

STATE OF WISCONSIN
DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES

IN THE MATTER OF RULEMAKING	:	ORDER OF THE
PROCEEDINGS BEFORE THE	:	DEPARTMENT OF SAFETY
DEPARTMENT OF SAFETY AND	:	AND PROFESSIONAL SERVICES
PROFESSIONAL SERVICES	:	ADOPTING EMERGENCY RULES

The statement of scope for this rule, SS 104-20, was approved by the Governor on July 31, 2020, published in Register 776A2 on August 10, 2020, and approved by the Department of Safety and Professional Services on August 24, 2020.

This emergency rule was approved by the Governor on October 9, 2020.

ORDER

An order of the Department of Safety and Professional Services to repeal SPS 318.1705 (3) (c) 1. to 5. and renumber and amend SPS 318.1705 (3) (c) (intro.), relating to private residence elevators.

Analysis prepared by the Department of Safety and Professional Services.

FINDING OF EMERGENCY

The Department of Safety and Professional Services, in consultation with the Conveyance Safety Code Council, recently completed a comprehensive evaluation and update of ch. SPS 318, the *Wisconsin Conveyance Safety Code*. A review of the code with updates incorporated revealed that provisions identified as posing a significant safety issue were not removed as intended by the Department and Council. Specifically, the provisions identified concern the space allowed between the hoistway door and the car door or gate of a private residence elevator. These provisions were intended to be removed in order to reduce the likelihood of a child being seriously injured or killed as a result of fitting in the space. As leaving these provisions in the code poses a risk of serious injury or death, the Department finds that emergency rules are necessary to preserve public health and safety.

ANALYSIS

Statutes interpreted:

Sections 101.63 (1) and 101.982, Stats.

Statutory authority:

Sections 101.63 (1) and 101.982, Stats.

Explanation of agency authority:

Section 101.63 (1), Stats., requires the Department to “[a]dopt rules which establish standards for the construction and inspection of one- and 2-family dwellings and components thereof.”

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.”

Related statutes or rules:

Section SPS 321.115 of the *Uniform Dwelling Code*, which establishes uniform statewide construction standards and inspection procedures for one- and 2-family dwellings, provides that elevators or dumbwaiters serving dwelling units must comply with the requirements under ch. SPS 318.

Plain language analysis:

The emergency rule will remove the provisions of s. SPS 318.1705 (3) (c) 1. to 4., which relate to the space allowed between the hoistway door and the car door or gate of a private residence elevator. This update will reduce the likelihood of a child being seriously injured or killed as a result of fitting in the space, a significant safety issue identified by the Department, the Conveyance Safety Code Council, and nationally known conveyance safety experts. In addition, the update will make the safety standards in ch. SPS 318 more consistent with ASME A17.1–2016, the industry-wide national safety standards for conveyances adopted by reference in the *Wisconsin Conveyance Safety Code*.

Summary of, and comparison with, existing or proposed federal statutes and regulations:

None.

Comparison with rules in adjacent states:

Illinois:

Illinois adopts nationally recognized elevator safety standards, including ASME A17.1-2013 [41 Ill. Adm. Code 1000.60]. These standards regulate the space allowed between the hoistway door and the car door or gate of a private residence elevator.

Iowa:

Iowa adopts nationally recognized elevator safety standards, including ASME A17.1-2016 [875 IAC 72.1(11)]. These standards regulate the space allowed between the hoistway door and the car door or gate of a private residence elevator.

Michigan:

Michigan adopts nationally recognized elevator safety standards, including ASME A17.1-2010 [Mich Admin Code, R 408.7003]. These standards regulate the space allowed between the hoistway door and the car door or gate of a private residence elevator.

Minnesota:

Minnesota adopts nationally recognized elevator safety standards, including ASME A17.1-2010 (Minnesota Rules, Part 1307.0015). These standards regulate the space allowed between the hoistway door and the car door or gate of a private residence elevator.

Summary of factual data and analytical methodologies:

A review of ch. SPS 318 with recent updates incorporated revealed that provisions identified as posing a significant safety issue were not removed as intended by the Department and Conveyance Safety Code Council. Specifically, the provisions identified concern the space allowed between the hoistway door and the car door or gate of a private residence elevator. The emergency rule will remove these provisions as intended, reducing the likelihood of a child being seriously injured or killed as a result of fitting in this space.

Analysis and supporting documents used to determine effect on small business or in preparation of economic impact analysis:

The analysis used to determine the effect on small business and in preparation of the economic impact analysis for Clearinghouse Rule CR 19-118, the recent comprehensive update to the *Wisconsin Conveyance Safety Code*, was made under the assumption the provisions identified in the emergency rule had already been removed. Therefore, there is no anticipated effect of the emergency rule on small business beyond any effect previously identified in the analysis for CR 19-118.

Fiscal estimate:

These emergency rules will not have a fiscal impact beyond any fiscal impact identified in the economic impact analysis for Clearinghouse Rule CR 19-118.

Effect on small business:

These emergency rules do not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department's Regulatory Review Coordinator may be contacted by email at Daniel.Hereth@wisconsin.gov, or by calling (608) 267-2435.

Agency contact person:

Dale Kleven, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, P.O. Box 8366, Madison, Wisconsin 53708-8366; telephone (608) 261-4472; email at DSPSAdminRules@wisconsin.gov.

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

Comments may be submitted to Dale Kleven, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, P.O. Box 8366, Madison, Wisconsin 53708-8366, or by email to DSPSAdminRules@wisconsin.gov. Comments must be submitted by the date and time at which the public hearing on these emergency rules is conducted. Information as to the place, date, and time of the public hearing will be published on the Legislature's website and in the Wisconsin Administrative Register.

TEXT OF RULE

SECTION 1. SPS 318.1705 (3) (c) (intro.) is renumbered SPS 318.1705 (3) (c) and amended to read:

SPS 318.1705 (3) (c) Substitute the following wording for the requirements in ASME A17.1 section 5.3.1.7.2: The clearance between the hoistway door and the floor surface may be up to 3/8 inch.

SECTION 2. SPS 318.1705 (3) (c) 1. to 5. are repealed.

SECTION 3. EFFECTIVE DATE. The rules adopted in this order shall take effect upon publication in the official state newspaper, pursuant to s. 227.22 (2) (c), Stats.

(END OF TEXT OF RULE)

Dated _____

Agency _____

Secretary

Department of Safety and Professional Services