

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

HOSPITALS

The DEPARTMENT OF PUBLIC HEALTH proposed amendments to Hospital Licensing Requirements (77 IAC 250; 48 Ill Reg 1787) implementing 6 Public Acts. The rulemaking implements PA 102-1095, which prohibits use of latex gloves for patient care or food handling in hospitals and other health care facilities when non-latex gloves are available. In a crisis situation in which non-latex gloves cannot be reliably sourced, patient care staff must prioritize non-latex gloves for use on patients who state that they have latex allergies and on patients who are unconscious or otherwise unable to communicate and whose medical history does not indicate whether or not they have a latex allergy. If food preparation and service personnel must use latex gloves due to a shortage of non-latex gloves, signs must be prominently placed at the point of order or purchase notifying the public of the temporary change. In

accordance with PA 103-57, the rulemaking requires that hospital patients age 50 (currently, 65) and older be identified and offered influenza immunization and that patients ages 65 and older be identified and offered pneumococcal (pneumonia) immunization. Other Public Acts implemented in this

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rulemaking are PA 103-160, requiring hospitals to provide information and educational materials to parents of newborns concerning voluntary donation of breast milk to non-profit milk banks; PA 103-169, which requires hospitals to have written policies and continuing education on how to address airway emergencies during childbirth; PA 103-211, which requires hospital nursing care committees to annually notify nursing staff of their rights under Section 10.10 of the Hospital Licensing Act

(which addresses nurse staffing plans); and PA 103-213, which prohibits delaying emergency room screening or treatment in order to inquire about the patient's insurance status or method of payment. Finally, the rulemaking updates various incorporations by reference and adds definitions for "dietitian" and "dietetic service director" along with professional qualifications for the dietetic service director position.

Questions/requests for copies/comments through 3/18/24: Tracey Trigillo, DPH, 524 S. Second St., 6th Floor, Springfield IL 62701, dph.rules@illinois.gov

▪ IDOT PROCUREMENT

The CHIEF PROCUREMENT OFFICER FOR THE DEPARTMENT OF TRANSPORTATION (CPO-DOT) proposed amendments to the Part

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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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titled Chief Procurement Officer for the Department of Transportation – Contract Procurement (44 IAC 6; 48 Ill Reg 1753) implementing Public Act 102-1094. The PA created the Innovations for Transportation Infrastructure Act, which authorizes IDOT and the Illinois State Toll

Highway Authority to use the construction manager/general contractor, progressive design-build, and design-build project delivery methods. The rulemaking reflects the Act's preconditions for the use of these project delivery methods and specific procurement procedures that must be followed to award a construction manager/general contractor, progressive design-build or design-build contract. The Act and this rulemaking also contain specifications for the maintenance of

project records, information confidentiality, terms and conditions that must be included in awarded contracts, and the utilization of minority, disadvantaged and women-owned businesses. Businesses seeking contracts with IDOT are affected.

Questions/requests for copies/comments through 3/18/24: Bill Grunloh, Chief Procurement Officer, IDOT, 2300 S. Dirksen Parkway, Springfield IL 62764, 217-558-5434.

Adopted Rules

• CANNABIS CULTIVATION

The DEPARTMENT OF AGRICULTURE adopted amendments to the Part titled Cannabis Regulation and Tax Act (8 IAC 1300; proposed at 47 Ill Reg 14077) effective 1/22/24 at 48 Ill Reg 1862, establishing a process through which craft cannabis growers may apply to DOA to increase canopy space in increments of 3,000 square feet up to the maximum allowed under the Act for craft growers (changed since 1st Notice from a maximum of 14,000 square feet). Grow operations that already have 6,000 or more square feet must have or install variable refrigerant flow HVAC units or other more energy efficient equipment. DOA may approve an expansion of canopy space based on market need for increased cannabis production as indicated by any of the following: adult use cannabis price per gram and average monthly sales figures for the previous 3 months (as posted on the website of the Cannabis Regulation and Oversight Officer or other State website); consistent sale of at least 50% of the grower's packaged product over the previous two fiscal quarters (as determined by data from the State's cannabis plant monitoring system); and any other data DOA may require. Other factors DOA will consider when reviewing an

application for expanded canopy space are the ability of the grower to meet the commitments in its original license and cultivate additional cannabis at the square footage requested, and the grower's history of compliance with DOA cannabis laws and rules. The rulemaking also provides that DOA may, with at least 120 days advance notice to the grower, decrease a grower's canopy space by 3,000 feet if the grower has consistently sold less than 50% of its packaged product over the previous two fiscal quarters. DOA cannot reduce a grower's canopy space below 5,000 square feet or more than once every 12 months. Since 1st Notice, DOA has specified the sources of its data for determining market need and growers' monthly sales. Cannabis cultivation centers are affected.

Questions/requests for copies: Sam McGee, DOA, State Fairgrounds, PO Box 19281, Springfield IL 62794-9281, 217-558-3741, Samuel.McGee@illinois.gov

• SALES TAX EXEMPTIONS

The DEPARTMENT OF REVENUE adopted amendments to Retailers' Occupation Tax (86 IAC 130; proposed at 47 Ill Reg 12858), Service Occupation Tax (86 IAC 140; proposed

at 47 Ill Reg 12928) and Use Tax (86 IAC 150; proposed at 47 Ill Reg 12939), all effective 1/18/24 at 48 Ill Reg 1870, 1939 and 1950, reflecting changes to the rolling stock tax exemption made by Public Acts 98-584 and 100-321. Amendments to Part 130 list the elements of the exemption in a logical order (motor vehicles/trailers, limousines, aircraft, and watercraft) and delete obsolete/dated provisions. The rulemaking includes a new test to determine whether motor vehicles and trailers qualify for the exemption; clarify which provisions apply to limousines, aircraft and watercraft; add examples of the movements that do and do not qualify as interstate trips/miles; and change outdated references to the Interstate Commerce Commission to the Federal Motor Carrier Safety Administration. The Part 140 and 150 rulemakings amend relevant provisions regarding sales of service and use tax to reflect the revised rolling stock tax exemption. Those affected by these rulemakings include interstate carriers and businesses that sell rolling stock to interstate carriers for hire.

Questions/requests for copies of the 3 DOR rulemakings: Samuel J. Moore, DOR, 101 W. Jefferson St., Springfield IL 62794, 217-782-7055, REV.GCO@illinois.gov

Next JCAR Meeting: Tuesday, Feb. 6, 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

700 Stratton Office Building, Springfield IL 62706

217-785-2254 ■ jcar@ilga.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 February 6, 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 HUMAN SERVICES

Temporary Assistance for Needy Families (89 IAC 112; 47 Ill Reg 13812) proposed 9/29/23

Temporary Assistance for Needy Families (89 IAC 112; 47 Ill Reg 14666) proposed 10/20/23

DEPT OF LABOR

Paid Leave for All Workers Act (56 IAC 200; 47 Ill Reg 15559) proposed 11/3/23

DEPT OF PUBLIC HEALTH

Health Care Worker Background Check Code (77 IAC 955; 47 Ill Reg 17803) proposed 12/1/23

DEPT OF REVENUE

Charitable Games Act (86 IAC 435; 47 Ill Reg 15629) proposed 11/3/23

Public Information, Rulemaking and Organization (2 IAC 1200; 47 Ill Reg 15616) proposed 11/3/23