

Governor's Office of Management and Budget

Alexis Sturm

Director



IL Regulatory Sunset Act Review of The Fire Equipment Distributor and Employee Regulation Act of 2011

March 22, 2022

**To the Honorable JB Pritzker
Governor of Illinois**

Governor Pritzker:

The Governor's Office of Management and Budget (GOMB), in compliance with the requirements set forth in the Illinois Regulatory Sunset Act (5 ILCS 80), has conducted a review of the Fire Equipment Distributor and Employee Regulation Act of 2011 (225 ILCS 217), which is scheduled to sunset on January 1, 2023. As a result of this review, GOMB makes the following recommendation:

The Fire Equipment Distributor and Employee Regulation Act of 2011 (225 ILCS 217) should be continued with the following modifications to its existing statutory and administrative rule framework:

- Increase the length of the licensing cycle; and
- Amend or repeal provisions which reflect outdated processes.

GOMB's examination of this Act was conducted considering the nine factors set out in Section 6 of the Illinois Regulatory Sunset Act. The following report details the criteria and data utilized to come to the above recommendation.

Very sincerely and respectfully,

Alexis Sturm
Director
Governor's Office of Management and Budget

Criteria (1) “The extent to which the agency or program has permitted qualified applicants to serve the public.”

As of September 2021, there are 173 licensed fire equipment distributors and 661 licensed fire equipment employees in Illinois.

License Type	2017	2018	2019	2020	2021
Fire Equipment Distributors Licensees	181	175	181	180	173
Fire Equipment Employee Licensees	626	637	675	700	661

The current licensure fee structure is as follows:

Application/ Renewal for a License	Fee Amount
Companies	
Class A Distributor (initial and renewal)	\$100 annual
Class B Distributor (initial and renewal)	\$200 annual
Class C Distributor (initial and renewal)	\$300 annual
Individuals	
Employees (initial and renewal)	\$20 per classification, annually
Duplicate License	\$20
Restoration fee for a license	\$50
Wall license	1 st one included
Branch Office	\$50

Certification is required for individual licensees (225 ILCS 217/40). The National Association of Fire Equipment Distributors (NAFED) sets industry standards for certification and is headquartered in Illinois. NAFED certification for Portable and Pre-Engineered Systems is based on an exam administered by the International Code Council (ICC) and these exams are readily available. The ICC certification is recognized nationwide, and many states have adopted these standards for employment/professional credentials. NAFED certification for Engineered Systems is based on a NAFED exam and is also recognized nationally. The National Institute for Certification in Engineering (NICET) also has a certification for Engineered Systems that is a nationally recognized certification (as are NICET certifications generally).

To maintain certification through NAFED or NICET, which is required to be a licensee (225 ILCS 217/40), licensees need continuing education over the three-year certification period. The continuing education is reviewed and approved by the respective third-party organization. Alternatively, the licensee may take a certification exam every three years. Other states regulate this profession similarly to Illinois. Generally, the license is based on verification of competency which is established by holding a nationally recognized certification, such as those of NAFED and NICET. Several states use their own testing and certification. Many states, including Illinois, recognize specific manufacturer certification as needed.

There is not an open training center or formal apprenticeship program in Illinois currently. Most technicians are trained in-house at the company or via industry/manufacturer programs. A training center is being developed by United Association of Sprinkler-fitters in the Chicago area.

Criteria (2) “The extent to which the trade, business, profession, occupation, or industry being regulated is being administered in a nondiscriminatory manner both in terms of employment and rendering of services.”

Licensing decisions are based on an applicant's ability to meet the requirements established by statute and administrative rule. Neither race nor any other identifier is a consideration for licensure under any of the professional licenses regulated by the Department. Consequently, the Department does not collect information from applicants to disclose their race or other social identifiers that could potentially lead to the act or perception of discrimination in licensing decisions.

Criteria (3) "The extent to which the regulatory agency or program has operated in the public interest, and the extent to which its operation has been impeded or enhanced by existing statutes, procedures, and practices of any other department of state government, and any other circumstances, including budgetary resources, and personnel matters."

The agency states that providing support for the program's statutorily required annual licensing cycle occupies a high portion of personnel time. Further, limited personnel in this area results in a limited ability to adequately oversee compliance in this program. Additionally, the agency states that a longer licensing cycle, combined with additional personnel and system resources, would contribute to better and timelier compliance oversight for this program. The Office of the State Fire Marshall (OSFM) also continues to pursue technological efficiencies to serve licensees more effectively.

Criteria (4) "The extent to which the agency running the program has recommended statutory changes to the General Assembly that would benefit the public as opposed to the persons it regulates."

No initiatives have been put forward for this Act over the past five years.

Criteria (5) "The extent to which the agency or program has required the persons it regulates to report to it concerning the impact of rules and decisions of the agency or the impact of the program on the public regarding improved service, economy of service, and availability of service."

The Office of the State Fire Marshal (OSFM) adopts administrative rules through the process established by the Joint Committee on Administrative Rules (JCAR). This process allows for input from licensees impacted by the Office's proposed changes as well as participation by members of the public. Although no feedback is required from regulated industry, the OSFM considers any input it receives. No significant rulemakings for this Act have been undertaken in the last 10 years.

Criteria (6) "The extent to which persons regulated by the agency or under the program have been required to assess the problems in their industry that affect the public."

Fire equipment distributors are not required to provide an assessment to the agency. However, members of this regulated industry have provided feedback to the agency, including their concerns regarding the lack of compliance oversight on those who may be performing subpar service on these fire and life safety systems. Pursuant to completed investigations, feedback reported to the agency has led to investigation but has not resulted in disciplinary action.

Criteria (7) "The extent to which the agency or program has encouraged participation by the public in making its rules and decisions as opposed to participation solely by the persons it regulates and the extent to which such rules and decisions are consistent with statutory authority."

Generally, the OSFM attempts to expand the range of awareness about related rulemaking by also duplicating posting of rulemaking materials on its website. No significant rulemakings for this Act have been undertaken in the

last 10 years. The rules supporting this Act (Fire Equipment Distributor and Employee Standards (41 IAC 251) and Fire Equipment Administrative Procedures (41 IAC 280)) require amendments to ensure consistency with relevant statutes. The OSFM anticipates addressing rulemaking under this statute after the anticipated extension and amendment of this statute.

Criteria (8) “The efficiency with which formal public complaints filed with the regulatory agency or under the program concerning persons subject to regulation have been processed to completion, by the executive director of the regulatory agencies or programs, by the Attorney General and by any other applicable department of the State government.”

The Fire Equipment Distributor and Employee Regulation Act of 2011 (225 ILCS 217) allows anyone to report alleged violations of the Act. Nearly all complaints originate within the industry’s members or from municipal authorities. The agency has a complaint form for this purpose to be submitted via email. Complaints are logged and investigation is subject to personnel resources. The agency has received an average of 22 complaints per year over the last five years. No disciplinary action has been taken as a result of these complaints.

Criteria (9) “The extent to which changes are necessary in the enabling laws of the agency or program to adequately comply with the factors listed in this section.”

The OSFM is in the process of reviewing the Act for necessary changes. Although this does not represent a comprehensive assessment, as of this submission, the OSFM recommends (1) increasing the length of the (currently annual) licensing cycle, (2) increasing licensing fees, and (3) amending or removing provisions which reflect outdated processes.

The OSFM asserts that an annual licensing cycle is unnecessarily burdensome for both licensees and the agency; both would be better served with a longer licensing cycle. License fees for this program have not increased since at least 1990 and currently do not cover the costs to process applications and issue licenses.

Conclusion:

Fire extinguishers and other suppression equipment are the first line of defense during fire scenarios. While the primary priority is the safe exit for occupants, portable fire extinguishers can be used to contain or extinguish a small fire, providing greater safety for occupants and limiting costly damage to property. Other forms of fire equipment can be used for protecting sensitive products and equipment. Given the importance of this equipment and these systems, it is essential that they be serviced by qualified technicians. Failing to renew the Fire Equipment Distributor and Employee Regulation Act of 2011 (225 ILCS 217) could result in poor service of fire and life safety equipment, more frequent malfunction of equipment, and consequently greater danger for the public and an increase in the likelihood of more costly fires.

From an environmental and health standpoint, functioning fire extinguishers and other suppression equipment have a proven ability to fight fires in their early stages, which minimizes the spread of toxic gases and the amount of water or other chemicals needed to control the fire. The availability of accessible and working fire extinguishers provides greater opportunities for small fires to be controlled with lower environmental impact. For these reasons GOMB recommends that this Act be extended past the sunset date with the following modifications to its existing statutory and administrative rule framework identified by the OSFM:

- Increase the length of the licensing cycle; and
- Amend or repeal provisions which reflect outdated processes.