

# THE FLINN REPORT

ILLINOIS GENERAL ASSEMBLY  
JOINT COMMITTEE ON ADMINISTRATIVE RULES

Elaine Spencer, Editor

VOLUME 48

ISSUE 34

August 23, 2024

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

### ▪ BUSINESS EXIT SURVEY

The DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY proposed a new Part titled Business Exit Survey (14 IAC 530; 48 Ill Reg 12684) implementing Sec. 605-456 of the Department of Commerce and Economic Opportunity Law. The new Part requires DCEO to send a survey to businesses that are located in or have left Illinois asking why the business left the State and what incentives are needed to keep or attract the business. No later than every July 1, DCEO must make an annual report to the General Assembly on the survey results that includes: the most common responses, by industry and region, that departed businesses cited for leaving Illinois; the cities and states to which these businesses relocated; what incentives would have influenced businesses to remain in the State; and any other information DCEO deems relevant. Businesses that

are leaving or have recently left Illinois are affected.

*Questions/requests for copies/comments through 10/7/24: Gina Arterberry, DCEO, 1011 S. 2nd St., Springfield IL 62704-3004, 217-524-8974, [Gina.M.Arterberry@Illinois.gov](mailto:Gina.M.Arterberry@Illinois.gov)*

**DNR Public Hearing, Page 2  
Adopted Rules, Page 4  
Second Notices, Page 6**

### SNAP FRAUD

The DEPARTMENT OF HUMAN SERVICES proposed amendments to Supplemental Nutrition Assistance Program (SNAP)(89 IAC 121; 48 Ill Reg 12688) that update and add provisions regarding investigation of fraud, abuse and other intentional program violations. Individuals convicted of using or receiving SNAP benefits in a transaction involving sale of a

controlled substance shall be disqualified for 24 months for an initial violation and permanently for any subsequent violations. Persons convicted of using or receiving SNAP benefits in a transaction involving the sale of firearms, ammunition or explosives shall be disqualified permanently. Disqualification begins in the second month following the date that the individual receives notice of the disqualification. The rulemaking also establishes a SNAP Fraud Unit within DHS' Division of Family and Community Services to receive and investigate reports of suspected SNAP fraud or abuse. All reports will be evaluated within 120 days to determine if further action is necessary. Civil or criminal fraud allegations may be reported to an appropriate authority such as a federal, State or local prosecutor, the Illinois State Police, or a local law enforcement agency. Allegations of

(cont. page 2)

**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

(cont. from page 1)

administrative violations may be referred for benefit analysis, audits, administrative reviews, or an eligibility review. The SNAP Fraud Unit may also enter into agreements with other State agencies and with federal agencies to share data necessary for SNAP recipient and vendor eligibility verification.

*Questions/requests for copies/comments through 10/7/24: Tracie Drew, DHS, 100 S. Grand Ave. East, Harris Building, 3<sup>rd</sup> Floor, Springfield IL 62762, 217-785-9772, [DHS.AdministrativeRules@illinois.gov](mailto:DHS.AdministrativeRules@illinois.gov)*

## ▪ FIRE RESISTANT MATERIAL

The OFFICE OF THE STATE FIRE MARSHAL proposed a new Part titled Sprayed Fire-Resistant Material Applicator Registration Rules (41 IAC 255; 48 Ill Reg 12707) that implements the Sprayed Fire-Resistant Material Applicator Act [425 ILCS 75]. The Part outlines the process by which OSFM will register persons as sprayed fire-resistant material applicators and establishes requirements for applicators. The Act and the Part define "sprayed fire-resistant material" (SFRM) as cementitious or fibrous material applied to a steel structure as fire protection. An individual seeking registration as an SFRM applicator must be age 18 or older; hold a valid driver's license, other state ID, or passport; and provide proof of having completed a plasterer apprenticeship, at least 8 hours of training (on the job and/or in the classroom) in SFRM application, or equivalent training/certification as determined by OSFM. Registrations are valid for 3 years and the registration fee is \$75 for renewals on

# DNR Public Hearing

## FISHING

The DEPARTMENT OF NATURAL RESOURCES will hold a public hearing on proposed amendments to Sport Fishing Regulations for the Waters of Illinois (17 IAC 810; 48 Ill Reg 9386) on **Friday, Sept. 13**, from **10 a.m. to noon** at the DNR headquarters (Lower Level Conference Rooms A & B), One Natural Resources Way (State Fairgrounds), Springfield.

This hearing concerns proposed amendments published in the 7/5/24 *Illinois Register* that clarify how fish length is measured; remove statewide restrictions on fishing within 250 yards of an occupied duck or goose blind during migratory waterfowl seasons; clarify which species and waterways are open to bowfishing or spearfishing; impose a harvest limit of 2 per day on paddlefish and clarify length limits and sorting restrictions for paddlefish and salmon; update site specific regulations; clarify which exemptions to site-specific length and harvest limits may be made for fishing tournaments; and schedule June 13-16, 2025, as DNR's annual Free Fishing Days. Public comments on this rulemaking will be accepted through Friday, Sept. 20, at the address listed below.

*Questions/requests for copies/comments concerning the rulemaking or public hearing: John Fischer, DNR, One Natural Resources Way, Springfield IL 62702-1271, 217-782-1809, fax 217-782-7616.*

or before the expiration date. OSFM will notify registrants at least 90 days before their registration expires. Renewal of an expired registration is \$125 plus a \$50 late fee. The rulemaking also establishes processes for OSFM to issue notices of violation and civil penalties for violations, and for affected individuals to appeal adverse decisions. Written complaints concerning unregistered activity may be addressed to the OSFM Division of Fire Prevention. Those affected by this rulemaking include businesses that apply SFRM in buildings.

*Questions/requests for copies/comments through 10/7/24: Scott Gertz, Attn: Part 255 Rules, OSFM, 555 W. Monroe St., Suite 1300-N, Chicago IL 60661, 312-793-9569, [SFM.255rulemaking@fdmail.sfm.illinois.gov](mailto:SFM.255rulemaking@fdmail.sfm.illinois.gov)*

## ▪ BUILDING PROJECTS

The CAPITAL DEVELOPMENT BOARD proposed amendments to the Part titled Selection of Architects/Engineers (A/E) (44 IAC 1000; 48 Ill Reg 12658) that update and clarify various aspects of architect/engineer prequalification and other processes. The rulemaking codifies the role of CDB as an agency and of the Board itself in the selection of A/Es and aligns the definition of A/E with CDB's other administrative rules related to A/E prequalification. It also establishes that program goals under Business Enterprise for Minorities, Women, and Persons with Disabilities Act are based on estimated total project costs rather than the estimated basic services fee, and updates or clarifies other provisions related to the Business Enterprise Act.

(cont. page 3)

# Proposed Rulemakings

(cont. from page 2)

Other provisions codify the role of CDB and of the Commission on Equity and Inclusion (CEI) in the Business Enterprise Program (BEP) process; require user agencies to verify compliance with the Business Enterprise Act; require interviews for projects with an estimated basic services fee of \$500,000 (currently \$300,000) and allow the selection committee chair, with approval of the CDB Executive Director, to choose to conduct interviews for projects under \$500,000; allow selection committees to include members of the public; and remove duplicative statutory

language. Architectural and engineering firms seeking State contracts may be affected.

## ▪ CONSTRUCTION GRANTS

CDB also proposed amendments to Early Childhood Construction Grant Rules (71 IAC 43; 48 Ill Reg 12670) that clarify application requirements and scoring criteria; include units of local government, such as community college districts, in the definition of non-profit entities; allow joint applications and leasehold improvements when one non-profit organization owns a facility and another operates the early childhood center; clarifying that eligible non-profit early childhood providers must be licensed day care centers; and adding a statutory requirement that

early childhood centers that qualify for grants cannot be located in private residences. Other provisions change the presumed useful life for equipment from 20 years to 12 years to be consistent with other CDB grant programs; and state that liens may be placed on the property as outlined in the statute. Units of local government and non-profit entities may be affected.

*Questions/requests for copies/comments on the 2 CDB rulemakings through 10/7/24: Lauren Noll, CDB, 401 S. Spring St., 3rd Floor Stratton Building, Springfield IL 62706, 217-524-5065, [Lauren.Noll@illinois.gov](mailto:Lauren.Noll@illinois.gov)*

# Adopted Rules

## ▪ COUNSELING/THERAPY

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION adopted amendments to Marriage and Family Therapy Licensing Act (68 IAC 1283; proposed at 48 Ill Reg 3461) and Clinical Psychologist Licensing Act (68 IAC 1400; proposed at 48 Ill Reg 3520), both effective 8/9/24 at 48 Ill Reg 12727 and 12770. Both of these rulemakings require licensees to keep a current street/U.S. Mail address and current e-mail address of record on file with the Division of Professional Regulation; outline rehabilitation factors to be considered when DFPR considers restoration of a license revoked due to disciplinary action; define “face to face” communication as live, interactive and visual communication, including video/remote sessions that are synchronous and involve verbal and visual interaction; permit CE requirements to be waived for good cause (previously, “extreme hardship”); and allow DFPR to grant variances from these rules on a case by case basis. Licensed clinical psychologists, licensed marriage and family therapists, and their employers are affected by these rulemakings.

### **Marriage & Family Therapy**

Amendments to Part 1283 additionally allow marriage and family therapy to be delivered via telehealth and update educational requirements for initial licensure to allow for online and correspondence courses. Required semester hours now include at least 3 semester hours in clinical interviewing skills or clinical theory, plus at least 3 semester hours each in introductory family therapy, family therapy models, couples therapy, psychopathology/diagnostic systems, individual development and family relations, and clinical assessments. The 300 required clock hours of

internship/practicum for marriage and family therapists must include at least 100 hours of face-to-face contact with individuals, couples, families or groups and must be completed before the license applicant begins to accumulate required clinical experience hours. At least 100 of the 200 required hours of clinical supervision must be individual supervision.

### **Clinical Psychology**

The Part 1400 rulemaking allows clinical psychologist licensee applicants 3 years to complete the application process if there are any deficiencies at the time of application (e.g., insufficient credit hours or clinical experience) and specifies that, beginning 9/30/26, the 24 CE hours required each 2-year renewal period must include at least 3 hours with content related to ethics, 3 hours with content related to diversity, and the sexual harassment prevention and implicit bias awareness training required in 68 IAC 1130 for all professional licensees. At least 50% of the required clinical experience hours must be spent providing services that involve an ongoing, face-to-face relationship with the individual or individuals being treated, such as group or individual psychotherapy, assessments for developmental or learning disabilities, or assessments for behavioral disorders. Activities that do not fulfill this requirement (but may be counted toward the remaining work experience requirements) include telephone-based intake assessments, answering crisis hotline calls, or teaching psychology to high school or college students. Clinical training must meet the standards established by the relevant accreditation commissions for clinical training of physicians, physician assistants or advanced practice registered nurse practitioners. This rulemaking also updates an

incorporation by reference of the American Psychological Association’s ethical principles and code of conduct for psychologists.

## **SURGICAL ASSISTANTS**

DFPR also adopted amendments to Registered Surgical Assistant and Registered Surgical Technologist Title Protection Act (68 IAC 1485; proposed at 48 Ill Reg 3561) effective 8/9/24 at 48 Ill Reg 12813, that require registrants to maintain a current street/ mailing address and e-mail address of record with DFPR, add provisions for DFPR to consider evidence of rehabilitation when considering restoration of a registration revoked for disciplinary reasons, and remove obsolete fees for obtaining wall certificates or duplicate copies of registrations.

*Questions/requests for copies of the 3 DFPR rulemakings: Craig Cellini, DFPR, 320 W. Washington St., 2nd Floor, Springfield IL 62786, 217-785-0810, fax 217-557-4451, [Craig.cellini@illinois.gov](mailto:Craig.cellini@illinois.gov)*

## ▪ UNDERGROUND STORAGE TANKS

The OFFICE OF THE STATE FIRE MARSHAL adopted amendments to the Part titled Petroleum Equipment Contractor Licensing (41 IAC 172; proposed at 48 Ill Reg 3646) effective 8/7/24 at 48 Ill Reg 12822, concerning licensure and certification of contractors to perform installation or retrofitting of underground storage tanks (USTs) and equipment. The rulemaking requires a contractor seeking licensure to submit proof that its certified employees have a passing score on the required OSFM-approved exam for the installation and retrofitting module, or verify that

(cont. page 5)

# Adopted Rules

(cont. from page 4)

these employees have the credentials and training to carry out the manufacturer's recommended procedures and instructions.

OSFM also adopted amendments to General Requirements for Underground Storage Tanks and the Storage, Transportation, Sale and Use of Petroleum and Other Regulated Substances (41 IAC 174; proposed at 48 Ill Reg 3654), Technical Requirements for Underground Storage Tanks and the Storage, Transportation, Sale and Use of Petroleum and Other Regulated Substances (41 IAC 175; proposed at 48 Ill Reg 3665) and Administrative Requirements for Underground Storage Tanks and the Storage, Transportation, Sale and Use of Petroleum and Other Regulated Substances (41 IAC 176; proposed at 48 Ill Reg 3703), all effective 8/7/24 at 48 Ill Reg 12829, 12838, and 12876. Amendments to Part 174 update the national codes and standards for USTs that are incorporated by reference. The Part 175 rulemaking provides that removal or installation of more than 20 feet or 50% of a total piping run requires an operational safety inspection and cannot proceed without an inspector on site. It also provides that installation of a spill containment device, with or without a riser replacement, is work that must be scheduled but does not require a representative of the contractor present at the site at the scheduled inspection time. Systems that are out of use for more than 1 year but less than 5 years must meet all applicable requirements in Parts 172 and 174 through 177 before being placed back in service. "Back in service" is defined as meeting all regulatory requirements and having begun regular dispensing operations typical

for that location. Amendments to Part 176 clarify that financial responsibility must be maintained on an out-of-service UST until the UST is removed or abandoned in place. A motor fuel dispensing permit shall be issued via a green decal (instead of being issued separately) and the decal and permit shall both expire on 12/31 of the year shown on the decal. Provisions that delegate authority to enforce UST rules and regulations to any municipality having a population over 500,000 have been consolidated in this Part and removed from other Parts. Those affected by these rulemakings include service stations, convenience stores, and other businesses and facilities with underground fuel storage tanks.

## • FIRE STATIONS

OSFM adopted a new Part titled Fire Station Rehabilitation and Construction Grant Program (41 IAC 296; proposed at 48 Ill Reg 3716), effective 8/7/24 at 48 Ill Reg 12890, implementing a provision of Public Act 103-8. The PA and this rulemaking establish a grant program for construction and rehabilitation of fire stations operated by units of local government. Fire departments that are not units of local government, and units of government that do not operate a fire department, are not eligible for grants. The maximum grant amount to any unit of local government in any fiscal year is \$350,000. Applicant local governments must have participated in the National Fire Incident Reporting System (NFIRS) for at least 2 years, or if OSFM issued their Fire Department Identification Number (FDID) less than 2 years previously, the applicant must have participated in NFIRS since the FDID was issued. Applicants must also abide by the Grant Accountability and Transparency Act (GATA) and be registered and qualified on the GATA online grantee portal. A minimum of

60% of grant funds will be set aside for departments that are all volunteer or have a combination of paid and volunteer firefighters. After receiving a grant for fire station construction or rehabilitation, the grant recipient must continue to operate the fire station for at least 10 years or for the period specified in the Notice of Funding Opportunity, otherwise the grant must be repaid on a prorated basis for each month the grant recipient was not in compliance. Other provisions include definitions, composition of the Grant Review Committee, authorized use of grant monies, and recordkeeping obligations. Since 1<sup>st</sup> Notice, OSFM has removed a provision that would have allowed local government bodies that contract with another entity (including a for-profit or non-profit business) for fire protection to be eligible for grants. Small municipalities that operate fire departments are affected.

*Questions/requests for copies of the 5 OSFM rulemakings: Tom Andryk, OSFM, 1035 Stevenson Dr., Springfield IL 62703-4259, 217-785-5758, fax 217-524-5487, [SFM.USTRulemaking@fdmail.sfm.illinois.gov](mailto:SFM.USTRulemaking@fdmail.sfm.illinois.gov)*

## ESTATE TAXES

The OFFICE OF THE ATTORNEY GENERAL adopted amendments to Illinois Estate and Generation-Skipping Transfer Tax Return (86 IAC 2000; proposed at 48 Ill Reg 6413) effective 8/8/24 at 48 Ill Reg 12718, that update requirements for the Form 700 estate tax returns required for qualified terminable interest property (QTIP). (The QTIP is a form of irrevocable trust that allows a surviving spouse to receive income from the trust but retains the grantor's control over distribution of the trust after the spouse dies.) The

(cont. page 6)

## Adopted Rules

(cont. from page 5)

rulemaking requires estates that claim a QTIP election to state the value of the property on the estate tax return (estates of \$4 million or more are subject to Illinois estate tax) and provide a schedule of assets identifying the property subject to the QTIP election. Any estate that includes QTIP property of a predeceased spouse must also provide the current value of any QTIP property belonging to the deceased spouse and a schedule of assets identifying this property. Real estate listings are not sufficient documentation of property value for a schedule of assets unless an underlying factual basis for the

listed price (e.g., recent appraisal, comparable sales) is provided. The AG's website address and a Section addressing estate tax returns for civil union partners are also updated.

### OAG REPEALER

The OAG also repealed the Part titled Crimes and Offenses, Impersonating Officer, Advertisements (14 IAC 440; proposed at 48 Ill Reg 6384) effective 8/8/24 at 48 Ill Reg 12716, because the underlying statutory authority for this Part (subsection 17-2(c) of the Criminal Code of 1961) was repealed in 1999. The obsolete statute required persons soliciting advertisements for placement in magazines and professional journals for law enforcement officers or firefighters to

first obtain certification from the AG that the publication represented a bona fide police or firefighters' organization. The statute also required the AG to promulgate rules and provide forms for this purpose, which are no longer needed.

*Questions/requests for copies of the 2 OAG rulemakings: 86 IAC 2000, Frances J. Smith (312-814-6138, [frances.smith@ilga.gov](mailto:frances.smith@ilga.gov)); 14 IAC 440, Kristin Louis (312-814-2595, [kristin.louis@ilga.gov](mailto:kristin.louis@ilga.gov)); Office of the Attorney General, 115 S. LaSalle St., Chicago IL 60603. For both rulemakings, Kristin Creel, OAG, 500 S. Second St., Springfield IL 62701, 217-782-9070, [Kristin.creel@ilga.gov](mailto:Kristin.creel@ilga.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 September 10, 2024 meeting in Chicago. 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](mailto:jcar@ilga.gov).

### DEPT OF HUMAN SERVICES

Electronic Prescription Monitoring Program (77 IAC 2080; 48 Ill Reg 4540) proposed 3/29/24

### DEPT OF PUBLIC HEALTH

Long-Term Care Assistants and Aides Training Programs Code (77 IAC 395; 48 Ill Reg 8740) proposed 6/20/24

Sexual Assault Survivors Emergency Treatment Code (77 IAC 545; 48 Ill Reg 4316) proposed 3/22/24

### DEPT OF VETERANS' AFFAIRS

Educational Opportunities for Children of Deceased or Disabled Veterans (95 IAC 101; 47 Ill Reg 17418) proposed 11/27/23

Rules Governing the Board of Appeals (93 IAC 113; 47 Ill Reg 17429) proposed 11/27/23

MIA/POW Scholarship (95 IAC 116; 47 Ill Reg 17433) proposed 11/27/23

**Next JCAR Meeting: Tuesday, Sept. 10, 11 a.m.**

Room C-600, Bilandic Building, 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

Kim Schultz, Executive Director ■ Kevin Kulavic, Deputy Director

700 Stratton Office Building, Springfield IL 62706

217-785-2254 ■ [jcar@ilga.gov](mailto:jcar@ilga.gov)