

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

▪ CLEAN JOBS PROGRAMS

The DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY proposed four new Parts titled Energy Transition Navigators Program (14 IAC 820; 48 Ill Reg 10512), Returning Residents Clean Jobs Training Program (14 IAC 830; 48 Ill Reg 10534), Clean Jobs Workforce Network Program (14 IAC 840; 48 Ill Reg 10564) and Illinois Climate Works Pre-Apprenticeship Program (14 IAC 850; 48 Ill Reg 10592) implementing Public Act 102-662, the Climate and Equitable Jobs Act (CEJA). Each Part establishes a competitive grant program targeting equity investment eligible individuals and communities, including but not limited to: residents of economically disadvantaged or environmental justice communities; displaced energy workers and their dependents; currently or formerly incarcerated persons; and individuals who have aged out of the foster care system. Applicant organizations must meet

the requirements of the Grant Accountability and Transparency Act (GATA). A uniform training curriculum (with modifications for Part 830) will also be used across each program. Those affected by these rulemakings include community-based non-profit organizations, apprenticeship and job training programs, construction contractors, and employers in the clean energy sector.

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Energy Transition Navigators

Part 820 establishes the Energy Transition Navigators program that will award 14 grants to community-based providers in Chicago (South Side and Southwest/West Sides), Waukegan, Rockford, Aurora, Joliet, Peoria, Champaign, Danville, Decatur, Carbondale, East St. Louis, Kankakee, and Alton. The purpose of the

Navigator grants is to provide education, outreach and recruitment services to eligible populations to ensure they are aware of and engaged in DCEO's statewide and local workforce training and contractor development programs (including, but not limited to, the programs established in Parts 830, 840 and 850), other existing clean jobs programs, and services offered under the Energy Transition Barrier Reduction Program. Grantees will prioritize individuals eligible for the Clean Jobs Workforce Network Program or the Illinois Climate Works Pre-Apprenticeship Program.

Returning Residents

Part 830 establishes the Returning Residents Program, which will prepare residents of Department of Corrections facilities who are within 36 months of release to work in clean energy and related sector jobs upon

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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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release. Grants will be awarded to community-based organizations and their partners to deliver clean energy jobs training in DOC facilities. Training will include classroom instruction and hands-on learning opportunities, connect program graduates with potential employers in the clean energy industry, and address participants' needs for supportive services. The program will also continue to provide support to participants after release as they prepare for and transition into employment or to another training program. DOC will exercise sole discretion regarding residents who are permitted to enroll in the program. The warden or superintendent of a participating DOC facility may deny entry to a program instructor or staff member due to safety or security concerns, or if the instructor/staff member does not follow required security protocols.

Clean Jobs Programs

Part 840 establishes the Clean Jobs Workforce Program, which will award grants to community-based organizations and their subcontractors in at least 14 "hub" sites in the same communities listed under Part 820 (Energy Transition Navigators Program). Subject to appropriation, each hub will receive funding from the Energy Transition Barrier Reduction Program to provide educational, training and support services as needed for eligible individuals. Eligible individuals include persons experiencing barriers to employment such as low educational attainment, involvement with the criminal justice system, or language barriers. The goal of this program is to prepare eligible individuals for entry-

level jobs in the clean energy sector. Part 850 establishes a network of 3 Climate Works Hubs (one each in Illinois Department of Transportation Region 1, Regions 2 and 3, and Regions 4 and 5) to recruit, prescreen, and provide pre-apprenticeship skills training, which participants may attend free of charge and receive a stipend, to create a qualified, diverse pipeline of workers who are prepared for careers in the construction and building trades and clean energy jobs opportunities therein. Subject to appropriation, these hubs will also receive Energy Transition Barrier Reduction Program funding to provide wrap-around supportive services as needed for eligible individuals.

- CONSTRUCTION BID CREDITS

DCEO also proposed amendments to the Part titled Illinois Works Jobs Program Act (14 IAC 680; 48 Ill Reg 10489) that add provisions for a new Illinois Works Bid Credit Program and also update other aspects of the Illinois Works Jobs Program. The rulemaking provides that eligible contractors and subcontractors may earn bid credits, applicable to future bids on State projects, for employing qualified apprentices. Credits are determined by the mean statewide wage for the applicable construction trade, the number of hours worked by qualified apprentices, and how long the apprentices remain employed, up to a maximum \$4,500 credit for employing an individual who completes 6 years of apprenticeship and becomes a journeyman. To participate in the bid credit program, contractors and subcontractors must submit monthly reports of work performed by each qualified apprentice and send payroll documentation to DCEO (if the work was performed on a non-public works project) or the Illinois Department of Labor (if the work was for a public works project). DCEO will record and

track all credits in the Illinois Works Credit Bank and issue bid credit certificates to contractors that earn credits. A list of active Bid Credit Program participants and available bid credits will be published on the DCEO website. Bid credits will expire 10 years after they are earned. When a public works project is opened for bid, the awarding authority will advise contractors that they may use bid credits, and note the maximum amount of bid credits that can be applied to the project: for projects under \$5 million, 3% of total project cost; for projects of \$5 million up to \$50 million, 4% of project cost; for projects of \$50 million or more, 5% of project cost. A contractor may use bid credits to outbid, by no more than \$1, the lowest qualified and responsible bidder that does not use bid credits. If two or more bidders that use bid credits end up bidding the same amount, pre-existing selection criteria will be used to select the winning bidder, with no advantage to the bidders using credits. Bid credits not applied to the project will be returned to the contractor. Bid credits may be combined for specific projects or transferred to another entity as the result of a merger or acquisition, but may not be bought, sold or gifted to another contractor. Additionally, this rulemaking updates apprenticeship goals for various programs and allows these goals to be waived if the contractor or subcontractor demonstrates that not enough graduates of the Illinois Works Pre-Apprenticeship Program are available to meet the requirements of this Part. Penalties for intentional failure to comply with the program now include termination of the project contract or agreement involved, the contractor being barred from bidding on State projects for 3 years, a monetary penalty of up to 25% of the contract cost, or any combination of these

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Proposed Rulemakings

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penalties. Those affected by this rulemaking include construction trades apprenticeship programs and construction businesses that bid on public works projects.

Questions/requests for copies/comments on the 5 DCEO rulemakings through 9/3/24: Gina Arterberry, DCEO, 1011 S. Second St., Springfield IL 62704-3004, 217-524-8974, Gina.M.Arterberry@Illinois.gov

CHILD WELFARE

The DEPARTMENT OF CHILDREN AND FAMILY SERVICES proposed amendments to Placement and Visitation Services (89 IAC 301; 48 Ill Reg 10483) that add a definition of "qualified residential treatment facility" in accordance with federal law and clarify that children in group homes may be placed in qualified residential treatment facilities only after an independent assessment is completed and no other less restrictive setting is found to be

appropriate. A qualified residential treatment facility must have registered or licensed nursing staff and other licensed clinical staff who are on-site according to a trauma informed treatment model and available 24 hours a day, 7 days a week; provide care within the scope of their practice; and are able to conduct an independent assessment of a child's current functioning. Qualified residential treatment facilities must also facilitate participation of the family in the child's treatment program; facilitate outreach to the child's family (including siblings) and maintain contact information for any known family or fictive kin (non-relatives who have a family-like relationship with a child); document how family will be integrated into the treatment process and how sibling relationships will be maintained; provide discharge planning and family-based aftercare support for at least 6 months after discharge; and be accredited by an independent, not-for-profit accrediting organization approved by the federal Department of Health and Human Services. Group homes and qualified residential treatment facilities serving children and youth in DCFS care are affected.

Questions/requests for copies/comments through 9/3/24: Tamara Bristow, DCFS, 406 E. Monroe St., Station #65, Springfield IL 62701-1498, 217-524-1983, fax 217-557-0692, DCFS.Policy@illinois.gov

•VIDEO GAMING

The ILLINOIS GAMING BOARD proposed an amendment to Video Gaming (General) (11 IAC 1800; 48 Ill Reg 10618) that aligns the definition of a video gaming terminal in this Part with the definition contained in the Video Gaming Act. The rulemaking permits "insertion of cash, electronic cards or vouchers, or any combination thereof" (current rule only mentions cash) in a video gaming terminal to place a wager. Video gaming terminal operators and licensed video gaming locations may be affected by this rulemaking.

Questions/requests for copies/comments through 9/3/24: Daniel Gerber, IGB, 160 N. LaSalle St., Chicago IL 60601, 312-814-4700, fax 312-814-7253, IGB.RuleComments@illinois.gov

JCAR Meeting Action

At its 7/16/24 meeting, the Joint Committee on Administrative Rules approved the following actions. Proposed rulemakings from this agenda that are not listed below received No Objection and may be adopted by their agencies. Emergency rules not acted upon at this meeting may be reconsidered at later meetings.

OBJECTION AND FILING PROHIBITION

JCAR objects to and prohibits the filing of the Department of Human Services rulemaking titled Fiscal/Administrative Fiscal/Administrative Recordkeeping and Requirements (89 IAC 509; 48 Ill Reg 2769) because the Department has not provided adequate rationale for allowable and unallowable cost restrictions as required by 1 Ill. Adm. Code 220.900(a)(2)(A). Also, no standards for Agency discretion are present as required by 1 Ill. Adm. Code 220.900(a)(1)(B). JCAR further finds that this proposed rulemaking constitutes a serious threat to the public interest.

OBJECTION

JCAR objects to the Department of Innovation and Technology rulemaking titled Uniform Electronic Transaction Act (14 Ill. Adm. Code 2000; 48 Ill. Reg. 1122) because the rulemaking fails to meet 1 Ill. Adm. Code 220.900(a)(1)(B), which requires a rulemaking to comply with the statutory authority and legislative intent on which the rulemaking is based. Section 18 of the Uniform Electronic Transactions Act [815 ILCS 333] requires the Department to adopt administrative rules that specify the manner and format in which electronic records and signatures be utilized by State agencies. The proposed rulemaking instead instructs each State agency to adopt an electronic record and signature policy, providing no uniform standards. The Department has indicated its intention to withdraw the rulemaking in response to an Objection.

Adopted Rules

▪ SALES TAXES

The DEPARTMENT OF REVENUE adopted amendments to Retailers' Occupation Tax (86 IAC 130; proposed at 48 Ill Reg 3576) and Automobile Renting Occupation Tax (86 IAC 180; proposed at 48 Ill Reg 3640), both effective 7/2/24 at 48 Ill Reg 10646 and 10757, implementing various clarifications and updates. The Part 130 rulemaking updates examples of what is considered a purchase for use or a purchase for resale; removes an outdated production related exemption; excludes from the definition of machinery or equipment any special foundations or structures built to support or house this equipment; and clarifies that preparation of food or beverages for immediate consumption is not manufacturing and the purchase of equipment for this purpose (e.g., soda fountain dispensers, soft serve ice cream machines) is not subject to the tax exemption for purchases of manufacturing equipment. Equipment used for general heating, cooling, ventilation or lighting is also not exempt. Other provisions clarify when physicians, surgeons, chiropodists, osteopaths, chiropractors, optometrists, and opticians are liable for retail occupation taxes or service occupation taxes; clarify tax rules applicable to non-profit hospital cafeterias and college/university dining facilities that are open to the public; and update cross references. The Part 180 amendment updates an incorporation of retailers' occupation tax rules in 86 IAC 130. Small

businesses and non-profit entities may be affected by these rulemakings.

▪ SERVICE TAX

DOR also adopted amendments to the Part titled Service Use Tax (86 IAC 160; proposed at 48 Ill Reg 1598) effective 7/2/24 at 48 Ill Reg 10710, reflecting numerous statutory changes and updates. The rulemaking rearranges many existing provisions, inserts or removes applicable statutory text, and removes outdated provisions. It also updates the list of transactions exempt from service use tax and the statutory definition of a "serviceman maintaining a place of business in this State" who is subject to service use tax. This definition now includes, effective 10/1/18, sellers who meet the Wayfair nexus test (more than \$10,000 in gross sales, or more than 200 individual sales transactions, to Illinois residents in a 12-month period) and, effective 1/1/20, marketplace facilitators (e.g., Amazon, eBay). The rulemaking also lists the effective dates, rates, and formulas for taxes on gasohol, ethanol, and biodiesel fuels and states that food prepared for immediate consumption (normally taxed at 6.25% or higher) and delivered to a hospital, long-term care facility, or Specialized Mental Health Rehabilitation Facility shall be taxed at 1%. Retailers and servicemen subject to service use tax are affected by this rulemaking.

Questions/requests for copies of the 3 DOR rulemakings: Parts 130 and 180, Kimberly Rossini; Part 160, Alexis K.

Overstreet; DOR, 101 W. Jefferson St., Springfield IL 62794, 217-782-2844, REV.GCO@illinois.gov

AABD BENEFITS

The DEPARTMENT OF HUMAN SERVICES adopted amendments to Aid to the Aged, Blind or Disabled (89 IAC 113; proposed at 48 Ill Reg 2021) effective 7/3/24 at 48 Ill Reg 10618, reflecting the 2024 cost of living increase for Supplemental Security Income (SSI) payments. The rulemaking increases the grant adjustment allowance from \$735.90 to \$764.90 and increases all sheltered care, personal care and nursing care rates by \$29 per month.

SNAP BENEFITS

DHS also adopted an amendment to Supplemental Nutrition Assistance Program (SNAP) (89 IAC 121; proposed at 48 Ill Reg 1582) effective 7/3/24 at 48 Ill Reg 10630, concerning financial eligibility. Current rule establishes a standard medical deduction for both group home and Supportive Living Facility (SLF) residents of \$450 per month; this rulemaking removes the reference to SLF residents. This rulemaking reflects the expiration of a federal waiver that allowed SLF residents to qualify for SNAP benefits.

Questions/requests for copies of the 2 DHS rulemakings: Tracie Drew, DHS, 100 S. Grand Ave. East, 3rd Floor, Springfield IL 62762, 217-785-9772.

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 August 14, 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.

SECRETARY OF STATE

School Bus Driver Permit (92 IAC 1035; 48 Ill Reg 5663) proposed 4/12/24

Cancellation, Revocation or Suspension of Licenses or Permits (92 IAC 1040; 48 Ill Reg 5668) proposed 4/12/24

License Provisions Violations (Repealer) (92 IAC 1050; 48 Ill Reg 5690) proposed 4/12/24

Next JCAR Meeting: Wednesday, Aug. 14, 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

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