

ILLINOIS REGISTER

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Plumbing Contractor Registration Code
- 2) Code Citation: 77 Ill. Adm. Code 894
- 3)

| <u>Section Numbers</u> | <u>Proposed Action</u> |
|------------------------|------------------------|
| 894.10 | Amend |
| 894.15 | New |
| 894.20 | Amend |
| 894.40 | Amend |
| 894.50 | Amend |
| 894.70 | Amend |
| 894.80 | Amend |
- 4) Statutory Authority: Illinois Plumbing License Law [225 ILCS 320] and Sections 16 and 60(7) of the Civil Administrative Code of Illinois.
- 5) A Complete Description of the Subjects and Issues Involved: Changes to these rules include amendments to the existing irrigation contractor annual registration fees recommended by the Plumbing Code Advisory Council to reflect the progressive cost increase that the Department has incurred for over a decade and the progressive cost increase that the Department will incur in the near future for the production and administration of irrigation contractor registration. Minor modifications to format are being made to increase uniformity between the Part and the required codification system established by the Secretary of State. A new Referenced Materials Section is being added. In Section 894.40, subsections (d) and (e) are being deleted because the language is redundant. These subsections provide a process whereby the Department is to issue a Notice of Intent to Revoke Registration for a plumbing contractor who does not have a valid certificate of insurance or surety bond. The process described in the deleted subsections duplicates Section 894.60, which establishes the process of providing Notice for any violation of the Code.

The economic effect on this proposed rulemaking is unknown. Therefore, the Department requests any information that would assist in calculating this effect.

The Department anticipates adoption of this rulemaking approximately six to nine months after publication of the Notice in the *Illinois Register*.

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- 6) Published studies or reports, and sources of underlying data used to compose this rulemaking: Bureau of Labor Statistics Consumer Price Index; CMS Job Titles and Class Specifications Report
- 7) Will this rulemaking replace any emergency rulemaking 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 proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: Plumbing ordinances adopted by local governments must be no less restrictive in their applications than the proposed rules.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking:

Interested persons should present their comments concerning this rulemaking within 45 days after the publication of this issue of the *Illinois Register* to:

Susan Meister
Division of Legal Services
Illinois Department of Public Health
535 W. Jefferson St., 5th floor
Springfield, Illinois 62761

217-782-2043
e-mail: dph.rules@illinois.gov

- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not for profit corporations affected: It is anticipated that the proposed changes will have minimal impact on small businesses that are registered plumbing contractors, due to the increase in registration fees. Other small businesses, municipalities and not for profit corporations will not be affected by this rule.

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- B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: Registered Irrigation Contractor
- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the two most recent Regulatory Agendas because the need for the rulemaking was not apparent when the Regulatory Agendas were prepared.

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

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TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER r: WATER AND SEWAGE

PART 894
PLUMBING CONTRACTOR REGISTRATION CODE

| | |
|---------------|---|
| Section | |
| 894.10 | Definitions |
| <u>894.15</u> | <u>Referenced Materials</u> |
| 894.20 | Registration Requirements for Plumbing Contractors |
| 894.30 | Certificates of Insurance |
| 895.40 | Insurance and Surety Bond Coverage |
| 894.50 | Hearings |
| 894.60 | Registered Plumbing Contractor Violations |
| 894.70 | Civil Penalties for Unregistered Plumbing Contractors |
| 894.80 | Fees for Plumbing Contractors |

AUTHORITY: Authorized by and implementing the Illinois Plumbing License Law [225 ILCS 320].

SOURCE: Emergency rule adopted at 26 Ill. Reg. 5186, effective March 21, 2002, for a maximum of 150 days; emergency modified in response to an objection of the Joint Committee on Administrative Rules at 26 Ill. Reg. 8480, not to exceed the 150-day limit of the original rulemaking; emergency expired August 17, 2002; adopted at 27 Ill. Reg. 3063, effective February 10, 2003; amended at 38 Ill. Reg. _____, effective _____.

Section 894.10 Definitions

~~In this Part:~~

"Act" means the Illinois Plumbing License Law [225 ILCS 320].

"Business maintenance staff" means one or more licensed plumbers or apprentice plumbers who perform plumbing, as defined in the Act, solely in commercial business facilities owned by the business that employs the plumber or plumbers.

"Department" means the Illinois Department of Public Health.

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"Plumbing contractor" means any person who performs plumbing, as defined in the Act, for another person for hire. "Plumbing contractor" shall not include licensed plumbers and licensed apprentice plumbers who either are employed by persons engaged in the plumbing business or are employed by another person for the performance of plumbing solely for that other person, including, but not limited to, a hospital, university, or business maintenance staff. (Section 2 of the Act)

(Source: Amended at 38 Ill. Reg. _____, effective _____)

Section 894.15 Referenced Materials

The following materials are referenced in this Part:

- a) Illinois Plumbing License Law [225 ILCS 320]
- b) Practice and Procedure in Administrative Hearings (77 Ill. Adm. Code 100)
- c) Illinois Plumbing Code (77 Ill. Adm. Code 890)

(Source: Added at 38 Ill. Reg. _____, effective _____)

Section 894.20 Registration Requirements for Plumbing Contractors

- a) Plumbing Contractor Registration. Subject to Section 13.1 of the Act, each plumbing contractor doing business in Illinois shall register annually with the Department. Registration shall be submitted on forms available from the Department and shall include the following information:
 - 1) The plumbing contractor's full name, address and telephone number, business name, full address of the business, business telephone and fax numbers; Federal Employer Identification Number (FEIN); whether the business is a sole proprietorship, partnership, or corporation; and the name of the registered agent, if the contractor is a corporation.
 - 2) If the plumbing contractor is a corporation, annual certification from the Illinois Secretary of State that the corporation is in good standing in the State of Illinois as either a domestic or foreign corporation and has not

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been dissolved.

- 3) The name, address, telephone and plumber's license number of the licensed plumber of record for the plumbing contractor.
 - 4) A copy of the valid plumber's license for the licensed plumber of record.
 - 5) The annual registration fee specified in Section 894.70.
 - 6) *An original certificate of insurance documenting that the plumbing contractor carries general liability insurance with a minimum of \$100,000 per occurrence, a minimum of \$300,000 aggregate for bodily injury insurance with a minimum of \$300,000 per occurrence, property damage insurance with a minimum of \$50,000 or a minimum of \$300,000 combined single limit, and worker's compensation insurance with a minimum of \$500,000 employer's liability. (Section 13.1 of the Act)- Sole proprietorships and partnerships with no employees are exempt from the worker's compensation insurance requirement.*
 - 7) *On a form provided by the Department, an indemnification bond in the amount of \$20,000 or an irrevocable letter of credit from a financial institution guaranteeing that funds shall be available only to the Department and shall be released upon written notification by the Department *in the same amount for plumbing work performed by the registered plumbing contractor.* (Section 13.1 of the Act)- The letter of credit shall:
 - A) Be ~~be~~ printed on the letterhead of the issuing financial institution;
 - B) Be ~~be~~ signed by an officer of the same financial institution;
 - C) Name ~~name~~ the Department as the sole beneficiary; and
 - D) Expire ~~expire~~ on April 30 of each year.*
- b) Registration Expiration and Renewal. All registrations issued under this Section shall expire on April 30 of each year, except that initial registrations issued after January 30 shall expire one year after the next April 30. Registration may be

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renewed for a period of one year from each succeeding May 1 upon submission by the plumbing contractor of a renewal registration form, all documents required in subsections (a)(5) and (6) ~~of this Section~~, and fee payment prior to that May 1.

- c) Reporting Changes in Registration-
- 1) Plumbing contractors shall report to the Department 15 days in advance of the change:
 - A) Any changes in the business structure, name, or location;
 - B) Any changes in ownership of the registered plumbing contractor;
 - C) Any changes in the licensed plumber of record listed on the registration application.
 - 2) Operation under new ownership shall not commence until the Department has issued a new registration.

(Source: Amended at 38 Ill. Reg. _____, effective _____)

Section 894.40 Insurance and Surety Bond Coverage

- a) A registered plumbing contractor ~~shall~~ may not perform services excluded from the contractor's liability insurance coverage. The insurance policy shall cover all services performed by the registered contractor.
- b) The insurance policy and coverage shall be in effect at all times during the license year. Any interruption in insurance coverage (i.e., any instance when the liability insurance coverage fails to meet the requirements of the Act or this Part) shall result in an immediate termination of plumbing activities. Plumbing activities shall ~~only~~ be reinstated only after the Department has received a certificate of insurance that includes ~~referencing~~ the limits of liability in accordance with Section 13.1 of the Act and Section 894.20 ~~of this Part has been received by the Department~~.
- c) Upon request by the Department, the applicant or licensee shall provide a duplicate copy of the insurance policy.

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- d) ~~The public liability coverages as described on the Certificate of Insurance must be valid and in effect at the time the Department issues registration as a plumbing contractor to the holder of such insurance. Upon receipt of a written notice of intent to cancel insurance, the Department will issue to the contractor a notice of intent to revoke registration. If the Department receives written notice from the insurance company that the policy had been reinstated prior to the expiration date, the notice of intent to revoke the contractor's registration will be rescinded. A \$25 non-refundable processing fee shall be required of the contractor before the Department will rescind the notice of intent to revoke. If the Department does not receive written notice from the insurance company that the policy had been reinstated by the expiration date, the contractor's registration will be revoked. Once a registration is revoked, the contractor must submit a registration application in accordance with Section 894.20.~~
- e) ~~The surety bond and irrevocable letter of credit must be valid and in effect at the time the Department issues registration as a plumbing contractor. Upon receipt of a written notice of intent to cancel a surety bond and irrevocable letter of credit, the Department will issue to the contractor a notice of intent to revoke registration. If the Department receives written notice from the entity issuing the surety bond and irrevocable letter of credit that these documents were reinstated prior to the expiration date, the notice of intent to revoke the contractor's registration will be rescinded. A \$25 non-refundable processing fee shall be required of the contractor before the Department will rescind the notice of intent to revoke. If the Department does not receive written notice from the company that the surety bond and irrevocable letter of credit have been reinstated by the expiration date, the contractor's registration will be revoked. Once a registration is revoked, the contractor must submit a new registration application in accordance with Section 894.20.~~

(Source: Amended at 38 Ill. Reg. _____, effective _____)

Section 894.50 Hearings

All hearings held pursuant to this Part shall be in accordance with the Act and the Department's Rules of Practice and Procedure in Administrative Hearings (77 Ill. Adm. Code 100).

(Source: Amended at 38 Ill. Reg. _____, effective _____)

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Section 894.70 Civil Penalties for Unregistered Plumbing Contractors

- a) A person who practices, offers to practice, or holds himself or herself out to practice as a plumbing contractor without being registered under the provisions of the Act shall be issued a civil penalty under the following criteria:
 - 1) First Offense
 - A) Where no violations of the Illinois Plumbing Code (77 Ill. Adm. Code 890) are found, the person:
 - i) Shall pay a civil penalty of \$1,000.
 - ii) May be referred to the State's Attorney of the County or Attorney General for prosecution under Section 29 of the Act.
 - B) Where violations of the Illinois Plumbing Code are found, the person:
 - i) Shall pay a civil penalty of \$3,000. This amount may be reduced to \$1,000 upon the condition that the unregistered person pays for a licensed plumber to correct the violations of the Illinois Plumbing Code. The licensed plumber correcting the violations must be acceptable to the other party to the original contract or agreement.
 - ii) May be referred to the State's Attorney of the County or Attorney General for prosecution under Section 29 of the Act.
 - 2) Second Offense
 - A) Where no violations of the Illinois Plumbing Code are found, the person:
 - i) Shall pay a civil penalty of \$3,000.

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- ii) May be referred to the State's Attorney of the County or Attorney General for prosecution under Section 29 of the Act.
 - B) Where violations of the Illinois Plumbing Code are found, the person:
 - i) Shall pay a civil penalty of \$5,000. This amount may be reduced to \$3,000 upon the condition that the unregistered person pays for a licensed plumber to correct the violations of the Illinois Plumbing Code. The licensed plumber correcting the violations must be acceptable to the other party to the original contract or agreement.
 - ii) May be referred to the State's Attorney of the County or Attorney General for prosecution under Section 29 of the Act.
- 3) Third and Subsequent Offenses. The person:
 - A) Shall pay a civil penalty of \$5,000.
 - B) Shall be referred to the State's Attorney of the County or Attorney General for prosecution under Section 29 of the Act.
- b) A registered plumbing contractor, firm, corporation, partnership, or association, who directs, authorizes or allows a person to practice, offer to practice, attempt to practice, or hold himself or herself out to practice as a plumbing employee without being licensed under the provisions of the Act, shall be issued a civil penalty under the following criteria:
 - 1) First Offense. The person:
 - A) Shall pay a civil penalty of \$5,000.
 - B) Shall be required to pay for a licensed plumber to correct any violations of the Illinois Plumbing Code. The licensed plumber correcting the violations must be acceptable to the other party to

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the original contract or agreement.

- C) Shall have his or her plumbing license suspended.
 - D) May be referred to the State's Attorney of the County or Attorney General for prosecution under Section 29 of the Act.
- 2) Second Offense. The person:
- A) Shall pay a civil penalty of \$5,000.
 - B) Shall be required to pay for a licensed plumber to correct any violations of the Illinois Plumbing Code. The licensed plumber correcting the violations must be acceptable to the other party to the original contract or agreement.
 - C) Shall have his or her plumbing license revoked.
 - D) Shall be referred to the State's Attorney of the County or Attorney General for prosecution under Section 29 of the Act.

(Source: Amended at 38 Ill. Reg. _____, effective _____)

Section 894.80 Fees for Plumbing Contractors

- a) Each registered plumbing contractor shall submit a ~~A~~ non-refundable annual registration fee of ~~\$150~~ \$100 ~~shall be submitted to the Department by each registered plumbing contractor.~~
- b) A non-refundable registration reinstatement fee of \$100 ~~\$25~~ shall be paid to reinstate a plumbing contractor's registration.

(Source: Amended at 38 Ill. Reg. _____, effective _____)