



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 10-089

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.]

1. Statutory Authority

It appears that s. Comm 21.097 (2) (c) conflicts with s. 101.647 (3) (am) 1., Stats., by requiring carbon monoxide detectors in all dwellings covered by the Uniform Dwelling Code to be powered by the dwelling’s electrical service, while the statute imposes this requirement only on dwellings built after the effective date of the statute. Under s. Comm 20.02 (1) (a), the Uniform Dwelling Code (chs. Comm. 20-25) applies to all one- and two-family dwellings built on or after June 1, 1980. Thus, the requirement in s. Comm 21.097 (2) (c) would apply to all dwellings built after that date. Section 101.647 (3) (am), Stats., however, requires detectors to be powered by the dwelling’s electrical service only if the building permit for initial construction of the dwelling was issued on or after February 1, 2011.

2. Form, Style and Placement in Administrative Code

- a. The treatments of SECTIONS 1 and 2 of the rule should be accomplished as follows:

SECTION 1. Comm 21.097 (1) (a) is renumbered Comm 21.097 (3) (a).

SECTION 2. Comm 21.097 (1) (b) is repealed.

SECTION 3. Comm 21.097 (2), (3), (4), (5), (6), and (7) are renumbered Comm. 21.97 (3) (b), (c), (d), (e), (g), and (h).

b. Section 21.097 (1) (a) should be rewritten to read: ““Fuel-burning appliance” has the meaning given in s. 101.647 (1) (b), Stats. “Fuel-burning appliance” includes stoves, ovens,....” Also, the cross-reference in the note should be to s. 101.647 (1) (b), Stats.

c. Rule titles are not part of the text of a rule. Thus, if s. Comm 21.097 (2) is intended to apply only to one- or two-family dwellings, that application should be clearly stated in the text of the rule.

d. The rule proposes to renumber existing s. Comm 21.097 (6) and (7) to s. Comm 21.097 (3) (g) and (h). Each of those provisions should also be amended to clarify that they apply only to sub. (3), not to s. Comm 21.097 in its entirety, by changing “this section” to “this subsection.”

4. Adequacy of References to Related Statutes, Rules and Forms

a. In s. Comm 21.097 (2) 1., the phrase “the effective date of this subdivision of” should be deleted from the note’s quotation of s. 101.647 (3) (am) 1., Stats.

b. In s. Comm 28.01 (1), the reference to “this code” should be replaced by a reference to “this chapter.” [See also s. Comm 28.02 (1).]

c. In s. Comm 28.02 (2) (a), the notation “, Stats.” should be inserted after the number “(3).” Also, in the note to sub. (2), the correct cross-reference is “s. 101.647 (3) (a).”

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. The term “carbon monoxide detector,” rather than “carbon monoxide alarm,” should be used in s. Comm 21.097, since “carbon monoxide detector” is the term that is defined and used in the underlying statute.

b. Section Comm. 21.097 (2) (b) 1. is confusing. It appears to require the installation of more than one carbon monoxide alarm on a floor level that contains one or more sleeping areas. Is this the intent? Also, should the rule clarify that a “floor level” includes the basement or include a separate location requirement for a basement?

c. Section Comm 28.02 (2) (a) should be rewritten to require the owner of the dwelling, rather than the dwelling itself, to install and maintain carbon monoxide detectors. Section Comm 28.02 (2) (b) should be similarly rewritten.