

WISCONSIN LEGISLATIVE COUNCIL STAFF

LCRC
FORM 2

APR 14 1999

RULES CLEARINGHOUSE

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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 99-048

AN ORDER to amend Comm 14.02 (2) (d) 2. h. and L. and 3.; to repeal and recreate Comm 14.02 (2) (d) 2. b. and (e); and to create Comm 14.01 (11m) and (13m), 14.02 (2) (d) 2. m. to r. and (3) and 14.025, relating to fire department dues entitlement.

Submitted by **DEPARTMENT OF COMMERCE**

03-10-99 RECEIVED BY LEGISLATIVE COUNCIL.
04-07-99 REPORT SENT TO AGENCY.

RNS:DF:kjf;rv

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

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CLEARINGHOUSE RULE 99-048

Comments

[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated September 1998.]

2. Form, Style and Placement in Administrative Code

- a. The various parts of the introductory clause of the rule-making order could be stated more simply. For example, the first part should read ". . . to amend Comm 14.02 (2) (d) 2. h., L. and 3.;"
- b. In s. Comm 14.025 (2) (a), "under" should replace "described in" in two places. In sub. (2) (c) (intro.) and elsewhere, "chief of the fire department" should replace "respective fire chief."
- c. In s. Comm 14.025 (3) (b), "are entitled to" should replace "will."
- d. In s. Comm 14.025 (4) (a), "as a method" is unnecessary; in par. (c), "issue" should replace "produce."

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

In s. Comm 14.025 (1) (a) 1., "fire protection and fire prevention services as required in ch. 101, Stats.," should be replaced by "the fire protection and prevention services under ss. 101.14 and 101.575, Stats.,"

This provides a more specific statutory reference and eliminates the need for the note following that subdivision.

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

In s. Comm 14.02 (2) (d) 2. L. and m., “cannot” and “cannot” should replace “can not” and “can not,” respectively.

The Department of Commerce proposes an order to amend Comm 14.02 (2)(d) 2. h., Comm 14.02 (2)(d) 2. L., and Comm 14.02 (2)(d) 3.; to repeal and recreate Comm 14.02 (2)(d) 2. b., and Comm 14.02 (2)(e); and to create Comm 14.01 (11m) and (13m), Comm 14.02 (2)(d) 2. m. to r., Comm 14.02 (3), and Comm 14.025, relating to fire department dues entitlement.

Analysis of Proposed Rules

Statutory authority: Sections 101.14, 101.573 and 101.575, Stats.
Statutes interpreted: Sections 101.14, 101.573 and 101.575, Stats.

Chapter Comm 14 contains minimum safety standards for the prevention of fire in order to protect the health, safety and welfare of the public and employes in public buildings and at places of employment. In addition to specifying minimum safety standards, chapter Comm 14 requires fire prevention inspections to be conducted in public buildings and at places of employment. The inspections must be conducted twice per year except for specified occupancies that are allowed to be inspected once per year. These inspections must be conducted by the responsible fire department in order for the municipality to be entitled to receive a fire department dues payment from the state fire fund.

The proposed rules consist of revisions and additions in chapter Comm 14 relating to the fire prevention inspections and the entitlement to the fire fund dues payment. The proposed rules contain additional exceptions for specific occupancies that may be inspected once rather than twice per year. These occupancies include vacant buildings, confined spaces, certain residential buildings, and specified fully-sprinklered buildings.

The proposed rules contain a new section in chapter Comm 14 in order to codify the process and the requirements for entitlement to receive a payment from the fire dues fund as specified in section 101.575, Stats. The new requirements cover eligibility to receive the payment, determination of compliance, the self-certification audit process, the onsite audit process, and the registration of fire departments.

The proposed rules were developed with the assistance of the Fire Department Dues Entitlement Task Group. The members of that advisory group are as follows:

<u>Name</u>	<u>Representing</u>
David L. Berenz	Wisconsin State AFL-CIO
Larry Burton	Wisconsin Insurance Alliance
John Fulcher	Wisconsin State Fire Chiefs Association
Lee Jensen	City of Milwaukee
Keith Kesler	Brule Fire Department
Ed Ruckriegel	Madison Fire Department
Fred Schultz	Wisconsin Fire Inspectors Association
Robert W. Stedman	Fire & EMS Legislative Leadership Coalition

SECTION 1. Comm 14.01 (11m) and (13m) are created to read:

Comm 14.01 (11m) "Fire department" means a municipal fire department, public safety department, or public or private organization, such as a fire association, fire district, fire company or fire corporation, organized or created for the purpose of extinguishing fires and preventing fire hazards.

(13m) "Municipality" means a city, village or town.

SECTION 2. Comm 14.02 (2) (d) 2. b. is repealed and recreated to read:

Comm 14.02 (2) (d) 2. b. Non-occupied utility facilities, such as a water well facility, electric power substation and communication facility.

SECTION 3. Comm 14.02 (2) (d) 2. h. is amended to read:

Comm 14.02 (2) (d) 2. h. ~~Condominiums~~ Residential condominiums and apartments, if there are less than 5 units under one roof.

SECTION 4. Comm 14.02 (2) (d) 2. L. is amended to read:

Comm 14.02 (2) (d) 2. L. Specialty occupancies covered under ch. ~~ILHR~~ Comm 62. If interior access to mini-storage buildings can not be obtained, an exterior inspection shall be conducted.

SECTION 5. Comm 14.02 (2) (d) 2. m. to r. are created to read:

Comm 14.02 (2) (d) 2. m. Vacant buildings. If interior access to vacant buildings can not be obtained, an exterior inspection shall be conducted.

n. Confined spaces. An area that is identified by a sign as a permit-required confined space need not be internally inspected, but an exterior inspection shall be conducted.

o. Townhouses, rowhouses, residential condominiums and apartments with no common use areas. An exterior inspection of these occupancies shall be conducted.

p. Fully-sprinklered office buildings up to 60 feet in height.

q. Fully-sprinklered residential condominiums and apartments, if less than 3 stories in height.

r. Fully-sprinklered townhouses and rowhouses, if less than 4 stories in height.

Note: Fully-sprinklered buildings are protected throughout by an automatic fire sprinkler system as specified in NFPA 13 or 13R, as adopted by reference in chs. Comm 50 to 64.

SECTION 6. Comm 14.02 (2) (d) 3. is amended to read:

Comm 14.02 (2) (d) 3. Upon written request by the chief of a fire department, the department by special order may grant an exception to a city, village or town to conduct less frequent inspections than required under this subsection. For the department to make a determination to grant a special order, the fire chief shall submit information regarding the fire safety plan that provides an equivalency to the inspections required under this subsection. The fire safety plan information shall consist of a fire safety evaluation identifying the risks and hazards that may be associated with the request for the special order.

SECTION 7. Comm 14.02 (2)(e) is repealed and recreated to read:

Comm 14.02 (2) (e) *Inspection reports.* Except in first class cities, the fire chief shall make and keep on file written reports of fire prevention inspections. In first class cities, the commissioner of the building inspection department shall make and keep the reports. The reports shall contain at least the information specified in s. Comm 14.04 (1)(b).

Note: Section 19.32 (2), Stats., considers a record to be material containing written or electromagnetic information. The department will consider computer records to be equivalent to written reports.

Note: The department has developed fire inspection report forms that may be used by fire departments. The fire inspection report forms (SBD-10615, SBD-5295 and SBD-10264) are available at no charge from the Safety and Buildings Division, P.O. Box 2509, Madison WI 53701-2509, telephone (608) 266-1818.

SECTION 8. Comm 14.02 (3) is created to read:

Comm 14.02 (3) INCIDENT REPORTS. The fire chief shall submit written fire incident reports to the department no later than April 1 for the previous year.

Note: It is recommended that fire incident reports be submitted monthly to facilitate processing of the reports.

Note: The department is participating in the National Fire Incident Reporting System (NFIRS), and all fire departments are encouraged to submit fire incident reports to the department on NFIRS forms provided by the department. The forms are available from the Safety and Buildings Division, P.O. Box 2509, Madison, WI 53701-2509, telephone (608) 266-1818.

SECTION 9. Comm 14.025 is created to read:

Comm 14.025 Fire department dues. (1) ELIGIBILITY. (a) 1. In order to be eligible to receive a fire department dues payment, a municipality shall ensure that fire protection and fire prevention services as required in ch. 101, Stats., are provided to the entire municipality.

Note: The required fire prevention and fire protection services are specified in ss. 101.14 and 101.575, Stats.

2. The training program required under s. 101.575 (3) (a) 3., Stats., shall be in accordance with ch. Comm 30 for public sector fire departments and in accordance with 29 CFR 1910.156 of the federal Occupational Safety and Health Administration for private sector fire departments.

(b) The fire protection and fire prevention services shall be provided by a fire department. In first class cities, fire inspection services may be provided by the building inspection department. A

municipality not maintaining a fire department shall have the services provided through a contract or mutual aid agreement.

(2) COMPLIANCE DETERMINATION. (a) The department shall determine compliance with the fire department dues entitlement program through the self-certification audit process described in sub. (3) and the onsite audit process described in sub. (4).

(b) Where a municipality is served by more than one fire department and any one of the fire departments is determined to be in non-compliance, the entire municipality shall be determined to be in non-compliance.

(c) The department shall issue a notice of non-compliance to the municipality and the respective fire chief that the department has determined to be in non-compliance. The determination shall be based on one or more of the following causes:

1. The municipality fails to return the self-certification audit form on time.
2. The municipality returns an incomplete self-certification audit form.
3. The municipality self-certifies non-compliance.
4. The results of an onsite audit.

(3) SELF-CERTIFICATION AUDIT. (a) A municipality shall annually complete and submit a fire department dues entitlement self-certification audit form for the previous calendar year. The certification shall be made on form SBD-10318, and the form shall be returned to the department on or before March 1.

Note: The department annually sends form SBD-10318 to the municipality.

(b) A municipality shall identify on the self-certification audit form the name of every fire department and respective fire chief that provided either fire protection services or fire prevention services, or both, to the municipality in the last calendar year. This identification shall be used to determine which fire departments will receive fire department dues from the municipality.

(c) Each respective fire chief and the clerk of the municipality shall sign the self-certification audit form and indicate compliance or non-compliance with state regulations regarding the fire department dues entitlement program. In first class cities, the commissioner of the building inspection department shall also sign the self-certification audit form.

(4) ONSITE AUDIT. (a) The department shall periodically conduct onsite audits of fire department dues entitlement records as a method to determine compliance with the fire department dues entitlement program for the previous calendar year.

(b) The department shall periodically examine the fire department dues entitlement records to verify that the required fire prevention and fire protection services were provided within the territory served by the fire department and, within first class cities, by the building inspection department.

Note: The information required in the entitlement records is specified in ss. 101.14 and 101.575, Stats.

(c) The department shall produce a written report summarizing the results of each onsite audit.

(5) FIRE DEPARTMENT REGISTRATION. (a) A fire department that provides fire prevention or fire protection services to a municipality shall register with the department on form SBD-10638.

Note: Copies of form SBD-10638 are available at no charge from the Safety and Buildings Division, P.O. Box 2509, Madison, WI 53701-2509, telephone (608) 266-1818.

(b) The fire chief of a registered fire department shall annually submit a completed fire department annual update form, SBD-10114, to the department by July 1.

Note: The department annually sends form SBD-10114 to the fire department.

(END)

EFFECTIVE DATE

Pursuant to s. 227.22 (2)(intro.), Stats., these rules shall take effect on the first day of the month following publication in the Wisconsin Administrative Register.



201 West Washington Avenue
P.O. Box 7970
Madison, Wisconsin 53707
(608) 266-1018

Tommy G. Thompson, Governor
Brenda J. Blanchard, Secretary

July 6, 1999

JUL 07 REC'D

Senate Chief Clerk
Room 402
1 East Main Street
Madison, Wisconsin 53703

Assembly Chief Clerk
Room 402
1 East Main Street
Madison, Wisconsin 53703

Dear Chief Clerks:

**TRANSMITTAL IN FINAL DRAFT FORM OF ADMINISTRATIVE
RULES AND REPORT**

CLEARINGHOUSE RULE NO.: 99-048

RULE NO.: Chapter Comm 14

RELATING TO: Fire Department Dues Entitlement

Pursuant to section 227.19, Stats., agencies are required to submit, in triplicate, copies of the proposed administrative rules in final draft form together with a rule report and an analysis. The recommendations received from the Legislative Council are also to be submitted.

At this time, this material, together with cover letters to the President of the Senate and the Speaker of the Assembly, is being transmitted for referral to the standing committees for legislative review.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read 'Brenda J. Blanchard', written in black ink.

Brenda J. Blanchard
Secretary



201 West Washington Avenue
P.O. Box 7970
Madison, Wisconsin 53707
(608) 266-1018

Tommy G. Thompson, Governor
Brenda J. Blanchard, Secretary

July 6, 1999

Senator Fred Risser
President of the Senate
Room 220 South, State Capitol
Madison, Wisconsin 53702

Representative Scott Jensen
Speaker of the Assembly
Room 211 West, State Capitol
Madison, Wisconsin 53702

Dear Senator Risser and Representative Jensen:

NOTICE OF ADMINISTRATIVE RULES IN FINAL DRAFT FORM

CLEARINGHOUSE RULE NO.: 99-048

RULE NO.: Chapter Comm 14

RELATING TO: Fire Department Dues Entitlement

Section 227.19, Stats., requires agencies to submit proposed rules in final draft form to the presiding officer 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,

A handwritten signature in black ink, appearing to read 'Brenda J. Blanchard', written over a horizontal line.

Brenda J. Blanchard
Secretary

FINAL REGULATORY FLEXIBILITY ANALYSIS

Department of Commerce

CLEARINGHOUSE RULE NO.: 99-048

RULE NO.: Chapter Comm 14

RELATING TO: Fire Department Dues Entitlement

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

Sections 101.14, 101.573 and 101.575, Stats., authorize the Department to promulgate rules relating to fire prevention inspections in public buildings and places of employment and to administer the fire fund dues program. The proposed rules of Clearinghouse Rule No. 99-048 are minimum requirements to meet the directives of the Statutes, and any exceptions from compliance for small businesses would be contrary to the Statutory objectives which are the basis for the rules.

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.
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.

RULE REPORT

Department of Commerce

Rule No.: Chapter Comm 14

Relating to: Fire Department Dues Entitlement

Agency contact person for substantive questions:

Name John Lippitt

Title Program Manager

Telephone Number 608/266-1036

Agency contact person for internal processing:

Name Ronald Acker

Title Code Consultant

Telephone Number 608/267-7907

1. Agency statutory authority under which the agency intends to promulgate the rule(s).

Sections 101.14, 101.573 and 101.575, Stats.

2. Citation of federal regulations which require adoption or which are relevant to the proposed rule(s).

None known.

3. Citation of court decisions which are applicable to the proposed rule(s).

None known.

4. Description of the proposed rule(s).

The proposed rules consist of revisions and additions in chapter Comm 14 relating to fire prevention inspections and entitlement to a fire fund dues payment. The proposed rules contain additional exceptions for specific occupancies that may be inspected once rather than twice per year. These occupancies include vacant buildings, confined spaces, certain residential buildings, and specified fully-sprinklered buildings.

The proposed rules also contain a new section in chapter Comm 14 in order to codify the process and the requirements for entitlement to receive a payment from the fire fund. The new requirements cover eligibility to receive the payment, determination of compliance, the self-certification audit process, the onsite audit process, and the registration of fire departments.

5. Reason for the proposed rule(s).

The proposed rules have been developed in order to update the fire prevention inspection provisions in chapter Comm 14, and to clarify in the chapter the process and the requirements for fire departments to receive a fire dues fund payment as specified in section 101.575, Stats.

FISCAL ESTIMATE WORKSHEET
 Detailed Estimate of Annual Fiscal Effect
 DOA-2047(R02/97)

ORIGINAL
 CORRECTED

UPDATED
 SUPPLEMENTAL

LRB or Bill No./Adm. Rule No. Chapter Comm 14	Amendment No.
--	---------------

Subject
 Fire Department Dues Entitlement

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

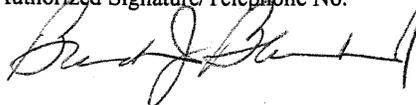
II. Annualized Costs:	Annualized Fiscal impact on State funds from:	
	Increased Costs	Decreased Costs
A. State Costs By Category	\$ 0	\$ -0
State Operations - Salaries and Fringes		
(FTE Position Changes)	(0 FTE)	(- 0 FTE)
State Operations - Other Costs		-
Local Assistance		-
Aids to Individuals or Organizations		-
TOTAL State Costs By Category	\$ 0	\$ -0
B. State Costs By Source of Funds	Increased Costs	Decreased Costs
GPR	\$	\$ -
FED		-
PRO/PRS	0	-0
SEG/SEG-S		-
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	\$	\$ -
GPR Earned		-
FED		-
PRO/PRS	0	-0
SEG/SEG-S		-
TOTAL State Revenues	\$ 0	\$ -0

NET ANNUALIZED FISCAL IMPACT

	<u>STATE</u>	<u>LOCAL</u>
NET CHANGE IN COSTS	\$ 0	\$ 0
NET CHANGE IN REVENUES	\$ 0	\$ 0

Agency/Prepared by: (Name & Phone No.)
 Commerce/Ronald Acker 267-7907

Authorized Signature/Telephone No.



Date

3/8/99

FISCAL ESTIMATE
DOA-2048 (R02/97)

ORIGINAL
 CORRECTED

UPDATED
 SUPPLEMENTAL

LRB or Bill No./Adm. Rule No.
Chapter Comm 14
Amendment No. if Applicable

Subject
Fire Department Dues Entitlement

Fiscal Effect

State: No State Fiscal Effect

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

- | | |
|--|---|
| <input type="checkbox"/> Increase Existing Appropriation | <input type="checkbox"/> Increase Existing Revenues |
| <input type="checkbox"/> Decrease Existing Appropriation | <input type="checkbox"/> Decrease Existing Revenues |
| <input type="checkbox"/> Create New Appropriation | |

- 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
None

Assumptions Used in Arriving at Fiscal Estimate

The Safety and Buildings Division is responsible for administering and enforcing chapter Comm 14. The proposed rules do not contain any changes in the Division's fees charged for administering and enforcing chapter Comm 14. Also, the proposed rules will not create any additional workload costs. Therefore, the proposed rules will not have any fiscal effect on the Division.

Local municipalities also enforce chapter Comm 14, and the proposed rules will not create any additional workload costs for municipalities.

Long-Range Fiscal Implications
None known

Agency/Prepared by: (Name & Phone No.)
Commerce/Ronald Acker 267-7907

Authorized Signature/Telephone No.



Date

3/8/99

**DEPARTMENT OF COMMERCE
PUBLIC HEARING COMMENT AND AGENCY RESPONSE**

Clearinghouse Rule No.: 99-048		Hearing Location: Madison	
Rule Number: Chapter Comm 14		Hearing Date: May 3, 1999	
Relating to: Fire Department Dues Entitlement			
Comments: Oral or Exhibit No.	Presenter, Group Represented, City and State	Comments/Recommendations	Agency Response
		No comments/recommendations were presented.	

**DEPARTMENT OF COMMERCE
PUBLIC HEARING COMMENT AND AGENCY RESPONSE**

Clearinghouse Rule No.: 99-048		Hearing Location: Green Bay	
Rule Number: Chapter Comm 14		Hearing Date: May 5, 1999	
Relating to: Fire Department Dues Entitlement			
Comments: Oral or Exhibit No.	Presenter, Group Represented, City and State	Comments/Recommendations	Agency Response
		No comments/recommendations were presented.	

**DEPARTMENT OF COMMERCE
PUBLIC HEARING COMMENT AND AGENCY RESPONSE**

Clearinghouse Rule No.: 99-048		Hearing Location: Rice Lake	
Rule Number: Chapter Comm 14		Hearing Date: May 12, 1999	
Relating to: Fire Department Dues Entitlement			
Comments: Oral or Exhibit No.	Presenter, Group Represented, City and State	Comments/Recommendations	Agency Response
		No comments/recommendations were presented.	

DEPARTMENT OF COMMERCE
PUBLIC HEARING COMMENT AND AGENCY RESPONSE

Clearinghouse Rule No.: 99-048		Hearing Location: Mailed in comments	
Rule Number: Chapter Comm 14		Hearing Date: N/A	
Relating to: Fire Department Dues Entitlement			
Comments: Oral or Exhibit No.	Presenter, Group Represented, City and State	Comments/Recommendations	Agency Response
1	Robert W. Stedman State Fire Chiefs Association Milwaukee, WI	The Association supports the rule changes being proposed. The changes will help clarify some of the requirements of the entire rule, and will also allow the Fire Chief more ability to request that fire inspections only be conducted once per year in certain occupancies. The additional language that codifies the process and requirements for entitlement to the fire department dues should be of a benefit to all members of the fire service involved in this program. The proposed rule is a positive change.	The Department agrees.
2	Jeff Amo Black River Falls Fire Dept. Black River Falls, WI	The changes as proposed in the hearing draft are supported. In addition to the wording of Comm 14.02(2), a requirement should be created that the state shall issue a compiled report, such as the former "Wisconsin Burning", of the fire statistics it has obtained from the fire departments. This should be done by July 1.	The suggestion is beyond the scope of this rule change proposal. The Department is working with an advisory task group to develop proposed rules relating to fire incident reporting.
3	Robert W. Stedman Waukesha Fire Department Waukesha, WI	The Waukesha Fire Department supports the proposed changes to chapter Comm 14. The changes are very positive and will help clarify some of the questions asked by many fire service members. The changes will also allow the fire chief flexibility in requesting department approval to conduct fire inspections less than twice per year. The codification of the process and requirements for the dues entitlement should be a benefit to the fire departments in the state.	The Department agrees.
4	Robert Rfger Onalaska Fire Department Onalaska, WI	The context of the code change is good, but the compliance portion needs work, especially the audit process. The code language is too vague and allows too much interpretation by Commerce as evidenced in the new Dues Guide. The number of inspection files to be audited is unfair. Big city fire departments will only have 30 inspection files audited, while most fire departments will have up to 30 inspection files for each municipality they covered. This means that a big city department may have 2,000+ inspections and only have 30 files audited while a smaller department that covers 4 townships will have 120 or 100% of their files audited. More clarification needs to be provided in the code.	The Department disagrees. The Statutes and proposed rules provide clear standards on determining compliance. The presenter's comments are related to the onsite auditing process and not to the proposed administrative code.

RESPONSE TO LEGISLATIVE COUNCIL CLEARINGHOUSE REPORT

Department of Commerce

CLEARINGHOUSE RULE NO.: 99-048

RULE NO.: Chapter Comm 14

RELATING TO: Fire Department Dues Entitlement

Agency contact person for substantive questions.

Name: John Lippitt

Title: Program Manager

Telephone No. 608/266-1036

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

(Continued on reverse side)

- 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



State of Wisconsin \ Department of Commerce

RULES in FINAL DRAFT FORM

Rule No.: Chapter Comm 14

Relating to: Fire Department Dues Entitlement

Clearinghouse Rule No.: 99-048

The Department of Commerce proposes an order to amend Comm 14.02 (2)(d) 2. h. and L., and Comm 14.02 (2)(d) 3.; to repeal and recreate Comm 14.02 (2)(d) 2. b., and Comm 14.02 (2)(e); and to create Comm 14.01 (11m) and (13m), Comm 14.02 (2)(d) 2. m. to r., Comm 14.02 (3), and Comm 14.025, relating to fire department dues entitlement.

Analysis of Proposed Rules

Statutory authority: Sections 101.14, 101.573 and 101.575, Stats.
Statutes interpreted: Sections 101.14, 101.573 and 101.575, Stats.

Chapter Comm 14 contains minimum safety standards for the prevention of fire in order to protect the health, safety and welfare of the public and employes in public buildings and at places of employment. In addition to specifying minimum safety standards, chapter Comm 14 requires fire prevention inspections to be conducted in public buildings and at places of employment. The inspections must be conducted twice per year except for specified occupancies that are allowed to be inspected once per year. These inspections must be conducted by the responsible fire department in order for the municipality to be entitled to receive a fire department dues payment from the state fire fund.

The proposed rules consist of revisions and additions in chapter Comm 14 relating to the fire prevention inspections and the entitlement to the fire fund dues payment. The proposed rules contain additional exceptions for specific occupancies that may be inspected once rather than twice per year. These occupancies include vacant buildings, confined spaces, certain residential buildings, and specified fully-sprinklered buildings.

The proposed rules contain a new section in chapter Comm 14 in order to codify the process and the requirements for entitlement to receive a payment from the fire dues fund as specified in section 101.575, Stats. The new requirements cover eligibility to receive the payment, determination of compliance, the self-certification audit process, the onsite audit process, and the registration of fire departments.

The proposed rules were developed with the assistance of the Fire Department Dues Entitlement Task Group. The members of that advisory group are as follows:

<u>Name</u>	<u>Representing</u>
David L. Berenz	Wisconsin State AFL-CIO
Larry Burton	Wisconsin Insurance Alliance
John Fulcher	Wisconsin State Fire Chiefs Association
Lee Jensen	City of Milwaukee
Keith Kesler	Brule Fire Department
Ed Ruckriegel	Madison Fire Department
Fred Schultz	Wisconsin Fire Inspectors Association
Robert W. Stedman	Fire & EMS Legislative Leadership Coalition

SECTION 1. Comm 14.01 (11m) and (13m) are created to read:

Comm 14.01 (11m) "Fire department" means a municipal fire department, public safety department, or public or private organization, such as a fire association, fire district, fire company or fire corporation, organized or created for the purpose of extinguishing fires and preventing fire hazards.

(13m) "Municipality" means a city, village or town.

SECTION 2. Comm 14.02 (2) (d) 2. b. is repealed and recreated to read:

Comm 14.02 (2) (d) 2. b. Non-occupied utility facilities, such as a water well facility, electric power substation and communication facility.

SECTION 3. Comm 14.02 (2) (d) 2. h. and L. are amended to read:

Comm 14.02 (2) (d) 2. h. ~~Condominiums~~ Residential condominiums and apartments, if there are less than 5 units under one roof.

L. Specialty occupancies covered under ch. ~~ILHR~~ Comm 62. If interior access to mini-storage buildings cannot be obtained, an exterior inspection shall be conducted.

SECTION 4. Comm 14.02 (2) (d) 2. m. to r. are created to read:

Comm 14.02 (2) (d) 2. m. Vacant buildings. If interior access to vacant buildings cannot be obtained, an exterior inspection shall be conducted.

n. Confined spaces. An area that is identified by a sign as a permit-required confined space need not be internally inspected, but an exterior inspection shall be conducted.

o. Townhouses, rowhouses, residential condominiums and apartments with no common use areas. An exterior inspection of these occupancies shall be conducted.

p. Fully-sprinklered office buildings up to 60 feet in height.

q. Fully-sprinklered residential condominiums and apartments, if less than 3 stories in height.

r. Fully-sprinklered townhouses and rowhouses, if less than 4 stories in height.

Note: Fully-sprinklered buildings are protected throughout by an automatic fire sprinkler system as specified in NFPA 13 or 13R, as adopted by reference in chs. Comm 50 to 64.

SECTION 5. Comm 14.02 (2) (d) 3. is amended to read:

Comm 14.02 (2) (d) 3. Upon written request by the chief of a fire department, the department by special order may grant an exception to a city, village or town to conduct less frequent inspections

than required under this subsection. For the department to make a determination to grant a special order, the fire chief shall submit information regarding the fire safety plan that provides an equivalency to the inspections required under this subsection. The fire safety plan information shall consist of a fire safety evaluation identifying the fire risks and hazards that may be associated with the request for the special order.

SECTION 6. Comm 14.02 (2)(e) is repealed and recreated to read:

Comm 14.02 (2) (e) *Inspection reports.* Except in first class cities, the fire chief shall make and keep on file written reports of fire prevention inspections. In first class cities, the commissioner of the building inspection department shall make and keep the reports. The reports shall contain at least the information specified in s. Comm 14.04 (1)(b).

Note: Section 19.32 (2), Stats., considers a record to be material containing written or electromagnetic information. The department will consider computer records to be equivalent to written reports.

Note: The department has developed fire inspection report forms that may be used by fire departments. The fire inspection report forms (SBD-10615, SBD-5295 and SBD-10264) are available at no charge from the Safety and Buildings Division, P.O. Box 2509, Madison WI 53701-2509, telephone (608) 266-1818.

SECTION 7. Comm 14.02 (3) is created to read:

Comm 14.02 (3) INCIDENT REPORTS. The fire chief shall submit written fire incident reports to the department no later than April 1 for the previous year.

Note: It is recommended that fire incident reports be submitted monthly to facilitate processing of the reports.

Note: The department is participating in the National Fire Incident Reporting System (NFIRS), and all fire departments are encouraged to electronically submit fire incident reports using the NFIRS. NFIRS paper forms may also be used to submit fire incident reports. The forms are available at no charge from the Safety and Buildings Division, P.O. Box 2509, Madison, WI 53701-2509, telephone (608) 266-1818.

SECTION 8. Comm 14.025 is created to read:

Comm 14.025 Fire department dues. (1) ELIGIBILITY. (a) 1. In order to be eligible to receive a fire department dues payment, a municipality shall ensure that the fire protection and fire prevention services specified in ss. 101.14 and 101.575, Stats., are provided to the entire municipality.

2. The training program required under s. 101.575 (3) (a) 3., Stats., shall be in accordance with ch. Comm 30 for public sector fire departments and in accordance with 29 CFR 1910.156 of the federal Occupational Safety and Health Administration for private sector fire departments.

(b) The fire protection and fire prevention services shall be provided by a fire department. In first class cities, fire inspection services may be provided by the building inspection department. A municipality not maintaining a fire department shall have the services provided through a contract or mutual aid agreement.

(2) COMPLIANCE DETERMINATION. (a) The department shall determine compliance with the fire department dues entitlement program through the self-certification audit process specified in sub. (3) and the onsite audit process specified in sub. (4).

(b) Where a municipality is served by more than one fire department and any one of the fire departments is determined to be in non-compliance within that municipality, the entire municipality shall be determined to be in non-compliance.

(c) The department shall issue a notice of non-compliance to the municipality and the chief of the fire department that the department has determined to be in non-compliance. The determination shall be based on one or more of the following causes:

1. The municipality fails to return the self-certification audit form on time.
2. The municipality returns an incomplete self-certification audit form.
3. The municipality self-certifies non-compliance.
4. The results of an onsite audit.

(3) SELF-CERTIFICATION AUDIT. (a) A municipality shall annually complete and submit a fire department dues entitlement self-certification audit form for the previous calendar year. The certification shall be made on form SBD-10318, and the form shall be returned to the department on or before March 1.

Note: The department annually sends form SBD-10318 to the municipality.

(b) A municipality shall identify on the self-certification audit form the name of every fire department and the chief of the fire department that provided either fire protection services or fire prevention services, or both, to the municipality in the last calendar year. This identification shall be used to determine which fire departments are entitled to receive fire department dues from the municipality.

(c) The chief of the fire department that provided the fire protection or fire prevention services and the clerk of the municipality shall sign the self-certification audit form and indicate compliance or non-compliance with state regulations regarding the fire department dues entitlement program. In first class cities, the commissioner of the building inspection department shall also sign the self-certification audit form.

(4) ONSITE AUDIT. (a) In addition to the self-certification audit process, the department shall periodically conduct onsite audits of fire department dues entitlement records to determine compliance with the fire department dues entitlement program for the previous calendar year.

(b) The department shall periodically examine the fire department dues entitlement records to verify that the required fire prevention and fire protection services were provided within the territory served by the fire department and, within first class cities, by the building inspection department.

Note: The information required in the entitlement records is specified in ss. 101.14 and 101.575, Stats.

(c) The department shall write a report summarizing the results of each onsite audit.

(5) FIRE DEPARTMENT REGISTRATION. (a) A fire department that provides fire prevention or fire protection services to a municipality shall register with the department on form SBD-10638.

Note: Copies of form SBD-10638 are available at no charge from the Safety and Buildings Division, P.O. Box 2509, Madison, WI 53701-2509, telephone (608) 266-1818.

(b) The fire chief of a registered fire department shall annually submit a completed fire department annual update form, SBD-10114, to the department by July 1.

Note: The department annually sends form SBD-10114 to the fire department.

(END)

EFFECTIVE DATE

Pursuant to s. 227.22 (2)(intro.), Stats., these rules shall take effect on the first day of the month following publication in the Wisconsin Administrative Register.
