

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 059-20, was approved by the Governor on June 4, 2020, published in Register 774A2 on June 8, 2020, and approved by the Department of Safety and Professional Services on June 22, 2020.

This emergency rule was approved by the Governor on June 30, 2020

ORDER

An order of the Department of Safety and Professional Services to amend SPS 305.09 (6) (b) 2., relating to examinations.

Analysis prepared by the Department of Safety and Professional Services.

FINDING OF EMERGENCY

The objective of the emergency rules is to prevent individuals who are required to complete the second part of a multi-part examination administered by the Department from unnecessarily coming into contact with individuals at a testing site. 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 101.12 (4) (a), 145.02 (4) (a), 145.045 (1), and 145.07 (2), Stats.

Explanation of agency authority:

Section 101.12 (4) (a), Stats., provides that "... 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."

Section 145.02 (4) (a), Stats., provides that "[t]he department shall prescribe rules as to the qualifications, examination and licensing of master and journeyman plumbers ..."

Section 145.045 (1), Stats., provides "[t]he department shall by rule establish an examining program for the certification of soil testers, setting such standards as the department finds necessary to accomplish the purposes of this chapter. Such standards shall include formal written examinations for all applicants."

Section 145.07 (2), Stats., provides that “[a]pplication for a master or journeyman plumber’s examination, temporary permit or license shall be made to the department with fees. Unless the applicant is entitled to a renewal of license, a license shall be issued only after the applicant passes a satisfactory examination showing fitness.”

Related statutes or rules:

None.

Plain language analysis:

The emergency rules will, in the interest of slowing the spread of COVID-19, prevent applicants with a deadline for completing the second part of a multi-part examination administered by the Department from unnecessarily coming into contact with individuals at a testing site. Specifically, the emergency rules will revise s. SPS 305.09 (6) (b) 2. to extend the deadline for completing the second part of an examination until March 1, 2021, if the Department determines the applicant is unable to meet the original deadline because of limited testing availability due to COVID-19.

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 in-person examinations.

Iowa: Iowa does not, by rule, provide a means to slow the spread of COVID-19 by limiting the physical contact involved in conducting in-person examinations.

Michigan: Michigan does not, by rule, provide a means to slow the spread of COVID-19 by limiting the physical contact involved in conducting in-person examinations.

Minnesota: Minnesota does not, by rule, provide a means to slow the spread of COVID-19 by limiting the physical contact involved in conducting in-person examinations.

Summary of factual data and analytical methodologies:

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

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

The emergency rules will, under certain circumstances, require the Department to temporarily extend the deadline for completing the second part of a multi-part examination. Therefore, there is no anticipated effect of the emergency rules 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 305.09 (6) (b) 2. is amended to read:

SPS 305.09 (6) (b) 2. An applicant who does not pass all required parts of a multi-part license, certification, or registration examination within one year after the date of the initial examination shall apply, retake, and pass all parts of the license, certification, or registration examination. An applicant’s deadline under this subdivision occurring from March 1, 2020, to January 31, 2021, shall be extended to March 1, 2021, if the department determines the applicant is unable to meet the deadline because of limited testing availability due to COVID-19.

SECTION 2. 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