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(FORM UPDATED: 08/11/2010)

WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

2009-10

(session year)

Joint

(Assembly, Senate or Joint)

Committee for Review of Administrative Rules ...

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
 - (**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
 - (**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

* Contents organized for archiving by: Stefanie Rose (LRB) (June 2012)

November 12, 2009

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.: 09-046

RULE NO.: Chapters Comm 2 and 5

RELATING TO: Fees

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,



for Richard J. Leinenkugel
Secretary

November 12, 2009

Senator Fred Risser
President of the Senate
Room 220 South, State Capitol
Madison, Wisconsin 53702

Representative Mike Sheridan
Speaker of the Assembly
Room 211 West, State Capitol
Madison, Wisconsin 53702

Dear Senator Risser and Representative Huebsch:

NOTICE OF ADMINISTRATIVE RULES IN FINAL DRAFT FORM

CLEARINGHOUSE RULE NO.: 09-046

RULE NO.: Chapters Comm 2 and 5

RELATING TO: Fees

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,



for Richard J. Leinenkugel
Secretary

RULE REPORT

Department of Commerce

Clearinghouse Rule No.: 09-046

Rule No.: Chapters Comm 2 and 5

Relating to: Fees

Contact person for substantive questions:

Contact person for internal processing:

Name James Quast

Name James Quast

Title Program Manager

Title Program Manager

Telephone Number (608) 266-9292

Telephone Number (608) 266-9292

1. Basis and purpose of the proposed rule.

The objective of the rule is to revise several provisions of the Department's administrative rules relating to the fees charged by the Safety and Buildings Division. The revision is intended in general to correct some discrepancies and inequities, and to provide a sufficient revenue stream to cover operational costs of the certain work processes of the division.

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

Section 101.19, Stats., requires the Department to fix and collect fees by rule which shall, as closely a possible, equal the cost of providing services such as plan examination, inspections, and permits to operate.

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

The analysis and fiscal estimate has been revised to reflect the elimination of the proposed fee for the review of continuing education courses.

FISCAL ESTIMATE WORKSHEET
 Detailed Estimate of Annual Fiscal Effect
 DOA-2047(R06/99)

ORIGINAL
 CORRECTED
 UPDATED
 SUPPLEMENTAL

LRB or Bill No./Adm. Rule No.
 Chs. Comm 2 & 5

Amendment No.

Subject
 Fees

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

| II. Annualized Costs: | Annualized Fiscal impact on State funds from: | |
|---|---|-----------------|
| | Increased Costs | Decreased Costs |
| A. State Costs By Category | | |
| State Operations - Salaries and Fringes | \$ | \$ - |
| (FTE Position Changes) | (FTE) | (- FTE) |
| State Operations - Other Costs | | - |
| Local Assistance | | - |
| Aids to Individuals or Organizations | | - |
| TOTAL State Costs By Category | \$ | \$ - |
| B. State Costs By Source of Funds | | |
| GPR | \$ | \$ - |
| FED | | - |
| PRO/PRS | | - |
| SEG/SEG-S | | - |
| III. State Revenues- Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.) | | |
| GPR Taxes | \$ | \$ - |
| GPR Earned | | - |
| FED | | - |
| PRO/PRS | 18,000 | - |
| SEG/SEG-S | | - |
| TOTAL State Revenues | \$ 18,000 | \$ - |

NET ANNUALIZED FISCAL IMPACT

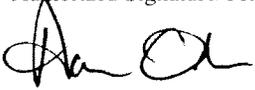
STATE

LOCAL

NET CHANGE IN COSTS \$ 0 \$ 0

NET CHANGE IN REVENUES \$ 18,000 \$ 0

Agency/Prepared by: (Name & Phone No.)
 Commerce/James Quast 266-9292

Authorized Signature/Telephone No.
 6-8976

Date
 11/12/09

FISCAL ESTIMATE
DOA-2048 (R06/99)

ORIGINAL
 CORRECTED

UPDATED
 SUPPLEMENTAL

LRB or Bill No./Adm. Rule No.
Chs. Comm 2 & 5
Amendment No. if Applicable

Subject
Fees

Fiscal Effect

State: No State Fiscal Effect

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

Increase Existing Appropriation
 Decrease Existing Appropriation
 Create New Appropriation
 Increase Existing Revenues
 Decrease Existing Revenues

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

Decrease Costs

Local: No local government costs

1. Increase Costs
 Permissive Mandatory

3. Increase Revenues
 Permissive Mandatory

5. Types of Local Governmental Units Affected:

Towns Villages Cities

2. Decrease Costs
 Permissive Mandatory

4. Decrease Revenues
 Permissive Mandatory

Counties Others _____

School Districts WTCS Districts

Fund Sources Affected

GPR FED PRO PRS SEG SEG-S

Affected Ch. 20 Appropriations

Assumptions Used in Arriving at Fiscal Estimate

The department offers license applicants the ability to review their qualifying licensing exams. Currently, the department does not charge a fee for this service. The department's cost to provide this service is currently offset by the exam fees and the credential fees. Approximately 200 individuals annually take advantage of this opportunity. The department is proposing \$15 fee for this service, and the proposal would generate \$3,000 annually in revenue.

Of the 82 types of credentials issued by the department, an application fee is part of the overall credential fee charge by the department for approximately 75 percent of the credentials. The application fee is charged for the initial application and for late credential renewals. Current application fees range from \$10 to \$35. The implementation of a \$15 application fee for the remaining 25 percent of the credentials creates equity across the board. The department estimates that there would 1,000 situations annually, initial applications and late renewals, where the proposed application fee would be applicable. This would result in an additional \$15,000 in annual revenue.

Long-Range Fiscal Implications

No long range fiscal implications are anticipated.

Agency/Prepared by: (Name & Phone No.)
Commerce/James Quast 266-9292

Authorized Signature/Telephone No.

Alan Oh 6-8976

Date

11/12/09

FINAL REGULATORY FLEXIBILITY ANALYSIS

Department of Commerce

CLEARINGHOUSE RULE NO.: 09-046

RULE NO.: Chapters Comm 2 and 5

RELATING TO: Fees

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

Pursuant to s. 227.19 (3m), Stats., the department has determined that the proposed rules will not have a significant economic impact on a substantial number of small businesses.

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.

(Continued on reverse side)

**DEPARTMENT OF COMMERCE
SUMMARY OF PUBLIC HEARING COMMENTS AND AGENCY RESPONSE**

| Clearinghouse Rule Number: 09-046 | | Hearing Location: Madison | |
|-------------------------------------|--|---|--|
| Rule Number: Chapters Comm 2 and 5 | | Hearing Date: July 28, 2009 | |
| Relating to: Fees | | | |
| Comments: Oral or Exhibit No. | Presenter, Group Represented, City and State | Comments/Recommendations | Agency Response |
| Speaker #1 | Patrick Stevens, Wisconsin Builders Association Madison | <p>Objects to the proposed fee for course approvals or requests exemption for non-profit entities.</p> <p>Opposes the change from 5 to 3 years for course approvals.</p> <p>Believes the proposed fee will:</p> <ul style="list-style-type: none"> • Negatively impact builders and builder associations which provide classes at no fee or a nominal fee. • Discourage educational opportunities • Be problematic to the industry in light of the other department fee increases. <p>Contents the implementation of the fee will be passed on to course attendees who as credential holders will be paying twice for the service.</p> <p>Contents that the 5 to 3 year reduction for course approvals will increase the department's workload and suggests the department focus on minimizing reviews as a method of controlling costs.</p> <p>Indicates that Illinois, Iowa and Michigan do not charge fees for the review and approval of continuing education courses.</p> | <p>The proposed fee for the review of continuing education has been eliminated from the draft.</p> |
| Speaker #2 | J. Scott Mathie, Metropolitan Builders Association Waukesha | <p>Is not clear on the rational for the proposed fees to review continuing educational course submittals, in that the same program is being funded by credential fees.</p> <p>Contents that the proposed reduction for course approvals from 5 to 3 years, will exacerbate any strain on staff review times.</p> <p>Believes that the implementation of the fee will curtail the organization's approach to provide a substantial amount of educational variety.</p> <p>Suggests the elimination of this proposed fee.</p> | <p>The proposed fee for the review of continuing education has been eliminated from the draft.</p> |
| Written #1 (email) | Mary Ann Schneider, Mid-Wisconsin Home Builders Association | <p>Is against any fees to be levied for continuing education course approvals.</p> <p>Views the proposal as a punishment to those who provide classes for free.</p> <p>Proposes the 501c's be excluded from the fees.</p> | <p>The proposed fee for the review of continuing education has been eliminated from the draft.</p> |

**DEPARTMENT OF COMMERCE
SUMMARY OF PUBLIC HEARING COMMENTS AND AGENCY RESPONSE**

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| Comments: Oral or Exhibit No. | Presenter, Group Represented, City and State | Comments/Recommendations | Agency Response |
| | Schneier continued | Contents that if implemented, that the fees will be charged backed to members who can ill afford it now. | |
| Written #2 | Jill Larson, St. Croix Valley Home Builders Association Roberts | Contents that the need for the continuing course approval fee has not been demonstrated – in that the course review costs have been offset by credentialing fees. Contents the implementation of the fee will be passed on to course attendees who as credential holders will be paying twice for the service. | The proposed fee for the review of continuing education has been eliminated from the draft. |
| Written #3 | Vicki Markussen, LaCrosse Builders Association Onalaska | Suggests exempting non-profit organizations from this fee. Registers in opposition to the establishment of fees for continuing education course approvals. Believes the fees to be: <ul style="list-style-type: none"> • Paying twice for the same service. • Negatively impacts non-profit organizations. • Harmful to the diversity of education offered. • Hard for builders to bear in the current difficult economic conditions. • Inconsistent with Illinois, Iowa and Michigan which do not charge fees for the review and approval of continuing education courses. | The proposed fee for the review of continuing education has been eliminated from the draft. |
| Written #4 | Ryan Rugroden, Rugroden Drafting & Design Onalaska | Contents changing the frequency for reviewing courses to every 3 years versus the current 5 years would increase the department's workload. Believes that the proposed fee for the review of programs and seminars shows how out of touch government is with people and their current financial situations. Believes that the fees will hurt the housing construction industry even more. Contents that the association will have to worry about getting enough attendees to offset the cost. Does not believe the fees is needed in the first place, if current costs are being offset by credentialing fees. | The proposed fee for the review of continuing education has been eliminated from the draft. |

**DEPARTMENT OF COMMERCE
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| Comments: Oral or Exhibit No. | Presenter, Group Represented, City and State | Comments/Recommendations | Agency Response |
| Written #5 | Randy Fenske, Wausau Supply Company Eau Claire | Asks the department to re-examine the proposal to charge fees for course approvals. Indicates the company has been providing continuing education for free and if the fees are implemented will have to start charging or quit offering the courses all together. | The proposed fee for the review of continuing education has been eliminated from the draft. |
| Written #6 | David Johnson, Manitowoc County Home Builders Association Manitowoc | Opposes the proposed fee for continuing course review. Indicates that the proposed fee could raise their costs of providing courses by 100% and the additional fees would be passed along to members during these difficult economic times. | The proposed fee for the review of continuing education has been eliminated from the draft. |
| Written #7 | Karen Rockwell, Chippewa Valley Home Builders Association Eau Claire | Objects to the proposed fee for the approval of continuing education courses. Requests the fee be eliminated for nonprofit organizations. Believes that the fee has a negative impact and will serve as a discouragement to providing courses. Contents that the fee is not needed given that the costs are being covered by credentialing fees and thus credential holders are paying twice for the service. | The proposed fee for the review of continuing education has been eliminated from the draft. |
| Written #8 | Debbie Counard, Door County Home Builders Association Sturgeon Bay | Indicates that the building industry has been the target of new and increased department fees including the new contractor registration. Requests that the proposed fee for course approvals be eliminated or exempt non-profit entities. Contents that the fee will negatively impact the building industry and will discourage the offering of courses. Indicates that most neighboring states do not charge a fee for course review and approval. Believes that the department should focus on minimizing reviews as a method of controlling costs instead of changing the approvals from 5 years to 3 years. | The proposed fee for the review of continuing education has been eliminated from the draft. |

**DEPARTMENT OF COMMERCE
SUMMARY OF PUBLIC HEARING COMMENTS AND AGENCY RESPONSE**

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| Relating to: Fees | | | |
| Comments: Oral or Exhibit No. | Presenter, Group Represented, City and State | Comments/Recommendations | Agency Response |
| Written #9 (email) | Mike Vilstrup, Madison Area Builders Association | Objects to the proposed fee for course approvals or requests exemption for non-profit entities. Contents that the fees will have a negative impact on the association's ability to provide courses and will hurt the housing construction industry even more. | The proposed fee for the review of continuing education has been eliminated from the draft. |
| Written #10 | David Boetcher, International Brotherhood of Electrical Workers Madison | Opposes the proposed fee for course approvals. Feels that this creates a new tax that is an unfair burden on their education system. Contents that electrical licensing that will soon be mandatory statewide will substantially increase the department's revenue stream. Indicates that the organization does not charge their members for the classes; views the proposed fee as reducing their ability to offer more classes. Opposes the proposed decrease in the length of courses approvals, contending this would increase the processing burden on the department. | The proposed fee for the review of continuing education has been eliminated from the draft. |
| Written #11 | Michelle Dawson, Racine Kenosha Builders Association Sturevant | Objects to the proposed fee for course approvals or requests exemption for non-profit entities. Contents that the proposed fees will hurt the educational benefit offered by the association to its members. | The proposed fee for the review of continuing education has been eliminated from the draft. |
| Written #12 (email) | Diane Montour, Wolf River Builders Association | Requests the department to reconsider the proposed fee for review of continuing education courses. Contents the implementation of the fee will be passed on to course attendees who as credential holders will be paying twice for the service. | The proposed fee for the review of continuing education has been eliminated from the draft. |
| Written #13 (email) | Ron Volz, Tomahawk Log & County Homes | Opposes the proposed fee for course approvals. Contents that the fee will negatively impact the building industry and may be one more factor in discouraging association membership. | The proposed fee for the review of continuing education has been eliminated from the draft. |
| Written #14 | Abe Degnan, Degnan Design Builders DeForest | Requests the department not to implement another fee increase for builder education. Contents that the department is already collecting fees for registrations that supplement state coffers. | The proposed fee for the review of continuing education has been eliminated from the draft. |

**DEPARTMENT OF COMMERCE
SUMMARY OF PUBLIC HEARING COMMENTS AND AGENCY RESPONSE**

| | | | |
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| Rule Number: Chapters Comm 2 and 5 | | Hearing Date: July 28, 2009 | |
| Relating to: Fees | | | |
| Comments: Oral or Exhibit No. | Presenter, Group Represented, City and State | Comments/Recommendations | |
| | Degan continued | Contents that the state was to be responsible for funding builder education. | |
| Written #15 | Sally Reuling, Headwaters Building Association Minocqua | Questions the proposal to increase the department's workload by proposing courses approval be reviewed every 3 years instead of 5 years. Opposes the proposed fee for course approvals. Contents that if implemented, that the fees will be charged back to members who can ill afford it right now. Assumes that the department's budget for the upcoming year has already been determined and approved without including revenue from these fees and requests the fees be delayed until the housing industry sees an upturn. Contents that if the association is unable to afford and provide a variety of programs, that members will be placed at a disadvantage in having to travel long distances to fulfill their educational obligations. | The proposed fee for the review of continuing education has been eliminated from the draft. |
| Written #16 | Robert Rayburn, Milwaukee Chapter, National Electrical Contractors Association Milwaukee | Opposes the proposed fee for course approvals. Indicates that the JATC is a self-supporting non-profit organization that derives its revenue from contributions made by electrical contractors. Indicates that the JATC is operating at a deficit, and will likely continue to do so for at least a few more years. The costs for course approvals and renewals in the current and future budgets will cause additional economic hardship to the JATC. Indicates that with the exception of the occasional book cost, the Milwaukee JATC does not charge a participant for attending a seminar or course, therefore, the JATC is not in a position to merely pass along the proposed fee to participants. Is sympathetic to the State's desire to raise revenue, however, does not believe this needs to be done at the expense of non-profit organizations and does not believe that it needs to be done through the Safety and Buildings Division which he believes has been operating at a profit. | The proposed fee for the review of continuing education has been eliminated from the draft. |

**DEPARTMENT OF COMMERCE
SUMMARY OF PUBLIC HEARING COMMENTS AND AGENCY RESPONSE**

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| Comments: Oral or Exhibit No. | Presenter, Group Represented, City and State | Comments/Recommendations | Agency Response |
| Written #17 | Barb Ritzinger, Heart of the North Builders Association Rice Lake | Contents the proposed changes to review and approve continuing education courses will hurt local builders association and will deteriorate the quality of education available to contractors. Fears that the fee will hurt their ability to provide free education to their members and result in product presentations put on by vendors trying to promote their products. | The proposed fee for the review of continuing education has been eliminated from the draft. |
| Written #18 | Mike Cheney, Milwaukee & Kettle Moraine Electrical JATC Wauwatosa | Recommends not charging non-profit organizations to approve their courses. Opposes the proposed fee for course approvals. | The proposed fee for the review of continuing education has been eliminated from the draft. |
| Written #19 (email) | Joe Klein Milwaukee JATC | Contents that the fee would diminish the organization's ability to provide needed classes for the electrical industry. Indicates current classes are provided to electricians at no cost. Believes that the proposed fee for course approvals will hurt electrical students and the organization that currently provides the courses at no charge to the participants. | The proposed fee for the review of continuing education has been eliminated from the draft. |
| Written #20 | Loyal O'Leary Wisconsin Chapter NECA Madison | Opposes the proposed fee for course approvals. Contents that the proposed fees will add to the financial burden of non-profit organizations like the NECA. | The proposed fee for the review of continuing education has been eliminated from the draft. |
| Written #21 | Christine Shaefer, Valley Home Builders Association Appleton | Suggests raising credential fees to generate additional revenue. Objects to the proposed fee for course approvals. Suggests exempting not-for-profit organizations. | The proposed fee for the review of continuing education has been eliminated from the draft. |
| Written #22 | Jennifer Johnson, Northland Area Builders Association Danbury | Indicates that the organization charges minimal fees to attendees to encourage attendance and contends that the fee will serve as a detriment to organization to provide future courses. Objects to the proposed fee for course approvals or requests exemption for non-profit entities. Opposes the change from 5 years to 3 years for the course approval terms. | The proposed fee for the review of continuing education has been eliminated from the draft. |

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SUMMARY OF PUBLIC HEARING COMMENTS AND AGENCY RESPONSE**

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| Relating to: Fees | | | |
| Comments: Oral or Exhibit No. | Presenter, Group Represented, City and State | Comments/Recommendations | Agency Response |
| | Johnson continued | <p>Believes the fees to be:</p> <ul style="list-style-type: none"> • Paying twice for the same service. • Negatively impacts non-profit organizations. • Harmful to the diversity of education offered. • Hard for builders to bear in the current difficult economic conditions. • Inconsistent with Illinois, Iowa and Michigan which do not charge fees for the review and approval of continuing education courses. | |
| Written #23 | Randy Nilsson, Great Lakes Carpentry, Mercer | <p>Asks several questions:</p> <ul style="list-style-type: none"> • With the budget passed there is no deadline, so what is the rush. • What will the money be used for. <p>Contentds this will punish his home builders association that offers free classes.</p> | The proposed fee for the review of continuing education has been eliminated from the draft. |
| Written #24 | Daryl Reetz, Home Builders Association Fond du Lac | <p>Suggests exempting not-for-profit organizations.</p> <p>Objects to the proposed fee for course approvals.</p> <p>Suggests exempting not-for-profit organizations.</p> <p>Believes the fees to have negative impacts for non-profit organizations.</p> | The proposed fee for the review of continuing education has been eliminated from the draft. |



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

Ronald Sklansky
Clearinghouse Director

Terry C. Anderson
Legislative Council Director

Richard Sweet
Clearinghouse Assistant Director

Laura D. Rose
Legislative Council Deputy Director

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 **09-046**

AN ORDER to repeal Comm 2.31 (1) (b) Note; to renumber Comm 5.08 (1) (b) 3. and 5.09 (8) (b) and (c); to amend Comm 2.31 Table 2.31-1 line 3. and (1) (d) 6., 2.35 (3) (a) 3., 5.02 Table 5.02 lines 1. to 8., 13. to 15., 18. to 20., 29., 33., 34., 44., 50., and 68. to 70., 5.08 (1) (e) 2. a. and (1) (f) l; and to create Comm 5.08 (1) (b) 3., and 5.09 (8) (b), relating to program revenue fees, and affecting small business.

Submitted by **DEPARTMENT OF COMMERCE**

06-29-2009 RECEIVED BY LEGISLATIVE COUNCIL.

07-20-2009 REPORT SENT TO AGENCY.

RNS:DLS

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

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

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]
Comment Attached YES NO
2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]
Comment Attached YES NO
3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]
Comment Attached YES NO
4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS
[s. 227.15 (2) (e)]
Comment Attached YES NO
5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]
Comment Attached YES NO
6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL
REGULATIONS [s. 227.15 (2) (g)]
Comment Attached YES NO
7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]
Comment Attached YES NO



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

Ronald Sklansky
Clearinghouse Director

Richard Sweet
Clearinghouse Assistant Director

Terry C. Anderson
Legislative Council Director

Laura D. Rose
Legislative Council Deputy Director

CLEARINGHOUSE RULE 09-046

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.]

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

a. In s. Comm 5.08 (1) (b) 3. a., in the first and second sentences, a comma should be inserted after “program.” The same change should be made in subd. 3. b.

b. In subd. 3. b., the first part of the sentence does not make sense and should be revised (“A request to a renew course, program or seminar approval...”). It appears that “renew” should follow “to.”

RESPONSE TO LEGISLATIVE COUNCIL CLEARINGHOUSE REPORT

Department of Commerce

CLEARINGHOUSE RULE NO.: 09-046

RULE NO.: Chapters Comm 2 and 5

RELATING TO: Fees

Agency contact person for substantive questions.

Name: James Quast

Title: Program Manager

Telephone No. (608) 266-9292

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)

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



State of Wisconsin \ Department of Commerce

RULES IN FINAL DRAFT FORM

Rule No.: Chapters Comm 2 and 5

Relating to: Fees

Clearinghouse Rule No.: 09-046

The Wisconsin Department of Commerce proposes an order to repeal Comm 2.31 (1) (b) note; to renumber Comm 5.08 (1) (b) 3. and Comm 5.09 (8) (b) and (c); to amend Comm 2.31 Table 2.31-1 line 3., Comm 2.31 (1) (d) 6., Comm 2.35 (3) (a) 3., Comm 5.02 Table 5.02 lines 1. to 8., 13. to 15., 18. to 20., 29., 33., 34., 44., 50., and 68. to 70., Comm 5.08 (1) (e) 2. a., Comm 5.08 (1) (f) 1.; and to create Comm 5.08 (1) (b) 3. and Comm 5.09 (8) (b), relating to program revenue fees, and affecting small businesses.

ANALYSIS OF PROPOSED RULES

1. Statutes Interpreted.

Sections 101.02 (1), 101.19 and 145.08, Stats.

2. Statutory Authority.

Sections 101.02 (1), 101.19 and 145.08, Stats.

3. Related Statute or Rule.

None

4. Explanation of Agency Authority.

Chapters 101 and 145, Stats., grant the department general authority for the purpose of protecting public health, safety and welfare by establishing standards and regulatory oversight programs for the construction and maintenance of buildings, structures and dwellings and their components. These programs are administered by the Safety and Buildings Division. Sections 101.19 and 145.08, Stats., grant the department authority to promulgate rules to fix and collect fees that reflect the cost of providing these programs.

5. Summary of Proposed Rules.

The proposed rules contain three substantive provisions that establish fees for credentials administered by the Safety and Buildings Division:

- The review of continuing educational course submittals.
- A credential application fee for 22 credential categories in addition to the credential fee.
- The review of a previously completed credentialing exam.

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

An Internet-based search in the *Code of Federal Regulations and the Federal Register* did not identify any existing or proposed federal regulations that address these topics.

7. Comparison with Rules in Adjacent States.

Illinois, Iowa, Michigan and Minnesota: An Internet based search did not identify any separate fee for processing credential applications or reviewing credential exams.

8. Summary of Factual Data and Analytical Methodologies.

Of the 82 types of credentials issued by the department, an application fee is part of the overall credential fee charge by the department for approximately 75 percent of the credentials. The application fee is charged for the initial application and for late credential renewals. Current application fees range from \$10 to \$35. The implementation of an application fee for the remaining 25 percent of the credentials creates equity across the board.

9. Effect on Small Business including an Analysis and Supporting Documents Used to Determine the Effect or in Preparation of Economic Impact Report.

The proposed fee to review a previous licensing exam affects individuals and not businesses directly.

Manufactured home dealer businesses would be the only business type credential affected by the implementation of the proposed \$15 credential application fee.

An economic impact report has not been required to be prepared.

10. Agency Contact.

James Quast, Program Manager, jim.quast@wisconsin.gov, (608) 266-9292

11. Public Hearing Comments.

The hearing record on this proposed rulemaking will remain open until August 7, 2009. Written comments on the proposed may be submitted to James Quast, at the Department of Commerce, P.O. Box 2689, Madison, WI 53701-2689, or email at jim.quast@wisconsin.gov.

SECTION 1. Comm 2.31 Table 2.31-1 line 3. is amended to read:

**Table 2.31-1
Plan Review Fees for Buildings Not Located in Municipalities That Perform Inspections
(partial table)**

| Area (Square Feet) | Fees | | | |
|--------------------|----------------|---------------------------|-------------------------|-------------------------------|
| | Building Plans | HVAC Plans | Fire Alarm System Plans | Fire Suppression System Plans |
| 3. 5,001-10,000 | 600 | 300 <u>350</u> | 150 | 150 |

SECTION 2. Comm 2.31 (1) (b) note is repealed.

SECTION 3. Comm 2.31 (1) (d) 6. is amended to read:

Comm 2.31 (1) (d) 6. Any building component, other than building, HVAC and fire protection systems, submitted ~~following the final inspection by a deputy of the department or, in the case of an agent municipality or county, the inspector having jurisdiction after installation.~~

SECTION 4. Comm 2.35 (3) (a) 3. is amended to read:

Comm 2.35 Rental unit energy efficiency program. (3) (a)

3. Over 8 rental units.....~~\$250.00~~ 500.00 plus \$25 for each additional rental unit over 8 rental units.

SECTION 5. Comm 5.02 Table 5.02 lines 1. to 8., 13. to 15., 18. to 20., 29., 33., 34., 44., 50., and 68. to 70. are amended read:

Table 5.02
FEES
(partial table)

| | License, Certification or Registration Category | Type | Application Fee | Examination Fee | License, Certification or Registration Fee |
|-----|---|---------------|-----------------|-----------------|--|
| | Subchapter II | | | | |
| 1. | Class 1 Blaster | License | none \$15 | \$30 | \$100 |
| 2. | Class 2 Blaster | License | none \$15 | \$30 | \$100 |
| 3. | Class 3 Blaster | License | none \$15 | \$30 | \$100 |
| 4. | Class 4 Blaster | License | none \$15 | \$30 | \$100 |
| 5. | Class 5 Blaster | License | none \$15 | \$30 | \$100 |
| 6. | Class 6 Blaster | License | none \$15 | \$30 | \$100 |
| 7. | Class 7 Blaster | License | none \$15 | \$30 | \$100 |
| 8. | Fireworks Manufacturer | License | none \$15 | NA | \$70 |
| | Subchapter III | | | | |
| 13. | Manufactured Home Dealer - Main Business | License | none \$15 | NA | \$200 |
| 14. | Manufactured Home Dealer - Branch | License | none \$15 | NA | \$200 |
| 15. | Manufactured Home Salesperson | License | none \$15 | NA | \$16 |
| 18. | Welder | Registration | none \$15 | NA | \$35 |
| 19. | Weld Test Conductor - Physical | Certification | none \$15 | \$20 | \$80 |
| 20. | Weld Test Conductor - Radiographic | Certification | none \$15 | \$20 | \$80 |
| | Subchapter V | | | | |
| 29. | Automatic Fire Sprinkler System Apprentice | Registration | none \$15 | NA | \$15 |
| | Subchapter VI | | | | |
| 33. | Boiler-Pressure Vessel Inspector | Certification | none \$15 | NA | \$120 |
| 34. | In-Service Field Inspector | Certification | none \$15 | NA | \$120 |
| 44. | Elevator Inspector | License | none \$15 | NA | \$120 |
| | Subchapter VII | | | | |
| 50. | Refrigerant Handling Technician | Certification | none \$15 | NA | \$20 |
| | Subchapter IX | | | | |
| 68. | Plumbing Apprentice | Registration | none \$15 | NA | \$15 |
| 69. | Plumbing Learner-Restricted Appliance | Registration | none \$15 | NA | \$15 |
| 70. | Plumbing Learner-Restricted Service | Registration | none \$15 | NA | \$15 |

SECTION 6. Comm 5.08 (1) (f) 1. is amended to read:

Comm 5.08 (1) (f) 1. The individual or organization which had obtained the course, program or seminar approval shall maintain an attendance record of those individuals who have attended and completed the course, program or seminar for at least 5 years from the date of the course, program or seminar.

SECTION 7. Comm 5.09 (8) (b) and (c) are renumbered 5.09 (8) (c) and (d).

SECTION 8. Comm 5.09 (8) (b) is created to read:

Comm 5.09 (8) (b) The request to review an examination relating to subchs. II to VII, but not including s. Comm 5.68, and subchs. IX and X shall be accompanied by a \$15 fee.

(END)

EFFECTIVE DATE

Pursuant to s. 227.22 (2) (intro.), Stats., these rules shall take effect on the first day of the month following publication in the Wisconsin Administrative Register.
