

Clearinghouse Rule 06-119

The Department of Commerce proposes an order to amend ss. Comm 2.07 (3) (a), Comm 2.07 (4) (a), Comm 3.03 (5) (a) to (e), Comm 3.04 (7), Comm 5.54 (5) (c) 1. b., Comm 18.1013 (3) (e), Comm 20.14 (1), Comm 26.08 (2), Comm 33.10 (5), Comm 34.05 (5), Comm 40.10 (5), Comm 43.10 (6), Comm 61.31 (3) (a), Comm 82.20 (5) (intro.), Comm 82.20 (12) (a) 3. and (b) 3., Comm 83.22 (3) (a), Comm 90.04 (1) (a) 4., Comm 90.04 (2) (a) 2., and Comm 90.04 (3) (a) 2., relating to plan review processing times and affecting small businesses.

Analysis of Proposed Rules

1. Statutes Interpreted.

Sections 101.12, 145.02 (g), 145.175 and 145.26, Stats.

2. Statutory Authority.

Sections 101.12, 145.02 (3) (g), 145.175 and 145.26, Stats.

3. Related Statute or Rule.

Section 227.116, Stats.

4. Explanation of Agency Authority.

Chapters 101 and 145, Stats., grant the Department general authority for protecting the health, safety and welfare of the public by establishing reasonable and effective safety standards for the construction, repair and maintenance of dwellings, public buildings and places of employment and for the protection of the waters of the state.

5. Summary of Proposed Rules.

The Division of Safety and Buildings within the Department of Commerce is responsible for administering and enforcing safety and health rules relating to the construction and inspection of dwellings, public buildings and places of employment.

The proposed rules consist of miscellaneous changes in chapter Comm 2 and various other chapters in order to address inconsistencies related to the administrative processing of plan submittals to the Safety and Buildings Division.

The proposed rules also correct a typographical error in recently enacted rules pertaining to continuing education obligations for the renewal registrations as automatic fire sprinkler contractor-maintenance. The proposed rules will require 12 hours of continuing education instead of 24 hours.

The proposed rules also amend three building plan review fee tables to correct an error, but does not increase or decrease the fee amounts.

6. Summary of, and Comparison with, Existing or Proposed Federal Regulations.

The activities to be regulated by the rule are specific to the Department's administrative procedures relating to plan review processing times. There are no existing or proposed federal regulations that address the activities to be regulated by the rule.

7. Comparison with Rules in Adjacent States.

The proposed rules consist of administrative changes specific to the Department's procedures relating to plan review processing times. An internet review of Illinois, Iowa, Michigan and Minnesota building and construction rules did not reveal processing times for similar plan review activities.

8. Summary of factual Data and Analytical Methodologies.

A periodic Legislative Audit of the Department's administration of the Multifamily Code program included a review of the Safety and Buildings Division's handling of plan reviews relative to codified processing times. An evaluation by the Division has concluded that the code provisions do not reflect how processing times are determined in light of current management practices and technological improvements that have occurred over the past several years to facilitate the submittal process.

9. Analysis and Supporting Documents used to Determine Effect on Small Business or in Preparation of Economic Impact Report.

The proposed rules will not have an impact on small business in that the revisions clarify Department plan review processes. An economic impact report was not required pursuant to s. 227.137, Stats.

SECTION 1. Comm 2.07 (3) (a) is amended to read:

Comm 2.07 (3) PROCESSING TIME. (a) *Starting date.* ~~The~~ When an appointment process exists for a specific type of permit, the permit processing time shall begin on the appointment date. When an appointment process does not exist for a specific type of permit, the permit processing time shall begin on the day after receipt of the request for the permit whether submitted by mail or in person. When the department finds a permit application has been submitted with inadequate information or fees, the application will be placed on hold and the department will notify the applicant of the information needed to process the application. Upon receipt of the complete information, the department will process the permit, except that the length of the processing time shall start over and the processing time shall begin the day after the receipt of the additional information or fees.

SECTION 2. Comm 2.07 (4) (a) is amended to read:

Comm 2.07 (4) DETERMINATION. (a) The starting and the ending dates recorded on the computer records record or individual file shall be ~~presumed by the department to be correct and shall be~~ the dates used to assess whether a refund is to be made.

SECTION 3. Comm 2.31 Tables 2.31-1 to 2.31-3 are amended to read:

Table 2.31-1
Plan Review Fees for Buildings Not Located in Municipalities That Perform Inspections
(partial table)

Area (Square Feet)	Fees			
	Building Plans	HVAC Plans	Fire Alarm System Plans	Fire Suppression System Plans
Less than 2,500	\$260	\$160	\$30	\$30
2,501 2,500 – 5,000	330	220	60	60

Table 2.31-2
Plan Review Fees for Buildings Located in Municipalities That Perform Inspections
(partial table)

Area (Square Feet)	Fees			
	Building Plans	HVAC Plans	Fire Alarm System Plans	Fire Suppression System Plans
Less than 2,500	\$220	\$130	\$15	\$15
2,501 2,500 – 5,000	290	200	50	50

Table 2.31-3
Fees to be Forwarded to the Department
for Reviews Performed by Second Class Cities and Appointed Agents
 (partial table)

Area (Square Feet)	Fees			
	Building Plans	HVAC Plans	Fire Alarm System Plans	Fire Suppression System Plans
Less than 2,500	\$35	\$20	\$5	\$5
2,501 2,500 – 5,000	45	30	8	8

SECTION 4. Comm 3.03 (5) (a) to (e) are amended to read:

Comm 3.03 (5) TIME LIMIT FOR PROCESSING. (a) Except as provided in pars. (b) to (d), the ~~office~~ division shall review and make a determination on an application for a petition for variance within 30 business days. When an appointment process exists for a specific type of petition, the processing time shall begin on the appointment date. When an appointment process does not exist for a specific type of petition, the processing time shall begin on the day after of ~~the~~ receipt of the application and all forms, fees and other documents necessary to complete the review.

(b) Upon request of the petitioner and submittal of the required fee, the ~~office~~ division shall facilitate the review of a petition in less than the processing time specified in par. (a). The fee for this type of priority petition review shall be twice the fee required for the processing time specified in par. (a). The ~~office~~ division shall review and make a determination on an application for a priority petition for variance within 10 business days ~~of the receipt of the application and all forms, fees and other documents necessary to complete the review.~~

(c) Petitions for variance from a rule contained in chs. Comm 20 to 25 shall be processed by the ~~office~~ division within ~~5~~ 10 business days ~~of receipt of the required information~~ where a municipality administers and enforces the code, and within 15 business days ~~of receipt of the required information~~ where the division administers and enforces the code.

(d) ~~Petitions Pursuant to s. 101.121 (3) (b), Stats., petitions~~ for variance from a rule ~~contained in ch. Comm 70 for an historic building~~ shall be processed by the ~~office~~ division within 10 business days ~~of receipt of the required information.~~

(e) When additional information is requested by the ~~office~~ division to complete the review of the petition, the amount of time from the date of the request to the date of receipt by the ~~office~~ division of the information will not be included in the processing times specified in pars. (a) to (d). The full period for review specified in pars. (a) to (d) shall apply from the date of receipt of the additional information.

SECTION 5. Comm 3.04 (7) is amended to read:

Comm 3.04 (7) TIME LIMIT FOR PROCESSING. The ~~office~~ division shall process petitions submitted under this section as specified in s. Comm 3.03 (5).

SECTION 6. Comm 5.54 (5) (c) 1. b. is amended to read:

Comm 5.54 (5) (c) 1. b. The renewal of a registration as an automatic fire sprinkler contractor-maintenance which has an expiration date after June 30, 2010 shall be contingent upon the automatic fire sprinkler contractor-maintenance obtaining at least ~~24~~ 12 hours of acceptable continuing education within the time period specified in s. Comm 5.08 and Table 5.06, except as provided in subd. 2.

SECTION 7. Comm 18.1013 (3) (e) is amended to read:

Comm 18.1013 (3) (e) Processing time. ~~The~~ Pursuant to s. Comm 2.07 (3), the department or municipality shall review and make a determination on an application for approval of an installation or an alteration within 15 business days ~~of receiving the required information.~~

SECTION 8. Comm 20.14 (1) is amended to read:

Comm 20.14 (1) APPLICATION FOR APPROVAL. An application for approval of any manufactured dwelling, building system or component shall be submitted to the department, in the form required by the department, along with the appropriate fees in accordance with s. Comm 2.34. ~~The~~ Pursuant to s. Comm 2.07 (3), the department shall review and make a determination on an application for approval of a manufactured dwelling, building system or component within 3 months ~~of receipt of all forms, fees, plans and documents required to complete the review.~~

SECTION 9. Comm 26.08 (2) is amended to read:

Comm 26.08 (2) ACTION BY THE DEPARTMENT. ~~Within 30 days after receiving a completed application, the department or its agent shall either approve the application and issue a permit or deny the application.~~ Pursuant to s. Comm 2.07 (3), the department or its agent shall review and make a determination on an application for a community permit within 20 business days. If the application for a permit is denied, the department or its agent shall give the applicant reasons, in writing, for the denial. The department or its agent shall conduct an on-site review for new communities, community expansions or complaints.

SECTION 10. Comm 33.10 (5) is amended to read:

Comm 33.10 (5) PLAN REVIEW PROCESSING TIME. ~~The Pursuant to s. Comm 2.07 (3),~~ the department shall review and make a determination on an application for plan review within 15 business days of receiving the required information and fees.

SECTION 11. Comm 34.05 (5) is amended to read:

Comm 34.05 (5) PLAN REVIEW PROCESSING TIME. ~~The Pursuant to s. Comm 2.07 (3),~~ the department shall review plans, calculations and related information and grant an approval or issue a denial and make a determination on an application for plan review within 15 business days of receiving the requested information and fees. If the department requests information or fees in addition to those originally submitted, the 15 day processing time shall commence upon receipt of the requested items.

SECTION 12. Comm 40.10 (5) is amended to read:

Comm 40.10 (5) APPLICATION PROCESSING TIME. ~~The Pursuant to s. Comm 2.07 (3),~~ the department shall review and make a determination on an application for installation approval within 15 business days of receiving all of the application materials necessary to obtain the approval.

SECTION 13. Comm 43.10 (6) is amended to read:

Comm 43.10 (6) APPLICATION PROCESSING TIME. ~~The Pursuant to s. Comm 2.07 (3),~~ the department shall review and make a determination on an application for installation approval within 15 business days of receiving all of the application materials required under subs. (2) and (3).

SECTION 14. Comm 61.31 (3) (a) is amended to read:

Comm 61.31 (3) APPLICATION FOR APPROVAL. (a) A plan ~~approval review~~ application form shall be included with the construction documents and information submitted to the department for examination and approval. Pursuant to s. Comm 2.07 (3), the department shall review and make a determination on an application for plan review under this chapter within 15 business days ~~of receipt of the application and all forms, fees, construction documents and information required to complete the review.~~

SECTION 15. Comm 82.20 (5) (intro.) is amended to read:

Comm 82.20 (5) PLAN REVIEW. (intro.) Except as provided in sub. (12), and pursuant to s. Comm 2.07 (3), the department shall review and make a determination on an application for plan review within 15 business days ~~of receiving the required information and fees.~~

SECTION 16. Comm 82.20 (12) (a) 3. and (b) 3. are amended to read:

Comm 82.20 (12) (a) 3. ~~The Pursuant to s. Comm 2.07 (3),~~ the department shall review and make a determination on an application for an alternate plumbing system within 3 months ~~of receipt of all information and fees required to complete the review.~~ Approval for an alternate plumbing system shall be issued by the department in writing.

(b) 3. ~~The Pursuant to s. Comm 2.07 (3),~~ the department shall review and make a determination on an application for an experimental plumbing system within 6 months ~~of receipt of all information and fees required to complete the review.~~

SECTION 17. Comm 83.22 (3) (a) is amended to read:

Comm 83.22 (3) (a) Time limits. ~~The Pursuant to s. Comm 2.07 (3),~~ the department shall review and make a determination on ~~the submission of a plan~~ an application for plan review within 15 business days ~~after receiving all the required information and fees.~~

SECTION 18. Comm 90.04 (1) (a) 4. is amended to read:

Comm 90.04 (1) (a) 4. ~~The Pursuant to s. Comm 2.07 (3),~~ the department shall review and make a determination on ~~plan submittal applications under this section~~ an application for plan review within 15 business days ~~of receipt of all information and required fees.~~

SECTION 19. Comm 90.04 (2) (a) 2. is amended to read:

Comm 90.04 (2) (a) 2. ~~The Pursuant to s. Comm 2.07 (3),~~ the department shall review and make a determination on an application for an alternate public swimming pool or whirlpool submittal within 90 days ~~of receipt of all information and fees required for completion of the review.~~

SECTION 20. Comm 90.04 (3) (a) 2. is amended to read:

Comm 90.04 (3) (a) 2. Pursuant to s. Comm 2.07 (3), the department shall review and make a determination on an application for an experimental public swimming pool or whirlpool submittal within 90 days of receipt of all information and fees required for completion of the review.

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.
