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## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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**Ronald Sklansky**  
*Clearinghouse Director*

**Richard Sweet**  
*Clearinghouse Assistant Director*

**Terry C. Anderson**  
*Legislative Council Director*

**Laura D. Rose**  
*Legislative Council Deputy Director*

### CLEARINGHOUSE RULE 04-043

#### 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 October 2002.]**

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

a. In s. Comm 70.03 (1), the phrase “A rule of this chapter.” should be replaced by the phrase “This chapter.”

b. In s. Comm 70.17, an introduction should be added that reads “In this chapter:”.

c. Section Comm 70.26 (1) (a) refers to a “qualified historic building with an existing atrium.” The use of words “existing” and “new” is problematic. The phrasing of s. Comm 70.26 (1) (b), “An atrium constructed on or after January 1, 1986,” is preferred because the text clearly informs the reader that the rule applies to a specific building. Whenever the rule intends to refer to an existing structure or a new structure, appropriate dates should be included in the rule. The entire rule should be reviewed for this problem.

d. In s. Comm 70.40 (1), the introductory material should be renumbered as par. (a) and the remaining paragraphs should be renumbered accordingly. [See also s. Comm 70.39 (2) (a).]

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

a. The first sentence in item 6., in the Detailed Summary in the analysis to the rule is unclear. What does it mean to “evaluate only the number of stories to the prevailing code”?

b. Item 9. in the Detailed Summary should be rewritten to indicate that the proposed rule contains requirements rather than suggestions.

c. In s. Comm 70.01, the first sentence might be clearer if the phrase “altering or changing the occupancy of buildings or structures” were replaced by the phrase “repairing, altering, or changing the occupancy of buildings or structures.”

d. In s. Comm 70.02 (1) (intro.), the phrase “except as specified in sub. (2), this chapter may be applied only to...” implies that sub. (2) specifies types of buildings other than public buildings and places of employment for which compliance with the chapter may be elected. The introductory material should be rewritten as follows: “This chapter applies to a qualified historic building or portion of qualified historic building used as a public building or place of employment, except as provided in sub (2).”

e. It is unclear what is meant by the statement in s. Comm 70.03 (1) that a rule of the chapter does not apply retroactively to a qualified historic building. For example, s. Comm 70.26 (1) (b) provides that: “An atrium constructed on or after January 1, 1986, shall comply with the requirement of the prevailing code.” Consequently, any change in the “prevailing code” will apply retroactively to a qualified historic building. [See also s. Comm 70.51 (4) and (5).]

f. In s. Comm 70.03 (2) (a), how is it to be determined which of the listed codes must be applied to a repair to a qualified historic building? In addition, in subd. 1., does “construction” refer to the original construction of the building or to the proposed alteration to the building?

g. In s. Comm 70.07 (1) (a), should “when” be changed to “before”?

h. Should s. Comm 70.07 (1) (b) specify that ss. Comm 61.31 to 61.38 do not apply to the type of project described in that paragraph?

i. It is unclear which year the phrase “that year” refers to in s. Comm 70.07 (1) (c), and whether it refers to a 12-month period or to a calendar year.

j. In s. Comm 70.17 (20), a comma should be inserted after “paint.”

k. The second sentence in s. Comm 70.21 (1) (intro.) is unclear and should be rewritten.

l. What is meant by “the worst case condition” used throughout s. Comm 70.22?

m. In s. Comm 70.22 (8), “Evaluate” should be deleted and “shall be evaluated” should be inserted after the first occurrence of “system.”

n. In Table Comm 70.22-11, is it possible that a building that has pressurized stairways, but none of the other characteristics listed, such as operable windows or a smoke control system, could receive a numerical rating of +7? Is this the intended result?

o. The last entry in the first column of Table 70.22-12 should be rewritten to properly describe a building characteristic.

p. In s. Comm 70.22 (14) (b), “exceed” should be replaced with “are.”

q. In Table Comm 70.22-16, it appears that in the second and fourth (and possibly the sixth and eighth rows) of the first column, “and” should be changed to “or.” Also, in that table, why does a building three or more stories in height containing an elevator with Phase I

emergency recall operation receive +2 points while a building less than three stories in height containing an elevator with Phase I emergency recall operation and Phase II emergency in-car operation receive only +1 point?

r. In Table Comm 70.22-17, the material in the fifth row in the first column should be rewritten to properly describe a building characteristic.

s. In s. Comm 70.23, it appears that the reference to the table should be to "70-23."

t. It appears that s. Comm 70.29 (1) and (2) are in conflict, in that sub. (1) states that fire escapes complying with the code in effect when the building was approved may be used as "an exit," while sub. (2) (b) and (c) require modifications to certain fire escapes, apparently regardless of whether they complied with the code in effect at the time the building was approved.

u. Should s. Comm 70.29 (3) also specify that fire escapes may not be used until any required corrective action is taken?

v. In s. Comm 70.30 (2) (b), should the rule require that alternate exit signs meet a minimal safety threshold as a condition of approval?

w. In Table 70.22-7 and s. Comm 70.30 (3) (b) 2., the hyphens should be deleted.

x. Should s. Comm 70.34 (1) require an automatic sprinkler system in all inhabited areas of the building rather than only in "work areas"?

y. The first phrase in s. Comm 70.39 (2) (a) 1., should be rewritten as a complete sentence.

z. In s. Comm 70.39 (3) (intro.), "withstood" should be replaced with "met." It appears that the intent of s. Comm 70.39 (3) is to exempt buildings that meet the test-of-time standard from the requirements of subs. (1) and (2). However, the rule does not clearly state this. Also, how long is "a period of time" in sub. (3) (a)?

aa. Section Comm 70.40 (1) (intro.) is unclear. Who assigns the requirements? How is the comparison to be carried out?

bb. Section Comm 70.40 (1) (d) and (e) should clarify that the editions of design manuals *in effect at the time the material was fabricated* may be used to determine allowable stresses.

cc. In s. Comm 70.48 (1), "includes" should be changed to "undergoes," and it appears that "and" should be changed to "if."

dd. Section Comm 70.51 (1) is unclear. Should "in accordance with" be changed to "the"?

ee. In s. Comm 70.56 (3), "includes" should be changed to "undergoes."

ff. When must wiring be inspected under s. Comm 70.59 (1)?

gg. In s. Comm 70.63 (7) and (8), why are the following inconsistent phrases used: “in qualified historic buildings used as exhibit buildings” and “historic exhibit buildings”?