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Madison, Wisconsin 53707  
(608) 266-1018  
TDD: Contact through relay

**Jim Doyle, Governor**  
**Aaron Olver, Secretary**

August 31, 2010

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

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

Dear Chief Clerks:

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

CLEARINGHOUSE RULE NO.: 10-090

RULE NO.: Chapter Comm 5

RELATING Thermal Insulator Credentials  
TO: \_\_\_\_\_

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,

Aaron Olver  
Secretary

COM-10536 (R.8/06)

August 31, 2010

Senator Fred Risser  
President of the Senate  
Room 220 South, State Capitol  
Madison, Wisconsin 53707

Representative Michael Sheridan  
Speaker of the Assembly  
Room 211 West, State Capitol  
Madison, Wisconsin 53708

Dear Senator Risser and Representative Sheridan:

### **NOTICE OF ADMINISTRATIVE RULES IN FINAL DRAFT FORM**

CLEARINGHOUSE RULE NO.: 10-090

RULE NO.: Chapter Comm 5

RELATING TO: Thermal Insulator Credentials

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

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

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

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

Respectfully submitted,

Aaron Olver  
Secretary





August 31, 2010

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

Dear Mr. Hoesly:

## NOTIFICATION OF RULE REFERRAL

This letter is to notify you that pursuant to section 227.19, Stats., the Department of Commerce has referred:

CLEARINGHOUSE RULE NO.: 10-090

RULE NO.: Chapter Comm 5

RELATING TO: Thermal Insulator Credentials

to the presiding officers of the Senate and Assembly of the Legislature for referral to the appropriate standing committees for Legislative review.

Respectfully submitted,

Aaron Oliver  
Secretary

COM-10540 (R.01/05)

# RULE REPORT

## Department of Commerce

Clearinghouse Rule 10-090

No.:

Rule Chapter Comm 5

No.:

Relating Thermal Insulator Credentials

to:

*Contact person for substantive questions:*

*Contact person for internal processing:*

Name Jim Quast

e

Name Jim Quast

e

Title Program Manager

Title Program Manager

Telephone (608) 266-9292

Number

Telephone (608) 266-9292

Number

1. Basis and purpose of the proposed rule.

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

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

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

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

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

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

COM-10550 (R.02/04)

# FINAL REGULATORY FLEXIBILITY ANALYSIS

## Department of Commerce

CLEARINGHOUSE RULE NO.: 10-90

RULE NO.: Chapter Comm 5

RELATING TO: Thermal Insulator Credentials

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

Pursuant to s. 227.19 (3m), Stats., the Department of Commerce has determined that the proposed rules to amend Chapter Comm 5 will not have a significant impact on a substantial number of small businesses. The proposed rules implement the mandates imposed by 2009 Wisconsin Act 16 regarding the credentialing of thermal insulators. The Act affects individuals involved in the installation, alteration and maintenance of thermal insulation for heating, ventilating, cooling, plumbing or refrigeration systems. The Department does not believe the rules will increase the effect on small businesses more than that imposed by the Act.

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.
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.

COM-10538 (N.03/97)

*(Continued on reverse side)*



# RESPONSE TO LEGISLATIVE COUNCIL CLEARINGHOUSE REPORT

## Department of Commerce

CLEARINGHOUSE RULE NO.: 10-090

RULE NO.: Chapter Comm 5

RELATING TO: Thermal Insulator Credentials

Agency contact person for substantive questions.

Name Jim Quast  
:

Title: Program Manager

Telephone 266-9292  
No.

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 attached

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

***(Continued on reverse side)***

COM-10539 (N.03/97)

3. Review rules for conflict with or duplication of existing rules [s. 227.15(2)(d)]
- a.  Accepted
  - b.  Accepted in part
  - c.  Rejected
  - d.  Comments attached
4. Review rules for adequate references to related statutes, rules and forms [s. 227.15(2)(e)]
- a.  Accepted
  - b.  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

## **COMMENTS ON LEGISLATIVE COUNCIL CLEARINGHOUSE REPORT**

Clearinghouse Rule No. 10-090

Rule No.: Chapter Comm 5

Relating to: Thermal Insulator Credentials

### **1. Statutory Authority**

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

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

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

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

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

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

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

COMMENTS ON LEGISLATIVE COUNCIL CLEARINGHOUSE REPORT continued:

c. The term “maintain” according to the dictionary also refers to ownership or possession which would not seem to be the intent of the Act that is attempting to focus on an activity.

f. The Department does not believe that simply referencing ch. 106, Stats., will provide the sufficient clarity to the reader.

g. The wording is used in many other credentials throughout chapter Comm 5; the suggested wording would allow the banking of continuing education credits from one credential term to the next which is not intended.

h. The Department will be initiating another rule-making project shortly to address the references to “indentured” used throughout ch. Comm 5 so as to provide consistency.