

Report From Agency

ADMINISTRATIVE RULES DEPARTMENT OF HEALTH SERVICES REPORT TO THE LEGISLATURE CLEARINGHOUSE RULE 10-015

By the Wisconsin Department of Health Services (department) to create ss. DHS 195.145 and 197.145, relating to carbon monoxide detectors in hotels, motels, tourist rooming houses and bed and breakfast establishments.

Basis and Purpose of Proposed Rule

Lodging establishments (hotels, tourist rooming houses, and bed and breakfast establishments) are required under s. 101.149 (2) and (3), Stats., to install and maintain carbon monoxide detectors in every residential building that has a fuel-burning appliance, unless, pursuant to s. 101.149 (5), Stats., the building does not have an attached garage and all fuel-burning appliances in the building have sealed combustion units that are either covered by the manufacturer's warranty against defects or are inspected by the department. The Legislature under s. 254.74 (1) (am) Stats, requires the department to promulgate rules under which it shall conduct regular inspections of sealed combustion units for carbon monoxide emissions and rules that specify the conditions under which it may issue orders to correct violations of s. 101.149 (2) or (3), Stats.

The proposed rules require lodging establishments to comply with the carbon monoxide detector installation and maintenance requirements of s. 101.149 (2) and (3), Stats., and s. Comm. 21.097 and 62.1200 (2). Consistent with ss. Comm. 21.097 and 62.1200 (2), the rules require installation of carbon monoxide detectors without exception in all new residential buildings constructed on or after October 1, 2008. With respect to any residential building for which construction was initiated or the plans were submitted to the department of commerce before October 1, 2008, and in which the operator has not installed a carbon monoxide detector, pursuant to the exception under s. 101.149 (5), Stats., the rules require the operator to arrange for the annual professional inspection of each fuel-burning appliance, which is not under warranty, including its vents and chimneys, for carbon monoxide emissions.

The rules require the department to conduct regular inspections of lodging establishments to ensure compliance with the requirements for the installation and maintenance of carbon monoxide detectors. The rules prescribe the procedures under which the department may issue orders to an establishment to correct a violation of the installation and maintenance requirements under s. 101.149 (2) and (3), Stats. The rules also require the department to conduct regular inspections of facilities to ensure compliance with the requirement that sealed combustion appliances be inspected for carbon monoxide emissions in residential buildings where carbon monoxide detectors have not been installed pursuant to the exception under s. 101.149 (5), Stats. If the department determines upon inspection that a sealed combustion unit has not been inspected as required, the department will order the establishment to have an inspection conducted within 30 days of the order. If the establishment fails to conduct the inspection, the department will arrange for the inspection by an agent qualified to conduct the inspection. The costs of the department agent's inspection would be paid by the facility.

Responses to Legislative Council Rules Clearinghouse Recommendations.

The department accepted the comments made by the Legislative Rules Council Clearinghouse and modified the proposed rule where suggested.

Final Regulatory Flexibility Analysis

The proposed rule changes to chs. DHS 195 and 197 will affect a substantial number of small businesses, however, the proposed rule changes will not have a significant economic impact on those businesses.

Changes to the Analysis or Fiscal Estimate

Analysis

No changes were made to the analysis.

Fiscal Estimate

No changes were made to the fiscal estimate

Public Hearing Summary

The department began accepting comments on April 1, 2010, when the proposed rule was posted on the Wisconsin Administrative Rules Website. Five public hearings were held on the proposed rules. The department held public hearings on the proposed rules on April 21, 2010, in Milwaukee; April 23, 2010, in Rhinelander; April 27, 2010, in Rhinelander; April 28, 2010, in Green Bay; and April 30, 2010, in Eau-Claire. The hearing record remained open until 4:30 p.m. on April 30, 2010.

List of Public Hearing Attendees and Commenters

The following is a complete list of the persons who attended the public hearing or submitted written comments on the proposed rules. With each individual’s name and affiliation is an indication of the individual’s position on the proposed rule and whether or not the individual testified or provided written comments.

Name and Address	Position Taken (Support or Opposed)	Action (Oral or Written)
1. Scott Stockman 7 N. Pinckney Suite 300 Madison, WI 53703	Not Indicated	Observed Only