

Clearinghouse Rule 15-088

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)

PROPOSED ORDER

An order of the Department of Safety and Professional Services to amend SPS 320 relating to electronic notification.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted:

Sections 101.92 (intro.) and (3).

Statutory authority:

Sections 227.11 (2) (a) and 101.92 (intro.) and (3).

Explanation of agency authority:

Section 227.11 (2) (a) of the Statutes authorizes the Department to promulgate rules interpreting any statute that is enforced or administered by the Department, if the rule is considered necessary to effectuate the purpose of the statute.

Sections 101.92 (intro.) and (3) require the department to review annually the rules adopted under this subchapter. No set of rules may be adopted that has not taken into account the costs of specific code provisions to home buyers in relationship to the benefits derived from the provisions.

Related statute or rule:

Various other rules promulgated by the Department in SPS 320 address the inspection of one- and two-family dwellings.

Plain language analysis:

Currently, provisions in SPS 320 require building inspectors to post notices of compliance or non-compliance with the Uniform Dwelling Code at the job site. These revisions allow the building inspectors to deliver these notices electronically if mutually agreed upon by the applicant and inspector.

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

Federal regulations do not provide provisions for inspection of one- and two-family dwelling construction other than those for Housing and Urban Development (HUD) and Veterans Administration (VA) housing projects. HUD *Construction Inspection Reports* are required to be filed as hard copies. VA housing *Compliance Inspection Reports* are also required to be hard copies. No proposed federal regulations were found relating to inspections of homes.

Comparison with rules in adjacent states:

Illinois: An Internet-based search did not reveal the existence of a statewide one- and two-family dwelling code. Dwelling regulation appears to be left up to the individual local units of government.

Iowa: An internet based search revealed that the Iowa Building Code adopts the 2009 International Residential Code (IRC) and 2009 International Energy Conservation Code (IECC). The Iowa Building Code applies statewide to state owned and funded buildings. The IRC does not regulate the method of delivery for notices of compliance or non-compliance.

Michigan: An Internet-based search revealed a mandatory, statewide one- and two-family dwelling code. The Residential Construction Code under the Construction Code Commission's General Rules, in section 408.305, contains the state amendments to the 2009 International Residential Code developed by the International Code Council. The IRC does not regulate the method of delivery for notices of compliance or non-compliance.

Minnesota: An Internet-based search revealed a mandatory, statewide one- and two-family dwelling code. The Minnesota Department of Labor and Industry, in Chapter 1309, adopts by reference Chapters 2 through 10, 44, Section P2904 and Appendix K from the 2012 International Residential Code as amended in Minnesota. Chapters 2-10 contain the general construction provisions of the IRC. Notices and orders issued by the building official are required to be in writing unless waived by the applicant, contractor, owner, or owner's agent.

Summary of factual data and analytical methodologies:

The Department received input during meetings with the Dwelling Code Council. The makeup of this Council is established under section 15.407 (10) of the Statutes and consists of members who are appointed by the Governor. The Council includes representatives of several types of small businesses. These businesses provide input on design, construction, and inspection interests relative to the Uniform Dwelling Code. Through this Council, the Department was able to gather information on the potential impacts of the rule revisions contained herein.

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

The rule revisions are not expected to significantly impact small business because they provide new options rather than impose new restrictions.

Fiscal Estimate and Economic Impact Analysis:

The department is currently soliciting information and advice from businesses, local government units and individuals in order to prepare the Economic Impact Analysis.

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 Eric.Esser@wisconsin.gov, or by calling (608) 267-2435.

Agency contact person:

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TEXT OF RULE

SECTION 1. SPS 320.10 (4) (a) 1. and 2. are amended to read:

SPS 320.10 (4) (a) 1. Notice of compliance or noncompliance with this code shall be written on the building permit or another readily visible means and posted at the job site. Alternatively, the notice may be delivered electronically if mutually agreed upon by the applicant and inspector.

2. Upon finding of noncompliance, the municipality or authorized UDC inspection agency enforcing this code shall also notify the applicant of record and the owner, in writing, of the violations to be corrected. Alternatively, the notification may be delivered electronically if mutually agreed upon by the applicant and inspector.

SECTION 2. 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)

Dated _____

Agency _____

Secretary

Department of Safety and Professional Services