

## INTRODUCTION

### Purpose and Structure

The Legislature, by s. 35.93 and ch. 227, Stats., directed the publication of the rules of executive agencies having rule-making authority in a loose-leaf, continual revision system known as the Wisconsin Administrative Code. The Code is kept current by means of new and replacement pages. The pages are issued monthly, together with notices of hearings, notices of proposed rules, notices of emergency rules, instructions for insertion of new material, and other information relating to administrative rules and the administrative rulemaking process. This service is called the Wisconsin Administrative Register, and comes to the subscriber near the middle and at the end of each month. Code pages are issued to subscribers only with the end of the month Register. The editing and publishing of the Register and Code is done by the Revisor of Statutes Bureau, Suite 800, 131 W. Wilson St., Madison, Wisconsin, 53703. E-mail-gary.poulson@legis.state.wi.us Telephone (608-266-7275).

### Availability

The complete code and the upkeep service are distributed to the county law libraries; to the libraries of the University of Wisconsin Law School and Marquette University Law School; to the State Historical Society; to the Legislative Reference Bureau and to the State Law Library, and to certain designated public libraries throughout the state.

The sale and distribution of the printed Register, Code and of its parts is handled by Department of Administration, Document Sales, P.O. Box 7840, Madison, Wisconsin 53707. (608-266-3358 information) (1-800-362-7253 or 608 264-9419 charge card orders).

The entire Code and Registers from January, 1996, can be found on the WisLaw<sup>®</sup> CD-ROM. End-user license and subscription order forms are available from Document Sales and Distribution.

The Code and Register can also be found on the internet at [www.legis.state.wi.us/rsb](http://www.legis.state.wi.us/rsb)

### Arrangement and Table of Contents

The Code is arranged in the complete set alphabetically by agency. Certain descriptors such as "Department" and "Wisconsin" are ignored for arrangement purposes. Several agencies further subdivide their rules either by program e.g. Department of Commerce - Plumbing or by division within the agency e.g. Department of Health & Family Services - Health, chs. HFS 110-. These Codes are arranged in numerical order within the appropriate alphabetical arrangement for the agency.

Each agency adopts a prefix to identify their rules. For example, the Department of Natural Resources uses "NR" before each chapter number.

Each Code with more than one chapter will have a table of chapters. After the title of each chapter will be the page numbers on which the chapter begins. Each chapter will have a table of sections.

### History Notes

Each page of the Code as it was originally filed and printed pursuant to the 1955 legislation, had a date line "1-2-56". A rule which is revised or created subsequent to the original printing date is followed by a history note indicating the date and number of the Register in which it was published and the date on which the revision or creation of the rule became effective. Additions to a section's history note will be shown in bold face when those affected code sections are first released. The absence of a history note at the end of a section indicates that the rule has remained unchanged since the original printing in 1956. The date line at the bottom of the page indicates the month in which the page was released, but does not necessarily mean a substantive change has occurred on that page. Some common abbreviations used in the history notes are: cr. - created, am. -amend, r. -repeal, recr. -recreate, renum. -renumber, eff. -effective and emerg. -emergency.

In some instances an *entire* chapter has been repealed and recreated or renumbered subsequent to the original printing date. When this occurs a note has been placed at the beginning of the chapter after the table of sections to contain this information. A separate history note appears after each section indicating the date when the revision or creation became effective.

Beginning July 2001, history notes will indicate the Clearinghouse Rule number associated with a rule revision. The Clearinghouse Rule number is assigned by the Legislative Council Rules Clearinghouse to a proposed rule near the start of the rulemaking process. This number is portrayed in a history note as, for example, the following: **CR 01-041**. The first 2 numbers indicate the year the rule proposal was initiated and the last 3 numbers refer to a sequential numbering of proposals as the rule proposals are received by the Legislative Council during the course of the year.

### Emergency Rules

The Legislature has granted state agencies the authority to enact rules without using the normal rule-making process by publishing those rules in the official state newspaper. To justify the use of the emergency rule process, an agency must find that the preservation of the public peace, health, safety or welfare will be jeopardized without the emergency rule. Readers should review the current Wisconsin Administrative Register to see if a particular published rule is also affected by an emergency rule. Most emergency rules are eventually adopted as permanent rules and published in the Code.

### Index

The index for the complete Wisconsin Administrative Code will be found in the last volume of the complete set. It will be recompiled, reprinted and distributed at least 3 times a year. Some Codes have a separate index prepared by the agency involved. Agency prepared indexes tend to be more comprehensive than the general index prepared by the Revisor of Statutes. See the Uniform Dwelling Code (chs. Comm 20-25) as an example.



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## **DEPARTMENT OF COMMERCE**

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## Chapter Comm 91

### SANITATION

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**Comm 91.01 Purpose.** This chapter has the following purposes:

(1) This chapter establishes minimum standards and criteria for the design, installation and maintenance of sanitation systems and devices which are alternatives to water-carried waste plumbing fixtures and drain systems so that these sanitation systems and devices are safe and will safeguard public health and the waters of the state.

(2) This chapter establishes criteria for equal speed of access to toilets for each gender in restrooms serving an amusement facility and a specialty event center where the public congregates.

**Note:** Chapter Comm 61 to 65 relating to commercial buildings and structures specifies the minimum number of toilet facilities for women and men.

**Note:** Chapter Comm 90 relating to swimming pools and water attractions contains minimum number of toilet facilities for women and men.

**History:** Cr. Register, April, 2000, No. 532, eff. 7-1-00; CR 04-072: am. Register July 2005 No. 594, eff. 1-1-06.

**Comm 91.02 Scope.** (1) This chapter has the following applications:

(a) This chapter applies to all composting toilet systems, incinerating toilets, pit privies and vault privies installed or constructed on or after the effective date of this chapter.

(b) This chapter applies to separate-gender restrooms serving an amusement facility and a specialty event center where the public congregates that are constructed or altered as specified in s. Comm 91.14.

(2) The provisions of this chapter are not retroactively applied to existing installations unless specifically stated in the administrative rule.

**History:** Cr. Register, April, 2000, No. 532, eff. 7-1-00; CR 04-072: am. (1) Register July 2005 No. 594, eff. 1-1-06.

**Comm 91.03 Definitions.** In this chapter:

(1) "Amusement facility" has the meaning given in s. 101.128 (1) (a), Stats.

**Note:** Section 101.128 (1) (a), Stats., reads as follows: "'Amusement facility' means any zoo, state or local park, amusement or theme park, state fair park, county or other local fairgrounds, or any similar facility, as determined by department rule."

(2) "Composting toilet system" means a method that collects, stores and converts by bacterial digestion nonliquid-carried human wastes or organic kitchen wastes, or both, into humus.

(3) "Department" means the department of commerce.

(4) "Facility where the public congregates" has the meaning given in s. 101.128 (1) (b), Stats.

**Note:** The relevant portions of section 101.128 (1) (b), Stats., read as follows: "'Facility where the public congregates' means any of the following that has a general capacity or a seating capacity of 500 or more persons:

1. An amusement facility
3. A specialty event center."

(5) "Incinerating toilet" means a self-contained device for the treatment of nonliquid carried wastes that deposits the wastes directly into a combustion chamber, reduces the solid portion to ash and evaporates the liquid portion.

(6) "Pit privy" means an enclosed nonportable toilet into which nonwater-carried human wastes are deposited to a subsurface storage chamber that is not watertight.

(7) "Portable restroom" means a self-contained portable unit that includes fixtures, incorporating holding tank facilities, designed to receive human excrement.

(8) "Specialty event center" has the meaning given in s. 101.128 (1) (g), Stats.

**Note:** Section 101.128 (1) (g), Stats., reads as follows: "'Specialty event center' means an open arena used for rallies, concerts, exhibits or other assemblies, with no permanent structure for such assembly."

(9) "Vault privy" means an enclosed nonportable toilet into which nonwater-carried human wastes are deposited to a subsurface storage chamber that is watertight.

**History:** Cr. Register, April, 2000, No. 532, eff. 7-1-00; CR 04-072: renum. (1) to (6) to be (2), (3), (5) to (7) and (9), cr. (1), (4) and (8), Register July 2005 No. 594, eff. 1-1-06.

**Comm 91.04 Registrations.** The installation of a vault privy or a pit privy to serve a state-owned facility shall be registered with the department prior to installation. The registration of a vault privy shall be accompanied by sufficient information to determine compliance with s. Comm 84.25. The registration of a pit privy shall be accompanied by sufficient soil information to determine compliance with s. Comm 83.44 (4) (b).

**History:** CR 02-129: cr. Register January 2004 No. 577, eff. 2-1-04.

**Comm 91.10 Composting toilet systems.** (1) The materials, design, construction and performance of a composting toilet system shall conform to NSF Standard 41.

(2) All composting toilet systems shall be listed by a testing agency acceptable to the department.

**Note:** Listing agencies acceptable to the department include the American Gas Association; Canadian Standards Association; NSF International; Underwriter's Laboratories; and Warnock Hersey.

(3) (a) Components for the storage or treatment of wastes shall be continuously ventilated.

(b) Ventilation ducts or vents for the composting toilet system shall conform to s. Comm 82.31 (16).

**Note:** See appendix for a reprint of portions of s. Comm 82.31 (16).

(4) (a) The disposal of the compost shall be in accordance with EPA part 503.

(b) The disposal of any liquid from a composting toilet system shall be either to a public sanitary sewer system or a POWTS conforming to ch. Comm 83.

**History:** Cr. Register, April, 2000, No. 532, eff. 7-1-00.

**Comm 91.11 Incinerating toilets.** (1) The design, construction and installation of a gas-fired incinerating toilet shall conform to ANSI Z21.61.

(2) The materials, design, construction and performance of an electric-fired incinerating toilet shall conform to NSF Standard 41.

(3) All electric and gas-fired incinerating toilets shall be listed by a testing agency acceptable to the department.

**Note:** Listing agencies acceptable to the department include the American Gas Association, Canadian Standards Association, NSF International, Underwriter's Laboratories, and Warnock Hersey.

(4) (a) The disposal of the end product shall be of in accordance with 40 CFR Part 503, Standards for the Use or Disposal of Sewage Sludge.

**Note:** EPA materials relating to EPA 503, including, "Domestic Septage Regulatory Guidance: A Guide to the EPA 503 Rule", are available from the Office of Water Resource, US EPA, 401 M Street SW, Washington D.C. 20460.

(b) The disposal of any liquid from an incinerating toilet shall be either to a public sanitary sewer system or a POWTS conforming to ch. Comm 83.

**History:** Cr. Register, April, 2000, No. 532, eff. 7-1-00.

**Comm 91.12 Privies. (1)** (a) The storage chamber of a vault privy shall conform with the requirements of s. Comm 84.25 relating to holding tanks, and shall have a minimum storage capacity of 200 gallons or one cubic yard.

(b) 1. The storage chamber of a pit privy shall be sited and located in soil recognized to provide treatment and dispersal in accordance with s. Comm 83.44 (4) (b).

**Note:** Chapter Comm 85 establishes procedures for conducting soil evaluations and preparing soil evaluation reports. Section Comm 5.33 delineates the qualifications and certification procedures for individuals who conduct soil evaluations.

2. Governmental units may set standards for the structure above the vault or pit for one- and two-family dwellings.

3. Privies for public use shall meet the requirements of this section and chs. Comm 61 to 65.

**Note:** Chapters NR 811 and 812 establish minimum separation distances between a pit or vault privy and a potable well. Chapters NR 811 and 812 are administered by the department of natural resources.

(c) The storage chamber of a vault privy shall be anchored to prevent flotation caused by saturated soil conditions.

(2) (a) The storage chamber of a pit or vault privy shall be provided with a vent for the purpose of relieving explosive gases.

(b) The vent serving the storage chamber of a privy shall be:

1. At least 3 inches in diameter;

2. Installed in accordance with s. Comm 82.31 (16) (a) to (f); and

3. Fabricated or provided with screening to prevent insects from entering the storage chamber.

(3) The servicing of a vault privy relative to the pumping, transporting and disposal of the contents shall be in accordance with ch. NR 113.

(4) The abandonment of a vault privy shall be accomplished by:

(a) Having the contents of the storage chamber pumped and disposed of in accordance with ch. NR 113;

(b) Removing the entire top of the chamber; and

(c) Filling the remaining portion of the emptied storage chamber with soil or other inert material to an elevation equal to or above the surrounding grade.

(5) The abandonment of a pit privy shall be accomplished by filling the storage chamber with soil or other inert material to an elevation equal to the surrounding grade.

**Note:** The requirements of the commercial building code, chs. Comm 61 to 65, apply to the structures built over those privies serving public buildings and places of employment.

(6) (a) A privy may not be installed in a floodway.

(b) A privy may be installed in the floodfringe provided that the area is filled to remove it from the floodfringe designation or the vault is flood-proofed.

**Note:** The department of natural resources determines if filling or flood-proofing is in accordance with current rules in effect for development in a floodfringe area.

**History:** Cr. Register, April, 2000, No. 532, eff. 7-1-00; CR 01-139: am. (1) (b) 3. Register June 2002 No. 558, eff. 7-1-02.

**Comm 91.13 Portable restrooms. (1)** The storage chamber of a portable restroom into which human waste is to be deposited shall be watertight.

(2) The entire floor and the side walls to a height of not less than 4 inches of a portable restroom shall be of a material impervious to water.

**History:** Cr. Register, April, 2000, No. 532, eff. 7-1-00.

**Comm 91.14 Equal speed of access to toilets.**

(1) **APPLICATION.** This section applies to the toilet fixtures in separate-gender restrooms serving an amusement facility and a specialty events center where the public congregates that are constructed or renovated on or after January 1, 2006 only if one of the following occurs:

(a) New separate-gender restrooms are constructed or separate-gender toilets are provided, in which case this section applies only to the new restrooms.

(b) More than 50% of the square footage of an existing separate-gender restroom is renovated, in which case this section applies only to the renovated portion.

**Note:** Under section 101.128 (1) (d), Stats., "renovation" means any structural remodeling, improvement or alteration of an existing facility where the public congregates. "Renovation" does not include any of the following:

1. Reroofing.

2. Cosmetic remodeling, including painting or the installation of wall covering, of paneling, of floor covering or of suspended ceilings.

3. An alteration to an electrical or mechanical system."

(2) **NUMBER OF TOILET FACILITIES.** When separate public restrooms or other toilet facilities are provided for males and females at an amusement facility and a specialty event center where the public congregates, the number of toilets for the females shall be provided at a ratio of 2 for every toilet and every urinal provided for the males.

**History:** CR 04-072: cr. Register July 2005 No. 594, eff. 1-1-06.

**Comm 91.20 Incorporation of standards by reference. (1)** **CONSENT.** Pursuant to s. 227.21, Stats., the attorney general and the revisor of statutes have consented to the incorporation by reference of the standards listed in sub. (3).

(2) **COPIES.** Copies of the adopted standards are on file in the offices of the department, the secretary of state and the revisor of statutes. Copies of the standards may be purchased through the respective organizations listed in sub. (3).

(3) **ADOPTION OF STANDARDS.** The standards referenced in pars. (a) and (b) are hereby incorporated by reference into this chapter.

(a) American National Standards Institute, Inc., 1430 Broadway, New York, New York 10018, GAS-FIRED TOILETS, Z21.61-1983.

(b) NSF International, 3475 Plymouth Road, P.O. Box 130140, Ann Arbor, Michigan 48113-0140, NON-LIQUID SATURATED TREATMENT SYSTEMS, NSF 41-1998.

**History:** Cr. Register, April, 2000, No. 532, eff. 7-1-00.

## Chapter Comm 91

### APPENDIX

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The material and information contained in this appendix is for clarification purposes only. Appendix material and information are numbered to correspond to the rule number as it appears in the text of the code. Material and information included in this appendix is subject to change without notice, including names, addresses, phone numbers and forms, and reflects information known at the time of publication.

**A-91.10 (3) (b)** Section Comm 82.31 (16) (a) to (f) reads as follows:

**82.31 (16) VENT TERMINALS.** All vents and vent systems shall terminate in the open air in accordance with this subsection.

(a) *Extension above roofs.* Extensions of vents through a roof shall terminate at least 8 inches above the roof. Where the roof is to be used for any purpose other than weather protection, the vents shall extend at least 7 feet above the roof.

(b) *Waterproof flashings.* The penetration of a roof system by a vent shall be made watertight with an approved flashing.

(c) *Prohibited uses.* Vent terminals shall not be used as flag poles, support for antennas or other similar purposes.

(d) *Location of vent terminals.* 1. A vent shall not terminate under the overhang of a building.

2. All vent terminals shall be located:

a. At least 10 feet from an air intake;

b. At least 5 feet from a power exhaust vent;

c. At least 10 feet horizontally from or 2 feet above roof scuttles, doors and openable windows; and

d. At least 5 feet from or 2 inches above parapet walls.

3. Where a structure has an earth covered roof extending from surrounding grade, the vent extension shall run at least 7 feet above grade and terminate with an approved vent cap. The portion of vent pipe outside the structure shall be without joints, except one fitting may be installed where the pipe leaves the top or side of the structure.

(e) *Extension through wall.* Where approved by the department, a vent may terminate through an exterior wall. Such a vent shall terminate at least 10 feet horizontally from any lot line and shall terminate downward. The vent shall be screened and shall comply with par. (d).

(f) *Extensions outside buildings.* Drain or vent pipe extensions shall not be located or placed on the outside of an exterior wall of any new building, but shall be located inside the building.

