

The Flinn Report Illinois Regulation

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Joint Committee on Administrative Rules
Illinois General Assembly

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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

■ SPRINKLER SYSTEMS

The OFFICE OF THE STATE FIRE MARSHAL proposed amendments to the Part titled Fire Sprinkler Contractor Licensing Rules (41 IAC 109; 47 Ill Reg 6614) implementing Public Act 102-612. This rulemaking changes the name of the Part to Fire Sprinkler Contractor and Inspector Licensing Rules, extends the existing contractor rules for businesses that install or repair sprinkler systems to businesses that perform routine inspection, testing and maintenance of sprinkler systems, and requires fire sprinkler inspectors to be licensed. A fire sprinkler contractor that performs routine inspections must employ at least one licensed fire sprinkler inspector, unless the contractor also meets the qualifications for an inspector, in which case that person can hold both licenses and also perform inspections. Contractor and

inspector licenses are valid for 2 years. Initial licensure and renewal fees are \$3,000 for contractors and \$500 for inspectors, increasing to \$4,000 and \$700, respectively, for licenses renewed after the expiration date. Applications for a fire sprinkler inspector license must be submitted by the employing business/contractor on behalf of the applicant and must

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include a copy of the inspector applicant's driver's license, state ID card or passport; a digital color full-face photograph; proof of current sprinkler inspection certification by a nationally recognized organization; a list of all sprinkler testing or inspection licenses issued to the applicant by any local, state or federal entity in the previous 3 years and any

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Adopted Rules

■ ASSET FORFEITURE

The ILLINOIS STATE POLICE adopted a new Part titled Seizure and Forfeiture Reporting Act Procedures (20 IAC 1221; 46 Ill Reg 12483) effective 5/4/23, implementing the Act [5 ILCS 810] and its requirements that participating agencies (e.g., local law enforcement agencies, Metropolitan Enforcement Groups, drug task forces, State's Attorney's offices) report property seized or forfeiture proceeds received. ISP must provide on its website the necessary forms for participating agencies to report seizures and forfeitures, along with a public database containing annual aggregate data. Participating agencies must report all drug related seizures to ISP within 28 days and all money laundering related seizures within 60 days. Records of seizures and

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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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forfeitures must be kept for at least 7 years. Up to 5% of all agencies may be subject to a compliance check each year; if ISP finds the agency to be non-compliant, ISP may reclaim the seized/forfeited property, suspend or remove the agency from the seizure/forfeiture program, or require officers to complete additional training or reporting. Data posted by ISP must include, on a calendar year basis for each participating agency, the number of asset seizures and number of conveyances (e.g., vehicles) seized; the monetary value of all currency seized; the estimated value of all other property seized; the monetary value of distributions from ISP of forfeited currency or proceeds from auctions of forfeited property; and the total amount of the agency's expenditures of forfeiture proceeds. Since 1st Notice, ISP changed "law enforcement agencies" to "participating agencies"; clarified what uses of forfeited funds are permitted under the Act and other statutes; and added provisions for an agency to respond with corrective action if ISP determines it was not in compliance with the Act. Those affected by this rulemaking include local law enforcement agencies, State's Attorney's offices, and multi-jurisdiction enforcement groups.

■ POLICE RESPONSE

ISP also adopted amendments to the Part now titled Uniform Crime Reporting (20 IAC 1244; 47 Ill Reg

691) effective 5/8/23, implementing requirements of the Uniform Crime Reporting Act. The rulemaking changes the name of the Part (formerly Use of Force Reporting), adds a Subpart heading to existing provisions for use of force reporting, and adds a new Subpart outlining provisions for mental health crisis reporting by local law enforcement agencies. A mental health crisis is defined (both in statute and in this Part) as an instance in which a person's behavior puts them at risk of hurting themselves or others or prevents them from being able to care for themselves. All Illinois law enforcement agencies must report to ISP on a monthly basis any incidents in which an officer was dispatched to respond to a person experiencing a mental health crisis or incident. Reports must be made electronically using a form posted on ISP's website and must be submitted by the 15th of the month following the month for which the report is made. Reports must include the level of response (sworn officer, crisis intervention trained officer, SWAT team, social worker, psychologist, ambulance, other) and the outcome of each incident (subject released on own recognizance or to family member, arrested, admitted to mental health facility voluntarily or by an officer, other). Mental health dispatch calls in which officers are unable to locate the subject and do not file a field report must also be reported. The duty to report an incident is based on the reason for the dispatch rather than the outcome of the incident. Incidents in which the original dispatch was not in

response to a mental health crisis or event (even if officers subsequently determine a mental health issue was involved), or in which officers respond to an Illinois State Police Emergency Radio Network (ISPERN) alert or emergency broadcast without having been specifically dispatched to respond, are not to be included in these reports. Local law enforcement agencies are affected by this rulemaking.

Questions/requests for copies of the 2 ISP rulemakings: Kelly M. Griffith, ISP, 801 S. Seventh St., Suite 1000-S, Springfield IL 62703, 217/782-7658.

■ LEGAL FUNDING

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION adopted a new Part titled Consumer Legal Funding Act (38 IAC 170; 46 Ill Reg 17173) effective 5/2/23 implementing Public Act 102-987, which created the Consumer Legal Funding Act statute [815 ILCS 121] effective 5/27/22. The Act and the new Part establish a licensing process for companies that provide financing for consumers to pursue legal actions (e.g., class action suits, compensation for injuries) in return for an unvested interest in the potential net proceeds of a settlement or judgment, which the consumer is not obligated to repay if no settlement is received. The proposed rules establish duties

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Proposed Rulemakings

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associated disciplinary action; and proof of 16 hours of continuing education (8 hours per year) for a renewal license. If a fire sprinkler inspector terminates employment with a contractor, the inspector's license becomes inactive and the contractor must destroy the inspector's OSFM-issued ID card. If the inspector is hired by another contractor, the contractor must submit a new license application for the inspector. When a contractor's license is terminated, expires or is suspended for any reason (e.g., cessation of operations, revocation of the license by OSFM), inspector licenses held by employees of the contractor are also terminated. Unlicensed practice as a fire sprinkler contractor or inspector is subject to a civil penalty of up to \$10,000. Businesses that install, repair, inspect or service fire sprinkler systems are affected.

Questions/requests for copies/comments through 7/3/23: Nancy Robinson, Office of the State Fire Marshal, 1035 Stevenson Drive, Springfield IL 62703, 217/785-7629, fax 217/524-5487.

DPH - ISAC TRANSFER

The DEPARTMENT OF PUBLIC HEALTH has transferred the Part titled Nursing Education Scholarships (77 IAC 597) to the ILLINOIS STUDENT ASSISTANCE COMMISSION, which has

MEDICAID ELIGIBILITY

The DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES adopted an emergency amendment to Medical Assistance Programs (89 IAC 120; 47 Ill Reg 7008) effective 5/12/23 for a maximum of 150 days. An identical proposed amendment was published in the 5/5/23 *Illinois Register* at 47 Ill Reg 6237. The emergency and proposed rules increase the amount of assets exempted from determinations of Medicaid eligibility for long-term care to \$17,500 for individuals, married couples and any dependents (formerly, \$2,000 for individuals, \$3,000 for an individual and one dependent, plus \$50 for each additional dependent). This

renumbered the Part as 23 IAC 2749. The transfer implements Public Act 102-699, which shifts administration of the Nursing Education Scholarship program from DPH to ISAC. No changes have been made in the contents of the Part.

SPMB RULE WITHDRAWAL

The STATE POLICE MERIT BOARD has withdrawn proposed amendments to the Part titled Procedures of the Department of State Police Merit Board (80 IAC 150; 46 Ill Reg 8066) in response

Emergency Rule

change aligns the medical assistance asset exemption with the exemptions used to determine eligibility for the Department on Aging's Community Care Program and the Department of Human Services' Home Services Program. It also enables most current recipients of Medicaid long-term care assistance to remain eligible now that annual Medicaid eligibility redeterminations, which had been suspended during the COVID-19 public health emergency, have resumed effective 5/12/23.

Questions/requests for copies: Steffanie Garrett, HFS, 201 S. Grand Ave., East, 3rd Floor, Springfield IL 62763-0002, HFS.Rules@illinois.gov

to a JCAR Objection. These amendments, which were published in the 5/20/22 *Illinois Register*, would have removed a provision limiting disciplinary action for violation of Illinois State Police rules and regulations to 3 years after the violation. It also would have removed medical history as a subject of background investigations of police candidates and made other clarifications and additions. SPMB has also withdrawn this rulemaking to allow more time to respond to public comments received.

Adopted Rules

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and requirements for licensees regarding office records, individual account records, payments, recordkeeping, return of documents and requests for verification of resolution amounts. Prior approval is required for maintenance of off-site records and servicing of accounts, and 10 days' notice to DFPR is required when funding contracts are transferred. The rulemaking also defines prohibited forms of advertising and requires a financial coaching disclosure in all consumer legal funding contracts. Other provisions establish procedures and standards for disclosure of confidential supervisory information and establish necessary requirements, including fees, for licensees to receive authorization to conduct other businesses, to relocate or amend the name of the licensed business. Consumer legal funding companies are affected by this rulemaking.

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

■ UNDERGROUND TANKS

The OFFICE OF THE STATE FIRE MARSHAL adopted amendments to Petroleum Equipment Contractor Licensing (41 IAC 172; 46 Ill Reg 15982) effective 5/2/23 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. 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. Since 1st Notice, OSFM removed a proposed \$100 fee for a contractor name change with no change in the Federal Employee Identification Number (FEIN); changed the effective date for the new citation/notice of violation process from 3/1/23 to 5/1/23; and clarified that a written order by OSFM is a final administrative decision subject to the Administrative Review Law.

OSFM also adopted amendments to General Requirements for Underground Storage Tanks and the Storage, Transportation, Sale and Use of Petroleum and Other Regulated Substances (41 IAC 174; 46 Ill Reg 16029) effective 5/2/23 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. 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. Since 1st Notice, OSFM removed language requiring certain dual-purpose USTs to double-wall all underground product piping by 10/13/28.

OSFM adopted 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), effective 5/2/23 that impose the following technical requirements effective 5/1/23: all new and replaced spill containment equipment and containment sumps shall be double-walled (since 1st Notice, an exception has been made for single-wall horizontal cabinets,

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Adopted Rules

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which may continue to be installed as single-walled); new linings for compatibility purposes are only allowed for double-walled tanks; 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. 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. Additional changes since 1st Notice removed proposed requirements that all existing single-walled piping be upgraded to double-walled during tank installation or replacement and that all piping be double walled by 10/13/28.

OSFM also adopted 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 Storage Tanks (41 IAC 177; 46 Ill Reg 16206), and adopted 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), all effective 5/2/23. 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. Since 1st Notice, OSFM has reinstated standards for the length of a permit suspension or revocation. 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. A change since 1st Notice clarified that a “confirmed release” (leak) is

confirmed by soil sampling that produces lab test results above the applicable contaminant limits. 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: Tom Andryk, OSFM, 1035 Stevenson Dr., Springfield IL 62703-4259, 217/785-5758, fax 217/524-5487.

■ TAXES

The DEPARTMENT OF REVENUE adopted amendments to the Part titled Uniform Penalty and Interest Act (86 IAC 700; 46 Ill Reg 20172) effective 5/3/23, clarifying application of a \$100 penalty for failure to timely file sales or use tax returns. This penalty, plus any other tax penalties for the past-due amount (if any), applies to all returns that were due between 8/16/13 and 8/10/15. For sales or use tax returns due on or after 8/10/15, the \$100 penalty applies only if the return shows that no tax was owed. (Other penalties still apply to any past-due amounts owed.) Businesses that owe penalties for late filing of sales or use tax returns are affected.

Questions/requests for copies: Alexis K. Overstreet, DOR, 101 W. Jefferson St., Springfield IL 62794, 217/782-2844.

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Adopted Rules

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■ HUNTING DOGS

The DEPARTMENT OF NATURAL RESOURCES adopted amendments to the Parts titled Dog Training on Department-Owned or -Managed Sites (17 IAC 950; 47 Ill Reg 1797) and Hound Running Areas (17 IAC 970; 47 Ill Reg 1804), both effective 5/4/23, concerning training of hunting dogs at DNR sites. The Part 950 rulemaking adds a portion of the Clinton Lake State Recreational Area and portions of the Jim Edgar Panther Creek State Fish and Wildlife Area to the list of sites where dog training is permitted year-round. It also adds the World Shooting and Recreational Complex to sites where dog training is permitted from Sept. 1 through March 31. Amendments to Part 970 lower the maximum

height of perimeter fences in coyote, fox and raccoon hound running areas from 6 feet to 5 feet and update electric wire requirements for these perimeter fences; allow hound running area permit applicants to update the list of trappers and game breeders from which they will obtain game animals between Sept. 1 and 14 annually (formerly, this update could only be done during March, prior to the March 31 expiration date for all hound running area permits); and update the website address for obtaining permit applications and paying fees. Hunters and trainers of hunting dogs are affected by these rulemakings.

Questions/requests for copies of the 2 DNR rulemakings: John Fischer, DNR, One Natural Resources Way, Springfield IL 62702, 217/782-1809.

PCB RULES UPDATE

The POLLUTION CONTROL BOARD adopted amendments to the Parts titled Radiation Hazards (35 IAC 1000; 46 Ill Reg 6867) and Procedures for Reporting Releases of Radionuclides at Nuclear Power Plants (35 IAC 1010; 46 Ill Reg 6896), both effective 5/4/23, implementing Executive Order 2016-13, which required agencies to identify outdated, repetitive, confusing or unnecessary rules and amend or repeal them. The changes proposed in these rulemakings are non-substantive.

Questions/requests for copies of the 2 PCB rulemakings: Clerk's Office, PCB, 100 W. Randolph St., Suite 11-500, Chicago IL 6060, 312/814-3620. Please reference Docket R18-28.

Joint Committee on Administrative Rules

Senator Cristina Castro

Representative Eva-Dina Delgado

Senator Bill Cunningham, *co-chair*

Representative Jackie Haas

Senator Donald DeWitte

Representative Steven Reick

Senator Dale Fowler

Representative Ryan Spain, *co-chair*

Senator Kimberly Lightford

Representative Curtis Tarver, II

Senator Sue Rezin

Representative Dave Vella

**Kim Schultz
Executive Director**

Second Notice

The following rulemaking was moved to Second Notice this week by the agency listed below, commencing the JCAR review period. This rulemaking will appear in next week's *Illinois Register* and be considered at the June 13, 2023, meeting in Chicago. Other items not published in the *Register* or The Flinn Report may also be considered. Further comments concerning this rulemaking should be addressed to JCAR using the contact information on page 1.

POLLUTION CONTROL BOARD

Standards for General Construction or Demolition Debris Recovery Facilities
(35 IAC 820; 47 Ill Reg 1812) proposed 2/10/23

JCAR Meeting Action

At its 5/16/23 meeting, the Joint Committee on Administrative Rules took the following actions:

EXTENSIONS

JCAR, with the concurrence of the listed agencies, extended the Second Notice periods for the following rulemakings an additional 45 days. These rulemakings will be considered again at the June 13 JCAR meeting.

Department of Financial and Professional Regulation, Rules for the Licensed Certified Professional Midwives Act (68 IAC 1345; 46 Ill Reg 20475)

State Board of Education, Freedom Schools Grant Program (23 IAC 269; 46 Ill Reg 19312)

State Board of Investment, State (of Illinois) Employees' Deferred Compensation Plan (80 IAC 2700; 47 Ill Reg 2640).

POSTPONEMENTS

JCAR postponed action on the Department of Natural Resources rulemakings titled Land and Water Conservation Fund (LWCF) Grant Program (17 IAC 3030; 47 Ill Reg 1286) and Boat Access Area Development Program (17 IAC 3035; 46 Ill Reg 1291) until the June 13 meeting.

JCAR also postponed action on a complaint review against the Department of Children and Family Services, concerning staffing policies implemented outside of rule for licensed day care centers regulated under 89 IAC 407, until the June 13 meeting.