

STATE OF WISCONSIN
DEPARTMENT OF COMMERCE

**NOTICE OF
PUBLIC HEARING**

NOTICE IS HEREBY GIVEN that pursuant to ss. 101.02 and 145.02, Stats., the Department of Commerce will hold a public hearing on proposed rules under chapters Comm 2, 5, 14, 20 and 61 to 66 relating to the design, construction, maintenance and inspection of public buildings and places of employment, including commercial buildings and structures and multifamily dwellings.

The public hearing will be held as follows:

Date and Time:

October 5, 2010
10:00 a.m.

Location:

Thompson Commerce Building
Conference Room 3B
201 W. Washington Ave.
Madison, Wisconsin

Interested persons are invited to appear at the hearing and present comments on the proposed rules. Persons making oral presentations are requested to submit their comments in writing. Persons submitting comments will not receive individual responses. The hearing record on this proposed rulemaking will remain open until October 18, 2010, to permit submittal of written comments from persons who are unable to attend the hearing or who wish to supplement testimony offered at the hearing. Written comments should be submitted to Jim Smith, at the Department of Commerce, P.O. Box 2689, Madison, WI 53701-2689, or Email at jim.smith@wisconsin.gov.

This hearing is held in an accessible facility. If you have special needs or circumstances that may make communication or accessibility difficult at the hearing, please call (608) 266-8741 or (608) 264-8777 (TTY) at least 10 days prior to the hearing date. Accommodations such as interpreters, English translators, or materials in audio tape format will, to the fullest extent possible, be made available upon a request from a person with a disability.

The proposed rules and an analysis of the proposed rules are available on the Internet at the Safety and Buildings Division Web site at www.commerce.wi.gov/SB/. Paper copies may be obtained without cost from Jim Smith, at the Department of Commerce, P.O. Box 2689, Madison, WI 53701-2689, or Email at jim.smith@wisconsin.gov, or at telephone (608) 266-0251 or (608) 264-8777 (TTY). Copies will also be available at the public hearing.

The small business regulatory coordinator for the Department of Commerce is Carol Dunn, who may be contacted at telephone (608) 267-0297, or Email at carol.dunn@wisconsin.gov.



P.O. Box 7970
Madison, Wisconsin 53707
(608) 266-1018
TDD: Contact through relay

Jim Doyle, Governor
Aaron Olver, Secretary

Ronald Sklansky, Director
Administrative Rules Clearinghouse
Wisconsin Legislative Council
1 East Main Street, Suite 401
Madison, WI 53703

Dear Mr. Sklansky:

**TRANSMITTAL OF PROPOSED ADMINISTRATIVE RULES
FOR LEGISLATIVE COUNCIL REVIEW**

RULE NO.: Chapters Comm 2, 5, 14, 20 and 61 to 66

RELATING TO Wisconsin Commercial Building Code

Pursuant to section 227.15, Stats., agencies are required to submit copies of the proposed rules to the Legislative Council for review.

The attached proposed rules are in the form and style specified by section 227.14, Stats., and are being forwarded to you for review. Also attached are copies of a transmittal letter to the Legislative Reference Bureau, public notice, fiscal estimate, and initial regulatory flexibility analysis.

Respectfully submitted,

Aaron Olver
Secretary



P.O. Box 7970
Madison, Wisconsin 53707
(608) 266-1018
TDD: Contact through relay

Jim Doyle, Governor
Aaron Olver, Secretary

Bruce Hoesly, Code Editor
Legislative Reference Bureau
Suite 200
1 East Main Street
Madison, Wisconsin 53703

Dear Mr. Hoesly:

**TRANSMITTAL OF WRITTEN NOTICE OF HEARING
AND LEGISLATIVE COUNCIL REVIEW**

RULE NO.: Chapters Comm 2, 5, 14, 20 and 61 to 66

RELATING TO: Wisconsin Commercial Building Code

AGENCY UNIT RESPONSIBLE: Commerce

PUBLIC HEARING REQUIRED: YES NO

CONTACT PERSON: Jim Smith TITLE: Program Manager

TELEPHONE: (608) 266-0251 EMAIL: jim.smith@wisconsin.gov

Pursuant to sections 227.14 (4m) and 227.17, Stats., agencies are required to transmit a written notice of submittal of proposed rules to the Legislative Council and a written notice of hearing to the Legislative Reference Bureau, for publication in the Administrative Register.

On the date on this letter the department is submitting proposed rules to the Legislative Council and is submitting the following material to you:

1. Notice of Public Hearing or 30-Day Notice of Proposed Rulemaking.
2. Fiscal Estimate.
3. Initial Regulatory Flexibility Analysis.
4. Draft of Proposed Rules.

Respectfully submitted,

Aaron Olver
Secretary

INITIAL REGULATORY FLEXIBILITY ANALYSIS

Department of Commerce

RULE NO.: Chapters Comm 2, 5, 14, 20 and 61 to 66

RELATING TO: Wisconsin Commercial Building Code

1. Types of small businesses that will be affected by the rules.

The proposed rules will affect any business involved with the ownership, design, construction, maintenance and inspection of public buildings, including multifamily dwellings, and places of employment.

2. Reporting, bookkeeping and other procedures required for compliance with the rules.

There are no additional reporting, bookkeeping or other procedures required for compliance with the rules.

3. Types of professional skills necessary for compliance with the rules.

There are no additional professional skills necessary for compliance with the rules.

4. Rules have a significant economic impact on small businesses.

No Rules not submitted to Small Business Regulatory Review Board

Yes Rules submitted to Small Business Regulatory Review Board

NOTICE of ENVIRONMENTAL ASSESSMENT

Department of Commerce

Rule No.: Chapters Comm 2, 5, 14, 20 and 61 to 66

Relating to: Wisconsin Commercial Building Code

Notice is hereby given that the Department has prepared a preliminary Environmental Assessment (EA) on the proposed rules. The preliminary recommendation is a finding of no significant impact. Copies of the preliminary EA are available from the Department on request and will be available at the public hearings. Requests for the EA and comments on the EA should be directed to:

Division of
Department of Commerce
P.O. Box 2689
Madison, Wisconsin 53701
Telephone (608) 266-8741
or TTY (608) 264-8777

Written comments will be accepted until October 18, 2010

FISCAL ESTIMATE
DOA-2048 (R06/99)

ORIGINAL
 CORRECTED

UPDATED
 SUPPLEMENTAL

LRB or Bill No./Adm. Rule No.
Comm 2, 5, 14, 20 and 61 to 66
Amendment No. if Applicable

Subject

Wisconsin Commercial Building Code

Fiscal Effect

State: No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation

Increase Existing Appropriation
 Decrease Existing Appropriation
 Create New Appropriation
 Increase Existing Revenues
 Decrease Existing Revenues

Increase Costs - May be Possible to Absorb Within Agency's Budget Yes No

Decrease Costs

Local: No local government costs

1. Increase Costs
 Permissive Mandatory

3. Increase Revenues
 Permissive Mandatory

5. Types of Local Governmental Units Affected:

Towns Villages Cities

2. Decrease Costs
 Permissive Mandatory

4. Decrease Revenues
 Permissive Mandatory

Counties Others _____

School Districts WTCS Districts

Fund Sources Affected

GPR FED PRO PRS SEG SEG-S

Affected Ch. 20 Appropriations

Assumptions Used in Arriving at Fiscal Estimate

The proposed rules adopt by reference the 2009 editions of the *International Code Council*® (ICC) suite of building codes – the *International Building Code*® (IBC), the *International Energy Conservation Code*® (IECC), *International Existing Buildings Code*® (IEBC), the *International Fuel Gas Code*® (IFGC) and the *International Mechanical Code*® (IMC) – and makes Wisconsin modifications to these codes within the Wisconsin Commercial Building Code (WCBC). The promulgation of these rules will affect businesses involved in the design, construction, maintenance and inspection of public buildings and places of employment, including commercial buildings and structures and multifamily dwellings.

The proposed rules require plan review for buildings >25,000 sq. ft and < 50,000 sq. ft. This will impact about 170 projects annually, and will result in an estimated annual revenue increase of \$78,500. Currently, these projects pay \$25 for a building project registration and \$25 for the registration of building components. Under the proposed rules change, individual projects will pay a building plan review fee of \$400 to \$450, including an \$100 plan entry fee, and in some cases, an additional fee for component plan review such as \$180 to \$200 for HVAC plan review and \$60 to \$100 for fire system plan review.

By expanding the types of occupancies for plan review of fire protection systems, the department estimates that annual submittals will increase by 629 plans. Fees for fire protection systems plans ran from \$30 to \$7,100 and vary depending on the size of the structure and if the structure is located in a municipality that is delegated to conduct fire protection system inspection. That department estimates that it would realize about \$193,600 in revenue annually.

The department anticipates that the workload associated with requiring plan review for buildings >25,000 sq. ft. and <50,000 sq. ft and the expanded plan review of fire protection systems can be managed with current information technology and within current staff levels.

Long-Range Fiscal Implications

No long-range fiscal implications are anticipated.

Agency/Prepared by: (Name & Phone No.)
Commerce/Jim Smith, 266-0251

Authorized Signature/Telephone No.

Date

FISCAL ESTIMATE WORKSHEET
 Detailed Estimate of Annual Fiscal Effect
 DOA-2047(R06/99)

ORIGINAL
 CORRECTED
 UPDATED
 SUPPLEMENTAL

LRB or Bill No./Adm. Rule No. Amendment No.
 Comm 2, 5, 14, 20 and 61 to 66

Subject
 Wisconsin Commercial Building Code

I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):

II. Annualized Costs:	Annualized Fiscal impact on State funds from:	
	Increased Costs	Decreased Costs
A. State Costs By Category		
State Operations - Salaries and Fringes	\$ 0	\$ -
(FTE Position Changes)	(0 FTE)	(- FTE)
State Operations - Other Costs	0	-
Local Assistance	0	-
Aids to Individuals or Organizations	0	-
TOTAL State Costs By Category	\$	\$ -
B. State Costs By Source of Funds		
GPR	\$ 0	\$ -
FED	0	-
PRO/PRS	0	-
SEG/SEG-S	0	-
III. State Revenues- Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)		
	Increased Rev.	Decreased Rev.
GPR Taxes	\$ 0	\$ -
GPR Earned	0	-
FED	0	-
PRO/PRS	272,100	-
SEG/SEG-S	0	-
TOTAL State Revenues	\$ 272,100	\$ -

NET ANNUALIZED FISCAL IMPACT

	<u>STATE</u>	<u>LOCAL</u>
NET CHANGE IN COSTS	\$ 0	\$ 0
NET CHANGE IN REVENUES	\$ 272,100	\$ 0

Agency/Prepared by: (Name & Phone No.) Commerce/Jim Smith, 266-0251	Authorized Signature/Telephone No.	Date
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Department of Commerce
Safety and Buildings Division

PRLIMINARY
ENVIRONMENTAL ASSESSMENT FOR PROPOSED RULES
RELATING TO WISCONSIN COMMERCIAL BUILDING CODE
Chs. Comm 61 to 66

1. Introduction

This is a preliminary Environmental Assessment (EA) prepared in accordance with chapter Comm 1, Wisconsin Administrative Code. It is intended to be a concise, non-technical consideration of the significant environmental issues relevant to a proposed action. It includes a discussion of reasonable alternatives and mitigation measures if appropriate.

The purpose of this assessment is to inform the public of possible environmental impacts of a proposed action, and to help the Department of Commerce ascertain the significance of those impacts. It will determine if the Department is required to prepare an Environmental Impact Statement (EIS) in accordance with section 1.11, Wisconsin Statutes.

2. Purpose of, Description of and Need for the Proposed Action

2.1 Purpose of the Proposed Action

The purpose of the proposed rule changes is to update and clarify current policies and requirements of the Wisconsin Commercial Building Code (WCBC), chapters Comm 61 to 66. The adoption of the proposed rules would bring Wisconsin's rule in line with the latest national and international standards, while also including modifications needed to

meet specific conditions or circumstances important for implementation in Wisconsin.

The Department believes the national model codes reflect current societal values with respect to protecting public health, safety and welfare in the design, construction, use, operation and maintenance of commercial buildings that serve as public buildings and places of employment.

The proposed rules were developed with the assistance of 10 code councils. The Department consulted with the following code advisory councils during the development of the proposed rules:

- Commercial Building
- Multifamily Dwelling
- Alteration and Change of Occupancy
- Energy Conservation
- Fire Safety
- Fire Protection Systems
- General
- Heating, Ventilating and Air Conditioning (HVAC)
- Means of Egress and Accessibility
- Structural

Department staff and the various councils conducted a comprehensive review and assessment of the latest editions of the national model codes that serve as the basis for the Wisconsin code and of the current rules under chapters Comm 61 to 66 that

modify the national model codes. The proposed revisions will allow the WCBC to continue meeting the needs of the people of the state while fulfilling its statutory purpose.

2.2 Description of the Proposed Action

Under sections 101.02 (1), (7), (7m) and (15), 101.025, 101.027, 101.11, 101.12, 101.13, 101.132, 101.14 (1), (4) and (4m), 101.145, 101.149, 101.19, 101.63, 101.73, 101.973 and 145.02, Stats., the Department protects public health, safety, and welfare by promulgating design, construction, maintenance and inspection requirements for public buildings and places of employment, including commercial buildings and structures and multifamily dwellings. These requirements have evolved over the past 90 years and are currently contained in chapters Comm 61 to 66 of the WCBC.

The Department also updates these requirements as necessary to be consistent with nationally-recognized standards that are incorporated by reference into the WCBC, specifically, the building code requirements developed by the *International Code Council*[®] (ICC). The ICC codes contain state-of-the art minimum requirements for the built environment, developed with input from national experts and stakeholders. The suite of ICC codes has been developed to be an integrated set of requirements.

With this rule package, the Department proposes to adopt by reference the 2009 editions of the following ICC codes:

- *International Building Code*[®] (IBC)
- *International Energy Conservation Code*[®] (IECC)
- *International Existing Buildings Code*[®] (IEBC)
- *International Fuel Gas Code*[®] (IFGC)
- *International Mechanical Code*[®] (IMC)

Significant changes from the 2006 to the 2009 editions of the ICC codes include:

- Providing specific provisions on tightness of buildings (air barriers). [IECC section 402.4.2]
- Requiring shutoff controls for snow/ice-melting systems serving residential occupancies. [IECC section 403.8]
- Specifying the heating of outside spaces to be radiant type and provided with efficiency controls. [IECC section 503.2.11]
- Revising the mechanical ventilation table to provide more detailed occupancy classifications that reflect ASHRAE standard 62 – Ventilation for Acceptable Indoor Air Quality. [IMC table 403.3]
- Requiring thermal insulation below radiant floor heating systems. [IMC sections 1209.5 to 1209.5.4]

In addition, several Wisconsin modifications are included in this rule proposal that reflect changes in the 2009 ICC codes and other technical innovations. They include:

- Codifying additional criteria for ground improvement methods relating to foundations and floor slabs, such as for Geopier[®] systems. [s. Comm 62.1804]
- Alerting building owners or occupants to the heating assumption for frost-protected shallow foundations. [s. Comm 62.1809]
- Exempting the need for economizers for package RTUs 33,000 BTU/hr and larger. [s. Comm 63.0503]
- Clarifying the exemption of an economizer for a closed circuit cooling tower heat pump system. [s. Comm 63.0503]
- Providing alternative mechanical ventilation table and provisions. [Comm Table 64.0403]

2.3 Need for the Proposed Action

The proposed action is needed to update and revise the WCBC so that the code may achieve its purposes of protecting public health, safety, and welfare. In addition, providing consistency in building construction requirements make it easier for designers, manufacturers, and suppliers to provide products and services in Wisconsin and to comply with the various technical design requirements.

3. Factors in the Human Environment Affected by the Proposed Action

The implementation of the proposed rule changes would not have a significant adverse impact on the human environment. The rules affect design and construction practices for buildings and structures. The primary intent of the rules is to ensure that the built environment is safe and healthful.

An environmental assessment for the proposed action is required under ch. Comm 1, Wisconsin Administrative Code, because it involves rules relating to heating, ventilating and air conditioning (HVAC) systems and energy usage standards for buildings.

4. Environmental Effects of the Proposed Action

4.1 Primary Effects

As specified in Comm 1.08 (1) (c) 1., “Primary effects are those on water, air, land, plants, animals, energy use, historic properties, wilderness, vistas, and tranquility which is affected by noise; and effects on society and the economy when those effects are directly inter-related with the effects on the natural and physical environment.”

4.1.1 Water

The proposed action has no impact on the waters of the state.

4.1.2 Air

The changes made in this proposal relating to mechanical ventilation and HVAC systems will not have significant adverse impacts on the human environment. These proposed rules reflect the most recent national ventilation standards and will maintain or improve indoor air quality.

4.1.3 Land

The proposed action has no impact on land use.

4.1.4 Plants and animals

The proposed action does not affect plant or animal populations.

4.1.5 Energy

The adoption of the 2009 IECC will lead to energy savings in Wisconsin as it will require all new buildings to meet more stringent, energy-saving requirements.

4.1.6 *Historic properties*

The proposed action does not affect historic properties.

4.1.7 *Wilderness*

Wilderness areas are generally on public lands and are otherwise protected by state and federal regulations to ensure that they are maintained in a specified state, where building construction is either entirely restricted or severely limited. Therefore, the proposed action has no effect on wilderness areas.

4.1.8 *Vistas*

The proposed action does not affect the visual aesthetic qualities of the landscape.

4.1.9 *Tranquility affected by noise*

The proposed action does not affect auditory tranquility.

4.1.10 *Society and the economy*

Any savings due to increased energy conservation and efficiency should have a beneficial impact on the state's built environment and economy.

4.2 *Secondary Effects*

According to Comm 1.08 (1) (c) 2., "Secondary effects are, in relation to primary effects, the foreclosure of future options, establishment of precedents, cumulative impacts when actions of the type are repeated, stimulation of effects that are later in time or at a distance, conflicts with official plans of public agencies or with policies of governments at any level, and significant controversy that may be or is generated by the proposed action."

The Department does not anticipate the proposed rules having any significant secondary impacts on the human environment beyond those effects that create safe and healthy indoor environments.

4.2.1 *Foreclosure of future options*

No future options are foreclosed.

4.2.2 *Establishment of precedents*

No precedents are set.

4.2.3 *Cumulative impacts*

Energy conservation may have a beneficial cumulative impact on financial capital, environmental value, national security, personal security and human comfort.

4.2.4 *Conflicts with official plans of public agencies or with policies of governments at any level*

The Department is not aware of any conflicts with other official plans of public agencies or with policies of governments at any level.

4.2.5 *Significant controversy that may be or is generated by the proposed action*

The Department is not aware of any significant controversy related to the proposed rules.

5. **Alternatives to the Action**

5.1 *Take no action*

The effect of no action would be that the current rules relating to the design, construction, maintenance and inspection of public buildings and places of employment, including commercial buildings and structures

and multifamily dwellings would remain in effect. The current rules reflect 2006 national model codes and are inconsistent with today's nationally-recognized standards and practices. This would not be responsive to the requirements of state law, or to the Department's statutory responsibility of protecting public health, safety and welfare in Wisconsin.

5.2 *Alternative actions*

The Department has not identified any alternatives to these proposed rules. These requirements are based on national model standards that have been instituted for the betterment of society and the environment. The revisions should result in the continual improvement of the code, which will help the Department accomplish its statutory responsibilities of protecting public health, safety and welfare in Wisconsin.

6. Other Unresolved Conflicts Concerning Alternative Uses of Available Resources

The Department does not know of any unresolved conflicts concerning the use of available resources.

7. Other Agencies and Persons Consulted

No other agencies or persons were consulted in the preparation of this environmental assessment.

8. Preliminary Recommendation

The impact to the environment of the proposed action is expected to be minimal. The cumulative effects should have a minor but beneficial impact. No significant adverse impacts have been identified. The Department's preliminary finding is that an EIS is not required.