

Report From Agency

**STATE OF WISCONSIN
Department of Safety and Professional Services**

**IN THE MATTER OF RULE-MAKING :
PROCEEDINGS BEFORE THE : REPORT TO THE LEGISLATURE
Department of Safety : CR 12-007
and Professional Services :
:**

I. THE PROPOSED RULE:

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

II. REFERENCE TO APPLICABLE FORMS:

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The proposed rules reflect the will of the legislature under 2011 Wisconsin Act 32 that repealed s. 101.136 Stats., relating to the licensing of thermal system insulators. The proposed rules eliminate the credentials for thermal insulation mechanics, thermal insulation apprentices and thermal insulator helpers, under section SPS 305.741, 305.742 and 305.743 that were established as mandated by 2009 Wisconsin Act 16.

V. SUMMARY OF PUBLIC COMMENTS AND THE SECTION'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 13, 2012. No one appeared at the hearing to testify, however, the following person submitted written comments:

Jeffrey J. Beiriger
Executive Director
Plumbing-Heating-Cooling Contractors – Wisconsin Association
Master Plumbers/Heating & Cooling Contractors of Wisconsin
W175 N11117 Stonewood Drive, Suite 204
Germantown, WI 53022

The Department of Safety and Professional Services summarizes the comments received by written submission as follows:

The comments support the proposed rules, and endorse revising the relevant portions of SPS 305 to reflect the legislature's repeal of s. 101.136, Stats., under 2011 Wisconsin Act 32. The comments stress the need to complete the procedure to provide the industry with closure on the issue.

VI. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS:

Comment 1. Statutory Authority

Response: The Department will reference both statutory references, ss. 227.10 (1) and 227.11 (2) (a), Stats. It would appear that the language of both ss. 227.10 (1) and 227.11 (2) (a), Stats., covers the same subject matter. However, s. 227.11 (2) (a), Stats., addresses when or under what conditions rule-making authority is conveyed.

Comment 2b. Form, Style and Placement in Administrative Code

Response: The suggestion appears to be redundant with the suggestion to enhance the explanation of the agency's authority.

Comment 2c. Form, Style and Placement in Administrative Code

Response: The heading has been changed to "Plain Language Analysis", however, the title is not consistent with s. 227.14 (2) (a) 2. The description of s. 101.136, Stats., is previously covered the Explanation of Agency Authority.

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:

Pursuant to s. 227.19 (3m), Stats., the Department of Safety and Professional Services has determined that the proposed rules to revise SPS 305 will have no economic impact on small businesses. 2011 Wisconsin Act 32 repealed the statutory mandate for thermal insulator credentials previously enacted by 2009 Wisconsin Act 16, s. 101.136, Stats.