

TITLE 41: FIRE PROTECTION
CHAPTER I: OFFICE OF THE STATE FIRE MARSHAL

PART 255
SPRAYED FIRE-RESISTANT MATERIAL APPLICATOR REGISTRATION RULES

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

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22 SOURCE: Adopted at 49 Ill. Reg. _____, effective _____.

23
24 **Section 255.10 Introduction**

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

- 28
- 29 a) *register persons as sprayed fire-resistant material applicators; and*
- 30
- 31 b) *establish requirements for the registration of sprayed fire-resistant material*
- 32 *applicators that includes a requirement for proof of training or certification. [425*
- 33 *ILCS 75/10]*
- 34

35 **Section 255.20 Definitions**

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

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

41
42 "Office" means the Office of the State Fire Marshal.

43

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

47
48 *"Sprayed fire-resistant material applicator" means an individual in the business*
49 *of applying sprayed fire-resistant material.*

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

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

- 54
55 a) Submit a completed application form provided by the Office that includes the
56 name and address of the individual. The address shall be an actual street address
57 and shall include the city, state, and zip code.
58
59 b) Submit a copy of the individual's valid driver's license, valid state identification,
60 or valid passport.
61
62 c) Be 18 years of age or older.
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64 d) Provide one of the following:
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66 1) A U.S. Department of Labor certificate of completion for a plasterer
67 apprenticeship;
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69 2) An affirmative statement that the individual has at least eight hours of
70 training in the application of SFRM, including on the job training,
71 classroom training, or a combination thereof. The statement shall be
72 signed by the individual and the individual's employer or instructor; or
73
74 3) Documentation of any other training or certification, approved by the
75 Office, that is determined by the Office to be equivalent to (d)(1) or (d)(2).
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77 e) Pay the requisite fee amount in accordance with Section 255.50.
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79 **Section 255.40 Renewal of Sprayed Fire-Resistant Material Applicator Registration**

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81 a) The Office will notify the registrant 90 days prior to the expiration of the
82 registration.
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84 b) An individual seeking to renew the registration shall follow the process defined in
85 255.30.
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87 **Section 255.50 Fees**

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89 a) Registration fee (three-year registration cycle): \$75

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91 b) Renewal of registration (before or on expiration date): \$75

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93 c) Registration reinstatement (late filing fee): \$50

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95 d) Renewal of registration (after expiration date): \$125

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97 e) *All fees paid pursuant to the Act are nonrefundable* except that the Office shall
98 refund accidental overpayment of fees. [425 ILCS 75/15]

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100 **Section 255.60 Complaints**

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

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105 **Section 255.70 Administrative Actions**

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

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111 **Section 255.80 Notice of Violation**

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113 a) The Office may serve a notice of violation against any individual who violates the
114 Act or this Part. The notice of violation shall be deemed to have been properly
115 served upon the individual when a copy of the notice of violation has been sent by
116 registered or certified mail to the individual's last known address as furnished to
117 the Office, by electronic transmission, or by any other method authorized by law.

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119 b) The notice of violation shall be in writing and shall:

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121 1) include a description of the violation and its location;

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123 2) provide a reference to the statute or rules alleged to have been violated;

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125 3) if appropriate, identify remedial action;

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127 4) if appropriate, the time within which remedial action is required to be
128 completed;

129

- 130 5) the amount of the administrative civil penalty; and
131
132 6) the process for appeal.
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134 c) In assessing an administrative civil penalty, the Office shall consider the
135 seriousness of the violation, whether the violation was corrected after notification,
136 and whether the individual has been assessed an administrative civil penalty for
137 the same or similar violations in the past. The administrative civil penalties levied
138 under this Section shall not exceed \$250 for each violation.
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140 **Section 255.90 Appeal of an Administrative Action**

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142 a) Any person aggrieved by a registration decision or issuance of an administrative
143 civil penalty of the Office may, as a matter of right, appeal such action.
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145 b) All appeal requests shall:
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147 1) Be in writing;
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149 2) Contain an address, telephone number, and email address where the
150 appellant may be notified of the time and place of the hearing; and
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152 3) Set forth the reasons why the action of the Office should be reversed or
153 modified.
154
155 c) Appeals from a registration decision or issuance of an administrative civil penalty
156 of the Office shall be instituted by filing a written request for a hearing no later
157 than 10 calendar days following receipt of the notice of the action. Requests will
158 be deemed to be timely if they are postmarked no later than the time period
159 allowed.
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161 d) The appeal request shall be mailed to:
162
163 Office of the State Fire Marshal
164 Attn: Legal Division
165 1035 Stevenson Drive
166 Springfield, Illinois 62703-4259
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168 e) In the event of a timely written appeal, the Office shall conduct an administrative
169 hearing governed by this Section. Notice of the time and place for any hearing
170 shall be given to any party concerned at least 30 calendar days prior to the hearing
171 date. If an attorney, through written communication, is known to represent any
172 party to a hearing, then notice is to be given to that attorney. A corporation,

173 limited liability company, professional limited liability company, or partnership
174 must appear by legal counsel, licensed to practice in the State of Illinois or
175 appearing pro hac vice, who must file an appearance with the Office. Service of
176 the notice of violations may be in person, by electronic transmission, or by
177 registered or certified mail. Notice sent to the last known address by U.S. mail,
178 registered or certified, addressed to all parties or their agents appointed to receive
179 service of process, or their attorneys when applicable, is sufficient. Notice by
180 electronic transmission shall be in conformance with Section 75 of the Illinois
181 Administrative Procedure Act [5 ILCS 100/10-75].
182

- 183 1) The notice of hearing shall include the following:
 - 184 A) The date, time, place, and nature of the hearing.
 - 185 B) A statement of the legal authority and jurisdiction under which the
186 hearing is to be held.
 - 187 C) A reference to the section or sections of the substantive and
188 procedural statutes and rules involved.
 - 189 D) A short and plain statement of the matters asserted, the
190 consequences of a failure to respond, and the case number or file
191 number.
 - 192 E) To the extent such information is available, the names, phone
193 numbers, email addresses, and mailing addresses of the parties and
194 designated agency contact, and if known, of any assigned hearing
195 officer.
- 196 2) Document Exchange. At any pre-hearing conference, or if none, at least
197 seven days prior to the start of the hearing, the parties shall exchange a list
198 of those witnesses who may testify at hearing and any exhibits or
199 documents that may be identified at hearing.
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- 201 3) Continuances. A hearing officer may, for good cause, grant a continuance
202 at the request of a party or a continuance on the hearing officer's own
203 motion.
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- 205 4) Default. Failure of a party to appear on the date set for hearing or failure
206 to proceed as ordered by the Office shall constitute a default and the civil
207 penalty appealed from shall become final. Appeals, petitions, motions or
208 other requests for relief that are not prosecuted diligently may be
209 dismissed for want of prosecution.
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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.