

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 : CR 23-007
AND PROFESSIONAL SERVICES :
:**

I. THE PROPOSED RULE:

The proposed rule, including the analysis and text, is attached.

II. REFERENCE TO APPLICABLE FORMS:

N/A

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:

The primary objective of this rulemaking project is to evaluate and update the *Wisconsin Commercial Building Code*, chapters SPS 361-366. This rulemaking update intends to keep this Code consistent with dynamic, contemporary regional and national construction and fire prevention practices and standards, and with legislation enacted since the previous update of this Code. The update is also needed in order to meet the content and timeliness requirements for the energy conservation provisions of this Code as established in sections 101.027 (2) and (3) of the Wisconsin Statutes.

In addition, the project evaluated other administrative code chapters that may be affected by this update of the *Wisconsin Commercial Building Code* including, at least, chapters SPS 303, 305, 314, 316, 318, 340, 343, and 345, relating to administrative procedures; licenses, certifications and registrations; fire prevention; electrical; elevators, escalators, and lift devices; gas systems; boilers and pressure vessels; anhydrous ammonia; mechanical refrigeration; rental unit energy efficiency; solar energy systems; cleaning methods for historic buildings; buildings constructed prior to 1914; and plumbing; respectively.

The majority of the proposed rule implements an update of the Wisconsin Commercial Building Code's adoption by reference of the commercial building code suite published by the International Code Council (ICC) from the 2015 edition to the 2021 edition. This

update addresses changed references, errata discovered since the previous comprehensive update of the Wisconsin Commercial Building Code, and elimination of certain provisions that have been rendered redundant due to updates to the ICC codes.

Additionally, several changes identified below were made to increase public safety in public buildings:

- Various requirements were changed to increase the number of conditions where automatic fire sprinklers are required in public buildings;
- Specific certification requirements were added for individuals performing inspections of smoke and fire dampers;
- An exemption from International Building Code ch. 17 Special Inspections was removed from the code;

Finally, a broad range of energy efficiency improvements were implemented as a result of the transition from the 2015 to the 2021 version of the International Energy Conservation Code.

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

The department held two public hearings on April 24 and 25, 2023.

Please see Attachment 1 for the Department's response to the public comments.

VI. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS:

Comment 1.: Statutory Authority The department could consider amending s. SPS 361.03 (5), Wis. Adm. Code, as part of this rulemaking order, specifically to reflect the changes to local authority enacted in 2013 Wisconsin Act 270. Doing so appears to be consistent with the stated objectives for the rule.

Response 1.: The Department disagrees with this comment. The current s. SPS 361.03 (5) was specifically created in Clearinghouse Rule 16-094 to address the changes to local authority enacted in 2013 Wisconsin Act 270.

Comment 2i.: In SECTION 44, it appears that the rule modifies only the title of existing s. SPS 362.0706. If so, the department could consider retaining the current section and adding the new provision regarding horizontal continuity as a new section in ch. SPS 362. [See s. 1.04 (5), Manual.] If the current approach (repealing and recreating the section) is retained, the reference to "the section" in s. SPS 362.0706 (1) (a) should be replaced with a reference to "this subsection".

Response 2i.: The Department agrees with this comment as it relates to changing "the section" to "this subsection." The Department disagrees with the recommendation to create a new section in ch. SPS 362. All of the provisions relate to firewalls, and all of SPS 362 is structured to parallel the International Building Code (IBC) and horizontal

continuity of firewalls is located in section 7.07 of the IBC. Following the recommendation to create a new section in ch. SPS 362 would remove the parallel structure for this material and make it more difficult for the consumer to locate.

Comment 2.j.: In SECTION 63, the language following the colon in s. SPS 362.0903 (19) and (22) could be revised to form a complete sentence.

Response 2.j.: The Department agrees with the comment as it relates to s. SPS 362.0309 (19). The Department disagrees with the comment as it relates to s. SPS 362.0309 (22) because the existing text is consistent with the IBC language it is replacing and should be retained as written.

Comment 5.e.: In SECTION 38, the created section should be revised to avoid a slashed alternative (“and/or”). [See s. 1.08 (1) (d), Manual.] In addition, the phrase “single tenant R occupancy that is under the scope of the UDC” could be revised to avoid undefined acronyms. For example, “chs. s. SPS 230 to 325” could replace “the UDC”, and the phrase “single tenant R occupancy” could be replaced with a more “plain language” description. [See ss. 1.05 (1) (a) and 1.08 (2) (a), Manual.]

Response 5.e.: The Department agrees with the recommendation to remove the slashed alternative and the clarification of the UDC language. The Department disagrees with the recommendation to modify the “single tenant R occupancy” language as it is technical terminology that should be understood by a professional reading the code, and the value of the precision provided outweighs any advantage of more “plain language”.

Comment 5.h.: In SECTION 61, the first two instances of the word “system” could be replaced by the word “supply” for consistency with s. SPS 362.0903 (18) (b) (intro.). Also in that section, does it make sense to refer to a municipal water system as being located directly adjacent to or across the street from the relevant commercial building property? Would it be more consistent with ch. NR 811 to require the relevant commercial property to be within an area served by a municipal water system?

Response 5.h.: The Department agrees with the comment as it relates to the consistent use of “system” vs. “supply.” Because water system is a defined term elsewhere in the code the instance of “supply” in s. SPS 362.0903 (18) (b) (intro.) was changed to “system” and s. SPS 362.0903 (18) (am) was restructured to use system consistently. The Department disagrees with the comment as it relates to the recommended modification relating to what buildings are required to connect to municipal water systems. If a building was sited on a large tract of property the recommended change could be interpreted to require connection to a municipal water system that could potentially be miles from the site of the building, because the parcel on which the building is constructed is technically served by a municipal water system. The Department prefers the precision offered by the language as it exists in the proposed rule.

All remaining recommendations suggested in the Clearinghouse Report have been accepted in whole.

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

N/A