

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.

Adopted Rules

■ DRIVING SCHOOLS

The SECRETARY OF STATE adopted an amendment to the Part titled Commercial Driver Training Schools (92 IAC 1060; 44 Ill Reg 19465), effective 3/26/21, replacing an emergency amendment that was effective 12/1/20. The rulemaking allows driver training schools to continue offering virtual/remote classroom instruction until Phase 5 of the Restore Illinois pandemic recovery plan is attained in the region in which the school is located (formerly, until 12/31/20). The rulemakings also clarify that virtual/remote instructors must be licensed by SOS. Private driver training schools are affected.

Questions/requests for copies: Brenda Glahn, SOS, 298 Howlett Bldg., Springfield IL 62756, 217/785-3094.

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*.

Emergency Rules, Page 3

■ EXPLOSIVES & FIREWORKS

The DEPARTMENT OF NATURAL RESOURCES adopted amendments to the Part titled The Illinois Explosives Act (62 IAC 200; 44 Ill Reg 18816), effective 3/26/21, clarifying and updating current explosives

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Proposed Rulemakings

LEARNING STANDARDS

The STATE BOARD OF EDUCATION proposed amendments to Public Schools Evaluation, Recognition and Supervision (23 IAC 1; 45 Ill Reg 4313) implementing social science learning standards for grades K-12 that will be effective with the beginning of the 2022-23 school year. These standards, which are divided into inquiry standards (for teaching students how to gather and analyze information) and disciplinary standards (by which students demonstrate knowledge of the subject taught) elaborate and build upon SBE social science learning standards already in place through the 2021-22 school year. As outlined in the rulemaking, inquiry standards include teaching students how to use multiple sources of information 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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regulations. Definitions being added or revised include airblast (airborne waves resulting from detonation of explosives), blast zone (includes airblast and any areas where DNR-regulated fireworks are initiated), “attended at all times” (magazine and explosives are always within the line of sight of a member of the work or blasting crew), explosive devices (includes M-devices, quarter sticks, cherry bombs and pipe bombs exceeding federal weight limits for consumer fireworks), and water gels (explosives or blasting agents with a substantial proportion of water). Incorporated federal regulations and national standards are updated. Records related to the possession, use, transfer, storage or disposal of explosive material must be kept for 5 (formerly 3) years, and a federal waiver must be granted before any person convicted of a felony may be granted an explosives license. Persons using explosives in connection with mining, quarrying, construction, or manufacturing business operations are exempt from licensing under the Act provided that another person licensed under the Act is present at all times during explosive use and disposal. Temporary licenses for use or disposal of explosives may be issued no more than once every 3 years and require a fingerprint based background check. A Type 3 magazine (used for temporary containment of explosives during transport and use) must be attended at all times;

however, law enforcement agencies are exempt from this requirement. For aerial fireworks displays, the distance between the staging area and spectators must be at least 70 feet for each inch of diameter of the largest shell being used (e.g., if the largest shell is 2 inches in diameter, spectators must be kept at least 140 feet away). Those affected by this rulemaking include mining and construction businesses; municipalities or other organizations staging fireworks displays; and law enforcement agencies.

Questions/requests for copies: Amy Oakes, DNR, One Natural Resources Way, Springfield IL 62702, 217/782-1809.

SENTENCE CREDIT

The DEPARTMENT OF CORRECTIONS adopted amendments to Records of Offenders (20 IAC 107; 44 Ill Reg 13205) effective 4/1/21, implementing PA 101-440 and replacing emergency rules that expired 2/20/21. The rulemaking extends eligibility for earned discretionary sentence credit to offenders who have not been found guilty of a serious disciplinary offense during the previous 12 months (formerly, any serious disciplinary offense disqualified the offender from receiving this credit). Additionally, offenders serving sentences for crimes committed prior to 6/19/98, excluding those serving natural life terms, may receive 45 or 90 days of earned program sentence

credit for programming completed prior to 1/1/20 (e.g., drug or alcohol abuse treatment programs) if completion of the programming is documented by DOC, a third party or another source. Persons convicted of sex offenses cannot receive this credit unless they successfully complete or are enrolled in sex offender treatment. Offenders may also receive 180 days of earned program sentence credit, in addition to other awards of earned sentence credit, if they complete a higher education degree while incarcerated or held in pre-trial detention and have not previously obtained a degree.

DOC REPEALERS

DOC also repealed the Parts titled Reimbursement for Expenses (20 IAC 110; 44 Ill Reg 13833) and Closed Maximum Security Facility (20 IAC 505; 44 Ill Reg 13839) effective 4/1/21. Part 110 was repealed because PA 101-235 repealed provisions under which DOC formerly charged offenders for the cost of incarceration. Part 505 was repealed because DOC no longer operates a Closed Maximum Security facility at Tamms Correctional Center.

Questions/requests for copies of the 3 DOC rulemakings: Kess Roberson, DOC, 1301 Concordia Court, PO Box 19277, Springfield IL 62794-9277, 217/558-2200 ext. 6507, kess.roberson@doc.illinois.gov

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Proposed Rulemakings

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determine their credibility; distinguish between fact and opinion; consider multiple perspectives; construct supportable arguments with clearly explained data and reasoning; and (at the high school level) determine what actions will promote “increased equity, inclusion and community good”. Disciplinary standards for various social science subjects include, but are not limited to, the following, most of which are already included in some form in the current social science standards:

Civics – Identify the roles and responsibilities of community leaders, how communities make decisions and enact rules, and how these decisions affect people (K-3); explain the roles/responsibilities of local, state and national government officials and the impact of the laws they enact (grades 4-5); understand the rights and responsibilities of citizenship, including the U.S. and Illinois constitutions, and the roles of political parties, media, interest groups, etc. (grades 6-8); analyze constitutions, laws and agreements to determine the degree to which they promote justice, equality and liberty (grades 9-12); evaluate public policies for their intended and unintended outcomes, including their impact on marginalized communities (grades 9-12).

Economics – Explain how individuals choose among items they want or need and how they

Emergency Rules

STUDENT ASSESSMENTS

The STATE BOARD OF EDUCATION adopted an emergency amendment to Public Schools Evaluation, Recognition and Supervision (23 IAC 1; 45 Ill Reg 4543) effective 3/24/21 for a maximum of 150 days. This emergency rule allows the State assessment that normally must be administered to students in grade 11 to be administered in grade 11 or grade 12 when the Governor has declared a disaster due to a public health emergency and the U.S. Department of Education has granted SBE a waiver from accountability assessments.

BILINGUAL EDUCATION

SBE also adopted an emergency amendment to Transitional Bilingual Education (23 IAC 228; 45 Ill Reg 4558) effective 3/24/21 for a maximum of 150 days, concerning screening and placement of preschool through 12th grade students whose native

earn money to purchase them (K-2); explain saving and borrowing, how banks and businesses operate, and the purpose of taxes and government spending (grades 3-5); explain supply and demand; national/international trade; inflation; the labor market and unemployment; the economic impact of entrepreneurship/invention; and the economic impact of corporations, unions, non-profits and other institutions

language is not English and have not yet attained English fluency. The emergency rule allows a provisional screening instrument designated by the State Superintendent to be used when students are participating in remote learning due to a health and safety emergency. If the emergency ends before the annual English Proficiency Exam, students who received the provisional screening and have not yet taken the proficiency exam will be screened with one of the two screening instruments currently prescribed in rule. If a student takes the English Proficiency Exam after the provisional screening, the exam results will be used for screening purposes and the student will not require additional screening.

Questions/requests for copies of the 2 SBE emergency rules: Azita Kakvand, SBE, 100 N. First St., Springfield IL 62777-0001, 217/782-6510, rules@isbe.net

(grades 6-8); evaluate different market structures (e.g., competitive market, oligopoly, monopoly) and the economic impact of government policies (grades 9-12); attain personal financial literacy, including an understanding of budgeting, banking, credit, mortgage lending, and investing (grades 9-12).

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Adopted Rules

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■ INSTALLMENT 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), all effective 3/24/21, clarifying the definition of a “controlling person” in relation to the lenders 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 application. 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.

■ LAND SURVEYORS

DFPR also adopted an amendment to Illinois Professional Land Surveyor Act of 1989 (68 IAC 1270; 44 Ill Reg 16065), effective 3/25/21, replacing an emergency amendment that expired on 2/11/21. The rulemaking removed a cap on hours of continuing education that can be completed online. A change since 1st Notice clarifies that credit will be given for self-study courses only if an examination has been completed by the licensee and graded by the sponsor. Persons seeking to renew land surveying licenses are affected.

■ DFPR HEARINGS

DFPR adopted an amendment to Rules of Practice in Administrative Hearings (68 IAC 1110; 44 Ill Reg

19439) effective 3/24/21, replacing an emergency amendment that was effective 12/2/20. The rulemaking provides 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 rulemaking.

Questions/requests for copies of the 5 DFPR rulemakings: 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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Geography – Use print and digital maps, identify the physical and cultural characteristics of various regions, and understand how people and goods move from place to place (K-2); explain the impact of human and natural activity, including catastrophic events, on the environment and how it affects settlement and migration (grades 3-5); explain how changes in transportation and communication affect the spread of ideas and culture and how long-term, human-induced environmental change could influence conflict and cooperation (grades 6-8); analyze different ways of representing geographic information in order to compare cartographers’ perspectives, biases, and goals (grades 9-12); explain how characteristics of culture and personal identity shape an individual’s worldview (grades 9-12).

History – Create a chronological sequence of events, compare life in the past to life today, and identify the significance of the national holidays and diverse historical figures (K-2); learn how to use and evaluate historical sources and identify the causes and effects of various historical events (grades 3-5); analyze and compare factors that influenced the perspectives of various groups of people during different historical eras (grades 6-8); detect possible biases and limitations in the historical record by identifying the author, the intended purpose, the intended audience, and the author’s source

of support/funding (grades 6-8); analyze the concept of the “American Dream” and factors that promote or prevent its attainment for various groups (grades 9-12); analyze the geographic and cultural factors that promote conflict and cooperation and the causes and effects of imperialism and colonization (grades 9-12).

Anthropology (grades 9-12 only) – Explain how cultures develop and vary in their responses to physical and social environment; evaluate one’s own cultural assumptions using anthropological concepts; apply anthropological concepts to everyday, real-life situations; explain how local actions can have global consequences.

Psychology (grades 9-12 only) – Identify the scientific methodologies used in psychological research; evaluate the conclusions reached in psychological research, including ethical concerns; understand a variety of psychological perspectives, concepts and theories; analyze how biological, psychological and sociocultural factors influence human behavior.

Sociology (grades 9-12 only) – Identify a variety of sociological perspectives and theories; analyze the impact of social structure and social relationships on individuals; analyze the impact of stratification and inequality on groups and individuals.

Questions/requests for copies/ comments through 5/24/21: Azita

Kakvand, SBE, 100 N. First St., Springfield IL 62777-0001, 217/782-6510, rules@isbe.net

AABD BENEFITS

The DEPARTMENT OF HUMAN SERVICES proposed an amendment to Aid to the Aged, Blind or Disabled (89 IAC 113; 45 Ill Reg 4389) implementing the annual adjustment for inflation of the exemption for prepaid funeral/burial expenses. The exemption is increasing to \$6,774 (currently, \$5,874) per individual or \$13,548 (currently, \$11,748) for a married couple.

Questions/requests for copies/ comments through 5/24/21: Tracie Drew, DHS, 100 S. Grand Avenue East, 3rd Floor, Springfield IL 62762, 217/785-9772.

SALES TAX EXEMPTION

The DEPARTMENT OF REVENUE proposed an amendment to Retailers’ Occupation Tax (86 IAC 130; 45 Ill Reg 4402) implementing PA 101-629, which retroactively reinstated a sales tax exemption for materials, parts, equipment, and other items purchased for aircraft construction, repair or maintenance. The PA and this rulemaking retroactively authorize the exemption from 12/31/14 (the original sunset date of the exemption) through 12/31/24. However, no credit or refund may

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Proposed Rulemakings

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be made for taxes paid from 1/1/15 through the effective date of the PA (2/5/20). Those affected by this rulemaking include individuals or businesses that own or operate aircraft.

■ TELECOMMUNICATIONS TAX

DOR also proposed amendments to Telecommunications Excise Tax (86 IAC 495; 45 Ill Reg 4426) that add provisions for registration of telecommunications retailers subject to the tax and for revocation of this registration. Registration certificates are valid for 1 year and will be automatically

renewed annually unless the retailer, or any person named as an owner, officer, manager, or other official of that retailer on its registration application, is delinquent in paying any State or local taxes. DOR must give 60 days' notice to any retailer whose registration is not being automatically renewed; this notice must include the amount and type of delinquent tax owed. The retailer has 20 days after receiving the notice to file an appeal and request a hearing, otherwise the DOR decision becomes final. Registration may be renewed if the retailer works out a payment plan with DOR for the delinquent tax. A retailer's current registration

may be revoked for any violation of this Part. DOR must conduct a hearing before revoking a registration; the retailer must receive notice of the alleged violation at least 90 days before revocation and at least 7 days before the scheduled hearing. Those affected by this rulemaking include businesses that sell or provide telecommunication services directly to clients or to guests (e.g., hotels).

Questions/requests for copies/comments on the 2 DOR rulemakings through 5/24/21: Alexis K. Overstreet, DOR, 101 W. Jefferson St., Springfield IL 62794, 217/782-2844.

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 be listed in next week's *Illinois Register* and considered at the May 18, 2021 JCAR meeting. Further comments concerning this rulemaking should be addressed to JCAR using the contact information on page 1.

STATE EMPLOYEES' RETIREMENT SYSTEM

The Administration and Operation of the State Employees' Retirement System of Illinois (80 IAC 1540; 44 Ill Reg 1464) proposed 2/5/21

Joint Committee on Administrative Rules

Senator Bill Cunningham, *co-chair*
Senator John F. Curran
Senator Donald DeWitte
Senator Kimberly Lightford
Senator Tony Muñoz
Senator Sue Rezin

Representative Tom Demmer
Representative Michael Halpin
Representative Frances Ann Hurley
Representative Steven Reick
Representative Curtis J. Tarver, II
Representative Keith Wheeler, *co-chair*

Kim Schultz
Executive Director