



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

Ronald Sklansky
Clearinghouse Director

Richard Sweet
Clearinghouse Assistant Director

Terry C. Anderson
Legislative Council Director

Laura D. Rose
Legislative Council Deputy Director

CLEARINGHOUSE RULE 10-011

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Reference Bureau and the Legislative Council Staff, dated September 2008.]

2. Form, Style and Placement in Administrative Code

a. The approach employed in this rule proposal of renumbering and amending existing code provisions and interspersing them within new code sections makes it difficult to understand the effect of this proposal as a whole. This approach could be avoided in favor of repealing these code provisions and including their content in the new portion of the code. A similar comment applies to the repeal and recreate existing code sections to form new code under different section numbers. A better practice is to first repeal the existing code, then later in the proposal, create a new code section that includes those provisions.

b. Where the titles of subchapters are amended, only the text as shown by strikethroughs and underscores should follow the introductory line. For instance, SECTION 5 of the proposal should appear as: “SECTION 5. Subchapter I of chapter Comm 45 (title) is amended to read: Subchapter I --- Purpose, ~~and~~ scope, and application”.

c. In s. Comm 45.11 (3), the word “subchapters” should be replaced by the notation “subchs.”

d. In s. Comm 45.30 (3) (b), the word “subsequent” is unnecessary and should be deleted.

e. In s. Comm 45.31 (2) (b) 3., the regulated party could be required to make the listed documents available if required by the agent or the department, regardless of whether the

documents are “applicable.” If this is not the department’s intent, then this provision should be revised to read, “If applicable and if required by the authorized agent or the department, the following documents shall be made available for review during inspections under this paragraph.”

f. In s. Comm 45.31 (3) (a) 2. b., the phrase “addressed in” should be replaced by the word “under.”

g. In s. Comm 45.32 (1) (b), the phrase “if compliance exists” should be replaced by the phrase “if it has been determined that the mechanical refrigeration system complies with the applicable requirements of this chapter.” Also, in sub. (4) (b) 1. a., the notation “subd.” should be replaced by the notation “subds.”

h. In s. Comm 45.35 (2), the phrase “shall be responsible for correcting” should be replaced by the phrase “shall correct.”

i. Under s. Comm 45.32 (3) (intro.), the phrase “the following periods” should be replaced with “one of the following periods.”

j. Section Comm 45.11 (1) (a) refers to systems that are installed or constructed on or after the effective date of the rule. It is appropriate in a rule to clarify that existing entities will not be affected by prospective applications of policy. However, it seems unnecessary to affirmatively state in the remaining provisions of this nature [ss. Comm 45.11 (1) (c) to (g) and 45.511 (1) (a) (intro.) and (2) (intro.)] that rule provisions will apply to existing systems. For example, s. Comm 45.11 (1) (c) could read simply “Replacement parts or components for any mechanical refrigeration system.” This phrasing appears to apply to any system, regardless of the date the system was installed or constructed. Thus, it does not appear to be necessary to refer to any system that exists on or after a specified date.

k. In s. Comm 45.11 (4) (b), each occurrence of the word “rule” should be replaced by the phrase “provision of this chapter.”

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

a. It is unclear what is intended by s. Comm 45.31 (1) (b).

b. Section Comm 45.31 (2) (b) 4. should be clarified so that form SBD-5204 need not be signed unless the authorized agent or the department determine that the piping design is acceptable.

c. Section Comm 45.31 (2) (c) should be clarified with respect to who is required to provide design calculations for prefabricated piping upon the request of the agent or the department. Also, it appears that the phrases “shop fabricator,” “out-of-state manufacturer,” and “out-of-state contractor” under this paragraph and the notes that follow are intended to reference the same entity. If so, only one of these terms should be used to avoid confusion.

d. Section Comm 45.508 should be revised to explain what is meant by “via an exit.”

