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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.: 10-089

RULE NO.: Chapters Comm 21 and 28

RELATING TO: Carbon Monoxide Detectors in Dwellings

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



P.O. Box 7970  
Madison, Wisconsin 53707  
(608) 266-1018  
TDD: Contact through relay

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

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.: 10-089

RULE NO.: Chapters Comm 21 and 28

RELATING TO: Carbon Monoxide Detectors in Dwellings

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



P.O. Box 7970  
Madison, Wisconsin 53707  
(608) 266-1018  
TDD: Contact through relay

**Jim Doyle, Governor**  
**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.: 10-089

RULE NO.: Chapters Comm 21 and 28

RELATING TO: Carbon Monoxide Detectors in Dwellings

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 Olver  
Secretary

# RULE REPORT

## Department of Commerce

Clearinghouse Rule No.: 10-089

Rule No.: Chapters Comm 21 and 28

Relating to: Carbon Monoxide Detectors in Dwellings

*Contact person for substantive questions:*

*Contact person for internal processing:*

Name Larry Swaziek

Name Larry Swaziek

Title Program Manager

Title Program Manager

Telephone Number 267-7701

Telephone Number 267-7701

1. Basis and purpose of the proposed rule.

The basis of the proposed rules is ss. 101.02 (1) and 101.63 (1), Stats., and 101.615 (lm) and 101.647, Stats., as created by 2009 Wisconsin Act 158. The proposed rules implement the mandates imposed by 2009 Wisconsin Act 158 relating to the installation and maintenance of carbon monoxide detectors in dwellings. The Act, which becomes effective February 1, 2011, affects the owners of one- and two-family dwellings where fuel-burning appliances are installed.

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

Sections 101.02 (1), 101.63 (1), 101.64 (3), 101.72 and 101.74, Stats., grants the Department of Commerce authority to promulgate rules that establish uniform, statewide standards for the construction of one- and two-family dwellings. To fulfill this responsibility, the Department has promulgated these proposed rules to establish minimum requirements for the installation and maintenance of carbon monoxide alarms in dwelling units. For consistency, the proposed rules are modeled after other rules relating to smoke alarms and carbon monoxide alarms in tourist rooming houses. In addition, the department reviewed the provisions under 2009 Wisconsin Act 158 in conjunction with the department's broad authority under ss 101.02 (1) and 101.63 (1), Stats., to protect public health and safety regarding the construction of one- and two-family dwellings.

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

No changes were made.

# FINAL REGULATORY FLEXIBILITY ANALYSIS

## Department of Commerce

CLEARINGHOUSE RULE NO.: 10-089

RULE NO.: Chapters Comm 21 and 28

RELATING TO: Carbon Monoxide Detectors in Dwellings

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 Chapters Comm 21 and 28 will not have a significant impact on a substantial number of small businesses. The proposed rules implement the mandates imposed by 2009 Wisconsin Act 158. The Act affects the owners of one- and two-family dwellings. 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.

*(Continued on reverse side)*



# RESPONSE TO LEGISLATIVE COUNCIL CLEARINGHOUSE REPORT

## Department of Commerce

CLEARINGHOUSE RULE NO.: 10-089

RULE NO.: Chapters Comm 21 and 28

RELATING TO: Carbon Monoxide Detectors in Dwellings

Agency contact person for substantive questions.

Name: Larry Swaziek

Title: Program Manager

Telephone No. 267-7701

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



## COMMENTS ON LEGISLATIVE COUNCIL CLEARINGHOUSE REPORT

Clearinghouse Rule No. 10-089

Rule No.: Chapters Comm 21 and 28

Relating to: Carbon Monoxide Detectors in Dwellings

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

- a. The department realizes that the term “carbon monoxide detector” is used in the underlying statute. National construction standards, however, uses the term “alarm” or refers to the device as a “stand alone alarm” because a “detector” does not provide an audible alarm. The department prefers to use the industry’s terminology.
- b. Yes, you could have more than one carbon monoxide alarm on a floor level depending on the location of the sleeping areas. For example, some ranch-style homes have the master bedroom in one wing and the other bedrooms are located in another wing with the kitchen and living area between them.

No, the rule does not need to clarify that “floor level” includes the basement. This is clarified in s. Comm 20.07 (8), which is the definition of a basement and refers to it as a “floor,” and in s. 101.647 (3) (am), Stats., which requires that a carbon monoxide alarm be installed in the basement of the dwelling and on each floor level.