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TDD#: Contact thru Relay

**Scott Walker, Governor**  
**Paul F. Jadin, Secretary**

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.: 11-020

RULE NO.: Chapter Comm 5

RELATING TO: Licenses, Certifications and Registrations

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

This rule is not subject to section 227.185, Stats. The statement of scope for this rule, published in Register No. 657 on September 30, 2010, was sent to the Legislative Reference Bureau prior to the effective date of 2011 Wisconsin Act 21.

Respectfully submitted,

Paul F. Jadin  
Secretary

# RULE REPORT

## Department of Commerce

Clearinghouse Rule No.: 11-020

Rule No.: Chapter Comm 5

Relating to: Licenses, Certifications and Registrations

*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.

For the most part the proposed rule revisions are non-substantive in nature; correcting or providing consistent format, eliminating irrelevant dates, updating referenced national standards to current editions; clarifying registration obligations; and revising terminology to reflect statutory changes (2009 Wisconsin Act 291). Three substantive revisions:

- Establish qualifying provisions for individuals applying to take the certification exam for automatic sprinkler fire sprinkler system testers.
- Establish continuing education obligations for automatic fire sprinkler system testers for the renewal of the certifications on and after January 1, 2014.
- Reduce the continuing education obligations for utility contractor license renewal from 12 hours to 6 hours.

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

The proposed changes reflect the intent of the credential rules under chapter Comm 5 to facilitate or promote public health, safety and welfare in the construction or use of buildings, building components and petroleum storage tanks.

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

No substantive changes have been made to the rule analysis or the fiscal estimate.

# FINAL REGULATORY FLEXIBILITY ANALYSIS

## Department of Commerce

CLEARINGHOUSE RULE NO.: 11-020

RULE NO.: Chapter Comm 5

RELATING TO: Licenses, Certifications and Registrations

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. For the most part the proposed rule revisions are non-substantive in nature; correcting or providing consistent format, eliminating irrelevant dates, updating referenced national standards to current editions; clarifying registration obligations; and revising terminology to reflect statutory changes (2009 Wisconsin Act 291).

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 next page)*



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

Clearinghouse Rule Number: 11-020		Hearing Location: Madison, WI	
Rule Number: Chapter Comm 5		Hearing Date: April 27, 2011	
Relating to: Licenses, Certifications and Registrations			
Comments: Oral or Exhibit No.	Presenter, Group Represented, City and State	Comments/Recommendations	Agency Response
Speaker 1, Exhibit 1	Chris Schoenbeck Automatic Fire Sprinkler Contractor and Journeymen Council and the Wisconsin Fire Protection Coalition W175 N5700 Technology Drive Menomonee Falls, WI 53051	Supports the proposed rules with amendments. <b>a.</b> Suggests that section Comm 5.56 (2) (b) be revised to remove references to certifications by State of Florida as an option in qualifying the Wisconsin tester exam. Recommends expanding the section to allow equivalent training and education as determined by the department. <b>b.</b> Requests that section Comm 5.56 be revised to require individuals applying for automatic fire sprinkler tester certifications to have 18 months of verifiable employment experience with a licensed fire sprinkler contractor, licensed fire sprinkler journeyman or licensed fire sprinkler system tester. <b>c.</b> Suggests the creation of a learner category for testing automatic fire sprinkler systems in order to provide for the suggested 18 months of experience.	Support noted. <b>a.</b> The reference to the Florida certification has been dropped.  <b>b.</b> The 18 month employment experience has not been incorporated with the NICET II certification since that is already a requisite of the NICET certification. This experience concept along with a new tester learner credential has been incorporated into the draft as an option to the NICET certification. <b>c.</b> See previous response.

# RESPONSE TO LEGISLATIVE COUNCIL CLEARINGHOUSE REPORT

## Department of Commerce

CLEARINGHOUSE RULE NO.: 11-020

RULE NO.: Chapter Comm 5

RELATING TO: Licenses, Certifications and Registrations

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 next page)*

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. 11-020

Rule No.: Chapter Comm 5

Relating to: Licenses, Certifications and Registrations

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

a. The suggested compound sentence for SECTION 1 does not appear to be covered by the Manual. If it is that confusing, may be the SECTION should be broken into two separate treatment sections.

c. The Department believes that it is more confusing to the reader to renumber a paragraph into subsection and then subsequently repeal the remaining paragraph.

d. The Department believes that the eventual format of the printed code is easier for the reader to follow and cite without double character references.

e. The provisions for the referenced certifications are contained in the same respective sections as indicated by the section titles.

f. The proposed rule revisions have be dropped.

h. The proposed rule revision under par. (d) has been dropped and a title created for par. (c).

i. Currently, the activities delineated under s. Comm 5.97 (1) are redundant with the language under s. Comm 5.90 (1) (b), and therefore, are proposed to be dropped.

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

a. The Department does not consider the changes to be substantive in that the changes reflect the Department's current administration of the program over the last several years.

b. The qualifying Florida certification has been dropped from the draft and a provision requiring at least 18 months of experience as a automatic fire sprinkler system tester learner has been substituted.