

The Wisconsin Department of Safety and Professional Services proposes an order to repeal SPS 305.02 Table 305.02 lines 50r. to 50t., SPS 305.06 Table 305.06 lines 45r. to 45t., SPS 305.125 (3m), SPS 305.74 to 305.743 relating to thermal insulator credentials.

Analysis of Rule

1. Statutes Interpreted

Statutes Interpreted: ss. 101.02 (1), 227.10 (1) and 227.11 (2) (a), Stats.

2. Statutory Authority

Statutory Authority: ss. 101.02 (1), 227.10 (1) and 227.11 (2) (a), Stats.

3. Related Statute or Rule

None

4. Explanation of Agency Authority

Under 2009 Wisconsin Act 16, s. 101.136, Stats., on and after July 1, 2011, only individuals licensed as insulation mechanics or working under the supervision of licensed insulation mechanics may install or maintain thermal system insulation. Thermal insulation was 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. Act 16 direct the department (then, the Department of Commerce) to implement these credentialing rules which the department did under Clearinghouse Rule number 11-090. Subsequently, 2011 Wisconsin Act 32 repealed s. 101.136, Stats.

5. Plain Language Analysis

The proposed rules repeal the credentialing procedures established for thermal system insulators under s. 101.136, Stats., as mandated under 2009 Wisconsin Act 16. The proposed rules eliminate the credentials for thermal insulation mechanics, thermal insulation apprentices and thermal insulator helpers, under section SPS 305.741, 305.742 and 305.743.

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The proposed rules were developed in light of 2011 Wisconsin Act 32 which repealed s. 101.136, Stats.

9. Analysis and Supporting Documents used to Determine Effect on Small Business or in Preparation of Economic Impact Analysis

The proposed rule action follows the direction provided by 2011 Wisconsin Act 32 in repealing s. 101.136, Stats., and therein, eliminating the mandate for thermal insulator credentials.

10. Effect on Small Business

Originally, it was estimated that the credential rules implemented pursuant to 2009 Wisconsin Act 16 regarding thermal insulators would most likely affect HVAC contractors, plumbing contractors, and mechanical refrigeration contractors. Fees for the various credentials ranged from \$15 for apprentices and helpers to \$250 for mechanics. In light of the 2011 Wisconsin Act 32, the thermal insulator credentials were not implemented and the associated fees not collected.

11. Agency Contact

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

12. Public Hearing Comments

The hearing record on this rule will remain open until February 20, 2012. 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@wi.gov.

SECTION 1. SPS 305.02 Table 305.02 lines 50r. to 50t. are repealed.

SECTION 2. SPS 305.06 Table 305.06 lines 45r. to 45t. are repealed.

SECTION 3. SPS 305.125 (3m) is repealed.

SECTION 4. SPS 305.74 to 305.743 are repealed.

SECTION 5. This rule shall take effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22 (2) (intro.), Stats.

ADMINISTRATIVE RULES FISCAL ESTIMATE AND ECONOMIC IMPACT ANALYSIS

Type of Estimate and Analysis

Original Updated Corrected

Administrative Rule Chapter, Title and Number

Chapter SPS 305, Licenses, Certifications and Registrations

Subject

Thermal System Insulators

Fund Sources Affected

Chapter 20 , Stats. Appropriations Affected

GPR FED PRO PRS SEG SEG-S

Fiscal Effect of Implementing the Rule

<input checked="" type="checkbox"/> No Fiscal Effect	<input type="checkbox"/> Increase Existing Revenues	<input type="checkbox"/> Increase Costs
<input type="checkbox"/> Indeterminate	<input type="checkbox"/> Decrease Existing Revenues	<input type="checkbox"/> Could Absorb Within Agency's Budget
		<input type="checkbox"/> Decrease Costs

The Rule Will Impact the Following (Check All That Apply)

<input type="checkbox"/> State's Economy	<input type="checkbox"/> Specific Businesses/Sectors
<input type="checkbox"/> Local Government Units	<input type="checkbox"/> Public Utility Rate Payers

Would Implementation and Compliance Costs Be Greater Than \$20 million?

Yes No

Policy Problem Addressed by the Rule

Section 101.136, Stats., as created by 2009 Wisconsin Act 16, mandates as of 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 Department promulgated rules under chapter SPS 305 effective February 1, 2011 that implemented the licensing mandates of 2009 Wisconsin Act 16. Subsequently, 2011 Wisconsin Act 32, has repealed s. 101.136, Stats., and therein eliminated the licensing mandates for thermal system insulators.

Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)

It was estimated that the credential rules implemented pursuant to 2009 Wisconsin Act 16 regarding thermal insulators would most likely affect HVAC contractors, plumbing contractors, and mechanical refrigeration contractors. Fees for the various credentials ranged from \$15 for apprentices and helpers to \$250 for mechanics. In light of the Act 32, the thermal insulator credentials were not implemented and the associated fees not collected.

Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule

The proposed repeal of the credential rules for thermal insulators will clarify and allow individuals to continue to install and maintain thermal system insulation without the necessity of acquiring a specific credential. An alternative of leaving the rules in place and requiring the credentials under the broad authority of chapter 101, Stats., would not reflect the latest direction provided by 2011 Wisconsin Act 32.

Long Range Implications of Implementing the Rule

No long range implications are anticipated.

Compare With Approaches Being Used by Federal Government

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

Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

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.

Name and Phone Number of Contact Person

James Quast, program manager, (608) 266-9292

The Department of Safety and Professional Services summarizes the comments received by written submission as follows:

The comments support the proposed rules, and endorse revising the relevant portions of SPS 305 to reflect the legislature's repeal of s. 101.136, Stats., under 2011 Wisconsin Act 32. The comments stress the need to complete the procedure to provide the industry with closure on the issue.

VI. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS:

Comment 1. Statutory Authority

Response: The Department will reference both statutory references, ss. 227.10 (1) and 227.11 (2) (a), Stats. It would appear that the language of both ss. 227.10 (1) and 227.11 (2) (a), Stats., covers the same subject matter. However, s. 227.11 (2) (a), Stats., addresses when or under what conditions rule-making authority is conveyed.

Comment 2b. Form, Style and Placement in Administrative Code

Response: The suggestion appears to be redundant with the suggestion to enhance the explanation of the agency's authority.

Comment 2c. Form, Style and Placement in Administrative Code

Response: The heading has been changed to "Plain Language Analysis", however, the title is not consistent with s. 227.14 (2) (a) 2. The description of s. 101.136, Stats., is previously covered the Explanation of Agency Authority.

All of the remaining recommendations suggested in the Clearinghouse Report have been accepted in whole.

VII. REPORT FROM THE SBRRB AND FINAL REGULATORY FLEXIBILITY ANALYSIS:

Pursuant to s. 227.19 (3m), Stats., the Department of Safety and Professional Services has determined that the proposed rules to revise SPS 305 will have no economic impact on small businesses. 2011 Wisconsin Act 32 repealed the statutory mandate for thermal insulator credentials previously enacted by 2009 Wisconsin Act 16, s. 101.136, Stats.