

STATE OF WISCONSIN
Department of Safety and Professional Services

IN THE MATTER OF RULEMAKING 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 # 020-16, was approved by the Governor on March 7, 2016, published in Register No. 723A2 on March 14, 2016, and approved by Department of Safety and Professional Services on October 27, 2016. This emergency rule as approved by the Governor on November 14, 2016.

ORDER

An order of the Department of Safety and Professional Services to repeal and recreate SPS 320.09 (2) (a) 2, and to create SPS 320.09 (2) (a) 3 and 4, relating to electronic building permits.

Analysis prepared by the Department of Safety and Professional Services.

FINDING OF EMERGENCY

The Department of Safety and Professional Services finds that an emergency exists and that the attached rule is necessary for the immediate preservation of the public peace, health, safety, or welfare. A statement of the facts constituting the emergency is:

Wisconsin Statute §101.63 (7m) requires the Department of Safety and Professional Services to establish an electronic permit process on or before January 2, 2017. The permanent administrative rule process precludes compliance with the statutorily required implementation date.

ANALYSIS

Statutes interpreted:

Sections 101.63(7) and 101.65(3)

Statutory authority:

Sections 227.11(2)(a) and 101.63 (intro) and (1) (intro), 101.63 (7m), Stats.

Explanation of agency authority:

Section 227.11 (2) (a), Stats. 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.

Section 101.63 (intro) and (1) (intro), Stats. Require the Department to adopt rules which establish standards for the inspection of one-and two-family dwellings, and s. 101.63 (5) Stats. which requires the Department to review the rules adopted under this subchapter once every 3 years. 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 ch. SPS 320 address the inspection of one and two-family dwellings.

Plain language analysis:

This rule establishes a system which allows a person to electronically submit an application to a municipality for a building permit. It also establishes a system through which a municipality may issue an electronic building permit along with the ability to submit copies of issued building permits to the Department of Safety and Professional Services.

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

The federal government has regulations for applications for permits and issuance of building permits for one and two-family dwellings when the dwelling is part of the Housing and Urban Development (HUD) project. Provisions for permit applications allow for electronic applications.

Comparison with rules in adjacent states:

Illinois:

An Internet search has revealed that Illinois does not have electronic building permit process.

Iowa:

An Internet search has revealed that Iowa does not have electronic building permit process.

Michigan:

An Internet search has revealed that Michigan does not have electronic building permit process.

Minnesota:

An Internet search has revealed that Minnesota does not have electronic building permit process.

Summary of factual data and analytical methodologies:

This department rule is based upon 2015 Wisconsin Act 211.

Fiscal Estimate:

The department estimates the cost of implementing this emergency rule to be minimal and absorbed through the agency's budget.

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 Jeffrey.Weigand@Wisconsin.gov , or by calling (608) 267-2435.

Agency contact person:

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TEXT OF RULE

SECTION 1. SPS 320.09 (2) (a) 2 is repealed and recreated to read:

SPS 320.09 (2) (a) 2. Pursuant to s. 101.63 (7m), Stats. each municipality shall contact the department to register and enroll in the department's online building permit system. Municipalities or its contracted agent shall then file all building permits in the format acceptable to the department no later than the 15th of the following month after the date the permit was issued.

SECTION 2. SPS 320.09(2) (a) 2 (Note) is created to read:

Note: To register for the electronic building permit process the department may be contacted by telephone at (608) 266-2112, or via email at DSPSSBUDCTech@wisconsin.gov .

SECTION 3. SPS 320.09 (2) (a) 3 and 4 are created to read:

3. If the municipality administering and enforcing this code fails to file the electronic permit form information by the end of the first month following the date of issuance, the municipality, or the contracted inspection agency of that municipality shall refund to the person to whom the building permit was issued the amount of the permit fees less the fee paid to the state for the Wisconsin uniform building permit seal.

4. The Wisconsin uniform building permit shall not be issued nor shall the permit information be submitted electronically to the department prior to the receipt of all completed forms, fees, plans and documents required to process the application and completion of other local prerequisite permitting requirements.

SECTION 4. SPS 320.09 (2) (a) 4. (Note) is created to read:

Note: The department requires copies of permits that are issued for new dwelling construction or installation only. Permits issued for additions, alterations, accessory buildings, etc., should not be filed with the department.

SECTION 5. EFFECTIVE DATE. This emergency rule shall take effect upon date of publication in the official state newspaper pursuant to s. 227.24 (1) (c), Stats.

(END OF TEXT OF RULE)