

STATE OF WISCONSIN
DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES

IN THE MATTER OF RULEMAKING : PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE : DEPARTMENT OF SAFETY AND
DEPARTMENT OF SAFETY AND : PROFESSIONAL SERVICES
PROFESSIONAL SERVICES : ADOPTING RULES
: (CLEARINGHOUSE RULE 19-154)

PROPOSED ORDER

An order of the Department of Safety and Professional Services to amend SPS 305.627 (1) and create SPS 314.001 (3) and 361.03 (16), relating to the inspection and testing of fire and smoke dampers.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted:

Subchapter I of ch. 101, Stats.

Statutory authority:

Section 101.02 (1) (b) and (15) (j), Stats.

Explanation of agency authority:

Section 101.02 (1) (b), Stats., provides “[t]he department shall adopt reasonable and proper rules and regulations relative to the exercise of its powers and authorities and proper rules to govern its proceedings and to regulate the mode and manner of all investigations and hearings ...”

Section 101.02 (15) (j), Stats., provides “[t]he department shall ascertain, fix and order such reasonable standards or rules for constructing, altering, adding to, repairing, and maintaining public buildings and places of employment in order to render them safe.”

Related statute or rule:

None.

Plain language analysis:

This 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.

Summary of, and comparison with, existing or proposed federal regulation:

None.

Summary of public comments and feedback on the statement of scope and the Department's responses:

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

Comparison with rules in adjacent states:

Illinois: Illinois rules do not require the inspection and testing of fire and smoke dampers to be conducted by a person with current fire life safety certification from a program accredited by the American National Standards Institute.

Iowa: Iowa rules do not require the inspection and testing of fire and smoke dampers to be conducted by a person with current fire life safety certification from a program accredited by the American National Standards Institute.

Michigan: Michigan rules do not require the inspection and testing of fire and smoke dampers to be conducted by a person with current fire life safety certification from a program accredited by the American National Standards Institute.

Minnesota: Minnesota rules do not require the inspection and testing of fire and smoke dampers to be conducted by a person with current fire life safety certification from a program accredited by the American National Standards Institute.

Summary of factual data and analytical methodologies:

Current rules require the inspection and testing of fire and smoke dampers to be performed by a qualified person with knowledge and understanding of the operating components of the type of assembly to be tested. The Department has determined that more specific requirements are needed to ensure qualified persons are conducting inspections and testing of fire and smoke dampers. The proposed rule will require the periodic inspection 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.

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

The proposed rules were posted for a period of 14 days to solicit public comment on economic impact, including how the proposed rules may affect businesses, local government units, and individuals. No comments were received.

Fiscal Estimate and Economic Impact Analysis:

The Fiscal Estimate and Economic Impact Analysis document is attached.

Effect on small business:

These proposed rules do not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department’s Regulatory Review Coordinator, Dan Hereth, may be contacted 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, WI 53708-8366, or by email to DSPSAdminRules@wisconsin.gov. Comments must be received at or before the public hearing to be held at 9:00 a.m. on January 8, 2020, to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. SPS 305.627 (1) is amended to read:

SPS 305.627 (1) GENERAL. No person may perform inspections of fire detection, prevention, and suppression devices being installed during the construction or alteration of, or the addition to, public buildings and places of employment for the purpose of administering and enforcing chs. SPS 361 to 366 and 375 to 379 unless the person holds a certification issued by the department as a certified fire detection, prevention, and suppression inspector or holds a certification as a commercial building inspector.

SECTION 2. SPS 314.001 (3) is created to read:

SPS 314.001 (3) INSPECTION AND TESTING OF FIRE AND SMOKE DAMPERS. The periodic inspection and testing of fire and smoke dampers required under NFPA 1, NFPA 80, and NFPA 105 shall be conducted by a person with current fire life safety certification from a program accredited by the American National Standards Institute.

SECTION 3. SPS 361.03 (16) is created to read:

SPS 361.03 (16) INSPECTION AND TESTING OF FIRE AND SMOKE DAMPERS. The periodic inspection and testing of fire and smoke dampers required under NFPA 1, NFPA 80, and NFPA 105 shall be conducted by a person with current fire life safety certification from a program accredited by the American National Standards Institute.

SECTION 4. **INITIAL APPLICABILITY.** This rule first applies to periodic inspections and testing of fire and smoke dampers conducted on the effective date of this rule.

SECTION 5. EFFECTIVE DATE. The rules adopted in this order shall take effect on the first day of the 13th month following publication in the Wisconsin Administrative Register, pursuant to s. 227.22 (2) (b), Stats.

(END OF TEXT OF RULE)

This Proposed Order of the Department of Safety and Professional Services is approved for submission to the Governor and Legislature.

Dated _____

Agency _____

Secretary
Department of Safety and Professional Services