

Clearinghouse Rule 15-090

STATE OF WISCONSIN
Department of Safety and Professional Services

IN THE MATTER OF RULEMAKING : PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE : DEPARTMENT OF SAFETY AND
DEPARTMENT OF SAFETY AND : PROFESSIONAL SERVICES
PROFESSIONAL SERVICES : ADOPTING RULES
: (CLEARINGHOUSE RULE)

PROPOSED ORDER

An order of the Department of Safety and Professional Services to amend SPS 322 relating to crawl space ventilation.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted:

Sections 101.92 (intro.) and (3).

Statutory authority:

Sections 227.11 (2) (a) and 101.92 (intro.) and (3).

Explanation of agency authority:

Section 227.11 (2) (a) of the Statutes authorizes the Department to promulgate rules interpreting any statute that is enforced or administered by the Department, if the rule is considered necessary to effectuate the purpose of the statute.

Sections 101.92 (intro.) and (3) require the department to review annually the rules adopted under this subchapter. No set of rules may be adopted that has not taken into account the costs of specific code provisions to home buyers in relationship to the benefits derived from the provisions.

Related statute or rule:

Various other rules promulgated by the Department in SPS 322 address ventilation in one- and two-family dwellings.

Plain language analysis:

Provisions in the Uniform Dwelling Code currently allow crawl space walls to be uninsulated if they have ventilation openings and the underside of the floor above is insulated. They also allow unvented crawl spaces with insulated walls and without insulation under the floor. These changes to the code eliminate the option of a vented, uninsulated crawl space.

Summary of, and comparison with, existing or proposed federal regulation:

Federal regulations do not provide provisions for construction of one- and two-family dwellings other than those for Housing and Urban Development (HUD) manufactured homes and those related to accessibility. No proposed federal regulations were found specifically related to crawl space ventilation.

Comparison with rules in adjacent states:

Illinois: An Internet-based search did not reveal the existence of a statewide one- and two-family dwelling code. Dwelling regulation appears to be left up to the individual local units of government. Statewide provisions for energy conservation adopt the 2012 International Energy Conservation Code (IECC). The IECC allows vented or non-vented crawl spaces.

Iowa: An internet based search revealed that the Iowa Building Code adopts the 2009 International Residential Code (IRC) and 2009 IECC. The Iowa Building Code applies statewide to state owned and funded buildings. The accessibility, energy conservation, and minimum plumbing provisions apply to dwellings statewide. The 2009 IRC allows vented or unvented crawl spaces. Iowa amendments make no changes to crawl space ventilation.

Michigan: An Internet-based search revealed a mandatory, statewide one- and two-family dwelling code. The Residential Construction Code under the Construction Code Commission's General Rules, in section 408.305, contains the state amendments to the 2009 International Residential Code developed by the International Code Council. The 2009 IRC allows vented or unvented crawl spaces. Michigan amendments make no changes to crawl space ventilation.

Minnesota: An Internet-based search revealed a mandatory, statewide one- and two-family dwelling code. The Minnesota Department of Labor and Industry, in Chapter 1309, adopts by reference Chapters 2 through 10, 44, Section P2904 and Appendix K from the 2012 International Residential Code as amended in Minnesota. Chapters 2-10 contain the general construction provisions of the IRC. The 2012 IRC allows vented or unvented crawl spaces. Minnesota amendments make no changes to crawl space ventilation.

Summary of factual data and analytical methodologies:

The Department received input during meetings with the Dwelling Code Council. The makeup of this Council is established under section 15.407 (10) of the Statutes and consists of members who are appointed by the Governor. The Council includes representatives of several types of small businesses. These businesses provide input on design, construction, and inspection interests relative to the Uniform Dwelling Code. Through this Council, the Department was able to gather information on the potential impacts of the rule revisions contained herein.

Analysis and supporting documents used to determine effect on small business or in preparation of economic impact analysis:

The rule revisions are not expected to significantly impact small business because they would clarify and simplify current requirements.

Fiscal Estimate and Economic Impact Analysis:

The department is currently soliciting information and advice from businesses, local government units and individuals in order to prepare the Economic Impact Analysis.

Effect on small business:

These proposed rules do not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department’s Regulatory Review Coordinator may be contacted by email at Eric.Esser@wisconsin.gov, or by calling (608) 267-2435.

Agency contact person:

Dan Smith, Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8935, Madison, Wisconsin 53708; telephone 608-261-4463; email at Daniel2.Smith@wisconsin.gov.

TEXT OF RULE

SECTION 1. SPS 322.34 (3) is repealed.

SECTION 2. SPS 322.34 (4) (c) is repealed.

SECTION 3. SPS 322.34 (4) title and (a) and (b) are renumbered SPS 322.34 (3) title and (a) and (b), and SPS 322.34 (3) title and (a), as renumbered, are amended to read:

SPS 322.34 (3) INSULATED CRAWL SPACES (a) ~~As an alternative to insulating floors over unheated crawl spaces, crawl~~ Crawl space walls shall be insulated in accordance with Table 322.31-1.

SECTION 4. EFFECTIVE DATE. The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin administrative register, pursuant to s. 227.22 (2) (intro.), Stats.

(END OF TEXT OF RULE)

Dated _____

Agency _____

Secretary

Department of Safety and Professional Services