

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

**IN THE MATTER OF RULEMAKING : REPORT TO THE LEGISLATURE
PROCEEDINGS BEFORE THE : CR 20-057
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 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 make the safety standards in ch. SPS 318 more consistent with ASME A17.1–2016, the industry-wide national safety standards for conveyances that are adopted by reference in the *Wisconsin Conveyance Safety Code*. In addition, the update will address a significant safety issue identified by the Department, the Conveyance Safety Code Council, and nationally known conveyance safety experts.

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

The Department of Safety and Professional Services held a public hearing on December 4, 2020. The Board received written comments, testimony, or both, from the following individuals:

- Paul Rosenberg, President of Performance Elevator Consulting, LLC, and Chairperson of the Conveyance Safety Code Council.
- Steven Ketelboeter, Business Representative of International Union of Elevator Constructors Local 132, and member of the Conveyance Safety Code Council.
- George Klaetsch, representing the Elevator Industry Work Preservation Fund.

Mr. Rosenberg requested the Department make the editorial revision below to adopt the safer horizontal clearance in ASME A17.1 requirement 5.3.1.7.2 as originally intended by the Conveyance Safety Code Council and clarify that 3/8 inch is a vertical dimension:

SPS 318.1705 (3) (c) ~~Substitute the following wording for~~ This is a department rule in addition to ASME A17.1 section requirement 5.3.1.7.2: The vertical clearance between the hoistway door and the floor surface may be up to shall not exceed 3/8 inch.

Mr. Ketelboeter also requested the above editorial revision be made, in the interest of improving the safety of the riding public and the private residence conveyances in Wisconsin.

In addition to requesting the above editorial revision be made, Mr. Klaetsch's comments also noted that adopting the revision will only apply to new private residence elevator installations and will not correct the issue with regards to existing private residence elevators. The comments went on to indicate that to apply the safety improvement and protect children in homes with these existing units, Wisconsin should adopt by rule the language in ASME A17.3-2017 10.1.4.2 and make it applicable only to existing installations.

In response to the written comments and testimony received, the Department made the requested editorial revision.

With regard to existing private residence elevators, the Department did not modify the proposed rule in response to the comments received. The alterations required to bring an existing installation up to current code (removing and replacing the door and frame) would be very disruptive and expensive. In addition, retroactive application of the new requirements was not part of the recommendations made by the Conveyance Safety Code Council.

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

STATE OF WISCONSIN
DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES

IN THE MATTER OF RULEMAKING : PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE : DEPARTMENT OF SAFETY
DEPARTMENT OF SAFETY AND : AND PROFESSIONAL SERVICES
PROFESSIONAL SERVICES : ADOPTING RULES
: (CLEARINGHOUSE RULE 20-057)

PROPOSED 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.

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 proposed 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 A17.1-2016 (Minnesota Rules, Part 1307.0020). 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 proposed 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 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 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, WI 53708-8366, or by email to DSPSAdminRules@wisconsin.gov. Comments must be received at or before the public hearing to be held at 10:00 a.m. on December 4, 2020, to be included in the record of rule-making proceedings.

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~~
This is a department rule in addition to ASME A17.1 section requirement 5.3.1.7.2: The vertical clearance between the hoistway door and the floor surface shall not exceed 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 on the first day of the month following publication in the Wisconsin Administrative Register, pursuant to s. 227.22 (2) (intro.), 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 12/7/2020

Agency 
Secretary

Department of Safety and Professional Services

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

<p>1. Type of Estimate and Analysis <input checked="" type="checkbox"/> Original <input type="checkbox"/> Updated <input type="checkbox"/> Corrected</p>	<p>2. Date October 20, 2020</p>
<p>3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable) SPS 318</p>	
<p>4. Subject Private residence elevators</p>	
<p>5. Fund Sources Affected <input type="checkbox"/> GPR <input type="checkbox"/> FED <input checked="" type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG-S</p>	<p>6. Chapter 20, Stats. Appropriations Affected 20.165 (2) (j)</p>
<p>7. Fiscal Effect of Implementing the Rule <input type="checkbox"/> No Fiscal Effect <input type="checkbox"/> Increase Existing Revenues <input checked="" type="checkbox"/> Increase Costs <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Indeterminate <input type="checkbox"/> Decrease Existing Revenues <input checked="" type="checkbox"/> Could Absorb Within Agency's Budget</p>	
<p>8. The Rule Will Impact the Following (Check All That Apply) <input type="checkbox"/> State's Economy <input type="checkbox"/> Specific Businesses/Sectors <input type="checkbox"/> Local Government Units <input type="checkbox"/> Public Utility Rate Payers <input type="checkbox"/> Small Businesses (if checked, complete Attachment A)</p>	
<p>9. Estimate of Implementation and Compliance to Businesses, Local Governmental Units and Individuals, per s. 227.137(3)(b)(1). \$0</p>	
<p>10. Would Implementation and Compliance Costs Businesses, Local Governmental Units and Individuals Be \$10 Million or more Over Any 2-year Period, per s. 227.137(3)(b)(2)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>	
<p>11. Policy Problem Addressed by the Rule The proposed 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.</p>	
<p>12. Summary of the Businesses, Business Sectors, Associations Representing Business, Local Governmental Units, and Individuals that may be Affected by the Proposed Rule that were Contacted for Comments. The proposed rule was posted on the Department of Safety and Professional Services' website for 14 days in order to solicit comments from businesses, representative associations, local governmental units, and individuals that may be affected by the rule. No comments were received.</p>	
<p>13. Identify the Local Governmental Units that Participated in the Development of this EIA. No local governmental units participated in the development of this EIA.</p>	
<p>14. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred) The proposed rule will not have a significant impact on specific businesses, business sectors, public utility rate payers, local governmental units, or the state's economy as a whole. The Department estimates one-time administrative costs of \$9,657.68. These costs may be absorbed in the agency budget.</p>	
<p>15. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule The benefit to implementing the rule is increased safety requirements for private residence elevators and consistency with industry-wide national safety standards. If the rule is not implemented, a significant safety issue will remain in the requirements for private residence elevators.</p>	

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

16. Long Range Implications of Implementing the Rule

The long range implication of implementing the rule is increased safety requirements for private residence elevators and consistency with industry-wide national safety standards.

17. Compare With Approaches Being Used by Federal Government

None

18. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

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 2016 (Minnesota Rules, Part 1307.0020). These standards regulate the space allowed between the hoistway door and the car door or gate of a private residence elevator.

19. Contact Name

Dale Kleven

20. Contact Phone Number

(608) 261-4472

This document can be made available in alternate formats to individuals with disabilities upon request.

ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis

ATTACHMENT A

1. Summary of Rule's Economic and Fiscal Impact on Small Businesses (Separately for each Small Business Sector, Include Implementation and Compliance Costs Expected to be Incurred)

2. Summary of the data sources used to measure the Rule's impact on Small Businesses

3. Did the agency consider the following methods to reduce the impact of the Rule on Small Businesses?

- Less Stringent Compliance or Reporting Requirements
 - Less Stringent Schedules or Deadlines for Compliance or Reporting
 - Consolidation or Simplification of Reporting Requirements
 - Establishment of performance standards in lieu of Design or Operational Standards
 - Exemption of Small Businesses from some or all requirements
 - Other, describe:
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4. Describe the methods incorporated into the Rule that will reduce its impact on Small Businesses

5. Describe the Rule's Enforcement Provisions

6. Did the Agency prepare a Cost Benefit Analysis (if Yes, attach to form)

- Yes No
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