

# **WISCONSIN LEGISLATIVE COUNCIL STAFF**

## ***RULES CLEARINGHOUSE***

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## **CLEARINGHOUSE RULE 00-179**

### **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 treatment clauses in SECTIONS 1, 3, 4 and 5 should begin with the word “Chapters.”

b. Section Comm 61.01 makes use of the phrase “this code.” Use of phrases such as this one and acronyms such as “HVAC” are used throughout chs. Comm 61 to 65. It is appropriate to create a definitional section in ch. Comm 61 that defines terms that will be used throughout chs. Comm 61 to 65. Terms that are unique to a particular chapter may be defined in that chapter.

c. Section Comm 61.03 (1) should be rewritten to read: “Except as otherwise provided, this chapter does not apply to public buildings and places of employment existing prior to the effective date of this chapter . . . [revisor inserts date].” Also, sub. (3) does not follow from s. 101.02 (1), Stats. That section of the statutes refers to rules and regulations, not to interpretations. Subsection (3) is unnecessary and should be deleted. In subs. (6) to (10), phrases such as “on or after the effective dates of the rules under this code” should be replaced by “on or after the effective date of this chapter . . . [revisor inserts date].” Also, unless the phrase “this code” is defined, the phrase “the rules of this code” should be replaced by the phrase “this chapter.” Further, all of the paragraphs should be in the past tense; for example, in sub. (6) (a), the word “are” should be replaced by the word “were.” [The remaining applicability provisions in chs. Comm 62 to 65 should be reviewed for these concerns.]

d. In many cases, introductory material in the rule makes appropriate use of phrases such as “any of the following” or “all of the following” to clearly indicate to the reader the necessary conditions that must be met before a particular action may be taken. However, this drafting technique is not uniformly used throughout the rule. The use of introductory material should be reviewed to make the format consistent, even in cases where the intent of the rule drafter is relatively clear. For example, see s. Comm 61.03 (11) (intro.).

e. Section Comm 61.70 (2) (a) refers to various conditions in pars. (b) to (i). These paragraphs are incomplete sentences while pars. (j), (k) and (L) are written in complete sentence structure. The subsection could be restructured so that the first sentence of par. (a) becomes an introduction to pars. (b) to (h), which then should be renumbered to subds. 1. to 7.; the second sentence of par. (a) could become an introduction to par. (b) which is followed by subds. 1., 2. and 3.; and pars. (j), (k) and (L) then could be renumbered to par. (c), (d) and (e). Internal cross-references should be renumbered accordingly. [The entire rule should be reviewed for the use of this format. In other words, unless incomplete sentences follow grammatically from an introduction, subunits should be stated in complete sentence form.]

f. In s. Comm 62.0904 (2) (a), it appears that the word “regarding” should be replaced by the word “under.”

g. In s. Comm 63.0003, the introduction should be renumbered as sub. (1) and the remaining subsections and internal cross-references should be renumbered accordingly. Also, the note is substantive and should be placed in the body of the rule.

h. In s. Comm 63.1005 (13), the definition of “daylit area” should be moved to s. Comm 63.1005 (10), and subs. (10) to (12) should be renumbered accordingly. Definitions should be arranged alphabetically.

i. In s. Comm 63.1005 (32), the definition of “gross exterior roof area” should be placed alphabetically in the list of definitions. Also, it appears that the use of the slashed alternative should be replaced by the word “or.” Similarly, in sub. (49), the slashed alternative should be replaced by a comma.

j. Section Comm 63.1015 (intro.) should be renumbered as sub. (1) and the remaining subsections and internal cross-references should be renumbered accordingly. [Again, the entire rule should be reviewed for the appropriate use of introductory material.]

k. In s. Comm 63.1029 (1), the note is substantive and should be placed in the body of the rule.

l. In s. Comm 63.1042, the phrase “the scope of this part” is unnecessary and should be deleted.

m. In s. Comm 63.1050 (1) (c), the word “must” should be replaced by the word “shall.”

n. It appears that s. Comm 64.0002 could be restructured in the following way: Subsection (1) could read: “Except as provided in subs. (2) and (3), the application of this

chapter is as specified in s. Comm 61.03.” Current sub. (1) (a) could be renumbered as sub. (2) and pars. (b), (c) and (d) could be combined into a new sub. (3). Current subs. (2) and (3) are redundant given the statement that s. Comm 61.03 will apply, unless as expressly stated otherwise.

o. In s. Comm 64.0202 (2) (c), the phrase “same meaning” should be replaced by the phrase “meaning given.”

p. In s. Comm 64.0401 (2) (b), subd. 2. does not grammatically lead into subpar. d. Also, in sub. (4) (a), the note is substantive and should be placed in the body of the rule.

q. In SECTION 8, the treatment clause should begin with the word “Chapters.”

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

a. In s. Comm 61.01, the cross-reference should read: “subch. I of ch. 101, Stats.”

b. In s. Comm 61.03 (4) (b) 2., the reference to “par. (g)” is unclear since sub. (4) does not include a par. (g).

c. In s. Comm 61.03 (4) (b) 3., the note incorrectly quotes s. 101.975 (3), Stats. Subdivisions 3. and 4. refer to “subch. I” not to “ss. 101.01 to 101.25.” Further, in the second sentence of subd. 4., “. . . conform to this and . . .” should be replaced with “. . . conform to this subchapter and . . .”

d. In s. Comm 61.21 (2), the note should refer to “Section 101.01 (8),” not “Section 101.01 (1) (g).”

e. In s. Comm 61.36 (1) (a), should the reference to “par. (e)” be changed to “par. (f)”?

f. The note to s. Comm 61.36 (2) refers to s. 66.05 (1) (a), Stats. 1999 Wisconsin Act 150 recodified ch. 66, Stats. Consequently, all of the cross-references in the rule to ch. 66, Stats., provisions should be reviewed for use of correct citations.

g. In s. Comm 61.70 (5) (e) 9., “. . . under s. Comm 61.03 (3) . . .” should be changed to “. . . under s. Comm 61.03 (4) . . .”

h. In s. Comm 62.0400 (1), the notation “ch.” should be replaced by the notation “chs.”

i. In s. Comm 62.0904 (3), the cross-reference should read: “subch. V of ch. Comm 5.”

j. In s. Comm 62.0907 (2), in the third note, s. 101.01 (12), Stats., does not define “sleeping area.”

k. In s. Comm 63.1023 (2), is “Table 64.05” the correct cite?

- l. In s. Comm 63.1042 (5), “. . . in ch. Comm 16” could be changed to “. . . s. Comm 16.12.”
- m. In s. Comm 63.1046, the cross-reference should read: “s. Comm 63.1047, 63.1048 or 63.1049.”
- n. In s. Comm 64.0403 (5) (d) 2., is “s. Comm 63.0403 (6) (e)” the correct cite?
- o. In s. Comm 65.0001 (2), is “65.0602” the correct cite?
- p. In s. Comm 65.004, the cross-reference should read: “subch. III of ch. Comm 61.”
- q. In s. Comm 65.0304 (2), in the note, “s. Comm 65.0201 (2) (a)” should be changed to “s. Comm 65.0201 (1).”
- r. In s. Comm 65.0503 (2) (a), the notation “ss.” should be replaced by the notation “s.”
- s. In s. Comm 61.01, the statutory cross-reference should read: “subch. I of ch. 101, Stats.”
- t. In s. Comm 66.0007 (2), in the note, the cite should be to “Section 101.01 (8)” instead of “Section 101.01 (1) (g).”

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

- a. In the note to s. Comm 61.01, referencing s. 50.01 (1), Stats., the word “sib-lings” should be replaced with “siblings.”
- b. Section Comm 61.02 (3) (d) 1. should be rewritten to read: “A statement is filed with the register of deeds that describes the steps necessary for compliance with this code if the space is converted to a nonexempt use.” In par. (e), the word “an” should be replaced by the word “a.”
- c. In s. Comm 61.03 (4) (b) 5. a., the second period after subpar. a. should be removed.
- d. In s. Comm 61.03 (4) (b) 5., subpars. c. and d. do not need to be demonstrated. They should be incorporated into the introduction in subd. 5.
- e. In s. Comm 61.03 (6) (b), the word “on” should be eliminated. [The entire rule should be reviewed for this concern.]
- f. In s. Comm 61.03 (9) (d), when does this paragraph apply, as opposed to par. (c)?
- g. Section Comm 61.03 (11) (c) is a very unusual provision. What standards is an official to use regarding safety requirements to be traded for other safety provisions that may be lacking?

h. In s. Comm 61.04 (1), should the references to s. Comm 61.60 and s. Comm 60.61 be changed to s. Comm 60.70 and s. Comm 60.71?

i. In s. Comm 61.30 (1) (b) 1., in the second note, “. . . or does not . . .” should be changed to “. . . nor does it . . .”

j. In s. Comm 61.30 (2), there should be a colon at the end of the introductory sentence.

k. In s. Comm 61.31 (4) (a) 1., both uses of “which” should be changed to “that,” and the comma after “modifications” should be eliminated.

l. In s. Comm 61.32 (2), the word “their” should be replaced by the word “its.”

m. In s. Comm 61.32 (3), does “starting construction” refer to construction beyond the foundation and footing?

n. In s. Comm 61.34 (1) (a) 2. and 3., “less” should be changed to “fewer.”

o. In s. Comm 61.36 (1) (e), the use of the phrase “two years” and the phrase “that year” is confusing.

p. In s. Comm 61.50 (1) (a), the word “to” in the last sentence, should be replaced by the word “with.”

q. In s. Comm 61.50 (1) (b) 1., “. . . to be supervised . . .” should be changed to “. . . supervision . . .” Subdivision 1. b. should be rewritten to read: “. . . does not cause the entire building to exceed a volume of 50,000 cubic feet.” In sub. (2), the hyphen should be deleted.

r. In s. Comm 61.51, it appears that subs. (2) to (5) should be combined in one provision since they all appear to treat manufactured buildings. Also, in sub. (4) (b), the hyphen should be deleted.

s. In s. Comm 61.60 (3) (d) 3. a., should “installation” be changed to “installation site”?

t. In s. Comm 61.60 (4) (e) 1., does the unacceptability of the third party refer to the third party providing tests and data under s. Comm 61.60 (1) (b) 2. and (2) (b) 2., or does it refer to any third party? Further, what does unacceptability mean? Does it mean a lack of qualifications? Also, in par. (e) 2., the hyphen should be deleted.

u. In s. Comm 61.61 (3), is the “referenced standard” the standard in the code? If so, why not say “the standard contained in this code”?

v. In s. Comm 61.61 (6), it appears that the second sentence should be in a separate subunit. Also, the hyphen should be deleted.

w. In s. Comm 61.70 (1), the phrase “relative to” should be replaced by the word “under.” In sub. (2) (L), the comma should be deleted.

x. In s. Comm 61.70 (5) (e) 6., does the provision mean that, regardless of whether a municipality or county has assumed responsibility for reviewing plans, the submitter may pick which governmental unit reviews its plans and specifications?

y. In s. Comm 62.0400 (2) (b) and (c), the comma should be deleted.

z. In s. Comm 62.0704, the comma after “buildings” should be deleted.

aa. In s. Comm 62.0904 (2) (a), the word “regarding” should be replaced by the word “under.” In sub. (2), should “. . . with the required waterflow and pressure for a minimum of 10 minutes” be added to the end of the second sentence?

ab. In s. Comm 62.0909 (5), the comma in the second sentence should be deleted.

ac. In s. Comm 62.1104 (2), where the sentence reads “. . . unless the level contains . . .,” it is unclear what level the sentence is referring to. Further, it would be clearer if “. . . floors above . . .” were changed to “. . . floors that are above . . .” and “. . . levels that have . . .” were changed to “. . . levels and that have . . .”

ad. In s. Comm 62.1107 (2) (d) 2., the phrase that begins “. . . and a toilet facility . . .” should be changed to “. . . and shall have a toilet facility.”

ae. In s. Comm 62.1603 (1), a colon should be inserted after “1603.3.”

af. In ss. Comm 62.1614 (1) (c) and (2), all uses of “which” should be changed to “that.”

ag. In s. Comm 62.1802 (3), what is “the necessary investigation”? If it is only one that complies with the provisions of IBC sections 1802.4 to 1892.6, then the two sentences should be combined.

ah. In s. Comm 62.1916, what are “approved methods” and “approved rules”?

ai. In s. Comm 62.2900 (3) (d) 1., “within” should be inserted before “. . . 10 feet . . .,” “. . . 5 feet . . .,” and “. . . 25 feet . . .”

aj. In s. Comm 63.0003 (2) (b), “. . . this chapter for . . .” should be changed to “. . . this chapter’s requirements for . . .” In par. (c) 3. a., the notation “subd.” should be replaced by the notation “subpar.”

ak. In s. Comm 63.0004 (2) (a) 1., the second comma should be deleted.

al. In s. Comm 63.0201 (2), a more specific cross-reference should be given.

am. In s. Comm 63.0502 (1) (b), “EXCEPTIONS” should be changed to “*Exceptions*.” Also, this provision is an incomplete sentence. In sub. (2), the comma after the phrase “such as” should be deleted.

an. In s. Comm 63.0802 (2) (b), the subparagraph should be given a title.

ao. In s. Comm 63.0901, what is the impact of the phrase “may be used for information”?

ap. Section Comm 63.1005 (16) should be restructured to eliminate the use of the notations “1)” and “2).”

aq. In s. Comm 63.1005 (21), “. . . of exterior . . .” should be changed to “. . . of an exterior . . . .”

ar. In s. Comm 63.1005 (27) and (33), “gross exterior wall area” is defined twice. In addition, the definition given in s. Comm 63.1019 (3) (c) does not exactly track either subs. (27) or (33).

as. In s. Comm 63.1005 (35), “exceeds” should be changed to “exceeding,” and “. . . or is capable . . .” should be changed to “. . . or capable . . . .”

at. In s. Comm 63.1005 (59), “. . . through fenestration . . .” should be changed to “. . . through a fenestration . . . .”

au. In s. Comm 63.1005 (75), there should be a comma after “ratio” and after “decimal.”

av. In s. Comm 63.1012 (1), “day light credits” should be defined.

aw. In s. Comm 63.1015 (2), “window wall ratio” is defined differently than in s. Comm 63.1005 (80). Section Comm 63.1015 (2) adds the dependent clause “. . . considering all elevations of the building . . . .” The definitions should either be the same, or the definitional sentence in s. Comm 63.1015 (2) should have an introductory clause that reads: “In this subsection, . . . .”

ax. In s. Comm 63.1018 (2) (a), “. . . from or laboratory . . .” should be “. . . from laboratory . . . .”

ay. In s. Comm 63.1020 (2), “. . . or data . . .” should be “. . . or by data . . . .”

az. In s. Comm 63.1020 (4), there should be a comma after “functions.”

ba. In s. Comm 63.1021, it would be clearer if the sentence were to read: “When components, such as indoor or outdoor coils, from more than one manufacturer are used . . . .”

bb. In s. Comm 63.1022, “. . . and for controls . . .” should be “. . . and controls . . . .”

bc. In s. Comm 63.1026 (2) (a) 2., there should be commas after “gains” and “both.”

bd. In s. Comm 63.1026 (2) (c), in the title, “cooing” should be changed to “cooling.”

be. In s. Comm 63.1031 (1) (b), in the first sentence, the comma after “cooling” should be deleted.

bf. Section Comm 63.1032 (1) (g) reads as if there are two separate requirements: not being a component of the equipment, and the input being included in the efficiency determination. Is this the intent?

bg. In s. Comm 63.1040 (2), “. . . exits, loading . . .” should be “. . . exits, and loading . . .”

bh. In s. Comm 63.1045 (3) (p), “provide” should be “provides.”

bi. In s. Comm 63.1048, “. . . spaces, which accommodate . . .” should be “. . . spaces that accommodate . . .”

bj. In s. Comm 64.0202 (2) (b), should the defined term be “approval agency”?

bk. In s. Comm 64.0309 (3), there should be commas after “waived” and “chapter.”

bl. In s. Comm 64.0313 (1) (b) 2. b., “horsepower” is one word.

bm. In s. Comm 64.0403 (4) (a) 1., “bathtub” is one word.

bn. In s. Comm 64.0403 (4) (a) 2., “closets” should be “closet.”

bo. On the top of page 64-10 there is an incomplete sentence that has no numbering.

bp. In s. Comm 64.0604, it is unclear what “its” refers to. Is it the duct lining or the heater?

bq. In s. Comm 65.0305 (1) (a), there should be a space between “304.8,” and “304.9.”

br. In s. Comm 65.0501 (2), the word “is” should be replaced by the word “are.”

bs. In s. Comm 66.002 (3) (intro.), it appears that the word “all” should be replaced by the word “any.”

bt. In s. Comm 66.0003 (9) (d), when does par. (d), as opposed to par. (c), apply?

bu. In s. Comm 66.0003 (12), “employe” is now spelled “employee” as suggested by the Legislative Reference Bureau.

bv. In s. Comm 66.0012 (2) (e), there should be a period at the end of the title.

bw. Section Comm 66.0201 represents a problem noted previously in this report. This section buries an omnibus definitional provision in the middle of ch. Comm 66 attempting to incorporate definitions in other portions of chs. Comm 61 to 65. Again, a definitional provision applicable to chs. Comm 61 to 66 should be placed in ch. Comm 61.



bx. In s. Comm 66.0903, what does the phrase “where recognized by the applicable standard” mean?

by. In s. Comm 66.0907 (2), in the last sentence, “instruction” should be changed to “instructions.”

bz. In s. Comm 66.1003 (12), in the third sentence, “additions” should be changed to “addition.”

ca. In s. Comm 66.1903 (2), “. . . shall be provided with . . .” should be changed to “. . . shall be provided either with . . .,” and “. . . means provided . . .” should be changed to “. . . means . . .”

cb. In s. Comm 66.2301 (12) (intro.), “. . . time of building permit application . . .” should be changed to “. . . time of application for a building permit . . .”

cc. In s. Comm 66.2301 (12) (d), “. . . between top of storage . . .” should be changed to “. . . between the top of the storage . . .”