

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 AND : **CLEARINGHOUSE RULE 15-041**
PROFESSIONAL SERVICES :

I. THE PROPOSED RULE:

The proposed rule revisions and the analysis are attached.

II. REFERENCE TO APPLICABLE FORMS:

These rule revisions would not require use of any new or revised forms.

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:

These rule revisions are primarily an update of the Uniform Dwelling code based on the recommendations from a report prepared by the Uniform Dwelling Code Council and the Department as directed in s. 101.62 (4) Stats.

These revisions will advance the goals under sections 101.63 (1) of the Statutes of establishing standards for the construction and inspection of one-and two-family dwellings, and for ensuring compliance with the standards. They would also advance the goal under section 101.64 (6), of prescribing procedures for approving new building materials, methods, and equipment.

V. SUMMARY OF PUBLIC COMMENTS AND THE DEPARTMENT'S RESPONSES, AND EXPLANATION OF ANY RESULTING MODIFICATIONS TO THE PROPOSED RULES:

The Department held a public hearing on June 8, 2015. The following people either testified at the hearing, submitted written comments, or did both.

Brad Boycks, representing the Wisconsin Builders Association
Randall R. Dahmen, PE
John Easter, representing the American Chemistry Council
Keith Reopelle, representing Clean Wisconsin
Mary Schroeder, representing Miller Custom Homes
James B. Smith, representing the American Wood Council
Dale F. Vande Walle, representing the City of Appleton

Rick Bouchonville, representing Simpson Strong-Tie registered for information only.

SUMMARY OF HEARING COMMENTS:

The Department summarizes the hearing testimony as follows:

Brad Boycks spoke at the hearing in favor of the rules. He said he was supportive of the process and that the content should be commended. He added that the Dwelling Code Council and the Department working together the way they did was a model for how code revisions should work. Mr. Boycks then said that these revisions make the code easier to understand without compromising safety. He concluded by saying that this Council was a model for this sort of process which allows transparency. He thanked the Council and the Department and said that he will follow this rule through the legislative process.

Randall R. Dahmen wrote regarding his review of the rules. He did not state whether or not he was in favor of the rules; he did, however, enumerate several areas related to mechanical systems where he felt the current code was lacking guidance for designers, builders, and inspectors. He thought code excerpts from the International Residential Code (IRC) should be adopted to give guidance in these areas. Mr. Dahmen requested that such changes be made regarding hydronic piping systems, flammable vapor ignition resistant listed systems, condensate disposal, clothes dryer exhaust, make-up air, exhaust hood and ducts, underground ducts, and termite decay protection.

John Easter wrote with comments primarily on adoption of stricter energy controls. He wrote that the American Chemistry Council strongly recommends that Wisconsin adopt the 2015 International Energy Conservation Code (IECC). Mr. Easter added that the rules do not update Wisconsin's standard for energy efficiency in new homes to any of the latest versions of the IECC, which is the model code establishing energy efficiency requirements for residential buildings. He also stated that Illinois, Iowa, and Minnesota have all now adopted the 2012 IECC standards.

Keith Reopelle wrote that Clean Wisconsin appreciated the proposed changes to address safety concerns, fire hazards, building practices, etc. They requested, though, that the code be reviewed for potential energy conservation upgrades. Mr. Reopelle emphasized the flexibility in achieving compliance with IECC 2015 which comes from the use of the Energy Rating Index (ERI), which allows trade-offs among various features of the home.

Mary Schroeder registered in favor of the proposed rules and said that she was totally in favor of the rule package.

James B. Smith appeared at the hearing in favor of the rules and sent in written comments applauding the Department on the proposal to improve upon the rules for one- and two-family dwellings. He pointed out that the rules update a reference to the 2012 edition to the National Design Specification for Wood Construction (NDS), but that the 2015 edition is now available. He recommended that we change the reference to the latest version.

Dale F. Vande Walle wrote that the provisions regarding balconies outside egress sliding doors declare that supports and railings can infringe on the balcony, but they do not say how much. He thought this ought to be clarified.

Rick Bouchonville did not provide any written or oral testimony on the rules.

RESPONSE TO PUBLIC COMMENTS:

The Uniform Dwelling Code Council created a report in July 2014, outlining their recommendations for changes to the Uniform Dwelling Code, as required of them by 2013 Act 23. This rule package and the resulting changes to the Uniform Dwelling Code are the recommendations from the report distilled into administrative code. The numerous issues raised by Randall R. Dahmen were not reviewed by the Council in their recommendations for the update of the code. These issues will be suggested to the Council as discussion topics for future updates of the Uniform Dwelling Code.

After considerable deliberations and review of the subject matter by the Department in consultation with the Uniform Dwelling Code Council, the Department decided to update the energy standards in the dwelling code as had been suggested by John Easter and Keith Reopelle. While both of them advocated for adoption of the provisions of the 2015 IECC, our consultations with the Council revealed that adoption of the standards from the 2009 IECC would strike a better balance in terms of energy savings and construction cost considerations. Making Wisconsin's residential energy code equivalent to the 2009 IECC will bring the state in line with 26 other states which currently have standards equal to the 2009 IECC.

The Department agrees with James B. Smith's suggestion to revise the reference to the National Design Specification for Wood Construction to the 2015 edition.

The energy provisions in the rules were revised to meet the standards in the 2009 IECC, the reference to the NDS is updated, and a limit to the amount supports and handrails can infringe on an egress balcony outside sliding doors were all changed to address public comments.

VI. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS:

Comment: 2.c.

Response: The treatment of SECTION 56 of the proposed rule has been changed to amendment rather than renumbering and amendment as suggested by the Clearinghouse comments. The treatment of SECTION 90 was kept as renumbering and amendment because of the creation of SPS 321.28 (7) (c) 2., which necessitates the renumbering. The creation of SPS 321.28 (7) (c) 2. may not have been evident due to an error in the SECTION numbering, which has been corrected.

Comment: 2.g.

Response: The rules are subdivided as needed to keep material pertinent to a particular issue in one place rather than having those provisions spread over multiple sections. Some construction provisions for particular design elements or issues can have multiple parts with various properties which are subject to regulation. An example is stairways, which ideally are regulated in a single code section. Stairways have multiple design aspects and multiple components. Individual components, such as handrails, have multiple properties which are regulated for safety reasons. In order to keep stairway provisions together, the section requires numerous subsections with multiple paragraphs having several subdivisions.

Attempts have been made to minimize unnecessary section subdivision wherever possible, but with some construction components, such as stairways, the Department feels that keeping the subject matter in one location makes the code more user friendly even though it may be at the expense of multiple divisions in that section.

Comment: 5.b.

Response: The term “net floor area” is already used multiple times in s. SPS 321.05 and this has not led to any confusion in the past. It is a widely used term in the construction industry referring to the floor area with the walls not included. The provisions for natural light and ventilation in the Uniform Dwelling Code come, in part, from the International Residential Code which also does not have a definition for “net floor area”, but uses the term in a similar way relative to light and ventilation requirements. The Department thinks a definition for the term is unnecessary.

All of the other recommendations in the Clearinghouse Report were accepted in whole.

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

These rules were not submitted to the Small Business Regulatory Review Board.

These rules will not have an economic impact on small businesses.