



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 15-086

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 December 2014.]

1. Statutory Authority

a. Under 2013 Wisconsin Act 270, a person may perform inspections of fire detection, prevention, and suppression devices “only if” he or she has received certification as an inspector from the department. [SEC. 14, 2013 Wis. Act 270.] The Act further provides that a person certified for these purposes must either hold a valid certification from the national fire protection association qualifying him or her as a certified fire inspector I or hold a valid equivalent certification. Under the proposed rule, a person may perform inspections of fire detection, prevention, and suppression devices if the person: (a) holds a certification as described in the Act; *or* (b) holds a certification as a commercial building inspector. This suggests that under the proposed rule, a person who holds a certification as a commercial building inspector but has not also been certified as a fire detection, prevention, and suppression inspector would be authorized to perform fire detection, prevention, and suppression device inspections. The department should address whether this is authorized by SEC. 14 of 2013 Wisconsin Act 270.

b. SECTION 4 of the proposed rule provides that the rules shall take effect on the first day of the month following publication in the Wisconsin Administrative Register. The provision of 2013 Wisconsin Act 270 that requires separate certification for inspectors of fire detection, prevention, and suppression devices takes effect on May 1, 2017. The department should consider whether s. SPS 305.627 (1) of the proposed rule might conflict with the statute if it were to take effect prior to May 1, 2017.

2. Form, Style and Placement in Administrative Code

a. In s. SPS 305.627 (4) (a) and (b), the paragraphs should each end with a period, and the word “and” in par. (b) should be removed. [s. 1.03 (4), Manual.]

b. A deadline should be given for submission of comments on the proposed rule. [s. 1.02 (2) (a) 13., Manual.]

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

a. The department lists s. 101.14 (4r) (c) 1., Stats., as the statute the rule interprets. Because all of sub. (4r) pertains to inspection of fire detection, prevention, and suppression devices as addressed in the proposed rule, the department should cite more broadly to s. 101.14 (4r), Stats.

b. Under the rule summary’s “Explanation of Agency Authority”, the department might consider explaining its authority to promulgate this rule in plain language, perhaps by referring to the directive in 2013 Wisconsin Act 270 for it to promulgate rules on certifying fire detection, prevention, and suppression device inspectors. Additionally, the department should remove the citation to s. 101.12 (4) (a), Stats. That section contains a clause that excludes inspections performed by an inspector who has received certification under s. 101.14 (4r), Stats.

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

a. In the rule summary’s “Plain Language Analysis”, the phrase “and places of employment” should be inserted at the end of the second paragraph.

b. In s. SPS 305.627 (3), the word “shall” should replace the word “must”. Also, the department might consider specifying a consequence if a person does not maintain the certification.

c. The department might consider reordering the language in proposed s. SPS 305.627 (4) (c) as follows: “Make his or her inspection records available to the department upon request”.

d. In s. SPS 305.627 (5), the department might consider adding introductory material to precede the subunits, as in subs. (2) and (4). [s. 1.03 (3), Manual.] Also, consider combining pars. (a) and (b), or specifying in par. (b) that “if renewed”, the renewal shall be done as provided.