

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

▪ SENIOR SERVICES

The DEPARTMENT ON AGING proposed amendments to the Part titled Older Americans Act Programs (89 IAC 230; 48 Ill Reg 2731). This proposed rulemaking introduces a definitions Section that defines terms such as Area Agency on Aging (AAA), area plan, means test, multipurpose senior center, and other terms commonly used in relation to DonA programs. It also updates provisions related to nutrition programs, which now include congregate meals, home delivered meals and nutrition counseling/education. Nutrition services providers must provide congregate or home delivered meals at least 5 days per week (except in rural areas where this frequency is not feasible), train their staff in food safety, and have written emergency plans to ensure continued services (e.g., providing shelf-stable meals, shifting to an alternate distribution site). Other provisions update

requirements for home health services and housekeeping services; clarify restrictions on political activity by legal services provider organizations or attorneys; and stipulate that any incorporated rules or standards of a federal government or private agency do not include any amendments or editions beyond the date specified. Agencies that provide senior services are affected.

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Questions/requests for copies/comments through 4/8/24: Priscilla Chapman, DonA, One Natural Resources Way, Suite 100, Springfield IL 62702-1271, 217-606-1206, aging.rulemaking@illinois.gov

▪ DHS GRANTS

The DEPARTMENT OF HUMAN SERVICES proposed amendments to the Part titled Fiscal/Administrative

Recordkeeping and Requirements (89 IAC 509; 48 Ill Reg 2769) updating its requirements and procedures for grants to government bodies, non-profit or for-profit organizations, or institutions of higher education. An award is defined as a grant or other agreement in the form of money or property by DHS or the federal government to an eligible recipient. The general lists of allowable and unallowable costs are updated, but the ultimate determination of what costs are allowable depends on the funding program. Other provisions clarify management and accounting requirements and update provisions related to nondiscrimination in hiring. Small businesses or non-profit organizations may be affected.

Questions/requests for copies/comments through 4/8/24: Tracie Drew, DHS, 100 S. Grand Ave. East, 3rd Floor, Springfield IL 62762, 217-785-9772, DHS.AdministrativeRules@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.

Adopted Rules

• ASSAULT WEAPONS

The ILLINOIS STATE POLICE adopted amendments to the Part titled Firearm Owner's Identification Card Act (20 IAC 1230; proposed at 47 Ill Reg 13846) effective 2/8/24 at 48 Ill Reg 2881, replacing emergency rules that were effective 9/15/23. This rulemaking, which has undergone significant changes since 1st Notice, implements provisions of the assault weapons ban (Protect Illinois Communities Act (PICA)) in Public Act 102-1116, requiring persons who have possessed affected firearms since before 1/10/23 (the effective date of the PA) to register them with ISP. Those affected by these rulemakings include local law enforcement agencies and officers; businesses that possess or transfer firearms; and private security personnel.

Affected Firearms

The rulemakings include an Appendix A listing firearms classified as assault weapons, which can no longer be sold or purchased in Illinois as of 1/10/23 and must be registered with ISP if they were legally possessed prior to that date. Items classified as assault weapons include the following:

- All AK, AR, or Thompson rifles;
- All AK, AR, MAC or Thompson pistols;
- Semiautomatic rifles and pistols with either detachable magazines or fixed magazines with a capacity of more than 10 rounds for rifles or 15 rounds for pistols, plus certain additional features;
- Shotguns with revolving cylinders;
- Semiautomatic shotguns with certain additional features;
- Semiautomatic firearms that can accept belt ammunition feeding devices;
- Any firearm modifiable to meet the definition of an assault weapon;

-- Any part or combination of parts that can be assembled into an assault weapon;

-- Numerous specific types and brands of rifles and pistols; and

-- Any copies, duplicates, variants, or altered facsimiles of the listed firearms that have the same capabilities. Assault weapon attachments, .50 caliber rifles, and .50 caliber cartridges must also be registered. Since 1st Notice, ISP has added more detailed definitions of "assault weapons attachment", "large capacity ammunition feeding device", and other items that must be registered.

The rulemakings also include an Appendix B clarifying which assault weapons are approved for hunting use. All assault weapons listed in Appendix A are approved for hunting white-tailed deer and various other animals if they meet criteria established by the Department of Natural Resources under the Wildlife Code and DNR hunting rules. Shotguns may be used for waterfowl and game bird hunting if they meet DNR criteria. However, no assault weapon may be used to hunt beaver, muskrat, badger, river otter, weasel, or mink.

ISP will post these lists on its website. They will be updated annually beginning 10/1/24 and every October 1 thereafter.

Endorsement Affidavits

Registration is accomplished by electronically filing an endorsement affidavit with ISP through its electronic FOID Card and Firearm Concealed Carry License system between 10/1/23 and 1/1/24. (Current FOID card holders have access to this system online or through ISP kiosks.) Persons in possession of these items who move to Illinois must apply for a FOID card and file an endorsement affidavit within 60 days after the move. The affidavit is completed

under oath or affirmation that all statements are true and correct and subjects the affiant to charges of perjury for submitting false information. The affidavit must include the person's FOID card number and affirm that:

-- the items listed in the endorsement were in one's possession prior to 1/10/23; or

-- were inherited from a person authorized to possess them; or

-- the affiant moved to Illinois after 1/10/23 in possession of these items; or

-- the affidavit is being filed voluntarily by a person exempt from the registration requirement.

The affidavit must also list the make, model, caliber and serial number of each assault weapon and .50 caliber rifle in the affiant's possession. Failure to complete an endorsement affidavit is a Class A misdemeanor or a Class 3 or 4 felony, depending on the circumstances of the offense.

Exemptions

The rulemakings exempt peace officers; qualified law enforcement officers and retirees; federal, State, and local law enforcement agencies that acquire assault weapons and attachments for their officers; and wardens, superintendents, and keepers of correctional institutions from the requirement to file endorsement affidavits. An exemption has been added since 1st Notice for clubs, organizations, businesses and companies, including but not limited to Federal Firearms Licensees, that own items subject to PICA.

The following persons are exempt if they possess assault weapons only in the course of their official duties: members of the U.S. military or Illinois National Guard; armed security personnel at nuclear energy, storage,

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weapons or development sites; and private security personnel licensed under the Private Detective, Private Alarm, Private Security, Fingerprint Vendor, and Locksmith Act of 2004. However, these persons must file endorsement affidavits if they possess assault weapons outside of their official duties.

Exceptions also apply to persons who possess assault weapons solely for hunting; participants in events at the World Shooting and Recreational Complex in Sparta; Olympic target shooting competitors and coaches; non-Illinois residents transporting assault weapons to a location where it is legal to possess them; and persons in possession of blank-firing assault weapons as props for use in a film, TV or video production or other entertainment event. These persons must file endorsement affidavits if they possess assault weapons outside of these circumstances. The proposed rulemaking adds examples of when the affidavit is and is not required. Since 1st Notice, ISP has further clarified when and where certain exemptions apply.

Surrender of Weapons

A person whose FOID card has been suspended or revoked under the FOID Act must surrender any assault weapons or attachments, .50 caliber rifles or .50 caliber cartridges in their possession to a law enforcement agency or to a person authorized to possess these items. (Since 1st Notice, ISP has clarified the procedures to be followed if the FOID suspension/revocation has been appealed.) If the weapons were surrendered to a law enforcement agency, they may be returned upon reinstatement of the FOID card. Those authorized to receive transfers of surrendered weapons include persons

and entities entirely or partially exempt from the requirement to file an endorsement affidavit, plus: any agency of the U.S. government; a person residing and maintaining lawful possession of these items in another state; or to a Federal Firearms License (FFL) holder for transfer to another state. The person or FFL making a transfer must confirm and document that the recipient is eligible to receive these items.

Questions/requests for copies: Suzanne Bond, ISP, 801 S. Seventh St., Suite 1000-S, Springfield IL 62703, 217-782-7658.

▪ SALES TAXES

The DEPARTMENT OF REVENUE adopted an amendment to Retailers' Occupation Tax (86 IAC 130; proposed at 47 Ill Reg 14688) effective 2/8/24 at 48 Ill Reg 2856, implementing the First District Appellate Court's decision in *Kishwaukee Auto Corral, Inc. v. Department of Revenue*, 2021 IL App (1st) 200236. The amendment clarifies that if a cash basis retailer cannot claim a bad debt deduction on its federal income tax return, the retailer is entitled to claim a refund from DOR for sales tax it paid on that portion of an installment contract that is later found to be worthless or uncollectable. The amendment provides new guidance for the calculation of a bad debt, including examples, as well as additional guidance regarding procedural requirements and record keeping. Other changes institute gender neutral pronoun references to retailers and taxpayers.

Questions/requests for copies: Thomas Grudichak, DOR, 555 W. Monroe St., Suite 1100, Chicago IL 60661, 312-814-9499, REV.GCO@illinois.gov

ATTY GENERAL PROCUREMENT

The OFFICE OF THE ATTORNEY GENERAL adopted amendments to Attorney General's Procurement (44 IAC 1300; proposed at 47 Ill Reg 14857) effective 2/7/24 at 48 Ill Reg 2790, that reflect Public Act 101-657, which transferred responsibility for implementing the Business Enterprise for Minorities, Women and Persons with Disabilities Act in relation to State contracts from the Department of Central Management Services to the Commission on Equity and Inclusion. This rulemaking replaces references to the CMS website with the CEI website. Additionally, these amendments update the definition of "Bulletin" to include a website address for BidBuy, replace "State Purchasing Officer" with "Purchasing Officer", and amend provisions relating to the appointment, qualifications, and duties of the Chief Procurement Officer and Purchasing Officer in order to allow for increased flexibility in selecting such officers.

Questions/requests for copies: Karla Schreiber, OAG, 100 W. Randolph St., 12th Floor, Chicago IL 60601, 312-881-0500 or Kristin Creel, OAG, 500 S. Second St., Springfield IL 62701, 217-524-1504.

▪ TREASURER PROCUREMENT

The OFFICE OF THE STATE TREASURER adopted amendments to the Part titled Procurement (44 IAC 1400; proposed at 47 Ill Reg 13193) effective 2/7/24 at 48 Ill Reg 2924, updating and clarifying statutory references, definitions, and procedures that apply to procurements made by the Office. The Treasurer may procure goods and services through any cooperatives or consortia approved by the Chief Procurement Officer or the Chief Procurement Officer for General Ser-

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vices. Solicitations must also encourage prospective vendors to hire qualified veterans, minorities, women, persons with disabilities, and residents discharged from Illinois adult correctional centers. Awards to bidders other than the lowest responsive and responsible bidder must be accompanied by explanations of why that bidder was selected. Emergency procurements are limited to 90 days. Reasons for an emergency procurement now include the item or service sought being available only for a limited time, or immediate action being required to avoid lapsing or loss of federal or donated matching funds. Businesses seeking contracts with the Office of the Treasurer are affected.

Questions/requests for copies: Chris Flynn, Office of the Treasurer, 1 E. Old State Capitol Plaza, Springfield IL 62701, 217-208-2001, fax 217-524-3822, e-mail: CFlynn@illinoistreasurer.gov

STATE PROPERTY & TRAVEL

The DEPARTMENT OF CENTRAL MANAGEMENT SERVICES adopted amendments to the Part titled Acquisition, Management and Disposal of Real Property (44 IAC 5000; proposed at 47 Ill Reg 14141) effective 2/6/24 at 48 Ill Reg 2837, aligning the Part with statutory language. CMS also adopted amendments to the Part titled The Travel Regulation Council (80 IAC 3000; proposed at 47 Ill Reg 15547) effective 2/6/24 at 48 Ill Reg 2844, implementing amendments to the

State Finance Act. The rulemaking adopts rates established for per diem, meal and lodging reimbursement for federal government employees as the rates applicable to State employees on travel status. The rulemaking also allows a member of the Council (which oversees all State travel boards) to participate in a meeting remotely if the member has been prevented from physically attending, has notified and obtained approval from the Council, and a quorum is physically present at the meeting site.

Questions/requests for copies of the 2 CMS rulemakings: Administrative Rules Coordinator, CMS, 313 S. Sixth St., 3rd Floor, Springfield IL 62702, CMS.Rule@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 considered at the March 12, 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.

EXECUTIVE ETHICS COMMISSION

Organization, Information, Rulemaking and Hearings (2 IAC 1620; 47 Ill Reg 17612) proposed 12/1/23

DEPT OF INSURANCE

Derivative Instruments (50 IAC 806; 47 Ill Reg 12643) proposed 8/25/23

Illinois Health Insurance Portability and Accountability Standards (50 IAC 2025; 47 Ill Reg 12653) proposed 8/25/23

Health Maintenance Organization (50 IAC 4521; 47 Ill Reg 12658) proposed 8/25/23

STATE BOARD OF EDUCATION

State Seal of Biliteracy (23 IAC 680; 47 Ill Reg 14183) proposed 10/13/23

Computer Science Equity Grant Program (23 IAC 700; 47 Ill Reg 14194) proposed 10/13/23

DEPT OF PUBLIC HEALTH

Sheltered Care Facilities Code (77 IAC 330; 47 Ill Reg 15139) proposed 10/27/23

Illinois Modular Dwellings and Mobile Structures Code (77 IAC 880; 47 Ill Reg 18891) proposed 12/26/23

Next JCAR Meeting: Tuesday, March 12, 10:30 a.m.

Room C-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