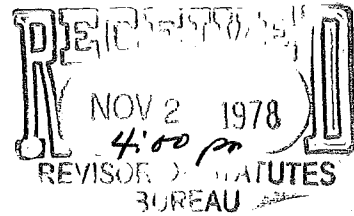


Ind 26, 226

STATE OF WISCONSIN)
) SS
DEPARTMENT OF INDUSTRY,)
LABOR AND HUMAN RELATIONS)

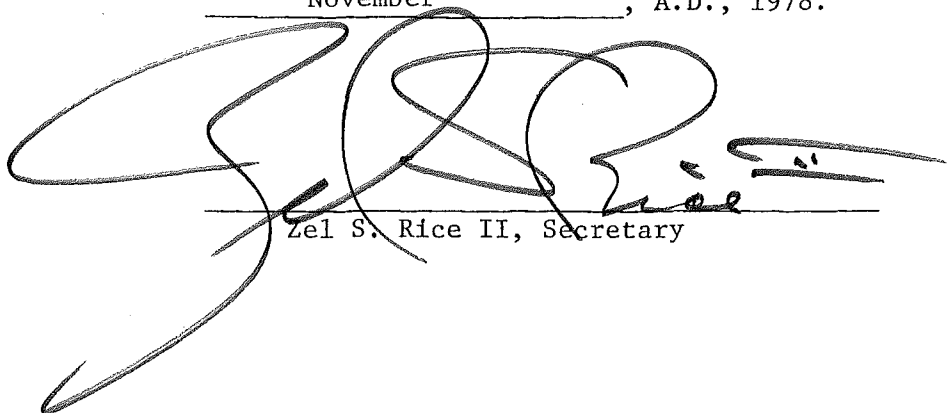


TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Zel S. Rice II, Secretary of the Department of Industry, Labor and Human Relations, and custodian of the official records of said department, do hereby certify that Wisconsin Administrative Code Chapter Ind 26, Railroad Employes Welfare Facilities, is renumbered to Wisconsin Administrative Code Chapter Ind 226, and that the attached rules to create a new Wisconsin Administrative Code Chapter Ind 26, Certification of Uniform Dwelling Code Inspectors and Independent Inspection Agencies, were adopted by this department on November 1, 1978.

I further certify that said copy has been compared by me with the original on file in this department and that the same is a true copy thereof and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the department at the Capitol, in the City of Madison, this 1st day of November _____, A.D., 1978.


Zel S. Rice II, Secretary

ORDER OF
DEPARTMENT OF INDUSTRY, LABOR AND HUMAN RELATIONS

Pursuant to authority vested in the Department of Industry, Labor and Human Relations by sections 101.63 (2), 101.64 (2) and 191.73 (6), Wis. Stats., the Department of Industry, Labor and Human Relations hereby renumbers Wis. Adm. Code Chapter Ind 26, Railroad Employes Welfare Facilities, to Wis. Adm. Code Chapter Ind 226 and creates a new Wis. Adm. Code Chapter Ind 26, Certification of Uniform Dwelling Code Inspectors and Independent Inspection Agencies.

The rules attached hereto shall become effective on the first day of the month following publication in the Wisconsin Administrative Register as provided in section 227.026, Wis. Stats.

Chapter Ind 26, Railroad Employes Welfare Facilities, is renumbered Chapter Ind 226.

A new Chapter Ind 26, Certification of Uniform Dwelling Code Inspectors and Independent Inspection Agencies, is created to read:

CHAPTER IND 26

CERTIFICATION OF UNIFORM DWELLING CODE INSPECTORS AND INDEPENDENT INSPECTION AGENCIES

PART I--GENERAL

Ind 26.01 SCOPE. The purpose of these rules is to promote effective and uniform enforcement of the Uniform Dwelling Code through state certification of inspectors and independent inspection agencies. These rules establish the standards and procedures for certification, including suspension and revocation, of certified inspectors and independent inspection agencies for enforcement of the Uniform Dwelling Code.

Note: The Uniform Dwelling Code applies to one- and 2-family dwellings and all manufactured buildings for dwellings.

Ind 26.02 APPLICATION. These rules shall apply to all persons, independent inspection agencies, municipalities and state governmental agencies engaged in the administration and enforcement of the Uniform Dwelling Code or engaged in the education, training and testing of persons for state certification as an inspector.

Ind 26.03 ADMINISTRATION AND ENFORCEMENT. All inspections for the purpose of administering and enforcing the Uniform Dwelling Code shall be performed by a certified inspector or independent inspection agency.

Ind 26.04 AUTHORITY.

- (1) Departmental authority. Pursuant to chapter 101, subchapters I, II and III, Wis. Stats., the department of industry, labor and human relations has been granted the authority and jurisdiction over the certification, including suspension and revocation, of:
 - (a) Certified inspectors or independent inspection agencies for the purpose of inspecting building construction, electrical wiring, heating, ventilating, air conditioning, energy conservation and other systems of one- and 2-family dwellings;
 - (b) On-site inspectors of the installation of manufactured buildings for dwellings;
 - (c) Independent inspection agencies for conducting in-plant inspections of manufacturing facilities, processes, fabrication and assembly of manufactured buildings for dwellings.
- (2) Municipal authority. Pursuant to sections 101.65 (1) (a), 101.66 (2) and 101.76 (1) (a), Wis. Stats., all municipalities exercising jurisdiction over the construction and inspection of dwellings falling within the scope of the Uniform Dwelling Code, or any part(s) thereof, shall provide for inspections performed by persons certified under the rules of this chapter.

- (a) Any termination of employment of or disciplinary action against a certified inspector or independent inspection agency for cause directly related to the conditions of certification shall be reported to the department.
- (b) Municipal termination of employment or disciplinary action shall not constitute suspension or revocation of the state certification.
- (c) No certified inspector or independent inspection agency carrying a valid state certification shall be required to obtain any municipal certification or license to enforce the Uniform Dwelling Code.

Note #1: Municipalities may jointly exercise jurisdiction, pursuant to sections 101.65 (1) (b), 101.76 (1) (b) and 66.30 (2), Wis. Stats., by adopting the Uniform Dwelling Code and providing for inspections by certified inspectors or certified independent inspection agencies.

Note #2: These rules are not intended to affect municipal hiring practices or conditions of employment.

- (3) Independent inspection agency authority. Pursuant to sections 101.63 (2), 101.66 (2), 101.73 (3), (5) and (6), 101.75 (1) and 101.76 (1) (a), Wis. Stats., independent inspection agencies may enter into contractual agreement(s) with municipalities, building manufacturers or the department to provide the certified inspections required for the Uniform Dwelling Code.
- (4) Certified inspector authority. Pursuant to sections 101.63 (2), 101.66 (2), 101.73 (3) and (5), 101.75 (1) and 101.76 (1) (a), Wis. Stats., an inspector may perform certified inspections in accordance with the requirements of the Uniform Dwelling Code.

Ind 26.05 DEFINITIONS.

- (1) Approved. Approved means approved by the department.
- (2) Certified inspection. Certified inspection means an inspection performed by a certified inspector or independent inspection agency to ensure compliance with the Uniform Dwelling Code.
- (3) Certified inspector. Certified inspector means an individual certified by the department to administer and enforce the Uniform Dwelling Code for any or all of the categories listed in section Ind 26.06.
- (4) Conflict of interest. Conflict of interest means a certified inspector inspecting construction work in which the inspector or the inspector's employer, other than the state or a municipality, has participated or has a monetary or personal interest.
- (5) Department. Department means the department of industry, labor and human relations.
- (6) Incompetence. Incompetence means conduct which evidences a lack of ability to discharge the duty required to protect the health, safety and welfare of the public, lack of knowledge of the fundamental principles of building inspection or the Uniform Dwelling Code or an inability to apply those principles, or failure to maintain competency in the current practices and methods applicable to inspection services and the Uniform Dwelling Code.

- (7) Independent inspection agency. Independent inspection agency means any person, firm, association, partnership or corporation, other than a municipal corporation, certified by the department to perform certified inspections under the Uniform Dwelling Code.
- (8) Misconduct. Misconduct means an act performed in the discharge of enforcement duties which jeopardizes the interests of the public, including violation of federal or state laws, local ordinances or administrative rules relating to the position, preparation of deficient or falsified reports, failure to submit information or reports required by law or contract when requested by the municipality or the department, conduct which evidences a lack of trustworthiness, misrepresentation of qualifications such as education, experience or certification, illegal entry of premises, misuse of funds, or misrepresentation of authority.
- (9) Municipality. Municipality means any city, village, town or county in this state.
- (10) Negligence. Negligence means failure by omission or commission to discharge the duty required to protect the health, safety and welfare of the public.
- (11) Person. Person means partnership, associations and bodies politic or corporate (section 990.01 (26), Wis. Stats.).
- (12) Secretary. Secretary means the secretary of the department of industry, labor and human relations.

PART II--INSPECTOR CERTIFICATION

Ind 26.06 CATEGORIES OF CERTIFICATION AND PERSONS WHO MAY BE CERTIFIED. Persons performing inspections shall be certified in each category for which they conduct inspections. Persons performing inspections may be certified by the department in one or more of the following categories: construction; energy conservation; heating, ventilating and air conditioning; and electrical. Persons performing plumbing inspections may be certified by the department of health and social services. Persons certified may be employes of the department, a municipality, or an independent inspection agency.

Ind 26.07 APPLICATION FOR CERTIFICATION OR RECERTIFICATION. (1) All applicants shall be at least 18 years of age.

- (2) Application for certification and recertification shall be made to the department, together with the payment of the fee as specified in Wis. Adm. Code section Ind 69.20.
 - (a) Applications shall be made on forms provided by the department and may be obtained by writing to:

Certification Coordinator
Safety and Buildings Division
Department of Industry, Labor and Human Relations
P. O. Box 7969
Madison, Wisconsin 53707

- (3) Upon receipt of the completed application form, the department shall review and evaluate the application and make all necessary notifications to the applicant. If it is determined that the applicant does not qualify for certification or recertification, the applicant shall be notified of such findings in writing and instructed of the appeals procedure provided under Part VI of this code.

Ind 26.08 REQUIREMENTS FOR CERTIFICATION. Eligibility for certification shall be based upon acceptance of the application and on successful completion of approved training programs or examinations.

- (1) New inspectors. Persons with less than the equivalent of one year of inspection experience shall be certified through examination.
- (2) Existing inspectors.
 - (a) Energy certification. Existing state or municipal inspectors with the equivalent of one year of inspection experience in any category may be certified without examination provided that the approved energy training program is taken.
 - (b) Construction, electrical and heating, ventilating and air conditioning certification. Existing state or municipal inspectors with the equivalent of one year of inspection experience in the category of construction, electrical or heating, ventilating and air conditioning may be certified in that category without examination provided that the approved training programs are taken for that inspection category.

Note: Credit will be given for educational and training programs approved by the department.

Ind 26.09 EXAMINATION.

- (1) Application for examination. All applications for examination shall be filed with the department prior to examination. The applicant shall be advised by the department of the date and place of the examination.
- (2) Time and place of examinations. Scheduled examinations shall be offered at least semiannually. Specific details regarding time and place are available from the department upon request.
- (3) Scope of examination. The examinations will test the applicant's ability to inspect and examine dwellings to ascertain compliance with the rules of the Uniform Dwelling Code, and more specifically:
 - (a) Code knowledge;
 - (b) Code administration;
 - (c) Inspection and enforcement techniques;
 - (d) Skills such as, but not limited to, general mathematics, reading of plans and specifications, materials and methods of construction, construction safety and oral and written communications.

- (4) Grading of examinations. The final grading of all examinations shall be by persons approved by the department. A grade of 70% or greater in each part shall be considered a passing grade for certification as an inspector.
- (5) Examination retake. Applicants failing part or all of an examination shall be required to retake, within 2 years of the original examination, only that part failed. All applications for re-examination shall be filed with the department prior to the scheduled date of the examination to be retaken.

Ind 26.10 RECIPROCITY. Inspector certification may be accomplished through reciprocity provided that the certification program of the state in which the inspector is certified is approved by the department.

Ind 26.11 ISSUANCE OF CERTIFICATE. Upon completing the requirements for certification, the department shall notify the applicant in writing and shall issue an inspection certificate. The certificate will bear the name of the applicant, certification number, expiration date, and certification category(ies). The certificate shall be valid for a period of one year.

Ind 26.12 RENEWAL OF CERTIFICATE. Upon receipt of written notice of expiration, certification may be renewed. Certification renewal shall be contingent on successful completion of on-going approved education programs or receiving a passing grade on the examination.

Ind 26.13 DENIAL OF CERTIFICATION.

- (1) Notice of denial. Upon denial of certification or recertification, the department shall notify the applicant in writing stating the reasons for denial. The notice of denial shall be made by certified mail sent to the address filed with the application. Service shall be verified by the certified mail receipt.
- (2) Hearing. Upon receipt of denial, any applicant may submit a written request for hearing. The right to hearing shall be considered waived if the applicant fails to submit the request within 30 days. Hearings will be conducted by the department and the proceedings recorded.

PART III--INDEPENDENT INSPECTION AGENCY CERTIFICATION
FOR MANUFACTURED DWELLINGS

Ind 26.14 INDEPENDENT INSPECTION AGENCY CERTIFICATION. Any independent inspection agency offering to perform in-plant inspections of manufacturing facilities, processes, fabrication and assembly of manufactured dwellings and certify compliance for manufactured dwellings under the Uniform Dwelling Code shall be certified and shall satisfy the requirements of this part.

Ind 26.15 APPLICATION FOR INDEPENDENT INSPECTION AGENCY CERTIFICATION OR RECERTIFICATION. Application for certification and recertification shall be made to the department, together with the payment of the fee as specified in Wis. Adm. Code section Ind 69.20.

- (1) Applications shall be made on forms provided by the department and may be obtained by writing to:

Certification Coordinator
Safety and Buildings Division
Department of Industry, Labor and Human Relations
P. O. Box 7969
Madison, Wisconsin 53707

- (2) All applications for certification shall be submitted in duplicate and shall contain the following information:
 - (a) Articles of incorporation, bylaws, and a statement of stock ownership of the agency.
 - (b) Name, address, and qualifications of all officers, directors, top management and personnel.
 - (c) A statement of stock held by the agency in other corporations.
 - (d) Location of offices.
 - (e) An organizational chart of the independent inspection agency.
 - (f) Names, licenses and qualifications of all in-plant inspectors employed by the agency.
 - (g) An outline of training programs and general procedures used to assure that all in-plant inspectors are properly trained.
 - (h) A list of products, components, equipment and structures which the agency has evaluated, tested and inspected.
 - (i) A list of states in which the agency is authorized to inspect or evaluate manufactured dwellings or components.
 - (j) An affidavit certifying independence and absence of conflict of interest.
 - (k) Procedures and facilities, including record-keeping used in providing services which assure compliance with the rules of the Uniform Dwelling Code.

- (1) A list of all persons having contracts with the independent inspection agency to perform certified inspections.
- (3) Any independent inspection agency to be certified by the department shall agree in writing:
 - (a) That the department may monitor by inspection and require verification of any or all conditions specified in (2).
 - (b) To make all inspection records available upon request.
 - (c) To enforce all applicable rules of the Uniform Dwelling Code in the interest of life, health, safety and welfare.
 - (d) To provide the department, upon request, with a current list of all municipalities, manufacturers or others for which it is performing certified inspections.
 - (e) That the agency shall not inspect any construction work performed by its employes.
- (4) Upon receipt of the completed application form, the department shall review and evaluate the application and make all necessary notifications to the applicant. If it is determined that the applicant does not qualify for certification or recertification, the applicant shall be notified of such findings in writing and instructed of the appeals procedure provided in Part VI of this code.

Ind 26.16 RECIPROCITY. Independent inspection agency certification may be accomplished through reciprocity provided that the certification program of the state in which the agency is certified is approved by the department.

Ind 26.17 ELIGIBILITY FOR CERTIFICATION. Eligibility for certification shall be based upon acceptance of the application and the applicant's ability to perform system analysis and develop and implement a compliance assurance program.

Note: The department will recognize agencies conforming to the criteria for agencies engaged in system analysis and compliance assurance for manufactured buildings, ASTM E541-75, published by the American Society of Testing Materials.

Ind 26.18 ISSUANCE OF INDEPENDENT INSPECTION AGENCY CERTIFICATE. Upon acceptance of the application and finding of eligibility, the department shall notify the agency in writing and shall issue an independent inspection agency certificate. The certificate shall bear the name of the independent inspection agency, certificate number, and expiration date. The certificate shall be valid for a period of one year.

Ind 26.19 RENEWAL OF CERTIFICATE. Upon receipt of written notice of expiration, certification may be renewed in accordance with the requirements of section Ind 26.15.

Ind 26.20 DENIAL OF CERTIFICATE.

- (1) Notice of denial. Upon denial of certification or recertification, the department shall notify the applicant in writing stating the reasons for denial. The notice of denial shall be made by certified mail sent to the address filed with the application. Service will be verified by the certified mail receipt.
- (2) Hearing. Upon receipt of denial, any applicant may submit a written request for hearing. The right to hearing shall be considered waived if the applicant fails to submit the request within 30 days. Hearings will be conducted by the department and the proceedings recorded.

PART IV--INDEPENDENT INSPECTION AGENCY CERTIFICATION
FOR ON-SITE DWELLINGS

Ind 26.21 INDEPENDENT INSPECTION AGENCY CERTIFICATION. Any independent inspection agency offering to perform inspections for on-site dwellings under the Uniform Dwelling Code shall be certified and shall satisfy the requirements of this part.

Ind 26.22 APPLICATION FOR INDEPENDENT INSPECTION AGENCY CERTIFICATION. Application for certification and recertification shall be made to the department, together with the payment of the fee as specified in Wis. Adm. Code section Ind 69.20.

- (1) Applications shall be made on forms provided by the department and may be obtained by writing to:

Certification Coordinator
Safety and Buildings Division
Department of Industry, Labor and Human Relations
P. O. Box 7969
Madison, Wisconsin 53707

- (2) All applications for certification shall be submitted in duplicate and shall contain the following information:
 - (a) Identification of agency entity.
 1. If a corporation, the articles of corporation, bylaws and a statement of stock ownership shall be submitted. Foreign corporations shall state whether they are licensed to do business in Wisconsin.
 2. If a partnership, the articles of partnership or limited partnership shall be submitted.
 3. If an individual, the full name under which the agency intends to do business shall be submitted.
 - (b) Name, address and qualifications of all officers, directors and management personnel responsible for the administration and enforcement of the agency.
 - (c) A statement of stock held by the agency in other corporations.

- (d) Location of offices of the independent inspection agency.
 - (e) Names and certification categories of the certified inspectors employed by the agency for inspection purposes.
 - (f) An affidavit certifying independence and absence of conflicts of interest.
 - (g) Programs, procedures and facilities, including record-keeping used in providing services which assure compliance with the rules of the Uniform Dwelling Code.
 - (h) A list of all persons having contracts with independent inspection agencies to perform certified inspections.
- (3) Any independent inspection agency to be certified by the department shall agree in writing:
- (a) All inspections for compliance with the Uniform Dwelling Code shall be by certified inspectors in the category for which they are inspecting and make all records available to the department upon request.
 - (b) That the department may monitor by inspection and require verification of any or all conditions specified in (2).
 - (c) To enforce all applicable rules of the Uniform Dwelling Code in the interest of life, health, safety and welfare.
 - (d) To provide the department, upon request, with a current list of all municipalities, manufacturers or others for which it is performing certified inspections.
- (4) Upon receipt of the completed application form, the department shall review and evaluate the application and make all necessary notifications to the applicant. If it is determined that the applicant does not qualify for certification or recertification, the applicant shall be notified of such findings in writing and instructed of the appeals procedure provided in Part VI of this code.

Ind 26.23 RECIPROCITY. Independent inspection agency certification may be accomplished through reciprocity provided the certification program of the state in which the agency is certified is approved by the department.

Ind 26.24 ISSUANCE OF INDEPENDENT INSPECTION AGENCY CERTIFICATE. Upon acceptance of the application and findings of eligibility, the department shall notify the agency in writing and shall issue an independent inspection agency certificate. The certificate shall bear the name of the independent inspection agency, certificate number, and expiration date. The certificate shall be valid for a period of one year.

Ind 26.25 RENEWAL OF CERTIFICATE. Upon receipt of written notice of expiration, certification may be renewed in accordance with the requirements of section Ind 26.22.

Ind 26.26 DENIAL OF CERTIFICATE.

- (1) Notice of denial. Upon denial of certification or recertification, the department shall notify the applicant in writing stating the reasons for denial. The notice of denial shall be made by certified mail sent to the address filed with the application. Service will be verified by the certified mail receipt.

- (2) Hearing. Upon receipt of denial, any applicant may submit a written request for hearing. The right to the hearing shall be considered waived if the applicant fails to submit the request within 30 days. Hearings will be conducted by the department and the proceedings recorded.

PART V--SUSPENSION AND REVOCATION

Ind 26.27 SUSPENSION OR REVOCATION OF CERTIFICATION. The department may suspend or revoke the certification of any inspector or independent inspection agency for any of the following reasons:

- (1) Fraud or deceit in obtaining certification.
- (2) Knowingly aiding or abetting the unauthorized examination and inspection of dwellings by persons not certified by the department.
- (3) Any negligence, incompetence or misconduct in the discharge of the duties required under this chapter and the Uniform Dwelling Code.
- (4) Conviction of a criminal charge, misdemeanor or local regulation substantially related to the circumstances of the certified inspection activity or adjudication of mental incompetence by the courts.
- (5) Conflict of interest.

PART VI--PROCEEDINGS

Ind 26.28 FILING OF COMPLAINT. Proceedings to revoke or suspend a certificate may be initiated by any person on a signed, written complaint filed with the department. Any alleged violation of the law or the administrative rules of the department shall be set forth in the complaint with particular reference to time, place and circumstance.

Ind 26.29 INVESTIGATION AND NOTIFICATION. The department may investigate alleged violations on its own initiative or upon the filing of a complaint. If it is determined that no further action is warranted, the department shall notify the persons affected. If the department determines that there is probable cause, it shall order a hearing and notify the persons affected.

Ind 26.30 MAILING. Unless otherwise provided by law, all orders, notices and other papers may be served by the department by certified mail addressed to the party at the last known address. If the service is refused, service may be made by sheriff without amendment of the original order, notice or other paper.

Ind 26.31 RESPONSE. Upon receipt of notification of hearing from the department, the charged party may submit to the department a written response within 30 days of the date of service. Failure to respond within the prescribed time limit, or failure to appear at the scheduled hearing, may result in the allegations specified in the complaint being taken as true.

Ind 26.32 CONCILIATION AGREEMENT PRIOR TO HEARING. If the department and the respondent are able to reach agreement on disposition of a complaint prior to hearing, such agreement shall:

- (1) Be transmitted in writing to the secretary;

- (2) Not be binding upon any party until accepted by the secretary;
- (3) Not be considered a waiver of any defense nor an admission of any fact until accepted by the secretary.

Ind 26.33 HEARINGS.

- (1) Subpoenas; witness fees. Subpoenas may be signed and issued by the department or the clerk of any court of record. Witness fees and mileage of witnesses subpoenaed on behalf of the department will be paid at the rate prescribed for witnesses in circuit court.
- (2) Conduct of hearings. All hearings will be conducted by persons selected by the department. Persons so designated may administer oaths or affirmations and may grant continuances and adjournments for cause shown. The respondent shall appear in person and may be represented by an attorney-at-law. Witnesses may be examined by persons designated by the department.

Ind 26.34 FINDINGS. The department may make findings and enter its order on the basis of the facts revealed by its investigation. Any findings as a result of petition or hearing shall be in writing and shall be binding unless appealed to the secretary.

Ind 26.35 APPEAL ARGUMENTS. Appeal arguments shall be submitted to the department in writing unless otherwise ordered.

Ind 26.36 PETITION FOR RULES OR DECLARATORY RULINGS. Petitions for the adoption, repeal or amendment of rules and for declaratory rulings shall be in accordance with chapter 227, Wis. Stats.

Ind 26.37 PENALTIES. Pursuant to sections 101.66 and 101.77, Wis. Stats., any person who violates this code shall forfeit to the state not less than \$25 nor more than \$500 for each violation. Each day that the violation continues shall constitute a separate offense.