

Report From Agency

**STATE OF WISCONSIN
DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES**

IN THE MATTER OF RULEMAKING : REPORT TO THE LEGISLATURE
PROCEEDINGS BEFORE THE : CR 22-004
DEPARTMENT OF SAFETY AND :
PROFESSIONAL SERVICES :

I. THE PROPOSED RULE:

The proposed rule, including the analysis and text, is attached.

II. REFERENCE TO APPLICABLE FORMS:

N/A

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:

This rule project implements 2021 Wisconsin Act 17, which required the department to create rules relating to the following matters pertinent to home inspection registration and practice:

- Require at least 40 hours of pre-registration education experience and provide standards for the department to approve applicant education. The rules require 40 hours of instruction, with at least 20 hours coming from hands-on instruction in the performance of home inspections and home inspection report writing.
- Provide a pathway for individuals credentialed as a home inspector in another state to apply for reciprocal registration as a home inspector in Wisconsin.
- Eliminate the requirement that registrants complete continuing education during their first two renewal periods as a registered home inspector.
- Revise the department's rules regarding home inspection standards to reflect that home inspection reports must include a summary page with references to the full report, list any defects discovered by the home inspector, and disclosures to the client including a reminder that the summary page is not a substitute for reading the entire report, as well as a statement reminding the client that the home inspector may not provide an opinion on the marketability of the home nor provide an opinion as to whether or not the home should be purchased.

The rule project also brings the department's rules into compliance with other recent legislative enactments, including the arrest record and conviction discrimination provisions in 2017 Act

278; the special pathway for service members, former service members, and their spouses to obtain reciprocity created under 2019 Act 143; and removed the continuing education audit provision as required by 2017 Act 59.

Finally, notes containing incorrect agency contact information have been revised.

V. SUMMARY OF PUBLIC COMMENTS AND THE BOARD’S RESPONSES, EXPLANATION OF MODIFICATIONS TO PROPOSED RULES PROMPTED BY PUBLIC COMMENTS:

The Department of Safety and Professional Services held a public hearing on February 4, 2022. The following people either testified at the hearing, or submitted written comments:

Julie Arnstein, Executive Director, Wisconsin Association of Home Inspectors, Inc. (WAHI)

The Department summarizes the comments received either by hearing testimony or by written submission as follows:

WAHI recommended adding a definition for “hands-on training” as follows: “Hands-on Training ” means training received at a residential dwelling, under the direct instruction and supervision of an individual with specialized education, training, or experience in the subject matter of home inspections. “Hands-on training” should include in-person student participation in the performance of home inspection tasks, and the use of appropriate equipment needed to perform a home inspection.

The Department explains modifications to its rule-making proposal prompted by public comments as follows:

The Department declines to adopt WAHI’s recommended definition as it would unnecessarily restrict education programs from employing other equally effective modalities in providing training to students.

VI. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS:

Comment:

1. If the department accepts comment 2. a., below, citations to ss. 45.44 and 440.052, Stats., should be added to the list of statutes interpreted for this proposed rule.

2. a. The department should consider incorporating the reduced credentialing fees enacted as part of 2017 Wisconsin Act 319 for certain veterans and persons with lower income. Under s. 45.44 (3m), Stats., a veteran applying for an initial registration pays a reduced fee. Under s. 440.052, Stats., an individual with a family income that does not exceed 180 percent of the federal poverty line applying for an initial registration or an initial

reciprocal registration pays a reduced fee. These reductions could be implemented in s. SPS 131.11 for an initial registration and in s. SPS 131.113 (as created by SECTION 5 of the proposed rule) for an initial reciprocal registration.

Response: The department declines to include this additional information as it would be inconsistent with the application provisions for all of the other professions regulated by the department and its affiliated boards. Additionally, fee reduction information is available on both the application form as well as the webpage on which the application forms are located. Links to the department website are provided in notes to the rules so that applicants are able to find the application documents.

Comment: 2. d. In Section 16 of the proposed rule, s. SPS 131.405 (2) requires that an applicant for registration as a home inspector complete an instruction program that includes at least 20 hours of hands-on training in two activities: the performance of home inspections and the drafting of home inspection reports. Does the department wish to specify a minimum number of hours for either of those two activities? That is, could an applicant fulfill the requirement with any combination of training hours split between the two activities (for example, 20 hours of training in the performance of home inspections but no training in the drafting of home inspection reports)?

Response: The department declines to further breakdown the number of hours that a program must require in performance of home inspections and drafting of home inspection reports. Specifying a number of required hours for each task would be arbitrary and require programs to separately track hours spent on two activities that likely in many cases will be done concurrently. Further, the criteria requires training in both activities, so the scenario suggested where someone could have 20 hours in one topic and 0 hours in another would clearly not be allowable under the rule.

All of the remaining recommendations suggested in the Clearinghouse Report have been accepted in whole.

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

N/A