

INTRODUCTION

Purpose and Structure

The Legislature, by s. 35.93 and ch. 227, Stats., directs 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 in the Wisconsin Administrative Register, together with notices of hearings, proposed rules, and emergency rules; instructions for insertion of new material; and other information submitted by agencies. The Register is published at the middle and end of each month. Code pages are published only with the end of the month Register. The editing and publishing of the Register and Code is done by the Legislative Reference Bureau, Suite 200, One East Main St., PO Box 2037, Madison, Wisconsin, 53701. Telephone 608-266-7590 or E-mail bruce.hoesly@legis.wisconsin.gov.

Availability

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

The sale and distribution of the printed Register and Code is handled by the Department of Administration, Document Sales and Distribution, 202 S. Thornton Avenue, Madison, Wisconsin 53703-3037. (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 internet at www.legis.state.wi.us/rsb/code.htm and on the WisLaw[®] CD-ROM. WisLaw[®] end-user license and subscription order forms are available from Document Sales and Distribution.

Arrangement and Table of Contents

The entire Code is arranged alphabetically by agency. Certain descriptors such as "Department" and "Wisconsin" are ignored for arrangement purposes. Each agency adopts a prefix to identify their rules. For example, the Department of Natural Resources uses "NR" before each Code chapter number.

Each agency's rules are referred to as a "code," except that some agencies subdivide their rules into multiple "codes" either by program or division within the agency. These codes are divided into chapters arranged in numerical order and chapters are divided into sections. Each section is given a mixed decimal section number consisting of a whole number that is the chapter number and a decimal number that indicates the section's location within the chapter. The decimal number consists of at least two digits and may contain as many as five digits. In a decimal system, 48.10 is the same as 48.100 and 48.100 follows 48.09, not 48.99.

Each agency code is listed alphabetically in the Composite Table of Contents that is contained in Volume 1 of the printed Code. Each agency code has a numerically arranged table of contents of the chapters in the code that lists the chapter title

followed by the page number on which the chapter begins. Each chapter contains a numerically arranged table of contents of the sections in the chapter.

History Notes

Each Code section that is revised or created subsequent to the original January 1, 1956 printing date of the Code 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. The abbreviations used in the history notes are: **CR**... Clearinghouse Rule, **cr**...create, **am**....amend, **r**....repeal, **recre**....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 is placed at the beginning of the chapter after the table of contents 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 include the Clearinghouse Rule number associated with the 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 listed in the history note as follows: **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. Some agency emergency rules are specifically authorized by legislation and are adopted without a finding of emergency. Readers should review the current Wisconsin Administrative Register to see if a particular published rule is also affected by an emergency rule. Emergency rules that are currently in effect, plus rules that have been filed since January 1, 2008 can be found on the internet at www.legis.state.wi.us/rsb/code.htm

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The index for the complete Code is contained in the last volume of the complete printed set. It will normally be recompiled, reprinted, and distributed at least 3 times a year.

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Chapter Comm 28

SMOKE DETECTORS AND CARBON MONOXIDE DETECTORS

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Comm 28.04 Carbon monoxide detectors.

Note: Chapter ILHR 28 was renumbered to be ch. Comm 28, under s. 13.93 (2m) (b) 1., Stats., and corrections made under s. 13.93 (2m) (b) 6. and 7., Stats., Register, February, 1999, No. 518.

Comm 28.01 Purpose. (1) The purpose of this chapter is to implement the mandates specified in ss. 101.145 and 101.645, Stats., concerning the installation and maintenance of smoke detectors in existing dwellings in relation to the application and effective date of chs. Comm 20 to 25, Uniform Dwelling Code.

(2) The purpose of this chapter is to implement the mandates specified in ss. 101.149 and 101.647, Stats., concerning the installation and maintenance of carbon monoxide detectors in existing dwellings in relation to the application and effective date of chs. Comm 20 to 25, Uniform Dwelling Code.

History: Cr. Register, April, 1990, No. 412, eff. 5-1-90; CR 10-089: renum. to (1) and am., cr. (2) Register January 2011 No. 661, eff. 2-1-11; corrections made under s. 13.92 (4) (b) 4., Stats., Register January 2011 No. 661.

Comm 28.02 Scope. (1) Except as provided in sub. (2), the provisions of this chapter apply to a dwelling, for which initial construction commenced before June 1, 1980, where the dwelling serves as any of the following:

(a) A one- and 2-family dwelling.

Note: This includes a site-built dwelling, a manufactured building used as a dwelling, a modular home and a dwelling that may be designated as a cabin, seasonal home, temporary residence, etc.

(b) An adult family home providing care, treatment and services for 3 or 4 unrelated adults.

(c) A community-based residential facility providing care, treatment and services for 5 to 8 unrelated adults.

(2) (a) Carbon monoxide detectors shall be installed and maintained in accordance with s. 101.149 (2) and (3), Stats., in a dwelling serving as a tourist rooming house, for which initial construction commenced before June 1, 1980.

Note: Tourist rooming house has the meaning as given under s. DHS 195.03 (20) which reads: "Tourist rooming house" means all lodging places and tourist cabins and cottages, other than hotels and motels, in which sleep accommodations are offered for pay to tourists or transients. It does not include private boarding or rooming houses not accommodating tourists or transients, or bed and breakfast establishments regulated under ch. DHS 197.

Note: Section 101.149 (2) (b), Stats., reads: If a unit is not part of a multiunit building, the owner of the residential building need not install more than one carbon monoxide detector in the unit.

(b) A carbon monoxide detector is not required to be provided under the requirements of this chapter in a dwelling that meets the exemption under s. 101.647 (3) (a), Stats.

Note: Section 101.647 (3) (a), Stats., reads: The owner of a dwelling shall install a functional carbon monoxide detector in the basement of the dwelling and on each floor level except the attic, garage, or storage area of each dwelling unit. A carbon monoxide detector wired to the dwelling's electrical wiring system shall have a backup battery power supply. Except as provided under par. (b), the occupant of the

dwelling unit shall maintain any carbon monoxide detector in that unit. This paragraph does not apply to the owner of a dwelling that has no attached garage, no fireplace, and no fuel-burning appliance.

History: CR 10-089: cr. Register January 2011 No. 661, eff. 2-1-11.

Comm 28.03 Smoke detectors. Smoke detectors shall be installed and maintained in accordance with s. 101.645 (3), Stats., in a dwelling, for which initial construction commenced before June 1, 1980.

Note: Section 101.645 (3), Stats., reads: The owner of a dwelling shall install a functional smoke detector in the basement of the dwelling and on each floor level except the attic or storage area of each dwelling unit. The occupant of such a dwelling unit shall maintain any smoke detector in that unit, except that if any occupant who is not the owner, or a state, county, city, village or town officer, agent or employee charged under statute of municipal ordinance with powers or duties involving inspection of real or personal property, gives written notice to the owner that the smoke detector is not functional the owner shall provide, within 5 days after receipt of that notice, any maintenance necessary to make that smoke detector functional.

Note: The Uniform Dwelling Code under s. Comm 21.09 specifies installation and maintenance requirements for smoke detectors in one- and 2-family dwellings constructed on or after June 1, 1980. The uniform dwelling code also reflects the installation and maintenance requirements specified in s. 101.645 (3), Stats.

History: Cr. Register, April, 1990, No. 412, eff. 5-1-90; CR 10-089: renum. from Comm 28.02 and am. Register January 2011 No. 661, eff. 2-1-11.

Comm 28.04 Carbon monoxide detectors. Carbon monoxide detectors shall be installed and maintained in accordance with s. 101.647 (2), (3) (a) and (b) and (6), Stats., in a dwelling, for which initial construction commenced before June 1, 1980.

Note: Section 101.647 (2), (3) (a) and (b) and (6), Stats., reads:

(2) **INSTALLATION AND SAFETY CERTIFICATION.** The owner of a dwelling shall install any carbon monoxide detector required under this section according to the directions and specifications of the manufacturer of the carbon monoxide detector. A carbon monoxide detector required under this section shall bear an Underwriters Laboratories, Inc., listing mark and may be a device that is combined with a smoke detector.

(3) **REQUIREMENTS.** (a) The owner of a dwelling shall install a functional carbon monoxide detector in the basement of the dwelling and on each floor level except the attic, garage, or storage area of each dwelling unit. A carbon monoxide detector wired to the dwelling's electrical wiring system shall have a backup battery power supply. Except as provided under par. (b), the occupant of the dwelling unit shall maintain any carbon monoxide detector in that unit. This paragraph does not apply to the owner of a dwelling that has no attached garage, no fireplace, and no fuel-burning appliance.

(b) If any occupant who is not the owner of a dwelling, or any person authorized by state law or by city, village, town, or county ordinance or resolution to exercise powers or duties involving inspection of real or personal property, gives written notice to the owner that the carbon monoxide detector is not functional, the owner shall provide, within 5 days after receipt of that notice, any maintenance necessary to make that carbon monoxide detector functional.

(6) **TAMPERING PROHIBITED.** No person may tamper with, remove, destroy, disconnect, or remove batteries from an installed carbon monoxide detector, except in the course of inspection, maintenance, or replacement of the detector.

Note: The Uniform Dwelling Code under s. Comm 21.097 specifies installation and maintenance requirements for carbon monoxide detectors in one- and 2-family dwellings constructed on or after June 1, 1980. The uniform dwelling code also reflects the installation and maintenance requirements specified in s. 101.647 (2), (3) (a) and (b) and (6), Stats.

History: CR 10-089: cr. Register January 2011 No. 661, eff. 2-1-11.