

STATE OF WISCONSIN
DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES

IN THE MATTER OF RULEMAKING : ORDER OF THE
PROCEEDINGS BEFORE THE : DEPARTMENT OF SAFETY
DEPARTMENT OF SAFETY AND : AND PROFESSIONAL SERVICES
PROFESSIONAL SERVICES : ADOPTING EMERGENCY RULES

The statement of scope for this rule, SS 055-20, was approved by the Governor on May 21, 2020, published in Register 774A1 on June 1, 2020, and approved by the Department of Safety and Professional Services on June 15, 2020.

This emergency rule was approved by the Governor on June 18, 2020.

ORDER

An order of the Department of Safety and Professional Services to amend SPS 314.01 (13) (b) 3. and 316.013 (1) (b) and create SPS 314.01 (13) (b) 7m. and 316.013 (3) (e), relating to inspections.

Analysis prepared by the Department of Safety and Professional Services.

FINDING OF EMERGENCY

The objective of the emergency rules is to, in the interest of slowing the spread of COVID-19, prevent fire prevention and electrical inspectors from having to unnecessarily come into contact with individuals on multiple job sites. As limiting physical contact in this manner is in the interest of slowing the spread of COVID-19, the Department finds that emergency rules are necessary to preserve public health and safety.

ANALYSIS

Statutes interpreted:

None.

Statutory authority:

Sections 101.02 (15) (j), 101.14 (4) (a), and 101.82 (2m), Stats.

Explanation of agency authority:

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.”

Section 101.14 (4) (a), Stats., provides “[t]he department shall make rules, pursuant to ch. 227, requiring owners of places of employment and public buildings to install such fire detection, prevention or suppression devices as will protect the health, welfare and safety of all employers, employees and frequenters of places of employment and public buildings.”

Section 101.82 (2m), Stats., requires the Department to “[p]romulgate rules that establish standards and a process for the inspection of electrical wiring, including the inspection of electrical wiring for which a municipality does not provide inspection under s. 101.86 (1).”

Related statutes or rules:

None.

Plain language analysis:

The emergency rules will, in the interest of slowing the spread of COVID-19, prevent fire prevention and electrical inspectors from having to unnecessarily come into contact with individuals on multiple job sites. Specifically, the emergency rules will revise s. SPS 314.01 to allow required fire prevention inspections to be postponed and s. SPS 316.013 to temporarily allow a master electrician to issue an affidavit to the utility company in lieu of an inspection.

Summary of, and comparison with, existing or proposed federal statutes and regulations:

None.

Comparison with rules in adjacent states:

Illinois:

Illinois does not, by rule, provide a means to slow the spread of COVID-19 by limiting the physical contact involved in conducting fire prevention and electrical inspections.

Iowa:

Iowa does not, by rule, provide a means to slow the spread of COVID-19 by limiting the physical contact involved in conducting fire prevention and electrical inspections.

Michigan:

Michigan does not, by rule, provide a means to slow the spread of COVID-19 by limiting the physical contact involved in conducting fire prevention and electrical inspections.

Minnesota:

Minnesota does not, by rule, provide a means to slow the spread of COVID-19 by limiting the physical contact involved in conducting fire prevention and electrical inspections.

Summary of factual data and analytical methodologies:

The emergency rules were developed based on a comprehensive review of the Department’s rules initiated in response to COVID-19.

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

As the emergency rules provide the ability to postpone required fire prevention inspections and the option to provide an affidavit from a master electrician indicating

compliance with the electrical code in lieu of an inspection, there is no anticipated effect on small business.

Fiscal estimate:

These emergency rules will not have a fiscal impact.

Effect on small business:

These emergency 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, Wisconsin 53708-8366, or by email to DSPSAdminRules@wisconsin.gov. Comments must be submitted by the date and time at which the public hearing on these rules is conducted. Information as to the place, date, and time of the public hearing will be published on the Legislature's website and in the Wisconsin Administrative Register.

TEXT OF RULE

SECTION 1. SPS 314.01 (13) (b) 3. is amended to read:

SPS 314.01 (13) (b) 3. 'Scheduling of inspections.' Fire prevention inspections shall be conducted at least once in each non-overlapping 6-month period per calendar year, or more often if ordered by the fire chief, in all territory served by the fire department, except as provided in subds. 4. to 7 7m.

SECTION 2. SPS 314.01 (13) (b) 7m. is created to read:

SPS 314.01 (13) (b) 7m. 'Postponement of inspections due to COVID-19.' A fire prevention inspection required under subd. 3. may be postponed if the fire chief determines the inspection will cause the inspector or any individual at the location where the inspection is to take place to be at risk for exposure to COVID-19. An inspection postponed under this subdivision shall be prioritized and conducted as soon as practicable after the period of postponement under this subdivision ends.

SECTION 3. SPS 316.013 (1) (b) is amended to read:

SPS 316.013 (1) Except as provided under s. 101.875 (2), Stats., and sub. (3) (e), electrical wiring installations shall be subject to inspection.

SECTION 4. SPS 316.013 (3) (e) is created to read:

SPS 316.013 (3) (e) An inspection under this subsection is not required if the building owner, the building owner's agent, or the inspection agency determines the inspection will cause the inspector or any individual at the location where the inspection is to take place to be at risk for exposure to COVID-19. If an inspection is not conducted, prior to concealment or energizing of the electrical wiring an individual licensed as a master electrician under s. SPS 305.43 shall issue an affidavit to the applicable utility company indicating the installation is in compliance with this chapter.

SECTION 5. EFFECTIVE DATE. The rules adopted in this order shall take effect upon publication in the official state newspaper, pursuant to s. 227.22 (2) (c), Stats.

(END OF TEXT OF RULE)

Dated _____

Agency _____

Secretary

Department of Safety and Professional Services