



State of Wisconsin \ Department of Commerce

RULES in FINAL DRAFT FORM

Rule No.: Chapter Comm 91

Relating to: Equal Speed of Access to Toilets at Facilities Where
the Public Congregates

Clearinghouse Rule No.: 04-072

COM-10535 (N.03/97)

**ORDER OF THE
DEPARTMENT OF COMMERCE**

CREATING RULES

The Wisconsin Department of Commerce proposes an order to renumber Comm 91.03 (1) to (6);
to amend Comm 91.01 and 91.02 (1);

and to create Comm 62.2902 (1) (b) Note (4); 91.03 (1), (4), and (8); and 91.14, relating to equal
speed of access to toilets at facilities where the public congregates, and affecting small business.

ANALYSIS OF PROPOSED RULES

Statutory Authority and Statutes Interpreted

Statutory Authority: ss. 101.02 (1) and 101.128, Stats.

Statutes Interpreted: ss. 101.02 (1) and 101.128, Stats.

Summary

Under section 101.128 (1) (b) of the statutes, a “facility where the public congregates” is defined as a place having a general capacity or a seating capacity of 500 or more people. Under section 101.128 (2) (b) of the statutes, the Department must establish standards at these facilities, for ensuring that females have a speed of access to toilets which equals the speed of access that males have. The proposed rule revisions under chapter Comm 91 apply only to amusement facilities and specialty event centers where the public congregates.

For public buildings and places of employment with a public seating capacity of 500 or more persons, the Department has already established equal speed of access standard under chapters Comm 61 to 65, which is the *Wisconsin Commercial Building Code*, and in chapter Comm 90, which addresses public swimming pools and other water attractions.

The proposed rules would establish equal speed of access requirements for amusement facilities and specialty event center facilities where the public congregates that are:

- (1) Places that are not a building, structure, public swimming pool or water attraction.
- (2) Places where more than 500 people congregate.
- (3) Places where the owner or event sponsor decides to provide separate-gender toilet facilities.

The proposed rules would *not* apply to any existing facility of this type, unless one of the following occur:

- (1) New separate-gender restrooms or toilet facilities are constructed or provided to serve an amusement facility or a specialty event center, in which case the rules would apply only to the new restrooms or toilet facilities.
- (2) More than 50% of the square footage of an existing separate-gender restroom or toilet room serving the amusement facility or specialty event center is renovated in which case the rules would apply only to the renovated portion.

The proposed ratio of two female toilets for every male toilet and every urinal is identical to the ratio that is contained in the *Wisconsin Commercial Building Code*, which adopts by reference the *International Building Code*[®] (IBC). The IBC has been upgraded in recent years to achieve equal speed of access to toilets, particularly where large numbers of the public congregate.

An Internet-based search of existing and proposed federal regulations did not identify any that address equal speed of access to toilets.

An Internet-based search of adjacent states identified only Minnesota as having statewide rules that specify a ratio of female restroom facilities to male restroom facilities, at public gathering places, which are similar to those addressed by the rules proposed here for Wisconsin. The Minnesota rules specify that the ratio of water closets for women to the total of water closets and urinals provided for men must be at least three to two, unless there are two or fewer fixtures for men; and this ratio is applied to places of public accommodation that are designed for occupancy by 200 or more people.

SECTION 1. Comm 62.2902 (1) (b) Note (4) is created to read:

Comm 62.2902 (1) (b) **Note** (4): Chapter Comm 91 has requirements for equal speed of access to toilets for each gender, at facilities where the public congregates that do not fall under the scope of this chapter.

SECTION 2. Comm 91.01 is amended to read:

Comm 91.01 Purpose. ~~The purpose of this~~ This chapter has the following purposes:

(1) This chapter is to establish ~~establishes~~ minimum standards and criteria for the design, installation and maintenance of sanitation systems and devices which are alternatives to water-carried waste plumbing fixtures and drain systems so that these sanitation systems and devices are safe and will safeguard public health and the waters of the state.

(2) This chapter establishes criteria for equal speed of access to toilets for each gender in restrooms serving an amusement facility and a specialty event center where the public congregates.

Note: Chapter Comm 61 to 65 relating to commercial buildings and structures specifies the minimum number of toilet facilities for women and men.

Note: Chapter Comm 90 relating to swimming pools and water attractions contains minimum number of toilet facilities for women and men.

SECTION 3. Comm 91.02 (1) is amended to read:

Comm 91.02 (1) This chapter has the following applications:

(a) This chapter applies to all composting toilet systems, incinerating toilets, pit privies and vault privies installed or constructed on or after the effective date of this chapter.

(b) This chapter applies to separate-gender restrooms serving an amusement facility and a specialty event center where the public congregates that are constructed or altered as specified in s. Comm 91.14.

SECTION 4. Comm 91.03 (1) to (6) are renumbered Comm 91.03 (2), (3), (5) to (7), and (9).

SECTION 5. Comm 91.03 (1), (4) and (8) are created to read:

Comm 91.03 (1) “Amusement facility” has the meaning given in s. 101.128 (1) (a), Stats.

Note: Section 101.128 (1) (a), Stats., reads as follows: “ ‘Amusement facility’ means any zoo, state or local park, amusement or theme park, state fair park, county or other local fairgrounds, or any similar facility, as determined by department rule.”

(4) “Facility where the public congregates” has the meaning given in s. 101.128 (1) (b), Stats.

Note: The relevant portions of section 101.128 (1) (b), Stats., read as follows: “ ‘Facility where the public congregates’ means any of the following that has a general capacity or a seating capacity of 500 or more persons:

1. An amusement facility.
3. A specialty event center.”

(8) “Specialty event center” has the meaning given in s. 101.128 (1) (g), Stats.

Note: Section 101.128 (1) (g), Stats., reads as follows: “ ‘Specialty event center’ means an open arena used for rallies, concerts, exhibits or other assemblies, with no permanent structure for such assembly.”

SECTION 6. Comm 91.14 is created to read:

Comm 91.14 Equal speed of access to toilets. (1) APPLICATION. This section applies to the toilet fixtures in separate-gender restrooms serving an amusement facility and a specialty events center where the public congregates that are constructed or renovated on or after [Revisor to insert effective date of rule, which is the 7th month after publication in the Register] only if one of the following occurs:

(a) New separate-gender restrooms are constructed or separate-gender toilets are provided, in which case this section applies only to the new restrooms.

(b) More than 50% of the square footage of an existing separate-gender restroom is renovated, in which case this section applies only to the renovated portion.

Note: Under section 101.128 (1) (d), Stats., “ ‘renovation’ means any structural remodeling, improvement or alteration of an existing facility where the public congregates. ‘Renovation’ does not include any of the following:

1. Reroofing.
2. Cosmetic remodeling, including painting or the installation of wall covering, of paneling, of floor covering or of suspended ceilings.
3. An alteration to an electrical or mechanical system.”

(2) NUMBER OF TOILET FACILITIES. When separate public restrooms or other toilet facilities are provided for males and females at an amusement facility and a specialty event center where the public congregates, the number of toilets for the females shall be provided at a ratio of 2 for every toilet and every urinal provided for the males.

(END)

EFFECTIVE DATE

Pursuant to s. 227.22 (2) (b) and 101.128 (4), Stats., these rules shall take effect on the first day of the 7th month beginning after the date of publication in the *Wisconsin Administrative Register*.

File reference: equal speed of access/adoption draft