well as inpatient hospital pharmacies, from the general requirement to interface with the Illinois Prescription Monitoring Program (ILPMP) database. Assessment of fines for willful non-compliance with statutory system integration requirements will begin on 1/1/26 (previously, 1/1/24). Pharmacies, pharmacy management systems, electronic health records (EHR) systems, and prescribers may use any system that meets the requirements of the Act and rule to connect with the ILPMP database (previously, DHS could specify use of a particular entity or system). ILPMP customers must enter into

memoranda of understanding (MOUs) with DHS that establish the method of access the customer will use, data use, and other requirements. Effective 7/1/24, any licensed healthcare entity that is establishing a new integration system or changing its current system must also enter into an MOU. Non-compliance with an MOU may result in the non-compliant party being barred from access to the ILPMP. Other provisions establish criteria for interstate data sharing, establish technical requirements for transmission, use and control of ILPMP data, and remove the full name and address of the dispenser, the full name of the prescriber, and the date of dispensing from the information that must be electronically submitted to ILPMP concerning prescriptions of any controlled substance or other selected drug. A patient ID and location code is required only for prescriptions submitted by long term care facilities. Those affected by this rulemaking include hospitals, long term care facilities, pharmacies, and practitioners who prescribe or dispense controlled substances.

AABD BENEFITS

DHS also proposed an amendment to Aid to the Aged, Blind or Disabled (89 IAC 113; 48 Ill Reg 4572) raising the asset exemption limit for prepaid funeral/burial costs to \$7,981 (previously, \$7,719) per individual to reflect an annual adjustment for inflation.

Questions/requests for copies/comments through 5/13/24: Tracie Drew, DHS, 100 S. Grand Ave. East, 3rd Fl., Springfield IL 62762, 217-785-9772, DHS.AdministrativeRules@illinois.gov

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Proposed Rulemakings

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▪ SECURITY GRANTS

The ILLINOIS EMERGENCY MANAGEMENT AGENCY AND OFFICE OF HOMELAND SECURITY proposed a new Part titled State Not-For-Profit Security Grant Program (29 IAC 120; 48 Ill Reg 4525). This rulemaking establishes a State-funded grant program enabling non-profit, federally tax-exempt organizations at high risk for threats, attacks or acts of terrorism to prevent, prepare for or respond to such attacks. IEMA will post a Notice of Funding Opportunity identifying projects eligible for grant funding. An organization that applies for an IEMA grant for a security enhancement project cannot apply for a federal grant for the same project and must be located in Illinois during and for 5 years after the grant period. Eligible projects include any activities eligible for federal Nonprofit Security Grants, including physical security upgrades, security or preparedness training exercises, and contracting with security personnel. Other activities not eligible for federal grants may be deemed eligible for State grants by the Director of IEMA-OHS. The organization must, in its grant application, document that it is at risk for threats, attacks or acts of terrorism. The application must also describe the potential consequences to the organization if the project site is damaged or destroyed by a terrorist act; include a vulnerability assessment conducted by experienced law enforcement, security or military personnel; and include a budget and timeline for the project. Applicants must also verify whether or not the affected site is "historic property" that

requires notification to the Department of Natural Resources of any potential renovations or alterations. Grant terms are 3 years and all grants are subject to the provisions of the Grant Accountability and Transparency Act (GATA), the Grant Funds Recovery Act, and other applicable State and federal laws. Non-profit, tax-exempt organizations may be affected by these rules.

Questions/requests for copies/comments through 5/13/24: Traci Burton, IEMA, 1035 Outer Park Drive, Springfield IL 62704, 217-785-9860, traci.burton@illinois.gov

WATER POLLUTION

The POLLUTION CONTROL BOARD proposed amendments to Groundwater Quality (35 IAC 620; 48 Ill Reg 4608) that implement detection standards for 10 new chemicals detected in Illinois groundwater, including per- and polyfluoroalkyl substances (e.g., PFAS, PFOS), and also revise existing standards for substances such as cobalt, selenium, and vanadium. The rulemaking also updates the assumed per capita daily water ingestion rate to reflect average adult consumption (2 liters per day) instead of average child consumption (0.78 liters per day); changes the exposure population used to determine contaminant standards from adults to children age 6 and under; and clarifies the procedures for establishing and terminating groundwater management zones (GMZs) in which corrective action must be taken to remove or mitigate the impact of contaminants. PCB also proposed amendments to Sewer Discharge Criteria (35 IAC 307; 48 Ill Reg 4586) that update incorporated U.S. Environmental Protection Agency (USEPA) regulations adopted during the latter half of 2023.

▪ HAZARDOUS WASTE

PCB proposed amendments to Procedures for Permit Issuance (35 IAC 705; 48 Ill Reg 4715), Hazardous Waste Management System: General (35 IAC 720; 48 Ill Reg 4726), Identification and Listing of Hazardous Waste (35 IAC 721; 48 Ill Reg 4830), Standards Applicable to Generators of Hazardous Waste (35 IAC 722; 48 Ill Reg 4849), Standards for Owners and Operators of Hazardous Waste Treatment, Storage and Disposal Facilities (35 IAC 724; 48 Ill Reg 4895), Interim Status Standards for Owners and Operators of Hazardous Treatment, Storage, and Disposal Facilities (35 IAC 725; 48 Ill Reg 4914) and Standards for the Management of Specific Hazardous Waste and Specific Types of Hazardous Waste Management Facilities (35 IAC 726; 48 Ill Reg 4933). These amendments implement USEPA hazardous waste regulations adopted in 2020, 2021 and 2023 concerning procedures for identification, measurement and testing of ignitable hazardous solid or liquid waste. Those affected by these rulemakings include owners and operators of landfills and other waste facilities.

Questions/requests for copies/comments on the 9 PCB rulemakings through 5/13/24: Don A. Brown, PCB, 60 E. Van Buren St., Suite 630, Chicago IL 60605, 312-814-3461, don.brown@illinois.gov. Please reference docket R24-xx. Copies of the Board's opinion and order are available at <http://www.pcb.illinois.gov>

Adopted Rules

NEWBORN SCREENINGS

The DEPARTMENT OF PUBLIC HEALTH adopted amendments to Newborn and Infant Screening and Treatment Code (77 IAC 661; proposed at 47 Ill Reg 13013) effective 3/12/24 at 48 Ill Reg 5175 that incorporate definitions from the Part titled Early Hearing Detection and Intervention Code (77 Ill. Adm. Code 662; repeal proposed at 47 Ill Reg 13028), which has been repealed effective 3/12/24 at 48 Ill Reg 5190. The Part 661 rulemaking also clarifies the necessary qualifications for a medical specialist

who is referred for follow-up on an infant that screens positive for spinal muscular atrophy. Since 1st Notice, DPH has added or clarified various definitions in that Part. All hearing screening rules formerly in Part 662 have now been moved to Part 661.

Questions/requests for copies of the 2 DPH rulemakings: Tracey Trigillo, DPH, 524 S. Second St., 6th Floor, Springfield IL 62701, 217-782-1159, dph.rules@illinois.gov

DOR PUBLIC INFORMATION

The DEPARTMENT OF REVENUE adopted amendments to Public Information, Rulemaking and Organization (2 IAC 1200; proposed at 47 Ill Reg 15616) effective 3/15/24 at 48 Ill Reg 5192 that update contact information for DOR regional offices and for obtaining tax forms and tax filing information.

Questions/requests for copies: Brian Fliflet, DOR, 101 W. Jefferson St., Springfield IL 62794, 217-782-2844, REV.GCO@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 April 16, 2024 meeting in Springfield. Other items not published in the *Illinois Register* or The Flinn Report may also be considered. Further comments concerning these rulemakings should be addressed to JCAR at jcar@ilga.gov.

DEPT OF INSURANCE

Premium Increase Justification and Reporting (50 IAC 2026; 47 Ill Reg 19290) proposed 12/29/23

DEPT OF NATURAL RESOURCES

Timber Buyer Licensing and Harvest Fees (17 IAC 1535; 47 Ill Reg 17755) proposed 12/1/23

DEPT OF PUBLIC HEALTH

Hospital Licensing Requirements (77 IAC 250; 48 Ill Reg 1787) proposed 2/2/24

STATE BOARD OF EDUCATION

Public Schools Evaluation, Recognition and Supervision (23 IAC 1; 47 Ill Reg 16165) proposed 11/17/23

Public Schools Evaluation, Recognition and Supervision (23 IAC 1; 47 Ill Reg 18199) proposed 12/15/23

Educator Licensure (23 IAC 25; 47 Ill Reg 16206) proposed 11/17/23

STATE EMPLOYEES' RETIREMENT SYSTEM

The Administration and Operation of the State Employees' Retirement System of Illinois (80 IAC 1540; 48 Ill Reg 1662) proposed 1/26/24

Next JCAR Meeting: Tuesday, April 16, 10:30 a.m.

Room C-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

700 Stratton Office Building, Springfield IL 62706

217-785-2254 ■ jcar@ilga.gov