

STATEMENT OF SCOPE

Department of Safety and Professional Services

Rule No.: SPS 305 and SPS 318

Relating to: Wisconsin Conveyance Safety Code and affecting small business

Rule Type: Permanent

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

Not applicable.

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

The primary objective of this rulemaking project is to evaluate and update the *Wisconsin Conveyance Safety Code*, SPS 318. This rulemaking update is intended to keep the Code consistent with dynamic, contemporary regional, national, and emergency practices and standards, as required by statute, and with any legislation enacted since the previous update on these rules.

In addition, the project may include revisions to another chapter affected by the update of the *Wisconsin Conveyance Safety Code*, chapter SPS 305, relating to licenses, certifications and registrations.

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 *Wisconsin Conveyance Safety Code* contains standards for the design, construction, use, maintenance, alteration, and inspection of elevators, escalators, and lifts in public buildings, places of employment and one- and 2-family dwellings. In keeping with the statutory requirement to use nationally recognized standards, this Code currently incorporates by reference previous editions of American Society of Mechanical Engineers codes and guides. The most current updated codes and guides include the *ASME A17.1/CSA B44 – 2016 Safety Code for Elevators and Escalators*, *ASME A17.2 – 2014 Guide for Inspection of Elevators, Escalators, and Moving Walks*, *ASME A17.4 – 2015 Guide for Emergency Personnel*, *ASME A18.1 – 2014 Safety Standards for Platform Lifts and Stairway Chairlifts*, and *NEC – 2017 National Electrical Code*.

The primary purpose of the codes under consideration is to establish minimum safety standards for the design, construction, installation, operation, inspection, testing, maintenance, alteration, repair, and replacement of conveyances. Periodic review and update of these codes is necessary to ensure that they still achieve that purpose, and is required by statute. In addition, the review and update allows the opportunity to recognize and stay current with new construction products and practices. The review and update under this scope statement will include evaluation of the most recent editions of the above-mentioned codes and guides for incorporation. The primary policy alternative would be to not perform this rule-review process. This would reduce the public benefits that would otherwise occur by performing this review.

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

Section 101.981 (2) Stats., relating to modification by rule, reads, in part, “the department shall promulgate rules establishing additional definitions to the extent ... necessary for the proper administration and enforcement of this subchapter... the department shall ensure that any definitions or

modifications promulgated under this subsection are consistent with national, industry-wide safety standards governing matters regulated by this subchapter.”

Section 101.982 Stats., relating to the conveyance safety code, reads, in part, “the department shall promulgate rules establishing standards for the safe installation and operation of conveyances ... The rules shall be consistent, to the extent practicable, with national, industry-wide safety standards applicable to conveyances. The rules shall require any testing of conveyances or related equipment required under the rules to be performed by an elevator mechanic licensed under s. 101.985 (2). The rules shall require any person who installs a new conveyance to give the owner of the building in which the conveyance is installed, before the conveyance is placed in operation, a written certification indicating that the installation complies with the rules promulgated under this section. The rules shall include an enforcement procedure and a procedure pursuant to which the department may grant a variance from the rules if the variance would not jeopardize public safety.”

Section 101.985 (3) Stats., relating to licensing qualifications and procedure, reads, in part, “the department shall promulgate rules that establish the qualifications required for issuance of an elevator inspector license.”

Section 101.985 (5) (b) 2. Stats., relating to licensing qualifications and procedure, reads, “the department shall promulgate rules that establish the education requirements for purposes of subd. 1. [license renewal and continuing education requirements].”

Section 101.986 Stats., relating to conveyance safety code council duties, reads, in part, “the council shall consider and make recommendations to the department pertaining to rules for the enforcement of this subchapter, the granting of variances, administrative appeal procedures, fees, and any other matter under this subchapter.”

Section 101.988 Stats., relating to enforcement and penalties, states that the department may perform investigations, issue orders, and levy penalties “to aid in the enforcement of this subchapter and rules promulgated under this subchapter.”

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

The Department estimates approximately 1000 hours will be needed to research, draft rules, and process the rules through public hearings, legislative review, and adoption. The Department will assign existing staff to perform the review and develop the rule changes, and no other resources will be needed.

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

The proposed rules may affect any business or other entity involved with the ownership, design, construction, use, maintenance, alteration, or inspection of elevators, escalators, and lift devices.

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:

Elevators and escalators at marine terminal facilities are subject to regulations under the Occupational Safety and Health Administration (OSHA) in 29 C.F.R. § 1979.116. The Department of Transportation and Department of Justice have Americans with Disabilities Act (ADA) compliance standards for all facilities, including public transportation facilities. Buildings built on federal property are legally exempt from state and local conveyance codes, however, the General Services Administration (GSA) has a policy that federal buildings comply with state and local building codes to the maximum extent practicable. Any rule changes that are advanced under this scope statement are not expected to infringe on these federal requirements. No other current or proposed federal regulations were found relating to this rulemaking.

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 changes contemplated in this project are not expected to have any negative economic impacts on any of the entities listed above.

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