

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

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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.

FINAL REGULATORY FLEXIBILITY ANALYSIS

Department of Commerce

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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)

RESPONSE TO LEGISLATIVE COUNCIL CLEARINGHOUSE REPORT

Department of Commerce

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Name: James Quast

Title: Program Manager

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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

**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>Contends 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>Contends 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>	The proposed fee for the review of continuing education has been eliminated from the draft.
Speaker #2	J. Scott Mathie, Metropolitan Builders Association Waukesha	<p>Is not clear on the rationale for the proposed fees to review continuing educational course submittals, in that the same program is being funded by credential fees.</p> <p>Contends 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>	The proposed fee for the review of continuing education has been eliminated from the draft.
Written #1 (email)	Mary Ann Schneiter, 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>	The proposed fee for the review of continuing education has been eliminated from the draft.

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	Schneiter continued	Contends 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	<p>Contends 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.</p> <p>Contends 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>Suggests exempting non-profit organizations from this fee.</p>	The proposed fee for the review of continuing education has been eliminated from the draft.
Written #3	Vicki Markussen, LaCrosse Builders Association Onalaska	<p>Registers in opposition to the establishment of fees for continuing education course approvals.</p> <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. <p>Contends changing the frequency for reviewing courses to every 3 years versus the current 5 years would increase the department's workload.</p>	The proposed fee for the review of continuing education has been eliminated from the draft.
Written #4	Ryan Rugroden, Rugroden Drafting & Design Onalaska	<p>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.</p> <p>Believes that the fees will hurt the housing construction industry even more.</p> <p>Contends that the association will have to worry about getting enough attendees to offset the cost.</p> <p>Does not believe the fees is needed in the first place, if current costs are being offset by credentialing fees.</p>	The proposed fee for the review of continuing education has been eliminated from the draft.

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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. Contends 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. Indicates that the building industry has been the target of new and increased department fees including the new contractor registration.	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	Requests that the proposed fee for course approvals be eliminated or exempt non-profit entities. Contends 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.

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Written #9 (email)	Mike Vilstrup, Madison Area Builders Association	<p>Objects to the proposed fee for course approvals or requests exemption for non-profit entities.</p> <p>Contends 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.</p>	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	<p>Opposes the proposed fee for course approvals.</p> <p>Feels that this creates a new tax that is an unfair burden on their education system.</p> <p>Contends that electrical licensing that will soon be mandatory statewide will substantially increase the department's revenue stream.</p> <p>Indicates that the organization does not charge their members for the classes; views the proposed fee as reducing their ability to offer more classes.</p> <p>Opposes the proposed decrease in the length of courses approvals, contending this would increase the processing burden on the department.</p>	The proposed fee for the review of continuing education has been eliminated from the draft.
Written #11	Michelle Dawson, Racine Kenosha Builders Association Sturevant	<p>Objects to the proposed fee for course approvals or requests exemption for non-profit entities.</p> <p>Contends that the proposed fees will hurt the educational benefit offered by the association to its members.</p>	The proposed fee for the review of continuing education has been eliminated from the draft.
Written #12 (email)	Diane Montour, Wolf River Builders Association	<p>Requests the department to reconsider the proposed fee for review of continuing education courses.</p> <p>Contends the implementation of the fee will be passed on to course attendees who as credential holders will be paying twice for the service.</p>	The proposed fee for the review of continuing education has been eliminated from the draft.
Written #13 (email)	Ron Volz, Tomahawk Log & County Homes	<p>Opposes the proposed fee for course approvals.</p> <p>Contends that the fee will negatively impact the building industry and may be one more factor in discouraging association membership.</p>	The proposed fee for the review of continuing education has been eliminated from the draft.
Written #14	Abe Degnan, Degnan Design	Requests the department not to implement another fee increase for builder education.	The proposed fee for the review of continuing education has been eliminated from the draft.

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	<p>Builders DeForest</p> <p>Degnan continued</p>	<p>Contends that the department is already collecting fees for registrations that supplement state coffers.</p> <p>Contends that the state was to be responsible for funding builder education.</p> <p>Questions the proposal to increase the department's workload by proposing courses approval be reviewed every 3 years instead of 5 years.</p>	
Written #15	<p>Sally Reuling, Headwaters Building Association Minocqua</p>	<p>Opposes the proposed fee for course approvals.</p> <p>Contends that if implemented, that the fees will be charged back to members who can ill afford it right now.</p> <p>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.</p> <p>Contends 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.</p>	<p>The proposed fee for the review of continuing education has been eliminated from the draft.</p>
Written #16	<p>Robert Rayburn, Milwaukee Chapter, National Electrical Contractors Association Milwaukee</p>	<p>Opposes the proposed fee for course approvals.</p> <p>Indicates that the JATC is a self-supporting non-profit organization that derives its revenue from contributions made by electrical contractors.</p> <p>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.</p> <p>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.</p> <p>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</p>	<p>The proposed fee for the review of continuing education has been eliminated from the draft.</p>

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		Division which he believes has been operating at a profit.	
Written #17	Barb Ritzinger, Heart of the North Builders Association Rice Lake	<p>Contends the proposed charges to review and approve continuing education courses will hurt local builders association and will deteriorate the quality of education available to contractors.</p> <p>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.</p> <p>Recommends not charging non-profit organizations to approve their courses.</p>	The proposed fee for the review of continuing education has been eliminated from the draft.
Written #18	Mike Chetney, Milwaukee & Kettle Moraine Electrical JATC Wauwatosa	<p>Opposes the proposed fee for course approvals.</p> <p>Contends 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.</p>	The proposed fee for the review of continuing education has been eliminated from the draft.
Written #19 (email)	Joe Klein Milwaukee JATC	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	<p>Opposes the proposed fee for course approvals.</p> <p>Contends that the proposed fees will add to the financial burden of non-profit organizations like the NECA.</p> <p>Suggests raising credential fees to generate additional revenue.</p>	The proposed fee for the review of continuing education has been eliminated from the draft.
Written #21	Christine Shaefer, Valley Home Builders Association Appleton	<p>Objects to the proposed fee for course approvals.</p> <p>Suggests exempting not-for-profit organizations.</p> <p>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.</p>	The proposed fee for the review of continuing education has been eliminated from the draft.
Written #22	Jennifer Johnson, Northland Area Builders Association Danbury	<p>Objects to the proposed fee for course approvals or requests exemption for non-profit entities.</p> <p>Opposes the change from 5 years to 3 years for the course approval terms.</p>	The proposed fee for the review of continuing education has been eliminated from the draft.

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	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>Contends this will punish his home builders association that offers free classes.</p> <p>Suggests exempting not-for-profit organizations.</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>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.