

*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.*

## New Rules

### ADULT PROTECTIVE SERVICES

The DEPARTMENT ON AGING adopted amendments to Adult Protection and Advocacy Services (89 IAC 270; 43 Ill Reg 939), effective 4/30/19, implementing Public Act 100-641 and replacing an emergency rule (43 Ill Reg 787) that was effective 1/1/19. The rulemaking expands the definition of an eligible adult (persons age 18-59 with disabilities, or any person age 60 and older, residing at home or in a non-institutional environment) on whose behalf DonA's Adult Protective Services program may investigate allegations of abuse, neglect or financial exploitation. Residents of long-term care facilities and other institutions are now eligible for APS if alleged abuse or neglect occurs outside the facility and the alleged abuser is a family member, caregiver, or other person who

has a continuing relationship with the adult, or if alleged financial exploitation is perpetrated by a family member, caregiver, or another person who has a continuing relationship with the adult and who is not an employee of the facility in which the adult resides.

Questions/requests for copies: Tracy Trigillo, DonA, One Natural Resources Way #100, Springfield IL 62702-1271, 217/785-3346, fax 217/785-4477, [Tracy.Trigillo@illinois.gov](mailto:Tracy.Trigillo@illinois.gov)

### GRANDPARENT VISITATION

The DEPARTMENT OF CHILDREN AND FAMILY SERVICES adopted amendments to Placement and Visitation Services (89 IAC 301; 42 Ill Reg 7710), effective 5/3/19, implementing two Public Acts. PA

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## Proposed Rulemakings

### BAT REMOVAL

The DEPARTMENT OF NATURAL RESOURCES proposed amendments to the Part titled Nuisance Wildlife Control Permits (17 IAC 525; 43 Ill Reg 5355) allowing year-round removal, under certain conditions, of bat colonies that have lodged in residential or business buildings. Currently, nuisance wildlife control permittees may permanently evict bat colonies from buildings only between March 15 and May 15 (after hibernation and during mating season, but before pups are born) or from Aug. 5 through Oct. 30 (when pups born in early summer are generally old enough to fly) when outdoor temperatures exceed 50 degrees F. at dusk. The rulemaking requires that bat eviction during these periods be

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**NEW 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](http://www.cyberdriveillinois.com)) and General Assembly ([www.ilga.gov](http://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.

# New Rules

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99-838 concerns visitation of DCFS wards by non-custodial grandparents and great-grandparents. Visitation privileges shall be granted to grandparents and great-grandparents only if in the child's best interest, taking into account factors listed in the Juvenile Court Act of 1987 (e.g., the child's safety, welfare, attachments and preferences) in addition to: the mental and physical health of the grandparent; quantity of visitation time desired and its potential impact on the child's other activities; evidence that loss of the grandparent relationship will unduly harm the child; and whether visitation can be structured in a fashion that minimizes the child's exposure to family conflicts. Visitation privileges automatically terminate when the child leaves DCFS custody. DCFS may deny a grandparent's request for visitation based upon the listed factors. A denial must be documented in the child's case file and the grandparent informed of his/her right to a clinical review in accordance with DCFS rules and procedures. DCFS also must review its grandparent visitation rules beginning 2/11/16 and every 5 years thereafter. The rulemaking also implements PA 99-85, the Illinois Parentage Act of 2015, by reflecting its statutory definition of father (a man whose relationship with a child is established via un rebutted presumption, voluntary acknowledgment, or

adjudication of the child's parentage; adoption; or valid gestational surrogacy) and allows relatives of a child's biological father to be considered for placement of related children when paternity of the child has been established. Finally, the rulemaking changes references to a "final placement decision" (DCFS determination, made within 90 days of initial placement of a child with a relative, to leave or remove the child based on a criminal background check of the relative and the best interests of the child) to "placement decision". Changes since 1<sup>st</sup> Notice clarify that DCFS will respond to a grandparent's initial request for visitation privileges within 45 days, unless circumstances require more time to respond (e.g., the grandparent lives outside of Illinois) and that grandparents will be notified in writing of visitation decisions. Other changes clarify the timeline for responding to a grandparent's request for clinical review of a visitation denial and provide that the parents of a child or youth in DCFS custody will also be notified of a grandparent's request for review and of the outcome of the review.

Questions/requests for copies: Jeff Osowski, DCFS, 406 E. Monroe, Station #65, Springfield IL 62701-1498, 217/524-1983, TDD 217/524-3715, fax 217/557-0692, e-mail: [CFPolicy@idcfs.state.il.us](mailto:CFPolicy@idcfs.state.il.us)

## ■ STATE PROPERTY

The DEPARTMENT OF CENTRAL MANAGEMENT SERVICES adopted amendments to Marking, Inventory, Transfer and Disposal of State-Owned Personal Property (44 IAC 5010; 42 Ill Reg 19247) effective 5/3/19, aligning the Part (which governs inventory, sale and disposal of State-owned items such as vehicles, electronic equipment, furniture, etc.) with recent statutory changes. Equipment with a value greater than the nominal value established by CMS (formerly, greater than \$500; now, set in statute to a default value of \$1,000 unless CMS establishes another amount) or that is subject to theft, including all vehicles and firearms, must be marked with a unique identification number and reported to CMS. Agencies have 90 days (formerly, 30 days) to update equipment inventories after acquisition, change, or deletion of an item. The nominal value of items subject to depreciation shall be determined by the owning agency using prevailing industry standards and based on the condition of the item. Items that cannot be sold and would ordinarily be scrapped, burned or disposed of in a landfill will first be examined to determine if they can be recycled. Finally, the rulemaking defines as "priority agencies" the following entities to whom surplus State property must be

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# Proposed Rulemakings

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performed only when outdoor temperatures are forecast to exceed 50 degrees at dusk for at least 2 consecutive nights. During the remainder of the year (Oct. 31 through March 14, when bats are hibernating, and May 16 through Aug. 4, when pups are born and are not yet capable of flying) the rulemaking allows bat colony eviction if the following conditions are met: bats have been found inside the living quarters of a residence, in a place of business, or within a building where people congregate; the permittee has contacted DNR to request authority to evict the bats; a definitive identification of species has been made and proper permits, if applicable, issued; DNR staff has determined whether the bats are causing a human health and safety hazard (DNR may work jointly with a local health department to make this determination); and property owners and residents are advised of the secondary health hazards that may result when adult bats are evicted and flightless pups are trapped and die inside the building. The rulemaking also allows capture of live bats without a permit for transport to a local health department, animal control office, or veterinarian when the presence of bats is deemed a health or safety hazard by a local health department or the Illinois Department of Public Health, or if there is reason to suspect that domestic animals may have

been exposed to rabies (currently, when there is reason to suspect a human may have been exposed to rabies, e.g., if a person is bitten or scratched by a bat). Finally, the rulemaking updates the application for a nuisance wildlife control permit to include the applicant's e-mail address and remove the Social Security number. Those affected by this rulemaking include small businesses that perform pest control services and local government health departments or animal control departments.

## ■ HUNTING & TRAPPING

DNR also proposed amendments to the following 15 Parts: Cock Pheasant, Hungarian Partridge, Bobwhite Quail, and Rabbit Hunting (17 IAC 530; 43 Ill Reg 5364); Raccoon, Opossum, Striped Skunk, Red Fox, Gray Fox, Coyote, Bobcat and Woodchuck (Groundhog) Hunting (17 IAC 550; 43 Ill Reg 5393); Muskrat, Mink, Raccoon, Opossum, Striped Skunk, Weasel, Red Fox, Gray Fox, Coyote, Badger, River Otter, Beaver, Bobcat and Woodchuck (Groundhog) Trapping (17 IAC 570; 43 Ill Reg 5411); Duck, Goose and Coot Hunting (17 IAC 590; 43 Ill Reg 5427); White-Tailed Deer Hunting By Use of Firearms (17 IAC 650; 43 Ill Reg 5481); White-Tailed Deer Hunting By Use of Muzzleloading Rifles (17 IAC 660; 43 Ill Reg 5489); White-Tailed Deer Hunting By Use of Bow and Arrow (17 IAC 670; 43 Ill Reg 5500); Youth Hunting (17 IAC 685; 43 Ill Reg

5522); Squirrel Hunting (17 IAC 690; 43 Ill Reg 5531); The Taking of Wild Turkeys – Spring Season (17 IAC 710; 43 Ill Reg 5544); The Taking of Wild Turkeys – Fall Gun Season (17 IAC 715; 43 Ill Reg 5568); The Taking of Wild Turkeys – Fall Archery Season (17 IAC 720; 43 Ill Reg 5575); Dove Hunting (17 IAC 730; 43 Ill Reg 5588); Crow, Woodcock, Snipe, Rail and Teal Hunting (17 IAC 740; 43 Ill Reg 5607); and Falconry and the Captive Propagation of Raptors (17 IAC 1590; 43 Ill Reg 5622). Amendments to Parts 530 through 740 implement DNR's annual updates to hunting and trapping rules, which include opening or closing of State-managed sites to hunting, changes in hunting days or hours, and changes in procedures for obtaining hunting or trapping licenses or reporting the number of animals harvested. The Part 685 rulemaking also allows a non-hunting adult age 21 or older (currently, a parent, guardian or grandparent) who holds a valid Illinois hunting license to accompany the holder of an Apprentice Hunter or Youth Hunter license during youth deer hunting season, and also authorizes the use of pink as well as solid blaze orange hunting attire. Finally, amendments to Part 1590 update online contact information for the U.S. Fish and Wildlife Service and allow falconry hunting of foxes and gray squirrels from Aug. 1

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# New Rules

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offered for sale before it is offered to the general public: municipalities and other units of local government; school districts; medical institutions (including clinics, hospitals, and health centers); schools; colleges and universities; child care centers; museums; nursing homes; programs for the elderly; food banks; sheltered workshops; the Boy and Girl Scouts of America; and other charitable or non-profit educational or public health organizations. Since 1<sup>st</sup> Notice, CMS has clarified that payment for scrap can be made by credit card as well as by check or money order and has expanded the list of items that are considered electronic data processing equipment. Those affected by this rulemaking include municipalities and non-profits that are priority agencies.

Questions/requests for copies: Alyson Grady, CMS, 721 Stratton Office Bldg., Springfield IL 62706, 217/782-2141.

## ■ MEDICAL TRANSPORTATION

The DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES adopted amendments to Medical Payment (89 IAC 140; 42 Ill Reg 24574), effective 5/2/19, implementing Public Act 100-646 by instituting updated requirements for medi-car, service car and non-emergency ambulance transportation effective 2/1/19. A physician's

certification statement (currently, discharge order) documenting that the patient's condition meets HFS criteria for medi-car, service car or ambulance transportation is required whenever a patient is being transported (currently, discharged) from a hospital, nursing home or other facility. If the patient is being transported from a long-term care facility, the medical director or another medical professional (physician assistant, nurse practitioner, clinical nurse specialist, registered professional nurse, or discharge planner) responsible for the patient's diagnosis and treatment must complete the certification statement. The certification statement should be completed prior to transport, but must be submitted to the transportation provider no later than 10 days after the transportation provider requests it. Medical transportation providers, hospitals and long-term care facilities are affected by this rulemaking.

## HOSPITALS

HFS also adopted an amendment to Hospital Reimbursement Changes (89 IAC 152; 42 Ill Reg 8711) effective 5/2/19, amending HFS' Potentially Preventable Readmissions (PPR) policy to include encounter data from Medicaid Managed Care Organizations (MCOs). (PPR policies impose payment penalties upon hospitals that are deemed to have excessively high incidences of readmissions that could have been prevented

had proper care been given during the original admission.) Although analyses will be performed on both fee-for-service and encounter rate data, and reported to both the MCO and the hospital, no penalty payments will be collected. The amendment also excludes admissions for treatment of sickle cell anemia from being included in PPR data.

Questions/requests for copies of the 2 HFS rulemakings: Christopher Gange, HFS, 201 S. Grand Ave. East, 3<sup>rd</sup> Fl., Springfield IL 62763-0002, 217/782-1233.

## ■ HAZARDOUS WASTE

The POLLUTION CONTROL BOARD adopted amendments to the following 10 Parts effective 5/2/19: RCRA Permit Program (35 IAC 703; 43 Ill Reg 2613), Hazardous Waste Management System: General (35 IAC 720; 43 Ill Reg 2654), Identification and Listing of Hazardous Waste (35 IAC 721; 43 Ill Reg 2722), Standards Applicable to Generators of Hazardous Waste (35 IAC 722; 43 Ill Reg 2795), Standards Applicable to Transporters of Hazardous Waste (35 IAC 723; 43 Ill Reg 2837), Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities (35 IAC 724; 43 Ill Reg 2843), Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities

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## Proposed Rulemakings

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through March 31 (currently, Jan. 31). Those affected by these rulemakings include professional outfitters and falconers.

Questions/requests for copies/comments on the 16 DNR rulemakings through 7/1/19: John Heidinger, DNR, One Natural Resources Way, Springfield IL 62702, 217/557-6379.

### DCFS SCHOLARSHIPS

The DEPARTMENT OF CHILDREN AND FAMILY SERVICES proposed amendments to the Part titled Department of Children and

Family Services Scholarship Program (89 IAC 312; 43 Ill Reg 5341), implementing changes to DCFS' college scholarship program for current and former foster children and other DCFS wards. The rulemaking increases the maximum number of annual scholarships from 48 to 53 and allows recipients to receive the scholarship for up to 5 years (currently, 4) or until age 25 (currently, 23) provided that the student maintains full-time enrollment status as defined by the enrolling institution during the fall, spring and summer terms. The rulemaking also provides for unused scholarships and tuition/fee waivers to be reallocated to new recipients whenever a

recipient withdraws from school or is no longer working toward graduation. Other provisions restructure the point scale for evaluating scholarship applications and clarify various eligibility requirements. The Scholarship Awards Selection Committee must also include at least 2 members who are former DCFS wards and have completed their post-secondary education.

Questions/requests for copies/comments through 7/1/19: Jeff Osowski, DCFS, 406 E. Monroe St., Station #65, Springfield IL 62701-1498, 217/524-1983 or 217/524-3715, fax 217/557-0692, e-mail: [cfpolicy@idcfs.state.il.us](mailto:cfpolicy@idcfs.state.il.us).

## New Rules

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(35 IAC 725; 43 Ill Reg 2895), Standards for Owners and Operators of Hazardous Waste Facilities Operating under a RCRA Standardized Permit (35 IAC 727; 43 Ill Reg 2924), Standards for Universal Waste Management (35 IAC 733; 43 Ill Reg 2945), and Standards for the Management of Used Oil (35 IAC 739; 43 Ill Reg 2953). These amendments implement recent USEPA regulations for hazardous waste handling, treatment and disposal facilities that were adopted during the period 7/1/18 through 12/31/18. Facilities that handle, store or dispose of chemical or solid waste are affected by these rulemakings.

Questions/requests for copies of the 10 PCB rulemakings: Michael J. McCambridge, PCB, 100 W. Randolph St., Suite 11-500, Chicago IL 60601, 312/814-6924. Please reference Docket R19-11. Copies of the Board's opinions and orders can also be downloaded at <https://pcb.illinois.gov/> or requested at 312/814-3620.

### GAS PIPELINES

The ILLINOIS COMMERCE COMMISSION adopted amendments to the Parts titled Minimum Safety Standards for Transportation of Gas and for Gas Pipeline Facilities (83 IAC 590; 42 Ill Reg 15516) and Reports of Accidents or Incidents by Persons Engaged in the Transportation of Gas, or Who

Own or Operate Gas Pipeline Facilities (83 IAC 595; 42 Ill Reg 15521), both effective 5/2/19. The Part 590 amendments incorporate federal gas pipeline safety standards in compliance with statute requiring ICC's rules to be at least as stringent as federal standards, and clarify reporting requirements for underground natural gas storage facilities (which are federally regulated). The Part 595 rulemaking removes obsolete references, updates statutory citations, and allows electronic filing of certain reports.

Questions/requests for copies of the 2 ICC rulemakings: Brian W. Allen, ICC, 527 E. Capitol Ave., Springfield IL 62701, 217/558-2387.

## Second Notices

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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 June 11, 2019 JCAR meeting. 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 using the contact information on page 1.

### ATTORNEY GENERAL

Hospital Financial Assistance under the Fair Patient Billing Act (77 IAC 4500; 43 Ill Reg 3068) proposed 3/8/19

### DEPT OF REVENUE

Income Tax (86 IAC 100; 42 Ill Reg 19605) proposed 11/9/18

## JCAR Meeting Action

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At its 5/14/19 meeting, the Joint Committee on Administrative Rules voted the following actions:

### OBJECTION & FILING PROHIBITION

JCAR objected to, and prohibited the filing of, the Capital Development Board rulemaking titled Illinois Energy Conservation Code (71 IAC 600; 42 Ill Reg 21491) because the Board is unable to adequately address outstanding public comment. The Board currently has two vacant seats. CDB's inability to allow public commentators to present their concerns before a full Board places the public commentators at a disadvantage, possibly leaving language in the rulemaking that would negatively impact most persons or entities constructing or remodeling a residential or commercial building in Illinois. JCAR finds that this presents a threat to the public interest.

### RECOMMENDATIONS

With respect to the Department of Public Health rule titled Alzheimer's Disease and Related Dementias Service Code (77 IAC 973; 42 Ill Reg 19510), JCAR recommends that DPH take more care to comply with statute in a timely manner. Public Act 99-822 required rules implementing the Act to be published by 9/1/17.

With respect to the Illinois Environmental Protection Agency rulemaking titled Clean Air Act Permit Program Procedures (35 IAC 270; 43 Ill Reg 1456), JCAR recommends that EPA be more

timely in reflecting statutory changes in its rules. Public Act 93-32, which changed the fee structure for Clean Air Act permits, was effective 7/1/03. In addition, the change of EPA office address reflected in this rulemaking occurred in 1997.

### EXTENSION

JCAR and the Department of Financial and Professional Regulation agreed to extend the Second Notice period for the rulemaking titled Illinois Dental Practice Act (68 IAC 1220; 42 Ill Reg 19144) an additional 45 days.

### POSTPONEMENT

JCAR postponed action on the Illinois Commerce Commission rulemaking titled Regulatory Accounting Treatment for Cloud-Based Computing Solutions (83 IAC 289; 42 Ill Reg 12369), which is currently on extended Second Notice, until the June 11 meeting.