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## OFFICE OF THE STATE FIRE MARSHAL

## NOTICE OF ADOPTED RULES

- 1) Heading of the Part: Sprayed Fire-Resistant Material Applicator Registration Rules
- 2) Code Citation: 41 Ill. Adm. Code 255
- 3) 

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
255.10	New Section
255.20	New Section
255.30	New Section
255.40	New Section
255.50	New Section
255.60	New Section
255.70	New Section
255.80	New Section
255.90	New Section
255.100	New Section
- 4) Statutory Authority: Implementing and authorized by Section 15 of the Sprayed-Fire Resistant Material Applicator Act [425 ILCS 75/15].
- 5) Effective Date of Rule: April 8, 2025
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this proposed rulemaking contain incorporations by reference? No
- 8) A copy of the Adopted Rule, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 48 Ill. Reg. 12707; August 23, 2024
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version? Yes. In 255.30(a)(4)(1), the sentence, "[a] U.S. Department of Labor certificate of completion for a plasterer apprenticeship" was clarified to, "[a] certificate of completion for a plasterer apprenticeship from the U.S. Department of Labor or a recognized State Apprenticeship Agency." A new subsection (b) was added to Section 255.30. In 255.90(b) and (c), there was clarification that a notice of violation is appealable. In Section 255.20, "[425 ILCS 75/5]" was added at the end of the section. Section 255.30 was re-alphabetized and re-numbered since First Notice. In

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Section 255.40(b), it was clarified that an individual seeking to renew their registration every three years shall follow the same process in Section 255.30. In Section 255.70, "may" was changed to "will", "but not limited to" was deleted and "any" was added before civil penalty. In Section 255.80(a), minor non-substantive changes were made. In Section 255.80(c), "\$250 for each violation" is now italicized and "[425 ILCS 75/10(a)]" was added. In Section 255.90(e), the last sentence, "[n]otice by electronic transmission shall be in conformance with Section 75 of the Illinois Administrative Procedure Act [5 ILCS 100/10-75]" was deleted. Lastly, in Section 255.90(e)(1)(A)-(E), the text was italicized. In Section 255.90(e)(5), the following was added, "[a]ny appeal by the petitioner of findings of fact, conclusions of law, or the final order of the Office shall be subject to judicial review under the provisions of the Administrative Review Law. [735 ILCS 5/Art. III]."

- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any other rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: The adopted rules provide the administrative framework necessary to implement the Sprayed Fire-Resistant Material Applicator Act (425 ILCS 75). The Act requires that the Office of the State Fire Marshal (OSFM) register persons as sprayed fire-resistant material applicators and establish requirements for the registration of such applicators.
- 16) Information and questions regarding this adopted rulemaking shall be directed to:

Ashley Vincent  
Legal Division  
Attn: Part 255 Rules  
Office of the State Fire Marshal  
1035 Stevenson Drive  
Springfield, IL 62703

(217) 606-9822  
SFM.255rulemaking@fdmail.sfm.illinois.gov

The full text of the Adopted Rules begins on the next page:

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## TITLE 41: FIRE PROTECTION

## CHAPTER I: OFFICE OF THE STATE FIRE MARSHAL

## PART 255

## SPRAYED FIRE-RESISTANT MATERIAL APPLICATOR REGISTRATION RULES

## Section

255.10	Introduction
255.20	Definitions
255.30	Sprayed Fire-Resistant Material Applicator Registration
255.40	Renewal of Sprayed Fire-Resistant Material Applicator Registration
255.50	Fees
255.60	Complaints
255.70	Administrative Actions
255.80	Notice of Violation
255.90	Appeal of an Administrative Action
255.100	Severability

**AUTHORITY:** Implementing and authorized by Section 15 of the Sprayed Fire-Resistant Material Applicator Act [425 ILCS 75/15].

**SOURCE:** Adopted at 49 Ill. Reg. 5823, effective April 8, 2025.

**Section 255.10 Introduction**

The Sprayed Fire-Resistant Material Applicator Act [425 ILCS 75] requires the Office of the State Fire Marshal to:

- a) *register persons as sprayed fire-resistant material applicators; and*
- b) *establish requirements for the registration of sprayed fire-resistant material applicators that includes a requirement for proof of training or certification.* [425 ILCS 75/10]

**Section 255.20 Definitions**

Unless the context requires otherwise, the following terms have the meanings ascribed in this Section:

## OFFICE OF THE STATE FIRE MARSHAL

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"Act" means the Sprayed Fire-Resistant Material Applicator Act [425 ILCS 75].

*"Office" means the Office of the State Fire Marshal.*

*"Sprayed fire-resistant material" or "SFRM" means a cementitious or fibrous material that is applied onto a steel structure through a spray process to provide fire-resistant protection to the steel structure.*

*"Sprayed fire-resistant material applicator" means an individual in the business of applying sprayed fire-resistant material. [425 ILCS 75/5]*

**Section 255.30 Sprayed Fire-Resistant Material Applicator Registration**

- a) The individual seeking registration as a sprayed fire-resistant material applicator shall:
  - 1) Submit a completed application form provided by the Office that includes the name and address of the individual. The address shall be an actual street address and shall include the city, state, and zip code.
  - 2) Submit a copy of the individual's valid driver's license, valid state identification, or valid passport.
  - 3) Be 18 years of age or older.
  - 4) Provide one of the following:
    - A) A certificate of completion for a plasterer apprenticeship from the U.S. Department of Labor or a recognized State Apprenticeship Agency;
    - B) An affirmative statement that the individual has at least eight hours of training in the application of SFRM, including on the job training, classroom training, or a combination thereof. The statement shall be signed by the individual and the individual's employer or instructor; or

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- C) Documentation of any other training or certification, approved by the Office, that is determined by the Office to be equivalent to (d)(1) or (d)(2).
- 5) Pay the requisite fee amount in accordance with Section 255.50.
- b) Individuals that satisfy the requirements of subsection (a) will be considered registered as a sprayed fire-resistant material applicator. Individuals that do not satisfy the requirements of subsection (a) will not be considered registered as a sprayed fire-resistant material applicator and will be issued a notice of registration denial.

**Section 255.40 Renewal of Sprayed Fire-Resistant Material Applicator Registration**

- a) The Office will notify the registrant 90 days prior to the expiration of the registration.
- b) An individual seeking to renew their registration every 3 years shall follow the same process as in Section 255.30.

**Section 255.50 Fees**

- a) Registration fee (three-year registration cycle): \$75
- b) Renewal of registration (before or on expiration date): \$75
- c) Registration reinstatement (late filing fee): \$50
- d) Renewal of registration (after expiration date): \$125
- e) *All fees paid pursuant to the Act are nonrefundable* except that the Office shall refund accidental overpayment of fees. [425 ILCS 75/15]

**Section 255.60 Complaints**

All complaints concerning unregistered activity shall be submitted to the Office, Division of Fire Prevention, in writing.

**Section 255.70 Administrative Actions**



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The failure to comply with the Act and this Part by any individual will subject the individual to administrative action, including: suspension, revocation, refusal to issue or renew a registration, and the assessment of any civil penalty.

**Section 255.80 Notice of Violation**

- a) The Office will issue a notice of violation if the Office determines that there has been a violation of the Act or this Part. The notice of violation shall be deemed to have been properly served upon the individual when a copy of the notice of violation has been sent by registered or certified mail to the individual's last known address as furnished to the Office, or by any other method authorized by law.
- b) The notice of violation shall be in writing and shall:
  - 1) include a description of the violation and its location;
  - 2) provide a reference to the statute or rules alleged to have been violated;
  - 3) if appropriate, identify remedial action;
  - 4) if appropriate, the time within which remedial action is required to be completed;
  - 5) the amount of the administrative civil penalty; and
  - 6) the process for appeal.
- c) In assessing an administrative civil penalty, the Office shall consider the seriousness of the violation, whether the violation was corrected after notification, and whether the individual has been assessed an administrative civil penalty for the same or similar violations in the past. The administrative civil penalties levied under this Section shall not exceed \$250 *for each violation*. [425 ILCS 75/10(a)]

**Section 255.90 Appeal of an Administrative Action**

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- a) Any person aggrieved by a registration decision, issuance of a notice of violation or an administrative civil penalty of the Office may, as a matter of right, appeal such action.
- b) All appeal requests shall:
  - 1) Be in writing;
  - 2) Contain an address, telephone number, and email address where the appellant may be notified of the time and place of the hearing; and
  - 3) Set forth the reasons why the action of the Office should be reversed or modified.
- c) Appeals from a registration decision, issuance of a notice of violation or an administrative civil penalty of the Office shall be instituted by filing a written request for a hearing no later than 10 calendar days following receipt of the notice of the action. Requests will be deemed to be timely if they are postmarked no later than the time period allowed.
- d) The appeal request shall be mailed to:

Office of the State Fire Marshal  
Attn: Legal Division  
1035 Stevenson Drive  
Springfield, Illinois 62703-4259
- e) In the event of a timely written appeal, the Office shall conduct an administrative hearing governed by this Section. Notice of the time and place for any hearing shall be given to any party concerned at least 30 calendar days prior to the hearing date. If an attorney, through written communication, is known to represent any party to a hearing, then notice is to be given to that attorney. A corporation, limited liability company, professional limited liability company, or partnership must appear by legal counsel, licensed to practice in the State of Illinois or appearing pro hac vice, who must file an appearance with the Office. Service of the notice of violations may be in person, by electronic transmission, or by registered or certified mail. Notice sent to the last known address by U.S. mail, registered or certified, addressed to all parties or their agents appointed to receive service of process, or their attorneys when applicable, is sufficient.

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- 1) The notice of hearing shall include the following:
  - A) *The date, time, place, and nature of the hearing.*
  - B) *A statement of the legal authority and jurisdiction under which the hearing is to be held.*
  - C) *A reference to the section or sections of the substantive and procedural statutes and rules involved.*
  - D) *A short and plain statement of the matters asserted, the consequences of a failure to respond, and the case number or file number.*
  - E) *To the extent such information is available, the names, phone numbers, email addresses, and mailing addresses of the parties and designated agency contact, and if known, of any assigned hearing officer. [5 ILCS 100/10-25]*
- 2) Document Exchange. Either party may request a pre-hearing conference. At any pre-hearing conference, or if none, at least seven days prior to the start of the hearing, the parties shall exchange a list of those witnesses who may testify at hearing and any exhibits or documents that may be identified at hearing.
- 3) Continuances. A hearing officer may, for good cause, grant a continuance at the request of a party or a continuance on the hearing officer's own motion.
- 4) Default. Failure of a party to appear on the date set for hearing or failure to proceed as ordered by the Office shall constitute a default and the registration decision, notice of violation or administrative civil penalty appealed from shall become final. Appeals, petitions, motions or other requests for relief that are not prosecuted diligently will be dismissed for want of prosecution.
- 5) At the close of the evidence, or upon receiving the recommended decision of the hearing officer with findings of fact and conclusions of law, the

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Office shall enter an order to sustain, modify, or revoke the administrative action. Any appeal by the petitioner of findings of fact, conclusions of law, or the final order of the Office shall be subject to judicial review under the provisions of the Administrative Review Law. [735 ILCS 5/Art. III]

- f) Nothing in this Section shall prohibit the informal disposition of an administrative action by stipulation, agreed settlement, or consent order. Informal disposition may proceed with clear and simple documentation without complete adherence to this Section.

**Section 255.100 Severability**

If any provision or Section of this Part shall be held to be invalid, illegal, unenforceable or in conflict with the law of any jurisdiction, the validity, legality and enforceability of the remaining provisions and Sections shall not in any way be affected or impaired.