

Report From Agency

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

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IN THE MATTER OF RULE-MAKING :
PROCEEDINGS BEFORE THE : **REPORT TO THE LEGISLATURE**
DEPARTMENT OF SAFETY AND : **CR 13-014**
PROFESSIONAL SERVICES :
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I. THE PROPOSED RULE:

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

II. REFERENCE TO APPLICABLE FORMS:

None.

III. FISCAL ESTIMATE AND EIA:

The Fiscal Estimate and EIA are attached.

IV. DETAILED STATEMENT EXPLAINING THE BASIS AND PURPOSE OF THE PROPOSED RULE, INCLUDING HOW THE PROPOSED RULE ADVANCES RELEVANT STATUTORY GOALS OR PURPOSES:

In accordance with 2011 Wisconsin Act 146, the proposed rule revises provisions regarding obtaining master plumber status and qualifying for an elevator mechanic license. The Act also repealed the provisions relating to ozone-depleting refrigerants and the authority to credential refrigerant handling technicians. The proposed rules eliminate the state credentialing provisions for refrigerant handling technicians under s. SPS 305.72 and revises provision s. SPS 305.70 eliminating the need for HVAC contractor registration with respect to ozone-depleting refrigerants.

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

The Department held a public hearing on March 11, 2013. Written comments were accepted until March 21, 2013. Justin Laxton of the Elevator Industry Work Presentation Fund, Madison, WI attended the public hearing for informational purposes only. No other interested persons from the public attended the public hearing or presented testimony.

The Department received written comments regarding the proposed rule from Amy J. Blankenbiller of the National Elevator Industry, Inc (NEII®).

Amy J. Blankenbiller comments centered on SECTION 10 proposed language for SPS 305.992 (1) (c). She recommended model language drafted by the NEII®. She suggested the model language was more stringent than the proposed language and that the proposed language was too lenient.

DEPARTMENT’S RESPONSE TO PUBLIC COMMENTS

The Department made no changes to the proposed rule in response to written comments received by Amy J. Blankenbiller of the NEII® because the suggestion resembles the original legislation enacted in 2006. Subsequent legislation has revised the elevator mechanic licensing provisions including 2011 Wisconsin Act 146 which the proposal under SECTION 10 reflects.

VI. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS:

Comment 1. Statutory Authority: According to the plain language analysis, the proposed rule “create[s] another avenue to qualify for an elevator mechanic license” pursuant to the changes made by 2011 Wisconsin Act 146. Act 146 creates s. 101.985 (2) (ad), Stats., and it appears that the proposed rule, in SECTION 10, creates an avenue to parallel the contents of s. 101.985 (2) (ad), Stats. Specifically, it appears that s. SPS 305.992 (1) (c) parallels the contents of s. 101.985 (2) (ad) 2. c. are reflected in the proposed rule. The agency should review the contents of s. SPS 305.992, including s. SPS 305.992 (1) (c), for consistency with s. 101.985, Stats.

Response: The language under proposed s. SPS 305.992 (1) (c) 2. covers both situations delineated in s. 101.985 (2) (ad) 2. a. and c., Stats. The rule does not reference experience “immediately” preceding application. In essence, s. 101.985 (2) (ad) 2. c., Stats., is an open-ended exception to subd. 2. a., or another way to look at it is the subd. 2. a. is a subset of subd. 2. c; any disruption to an applicant’s experience is to be captured on the application form.

Comment 2. Form, Style and Placement in Administrative Code: a. In the plain language analysis, the agency should describe the changes made in SECTIONS 1 and 5.

Response: The revision to the informational note SECTION 5 is not substantive and reflects the statutory revision under 2011 Wisconsin Act 146, the enactment of which established the course of action for manufactured home salespersons.

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:

None.