

**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 19-154  
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:**

The proposed rule updates chs. SPS 305, 314, and 361 to 366 to require the periodic inspection and testing of fire and smoke dampers required under NFPA 1, NFPA 80, and NFPA 105 to be conducted by a person with current fire life safety certification from a program accredited by the American National Standards Institute.

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

The Department held a public comment period and conducted a public hearing on the statement of scope on November 1, 2019. The Department did not receive written comments or testimony concerning the statement of scope.

On January 8, 2020, the Department held a public hearing on the proposed rules. Written comments were received from the following individuals:

- David P. Malek, President of Malek & Associates Consultants, Inc.
- Jonathan Kowalski, Executive Director of the Sheet Metal and Air Conditioning Contractors' Association of Milwaukee, Inc.
- Robert G. DuPont, Founder of the Alliance for Regulatory Coordination.
- Julie Walsh, Executive Director of the Madison Area Mechanical & Sheet Metal Contractors Association.

Although generally supportive of the new requirement in the proposed rules, the comments included the following recommendations:

- The requirement should not apply to government officials performing inspections for the purpose of code administration.
- Individuals who conduct periodic inspection and testing of fire and smoke dampers should not be required to be certified as commercial building inspectors or fire detection, suppression, and prevention inspectors.
- The requirement should have a one-year delayed effective date to allow time for individuals to obtain the required certification.

The Department has revised the proposed rules as recommended above.

**VI. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS:**

All Legislative Council recommendations have been incorporated into the proposed rule.

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

N/A