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(FORM UPDATED: 08/11/2010)

WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

2009-10

(session year)

Joint

(Assembly, Senate or Joint)

Committee for Review of Administrative Rules ...

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
(**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
(**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

* Contents organized for archiving by: Stefanie Rose (LRB) (June 2012)

August 30, 2010

Robert Marchant
Senate Chief Clerk
B20 Southeast, State Capitol
P.O. Box 7882
Madison, Wisconsin 53707-7882

Patrick Fuller
Assembly Chief Clerk
Room 401
17 West Main Street
Madison, Wisconsin 53703

Dear Chief Clerks:

NOTICE OF ADMINISTRATIVE RULES IN FINAL DRAFT FORM

CLEARINGHOUSE RULE NO.: 09-104

RULE NO.: Chapters Comm 14, 21 to 23 and 61 to 63

RELATING TO: Fire Prevention; Recordkeeping for Fires; Fire Suppression for Mobile Kitchens; Structural, Ventilating, and Vapor-Barrier Requirements for One- and Two-Family Dwellings; and Local Enforcement, No-Smoking Signs, Carbon Monoxide Detectors, and Energy Conservation, for Commercial Buildings

Section 227.19, Stats., requires agencies to submit proposed rules in final draft form to the chief clerk of each house for referral to the appropriate legislative standing committees.

The following information, as required by law, is being submitted to you.

1. Rules in final draft form (in triplicate).
2. Report consisting of:
 - a) Rule Report.
 - b) Public Hearing Attendance Record.
 - c) Public Hearing Comment and Agency Response Form.
 - d) Legislative Council Rules Clearinghouse Report.
 - e) Response to Legislative Council Rules Clearinghouse Report.
 - f) Fiscal Estimate.
 - g) Final Regulatory Flexibility Analysis.

If you have any questions regarding this matter, please do not hesitate to contact us.

Respectfully submitted,


Aaron Olver
Secretary

RULE REPORT

Department of Commerce

Clearinghouse Rule No.: 09-104

Rule No.: Chapters Comm 14, 21 to 23 and 61 to 63

Relating to: Fire Prevention; Recordkeeping for Fires; Fire Suppression for Mobile Kitchens; Structural, Ventilating, and Vapor-Barrier Requirements for One- and Two-Family Dwellings; and Local Enforcement, No-Smoking Signs, Carbon Monoxide Detectors, and Energy Conservation, for Commercial Buildings

Contact person for substantive questions:

Contact person for internal processing:

Name Sam Rockweiler

Name (same)

Title Code Development Consultant

Title _____

Telephone Number 266-0797

Telephone Number _____

1. Basis and purpose of the proposed rule.

These proposed rules would primarily update chapter Comm 14 to have it include the 2009 edition of the National Fire Protection Association® NFPA® 1 Fire Code, and to make it consistent with statutory changes enacted in 2007 Wisconsin Acts 75 and 173. These rules would also expand the scope of chapter Comm 14 to match the scope of section 101.14 (1) (b) of the Wisconsin Statutes so that only buildings, structures, or situations which are sovereignly controlled are excluded from the chapter.

These rules would also make some minor cross-reference and other editorial corrections for the requirements in chapters Comm 21 to 23 and 63, require submittal of local ordinances where municipalities choose to perform plan review or inspection of commercial buildings, codify the current emergency rules for no-smoking signs, and create an option for installing carbon monoxide detectors for fuel-burning appliances that are located within small enclosed spaces.

2. How the proposed rule advances relevant statutory goals or purposes.

Under sections 101.14, 101.141, 101.573, and 101.575 of the Statutes, the Department protects public health, safety, and welfare by promulgating rules, such as these, for administering fire inspection and fire prevention programs.

3. Changes to the rule analysis or fiscal estimate that was prepared for public hearing.

No substantive changes were made to the rule analysis or fiscal estimate.

FINAL REGULATORY FLEXIBILITY ANALYSIS

Department of Commerce

CLEARINGHOUSE RULE NO.: 09-104

RULE NO.: Chapters Comm 14, 21 to 23 and 61 to 63

RELATING TO: Fire Prevention; Recordkeeping for Fires; Fire Suppression for Mobile Kitchens; Structural, Ventilating, and Vapor-Barrier Requirements for One- and Two-Family Dwellings; and Local Enforcement, No-Smoking Signs, Carbon Monoxide Detectors, and Energy Conservation, for Commercial Buildings

Final regulatory flexibility analysis not required. (Statement of determination required.)

1. Reason for including or failing to include the following methods for reducing impact of the rule on small businesses: Less stringent compliance or reporting requirements; less stringent schedules or deadlines for compliance or reporting requirements; simplification of compliance or reporting requirements; establishment of performance standards to replace design or operational standards; exemption from any or all requirements.

The proposed rules are minimum requirements to meet the directives of sections 101.14, 101.141, 101.573, and 101.575 the statutes, and any exceptions from compliance for small businesses would be contrary to the statutory objectives that are the basis for the rules.

2. Issues raised by small businesses during hearings, changes in proposed rules as a result of comments by small businesses and reasons for rejecting any alternatives suggested by small businesses.

No issues were raised by small businesses.

3. Nature and estimated cost of preparation of any reports by small businesses.

No significant new reporting would be required for compliance with the proposed rules.

4. Nature and estimated cost of other measures and investments required of small businesses.

No significant new other measures or investments would be required for compliance with the proposed rules.

5. Additional cost to agency of administering or enforcing a rule which includes any of the methods in 1. for reducing impact on small businesses.

None of the methods listed in 1. for reducing small-business impacts are included in the proposed rules.

6. Impact on public health, safety and welfare caused by including any of the methods in 1. for reducing impact on small businesses.

None of the methods listed in 1. for reducing small-business impacts are included in the proposed rules.

RESPONSE TO LEGISLATIVE COUNCIL CLEARINGHOUSE REPORT

Department of Commerce

CLEARINGHOUSE RULE NO.: 09-104

RULE NO.: Chapters Comm 14, 21 to 23 and 61 to 63

RELATING TO: Fire Prevention; Recordkeeping for Fires; Fire Suppression for Mobile Kitchens; Structural, Ventilating, and Vapor-Barrier Requirements for One- and Two-Family Dwellings; and Local Enforcement, No-Smoking Signs, Carbon Monoxide Detectors, and Energy Conservation, for Commercial Buildings

Agency contact person for substantive questions.

Name: Sam Rockweiler

Title: Code Development Consultant

Telephone No. 266-0797

Legislative Council report recommendations accepted in whole.

Yes

No

1. Review of statutory authority [s. 227.15(2)(a)]

a. Accepted

b. Accepted in part

c. Rejected

d. Comments attached

2. Review of rules for form, style and placement in administrative code [s. 227.15(2)(c)]

a. Accepted

b. Accepted in part

c. Rejected

d. Comments attached

3. Review rules for conflict with or duplication of existing rules [s. 227.15(2)(d)]

- a. Accepted
- b. Accepted in part
- c. Rejected
- d. Comments attached

4. Review rules for adequate references to related statutes, rules and forms [s. 227.15(2)(e)]

- a. Accepted
- b. Accepted in part
- c. Rejected
- d. Comments attached

5. Review language of rules for clarity, grammar, punctuation and plainness [s. 227.15(2)(f)]

- a. Accepted
- b. Accepted in part
- c. Rejected
- d. Comments attached

6. Review rules for potential conflicts with, and comparability to, related federal regulations [s. 227.15(2)(g)]

- a. Accepted
- b. Accepted in part
- c. Rejected
- d. Comments attached

7. Review rules for permit action deadline [s. 227.15(2)(h)]

- a. Accepted
- b. Accepted in part
- c. Rejected
- d. Comments attached

FISCAL ESTIMATE
DOA-2048 (R06/99)

ORIGINAL
 CORRECTED

UPDATED
 SUPPLEMENTAL

LRB or Bill No./Adm. Rule No.
Chapters Comm 14, 21 to 23 and 61-63
Amendment No. if Applicable

Subject: Fire Prevention; Recordkeeping for Fires; Fire Suppression for Mobile Kitchens; Structural, Ventilating, and Vapor-Barrier Requirements for One- and Two-Family Dwellings; and Local Enforcement, No-Smoking Signs, Carbon Monoxide Detectors, and Energy Conservation for Commercial Buildings

Fiscal Effect

State: No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation

- Increase Existing Appropriation
- Decrease Existing Appropriation
- Create New Appropriation
- Increase Existing Revenues
- Decrease Existing Revenues

- Increase Costs - May be Possible to Absorb Within Agency's Budget Yes No
- Decrease Costs

Local: No local government costs

- 1. Increase Costs
 - Permissive Mandatory
- 2. Decrease Costs
 - Permissive Mandatory

- 3. Increase Revenues
 - Permissive Mandatory
- 4. Decrease Revenues
 - Permissive Mandatory

5. Types of Local Governmental Units Affected:
- Towns Villages Cities
 - Counties Others _____
 - School Districts WTCS Districts

Fund Sources Affected

- GPR FED PRO PRS SEG SEG-S

Affected Ch. 20 Appropriations

Assumptions Used in Arriving at Fiscal Estimate

The proposed rules will not impose any significant costs on local governments, because the requirements are not expected to significantly change their current workloads or needed resources for reporting fires, performing fire prevention inspections and maintaining records.

The proposed rules are not expected to impose significant costs or other impacts on small businesses because (1) the 2009 edition of NFPA 1, as modified in chapter Comm 14, is not expected to impose costs that substantially exceed the costs imposed by the currently adopted 2006 edition; (2) the record-keeping requirements for fires and fire-prevention inspections apply only to fire departments and municipalities; and (3) the record-keeping requirement for low-use mobile kitchens applies only where an exemption is desired from installing an exhaust hood and corresponding automatic fire suppression system.

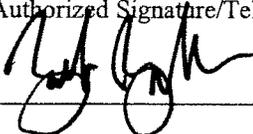
Long-Range Fiscal Implications

None known.

Agency/Prepared by: (Name & Phone No.)

Commerce/Jim Quast 266-9292

Authorized Signature/Telephone No.



Date

FISCAL ESTIMATE WORKSHEET
 Detailed Estimate of Annual Fiscal Effect
 DOA-2047(R06/99)

ORIGINAL
 CORRECTED

UPDATED
 SUPPLEMENTAL

LRB or Bill No./Adm. Rule No.
 Chapters Comm 14, 21 to 23 and 61-63

Amendment No.

Subject Fire Prevention; Recordkeeping for Fires; Fire Suppression for Mobile Kitchens; Structural, Ventilating, and Vapor-Barrier Requirements for One- and Two-Family Dwellings; and Local Enforcement, No-Smoking Signs, Carbon Monoxide Detectors, and Energy Conservation, for Commercial Buildings

I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):
 None known.

II. Annualized Costs:	Annualized Fiscal impact on State funds from:	
	Increased Costs	Decreased Costs
A. State Costs By Category		
State Operations - Salaries and Fringes	\$0	-\$0
(FTE Position Changes)	(0.00 FTE)	(- 0.00 FTE)
State Operations - Other Costs	\$0	-\$0
Local Assistance	\$0	-\$0
Aids to Individuals or Organizations	\$0	-\$0
TOTAL State Costs By Category	\$0	-\$0
B. State Costs By Source of Funds	Increased Costs	Decreased Costs
GPR	\$0	-\$0
FED	\$0	-\$0
PRO/PRS	\$0	-\$0
SEG/SEG-S	\$0	-\$0
III. State Revenues- Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)	Increased Rev.	Decreased Rev.
GPR Taxes	\$0	-\$0
GPR Earned	\$0	-\$0
FED	\$0	-\$0
PRO/PRS	\$0	-\$0
SEG/SEG-S	\$0	-\$0
TOTAL State Revenues	\$0	-\$0

NET ANNUALIZED FISCAL IMPACT

	STATE	LOCAL
NET CHANGE IN COSTS	\$ 0	\$ 0
NET CHANGE IN REVENUES	\$ 0	\$ 0

Agency/Prepared by: (Name & Phone No.)

Commerce/ Jim Quast 266-9292

Authorized Signature/Telephone No.



Date

FINAL REGULATORY FLEXIBILITY ANALYSIS

Department of Commerce

CLEARINGHOUSE RULE NO.: 10-006

RULE NO.: Chapters Comm 14, 21 to 23 and 61 to 63

RELATING TO: Fire Prevention; Recordkeeping for Fires; Fire Suppression for Mobile Kitchens; Structural, Ventilating, and Vapor-Barrier Requirements for One- and Two-Family Dwellings; and Local Enforcement, No-Smoking Signs, Carbon Monoxide Detectors, and Energy Conservation, for Commercial Buildings

Final regulatory flexibility analysis not required. (Statement of determination required.)

1. Reason for including or failing to include the following methods for reducing impact of the rule on small businesses: Less stringent compliance or reporting requirements; less stringent schedules or deadlines for compliance or reporting requirements; simplification of compliance or reporting requirements; establishment of performance standards to replace design or operational standards; exemption from any or all requirements.

The proposed rules are minimum requirements to meet the directives of sections 101.14, 101.141, 101.573, and 101.575 the statutes, and any exceptions from compliance for small businesses would be contrary to the statutory objectives that are the basis for the rules.

2. Issues raised by small businesses during hearings, changes in proposed rules as a result of comments by small businesses and reasons for rejecting any alternatives suggested by small businesses.

No issues were raised by small businesses.

3. Nature and estimated cost of preparation of any reports by small businesses.

No significant new reporting would be required for compliance with the proposed rules.

4. Nature and estimated cost of other measures and investments required of small businesses.

No significant new other measures or investments would be required for compliance with the proposed rules.

5. Additional cost to agency of administering or enforcing a rule which includes any of the methods in 1. for reducing impact on small businesses.

None of the methods listed in 1. for reducing small-business impacts are included in the proposed rules.

6. Impact on public health, safety and welfare caused by including any of the methods in 1. for reducing impact on small businesses.

None of the methods listed in 1. for reducing small-business impacts are included in the proposed rules.

**DEPARTMENT OF COMMERCE
SUMMARY OF PUBLIC HEARING COMMENTS AND AGENCY RESPONSE**

Clearinghouse Rule Number: 09-104		Hearing Location: Madison, Wisconsin	
Rule Number: Chapters Comm 14, 21 to 23 and 61 to 63		Hearing Date: December 18, 2009	
Relating to: Fire Prevention; Recordkeeping for Fires; Fire Suppression for Mobile Kitchens; Structural, Ventilating, and Vapor-Barrier Requirements for One- and Two-Family Dwellings; and Local Enforcement, No-Smoking Signs, Carbon Monoxide Detectors, and Energy Conservation, for Commercial Buildings			
Comments: Oral or Exhibit No.	Presenter, Group Represented, City and State	Comments/Recommendations	Agency Response
1	Dave Bloom Wisconsin State Fire Chiefs' Association, Inc. Madison, Wisconsin	1. Supports the proposed changes to chapter Comm 14. States the Wisconsin Fire Service has worked extremely hard to retain NFPA® 1 as Wisconsin's fire code and to retain this model code as much as possible.	1. Support is noted.
2	Gregg Cleveland City of La Crosse Fire Department; and Comm 14 Fire Prevention Committee La Crosse, Wisconsin	2a. Supports the proposed changes to Comm 14. States the use of NFPA 1 as Wisconsin's fire code has been evolving, and it is very important that we retain NFPA 1 and follow this model code as much as possible. Great progress has been made on expanding the application and use of NFPA 1, and this code package is part of this progress. 2b. Comm 14.001 (2): Recommends repealing this section's reference to municipal adoption of the <i>International Fire Code</i> ®. Explains that municipalities wanting to adopt the IFC already have this authority under "home rule," and this provision is redundant. This would also make it more cost effective for local fire departments because it would eliminate the need for having to purchase two fire codes. States the Board of Directors of the Wisconsin State Fire Chiefs' Association agrees with this recommendation, and this is consistent with the discussions of the Department's Comm 14 advisory committee.	2a. Support is noted. 2b. Concern is noted; however, this provision clarifies the relationship of the State's minimum Fire Prevention Code -- which adopts and references NFPA 1 -- when a municipality chooses to adopt the IFC and to apply it instead of or in combination with NFPA 1.
3	Russ Sanders National Fire Protection Association Louisville, Kentucky	2c. Recommends modifying the <i>International Building Code</i> ® to use NFPA 1 instead wherever references to the <i>International Fire Code</i> are made. The Wisconsin Commercial Building Code does permit another alternate building code as does the fire code because an alternate building code would be permitted under the "home rule" provision. 3. Strongly supports the proposed changes to Comm 14, which adopt the 2009 edition of NFPA 1. States as in past years, NFPA will support this adoption with training and code books.	2c. This modification would be beyond the scope of this set of proposed rules and has been referred instead to the updating of chapters Comm 61 to 66 that is referenced in response 6a below. 3. Support is noted.
4	Ed Ruckriegel City of Madison Fire Department Madison, Wisconsin	4. Comm 21.097 (1) (a) and 62.1200 (2) (a) 1.: Recommends amending these two sections to no longer require carbon monoxide alarms in furnace rooms and in small closets that contain fuel-burning appliances. States manufacturers specify these alarms should not be installed in rooms with furnaces or water heaters, or within 20 feet of such appliances, because those locations will cause false alarms	4. Agree with concept -- the proposed rules have been revised accordingly.

**DEPARTMENT OF COMMERCE
SUMMARY OF PUBLIC HEARING COMMENTS AND AGENCY RESPONSE**

Clearinghouse Rule Number: 09-104		Hearing Location: Madison, Wisconsin	
Rule Number: Chapters Comm 14, 21 to 23 and 61 to 63		Hearing Date: December 18, 2009	
Relating to: Fire Prevention; Recordkeeping for Fires; Fire Suppression for Mobile Kitchens; Structural, Ventilating, and Vapor-Barrier Requirements for One- and Two-Family Dwellings; and Local Enforcement, No-Smoking Signs, Carbon Monoxide Detectors, and Energy Conservation, for Commercial Buildings			
Comments: Oral or Exhibit No.	Presenter, Group Represented, City and State	Comments/Recommendations	Agency Response
5	Pat Stevens Wisconsin Builders Association® Madison, Wisconsin	and degrade the alarm sensor. Recommends instead requiring these alarms in each <i>habitable</i> room that has a fuel-burning appliance, and adding a note to indicate a habitable room is the same as a habitable space as defined in the IBC. 5. Comm 22.38 (3) (d): Supports the portion of the rule proposal that would eliminate this section from the Uniform Dwelling Code. This section currently requires that a "vapor retarder shall extend up the edges of the slab at least to the top of the slab."	5. Support is noted.
6	Lynn Lauersdorf Madison, Wisconsin	6a. Comm 62.1403 (2) (b): Recommends clarifying that the air barrier under this section is not required where other air-leakage provisions are established under Comm 62 for apertures in penetrations to which the continuous air barrier will be attached.	6a. These proposed requirements for air barriers have been removed from this set of proposed rules and are now being coordinated in conjunction with updating chapters Comm 61 to 66 (the Wisconsin Commercial Building Code) to include the 2009 editions of the International Code Council® codes relating to building construction. This recommendation will be addressed in that coordination.
7	Randy Dahmen Madison, Wisconsin	6b. Comm 62.1403 (2) (c): Recommends adding either of the following informational notes after this section: Note: Suggested details for air barriers are contained in ASHRAE Standard 189.1P, Appendix B; or Note: Suggested details for air barriers are contained in ASHRAE Standard 189.1P <i>Standard for the Design of High-Performance, Green Buildings Except Low-Rise Residential Buildings</i> , Normative Appendix B, "Prescriptive Continuous Air Barrier." 7. Comm 64 and <i>International Mechanical Code</i> ® section 502.14 Exception 3: Recommends deleting this allowance for not providing motor vehicle exhaust ventilation because this allowance conflicts with an overriding requirement in Comm Table 64.0403 to provide a minimum exhaust rate of 0.5 cfm/sf throughout automobile service and repair garages.	6b. See response immediately above. 7. Concern is noted; however, this recommendation is not germane to this set of proposed rules and has been referred to the updating of chapters Comm 61 to 66 that is referenced in response 6a above.

File reference: Comm 14/Hearing summary3ac



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

Ronald Sklansky
Clearinghouse Director

Terry C. Anderson
Legislative Council Director

Richard Sweet
Clearinghouse Assistant Director

Laura D. Rose
Legislative Council Deputy Director

CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE 09-104

AN ORDER to . . . , relating to fire prevention; recordkeeping for fires; fire suppression for mobile kitchens; structural, ventilating, and vapor-barrier requirements for one- and two-family dwellings; air barriers and local enforcement for commercial buildings; and previously constructed buildings that are converted to community-based residential facilities; and affecting small businesses.

Submitted by **DEPARTMENT OF COMMERCE**

11-12-2009 RECEIVED BY LEGISLATIVE COUNCIL.

12-08-2009 REPORT SENT TO AGENCY.

RNS:SG

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]
Comment Attached YES NO
2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]
Comment Attached YES NO
3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]
Comment Attached YES NO
4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS
[s. 227.15 (2) (e)]
Comment Attached YES NO
5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]
Comment Attached YES NO
6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL
REGULATIONS [s. 227.15 (2) (g)]
Comment Attached YES NO
7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]
Comment Attached YES NO



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

Ronald Sklansky
Clearinghouse Director

Richard Sweet
Clearinghouse Assistant Director

Terry C. Anderson
Legislative Council Director

Laura D. Rose
Legislative Council Deputy Director

CLEARINGHOUSE RULE 09-104

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Reference Bureau and the Legislative Council Staff, dated September 2008.]

2. Form, Style and Placement in Administrative Code

a. In citations throughout the proposed rule and the rule analysis, the department should not change “ch.” to “chapter,” “s.” to “section” or “Stats.” to “of the statutes.” “Chapter” or “section” should be spelled out only if placed as the first word in a sentence.

b. Throughout the proposed rule, the department should review and apply s. 1.01 (4), Manual, relating to the use of capitalization.

c. In s. Comm 14.001 (1) (a), the department uses “®” and “™” in reference to the NFPA 1 Fire Code 2009. Based on several keyword searches, these symbols do not appear elsewhere, under similar circumstances, in the statutes or the administrative code. If the department wishes to use the symbols, it should consider whether it is appropriate to use the symbols consistently throughout the proposed rule, or to use the symbols only in the formal definition of the term in s. Comm 14.03. [See also SECTION 31 of the proposed rule.]

d. In s. Comm 14.001 (2), the department should delete the phrases “and to subch. II” and “and subch. II” since the preceding references, “NFPA 1 as referenced in sub. (1),” and “sub. (1)” incorporate references to modifications specified by subch. II of ch. Comm 14.

e. As amended, the intent of s. Comm 14.01 (1) (c) (intro.) is confusing. The department should refer to “any” buildings rather than “all” buildings. Additionally, if there is a substantive difference in treatment between buildings described in subds. 1. to 3. and subds. 4.

to 7., the department should use different paragraphs to describe that treatment rather than one paragraph and a complex introduction.

f. The department's intent regarding s. Comm 14.01 (1) (f) is confusing. Again, the paragraph treats s. Comm 14.01 (1) (c) 1. to 3. differently than s. Comm 14.01 (1) (c) 4. to 7. Additionally, the paragraph appears to have the effect of reapplying the chapter to buildings described in s. Comm 14.01 (1) (b), (c) 4. to 7., and (d) under certain conditions. The department should review par. (f) to ensure that it is internally consistent and is consistent with other parts of ch. Comm 14.

g. In SECTION 12 of the proposed rule, should the department renumber the section to be s. Comm 14.01 (2) (a) 2.? If not, where is s. Comm 14.01 (1) (a) 1.?

h. Based on the text it modifies, it is unclear whether the department achieves the result it intends through the creation of s. Comm. 14.01 (2) (b) (intro.).

i. Generally, the department should consider the repeal and recreation of sections described in SECTION 16 of the proposed rule rather than renumbering and subsequent treatment of those sections in SECTIONS 17 to 30. This would allow the department to avoid confusion and double-treatment of certain sections of the chapter. For example, SECTION 23 of the proposed rule renumbers a unit then repeals and recreates a unit. SECTION 27 of the proposed rule renumbers a unit twice. The department would avoid these issues with a repeal and recreate treatment or with repeal of certain sections and creation of new sections.

The department should carefully review the entire rule for consistency with s. 1.04, Manual.

j. The department should refer to the Appendix in a note to s. Comm 14.01 (2) (b) 4.

k. In s. Comm 22.33 (2), relating to heated slabs, how would sub. (1), relating to unheated slabs, apply in the manner suggested by the phrase, "in addition to meeting the requirement under sub. (1), if applicable"?

l. In SECTION 65, it appears the department should create s. Comm 61.61 (2) (b) 4., rather than s. Comm 61.61 (2) (b) 3.

m. If a proposed rule repeals a rule subunit, an agency may renumber later subunits to account for the repeal. Does the department wish to renumber s. Comm 63.0102 (2)?

RESPONSE TO LEGISLATIVE COUNCIL CLEARINGHOUSE REPORT

Department of Commerce

CLEARINGHOUSE RULE NO.: 10-006

RULE NO.: Chapters Comm 14, 21 to 23 and 61 to 63

RELATING TO: Fire Prevention; Recordkeeping for Fires; Fire Suppression for Mobile Kitchens; Structural, Ventilating, and Vapor-Barrier Requirements for One- and Two-Family Dwellings; and Local Enforcement, No-Smoking Signs, Carbon Monoxide Detectors, and Energy Conservation, for Commercial Buildings

Agency contact person for substantive questions.

Name: Sam Rockweiler

Title: Code Development Consultant

Telephone No. 266-0797

Legislative Council report recommendations accepted in whole.

Yes

No

1. Review of statutory authority [s. 227.15(2)(a)]

a. Accepted

b. Accepted in part

c. Rejected

d. Comments attached

2. Review of rules for form, style and placement in administrative code [s. 227.15(2)(c)]

a. Accepted

b. Accepted in part

c. Rejected

d. Comments attached

3. Review rules for conflict with or duplication of existing rules [s. 227.15(2)(d)]
- a. Accepted
 - b. Accepted in part
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4. Review rules for adequate references to related statutes, rules and forms [s. 227.15(2)(e)]
- a. Accepted
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5. Review language of rules for clarity, grammar, punctuation and plainness [s. 227.15(2)(f)]
- a. Accepted
 - b. Accepted in part
 - c. Rejected
 - d. Comments attached
6. Review rules for potential conflicts with, and comparability to, related federal regulations [s. 227.15(2)(g)]
- a. Accepted
 - b. Accepted in part
 - c. Rejected
 - d. Comments attached
7. Review rules for permit action deadline [s. 227.15(2)(h)]
- a. Accepted
 - b. Accepted in part
 - c. Rejected
 - d. Comments attached

RESPONSE COMMENTS TO LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

Clearinghouse comment 2. a. Citations in the rule analysis are made without abbreviating “chapter,” “section” and “Statutes” because s. 227.14 (2) (a), Stats., directs agencies to prepare the analysis in plain language. Notes in the proposed rules likewise do not include those abbreviations because the purpose of the Notes is to be informative, and abbreviations may be less than fully informative to some readers of these rules.

2. b. The capitalization exception in s. 1.01 (4), Manual, is not applied in the Notes in the proposed rule because the purpose of the Notes is to be informative, and non-capitalization of the proper names of state or federal departments or agencies may be less than fully informative to some readers of these rules.

File reference: Comm 14/Legislative Review Clghse