

STATEMENT OF SCOPE

Department of Safety and Professional Services

Rule No.: SPS 131

Relating to: Home inspections and home inspector registration.

Rule Type: Both permanent and emergency

1. Finding/nature of emergency (Emergency Rule only):

2021 Wisconsin Act 17 (Section 11, sub. (3)) authorizes the Department of Safety and Professional Services to promulgate emergency rules to implement Act 17 without a finding of emergency.

2. Detailed description of the objective of the proposed rule:

The objective of the proposed rule is to implement the statutory changes enacted by 2021 Wisconsin Act 17 relating to home inspections and home inspector qualifications for registration, as well as home inspector discipline.

3. Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:

The relevant policy behind this rule project is to ensure that the department's rules accurately reflect the statutory requirements relating to standards of practice for home inspectors as well as the qualifications to be registered and to maintain registration in Wisconsin as a home inspector. Additionally, the rules will provide greater clarity for stakeholders as to what these requirements are.

The alternative to promulgating rules would be to leave the department's rules out of conformity with the statute. The impact of failing to promulgate rules is to create confusion among stakeholders as to what the requirements are in terms of home inspector practice and qualifications for registration as a home inspector.

4. Detailed explanation of statutory authority for the rule (including the statutory citation and language):

2021 Wisconsin Act 17, section 11, sub. 3: "The department of safety and professional services may promulgate emergency rules under s. 227.24 necessary to implement this act. Notwithstanding s. 227.24 (1) (a) and (3), the department is not required to provide evidence that promulgating a rule under this subsection as an emergency rule is necessary for the preservation of the public peace, health, safety, or welfare and is not required to provide a finding of emergency for a rule promulgated under this subsection."

Section 227.11 (2) (a), 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."

Section 440.974 (2), 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 40 hours of continuing education every 2 years, except
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that the rules may not require continuing education for an applicant for renewal of a registration that expires on the 1st and 2nd renewal dates after the date on which the department initially granted the registration.”

5. Estimate of amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule:

Approximately 80 hours.

6. List with description of all entities that may be affected by the proposed rule:

Registered home inspectors, home inspector registration applicants, consumers of home inspections.

7. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule:

None.

8. Anticipated economic impact of implementing the rule (note if the rule is likely to have a significant economic impact on small businesses):

The rule is not anticipated to have a significant economic impact on small businesses.

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Approved for publication:

Department Head or Authorized Signature

Date Submitted