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## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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### CLEARINGHOUSE RULE 03-075

#### Comments

**[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated September 1998.]**

#### 1. Statutory Authority

a. The statutory authority under which the rule is promulgated should be more specific than three entire chapters. More specifically, in what way does ch. 167, Stats., provide authority for the rule?

b. Section Comm 5.004 incorporates standards by reference. The analysis should indicate that the Attorney General and the Revisor of Statutes have given consent to the incorporation.

c. The note to s. Comm 5.625 (1) (a) 2. provides that the rule’s structure for the supervision of the installation, alteration, and repair of plumbing within certain cities does not prevent the employment of individuals to supervise the plumbing inspectors and plumbing plan reviewers, even if the supervisors are not certified as commercial plumbing inspectors or as licensed plumbers. Section 145.05 (1), Stats., states that the common council of a first-, second-, or third-class city with a water system or sewerage system, or the officer or board in charge of that system, must appoint one or more plumbing supervisors, who shall be licensed plumbers. The supervisors need not review their licenses while they continue in office. The plumbing supervisors, according to the statute, must supervise all plumbing, new or alterations or repairs, and report to the appointing body violations of regulations and perform other appropriate duties as may be required. What statutory authority exists for a rule, or a note to a rule, to provide that a plumbing supervisor is not required to be a licensed plumber?

## **2. Form, Style and Placement in Administrative Code**

SECTIONS 22 and 24 should be combined.

## **4. Adequacy of References to Related Statutes, Rules and Forms**

- a. In ss. Comm 5.34 (3) (a) and 5.35 (5) (a), why is the note being deleted?
- b. In s. Comm 5.63 (4) (b) and (d), is the citation to s. Comm 5.09 (7) (c) correct, or should it be to s. Comm 5.02 ?

## **5. Clarity, Grammar, Punctuation and Use of Plain Language**

- a. In s. Comm 5.06 (2), “. . . or the date of expiration at the end of the term, as specified . . .” should be changed to “. . . or the date of the expiration of the term specified . . . .”
- b. Section Comm 5.07 (2) (c), it would be clearer if the paragraph ended “. . . certification or registration that the person is seeking to renew.”
- c. In s. Comm 5.07 (3), both uses of “which” should be changed to “that.” Does the subsection convey what is intended? The subsection attempts to grandfather in a group of people who hold licenses before the rule change. The group that is specified are those who hold licenses for which the term is changed. However, members of that group are not allowed to follow the old rule on term lengths, but rather the old rule on continuing education requirements. Further, it is unclear whether the pre-August 2004 renewal can be employed at any time. “One time after August 1, 2004” is not necessarily the *first* time after August 1, 2004. Could a person renew three or four times after August 1, 2004 and then decide to use the one-time July 31, 2004 renewal?
- d. In s. Comm 5.08 (1) (e) 2. b., “Courses, programs or seminars . . .” should be “Approval of courses, programs or seminars . . . .”
- e. In s. Comm 5.31 (4) (b), the wording is awkward. It might read more smoothly if “if a uniform building permit is required under s. Comm. 20.08” were moved to the front of the sentence. This wording occurs throughout the rule.
- f. Section Comm 5.625 (1) (b) needs to be renumbered s. Comm 5.625 (1) (b) 1. Further, in subd. 2. “. . . shall hold certifications as commercial plumbing inspectors issued under this section or UDC-plumbing inspectors issued . . .” should be changed to “. . . shall hold a certification as a commercial plumbing inspector issued under this section or as a UDC-plumbing inspector issued . . . .”
- g. In s. Comm 5.625 (5) (a) to (c), all of the paragraphs should end with periods.
- h. Section Comm 5.625 (5) (c) would be clearer if the provision read: “Make his or her inspection records available to the department upon request.”
- i. In s. Comm 5.625 (6) (a), subds. 1. and 2. can be combined.
- j. In s. Comm 5.625 (6) (b) 1., “. . . except as provided in subd. 2.” should be moved to the beginning of the sentence.

k. In s. Comm 5.625 (6) (b) 2., the last sentence should be in the active voice, i.e. “The department shall consider each application . . . .”

l. In s. Comm 5.63 (4) (c) 2. b., the word “a” should be replaced by the word “an.” [See also ss. Comm 5.70 (4) and 5.71 (6).]