

RESPONSE COMMENTS TO LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

(Note: After issuance of the Clearinghouse report, chapter Comm 41 was renumbered chapter SPS 341 under s. 13.92 (4) (b) 1., Stats., and most of the Department's other Comm chapters were likewise changed to instead have an SPS prefix and to include 300 added to numbering.)

Clearinghouse comment 2. g. In s. SPS 341.03 (2) (a), the Department prefers to not replace “department-written rule in this chapter” with “provision of this chapter” because (1) “provision of this chapter” includes not only the Department-written rules in the chapter but also the national standards that are incorporated by reference into the chapter, and (2) the purpose of this section is to make the Department-written rules supersede any differing provisions in the incorporated standards.

Clearinghouse comment 2. h. The Department has diligently sought throughout the chapter to provide clear and ample direction in how to apply the included national standards in conjunction with the included department-written rules, so as to not leave the reader to figure out which provision applies in any given instance. The purpose of s. SPS 341.03 (2) (b) and (c), as proposed, is to provide a framework for resolving any uncertainty that might arise from any provisions that are subsequently found to differ. This resolution could include the Department oversight referenced in s. SPS 341.03 (4), if needed.

Clearinghouse comment 2. j. The Department prefers to include commas inside closing quotation marks in order to follow the preferred American style, as conveyed in rule number 247 in the 11th edition of *The Gregg Reference Manual*.

Clearinghouse comment 2. k. The Department prefers to not renumber all of the definitions in s. SPS 341.04 so that each of them are in separate, decimal-numbered sections, because the Department's numerous other codes typically likewise place each definition in separate subsections within a single section. The clarity that is obtained in the proposed rules by having un-gapped, numeric-only numbering of these definitions outweighs any value of having an unimpaired history for them, especially because they cannot contain substantive provisions.

Clearinghouse comment 2. q. The Department has rewritten s. SPS 341.15 (5) (a) as recommended, but prefers to retain all of the chapter's other uses of the passive voice. Although a facility's owner typically is ultimately responsible for having any prescribed action occur, mandating who they have perform it, such as in submitting a fee to the Department under ch. SPS 302, usually is unnecessary and excessively regulatory.

Clearinghouse comment 2. w. The Department prefers to not abbreviate “section” in the note under s. SPS 341.37 (3) because the purpose of notes is to be explanatory, and abbreviations may be less than fully explanatory to some readers of this chapter. In s. SPS 341.40, “ss.” is change to “Sections” because the deletions that precede it cause it to now begin the sentence.

Clearinghouse comment 2. bb. Because the Legislative Reference Bureau no longer sequentially numbers multiple notes in an individual section when publishing an Administrative Code chapter, any bracketed number following use of “Note” in the proposed rules instead serves either to inform the reader of the order in which the Department proposes to add one or more new notes to one or more existing notes, or to otherwise specifically address one or more but not all of a set of notes in a section.

Clearinghouse comment 4. Because the purpose of notes is to be explanatory, the Department prefers to include the title of chapters SPS 361 to 366 in the note following s. SPS 341.03 (1) (c) in order to convey to the reader the general content of those chapters.

Clearinghouse comment 5. a. Under s. SPS 341.04 (4), the City of Milwaukee is intended to be an authorized agent, and any party designated by the City to be their authorized representative would likewise be an authorized agent.

File reference: Comm 41/Legislative Review Clghse