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STATE OF WISCONSIN
DEPARTMENT OF REGULATION AND LICENSING

IN THE MATTER OF RULE-MAKING : PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE : DEPARTMENT OF REGULATION
DEPARTMENT OF REGULATION : AND LICENSING ADOPTING RULES
AND LICENSING : (CLEARINGHOUSE RULE 98-175)

TO: Senator Judy Robson, Senate Co-Chairperson
Joint Committee for the Review of Administrative Rules
Room 15 South, State Capitol
Madison, Wisconsin 53702

PLEASE TAKE NOTICE that the DEPARTMENT OF REGULATION AND LICENSING is submitting in final draft form proposed rules relating to the registration and regulation of home inspectors.

Please stamp or sign a copy of this letter to acknowledge receipt. If you have any questions concerning the final draft form or desire additional information, please contact Pamela Haack at 266-0495.



Tommy G. Thompson
Governor

State of Wisconsin \ DEPARTMENT OF REGULATION & LICENSING



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Administrative Rules in Final Draft Form

Department of Regulation and Licensing

Rule: Chs. RL 131 to RL 135

**Relating to:
Home Inspectors**

**Clearinghouse Rule:
No. 98-175**

Regulatory Boards

Accounting; Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors; Professional Geologists, Hydrologists and Soil Scientists; Auctioneer; Barbering and Cosmetology; Chiropractic; Controlled Substances; Dentistry; Dietitians; Funeral Directors; Hearing and Speech; Medical; Nursing; Nursing Home Administrator; Optometry; Pharmacy; Physical Therapists; Podiatry; Psychology; Real Estate; Real Estate Appraisers; Social Workers, Marriage and Family Therapists and Professional Counselors; and Veterinary.

Committed to Equal Opportunity in Employment and Licensing

**STATE OF WISCONSIN
DEPARTMENT OF REGULATION AND LICENSING**

**IN THE MATTER OF RULE-MAKING : REPORT TO THE LEGISLATURE
PROCEEDINGS BEFORE THE : ON CLEARINGHOUSE RULE 98-175
DEPARTMENT OF REGULATION : (s. 227.19 (3), Stats.)
AND LICENSING :**

I. THE PROPOSED RULE:

The proposed rule, including the analysis and text, is attached.

II. REFERENCE TO APPLICABLE FORMS:

All references to forms have been followed by a note in the applicable section or subsection.

III. FISCAL ESTIMATES:

These rules will have no significant impact upon state or local units of government.

IV. STATEMENT EXPLAINING NEED:

The new regulation of home inspectors was promulgated as 1997 Wisconsin Act 81. Most of the new requirements became effective on November 1, 1998, including the registration and practice requirements for home inspectors. The Act requires the department to promulgate certain rules and it permits the department to promulgate emergency rules, if necessary. The department did promulgate emergency rules which are now in effect. The department subsequently commenced the normal rulemaking process, held a hearing, revised the rules to respond to the suggestions of the Rules Clearinghouse and others, and prepared the attached final draft.

V. NOTICE OF PUBLIC HEARING:

A public hearing was conducted by Cletus J. Hansen, on behalf of Secretary Marlene A. Cummings, on December 17, 1998. The hearing was conducted in the presence of the Home Inspector Advisory Committee and the Committee assisted the department in preparing a rule draft which responds to the recommendations of those who testified and wrote letters to the department.

Five persons testified at the hearing: Patrea Wilson, Whitewater; Tom Mutsch, Manitowoc; William Timmer, Pewaukee; George Penn, Madison; Tom Wilson, Fairchild; and Rick Staff of the Wisconsin Realtors Association, Madison.

The first 4 speakers expressed concern that the new statutes and rules are so broad as to include a variety of service providers in such programs as natural gas conservation program, home energy evaluations or assessments, demand side management program, building energy performance, building performance contractors and home energy ratings.

The speakers expressed the belief that the Legislature did not intend to include them in the new regulation; nevertheless, they believe that the definitions of home inspector and home inspection are so broad that the definitions could include them. They state that including them would have several consequences:

- All energy assessors would have to meet the law's certification and education requirements which may be largely irrelevant to the activities performed by such assessors.
- The regulation would subject energy assessors to other requirements and potential penalties for practices that might be subsequently interpreted as performing a "home inspection."
- This would create a framework and set of rules that simply do not address the specific circumstances of the energy assessment business.
- This would disrupt the current business as well as add costs that are likely to stultify immediate development of this important sector.
- Home inspectors use a checklist to assess the presence or absence of as many building components as possible that might affect the overall quality of a structure. Building analysts use diagnostic tools to assess the performance characteristics and interactions of a relatively small number of components that affect the health, safety and comfort of the occupants and the durability and efficiency of a building.
- This would inevitably drive up the cost of providing energy conservation services and create serious barriers to market entry for such companies. There would be fewer conservation service providers.

The speakers suggested that the statutes or rules should distinguish between home inspectors and persons in the home performance industry. The latter should not be required to register as home inspectors and follow the other requirements relating to conducting inspections and completing inspection reports.

The fifth speaker, Rick Staff, expressed the support of the Wisconsin Realtors Association for the rule draft, including the provision which requires home inspectors to disclose defects that are known to them, even though they may not be required to actually inspect certain kinds of health hazards and related matters. Mr. Staff provided copies of

letters from approximately 120 Realtors who responded to a Call For Action and expressed support for the position he presented at the hearing.

The department received approximately 10 additional letters from real estate agents, expressing support for the rules as drafted, and approximately 10 letters from people in the home performance industry, expressing the need to exempt people in that industry from registration.

The department did keep the disclosure requirements in the rule proposal, as requested by the Wisconsin Realtors Association and the 130 real estate agents who sent letters. The department responded to the concerns of the building energy performance industry by creating s. RL 131.03, which excludes them from the home inspector regulation.

VI. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS:

1. Statutory Authority:

a. The department amended the provision which requires information regarding criminal convictions, so that the language is the same as the statute; however, the department did not make the provision apply to both original and renewal registration, because the department believes s. 440.972 (1), Stats., clearly pertains only to original registration.

b. The examination provisions were brought strictly in line with the statutes.

c. The continuing education requirement was brought strictly in line with the statutes.

2. Form, Style and Placement:

All of the changes recommended in a. through i. were made except for the following:

e. "Otherwise" was not deleted from the Note following ss. RL 133.01 and 133.02, because the department believes the term is consistent with the Americans With Disabilities Act.

i. The department concluded that adding "or report on," as suggested is not necessary or advisable.

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

a. The reference was not changed, because it is accurate.

b. Done.

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

All of the recommendations were implemented, except the following:

i. In s. RL 134.03 (5) (c) (intro.) “or describe the condition of” was not inserted after “observe.”

m. The suggested amendment was not made, because the language in the rule is the same as in the statute.

VII. FINAL REGULATORY FLEXIBILITY ANALYSIS:

These rules were reviewed by the department’s Small Business Review Advisory Committee. The Committee stated that these proposed rules are necessary, regardless of their economic impact on small businesses, as defined in s. 227.114 (1) (a), Stats.

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STATE OF WISCONSIN
DEPARTMENT OF REGULATION AND LICENSING

IN THE MATTER OF RULE-MAKING : PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE : DEPARTMENT OF REGULATION AND
DEPARTMENT OF REGULATION : LICENSING ADOPTING RULES
AND LICENSING : (CLEARINGHOUSE RULE 98-175)

PROPOSED ORDER

An order of the Department of Regulation and Licensing to *create* chapters RL 131 to 135, relating to the registration and regulation of home inspectors.

Analysis prepared by the Department of Regulation and Licensing.

ANALYSIS

Statutes authorizing promulgation: s. 227.11 (2), Stats., and s. 440.974, Stats., as created by 1997 Wisconsin Act 81.

Statutes interpreted: ss. 440.9712, 440.972, 440.973, 440.975, 440.978 and 440.999, Stats.

This proposed rule-making order creates new rules, relating to 1997 Wisconsin Act 81, which was published on April 27, 1998, and which initiated the regulation of home inspectors in Wisconsin on November 1, 1998.

These rules create 5 chapters, numbering from RL 131 to RL 135, relating to authority and definitions, applications, examinations, standards of practice, and continuing education. These rules were developed with the advice and counsel of an advisory committee, created pursuant to 1997 Wisconsin Act 81 and consisting of 6 home inspectors and 3 public members.

Chapter RL 131 states the authority for the rules and defines 30 terms which are used in chapters RL 131 to 135.

Chapter RL 132 contains 6 sections which state the requirements for registration as a home inspector. These sections designate what requirements must be satisfied to be registered, depending on the date of application and the availability of one or other part of a registration examination, as specified in Chapter RL 133. Chapter RL 132 also states the requirements for renewing a credential before and after the renewal date. In both cases, satisfaction of continuing education is required. Chapter RL 132 also states that registration of an applicant may be denied for fraud or misrepresentation in the application or for any of the grounds under s. 440.978, Stats., for which the department may discipline a registrant.

Chapter RL 133 creates the examination requirements referenced in chapter RL 132. The provisions create a two-part examination or, at a certain point in time, a single-part examination which combines Part I and Part II. Part I of the examination covers the Wisconsin statutes relating to home inspections. Part II will cover administrative rules and other principles and procedures relating to the practice of home inspection. Since Part II will not be available before January 1, 2000, applicants will not be required to complete Part II before that date; however, they must complete Part II in order to renew their credential in a timely manner in the fall of 2000. This chapter also creates sections relating to the passing grade on the examination and procedures for applicants to review their examination.

Chapter RL 134 creates standards of practice for conducting and reporting on home inspections. This chapter has provisions relating to general and specific requirements relating to the inspection of mechanical and structural components, including foundations, columns, flooring systems, roofs, exteriors, plumbing systems, electrical systems, interiors, heating systems, central air conditioning, and insulation and ventilation. This chapter also requires a home inspector to give a client a written report following an inspection. The rules specify what must be stated in the report and what is not required to be stated in the report.

Chapter RL 135 contains provisions relating to continuing education. The rules define "hour" as 50 minutes of classroom instruction. The rules require 40 hours of continuing education every two years, as required by 1997 Wisconsin Act 81. The rules contain provisions relating to instructors receiving approval for classes they instruct, an extension of time to complete the required education for health reasons or active duty in the military service, requirements that home inspectors receive a certificate of completion from a program provider, requirements that approved courses shall relate to the general subject of home inspections, and a prohibition against a person being approved to instruct continuing education courses while a disciplinary action is in effect against the person.

TEXT OF RULE

SECTION 1. Chapters RL 131 to 135 are created to read:

Chapter RL 131

AUTHORITY AND DEFINITIONS

RL 131.01 Authority. The rules in chs. RL 131 to 135 are adopted pursuant to ss. 227.11 (2) and 440.974, Stats.

RL 131.02 Definitions. As used in chs. RL 131 to 135:

(1) "Automatic safety controls" means devices designed and installed to protect systems and components from excessively high or low pressure and temperatures, excessive electrical current, loss of water, loss of ignition, fuel leaks, fire, freezing, or other similar unsafe conditions.

(2) "Central air conditioning" means a system which uses ducts to distribute cooling or dehumidified air to more than one room or uses pipes to distribute chilled water to heat exchangers in more than one room, and which is not plugged into an electrical convenience outlet.

(3) "Client" means a person who contracts with a home inspector for the purpose of a home inspection.

(4) "Component" means a readily accessible and observable element of a system, such as a floor or wall.

(5) "Cosmetic" means not required for the proper operation of the essential systems and components of a home.

(6) "Cross connection" means any physical connection or arrangement between potable water and any source of contamination.

(7) "Department" means the department of regulation and licensing.

(8) "Describe" means to identify in writing a system or component by type or characteristics.

(9) "Dismantle" means to take apart or remove any component, device, or piece of equipment that is bolted, screwed, or otherwise fastened and which would not be taken apart or removed in the ordinary course of household maintenance.

(10) " Dwelling unit" means a structure or that part of a structure that is used or intended to be used as a home, residence or sleeping place by one person or by 2 or more persons who are maintaining a common household, to the exclusion of all others.

(11) "Functional drainage" means the emptying of a drain in a reasonable amount of time with no sign of overflow when another fixture is drained simultaneously.

(12) "Home inspection" means the process by which a home inspector examines the observable systems and components of improvements to residential real property that are readily accessible.

(13) "Home inspection report" means a written opinion of a home inspector

concerning all of the following:

(a) The condition of the improvements to residential real property that contains not more than 4 dwelling units.

(b) The condition of mechanical and structural components of the improvements specified in par. (a).

(14) "Home inspector" means an individual who, for compensation, conducts a home inspection.

(15) "Household appliances" means washers, dryers, refrigerators, freezers, stoves, ovens, room air conditioners and other similar equipment.

(16) "Inspect" means to examine observable systems and components.

(17) "Material adverse fact" means a condition or occurrence that is generally recognized by a competent home inspector as doing any of the following:

(a) Significantly reducing the functionality or structural integrity of components or systems of the improvements to the property being inspected.

(b) Posing a significant health or safety risk to occupants of the improvements.

(18) "Normal operating controls" means homeowner operated devices including, but not limited to, thermostats and wall or safety switches.

(19) "On-site water supply quality" means the condition of water, based on the existence of bacteria, chemicals, minerals, solids, or other similar elements in the water.

(20) "On-site water supply quantity" means the rate of water flow from a well or a municipal water source.

(21) "Operate" means to cause a piece of equipment or a system to function.

(22) "Permanently installed" means attached or connected to an item in a manner which requires tools to remove.

(23) "Primary" means an item such as a window or door designed to remain in the same place year-round.

(24) "Reasonably competent and diligent home inspection" means an inspection that complies with the standards established under ch. 440, Subch. X, Stats., and ch. RL 134.

(25) "Recreational facilities" means spas, saunas, steam baths, swimming pools, tennis courts, playground equipment, and other exercise, entertainment, or athletic facilities.

(26) "Roof drainage systems" means gutters, downspouts, leaders, splashblocks, and similar components used to carry water off a roof and away from a building.

(27) "Safety glazing" means tempered or laminated glass, or rigid plastic.

(28) "Solid fuel heating device" means any wood, coal, or other similar solid organic fuel burning device including, but not limited to, fireplaces, fireplace inserts and stoves, wood stoves, and central furnaces, or any combination of those devices.

(29) "Structural component" means a component which supports a load bearing member.

(30) "System" means a combination of interacting or interdependent components, assembled to carry out one or more functions.

(31) "Technically exhaustive" means the extensive use of measurements, instruments, testing, calculations, and other means to develop scientific or engineering findings, conclusions or recommendations.

RL 131.03 Applicability. As used in s. 440.9712, Stats., the terms "act as a home inspector" and "provide home inspection services" do not include individuals or business entities who inspect the energy-related components of a dwelling unit in order to assess or rate a home's energy performance, provided that the inspection is performed solely for this purpose and the individual or business entity is not described as a home inspector or does not convey the impression of being a home inspector.

Chapter RL 132

APPLICATIONS

RL 132.01 Authority. The rules in this chapter are adopted pursuant to ss. 227.11 (2), 440.972, 440.973 and 440.974, Stats.

RL 132.02 Application for home inspector registration from November 1, 1998, until November 1, 2000. An applicant for registration as a home inspector who applies for registration from November 1, 1998, until November 1, 2000, shall submit all of the following:

(1) A completed application form.

Note: Application forms are available on request to the department at 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708-8935.

(2) The fee specified in s. 440.05 (1), Stats.

(3) Evidence of having passed part I of the examination as described in s. RL 133.01 (2).

(4) Evidence satisfactory to the department that the applicant is not subject to a pending criminal charge, or has not been convicted of a felony, misdemeanor or other offense, the circumstances of which substantially relate to the practice of home inspection.

RL 132.025 Application for home inspector registration from November 1, 2000, until December 31, 2000. An applicant for registration as a home inspector who applies for registration from November 1, 2000, until December 31, 2000, shall submit all of the following:

(1) A completed application form.

Note: Application forms are available on request to the department at 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708-8935.

(2) The fee specified in s. 440.05 (1), Stats.

(3) Evidence of having passed part I and II of the examination as described in s. RL 133.01 (2).

(4) Evidence satisfactory to the department that the applicant is not subject to a pending criminal charge, or has not been convicted of a felony, misdemeanor or other offense, the circumstances of which substantially relate to the practice of home inspection.

RL 132.03 Application for home inspector registration on or after January 1, 2001. An applicant for registration as a home inspector who applies for registration on or after January 1, 2001, shall submit all of the following:

(1) A completed application form.

Note: Application forms are available on request to the department at 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708-8935.

(2) The fee specified in s. 440.05 (1), Stats.

(3) Evidence of having successfully passed the examination as specified in s. RL 133.01 (3).

(4) Evidence satisfactory to the department that the applicant is not subject to a pending criminal charge, or has not been convicted of a felony, misdemeanor or other offense, the circumstances of which substantially relate to the practice of home inspection.

RL 132.04 Renewal of registration of home inspectors who were registered before November 1, 2000. An individual registered as a home inspector before November 1, 2000, shall submit the following for renewal of a credential for the 2001-2002 biennial period:

(1) An application for renewal on a form provided by the department.

(2) Evidence that the registrant has, during the biennial period immediately preceding application, completed the continuing education requirements specified in s. RL 135.02.

(3) Evidence of having successfully passed part II of the required examination for home inspectors.

(4) The fee specified in s. 440.08 (2) (a) 38g., Stats.

RL 132.05 Requirements for renewal; restoration of licenses. (1) Except as provided in s. RL 132.04, to renew a home inspector registration a registrant shall, by January 1 of each odd-numbered year following initial registration, provide all of the following to the department:

(a) An application for renewal on a form provided by the department.

(b) Evidence that the registrant has, during the biennial period immediately preceding application, completed the continuing education requirements specified in s. RL 135.02.

(c) The fee specified in s. 440.08 (2) (a), Stats.

(2) A registrant who fails to meet the requirements of sub. (1) by the renewal date may not practice as a home inspector. A registrant who fails to meet the requirements in sub. (1) and who applies for renewal less than 5 years after the expiration date of his or her registration

RL 132.06 Denial of registration. An application for registration under this chapter may be denied for fraud or misrepresentation in the application for registration, or for any of the grounds under s. 440.978, Stats., for which the department may discipline a registrant.

Chapter 133

EXAMINATIONS

RL 133.01 Examination requirements. (1) An applicant for registration as a home inspector shall file an application for examination on a form prescribed by the department and shall submit a fee specified in s. 440.05 (1) (b), Stats., at least 30 days before the date of the examination.

Note: Application forms are available on request to the department at 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708-8935.

(2) Prior to January 1, 2001, the department shall prepare and approve a 2-part examination required by the department. Part I shall consist of an examination relating to the Wisconsin statutes. Part II shall consist of an examination relating to the administrative rules and other principles and procedures relating to the practice of home inspection.

(3) On or after January 1, 2001, the department shall prepare and approve the required examination.

Note: An otherwise qualified applicant with a disability shall be provided with reasonable accommodations.

RL 133.02 Examination grade. (1) To pass each examination part the applicant shall receive a grade determined by the department to represent the minimum competence to practice. The department shall determine the passing grade after consultation with subject matter experts who have reviewed a representative sample of the examination questions and available candidate performance statistics, and shall set the passing grade for the examination at that point which represents minimum acceptable competence in the profession.

(2) The department may refuse to release grades or issue a home inspector registration if the department determines that an applicant violated the rules of conduct of the examination or otherwise acted dishonestly.

RL 133.03 Examination review. An applicant who fails the required examination may request a review of that examination as permitted by the examination provider. If a review is provided, all of the following conditions apply:

(1) An applicant shall file a written request with the department within 30 days after the date on which the examination results were mailed and pay the fee specified in s. RL 4.05.

(2) An applicant may review the examination by appointment only and shall be limited to the time permitted by the examination provider.

(3) An applicant may not be accompanied during the review by any person other than the proctor.

(4) An applicant shall be provided with a form on which to write comments, questions or claims of error regarding any items in the examination. Bound reference books shall be permitted. An applicant may not remove any notes from the area. Notes shall be retained by the proctor and made available to the applicant for use at a hearing, if desired. The proctor may not defend the examination nor attempt to refute claims of error during the review.

(5) An applicant may not review the examination more than once.

RL 133.04 Reexamination. An applicant who fails to achieve passing grades on the examinations required under this chapter may apply for reexamination on forms provided by the department. For each reexamination, the applicant shall pay the reexamination fee specified in s. 440.06, Stats.

Note: Forms are available on request to the department at 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708-8935.

Chapter RL 134

STANDARDS OF PRACTICE

RL 134.01 Authority. The rules in this chapter are adopted pursuant to ss. 227.11 (2), 440.974, 440.975, 440.978 and 440.999, Stats.

RL 134.02 General requirements. (1) A home inspector shall perform a reasonably competent and diligent home inspection of the readily accessible installed systems and components required to be inspected under s. RL 134.03 to detect observable conditions of an improvement to residential real property. A reasonably competent and diligent home inspection is not required to be technically exhaustive.

(2) This section does not require a home inspector to do any of the following:

(a) Offer a warranty or guarantee of any kind.

(b) Calculate the strength, adequacy or efficiency of any component of an improvement to residential real property.

(c) Enter any area or perform any procedure that may damage an improvement to residential real property or a component of an improvement to residential real property, or enter any area or perform any procedure that may be dangerous to the home inspector or to other persons.

(d) Operate any component of an improvement to residential real property that is inoperable.

(e) Operate any component of an improvement to residential real property that does not respond to normal operating controls.

(f) Disturb insulation or move personal items, furniture, equipment, vegetation, soil, snow, ice or debris that obstructs access to or visibility of an improvement to residential real property or a component of an improvement to residential real property.

(g) Determine the effectiveness of a component of an improvement to residential real property that was installed to control or remove suspected hazardous substances.

(h) Evaluate acoustic characteristics of a component of an improvement to residential real property.

(i) Project or estimate the operating costs of a component of an improvement to residential real property.

(j) Predict future conditions, including the failure of component of an improvement to residential real property.

(k) Inspect for the presence or absence of pests, including rodents, insects and wood-damaging organisms.

(L) Inspect cosmetic items, underground items or items not permanently installed.

(m) Inspect for the presence of any hazardous substances.

(n) Disassemble any component of an improvement to residential real property, except for removing an access panel that is normally removed by an occupant of residential real property.

(3) This section does not prohibit a home inspector from doing any of the following:

(a) Reporting observations or conditions in addition to those required under this section.

(b) Excluding a component of an improvement to residential real property from the inspection, if requested to do so by his or her client.

(c) Engaging in an activity that requires an occupation credential if he or she holds the necessary credential.

RL 134.03 Mechanical and structural components included in a home inspection. A reasonably competent and diligent home inspection shall meet the standards in subs. (1) to (11) and shall include an inspection of, and report on, all of the following items that are present on the property at the time of the home inspection:

(1) FOUNDATIONS. A home inspector shall observe and describe the type and condition of the foundation.

(2) COLUMNS. A home inspector shall observe and describe the type and condition of columns.

(3) FLOORING SYSTEMS. A home inspector shall observe and describe the type and condition of flooring systems.

(4) ROOFS. (a) A home inspector shall observe and describe the condition of all of the following:

1. Roof coverings, including type.
2. Roof drainage systems.
3. Flashings.
4. Skylights, chimneys and roof penetrations.
5. Signs of leaks or abnormal condensation on building

components.

(b) A home inspector shall describe the methods used to observe the roof.

(c) A home inspector is not required to do any of the following:

1. Walk on the roofing.
2. Observe attached accessories, including, but not limited to, solar systems, antennae and lightning arrestors.

3. Observe internal gutter and downspout systems and related underground drainage piping.

(5) EXTERIORS. (a) A home inspector shall observe and describe the condition of all of the following:

1. Wall claddings, including type.
2. Flashings and trim.
3. Entryway doors and at least one window per side of a dwelling unit.

4. Garage door operators, including whether any garage door operator automatically reverses or stops when meeting reasonable resistance during closing.

5. Decks, balconies, stoops, steps and porches including railings.

6. Eaves, soffits and fascias.

7. Grading, drainage, driveways, patios, walkways, and retaining walls that abut the dwelling unit.

(b) A home inspector shall operate all entryway doors, garage doors, and at least one window per side of a dwelling unit.

(c) A home inspector is not required to observe the following:

1. Storm windows, storm doors, screening, shutters, awnings, and similar seasonal accessories.

2. Locks, latches or other security devices or systems.

3. Intercom systems.

4. Fences or privacy walls.

5. Insulation or vapor barriers in exterior walls.

6. Safety glazing.

7. Garage door operator remote control transmitters.

8. Geological or soil conditions.

9. Recreational facilities.
10. Out-buildings other than garages and carports.
11. Trees, shrubs and other vegetation.

(6) PLUMBING SYSTEMS. (a) A home inspector shall observe and describe the condition of all of the following:

1. Interior water supply and distribution system, including piping materials, supports, fixtures, faucets, functional flow and drainage, leaks and cross connections.
2. Interior drain, waste and vent system, including traps, drain, waste, and vent piping, piping supports and leaks.
3. Hot water systems, including water heating equipment, normal operating controls, automatic safety controls, and the exterior surfaces of chimneys, flues, and vents.
4. Fuel storage and distribution systems, including interior fuel storage equipment, supply piping, venting, supports and leaks.
5. Sump pumps.

(b) A home inspector shall operate all plumbing fixtures, including their faucets and accessible exterior faucets attached to the dwelling unit.

(c) A home inspector is not required to do any of the following:

1. State the effectiveness of anti-siphon devices.
2. Determine whether the water supply and waste disposal systems are public or private.
3. Operate automatic safety controls or sump pumps equipped with internal or water dependent switches.
4. Operate any valve except water closet flush valves, fixture faucets and hose faucets.
5. Observe water conditioning systems, fire and lawn sprinkler systems, on-site water supply quantity and quality, on-site disposal systems, foundation drainage systems, or spas.

- heating systems.
6. Observe the interior of flues, chimneys and vents, or solar water
 7. Observe any exterior plumbing components such as water
 8. Determine water temperature.
 9. Determine the proper sizing, design or use of plumbing
- mains or swimming pools.
- materials.

(7) ELECTRICAL SYSTEMS. (a) A home inspector shall observe and describe the condition of all of the following:

1. Service entrance conductors.
2. Service equipment, grounding equipment, main over current
3. Main and distribution panels, including their location.
4. Amperage and voltage ratings of the service, including whether
5. Branch circuit conductors, their over current devices, and the
6. The operation of a representative number of installed lighting
7. The polarity and grounding of all receptacles within 6 feet of
8. The operation of ground fault circuit interrupters.
9. The functionality of the power sources for smoke detectors.

(b) A home inspector is not required to do any of the following:

1. Insert any tool, probe or testing device inside the panels.
 2. Test or operate any over current device except ground fault
- circuit interrupters.

3. Dismantle any electrical device or control other than to remove the covers of the main and auxiliary distribution panels.

4. Observe low voltage systems, telephones, security systems, cable TV, intercoms, or other ancillary wiring that is not a part of the primary electrical distribution systems.

5. Measure amperage, voltage or impedance.

(8) INTERIORS. (a) A home inspector shall observe and describe the condition of all of the following:

1. Walls, ceilings and floors.
2. Steps, stairways, balconies and railings.
3. Counters and all sink base cabinets.
4. A random sample of doors and windows.
5. Separation walls, ceilings, and doors between a dwelling unit and an attached garage or another dwelling unit.
6. Signs of water penetration into the building or signs of abnormal or harmful condensation on building components.

(b) A home inspector is not required to observe any of the following:

1. Paint, wallpaper, and other cosmetic finish treatments on the interior walls, ceilings and floors.

2. Carpeting.

3. Draperies, blinds or other window treatments.

4. Household appliances.

5. Recreational facilities or another dwelling unit.

(9) HEATING SYSTEMS. (a) A home inspector shall observe and describe the condition of all of the following within a permanently installed heating system:

1. Heating equipment and distribution systems.

2. Normal operating controls and energy source.

3. Automatic safety controls.
4. Exterior surfaces of chimneys, flues and vents.
5. Solid fuel heating devices.
6. The presence of an installed heat source in each room.

(b) A home inspector shall operate the systems using normal operating controls and open readily accessible access panels provided by the manufacturer or installer for routine homeowner maintenance.

(c) A home inspector is not required to do any of the following:

1. Operate heating systems when weather conditions or other circumstances may cause equipment damage.
2. Operate automatic safety controls.
3. Ignite or extinguish fuel fires.
4. Observe the interior of flues, fireplace insert flue connectors, humidifiers, electronic air filters, or the uniformity or adequacy of heat supply to the various rooms.
5. Observe a heat exchanger unless it is readily observable and normally accessible to an occupant of a dwelling unit.

(10) CENTRAL AIR CONDITIONING. (a) A home inspector shall observe and describe the condition of all of the following:

1. Cooling and air handling equipment, including type and energy source.
2. Normal operating controls.
3. The presence of an installed cooling source in each room.

(b) A home inspector shall operate the systems, using normal operating controls, and open readily accessible access panels provided by the manufacturer or installer for routine homeowner maintenance.

(c) A home inspector is not required to do any of the following:

1. Operate cooling systems when weather conditions or other circumstances may cause equipment damage.

2. Observe non-central air conditioners.

3. Observe the uniformity or adequacy of cool-air supply to the various rooms.

4. Operate electronic air filters.

5. Observe the pressure of the system coolant or determine the presence of leakage.

6. Test the electrical current drawn by the unit.

(11) INSULATION AND VENTILATION. (a) A home inspector shall observe and describe the condition of all of the following:

1. The presence or absence of insulation in unfinished spaces.

2. Ventilation of attics and foundation areas.

3. Kitchen, bathroom, and laundry venting systems.

(b) A home inspector is not required to observe any of the following:

1. Concealed insulation.

2. Venting equipment which is integrated with household appliances.

RL 134.04 Contents of a home inspection report. (1) After completing a home inspection, a home inspector shall submit a written report to a client that does all of the following:

(a) Lists the items described in s. RL 134.03 that a home inspector is required to inspect.

(b) Lists the items described in s. RL 134.03 that a home inspector has inspected.

(c) Describes the condition of any item identified in s. RL 134.03.

(d) Describes the condition of any item identified in s. RL 134.03 that, if not repaired, will have significant adverse effect on the life expectancy of the identified item.

(e) Lists any material adverse facts that a home inspector has knowledge of or has observed.

(2) A home inspector is not required to report on any of the following aspects of items identified in s. RL 134.03:

(a) Their life expectancy.

(b) The reason for the necessity of a major repair.

(c) The method of making any repair or correction, the materials needed for any repair or correction, or the cost of any repair or correction.

(d) The suitability for any specialized use of an improvement to residential real property.

(e) Whether they comply with applicable regulatory requirements.

(3) A home inspector may not report in writing or verbally on any of the following:

(a) The market value or marketability of a property.

(b) Whether a property should be purchased.

(4) A home inspector is not required to retain inspectors or investigators to perform follow-up inspections or investigations of any material adverse facts that a home inspector has knowledge of or has observed under sub. (1) (d).

Chapter RL 135

CONTINUING EDUCATION REQUIREMENTS

RL 135.01 Authority. The rules in this chapter are adopted pursuant to ss. 227.11 (2) and 440.974, Stats.

RL 135.02 Continuing education requirements. (1) In this chapter:

(a) "Educational program" means a program relating to the general subject matter of home inspection.

(b) "Hour" means 50 minutes of classroom instruction.

(2) A registered home inspector shall complete at least 20 hours of continuing education during each calendar year.

(3) A registered home inspector who acts as an instructor of an educational program shall receive one hour of credit for each hour of teaching toward satisfaction of the educational requirement. A registered home inspector may not receive credit for teaching a specific educational program more than one time during the 2 years preceding a renewal date.

(4) The department may grant an extension of time for completion of the educational requirements for one of the following reasons:

(a) Health reasons which prevented attendance at the educational program.

(b) Active duty in the military service with assignment to a duty station outside Wisconsin.

(5) A registered home inspector shall provide evidence satisfactory to the department that the applicant has met the educational requirements when applying for renewal of registration. The department shall withhold issuance of the renewal of registration until the evidence is provided.

(6) A registered home inspector shall obtain an individual certificate of completion from a program provider upon satisfactory completion of an educational program. Certificates of completion shall plainly state the title of the educational program, and the date, time and location on which the program was held. Registered home inspectors shall retain evidence of completion for at least 5 years from the date of completion. The department may require any registered home inspector to submit evidence of having completed the required hours of continuing education for the period specified in sub. (2).

(7) Each educational program shall relate to the general subject of home inspection.

(8) An instructor whose registration as a home inspector has been limited, suspended, or revoked may not instruct in educational programs while the disciplinary action is in effect.

(END OF TEXT OF RULE)

The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin administrative register, pursuant to s. 227.22 (2) (intro.), Stats.

Dated _____

Agency _____
Marlene A. Cummings, Secretary
Department of Regulation and Licensing

FISCAL ESTIMATE

These rules implement the regulation of home inspectors as enacted with the creation of 1997 Wisconsin Act 81. The department is estimating that there will be 600 registrants, which is double its original estimate. The reestimate is based on the number of applications which have been requested and on the number of applicants taking the statute and rules examination.

The costs associated with this legislation have been enumerated in the agency's biennial budget request. Costs include expenses of holding quarterly meetings of the Secretary's Advisory Committee of \$3,348, printing costs of \$580 and \$530 in postage costs. These costs may be higher than previously estimated because of the reestimate of applicants.

Annual revenues for this profession are estimated to be \$12,300.

The department is not aware of any local government costs.

FINAL REGULATORY FLEXIBILITY ANALYSIS

These proposed rules were reviewed by the department's Small Business Review Advisory Committee. The Committee stated that these proposed rules are necessary, regardless of their economic impact on small businesses, as defined in s. 227.114 (1) (a), Stats.

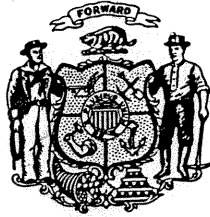
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WISCONSIN LEGISLATIVE COUNCIL STAFF

RULES CLEARINGHOUSE

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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 98-175

AN ORDER to create chapters RL 131 to 135, relating to the registration and regulation of home inspectors.

Submitted by **DEPARTMENT OF REGULATION AND LICENSING**

11-04-98 RECEIVED BY LEGISLATIVE COUNCIL.

12-03-98 REPORT SENT TO AGENCY.

RS:MM:kjf;kjf

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)]

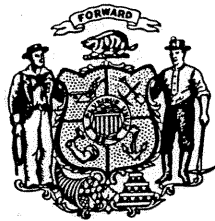
Comment Attached YES NO

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CLEARINGHOUSE RULE 98-175

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 September 1998.]

I. Statutory Authority

a. It appears that s. RL 132.02 (4) requires an applicant for registration to provide more information regarding criminal convictions or charges than is required and authorized under the statute. That section should be rewritten to require the submission of the information required under s. 440.972 (1) (c), Stats., as created by 1997 Wisconsin Act 81. [See, also, s. RL 132.03 (4).] In addition, it appears that the rule should require the submission of that information whenever a home inspector applies for renewal of his or her credentials.

b. Section 440.973 (3), Stats., provides that an individual is not eligible for examination unless the individual has satisfied registration requirements at least 30 days before the date of the examination. The statute provides for no hardship exemptions to this provision. Sections RL 133.01 (1) and 133.02 (2) provide that the department may accept applications after the normal due date if circumstances warrant the procedure. The department should explain its statutory authority for this provision.

c. Section 440.974 (2), Stats., provides in part that the department's rules must require the completion of at least 20 hours of continuing education during each calendar year. However, s. RL 135.02 (2) and (5) appear to allow the completion of 40 hours of continuing education in a biennium. The rule should require 20 hours of continuing education during each calendar year.

2. Form, Style and Placement in Administrative Code

a. In s. RL 131.02 (16), it appears that the phrase "on behalf of a reasonable person" is unnecessary and should be deleted.

b. It appears that s. RL 131.02 (16) (b) could be deleted since the requirement set forth in that paragraph is already set forth in par. (a).

c. In the title to s. RL 132.04, "registration of" should be inserted after "of."

d. In the second sentence of s. RL 133.01 (2), after the first occurrence of the word "of," the following should be inserted: "an examination relating to."

e. It appears that in the Note following s. RL 133.01 and 133.02, "otherwise" should be deleted because the use of that term implies that a person who is disabled is not a qualified applicant.

f. Section RL 133.04 should set forth objective standards by which it will be determined whether an applicant may review an examination that he or she has failed. In addition, the rule appears to assume that a decision regarding whether review of an examination will be permitted is made before the applicant files a written request with the department. The rule should be rewritten to specify that a decision will not be made until after the applicant files a written request for review. Also, who is the "examination provider" referred to in the rule? Finally, in the introduction, the phrase "all of" should precede the phrase "the following conditions apply."

g. In s. RL 134.02 (3) (a), the phrase "or the rules promulgated under this section" should be deleted.

h. The introductory material in s. RL 134.03 (intro.) should be rewritten to correspond to the material in the subunits following the introduction. Specifically, the introductory material refers only to items which must be inspected while the subsections set forth specific requirements regarding the inspection and contents of the report. Also, the phrase "all of" should precede the phrase "the following items."

i. In the portions of the rule which set forth acts which a home inspector is not required to do, the term "observe" is used. Should "or report on" be added to those provisions? For example, should s. RL 134.02 (10) (c) 2. be rewritten as follows: "Observe or describe the condition of non-central air conditioners.?"

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

a. In s. RL 132.05 (1) (intro.), the reference should be to s. RL 132.04 (2) because that subsection provides an alternative method of license renewal.

b. The entire rule should be reviewed to ensure that the mandated use of forms meets the requirements of s. 227.14 (3), Stats.

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

a. In s. RL 131.02 (18), should the phrase "depending on" be replaced with "including"?

b. It appears that the requirement, in s. RL 132.04 (3), to provide evidence of having successfully passed Part II of the required examination applies only to the renewal of credentials which were issued on or before December 31, 2000. As written, the rule requires any individual who is registered as a home inspector before January 1, 2001, to submit that evidence every time he or she applies for a renewal of his or her credentials, rather than only the first time he or she applies for renewal. Is this the department's intent?

c. In s. RL 132.05 (2) (intro.), the phrase "shall cease and desist from practicing" should be replaced with "may not practice."

d. In s. RL 133.01 (1), the phrase "at least" should precede the first occurrence of the number "30." [See also s. RL 133.02 (1).] Also, in s. RL 133.01, the phrases "prior to January 1, 2001" and "on or before December 31, 2000" are equivalent. A consistent phrase should be used throughout the rule.

e. In s. RL 133.03 (2), where can the applicant find the "rules of conduct of the examination"?

f. Is there any limit to the number of times an applicant may retake the examination under s. RL 133.05? Also, must an applicant who fails only part of the examination retake the entire examination? Or, may the applicant only retake the part of the examination that the applicant failed?

g. Section RL 134.02 (1) should be restructured so that the definition is contained in one subsection and the substantive requirement of current sub. (1) (b) is contained in a separate subsection without using the defined term in quotation marks.

h. In s. RL 134.03 (4) (c) 2., should "lighting" be changed to "lightning"?

i. In s. RL 134.03 (5) (c) (intro.), should "or describe the condition of" be inserted after "observe"?

j. There appears to be some conflict between s. RL 134.03 (6) (a) 3. which states that a home inspector shall observe and describe the condition of hot water systems, including flues and chimneys, and par. (c) 6., which states that a home inspector shall not be required to observe the interior of flues or chimneys. This discrepancy should be clarified.

k. In s. RL 134.03 (6) (c) 5., it appears that "or" should be added after "foundation irrigation systems."

l. In s. RL 134.03 (9) (c) 4., "or" should be inserted after "filters."

m. In s. RL 134.04 (2) (intro.), the material after "report" should be replaced with the following: "any of the following information with respect to any item which he or she has inspected:".

n. Section RL 135.02 (2) should be rewritten to specify that the specified number of hours of continuing education must be completed in the time period between the most recent registration and the date that the inspector applies for renewal of registration.

o. In s. RL 135.02 (7), how is an educational program approved? What conditions are used to approve the program and what type of record maintenance will be required?



State of Wisconsin \ DEPARTMENT OF REGULATION & LICENSING



Tommy G. Thompson
Governor

March 1, 1999

Marlene A. Cummings
Secretary

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Senator Judy Robson, Co-Chairperson
Joint Committee for Review of Administrative Rules
15 South, State Capitol
Madison, WI 53702

Representative Glenn Grothman, Co-Chairperson
Joint Committee for Review of Administrative Rules
15 North, State Capitol
Madison, WI 53702

RE: Request for Extension of Emergency Rules

Dear Senator Robson and Representative Grothman:

I am writing to request an extension of an emergency rule that is now in effect. This extension is requested pursuant to nonstatutory provisions in SECTION 3 of 1997 Wisconsin Act 81. The effective period of the emergency rule will terminate on March 31, 1999. We request an extension of 60 days.

On October 27, 1998, Marlene A. Cummings, Secretary of the Department of Regulation and Licensing, issued an Order Adopting Emergency Rules pursuant to 1997 Wisconsin Act 81. Act 81 created the first-time regulation of home inspectors in the state of Wisconsin. The new regulation created by 1997 Wisconsin Act 81 as well as the emergency rule became effective on November 1, 1998. Beginning on this date persons who conducted home inspections in Wisconsin were required to register with the department and follow standards for conducting such inspections. These standards are briefly enumerated in 1997 Wisconsin Act 81 and are more thoroughly spelled out in the rules. The rules also establish policies relating to applications for registration, the registration examination and continuing education.

After promulgating an emergency rule, the department immediately commenced rulemaking in accordance with the non-emergency rulemaking procedures. A hearing was conducted on

Page 2
March 1, 1999
Robson & Grothman

A copy of the Emergency Rule is enclosed. If you have any questions, please call me at 266-8609 or Cletus Hansen, Administrator of the Division of Business Licensure and Regulation, at 266-5439.

With respect,

A handwritten signature in cursive script, appearing to read "Marlene A. Cummings".

Marlene A. Cummings
Secretary

Enclosure

g:\rules\hiemltr2.doc

STATE OF WISCONSIN
DEPARTMENT OF REGULATION AND LICENSING

IN THE MATTER OF RULE-MAKING :
PROCEEDINGS BEFORE THE : ORDER ADOPTING
DEPARTMENT OF REGULATION : EMERGENCY RULES
AND LICENSING :

ORDER

An order of the Department of Regulation and Licensing to *create* chapters RL 131 to 135, relating to the registration and regulation of home inspectors.

Analysis prepared by the Department of Regulation and Licensing.

ANALYSIS

Statutes authorizing promulgation: ss. 227.11 (2), Stats., and s. 440.974, Stats., as created by 1997 Wisconsin Act 81.

Statutes interpreted: ss. 440.972, 440.973, 440.975, 440.978 and 440.999, Stats.

This proposed rule-making order creates new rules, relating to 1997 Wisconsin Act 81, which was published on April 27, 1998, and which initiates the regulation of home inspectors in Wisconsin on November 1, 1998.

These rules create 5 chapters, numbering from RL 131 to RL 135, relating to authority and definitions, applications, examinations, standards of practice, and continuing education. These rules were developed with the advice and counsel of an advisory committee, created pursuant to 1997 Wisconsin Act 81 and consisting of 6 home inspectors and 3 public members.

Chapter RL 131 states the authority for the rules and defines 29 terms which are used in chapters RL 131 to 135.

Chapter RL 132 contains 3 sections which state the requirements for registration as a home inspector and these sections designate what requirements must be satisfied to be registered, depending on the date of application and the availability of one or other part of a registration examination, as specified in Chapter RL 133. Chapter RL 132 also states the requirements for renewing a credential before and after the renewal date. In both cases, satisfaction of continuing education is required. Chapter RL 132 also states that registration of an applicant may be denied for fraud or misrepresentation in the application or for any of the grounds under s. 440.978, Stats., for which the department may discipline a registrant.

Chapter RL 133 creates the examination requirements referenced in chapter RL 132. The provisions create a two-part examination or, at a certain point in time, a single-part examination

which combines Part I and Part II. Part I of the examination covers the Wisconsin statutes relating to home inspections. Part II will cover administrative rules and other principles and procedures relating to the practice of home inspection. Since Part II will not be available before January 1, 2000, applicants will not be required to complete Part II before that date; however, they must complete Part II in order to renew their credential in a timely manner in the fall of 2000. This chapter also creates sections relating to the passing grade on the examination and procedures for applicants to review their examination.

Chapter RL 134 creates standards of practice for conducting and reporting on home inspections. This chapter has provisions relating to general requirements and provisions relating to the inspection of mechanical and structural components, including foundations, columns, flooring systems, roofs, exteriors, plumbing systems, electrical systems, interiors, heating systems, central air conditioning, and insulation and ventilation. This chapter also requires a home inspector to give a client a written report following an inspection. The rules specify what must be stated in the report and what is not required to be stated in the report.

Chapter RL 135 contains provisions relating to continuing education. The rules define "hour" as being 50 minutes of classroom instruction. The rules require 40 hours of continuing education every two years, as required by 1997 Wisconsin Act 81. The rules contain provisions relating to instructors receiving approval for classes they instruct, an extension of time to complete the required education for health reasons or active duty in the military service, requirements that home inspectors receive a certificate of completion from a program provider, requirements that approved courses shall relate to the general subject of home inspections, and a prohibition against a person being approved to instruct continuing education courses while a disciplinary action is in effect against the person.

TEXT OF RULE

SECTION 1. Chapters RL 131 to 135 are created to read:

Chapter RL 131

AUTHORITY AND DEFINITIONS

RL 131.01 Authority. The rules in chs. RL 131 to 135 are adopted pursuant to ss. 227.11 (2) and 440.974, Stats.

RL 131.02 Definitions. As used in chs. RL 131 to 135:

(1) "Automatic safety controls" means devices designed and installed to protect systems and components from excessively high or low pressure and temperatures, excessive electrical current, loss of water, loss of ignition, fuel leaks, fire, freezing, or other similar unsafe conditions.

(2) "Central air conditioning" means a system which uses ducts to distribute cooling or dehumidified air to more than one room or uses pipes to distribute chilled water to heat exchangers in more than one room, and which is not plugged into an electrical convenience outlet.

(3) "Client" means a person who contracts with a home inspector for the purpose of a home inspection.

(4) "Component" means a readily accessible and observable element of a system, such as a floor or wall.

(5) "Cross connection" means any physical connection or arrangement between potable water and any source of contamination.

(6) "Department" means the department of regulation and licensing.

(7) "Describe" means to identify in writing a system or component by type or characteristics.

(8) "Dismantle" means to take apart or remove any component, device, or piece of equipment that is bolted, screwed, or otherwise fastened and which would not be taken apart or removed in the ordinary course of household maintenance.

(9) "Dwelling unit" means a structure or that part of a structure that is used or intended to be used as a home, residence or sleeping place by one person or by 2 or more persons who are maintaining a common household, to the exclusion of all others.

(10) "Functional drainage" means the emptying of a drain in a reasonable amount of time with no sign of overflow when another fixture is drained simultaneously.

(11) "Home inspection" means the process by which a home inspector examines the observable systems and components of improvements to residential real property that are readily accessible.

(12) "Home inspection report" means a written opinion of a home inspector concerning all of the following:

(a) The condition of the improvement to residential real property that contains no more than 4 dwelling units.

(b) The condition of mechanical and structural components of the improvements specified in par. (a).

(13) "Home inspector" means an individual who, for compensation, conducts a home inspection.

(14) "Household appliances" means washers, dryers, refrigerators, freezers, stoves, ovens, room air conditioners and other similar equipment.

(15) "Inspect" means to examine observable systems and components.

(16) "Material adverse fact" means a condition or occurrence that is generally recognized by a competent home inspector on behalf of a reasonable person as doing any of the following:

(a) Significantly reducing the functionality or structural integrity of components or systems of the improvements to the property being inspected.

(b) Significantly reducing the integrity of the structural components of the dwelling unit.

(c) Posing a significant health or safety risk to occupants of the improvements.

(17) "Normal operating controls" means homeowner operated devices including, but not limited to, thermostats and wall or safety switches.

(18) "On-site water supply quality" means the condition of water, depending on the existence of bacteria, chemicals, minerals, solids, or other similar elements in the water.

(19) "On-site water supply quantity" means the rate of water flow from a well or a municipal water source.

(20) "Operate" means to cause a piece of equipment or a system to function.

(21) "Permanently installed" means attached or connected to an item requiring tools for removal.

(22) "Primary" means an item such as a window or door designed to remain in the same place year-round.

(23) "Recreational facilities" means spas, saunas, steam baths, swimming pools, tennis courts, playground equipment, and other exercise, entertainment, or athletic facilities.

(24) "Roof drainage systems" means gutters, downspouts, leaders, splashblocks, and similar components used to carry water off a roof and away from a building.

(25) "Safety glazing" means tempered or laminated glass, or rigid plastic.

(26) "Solid fuel heating device" means any wood, coal, or other similar solid organic fuel burning device including, but not limited to, fireplaces, fireplace inserts and stoves, wood stoves, and central furnaces, or any combination of those devices.

(27) "Structural component" means a component which supports a load bearing member.

(28) "System" means a combination of interacting or interdependent components, assembled to carry out one or more functions.

(29) "Technically exhaustive" means the extensive use of measurements, instruments, testing, calculations, and other means to develop scientific or engineering findings, conclusions or recommendations.

Chapter RL 132

APPLICATIONS

RL 132.01 Authority. The rules in this chapter are adopted pursuant to ss. 227.11 (2), 440.973 and 440.974, Stats.

RL 132.02 Application for home inspector registration on or before December 31, 2000. An applicant for registration as a home inspector who applies for registration on or before December 31, 2000, shall submit all of the following:

- (1) A completed application form.

Note: Application forms are available on request to the department at 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708-8935.

- (2) The fee specified in s. 440.05 (1), Stats.
- (3) Evidence of having passed part I of the examination as specified in s. RL 133.01 (2).
- (4) All pertinent information relating to any criminal conviction or pending criminal charges.

RL 132.03 Application for home inspector registration on or after January 1, 2001. An applicant for registration as a home inspector who applies on or after January 1, 2001, shall submit all of the following:

- (1) A completed application form.

Note: Application forms are available on request to the department at 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708-8935.

- (2) The fee specified in s. 440.05 (1), Stats.
- (3) Evidence of having successfully passed the examination as specified in s. RL 133.02 (2).
- (4) All pertinent information relating to any criminal conviction or pending criminal charges.

RL 132.04 Renewal of home inspectors who were registered before January 1, 2001. An individual registered as a home inspector before January 1, 2001, shall submit the following for renewal of a credential:

- (1) An application for renewal on a form provided by the department.
- (2) Evidence that the registrant has, during the biennial period immediately preceding application, completed the continuing education requirements specified in s. RL 135.02.
- (3) Evidence of having successfully passed part II of the required examination for home inspectors.
- (4) The fee specified in s. 440.08 (2) (a), Stats.

RL 132.05 Requirements for renewal; restoration of licenses. (1) Except as provided in s. RL 132.04, to renew a home inspector registration a registrant shall, by January 1 of each odd-numbered year following initial registration, provide all of the following to the department:

- (a) An application for renewal on a form provided by the department.
- (b) Evidence that the registrant has, during the biennial period immediately preceding application, completed the continuing education requirements specified in s. RL 135.02.
- (c) The fee specified in s. 440.08 (2) (a), Stats.

(2) A registrant who fails to meet the requirements of sub. (1) by the renewal date shall cease and desist from practicing as a home inspector. A registrant who fails to meet the requirements in sub. (1) and who applies for renewal less than 5 years after the expiration date of his or her registration may renew by submitting the following to the department:

- (a) An application for renewal on a form provided by the department.

(b) Evidence that the registrant has, during the biennial period immediately preceding application, completed the continuing education requirements specified in s. RL 135.01.

(c) The fee specified in s. 440.08 (2) (a) 38g., Stats.

(d) The late renewal fee specified in s. 440.08 (3) (a), Stats.

(3) A home inspector who files for renewal more than 5 years after expiration of his or her registration may be reinstated by filing with the department an application and the fees specified in s. 440.08 (2) (a) 38g. and (3) (a), Stats. The department may also require demonstration of competence by various methods including, but not limited to, written or oral examination, documentation of home inspection in other jurisdictions, or documentation of current education or experience in the field. Any examination or education required under this section shall not be more extensive than the educational or examination requirements for initial registration with the department.

RL 132.06 Denial of registration. An application for registration under this chapter may be denied for fraud or misrepresentation in the application for registration, or for any of the grounds under s. 440.978, Stats., for which the department may discipline a registrant.

Chapter 133

EXAMINATIONS

RL 133.01 Examination provisions for home inspectors who apply for registration prior to January 1, 2001. (1) An applicant for registration as a home inspector who applies for registration prior to January 1, 2001, shall file an application for examination on a form prescribed by the department and shall submit a fee specified in s. 440.05 (1) (b), Stats., 30 days before the date of the examination. The department may accept applications under the 30 day limit if circumstances warrant such procedure.

Note: Application forms are available on request to the department at 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708-8935.

(2) An applicant for registration as a home inspector shall successfully pass a 2-part examination required by the department. Part I shall consist of the Wisconsin statutes. Applicants who apply for registration on or before December 31, 2000, shall successfully pass part I of the examination prior to receiving their initial registration but no later than December 31, 2000. Part II shall consist of an examination relating to the administrative rules and other principles and procedures relating to the practice of home inspection. Individuals registered as home inspectors before January 1, 2001, shall successfully pass part II of the examination prior to January 1, 2001.

Note: An otherwise qualified applicant with a disability shall be provided with reasonable accommodations.

RL 133.02 Examination provisions for home inspectors who apply for registration on or after January 1, 2001. (1) An applicant for registration as a home inspector who applies for registration on or after January 1, 2001, shall file an application on a form prescribed by the department and shall submit a fee specified in s. 440.05 (1) (b), Stats., 30 days before the date of the examination. The department may accept applications after the 30 day period if circumstances warrant such procedure.

Note: Application forms are available on request to the department at 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708-8935.

(2) An applicant for registration as a home inspector shall successfully pass the examination required and approved by the department.

Note: An otherwise qualified applicant with a disability shall be provided with reasonable accommodations.

RL 133.03 Examination grade. (1) To pass each examination part the applicant shall receive a grade determined by the department to represent the minimum competence to practice. The department shall determine the passing grade after consultation with subject matter experts who have reviewed a representative sample of the examination questions and available candidate performance statistics, and shall set the passing grade for the examination at that point which represents minimum acceptable competence in the profession.

(2) The department may refuse to release grades or issue a home inspector registration if the department determines that an applicant violated the rules of conduct of the examination or otherwise acted dishonestly.

RL 133.04 Examination review. An applicant who fails the required examination may request a review of that examination as permitted by the examination provider. If a review is provided, the following conditions apply:

(1) An applicant shall file a written request with the department within 30 days after the date on which the examination results were mailed and pay the fee specified in s. RL 4.05.

(2) An applicant may review the examination by appointment only and shall be limited to the time permitted by the examination provider.

(3) An applicant may not be accompanied during the review by any person other than the proctor.

(4) An applicant shall be provided with a form on which to write comments, questions or claims of error regarding any items in the examination. Bound reference books shall be permitted. An applicant shall not remove any notes from the area. Notes shall be retained by the proctor and made available to the applicant for use at a hearing, if desired. The proctor shall not defend the examination nor attempt to refute claims of error during the review.

(5) An applicant may not review the examination more than once.

RL 133.05 Reexamination. An applicant who fails to achieve passing grades on the examinations required under this chapter may apply for reexamination on forms provided by the department. For each reexamination, the applicant shall pay the reexamination fee specified in s. 440.06, Stats.

Note: Forms are available on request from the department at 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708-8935.

Chapter RL 134

STANDARDS OF PRACTICE

RL 134.01 Authority. The rules in this chapter are adopted pursuant to ss. 227.11 (2), 440.974, 440.975, 440.989 and 440.999, Stats.

RL 134.02 General requirement. (1) DEFINITION. In this chapter:

(a) "Reasonably competent and diligent home inspection" means an inspection that complies with the standards established under ch. 440, Subch. X, Stats., and this chapter.

(b) A home inspector shall perform a "reasonably competent and diligent home inspection" of the readily accessible installed systems and components required to be inspected to detect observable conditions of an improvement to residential real property. A "reasonably competent and diligent home inspection" is not required to be technically exhaustive.

(2) EXCEPTIONS. This section does not require a home inspector to do any of the following:

(a) Offer a warranty or guarantee of any kind.

(b) Calculate the strength, adequacy or efficiency of any component of an improvement to residential real property.

(c) Enter any area or perform any procedure that may damage an improvement to residential real property or a component of an improvement to residential real

property, or enter any area or perform any procedure that may be dangerous to the home inspector or to other persons.

(d) Operate any component of an improvement to residential real property that is inoperable.

(e) Operate any component of an improvement to residential real property that does not respond to normal operating controls.

(f) Disturb insulation or move personal items, furniture, equipment, vegetation, soil, snow, ice or debris that obstructs access to or visibility of an improvement to residential real property or a component of an improvement to residential real property.

(g) Determine the effectiveness of a component of an improvement to residential real property that was installed to control or remove suspected hazardous substances.

(h) Evaluate acoustic characteristics of a component of an improvement to residential real property.

(i) Project or estimate the operating costs of a component of an improvement to residential real property.

(j) Predict future conditions, including the failure of component of an improvement to residential real property.

(k) Inspect for the presence or absence of pests, including rodents, insects and wood-damaging organisms.

(L) Inspect cosmetic items, underground items or items not permanently installed.

(m) Inspect for the presence of any hazardous substances.

(n) Disassemble any component of an improvement to residential real property, except for removing an access panel that is normally removed by an occupant of residential real property.

(3) **OPTIONAL ACTIVITIES.** This section does not prohibit a home inspector from doing any of the following:

(a) Reporting observations or conditions in addition to those required under this section or the rules promulgated under this section.

(b) Excluding a component of an improvement to residential real property from the inspection, if requested to do so by his or her client.

(c) Engaging in an activity that requires an occupation credential if he or she holds the necessary credential.

RL 134.03 Mechanical and structural components included in a home inspection. A reasonably competent and diligent home inspection includes an inspection of, and report on, the following items that are present on the property at the time of the home inspection:

(1) FOUNDATIONS. A home inspector shall observe and describe the type and condition of the foundation.

(2) COLUMNS. A home inspector shall observe and describe the type and condition of columns.

(3) FLOORING SYSTEMS. A home inspector shall observe and describe the type and condition of flooring systems.

(4) ROOFS. (a) A home inspector shall observe and describe the condition of all of the following:

1. Roof coverings, including type.
2. Roof drainage systems.
3. Flashings.
4. Skylights, chimneys and roof penetrations.
5. Signs of leaks or abnormal condensation on building

components.

(b) A home inspector shall describe the methods used to observe the roof.

(c) A home inspector shall not be required to do any of the following:

1. Walk on the roofing.
2. Observe attached accessories, including, but not limited to, solar systems, antennae and lighting arrestors.
3. Observe internal gutter and downspout systems and related underground drainage piping.

(5) EXTERIORS. (a) A home inspector shall observe and describe the condition of all of the following:

1. Wall claddings, including type.
2. Flashings and trim.
3. Entryway doors and at least one window per side of a dwelling unit.
4. Garage door operators, including whether any garage door operator automatically reverses or stops when meeting reasonable resistance during closing.
5. Decks, balconies, stoops, steps and porches including railings.
6. Eaves, soffits and fascias.
7. Grading, drainage, driveways, patios, walkways, and retaining walls that abut the dwelling unit.

(b) A home inspector shall operate all entryway doors, garage doors, and at least one window per side of a dwelling unit.

(c) A home inspector shall not be required to observe the following:

1. Storm windows, storm doors, screening, shutters, awnings, and similar seasonal accessories.
2. Locks, latches or other security devices or systems.
3. Intercom systems.
4. Fences or privacy walls.
5. Insulation or vapor barriers in exterior walls.
6. Safety glazing.
7. Garage door operator remote control transmitters.
8. Geological or soil conditions.
9. Recreational facilities.
10. Out-buildings other than garages and carports.
11. Trees, shrubs and other vegetation.

(6) PLUMBING SYSTEMS. (a) A home inspector shall observe and describe the condition of all of the following:

1. Interior water supply and distribution system, including piping materials, supports, fixtures, faucets, functional flow and drainage, leaks and cross connections.

2. Interior drain, waste and vent system, including traps, drain, waste, and vent piping, piping supports and leaks.

3. Hot water systems, including water heating equipment, normal operating controls, automatic safety controls, chimneys, flues, and vents.

4. Fuel storage and distribution systems, including interior fuel storage equipment, supply piping, venting, supports and leaks.

5. Sump pumps.

(b) A home inspector shall operate all plumbing fixtures, including their faucets and accessible exterior faucets attached to the dwelling unit.

(c) A home inspector shall not be required to do any of the following:

1. State the effectiveness of anti-siphon devices.

2. Determine whether the water supply and waste disposal systems are public or private.

3. Operate automatic safety controls or sump pumps equipped with internal or water dependent switches.

4. Operate any valve except water closet flush valves, fixture faucets and hose faucets.

5. Observe water conditioning systems, fire and lawn sprinkler systems, on-site water supply quantity and quality, on-site disposal systems, foundation irrigation systems, spas, except as to functional flow and drainage.

6. Observe the interior of flues or chimneys, or solar water heating systems.

7. Observe any exterior plumbing components such as water mains or swimming pools.

8. Determine water temperature.

9. Determine the proper sizing, design or use of plumbing materials.

(7) ELECTRICAL SYSTEMS. (a) A home inspector shall observe and describe the condition of all of the following:

1. Service entrance conductors.
2. Service equipment, grounding equipment, main over current device.
3. Main and distribution panels, including their location.
4. Amperage and voltage ratings of the service, including whether service type is overhead or underground.
5. Branch circuit conductors, their over current devices, and the compatibility of their ampacities and voltages, including any aluminum branch circuit wiring.
6. The operation of a representative number of installed lighting fixtures, switches and receptacles located inside the house, garage and any exterior walls.
7. The polarity and grounding of all receptacles within 6 feet of interior plumbing fixtures, in the garage or carport, and on the exterior of inspected structures.
8. The operation of ground fault circuit interrupters.
9. The functionality of the power sources for smoke detectors.

(b) A home inspector shall not be required to do any of the following:

1. Insert any tool, probe or testing device inside the panels.
2. Test or operate any over current device except ground fault circuit interrupters.
3. Dismantle any electrical device or control other than to remove the covers of the main and auxiliary distribution panels.
4. Observe low voltage systems, telephones, security systems, cable TV, intercoms, or other ancillary wiring that is not a part of the primary electrical distribution systems.
5. Measure amperage, voltage or impedance.

(8) INTERIORS. (a) A home inspector shall observe and describe the condition of all of the following:

1. Walls, ceilings and floors.
2. Steps, stairways, balconies and railings.
3. Counters and all sink base cabinets.
4. A random sample of doors and windows.
5. Separation walls, ceilings, and doors between a dwelling unit and an attached garage or another dwelling unit.
6. Signs of water penetration into the building or signs of abnormal or harmful condensation on building components.

(b) A home inspector shall not be required to observe any of the following:

1. Paint, wallpaper, and other cosmetic finish treatments on the interior walls, ceilings and floors.
2. Carpeting.
3. Draperies, blinds or other window treatments.
4. Household appliances.
5. Recreational facilities or another dwelling unit.

(9) HEATING SYSTEMS. (a) A home inspector shall observe and describe the condition of all of the following within a permanently installed heating system:

1. Heating equipment and distribution systems.
2. Normal operating controls and energy source.
3. Automatic safety controls.
4. Exterior surfaces of chimneys, flues and vents.
5. Solid fuel heating devices.

6. The presence of an installed heat source in each room.

(b) A home inspector shall operate the systems using normal operating controls and open readily accessible access panels provided by the manufacturer or installer for routine homeowner maintenance.

(c) A home inspector shall not be required to do any of the following:

1. Operate heating systems when weather conditions or other circumstances may cause equipment damage.
2. Operate automatic safety controls.
3. Ignite or extinguish fuel fires.
4. Observe the interior of flues, fireplace insert flue connectors, humidifiers, electronic air filters, the uniformity or adequacy of heat supply to the various rooms.
5. Observe a heat exchanger unless it is readily observable and normally accessible to an occupant of a dwelling unit.

(10) CENTRAL AIR CONDITIONING. (a) A home inspector shall observe and describe the condition of all of the following:

1. Cooling and air handling equipment, including type and energy source.
2. Normal operating controls.
3. The presence of an installed cooling source in each room.

(b) A home inspector shall operate the systems using normal operating controls and open readily accessible access panels provided by the manufacturer or installer for routine homeowner maintenance.

(c) A home inspector shall not be required to do any of the following:

1. Operate cooling systems when weather conditions or other circumstances may cause equipment damage.
2. Observe non-central air conditioners.
3. Observe the uniformity or adequacy of cool-air supply to the various rooms.