

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.

Emergency Rules

■ NURSING HOMES

The DEPARTMENT OF PUBLIC HEALTH adopted an emergency amendment to Skilled Nursing and Intermediate Care Facilities Code (77 IAC 300; 44 Ill Reg 19551) effective 12/2/20 for a maximum of 150 days. The emergency rule requires frontline clinical and management staff at skilled and intermediate care facilities to undergo free COVID-19 training provided by the federal Centers for Medicare & Medicaid Services. At least 50% of staff must complete this training by 12/31/20, and all staff must complete training by 1/31/21. Topics addressed by the training program include infection control, personal protective equipment, disinfection, screening, surveillance, cohorting (i.e., housing infected persons in separate areas from non-infected persons), and caring for individuals with dementia during a pandemic. Frontline staff required

COVID-19 ACTIONS

Numerous Executive Orders and emergency rules have been issued in response to the COVID-19 pandemic. Executive Orders of the Governor concerning this pandemic can be accessed at <https://www2.illinois.gov/government/executive-orders>. Emergency rules adopted by State agencies will be summarized in The Flinn Report as they are published in the *Illinois Register*.

to complete this training include facility medical directors and nursing directors, treating physicians, nurses, aides, rehabilitation coordinators, social service directors, and any licensed physical, occupational or speech therapists. Volunteers, students, contractors, consultants and caregivers who provide or engage in direct care or services to

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Proposed Rulemakings

■ FILM & TV PRODUCTION

The DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY proposed amendments to Illinois Film Production Services Tax Credit Program (14 IAC 528; 44 Ill Reg 19363) clarifying aspects of DCEO's tax credit program for film and television production in Illinois. The rulemaking includes post-production expenses such as film editing, visual effects, matte painting, sound mixing, sound design, and sound, music and dialogue editing among expenses that can be used to claim the credit if these services are provided in Illinois by Illinois residents. Documentation of post-production costs must include a listing of all Illinois resident post-production staff and crew, along with their wages and fringe benefits, and any payments made to sub-vendors

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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

■ ANIMAL DISPOSAL

The DEPARTMENT OF AGRICULTURE adopted amendments to the Part titled Illinois Dead Animal Disposal Act (8 IAC 90; 44 Ill Reg 13156) effective 12/3/20, allowing livestock producers to dispose more readily of dead cattle, poultry or swine. This rulemaking replaces an emergency rule that was effective 5/7/20 and expired 10/3/20. Livestock owners, caretakers and animal collection services may dispose of dead livestock, poultry, fish, or captive wild animals by transporting them to any appropriate site (formerly, a landfill or a composting site approved by DOA). Carcasses may be composted without a roof over, or an impervious, weight-bearing foundation beneath, the entire composting area, and multiple composting bins are not required. Requirements for static pile composting of swine carcasses (e.g., a cover of at least 10 inches of carbon source at all times) are extended to composting of cattle, horses, sheep, goats, and other small animals. Disease vectors, dust, and litter must be controlled and animal carcasses must not be visible from public roads or habitable structures. Those affected by this rulemaking include livestock and poultry producers and animal disposal/rendering services.

Questions/requests for copies: Pamela Harmon, DOA, State Fairgrounds, PO Box 19281, Springfield IL 62794-9281, 217/524-6905, fax 217/785-4505.

STATE RETIREMENT

The STATE EMPLOYEES' RETIREMENT SYSTEM adopted amendments to The Administration and Operation of the State Employees' Retirement System of Illinois (80 IAC 1540; 44 Ill Reg 13312) effective 12/2/20, providing that participants in the Early Retirement Incentive program who elect a total buyout payment will not receive the age and service enhancement components of the ERI program unless they have paid the necessary costs prior to electing the buyout. If a member's spouse dies after the member has elected an accelerated pension benefit payment, no change shall be made to the calculation of the member's benefit payment. Semi-annual recertification of full-time student status (for dependent children) shall be required only if SERS is unable to verify, through data supplied by a third-party vendor, that the child is a full-time student. Finally, the Executive Secretary of SERS may designate a person to serve in his or her place on the Executive Committee; the Executive Secretary and Chairperson of the Board may also appoint alternate designees to serve in place of their previously appointed designees. Since 1st Notice, SERS has removed provisions that would have required mandatory direct deposit of any benefit payable on or after 1/1/21.

Questions/requests for copies: Jeff Houch, SERS, 2101 S. Veterans Pkwy., PO Box 19255,

Springfield IL 62794-9255, 217/524-8105, fax 217/557-3943, jeff.houch@srs.illinois.gov

WATER POLLUTION

The POLLUTION CONTROL BOARD adopted amendments to Pretreatment Programs (35 IAC 310; 44 Ill Reg 16097) effective 12/3/20, updating wastewater pretreatment requirements to correspond with US Environmental Protection Agency amendments adopted from 1/1 through 6/30/20.

BIOLOGICAL WASTE

PCB also adopted amendments to General Provisions (35 IAC 1420; 44 Ill Reg 1768) effective 12/3/20 adding, to its rules concerning potentially infectious medical waste, Guarinito virus, Sabia, Ebola, and Equine Morbillivirus to the list of Class 4 etiologic agents that are extremely hazardous to laboratory personnel or may cause serious epidemic disease. These additions are based on National Institutes of Health guidelines issued in 2019.

Questions/requests for copies of the 2 PCB rulemakings: Chloe Cummings, PCB, 100 W. Randolph, Ste. 11-500, Chicago IL 60601, 312/814-3665, chloe.cummings@ilinois.gov. Please reference docket R21-8 for Part 310 and docket R20-17 for Part 1420.

Emergency Rules

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residents on behalf of a facility are also considered frontline staff who must complete the training program. Nursing homes are affected by this emergency rule.

Questions/requests for copies: Elizabeth Paton, DPH, 535 W. Jefferson St., 5th Fl., Springfield IL 62761, 217/782-2043, dph.rules@illinois.gov

■ DRIVING SCHOOLS

The SECRETARY OF STATE adopted an emergency amendment to the Part titled Commercial Driver Training Schools (92 IAC 1060; 44 Ill Reg 19567) effective 12/1/20 for a maximum of 150 days. An identical proposed amendment appears in this week's *Illinois Register* at 44 Ill Reg 19465. The emergency and proposed rulemakings extend provisions allowing driver training schools to offer virtual/remote classroom instruction (previously scheduled to expire on 12/31/20) until Phase 5 of the Restore Illinois pandemic recovery plan is attained in the region in which the school is located. The rulemakings also clarify that virtual/remote instructors must be licensed by SOS. Private driver training schools are affected by these rulemakings.

Questions/requests for copies/comments on the proposed rulemaking through 2/1/21: Brenda Glahn, SOS, 298 Howlett Bldg., Springfield IL 62756, bglahn@ilsos.gov

MORTGAGE ASSISTANCE

The ILLINOIS HOUSING DEVELOPMENT AUTHORITY adopted emergency amendments to Emergency Mortgage Assistance (EMA) Program (47 IAC 301; 44 Ill Reg 19543) effective 12/4/20, amending a Part adopted by emergency rule (44 Ill Reg 17458) effective 10/16/20 for the remainder of its 150-day term. The amendments increase from \$15,000 to \$25,000 the maximum allowable grant IHDA may make on behalf of an eligible individual borrower to a mortgage loan servicer. (The EMA Program, and the parallel Emergency Rental Assistance (ERA) Program, provide assistance to home owners and renters who have not been able to make timely mortgage or rent payments due to loss of income related to the COVID-19 pandemic.)

Questions/requests for copies: Maureen Ohle, IHDA, 111 E. Wacker Dr., Suite 1000, Chicago IL 60601, 312/836-7416.

■ DFPR HEARINGS

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION adopted an emergency amendment to Rules of Practice in Administrative Hearings (68 IAC 1110; 44 Ill Reg 19537) effective 12/2/20 for a maximum of 150 days. An identical proposed amendment appears in this week's *Register* at 44 Ill Reg 19439. The emergency and proposed rulemakings provide for

various types of DFPR administrative hearings to be conducted by teleconference or videoconference. Preliminary hearings and status hearings may be conducted remotely by order of an administrative law judge; formal hearings may be conducted partially or entirely remotely upon the motion of any party, provided that the ALJ approves the request. Portions of a hearing that can be conducted remotely include witness testimony. In deciding whether to allow a remote hearing, the ALJ may consider factors such as whether the hearing participants have internet access, whether the hearing method chosen is accessible to persons with disabilities or health risks, and the volume or type of exhibits being offered. Persons with pending proceedings before DFPR, such as hearings on professional licensing, are affected by this emergency and proposed rule.

Questions/requests for copies/comments on the proposed rulemaking through 2/1/21: Craig Cellini, DFPR, 320 W. Washington St., 2nd Fl., Springfield IL 62786, 217/785-0813, fax 217/557-4451.

Proposed Rulemakings

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domiciled in Illinois. Up to \$100,000 in wages, fringe benefits and payments to sub-vendors may be reported toward the tax credit. The rulemaking also aligns with current statute the definition of businesses owned by minorities, women or persons with disabilities (part of the diversity impact data that claimants of the credit must report to DCEO). Those affected by this rulemaking include film and TV production crews and actors and extras appearing in Illinois-based film or TV productions.

Questions/requests for copies/comments through 2/1/21: Jolene Clarke, DCEO, 500 E. Monroe St., Springfield IL 62701, jolene.clarke@illinois.gov

SCHOOLS

The STATE BOARD OF EDUCATION proposed amendments to Public Schools Evaluation, Recognition and Supervision (23 IAC 1; 44 Ill Reg 19383) that will, upon adoption, replace emergency amendments effective 9/29/20 (44 Ill Reg 16860) and 10/23/20 (44 Ill Reg 17816). The rulemaking allows unlicensed personnel currently authorized to serve as supervisors, chaperones or sponsors of extracurricular activities to supervise students in the classroom when teachers are instructing from remote locations during public health emergencies declared by the Governor. These unlicensed individuals must work under the direction of the remote

teacher and of licensed personnel physically present in the same school building and cannot enact student discipline (only licensed personnel can administer discipline). The rulemaking also provides that during a public health emergency declared by the Governor, the deadline for reporting results of the annual Kindergarten Individual Development Survey (KIDS) of pupil readiness (normally, after the 40th day of student attendance) will be set by the State Superintendent.

Questions/requests for copies/comments through 2/1/21: Azita Kakvand, SBE, 100 N. First St., Springfield IL 62777-001, 217/782-6510, rules@isbe.net

LENDERS

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION proposed amendments to Consumer Installment Loan Act (38 IAC 110; 44 Ill Reg 19409), State Finance Agency Act (38 IAC 160; 44 Ill Reg 19420) and Payday Loan Reform Act (38 IAC 210; 44 Ill Reg 19429) clarifying the definition of a “controlling person” in relation to the entities licensed and regulated under these Parts. A controlling person is a person, entity, or ultimate equitable owner that owns or controls 10% or more of stock in the license applicant; that controls, directly or indirectly, 25% or more of the licensee’s board of directors; that is not a depository institution (e.g., bank or savings bank) providing or lending funds equalling or exceeding 10% of a

licensee’s net worth; or that the Director of DFPR’s Division of Financial Institutions finds to be influencing management of the license applicant. An entity that applies for a license under any of these Parts must include information on such controlling persons (e.g., names, business and home addresses, business experience, and any felony convictions in the previous 10 years) in its application. When a new controlling person is added, the licensee must notify DFPR within 15 days; if the licensee is not a corporation it must request prior DFPR approval of the new controlling person and submit an amendment fee of \$1,000. Those affected by this rulemaking include payday and installment lenders and entities that purchase and resell existing loans and contracts.

APPRAISERS

DFPR also proposed amendments to Appraisal Management Company Registration Act (68 IAC 1452; 44 Ill Reg 19441) reflecting the statutory definition of an appraisal management company (AMC) as a business entity that provides appraisal management services for creditors and mortgage market participants, including real estate appraisal management services in preparation for consumer mortgage loans, and which oversees appraisers or appraiser panels. The rulemaking requires an AMC that is not owned or controlled by an insured depository

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institution (e.g., a bank) or regulated by a federal financial regulatory agency to establish and comply with processes and controls intended to insure that it hires only appraisers who are qualified and independent of the transaction for which the appraisal is being sought. All AMCs must enroll in the AMC National Registry and pay their National Registry fees on or before July 1 each year. These fees will be based on the age (less than or more than 1 year) and the number of appraisers who have performed appraisals for the AMC in Illinois during the previous year. Failure to pay these fees on time may result in assessment of a late fee or disciplinary action, including possible exclusion from the National Registry.

Questions/requests for copies/comments on the 4 DFPR rulemakings through 2/1/20:

Craig Cellini, DFPR, 320 W. Washington St., 2nd Fl., Springfield IL 62786, 217/785-0813, fax 217/557-4451.

■ VIDEO GAMING

The ILLINOIS GAMING BOARD proposed amendments to Video Gaming (General) (11 IAC 1800; 44 Ill Reg 19454) establishing standards for record retention by video gaming terminal operators. All licensed terminal operators must keep their business operation records in a place secure from theft, loss or destruction and make them available to IGB upon request. Records must be kept for the length of time established in the IGB Records Retention Schedule periodically published and updated by the IGB Administrator, or longer if required by State or federal law, general accounting/auditing procedures, or litigation needs. Records may be

maintained in print, in a digital format prescribed by the Administrator, or in any manner accessible to the Board and must be organized and indexed in a manner that provides immediate accessibility to Board agents. Records that must be kept include, but are not limited to, all forms, reports, ledgers, audit records, computer-maintained and generated data, promotional material, advertising, correspondence and personnel records. Licensees may not destroy any original book, record or document that these rules require them to maintain without prior approval of the Administrator. Licensed video gaming terminal operators are affected by this rulemaking.

Questions/requests for copies/comments through 2/1/20: Agostino Lorenzini, IGB, 160 N. La Salle St., Chicago IL 60601, IGB.RuleComments@igb.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 listed in next week's *Illinois Register* and considered at the January 12, 2021 JCAR meeting. Other items not published in the *Register* or The Flinn Report may also be considered. Further comments concerning these rulemakings should be addressed to JCAR using the contact information on page 1.

DEPT OF HUMAN SERVICES

Temporary Assistance for Needy Families (89 IAC 112; 44 Ill Reg 16400) proposed 10/9/20

IL LABOR RELATIONS BOARD

General Procedures (80 IAC 1200; 44 Ill Reg 16957) proposed 10/23/20

Representation Proceedings (80 IAC 1210; 44 Ill Reg 16964) proposed 10/23/20

Unfair Labor Practice Proceedings (80 IAC 1220; 44 Ill Reg 16972) proposed 10/23/20

Impasse Resolution (80 IAC 1230; 44 Ill Reg 16979) proposed 10/23/20

Gubernatorial Designation of Positions Excluded from Collective Bargaining (Repealer) (80 IAC 1300; 44 Ill Reg 16988) proposed 10/23/20

JCAR Meeting Actions

At its 12/15/20 meeting, the Joint Committee on Administrative Rules approved the following actions:

OBJECTION

JCAR objected to the Illinois Housing Development Authority implementing the Emergency Mortgage Assistance and Emergency Rental Assistance programs prior to the adoption of the emergency rulemakings titled Emergency Mortgage Assistance (EMA) Program (47 IAC 301; 44 Ill Reg 17458) and Emergency Rental Assistance (ERA) Program (47 IAC 379; 44 Ill Reg 17474). These rules were adopted more than a month after IHDA had opened, and had stopped accepting applications for, these grant programs. Implementing policy outside of rule is prohibited by the Illinois Administrative Procedure Act.

RECOMMENDATION

With respect to the Department of Human Services' emergency rule titled Temporary Assistance for

Needy Families (89 IAC 112; 44 Ill Reg 16513), although it recognizes the personnel shortages State agencies have experienced during the COVID-19 disaster period, JCAR recommends that DHS give more attention in the future to implementing regularly scheduled annual updates in a timely manner so it does not need to unduly resort to emergency rulemaking.

EXTENSIONS

JCAR and the respective agencies agreed to extend the Second Notice periods for the following rulemakings an additional 45 days. These rulemakings will be considered again at the January 12, 2021 meeting.

Pollution Control Board, Ethylene Oxide Ambient Air Monitoring (35 IAC 249; 44 Ill Reg 2216) proposed 1/31/20

State Board of Education, Public Schools Evaluation, Recognition and Supervision (23 IAC 1; 44 Ill Reg 12073) proposed 7/24/20

Joint Committee on Administrative Rules

Senator Bill Cunningham, *co-chair*

Representative Tom Demmer

Senator John F. Curran

Representative Michael Halpin

Senator Kimberly Lightford

Representative Frances Ann Hurley

Senator Tony Muñoz

Representative Steven Reick

Senator Sue Rezin

Representative André Thapedi

Senator Paul Schimpf

Representative Keith Wheeler, *co-chair*

**Vicki Thomas
Executive Director**