

Clearinghouse Rule 13-014

STATE OF WISCONSIN
DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES

IN THE MATTER OF RULE-MAKING : PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE : DEPARTMENT OF SAFETY AND
DEPARTMENT OF SAFETY AND : PROFESSIONAL SERVICES ADOPTING RULES
PROFESSIONAL SERVICES : (CLEARINGHOUSE RULE 13-___)

PROPOSED ORDER

The Wisconsin Department of Safety and Professional Services proposes an order to repeal SPS 305.003 (62), SPS 305.02 Table 305.02 line 50, SPS 305.06 Table 305.06 line 45, SPS 305.72, SPS 305.993 (1) (c), and SPS 345.70 (1); to renumber SPS 345.70 (2) to (5); to amend SPS 305.325 (4) Note, SPS 305.91 (3) (a), and SPS 305.92 (3); to repeal and recreate SPS 305.003 (15), SPS 305.70 (1), SPS 305.992 (1) (c), and SPS 345.10 (2) Note 1.; and to create SPS 305.70 (1) Note, relating to credentials for HVAC contractors, refrigerant handling technicians, master plumbers and elevator mechanics.

Analysis of Rule

1. Statutes Interpreted

Statutes Interpreted: ss. 101.02 (1), 101.17, 101.985, 145.07, 227.10 (1) and 227.11 (2) (a), Stats.

2. Statutory Authority

Statutory Authority: ss. 101.02 (1), 101.985, 145.02 (4) (a), 227.10 (1) and 227.11 (2) (a), Stats.

3. Related Statute or Rule

Sections 101.177 and 145.07 (3) (a), Stats., as affected by 2011 Wisconsin Act 146
Chapter SPS 318, Elevators, Escalators and Lift Devices
Chapter SPS 345, Mechanical Refrigeration

4. Explanation of Agency Authority

Under various provisions of chapters 101 and 145, Stats., the department establishes credentialing qualifications and standards for entities and individuals involved with the construction trades. 2011 Wisconsin Act 146 revised statutory provisions relating to individuals seeking to take a master plumber licensing exam and qualifying for an elevator mechanic license. The Act also repeals the provisions relating to ozone-depleting refrigerants and the authority to credential refrigerant handling technicians.

5. Plain Language Analysis

The proposed rules repeal credentialing provisions established for entities and individuals that handle ozone-depleting refrigerants with the installation and servicing of air conditioning and refrigerant equipment and systems. The proposed rules eliminate the state credentialing provisions for refrigerant handling technicians under s. SPS 305.72 and revise provisions s. SPS 305.70 eliminating the need for HVAC contractor registration with respect to ozone-depleting refrigerants. Corresponding rule revisions are also proposed under chapter SPS 345, Mechanical Refrigeration. Individuals and entities dealing with ozone-depleting refrigerants still must comply with federal obligations including certification.

Reflecting the provisions of 2011 Wisconsin Act 146, the proposed rules create another avenue to qualify for an elevator mechanic license, and revise the experience qualifications for a master plumber's exam from consecutive years to overall years.

6. Summary of, and Comparison with, Existing or Proposed Federal Regulations

Federal regulations, under section 608 of the federal Clean Air Act and title 40 CFR part 82, subpart F, require individuals who install or service HVAC equipment involving ozone-depleting refrigerants to hold a Type I, II, III or Universal technician certification.

An internet search on U.S. federal regulations and U.S. federal register yielded no results regarding the licensing of plumbers and elevator mechanics.

7. Comparison with Rules in Adjacent States

An internet search of the respective states' web sites indicate:

Illinois:

The state does not require a specific license or certification to perform installation or service work pertaining to cooling or refrigeration equipment and systems including working with ozone-depleting refrigerants.

The state does not have a master plumber license category; only a general plumber's license. The state's qualifying provisions for plumber's license applicants indicate just overall years of experience.

Elevator mechanic licensing is under the Office of the Illinois State Fire Marshall. Under the Elevator Safety and Regulation Act there are currently four avenues to obtain the license including completion of the mechanic examination of a nationally recognized training program for the elevator industry, such as the National Elevator Industry Educational Program or its equivalent.

Iowa:

The state has a single board licensing category that covers plumbing, HVAC refrigeration and hydronic systems. A "licensed master" is to be responsible for the work. Applicants for a "master" license must pass an exam. The licensing provisions are not specific to ozone-depleting refrigerants nor are individual state certifications necessary.

The state does not administer a licensing program for elevator work.

Michigan:

The state requires a mechanical contractor license to perform alterations, repairs or installation of heating/cooling/ventilating/ or refrigerating equipment/systems. The licensing provisions are not specific to ozone-depleting refrigerants.

The state's qualifying provisions for master plumber license applicants indicate just overall years of experience as a journeyman plumber.

In order to take the state's elevator journeyman license exam an applicant must have 3 continuous years of experience which may include employment as a supervisor of elevator construction or service.

Minnesota:

The state's stratospheric ozone protection rules under Chapter 7027 refer to the federal certification standards under the Clean Air Act and title 40 CFR part 82.

The state's qualifying provisions for master plumber license applicants indicate just overall years of experience.

The state does not issue a specific license for individuals who install or service conveyances; electrical aspects are covered by electrical licensing provisions.

8. Summary of Factual Data and Analytical Methodologies

The proposed rules were developed in light of 2011 Wisconsin Act 146 which repealed s. 101.177, Stats., relating to ozone-depleting refrigerants. The Act also revised statutory provisions relating to plumbing licenses and elevator mechanic licenses. The Act was compared with the corresponding provisions of chapter SPS 305.

9. Analysis and Supporting Documents used to Determine Effect on Small Business or in Preparation of Economic Impact Analysis

The proposed rule action follows the direction provided by 2011 Wisconsin Act 146 in repealing s. 101.177, Stats., that eliminates the state certification mandate for refrigerant handling technicians.

10. Effect on Small Business

Pursuant to Executive Order 50, the proposed rules were posted on both the state's and department's administrative rule websites for 14 days to solicit comments regarding potential economic impacts on businesses, business sectors, professional associations, local governmental units, or interested parties. No comments were received as a result of the solicitations.

The proposed rules implement the direction of 2011 Wisconsin Act 146 regarding the credentialing of refrigerant handling technicians, HVAC contractors, plumbers and elevator mechanics. The Act and the proposed rules eliminate the state mandate for credentials relating to ozone-depleting refrigerants. The current credential fees are: refrigerant handling technician \$20 for a 4-year certification, and HVAC contractor \$160 for a 4-year registration.

The department does not believe that the proposed rules will create an impact on small businesses any differently than the mandates of the Act.

The Department's Regulatory Review Coordinator may be contacted by email at Greg.Gasper@wisconsin.gov, or by calling (608) 266-8608.

11. Agency contact person:

James Quast, Program Manager, Department of Regulation and Licensing, Division of Board Services, 1400 East Washington Avenue, Room 151, P.O. Box 8935, Madison, Wisconsin 53708; telephone (608) 266-9292; email at jim.quast@wisconsin.gov.

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

Comments may be submitted to James Quast, Program Manager, Department of Safety and Professional Services, Division of Board Services, 1400 East Washington Avenue, Room 151, P.O. Box 8935, Madison, WI 53708-8935, or by email to Jim.Quast@Wisconsin.gov. Comments must be received on or before March 21, 2013 to be included in the record of rule-making proceedings.

SECTION 1. 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., except it does not include any of the devices exempted under s. SPS 318.1002 (2).

Note: Section 101.981 (1) (c), Stats., reads: “Conveyance” means an elevator, an escalator, a dumbwaiter, a belt manlift, a moving walkway, a platform lift, and a stairway chair lift, and any other similar device, such as an automated people mover, used to elevate or move people or things, as provided in the rules of the department. “Conveyance” does not include a personnel hoist; a material hoist; a grain elevator; a lift as defined in s. 167.33 (1) (f); an amusement or thrill ride; or a vertical platform lift, inclined platform lift, or a stairway chair lift that serves an individual residential dwelling unit.

SECTION 2. SPS 305.003 (62) is repealed.

SECTION 3. SPS 305.02 Table 305.02 line 50 is repealed.

SECTION 4. SPS 305.06 Table 305.06 line 45 is repealed.

SECTION 5. SPS 305.325 (4) Note is amended to read:

SPS 305.325 (4) Note: Section 101.952 (3), Stats., indicates that every licensee shall carry his or her license when engaged in his or her business and display the same upon request. ~~The license shall name his or her employer, and, in case of a change of employer, the manufactured home salesperson shall immediately mail his or her license to the department, which shall endorse that change on the license without charge.~~

SECTION 6. SPS 305.70 (1) is repealed and recreated to read:

SPS 305.70 HVAC contractors. (1) GENERAL. (a) Except as provided in par. (b), pursuant to s. 101.178 (2), Stats., no person, entity or business may engage or offer to engage in installing or servicing heating, ventilating or air conditioning equipment, unless the person, entity or business holds a registration issued by the department as a registered HVAC contractor.

(b) 1. A person, entity or business is not required to hold a registration as a registered HVAC contractor to service existing heating, ventilating, air conditioning, or refrigeration equipment within facilities or properties owned by the person, entity or business.

2. A person, entity or business is not required to hold a registration as a registered HVAC contractor to install or service heating, ventilating, air conditioning, or refrigeration equipment within a dwelling owned by the person, entity or business and in which the person, entity or business resides or will reside.

3. A person, entity or business is not required to hold a registration as a registered HVAC contractor for electrical or plumbing work associated with the installation or servicing of the HVAC equipment or systems.

SECTION 7. SPS 305.70 (1) Note is created to read:

SPS 305.70 (1) Note: Pursuant to federal regulations individuals who install or service HVAC equipment involving ozone-depleting refrigerants are required to hold a Type I, II, III or Universal technician certification issued in accordance with section 608 of the federal Clean Air Act and title 40 CFR part 82, subpart F.

SECTION 8. SPS 305.72 is repealed.

SECTION 9. SPS 305.91 (3) (a) and 305.92 (3) are amended to read:

SPS 305.91 (3) (a) At least 1,000 hours of plumbing-related work experience per year for at least 3 ~~consecutive~~ years as a licensed journeyman plumber.

SPS 305.92 (3) QUALIFICATIONS FOR EXAMINATION. (a) A person applying for a master plumber-restricted service license examination shall have at least 1,000 hours of plumbing-related work experience per year for at least 2 ~~consecutive~~ years as a licensed journeyman plumber or a licensed journeyman plumber-restricted service.

(b) A person applying for a master plumber-restricted appliance license examination shall have at least 1,000 hours of plumbing-related work experience per year for at least 2 ~~consecutive~~ years as a licensed journeyman plumber or a licensed journeyman plumber-restricted appliance.

SECTION 10. SPS 305.992 (1) (c) is repealed and created to read:

SPS 305.992 (1) (c) Completing a 4-year training program established by the national elevator industry educational program or department approved equivalent and having one of the following employment experiences:

1. Having been employed for at least 1,000 hours per year for 5 years immediately preceding the date of license application and the employment in each of the years involves any of the following:

a. Management activities for a company that engages in the sale, installation, repair or maintenance of conveyances.

b. Supervision of elevator mechanic activities.

c. Conveyance labor relations.

2. Having been employed for at least 1,000 hours per year for 5 years preceding the date of license application and the employment includes elevator mechanic level work experience in each year of the 5 years.

SECTION 11. SPS 305.993 (1) (c) is repealed.

SECTION 12. SPS 345.10 (2) Note 1. is repealed and recreated to read:

SPS 345.70 (2) Note: Pursuant to federal regulations individuals who install or service HVAC equipment involving ozone-depleting refrigerants are required to hold a Type I, II, III or Universal technician certification issued in accordance with section 608 of the federal Clean Air Act and title 40 CFR part 82, subpart F.

SECTION 13. SPS 345.70 (1) is repealed.

SECTION 14. SPS 345.70 (2) to (5) is renumbered 345.70 (1) to (4).

SECTION 15. This rule shall take effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22 (2) (intro.), Stats.

END

Dated _____

Agency _____

Secretary

Department of Safety and Professional Services