

Q8-099. COMM 67 - RENTAL UNIT - STD.  
ENERGY EFFICIENCY



October 14, 1998

001 1 1 1998

Senator Robert Welch  
Co-Chairman  
Joint Committee for Review of  
Administrative Rules  
1 East Main Street, Room 201  
Madison, WI 53707

Representative Glenn Grothman  
Co-Chairman  
Joint Committee for Review of  
Administrative Rules  
Room 125 West, State Capitol  
Madison, WI 53707

Dear Senator Welch and Representative Grothman:

As you may know, this Department adopted an emergency rule earlier this year relating to ch. Comm 67, Rental Unit Energy Efficiency. The emergency rule was adopted to make the code consistent with changes implemented by 1997 Wisconsin Act 288. The emergency rule took effect on June 30, and is currently in effect. The emergency rule will expire on November 27, 1998, unless an extension is granted by the Joint Committee for Review of Administrative Rules.

Since adoption of the emergency rule and pursuant to chapter 227, Stats., the Department has filed a proposed permanent rule with the Wisconsin Legislative Council (Clearinghouse Rule Number 98-099) to replace the emergency rule, held a hearing on that rule on August 14, 1998, and plans to file a final rule with the Legislature for review soon.

The Joint Committee for Review of Administrative Rules (JCRAR) requests that agencies make a formal request for an extension prior to the expiration of an emergency rule. Under section 227.19 (4), Stats., the legislative standing committees have 30 days to review the final rule before the agency may adopt the rule. Due to the time factors associated with the rulemaking process in ch. 227, Stats., the permanent rule cannot be adopted and placed in effect prior to the expiration of the emergency rule.

In light of these facts, we respectfully request a 60-day extension of the emergency rule under s. 227.24 (2), Stats., in order to preserve the public safety and provide a smooth and orderly transition from the emergency rule to the permanent rule.

If you have any questions regarding our progress to date or this request, please don't hesitate to contact us. Thank you in advance for your consideration of our request.

Sincerely,

Philip Edw. Albert  
Acting Secretary

✓ This out of App. Assoc.  
(Moller)  
+ Realtors

Department of Commerce

Emergency Rule Relating to Rental Unit Energy Efficiency

Finding of Emergency and Rule Analysis

The Department of Commerce finds that an emergency exists and that adoption of the rule included in this order is necessary for the immediate preservation of public health, safety, and welfare.

The facts constituting the emergency are as follows. Under section 101.122, Wisconsin Statutes, the Department protects public health, safety, and welfare by promulgating energy efficiency requirements for rental units. 1997 Wisconsin Act 288 amends s. 101.122, Stats., to change the scope of the rules that the Department develops under that law. Those portions of the Act were effective the day after publication, and the rules adopted by the Department under the authority of that law are hereby amended to be consistent with Wisconsin Act 288.

This emergency rule excludes the following buildings from the rental unit energy efficiency program:

- Buildings of one or two rental units that were constructed after December 1, 1978.
- Buildings of three or more rental units that were constructed after April 15, 1976.
- Condominium buildings of three or more dwelling units.

This rule also limits the application of rental unit energy efficiency requirements to the following items:

- Attics
- Furnaces and boilers
- Storm windows and doors, with an option to meet an air infiltration performance standard for the thermal envelope of the building
- Sill boxes
- Heating and plumbing supply in unheated crawlspaces
- Shower heads

This rule also eliminates the expiration of the certificate of code compliance after 5 years.

Pursuant to section 227.24, Stats., this rule is adopted as an emergency rule to take effect upon publication in the official state newspaper and filing with the Secretary of State and Revisor of Statutes.

**RULE EFFECTIVE**

JUN 30 1998

**SAFETY & BUILDINGS**

Dated at Madison, Wisconsin, this  
25<sup>th</sup> day of June, A.D. 1998,  
By the Department of Commerce

  
William J. McCoshen, Secretary

SECTION 1. Comm 67.03 (2) (intro.) to (f) are amended to read:

Comm 67.03 (2) RENTAL UNITS EXCLUDED. (intro.) ~~The~~ All of the following buildings and rental units are excluded from the provisions of this chapter:

- (a) Any dwelling unit not rented at any time from November 1 to March 31;
- (b) Any building which contains up to 4 rental units and one of the dwelling units will be owner-occupied;
- (c) Any building constructed after December 1, 1978, which contains up to 2 dwelling units ~~and which is less than 10 years old;~~
- (d) Any building constructed after April 15, 1976, which contains more than 2 dwelling units ~~and which is less than 10 years old;~~
- (e) Mobile homes;
- (f) Hotels and motels used primarily for transient residency; ~~and.~~

SECTION 2. Comm 67.03 (2) (h) is created to read:

Comm 67.03 (2) (h) Condominium buildings of three or more dwelling units.

SECTION 3. Comm 67.04 (28m) and (32t) are created to read:

Comm 67.04 (28m) "Thermal envelope" means the collective assemblies of a building that enclose the heated, unvented spaces. The components that make up the thermal envelope form a continuous, unbroken surface.

(32t) "Unvented space" means a space that is not vented.

SECTION 4. Comm 67.04 (34) is amended to read:

Comm 67.04 (34) "Vented" means provided with outside air by natural or mechanical means via permanent openings. This venting may be for purposes of removing moisture, or exhausting fumes ~~or for providing combustion air.~~

SECTION 5. Comm 67.05 (1) (a) to (c) are renumbered 67.05 (1) (b) to (d).

SECTION 6. Comm 67.05 (1) (a) is created to read:

Comm 67.05 (1) (a) R-value. For the purpose of this section, "R-value" applies only to the amount of insulation. It does not refer to the total overall R-values of all components of an assembly such as framing, finish materials or air films.

SECTION 7. Comm 67.05 (1) (c) (title) and (d) are amended to read:

Comm 67.05 (1) (c) (title) Insulation of box sills.

(d) Insulation of ducts and pipes. Insulation shall be provided in all accessible ~~areas~~ vented crawl spaces as specified in Table 67.05-C.

SECTION 8. Comm 67.05 (2) to (7) are repealed and recreated as Comm 67.05 (2) to (5) to read:

Comm 67.05 (2) STORM WINDOWS AND DOORS. (a) General. Except as provided in sub. (3), storm windows and doors shall be provided and weatherized in accordance with this subsection.

(b) Storm windows. All windows shall be double glazed or shall be provided with exterior or interior storm windows except that windows of store fronts are exempt from the requirements of this subsection. Where exterior storms are installed over openable windows required for natural ventilation, a portion of the storm shall be openable from the inside. Windows located in boiler or furnace rooms do not need to be double glazed or equipped with storms. Windows located in basement areas which are not habitable rooms may be permanently sealed and insulated in lieu of double glazing or installing exterior or interior storm windows.

(c) Storm doors. Patio doors shall be insulated, double glazed or equipped with a storm door. Where no vestibule exists, inward swinging exterior doors shall be insulated, double glazed or equipped with a storm door. Door lites need not be double glazed if they are part of the door. All storm doors shall be equipped with a self-closing device.

(d) Openings or cracks. All accessible openings or cracks in storm windows or doors shall be caulked, gasketed or otherwise sealed.

(3) BLOWER DOOR TESTING. (a) Storm window and door requirements of sub. (2) are not required to be met when blower door testing shows that the air infiltration limits of this subsection are met.

(b) The blower door testing shall be conducted in accordance with ASTM E 779, "Standard Practice For Measuring Air Leakage By The Fan Pressurization Method," as adopted by reference in s. ILHR 20.24.

(c) The blower door test results and documentation shall show one of the following:

1. The natural air change rate of the thermal envelope is 1.0 air change per hour or less.

2. Work has been done to reduce the natural air change rate of the thermal envelope by at least 10%.

(d) Testing done on any date prior to certification shall be acceptable, provided no change has occurred to the building that would impact the test results in a negative or indeterminate way.

(4) **MOISTURE CONTROL.** (a) Ceilings. Minimum ventilation shall be provided above the ceiling or attic insulation in vented spaces. The free area of ventilation shall be at least 1/300 of the horizontal area. Where overhangs with soffits are provided, one-half of the free area shall be near the eaves and one-half in the upper one-third of the roof or gable. Where it is impractical to install gravity venting, power vent systems may be used to provide equivalent ventilation. Power vents shall be connected to a humidistat.

(b) Crawl spaces. Minimum ventilation shall be provided in vented crawl spaces. The area of ventilation shall be at least 1/300 of the floor space. The area of ventilation shall be distributed equally to at least 2 openings in the foundation wall. The openings shall be located to provide cross ventilation. Where accessible, a vapor barrier shall be applied to cover the exposed earth.

TABLE 67.05-B  
INSULATION OF BOX SILLS

	If insulation of an R-Value less than or equal to R-2.5 is present	If insulation of an R-Value greater than R-2.5, but less than or equal to R-10 is present	If Insulation of an R-Value greater than R-10 is present
Box Sills <sup>1</sup>	Insulation shall be added to bring the total insulation level to R-19	R-11 insulation shall be added to the existing insulation	No additional insulation is required

<sup>1</sup> Box sills that separate the rental unit from a garage which is unvented or is vented with outside air shall be insulated, if accessible.

(5) **EQUIPMENT.** Combustion air openings shall be unobstructed. All showers shall be equipped with flow restricters rated at three gallons per minute or less.

TABLE 67.05-C  
INSULATION OF DUCTS AND PIPES

BUILDING ELEMENT	TOTAL AMOUNT OF INSULATION REQUIRED
Heating Supply Ducts Located in Vented Crawl Spaces	R-5
Steam Heating Supply Pipes Located in Vented Crawl Spaces	R-4
Hydronic Heating Supply Pipes Located in Vented Crawl Spaces	R-2
Domestic Hot Water Pipes:	
Circulating, Along Entire Accessible Length in Vented Crawl Spaces	R-2
Noncirculating Hot and Cold Water Pipes Within 5 Feet of Water Heater in Vented Crawl Spaces	R-2

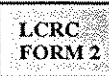
SECTION 9. Comm 67.09 is amended to read:

Comm 67.09 PROOF OF CERTIFICATION. The certificate shall be proof that the rental unit complies with the energy measures specified in this chapter. ~~The certificate shall be valid for a period of 5 years from the date specified on the certificate.~~ The certified inspector shall retain a copy of the inspection report and certification for at least 5 years. The certificate shall include the results of the inspection of the rental unit.

(End)

6-98 erule 3

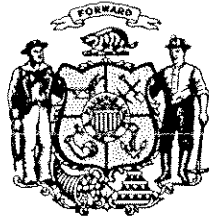
WISCONSIN LEGISLATIVE COUNCIL STAFF



**RULES CLEARINGHOUSE**

Ronald Sklansky  
Director  
(608) 266-1946

Richard Sweet  
Assistant Director  
(608) 266-2982



David J. Stute, Director  
Legislative Council Staff  
(608) 266-1304

One E. Main St., Ste. 401  
P.O. Box 2536  
Madison, WI 53701-2536  
FAX: (608) 266-3830

---

**CLEARINGHOUSE REPORT TO AGENCY**

---

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

**CLEARINGHOUSE RULE 98-099**

AN ORDER to repeal Comm 67.04 (32) (L); to renumber Comm 67.02 (intro.) to (2), 67.04 (32) (m) and (n), 67.05 (intro.) and (1) to (7), 67.06 (intro.) and (1) to (9), 67.07 (intro.) and (1) to (5) and 67.08 (1) to (3); to renumber and amend Comm 67.08 (2) (d) (intro.) and 1. and 2. and (4) (f) (intro.) and 1. to 3.; to amend Comm 67.02 (1) and (3) (a) and (c), 67.03 (1) and (2) (intro.) and (a) to (f), 67.04 (20) and (34), 67.05 (1) and (2) (c) (title) and (d), 67.06 (1), 67.07 (title), (1), (2), (3), (4) (b) and (c), (5) and (6), 67.08 (2) (a), (3) (a) and (f) 2. and (4) (b), 67.09 and 67.13 (4); to repeal and recreate Comm 67.05 (3) to (8) and Figure 67.06 (text); and to create Comm 67.02 (1) (title), 67.03 (2) (h) and (i), 67.04 (8t) and (17g), 67.04 (28m) and (32t), 67.05 (1) (title) and (2) (a), 67.055, 67.06 (1) (title), 67.07 (1) (title) and 67.08 (1), (2) (a) (title) and (3) (a) (title), relating to rental unit energy efficiency standards.

Submitted by **DEPARTMENT OF COMMERCE**

07-15-98      RECEIVED BY LEGISLATIVE COUNCIL.  
08-12-98      REPORT SENT TO AGENCY.

RS:RJC;jal;ksm



**LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT**

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached      YES ☒      NO ☐

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached      YES ☒      NO ☐

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached      YES ☐      NO ☒

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS  
[s. 227.15 (2) (e)]

Comment Attached      YES ☐      NO ☒

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached      YES ☒      NO ☐

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL  
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached      YES ☐      NO ☒

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

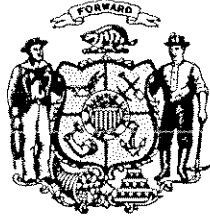
Comment Attached      YES ☐      NO ☒

# WISCONSIN LEGISLATIVE COUNCIL STAFF

## RULES CLEARINGHOUSE

Ronald Sklansky  
Director  
(608) 266-1946

Richard Sweet  
Assistant Director  
(608) 266-2982



David J. Stute, Director  
Legislative Council Staff  
(608) 266-1304

One E. Main St., Ste. 401  
P.O. Box 2536  
Madison, WI 53701-2536  
FAX: (608) 266-3830

## CLEARINGHOUSE RULE 98-099

### Comments

**[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated October 1994.]**

#### 1. Statutory Authority

a. Section Comm 67.03 (2) (e) exempts mobile homes and manufactured homes from the provisions of the chapter. Section 101.122 (1) (a) and (e), Stats., seem to exclude certain buildings from coverage. However, s. 101.122, Stats., does not seem to specifically exempt mobile homes and manufactured homes from coverage. Under what authority are mobile homes and manufactured homes exempt from coverage? The rule's authority should be clarified. Also, what is the applicable definition of a manufactured home for purposes of the rule? The rule should be clarified.

b. Under what authority is a court authorized to assess additional penalties or fees under s. Comm 67.13 (4)? Section 101.122 (7) (d) and (e), Stats., do not appear to provide this authority. However, if the statement in s. Comm 67.13 (4) is merely an explanation of a court's authority under s. 778.25, Stats., as affected by Wisconsin Acts 27, 288 and 290, the statement should be placed in a note to the rule.

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

a. In s. Comm 67.03 (1), and elsewhere throughout the rule, internal references to various subsections are amended by striking the subsection number and adding the new subsection number all within the existing parentheses. Instead, the entire parenthetical subsection reference should be stricken and the new parenthetical subsection reference added after and underscored as follows: s. Comm 67.08 ~~(2)~~ (3). The entire rule should be reviewed for compliance with this comment.

b. It appears that the second sentence of s. Comm 67.04 (17g) goes beyond the mere definition of the term “gross floor area.” That sentence should be placed in a note to the rule, or perhaps more appropriately, be placed in a separate substantive provision of the rule. Additionally, the word “it” at the beginning of the sentence should be replaced by “Gross floor area.”

c. The treatment of SECTIONS 13, 14 and 15 can be combined in one action. For example:

SECTION 13. Comm 67.05 (intro.) and (1) to (7) are renumbered  
Comm 67.05 (1) to (8) and Comm 67.05 (1), as renumbered, is  
amended to read:

Comm 67.05 (1) (title) GENERAL. Any building . . . .

The entire rule should be reviewed for use of this format.

d. The treatment of SECTION 19 should be undertaken in two SECTIONS. For example:

SECTION 19. Comm 67.05 (3) to (8) are repealed.

SECTION 20. Comm 67.05 (3) to (6) are created to read:

e. It appears that the notation in Table 67.05-B should be preceded by the notation “(a).”

f. The items referred to in s. Comm 67.05 (6) do not seem to relate to each other. Perhaps the section could be made easier to use if the section were broken down into two separate paragraphs, each with their own title.

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

a. In s. Comm 67.04 (34), the comma before the added “or” can be deleted.

b. In s. Comm 67.05 (2) (a), the word “It” in the second sentence should be changed to “R-value.”

c. Section Comm 67.055 (3) provides that other methods of determining energy use may be approved by the department. How will this approval be undertaken? The rule should be clarified, perhaps in a note, as to how a person obtains approval of an alternative method of determining energy use.

d. In s. Comm 67.05 (3) c., the plural and singular tenses should not be used inconsistently. For example, the provision could read:

A patio door shall be . . . equipped with a storm door. Where no vestibule exists, an inward swinging exterior door shall be . . . equipped with a storm door . . . . A storm door shall be equipped with a self-closing device.

e. In s. Comm 67.05 (5) a. and b., can the phrases “shall be near the eaves” and “minimum ventilation” be made more specific?

f. In s. Comm 67.08 (2), the word “the” should be inserted between the phrases “conforms to” and “energy conservation” in the first sentence.

g. In s. Comm 67.08 (4) (f) 1., the word “an” should be inserted before the word “authorizing.”



State of Wisconsin \ Department of Commerce

# HEARING DRAFT of PROPOSED RULES

**Rule No.:** Chapter Comm 67

**Relating to:** Rental Unit Energy Efficiency Standards

The Department of Commerce proposes an order to repeal Comm 67.04 (32)(L); to renumber Comm 67.02 (intro.) to (2), 67.04 (32)(m) and (n), 67.05 (intro.) and (1) to (7), 67.05 (2)(a) to (c), 67.06 (intro.) and (1) to (9), 67.07 (intro.) and (1) to (5), 67.08 (1) to (3), 67.08 (2)(intro.) to (c), and 67.08 (3)(intro.) to (e); to renumber and amend Comm 67.08 (2)(d)(intro.) to 2 and 67.08 (4)(f)(intro.) to 3; to amend Comm 67.02 (1) and (3)(a) and (c), 67.03 (1) and (2)(intro.) to (f), 67.04 (20), 67.04 (34), 67.05 (1), 67.05 (2)(c)(title) and (d), 67.06 (1), 67.07 (title), 67.07 (1), (2)(title) and (2), (3), (4)(b), (c)(title) and (c), (5)(title) and (5), and (6)(title) and (6), 67.08 (2)(a), 67.08 (3)(a) and (f)2, 67.08 (4)(b), 67.09, and 67.13 (4); to repeal and recreate Comm 67.05 (3) to (8) and Figure 67.06 (text); and to create Comm 67.02 (1) (title), 67.03 (2)(h) and (i), 67.04 (8t) and (17g), 67.04 (28m), 67.04 (32t), 67.05 (1)(title), 67.05(2)(a), 67.055, 67.06 (1)(title), 67.07 (1)(title), 67.08 (1), 67.08 (2)(a)(title), and 67.08 (3)(a)(title), relating to rental unit energy efficiency standards.

\* \* \* \* \*

#### Analysis of Proposed Rules

Statutory Authority: ss. 101.02 (1) and 101.122 (2) <sup>268</sup>

Statutes Interpreted: ss. 101.122 and 778.25 (1) to (3) <sup>27, 28, 290</sup>

Under section 101.122, Wisconsin Statutes, the Department protects public health, safety, and welfare by promulgating energy efficiency requirements for rental units. These requirements are contained in Chapter Comm 67, Wisconsin Administrative Code. The proposed rule would modify the current chapter Comm 67 to be consistent with 1997 Wisconsin Act 288. These modifications would exclude the following buildings from the rental unit energy efficiency program:

- Buildings of one or two rental units that were constructed after December 1, 1978.
- Buildings of three or more rental units that were constructed after April 15, 1976.
- Condominium buildings of three or more dwelling units.

The modifications would also limit the application of rental unit energy efficiency requirements to the following items: attics; furnaces and boilers; storm windows and doors, with an option to meet an air infiltration performance standard for the thermal envelope of the building; sill boxes; heating and plumbing supply in unheated crawlspaces; and shower heads. The modifications also eliminate the expiration of the certificate of code compliance after 5 years.

The proposed rule would replace an emergency rule which became effective on June 30, 1998, and which also made the above modifications.

The proposed rule has been expanded from the emergency rule to include minor changes necessary for the Department to exercise the citation authority granted under 1997 Wisconsin Act 288, and to include performance standards as an alternative means for demonstrating compliance with the energy efficiency requirements.

*File reference: h:/ILHR 67/hearing analysis*

SECTION 1. Comm 67.02 (intro.) to (2) are renumbered (1) to (3).

SECTION 2. Comm 67.02 (1) (title) is created to read:

Comm 67.02 SCOPE. (1) (title) MINIMUM STANDARDS AND PROCEDURES.

SECTION 3. Comm 67.02 (1) and (3) (a) and (c) are amended to read:

Comm 67.02 (1) MINIMUM STANDARDS AND PROCEDURES. The rules contained in this chapter establish minimum energy efficiency standards for rental units that must be met before the ownership of a rental unit may be transferred; inspection or evaluation procedures for determining whether a rental unit complies with the energy efficiency standards specified in this chapter; procedures for certifying that a rental unit meets the energy efficiency standards specified in this chapter; procedures for obtaining an exemption from a specific energy conservation measure based on a 5-year cost payback; procedures for obtaining a stipulation or waiver for rental units that do not meet the standards specified in this chapter; and procedures that the department will use to administer and enforce this chapter.

(3) (a) Department authorization. The department may authorize a municipality in writing to issue the department certificate specified in s. Comm 67.08, if the department determines that the municipality can provide adequate inspection or evaluation service of the standards under subch. III.

(c) Revocation of municipal authority. The department may revoke the authority of a municipality to issue the department certificate at any time that it determines the municipality is issuing department certificates without adequate inspection or evaluation of the standards under subch. III.

SECTION 4. Comm 67.03 (1) and (2) (intro.) to (f) are amended to read:

Comm 67.03 (1) RENTAL UNITS COVERED. After January 1, 1985, no owner may transfer a rental unit unless an inspector certified by the department has issued a certificate indicating that the rental unit meets the rental unit energy efficiency standards specified in this chapter; or unless a waiver has been issued as specified in s. Comm 67.08 (2 3); or unless a stipulation is issued as specified in s. Comm 67.08 (3 4).

(2) RENTAL UNITS EXCLUDED. (intro.) ~~The~~ All of the following buildings and rental units are excluded from the provisions of this chapter:

(a) Any dwelling unit not rented at any time from November 1 to March 31;

(b) Any building which contains up to 4 rental units and one of the dwelling units will be owner-occupied;



(c) Any building constructed after December 1, 1978, which contains up to 2 dwelling units ~~and which is less than 10 years old;~~

(d) Any building constructed after April 15, 1976, which contains more than 2 dwelling units ~~and which is less than 10 years old;~~

(e) Mobile homes and manufactured homes;

(f) Hotels and motels used primarily for transient residency; ~~and.~~

SECTION 5. Comm 67.03 (2) (h) and (i) are created to read:

Comm 67.03 (2) (h) Bed and breakfast establishments.

(i) Condominium buildings of three or more dwelling units.

SECTION 6. Comm 67.04 (8t) and (17g) are created to read:

Comm 67.04 (8t) "Degree day" means a unit based upon temperature difference and time, used in estimating annual heating energy consumption. One degree day accrues for each degree of difference between the daily mean temperature and a reference temperature of 65°F.

(17g) "Gross floor area" means the sum of the floor areas of the spaces within the building including basements, mezzanine and intermediate-floored tiers, and penthouses of headroom height 7.5 feet or greater. <sup>SGP</sup> It is measured from the exterior faces of exterior walls or from the centerline of walls separating buildings, excluding covered walkways, open roofed-over areas, porches and similar spaces, pipe trenches, exterior terraces or steps, chimneys, roof overhangs, and similar features.

SECTION 7. Comm 67.04 (20) is amended to read:

Comm 67.04 (20) "Inspector" means a person certified by the department to perform inspections or evaluations for energy efficiency in rental units.

SECTION 8. Comm 67.04 (28m) is created to read:

Comm 67.04 (28m) "Thermal envelope" means the collective assemblies of a building that enclose the heated, unvented spaces. The components that make up the thermal envelope form a continuous, unbroken surface.

SECTION 9. Comm 67.04 (32) (L) is repealed.

SECTION 10. Comm 67.04 (32) (m) and (n) are renumbered 67.04 (32) (l) and (m).

SECTION 11. Comm 67.04 (32t) is created to read:

Comm 67.04 (32t) "Unvented space" means a space that is not vented.

*really!?*

SECTION 12. Comm 67.04 (34) is amended to read:

Comm 67.04 (34) "Vented" means provided with outside air by natural or mechanical means via permanent openings. This venting may be for purposes of removing moisture, or exhausting fumes ~~or for providing combustion air.~~

SECTION 13. Comm 67.05 (intro.) and (1) to (7) are renumbered Comm 67.05 (1) to (8).

*make 67.05(1) as  
ren. is  
as to  
read*

SECTION 14. Comm 67.05 (1) (title) is created to read:

Comm 67.05 (1) (title) GENERAL.

SECTION 15. Comm 67.05 (1) is amended to read:

Comm 67.05 (1) GENERAL. Any building containing rental units, except those specified in s. Comm 67.03 (2), transferring ownership after January 1, 1985, shall meet either the minimum prescriptive energy conservation measures specified in this section or the performance standards specified in s. Comm 67.055, unless an exemption has been issued under s. Comm 67.06, unless a petition for variance has been granted as specified in s. 101.02 (6) Stats., or unless a waiver or stipulation has been issued as specified in s. Comm 67.08 (2 3) and (3 4).

SECTION 16. Comm 67.05 (2) (a) to (c) are renumbered 67.05 (2) (b) to (d).

SECTION 17. Comm 67.05 (2) (a) is created to read:

Comm 67.05 (2) (a) R-value. For the purpose of this section, "R-value" applies only to the amount of insulation. It does not refer to the total overall R-values of all components of an assembly such as framing, finish materials or air films.

*R-value*      *include*

SECTION 18. Comm 67.05 (2) (c) (title) and (d) are amended to read:

Comm 67.05 (2) (c) (title) Insulation of box sills.

(d) Insulation of ducts and pipes. Insulation shall be provided in all accessible ~~areas~~  
vented crawl spaces as specified in Table 67.05-C.

SECTION 19. Comm 67.05 (3) to (8) are repealed and ~~recreated~~ <sup>are created</sup> as Comm 67.05 (3) to (6) to read:

Comm 67.05 (3) STORM WINDOWS AND DOORS. (a) General. Except as provided in sub. (4), storm windows and doors shall be provided and weatherized in accordance with this subsection.

(b) Storm windows. All windows shall be double glazed or shall be provided with exterior or interior storm windows except that windows of store fronts are exempt from the requirements of this subsection. Where exterior storms are installed over openable windows required for natural ventilation, a portion of the storm shall be openable from the inside. Windows located in boiler or furnace rooms do not need to be double glazed or equipped with storms. Windows located in basement areas which are not habitable rooms may be permanently sealed and insulated in lieu of double glazing or installing exterior or interior storm windows.

(c) Storm doors. Patio doors shall be insulated, double glazed or equipped with a storm door. <sup>SV</sup> Where no vestibule exists, inward swinging exterior doors shall be insulated, double glazed or equipped with a storm door. Door lites need not be double glazed if they are part of the door. All storm doors shall be equipped with a self-closing device.

(d) Openings or cracks. All accessible openings or cracks in storm windows or doors shall be caulked, gasketed or otherwise sealed.

(4) BLOWER DOOR TESTING. (a) Storm window and door requirements of sub. (3) are not required to be met when blower door testing shows that the air infiltration limits of this subsection are met.

(b) The blower door testing shall be conducted in accordance with ASTM E 779, "Standard Practice For Measuring Air Leakage By The Fan Pressurization Method," as adopted by reference in s. ILHR 20.24.

(c) The blower door test results and documentation shall show one of the following: <sup>for (a)</sup>

1. The natural air change rate of the thermal envelope is 1.0 air change per hour or less.
2. Work has been done to reduce the natural air change rate of the thermal envelope by at least 10%.

(c) Testing done on any date prior to certification shall be acceptable, provided no change has occurred to the building that would impact the test results in a negative or indeterminate way.

(5) **MOISTURE CONTROL.** (a) Ceilings. Minimum ventilation shall be provided above the ceiling or attic insulation in vented spaces. The free area of ventilation shall be at least 1/300 of the horizontal area. Where overhangs with soffits are provided, one-half of the free area shall be near the eaves and one-half in the upper one-third of the roof or gable. Where it is impractical to install gravity venting, power vent systems may be used to provide equivalent ventilation. Power vents shall be connected to a humidistat.

(b) Crawl spaces. Minimum ventilation shall be provided in vented crawl spaces. The area of ventilation shall be at least 1/300 of the floor space. The area of ventilation shall be distributed equally to at least 2 openings in the foundation wall. The openings shall be located to provide cross ventilation. Where accessible, a vapor barrier shall be applied to cover the exposed earth.

TABLE 67.05-B

INSULATION OF BOX SILLS

	If insulation of an R-Value less than or equal to R-2.5 is present	If insulation of an R-Value greater than R-2.5, but less than or equal to R-10 is present	If Insulation of an R-Value greater than R-10 is present
Box Sills (a)	Insulation shall be added to bring the total insulation level to R-19	R-11 insulation shall be added to the existing insulation	No additional insulation is required

(a) Box sills that separate the rental unit from a garage which is unvented or is vented with outside air shall be insulated, if accessible.

(6) **EQUIPMENT.** Combustion air openings shall be unobstructed. All showers shall be equipped with flow restricters rated at three gallons per minute or less.

TABLE 67.05-C

INSULATION OF DUCTS AND PIPES

BUILDING ELEMENT	TOTAL AMOUNT OF INSULATION REQUIRED
Heating Supply Ducts Located in Vented Crawl Spaces	R-5
Steam Heating Supply Pipes Located in Vented Crawl Spaces	R-4
Hydronic Heating Supply Pipes Located in Vented Crawl Spaces	R-2
Domestic Hot Water Pipes:	
Circulating, Along Entire Accessible Length in Vented Crawl Spaces	R-2
Noncirculating Hot and Cold Water Pipes Within 5 Feet of Water Heater in Vented Crawl Spaces	R-2

SECTION 20. Comm 67.055 is created to read:

Comm 67.055 PERFORMANCE ENERGY EFFICIENCY STANDARDS. The following performance standards may be met in place of the prescriptive standards specified in s. Comm 67.05:

(1) PERFORMANCE STANDARD. Buildings shall have an annual space heating energy use, in BTUs per square foot, per heating degree day, which is no greater than the value shown in Table 67.055. The annual heating energy use shall be determined in accordance with sub. (2) or (3).

(2) CALCULATION FROM FUEL USE DATA. The annual space heating energy use may be calculated from one year of representative fuel use data using a department-provided form or an equivalent method approved by the department prior to use. The building area used in the calculation shall be the total gross floor area, including any basement floor area. The calculation of annual space heating energy use per square foot shall be performed by an inspector.

(3) MEASUREMENT OF BUILDING PERFORMANCE. The annual space heating energy use may be determined in accordance with field measurement methods approved by the department prior to use. At a minimum, the method must be nationally recognized, meet a national standard, or be demonstrated to have equivalent accuracy.

Note: The department approves use of the Wisconsin Energy Bureau Home Energy Rating System for buildings of four dwelling units or less provided a blower door test is used to estimate the building infiltration.

TABLE 67.055  
MAXIMUM ANNUAL SPACE HEATING ENERGY USE

Number of Dwelling Units	Certificate of Compliance Issued Prior to Sale <sup>1</sup>	Certificate of Compliance Issued after Sale <sup>1</sup>
8 or Fewer Dwelling Units	9.0	7.0
9 or More Dwelling Units	7.0	5.0

<sup>1</sup>Refers to property transfers after the effective date of this section, [Revisor inserts date].

SECTION 21. Comm 67.06 (intro.) and (1) to (9) are renumbered Comm 67.06 (1) to (10).

SECTION 22. Comm 67.06 (1) (title) is created to read:

Comm 67.06 (1) (title) GENERAL.

SECTION 23. Comm 67.06 (1) is amended to read:

Comm 67.06 (1) GENERAL. No specific energy conservation measure may be required under s. Comm 67.05 (1 2) to (5 4) and (7 6) where the cost payback obtained from installing the specific energy measure exceeds 5 years. In order to receive an exemption for a specific energy measure, the owner shall submit evidence to the department to demonstrate that the cost payback for the specific energy measure exceeds 5 years. Envelope cost payback calculations shall be

made in accordance with this section unless otherwise approved by the department. All calculations and analyses shall be based on the actual conditions to which the specific energy measure is subject. Other nonenvelope cost payback calculations utilizing principles and concepts outlined in this section may be approved by the department. The final acceptance of any cost payback shall be made by the department.

SECTION 24. Figure 67.06 (text) is repealed and recreated to read:

**FIGURE 67.06**  
**HEATING DEGREE DAYS PER YEAR - BASE 65°F**  
Wisconsin Division of State Energy Degree Day Zones

Zone 1—8960	Zone 5—8354	Zone 8—7872
Zone 2—9128	Zone 6—8089	Zone 9—7466
Zone 3—8608	Zone 7—8330	Zone 10—7673
Zone 4—8686		Zone 11—7324

SECTION 25. Comm 67.07 (title) is amended to read:

Comm 67.07 (title) REQUEST FOR ENERGY EFFICIENCY INSPECTION OR EVALUATION.

SECTION 26. Comm 67.07 (intro.) and (1) to (5) are renumbered Comm 67.07 (1) to (6).

SECTION 27. Comm 67.07 (1) (title) is created to read:

Comm 67.07 (1) (title) REQUEST.

SECTION 28. Comm 67.07 (1); (2) (title) and (2); (3); (4) (b), (c) (title) and (c); (5) (title) and (5); and (6) (title) and (6) are amended to read:

Comm 67.07 (1) REQUEST. An owner of a rental unit may request an energy efficiency inspection or evaluation from the department or any person certified by the department as a rental weatherization inspector under ch. Comm 5 for the purpose of determining whether the rental unit meets the energy efficiency standards specified in this chapter. If an owner, after reasonable effort, is unable to procure an inspection or evaluation from an authorized municipality or an independent certified rental weatherization inspector, a request for an inspection or evaluation may be made to the department.

(2) (title) APPLICATION FOR INSPECTION OR EVALUATION FROM THE DEPARTMENT OR MUNICIPALITY. Where an owner requests the inspection or evaluation

from the department or municipality, the owner shall apply for the inspection or evaluation on forms obtained from the department or municipality.

(3) FILING OF APPLICATION. No application for inspections or evaluations will be accepted by the department or municipality that does not contain all of the information requested on the application form. The application shall be filed with the department or municipality enforcing this chapter.

(4) (b) Department fees. Where the department administers and enforces this chapter, the fees required for inspection or evaluation and certification shall be submitted at the time the application is filed with the department.

(c) (title) Certified inspection or evaluation fees. Where inspections or evaluations are performed by a certified inspector, other than the department or municipality, the certified inspector may charge a fee to cover the cost of the inspection or evaluation and issuance of the certificate as specified in ch. Comm 2, Fee Schedule.

(5) (title) INSPECTIONS OR EVALUATIONS. All energy efficiency inspections or evaluations for the purpose of certifying rental units under this chapter shall be performed by the department, municipality or inspector certified by the department.

(6) (title) ACTION TO INSPECT OR EVALUATE. The municipality or department performing inspection or evaluation services under this chapter shall perform inspections or evaluations within 10 business days after an application is filed.

SECTION 29. Comm 67.08 (1) to (3) are renumbered Comm 67.08 (2) to (4).

SECTION 30. Comm 67.08 (1) is created to read:

Comm 67.08 (1) PARCELS PER DOCUMENT. No stipulation, waiver or certificate of compliance may be issued using more than one legal description or parcel per document.

SECTION 31. Comm 67.08 (2) (intro.) to (c) are renumbered Comm 67.08 (2) (a) to (d).

SECTION 32. Comm 67.08 (2) (a) (title) is created to read:

Comm 67.08 (2) (a) (title) GENERAL.

SECTION 33. Comm 67.08 (2) (a) is amended to read:

Comm 67.08 (2) (a) General. If upon inspection or evaluation, the inspector determines that the building conforms to energy conservation measures or performance standard specified in this chapter, the inspector shall authorize the certificate of compliance by signing and affixing the Commerce Transfer Authorization label and then issue the certificate prescribed by the department and file a copy of the certificate with the department. The ~~department~~ inspector shall issue the certificate within 10 business days of determination that the building conforms to the energy conservation measures or performance standard.

SECTION 34. Comm 67.08 (2) (d) (intro.) to 2 are renumbered Comm 67.08 (2) (d) 1 to 3 and amended to read:

Comm 67.08 (2) (d) 1. If upon inspection or evaluation, an inspector determines that the rental unit does not conform to the energy measures specified in this chapter, the inspector shall specify in writing the energy conservation measures necessary to make the rental unit comply with the energy efficiency standards specified in this chapter and notify the owner of the findings. The department shall specify the energy conservation measures necessary to make the rental unit comply with the energy efficiency standards within 10 business days of completion of the inspection or evaluation.

2. Stipulation may be issued where the energy efficiency standards are not met as specified in sub. (2 4).

3. A certification may be issued after a reinspection or reevaluation if all the required energy measures have been installed. Any request for reinspection or reevaluation performed by the department shall be accompanied with a fee for reinspection or reevaluation. If the effective date of any rule in this chapter occurs after a notice of noncompliance (inspection or evaluation field report) has been issued, then only the energy measures specified in the notice of noncompliance need be installed provided that a certificate of compliance is issued within 30 days after the date of the notice of noncompliance.

SECTION 35. Comm 67.08 (3) (intro.) to (e) are renumbered Comm 67.08 (3) (a) to (f).

SECTION 36. Comm 67.08 (3) (a) (title) is created to read:

Comm 67.08 (3) (a) (title) General.

SECTION 37. Comm 67.08 (3) (a) and (f) 2 are amended to read:

Comm 67.08 (3) (a) General. If a rental unit is scheduled for demolition within 2 years, the department, a department agent or an authorized municipality may issue a written waiver to the energy efficiency standards specified in this chapter. A copy of the waiver shall be filed with the authorized municipality or department agent and the department. No waiver may be requested for a rental unit which has been issued a previous waiver or stipulation unless the



rental unit had received a certificate of compliance from a certified inspector on some date after the date of issuance of the latest waiver or stipulation under sub. (3 4).

(f) 2. 'Order for compliance'. Where the department orders the building to comply with the energy measures in this chapter, the owner shall notify the department that the energy measures have been installed and apply for an inspection or evaluation of the rental unit as specified in s. Comm 67.07.

SECTION 38. Comm 67.08 (4) (b) is amended to read:

Comm 67.08 (4) (b) Owners responsibility. 1. The new owner shall bring the rental unit into compliance and receive a certificate of compliance from a certified inspection or evaluation no later than one year after the date of transfer. The date of transfer is the date the stipulation is validated by the department, department agent or authorized municipality, unless acceptable documentation of another date is provided to the department.

2. No stipulation may be requested for a rental unit which has been issued a previous stipulation or waiver unless the rental unit had received a certificate of compliance from a certified inspector on some date after the date of issuance of the latest waiver or stipulation under sub. (2 3). No stipulation may be requested for a rental property in which the owner has been issued orders on that property pursuant to s. 101.122 (7) (b), Stats.

SECTION 39. Comm 67.08 (4) (f) (intro.) to 3 are renumbered Comm 67.08 (4) (f) 1 to 4, and Comm 67.08 (4) (f) (title) and 1 to 3, as renumbered, are amended to read:

Comm 67.08 (4) (f) (title) Stipulation inspection or evaluation. 1. Once the new owner has installed the necessary energy conservation measures, the owner shall apply for inspection or evaluation from a certified inspector, <sup>→ Stats</sup> authorizing municipality or the department.

2. If upon ~~inspections~~ inspection or evaluation, it is determined that the rental unit conforms to the conditions specified in the stipulation, the inspector shall issue a certificate indicating the rental unit conforms to the energy measures specified in this chapter. The department shall issue the certificate within 10 business days after determination that the rental unit conforms to the conditions specified in the stipulation.

3. If upon inspection or evaluation, it is determined that the rental unit does not conform to the conditions specified in the stipulation, the inspector shall notify the owner in writing, specifying the measures necessary for compliance. A certification may be issued after reinspection or reevaluation if all the required energy measures have been installed.

SECTION 40. Comm 67.09 is amended to read:

Comm 67.09 PROOF OF CERTIFICATION. The certificate shall be proof that the rental unit complies with the energy measures specified in this chapter. ~~The certificate shall be valid for a period of 5 years from the date specified on the certificate.~~ The certified inspector

shall retain a copy of the inspection or evaluation report and certification for at least 5 years. The certificate shall include the results of the inspection or evaluation of the rental unit.

SECTION 41. Comm 67.13 (4) is amended to read:

Comm 67.13 (4) STIPULATION. Pursuant to s. 101.122 (7) (d) and (e), Stats., any person who fails to comply with a stipulation issued in accordance with this chapter may be required to forfeit not more than \$500 per dwelling unit for the rental unit for which the stipulation was issued. Additional penalties or fees may be assessed by the court assigned to exercise jurisdiction.

put in  
note

Authent?  
Doc. 100  
67.13 (4) (e) (f)

(End)

\*\*\*\*\*

#### 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.

\*\*\*\*\*

file ref: h:/ALHR 67/67-98 prule 1



201 West Washington Avenue  
P.O. Box 7970  
Madison, Wisconsin 53707  
(608) 266-1018

Tommy G. Thompson, Governor  
Philip Edw. Albert, Acting Secretary

October 13, 1998

Senate Chief Clerk  
Room 402  
1 East Main Street  
Madison, Wisconsin 53703

Assembly Chief Clerk  
Room 402  
1 East Main Street  
Madison, Wisconsin 53703

Dear Chief Clerks:

**TRANSMITTAL IN FINAL DRAFT FORM OF ADMINISTRATIVE  
RULES AND REPORT**

CLEARINGHOUSE RULE NO.: 98-099

RULE NO.: Chapter Comm 67

RELATING TO: Rental Unit Energy Efficiency Standards

Pursuant to section 227.19, Stats., agencies are required to submit, in triplicate, copies of the proposed administrative rules in final draft form together with a rule report and an analysis. The recommendations received from the Legislative Council are also to be submitted.

At this time, this material, together with cover letters to the President of the Senate and the Speaker of the Assembly, is being transmitted for referral to the standing committees for legislative review.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read 'Philip Edw. Albert', written over a light-colored, possibly embossed, signature line.

Philip Edw. Albert  
Acting Secretary



201 West Washington Avenue  
P.O. Box 7970  
Madison, Wisconsin 53707  
(608) 266-1018

Tommy G. Thompson, Governor  
Philip Edw. Albert, Acting Secretary

October 13, 1998

Senator Brian Rude  
President of the Senate  
119 Martin L. King Blvd, Rm 102  
Madison, Wisconsin 53702

Representative Scott Jensen  
Speaker of the Assembly  
211 West, State Capitol  
Madison, Wisconsin 53702

Dear Senator Rude and Representative Jensen:

### NOTICE OF ADMINISTRATIVE RULES IN FINAL DRAFT FORM

CLEARINGHOUSE RULE NO.: 98-099

RULE NO.: Chapter Comm 67

RELATING TO: Rental Unit Energy Efficiency Standards

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,

A handwritten signature in dark ink, appearing to read 'Philip Edw. Albert', is written over a horizontal line.

Philip Edw. Albert  
Acting Secretary

# FINAL REGULATORY FLEXIBILITY ANALYSIS

## Department of Commerce

CLEARINGHOUSE RULE NO.: 98-099

RULE NO.: Chapter Comm 67

RELATING TO: Rental Unit Energy Efficiency Standards

☐

Final regulatory flexibility analysis not required. (Statement of determination required.)

1. Reason for including or failing to include the following methods for reducing impact of the rule on small businesses: Less stringent compliance or reporting requirements; less stringent schedules or deadlines for compliance or reporting requirements; simplification of compliance or reporting requirements; establishment of performance standards to replace design or operational standards; exemption from any or all requirements.

Overall, the rules make the code less stringent and offer additional options for compliance.

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.

There were no issues raised specific to small businesses.

3. Nature and estimated cost of preparation of any reports by small businesses.

The cost of preparation of reports under the new performance option is estimated to be less than the reports currently required by the code.

4. Nature and estimated cost of other measures and investments required of small businesses.

None.

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.

None.

6. Impact on public health, safety and welfare caused by including any of the methods in 1. for reducing impact on small businesses.

None.



State of Wisconsin \ Department of Commerce

# **RULES in FINAL DRAFT FORM**

**Rule No.:** Chapter Comm 67

**Relating to:** Rental Unit Energy Efficiency Standards

**Clearinghouse Rule No.:** 98-099

*The Department of Commerce proposes an order to repeal Comm 67.04 (32)(L) and 67.05 (3) to (8); to renumber Comm 2.35 (5) (b), 67.02 (intro.) to (2), 67.04 (32)(m) and (n), 67.05 (intro.) and (1) to (7), 67.05 (2)(a) to (c), 67.06 (intro.) and (1) to (9), 67.07 (intro.) and (1) to (5), 67.08 (1) to (3), 67.08 (2)(intro.) to (c), and 67.08 (3)(intro.) to (e); to renumber and amend Comm 67.08 (2)(d)(intro.) to 2 and 67.08 (4)(f)(intro.) to 3; to amend Comm 2.35 (5) (a) (intro.), 67.02 (1) and (3)(a) and (c), 67.03 (1) and (2)(intro.) to (f), 67.04 (20), 67.04 (34), 67.05 (1), 67.05 (2)(c) and (d), 67.06 (1), 67.07 (title), 67.07 (1), (2)(title) and (2), (3), (4)(b), (c)(title) and (c), (5)(title) and (5), and (6)(title) and (6), 67.08 (2)(a), 67.08 (3)(a) and (f)2., 67.08 (4)(b), 67.09, and 67.13 (4); to repeal and recreate Figure 67.06 (text); and to create Comm 2.35 (5) (b) 2., 67.03 (2)(h) and (i), 67.04 (8t) and (17g), 67.04 (28m), 67.04 (32t), 67.05 (1)(title), 67.05(2)(a), 67.05 (3) to (6), 67.055, 67.06 (1)(title), 67.07 (1)(title), 67.08 (1), 67.08 (2)(a)(title), and 67.08 (3)(a)(title), relating to rental unit energy efficiency standards.*

\* \* \* \* \*

### Analysis of Proposed Rules

Statutory Authority: ss. 101.02 (1), 101.122 (2), and 101.19(1) (i)

Statutes Interpreted: ss. 101.122 and 778.25 (1) to (3)

Under section 101.122, Wisconsin Statutes, the Department protects public health, safety, and welfare by promulgating energy efficiency requirements for rental units. These requirements are contained in Chapter Comm 67, Wisconsin Administrative Code. The proposed rule would modify the current chapter Comm 67 to be consistent with 1997 Wisconsin Act 288. These modifications would exclude the following buildings from the rental unit energy efficiency program:

- Buildings of one or two rental units that were constructed after December 1, 1978.
- Buildings of three or more rental units that were constructed after April 15, 1976.
- Condominium buildings of three or more dwelling units.

The modifications would also limit the application of rental unit energy efficiency requirements to the following items: attics; furnaces and boilers; storm windows and doors, with an option to meet an air infiltration performance standard for the thermal envelope of the building; sill boxes; heating and plumbing supply in unheated crawlspaces; and shower heads. The modifications also eliminate the expiration of the certificate of code compliance after 5 years.

The proposed rule would replace an emergency rule which became effective on June 30, 1998, and which also made the above modifications.

The proposed rule has been expanded from the emergency rule to include minor changes necessary for the Department to exercise the citation authority granted under 1997 Wisconsin Act 288, and to include performance standards as an alternative means for demonstrating compliance with the energy efficiency requirements. Related changes have been made to the fee code to allow for the use of the performance standards.



SECTION 1. Comm 2.35 (5) (a) (intro.) is amended to read:

Comm 2.35 (5) (a) (intro.) Maximum fee. The maximum fee for inspection or evaluation and certification of rental units by the department, authorizing municipality or any certified inspector, shall be as follows:

SECTION 2. Comm 2.35 (5) (b) is renumbered (5) (b) 1.

SECTION 3. Comm 2.35 (5) (b) 2. is created to read:

Comm 2.35 (5) (b) 2. The evaluation and certification fee shall cover the cost of preparing necessary forms, the cost of the certification stamp and preparation of the certificate. If the building performance is determined by calculation from fuel use data, the fee shall cover the cost of collecting and verifying the fuel use and building size information and performing necessary calculations. The fee does not cover field measurement of the building performance.

SECTION 1. Comm 67.02 (intro.) to (2) are renumbered (1) to (3).

SECTION 2. Comm 67.02 (1) (title) is created to read:

Comm 67.02 SCOPE. (1) (title) MINIMUM STANDARDS AND PROCEDURES.

SECTION 3. Comm 67.02 (1) and (3) (a) and (c) are amended to read:

Comm 67.02 (1) MINIMUM STANDARDS AND PROCEDURES. The rules contained in this chapter establish minimum energy efficiency standards for rental units that must be met before the ownership of a rental unit may be transferred; inspection or evaluation procedures for determining whether a rental unit complies with the energy efficiency standards specified in this chapter; procedures for certifying that a rental unit meets the energy efficiency standards specified in this chapter; procedures for obtaining an exemption from a specific energy conservation measure based on a 5-year cost payback; procedures for obtaining a stipulation or waiver for rental units that do not meet the standards specified in this chapter; and procedures that the department will use to administer and enforce this chapter.

(3) (a) Department authorization. The department may authorize a municipality in writing to issue the department certificate specified in s. Comm 67.08, if the department determines that the municipality can provide adequate inspection or evaluation service of the standards under subch. III.

(c) Revocation of municipal authority. The department may revoke the authority of a municipality to issue the department certificate at any time that it determines the municipality is

issuing department certificates without adequate inspection or evaluation of the standards under subch. III.

SECTION 4. Comm 67.03 (1) and (2) (intro.) to (f) are amended to read:

Comm 67.03 (1) RENTAL UNITS COVERED. After January 1, 1985, no owner may transfer a rental unit unless an inspector certified by the department has issued a certificate indicating that the rental unit meets the rental unit energy efficiency standards specified in this chapter; or unless a waiver has been issued as specified in s. Comm 67.08 ~~(2)~~ (3); or unless a stipulation is issued as specified in s. Comm 67.08 ~~(3)~~ (4).

(2) RENTAL UNITS EXCLUDED. (intro.) ~~The~~ All of the following buildings and rental units are excluded from the provisions of this chapter:

- (a) Any dwelling unit not rented at any time from November 1 to March 31~~;~~.
- (b) Any building which contains up to 4 rental units and one of the dwelling units will be owner-occupied~~;~~.
- (c) Any building constructed after December 1, 1978, which contains up to 2 dwelling units ~~and which is less than 10 years old;~~.
- (d) Any building constructed after April 15, 1976, which contains more than 2 dwelling units ~~and which is less than 10 years old;~~.
- (e) Mobile homes and manufactured homes;.
- (f) Hotels and motels used primarily for transient residency~~; and~~.

SECTION 5. Comm 67.03 (2) (h) and (i) are created to read:

- Comm 67.03 (2) (h) Bed and breakfast establishments.
- (i) Condominium buildings of three or more dwelling units.

SECTION 6. Comm 67.04 (8t) and (17g) are created to read:

Comm 67.04 (8t) "Degree day" means a unit based upon temperature difference and time, used in estimating annual heating energy consumption. One degree day accrues for each degree of difference between the daily mean temperature and a reference temperature of 65°F.

(17g) "Gross floor area" means the sum of the floor areas of the spaces within the building including basements, mezzanine and intermediate-floored tiers, and penthouses of headroom height 7.5 feet or greater.

SECTION 7. Comm 67.04 (20) is amended to read:

Comm 67.04 (20) "Inspector" means a person certified by the department to perform inspections or evaluations for energy efficiency in rental units.

SECTION 8. Comm 67.04 (28m) is created to read:

Comm 67.04 (28m) "Thermal envelope" means the collective assemblies of a building that enclose the heated, unvented spaces. The components that make up the thermal envelope form a continuous, unbroken surface.

SECTION 9. Comm 67.04 (32) (L) is repealed.

SECTION 10. Comm 67.04 (32) (m) and (n) are renumbered 67.04 (32) (l) and (m).

SECTION 11. Comm 67.04 (32t) is created to read:

Comm 67.04 (32t) "Unvented space" means a space that is not vented.

SECTION 12. Comm 67.04 (34) is amended to read:

Comm 67.04 (34) "Vented" means provided with outside air by natural or mechanical means via permanent openings. This venting may be for purposes of removing moisture, or exhausting fumes ~~or for providing combustion air.~~

SECTION 13. Comm 67.05 (intro.) and (1) to (7) are renumbered Comm 67.05 (1) to (8) and Comm 67.05 (1), as renumbered, is amended to read:

Comm 67.05 (1) (title) GENERAL. Any building containing rental units, except those specified in s. Comm 67.03 (2), transferring ownership after January 1, 1985, shall meet either the minimum prescriptive energy conservation measures specified in this section or the performance standards specified in s. Comm 67.055, unless an exemption has been issued under s. Comm 67.06, unless a petition for variance has been granted as specified in s. 101.02 (6), Stats., or unless a waiver or stipulation has been issued as specified in s. Comm 67.08 ~~(2)~~ (3) and ~~(3)~~ (4).

SECTION 14. Comm 67.05 (2) (a) to (c) are renumbered 67.05 (2) (b) to (d).

SECTION 15. Comm 67.05 (2) (a) is created to read:

Comm 67.05 (2) (a) R-value. For the purpose of this section, "R-value" applies only to the amount of insulation. R-value does not refer to the total overall R-values of all components of an assembly such as framing, finish materials or air films.

SECTION 16. Comm 67.05 (2) (c) and (d) are amended to read:

Comm 67.05 (2) (c) (title) Insulation of box sills. Insulation shall be provided in all accessible areas that form a portion of the thermal envelope as specified in Table 67.05-B.

(d) Insulation of ducts and pipes. Insulation shall be provided in all accessible ~~areas~~ vented crawl spaces as specified in Table 67.05-C.

SECTION 17. Comm 67.05 (3) to (8) are repealed.

SECTION 18. Comm 67.05 (3) to (6) are created to read:

Comm 67.05 (3) STORM WINDOWS AND DOORS. (a) General. Except as provided in sub. (4), storm windows and doors shall be provided and weatherized in accordance with this subsection.

(b) Storm windows. All windows shall be double glazed or shall be provided with exterior or interior storm windows except that windows of store fronts are exempt from the requirements of this subsection. Where exterior storms are installed over openable windows required for natural ventilation, a portion of the storm shall be openable from the inside. Windows located in boiler or furnace rooms do not need to be double glazed or equipped with storms. Windows located in basement areas that are not habitable rooms may be permanently sealed and insulated in lieu of double glazing or installing exterior or interior storm windows.

(c) Storm doors. Patio doors shall be insulated, double glazed or equipped with storm doors. Where no vestibule exists, inward swinging exterior doors shall be insulated, double glazed or equipped with storm doors. Door lites need not be double glazed if they are part of the door. All storm doors shall be equipped with self-closing devices.

(d) Openings or cracks. All accessible openings or cracks in storm windows or doors shall be caulked, gasketed or otherwise sealed.

(4) BLOWER DOOR TESTING. (a) Storm window and door requirements of sub. (3) are not required to be met when blower door testing shows that the air infiltration limits of this subsection are met.

(b) The blower door testing shall be conducted in accordance with ASTM E 779, "Standard Practice For Measuring Air Leakage By The Fan Pressurization Method," as adopted by reference in s. ILHR 20.24.

(c) The blower door test results and documentation shall show one of the following:

1. The natural air change rate of the thermal envelope is 1.0 air change per hour or less.
2. Work has been done to reduce the natural air change rate of the thermal envelope by at least 10%.

(c) Testing done on any date prior to certification shall be acceptable, provided no change has occurred to the building that would impact the test results in a negative or indeterminate way.

(5) **MOISTURE CONTROL.** (a) Ceilings. Vented spaces shall be provided with minimum ventilation in accordance with this paragraph. The ventilation shall be provided above any ceiling or attic insulation. The free area of ventilation shall be at least 1/300 of the horizontal area. Where overhangs with soffits are provided, one-half of the free area shall be at the eaves and one-half in the upper one-third of the roof or gable. Where it is impractical to install gravity venting, power vent systems may be used to provide equivalent ventilation. Power vents shall be connected to a humidistat.

(b) Crawl spaces. Vented crawl spaces shall be provided with minimum ventilation in accordance with this paragraph. The area of ventilation shall be at least 1/300 of the floor space. The area of ventilation shall be distributed equally to at least 2 openings in the foundation wall. The openings shall be located to provide cross ventilation. Where accessible, a vapor barrier shall be applied to cover the exposed earth.

TABLE 67.05-B  
INSULATION OF BOX SILLS

	If insulation of an R-Value less than or equal to R-2.5 is present	If insulation of an R-Value greater than R-2.5, but less than or equal to R-10 is present	If Insulation of an R-Value greater than R-10 is present
Box Sills (a)	Insulation shall be added to bring the total insulation level to R-19	R-11 insulation shall be added to the existing insulation	No additional insulation is required

(a) Box sills that separate the rental unit from a garage which is unvented or is vented with outside air shall be insulated, if accessible.

(6) **EQUIPMENT.** (a) Combustion air. Combustion air openings shall be unobstructed.

(b) Flow restricters. All showers shall be equipped with flow restricters rated at three gallons per minute or less.

**TABLE 67.05-C**  
**INSULATION OF DUCTS AND PIPES**

<b>BUILDING ELEMENT</b>	<b>TOTAL AMOUNT OF INSULATION REQUIRED</b>
Heating Supply Ducts Located in Vented Crawl Spaces	R-5
Steam Heating Supply Pipes Located in Vented Crawl Spaces	R-4
Hydronic Heating Supply Pipes Located in Vented Crawl Spaces	R-2
Domestic Hot Water Pipes:	
Circulating, Along Entire Accessible Length in Vented Crawl Spaces	R-2
Noncirculating Hot and Cold Water Pipes Within 5 Feet of Water Heater in Vented Crawl Spaces	R-2

SECTION 19. Comm 67.055 is created to read:

Comm 67.055 PERFORMANCE ENERGY EFFICIENCY STANDARDS. The following performance standards may be met in place of the prescriptive standards specified in s. Comm 67.05:

(1) **PERFORMANCE STANDARD.** Buildings shall have an annual space heating energy use, in BTUs per square foot, per heating degree day, which is no greater than the value shown in Table 67.055. The annual heating energy use shall be determined in accordance with sub. (2) or (3).

(2) **CALCULATION FROM FUEL USE DATA.** The annual space heating energy use may be calculated from one year of representative fuel use data using a department-provided form or an equivalent method approved by the department prior to use. The building area used in the calculation shall be the total gross floor area, including any basement floor area. The gross floor area is measured from the exterior faces of exterior walls or from the centerline of walls separating buildings, excluding covered walkways, open roofed-over areas, porches and similar spaces, pipe trenches, exterior terraces or steps, chimneys, roof overhangs, and similar features. The determination of annual space heating energy use per square foot shall be performed by or verified by an inspector.

(3) **MEASUREMENT OF BUILDING PERFORMANCE.** The annual space heating energy use may be determined in accordance with field measurement methods approved by the department prior to use. At a minimum, the method must be nationally recognized, meet a national standard, or be demonstrated to have equivalent accuracy.

Note: The department approves use of the Wisconsin Energy Bureau Home Energy Rating System for buildings of four dwelling units or less provided a blower door test is used to estimate the building infiltration. Information demonstrating the accuracy of other field measurement methods may be submitted to the department for review.

**TABLE 67.055**  
**MAXIMUM ANNUAL SPACE HEATING ENERGY USE**

Number of Dwelling Units	Certificate of Compliance Issued Prior to Sale <sup>1</sup>	Certificate of Compliance Issued after Sale <sup>1</sup>
8 or Fewer Dwelling Units	9.0	7.0
9 or More Dwelling Units	7.0	5.0

<sup>1</sup> Refers to property transfers after the effective date of this section, [Revisor inserts date].

SECTION 20. Comm 67.06 (intro.) and (1) to (9) are renumbered Comm 67.06 (1) to (10).

SECTION 21. Comm 67.06 (1) (title) is created to read:

Comm 67.06 (1) (title) GENERAL.

SECTION 22. Comm 67.06 (1) is amended to read:

Comm 67.06 (1) GENERAL. No specific energy conservation measure may be required under s. Comm 67.05 ~~(1)(2)~~ to ~~(5)(4)~~ and ~~(7)(6)~~ where the cost payback obtained from installing the specific energy measure exceeds 5 years. In order to receive an exemption for a specific energy measure, the owner shall submit evidence to the department to demonstrate that the cost payback for the specific energy measure exceeds 5 years. Envelope cost payback calculations shall be made in accordance with this section unless otherwise approved by the department. All calculations and analyses shall be based on the actual conditions to which the specific energy measure is subject. Other nonenvelope cost payback calculations utilizing principles and concepts outlined in this section may be approved by the department. The final acceptance of any cost payback shall be made by the department.

SECTION 23. Figure 67.06 (text) is repealed and recreated to read:

**FIGURE 67.06**  
**HEATING DEGREE DAYS PER YEAR - BASE 65°F**  
Wisconsin Division of State Energy Degree Day Zones

Zone 1—8960	Zone 5—8354	Zone 8—7872
Zone 2—9128	Zone 6—8089	Zone 9—7466
Zone 3—8608	Zone 7—8330	Zone 10—7673
Zone 4—8686		Zone 11—7324

SECTION 24. Comm 67.07 (title) is amended to read:

Comm 67.07 (title) REQUEST FOR ENERGY EFFICIENCY INSPECTION OR EVALUATION.

SECTION 25. Comm 67.07 (intro.) and (1) to (5) are renumbered Comm 67.07 (1) to (6).

SECTION 26. Comm 67.07 (1) (title) is created to read:

Comm 67.07 (1) (title) REQUEST.

SECTION 27. Comm 67.07 (1); (2) (title) and (2); (3); (4) (b), (c) (title) and (c); (5) (title) and (5); and (6) (title) and (6) are amended to read:

Comm 67.07 (1) REQUEST. An owner of a rental unit may request an energy efficiency inspection or evaluation from the department or any person certified by the department as a rental weatherization inspector under ch. Comm 5 for the purpose of determining whether the rental unit meets the energy efficiency standards specified in this chapter. If an owner, after reasonable effort, is unable to procure an inspection or evaluation from an authorized municipality or an independent certified rental weatherization inspector, a request for an inspection or evaluation may be made to the department.

(2) (title) APPLICATION FOR INSPECTION OR EVALUATION FROM THE DEPARTMENT OR MUNICIPALITY. Where an owner requests the inspection or evaluation from the department or municipality, the owner shall apply for the inspection or evaluation on forms obtained from the department or municipality.

(3) FILING OF APPLICATION. No application for inspections or evaluations will be accepted by the department or municipality that does not contain all of the information requested on the application form. The application shall be filed with the department or municipality enforcing this chapter.

(4) (b) Department fees. Where the department administers and enforces this chapter, the fees required for inspection or evaluation and certification shall be submitted at the time the application is filed with the department.

(c) (title) Certified inspection or evaluation fees. Where inspections or evaluations are performed by a certified inspector, other than the department or municipality, the certified inspector may charge a fee to cover the cost of the inspection or evaluation and issuance of the certificate as specified in ch. Comm 2, Fee Schedule.

(5) (title) INSPECTIONS OR EVALUATIONS. All energy efficiency inspections or evaluations for the purpose of certifying rental units under this chapter shall be performed by the department, municipality or inspector certified by the department.



(6) (title) ACTION TO INSPECT OR EVALUATE. The municipality or department performing inspection or evaluation services under this chapter shall perform inspections or evaluations within 10 business days after an application is filed.

SECTION 28. Comm 67.08 (1) to (3) are renumbered Comm 67.08 (2) to (4).

SECTION 29. Comm 67.08 (1) is created to read:

Comm 67.08 (1) PARCELS PER DOCUMENT. No stipulation, waiver or certificate of compliance may be issued using more than one legal description or parcel per document.

SECTION 30. Comm 67.08 (2) (intro.) to (c) are renumbered Comm 67.08 (2) (a) to (d).

SECTION 31. Comm 67.08 (2) (a) (title) is created to read:

Comm 67.08 (2) (a) (title) GENERAL.

SECTION 32 Comm 67.08 (2) (a) is amended to read:

Comm 67.08 (2) (a) General. If upon inspection or evaluation, the inspector determines that the building conforms to the energy conservation measures or performance standard specified in this chapter, the inspector shall authorize the certificate of compliance by signing and affixing the Commerce Transfer Authorization label and then issue the certificate prescribed by the department and file a copy of the certificate with the department. The ~~department~~ inspector shall issue the certificate within 10 business days of determination that the building conforms to the energy conservation measures or performance standard.

SECTION 33. Comm 67.08 (2) (d) (intro.) to 2 are renumbered Comm 67.08 (2) (d) 1 to 3 and amended to read:

Comm 67.08 (2) (d) 1. If upon inspection or evaluation, an inspector determines that the rental unit does not conform to the energy measures specified in this chapter, the inspector shall specify in writing the energy conservation measures necessary to make the rental unit comply with the energy efficiency standards specified in this chapter and notify the owner of the findings. The department shall specify the energy conservation measures necessary to make the rental unit comply with the energy efficiency standards within 10 business days of completion of the inspection or evaluation.

2. Stipulation may be issued where the energy efficiency standards are not met as specified in sub. ~~(3)~~ (4).

3. A certification may be issued after a reinspection or reevaluation if all the required energy measures have been installed. Any request for reinspection or reevaluation performed by the department shall be accompanied with a fee for reinspection or reevaluation. If the effective date of any rule in this chapter occurs after a notice of noncompliance (inspection or evaluation field report) has been issued, then only the energy measures specified in the notice of noncompliance need be installed provided that a certificate of compliance is issued within 30 days after the date of the notice of noncompliance.

SECTION 34. Comm 67.08 (3) (intro.) to (e) are renumbered Comm 67.08 (3) (a) to (f).

SECTION 35. Comm 67.08 (3) (a) (title) is created to read:

Comm 67.08 (3) (a) (title) General.

SECTION 36. Comm 67.08 (3) (a) and (f) 2. are amended to read:

Comm 67.08 (3) (a) General. If a rental unit is scheduled for demolition within 2 years, the department, a department agent or an authorized municipality may issue a written waiver to the energy efficiency standards specified in this chapter. A copy of the waiver shall be filed with the authorized municipality or department agent and the department. No waiver may be requested for a rental unit which has been issued a previous waiver or stipulation unless the rental unit had received a certificate of compliance from a certified inspector on some date after the date of issuance of the latest waiver or stipulation under sub. (~~3~~ 4).

(f) 2. 'Order for compliance'. Where the department orders the building to comply with the energy measures in this chapter, the owner shall notify the department that the energy measures have been installed and apply for an inspection or evaluation of the rental unit as specified in s. Comm 67.07.

SECTION 37. Comm 67.08 (4) (b) is amended to read:

Comm 67.08 (4) (b) Owners responsibility. 1. The new owner shall bring the rental unit into compliance and receive a certificate of compliance from a certified inspection or evaluation no later than one year after the date of transfer. The date of transfer is the date the stipulation is validated by the department, department agent or authorized municipality, unless acceptable documentation of another date is provided to the department.

2. No stipulation may be requested for a rental unit which has been issued a previous stipulation or waiver unless the rental unit had received a certificate of compliance from a certified inspector on some date after the date of issuance of the latest waiver or stipulation under sub. (~~2~~ 3). No stipulation may be requested for a rental property in which the owner has been issued orders on that property pursuant to s. 101.122 (7) (b), Stats.

SECTION 38. Comm 67.08 (4) (f) (intro.) to 3 are renumbered Comm 67.08 (4) (f) 1 to 4, and Comm 67.08 (4) (f) (title) and 1 to 3, as renumbered, are amended to read:

Comm 67.08 (4) (f) (title) Stipulation inspection or evaluation. 1. Once the new owner has installed the necessary energy conservation measures, the owner shall apply for inspection or evaluation from a certified inspector, an authorizing municipality or the department.

2. If upon ~~inspections~~ inspection or evaluation, it is determined that the rental unit conforms to the conditions specified in the stipulation, the inspector shall issue a certificate indicating the rental unit conforms to the energy measures specified in this chapter. The department shall issue the certificate within 10 business days after determination that the rental unit conforms to the conditions specified in the stipulation.

3. If upon inspection or evaluation, it is determined that the rental unit does not conform to the conditions specified in the stipulation, the inspector shall notify the owner in writing, specifying the measures necessary for compliance. A certification may be issued after reinspection or reevaluation if all the required energy measures have been installed.

SECTION 39. Comm 67.09 is amended to read:

Comm 67.09 PROOF OF CERTIFICATION. The certificate shall be proof that the rental unit complies with the energy measures specified in this chapter. ~~The certificate shall be valid for a period of 5 years from the date specified on the certificate.~~ The certified inspector shall retain a copy of the inspection report or evaluation report and documentation and certification for at least 5 years. The certificate shall include the results of the inspection or evaluation of the rental unit.

SECTION 40. Comm 67.13 (4) is amended to read:

Comm 67.13 (4) STIPULATION. Pursuant to s. 101.122 (7) (d), Stats., any person who fails to comply with a stipulation issued in accordance with this chapter may be required to forfeit not more than \$500 per dwelling unit for the rental unit for which the stipulation was issued. Pursuant to s. 101.122 (7) (d), Stats., any person who fails to comply with a stipulation issued in accordance with this chapter may be issued a citation for each period of 90 consecutive days of continued failure to comply.

Note: Any forfeitures, penalty assessments, jail assessments, additional penalties or fees pursuant to citations will be assessed by the court assigned to exercise jurisdiction.

(End)

\*\*\*\*\*

## 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.

\*\*\*\*\*

# RULE REPORT

## Department of Commerce

Rule No.: Chapter Comm 67

Relating to: Rental Unit Energy Efficiency Standards

*Agency contact person for substantive questions:*

Name Bernice Mattsson

Title Code Consultant

Telephone Number 608-266-2725

*Agency contact person for internal processing:*

Name Bernice Mattsson

Title Code Consultant

Telephone Number 608-266-2725

1. Agency statutory authority under which the agency intends to promulgate the rule(s).  
  
101.122(2)
2. Citation of federal regulations which require adoption or which are relevant to the proposed rule(s).  
  
42 USC Section 6297(c)
3. Citation of court decisions which are applicable to the proposed rule(s).  
  
None known.

4. Description of the proposed rule(s).

The proposed rule exempts recently constructed, adequately efficient rental properties, and condominium buildings with three or more dwelling units, from the Rental Unit Energy Efficiency Program, and limits the application of rental unit energy efficiency requirements to the following items: attics; furnaces and boilers; storm windows and doors, with an option to meet an air infiltration performance standard for the thermal envelope of the building; sill boxes; heating and plumbing supply in unheated crawlspaces; and shower heads.

The rule also eliminates the expiration of the certificate of code compliance after 5 years, makes minor changes necessary for the Department to exercise citation authority for obtaining compliance with chapter Comm 67, and includes performance standards as an alternate means for demonstrating compliance with energy efficiency requirements.

5. Reason for the proposed rule(s).

This rule change is needed to make the current chapter Comm 67 consistent with 1997 Wisconsin Act 288, and to recognize that compliance with performance standards can be an effective means of achieving regulatory goals.

**FISCAL ESTIMATE WORKSHEET****1997 Session**Detailed Estimate of Annual Fiscal Effect  
DOA-2047 (R10/94)☒ ORIGINAL  
☐ CORRECTED☐ UPDATED  
☐ SUPPLEMENTALLRB or Bill No./Adm. Rule No.  
Comm 67

Amendment No.

Subject

Changing rental unit energy efficiency requirements.

**I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):**

None

**II. Annualized Costs:****A. State Costs by Category**

State Operations - Salaries and Fringes

Annualized Fiscal impact on State funds from:

Increased Costs

Decreased Costs

\$ 0

\$ - 0

(FTE Position Changes)

( 0 FTE)

(- 0 FTE)

State Operations - Other Costs

0

- 0

Local Assistance

0

- 0

Aids to Individuals or Organizations

0

- 0

TOTAL State Costs by Category

0

\$ - 0

**B. State Costs by Source of Funds**

GPR

Increased Costs

Decreased Costs

\$ 0

\$ - 0

FED

0

- 0

PRO/PRS

0

- 0

SEG/SEG-S

0

- 0

**III. State Revenues -**Complete this only when proposal will increase or decrease  
state revenues (e.g., tax increase, decrease in license fee,  
etc.)

Increased Rev.

Decreased Rev.

GPR Taxes

\$ 0

\$ - 0

GPR Earned

0

- 0

FED

0

- 0

PRO/PRS

0

- 0

SEG/SEG-S

0

- 0

TOTAL State Revenues

\$ 0

\$ - 0

**NET ANNUALIZED FISCAL IMPACT**STATELOCAL

NET CHANGE IN COSTS

\$ 0

\$ 0

NET CHANGE IN REVENUES

\$ 0

\$ 0

Agency/Prepared by: (Name &amp; Phone No.)

Dept. of Commerce  
Robert DuPont (608) 266-8984

Authorized Signature/Telephone No.

  
267-0720

Date

10/12/90

**FISCAL ESTIMATE**  
DOA-2048 (R02/97)

☒ ORIGINAL  
☐ CORRECTED

☐ UPDATED  
☐ SUPPLEMENTAL

LRB or Bill No./Adm. Rule No.

Comm 67

Amendment No. if Applicable

**Subject** Changing rental unit energy efficiency requirements.

**Fiscal Effect**

**State:** ☐ No State Fiscal Effect

Check columns below only if bill makes a direct appropriation

or affects a sum sufficient appropriation

☐ Increase Existing Appropriation

☐ Decrease Existing Appropriation

☐ Create New Appropriation

☐ Increase Existing Revenues

☐ Decrease Existing Revenues

☐ Increase Costs - May be Possible to Absorb

Within Agency's Budget

☐ Yes ☐ No

☐ Decrease Costs

**Local:** ☐ No local government costs

1. ☒ Increase Costs

☒ Permissive ☐ Mandatory

2. ☐ Decrease Costs

☐ Permissive ☐ Mandatory

3. ☒ Increase Revenues

☒ Permissive ☐ Mandatory

4. ☐ Decrease Revenues

☐ Permissive ☐ Mandatory

5. Types of Local Governmental Units Affected:

☐ Towns ☐ Villages ☐ Cities

☒ Counties ☐ Others \_\_\_\_\_

☐ School Districts ☐ WTCS Districts

**Fund Sources Affected**

☐ GPR ☐ FED ☒ PRO ☐ PRS ☐ SEG ☐ SEG-S

Affected Ch. 20 Appropriations

143(3)j

**Assumptions Used in Arriving at Fiscal Estimate**

The proposed rule changes would remove one and two unit buildings built after 1978, larger buildings built after 1976, and condominiums of over two units, from coverage under the rental unit energy efficiency requirements. This proposal would also eliminate the requirement to obtain certifications more than once during the life of a building. Rental unit energy efficiency requirements are narrowed to focus on attics, furnaces, boilers, storm windows and doors (with an option to meet an air infiltration standard), sill boxes, heating and plumbing supply in unheated crawlspaces, and shower heads.

Annual revenues from the rental unit energy efficiency program have averaged \$428,600 over the past five years. Revenues are from credentialling of inspectors, applications for exemptions, applications for waivers, inspections, certification stamps and applications for stipulations.

If this proposal is adopted, it is expected that revenues and expenditures would not change significantly. Although fewer buildings would be covered under the rental unit energy efficiency requirements, the narrower focus of the requirements is expected to result in a higher rate of compliance.

This higher rate of compliance and the corresponding certification fees are expected to offset any decrease in revenues that would result from having fewer buildings covered by the rental unit energy efficiency requirements.

Local government costs may increase if the department pursues unpaid penalties or fees through the court system. Local government revenues could increase due to the payment of court fees.

**Long-Range Fiscal Implications**

NONE.

Agency/Prepared by: (Name & Phone No.)

Commerce

Robert DuPont (266-8984)

Authorized Signature/Telephone No.

*Robert DuPont* 266-8984

Date

6/12/98



## DEPARTMENT OF COMMERCE

Comm 67

RELATING TO: Rental Unit Energy Efficiency

**LOCATION:** Room 3B, 201 W. Washington Ave.

DATE: August 14, 1998

TIME: 9:30 AM

CITY: Madison

[illegible]

**FISCAL ESTIMATE WORKSHEET****1997 Session**Detailed Estimate of Annual Fiscal Effect  
DOA-2047 (R10/94)☒ ORIGINAL☐ UPDATED☐ CORRECTED☐ SUPPLEMENTALLRB or Bill No./Adm. Rule No.  
Comm 67

Amendment No.

Subject

Changing rental unit energy efficiency requirements.

**I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):**

None

**II. Annualized Costs:****A. State Costs by Category**

State Operations - Salaries and Fringes

Annualized Fiscal impact on State funds from:

Increased Costs

Decreased Costs

\$ 0

\$ - 0

(FTE Position Changes)

( 0 FTE)

(- 0 FTE)

State Operations - Other Costs

0

- 0

Local Assistance

0

- 0

Aids to Individuals or Organizations

0

- 0

TOTAL State Costs by Category

0

\$ - 0

**B. State Costs by Source of Funds**

GPR

Increased Costs

Decreased Costs

\$ 0

\$ - 0

FED

0

- 0

PRO/PRS

0

- 0

SEG/SEG-S

0

- 0

**III. State Revenues -**Complete this only when proposal will increase or decrease  
state revenues (e.g., tax increase, decrease in license fee,  
etc.)

Increased Rev.

Decreased Rev.

GPR Taxes

\$ 0

\$ - 0

GPR Eamed

0

- 0

FED

0

- 0

PRO/PRS

0

- 0

SEG/SEG-S

0

- 0

TOTAL State Revenues

\$ 0

\$ - 0

**NET ANNUALIZED FISCAL IMPACT**STATELOCAL

NET CHANGE IN COSTS

\$ 0

\$ 0

NET CHANGE IN REVENUES

\$ 0

\$ 0

Agency/Prepared by: (Name &amp; Phone No.)

Dept. of Commerce  
Robert DuPont (608) 266-8984

Authorized Signature/Telephone No.

*Robert C. Smith* 6-8984

Date

C/29/98

**FISCAL ESTIMATE**  
DOA-2048 (R02/97)

☒ ORIGINAL  
☐ CORRECTED

☐ UPDATED  
☐ SUPPLEMENTAL

LRB or Bill No./Adm. Rule No.  
**Comm 67**  
Amendment No. if Applicable

**Subject** Changing rental unit energy efficiency requirements.

**Fiscal Effect**

**State:** ☐ No State Fiscal Effect

Check columns below only if bill makes a direct appropriation  
or affects a sum sufficient appropriation

☐ Increase Existing Appropriation  
☐ Decrease Existing Appropriation  
☐ Create New Appropriation

☐ Increase Existing Revenues  
☐ Decrease Existing Revenues

☐ Increase Costs - May be Possible to Absorb  
Within Agency's Budget ☐ Yes ☐ No  
☐ Decrease Costs

**Local:** ☐ No local government costs

1. ☒ Increase Costs  
☒ Permissive ☐ Mandatory

2. ☐ Decrease Costs  
☐ Permissive ☐ Mandatory

3. ☒ Increase Revenues  
☒ Permissive ☐ Mandatory

4. ☐ Decrease Revenues  
☐ Permissive ☐ Mandatory

5. Types of Local Governmental Units Affected:

☐ Towns ☐ Villages ☐ Cities

☒ Counties ☐ Others \_\_\_\_\_

☐ School Districts ☐ WTCS Districts

**Fund Sources Affected**

☐ GPR ☐ FED ☒ PRO ☐ PRS ☐ SEG ☐ SEG-S

Affected Ch. 20 Appropriations

143(3))

**Assumptions Used in Arriving at Fiscal Estimate**

The proposed rule changes would remove one and two unit buildings built after 1978, larger buildings built after 1976, and condominiums of over two units, from coverage under the rental unit energy efficiency requirements. This proposal would also eliminate the requirement to obtain certifications more than once during the life of a building. Rental unit energy efficiency requirements are narrowed to focus on attics, furnaces, boilers, storm windows and doors (with an option to meet an air infiltration standard), sill boxes, heating and plumbing supply in unheated crawlspaces, and shower heads.

Annual revenues from the rental unit energy efficiency program have averaged \$428,600 over the past five years. Revenues are from credentialling of inspectors, applications for exemptions, applications for waivers, inspections, certification stamps and applications for stipulations.

If this proposal is adopted, it is expected that revenues and expenditures would not change significantly. Although fewer buildings would be covered under the rental unit energy efficiency requirements, the narrower focus of the requirements is expected to result in a higher rate of compliance.

This higher rate of compliance and the corresponding certification fees are expected to offset any decrease in revenues that would result from having fewer buildings covered by the rental unit energy efficiency requirements.

Local government costs may increase if the department pursues unpaid penalties or fees through the court system. Local government revenues could increase due to the payment of court fees.

**Long-Range Fiscal Implications**

NONE.

Agency/Prepared by: (Name & Phone No.)  
Commerce  
Robert DuPont (266-8984)

Authorized Signature/Telephone No.

*[Signature]* 6-8976

Date

6/26/98

SECTION 9. Comm 67.09 is amended to read:

Comm 67.09 PROOF OF CERTIFICATION. The certificate shall be proof that the rental unit complies with the energy measures specified in this chapter. ~~The certificate shall be valid for a period of 5 years from the date specified on the certificate.~~ The certified inspector shall retain a copy of the inspection report and certification for at least 5 years. The certificate shall include the results of the inspection of the rental unit.

(End)

6-98 erule 3

2. Work has been done to reduce the natural air change rate of the thermal envelope by at least 10%.

(d) Testing done on any date prior to certification shall be acceptable, provided no change has occurred to the building that would impact the test results in a negative or indeterminate way.

(4) **MOISTURE CONTROL.** (a) Ceilings. Minimum ventilation shall be provided above the ceiling or attic insulation in vented spaces. The free area of ventilation shall be at least 1/300 of the horizontal area. Where overhangs with soffits are provided, one-half of the free area shall be near the eaves and one-half in the upper one-third of the roof or gable. Where it is impractical to install gravity venting, power vent systems may be used to provide equivalent ventilation. Power vents shall be connected to a humidistat.

(b) Crawl spaces. Minimum ventilation shall be provided in vented crawl spaces. The area of ventilation shall be at least 1/300 of the floor space. The area of ventilation shall be distributed equally to at least 2 openings in the foundation wall. The openings shall be located to provide cross ventilation. Where accessible, a vapor barrier shall be applied to cover the exposed earth.

TABLE 67.05-B

INSULATION OF BOX SILLS

	If insulation of an R-Value less than or equal to R-2.5 is present	If insulation of an R-Value greater than R-2.5, but less than or equal to R-10 is present	If Insulation of an R-Value greater than R-10 is present
Box Sills <sup>1</sup>	Insulation shall be added to bring the total insulation level to R-19	R-11 insulation shall be added to the existing insulation	No additional insulation is required

<sup>1</sup>Box sills that separate the rental unit from a garage which is unvented or is vented with outside air shall be insulated, if accessible.

(5) **EQUIPMENT.** Combustion air openings shall be unobstructed. All showers shall be equipped with flow restricters rated at three gallons per minute or less.

TABLE 67.05-C

INSULATION OF DUCTS AND PIPES

BUILDING ELEMENT	TOTAL AMOUNT OF INSULATION REQUIRED
Heating Supply Ducts Located in Vented Crawl Spaces	R-5
Steam Heating Supply Pipes Located in Vented Crawl Spaces	R-4
Hydronic Heating Supply Pipes Located in Vented Crawl Spaces	R-2
Domestic Hot Water Pipes:	
Circulating, Along Entire Accessible Length in Vented Crawl Spaces	R-2
Noncirculating Hot and Cold Water Pipes Within 5 Feet of Water Heater in Vented Crawl Spaces	R-2

Comm 67.05 (1) (a) R-value. For the purpose of this section, "R-value" applies only to the amount of insulation. It does not refer to the total overall R-values of all components of an assembly such as framing, finish materials or air films.

SECTION 7. Comm 67.05 (1) (c) (title) and (d) are amended to read:

Comm 67.05 (1) (c) (title) Insulation of box sills.

(d) Insulation of ducts and pipes. Insulation shall be provided in all accessible ~~areas~~ vented crawl spaces as specified in Table 67.05-C.

SECTION 8. Comm 67.05 (2) to (7) are repealed and recreated as Comm 67.05 (2) to (5) to read:

Comm 67.05 (2) STORM WINDOWS AND DOORS. (a) General. Except as provided in sub. (3), storm windows and doors shall be provided and weatherized in accordance with this subsection.

(b) Storm windows. All windows shall be double glazed or shall be provided with exterior or interior storm windows except that windows of store fronts are exempt from the requirements of this subsection. Where exterior storms are installed over operable windows required for natural ventilation, a portion of the storm shall be operable from the inside. Windows located in boiler or furnace rooms do not need to be double glazed or equipped with storms. Windows located in basement areas which are not habitable rooms may be permanently sealed and insulated in lieu of double glazing or installing exterior or interior storm windows.

(c) Storm doors. Patio doors shall be insulated, double glazed or equipped with a storm door. Where no vestibule exists, inward swinging exterior doors shall be insulated, double glazed or equipped with a storm door. Door lites need not be double glazed if they are part of the door. All storm doors shall be equipped with a self-closing device.

(d) Openings or cracks. All accessible openings or cracks in storm windows or doors shall be caulked, gasketed or otherwise sealed.

(3) BLOWER DOOR TESTING. (a) Storm window and door requirements of sub. (2) are not required to be met when blower door testing shows that the air infiltration limits of this subsection are met.

(b) The blower door testing shall be conducted in accordance with ASTM E 779, "Standard Practice For Measuring Air Leakage By The Fan Pressurization Method," as adopted by reference in s. ILHR 20.24.

(c) The blower door test results and documentation shall show one of the following:

1. The natural air change rate of the thermal envelope is 1.0 air change per hour or less.

SECTION 1. Comm 67.03 (2) (intro.) to (f) are amended to read:

Comm 67.03 (2) RENTAL UNITS EXCLUDED. (intro.) ~~The~~ All of the following buildings and rental units are excluded from the provisions of this chapter:

- (a) Any dwelling unit not rented at any time from November 1 to March 31;
- (b) Any building which contains up to 4 rental units and one of the dwelling units will be owner-occupied;
- (c) Any building constructed after December 1, 1978, which contains up to 2 dwelling units ~~and which is less than 10 years old;~~
- (d) Any building constructed after April 15, 1976, which contains more than 2 dwelling units ~~and which is less than 10 years old;~~
- (e) Mobile homes;
- (f) Hotels and motels used primarily for transient residency; ~~and~~

SECTION 2. Comm 67.03 (2) (h) is created to read:

Comm 67.03 (2) (h) Condominium buildings of three or more dwelling units.

SECTION 3. Comm 67.04 (28m) and (32t) are created to read:

Comm 67.04 (28m) "Thermal envelope" means the collective assemblies of a building that enclose the heated, unvented spaces. The components that make up the thermal envelope form a continuous, unbroken surface.

(32t) "Unvented space" means a space that is not vented.

SECTION 4. Comm 67.04 (34) is amended to read:

Comm 67.04 (34) "Vented" means provided with outside air by natural or mechanical means via permanent openings. This venting may be for purposes of removing moisture, or ~~exhausting fumes or for providing combustion air.~~

SECTION 5. Comm 67.05 (1) (a) to (c) are renumbered 67.05 (1) (b) to (d).

SECTION 6. Comm 67.05 (1) (a) is created to read:

Department of Commerce

JUL 02 1998

Emergency Rule Relating to Rental Unit Energy Efficiency

ROUTE TO:

Finding of Emergency and Rule Analysis

B08

BF

The Department of Commerce finds that an emergency exists and that adoption of the rule included in this order is necessary for the immediate preservation of public health, safety, and welfare.

The facts constituting the emergency are as follows. Under section 101.122, Wisconsin Statutes, the Department protects public health, safety, and welfare by promulgating energy efficiency requirements for rental units. 1997 Wisconsin Act 288 amends s. 101.122, Stats., to change the scope of the rules that the Department develops under that law. Those portions of the Act were effective the day after publication, and the rules adopted by the Department under the authority of that law are hereby amended to be consistent with Wisconsin Act 288.

This emergency rule excludes the following buildings from the rental unit energy efficiency program:

- Buildings of one or two rental units that were constructed after December 1, 1978.
- Buildings of three or more rental units that were constructed after April 15, 1976.
- Condominium buildings of three or more dwelling units.

This rule also limits the application of rental unit energy efficiency requirements to the following items:

- Attics
- Furnaces and boilers
- Storm windows and doors, with an option to meet an air infiltration performance standard for the thermal envelope of the building
- Sill boxes
- Heating and plumbing supply in unheated crawlspaces
- Shower heads

This rule also eliminates the expiration of the certificate of code compliance after 5 years.

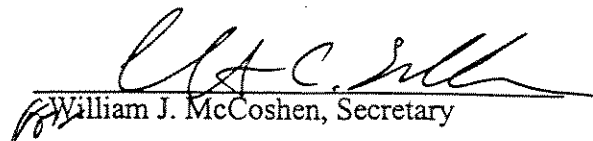
Pursuant to section 227.24, Stats., this rule is adopted as an emergency rule to take effect upon publication in the official state newspaper and filing with the Secretary of State and Revisor of Statutes.

**RULE EFFECTIVE**

**JUN 30 1998**

**SAFETY & BUILDINGS**

Dated at Madison, Wisconsin, this  
25<sup>th</sup> day of June, A.D. 1998,  
By the Department of Commerce

  
William J. McCoshen, Secretary



e. In s. Comm 67.05 (5) a. and b., can the phrases "shall be near the eaves" and "minimum ventilation" be made more specific?

f. In s. Comm 67.08 (2), the word "the" should be inserted between the phrases "conforms to" and "energy conservation" in the first sentence.

g. In s. Comm 67.08 (4) (f) 1., the word "an" should be inserted before the word "authorizing."

b. It appears that the second sentence of s. Comm 67.04 (17g) goes beyond the mere definition of the term "gross floor area." That sentence should be placed in a note to the rule, or perhaps more appropriately, be placed in a separate substantive provision of the rule. Additionally, the word "it" at the beginning of the sentence should be replaced by "Gross floor area."

c. The treatment of SECTIONS 13, 14 and 15 can be combined in one action. For example:

SECTION 13. Comm 67.05 (intro.) and (1) to (7) are renumbered  
Comm 67.05 (1) to (8) and Comm 67.05 (1), as renumbered, is  
amended to read:

Comm 67.05 (1) (title) GENERAL. Any building . . . .

The entire rule should be reviewed for use of this format.

d. The treatment of SECTION 19 should be undertaken in two SECTIONS. For example:

SECTION 19. Comm 67.05 (3) to (8) are repealed.

SECTION 20. Comm 67.05 (3) to (6) are created to read:

e. It appears that the notation in Table 67.05-B should be preceded by the notation "(a)."

f. The items referred to in s. Comm 67.05 (6) do not seem to relate to each other. Perhaps the section could be made easier to use if the section were broken down into two separate paragraphs, each with their own title.

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

a. In s. Comm 67.04 (34), the comma before the added "or" can be deleted.

b. In s. Comm 67.05 (2) (a), the word "It" in the second sentence should be changed to "R-value."

c. Section Comm 67.055 (3) provides that other methods of determining energy use may be approved by the department. How will this approval be undertaken? The rule should be clarified, perhaps in a note, as to how a person obtains approval of an alternative method of determining energy use.

d. In s. Comm 67.05 (3) c., the plural and singular tenses should not be used inconsistently. For example, the provision could read:

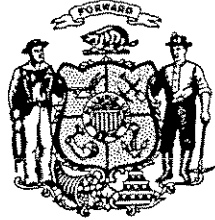
A patio door shall be . . . equipped with a storm door. Where no vestibule exists, an inward swinging exterior door shall be . . . equipped with a storm door . . . . A storm door shall be equipped with a self-closing device.

# WISCONSIN LEGISLATIVE COUNCIL STAFF

## RULES CLEARINGHOUSE

Ronald Sklansky  
Director  
(608) 266-1946

Richard Sweet  
Assistant Director  
(608) 266-2982



David J. Stute, Director  
Legislative Council Staff  
(608) 266-1304

One E. Main St., Ste. 401  
P.O. Box 2536  
Madison, WI 53701-2536  
FAX: (608) 266-3830

## CLEARINGHOUSE RULE 98-099

### Comments

**[NOTE:** All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated October 1994.]

#### 1. Statutory Authority

a. Section Comm 67.03 (2) (e) exempts mobile homes and manufactured homes from the provisions of the chapter. Section 101.122 (1) (a) and (e), Stats., seem to exclude certain buildings from coverage. However, s. 101.122, Stats., does not seem to specifically exempt mobile homes and manufactured homes from coverage. Under what authority are mobile homes and manufactured homes exempt from coverage? The rule's authority should be clarified. Also, what is the applicable definition of a manufactured home for purposes of the rule? The rule should be clarified.

b. Under what authority is a court authorized to assess additional penalties or fees under s. Comm 67.13 (4)? Section 101.122 (7) (d) and (e), Stats., do not appear to provide this authority. However, if the statement in s. Comm 67.13 (4) is merely an explanation of a court's authority under s. 778.25, Stats., as affected by Wisconsin Acts 27, 288 and 290, the statement should be placed in a note to the rule.

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

a. In s. Comm 67.03 (1), and elsewhere throughout the rule, internal references to various subsections are amended by striking the subsection number and adding the new subsection number all within the existing parentheses. Instead, the entire parenthetical subsection reference should be stricken and the new parenthetical subsection reference added after and underscored as follows: s. Comm 67.08 ~~(2)~~ (3). The entire rule should be reviewed for compliance with this comment.

**LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT**

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached

YES ☒

NO ☐

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached

YES ☒

NO ☐

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached

YES ☐

NO ☒

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS  
[s. 227.15 (2) (e)]

Comment Attached

YES ☐

NO ☒

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached

YES ☒

NO ☐

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL  
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached

YES ☐

NO ☒

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

Comment Attached

YES ☐

NO ☒

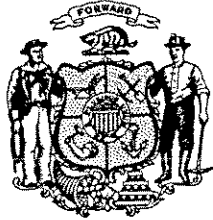
WISCONSIN LEGISLATIVE COUNCIL STAFF



**RULES CLEARINGHOUSE**

Ronald Sklansky  
Director  
(608) 266-1946

Richard Sweet  
Assistant Director  
(608) 266-2982



David J. Stute, Director  
Legislative Council Staff  
(608) 266-1304

One E. Main St., Ste. 401  
P.O. Box 2536  
Madison, WI 53701-2536  
FAX: (608) 266-3830

---

**CLEARINGHOUSE REPORT TO AGENCY**

---

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

**CLEARINGHOUSE RULE 98-099**

AN ORDER to repeal Comm 67.04 (32) (L); to renumber Comm 67.02 (intro.) to (2), 67.04 (32) (m) and (n), 67.05 (intro.) and (1) to (7), 67.06 (intro.) and (1) to (9), 67.07 (intro.) and (1) to (5) and 67.08 (1) to (3); to renumber and amend Comm 67.08 (2) (d) (intro.) and 1. and 2. and (4) (f) (intro.) and 1. to 3.; to amend Comm 67.02 (1) and (3) (a) and (c), 67.03 (1) and (2) (intro.) and (a) to (f), 67.04 (20) and (34), 67.05 (1) and (2) (c) (title) and (d), 67.06 (1), 67.07 (title), (1), (2), (3), (4) (b) and (c), (5) and (6), 67.08 (2) (a), (3) (a) and (f) 2. and (4) (b), 67.09 and 67.13 (4); to repeal and recreate Comm 67.05 (3) to (8) and Figure 67.06 (text); and to create Comm 67.02 (1) (title), 67.03 (2) (h) and (i), 67.04 (8t) and (17g), 67.04 (28m) and (32t), 67.05 (1) (title) and (2) (a), 67.055, 67.06 (1) (title), 67.07 (1) (title) and 67.08 (1), (2) (a) (title) and (3) (a) (title), relating to rental unit energy efficiency standards.

Submitted by **DEPARTMENT OF COMMERCE**

07-15-98      RECEIVED BY LEGISLATIVE COUNCIL.  
08-12-98      REPORT SENT TO AGENCY.

RS:RJC;jal;ksm

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. ☐ Accepted in part
- c. ☐ Rejected
- d. ☐ Comments attached

5. Review language of rules for clarity, grammar, punctuation and plainness (s.227.15(2)(f))

- a. ☒ Accepted
- b. ☐ Accepted in part
- c. ☐ Rejected
- d. ☐ 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

# RESPONSE TO LEGISLATIVE COUNCIL CLEARINGHOUSE REPORT

## Department of Commerce

CLEARINGHOUSE RULE NO.: 98-099

RULE NO.: Chapter Comm 67

RELATING TO: Rental Unit Energy Efficiency Standards

Agency contact person for substantive questions.

Name: Bernice Mattsson

Title: Code Consultant

Telephone No. 266-2725

Legislative Council report recommendations accepted in whole.

☐

Yes

☒

No

1. Review of statutory authority (s.227.15(2)(a))

a. ☐ Accepted

b. ☒ Accepted in part

c. ☐ Rejected

d. ☒ Comments : Mobile homes and manufactured homes are excluded from the rules because they are covered by 24 CFR 3282 and are preempted from state regulation.

2. Review of rules for form, style and placement in administrative code (s.227.15(2)(c))

a. ☒ Accepted

b. ☐ Accepted in part

c. ☐ Rejected

d. ☐ Comments attached

# **PUBLIC HEARING COMMENT AND AGENCY RESPONSE DEPARTMENT OF COMMERCE**

Rule Number: Ch. Comm 67

Relating To: Rental Unit Energy Efficiency Stds.

Hearing Location: N/A

Hearing Date: Comments Mailed In

## **DIVISION OF SAFETY AND BUILDINGS**

Commenting			Exh. No.	Presenter, Group Represented, City, State	Comments/Recommendations	Agency Response
In	Sup.	Opp.				
		x		Neale Thompson Community Action Inc. Janesville, WI	The rules should follow new ASHRAE guidance and treat the crawlspace like an interior basement space. Require unnecessary crawlspace vents to be closed, a vapor barrier to be added to the floor, and R-19 insulation to be added to the walls. This provides a definite payback and improves occupant comfort.	1997 Wisconsin Act 288 does not allow crawlspace insulation to be a requirement. The code does retain the crawlspace vapor barrier requirement to protect insulation materials that are installed from moisture.
x				C.C. Lawton, Jr. Lodi, WI	Does not support rule changes, which diminish the code. The current code is one of the best pieces of legislation to actually help the citizens of Wisconsin and has no cost.	The proposed rules respond to 1997 Wisconsin Act 288 as required.
x				Dick Fuzard Madison, WI.	Comm 67 code committee acted without authority when they deleted the heating equipment inspection requirement. Section 101.122(2)(a), Stats. Specifically directs the department to promulgate minimum energy efficiency standards for furnaces and boilers.	Statutes limit the rules to be only energy efficiency requirements that produce a five-year payback. The furnace inspections have not been shown to produce the payback and safety concerns are not within the scope of this energy code.
x				Carol Losen Nest Egg Inspections Holmen, WI	Is comfortable with all changes except the deletion of the furnace inspection. Maintenance is only done when a tenant has a problem. Most inspections have resulted in some kind of repair.	Statutes limit the rules to be only energy efficiency requirements that produce a five-year payback. The furnace inspections have not been shown to produce the payback and safety concerns are not within the scope of this energy code.



# PUBLIC HEARING COMMENT AND AGENCY RESPONSE DEPARTMENT OF COMMERCE

Rule Number: Ch. Comm 67

Relating To: Rental Unit Energy Efficiency Stds.

Hearing Location: Madison  
Hearing Date: August 14, 1998

## DIVISION OF SAFETY AND BUILDINGS

Commenting			Presenter, Group Represented, City, State	Exh. No.	Comments/Recommendations	Agency Response
In	For Info.	Sup. Opp.				
x			Rich Sommer Wis. Apartment Association Stevens Point, WI		Association supports rules and indicates the rules make it easier, but still retains the energy provisions. Explained his experience with the rules over the last 16 plus years. 1. Shared his personal experience where the Register of Deeds did not record a certificate of compliance. Inquired how the Register of Deeds would handle the certificate of compliance under the emergency rule. 2. Recommended that the performance standards be adopted, but would like to see more credit for high efficiency furnaces.	1. There will be no change in how the Register of Deeds would handle the certificate of compliance under the emergency rule. 2. Federal preemption of credit for high efficiency furnaces needs resolution.
x			Jim Campbell Wis. Apartment Association Madison, WI		Supports rule changes.	Agree.
x			Nancy Schatzman Weatherization Inspector Brookfield, WI.		Inspects 250-350 apartments per year. Indicates she is glad for the performance changes. 1. Expressed concern over deleting the furnace inspection requirement and would like to see it put back in the code for safety concerns. 2. Disappointed in deleting the 1976 buildings from complying with the code. 3. Indicated that she would like to see each certificate recorded at the Register of Deeds.	1. Statutes limit the rules to be only energy efficiency requirements that produce a five-year payback. The furnace inspections have not been shown to produce the payback and safety concerns are not within the scope of this energy code. 2. The 1997 Wisconsin Act 288 requires deletion of post-1976 buildings from the scope of the code. 3. Agree. Each certificate must be recorded at the Register of Deeds.
			Art Luetke Wis. Realtors Association		1. Association supports the rules, but the committee may want to take a look at the number picked for the performance standard down the road to see how it is working. 2. Hopes for training as soon as possible.	1. Agree. 2. Training is being developed and scheduled.