STATE OF WISCONSIN
Department of Saftey and Professional Services

IN THE MATTER OF RULEMAKING PROCEEDINGS BEFORE THE DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES	:	ORDER OF THE DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES ADOPTING RULES (CLEARINGHOUSE RULE 15-089)

ORDER

An order of the Department of Safety and Professional Services to amend 321.05 (1) (a) relating to natural light in rooms over garages.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted:

Sections 101.63 (intro.) and (1) (intro.), Stats.

Statutory authority:

Sections 227.11 (2) (a) and 101.63 (intro.) and (1) (intro.), Stats.

Explanation of agency authority:

Section 227.11 (2) (a), Stats. authorizes the Department to promulgate rules interpreting any statute that is enforced or administered by the Department, if the rule is considered necessary to effectuate the purpose of the statute.

Section 101.63 (intro.) and (1) (intro.), Stats. require the department to adopt rules which establish standards for the construction and inspection of one- and two-family dwellings, and s. 101.63 (5) Stats. requires the department to review the rules adopted under this subchapter once every 3 years. No set of rules may be adopted that has not taken into account the costs of specific code provisions to home buyers in relationship to the benefits derived from the provisions.

Related statute or rule:

Various other rules promulgated by the Department in chs. SPS 321 to 325 address construction of one- and two-family dwellings.

Plain language analysis:

Currently, the Uniform Dwelling Code requires that natural light be provided in habitable rooms above the ground floor. The proposed regulations exempt rooms over garages from this natural light requirement.

Summary of, and comparison with, existing or proposed federal regulation:

Federal regulations do not provide provisions for construction of one- and two-family dwellings other than those for Housing and Urban Development (HUD) manufactured homes and those related to accessibility. No proposed federal regulations were found specifically related to rooms over garages or natural light provisions.

Comparison with rules in adjacent states:

Illinois: An Internet-based search did not reveal the existence of a statewide one- and two-family dwelling code. Dwelling regulation appears to be left up to the individual local units of government.

Iowa: An Internet-based search revealed that the Iowa Building Code adopts the 2009 International Residential Code (IRC) and 2009 International Energy Conservation Code (IECC). The Iowa Building Code applies statewide to state owned and funded buildings. The accessibility, energy conservation, and minimum plumbing provisions apply to dwellings statewide. The 2009 IRC requires natural light in all habitable rooms of residences except if certain lighting and mechanical ventilation criteria are met and the room is not used for sleeping.

Michigan: An Internet-based search revealed a mandatory, statewide one- and two-family dwelling code. The Residential Construction Code under the Construction Code Commission's General Rules, in section 408.305, contains the state amendments to the 2009 International Residential Code developed by the International Code Council. The 2009 IRC requires natural light in all habitable rooms of residences except if certain lighting and mechanical ventilation criteria are met and the room is not used for sleeping.

Minnesota: An Internet-based search revealed a mandatory, statewide one- and two-family dwelling code. The Minnesota Department of Labor and Industry, in Chapter 1309, adopts by reference Chapters 2 through 10, 44, Section P2904 and Appendix K from the 2012 IRC as amended in Minnesota. Chapters 2-10 contain the general construction provisions of the IRC. Natural light is required in all habitable rooms of residences except if certain lighting and mechanical ventilation criteria are met and the room is not used for sleeping.

Summary of factual data and analytical methodologies:

The Department received input during meetings with the Dwelling Code Council. The makeup of this Council is established under section 15.407 (10) of the Statutes and consists of members who are appointed by the Governor. The Council includes representatives of several types of small businesses. These businesses provide input on design, construction, and inspection interests relative to the Uniform Dwelling Code. Through this Council, the Department was able to gather information on the potential impacts of the rule revisions contained herein.

TEXT OF RULE

SECTION 1. SPS 321.05 (1) (a) is amended to read:

> **SPS 321.05 (1)** (a) *Exception.* Habitable rooms, other than bedrooms, located in basements, ~~or~~ ground floors or above garages do not require natural light.

SECTION 2. EFFECTIVE DATE. The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin administrative register, pursuant to s. 227.22 (2) (intro.), Stats.

(END OF TEXT OF RULE)

This Proposed Order of the Department of Safety and Professional Services is approved for submission to the Governor and Legislature.

Dated _____ Agency _____

Secretary
Department of Saftey and Professional Services