

STATE OF WISCONSIN  
DEPARTMENT OF COMMERCE

## Notice of Public Hearing and Hearing Draft of Proposed Rules

The Department of Commerce announces that it will hold a public hearing on the attached proposed rules under chapter **Comm 2, relating to miscellaneous fee schedule changes.**

The public hearing will be held Wednesday, June 15, 2005, Room 3B, Thompson Commerce Center, 2 p.m., 201 West Washington Avenue, 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 **June 30, 2005**, 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 Ronald Acker, Department of Commerce, Program Development Bureau, P.O. Box 2689, Madison, WI 53701-2689, or E-mail at [racker@commerce.state.wi.us](mailto:racker@commerce.state.wi.us).

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 TTY at (608) 264-8777 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.

# Hearing Draft of Proposed Rules

Rule No.: Chapter Comm 2

## Relating to: Miscellaneous Fee Schedule Changes

The Department of Commerce proposes an order to repeal ss. Comm 2.02 (7), Comm 2.31 (3), Comm 2.41, Comm 2.42, Comm 2.61 (3) and (4), and Comm 2.68 (3) (a) and (c); to amend ss. Comm 2.12 (1), Comm 2.15 Table 2.15-1, Comm 2.15 Table 2.15-2 (title), Comm 2.15 (2m), Comm 2.33 (title), (1) and (2), Comm 2.51 Table 2.51 line 5, Comm 2.52 (3) (d), (5) and (7), and Comm 2.61 (1) (a); to repeal and recreate ss. Comm 2.31 (2) and Comm 2.43; and to create ss. Comm 2.02 (8) (a) 9., Comm 2.09, Comm 2.10, Comm 2.12 (2m), Comm 2.13 (1m), Comm 2.31 (2m), and Comm 2.44, relating to miscellaneous fee schedule changes and affecting small businesses.

## Analysis of Proposed Rules

- 1. Statutes Interpreted.** Sections 101.02 (15) (h) to (j), and 101.19, Stats.
- 2. Statutory Authority.** Sections 101.02 (15) (h) to (j), and 101.19, Stats.
- 3. Related Statute or Rule.** None.
- 4. Explanation of Agency Authority.** Section 101.02 (15)(h) to (j), Stats., grants the Department general authority for protecting the health, safety and welfare of the public by establishing reasonable and effective safety standards for the construction, repair and maintenance of public buildings and places of employment. Section 101.19, Stats., grants the Department authority to promulgate rules to fix and collect fees.
- 5. Summary of Proposed Rules.** The Division of Safety and Buildings within the Department of Commerce is responsible for administering and enforcing safety and health rules relating to the construction and inspection of dwellings, public buildings and places of employment. The Division of Environmental and Regulatory Services within the Department is responsible for administering and enforcing safety and health rules relating to underground and aboveground flammable and combustible liquid storage tank systems. In the administration and enforcement of those rules, the Department provides numerous services such as plan examination, inspection and certification. The Department, by rule promulgated under chapter 227 of the Wisconsin Statutes, is required to fix and collect fees which must, as closely as possible, equal the cost of providing those services.

Most of the fees charged by the Division of Safety and Buildings and the Division of Environmental and Regulatory Services are contained in chapter Comm 2. The proposed rules consist of miscellaneous changes in chapter Comm 2 in order to address inconsistencies, omissions, format and administration problems that have been discovered since the complete update of chapter Comm 2 in 2000. The proposed rules do not involve a general fee increase.

**6. Summary of, and Comparison with, Existing or Proposed Federal Regulations.** There are no existing or proposed federal regulations that address the activities to be regulated by the proposed rules.

**7. Comparison with Rules in Adjacent States.** The proposed rules consist of administrative changes specific to the Department's schedule of fees charged for the services provided by the Safety and Buildings Division and the Environmental and Regulatory Services Division. There are no similar rules in the states of Illinois, Iowa, Michigan and Minnesota.

**8. Summary of factual Data and Analytical Methodologies.** There were no factual data or analytical methodologies used to develop the proposed rules.

**9. Analysis and Supporting Documents used to Determine Effect on Small Business or in Preparation of Economic Impact Report.** The proposed rules should have a minimal effect on small business. There were no supporting documents used to determine the effect on small business, and an economic impact report was not prepared.

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SECTION 1. Comm 2.02 (7) is repealed.

SECTION 2. Comm 2.02 (8) (a) 9. is created to read: Comm 2.02 (8) (a) 9. Buildings that are or are anticipated to be owned by or leased to the state.

SECTION 3. Comm 2.09 and 2.10 are created to read:

**Comm 2.09 Priority review.** A person may request and make an appointment with the department to facilitate the examination of plans, or the review of a product or material for approval, on a priority basis. The fee for examination or review on a priority basis shall be twice the normal rate, based on the appropriate rate specified in this chapter. Scheduling on a priority basis shall be contingent upon the department having sufficient time and staff to accommodate the request.

**Comm 2.10 Projects without approval.** The plan examination fees specified in this chapter shall be doubled for projects where the installation, erection or construction was initiated without the required departmental approval.

SECTION 4. Comm 2.12 (1) is amended to read:

**Comm 2.12 (1) PLAN EXAMINATION AND INSPECTION FEES.** ~~The owner or user shall submit a~~ A fee of \$450.00 shall be submitted for plan examination and external inspection of each new anhydrous ammonia handling or storage facility.

SECTION 5. Comm 2.12 (2m) is created to read:

**Comm 2.12 (2m) REINSPECTION FEES.** A fee in accordance with s. Comm 2.04 (2) shall be assessed for inspections made by the department to gain compliance with ch. Comm 43, after orders have been issued by the department.

SECTION 6. Comm 2.13 (1m) is created to read:

**Comm 2.13 (1m) REINSPECTION FEES.** A fee of \$55.00 per inspection shall be assessed for inspections made by the department to gain compliance with ch. Comm 45, after orders have been issued by the department.

SECTION 7. Comm 2.15 Table 2.15-1 is amended to read:

**Table 2.15-1**  
**Plan Examination and Inspection Fees**  
**for Elevators, Escalators and Lifting Lift Devices**

Type of Unit or Number of Landings	Plan Examination and Initial Inspection Fee	Reinspection Fee
0-4 landings	\$550.00	\$300.00
5-10 landings	\$600.00	\$400.00
11 or more landings	\$700.00	\$500.00
<del>Remodeled elevators or escalators</del>	<del>\$400.00</del>	<del>\$300.00</del>
Escalators	\$500.00	\$300.00
<u>Alteration to elevators, escalators or lift devices</u>	<u>\$400.00</u>	<u>\$300.00</u>

SECTION 8. Comm 2.15 Table 2.15-2 (title) is amended to read:

**Table 2.15-2 (title)**  
**Periodic Inspection and Reinspection Fees**  
**for Elevators, Escalators and Lifting Lift Devices**

SECTION 9. Comm 2.15 (2m) is amended to read:

**Comm 2.15 (2m) FEE FOR FAILURE TO HAVE EQUIPMENT READY FOR INSPECTION.** ~~The owner shall pay a~~ A fee equal to 50% of the applicable inspection fee shall be assessed for failure to have the elevator or lifting device ready for inspection on the date specified, unless ~~the owner notifies the~~ department is notified, in writing, 7 business days prior to the specified inspection date.

SECTION 10. Comm 2.31 (2) is repealed and recreated to read:

**Comm 2.31 (2) FEE FOR PLAN ENTRY.** In addition to the plan review and inspection fees for a project, each separate submission of plans for the project shall be accompanied by a \$100.00 plan entry fee. When plans for multiple projects are submitted together, each project shall constitute a separate submission and require a \$100.00 plan entry fee.

SECTION 11. Comm 2.31 (2m) is created to read:

**Comm 2.31 (2m) FEE FOR MISSING A PLAN REVIEW APPOINTMENT.** A fee of \$50.00 may be charged for missing a plan review appointment that was processed and scheduled by the department.

SECTION 12. Comm 2.31 (3) is repealed.

SECTION 13. Comm 2.33 (title), (1) and (2) are amended to read:

**Comm 2.33 Mobile Manufactured homes.** (1) CERTIFICATION AND INSPECTION FEES. Fees for certification and inspection relative to the manufacture of ~~mobile~~ manufactured homes shall be determined in accordance with Table 2.33.

(2) FORMALDEHYDE INVESTIGATION AND TESTING. To offset the department cost of conducting formaldehyde testing and compliant investigation related to formaldehyde in ~~accordance with ch. Comm 27~~ manufactured homes, a fee shall be assessed in accordance with s. Comm 2.04 (2), or \$120.00 per test, whichever is greater.

SECTION 14. Comm 2.34 (3) and (5) are amended to read:

**Comm 2.34 (3) MULTIFAMILY DWELLINGS.** Fees related to plan examination and field inspections for multifamily dwellings shall be determined in accordance with s. Comm 2.31.

(5) MANUFACTURED MULTIFAMILY DWELLINGS. (a) Fees related to plan examination and field inspections for manufactured multifamily dwellings shall be determined in accordance with s. Comm 2.31.

(b) Fees related to in-plant inspections for manufactured multifamily dwellings performed by the department shall be assessed and determined in accordance with s. Comm 2.04 (2).

SECTION 15. Comm 2.41 and 2.42 are repealed.

SECTION 16. Comm 2.43 is repealed and recreated to read:

**Comm 2.43 Storage tanks for flammable and combustible liquids.** (1) PLAN EXAMINATION AND INSPECTION FEES. Fees for the examination of plans, site inspections and reinspections for tanks used for the storage of flammable and combustible liquids shall be determined in accordance with Table 2.43.

**Table 2.43  
Plan Examination and Inspection Fees for Liquid Storage Tanks**

<b>Tank System Category</b>	<b>Plan Review Fee*</b>	<b>Installation Inspection Fee</b>	<b>Plan Revision Fee</b>	<b>Reinspection Fee</b>
Aggregate capacity of aboveground storage tanks equal to or less than 1,100 gallons installed on a farm premises with inspection in 5 days or less	\$0	\$75	\$0	\$0
Aggregate capacity of aboveground storage tanks equal to or less than 1,100 gallons installed on a farm premises with inspection in 2 days or less	\$0	\$100	\$0	\$0

Aggregate capacity equal to or less than 1,100 gallons	\$60	\$100	\$100	\$100
Aggregate capacity 1,101 gallons through 48,000 gallons capacity	\$125	\$250	\$100	\$100
Aggregate capacity 48,001 gallons through 80,000 gallons capacity	\$150	\$300	\$100	\$100
Aggregate capacity 80,001 gallons through 120,000 gallons capacity	\$180	\$450	\$120	\$150
Aggregate capacity 120,001 gallons capacity or greater	\$360	\$600	\$150	\$200
Addition of corrosion protection to an existing system	\$35	\$100	\$100	\$100
Conversion of existing system to a point of sale type of dispensing system**	\$35	\$100	\$100	\$100
Underground storage tank pre-lining inspection	Aggregate as above	\$50/tank	\$100	\$100
Upgrade or install Stage II vapor recovery on existing system	Aggregate as above	Aggregate as above	\$100	\$100

**\*Note:** If the department is conducting plan review in the absence of an assigned local program operator, the appropriate Table 2.43 fees must be submitted.

**\*\*Note:** A point of sale system is any dispensing system that will authorize fuel dispensing by means of key, card, cash or code activation.

**(2) GROUNDWATER FEE.** Pursuant to s. 101.14 (5), Stats., in addition to any fee charged by the department by rule for plan review and approval for the construction of a new or additional installation or change in operation of a previously approved installation for the storage, handling or use of flammable, combustible or hazardous liquids, the department shall collect a groundwater fee of \$100 for each plan review submittal. The moneys collected under this subsection shall be credited to the environmental fund for environmental management.

**Note:** In accordance with s. 101.14 (5) (b), Stats., an installation that has a capacity of less than 1,000 gallons is not subject to the groundwater fee.

**(3) REINSPECTION FEE.** The contractor, when performing activities covered under ss. Comm 5.84 to 5.87, shall pay the reinspection fee to the authorized agent for any of the following reasons that require the authorized agent to make a return trip, or to reschedule a trip because the authorized agent has not been notified at least 24 hours in advance:

(a) Failure to have the tank system accessible for inspection on the date and time specified for inspection.

(b) Installation inspection points that are incomplete on the date and time specified for inspection.

(c) Failure to correct deficiencies by the date and time specified for inspection.

**Note:** Section Comm 5.84 covers aboveground tank system installation certification requirements. Comm 5.85 covers underground tank system installation certification requirements. Comm 5.86 covers tank system lining certification requirements. Comm 5.87 covers tank system removing and cleaning certification requirements.

(4) SPECIAL INSPECTION FEE. The owner or operator shall pay the miscellaneous inspection fee specified in s. Comm 2.04 (2) to the authorized agent for any of the following reasons:

(a) Replacement of identical equipment where the department or local program operator has waived the plan submittal requirement.

(b) Pre-operational inspection required by the department as a result of compliance orders where plan submittal is not required.

SECTION 17. Comm 2.44 is created to read:

**Comm 2.44 Storage tanks for gases.** Fees for the examination of plans, site inspections and reinspections for tanks used for the storage of liquefied petroleum gas, liquefied natural gas, compressed natural gas, gaseous hydrogen and liquefied hydrogen shall be determined in accordance with Table 2.44.

**Table 2.44  
Plan Examination and Inspection Fees for Gas Storage Tanks**

<u>Type of Examination or Inspection</u>	<u>Fee</u>
<b>Liquefied Petroleum Gas Systems</b>	
125 to 1,999 Gallon Water Capacity Tank . . . . .	(No state examination or inspection fee required.)
2000 Gallon Water Capacity and Above or Where the Aggregate Water Capacity will be 4000 Gallons or Larger	
Plan Examination Fee . . . . .	\$200.00 per site
Site Inspection Fee . . . . .	\$250.00 per site
<b>Liquefied Natural Gas Systems</b>	
125 to 1,999 Gallon Water Capacity Tank . . . . .	(No state examination or inspection fee required.)
2000 Gallon Water Capacity and Above or Where the Aggregate Water Capacity will be 4000 Gallons or Larger	
Plan Examination Fee . . . . .	\$200.00 per site
Site Inspection Fee . . . . .	\$250.00 per site
<b>Compressed Natural Gas Systems</b>	
<b>Vehicle Fueling Sites</b>	
Plan Examination Fee . . . . .	\$200.00 per site
Site Inspection Fee . . . . .	\$250.00 per site
<b>Gaseous Hydrogen Systems</b>	
Plan Examination Fee . . . . .	\$200.00 per site
Site Inspection Fee . . . . .	\$250.00 per site
<b>Liquefied Hydrogen Systems</b>	
125 to 1,999 Gallon Water Capacity Tank . . . . .	(No state examination or inspection fee required.)
2000 Gallon Water Capacity and Above or Where the Aggregate Water Capacity will be 4000	

Gallons or Larger  
 Plan Examination Fee ..... \$200.00 per site  
 Site Inspection Fee ..... \$250.00 per site

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Plan Revisions and Reinspections  
 Plan Revision Examination Fee ..... \$100.00 per revised plan  
 Reinspection Fee ..... As specified in s. Comm 2.04 (2)

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SECTION 18. Comm 2.51 Table 2.51 line 5 is amended to read:

**Table 2.51  
 Material Review Fees  
 (partial table)**

Action	Fee per Review Type of Review			
	Chapter Comm 10 and Voluntary	Alternate Product	Experimental	Alternate Standard
Manufacturer's request for major revision (new <del>5</del> -year approval period)	\$1,000	\$1,200	\$2,000	NA*

SECTION 19. Comm 2.52 (3) (d), (5) and (7) are amended to read:

**Comm 2.52 (3) (d)** Where an identical variance is sought for identical buildings with a common owner in a single municipality, and all of the buildings are listed on one submitted petition, the fee for the first building shall be ~~\$490.00~~ \$500.00, and the fee for each subsequent building shall be \$50.00.

**(5)** (title) PETITIONS FOR VARIANCE ON RULES UNDER CHS. COMM 81 TO ~~85~~ 87, UNIFORM PLUMBING CODE. The fee per petition for processing petitions for variance to rules under chs. Comm 81 to ~~85~~ 87 shall be \$225.00.

**(7)** PETITIONS FOR VARIANCE, OTHER RULES. ~~The~~ Except as provided in ch. Comm 5, the fee for reviewing petitions for variance on rules of the department, administered by the division of safety and buildings and the division of environmental and regulatory services and not specifically mentioned under this section, shall be \$250.00 per petition.

SECTION 20. Comm 2.61 (1) (a) is amended to read:

**Comm 2.61 (1) (a)** ~~Plumbing~~ The fees for plumbing inspections for sanitary districts or other special purpose districts shall be determined in accordance with s. Comm 2.04 (2).

SECTION 21. Comm 2.61 (3) and (4) are repealed.

SECTION 22. Comm 2.68 (3) (a) and (c) are repealed.

**END**

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**EFFECTIVE DATE**

Pursuant to s. 227.22 (2) (intro.), Stats., these rules shall take effect on the first day of the month following publication in the Wisconsin Administrative Register.