

# STATEMENT OF SCOPE

## Department of Commerce

Rule No. : Chapter Comm 14

Relating to : Fire prevention and stop-use procedures

1. Description of the objective of the rule.

This rulemaking would primarily update various elements of the Wisconsin *Fire Prevention Code*, so that this code remains consistent with dynamic, contemporary regional and national practices and standards, and with applicable statutory requirements, relating to fire prevention.

The rulemaking would also establish stop-use enforcement procedures for fire-prevention programs regulated by the Division of Environmental and Regulatory Services.

2. Description of existing policies relevant to the rule and of new policies proposed to be included in the rule and an analysis of policy alternatives.

The *Fire Prevention Code* contains (1) requirements for the maintenance and inspection of public buildings and places of employment, (2) duties for fire departments, and (3) requirements for fire departments that receive dues payments from the Department. This code, which was adopted in 2001 and became effective on July 1, 2002, replaced previous requirements for fire prevention at public buildings and places of employment with model-code requirements that are substantially in use elsewhere in this country. Those model-code requirements of the National Fire Protection Association (NFPA) were published in 2000, and were then substantially updated and republished in 2003.

The primary purpose of the *Fire Prevention Code* is to protect public health, safety, and welfare. Periodic review and update of the Code is necessary to ensure that the Code still achieves that purpose. In addition, the review and update allows the opportunity to recognize new products and practices, and to maintain consistency with recent changes in applicable statutory requirements. This update activity may include minor modifications to other Comm codes, in order to update any references in those codes to the corresponding changes to chapter Comm 14.

The Division of Environmental and Regulatory Services currently has effective stop-use procedures in section Comm 10.18 (3), for shutting down storage tanks or tank systems that either are an immediate danger or are releasing regulated substances to the environment, or for which there are long-standing violations of significant code requirements. Having similar stop-use procedures in chapter Comm 14 would significantly improve the Department's ability to abate any aspects of public buildings or places of employment that similarly are an immediate danger to life, safety, or health, or for which there are long-standing violations of significant code requirements. In addition, some objects that are currently regulated under chapter Comm 10 are expected to soon be regulated instead under chapter Comm 14, through other rulemaking by the Department, and the Department prefers to retain stop-use procedures for those objects as well.

The only feasible alternative to not reviewing the 2003 NFPA fire prevention requirements at this time would be a temporary delay in the rule-review process. This delay would reduce the public benefits that would otherwise occur by beginning this review now. The alternative of not developing the stop-use rules would continue the Department's current difficulty in abating some conditions that either are an immediate danger to life, safety, or health, or are long-standing violations of significant code requirements.

3. Statutory authority for the rule.

Sections 101.02 (1) and (15), and 101.14 (1), (2), and (4) of the statutes.

4. Estimate of the amount of time that state employees will spend to develop the rule and of other resources necessary to develop the rule.

The Department estimates approximately 1000 hours will be needed to perform the review and develop any needed rule changes. This time includes drafting the changes – in consultation with the Department's chapter Comm 14 code advisory committee – and processing the changes through public hearings, legislative review, and adoption. The Department will assign existing staff to perform the review and develop the rule changes, and no other resources will be needed.

5. Summary and preliminary comparison of any existing or proposed federal regulation that is intended to address the activities to be regulated by the rule.

An Internet-based search for "fire prevention" in the *Code of Federal Regulations* identified the following existing federal regulations that potentially address fire prevention at places of employment in Wisconsin: 29CFR1910–Occupational Safety and Health Standards, 29CFR1926–Safety and Health Regulations for Construction, 30CFR56–Safety and Health Standards–Surface Metal and Nonmetal Mines, 30CFR57– Safety and Health Standards–Underground Metal and Nonmetal Mines, 33CFR127–Waterfront Facilities Handling Liquefied Natural Gas and Liquefied Hazardous Gas, 46CFR28–Requirements for Commercial Fishing Industry Vessels, 46CFR34–Firefighting Equipment (on tankships), 46CFR76–Fire Protection Equipment (on shipping vessels), and 41CFR102–Safety and Environmental Management (for federally owned and leased buildings). No changes to Comm 14 are expected to supercede those federal requirements, so no comparison is made here to those requirements.

An Internet-based search for "fire prevention" in the 2003 and 2004 issues of the *Federal Register* did not identify any proposed federal regulations that address fire prevention at public buildings or places of employment in Wisconsin.

Approved for publication in the Wisconsin Administrative Register at Madison, Wisconsin, this date: \_\_\_\_\_

DEPARTMENT OF COMMERCE

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Cory L. Nettles, Secretary

Approved for implementation at Madison, Wisconsin, this date: \_\_\_\_\_

DEPARTMENT OF COMMERCE

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Cory L. Nettles, Secretary