

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

SCHOOL CONSTRUCTION

The ILLINOIS STATE BOARD OF EDUCATION proposed amendments to Health/Life Safety Code for Public Schools (23 IAC 180; 48 Ill Reg 10067) that require school districts to use the 2024 International Building Code (IBC) for any projects with design contracts executed on or after 1/1/25. The rulemaking also clarifies that existing facilities remain in compliance with the building code in effect at the time they were constructed, and also clarify exceptions from the 2024 IBC that apply in certain instances. A chart in Appendix A is updated to present the codes that were in effect over the years to assist school districts in determining which code applies. Other provisions update storm shelter design and construction codes; remove outdated references to approved inspection agencies, forms used in the application process, and cost estimation resources; increase application fees for plan reviewers

and inspectors; provide an option for architects/districts to submit building plans to regional superintendents electronically; update and streamline the process for approval of emergency fire prevention and safety financing; and update rule language and references.

**Emergency Rule, Page 2
Adopted Rules, Page 2
No Second Notices This Week**

*Questions/requests for
copies/comments through 8/26/24:
Azita Kakvand, ISBE, 555 W. Monroe
St., Suite 900, Chicago IL 60661, 312-
783-2757, rules@isbe.net*

SURGERY CENTERS

The DEPARTMENT OF PUBLIC HEALTH proposed amendments to Ambulatory Surgical Treatment Center Licensing Requirements (77 IAC 205; 48 Ill Reg 10115) implementing Public Acts 102-

155 and 102-1095. This rulemaking requires Ambulatory Surgical Treatment Centers (ASTCs) that order medication at least 24 hours in advance of a surgical procedure to offer patients any unused portion of that medication upon discharge if that medication is required for continuing treatment. The rulemaking also requires ASTCs to comply with the Latex Glove Ban Act [410 ILCS 180], which requires healthcare facilities to use non-latex gloves whenever possible and to avoid using latex gloves on any patient who is allergic to latex or whose latex allergy status is unknown. Other provisions remove a requirement for examination rooms and make various technical updates.

*Questions/requests for
copies/comments through 8/26/24:
Tracey Trigillo, DPH, 524 S. Second St.,
6th Floor, Springfield IL 62701, 217-
782-1159, dph.rules@illinois.gov*

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.

Emergency Rule

▪ CHILD CARE

The DEPARTMENT OF HUMAN SERVICES adopted emergency amendments to Child Care (89 IAC 50; 48 Ill Reg 10313) effective 7/1/24. Companion proposed amendments appear in this week's *Illinois Register* at 48 Ill Reg 10096. The emergency and proposed rulemakings update income eligibility thresholds for the Child Care Assistance Program (CCAP) to 225% of the current Federal Poverty Level for initial eligibility and 275% FPL for continuing eligibility, and also update the co-payment schedules based on income and family size. The proposed rulemaking additionally clarifies that a provision allowing parents to qualify for CCAP up to 3 months out of every 12 while in the process of establishing an eligible employment or educational activity is subject to the appropriation of funds to CCAP. Parents and child care providers enrolled in CCAP are affected by these rulemakings.

Questions/requests for copies/comments on the proposed rulemaking through 8/26/24: Tracie Drew, DHS, 100 S. Grand Ave. East, Harris Building, 3rd Floor, Springfield IL 62762, 217-785-9772, DHS.AdministrativeRules@illinois.gov

Adopted Rules

COMMUNITY COLLEGES

The ILLINOIS COMMUNITY COLLEGE BOARD adopted amendments to the Part titled Administration of the Illinois Public Community College Act (23 IAC 1501; proposed at 47 Ill Reg 14632 and 47 Ill Reg 16151) effective 6/25/24 at 48 Ill Reg 10170, combining two separately proposed rulemakings. These amendments implement the Developmental Education Reform Act [110 ILCS 175], which requires that all community colleges consider multiple measures, rather than a single test or other single assessment measure, for determining a student's placement in introductory English and mathematics courses. The Act and this rulemaking further require community colleges to submit institutional plans for scaling developmental education (formerly, "remedial education") reform to maximize the probability that students in need of additional courses to achieve the level of competency required for college level instruction will be placed in and successfully complete these introductory courses. The rulemaking replaces "remedial" with "developmental", defines

multiple measures placement (since 1st Notice, ICCB has clarified this definition), and lists different assessment measures to be used for English and mathematics course placement, including: cumulative high school grade point average, standardized test scores, successful completion of a high school transition or introductory college-level class at another institution, or any other measures the community college deems appropriate. Any changes in the recommendations of the Illinois Council of Community College Presidents concerning developmental education and placement in introductory courses must be implemented by community colleges within one year after the changes are made. The rulemaking also requires colleges to annually submit their scaling evidence-based developmental education plan to ICCB by 12/30; the plan must include a description of developmental education models being used, baseline data and benchmarks for progress (e.g., rate of successful completion of introductory college-level English or mathematics courses),

and plans for improving outcomes for all students, including details regarding outcomes for Black students. Other amendments require local community college boards to notify ICCB within 5 working days when a board vacancy occurs and to notify ICCB in writing when the vacancy is filled. If a vacancy is not filled within 60 days after it occurs, ICCB must fill that vacancy in accordance with statute. Other provisions give districts until Dec. 30 (previously, Nov. 15) to request an extension of time to submit their annual external audit reports; require funding for Pipeline for the Advancement of the Healthcare Workforce (PATH) grants to be based on the average number of completions by students enrolled in eligible healthcare programs in the most recent academic year for which data is available and the two prior academic years; and prioritize PATH grants based on statewide (rather than local) industry workforce demand. Districts that receive PATH grants must also administer an exit

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Adopted Rules

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survey to students upon completion of their programs, asking them, at a minimum, to identify their post-graduation employment or education.

Questions/requests for copies: Matt Berry, ICCB, 401 E. Capitol Ave., Springfield IL 62701-1711, 217-785-7411, fax 217-524-4981, Matt.Berry@illinois.gov

▪ PHARMACIES

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION adopted amendments to the Part titled Pharmacy Practice Act (68 IAC 1330; proposed at 47 Ill Reg 18373) effective 6/28/24 at 48 Ill Reg 10225, that require pharmacy technicians registered on or after 1/1/24 to complete a pharmacy technician certification program with at least 500 hours of instruction before their 2nd registration renewal, and establishes criteria for approved pharmacy technician programs. A new pharmacy that applies for licensure from DFPR must be open to the public within 180 (previously 30) days after the license is issued. Other provisions update pharmacy compounding standards by incorporating the current version of the United States Pharmacopeia and National Formulary; clarify procedures for automatic prescription refills; establish notification procedures for pharmacies that temporarily close for a period of more than 72 hours and less than 6 months; and require pharmacists-in-charge of nonresident pharmacies (which dispense, ship or mail medications to Illinois residents) to be licensed in Illinois beginning 1/1/26 (changed since 1st Notice from 1/1/24). Pharmacies, pharmacists and pharmacy technicians are affected.

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

CHILD SUPPORT

The DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES adopted amendments to Child Support Services (89 IAC 160; proposed at 48 Ill Reg 2333) effective 7/1/24 at 48 Ill Reg 10266, reflecting PA 102-1115, which provides that all child support, either current or past due, collected on or after 1/1/23 on behalf of a family that is receiving Temporary Assistance for Needy Families (TANF) shall be passed through to the family and disregarded in determining the amount of TANF assistance they will receive. Since 1st Notice, HFS has clarified how past due, current and future child support will be collected and provided to the family.

Questions/requests for copies: Katie Hill, HFS, 201 S. Grand Ave. East, 3rd Floor, Springfield IL 62763-0002, 217-782-1233, HFS.Rules@illinois.gov

▪ TAX CREDITS

The DEPARTMENT OF REVENUE adopted an amendment to Income Tax (86 IAC 100; proposed at 48 Ill Reg 5234) effective 6/25/24 at 48 Ill Reg 10281, implementing PA 102-700, which created the Manufacturing Illinois Chips for Real Opportunity (MICRO) investment tax credit program. This tax credit will be awarded for tax years beginning on or after 1/1/25, for investments in qualified property (e.g., buildings, machinery, equipment) placed in service at the site of a MICRO Illinois project established under an agreement between the taxpaying entity and the Department of Commerce and Economic Opportunity (DCEO). The amount of the credit is

0.5% of the depreciation basis of the qualified property for the tax year in which the property is placed in service and will apply only to that tax year, unless the amount of the credit exceeds the taxpayer's tax liability for that year, in which case the excess credit may be carried forward and applied to the taxpayer's tax liability for the following 5 tax years. Businesses that participate in the MICRO Program are affected.

▪ TAX APPEALS

DOR also adopted amendments to the Part titled Informal Conference Board (86 IAC 215; proposed at 48 Ill Reg 3084) effective 6/25/24 at 48 Ill Reg 10305, that make the following changes to the Board's procedures: extending from 60 to 180 days the minimum time that must remain on the statute of limitations for a particular tax return in order for the taxpayer to take advantage of the ICB, and expanding ICB jurisdiction to include audit adjustments that result in reductions to net operating losses. (The Board allows taxpayers an opportunity to resolve disputes with DOR concerning a liability, deficiency or claim denial before resorting to a formal protest and administrative hearing.) The rulemaking also provides that ICB will not hold cases or make adjustments to issues related to pending litigation. Businesses and individual taxpayers who have disputes with DOR are affected.

Questions/requests for copies of the 2 DOR rulemakings: Part 100, Jennifer Uhles; Part 215, Brian Fliflet; DOR, 101 W. Jefferson St., Springfield IL 62794, 217-782-2844, REV.GCO@illinois.gov

▪ IDOT PROCUREMENT

The CHIEF PROCUREMENT OFFICER FOR THE DEPARTMENT OF TRANSPORTATION

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Adopted Rules

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RTATION (CPO-DOT) adopted amendments to the Part titled Chief Procurement Officer for the Department of Transportation – Contract Procurement (44 IAC 6; proposed at 48 Ill Reg 1753) effective 7/1/24 at 48 Ill Reg 10137, 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: Bill Grunloh, Chief Procurement Officer, IDOT, 2300 S. Dirksen Parkway, Springfield IL 62764, 217-558-5434.

DES PUBLIC INFORMATION

The DEPARTMENT OF EMPLOYMENT SECURITY adopted amendments to

Access to Records of the Department of Employment Security (2 IAC 1301; proposed at 47 Ill Reg 18212) effective 6/28/24 at 48 Ill Reg 10197. The rulemaking originally was intended to replace statutory text from the Freedom of Information Act (FOIA) with cross references to FOIA so that the rule would not have to be changed whenever the statutory text is changed. Since 1st Notice, however, DES has restored and updated most of the statutory text that had been stricken.

Questions/requests for copies: Kevin Lovellette, DES, 33 S. State St., 9th Floor, Chicago, IL 60603, 312-793-1224, fax: 312-793-5645, Kevin.Lovellette@illinois.gov

Next JCAR Meeting: Tuesday, July 16, 11 a.m.

Room C-600, Bilandic Bldg., 160 N. LaSalle St., Chicago

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

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