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## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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### CLEARINGHOUSE RULE 10-090

#### Comments

**[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Reference Bureau and the Legislative Council Staff, dated September 2008.]**

#### 1. Statutory Authority

a. The proposed rule provides for the licensure of thermal system insulation mechanics and for the registration of thermal system insulation apprentices and helpers. However, s. 101.136, Stats., as created by 2009 Wisconsin Act 16, only provides for the licensure of mechanics. Please explain the department’s authority to register apprentices and helpers.

b. Section 101.136 (5) (b), Stats., as created by 2009 Wisconsin Act 16, requires that the department establish a definition of “minor repairs” for purposes of the exemption from the licensure requirement. The department should review its definition of “minor repairs” in s. Comm 5.74 (2) (c) to ensure that it is not so inclusive as to include all maintenance of thermal system insulation.

c. Section Comm 5.741 (1) (c) provides that an individual is eligible for a mechanic license with 1,000 hours of experience per year for four years without an examination until July 1, 2015. Please explain the department’s authority to allow licensure with experience-only eligibility.

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

a. In the introductory clause, “Comm” should be removed on the second and third lines. [s. 1.02 (1), Manual.] Similarly, the second and third occurrences of “Comm” in the treatment clause of SECTION 4 should be renamed.

b. In the introductory clause, “5.742” should be inserted after “5.741,” and a comma should be inserted before “relating.” [s. 1.02 (1), Manual.] In addition, “5.742” should be inserted after “5.741” in the treatment of SECTION 4. [s. 1.04, Manual.]

c. In the rule analysis, a heading titled “effect on small business” should be included. [s. 1.02 (2) (a) 10., Manual.]

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

a. In the statutes interpreted section of the rule summary, “Stats.” should be inserted after “s. 101.136 (5),”. [s. 1.07, Manual.]

b. In SECTION 3, should s. Comm 5.12 (3m), and not s. Comm 5.125 (3m), be created? Section Comm 5.125 does not exist in current rules.

c. In s. Comm 5.74 (2) (intro.), “ss. Comm 5.741 to 5.743” should replace “ss. Comm 5.743 to 5.757.”

d. In s. Comm 5.741 (1) (c) 2., it appears that “paragraph” should replace “subdivision.” [s. 1.07, Manual.]

e. In s. Comm 5.741 (5) (a), should “5.02, Table 5.02” replace “5.09 (7) (c)”?

f. In s. Comm 5.741 (5) (b) (intro.), it appears that “under sub. (1) (b)” should be inserted after “person.”

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

a. In the explanation of agency authority section of the rule analysis, “any hot or cold surface, including a pipe, duct, valve, boiler, flue, or tank, or equipment on or in a building” should replace “any hot or cold surface, including a pipe, duct valve, boiler flue, or tank or equipment on or in a building.” [See s. 101.136 (1) (f), Stats., as created by 2009 Wisconsin Act 16.] A similar change should be made in the initial regulatory flexibility analysis.

b. The proposed rule refers to “thermal insulation,” whereas s. 101.136, Stats., as created by 2009 Wisconsin Act 16, refers to “thermal system insulation.” The department should consider using “thermal system insulation” instead of “thermal insulation” in the proposed rule to be consistent with the terminology in the Act.

c. Under s. 101.136 (6), Stats., as created by 2009 Wisconsin Act 16, no person may *install* or maintain thermal system insulation unless he or she is a licensed mechanic. However, the proposed rule uses “alter” instead of “maintain.” The department might consider replacing “alter” with “maintain” in the proposed rule or, as an alternative, the department might review its definition of “alter” to ensure that it is consistent with what is meant by “maintain.” Also, in s. Comm 5.742 (4), “repairs” should be removed.

d. In s. Comm 5.125 (3m) (b), “license or registration” should replace “type.”

e. In s. Comm 5.741 (1) (c) 1., the department should refer to experience, instead of employment, to be consistent with s. 101.136, Stats., as created by 2009 Wisconsin Act 16. Also, “hours” should be inserted after “1,000.”

f. In s. Comm 5.741 (5) (b) 2., “under ch. 106, Stats.” should replace “and the program has been recognized by the department of workforce development” to be consistent with s. 101.123, Stats., and other references to apprenticeship in the proposed rule.

g. In s. Comm 5.741 (7) (b) 1., “continuing education under s. Comm 5.08 prior to the time period specified in s. Comm 5.06, Table 5.06” should replace “continuing education within the time period specified in s. Comm 5.08 and Table 5.06.” Also, to whom must the continuing education be “acceptable”?

h. In s. Comm 5.742, “employed under an apprentice contract” should replace “indentured” to be consistent with changes in apprenticeship terminology made by 2009 Wisconsin Act 291.

i. In the fiscal estimate, the assumptions state that the registration as a thermal system insulation apprentice is valid for one year. However, the proposed rule provides that the registration is valid for two years. See s. Comm 5.06, Table 5.06.