Attachment 1

SUMMARY OF PUBLIC COMMENTS AND THE DEPARTMENT'S RESPONSES, EXPLANATION OF MODIFICATIONS TO PROPOSED RULES PROMPTED BY PUBLIC COMMENTS
SPS 361-366, Wisconsin Commercial Building Code

This attachment represents the unique issues raised during the public comment period. The comment section reflects a summary of the issues and represents testimony that was presented in support or opposition, or that provided information and recommendations to the Department. After considerable review of all comments, the Department submits its response to each of the issues as indicated below.

#	Topic	Provision	Comments / Recommendations	Agency Response
1.	Alternate Standards re: Use of Recent Model Codes	SPS 361.51 (8) Section 59 Pg. 31	The Department received several comments in support of the proposed rule provision that allows the use of a more recent model code than the adopted standards and allows flexibility for owners and designers. Some commenters cite possible hardships for the municipalities' inability to provide training to local inspectors on the newer codes and standards and have concerns regarding the expense of acquiring the newer codes.	No resulting changes were made to the proposed rule revisions. The Department believes the proposed rules provide options and flexibility for owners and allow municipalities to contract with a third-party inspection agency if they are unable to provide local inspection.
2.	Use of Recent Model Codes re: statute references	SPS 361.51 (8) Section 59 Pg. 31	The commenter states that the change to this section does not include the Wisconsin Administrative code sections SPS 361-366 and that the proposed code change should mention the existence of state statutes that are applicable regardless of the use of adopted codes or alternate codes.	No resulting changes were made to the proposed rule revisions. State statutes give the Department the general authority to promulgate rules. The Department further determined that the rules as proposed include sufficient references to applicable statutes.
3.	Precedence Variances	SPS 361.51	The commenter recommends including previously-approved interpretations by the Department to provide for the consistent interpretation by plan reviewers and to eliminate the variance process for previously approved variances.	No resulting changes were made to the proposed rule revisions. The Department believes its existing variance review process reflects appropriate administrative and regulatory practices.
4.	Alternate Standards Plan Review re: local building & fire officials	SPS 361.51 (8) Section 59 Pg. 31	Several commenters requested additional authority for local building and fire officials in approving a plan based on a more recent national model code than what is adopted by the Department.	No resulting changes were made to the proposed rule revisions. The Department believes its existing plan review process reflects appropriate administrative and regulatory practices.
5.	Design vs. Supervising Professional	361.51(8)(a) Section 59 Pg. 31	Several commenters propose changing the term "supervising professional" to "design professional" in section 361.51 (8) citing such reference would mesh with the requirements of section SPS 361.20 (2), and state law.	Changes were made to the proposed rule revisions to incorporate the commenters' recommendations.
6.	Special Inspections & Tests	SPS 362.1700 Section 138 Pg. 50	The commenter requests the adoption of IBC Chapter 17 (Special Inspections and Tests) citing that chapter 17 will provide an additional layer of supervision and inspection on critical life safety elements and components of a building.	No resulting changes were made to the proposed rule revisions. The proposed rule only amends existing rule to coincide with the renumbering of sections in the 2015 IBC. Further, the adoption of Chapter 17 would result in unnecessary and costly inspections.

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7.	Wisconsin Amendments	General Comment	Several commenters recommend the adoption of the 2015 International Codes without Wisconsin amendments, citing many of the "Wisconsinism" code sections are written based on current code requirements and adoption of the most current version of the International Codes would reduce the need for special Wisconsin-specific amendments.	No resulting changes were made to the proposed rule revisions. The Department believes Wisconsin amendments are essential to provide a good balance between modernization and safety, as well as provide flexibility and alleviate financial burdens for owners, builders, and small businesses.
8.	Sprinkler Requirements for Multifamily Dwellings	SPS 362.0903 (5) (b) Section 83 Pg. 39	Several commenters request the removal of fire sprinkler protection threshold from 3 to 20 dwelling units citing safety for firefighters and occupants. Several commenters support the proposed rule citing cost-savings for homeowners and builders.	No resulting changes were made to the proposed rule relating to this provision. The Department requested an opinion from the Attorney General's office relating to the statutory authority as provided under s. 101.14 (4m) (b) 2., Stats. The Attorney General concluded that the current "Sprinkler Rule" contains a requirement that is more restrictive and exceeds explicit authority.
9.	Adoption of 2015 International Energy Conservation Code (IECC)	SPS 363	Several commenters support the proposed rule containing modifications to the 2015 IECC, citing alleviating financial burdens on owners and home builders, in addition to the wider availability of cost- effective options and energy efficient technology. Several commenters support the adoption of the 2015 IECC without Wisconsin amendments, citing support for the energy efficient, commissioning, and compliance provisions, in addition to maintaining competitive and compatible with surrounding states.	No resulting changes were made to the proposed rule revisions. The proposed rules give owners and designers the ability to voluntarily exceed the current adopted code and implement 2015 ICC model standards. The Department believes Wisconsin amendments are essential to provide a good balance between modernization, safety, and alleviating financial burdens for owners, builders, and small businesses.
10.	Total Building Performance Compliance	SPS 363.0401 (5) Section 180 Pg. 57	The commenter feels the intention is unclear regarding the proposed "note" in Section 180 relating to the requirements for using the total building performance compliance path. Further, the use of section C407 "requires the total building energy cost to be equal to or less than the standard reference design building, as required under IECC section C401.2 item 3." The commenter suggests revising the language to read the same as the language under IECC section C401.2 item 3.	No resulting changes were made to the proposed rule revisions. The commenter references a previous version of the proposed rule and not the public hearing version. Amendments were made from the previous draft to provide clearer directives.

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11.	Buildings without Access to Municipal Water Supply	SPS 362.0903 (18) Section 87 Pg. 40	Several commenters supported the proposed rule to exempt fire sprinklers for certain building structures without access to a municipal water supply citing cost savings for small business owners. Some commenters opposed the elimination of fire sprinklers citing responder and occupant safety, additional safeguards are needed for Group R and larger Group A occupancies, in addition to the availability of alternative water source options. A commenter testified that the proposed language in this section is long, complicated, and difficult to decipher, and recommended allowing local communities to determine equivalencies based upon their infrastructure and resources and if it is necessary to modify these requirements through local ordinances. A commenter recommended expanding the limitation of 180 days and increasing the occupancy load limit for repurposed A-2 occupancies located on a farm premise.	The Department believes the rule as proposed is necessary to alleviate financial burdens for small businesses, owners, and builders of rural occupancies. However, revisions were made to the proposed rule to provide clarity.
12.	Fair Housing Law Requirements for Existing Buildings	Ch. SPS 366	The commenter feels the rule contains federal Fair Housing Law building code requirements for existing buildings (IEBC) but lacks Wisconsin requirements for accessibility and equal rights.	No resulting changes were made to the proposed rule revisions. The Department believes the proposed rule meets statutory Fair Housing requirements.
13.	Plan Review for spaces less than 100,000 cu. ft.	SPS 361.60(5)(c)3 Section 53 Pg. 32	Some commenters recommend eliminating any changes to this section or increasing the building volume that would maintain the existing authority given to delegated municipalities citing plan reviews are best handled at the local level for spaces less than 100,000 cubic feet, the change will increase the number of plans submitted to the Department resulting in unnecessary delays, and greatly reduces the ability of delegated municipality to preform plan reviews.	No resulting changes were made to the proposed rule revisions. The Department believes the proposed rule is necessary to align with statute.

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14.	Assembly Occupancies on Roof Structures	SPS 362.0903 (16) Section 87 Pg. 39	Some commenters oppose the Wisconsin amendment to exclude roof structure occupancy requirements citing rooftop occupancies at greater risk for loss of life, and feel the rule should include occupancy, height, and construction limits, guarding or edge protection, sprinklers, and audible alarm system to alert occupants to a possible fire.	No resulting changes were made to the proposed rule revisions. The Department believes other sections of the rule trigger safety measures for roof structures intended for occupancy, such as guard rails and exit requirements.
15.	Spaces Below Bleachers	SPS 362.1029	Some commenters oppose the Wisconsin amendment to exclude provisions for spaces under bleachers citing that these spaces need to have separation as they are frequently used as occupancies, storage and create hazardous conditions.	No resulting changes were made to the proposed rule revisions. The Department believes a Wisconsin amendment is necessary in this section to alleviate financial burdens for owners, builders, and small businesses.
16.	Wood-pellet Heating	SPS 364	One commenter proposed the allowance of wood-pellet heating as primary heat source for commercial buildings (similar to the Uniform Dwelling Code).	No resulting changes were made to the proposed rule revisions. The Department believes no code change is required since certain sections of the adopted International Mechanical Code (IMC) permit heating by any solid fuel appliance (including wood) provided it is listed and tested for such use.
17.	Elevator Emergency Operation	SPS 362.0907	The commenter feels that language should be included to alleviate any inconsistencies with SPS 318 and other referenced standards relating to elevator firefighter emergency operations.	Changes were made to the proposed rule revisions to incorporate the commenters' recommendations.
18.	Standardized Fire Service Elevator Keys	SPS 362.3003	The commenter recommends a subsection should be included to address standardized fire service elevator keys as more restrictive code language in other standards (not adopted by Wisconsin) may lead to confusion and unnecessary costs to building owners. This provision is consistent with SPS 318.	Changes were made to the proposed rule revisions to incorporate the commenters' recommendations.
19.	NFPA 72 - Smoke or Heat Detectors in Elevators	SPS 362	The commenter recommends deleting 2013 NFPA 72 codes that would require smoke or heat detectors for fire fighter emergency operation in elevator pits where associated with elevator pit sprinklers. This proposal would alleviate a costly requirement.	Changes were made to the proposed rule revisions to incorporate the commenters' recommendations.
20.	Storm Shelters in Group E Occupancies	SPS 362.0423 Section 65 Pg. 36	The Department received comments both supporting and opposing the exclusion of the provision requiring a dedicated space for a storm shelter for Group E occupancies (schools).	No resulting changes were made to the proposed rule revisions. Local schools may voluntarily choose to include storm shelters. The Department believes a Wisconsin amendment is necessary in this section to alleviate financial burdens for owners and builders.

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21.	Sprinkler Requirements re: Upholstered Furniture	SPS 362.0903 (12) Section 87 Pg. 39	The Department received comments both supporting and opposing the exclusion of the sprinkler system requirements for occupancies containing upholstered furniture.	No resulting changes were made to the proposed rule revisions. The Department believes a Wisconsin amendment is necessary in this section to alleviate financial burdens for owners, builders, and small businesses.
22.	Limited Area Sprinkler Systems	SPS 362.0903 (17) Section 87 Pg. 39	The Department received comments both supporting and opposing the exclusion of the limited area sprinkler system requirements.	No resulting changes were made to the proposed rule revisions. The Department believes a Wisconsin amendment is necessary in this section to alleviate financial burdens for owners, builders, and small businesses.
23.	Temporary Use Permit	SPS 366.0101 (3) Section 242 & 243 Pg. 76	The commenter contends that temporary permits are not being issued by local municipal building inspectors or fire chiefs and lack citing a reason. The commenter recommends changing the term to "Seasonal Use Permit" to avoid a misinterpretation of the intention of the temporary use permits.	No resulting changes were made to the proposed rule revisions. The Department believes its existing process for issuing temporary permits reflects appropriate administrative and regulatory practices.
24.	Smoke Damper Actuation	SPS 364.0607 (1m) Section 232 Pg. 74	The commenter supports the proposal that allows the elimination of duct smoke detectors within 5 feet of the smoke damper or spot detectors. However, the commenter feels the code change as written is not clear and recommends a modification to so that building designers understand that the allowable provision is one of the acceptable methods of compliance.	Changes were made to the proposed rule revisions to incorporate the commenters' recommendations.
25.	Appointed Agents	SPS 361.61	Commenters request expansion of the authority for appointed agents and seek more definitive rules concerning delegation of fire alarm system and fire sprinkler system plan review, to empower fire chiefs to assign plan review and inspection duties as they see fit, and to establish a process by which the fire chief simply informs the Department that the fire department, through municipal ordinance, will be requiring and performing plan review and inspection for fire alarm systems and fire sprinkler systems. Commenters feel this will avoid duplication of plan review and inspection efforts by the Department. Commenters further request that fire departments are permitted to waive their jurisdiction for plan review and inspection of a specific project, or types of projects, and for those inspections to be performed by the Department.	No resulting changes were made to the proposed rule revisions. The Department believes its existing requirements for appointed agents reflect appropriate administrative and regulatory practices.

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26.	Fees for Appointed Agents	SPS 361.61 (2) (b) 2.	Commenters request repeal of section which establishes participation fees charged to appointed agents of the Department.	No resulting changes were made to the proposed rule revisions. The Department believes its existing fee requirements for appointed agents reflect appropriate administrative and regulatory practices.
27.	Ventilation Requirements	Table 364.0403 Note i. Section 221 Pg. 72	Commenters feel this section contains language that is a broad expansion of current code and more restrictive than the International Mechanical Code (IMC) regarding ventilation requirements in buildings and warehouses intended to reduce CO.	The proposed rule was amended to create a new footnote pertaining to warehouses to include drive-through self-service storage facilities which permits a customer to temporarily unload or load materials provided the engine is not idling. Footnote "i" was not changed since the language does not change current requirements but provides additional flexibility.
28.	Classification of Boats as Motor Vehicles	SPS 364.0202 (1) (f) Section 207 Pg. 63	Commenter contends a boat should not be considered a motor vehicle.	The proposed rule was amended to exclude boats in the definition of 'motorized vehicle'. The proposed rule was further amended to permit the dry storage of boats in storage facilities.
29.	Timely Onsite Inspections	SPS 361.41 Section 46 Pg. 25	The commenter contends that timely onsite inspections should be included in the Commercial Building Code, similar to provisions under the Uniform Dwelling Code. The commenters further acknowledge that inspections are not a requirement under the current Commercial Building Code but recommends where required, they should be performed in a timely manner in order to save time and money.	Changes were made to the proposed rule revisions to incorporate the commenters' recommendations. The revised provision requires inspections within 5 working days, where required, and to allow work to proceed if the inspection is not completed within the established timeframe.
30.	Guard Rails	SPS 362.1015 Section 106 Pg. 45	The commenter feels this proposed language could trigger a requirement for guards on all roofs if the term "building occupant" is interpreted to mean anyone that is in the building, including maintenance personnel.	No resulting changes were made to the proposed rule revisions. The Department believes the proposed rule is consistent with code language and is not applicable in the example given by the commenter.
31.	Alternative Methods for Drinking Fountains	362.2902 (1) (a) 2. Section 151 Pg. 52	The commenter questions whether the provisions that allow reasonable alternatives for drinking fountains require a plan submission and approval of the alternate method plan by the Department.	No resulting changes were made to the proposed rule revisions. The Department feels the current language provides clear directives for approval of alternative methods.

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32.	Existing Buildings Converted to CBRFs	SPS 361.020 (4) Section 7 Pg. 16	The commenter raises a question regarding what happens with an existing building that is converted to a CBRF that contains 21 or more residents since the provision applies to any existing building that is converted to a community-based residential facility for 9 to 20 residents.	No resulting changes were made to the proposed rule revisions. Section 7 simply renumbers and amends current rule language and provides consistent application with statute.
33.	Domestic Cooking Systems	SPS 362.0904(3) Section 94 Pg. 43	The commenter supports the exclusion for hood sprinkler requirements for domestic cooking systems but questions a potential conflict and coordination issues with similar provisions in other codes (e.g. NFPA 101 – Life Safety Code).	Changes were made to the proposed rule revisions to include a clarifying note from DHS to reference a DHS provision. DHS requirements are more restrictive but not in conflict with the Department requirements.