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## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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### CLEARINGHOUSE RULE 08-085

#### 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**

a. Section 101.149 (1) (am), Stats, defines “carbon monoxide detector” as an *electronic or battery-operated* device that sounds an alarm when an unsafe level of carbon monoxide is in the air. (Emphasis added). Section Comm 21.095 (1) (a) requires the installation of “carbon monoxide alarms with battery secondary power supplies” and ss. Comm 21.095 (2) and 62.1200 (2) (c) require the alarm to be wired to the dwelling’s electrical service. Section Comm 62.1200 (2) (c) requires carbon monoxide alarms to be interconnected under certain circumstances. The department should fully describe its authority to impose these more stringent requirements.

b. The department has not complied with the requirements in s. 101.145 (6) (b), Stats., that the rules specify conditions under which the department may issue orders under s. 101.145 (8) (a), Stats.

#### **2. Form, Style and Placement in Administrative Code**

a. The rule preface does not include a separate section on the rule’s effect on small business. [See s. 1.02 (2) (a) 10., Manual.]

b. It is unclear whether the provision requiring the installation of carbon monoxide alarms in tourist rooming houses has been placed in the correct chapter of the Administrative Code. The rule places that requirement in ch. 21 Comm, which applies to the design and construction of one- and two-family dwellings (see. s. Comm 21.01). Although ch. Comm 21

does not contain a definition of the term, s. 101.61 (1), Stats., defines “dwelling” as any building that contains one or two dwelling units, and defines “dwelling unit” as a structure or that part of a structure which is used or intended to be used as a home, residence, or sleeping place by one person or by two or more persons *maintaining a common household, to the exclusion of all others*. (Emphasis added.) This definition does not appear to encompass tourist rooming houses.

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

Section Comm 62.1200 (3) (d) should provide a precise reference to the Administrative Code provision under which HVAC qualifier certification is issued (s. Comm 5.71).

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

a. The summary of the rule refers to new and existing commercial buildings, but only to new tourist rooming houses. Why does the summary not contain a description of the applicability to the rule to existing tourist rooming houses?

b. In the rule preface comparison of adjacent state rules, the word “for” should be inserted before the phrase “carbon monoxide alarm regulations.”

c. In the rule preface section regarding analysis and supporting documents used to determine the rule’s effect on small business, the word “in” preceding the phrase “from \$65 to \$85” should be deleted.

d. Why does the rule use the term “carbon monoxide alarm” when the term “carbon monoxide detector” is the term that is used, and defined, in the statutes?

e. Section Comm 21.095 (1) (a) requires the installation of a carbon monoxide alarm in every tourist rooming house that contains a fuel-burning appliance. However, s. 101.149 (5), Stats., contains a number of exceptions to this requirement. These exceptions should be included in the text of the rule. Also, “and which” should be changed to “that.”

f. In s. Comm 21.095 (3) (b) (intro.), the phrase “For the purposes of” should be replaced by the word “In.”

g. In s. Comm 62.1200 (3) (a), the phrase “shall be responsible for arranging the inspection” should be replaced by the phrase “shall arrange for the inspection.” Also, in this subsection, every occurrence of the notation “subd.” should be replaced by the notation “sub.”