

Report From Agency

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

**IN THE MATTER OF RULEMAKING :
PROCEEDINGS BEFORE THE : REPORT TO THE LEGISLATURE
DEPARTMENT OF SAFETY : CR 22-069
AND PROFESSIONAL SERVICES :
:**

I. THE PROPOSED RULE:

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

II. REFERENCE TO APPLICABLE FORMS: N/A

III. FISCAL ESTIMATE AND EIA:

The Fiscal Estimate and EIA is attached.

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

The department, in conjunction with the Commercial Building Code Council and stakeholders, reviewed the existing code as it relates to standards for recreational and educational camps. The Wisconsin Commercial Building Code, SPS 361-366, contains standards for the design, construction, maintenance, use and inspection of commercial buildings, public buildings, and places of employment. The agency has determined making changes to the code in order to create separate standards for the construction and inspection, the installation, repair, and maintenance of electrical wiring, and plumbing standards for recreational and educational camps. These standards take into account uses, including seasonal use, that are unique to recreational and educational camps.

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

The department held a public hearing on November 8, 2022. The following people either testified at the hearing, or submitted written comments:

Stephanie Sticka, Recreational Technical Specialist for Recreational and Educational Camps from the Wisconsin Department of Agriculture, Trade, and Consumer Protection (DATCP), expressed the following:

“Make attempt at consistency across building and health and safety. One area that differs is highlighted below in proposed SPS 362; final hearing draft of ATCP 78.21 (1)(b) reads: *Platform tents. Platforms constructed...shall not exceed 3 feet.*”

In response to the comment received from DATCP the height requirement in s. SPS 362.3102 (1) was modified from 30” to 36” to be consistent with the language in ATCP 78.21 (1) (b) contained in clearinghouse rule CR 21-109.

VI. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS:

Clearinghouse Comment 2b: Should the titles in s. SPS 362.3102, as repealed and recreated, be reviewed? For example, would a section title of “**Membrane structures and blower equipment.**” and a sub. (1) title of “MEMBRANE STRUCTURES.” to accompany the existing sub. (2) title of “BLOWER EQUIPMENT.” more accurately convey the agency’s intent and the rule organization relative to the IBC? All titles in the proposed rule should conform to the form prescribed in s. 1.10 (2) (b) of the Manual.

Response: The department has added the title “Temporary structures” to SPS 362.3102 (1). This change addresses the concern raised in the comment while also preserving parallel naming and section structure with the referenced IBC code sections to improve clarity for the reader.

Clearinghouse Comment 5. b. (1): Would using the phrase “toilet facilities” provide greater clarity than the phrase “required ... facilities”? If the intent is to apply the substitute wording to only a subset of toilet facilities, that application could be more clearly explained.

Response: Whenever possible in the Commercial Building Code the department attempts to mirror the exact language of the referenced international code to avoid confusion for the consumer. Here, the referenced exception in IBC section 2902.3.2 reads:

“The location and maximum distances of travel to required employee facilities in factory and industrial occupancies are permitted to exceed that required by this section, provided that the location and maximum distance of travel are approved.”

The draft language makes the minimum changes required to effectuate the Wisconsin modification to the exception by adding “and to required employee and patron or camper facilities serving seasonal recreational and educational camp buildings.” The recommended additional change was not made to avoid unintended consequences from further modifying the original text.

Clearinghouse Comment 5. b. (3): The phrase “provided that the locations and maximum distance of travel are approved” could be converted to active voice to clarify which entity must provide the approval.

Response: For the same reasons outlined in response to Comment 5. b. (1) the language used in the draft represents the minimum changes required to effectuate the Wisconsin modification to the exception.

Clearinghouse Comment 5. c.: In s. SPS 362.3102 (1), the application of the 180-day time period could be clarified. For example, does that provision apply if the building or structure is erected for 180 days, taken down, and then erected again for another 180-day period? Or, must the building or structure remain erected for less than 180 days within any calendar year?

Response: The requirements to qualify as a “seasonal recreational and educational camp building” include occupancy for less than 180 days because of the date restrictions. The occupancy limitations, not any particular limitation on how long the structure may remain assembled, is the controlling safety issue for these structures, so the department has eliminated the 180 day language to remove the ambiguity.

All remaining recommendations suggested in the Clearinghouse Report have been accepted in whole.

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