



Wisconsin Legislative Council

RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 23-007

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Council Staff and the Legislative Reference Bureau, dated November 2020.]

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.

2. Form, Style and Placement in Administrative Code

a. In the rule analysis, the “plain language analysis” of the proposed rule should be expanded to more fully describe changes made by the rule. Although the summary need not provide an exhaustive discussion of the rule, it should contain sufficient detail to enable the reader to understand the content of the rulemaking order, its relationship to current law, and the changes made to current law. [s. 1.01 (2) (b), Manual.] Currently, the summary notes broad objectives for the rule but generally does not otherwise describe the rule’s content in any detail. Provisions in the rule that significantly change a requirement or threshold of interest to the regulated public are arguably especially important to describe in the analysis. As one example, the analysis does not mention the shift made by the rule to the number of multi-family dwelling units that trigger a requirement to install a sprinkler system, despite the considerable attention that “sprinkler rule” threshold has received from stakeholders in recent years.

b. In SECTION 1, “(3) (i)” should be added before the second instance of “(note)” in the treatment clause. Similarly, “(3) (a)” should be added before “(Note 1)” in the treatment clause for SECTION 15. [See s. 1.12 (2), Manual.]

c. In SECTION 3, the first comma in the treatment clause should be replaced with “and”, and a period should be added after “80” in s. SPS 361.03 (14) (a).

d. In SECTION 18, s. SPS 361.36 (2) (title) should be retained in the repealed and recreated subsection to retain consistency with s. SPS 361.36 (1). [See s. 1.10 (2) (a) 2., Manual.]

e. In SECTIONS 19 and 23, underscored text should follow the stricken text.

f. In SECTION 23, the period after “approval” in s. SPS 361.47 (3) (a) 3. should be underscored. Additionally, the formatting of “building” in s. SPS 361.47 (6) (c) and “commercial” in s. SPS 361.47 (6) (c) should be revised. The proposed rule should be reviewed in its entirety for errant, partial strikes, and underscores.

g. In SECTION 23, “and” should be added in several instances in the treatment clause, where the clause lists multiple paragraphs, subdivisions, or subdivision paragraphs of the same subsection, paragraph, or subdivision. [s. 1.01 (1) (c) and 1.03, Manual.] Also in that SECTION, the treatment clause should be revised to reflect that the rule amends sub. (2) (title), rather than sub. (2) (intro).

h. In SECTION 32, should s. SPS 362.0202 (2) (h) (note) also be repealed?

i. 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”.

j. In SECTION 52, the reference to “d” in s. SPS 362.0903 (5) (a) should be written “(d)”.

k. In SECTIONS 53, 55, and 62, s. SPS 362.0903 (5) (c) (intro.) and (d) (intro.) and (18) (b) (intro.) should be revised so that the introductory material forms a complete sentence together with the new subds. 1. and 2. [See s. 1.11 (2), Manual.] For example, s. SPS 362.0903 (5) (c) (intro.) could be modified to read: “Automatic sprinkler systems may be installed throughout in accordance with NFPA 13D in Group R-3 and Group R-4, Condition 1 occupancies and in townhouses for which all of the following apply:”. In addition, in SECTION 62, s. SPS 362.0903 (18) (b) 1. d. and e. should be revised to form a sentence with the introductory material in that subdivision. For example, subd. d. could be revised to read: “The building has a minimum of three exits on each story”.

l. In SECTION 112, the first comma in the treatment clause should be replaced with “and”. A similar comment could be made with respect to treatment clauses throughout the rule. For example, in the treatment clause for SECTION 127, “and” should replace the comma following “(intro.)”.

m. In SECTION 123, there is an extra “ASTM” in s. SPS 363.0302 (2) (a) 2.

n. In SECTION 138, there are several instances of new material that should be indicated with underscored text.

o. In SECTION 158, at least some changes made to the table are shown with strike-throughs and underscores. That formatting should not be included in rule text that is repealed and recreated. [See s. 1.04 (5) (b), Manual.] Alternatively, especially given the relatively few changes, the table could be amended rather than repealed and recreated.

p. In SECTION 204, is the new provision intended to be a subunit of sub. (5)? If so, “(5)” should be added in the treatment clause and text.

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

a. In SECTION 1, the spelling and grammar in sub. (3) (i) could be improved by replacing the phrase “8 or less students for grades pre-k thru and including 12th provided that the school, as

established”, with the following or a similar phrase: “a total of 8 or fewer total students enrolled in prekindergarten through grade 12, if the school is located in a home or dwelling that”.

b. In SECTION 7, is “/powts” necessary to include in s. SPS 361.04 (13), or could that provision just refer to the Wisconsin plumbing code, in the same manner as s. SPS 361.04 (12)? If it is necessary to include, the text should be revised to avoid using a slashed alternative and an undefined acronym. [See s. 10.08 (1) (d) and (2) (a), Manual.]

c. In SECTION 12, an “s” should be added to “version”, and the “e” in “ESLA” should be made lower case for consistency.

d. In SECTION 27, the department could consider revising the amended language to more closely reflect the relevant statutory language, for example, by modifying it to read: “An alteration of a space involving less than 100,000 cubic feet of volume”.

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.]

f. In SECTION 49, the new subdivision could be rephrased to be more consistent with the existing subdivisions in that paragraph. For example, it could be modified to read: “Throughout any Group E fire area with an occupant load of 300 or more.”.

g. In SECTION 52, a period is missing at the end of s. SPS 362.0903 (5) (note).

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?

i. In SECTION 62, in s. SPS 362.0903 (18) (c) 2., could “or less” be deleted? In addition, the phrase “is installed per current code” could be revised for greater clarity. For example, it could be revised to read something like: “was installed in compliance with all applicable building code requirements in effect at the time of installation”.

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.

k. If accurate, “and” could be replaced with “or” in the list of relevant IBC sections in SECTION 67.

l. In SECTION 68, s. SPS 362.0913 (2) should be revised to avoid a slashed alternative (“and/or”). [See s. 1.08 (1) (d), Manual.]

m. In SECTION 85, the hyperlink should be removed from the rule text of s. SPS 362.1112 (1) (a).

n. In SECTION 89, the phrase “or department representative” could be clarified. Who may serve as a “department representative” in this context? At a minimum, the phrase could be modified

to “or its authorized representative”, as that phrase appears elsewhere throughout the Commercial Building Code.

o. In SECTION 97, a comma and italics could be added for consistency with the existing subsections in s. SPS 362.1603.

p. In SECTION 102, could the phrase “or other information” be made more specific?

q. In SECTION 148, the new text should be revised to avoid using parenthesis. [See s. 1.06 (1) (c), Manual.]

r. For consistency, in SECTION 159, “s.” should be added before “IMC 502.20” in s. SPS 364.0403 (table) m.

s. In SECTION 176, “4-5” should be replaced with “4 and 5”. [See s. 1.06 (1) (c), Manual.]

t. In SECTION 196, s. SPS 366.1201 (b) should be revised to avoid a slashed alternative (“and/or”). [See s. 10.08 (1) (d) and (2) (a), Manual.]

u. Throughout SECTION 204, “SPS” should be added before “382”. In addition, a colon should replace the semicolon in s. SPS 382.40 (bm) 1., the last sentence in s. SPS 382.40 (bm) 2. is missing a period, and there is an extra period following “SPS 322.44 (2)” in SPS 382.40 (bm) 2. (note).