

WISCONSIN LEGISLATIVE COUNCIL STAFF

RULES CLEARINGHOUSE

Ronald Sklansky
Director
(608) 266-1946

Richard Sweet
Assistant Director
(608) 266-2982



David J. Stute, Director
Legislative Council Staff
(608) 266-1304

One E. Main St., Ste. 401
P.O. Box 2536
Madison, WI 53701-2536
FAX: (608) 266-3830

CLEARINGHOUSE RULE 97-109

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 October 1994.]

2. Form, Style and Placement in Administrative Code

a. In the first sentence of the second paragraph of the analysis, “the,” immediately preceding “1995 Wisconsin Act 439” should be deleted. The Act also should be included in the statement of statutory authority.

b. The analysis states that s. ILHR 60.11 includes a cross-reference to ch. HFS 55 for information regarding staff-to-child ratios. However, the Note to s. ILHR 60.11 refers to ch. HFS 46. This inconsistency should be corrected and a specific rule section should be referenced rather than the entire chapter.

c. The title to s. ILHR 60.30 (2), “EXCEPTIONS,” is inaccurate because that subsection does not set forth exceptions to the general rule but rather sets forth additional requirements which must be met in certain cases. Also, should the heading for the second column in Table 60.30 be changed to make it clear that day care facilities may not be located above the story indicated? As currently written, it appears that it would be permissible for a day care center to be located on floors above the fourth floor as long as the day care center does not consist of more than the number of stories set forth on the chart.

d. In general, introductory material in Wisconsin Administrative Code provisions should include phrases such as “any of the following” or “all of the following,” in order to clearly state whether any one, or all, of the criteria following the introduction must be satisfied. For example, in s. ILHR 60.31 (1) (intro.), the phrase “one of” should be inserted before the phrase “the following types.” Also, in s. ILHR 60.31 (2) (a) (intro.), the phrase “all of” should precede the phrase “the following.” [See also ss. ILHR 60.36 (1) (b) (intro.) and 60.39 (intro.).]

e. Section ILHR 60.31 (1) (b) should be rewritten to specify that the types of exit stairways listed in s. ILHR 60.34 are acceptable means of egress from a day care center under s. ILHR 60.31. As written, s. ILHR 60.31 (1) (b) conveys the message that an interior stairway or ramp complying with s. ILHR 51.16 and s. ILHR 51.17 or 51.18 (the correct method of making this cross-reference) is an acceptable means of egress from a day care center unless one of the exceptions set forth in s. ILHR 60.34 applies. Section ILHR 60.34 does not in fact set forth circumstances under which the stairways or ramps described in the rule are not permissible means of egress but rather sets forth additional acceptable means of egress.

f. In s. ILHR 60.31 (2) (a) 2., the phrase “the remaining means of egress” should be replaced by the phrase “Means of egress in addition to subd. 1.”

g. In s. ILHR 60.31 (3), the cross-reference to additional Administrative Code sections should read: “ss. ILHR 51.151, 51.152 and 60.39.” Also, the word “a” should be inserted before the phrase “day care center.”

h. The title to s. ILHR 60.36 should be underscored. [See s. 1.05 (2) (b), Manual and s. ILHR 60.40.]

i. The material in s. ILHR 60.38 (1) (a) should be incorporated into sub. (1) without division into a separate paragraph. When any section, or part of a section, is divided into smaller subunits, at least two subunits should be created. [See s. 1.03 (intro.), Manual.]

j. The introductory material in s. ILHR 60.39 should conclude with a colon. [See also s. ILHR 60.40.]

k. Section ILHR 60.39 (2) refers to both “exits” and “means of egress.” Do these terms refer to the same thing? If so, the same term should be used consistently. If not, what is the difference between an exit and a means of egress?

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

a. Section ILHR 60.30 (2) makes use of the phrase “children under the age of 24 months.” [See also s. ILHR 60.36 (2) (b).] However, the first part of Table 60.31 refers to the age of children in day care centers in terms of “24 months of age or younger.” The categories to which the rule applies should be made consistent.

b. Current s. ILHR 60.31 (6) provides that “children under the age of 24 months shall be restricted to the first floor, as determined in s. ILHR 51.02 (14) or to ground floors as defined in s. ILHR 51.01 (67).” Proposed s. ILHR 60.30 (2) (a), which apparently replaces current s. ILHR 60.31 (6), provides that “[w]here a day care center serving children under the age of 24 months is located on a floor above or below the level of exit discharge in a building of types No. 1 to No. 7 construction, the entire building shall be completely protected by an automatic sprinkler system and each floor of the day care center shall be divided into at least 2 smoke compartments” Is it intended that the sprinkler system and smoke compartment requirements apply to a day care center which serves children of all ages but restricts children under the age of 24 months to the first floor or the ground floor? It appears that if those

requirements are meant to apply in that case, the rule could have a major economic impact on existing day care centers that serve children of all ages that restrict the children under 24 months to the first or ground floor and that do not have sprinkler systems. This comment applies to par. (b) as well.

c. In Table 60.31, what is meant by “exit access door”? Item 1. b. in that table states that in a day care center serving children 24 months of age or younger, the maximum travel distance between the exit access door and the exit shall be 25 feet. If a day care center serving children under the age of 24 months is located on the fourth floor, as is permitted by s. ILHR 60.30 (2) (a) (assuming all sprinkler and construction requirements are met), is it possible for an exit access door and an exit to be 25 feet or less apart?

d. In s. ILHR 60.36 (2) (b), why is a fire alarm system or smoke detection system required if children under the age of 24 months are located on floors *below* the level of exit discharge, but not if they are located on floors above that level? Also, in sub. (2) (a), the word “in” should be inserted before the phrase “every building.”

e. In s. ILHR 60.38 (2), “recognized” should be replaced with a more specific term such as “permitted” or “authorized.”

f. In s. ILHR 60.38 (2), should the phrase “receiving nighttime care from 9:00 p.m. to 5:00 a.m.” be changed to “receiving nighttime care anytime between 9:00 p.m. and 5:00 a.m.”? As currently written, it appears that emergency lighting would not be required if, for example, children were cared for only between the hours of 11:00 p.m. and 5:00 p.m.