

STATE OF WISCONSIN
Department of Safety and Professional Services

IN THE MATTER OF RULE-MAKING PROCEEDINGS BEFORE THE DEPARTMENT OF
SAFETY AND PROFESSIONAL SERVICES

ORDER OF THE DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES
ADOPTING EMERGENCY RULES

The statement of scope for this rule, SS #104–15, was approved by the Governor on September 21, 2015, published in Register #717B on September 28, 2015, and approved by the Department on October 9, 2015. This emergency rule was approved by the Governor on November 6, 2015.

ORDER

An order of the department to create SPS Table 305.02, Row 37m., Table 305.06, Row 32m., and 305.627, relating to certification to inspect fire detection, prevention, and suppression devices.

FINDING OF EMERGENCY

This emergency rule will establish requirements and procedures for certification of inspectors of fire detection, prevention, and suppression devices which will include certification by the National Fire Protection Association (NFPA) as a Fire Inspector 1 or an equivalent certification as defined by the department.

Inspection of fire detection, prevention, and suppression devices by qualified inspectors certified by the state and the NFPA is in the best interest of public safety. An expeditious promulgation of this rule will enable timely certification of inspectors, better ensuring the safety of Wisconsin citizens.

ANALYSIS

Statutes interpreted:

Section 101.14 (4r) (c) 1., Stats.

Statutory authority:

Sections 101.02 (1) and 101.14 (4r) (c) 1., Stats.

Explanation of agency authority:

Section 101.12 (4) (a), Stats., states “... any inspection performed to determine compliance with the rules promulgated by the department that relate to constructing, altering, or adding to public buildings and buildings that are places of employment may be performed only by a person who is certified under rules promulgated by the department to make such inspections.”

Related statute or rule:

SPS 305 contains other rules related to licenses, certifications, and registration of trade persons and inspectors.

Plain language analysis:

In addition to reviewing new construction of public buildings, the Wisconsin Department of Safety and Professional Services (DSPS) also reviews building projects that involve alterations of, and additions to, existing public buildings. Inspections of construction, alteration and addition projects for public buildings, other than inspections of the installation of fire safety devices, must be performed by inspectors who are certified under rules promulgated by DSPS (e.g., installation of electrical, plumbing, boilers, elevators, etc.). Under prior law, the installation of fire detection, prevention and suppression devices (e.g., manual fire alarm systems, smoke and heat detection devices, fire extinguishing systems, standpipes, automatic fire suppression systems, automatic fire sprinkler systems, etc.) were subject to inspection by commercial building inspectors certified by the department.

2013 Wisconsin Act 270 requires DSPS to promulgate rules that establish procedures and requirements for issuing a new certification to individuals who will perform inspections of fire detection, prevention and suppression devices, which are installed during the construction, alteration of, or addition to, public buildings.

Thus, in addition to commercial building inspectors certified by the department, the proposed rule will allow the performance of inspections of fire detection, prevention and suppression devices by persons who hold a valid certification from the National Fire Protection Association (NFPA) as a Fire Inspector I, or in the alternative, hold a valid equivalent certification as determined by DSPS.

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

According to Section 101.14 (4) (g) 2., Stats., “fire detection, prevention and suppression devices’ include but are not limited to manual fire alarm systems, smoke and heat detection devices, fire extinguishers, standpipes, automatic fire suppression systems and automatic fire sprinkler systems.” There are several federal regulations relating to such “fire detection, prevention and suppression devices,” but none specifically require that a certified fire inspector perform an inspection of the installation of such devices. These federal regulations include:

- 29 CFR 1910.157 – Portable fire extinguishers.
- 29 CFR 1910.158 – Standpipe and hose systems.
- 29 CFR 1910.159 – Automatic sprinkler systems.
- 29 CFR 1910.160 – Fixed extinguishing systems, general.
- 29 CFR 1910.161 – Fixed extinguishing systems, dry chemical.

- 29 CFR 1910.162 – Fixed extinguishing systems, gaseous agent.
- 29 CFR 1910.163 – Fixed extinguishing systems, water spray and foam.
- 29 CFR 1910.164 – Fire detection systems.
- 29 CFR 1910.165 – Employee alarms systems.

Comparison with rules in adjacent states:

An internet search indicated that one adjacent state (Illinois) does recognize and provide for certification as Fire Inspector I:

Illinois:

Designation as a Qualified Fire Code Inspector for the purpose of inspecting public schools can be achieved by a number of criteria, one of which is possession of certification by the NFPA as a Fire Inspector 1. Title 23, Section 180.120(d)(1)(C), Ill. Admin. Code. However, Illinois has its own certification criteria for fire department personnel seeking designation as Fire Inspector I. Title 41, Section 141.327.

Iowa:

Section 661—200.3 (100), Iowa Admin Code, relating to building plan approval and plan review fees, requires that plans for the proposed construction of certain new buildings or additions, alterations or changes to existing buildings receive the approval of the fire marshal.

Michigan:

Mich. Admin. Code, R 408.41801, et seq., relating to construction safety standards, fire protection and prevention, make no reference to inspection of fire detection, prevention and suppression devices by individuals certified as Fire Inspector I.

Minnesota:

Minnesota administrative code makes no reference to Fire Inspector I. “Licensed fire protection contractors” perform functions including the design, installation, modification and inspection of fire protection systems, parts and related equipment. Minn. R. 7512.0100; 7512.0400.

Summary of factual data and analytical methodologies:

This rule is being promulgated as per the requirements of 2013 Wisconsin Act 270, s. 14.

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

Based upon input from the Division of Industry Services, the rule revisions are not expected to significantly impact small business. The functions to be performed by this new certification are already performed by certified commercial building inspectors and therefore would not impose new requirements on small businesses.

Fiscal Estimate and Economic Impact Analysis:

The Department estimates that these rule revisions will not have a negative fiscal impact.

Effect on small business:

These proposed rules are not expected to 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 Eric.Esser@wisconsin.gov, or by calling (608) 267-2435.

Agency contact person:

Dan Smith, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8935, Madison, Wisconsin 53708; telephone 608-261-4463; email at Daniel2.Smith@wisconsin.gov.

TEXT OF RULE

SECTION 1. SPS Table 305.02, Row 37m., is created to read:

Table 305.02 Partial Table FEES					
	License, Certification or Registration Category	Type	Application Fee	Examination Fee	License, Certification or Registration Fee
	Subchapter VI				
37m.	Fire Detection, Prevention and Suppression Inspector	Certification	\$15	NA	\$40

SECTION 2. SPS Table 305.06, Row 32m., is created to read:

Table 305.06 Partial Table TERMS			
	Subchapter VI		
	License, Certification or Registration Category	Term	Expiration Date
32m.	Fire Detection, Prevention and Suppression Inspector	4 years	June 30

SECTION 3. SPS 305.627 is created to read:

SPS 305.627 Fire detection, prevention and suppression inspectors. (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 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.

(2) APPLICATION FOR CERTIFICATION. A person applying for a fire detection, prevention and suppression inspector certification shall submit all of the following:

(a) An application in accordance with s. SPS 305.01.

(b) An application fee and a certification fee in accordance with s. SPS 305.02, Table 305.02.

(c) Evidence that the person holds one of the following certifications to perform fire detection, prevention and suppression inspections:

1. A valid certification from the national fire protection association qualifying him or her as a certified fire inspector I.

2. A valid equivalent certification as determined by the department.

(3) CERTIFICATION MAINTENANCE. A person holding a certification listed in sub. (2) (c) must maintain that certification at all times during which he or she is certified as a fire detection, prevention and suppression inspector under this section.

(4) RESPONSIBILITIES. A person who inspects fire detection, prevention, and suppression devices as a fire detection, prevention and suppression inspector shall:

(a) Maintain a record of the inspections made including the dates and the findings of the inspections;

(b) Provide a copy of the inspection report to the property owner or his or her agent; and

(c) Make available to the department upon request his or her inspection records.

(5) RENEWAL.

(a) A person may renew his or her certification as a fire detection, prevention and suppression inspector.

(b) A fire detection, prevention and suppression inspector certification shall be renewed in accordance with s. SPS 305.07.

(c) The renewal of a certification as a fire detection, prevention and suppression inspector is contingent upon the person submitting evidence as required by the department that the person holds a valid certification listed under sub. (2) (c). The department may audit compliance with this section.

SECTION 4 EFFECTIVE DATE. This emergency rule shall take effect upon publication in the official state newspaper as provided in s. 227.24 (1) (c), Stats.

(END OF TEXT OF RULE)
