



Jim Doyle, Governor Aaron Olver, Secretary

August 31, 2010

Robert Marchant Senate Chief Clerk B20 Southeast, State Capitol P.O. Box 7882 Madison, Wisconsin 53707-7882

CLEARINGHOUSE RULE NO.: 10-090

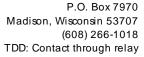
Patrick Fuller Assembly Chief Clerk Room 401 17 West Main Street Madison, Wisconsin 53703

Dear Chief Clerks:

# TRANSMITTAL IN FINAL DRAFT FORM OF ADMINISTRATIVE RULES AND REPORT

RULE NO.:	Chapter Comm 5
RELATING TO:	Thermal Insulator Credentials
proposed adr	section 227.19, Stats., agencies are required to submit, in triplicate, copies of the ministrative rules in final draft form together with a rule report and an analysis. The tions received from the Legislative Council are also to be submitted.
-	this material, together with cover letters to the President of the Senate and the Speaker ably, is being transmitted for referral to the standing committees for legislative review.
Respectfully	submitted,

Aaron Olver Secretary





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August 31, 2010

Senator Fred Risser President of the Senate Room 220 South, State Capitol Madison, Wisconsin 53707 Representative Michael Sheridan Speaker of the Assembly Room 211 West, State Capitol Madison, Wisconsin 53708

Dear Senator Risser and Representative Sheridan:

### NOTICE OF ADMINISTRATIVE RULES IN FINAL DRAFT FORM

CLEARINGHOUSE RULE NO.:	10-090	
RULE NO.: Chapter Comm 5		
RELATING TO: Thermal Insula	itor Credentials	

Section 227.19, Stats., requires agencies to submit proposed rules in final draft form to the presiding officer of each house for referral to the appropriate legislative standing committees.

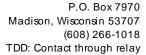
The following information, as required by law, is being submitted to you.

- 1. Rules in final draft form (in triplicate).
- 2. Report consisting of:
  - a) Rule Report.
  - b) Public Hearing Attendance Record.
  - c) Public Hearing Comment and Agency Response Form.
  - d) Legislative Council Rules Clearinghouse Report.
  - e) Response to Legislative Council Rules Clearinghouse Report.
  - f) Fiscal Estimate.
  - g) Final Regulatory Flexibility Analysis.

If you have any questions regarding this matter, please do not hesitate to contact us.

Respectfully submitted,

Aaron Olver Secretary





Jim Doyle, Governor Aaron Olver, Secretary

August 31, 2010

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

Dear Mr. Hoesly:

# **NOTIFICATION OF RULE REFERRAL**

This letter is to notify you that pursuan	t to section 227.19, Stats., the Department of Commerce has referred:
CLEARINGHOUSE RULE 10-0 NO.:	90
RULE NO.: Chapter Comm 5	
RELATING TO: Thermal Insulator C	redentials
to the presiding officers of the Senate standing committees for Legislative rev	and Assembly of the Legislature for referral to the appropriate iew.
Respectfully submitted,	
Aaron Olver Secretary	

# RULE REPORT

# **Department of Commerce**

Clearinghouse Rule No.	10-090		
Rule No.: Chapter Co	mm 5		
Relating to: Thermal I	nsulator Credentials		
Contact person for subs	tantive questions:		Contact person for internal processing:
Name Jim Quast		Name	Jim Quast
Title Program Manag	jer	Title	Program Manager
Telephone Number (6	08) 266-9292	Teleph	one Number (608) 266-9292

1. Basis and purpose of the proposed rule.

The basis of the proposed rules is ss. 101.02 (1) and 101.136, Stats., as created by 2009 Wisconsin Act 16. The proposed rules implement the licensing mandates imposed by 2009 Wisconsin Act 16 relating to persons installing, altering or maintaining thermal system insulation used in a heating, ventilating, cooling, plumbing or refrigeration system. The Act requires licensure by July 1, 2011.

2. How the proposed rule advances relevant statutory goals or purposes.

Sections 101.02 (1) and 101.136, Stats., grants the Department of Commerce authority to promulgate rules to establish administrative procedures for licensing and registration of individuals who install or maintain thermal insulation for heating, ventilating, cooling, plumbing or refrigeration systems. For consistency, the proposed rules are modeled after other credentialing requirements for other construction trades. In addition, the proposed rules reflect the statutory provisions of s. 101.136, Stats.

Also, the Department has broad statutory authority to protect public health, safety and welfare with respect to public buildings, places of employment and mechanical devices. These statutory references include ss. 101.02 (1) and (15), 101.1, and 101.17, Stats.

3. Changes to the rule analysis or fiscal estimate that was prepared for public hearing.

The rules analysis and fiscal estimate materials have been revised to reflect a lowering of the fee for the thermal insulator mechanic's license from \$500 to \$250 in anticipation of the more people obtaining the credential under the provisions of s. Comm 5.741 (1) (c).

COM-10550 (R.02/04)

# FINAL REGULATORY FLEXIBILITY ANALYSIS

# **Department of Commerce**

	LEARINGHOUSE RULE D.:	10-90
RU	JLE NO.: Chapter Comm 5	
RE	ELATING TO: Thermal Insula	tor Credentials
X	Final regulatory flexibility and	alysis not required. (Statement of determination required.)
	to amend Chapter Comm 5 w businesses. The proposed ru the credentialing of thermal ir and maintenance of thermal i	Stats., the Department of Commerce has determined that the proposed rules will not have a significant impact on a substantial number of small les implement the mandates imposed by 2009 Wisconsin Act 16 regarding insulators. The Act affects individuals involved in the installation, alteration insulation for heating, ventilating, cooling, plumbing or refrigeration systems lieve the rules will increase the effect on small businesses more than that
1.	businesses: Less stringent c for compliance or reporting re	to include the following methods for reducing impact of the rule on small ompliance or reporting requirements; less stringent schedules or deadlines quirements; simplification of compliance or reporting requirements; e standards to replace design or operational standards; exemption from any

2. Issues raised by small businesses during hearings, changes in proposed rules as a result of comments by small businesses and reasons for rejecting any alternatives suggested by small businesses.

3.	Nature and estimated cost of preparation of any reports by small businesses.
4.	Nature and estimated cost of other measures and investments required of small businesses.
5.	Additional cost to agency of administering or enforcing a rule which includes any of the methods in 1. for reducing impact on small businesses.
6.	Impact on public health, safety and welfare caused by including any of the methods in 1. for reducing impact on small businesses.

# RESPONSE TO LEGISLATIVE COUNCIL CLEARINGHOUSE REPORT

# **Department of Commerce**

CLEARINGHOUSE RULE NO.: 10-090
RULE NO.: Chapter Comm 5
RELATING TO: Thermal Insulator Credentials
Agency contact person for substantive questions.
Name: Jim Quast
Title: Program Manager
Telephone No
Legislative Council report recommendations accepted in whole.
Yes X No
1. Review of statutory authority [s. 227.15(2)(a)]
a. Accepted
b. Accepted in part
c. X Rejected
d. X Comments attached
2. Review of rules for form, style and placement in administrative code [s. 227.15(2)(c)]
a. Accepted
b. X Accepted in part
c. Rejected
d. X Comments attached

COM-10539 (N.03/97)

3.	Review rules for conflict with or duplication of existing rules [s. 227.15(2)(d)]
	a. Accepted
	b. Accepted in part
	c. Rejected
	d. Comments attached
4 .	Review rules for adequate references to related statutes, rules and forms [s. 227.15(2)(e)]
	a. Accepted
	b. X Accepted in part
	c. Rejected
	d. X Comments attached
5.	Review language of rules for clarity, grammar, punctuation and plainness [s. 227.15(2)(f)]
	a. Accepted
	b. X Accepted in part
	c. Rejected
	d. X Comments attached
6.	Review rules for potential conflicts with, and comparability to, related federal regulations [s. 227.15(2)(g)]
	a. Accepted
	b. Accepted in part
	c. Rejected
	d. Comments attached
7.	Review rules for permit action deadline [s. 227.15(2)(h)]
	a. Accepted
	b. Accepted in part
	c. Rejected

d. Comments attached

# COMMENTS ON LEGISLATIVE COUNCIL CLEARINGHOUSE REPORT

Clearinghouse Rule No. 10-090

Rule No.: Chapter Comm 5

Relating to: Thermal Insulator Credentials

# 1. Statutory Authority

- a. Under the several provisions of chapter 101, Stats., the department has broad statutory authority to protect public health, safety and welfare with respect to public buildings, places of employment, and mechanical devices. These statutory references include ss. 101.02 (1) and (15), 101.11, and 101.17, Stats. Nothing in the chapter 101, Stats., including s. 101.136, Stats., specifically prohibits the department from promulgating administrative rules regarding the credentialing of thermal insulation apprentices and helpers. The department believes that credentialing apprentices and helpers will compliment and aid in the enforcement of the licensing of the thermal insulators.
- b. Department believes that a broad definition is sufficient to address all the potential scenarios warranting repair of existing thermal insulation.
- c. The provision is proposed in light of s. 101.136 (6) (d), Stats., and is intended to recognize prior experience and allow individuals to continue in their livelihood.

#### 2. Form, Style and Placement in Administrative Code

a. The Department finds that using the "Comm" in the introductory clause improves readability and tracking the various rule references.

#### 4. Adequacy of References to Related Statutes, Rules and Forms

- b. The modifications to section Comm 5.125 coordinates with another rule-making proposal under CR 10-039.
- e. The wording is used in many other credentials throughout chapter Comm 5; the reference to s. Comm 5.09 (7) (c) is to alert the reader to application timeframes.
- f. The wording is used in other credentials in chapter Comm 5 and has not been misinterpreted by readers.

#### 5. Clarity, Grammar, Punctuation and Use of Plain Language.

b. For a technical perspective the term "system" appears to be superfluous in referring to the products as "thermal system insulation".

## COMMENTS ON LEGISLATIVE COUNCIL CLEARINGHOUSE REPORT continued:

- c. The term "maintain" according to the dictionary also refers to ownership or possession which would not seem to be the intent of the Act that is attempting to focus on an activity.
- f. The Department does not believe that simply referencing ch. 106, Stats., will provide the sufficient clarity to the reader.
- g. The wording is used in many other credentials throughout chapter Comm 5; the suggested wording would allow the banking of continuing education credits from one credential term to the next which is not intended.
- h. The Department will be initiating another rule-making project shortly to address the references to "indentured" used throughout ch. Comm 5 so as to provide consistency.