



State of Wisconsin \ Department of Commerce

RULES IN FINAL DRAFT FORM

Rule No.: Comm 22.31 (2) (b)
Relating Approved Software to Show Compliance with Uniform
to:

Dwelling Code Thermal Envelope Requirements

Clearinghouse Rule 09-072
No.:

COM-10535 (N.03/97)

The Wisconsin Department of Commerce adopts an order to amend s. Comm 22.31 (2) (b) relating to the approved version of REScheck software used to show compliance with Uniform Dwelling Code thermal envelope requirements.

Analysis of Rule

1. Statutes Interpreted

Sections 101.02 (1), 101.63 (1), 101.64 (3), 101.72 and 101.74, Stats.

2. Statutory Authority

Sections 101.02 (1), 101.63 (1), 101.64 (3), 101.72 and 101.74, Stats.

3. Related Statute or Rule

Chapters Comm 20 to 25, Wisconsin Uniform Dwelling Code

4. Explanation of Agency Authority

Under the statute sections listed above, the Department of Commerce has the authority to promulgate rules that establish uniform, statewide standards for the construction of one- and 2-family dwellings. Sections 101.63 (5) and 101.73 (8), Stats., require the department to review these rules on a biennial basis. Currently, the department has fulfilled this responsibility by promulgating the Wisconsin Uniform Dwelling Code, chapters Comm 20 to 25, effective April 1, 2009.

5. Summary of Proposed Rule

The proposed rule amends a provision that requires a specific version of REScheck software be used to calculate compliance with the dwelling thermal envelope requirements in chapter Comm 22. The amendment is necessary because Version 4.1.0, and some subsequent versions, that are specified in s. Comm 22.31 (2) (b) do not meet nor support the requirements of Wisconsin's energy code. State-specific energy conservation provisions were not incorporated into REScheck software until Version 4.2.2.

6. Summary of, and Comparison with, Existing or Proposed Federal Regulations

An Internet-based search of the code of federal regulations and the federal register did not identify any federal requirements relating to REScheck software editions and their compatibility to state-specific codes. There are no existing or proposed federal regulations that address the specific issue or impact the activities to be regulated by this rule.

7. Comparison with Rules in Adjacent States

A search of the U.S. Department of Energy's Building Energy Codes Program's web site found that Illinois, Iowa and Michigan use REScheck to show compliance with their energy codes. Minnesota, which has a state-specific code, is not REScheck compatible. Illinois does not have a state residential code while Iowa has adopted the 2006 IECC and Michigan the 2003 International Residential Code (IRC).

An Internet-based search of the residential regulatory programs in the states of Illinois, Iowa, Michigan and Minnesota revealed that none of these states had rules regarding specific versions of REScheck as addressed by the Wisconsin rule being amended in this rule proposal.

8. Summary of Factual Data and Analytical Methodologies

The proposed rule was developed using information gathered when the department learned that Wisconsin-specific energy calculations were incorporated into REScheck Version 4.2.2. Previous versions, including Version 4.1.0 which is specified in Comm 22.31 (2) (b), do not include these state-specific calculations and formulas, and therefore, do not support chapter Comm 22 that became effective April 1, 2009.

9. Analysis and Supporting Documents used to Determine Effect on Small Business or in Preparation of Economic Impact Report

The department believes the proposed rule will not increase the effect on small businesses from what the current rules impose on them. An economic impact report has not been required pursuant to s. 227.137, Stats.

10. Agency Contact.

Larry Swaziek, Program Manager, Larry.swaziek@wisconsin.gov, (608) 267-7701.

11. Public Hearing Comments.

The hearing record on this proposed rule will remain open until November 4, 2009. Written comments about the proposed rule may be submitted to Larry Swaziek at the Department of Commerce, P.O. Box 2689, Madison, WI 53701-2689, or email at larry.swaziek@wisconsin.gov.

SECTION 1. Comm 22.31 (2) (b) is amended to read:

Comm 22.31 (2) (b) *Software ~~edition~~ version.* If ~~the~~ a REScheck software program is used to show compliance with this section, ~~the~~ a version approved by the department shall be 4.1.0, ~~or later~~ used.

Note: ~~Any~~ The downloadable version of REScheck ~~with a beginning number of 3 or smaller~~ will not support 4.2.2, Wisconsin 2009 Code, meets the requirements of this code.

(END)

EFFECTIVE DATE

Pursuant to s. 227.24, Stats., this rule shall take effect on the first day of the month following publication in the *Wisconsin Administrative Register*.
