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INTRODUCTION

The *Illinois Register* is the official state document for publishing public notice of rulemaking activity initiated by State governmental agencies. The table of contents is arranged categorically by rulemaking activity and alphabetically by agency within each category.

Rulemaking activity consists of proposed or adopted new rules; amendments to or repealers of existing rules; and rules promulgated by emergency or peremptory action. Executive Orders and Proclamations issued by the Governor; notices of public information required by State Statute; and activities (meeting agendas; Statements of Objection or Recommendation, etc.) of the Joint Committee on Administrative Rules (JCAR), a legislative oversight committee which monitors the rulemaking activities of State Agencies; is also published in the Register.

The Register is a weekly update of the Illinois Administrative Code (a compilation of the rules adopted by State agencies). The most recent edition of the Code, along with the Register, comprise the most current accounting of State agencies' rulemakings.

The *Illinois Register* is the property of the State of Illinois, granted by the authority of the Illinois Administrative Procedure Act [5 ILCS 100/1-1, et seq.].

ILLINOIS REGISTER PUBLICATION SCHEDULE FOR 2024

Issue#	Rules Due Date	Date of Issue
1	December 26, 2023	January 5, 2024
2	January 2, 2024	January 12, 2024
3	January 8, 2024	January 19, 2024
4	January 16, 2024	January 26, 2024
5	January 22, 2024	February 2, 2024
6	January 29, 2024	February 9, 2024
7	February 5, 2024	February 16, 2024
8	February 13, 2024	February 23, 2024
9	February 20, 2024	March 1, 2024
10	February 26, 2024	March 8, 2024
11	March 4, 2024	March 15, 2024
12	March 11, 2024	March 22, 2024
13	March 18, 2024	March 29, 2024
14	March 25, 2024	April 5, 2024
15	April 1, 2024	April 12, 2024
16	April 8, 2024	April 19, 2024
17	April 15, 2024	April 26, 2024
18	April 22, 2024	May 3, 2024
19	April 29, 2024	May 10, 2024
20	May 6, 2024	May 17, 2024
21	May 13, 2024	May 24, 2024

22	May 20, 2024	May 31, 2024
23	May 28, 2024	June 7, 2024
24	June 3, 2024	June 14, 2024
25	June 10, 2024	June 21, 2024
26	June 17, 2024	June 28, 2024
27	June 24, 2024	July 5, 2024
28	July 1, 2024	July 12, 2024
29	July 8, 2024	July 19, 2024
30	July 15, 2024	July 26, 2024
31	July 22, 2024	August 2, 2024
32	July 29, 2024	August 9, 2024
33	August 5, 2024	August 16, 2024
34	August 12, 2024	August 23, 2024
35	August 19, 2024	August 30, 2024
36	August 26, 2024	September 6, 2024
37	September 3, 2024	September 13, 2024
38	September 9, 2024	September 20, 2024
39	September 16, 2024	September 27, 2024
40	September 23, 2024	October 4, 2024
41	September 30, 2024	October 11, 2024
42	October 7, 2024	October 18, 2024
43	October 15, 2024	October 25, 2024
44	October 21, 2024	November 1, 2024
45	October 28, 2024	November 8, 2024
46	November 4, 2024	November 15, 2024
47	November 12, 2024	November 22, 2024
48	November 18, 2024	December 2, 2024
49	November 25, 2024	December 6, 2024
50	December 2, 2024	December 13, 2024
51	December 9, 2024	December 20, 2024
52	December 16, 2024	December 27, 2024

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF PROPOSED RULE

- 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>Proposed 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) A Complete Description of the Subjects and Issues Involved: The proposed 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.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking does not create or enlarge a State mandate as defined in Section 3(b) of the States Mandates Act [30 ILCS 805/3(b)].

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NOTICE OF PROPOSED RULE

- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Persons wishing to comment on this proposed rulemaking may submit comments no later than 45 days after the publication of this Notice to:

Scott Gertz
Legal Division
Attn: Part 255 Rules
Office of the State Fire Marshal
555 W. Monroe St, Suite 1300-N
Chicago, IL 60661

(312) 793-9569
SFM.255rulemaking@fdmail.sfm.illinois.gov

- 13) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: Individuals employed to apply sprayed fire-resistant material (for small businesses or any other employer) would be required to register. This rulemaking may impact small businesses, not for profit entities, and small municipalities if they bear the cost of training, registration, and record keeping for their employees who are required to register.
- B) Reporting, bookkeeping or other procedures required for compliance: The proposed rules provide specific registration requirements for applicators, including the submission of a signed statement or other documentation, which registrants would need to provide.
- C) Types of professional skills necessary for compliance: An individual in the business of applying sprayed fire-resistant material must register with the OSFM.

- 14) Small Business Impact Analysis:

- A) Types of businesses subject to the proposed rule:

23 Construction

- B) Categories that the agency reasonably believes the rulemaking will impact, including:

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- v. Licensing fees
- vii. Training requirements
- viii. Recordkeeping

15) Regulatory Agenda on which this rulemaking was summarized: January 2024

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

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF PROPOSED RULE

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 48 Ill. Reg. _____, effective _____.

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:

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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.

Section 255.30 Sprayed Fire-Resistant Material Applicator Registration

The individual seeking registration as a sprayed fire-resistant material applicator shall:

- a) 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.
- b) Submit a copy of the individual's valid driver's license, valid state identification, or valid passport.
- c) Be 18 years of age or older.
- d) Provide one of the following:
 - 1) A U.S. Department of Labor certificate of completion for a plasterer apprenticeship;
 - 2) 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
 - 3) 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).
- e) Pay the requisite fee amount in accordance with Section 255.50.

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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 the registration shall follow the process defined in 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

The failure to comply with the Act and this Part by any individual may subject the individual to administrative action, including, but not limited to, suspension, revocation, refusal to issue or renew a registration, and the assessment of a civil penalty.

Section 255.80 Notice of Violation

- a) The Office may serve a notice of violation against any individual who violates 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, by electronic transmission, or by any other method authorized by law.

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- 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.

Section 255.90 Appeal of an Administrative Action

- a) Any person aggrieved by a registration decision or issuance of 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 or issuance of an administrative civil penalty of the Office shall be instituted by filing a written request for a hearing no later

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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. Notice by electronic transmission shall be in conformance with Section 75 of the Illinois Administrative Procedure Act [5 ILCS 100/10-75].

- 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.

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- 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.
- 2) Document Exchange. 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 civil penalty appealed from shall become final. Appeals, petitions, motions or other requests for relief that are not prosecuted diligently may 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 Office shall enter an order to sustain, modify, or revoke the administrative action.
- 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.