

**ORDER OF THE
DEPARTMENT OF COMMERCE**

CREATING RULES

The Wisconsin Department of Commerce adopts an order to repeal Comm 14.001 (2) (b); 14.01 (2) (a) 1. (intro.) and a., (5), (7) (b) Note, and (9) (a) and (b); 22.38 (3) (d) and 63.0102 (1) and Note and (2) (title);

to renumber Comm 14.01 (1) (c) 1. to 4., 6. and 7., (2) (a) 3., (c), (d) and (f) (title), 1., 3. and 4., (4) (title), (a) 2. and 3. and (b), (6) and Note [2], (7) to (10), (11) (title), (intro.), (a), (b) (title), 1., 2., 4., 5. (intro.) and a. to r., 6. (title) and a. and 8. to 10., (c) and (d) and (12) (title), (intro.), (a) (title), 1. b. and 2. b., (b), (c), (d) (title), 1. and 3., (e) and (f) (title), 1. and 2.; 14.03 (intro.), (1) to (5) and (8) to (10); 14.10 (2); 14 Appendix section A-14.01 (6); 22.01 (1) Note [2]; 22.38 (3) (e); 61.60 (2) (a) 4., (b) 3. and (e); 61.61 (2) (a) 4. and (b) 4. and (3) and 63.0102 (2) (b) 1. to 3. and 4. (intro.) and 1.;

to renumber and amend Comm 14.001 (2) (a); 14.01 (1) (a) and (c) (intro.), 5. and Note, (2) (intro.), (a) 1. b., 2. and Note and 4., (e) and (f) (intro.), 2. and Note, (3) and Note, (4) (a) 1., (6) Note [1], (11) (b) 3., 5. (title), r. Note and s., 6. b. and c., 7. and Note, 9. Note and (e), and (12) (a) 1. a. and 2. a., (c) 1. Note, (d) 2. and Note and (f) 1. Note and 2. Note; 14.03 (6) and (7); 61.60 (2) (a) 3.; and 63.0102 (2) (a) and (b) 4. b.;

to amend Comm 14 subchapter I (title); 14.001 (1) (a) and Note and (b); subchapter II (title) and Note; 14.01 (1) (e) and (f); 14.10 (1) Note; 14.13 (4) Note; 14.20; 21.03 (1) (c); 21.25 (8) (e) 2.; Table 21.25-H footnote 5; Table 21.25-J footnote 2; 21.25 (9) (b) 3.; Figure 21.25-G (c); 21.25 (9) (c) 4.; 21.26 (8) (a) 3. and Note; 22.10 (17); 22.21 (1) Note; Table 22.31-1 footnote c; Table 22.31-4 footnote d; 22.31 (2) (a) Note; 22.33 (1) and (2); 22.40 (3) Note; 23.02 (3) (b) Note [2]; 23.08 (4); 61.60 (2) (c) (intro.) and (d) 1.; 61.61 (2) (a) 3.; 63.0404 Note and 66.0101 (2) (title);

to repeal and recreate Comm 14.01 (1) Note [3], (7) Note and (9) (a) and (b) and

to create Comm 14.01 (1) (a) Note, (c) 2. and 8. Note and (g) and Notes, (2) (a) 4., (b) (intro.) and 4. Note, (3) (intro.), (4) Note [2], (6) (title) and (intro.), (9) (b) Note, (11) (a) and (b), and (13) (b) 3. Note and 6. and Note; 14.10 (2) and Note and (3) and Note; 14.34; 14.50; 14.53; 14 Appendix sections A-14.01 (2) (b) 4., (9) (b) and (13); 22.01 (1) Note [2]; 22.52 (1) Note; 23.08 (4) Note; 61.60 (2) (a) 3. and 4., (b) 3. and (e); 61.61 (2) (a) 4. and 5. and (b) 4. and (3); 62.0400 (5); 62.1200 (2) (a) 6.; and 63.0504 (3) – relating to fire prevention; recordkeeping for fires; fire suppression for mobile kitchens; structural, ventilating, and vapor-barrier requirements for one- and two-family dwellings; and local enforcement, no-smoking signs, carbon monoxide detectors, and energy conservation, for commercial buildings; and affecting small businesses.

Analysis of Rules

1. Statutes Interpreted.

Sections 19.21 (4) (b); 101.02 (15) (j); 101.12 (3); 101.14 (1) (a), (am) and (b) and (2) (c) 1.; 101.141, and 101.63 (1).

2. Statutory Authority.

Sections 101.02 (15) (j), 101.14 (1) and (2) (c) 1., 101.63 (1), and 227.11 (2) (a).

3. Explanation of Agency Authority.

Section 101.02 (15) (j) of the Statutes requires the Department to promulgate rules for the construction, repair and maintenance of safe public buildings and places of employment.

Section 101.14 (1) of the Statutes authorizes the Department to make reasonable orders for the repair or removal of any buildings or other structures or combustible or explosive materials or inflammable conditions which are dangerous to any other building or premises or to occupants or which hinder firefighters in case of fire.

Section 101.14 (2) (c) 1. of the Statutes requires the Department to promulgate by rule any exceptions where fire prevention inspections can be performed less frequently than once in each non-overlapping 6-month period per calendar year.

Section 101.63 (1) of the Statutes requires the Department to adopt rules which establish standards for the construction and inspection of one- and two-family dwellings.

Section 227.11 (2) (a) of the Statutes authorizes the Department to promulgate rules interpreting the provisions of any Statute administered by the Department. Those Statutes include section 101.02 (15) (j), which addresses construction of safe public buildings and places of employment; section 101.14 (1) (am), which establishes a fire-suppression-system exemption for low-use mobile kitchens; and 101.141, which addresses record keeping for all building-related fires. Section 19.21 (4) (b) establishes a minimum time period for cities, villages and towns to retain public records.

4. Related Statute or Rule.

The Department has various statutory obligations and rules relating to fire prevention and building safety – which include the design and construction requirements in chapters Comm 61 to 66 for public buildings and places of employment, as promulgated under sections 101.02 (15) (j) and 101.14 (4) of the Statutes; and the fire-prevention and inspection requirements in chapters Comm 10 and 14 for public buildings and places of employment, as promulgated under sections 101.14 (1) (a) and (2) of the Statutes.

5. Summary of Rule.

The rules for chapter Comm 14 in this order primarily update the incorporated National Fire Protection Association® NFPA® 1 fire prevention code from the 2006 edition to the 2009 edition, with the approval of the Attorney General.

The rules also specify (1) an expanded scope of the chapter so that only buildings, structures, or situations which are sovereignly controlled are excluded from the chapter; (2) the information that all fire departments must report to the United States Fire Administration for all fires; (3) an occupancy period of no more than six months, for seasonal occupancies to be eligible for being inspected only once per calendar year; (4) an exception that allows fire departments in non-first-class cities to reduce their inspection frequency in low-use buildings, based on the same criteria applied in first-class cities; (5) a time period of at least seven years, for cities, villages and towns to retain records for fire prevention inspections and fire dues entitlement; (6) the maximum size and usage, and minimum record keeping, for a mobile kitchen that is allowed to not have an exhaust hood and corresponding automatic fire suppression system; (7) that the requirements in NFPA 1 chapter 53 for mechanical refrigeration do not apply; (8) some minor cross-reference and other editorial corrections in the requirements for one- and two-family dwellings; (9) submittal of local ordinances where municipalities choose to perform plan review or inspection of commercial buildings; (10) criteria for no-smoking signs; (11) options for installing carbon monoxide detectors for fuel-burning appliances that are located within small enclosed spaces; and (12) some minor cross-reference and other editorial corrections in the requirements for energy conservation in public buildings and places of employment.

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

The Federal Fire Prevention and Control Act of 1974 (P.L. 93-498) authorizes the National Fire Data Center in the United States Fire Administration to gather and analyze information on the magnitude of the nation's fire problem, as well as the detailed characteristics and trends of the problem. The Act further authorizes the USFA to develop uniform data reporting methods, and to encourage and assist state agencies in developing and reporting data. In order to carry out the intentions of the Act, the National Fire Data Center has established the National Fire Incident Reporting System.

An Internet-based search of recent editions of the *Federal Register* did not reveal any currently proposed regulations regarding fire investigation reports, fire inspections for buildings that are occupied seasonally, or commercial cooking equipment for mobile kitchens.

7. Comparison With Rules in Adjacent States.

Illinois

The State of Illinois is applying the 2006 edition of the *International Fire Code*® (IFC), excluding Chapter 4, to public schools. No references were found relating to adoption of NFPA 1.

An Internet-based search of the terms “fire reports,” “seasonal occupancies,” “fire inspections,” “fire records,” “mobile kitchens,” “fire incident reporting,” “fire incidents,” “fire reports,” “incident reporting,” and “NFIRS reports” yielded the following results: The officer

making investigations must notify the Office of the State Fire Marshal by the 15th of the month following the occurrence of fire. The notification must include a statement of all facts relating to the cause and origin of the fire, and such information as may be called for in a format approved or on forms provided by the Office. Reporting of such information must be based upon the nationally recognized standards of the United States Fire Administration's National Fire Incident Reporting System. The OSFM no longer accepts data via e-mail or data on disks. Fire departments are trained to upload their own data directly to the USFA. Reporting "No Activity" is also required. No department can receive any state or federal funding without first being a faithful reporter to the NFIRS program.

An Internet-based search of the Illinois Administrative Code revealed that Illinois has adopted the NFPA 101® *Life Safety Code*®, which does address commercial cooking devices, but does not specify fire-protection exemptions for mobile kitchens of less than a particular square footage or of limited use, nor does it specifically address fire inspection of seasonal occupancies.

Iowa

The State of Iowa has adopted the 2000 edition of the IFC. The only reference found for NFPA 1 related to use by local municipalities.

An Internet-based search of the terms "fire reports," "seasonal occupancies," "fire inspections," "fire records," "mobile kitchens," "fire incident reporting," "fire incidents," "fire reports," "incident reporting," and "NFIRS reports" yielded the following results: For reports of fires and emergency responses, the State Fire Marshal's Division is to be notified immediately when death, serious bodily injury, or property damage in excess of two hundred thousand dollars has occurred as a result of a fire or if arson is suspected. For all other fires causing fifty dollars or more in damage or emergency response by the fire service, a report must be filed within ten days following the end of the month. The penalty for non-reporting is a simple misdemeanor. Based on course offerings for Iowa Fire School, Iowa follows NFIRS and encourages use of the corresponding Firehouse Software®. Fires are investigated by city or township officials, and reports are filed with the State Fire Marshal within a week unless an extension is granted. These fire records are on file in the Fire marshal's office, and some data is not considered accessible for public record.

The IFC, as adopted by Iowa, does not specifically address fire inspection of seasonal occupancies. The IFC does address commercial cooking devices, but does not specify fire-protection exemptions for mobile kitchens of less than a particular square footage or of limited use.

Michigan

The State of Michigan has adopted the 2006 edition of NFPA 1.

An Internet-based search of the terms "fire reports," "seasonal occupancies," "fire inspections," "fire records," "mobile kitchens," "fire incident reporting," "fire incidents," "fire reports," "incident reporting," and "NFIRS reports" yielded the following results: Immediately after the occurrence of fire resulting in loss of life or property, the chief must make and file with the State Fire Marshal a complete fire incident report of the fire. The report must be made on and according to modules supplied by the State Fire Marshal. Violation of these requirements is a misdemeanor.

Michigan requires local police and fire departments to report incidents such as fires to the Michigan Bureau of Fire Services, which maintains these records.

An Internet-based search of the terms “fire inspections,” “seasonal occupancies” and “mobile kitchens” yielded no results of Michigan regulations specifically regarding these issues. An Internet-based search of the Michigan Administrative Rules revealed that they do not specify fire-protection exemptions for mobile kitchens of less than a particular square footage or of limited use, nor do they specifically address fire inspection of seasonal occupancies.

Minnesota

The State of Minnesota has adopted the 2006 edition of the IFC. No references were found relating to adoption of NFPA 1.

An Internet-based search of the terms “fire reports,” “seasonal occupancies,” “fire inspections,” “fire records,” “mobile kitchens,” “fire incident reporting,” “fire incidents,” “fire reports,” “incident reporting,” and “NFIRS reports” yielded the following results: Minnesota requires local officers to investigate fires and to file a report with the State Fire Marshal within a week. The Fire Marshal maintains these records and compiles statistics based on the data, which is available to the public. However, as of January 1, 2009, Minnesota began providing a statewide software program for fire reporting created by ImageTrend Inc. It is recommended that incidents be reported to the State Fire Marshal Division monthly.

An Internet-based search of the terms “fire inspections,” “seasonal occupancies” and “mobile kitchens” yielded no results of Minnesota regulations specifically regarding these issues. The 2006 edition of the IFC, as adopted by Minnesota, does not specifically address fire inspection of seasonal occupancies. The IFC does address commercial cooking devices, but does not specify fire-protection exemptions for mobile kitchens of less than a particular square footage or of limited use.

8. Summary of Factual Data and Analytical Methodologies.

The data and methodology for developing these rules were derived from and consisted of comparing the 2006 and 2009 editions of NFPA 1, and incorporating the applicable criteria from 2007 Wisconsin Acts 75 and 173.

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

The primary documents that were used to determine the effect of the rules on small businesses were the 2006 and 2009 editions of NFPA 1; 2007 Wisconsin Act 75, which addresses record keeping for all building-related fires; and 2007 Wisconsin Act 173, which establishes a fire-suppression-system exemption for small, low-use mobile kitchens.

10. Effect on Small Business.

The rules are not expected to impose significant costs or other impacts on small businesses because the 2009 edition of NFPA 1, as modified in chapter Comm 14, is not expected to impose costs that substantially exceed the costs imposed by the currently adopted 2006 edition; the record-

keeping requirements for fires and fire-prevention inspections apply only to fire departments and municipalities; and the record-keeping requirement for low-use mobile kitchens applies only where an exemption is desired from installing an exhaust hood and corresponding automatic fire suppression system.

11. Agency Contact Person.

Joe Hertel, Wisconsin Department of Commerce, Bureau of Program Development, P.O. Box 2689, Madison, WI, 53701-2689; telephone (608) 266-5649; e-mail joe.hertel@wisconsin.gov.

SECTION 1. Comm 14 subchapter I (title) and 14.001 (1) (a) and Note and (b) are amended to read:

Comm 14 Subchapter I (title) – Adoption and Application of NFPA[®] 1, *Uniform Fire Code*

Comm 14.001 (1) (a) *Adoption of model fire code.* NFPA 1, *Uniform Fire Code*[™] – ~~2006~~ 2009, subject to the modifications specified in this chapter, is hereby incorporated by reference into this chapter.

Note: A copy of NFPA 1, *Uniform Fire Code*, is on file in the offices of the ~~department~~ Department and the ~~legislative reference bureau~~ Legislative Reference Bureau. Copies of NFPA 1, *Uniform Fire Code*, may be purchased from the National Fire Protection Association, at 1 Batterymarch Park, Box 9101, Quincy, MA, 02269-9101; and may be purchased or accessed free of charge at www.nfpa.org.

(b) *Application of model fire code.* The use, operation and maintenance of public buildings and places of employment shall comply with NFPA 1 as referenced in par. (a), except as otherwise provided in this chapter.

SECTION 2. Comm 14.001 (2) (a) is renumbered Comm 14.001 (2) and amended to read:

Comm 14.001 (2) Where a municipality has by ordinance adopted requirements of the *International Fire Code*[®] – ~~2006~~ 2009 and any additional requirements, that, in total, are equivalent to NFPA 1 as referenced in sub. (1) and subch. II, the department will not consider that ordinance to be in conflict with sub. (1) ~~and subch. II~~; and property owners or managers, or employers, need only comply with that ordinance.

SECTION 3. Comm 14.001 (2) (b) is repealed.

SECTION 4. Comm 14 subchapter II (title) and Note are amended to read:

Comm 14 Subchapter II (title) – Modifications of NFPA 1, *Uniform Fire Code*

Note: The sections in this subchapter are generally numbered to correspond to the chapter and section numbering of NFPA 1, *Uniform Fire Code*; e.g., ~~s-~~ section Comm 14.01 contains modifications of NFPA 1, chapter 1.

SECTION 5. Comm 14.01 (1) (a) is renumbered Comm 14.01 (1) (a) 1. and amended to read:

Comm 14.01 (1) (a) 1. ~~Except as provided in pars. (b) to (f), this~~ This chapter applies to all public buildings and places of employment that exist on or after [the effective date of this paragraph . . . LEGISLATIVE REFERENCE BUREAU TO INSERT DATE], except as provided in pars. (b) to (d).

SECTION 6. Comm 14.01 (1) (a) Note is created to read:

Comm 14.01 (1) (a) Note: As established in section Comm 14.01 (2) (a) 1., this chapter does not prescribe how to design public buildings. However, this chapter includes requirements that may apply during the construction of a public building, such as the safeguards in NFPA 1 chapter 16 for fire safety during construction. See chapters Comm 61 to 66 for design requirements for public buildings and places of employment.

SECTION 7. Comm 14.01 (1) (c) (intro.) to 7. are renumbered Comm 14.01 (1) (c) 1. and 3. to 9., and Comm 14.01 (1) (c) 1. and 7. and Note, as renumbered, are amended to read:

Comm 14.01 (1) (c) 1. This chapter does not apply to all any of the following types of buildings, structures or situations: specified in subds. 3. to 5.

7. A one- or 2-family dwelling used as a foster home, treatment foster home, or group home, or as a ~~child caring institution having~~ residential care center for children and youth that has a capacity for 8 or fewer children, all as defined in s. 48.02, Stats.

Note: The definitions in ~~s. section 48.02, Stats., of the Statutes~~, of the Statutes limit foster homes to no more than 4 children unless all the children are siblings, limit treatment foster homes to no more than 4 children, and limit group homes to no more than 8 children. Where permitted by the ~~department~~ Department of health Children and family Families services, a group home or a ~~child caring institution having~~ residential care center for children and youth that has a capacity for 8 or fewer children may be located in a one- and 2-family dwelling as a community living arrangement, as defined in ~~s. section 46.03 (22), Stats., of the Statutes.~~

SECTION 8. Comm 14.01 (1) (c) 2. is created to read:

Comm 14.01 (1) (c) 2. All of the buildings, structures or situations in subds. 3. to 9. are neither public buildings nor places of employment under this chapter.

SECTION 9. Comm 14.01 (1) (c) 8. Note is created to read:

Comm 14.01 (1) (c) 8. Note: Chapter DCF 250, as administered by the Department of Children and Families, defines a “family child care center” as a being “a facility where a person provides care and supervision for less than 24 hours a day for at least 4 and not more than 8 children who are not related to the

provider.” Chapter DCF 250 applies various licensing and other requirements to these centers, including for fire protection and other aspects of the physical plant.

SECTION 10. Comm 14.01 (1) (e) and (f) are amended to read

Comm 14.01 (1) (e) 1. The requirements in sub. ~~(9)~~ (11) apply to all fire responses, rather than only to fire responses for public buildings and places of employment.

2. The requirements in sub. ~~(11)~~ (13) (d) 2. apply to fire responses to first alarms for all buildings, rather than only for public buildings.

(f) Except for facilities as that are exempted from this code chapter under par. (c) 4-3. to 3-5. – and notwithstanding regardless of pars. (b), (c) 4-6. to 7-9. and (d) – this code chapter applies to all facilities and structures which exist on or after March 1, 2008 [the effective date of this paragraph . . . LEGISLATIVE REFERENCE BUREAU TO INSERT DATE], and which involve flammable-, combustible- or hazardous-liquid storage, transfer or dispensing.

SECTION 11. Comm 14.01 (1) Note [3] is repealed and recreated to read:

Note: See the annotations under section 101.11 of the Statutes for further guidance in determining which facilities are or are not places of employment.

SECTION 12. Comm 14.01 (1) (g) and Notes are created to read:

Comm 14.01 (1) (g) 1. Except for facilities that are exempted from this chapter under par. (c) 3. to 5. – and regardless of pars. (b), (c) 6. to 9. and (d) – the department or its deputies may apply this chapter to any building or other structure or premises or public thoroughfare, which exists on or after [the effective date of this paragraph . . . LEGISLATIVE REFERENCE BUREAU TO INSERT DATE], and which has either of the following characteristics:

a. It is especially liable to fire and is so situated as to endanger other buildings or property.

b. It contains combustible or explosive material or inflammable conditions that are dangerous to the safety of any building or premises or the occupants thereof, or endangering or hindering fire fighters in case of fire.

2. The purpose of applying this chapter under this paragraph is to cause correction of any of the following:

a. A condition liable to cause damaging fire.

b. A violation of any law or order relating to fire hazards or to the prevention of fire.

Note: See sections 101.14 (1) (a) to (bm) of the Statutes for the authorization to apply this chapter in this manner, and for limitations on entry into the interior of private dwellings.

Note: Under section 101.14 (2) (a) of the Statutes, and as referenced in section Comm 14.01 (13) (a), "The chief of the fire department in every city, village or town, except cities of the 1st class, is constituted a deputy of the department."

Note: See section 66.0413 of the Statutes for (1) the authority of municipalities to order removal or repair of buildings that are dangerous, unsafe, unsanitary or otherwise unfit for human habitation and (2) extensive criteria relating to executing this authority, such as for dilapidated buildings.

SECTION 13. Comm 14.01 (2) (intro.) is renumbered Comm 14.01 (2) (a) (intro.) and amended to read:

Comm 14.01 (2) (a) General. Substitute the following wording for the requirements in NFPA 1 ~~section 1.3.1~~ sections 1.3.2.4. to 1.3.2.4.3:

SECTION 14. Comm 14.01 (2) (a) 1. (intro.) and a. are repealed.

SECTION 15. Comm 14.01 (2) (a) 1. b. is renumbered Comm 14.01 (1) (a) 2. and amended to read:

Comm 14.01 (1) (a) 2. ~~The~~ This chapter applies to the inspection, testing and maintenance of all fire safety features as specified in this chapter, for all public buildings and places of employment, that exist on or after March 1, 2008 [the effective date of this paragraph . . . LEGISLATIVE REFERENCE BUREAU TO INSERT DATE], except as provided in pars. (b) to (d).

SECTION 16. Comm 14.01 (2) (a) 2. to 4. are renumbered Comm 14.01 (2) (a) 1. to 3., and Comm 14.01 (2) (a) 1. and Note and 3., as renumbered, are amended to read:

Comm 14.01 (2) (a) 1. ~~The design and construction requirements in NFPA 1, *Uniform Fire Code* and in any standard or code adopted therein that apply to public buildings or places of employment are not included as part of this chapter, except as specified in subd. 4- 3. a. and 4.~~

Note: Because of this subdivision, this chapter does not prescribe how to design public buildings. However, this chapter includes requirements that may apply during the construction of a public building, such as the safeguards in NFPA 1 chapter 16 for fire safety during construction. See ~~chs. chapters~~ Comm 60 61 to 66 for design and construction requirements for public buildings and places of employment.

3. a. ~~The design and construction~~ requirements in NFPA 1 chapter 18 for fire department access and water supply are included as part of this chapter.

b. The requirements in NFPA 1 sections 18.2.3 and 18.3 do not apply to buildings constructed prior to ~~March 1, 2008~~ [the effective date of this subdivision . . . LEGISLATIVE REFERENCE BUREAU TO INSERT DATE].

SECTION 17. Comm 14.01 (2) (a) 4. and (b) (intro.) and 4. Note are created to read:

Comm 14.01 (2) (a) 4. The design requirements in NFPA 1 sections 50.2.1.1 and 50.4 for an exhaust hood and an automatic fire suppression system are included as part of this chapter, for mobile kitchens only.

(b) Substitute the following wording for the requirements in NFPA 1 section 1.3.3:

4. **Note:** See Appendix for a list of tanks, containers, tank systems and facilities that are not regulated by chapter Comm 10.

SECTION 18. Comm 14.01 (5), (7) (b) Note, and (9) (a) and (b) are repealed.

SECTION 19. Comm 14.01 (11) (title), (intro.), (a), (b) (title), 1. to 5. and 6. to 10. and (c) to (e) and (12) are renumbered Comm 14.01 (13) (title), (intro.), (a), (b) (title), 1. to 5. and 7. to 11. and (c) to (e) and (14).

SECTION 20. Comm 14.01 (2) (c) to (f) and 14.01 (3), (4) and (6) to (10) are renumbered to Comm 14.01 (6) (a) and (b), (3) and (5) (intro.) to (d), and 14.01 (4) and (7) to (12).

SECTION 21. Comm 14.01 (3), as renumbered in SECTION 19, is amended to read:

Comm 14.01 (3) Substitute the following wording for the requirements in NFPA 1 section 1.4.1: Nothing in this chapter is intended to prohibit or discourage the design and use of new materials or components, or new processes, elements or systems, provided written approval from the department or AHJ is obtained first.

SECTION 22. Comm 14.01 (4) and Note, as renumbered in SECTION 19, are amended to read:

Comm 14.01 (4) Substitute the following wording for the requirements in NFPA 1 section 1.4.3 sections 1.4.2 to 1.4.6: The department shall consider and may grant a variance to a provision of this chapter in accordance with ch. Comm 3. The petition for variance shall include, where applicable, a position statement from the fire department having jurisdiction.

Note: Chapter Comm 3 requires the submittal of a petition for variance form (SBD-9890) and a fee, and that an equivalency is established in the petition for variance which meets the intent of the rule being petitioned. Chapter

Comm 3 also requires the ~~department~~ Department to process regular petitions within 30 business days and priority petitions within 10 business days. The SBD-9890 form is available in the Appendix or from the Department's Web site at www.commerce.wi.gov, through links to Safety and Buildings Division forms.

SECTION 23. Comm 14.01 (4) Note [2] is created to read:

Comm 14.01 (4) Note: See chapter Comm 2 for the fee that must be included when submitting a petition for variance.

SECTION 24. Comm 14.01 (5) (intro.) and (b) and Note, as renumbered in SECTION 19, are amended to read:

Comm 14.01 (5) TEMPORARY USE. These are department rules in addition to the requirements in NFPA 1 section 1.4: A ~~municipal fire or building~~ code official may allow a building or a portion of a building to be used temporarily in a manner that differs from the approved use for the building or space, or may approve a temporary building to be used by the public, subject to all of the following provisions:

(b) ~~Except as provided in subd. 3., buildings~~ Buildings or spaces considered for temporary use shall conform to the requirements of this chapter as necessary to ensure the public safety, health and general welfare, except as provided in par. (c).

Note: The ~~department~~ Department and other state agencies may have additional rules that affect the design, construction, inspection, maintenance and use of public buildings, places of employment and premises, including ~~chs. chapters~~ Comm 5, Licenses, Certifications, and Registrations Credentials; Comm 7, Explosives and Fireworks; Comm 10, Flammable, Combustible and Hazardous Liquids; Comm 16, Electrical; Comm 18, Elevators, Escalators and Lift Devices; Comm 40, Gas Systems; Comm 41, Boilers and Pressure Vessels; Comm 43, Anhydrous Ammonia; Comm 45, Mechanical Refrigeration; Comm ~~60 61~~ to 66, Commercial Building Code; Comm 75 to 79, Buildings Constructed Prior to 1914; Comm 81 to 87, Plumbing; Comm 90, Public Swimming Pools and Water Attractions; and Comm 91, Sanitation. The ~~department's~~ Department's Safety and Buildings Division administers all of these listed codes except ~~ch. chapter~~ Comm 5, which is jointly administered with the ~~department's~~ Department's Environmental and Regulatory Services Division, and ~~ch. chapter~~ Comm 10, which is administered by that Division.

SECTION 25. Comm 14.01 (6) (title) and (intro.) are created to read:

Comm 14.01 (6) (title) INTERPRETATIONS. These are department rules in addition to the requirements in NFPA 1 section 1.7.3:

SECTION 26. Comm 14.01 (7) (a) 1. and (8) Note [1], as renumbered in SECTION 19, are amended to read:

Comm 14.01 (7) (a) 1. The requirements in the following NFPA 1 sections are not included as part of this chapter: 1.7.10.2, 1.7.10.4, 1.9.1, ~~1.9.2~~ 1.9.3, and 1.10.

(8) Note: Pursuant to ~~s. section~~ 101.11 (2) (a), Stats. of the Statutes, no employer or owner, or other person may hereafter construct or occupy or maintain any place of employment, or public building, that is not safe, nor prepare plans which fail to provide for making the same safe. See the annotations under section 101.11 (3) of the Statutes for substantial additional information relating to the duties of owners and employers to provide and maintain places of employment and public buildings that are safe.

SECTION 27. Comm 14.01 (9) (b) Note and (11) (a) and (b) are created to read:

Comm 14.01 (9) (b) Note: See Appendix for a reprint of section 101.02 (7) (c) of the Statutes, which addresses the Department's response to a petition received under this paragraph; and for the definition of "local order," from section 101.02 (8) of the Statutes.

(11) (a) 1. For each fire, a record shall be compiled by a fire department serving the municipality in which the fire occurred.

2. The record in subd. 1. shall include all applicable information specified in s. 101.141 (2), Stats., shall be filed with the federal agency specified in s. 101.141 (1), Stats., and shall be filed no later than the deadline specified in s. 101.141 (1), Stats.

Note: Section 101.141 of the Statutes reads as follows: "**Record keeping of fires.** (1) Each city, village, and town fire department shall file a report for each fire that involves a building and that occurs within the boundaries of the city, village, or town with the U.S. fire administration for placement in the fire incident reporting system maintained by the U.S. fire administration. The report shall be filed within 60 days after the fire occurs.

(2) Each report filed under sub. (1) shall include all of the following information:

- (a) The age of the building.
- (b) The purpose for which the building was used at the time of the fire.
- (c) If the building was used as a home, whether the building was a multifamily dwelling complex, a single-family dwelling, or a mixed-use building with one or more dwelling units.
- (d) The number of dwelling units in the building, if the building was a multifamily dwelling complex or a mixed-use building.
- (e) Whether the building had an automatic fire sprinkler system at the time of the fire and, if so, whether the system was operational.
- (f) Whether the building had a fire alarm system at the time of the fire and, if so, whether the system was operational.

- (g) The cause of the fire.
- (gg) An estimate of the amount of damages to the building as a result of the fire.
- (gm) The number of human deaths due to the fire, if any.
- (gr) The number of human injuries due to the fire, if any.
- (h) Any other relevant information concerning the building, as determined by the fire department.

(3) The department may review, correct, and update any report filed by a fire department under this section."

(b) 1. In reporting the age of a building under par. (a), only the age of the portion of the building where the fire occurred is required, and this age may be estimated.

Note: Various software programs for reporting the information under this section may accommodate reporting a building's age only as a note in a narrative.

2. In reporting the amount of damages to a building under par. (a), either assessed values or expected replacement costs may be used, and either an estimated dollar loss or an estimated percentage of the building that is damaged may be used.

3. Prior to correcting or updating any report filed by a fire department under s. 101.141, Stats., the department shall obtain the consent of the chief of that fire department.

SECTION 28. Comm 14.01 (13) (b) 3., as renumbered in SECTION 18, is amended to read:

Comm 14.01 (13) (b) 3. ‘Scheduling of inspections.’ ~~Except as provided in subds. 4. to 6., fire~~ Fire prevention inspections shall be conducted at least once in each non-overlapping 6-month period per calendar year, or more often if ordered by the fire chief, in all territory served by the fire department, except as provided in subds. 4. to 7.

SECTION 29. Comm 14.01 (13) (b) 3. Note is created to read:

Comm 14.01 (13) (b) 3. Note: The Department of Health Services may require additional fire inspections for nursing homes.

SECTION 30. Comm 14.01 (13) (b) 5. (title), r. Note and s., as renumbered in SECTION 18, are amended to read:

Comm 14.01 (13) (b) 5. (title) ‘~~Exception~~ General exception for other municipalities.’

r. **Note:** Fully-sprinklered buildings are protected throughout by an automatic fire sprinkler system as specified in NFPA 13 or 13R, as referenced in ~~chs. chapters~~ Comm ~~60~~ 61 to 66.

s. Seasonal or periodic occupancies, provided at least one interior inspection is conducted during an occupancy period and provided the occupancy does not extend beyond 6 months in any calendar year.

SECTION 31. Comm 14.01 (13) (b) 6. and Note are created to read:

Comm 14.01 (13) (b) 6. ‘Discretionary exception for other municipalities.’ a. For low-use buildings or places of employment, including those specified in subd. 6. b. to f., in lieu of the inspection frequency specified in subd. 3. or 5., the fire chief may base the frequency of the inspections on hazard classification, the proportion of public area, the record of fire code violations, the ratio of occupancy to size and any other factor the chief deems significant. Property other than residential property with 4 dwelling units or less shall be inspected at least once annually.

b. Seasonal occupancies.

c. Temporary-occupancy uses – such as farm structures temporarily used for winter storage, horse stables or riding arenas.

d. Home-occupation accessory buildings used as businesses.

e. Seldom or infrequently occupied buildings.

f. Unoccupied buildings.

Note: To reduce the potential for difficulties to arise during the audits addressed in section Comm 14.01 (15) (d), fire chiefs who exercise this discretion should either declare the corresponding buildings and inspection frequency in advance, or maintain a corresponding list of buildings to be inspected and their inspection frequency.

SECTION 32. Comm 14.01 (13) (b) 7. b. and c., 8. and Note and 10. Note and (e), as renumbered in SECTION 18, are amended to read:

Comm 14.01 (13) (b) 7. b. Any local ordinance adopted under subd. ~~6-7~~ 7. a. shall be made available to the department during an audit conducted under sub. ~~(12)~~ (14) (d).

c. Any special order granted by the Department prior to ~~March 1, 2008~~ [the effective date of this subdivision 6 7. c. . . . LEGISLATIVE REFERENCE BUREAU TO INSERT DATE], that authorized a city, village or town to reduce the number of required inspections shall ~~remain in effect until the expiration~~ expire by that date specified in that order.

8. 'Inspection reports.' ~~Except in first class cities, the~~ The fire chief shall make and keep on file reports of fire prevention inspections. ~~In, except in~~ in first class cities the commissioner of the building inspection department shall make and keep the reports. For at least ~~5~~ 7 years, the reports shall be maintained in written form or in another form capable of conversion into written form within a reasonable amount of time.

Note: The ~~department~~ Department has developed fire inspection report forms that may be used by fire departments. The fire inspection report forms (SBD-10615A and SBD-5295) are available from the Safety and Buildings Division through one or more of the following means: in the Appendix; at P.O. Box 7839, Madison, WI 53707-7839; or at the Department's Web site at www.commerce.wi.gov, through links to Safety and Buildings Division forms.

10. **Note:** Under ~~s. section~~ section 101.14 (2) (a), ~~Stats. of the Statutes~~, and as referenced in ~~s. section~~ section Comm 14.01 ~~(14)~~ (14) (a), "The chief of the fire department in every city, village or town, except cities of the 1st class, is constituted a deputy of the department."

(e) *Availability of records.* For at least ~~5~~ 7 years, the records specified in par. (d) shall be maintained in written form or in another form capable of conversion into written form within a reasonable amount of time; and shall be made available to the department and to the public, upon request to the fire department.

SECTION 33. Comm 14.01 (14) (a) 1. a. and 2. a., (c) 1. Note, (d) 2. and Note and (f) 1. Note and 2. Note, as renumbered in SECTION 18, are amended to read:

Comm 14.01 (14) (a) 1. a. In order to be eligible to receive a fire department dues payment, a municipality shall be in substantial compliance with the requirements for fire protection and fire prevention services specified in ss. 101.14 (2) and 101.575, Stats., and this chapter, throughout the entire municipality.

2. a. ~~Except as provided in subd. 2. b., the fire~~ Fire protection and fire prevention services shall be provided by the fire department, ~~except as provided in subd. 2. b.~~ A municipality not maintaining a fire department shall have the services provided through contract. A fire department may use mutual aid agreements as a means of providing fire protection services.

(c) 1. **Note:** The ~~department~~ Department annually sends form SBD-10318 to the municipality. This form is also available from the Safety and Buildings Division through one or more of the following means: in the Appendix; at P.O. Box 7839, Madison, WI 53707-7839; or at the Department's Web site at www.commerce.wi.gov, through links to Safety and Buildings Division forms.

(d) 2. The department shall periodically examine fire department dues entitlement records, including the records required in sub. ~~(11)~~ (13) (b) 7, 8, and (d), and in NFPA 1 section 1.11.2, to verify that the required fire prevention and fire protection services were provided within the territory served by the fire department and, within first class cities, by the building inspection department.

Note: The information required in the entitlement records is as specified in ~~ss. sections~~ 101.14 (2) and 101.575, ~~Stats of the Statutes~~. Under those sections, the fire incident reports that are addressed in ~~sub. (9) subsection (11)~~, and any records of fire prevention inspections beyond public buildings and places of employment, are not fire dues entitlement records.

(f) 1. **Note:** The ~~department~~ Department annually sends form SBD-10638 to the fire department. This form is also available from the Safety and Buildings Division through one or more of the following means: in the Appendix; at P.O. Box 7839, Madison, WI 53707-7839; or at the Department's Web site at www.commerce.wi.gov, through links to Safety and Buildings Division forms.

2. **Note:** The ~~department~~ Department annually sends form SBD-10114 to the fire department. This form is also available from the Safety and Buildings Division through one or more of the following means: in the Appendix; at P.O. Box 7839, Madison, WI 53707-7839; or at the Department's Web site at www.commerce.wi.gov, through links to Safety and Buildings Division forms.

SECTION 34. Comm 14.03 (intro.), (1) to (6), (7) and (8) to (10) are renumbered Comm 14.03 (1) (intro.), (a) to (f), (2) and (g) to (i); and Comm 14.03 (1) (f), as renumbered, is amended to read:

Comm 14.03 (1) (f) "NFPA 1" means the ~~2006~~ 2009 edition of NFPA® 1, *Uniform Fire Code*, as adopted and modified in this chapter.

SECTION 35. Comm 14.03 (2), as renumbered in SECTION 33, is amended to read:

Comm 14.03 (2) Substitute the following definition for the definition in NFPA 1 section 3.3.170.20: “One- and ~~or~~ 2-family dwelling” has the meaning as defined for dwelling in s. 101.61 (1), Stats.

SECTION 36. Comm 14.10 (1) Note is amended to read:

Comm 14.10 (1) Note: ~~As established in s. Under section~~ Comm 14.01 (2) (a) ~~2- 1~~, the design and construction requirements that are included in NFPA 1, *Uniform Fire Code*, either directly, or indirectly through cross-references to other standards and codes such as NFPA 101, are not included as part of this chapter, except as provided in sections Comm 14.01 (2) (a) 3. a. and 4.

SECTION 37. Comm 14.10 (2) is renumbered Comm 14.10 (4)

SECTION 38. Comm 14.10 (2) and Note and (3) and Note are created to read:

Comm 14.10 (2) EMERGENCY PLANS. Substitute the following wording for the requirements in NFPA 1 section 10.9.2.3: Where required by the AHJ, emergency plans shall be submitted to the AHJ for review.

Note: The Department of Health Services may have additional rules requiring nursing home operators to have emergency plans that are reviewed by fire departments or other fire and safety experts.

(3) CHRISTMAS TREES. This is a department informational note to be used under NFPA 1 section 10.14:

Note: Guidance on use of natural-cut Christmas trees is available at the Department’s Web site at www.commerce.wi.gov, through links to the Fire Prevention program in the Safety and Buildings Division.

SECTION 39. Comm 14.11 Note is amended to read:

Comm 14.11 Note: See ~~chs. chapters~~ Comm ~~60 61~~ to 66 for requirements for other heating appliances.

SECTION 40. Comm 14.13 (4) Note is amended to read:

Comm 14.13 (4) Note: Wisconsin has unique design and construction requirements for these manual wet systems, as established in ~~chs. chapters~~ Comm ~~60 61~~ to 66.

SECTION 41. Comm 14.20 is amended to read:

Comm 14.20 Open flame devices and pyrotechnics. Substitute the following wording for the introductory paragraph in NFPA 1 section ~~20.1.4.3~~ 20.1.5.3: No open flame

devices or pyrotechnic devices may be used in any occupancy, unless otherwise permitted by the following:

SECTION 42. Comm 14.34 is created to read:

Comm 14.34 General storage. The requirements in NFPA 1 section 34.1.1.2 (1) are not included as part of this chapter.

SECTION 43. Comm 14.50 is created to read:

Comm 14.50 Commercial cooking equipment for mobile kitchens. This is a department exception to the requirements in NFPA 1 sections 50.2.1.1 and 50.4: Neither an exhaust hood nor an automatic fire suppression system is required for a mobile kitchen where all of the following conditions are met:

- (1) The kitchen is less than 365 square feet in size.
- (2) The kitchen is used on fewer than 12 days in a calendar year, for the purpose of cooking.
- (3) The owner or operator of the kitchen maintains a record demonstrating compliance with sub. (2), retains the record with the kitchen, and makes the record available to an inspector upon request.

Note: A Department form that can be used in complying with the recordkeeping requirements in this section is available at the Department's Web site at www.commerce.wi.gov, through links to Safety and Buildings Division forms.

SECTION 44. Comm 14.53 is created to read:

Comm 14.53 Mechanical refrigeration. The requirements in NFPA 1 chapter 53 are not included as part of this chapter.

Note: See chapter Comm 45 for requirements for mechanical refrigeration.

SECTION 45. Comm 14 Appendix section A–14.01 (2) (b) 4. is created to read:

Comm 14 Appendix section A–14.01 (2) (b) 4. The following tanks, containers, tank systems and facilities are not regulated by chapter Comm 10:

- (a) Underground storage tanks that have a capacity of less than 60 gallons.
- (b) Aboveground storage tanks and intermediate bulk containers that have a capacity of less than 110 gallons.
- (c) Tanks storing products regulated under ch. ATCP 33 that are located either at facilities which are also regulated under ch. ATCP 33 or on farm premises.

Note: Chapter ATCP 33 addresses bulk storage of pesticides and fertilizers.

(d) Aboveground storage tanks storing liquids that are used in processes covered in any of the following standards:

1. NFPA 33 Spray Application Using Flammable or Combustible Materials.
2. NFPA 34 Dipping & Coating Processes Using Flammable or Combustible Liquids.
3. NFPA 35 Manufacture of Organic Coatings.
4. NFPA 45 Fire Protection for Laboratories Using Chemicals.

(e) Dedicated breakout tanks that are located at pipeline facilities.

(f) Odorant or other additive injection tanks that are directly connected to a pipeline.

(g) Contractor tanks that are mounted on pickup trucks.

(h) Oil-filled electrical equipment and transformers.

(i) Accumulator tanks.

(j) Process tanks.

(k) Product recovery tanks.

(L) Service tanks.

(m) Marine fueling facilities where fuel is stored and dispensed into the fuel tanks of marine craft of 300 gross tons or more.

(n) Aboveground or underground tank systems that store nonflammable and noncombustible hazardous liquids in concentrations of less than 1 percent by volume.

Note: Material Safety Data Sheets (MSDS) should be consulted for flash point and concentration.

(o) Aboveground tank systems which have a capacity of less than 5,000 gallons and which store nonflammable and noncombustible hazardous liquids in concentrations of 1 percent or more by volume.

Note: Material Safety Data Sheets (MSDS) should be consulted for flash point and concentration.

(p) Tank systems that store a hazardous waste which is listed or identified under subtitle C of the federal Solid Waste Disposal Act, or a mixture of such hazardous waste and other regulated substances that is nonflammable and noncombustible.

(q) Any wastewater treatment tank system that is part of a wastewater treatment facility regulated under section 307 (b) or 402 of the federal Clean Water Act.

(r) Underground storage tank systems that contain radioactive material which is regulated under the federal Atomic Energy Act of 1954.

Note: The Atomic Energy Act of 1954 is contained in 42 USC 2011 et seq.

(s) Underground storage tank systems that are part of an emergency generator system at nuclear power generation facilities regulated by the Nuclear Regulatory Commission under 10 CFR 50 Appendix A.

(t) Asphalt-plant AC tanks which are used as burner or material-supply tanks in the process of making asphalt and which comply with all of the following:

1. Tank configurations are single-wall or double-wall, with or without heating coils.
2. The products stored in the tank are Class II or III liquids ranging from heating oil to used oil, to #4 or #5 heavy oils.

3. The asphalt process equipment and the tank are typically located at an isolated location, such as a quarry, and are generally relocated from year to year or every couple of years.

(u) 1. Facilities located on Indian reservation land that are held either in trust by the United States, or in fee by the tribe or a tribal member.

2. Facilities which are located on off-reservation Indian land that is held in trust by the United States – and which are held either in trust by the United States, or in fee by the tribe or a tribal member.

SECTION 46. Comm 14 Appendix section A–14.01 (6) is renumbered Comm 14 Appendix section A–14.01 (8).

SECTION 47. Comm 14 Appendix sections A–14.01 (9) (b) and (13) are created to read:

Comm 14 Appendix section A–14.01 (9) (b) Section 101.02 (7) (c) of the Statutes reads as follows: “Upon receipt of such petition the department shall order a hearing thereon, to consider and determine the issues raised by such appeal, such hearing to be held in the village, city or municipality where the local order appealed from was made. Notice of the time and place of such hearing shall be given to the petitioner and such other persons as the department may find directly interested in such decision, including the clerk of the municipality or town from which such appeal comes. If upon such investigation it shall be found that the local order appealed from is unreasonable and in conflict with the order of the department, the department may modify its order and shall substitute for the local order appealed from such order as shall be reasonable and legal in the premises, and thereafter the said local order shall, in such particulars, be void and of no effect.”

Section 101.01 (8) of the Statutes defines “local order” as any ordinance, order, rule or determination of any common council, board of alderpersons, board of trustees or the village board, of any village or city, a regulation or order of the local board of health, as defined in section 250.01 (3) of the Statutes, or an order or direction of any official of a municipality, upon any matter over which the Department has jurisdiction.

(13) The following pages contain the forms the Department has developed for use with this chapter, which are primarily intended for use by local fire departments. More-current versions of these forms may be available at the Department’s Web site at www.commerce.wi.gov, through links to Safety and Buildings Division forms.

[NOTE TO LEGISLATIVE REFERENCE BUREAU: The forms referenced in this section are included at the end of this document.]

SECTION 48. Comm 21.03 (1) (c) is amended to read:

Comm 21.03 (1) (c) An additional exit may discharge to an outside balcony that complies with sub. ~~(10)~~ (8).

SECTION 49. Comm 21.25 (8) (e) 2. is amended to read:

Comm 21.25 (8) (e) 2. 'Exception.' Spacing between braced wall lines may be increased to 50 feet; however, the percentage of wall bracing on the braced wall lines perpendicular to the spacing, must be increased by multiplying the values in Table ~~21.25-G~~ 21.25-H by a factor equal to the braced wall line spacing divided by 35 feet, and the length to width ratio for the floor/roof diaphragm as measured between braced wall lines does not exceed 3:1.

SECTION 50. Comm Table 21.25-H footnote 5 is amended to read:

Comm Table 21.25-H footnote 5 For continuous sheathing method with wood structural panels, percent requirement may be decreased 10% when openings on the wall line do not exceed 85% of wall height and may be decreased 20% when openings do not exceed 67% of wall height. See Table ~~21.25-J~~ 21.25-K.

SECTION 51. Comm 21.25 (9) (b) 3. is amended to read:

Comm 21.25 (9) (b) 3. 'Supporting floor and roof only.' In the first story of two-story buildings, each braced wall panel shall be in accordance with subd. 4 2., except that the wood structural panel sheathing edge nailing spacing shall not exceed four inches on center.

SECTION 52. Comm Table 21.25-J footnote 2 is amended to read:

Comm Table 21.25-J footnote 2 ~~A~~ For a garage supporting a roof only, a 4:1 aspect ratio is permitted for full-height sheathed wall segments on either side of the garage openings.

SECTION 53. Comm Figure 21.25-G (c) is amended to read:

FIGURE 21.25-G
TYPICAL EXTERIOR CORNER FRAMING FOR CONTINUOUS STRUCTURAL PANEL
SHEATHING SHOWING REQUIRED STUD-TO-STUD NAILING
(Partial Figure)

(c) Garage door corner
See sub. (9) (c) ~~6.~~ 5.

SECTION 54. Comm 21.25 (9) (c) 4. is amended to read:

Comm 21.25 (9) (c) 4. 'Braced wall percentage.' In addition to bracing percentage adjustments specified elsewhere in this code, the braced wall percentages for ~~method~~ methods under sub. (8) (b) 4. from Table ~~21.25-G~~ 21.25-H shall be permitted to be multiplied by a factor in accordance with Table 21.25-K.

SECTION 55. Comm 21.26 (8) (a) 3. and Note are amended to read:

Comm 21.26 (8) (a) 3. Flashing that will be exposed to ultraviolet light shall consist of materials that which are durable and permanently UV-resistant, such as sheet metal or heavy-gauge PVC.

Note: Materials including house wrap, asphalt-impregnated building paper, plastic sheeting, peel-and-stick rubberized sheet material, and light-gauge PVC are not acceptable as meeting this requirement.

SECTION 56. Comm 22.01 (1) Note [2] is renumbered Comm 22.01 (3) Note.

SECTION 57. Comm 22.01 (1) Note [2] is created to read:

Comm 22.01 (1) Note: Although the actual source of heat delivered by a heat pump is renewable, a dwelling using a heat pump is not exempt from the requirements of this chapter due to the required input of electricity to run the pump and compressor.

SECTION 58. Comm 22.10 (17) is amended to read:

Comm 22.10 (17) "Sun room" means a one-story structure attached to a dwelling with a glazing area in excess of 40% of the gross area of the structure's exterior walls and roof and with any screened areas capable of being covered or replaced with glazing during the heating season.

SECTION 59. Comm 22.21 (1) Note is amended to read:

Comm 22.21 (1) Note: If the insulation is on a below-grade wall, s. Comm ~~22.08 (3)~~ 22.38 (4) may prohibit the use of vapor retarder material used as the covering.

SECTION 60. Comm 22.31 (2) (a) Note is amended to read:

Comm 22.31 (2) (a) Note: REScheck and REM/Rate ~~are~~ is an acceptable software programs for determining compliance with this section.

SECTION 61. Comm Table 22.31-1 footnote c and Table 22.31-4 footnote d are amended to read:

Comm Table 22.31-1 footnote c The first R-value applies under the entire slab, regardless of depth below grade. The second R-value applies to the slab edge where the bottom of the slab is less than 12 inches below adjacent grade. Slab edge insulation shall extend downward from the top of the slab for a minimum of 48 inches or downward to at least the bottom of the slab and then horizontally to the interior or exterior for a minimum total distance of 48 inches. Also, see s. Comm 21.16 for protection against frost for slabs with supports less than 4 feet below grade.

Table 22.31-4 footnote d The R-value applies to ~~any~~ the slab perimeter insulation, where the bottom of which the slab is less than 12 inches below adjacent grade. Slab edge insulation shall extend downward from the top of the slab for a minimum of 48 inches or downward to at least the bottom of the slab and then horizontally to the interior or exterior for a minimum total distance of 48 inches. Also, see s. Comm 21.16 for protection against frost for slabs with supports less than 4 feet below grade.

SECTION 62. Comm 22.33 (1) and (2) are amended to read:

Comm 22.33 (1) HEATED OR UNHEATED SLABS. Any heated or unheated slab floor, the bottom of which is less than 12 inches below adjacent grade, shall be ~~insulated~~ provided with perimeter insulation in accordance with Table 22.31-1 or Table 22.31-4.

(2) HEATED SLABS. In addition to meeting the requirement under sub. (1), if applicable, heated ~~slabs~~ slab floors of any depth below grade shall meet the under-slab R-value requirement in accordance with Table 22.31-1 or Table 22.31-4.

SECTION 63. Comm 22.38 (3) (d) is repealed.

SECTION 64. Comm 22.38 (3) (e) is renumbered Comm 22.38 (3) (d).

SECTION 65. Comm 22.40 (3) Note is amended to read:

Comm 22.40 (3) Note: Residential heat balance, residential load factor, Canadian F280 and ACCA ~~Manual~~ Manuals J and S are among the methods recognized as equipment-sizing protocols under chapter 29.

SECTION 66. Comm 22.52 (1) Note is created to read:

Comm 22.52 (1) Note: REM/Rate is an acceptable software program for determining compliance with this section.

SECTION 67. Comm 23.02 (3) (b) Note [2] is amended to read:

Comm 23.02 (3) (b) Note [2]: See s. Comm ~~22.44~~ 22.39 (5) for additional requirements on mechanical ventilation.

SECTION 68. Comm 23.08 (4) is amended to read:

Comm 23.08 (4) UNDERGROUND DUCTS. Ducts, plenums and fittings constructed of metal encased in concrete or ceramic, or other approved materials, may be installed in the ground. ~~Supply Encasement of underground supply air ducts shall be insulated with a moistureproof material having a resistance value of at least R-5.~~

SECTION 69. Comm 23.08 (4) Note is created to read:

Comm 23.08 (4) Note: See s. Comm 22.42 for insulation requirements for underground ducts.

SECTION 70. Comm 61.60 (2) (a) 3. and 4. and (b) 3. are renumbered Comm 61.60 (2) (a) 5. and 6. and (b) 4., and Comm 61.60 (2) (a) 5., as renumbered, is amended to read:

Comm 61.60 (2) (a) 5. Forward to the department any information requested by the department relative to the qualifications and ability to perform examination of plans and inspection of buildings.

SECTION 71. Comm 61.60 (2) (a) 3. and 4. and (b) 3. are created to read:

Comm 61.60 (2) (a) 3. Adopt this code in its entirety by ordinance.

4. Forward to the department a copy of the ordinance adopting this code and any subsequent revisions to that ordinance.

(b) 3. Forward to the department any revisions to the ordinance adopting this code.

SECTION 72. Comm 61.60 (2) (c) (intro.) and (d) 1. are amended to read:

Comm 61.60 (2) (c) Second class cities intending to perform the expanded plan examination and inspection specified in sub. (5) (b) shall comply with pars. (a) 1. to 4. 6. and (b) 3. and 4., sub. (7) (b), and all of the following:

(d) 1. To assume the building inspection responsibility but not the plan examination responsibility for the buildings and structures specified in sub. (5) (c), a municipality or county shall comply with pars. (a) 1. to 4. 6. and (b) 3. and 4., except the plan examination requirements do not apply, and the department may delegate the inspection authority in a written manner other than a certification.

SECTION 73. Comm 61.60 (2) (e) is renumbered Comm 61.60 (2) (f).

SECTION 74. Comm 61.60 (2) (e) is created to read:

Comm 61.60 (2) (e) The department shall review and make a determination on a notification received under par. (a) 1. within 20 business days of that receipt.

SECTION 75. Comm 61.61 (2) (a) 3. is amended to read:

Comm 61.61 (2) (a) 3. Include in the request a description of the qualifications and ability the applicant has for assuming the desired responsibilities.

SECTION 76. Comm 61.61 (2) (a) 4. and (b) 4. are renumbered Comm 61.61 (2) (a) 6. and (b) 5.

SECTION 77. Comm 61.61 (2) (a) 4. and 5. and (b) 4. are created to read:

Comm 61.61 (2) (a) 4. Adopt this code in its entirety by ordinance.

5. Forward to the department a copy of the ordinance adopting this code and any subsequent revisions to that ordinance.

(b) 4. Forward to the department any revisions to the ordinance adopting this code.

SECTION 78. Comm 61.61 (3) is renumbered Comm 61.61 (4).

SECTION 79. Comm 61.61 (3) is created to read:

Comm 61.61 (3) DETERMINATION. The department shall review and make a determination on a request received under sub. (2) (a) 1. within 20 business days of that receipt.

SECTION 80. Comm 62.0400 (5) is created to read:

Comm 62.0400 (5) NO-SMOKING SIGNS. No-smoking signs shall include the international "No Smoking" symbol consisting of a pictorial burning cigarette enclosed in a red circle with a red bar across the cigarette.

SECTION 81. Comm 62.1200 (2) (a) 6. is created to read:

Comm 62.1200 (2) (a) 6. a. For the purposes of s. 101.149 (2) (a) 4., Stats., “room” means an enclosed area affording space for any other human activity besides just servicing mechanical equipment, including fuel-burning appliances.

b. For the purposes of s. 101.149 (2) (a) 4., Stats., where a fuel-burning appliance is located within a closet or other enclosure affording space only for the appliance and any other mechanical equipment, a carbon monoxide alarm or detector shall be installed either within or outside of the enclosure. Installation may be within the enclosure only if specifically permitted by the manufacturer of the alarm or detector. Installation outside of the enclosure shall be within 75 feet of the appliance in a space adjacent to the enclosure and on the same floor as the appliance.

SECTION 82. Comm 63.0102 (1) and Note and (2) (title) are repealed.

SECTION 83. Comm 63.0102 (2) (a) and (b) are renumbered Comm 63.0102 (1) and (2), and Comm 63.0102 (1) and (2) (d) 2., as renumbered, are amended to read:

Comm 63.0102 (1) Except as specified in ~~par. (b) sub. (2)~~, when available, information on thermal properties, performance of building envelope sections, and components and heat transfer shall be obtained from ASHRAE Handbook of Fundamentals.

(2) (d) 2. Laboratory or field-test measurements specified in ~~subd. 1 par. (a)~~.

SECTION 84. Comm 63.0404 Note is amended to read:

Comm 63.0404 Note: The federal Department of Energy has developed REScheck™, a computer program that may be used in demonstrating compliance for a residential building which has no more than 3 stories above grade and has 3 or more dwelling units. The REScheck program may be downloaded at <http://www.energycodes.gov/>. When using the program, the applicable code must be defined as the “2006 IECC.” The use of the “Wisconsin” option will apply requirements associated with a 1 or 2 family dwelling, which are more restrictive than those associated with low-rise multifamily buildings.

SECTION 85. Comm 63.0504 (3) is created to read:

Comm 63.0504 (3) POOL COVERS. The requirements in IECC section 504.7.3 are not included as part of this chapter.

[NOTE TO LEGISLATIVE REFERENCE BUREAU: The forms on the following pages are for inclusion in the chapter Comm 14 Appendix.]

(END)

EFFECTIVE DATE

Pursuant to s. 227.22 (2) (intro.), Stats., these rules shall become effective on the first day of the month commencing after publication in the Wisconsin administrative register.

File reference: Comm 14/rules 2008 A