

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 Oliver
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.

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.

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

Clearinghouse Rule Number: 10-089		Hearing Location: Madison, WI	
Rule Number: Chapters Comm 21 and 28		Hearing Date: August 11, 2010	
Relating to: Carbon Monoxide Detectors in Dwellings			
Comments: Oral or Exhibit No.	Presenter, Group Represented, City and State	Comments/Recommendations	Agency Response
Exhibit 1	Fred W. Brown HI Electron N3977 Meadow Drive Cambridge, WI 53523	Supports the process and code package. Believes the carbon monoxide alarm requirement is a good safety measure.	Support noted.
Exhibit 2	Don Iverson National Electrical Manufacturers Association (NEMA) 1102 S. Eifert Road Mason, MI 48854	a. Supports carbon monoxide detection devices being listed, but believes the 2009 Wisconsin Act 158 limits consumers' and manufacturers' choices by requiring a UL listing. Recommends instead that listings by any Nationally Recognized Testing Laboratory (NRTL) that is U.S. Occupational Safety and Health Administration (OSHA) accredited to test and certify to American National Standards Institute (ANSI)/UL Standards be allowed. b. Requests that carbon monoxide alarms and detectors be installed in accordance with the National Fire Protection Association (NFPA) 720, <i>Standard for the Installation of Carbon Monoxide (CO) Detection and Warning Equipment</i> .	a. Support noted. However, the administrative rules as written recognize the ability of independent testing agencies to certify compliance to the UL standard. b. Disagree. Many of the provisions covered in residential alarms under NFPA 720 are currently addressed in state Statutes, administrative rules and UL 2034.
Exhibit 3	Pat Stevens Wisconsin Builders Association (WBA) 4868 High Crossing Blvd. Madison, WI 53704	Supports the ruling for carbon monoxide detectors in one- and two-family dwellings, but prefers the flexibility allowed in s. 101.647, Stats., relating to the location of the detectors. Requests that proposed Comm 21.097 (2) (b) be modified to reflect the statutory language.	Support noted. However, the proposed rules are consistent with language provided in national standards. For example, the International Residential Code (IRC) and NFPA 720 recommend locating carbon monoxide alarms near sleeping areas. The distance requirement is comparable to that required for a smoke alarm so the two devices may be combined as allowed in s. 101.647 (2), Stats.
Exhibit 4	Mark Wagner Siemens Industry, Inc. Building Technologies 6737 W. Washington St., Suite 2110 Milwaukee, WI 53214	Supports the ruling for carbon monoxide alarms, but points out that a combination smoke and carbon monoxide detector will not give the earliest warning of carbon monoxide presence. Recommends separate detectors with the smoke alarm ceiling mounted and the carbon monoxide alarm mounted near the floor level.	Support noted. However, the proposed rules reflect the statutory allowance in s. 101.647 (2), Stats., for a combined carbon monoxide and smoke alarm device. In addition, national standards and manufacturers' instructions do not dictate a specific placement on ceilings or walls.