

STATE OF WISCONSIN
DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES

IN THE MATTER OF RULEMAKING :
PROCEEDINGS BEFORE THE :
 : NOTICE OF PUBLIC HEARING
DEPARTMENT OF SAFETY AND :
PROFESSIONAL SERVICES :
 :

NOTICE IS HEREBY GIVEN that pursuant to authority vested in the Department of Safety and Professional Services in §101.09 (3) (c), § 101.147, § 101.178 (3) (a), § 101.63 (2), § 101.63 (2m), § 101.654 (1m), § 101.73 (5), § 101.73 (6), § 101.82 (1m), § 101.92 (9), § 101.96 (2) (c), § 101.985 (3), § 145.02 (4) (a), § 145.15 (2), § 145.175, § 227.11 (2) (a), § 440.974 (2), Wis. Stats., and interpreting §101.985 (3), § 227.11 (2) (a), § 440.974 (2), Wis. Stats., the Department of Safety and Professional Services will hold a public hearing at the time and place indicated below to consider an order to repeal SPS 132.01, 132.02, 132.025, 132.04, 133.01 (2), 134.01, 135, 305.08 (3) (b), 305.01 (4) (i), 305.01 (4) (i) (Note), Table 305.02 row 8m., Table 305.02 (Note), Table 305.06 row 8m., Table 305.06 column (5), Table 305.06 (Note), 305.125 (3) 1., 305.125 (3) 1. (Note), 305.30, 305.30 (Note); 305.90 (4) (b), 305.90 (4) (d), 305.91 (1) (a), 305.91 (1) (b), 305.91 (1) (b) (Note), 305.91 (5) (b) 1., 305.91 (5) (b) 2., 395.92 (1) (a), 305.92 (1) (b), 305.92 (1) (b) (Note), 305.92 (5) (b) 1., 305.92 (5) (b) 2., 305.92 (6) (b), 305.93 (1) (b) 1., 305.93 (1) (b) 2., 305.93 (1) (b) 2. (Note), 305.93 (5) (b) 1., 305.93 (5) (b) 2., 305.94 (1) (a) 2., 305.94 (1) (a) 2., 305.94 (1) (b) 1., 305.94 (1) (b) 2., 305.94 (1) (b) 2. (Note), 305.94 (3) (b), 305.94 (5) (b) 1., 305.94 (5) (b) 2., 323.16 (2) (a), 323.16 (4), and 361.295 (2); to renumber SPS 132.05 (1) (a), 132.05 (1) (c), 132.05 (2) (a), 132.05 (2) (c), 132.05 (2) (d), 132.06, 133.01 (1), 133.01 (3), 133.02, 133.03, 133.04, 134.03, 305.315 (3) (a) 1., 305.315 (3) (a) 2., 305.315 (3) (b) 2., 323.16 (2) (b), and 323.16 (2) (c); to renumber and amend SPS 132.03, 132.05 (1), 132.05 (1) (b), 132.05 (2), 132.05 (2) (b), 132.05 (3), 134.02, and 134.04; to amend SPS 131 (title), 131.01, 305.07 (2) (b) 1. b., 305.08 (3) (a), 305.315 (3) (b) 1., 305.315 (3) (b) 2., 305.327 (5) (b) 1., 305.33 (7) (b) 1., 305.36 (4) (b) 1., 305.43 (7) (b) 1., 305.435 (7) (b) 1., 305.44 (6) (b) 1., 305.443 (6) (b) 1., 305.447 (6) (b) 1., 305.45 (2) (c) 2., 305.51 (7) (c) 1. a., 305.51 (7) (c) 1. b., 305.52 (6) (c) 1. a., 305.52 (6) (c) 1. b., 305.54 (5) (c) 1. a., 305.54 (5) (c) 1. b., 305.56 (6) (c) 1., 305.60 (5) (c) 1., 305.61 (6) (b) 1., 305.62 (7) (b) 1., 305.625 (6) (b) 1., 305.63 (7) (b) 1., 305.64 (2) (b), 305.64 (3) (d), 305.64 (4) (c) 1., 305.64 (4) (d), 305.66 (6) (b) 1., 305.68 (7) (b) 1., 305.84 (6) (b) 1., 305.85 (6) (b) 1., 305.90 (4) (intro.), 305.90 (4) (a), 305.90 (4) (c), 305.91 (1) (intro.), 305.91 (5) (b) (intro.), 305.91 (8) (b) 1., 305.92 (1) (intro.), 305.92 (5) (b) (intro.), 305.92 (8) (b) 1., 305.93 (1) (b) (intro.), 305.93 (5) (b) (intro.), 305.93 (6) (b) 1., 305.94 (1) (intro.), 305.94 (1) (b), 305.94 (2) (intro.), 305.94 (3) (a), 305.94 (3) (a) 1., 305.94 (3) (a) 2., 305.94 (4), 305.94 (5) (b) (intro.), 305.94 (6) (a) 1., 305.94 (6) (a) 2., 305.94 (6) (b) 1., 305.94 (6) (b) 2., 305.97 (7) (c) 1., 305.99 (5) (c) 1., 305.992 (6) (b) 1., 305.993 (6) (b) 1., 305.997 (6) (b) 1., 334.36, and 334.45 (4) (b); to repeal and recreate SPS 305.003 (15); and to create SPS 131.02 (4e), 131.02 (4m),

131.02 (4s), 131.02 (25m) 131 subch. I (title), 131 subch. II (title), 131 subch. III (title), 131 subch. IV, 305.09 (intro.), 305.315 (3) (c), 305.315 (3) (d), 305.315 (4), 305.64 (2) (b) (Note), 305.945, 323.16 (2) (b) (Note), 332.16 (20) (Note), 334.36 (Note), and 334.45 (4) (b) (Note), relating to licenses, certifications, and registrations of trades credentials; continuing education requirements of home inspectors; and rule changes affected by 2013 Wisconsin Act 20.

Hearing Date, Time and Location

Date: March 3, 2014
Time: 11:00 a.m.
Location: 1400 East Washington Avenue
Room 121C
Madison, Wisconsin

APPEARANCES AT THE HEARING:

Interested persons are invited to present information at the hearing. Persons appearing may make an oral presentation but are urged to submit facts, opinions and argument in writing as well. Facts, opinions, and argument may also be submitted in writing without a personal appearance. All submittals must be directed to Katie Paff, Program and Policy Analyst, at Kathleen.Paff@wisconsin.gov; or by mail addressed to the Department of Safety and Professional Services, Division of Policy Development, P.O. Box 8366, Madison, Wisconsin 53708. Written comments must be received at or before the public hearing to be included in the record of rule-making proceedings.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: § 101.985 (3), § 227.11 (2) (a), § 440.974 (2)

Statutory authority: §101.09 (3) (c), § 101.147, § 101.178 (3) (a), § 101.63 (2), § 101.63 (2m), § 101.654 (1m), § 101.73 (5), § 101.73 (6), § 101.82 (1m), § 101.92 (9), § 101.96 (2) (c), § 101.985 (3), § 145.02 (4) (a), § 145.15 (2), § 145.175, § 227.11 (2) (a), § 440.974 (2)

Explanation of agency authority:

§101.09 (3) (c), Wis. Stats. The rule promulgated under par. (a) may require the certification or registration of persons who install, remove, clean, line, perform tightness testing on and inspect tanks and persons who perform site assessments. Any rule requiring certification or registration shall also authorize the revocation or suspension of the certification or registration.

§ 101.147, Wis. Stats. Contractor registration. (1) No person may hold himself or herself out or act as a construction contractor unless that person is registered as a construction contractor by the department. (2) The department shall promulgate rules to administer and enforce this section.

§ 101.178 (3) (a), Wis. Stats. The department shall promulgate rules for a voluntary program under which a person who engages in the business of installing or servicing heating, ventilating or air conditioning equipment may obtain certification by passing an examination developed or selected by the department.

§ 101.63 (2), Wis. Stats. Adopt rules for the certification, including provisions for suspension and revocation thereof, of inspectors for the purpose of inspecting building construction, electrical wiring, heating, ventilating, air conditioning and other systems, including plumbing, as defined in s. 145.01 (10), of one- and 2-family dwellings under sub. (1). The rules shall specify that the department may suspend or revoke the certification of an inspector under this subsection for knowingly authorizing the issuance of a building permit to a contractor who is not in compliance with s. 101.654.

§ 101.63 (2m), Wis. Stats. Promulgate rules for certifying the financial responsibility of contractors under s. 101.654. These rules shall include rules providing for the assessment of fees upon applicants for certification of financial responsibility under s. 101.654 and for the suspension and revocation of that certification.

§ 101.654 (1m), Wis. Stats. The department shall promulgate rules establishing continuing education requirements for persons seeking to obtain a building permit under sub. (1) (a).

§ 101.73 (5), Wis. Stats. Adopt rules for the certification, including provisions for suspension and revocation thereof, of on-site inspectors of the installation of modular homes for dwellings. Persons certified as on-site inspectors may be employees of the department, a city, village, town or county or an independent agency.

§ 101.73 (6), Wis. Stats. Adopt rules for the certification, including provisions for suspension and revocation thereof, of independent inspection agencies to conduct in-plant inspections of manufacturing facilities, processes, fabrication and assembly of modular homes for dwellings and to certify compliance with this subchapter.

§ 101.82 (1m), Wis. Stats. Promulgate rules that establish criteria and procedures for the registration of beginning electricians and for the examination and licensing of different types of electricians, including journeymen electricians and master electricians.

§ 101.82 (1v), Wis. Stats. Promulgate rules that establish criteria and procedures for the licensing of electrical contractors.

§ 101.92 (9), Wis. Stats. Shall promulgate rules and establish standards necessary to carry out the purposes of ss. 101.951 and 101.952.

§ 101.96 (2) (c), Wis. Stats. The department, by rule shall establish the term of installers' licenses and the conditions under which the department may revoke or suspend installers' licenses. The department shall establish an initial installer's license fee and license renewal fee by rule under s. 101.19.

§ 101.985 (3), Wis. Stats. The department shall issue an elevator inspector license to each individual who demonstrates to the satisfaction of the department that the individual is adequately qualified and able to provide elevator inspection services. The department shall promulgate rules that establish the qualifications required for issuance of an elevator inspector license.

§ 145.02 (4) (a), Wis. Stats. The department shall prescribe rules as to the qualifications, examination and licensing of master and journeyman plumbers and restricted plumber licensees, for the licensing of utility contractors, for the registration of plumbing apprentices and pipe layers and for the registration and training of registered learners. The plumbers council, created under s. 15.407 (16), shall advise the department in formulating the rules. (b) The department may promulgate rules for the qualification and registration of cross-connection control testers.

§ 145.15 (2), Wis. Stats. The department shall prescribe rules as to the qualifications, examination and licensing of journeymen automatic fire sprinkler system fitters and automatic fire sprinkler contractors and for the registration and training of automatic fire sprinkler system apprentices. The automatic fire sprinkler system contractors and journeymen council, created under s. 15.407 (17), shall advise the department in formulating the rules.

§ 145.175, Wis. Stats. An automatic fire sprinkler-maintenance only registration certificate is required before any business establishment may maintain or repair existing automatic fire sprinkler systems in its physical facilities. The department shall, by rule, specify the qualifications for issuing an automatic fire sprinkler-maintenance only registration certificate. The department shall, by rule, specify the activities in which a person holding a registration certificate under this section may engage.

§ 227.11 (2) (a), Wis. Stats. Each agency may promulgate rules interpreting the provisions of any statute enforced or administered by the agency, if the agency considers it necessary to effectuate the purpose of the statute, but a rule is not valid if the rule exceeds the bounds of correct interpretation.

§ 440.974 (2), Wis. Stats. The department shall promulgate rules establishing continuing education requirements for individuals registered under this subchapter. The rules promulgated under this subsection shall require the completion of at least 20 hours of continuing education during each calendar year.

Related statute or rule: § 440.08 (2) (a) 38g., § 440.08 (3) (a), § 440.972, § 440.973, § 440.974, § 440.975, § 440.978, and § 440.979

Plain language analysis:

A recent audit revealed confusion among registered home inspectors in Wisconsin with regards to the continuing education requirements for registration renewal. This proposed rule change would provide clarity for registered home inspectors. The proposed rule change would also repeal rules that are no longer effective, consolidate the home inspector chapters into a single chapter, and incorporate rule changes to SPS 135 in light of changes to § 440.974 (2) under 2013 Senate Bill 345.

Chapter SPS 305 establishes licensing, certification, and registration requirements for a variety of building-related trades, both for individuals and businesses. Current rules require most renewal applicants to complete all continuing education requirements 3 months prior to the expiration of the license, certification or registration. The proposed rule change would align the renewal and continuing education cycle allowing applicants to complete continuing education requirements up to the expiration date of the credential.

Individuals seeking to renew a dwelling contractor qualifier certification must complete at least 12 hours of continuing education approved by the Department. However, Department standards for approval of continuing education courses are unclear often resulting in confusion and wasted resources for potential course providers. The proposed rule change would provide greater clarity with regards to Department standards for course approval facilitating a more transparent and consistent approval process.

The ASME QEI Accreditation Program accredits organizations that certify elevator inspectors in accordance with the ASME QEI-1 Standard. Department rule, SPS 305.64 (2) (b), currently requires applicants for an elevator inspector license to submit evidence of certification by an American Society of Mechanical Engineers (ASME) accredited organization as a qualified elevator inspector (QEI). ASME is discontinuing the QEI Accreditation Program. All accreditations will be withdrawn on January 1, 2014. The proposed rule change removes reference to ASME accreditation and requires applicants for an elevator inspector license to submit evidence of certification based on the QEI-1 standard from an independent organization acceptable to the Department.

Current Department administrative rules require applicants seeking to obtain a journeyman plumber-restricted appliance license to take and pass an examination administered by the Department. The proposed rule change would allow applicants the option of taking an examination administered by an entity approved by the Department. The plumbing activities performed by a licensed journeyman plumber-restricted appliance are limited to the installation and modification of water heaters, water softeners, water treatment devices, and other items in connection with an existing water supply system which do not require direct connection to the drain system. The proposed rule change would also repeal rules that are no longer effective and reorganize rules related to the two different restricted plumbing licenses for greater clarity including

separating the rules for journeyman plumber-restricted appliance license holders into a separate rule section.

Summary of, and comparison with, existing or proposed federal regulation:

None.

Comparison with rules in adjacent states:

Illinois:

All home inspectors are required to complete the equivalent of 6 hours of continuing education per year or 12 hours per renewal from an education provider approved and licensed by the Illinois Department of Financial and Professional Regulation. Proof of continuing education is not required for renewal. However, the Department may require additional evidence demonstrating compliance with the continuing education requirements. It is the responsibility of each renewal applicant to retain or otherwise produce evidence of such compliance upon request.

A review of the rules and statutes pertaining to the renewal of trades credentials in Illinois found no instance of a continuing education cycle that does not align with the credential renewal cycle (41 Ill. Adm. Code 1000.110 Elevator Safety Rules; 68 Ill. Adm. Code 750.500 Plumbers Licensing Code; 225 ILCS 317/35 Sec. 35 (b) Fire Sprinkler Contractor Licensing).

Dwelling contractors are not regulated by the state of Illinois.

In order to be licensed as an elevator inspector in Illinois, the applicant must have attained QEI certification and prove to the satisfaction of the Office of the State Fire Marshall that he or she meets the current ASME QEI-1 Standard for the Qualifications of Elevator Inspectors [225 ILCS 312/50, 41 Ill. Adm. Code Section 1000.80(e)].

Illinois does not offer a plumber-restricted license. Individuals seeking a plumbing license must take a state provided examination (68 Ill. Adm. Code 750).

Iowa:

Home inspectors are not regulated by the State of Iowa.

A review of the rules and statutes pertaining to the renewal of trades credentials in Iowa found no instance of a continuing education cycle that does not align with the credential renewal cycle (Iowa Code 641-30.2 Plumbing and Mechanical Systems Board; and Iowa Code 661-505.210 Electrician and Electrical Contractor Licensing Program).

All contractors doing business in Iowa who make more than \$2,000 a year must be registered with the Iowa Division of Labor. "Construction" is defined very broadly to

include not only typical “construction” work, but also companies or individuals who perform electrical, plumbing, roofing, or house painting work, as well as installation of landscaping, windows, cable, elevators and other activities. Annual renewal is required. Coursework is not required for initial registration. Continuing education is not required for renewal (Chapter 91C of the Iowa Code).

Applicants for an elevator inspector license in Iowa must be a certified elevator inspector (CEI) pursuant to ASME QEI-1. A copy of the applicant’s CEI card is required for a complete application [Code of Iowa 89A.6 and 875 Iowa Administrative Code 71.12].

All applicants for plumbing-related licenses in Iowa must take a board approved, state licensing examination written and proctored by a board-approved testing agency (Iowa Code Ch. 641-29.6). Iowa does not offer a credential equivalent to the journeyman plumber-restricted appliance license.

Michigan:

Home inspectors are not regulated by the State of Michigan.

A review of the rules and statutes pertaining to the renewal of trades credentials in Michigan found no instance of a continuing education cycle that does not align with the credential renewal cycle (MI Code 338.3535 Sec.25 (3) Journey plumber’s license).

In Michigan, an applicant for a Residential Builder or Maintenance & Alteration Contractor license must complete 60 hours of approved preclicensure education prior to taking the examination or submitting a license application to the Department. All preclicensure education courses must be approved by the Department. The 60 hours of approved preclicensure courses must include at least six hours in each of the following subjects: (1) Business Management, Estimating, and Job Costing; (2) Design and Building Science; (3) Contracts, Liability, and Risk Management; (4) Marketing and Sales; (5) Project Management and Scheduling; (6) The Michigan Residential Code; (7) MIOSHA Construction Safety Standards; and, (8) The remaining 18 hours may come from other topics on the approved course list.

Applicants originally licensed after January 1, 2009 are required to complete the following every 3 years for the first 6 years of licensure: (1) A minimum of 3 hours each year; and (2) A total of 21 hours within the first 3 years of licensure and an additional 21 hours during the second 3-year license cycle consisting of 1 hour covering building codes and laws related to the licensed occupation, 1 hour covering safety, 1 hour covering changes in construction and business management laws, and 18 hours of “other topics” (MCL 339.2404b (2)).

To fulfill the continuing competency requirement, applicants can complete any of the following courses and activities: (1) Teaching or successfully completing any approved preclicensure course, Bureau of Construction Codes code update course, MIOSHA safety course, or college course; (2) Successfully completing a

comprehensive test administered by the Department or the Department's third-party testing contractor; (3) Participation in a school-sponsored mentoring program; (4) Presenting or attending a seminar, in-house course, workshop, technical presentation, or training made at a meeting, convention or conference by a trade association, research institute, risk management entity, manufacturer, supplier, governmental agency, consulting agency, or other entity; (4) Publication of an article in a trade journal or a regional magazine as an expert in the field; (5) Active participation in an occupational or technical society, state advisory or review committee; (6) Serving as a member or attending a state Residential Builders' and Maintenance & Alteration Contractors' Board meeting or a state Construction Code Commission meeting; (7) Participating in a code hearing conducted by the International Code Council or Bureau of Construction Codes; (8) Participating in research conducted in conjunction with a college or university, trade association, or manufacturer; or (9) Any continuing competency course or activity may be earned through distance learning (2011 MR 3, R 338.1564 (1) and 2011 MR 3, R 338.1566 (3)).

To meet the 18 hours of "other topics" relevant to the licensed occupation, applicants can complete courses and activities of the following subjects: (1) Business management, estimating, and job costing; (2) Design and building science; (3) Contracts, liability, and risk management; (4) Marketing and sales; (5) Project management and scheduling; (6) Carpentry, concrete, swimming pool installation, waterproofing a basement, excavation, insulation work, masonry work, painting and decorating, roofing, siding and gutters, screen or storm sash insulation, tile and marble work, or house wrecking; (7) Accounting and safekeeping for monies received from a customer, including the requirements of building contract fund; (8) Accounting, finance, and taxes; (9) Personnel Management; (10) Communication and customer service; (11) Environmental or land use analysis; (12) Life safety; (13) "Green" building; (14) Zoning and governance policies and procedures; or (15) Mold, lead, asbestos, or other hazardous material mitigation (2011 MR 3, R 338.1564 (2)).

All elevator inspectors must be certified competent by the Elevator Safety Board of the Michigan Department of Licensing and Regulatory Affairs. There are two types of elevator inspectors: general elevator inspectors who are employed by the State and special elevator inspectors who are employed by insurance companies or municipalities. In addition to being certified, special elevator inspectors must also be commissioned by the Department. Initial commissions for special elevator inspectors are valid for one year. These commissions must be renewed annually.

Applicants for both the general elevator inspector and special elevator inspector certifications must pass (with a score of 70%) the two-part examination of the Elevator Safety Board [Authority: MI Statutes 1967 PA 227]. Applicants may prepare for the examination by studying the ASME A17.1-2007, Safety Code for Elevators and Escalators; ASME A18.1-2008, Safety Standard for Platform Lifts and Stairway Chairlifts; the Michigan Elevator Laws and Rules; 1967 PA 227;

1976 PA 333; the current Michigan Electrical Code, NFPA 70; ASME A90.1-2003, Safety Standards for Belt Manlifts; and the ANSI A10.4-2007, Safety Requirements for Personnel Hoists.

Individuals seeking a journey plumber's license in Michigan must pass an examination provided by the State Plumbing Board and the Department of Licensing and Regulatory Affairs (MI PA 733 of 2002, Sections 338.3533 and 338.3535). Examinations are currently provided and administered by the Department of Licensing and Regulatory Affairs. Michigan does not offer a credential equivalent to the journeyman plumber-restricted appliance license.

Minnesota:

Home inspectors are not regulated by the State of Minnesota.

A review of the rules and statutes pertaining to the renewal of trades credentials in Minnesota found no instance of a continuing education cycle that does not align with the credential renewal cycle (MN Rules 4716.0205 – Plumber Licensing and Apprentice Registration; and MN Rules 3800.3602 – Board of Electricity Licensing).

Anyone who contracts or offers to contract with a homeowner to construct or improve “residential real estate” must be licensed as a residential building contractor or a residential remodeler unless they meet one of the specified exemptions. A residential building contractor can build new homes and work on existing structures, whereas a remodeler can only work on existing structures.

Licenses are issued to the residential contracting business entity, though each business entity must have an individual who acts as the “qualifying person” for the company's license. In order to be a qualifying person, the individual must be an owner or officer of the company or a managing employee of the company and must pass a written exam.

To renew a license, the company's qualifying person must complete 14 hours of appropriate and related knowledge in residential construction, including applicable federal and state laws, rules, and regulations at an approved continuing education program during the biennial renewal cycle. Course content must demonstrate significant intellectual or practical content and deal with matters directly related to residential construction, workforce safety, or the business of running a company in the residential construction industry. One of the 14 hours must include instruction related to energy codes or energy conservation measures applicable to residential structures. Courses not approved by DLI may be accepted for credit by submitting an individual course application and a certificate of completion along with all course materials (Minnesota Statutes 326B.0981, 326B.821).

Current Minnesota rules specify that any person performing elevator inspections hired after January 29, 2007, must be certified by an ASME accredited organization as a qualified elevator inspector (QEI) within 18 months of the employment start date [MN Rules 1307.0067 subp. 13.].

An applicant for a plumber's license in Minnesota must pass an examination given by the provided by the Department of Labor and Industry in March and September of each year (MN Rules 4716.0020). Minnesota does not offer a credential equivalent to the journeyman plumber-restricted appliance license.

Summary of factual data and analytical methodologies:

The proposed rule change provides clarity for registered home inspectors with regards to continuing education requirements for registration renewal. The proposed rule change is based on the results from a recent audit conducted by the Department assessing compliance with the continuing education requirements in ch. SPS 135.

Department rules were evaluated to find opportunities to increase efficiencies in the processes relating to the issuance and renewal of credentials. It was determined that the credential renewal process could be made less burdensome while maintaining professional integrity by aligning the continuing education and renewal cycles.

Department standards for approval of continuing education courses required to renew a dwelling contractor qualifier certification are unclear resulting in confusion and wasted resources for potential course providers. The proposed rule change would provide greater clarity with regards to Department standards for course approval facilitating a more transparent and consistent approval process. Expert advice from the Contractor Certification Council informed the proposed rule change.

SPS 305.64 (2) (b) currently requires applicants for elevator inspector licensure to provide proof of certification from an ASME accredited organization. Since ASME will be discontinuing the QEI accreditation program, this change updates the rule to reflect that applicants will be required to provide evidence of certification from a Department approved independent agency.

The proposed rule change provides applicants seeking to obtain a journeyman plumber-restricted license with more testing options to receive licensure.

Adjacent states' requirements were also reviewed.

Analysis and supporting documents used to determine effect on small business or in preparation of economic impact analysis:

The rule was posted currently for public comment on the economic impact of the proposed rule, including how this proposed rule may affect businesses, local government

units and individuals, for a period of 14 days. No comments were received relating to the economic impact of the rule.

Fiscal estimate and Economic Impact Analysis:

The Fiscal Estimate and Economic Impact Analysis is attached.

Initial Regulatory Flexibility Analysis or Summary:

These proposed rules do not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department's Regulatory Review Coordinator may be contacted by email at Tom.Engels@wisconsin.gov, or by calling (608) 266-8608.

Agency contact person:

Katie Paff, Program and Policy Analyst, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8935, Madison, Wisconsin 53708; telephone 608-261-4472; email at Kathleen.Paff@wisconsin.gov.

Place where comments are to be submitted and deadline for submission:

Comments may be submitted to Katie Paff, Program and Policy Analyst, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8935, Madison, WI 53708-8935, or by email to Kathleen.Paff@wisconsin.gov. Comments must be received at or before the public hearing to be held on March 3, 2014 at 11 a.m. to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. SPS 131 (title) is amended to read:

CHAPTER SPS 131

~~AUTHORITY AND DEFINITIONS~~ HOME INSPECTORS

SECTION 2. SPS 131.01 is amended to read:

SPS 131.01 Authority. The rules in ~~chs. SPS 131 to 135~~ ch. 131 are adopted pursuant to ss. 227.11 (2) ~~and~~ , 440.972, 440.973, 440.974, 440.975, 440.978, and 440.979, Stats.

SECTION 3. SPS 131.02 (4e), (4m), (4s), and (25m) are created to read:

SPS 131.02 (4e) “Continuing education” means the planned, professional development activities designed to contribute to the advancement, extension, and enhancement of the professional skills or knowledge of registered home inspectors.

SPS 131.02 (4m) “Continuing education credit hour” means a unit of credit for continuing education courses, where one continuing education credit hour equals 50 minutes of actual instruction in a continuing education training program or activity.

SPS 131.02 (4s) “Continuing education training program” means any course, program, or activity meeting the requirements of SPS 131.42 and having a clear purpose and objective of maintaining, improving, or expanding the skills and knowledge relevant to the registrant’s professional practice.

SPS 131.02 (25m) “Registrant” means a person who holds a registration issued by the department or who has the right to renew a registration issued by the department.

SECTION 4. SPS 131 subch. I (title) is created to read:

SUBCHAPTER I

APPLICATIONS

SECTION 5. SPS 132.01, 132.02, and 132.025 are repealed.

SECTION 6. SPS 132.03 is renumbered SPS 131.11, and SPS 131.11 (3), as renumbered, is amended to read:

SPS 131.11 (3) Evidence of having successfully passed the examination as specified in ~~SPS 133.01 (3)~~ 131.21 (2).

SECTION 7. SPS 132.04 is repealed.

SECTION 8. SPS 132.05 (1) is renumbered SPS 131.12 and SPS 131.12, as renumbered, is amended to read:

SPS 131.12 ~~Requirements for renewal; restoration of licenses~~ License renewal. ~~(1) Except as provided in s. SPS 132.04, to~~ To renew a home inspector registration, a registrant shall, on or before December 15 of every even-numbered year following initial registration, ~~provide all of the following to file with the department all of the following:~~

SECTION 9. SPS 132.05 (1) (a), (b), and (c) are renumbered SPS 131.12 (1), (2), and (3), and SPS 131.12 (2), as renumbered, is amended to read:

SPS 131.12 (2) Evidence that the registrant has, during the biennial period immediately preceding application, ~~completed~~ complied with the continuing education requirements ~~specified in ch. SPS 135 subch. IV.~~

SECTION 10. SPS 132.05 (2) and 132.05 (2) (a), (b), (c), and (d) are renumbered SPS 131.13 and 131.13 (1), (2), (3), and (4), and SPS 131.13, as renumbered, is amended to read:

SPS 131.13 Late renewal. A registrant who fails to meet the requirements of ~~sub. (1) s. SPS 131.12~~ by the renewal date may not engage in practice as a home inspector until the registration is renewed. A registrant who fails to meet the requirements ~~in sub. (1) of s. SPS 131.12~~ by the renewal date and who applies for renewal less than 5 years after the expiration date of his or her registration may renew by submitting all of the following to the department:

SECTION 11. SPS 131.13 (2), as renumbered, is amended to read:

SPS 131.13 (2) Evidence that the registrant has, during the biennial period immediately preceding application, completed the continuing education requirements specified in ~~s. SPS 135.04~~ subch. IV.

SECTION 12. SPS 132.05 (3) is renumbered SPS 131.14 and SPS 131.14, as renumbered, is amended to read:

SPS 131.14 Reinstatement of license. ~~A registrant who files for renewal more than 5 years after expiration of his or her registration~~ If an application for restoring a registration occurs 5 years or more after expiration of the applicant's most recent registration, the applicant's registration may be reinstated by filing with the department an application and the fees specified in s. 440.08 (2) (a) 38g. and (3) (a), Stats. The department may also require demonstration of competence by various methods including, but not limited to, written or oral examination, documentation of home inspection in other jurisdictions, or documentation of current education or experience in the field. Any examination or education required under this section may not be more extensive than the educational or examination requirements for initial registration with the department.

SECTION 13. SPS 132.06 is renumbered SPS 131.15.

SECTION 14. SPS 131 subch. II (title) is created to read:

SUBCHAPTER II

EXAMINATIONS

SECTION 15. SPS 133.01 (1) is renumbered SPS 131.21 (1).

SECTION 16. SPS 133.01 (2) is repealed.

SECTION 17. SPS 133.01 (3) is renumbered SPS 131.21 (2).

SECTION 18. SPS 133.02, 133.03, and 133.04 are renumbered SPS 131.22, 131.23, and 131.24.

SECTION 19. SPS 131 subch. III (title) is created to read:

SUBCHAPTER III

STANDARDS OF PRACTICE

SECTION 20. SPS 134.01 is repealed.

SECTION 21. SPS 134.02 is renumbered SPS 131.31 and SPS 131.31 (1), as renumbered, is amended to read:

SPS 131.31 General Requirements. (1) A home inspector shall perform a reasonably competent and diligent home inspection of the readily accessible installed systems and components required to be inspected under s. SPS ~~134.03~~ 131.32 to detect observable conditions of an improvement to residential real property. A reasonably competent and diligent home inspection is not required to be technically exhaustive.

SECTION 22. SPS 134.03 is renumbered SPS 132.32.

SECTION 23. SPS 134.04 is renumbered SPS 131.33 and SPS 131.33 (1) (a) and (b), as renumbered, are amended to read:

SPS 131.33 (1) (a) Lists the items described in s. SPS ~~134.03~~ 132.32 that a home inspector is required to inspect.

(b) Lists the items described in s. SPS ~~134.03~~ 132.32 that a home inspector has inspected.

SECTION 24. Chapter SPS 135 is repealed.

SECTION 25. SPS 131 subch. IV is created to read:

SUBCHAPTER IV

CONTINUING EDUCATION REQUIREMENTS

SPS 131.41 Continuing education requirements for registration renewal.

(1) Every registered home inspector shall complete a minimum of 40 continuing education credit hours during each biennial registration period.

Note: Continuing education, continuing education credit hour, and continuing education training program are defined in s. SPS 131.02.

(2) A registrant is not required to complete continuing education credit hours between initial registration and the first registration renewal period.

Note: Registrant is defined in s. SPS 131.02.

(3) (a) If a registrant fails to satisfy the continuing education requirements within a biennial registration period, continuing education credit hours acquired on or after December 15 of any even-numbered year will be first applied to the preceding biennium until the requirement is fulfilled. Continuing education credit hours may not apply to more than one biennium.

(b) A registrant who fails to meet the continuing education requirements by December 14 of any even-numbered year may not engage in the practice of home inspection until the registration is renewed, except as provided in s. SPS 131.45.

(4) Continuing education credit hours shall be obtained through any of the following means:

(a) Attending seminars, corporate in-house courses, workshops, or professional or technical presentations made at meetings, conventions, or conferences that meet the requirements of s. SPS 131.42. Attendance may be in person or via remote classroom where a qualified provider is available to participate to comment and answer questions.

(b) Teaching a continuing education program that meets the requirements of s. SPS 131.42. Fifty minutes of actual instruction is equivalent to one continuing education credit hour. No additional continuing education credit hours will be granted for subsequent presentations of identical material.

(c) Participating in distance education that meets the requirements of s. SPS 131.42 including the completion of interactive short courses or tutorials, delivery of educational programs and courses on CD-ROM or the Internet, or correspondence courses.

(d) Attending technical or professional society meetings that meet the requirements of subs. SPS 131.42 (2) and (3). A maximum of 20 hours per biennial registration period may be counted toward continuing education requirements.

(5) A registrant may only receive credit for the initial attendance of a continuing education program during a biennium. Registrants may not receive additional continuing education credit hours for repeated attendance at a continuing education program during a biennium.

(6) A registrant may not receive continuing education credit hours for work completed as part of the registrant's regular duties as a home inspector.

SPS 131.42 Standards for continuing education programs. Acceptable continuing education programs meet all of the following:

(1) Include instruction in an organized method of learning contributing directly to the professional competency of the registrant and pertaining to subject matters that significantly relate to the practice of home inspection as defined in SPS 131.02 (12). The instruction shall include amplification, evaluation, examples, and explanation of the course subject matter to the licensee.

(2) Be conducted by individuals or entities which have specialized education, training or experience, and which are qualified in the subject matter of the program.

(3) Provide attendance or completion verification records in the form of completion certificates or other documents evidencing attendance at, or completion of, the continuing education course or program. The certificate or other document shall include all of the following:

1. The name of the course.
2. The provider's name.
3. The registrant's name.
4. The date of completion.
5. The location of the course.
6. The number of hours.
7. A signature from the instructor or provider.

SPS 131.43 Certificate of completion, proof of attendance.

(1) Each registrant shall certify on the registration renewal application that he or she has fully complied with the continuing education requirements of this chapter.

(2) The department may conduct a random audit of its registrants on a biennial basis for assessing compliance with the continuing education requirements in this chapter. It is the responsibility of each registrant to retain or otherwise produce evidence of compliance.

(3) If evidence of compliance is required by the department or its designee, the registrant shall submit the requested information within 30 business days of receiving written notice. Failure to do so may result in disciplinary action.

SPS 131.44 Recordkeeping. A registrant shall obtain a certificate of completion or other evidence of attendance from the program provider for each continuing education course or program completed. The registrant shall retain the certificates and any other required, related documentation for a minimum of 5 years.

SPS 131.45 Waiver of continuing education requirements.

(1) A renewal applicant who is actively practicing in the profession and is unable to fully comply with the continuing education requirements due to temporary, extreme hardship, as determined by the department, may submit a written request for a waiver or a written request for an extension of time to complete the continuing education requirements. The department or its designee will review the request, and in its sole discretion may grant a full or partial waiver, or an extension of time to comply with the requirements.

(2) A renewal applicant who prior to the expiration date of the registration submits a request for a waiver and provides a written statement setting forth the basis for the request, shall be deemed to be in good standing until the final decision on the request is made by the department or its designee. If the waiver is denied and the registration has expired, the applicant shall immediately discontinue engaging in the practice of home inspection until the applicant meets the requirements of s. SPS 131.41 and submits evidence of compliance to the department or its designee.

(3) A renewal applicant may not receive a waiver under this provision for 2 consecutive biennia.

SECTION 26. SPS 305.003 (15) is repealed and recreated to read:

SPS 305.003 (15) “Conveyance” has the meaning as given in s. 101.981 (1) (c), Stats., and those devices specifically listed in the definition of conveyance in ch. SPS 318.

SECTION 27. SPS 305.01 (4) (i) and 305.01 (4) (i) (Note) are repealed.

SECTION 28. SPS Table 305.02, row 8m. is repealed.

SECTION 29. SPS Table 305.02 (Note) is repealed.

SECTION 30. SPS Table 305.06, row 8m and column (5) are repealed.

[Note to the Legislative Reference Bureau: Column (5) has a column heading of “Continuing Education Cycle”.]

SECTION 31. SPS Table 305.06 (Note) is repealed.

SECTION 32. SPS 305.07 (2) (b) 1. b. is amended to read:

SPS 305.07 (2) (b) 1. b. Any continuing education credit obtained after the ~~time frame specified under s. SPS 305.08 (3) (a)~~ expiration date of the license, certification, or registration, but prior to ~~the one-term deadline for renewal after the expiration date of the license, certification, or registration~~ as specified in Table 305.06, that is needed to fulfill the renewal obligations shall be documented and filed with the department on a form prescribed by the department.

SECTION 33. SPS 305.08 (1) (e) 1. is amended to read:

SPS 305.08 (1) (e) 1. The department may ~~impose specific conditions in approving a course, program or seminar for continuing education credit, including limiting limit credit to specific license, certification, or registration categories when approving a course, program, or seminar for continuing education credit.~~

SECTION 34. SPS 305.08 (3) (a) is amended to read:

SPS 305.08 (3) (a) Except as provided under s. SPS 305.07 (2) (b), for those license, certification or registration categories which require continuing educational credit for renewal, the license, certification or registration holder shall obtain the necessary amount of continuing educational credit ~~at least 3 months~~ prior to the expiration date of the license, certification, or registration as specified in Table 305.06.

SECTION 35. SPS 305.08 (3) (b) is repealed.

SECTION 36. SPS 305.09 (intro.) is created to read:

SPS 305.09 This section shall apply to examinations administered by the department.

SECTION 37. SPS 305.125 (3) 1. and (Note) are repealed.

SECTION 38. SPS 305.30 and (Note) are repealed.

SECTION 39. SPS 305.315 (3) (a) 1. and 2., and 305.315 (3) (b) 1. are renumbered SPS 305.315 (3), 305.315 (3) (a) and (b), and SPS 305.315 (3) (b), as renumbered, is amended to read:

SPS 305.315 (3) (b) The renewal of a certification as a dwelling contractor qualifier shall be contingent upon the individual ~~obtaining~~ completing at least 12 hours of ~~acceptable~~ approved continuing education ~~within the time period prior to the expiration~~

of the certification as specified in s. SPS 305.08 and Table 305.06, except as provided in ~~subd. 2~~ sub. (5).

SECTION 40. SPS 305.315 (3) (b) 2. is renumbered SPS 305.315 (5).

SECTION 41. SPS 305.315 (3) (c) and (d) are created to read:

SPS 305.315 (3) (c) Continuing education shall be obtained through any of the following means:

1. Attending seminars, corporate in-house courses, workshops, or professional or technical presentations made at meetings, conventions, or conferences that meet the requirements of sub. (4). Attendance may be in person or via remote classroom where a qualified provider is available to participate to comment and answer questions.

2. Teaching a continuing education program that meets the requirements of sub. (4). A person who teaches may only receive credit for the initial offering or presentation of a course or program during a biennium.

3. Participating in distance education that meets the requirements of sub. (4) including the completion of interactive short courses or tutorials, delivery of educational programs and courses on CD-ROM or the Internet, or correspondence courses.

4. Attending technical or professional society meetings that meet the requirements of sub. (4). A maximum of 6 hours per biennial renewal cycle may be counted toward continuing education requirements.

Note: Technical or professional society meetings must have received prior approval from the Department to fulfill continuing education requirements for certification renewal similar to all other dwelling contractor qualifier continuing education courses, programs, seminars, and meetings.

(d) Each certification holder shall retain evidence of compliance with continuing education requirements in accordance with s. SPS 305.08 (2).

SECTION 42. SPS 305.315 (4) is created to read:

SPS 305.315 (4) Standards for continuing education. Only courses, programs, meetings, and seminars approved by the department in accordance with s. SPS 305.08 shall be used to fulfill continuing education requirements for renewal of a dwelling contractor qualifier certification. Continuing education shall also meet all of the following:

(a) Include instruction in an organized method of learning contributing directly to the professional competency of the certification holder and pertaining to subject matters that integrally relate to the practice of the profession. The instruction shall include amplification, evaluation, examples, and explanation of the course subject matter to the certification holder.

(b) Be conducted by individuals or entities which have specialized education, training, or experience, and which are qualified in the subject matter of the program.

(c) Include at least 10 review questions for each credit hour if the continuing education credit is obtained through distance education as specified in sub. (3)(c) 3. The department may require submittal of the review questions for approval.

(d) Include at least 30 questions for each credit hour if the continuing education course, program, or seminar is predominantly question-and-answer based. A minimum score of 70 percent is required to receive continuing education credit. The department may require submittal of the questions for approval.

(e) Include any of the following content:

1. Construction laws and codes.
2. Construction safety topics that are directly related to operating a residential construction business.
3. Business management, estimating, and job costing.
4. Changes in construction and business management laws.
5. Design and building science.
6. Contracts, liability, and risk management.
7. Marketing and sales topics regarding the provision of accurate and ethical information to the customer.
8. Project management, personnel management, and scheduling.
9. Carpentry, concrete, swimming pool installation, damp proofing a basement, excavation, insulation work, masonry work, painting and decorating, roofing, siding and gutters, screen or storm sash installation, tile and marble work, or house wrecking.
10. Accounting, finance, and taxes.
11. Communication and customer service.
12. Environmental or land use analysis.
13. Zoning and governance policies and procedures.
14. Mold, lead, asbestos, or other hazardous material mitigation.

15. Energy codes and energy conservation methods applicable to residential structures.

16. Other subject matter approved by the department.

SECTION 43. SPS 305.327 (5) (b) 1. is amended to read:

SPS 305.327 (5) (b) 1. The renewal of a license as a manufactured home installer shall be contingent upon the manufactured home installer obtaining at least 12 hours of acceptable continuing education ~~within the time period~~ prior to the expiration date of the license as specified in s. SPS 305.08 and Table 305.06, except as provided in subd. 2.

SECTION 44. SPS 305.33 (7) (b) 1. is amended to read:

SPS 305.33 (7) (b) 1. The renewal of a certification as a certified soil tester shall be contingent upon the soil tester obtaining at least 12 hours of acceptable continuing education ~~within the time period~~ prior to the expiration date of the certification as specified in s. SPS 305.08 and Table 305.06, except as provided in subd. 2.

SECTION 45. SPS 305.36 (4) (b) 1. is amended to read:

SPS 305.36 (4) (b) 1. The renewal of a registration as a registered POWTS maintainer shall be contingent upon the POWTS maintainer obtaining at least 12 hours of acceptable continuing education ~~within the time period~~ prior to the expiration date of the registration as specified in s. SPS 305.08 and Table 305.06, except as provided in subd. 2.

SECTION 46. SPS 305.43 (7) (b) 1. is amended to read:

SPS 305.43 (7) (b) 1. The renewal of a license as a licensed master electrician shall be contingent upon the master electrician obtaining at least 24 hours of acceptable continuing education ~~within the time period~~ prior to the expiration date of the license as specified in s. SPS 305.08 and Table 305.06, except as provided in subd. 2.

SECTION 47. SPS 305.435 (7) (b) 1. is amended to read:

SPS 305.435 (7) (b) 1. The renewal of a license as a licensed residential master electrician shall be contingent upon the residential master electrician obtaining at least 18 hours of acceptable continuing education ~~within the time period~~ prior to the expiration date of the license as specified in s. SPS 305.08 and Table 305.06, except as provided in subd. 2.

SECTION 48. SPS 305.44 (6) (b) 1. is amended to read:

SPS 305.44 (6) (b) 1. The renewal of a license as a licensed journeyman electrician shall be contingent upon the journeyman electrician obtaining at least 24 hours

of acceptable continuing education ~~within the time period~~ prior to the expiration date of the license as specified in s. SPS 305.08 and Table 305.06, except as provided in subd. 2.

SECTION 49. SPS 305.443 (6) (b) 1. is amended to read:

SPS 305.443 (6) (b) 1. The renewal of a license as a licensed industrial journeyman electrician shall be contingent upon the industrial journeyman electrician obtaining at least 18 hours of acceptable continuing education ~~within the time period~~ prior to the expiration date of the license as specified in s. SPS 305.08 and Table 305.06, except as provided in subd. 2.

SECTION 50. SPS 305.447 (6) (b) 1. is amended to read:

SPS 305.447 (6) (b) 1. The renewal of a license as a licensed residential journeyman electrician shall be contingent upon the residential journeyman electrician obtaining at least 18 hours of acceptable continuing education ~~within the time period~~ prior to the expiration date of the license as specified in s. SPS 305.08 and Table 305.06, except as provided in subd. 2.

SECTION 51. SPS 305.45 (2) (c) 2. is amended to read:

SPS 305.45 (2) (c) 2. The renewal of a registration as a beginning electrician which has an expiration date after June 30, 2013 shall be contingent upon the beginning electrician obtaining at least 24 hours of acceptable continuing education ~~with the time period~~ prior to the expiration date of the registration as specified in s. SPS 305.08 and Table 305.06, except as provided in subd. 3.

SECTION 52. SPS 305.51 (7) (c) 1. a. and b. are amended to read:

SPS 305.51 (7) (c) 1. a. The renewal of a license as an automatic fire sprinkler contractor which has an expiration date on or before June 30, 2010 shall be contingent upon the automatic fire sprinkler contractor obtaining at least 12 hours of acceptable continuing education ~~within the time period~~ prior to the expiration date of the license as specified in s. SPS 305.08 and Table 305.06, except as provided in subd. 2.

b. The renewal of a license as an automatic fire sprinkler contractor which has an expiration date after June 30, 2010 shall be contingent upon the automatic fire sprinkler contractor obtaining at least 24 hours of acceptable continuing education ~~within the time period~~ prior to the expiration date of the license as specified in s. SPS 305.08 and Table 305.06, except as provided in subd. 2.

SECTION 53. SPS 305.52 (6) (c) 1. a. and b. are amended to read:

SPS 305.52 (6) (c) 1. a. The renewal of a license as a journeyman automatic fire sprinkler fitter which has an expiration date on or before June 30, 2010 shall be contingent upon the journeyman automatic fire sprinkler fitter obtaining at least 12 hours

of acceptable continuing education ~~within the time period~~ prior to the expiration date of the license as specified in s. SPS 305.08 and Table 305.06, except as provided in subd. 2.

b. The renewal of a license as a journeyman automatic fire sprinkler fitter which has an expiration date after June 30, 2010 shall be contingent upon the journeyman automatic fire sprinkler fitter obtaining at least 24 hours of acceptable continuing education ~~within the time period~~ prior to the expiration date of the license as specified in s. SPS 305.08 and Table 305.06, except as provided in subd. 2.

SECTION 54. SPS 305.54 (5) (c) 1. a. and b. are amended to read:

SPS 305.54 (5) (c) 1. a. The renewal of a registration as an automatic fire sprinkler contractor-maintenance which has an expiration date on or before June 30, 2010 shall be contingent upon the automatic fire sprinkler contractor-maintenance obtaining at least 6 hours of acceptable continuing education ~~within the time period~~ prior to the expiration date of the registration as specified in s. SPS 305.08 and Table 305.06, except as provided in subd. 2.

b. The renewal of a registration as an automatic fire sprinkler contractor-maintenance which has an expiration date after June 30, 2010 shall be contingent upon the automatic fire sprinkler contractor-maintenance obtaining at least 12 hours of acceptable continuing education ~~within the time period~~ prior to the expiration date of the registration as specified in s. SPS 305.08 and Table 305.06, except as provided in subd. 2.

SECTION 55. SPS 305.56 (6) (c) 1. is amended to read:

SPS 305.56 (6) (c) 1. The renewal of a registration as an automatic fire sprinkler system tester which has an expiration date after December 31, 2013 shall be contingent upon the automatic fire sprinkler system tester obtaining at least 12 hours of approved continuing education ~~within the time period~~ prior to the expiration date of the registration as specified in s. SPS 305.08 and Table 305.06, except as provided in subd. 2.

SECTION 56. SPS 305.60 (5) (c) 1. is amended to read:

SPS 305.60 (5) (c) 1. The renewal of a certification as a certified boiler-pressure vessel inspector or certified in-service field inspector shall be contingent upon the boiler-pressure vessel inspector or in-service field inspector obtaining at least 24 hours of acceptable continuing education ~~within the time period~~ prior to the expiration date of the certification as specified in s. SPS 305.08 and Table 305.06, except as provided in subd. 2.

SECTION 57. SPS 305.61 (6) (b) 1. is amended to read

SPS 305.61 (6) (b) 1. The renewal of a certification as a certified commercial building inspector shall be contingent upon the commercial building inspector obtaining at least 24 hours of acceptable continuing education ~~within the time period~~ prior to the

expiration date of the certification as specified in s. SPS 305.08 and Table 305.06, except as provided in subd. 2.

SECTION 58. SPS 305.62 (7) (b) 1. is amended to read:

SPS 305.62 (7) (b) 1. The renewal of a certification as a certified commercial electrical inspector shall be contingent upon the commercial electrical inspector obtaining at least 24 hours of acceptable continuing education ~~within the time period~~ prior to the expiration date of the certification as specified in s. SPS 305.08 and Table 305.06, except as provided in subd. 2.

SECTION 59. SPS 305.625 (6) (b) 1. is amended to read:

SPS 305.625 (6) (b) 1. The renewal of a certification as a certified commercial plumbing inspector shall be contingent upon the commercial plumbing inspector obtaining at least 24 hours of acceptable continuing education ~~within the time period~~ prior to the expiration date of the certification as specified in s. SPS 305.08 and Table 305.06, except as provided in subd. 2.

SECTION 60. SPS 305.63 (7) (b) 1. is amended to read:

SPS 305.63 (7) (b) 1. The renewal of a certification as a certified UDC-construction inspector, certified UDC-electrical inspector, certified UDC-HVAC inspector or certified UDC-plumbing inspector shall be contingent upon the inspector obtaining at least 24 hours of acceptable continuing education ~~within the time period~~ prior to the expiration date of the certification as specified in s. SPS 305.08 and Table 305.06, except as provided in subd. 2.

SECTION 61. SPS 305.64 (2) (b) is amended to read:

SPS 305.64 (2) (b) Evidence that the person holds a certification ~~as from an American Society of Mechanical Engineers (ASME)~~ acceptable independent organization in accordance with the procedures established under the standard for the Qualification of Elevator Inspector (QEI-1).

SECTION 62. SPS 305.64 (2) (b) (Note) is created to read:

SPS 305.64 (2) (b) Note: As of October 1, 2013 acceptable independent organizations include the Elevator Industry Work Preservation Fund, the National Association of Elevator Safety Authorities International (NAESA International), and QEI Services, Inc.

SECTION 63. SPS 305.64 (3) (d) is amended to read:

SPS 305.64 (3) (d) Maintain his or her ~~ASME~~ QEI-1 certification.

SECTION 64. SPS 305.64 (4) (c) 1. is amended to read:

SPS 305.64 (4) (c) 1. The renewal of a license as a licensed elevator inspector shall be contingent upon the elevator inspector obtaining at least 24 hours of acceptable continuing education ~~within the time period~~ prior to the expiration date of the license as specified in s. SPS 305.08 and Table 305.06, except as provided in subd. 2.

SECTION 65. SPS 305.64 (4) (d) is amended to read:

SPS 305.64 (4) (d) The renewal of a license as an elevator inspector is contingent upon the person submitting evidence that the person holds a certification as an ~~ASME QEI-1~~ elevator inspector.

SECTION 66. SPS 305.66 (6) (b) 1. is amended to read:

SPS 305.66 (6) (b) 1. The renewal of a certification as a certified POWTS inspector shall be contingent upon the inspector obtaining at least 24 hours of acceptable continuing education ~~within the time period~~ prior to the expiration date of the certification as specified in s. SPS 305.08 and Table 305.06, except as provided in subd. 2.

SECTION 67. SPS 305.68 (7) (b) 1. is amended to read:

SPS 305.68 (7) (b) 1. The renewal of a certification as a certified tank system inspector shall be contingent upon the inspector obtaining at least 12 hours of acceptable continuing education ~~within the time period~~ prior to the expiration date of the certification as specified in s. SPS 305.08 and Table 305.06, except as provided in subd. 2.

SECTION 68. SPS 305.84 (6) (b) 1. is amended to read:

SPS 305.84 (6) (b) 1. The renewal of a certification as an aboveground tank system installer shall be contingent upon the installer obtaining at least 12 hours of acceptable continuing education ~~within the time period~~ prior to the expiration date of the certification as specified in s. SPS 305.08 and Table 305.06, except as provided in subd. 2.

SECTION 69. SPS 305.85 (6) (b) 1. is amended to read:

SPS 305.85 (6) (b) 1. The renewal of a certification as an underground tank system installer shall be contingent upon the installer obtaining at least 12 hours of acceptable continuing education ~~within the time period~~ prior to the expiration date of the certification as specified in s. SPS 305.08 and Table 305.06, except as provided in subd. 2.

SECTION 70. SPS 305.90 (4) (intro.) and (a) are amended to read:

SPS 305.90 (4) Pursuant to s. 145.09, Stats., a person may be accepted for examination for the appropriate classification of license upon submittal of ~~all~~ one of the following:

(a) An application in accordance with s. SPS 305.01, an application fee, and examination fee in accordance with s. SPS 305.02, Table 305.02.

SECTION 71. SPS 305.90 (4) (b) is repealed.

SECTION 72. SPS 305.90 (4) (c) is renumbered SPS 305.90 (4) (b) and, as renumbered, is amended to read:

SPS 305.90 (4) (c) A petition for variance documenting evidence of equivalency as provided in s. 145.09 (1) or (2), Stats., and a petition for variance fee in accordance with s. SPS 305.02 (4).

SECTION 73. SPS 305.90 (4) (d) is repealed.

SECTION 74. SPS 305.91 (1) (intro.) is amended to read:

SPS 305.91 (1) GENERAL. A person may obtain a license as a licensed master plumber by ~~either:~~ taking and passing the master plumber license examination.

SECTION 75. SPS 305.91 (1) (a), (b), and (Note) are repealed.

SECTION 76. SPS 305.91 (5) (b) (intro.) is amended to read:

SPS 305.91 (5) (b) A person may apply for a license as a licensed master plumber by submitting: an application, application fee, and a license fee in accordance with ss. SPS 305.01 and 305.02, Table 305.02.

SECTION 77. SPS 305.91 (5) (b) 1. and 2. are repealed.

SECTION 78. SPS 305.91 (8) (b) 1. is amended to read:

SPS 305.91 (8) (b) 1. The renewal of a license as a master plumber shall be contingent upon the master plumber obtaining at least 24 hours of acceptable continuing education ~~within the time period~~ prior to the expiration date of the license as specified in s. SPS 305.08 and Table 305.06, except as provided in subd. 2.

SECTION 79. SPS 305.92 (1) (intro.) is amended to read:

SPS 305.92 (1) GENERAL. A person may obtain a license as a licensed master plumber-restricted by ~~either:~~ taking and passing the master plumber-restricted license examination.

SECTION 80. SPS 305.92 (1) (a), (b), and (Note) are repealed.

SECTION 81. SPS 305.92 (5) (b) (intro.) is amended to read:

SPS 305.92 (5) (b) A person may apply for a license as a licensed master plumber–restricted service or a licensed master plumber– restricted appliance by submitting: an application, application fee, and a license fee in accordance with ss. SPS 305.01 and 305.02, Table 305.02.

SECTION 82. SPS 305.92 (5) (b) 1. and 2. are repealed.

SECTION 83. SPS 305.92 (6) (b) is repealed.

SECTION 84. SPS 305.92 (8) (b) 1. is amended to read:

SPS 305.92 (8) (b) 1. The renewal of a license as a master plumber-restricted service or master plumber-restricted appliance shall be contingent upon the master plumber obtaining at least 12 hours of acceptable continuing education within the time period prior to the expiration date of the license as specified in s. SPS 305.08 and Table 305.06, except as provided in subd. 2.

SECTION 85. SPS 305.93 (1) (b) (intro.) is amended to read:

SPS 305.93 (1) (b) A person may obtain a license as a licensed journeyman plumber by ~~either:~~ taking and passing the journeyman plumber license examination.

SECTION 86. SPS 305.93 (1) (b) 1., 2., and (Note) are repealed.

SECTION 87. SPS 305.93 (5) (b) (intro.) is amended to read:

SPS 305.93 (5) (b) A person may apply for a license as a licensed journeyman plumber by submitting: an application, application fee, and a license fee in accordance with ss. SPS 305.01 and 305.02, Table 305.02.

SECTION 88. SPS 305.93 (5) (b) 1. and 2. are repealed.

SECTION 89. SPS 305.93 (6) (b) 1. is amended to read:

SPS 305.93 (6) (b) 1. The renewal of a license as a journeyman plumber shall be contingent upon the journeyman plumber obtaining at least 24 hours of acceptable continuing education within the time period prior to the expiration date of the license as specified in s. SPS 305.08 and Table 305.06, except as provided in subd. 2.

SECTION 90. SPS 305.94 (1) (intro.) is amended to read:

SPS 305.94 Journeyman plumbers-restricted service. (1) GENERAL. (a) ~~1.~~ The plumbing activities as delineated under s. SPS 305.90 (1) (b) that may be undertaken

by a person who holds a license as a licensed journeyman plumber-restricted service shall be performed under the general supervision of a person who is a licensed master plumber or a licensed master plumber-restricted service.

SECTION 91. SPS 305.94 (1) (a) 2. is repealed.

SECTION 92. SPS 305.94 (1) (b) is amended to read:

SPS 305.94 (1) (b) A person may obtain a license as a licensed journeyman plumber-restricted service by ~~either~~ taking and passing the journeyman plumber-restricted license examination.

SECTION 93. SPS 305.94 (1) (b) 1., 2. and (Note) are repealed.

SECTION 94. SPS 305.94 (2) (intro.) is amended to read:

SPS 305.94 (2) APPLICATION FOR EXAMINATION. A person applying to take a journeyman plumber-restricted service license examination ~~or journeyman plumber-restricted appliance license examination~~ shall submit all of the following:

SECTION 95. SPS 305.94 (3) (a) is renumbered as SPS 305.94 (3) (intro.) and, as renumbered, is amended to read:

SPS 305.94 (3) QUALIFICATIONS FOR EXAMINATION. ~~(a)~~ A person applying for a journeyman plumber-restricted service license examination shall have met all of the following:

SECTION 96. SPS 305.94 (3) (b) is repealed.

SECTION 97. SPS 305.94 (3) (a) 1. and 2. is renumbered as SPS 305.94 (3) (a) and (b) and, as renumbered, are amended to read:

SPS 305.94 (3) ~~1. (a)~~ At least 1,000 hours of plumbing-related work experience as a registered learner-restricted service; ~~and~~

~~2. (b)~~ Received shop training and instruction in at least the following:

a 1. Forty hours of plumbing code, chs. SPS 381 to 387.

b 2. Twenty hours of blueprint or blueline reading.

c 3. Ten hours of transit or builder's level.

d 4. Twenty hours of plumbing-related mathematics.

e 5. Ten hours of first aid and safety.

SECTION 98. SPS 305.94 (4) is amended to read:

SPS 305.094 (4) EXAMINATION. Except as provided in sub. (1) (b), a person seeking to obtain a journeyman plumber-restricted service license ~~or a journeyman plumber-restricted appliance license~~ shall take and pass an examination in accordance with s. SPS 305.09.

SECTION 99. SPS 305.94 (5) (b) (intro.) is amended to read:

SPS 305.94 (5) (b) A person may apply for a license as a licensed journeyman plumber-restricted service ~~or a licensed journeyman plumber-restricted appliance~~ by submitting: an application, an application fee, and a license fee in accordance with ss. SPS 305.01 and 305.02.

SECTION 100. SPS 305.94 (5) (b) 1. and 2. are repealed.

SECTION 101. SPS 305.94 (6)(a) 1. and 2., and 305.94 (6)(b) 1. and 2. are amended to read:

SPS 305.94 (6) (a) 1. A person may renew his or her license as a journeyman plumber-restricted service ~~or a journeyman plumber-restricted appliance~~.

2. A journeyman plumber-restricted service license ~~and a journeyman plumber-restricted appliance license~~ shall be renewed in accordance with s. SPS 305.07.

(b) 1. The renewal of a license as a journeyman plumber-restricted service ~~or journeyman plumber-restricted appliance~~ shall be contingent upon the journeyman plumber obtaining at least 12 hours of acceptable continuing education ~~within the time period~~ prior to the expiration date of the license as specified in s. SPS 305.08 and Table 305.06, except as provided in subd. 2.

2. A person who holds a license as a journeyman plumber-restricted service ~~or a journeyman plumber-restricted appliance~~ may apply to the department for waiver of the continuing education requirements under subd. 1. on the grounds of prolonged illness or disability or similar circumstances. Each application for waiver shall be considered individually on its merits by the department.

SECTION 102. SPS 305.945 is created to read:

SPS 305.945 Journeyman plumbers-restricted appliance. (1) GENERAL. (a) The plumbing activities as delineated under s. SPS 305.90 (1) (b) that may be undertaken by a person who holds a license as a licensed journeyman plumber-restricted appliance shall be performed under the general supervision of a person who is a licensed master plumber or a licensed master plumber-restricted appliance.

(2) QUALIFICATIONS FOR LICENSURE. A person applying for a journeyman plumber-restricted appliance license shall complete all of the following:

(a) At least 1,000 hours of plumbing related work experience as a registered learner-restricted appliance.

(b) Shop training and instruction in at least the following:

1. Plumbing code, chs. SPS 381 to 387.
2. Blueprint or blueline reading.
3. Appliance and equipment servicing.

(c) Successful passage of an examination administered by the department or an examination approved by the department in accordance with sub. (3).

(3) EXAMINATION. A person seeking to obtain a journeyman plumber-restricted appliance license shall take and pass an examination administered by the department or an examination approved by the department and deemed to be equivalent to the department administered examination. Examination providers shall receive written approval from the department prior to administering a journeyman plumber-restricted appliance license examination.

(a) Examination providers seeking department approval of a journeyman plumber-restricted appliance license examination shall submit all of the following:

1. The exam item bank.
2. An example of an exam score report.
3. An example test form or forms.
4. An exam content outline clearly indicating exam topic areas.

(b) A journeyman plumber-restricted appliance license examination approved by the department shall be consistent with and substantially equivalent to the examination content of the exams administered by the department. The department may conduct an examination site inspection during an exam administration to ensure compliance with general test industry standards. The department may revoke the approval status of any examination.

(c) A score determined by the department to represent minimum competence to practice is required to pass each examination.

(d) Providers of approved journeyman plumber restricted-appliance license examinations shall provide exam applicants with the results of the examination in writing within 21 days of the examination date.

(e) 1. Providers of approved journeyman plumber restricted-appliance license examinations shall maintain examination records of those individuals who completed the examination for at least 5 years from the date of the examination and must make the records available to the department and to individual exam candidates upon request.

2. The attendance record for each exam candidate shall include all of the following:

- a. The date the examination was held.
- b. The name of the exam candidate.
- c. The exam score and results (pass/fail) of the exam candidate.
- d. The name and address of the exam provider.

(f) Providers of approved journeyman plumber restricted-appliance license examinations shall notify the department of substantial changes to the examination content or any other changes that bring the examination out of compliance with this section.

Note: Additional information regarding exam equivalency is available from the Department of Safety and Professional Services at P.O. Box 8366, Madison, WI 53708-8366 or at the Department Web site: <http://dsps.wi.gov/Home>.

(4) APPLICATION FOR LICENSE. (a) Upon notification of the successful passage of a department administered examination for a journeyman plumber-restricted appliance license a person may apply for a license as a licensed journeyman plumber-restricted appliance by submitting all of the following:

1. An application in accordance with ss. SPS 305.01 and SPS 305.09 (7) (c).
2. An application fee and examination fee in accordance with s. SPS 305.02, Table 305.02.
3. Proof of satisfactory completion of the qualifications for licensure under sub. (2).

(b) Upon notification of the successful passage of an examination approved by the department for a journeyman plumber-restricted appliance license a person may apply for a license as a licensed journeyman plumber-restricted appliance within 3 months after the date that notice of exam results is released by the exam provider to the candidate. Failure to apply for a journeyman plumber-restricted appliance license within 3 months,

shall necessitate the applicant to apply, retake, and pass another license examination in order to obtain the journeyman plumber restricted appliance license. A person may apply for a journeyman plumber-restricted appliance license by submitting all of the following:

1. An application in accordance with s. SPS 305.01.
2. An application fee in accordance with s. SPS 305.02, Table 305.02.
3. Proof of satisfactory completion of the qualifications for licensure under sub. (2).

(5) RENEWAL. (a) 1. A person may renew his or her license as a journeyman plumber-restricted appliance.

2. A journeyman plumber-restricted appliance license shall be renewed in accordance with s. SPS 305.07.

(b) 1. The renewal of a license as a journeyman plumber-restricted appliance shall be contingent upon the journeyman plumber obtaining at least 12 hours of acceptable continuing education prior to the expiration date of the license as specified in s. SPS 305.08 and Table 305.06, except as provided in subd. 2.

2. A person who holds a license as a journeyman plumber-restricted appliance may apply to the department for waiver of the continuing education requirements under subd. 1. on the grounds of prolonged illness or disability or similar circumstances. Each application for waiver shall be considered individually on its merits by the department.

SECTION 103. SPS 305.97 (7) (c) 1. is amended to read:

SPS 305.97 (7) (c) 1. The renewal of a license as a utility contractor shall be contingent upon the utility contractor obtaining at least 6 hours of acceptable continuing education within the time period prior to the expiration date of the license as specified in s. SPS 305.08 and Table 305.06, except as provided in subd. 2.

SECTION 104. SPS 305.99 (5) (c) 1. is amended to read:

SPS 305.99 (5) (c) 1. The renewal of a certification as a cross connection control tester which has an expiration date after June 30, 2013 shall be contingent upon the cross connection control tester obtaining at least 6 hours of approved continuing education within the time period prior to the expiration date of the certification as specified in s. SPS 305.08 and Table 305.06, except as provided in subd. 2.

SECTION 105. SPS 305.992 (6) (b) 1. is amended to read:

SPS 305.992 (6) (b) 1. The renewal of a license as an elevator mechanic shall be contingent upon the elevator mechanic obtaining at least 12 hours of acceptable

continuing education ~~within the time period~~ prior to the expiration date of the license as specified in s. SPS 305.08 and Table 305.06, except as provided in subd. 2.

SECTION 106. SPS 305.993 (6) (b) 1. is amended to read:

SPS 305.993 (6) (b) 1. The renewal of a license as an elevator mechanic-restricted shall be contingent upon the elevator mechanic obtaining at least 12 hours of acceptable continuing education ~~within the time period~~ prior to the expiration date of the license as specified in s. SPS 305.08 and Table 305.06, except as provided in subd. 2.

SECTION 107. SPS 305.997 (6) (b) 1. is amended to read:

SPS 305.997 (6) (b) 1. The renewal of a license as a lift mechanic shall be contingent upon the lift mechanic obtaining at least 12 hours of acceptable continuing education ~~within the time period~~ prior to the expiration date of the license as specified in s. SPS 305.08 and Table 305.06, except as provided in subd. 2.

SECTION 108. SPS 323.16 (2) (a) is repealed.

SECTION 109. SPS 323.16 (2) (b) and (c) are renumbered SPS 323.16 (2) (a) and (b).

SECTION 110. SPS 323.16 (2) (b) (Note) is created to read:

SPS 323.16 (2) (b) Note: Except as provided in pars. (a) and (b), the installation of oil storage tanks is regulated under chapter ATCP 93, Flammable, Combustible, and Hazardous Liquids.

SECTION 111. SPS 332.16 (4) is repealed.

SECTION 112. SPS 332.16 (20) (Note) is created to read:

SPS 326.16 (20) Note: Chapter ATCP 93, Flammable, Combustible and Hazardous Liquids applies in place of the standards specified in section SPS 332.15 for those safety and health issues which fall within the scope of chapter ATCP 93.

SECTION 113. SPS 334.36 is amended to read:

SPS 334.36 Flammable and combustible liquids and gases. Storage, dispensing and use of flammable and combustible liquids and liquefied petroleum gases shall comply with ~~chs. ATCP 93 and ch.~~ SPS 340.

SECTION 114. SPS 334.36 (Note) is created to read:

SPS 334.36 Note: Applicable regulations may also be found in chapter ATCP 93, Flammable, Combustible and Hazardous Liquids.

SECTION 115. SPS 334.45 (4) (b) is amended to read:

SPS 334.45 (4) (b) The refueling of vehicles may not take place in any area where frequenters are present. ~~All fuel storage and fueling operations shall be in accordance with ch. ATCP 93.~~

SECTION 116. SPS 334.45 (4) (b) (Note) is created to read:

SPS 334.45 (4) (b) Note: Fuel storage and fueling operations are regulated under chapter ATCP 93, Flammable, Combustible and Hazardous Liquids.

SECTION 117. SPS 361.295 (2) is repealed.

SECTION 118. The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin administrative register, pursuant to s. 227.22 (2) (intro.), Stats.

(END OF TEXT OF RULE)

COPIES OF RULE

Copies of this proposed rule are available upon request to Katie Paff, Program and Policy Analyst, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, P.O. Box 8366, Madison, Wisconsin 53708, by email at Kathleen.Paff@wisconsin.gov or on our website at <http://dsps.wi.gov/Default.aspx?Page=44e541e8-abdd-49da-8fde-046713617e9e>.