

Clearinghouse Rule 10-090



State of Wisconsin \ Department of Commerce

# RULES IN FINAL DRAFT FORM

**Rule No.:** Chapter Comm 5

**Relating to:** Thermal Insulator Credentials

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The Wisconsin Department of Commerce adopts an order to create Comm 5.02 Table 5.02 lines 50r. to 50t., Comm 5.06 Table 5.06 lines 45r. to 45t., Comm 5.125 (3m), Comm 5.74, Comm 5.741, Comm 5.742 and Comm 5.743, relating to the licensing and registration of individuals who install or alter thermal insulation for heating, ventilating, cooling, plumbing or refrigeration systems.

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**Analysis of Rule**

**1. Statutes Interpreted**

Statutes Interpreted: s. 101.136 (5), Stats., 2009 Wisconsin Act 16.

**2. Statutory Authority**

Statutes Interpreted: ss. 101.02 (1) and (15), and 101.136, Stats., 2009 Wisconsin Act 16.

**3. Related Statute or Rule**

Chapters Comm 61 to 66, Wisconsin Commercial Building Code

**4. Explanation of Agency Authority**

Under 2009 Wisconsin Act 16, s. 101.136, Stats., on July 1, 2011, only individuals licensed as insulation mechanics or working under the direct supervision of licensed insulation mechanics may install or maintain thermal system insulation. The proposed rules implement the licensing mandates of Act 16. Thermal insulation is statutorily defined as a product that is used in a heating, ventilating, cooling, plumbing or refrigeration system to insulate any hot or cold surface, including a pipe, duct, valve, boiler, flue, or tank, or equipment on or in a building.

**5. Summary of Proposed Rules**

The proposed rules establish administrative procedures for licensing and registration of individuals who install or maintain thermal insulation for heating, ventilating, cooling, plumbing or refrigeration systems. The proposed rules reflect the statutory provisions of s. 101.136, Stats. The rules create credentials for thermal insulation mechanics, apprentices and helpers. The rules allow acquisition of the insulation mechanic license by completing an apprenticeship or taking and passing a department licensure exam provided the individual has 1,000 hours per year of experience for at least 4 consecutive years. The rules also include a grandfathering provision to obtain the mechanic’s license that would sunset on July 1, 2016. Continuing education obligations are proposed in order to renew the mechanic’s license.

The proposed rules also establish administrative forfeiture schedule for individuals who violate the credentialing provisions of the law or the rules.

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

An internet search on U.S. federal regulations and U.S. federal register yielded no results regarding the licensing of thermal insulators.

## **7. Comparison with Rules in Adjacent States**

An Internet-based search of thermal insulation mechanic licenses in the states of Illinois, Iowa, Michigan and Minnesota found that none of the states have specific rules or programs regarding these types of licenses.

## **8. Summary of Factual Data and Analytical Methodologies**

The proposed rules were developed by reviewing the provisions under 2009 Wisconsin Act 16 in conjunction with the current licensing rules for other trades under ch. Comm 5.

## **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 credential rules implement the licensing mandates of 2009 Wisconsin Act 16. The rules most likely will affect HVAC contractors, plumbing contractors and mechanical refrigeration contractors. The fee for a thermal insulation mechanic's license is proposed at \$250 which reflects the statutorily established minimum. The fee for the registration of apprentices and helpers is proposed at \$15. The department estimates that 1,000 individuals will seek to acquire the mechanic's license and 250 individuals will seek to obtain the apprentice or helper registration. The mechanic's license, helper's registration is to be valid for 2 years and the apprenticeship registration for a one year term. The credential fees were established to offset the cost of the thermal insulation inspector position created under 2009 Wisconsin Act. 16.

An economic impact report has not been required pursuant to s. 227.137, Stats.

## **10. Agency Contact.**

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

**11. Public Hearing Comments.**

The hearing record on this proposed rulemaking will remain open until August 18, 2010. 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.

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SECTION 1. Comm 5.02 Table 5.02 lines 50r. to 50t. are created to read:

**Table 5.02**  
**(Partial Table)**  
**FEES**

	License, Certification or Registration Category	Type	Application Fee	Examination Fee	License, Certification or Registration Fee
	<b>Subchapter VII</b>				
50r.	Thermal Insulation Mechanic	License	\$15	\$35	\$250
50s.	Thermal Insulation Apprentice	Registration	\$15	NA	\$15
50t.	Thermal Insulation Helper	Registration	\$15	NA	\$15

SECTION 2. Comm 5.06 Table 5.06 lines 45r. to 45t. are created to read:

**Table 5.06**  
**(Partial Table)**  
**TERMS**

	License, Certification or Registration Category	Term	Expiration Date	Continuing Education Cycle
	<b>Subchapter VII</b>			
45r.	Thermal Insulation Mechanic	2 years	Date of Issuance	3 Months Prior to Date of Expiration
45s.	Thermal Insulation Apprentice	1 year	Date of Issuance	NA
45t.	Thermal Insulation Helper	2 years	Date of Issuance	NA

SECTION 3. Comm 5.125 (3m) is created to read:

**Comm 5.125 (3m) THERMAL INSULATORS.** (a) Pursuant to s. 101.136 (11), Stats., the department may assess a forfeiture in the amount listed in pars. (b) and (c) to a violator of the licensing and registration requirements under s. 101.136, Stats., and ss. Comm 5.74 to 5.743.

(b) The amount of forfeiture assessed against an individual that does not hold the appropriate license or registration required under s. 101.136, Stats., and s. Comm 5.74 shall be subject to one of the following:

1. First offense - \$2,000.
2. Second offense - \$2,500.
3. Third and subsequent offense - \$3,000.

(c) The amount of forfeiture assessed against a thermal insulation mechanic who allows an individual who does not hold the appropriate registration under s. Comm 5.742 or 5.743 to install or alter thermal insulation shall be subject to one of the following:

1. First offense - \$500.
2. Second offense - \$1,000.
3. Third and subsequent offense - \$2,000.

SECTION 4. Comm 5.74, 5.741, 5.742 and 5.743 are created to read:

**Comm 5.74 Thermal insulators. (1) GENERAL.** Pursuant to s. 101.136 (6) (a) 1., Stats., as of July 1, 2011, no person may install or alter thermal system insulation for heating, ventilating, cooling, plumbing or refrigeration systems on or in a building, except as provided in s. 101.136 (6) (a) 2., Stats., unless the person holds a license or registration issued by the department as one of the following:

- (a) A licensed thermal insulation mechanic.
- (b) A registered thermal insulation apprentice.
- (c) A registered thermal insulation helper.

**Note:** Section 101.136 (6) (a) 2., Stats., does not require a credential for making minor repairs to thermal system insulation.

**(2) EXCLUSION.** The installation or alteration of thermal insulation does not include the fabrication, manufacture or creation of components of heating, ventilation, cooling, plumbing or refrigeration systems, such as pipes, ducts, valves, boilers, flues, or tanks or equipment, out of or with insulating materials.

**(3) DEFINITIONS.** In this section and ss. Comm 5.741 to 5.743:

(a) “Alter or alteration” means any construction or renovation to existing thermal system insulation other than a repair or addition.

(b) “Building” has the meaning given under s. 101.136 (1) (a), Stats.

**Note:** Under s. 101.136 (1) (a), Stats., “building” means a commercial, industrial, or residential building, structure, or facility, as defined by the department by rule, but does not include a residential building, structure, or facility that contains 3 or fewer residential units.

(c) “Minor repairs” means the patching, restoration or replacement to good or sound condition of a portion of an existing thermal system insulation for the purpose of maintaining the insulation with respect to performance requirements.

(d) “Thermal insulation” has the meaning given under s. 101.136 (1) (f), Stats.

**Note:** Under s. 101.136 (1) (f), Stats., “thermal system insulation” means a product that is used in a heating, ventilating, cooling, plumbing, or refrigeration system to insulate any hot or cold surface, including a pipe, duct, valve, boiler, flue, or tank or equipment on or in a building.

**Comm 5.741 Thermal insulation mechanics. (1) GENERAL.** A person may obtain a license as a licensed thermal insulation mechanic by one of the following:

(a) Taking and passing the thermal insulation licensure examination.

(b) Completing a heat and frost insulator apprenticeship recognized by the department of workforce development.

(c) 1. Having been employed for at least 1,000 hours per year for 4 years preceding the date of license application and the experience includes the installation and alteration of thermal insulation work in each year of the 4 years.

2. This paragraph does not apply after July 1, 2016.

**(2) APPLICATION FOR EXAMINATION.** A person applying to take a thermal insulation mechanic license examination shall submit all of the following:

(a) An application in accordance with s. Comm 5.01.

(b) An application fee and examination fee in accordance with s. Comm 5.02, Table 5.02.

**(3) QUALIFICATIONS FOR EXAMINATION.** A person applying for a thermal insulation mechanic licensure examination shall have at least 1,000 hours per year of experience for at least 4 consecutive years in installing and altering thermal insulation under the supervision of licensed thermal insulation mechanic.

**(4) EXAMINATION.** Except as provided in sub. (1) (b) and (c), a person seeking to obtain a thermal insulation mechanic license shall take and pass an examination in accordance with s. Comm 5.09.

**(5) APPLICATION FOR LICENSURE.** (a) Upon notification of the successful passage of the examination for a thermal insulation mechanic license, a person may obtain the license by submitting an application and the license fee in accordance with ss. Comm 5.01 and 5.09 (7) (c).

(b) A person may apply for a license as a licensed thermal insulation mechanic by submitting all of the following:

1. An application, application fee and a license fee in accordance with ss. Comm 5.01 and 5.02, Table 5.02.

2. Evidence of completing a heat and frost insulator apprenticeship program and the program has been recognized by the department of workforce development.

**(6) RESPONSIBILITIES.** A person who as a licensed thermal insulation mechanic is responsible for the installation or alteration of thermal system insulation shall utilize the appropriately licensed or registered individuals to install or maintain thermal system insulation.

(7) RENEWAL. (a) 1. A person may renew his or her license as a thermal insulation mechanic.

2. A thermal insulation mechanic license shall be renewed in accordance with s. Comm 5.07.

(b) 1. The renewal of a license as a licensed thermal insulation mechanic shall be contingent upon the thermal insulation mechanic obtaining at least 12 hours of acceptable continuing education within the time period specified in s. Comm 5.08 and Table 5.06, except as provided in subd. 2.

2. A person who holds a license as a licensed thermal insulation mechanic may apply to the department for waiver of the continuing education requirements under subd. 1. on the grounds of prolonged illness or disability or similar circumstances. Each application for waiver shall be considered individually on its merits by the department.

3. A person who initially obtained his or her thermal insulation mechanic license by completing a heat and frost insulator apprenticeship and whose request to renew his or her license is denied because of the failure to fulfill the continuing education requirements of subd. 1., shall be required to take and pass the thermal insulation mechanic licensure examination to reacquire the thermal insulation mechanic license.

**Comm 5.742 Thermal insulation apprentices. (1) GENERAL.** The activities of an individual, who holds a registration as a registered thermal insulation apprentice to install or alter thermal system insulation, shall be performed under the general supervision of a person who is a licensed thermal insulation mechanic.

(2) APPLICATION FOR REGISTRATION. A person applying for registration as a registered thermal insulation apprentice shall submit all of the following:

(a) An application in accordance with s. Comm 5.01.

(b) An application fee and a registration fee in accordance with s. Comm 5.02, Table 5.02.

(3) QUALIFICATIONS. A person applying for a thermal insulation apprentice registration shall be indentured in a heat and frost insulator apprenticeship program recognized under ch. 106, Stats.

(4) RESPONSIBILITIES. A person who installs or alters thermal system insulation as a thermal insulation apprentice may do so as long as he or she is indentured under ch. 106, Stats.

(5) RENEWAL. (a) A person may renew his or her registration as a thermal insulation apprentice.

(b) 1. A thermal insulation apprentice registration shall be renewed in accordance with s. Comm 5.07.



2. The renewal of registration as a thermal insulation apprentice shall be contingent upon the person submitting evidence that the person is indentured in a heat and frost insulator apprenticeship recognized under ch. 106, Stats.

**Comm 5.743 Thermal insulation helpers. (1) GENERAL.** The activities of an individual, who holds a registration as a registered thermal insulation helper to install or alter thermal system insulation, shall be performed under the direct supervision of a person who is a licensed thermal insulation mechanic.

**(2) APPLICATION FOR REGISTRATION.** A person applying for registration as a registered thermal insulation helper shall submit all of the following:

- (a) An application in accordance with s. Comm 5.01.
- (b) An application fee and a registration fee in accordance with s. Comm 5.02, Table 5.02.

**(3) RENEWAL.** (a) A person may renew his or her registration as a thermal insulation helper.

(b) A thermal insulation helper registration shall be renewed in accordance with s. Comm 5.07.

**END**

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**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.

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