

Report From Agency

**STATE OF WISCONSIN
DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES**

**IN THE MATTER OF RULEMAKING : REPORT TO THE LEGISLATURE
PROCEEDINGS BEFORE THE : CR 16-094
DEPARTMENT OF SAFETY :
AND PROFESSIONAL SERVICES :**

I. THE PROPOSED RULE:

The proposed rule, including the analysis and text, is attached.

II. REFERENCE TO APPLICABLE FORMS:

N/A

III. FISCAL ESTIMATE AND EIA:

The Fiscal Estimate and EIA is attached.

IV. DETAILED STATEMENT EXPLAINING THE BASIS AND PURPOSE OF THE PROPOSED RULE, INCLUDING HOW THE PROPOSED RULE ADVANCES RELEVANT STATUTORY GOALS OR PURPOSES:

The proposed rules update outdated references to the relevant model building codes and other standards incorporated by reference throughout chs. SPS 361 to 366, bringing Wisconsin into alignment with current building practices and technologies. The proposed rules further contain provisions that modify each model code to adapt the code to Wisconsin's unique public safety and building needs. Additionally, the proposed rules incorporate requirements from 2013 Wisconsin Act 270, 2015 Wisconsin Act 240, and 2015 Wisconsin Act 333.

Department staff and the Commercial Building Code Advisory Council reviewed thousands of changes contained in 2015 International Code Council® (ICC) model building codes and their associated standards. In consideration of the Council's recommendations, the Department conducted a second review of approximately 750 changes it considered most significant. As a result of its secondary review, the Department determined approximately 225 of the changes could have a potential impact on stakeholders, which could result in either additional costs or additional requirements. In its final review, the Department determined about 40 of the changes would have an adverse effect on stakeholders. The proposed rule incorporates approximately 95 percent of the new changes in the 2015 ICC model building codes.

V. SUMMARY OF PUBLIC COMMENTS AND THE DEPARTMENT'S RESPONSES, EXPLANATION OF MODIFICATIONS TO PROPOSED RULES PROMPTED BY PUBLIC COMMENTS:

The Department of Safety and Professional Services held public hearings on January 31, 2017, February 1, 2017, and February 2, 2017. Attachments 2 through 6 provide a listing

of individuals who registered at the public hearings and/or submitted written testimony during the public comment period.

Out of the 112 individuals that registered at the public hearings, the Department heard from 30 individuals who provided oral testimony on a variety of topics either in support, opposition, or to provide information.

The Department received nearly 280 written comments during the public comment period. Of those comments, approximately 170 individuals supported the rules as proposed, citing the rules strike the right balance to modernize and update the code while keeping buildings affordable for owners. Approximately 75 of the comments, citing safety concerns, were in opposition to a provision relating to the threshold requirement for automatic fire sprinklers in multifamily dwellings.

The Department received about 40 written comments from individuals and organizations on a variety of topics. Approximately 62% of those comments recommended adoption of the 2015 model building codes in their entirety without amendments, particularly the International Energy Conservation Code (IECC).

After considerable review of the public comments and the issues involved, the Department made modifications by incorporating the commenters' recommendations for approximately one-third of the distinct topics.

For the remainder of the topics, the Department believes the proposed rules preserve a balance of safety and affordability for stakeholders while retaining appropriate administrative and regulatory practices. In addition, the proposed rules provide greater flexibility by allowing owners and designers to voluntarily implement a more recent version of the model building codes than what is currently adopted in Wisconsin's commercial building code.

Attachment 1 represents the Department's response regarding each topic.

VI. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS:

Comments:

2.a., 2.w., 2.hh. - The Department believes renumbering and use of subdivisions in the proposed rules provide numerous benefits to the primary users of ch. SPS 361-366, which correspond to the International Code Council (ICC) standard codes. Maintaining consistency with the ICC standard codes provides easier reading, easier understanding, and recollection of where requirements are located, and easier citation of code provisions for enforcement purposes.

2.c. - This section, as proposed, only amends without renumbering.

2.d. - The term "live/work unit" is a term used in the ICC standard codes. The term is retained in the proposed rules to maintain consistency with the ICC.

2.e. - Section 29, s. SPS 361.30 (1) (a), as amended, includes a reference to Table SPS 361.30-1 even though the reference to the table was eliminated in the repeal of s. SPS 361.30 (1) (b).

2.p. - 2015 IBC contains a list of F-2 occupancies. “Cheese factory” is being added to an existing list. Therefore, complete sentence format isn’t warranted.

2.s. - “Definitions” refers to Chapter 2 in 2015 IBC. “Fire separation distance” is one of several definitions in the IBC. Only one term is being modified in this section. However, the term “definitions” is used in its plural form to maintain consistency with IBC and benefit users.

2.y. - LRB was consulted on this recommendation. As a result, this section was amended per LRB’s recommendation.

2.gg. - Section 189 creates a new sub. (1). Section renumbering is necessary to correspond with the numbering system used in the ICC standard codes.

All other Legislative Council recommendations have been incorporated into the proposed rules.

VII. REPORT FROM THE SBRRB AND FINAL REGULATORY FLEXIBILITY ANALYSIS:

The Small Business Regulatory Review Board did not issue a report on the proposed rules.

Wisconsin’s commercial building code applies to a wide range of businesses, including small businesses. The economic and fiscal impact of this rule on small businesses cannot be determined and will vary greatly depending on the size and complexity of each building project. However, the Department does not anticipate that the proposed rules will have a significant economic or fiscal impact on any small business sector.

VIII. DOA HOUSING IMPACT REPORT

The Housing Impact Note from the Department of Administration is attached. (See Attachment 7.)