Attachment 1

SUMMARY OF PUBLIC COMMENTS AND THE DEPARTMENT'S RESPONSES,
EXPLANATION OF MODIFICATION TO PROPOSED RULES PROMPTED BY PUBLIC COMMENTS
CR 23-007, SPS 361-366, Wisconsin Commercial Building Code

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#	Provision	Comments / Recommendations	Agency Response/Modifications
	305.627 (1), 314.001 (3), 361.03 (16)	I am writing today on behalf of the Sheet Metal and Air Conditioning Contractors Associations of Milwaukee and Wisconsin in regard to the Economic Impact Analysis of a proposed rule change relating to the Commercial Building Code SPS 361-366. Our local and statewide contractors' Association's wanted to express to you the importance of fire damper systems to Fire Life Safety in commercial buildings, as well as competent design, installation, and inspection of these systems. Thank you for the opportunity to provide input on this important process.	The Department modified the proposed rule to add certification requirements for certain individuals performing inspections of fire damper systems to address this comment.
	361.04, 361.31	Recently I got into an argument with a private plan reviewer regarding component submittals. I had submitted a wood frame building deferring engineering of engineered lumber flooring, walls, and headers onto the framing supplier. This has been typical in project delivery on wood frame buildings for some time now where the suppliers have their own designers/engineers and use very expensive software from the manufacturers to engineer, design, and specify members and connections. They produce shop drawings that are reviewed and approved by the engineer of record as is typical for other components customarily deferred such as precast concrete and open web steel joists. I was told that I had to do all of this engineering up front even though I already had engineering in hand from the supplier because he did not want to acknowledge the lumber framing as a structural component submittal. It was extremely frustrating to try to have a conversation/argument with this reviewer because DSPS has not formally defined or specified in the rules what constitutes a structural component submittal. Whereas there are several guidance documents from DSPS that cover the subject, it is	The Department determined that no change is appropriate in response to this comment because submission requirements are adequately defined in the existing code.

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		common when dealing with intransigent plan reviewers that if you point to anything other than actual code or rules, they say to you "well that's not code, do what I tell you to do." My suggestion is to add a definition in SPS 361.04, as well as a section under SPS 361.31 that clearly defines and lays out procedure for submission and review of "structural component submittals." Additionally, please update your guidance to include engineered lumber framing (as well as light-gauge steel framing) such that your guidance is up to date with modern project delivery methods.	
	361.40 (3) (b)	SPS 361.40(3)(b) states, "If the supervising architect, engineer, or designer withdraws from a construction project, the owner of the building or structure shall retain a new supervising professional within 30 days of the date of the withdrawal and provide the authority that issued plan approval the name and Wisconsin registration number of the replacement supervising professional." The problem with the existing language is that it does not identify any penalty should the owner of the building or structure fail to provide/designate a replacement supervising professional to the authority that issued the plan approval within the allotted 30 days. If there is no supervising professional providing supervision over the project, language is requested to be inserted into the administrative chapter stating that the plans shall be rescinded per SPS 361.35 since the licensed professional as implied with the original approval is no longer providing supervision and because the owner has chosen not to provide a replacement. Language requested to be added to SPS 361.40(3)(b) is as follows, "If the supervising architect, engineer, or designer withdraws from a construction project, the owner of the building or structure shall retain a new supervising professional within 30 days of the date of the withdrawal and provide the authority that issued plan approval the name and Wisconsin registration number of the replacement supervising professional. Should a replacement supervising professional not be designated by the building or structure owner within the 30 days of the date of the	The department determined that no change is appropriate in response to this comment. Existing code provides for a number of different enforcement mechanisms adequate to address the situation described.

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		withdrawal of the supervising professional last recognized, the plan approval shall be revoked as allowed by SPS 361.51."	
	362.0717 (3)	Proposed SPS 362.0717(3) for use with IBC 717.6.3 involving nonfire-resistance-rated floor assemblies is not also identified for application with IMC 607.6.3. Note that the IBC is the primary reference, and the IMC is a secondary reference of the same requirement.	The Department agrees with the comment. The recommended change was added to the proposed rule.
	362.0717, 364.0607 (3m)	Current SPS 364.0607(4m) for use with IMC 607.5.4 is not duplicated for reference in SPS 362.0717 for use with IBC 717.5.5. Note that the IBC is the primary reference, and the IMC is a secondary reference of the same requirement.	The Department agrees with the comment. The recommended change was added to the proposed rule.
	362.0717, 364.0607 (3m)	Current SPS 364.0607(3m) for use with IMC 607.5.5 is not duplicated for reference in SPS 362.0717 for use with IBC 717.5.3. Note that the IBC is the primary reference, and the IMC is a secondary reference of the same requirement.	The Department agrees with the comment. The recommended change was added to the proposed rule.
	362.0717?	2021 IBC 717.2.3 has new language regarding static dampers. "Fire dampers and ceiling radiation dampers that are listed for use in static systems shall only be installed in heating ventilation and air-conditioning systems that are automatically shut down in the event of a fire." 2021 IBC 717.6.2.1.1 states, "Dynamic systems. Only ceiling radiation dampers labeled for use in dynamic systems shall be installed in heating, ventilation and air-conditioning systems design to operate with fans on during fire." At this time, UL has no specific testing procedure for dynamic dampers. Additionally, the means by which static dampers are installed at this time typically do not have a means to automatically shut down the HVAC system. If the intent is to adopt the 2021 ICC codes inclusive of these requirements, how is the Department to enforce the language in the 2021 code as to what is or is not acceptable for the installation for static dampers? What would be an acceptable means of installation for static dampers? Does it require placement of smoke detectors similar to that identified for smoke dampers in IBC 2021 section 717.3.3.2 to shut down the HVAC system? If so, I ask that the Department to provide	The Department has determined that no change is appropriate in response to this comment. The Department agrees that some clarification of these provisions is warranted, but believes that clarification should be accomplished through a future addition to the appendix rather than in the body of the code.

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		language specifically identifying such. What is or is not acceptable for the installation of dynamic dampers? The code provides no testing criteria, and UL has none to provide so as to justify they are acceptable listed "dynamic dampers? Should these referenced 2021 ICC requirements be amended such that reference for the need to automatically shut down the system is removed? For your reference, the current code under 2015 IBC 717.3.1 states under Damper testing, "Fire dampers shall comply with the requirements of UL 555. Only fire dampers and ceiling radiation dampers labeled for use in dynamic systems shall be installed in heating, ventilation and air-conditioning systems designed to operate with fans on during fire." The proposed 2021 code sections only have questions concerning application at this time, and no answers.	
	362.1210	Proposed to be inserted as an amendment to IBC 1210.3 Privacy; The fixtures within a multi-user toilet room or any toilet room without a privacy lock shall be arranged, or a mazed passage or screen wall provided at the entrance to the room, such that when the door to the toilet room is open there is no clear sight line from outside of the toilet room to any of the fixtures in the toilet room that are not within a stall or other privacy partitions. The user of the fixture shall not be visible from outside the toilet room when the door is open. Discussion: If a young lady, spilled something on her blouse, and in order to clean it she unfastened portions so as to better access cleaning as she was using the sink, do you feel she would feel comfortable when the door opened with no privacy partition? See below. I feel the design would have a privacy conflict for those using the sink. I ask that that Department include the suggested language, or similar, to the proposed code language. See example below:	The department determined that no change is appropriate in response to this comment. The existing language in 2021 IBC 1210.3 already mandates that public restrooms shall be visually screened from outside entry or exit doorways to ensure user privacy within the restroom. The Department believes that that language sufficiently addresses the concern raised in the comment.
	362.1700	On behalf of AIA Wisconsin's Codes and Standards Committee, I would like to request that the adoption of Chapter 17 Special Inspections of the 2021 International Building Code be removed from the code package that has been forwarded to the legislature for adoption. Wisconsin currently requires the involvement of a licensed	The Department has determined that no change is appropriate in response to this comment. The decision to remove the exemption for special inspections was made after

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		professional for both the design and construction of buildings over 50,000 cubic feet. SPS 361.40(1)(a) requires proposed construction to be supervised by one or more Wisconsin registered architects or engineers, and the person responsible for supervision shall also be responsible for the construction and installation being in substantial compliance with the approved plans and specifications. Upon completion of the project and before initial occupancy the supervising architect, engineer or designer must file a written statement certifying that, to the best of his or her knowledge and belief, construction of the portion to be occupied has been performed in substantial compliance with the approved plans and specifications. The need for the inspections required by chapter 17 is best determined by the supervising design professional based on the individual building's unique project requirements. This is the reason that chapter 17, except for some test standard references, was not included when Wisconsin first adopted the International Building Code in 2002 and has not been included in the 3 code adoptions since then. Removing that control from the licensed professional and requiring these inspections across the board, will increase the cost of projects. In some cases, that cost will be significant. It is important to note, there is nothing in the building code or SPS rules that prevents the supervising design professional from requiring any or all the special inspections listed in Chapter 17 if they feel they are necessary. Including Chapter 17 in the building code will also add an additional layer of regulation to the construction process. The licensed professional that is responsible for design and/or construction must have special credentials if they are to perform any of the special inspections required by Chapter 17. The credentialling process is supposed to be managed by the building official, in this case DSPS or their authorized agent. In addition, Chapter 17 requires inspection reports be submitted to the building official. It is not clear if DSPS has a plan to issue or verify credentials, as well as accept and review required test reports. We believe the impact of these two requirements will be significant. The special inspection requirements of chapter 17 have been developed partly by the national code organizations that came together to form the International Code Council in response to building failures in other areas of the country, not Wisconsin.	significant consultation with stakeholders by both the Department and the Commercial Building Code Council and was deemed to be appropriate.

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		Many of those failures were a result of the quality of the contractors and the work they produced. My experience working nationally, is that Wisconsin contractors typically perform to a higher level of quality than their counterparts elsewhere in the country and consequently Wisconsin has not experienced the building failures that have occurred in other areas of the country. In summary, we do not believe the adoption of Chapter 17 will increase the safety of buildings and will add cost to construction projects. The decision to implement the requirements of Chapter 17 are best left to the licensed professional responsible for the project.	
	362.2902 (2) (c)	On behalf of the AIA Wisconsin Codes & Standards Committee, I wish to submit a comment regarding the proposed Wisconsin amendment to IBC 2021 s2902.2. Specifically, SPS 362.2902 (2) (c) Exception 6 to IBC s. 2902.2 is not included as part of this code. The excluded exception provides for the potential for gender-neutral sanitary facilities. This concept has seen a significant rise in popularity in a wide variety of building types. The exception was thoroughly scrutinized and adequately vetted at the ICC code development hearings and its acceptance into code language demonstrates its viability. It promotes an aspect of diversity, equity, and inclusion which the State of Wisconsin embraces in policy. Wisconsin need not be more restrictive. DSPS has granted at least one variance of which I am aware to allow such a facility. That variance apparently established an equivalency and reinforces the exceptions viability.	The Department agrees with the comment. The proposed rule was modified to not exclude exception 6 to IBC s. 2902.2.
	362.3103, 361.03 (12) (a)	The language in IBC 3103 is not clear as to how the 180 days is to be applied. The Division has, for decades, enforced the language as "consecutive". Additionally, if one were to not address the addition of the word "consecutive", it is challenging, if not impossible, to enforce this rule. The Dept. has very little means to verify use by the owner if the interpretation is not deemed to be consecutive. The Department is requested to create an amendment to modify the language to state, "...Tents and other membrane	The Department determined that no change is appropriate in response to this comment. The Department believes that the existing language in IBC s. 3103 is appropriate as it is currently written.

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		structures erected for a period of less than 180 consecutive days shall comply with the International Fire Code…" This requested action complements the proposed change in language associated in SPS 361.03(12)(a) for temporary use where the word "consecutive" is already proposed to be added.	
	363.0403	2021 IECC Section C403.12.3 addresses pipe insulation. Are refrigerant linesets used on refrigeration equipment to be insulated to the minimum listed in the associated table? Immaterial of yes or no, the Department is requested to provide a note, or similar, so that the need for pipe insulation on refrigerant linesets is clarified to code users.	The Department determined that no change is appropriate in response to this comment. The requirements for insulation of refrigerant linesets may be different depending on individual hardware and installation conditions, and additional code sections also impact insulation requirements. For these reasons a blanket statement regarding the entire category of products is not appropriate.
	363.0407	SPS 363.0407 is proposed to be removed in its entirely. Included in that action was what I believe to be an inadvertent removal of SPS 363.0407(3) and the direct recognition of the use of Comcheck when used with the 2021 IECC or ASHRAE 90.1-2019. That omission is requested to be corrected for reference and application by designers and code enforcement staff. Note that SPS 363.5405 was modified to address REScheck and the newer version of the IECC, so it's clearly a mistake that was not recognized.	The Department agrees with this comment. In response the relevant rule section was amended to only repeal ss. SPS 363.0407 (1) and (2), while leaving s. SPS 363.0407 (3) in place.
	364.0401 (2) (a)	SPS 364.0401(2)(a) identifies that ventilation is required to be supplied during the periods the room or space is occupied. The section eliminates the mandate that mechanical ventilation be addressed in IMC 401.2 as written. SPS Table 364.0402 then identifies acceptance of natural ventilation for Dwelling Units, single and multiple. SPS 364.0401(1)(a) states that an engineered system is acceptable. SPS 364.0403(1)(a) goes on to state, "A ventilation system complying with IMC section 403.3 without the modifications of subs. (2) to (6) is recognized as meeting this exception."	The Department determined that no change is appropriate in response to this comment. The Department has reviewed the relevant sections of the IMC and ch. SPS 364 and determined that no conflict exists.

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		This statement exempts SPS 364.0403(7). SPS 364.0403(7) states, "The requirements of IMC section 403.3.2 are not included as part of the chs. SPS 361 to 366". The inclusion of SPS 364.0403(7) seems inappropriate, since a design professional could still justify to the Department or its representatives the use of IMC 403.3.2 by calling it an "engineered system". The Department is requested to review the current language and modify.	
	364.0403 (1) (a)	SPS 364.0403(1)(a) states, "The system shall be arranged to operate continuously at a minimum exhaust rate of 0.05 cfm/sf. Subsequently, the system shall operate at a minimum of 0.75 cfm/sf automatically upon detection of vehicle operation, the presence of occupants, or by a combination of occupancy sensor and carbon monoxide and nitrogen dioxide sensors as appropriate for the room or space. The system shall also be designed so as to address the requirements listed in s. SPS 364.0403(2) and (3)." Those that are required to apply the code are confused by the language "…upon detection of vehicle operation…" Is the intent to require occupancy sensors so as to sense vehicle operation when a vehicle "moves" within a space, or is the language intended to address vehicle operation by way of measurable contaminants via CO and/or NO2 sensors? Bottom line, is it the intent of this section to require BOTH occupancy sensors AND CO/NO2 sensor installations; or is it the intent to have either one or other? It would seem the intent of the section is to always require CO and/or NO2 sensors and occupancy sensors. The current language is not clear and should be modified so as to clarify its intent.	The Department determined that no change is appropriate in response to this comment. The Department reviewed the existing code language and determined that no clarification is needed.
	364.0403 (Table)	2021 IMC Table 403.3.1.1 under "Private dwellings, single and multiple", requires that kitchens in dwelling units have either 25 cfm continuous or 100 cfm intermittent exhausts per footnote f. SPS Table 364.0403 currently references 20 cfm continuous or 100 cfm intermittent exhausts. It is requested that SPS Table 364.0403 be modified so as to reflect the current minimum requirements of nationally published 2021 IMC Table 403.3.1.1 for the same use for continuity purposes. This is especially important since the use of natural ventilation in such spaces has been removed per changes in SPS Table 364.0402.	The Department agrees with this comment. The language in the proposed rule was updated to require 25 cfm as recommended.

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	364.0403 (Table)	SPS Table 364.0403 provides an entry under "Specialty Shops", Automotive service and repair garages for gasoline or diesel fueled vehicles. In review of the proposed code language, how does a Dept representative, or a designer know what to do with a service repair area as related to an "electric" car? The intent of the section as currently written above was to separate the ventilation requirements for those vehicles using gasoline and/or diesel; from those that use compressed natural gas or hydrogen gas. Note that compressed natural gas vehicle service/repair areas have a different set of ventilation requirements found in IMC 502.16. My point is that as currently proposed, the code does not provide specific ventilation requirements for electric cars that are serviced or repaired. In my opinion, although electric vehicles have no gasoline, ventilation should still be required because there are plenty of other contaminants such as oils, fluids, etc. in an electric car as it involves steering fluid, brake fluid, brakes (asbestos), transmission (?), batteries, etc. The Department is requested to change the SPS Table 364.0403 entry to, "Automotive service and repair garages for electric, gasoline or diesel fueled vehicles.	The Department agrees with the content of the comment, however no change was made as a result because electric vehicles were already added to the entry for service and repair garages in the draft rule as submitted to the clearinghouse.
	364.0403 (Table)	IMC 502.13 allows for use of IMC Chapter 4 (SPS Table 364.0403) for continuous ventilation or IMC section 404 for intermittent ventilation for an enclosed parking garage. SPS Table 364.0403 includes "Storage", for Enclosed parking garages. This language, as currently provided, should be adequate so as to also address electric cars. However, in review of IMC 404, and SPS 364.0404 for intermittent enclosed parking garage ventilation, I'm not sure that the current language requiring CO and NO2 sensors is viable for an electric car only storage facility. I ask that the Department provide guidance within the code as to whether or not the electric car storage in an enclosed parking garage is required to have related parking garage ventilation. If the space were	The Department does not believe that any change is appropriate in response to this comment. The Department believes that the importance of uniform design for vehicle storage facilities outweighs any advantage of making specific provisions for the storage of electric vehicles.

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		to be solely used for electric cars, it would seem reasonable to eliminate the need to install CO and NO2 sensors. A letter from the owner stating such use should be required at the time of plan submittal, the space shall be posted with the language, "Parking for electric vehicles only. If motorized vehicles are to be parked in this area at any future time, enclosed parking garage ventilation shall be provided by the owner". Lettering shall be similar to what is required per 2021 IBC 703.5. The letter shall contain acknowledgement that if the use changes at any future time, the owner would be responsible to modify the space so as to complement the new use (ie. storage of motorized vehicles).	
	N/A	There is no guidance concerning the application or non-application of the Wisconsin Commercial Building Code and the Uniform Dwelling Code in regards to Airbnb's. Airbnb is defined as in "Air Bed and Breakfast," which is a service that lets property owners rent out their homes to travelers looking for a place to stay. Travelers can rent a space for multiple people to share, a shared space with private rooms, or the entire property for themselves. Via Wisconsin statute 101.01(12), a commercial building is one that "allows use by the public". It would seem that such buildings would be deemed to be considered to be a commercial building, which would then require application of the Wisconsin Commercial Building Code. As such, the need to sprinkler those buildings, along with many other issues as it involves accessibility, etc with this use would seem to be required. Additionally, if such buildings are recognized as commercial, they may be in conflict with their local zoning rules. At this point in time, there has been little direction from the Department on this matter, and local municipalities are unsure as to how address these unique buildings. It has been noted that ATCP has rules regarding this situation as found in ATCP 72.14 which can be viewed at: https://docs.legis.wisconsin.gov/code/admin_code/atcp/055/72 This is to request that written direction be provided for use and reference by both commercial and UDC code users and enforcement agencies.	The Department determined that no action was appropriate in response to this comment. Any modifications in response to this comment would represent a significant change in the code that would affect large numbers of stakeholders, including small businesses. Because this issue does not appear to have been discussed with the Commercial Building Code Council during the rule making process, was not subject to SBRRB review, and was not subject to either EIA or general public comment any changes would be inappropriate at this time.

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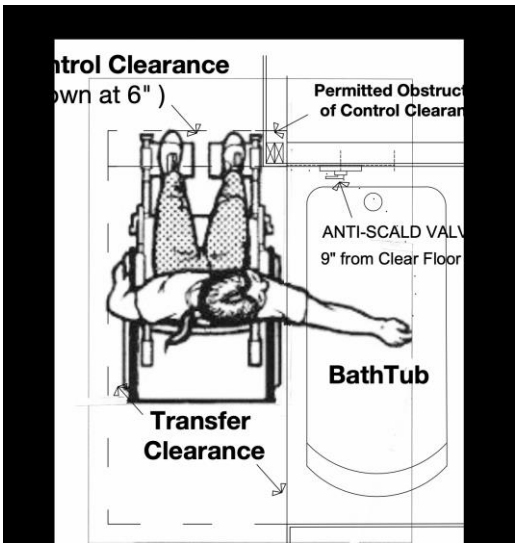
	Multiple	**Useable Bathrooms: Reach to tub & shower controls** While tubs and showers are required to clear floor spaces for the fixtures themselves, the controls for them are not reach-able in current provisions of state law, International Building Code 2015, ANSI A117.1-2017, and ADAAG. The issue is, simply, that a seated person's toes must go past the plane of the wall and the controls offset in order to accommodate the arc of reach.  This arrangement would be useful as a supplement to the IBC codes & ADAAG side and forward reach provisions in that it addresses what the reach potential is *into corners*; it is *not* the combined area side and forward reach. The diagram makes clear that in order to reach a control mounted on the Centerline of the tub, the traditional mounting location, 5-9" must be provided beyond the foot of the fixture in order to reach the water control. In actual practice we have found that offsetting the control 9" from the approach side of the fixture then permits an accessible reach with only 5" beyond the foot of the tub/shower.	The Department determined that no action was appropriate in response to this comment. Any modifications in response to this comment would represent a significant change in the code that would affect large numbers of stakeholders, including small businesses. Because this issue does not appear to have been discussed with the Commercial Building Code Council during the rule making process, was not subject to SBRRB review, and was not subject to either EIA or general public comment any changes would be inappropriate at this time.

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		There used to be such a provision in Wisconsin's administrative code for multi-family housing, Chapter 57, but it disappeared when the IBC was first adopted, in the name of "simplification." In the meantime a similar provision has been carried forward in WHEDA's Qualified Allocation Plans for the Section 42 housing assistance program, covering hundreds of apartments without objections from designers and builders. In addition, The beneficiaries extend beyond persons with disabilities: offsetting the controls makes it easier to reach when parents bathe children, or the user simply wants to adjust the water temperature before getting in. The features do not interfere with any one else's use of the fixtures Most bathrooms are already larger than the traditional 5' x 7' standard; our current norms of designs based on market demands are for larger bathrooms, often with multiple bathing facilities; thus the floor space needed (9" max. by 30" wide = 1.88 SF) is a modest cost, and depending on the layout and size desired may not require any added area *per se*. Thomas Hirsch, FAIA, is currently participating in the revisions of ANSI A117.1-2017 but the process is not likely to produce results for a number of years. The AIA Wisconsin Codes & Standards Committee would like to see this arrangement restored to Wisconsin's housing, in statute while updating the state building codes, for more immediate effect and to assure continuity over time.	