Report From Agency

STATE OF WISCONSIN
DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES

IN THE MATTER OF RULEMAKING	**:**	
PROCEEDINGS BEFORE THE	**:**	**REPORT TO THE LEGISLATURE**
DEPARTMENT OF SAFETY AND	**:**	**CLEARINGHOUSE RULE 14-020**
PROFESSIONAL SERVICES	**:**	

I. THE PROPOSED RULE:

The proposed rule revisions and the analysis are attached.

II. REFERENCE TO APPLICABLE FORMS:

The forms that are referred to in these rule revisions are neither new nor revised.

III. FISCAL ESTIMATE AND EIA:

The Fiscal Estimate and EIA is attached.

IV. DETAILED STATEMENT EXPLAINING THE BASIS AND PURPOSE OF THE PROPOSED RULE, INCLUDING HOW THE PROPOSED RULE ADVANCES RELEVANT STATUTORY GOALS OR PURPOSES:

The Department's requirements for conveyances are contained in chapter SPS 318, Elevators, Escalators and Lift Devices. The chapter currently adopts by reference the following two national standards promulgated by the American Society of Mechanical Engineers (ASME®), as the basis of the chapter's technical requirements:

- ASME A17.1-2007, Safety Code for Elevators and Escalators.
- ASME A18.1-2005, Safety Standard for Platform Lifts and Stairway Chairlifts.

Chapter SPS 318 currently includes modifications the Department has made to these two standards.

The proposed revisions to chapter SPS 318 would adopt the 2013 edition of ASME A17.1 and the 2011 edition of ASME A18.1. The proposed revisions also contain a number of modifications to the technical criteria in these standards, such as refining how various inspections and tests are to occur, and include reorganizing the current requirements and applying various editorial improvements – all of which are intended to better reflect contemporary industry and regulatory best practices in Wisconsin and nationally.

V. SUMMARY OF PUBLIC COMMENTS AND THE DEPARTMENT'S RESPONSES, AND EXPLANATION OF ANY RESULTING MODIFICATIONS TO THE PROPOSED RULES:

The Department held a public hearing on March 17, 2014. The following people either testified at the hearing or submitted written comments:

Amy Blankenbiller, representing the National Elevator Industry, Inc. (NEII®).
Patrick Edwards, representing Integrity Elevators and Lifts.
Greg Graunke, representing the Wisconsin Hospital Engineering Association.
Matt Guyette, representing the Waupaca Elevator Company.

SUMMARY OF HEARING COMMENTS:

The Department summarizes the hearing testimony as follows:

1. The NEII representative supported adopting the 2013 edition of the ASME A17.1 standard, but without making any modifications. She recommended deleting all of the proposed changes, additions, and omissions to the standard because there are no state-specific extenuating circumstances to justify the modifications, and they could lead to unforeseen confusion. If the modifications are instead retained, the following changes should be made: (A) Modify section SPS 318.1702 (10) (b) 3. c. so as to address a locked space or panel that contains disconnects for the conveyance, elevator-car lights, or other elevator-utilization equipment, rather than addressing locks for those disconnects. (B) Delete the added criteria for documenting maintenance control programs, maintenance records, and wiring diagrams, including having the control program provided by a person or firm providing equipment for an alteration, repair, or replacement. Only the service provider should provide this control program. (C) Delete the requirement in SPS 318.1708 (2) (b) 5. to have maintenance records include documentation of compliance with the requirements in section 8.6 of the standard, because it dilutes and does not fully address the corresponding requirements for maintenance records in the standard. (D) Delete the requirement in SPS 318.1708 (2) (b) 6. to include a record of trouble calls in the on-site maintenance record, because the calls say little about the safe operation of the elevator and may obscure what is important. However, service personnel are required to have access to the calls.

2. The representative of Integrity Elevators and Lifts recommended amending the rules to have the Department fully involved wherever vertical platform lifts are installed as a substitute for an elevator, within a hoistway for a dwelling unit. Essential safety considerations that currently are not adequately addressed with these installations because of not having this involvement include avoiding sheer points for riders, in the space between the inside face of the hoistway and the lift's door or gate; interlocks; drive safeties; and an emergency telephone.

3. The representative of the Wisconsin Hospital Engineering Association recommended modifying the text in SPS 318.1013 that would require keeping a conveyance out of service after an injury occurs until authorized by a Department or municipal inspector. This requirement would particularly cause problems where a building has only one conveyance that serves mobility-impaired occupants and the Department or municipal inspector cannot inspect the conveyance for a day or more. More options are needed, such as getting temporary authorization from a local fire department, a certified building inspector, or a licensed elevator inspector – and excluding any injuries that happen on the conveyance but are not caused by the conveyance.

He also was concerned that the additional requirements for access keys in SPS 318.1702 (10) (b) 3. could lead to requiring a universal access key, which would be very costly to building owners if applied retroactively to all existing elevators.

He also was concerned that the requirements in SPS 318.1802 (6) for emergency illumination could increase maintenance time and the potential for vandalism, which could increase costs.

4. The Waupaca Elevator Company representative recommended clarifying how to measure the clearance space at a doorway for a hoistway for a dwelling unit, under SPS 318.1705 (3) (c), in order to expedite the design and development of a space guard that could be used to meet the requirements.

RESPONSE TO PUBLIC COMMENTS:

1. The Department believes its proposed modifications to the ASME A17.1 standard are justified and will result in less rather than more confusion.

Section SPS 318.1702 (10) (b) 3. c. is modified as recommended, because the recommended text better accomplishes what was intended. However, the three recommended deletions were not made, because doing so would reduce the clarity.

2. The safety requirements for a platform lift within a hoistway for a dwelling unit are less restrictive than the requirements for an elevator there because the Department has less statutory authority for those lifts. Reducing the safety requirements for an elevator in that hoistway so they would match the requirements for a lift there is likewise not proposed in response to this comment, because these elevator requirements are directed at eliminating known hazards.

3. The proposed rules have been revised in response to this comment to allow temporarily returning a conveyance to service after it causes an injury, if authorized by a licensed elevator inspector.

During development of these proposed rule revisions, the Department received a recommendation to consider incorporating the provisions of the National Fire Protection Association's NFPA 1 standard that require providing a universal access key, including for all existing elevators. After considering these provisions with the Conveyance Safety Code Council, the Department chose to not apply them retroactively to all existing elevators, and does not expect do so in the future.

The Department is sensitive to concerns relating to increasing maintenance and increasing the potential for vandalism. However, the requirement in SPS 318.1802 (6) to provide emergency illumination for small lifts for wheelchairs is not a new requirement – it is included in the current edition of chapter SPS 318 and has been part of the ASME A18.1 standard since at least 2005. What is newly proposed is to allow a duration of 90 minutes instead of 4 hours if the lift operates normally for at least 2 cycles up and down after the lift's main power fails.

4. The Department has clarified SPS 318.1705 (3) (c) to better describe how to measure and provide the maximum allowed clearance, in response to this comment.

VI. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS:

Comment: 2.c.

Response: The Department prefers to retain "the effective date of the rule" in this section rather than replace this phrase with "the effective date of this section" because this section refers to all of the other rules in all of the other sections in chapter SPS 318, and, in the future, some of those other rules and sections will subsequently change and then have effective dates that differ from the effective date of this section. Changing this phrase as recommended would undesirably result in those subsequent rules applying retroactively to buildings and conveyances constructed prior to when those future rules become effective.

Comment 2.d.

Response: The Department prefers to place any exceptions to a given rule at the end of the rule rather than before the rule because (1) grasping the meaning of a technical requirement is typically easier if the general case can be read and understood first before turning to any exceptions to the general case; (2) the technical industry standards that the Department incorporates into its technical codes typically use this sequence, for this reason; and (3) users of these technical codes and standards have informed the Department that they prefer this sequence, for this reason.

Comment 4.a.

Response: The Department prefers to not abbreviate "Statutes," "section," and "chapters" in the notes throughout the chapter because the purpose of these notes is to be explanatory – and abbreviated words may be less explanatory than unabbreviated words to some readers of this chapter.

All of the other recommendations in the Clearinghouse Report were accepted in whole.

VII. REPORT FROM THE SBRRB AND FINAL REGULATORY FLEXIBILITY ANALYSIS:

These rules were not submitted to the Small Business Regulatory Review Board.

These rules will not have an economic impact on small businesses.