

RULE REPORT

Department of Commerce

Clearinghouse Rule No.: 09-028

Rule No.: Chapter Comm 5

Relating to: Licensing of Electricians

Contact person for substantive questions:

Contact person for internal processing:

Name James Quast

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Title Program Manager

Title Program Manager

Telephone Number (608) 266-9292

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1. Basis and purpose of the proposed rule.

The proposed rules establish administrative procedures for licensing of electrical contractors and electricians as mandated by 2007 Wisconsin Act 63. The enactment of 2007 Wisconsin Act 63 requires persons performing electrical wiring any where in the state on and after April 1, 2013 to be licensed by the department.

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

One of the department's statutory responsibilities under chapter 101, Stats., is to protect public health and safety relative to the built environment. The electrician licensing rules are to facilitate the safe electrical wiring installations.

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

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

RESPONSE TO LEGISLATIVE COUNCIL CLEARINGHOUSE REPORT

Department of Commerce

CLEARINGHOUSE RULE NO.: 09-028

RULE NO.: Chapter Comm 5

RELATING TO: Licensing of Electricians

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 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. 09-028
Rule No.: Chapter Comm 5
Relating to: Licensing of Electricians

1. Statutory Authority

Sections Comm 5.42 (2) (b) and 5.42 (3) (c) 1. and 2. under the proposed rules deal with the issue of supervision relative to department's duties under s. 101.82 (1r), Stats., and pertains to job site supervision. The electrical wiring work of both beginning electricians and journeymen electricians still is the responsibility of a master electrician as required by s. 101.862 (3), Stats.

2. Form, Style and Placement in Administrative Code

- a. The electrical contractor license is issued to a business. Similar to other business credentials under chapter Comm 5, e.g. HVAC contractor, s. Comm 5.70, there are no other qualifications to obtain the license.
- b. The department prefers the term "the" to be consistent with the wording throughout chapter Comm 5.
- c. The procedures for a credential renewal are covered under s. Comm 5.07; the ability to "apply" for renewal is specifically mentioned under s. Comm 5.07 (2) (a).

4. Adequacy of References to Related Statutes, Rules and Forms

- b. The electrical contractor license is issued to a business. Similar to other business credentials under chapter Comm 5, e.g. HVAC contractor, s. Comm 5.70; there are no other qualifications such as the fulfillment of educational obligations to obtain the license.
- c. Such a note currently exists under s. Comm 5.01 for all credentials.
- d. Section Comm 5.09 (7) (c) references Table 5.02 which is consistent throughout chapter Comm 5.

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

- c. There may be more than one master electrician involved in an electric wiring installation project, but only one of the master electrician is responsible for the work and the utilization of the appropriately licensed individuals performing the work.
- e. The procedures for a credential renewal are covered under s. Comm 5.07; the ability to "apply" for renewal is specifically mentioned under s. Comm 5.07 (2) (a).

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

Clearinghouse Rule Number: 09-028		Hearing Location: Madison	
Rule Number: Chapter Comm 5		Hearing Date: April 29, 2009	
Relating to: Licensing of Electrical Contractors and Electricians			
Comments: Oral or Exhibit No.	Presenter, Group Represented, City and State	Comments/Recommendations	Agency Response
Speaker #1	David Boetcher International Brotherhood of Electrical Workers, Wausaukee	<p>Supports the proposed rule-making work.</p> <p>Believes that certain areas of the rules could be improved to enhance safety and to better serve the public:</p> <ul style="list-style-type: none"> • Contends the rules need to have a limit on how many beginning electricians may be supervised by one journeyman or master electrician. The draft does nothing to prevent the dangerous practice of a high number of untrained workers wiring without adequate supervision therein jeopardizing worker and public safety. Proper supervision is needed to ensure the project is compliant with the electrical code. • Recommends a ratio per project where the number of beginning electricians equals the aggregate number of number journeymen and master electricians, plus one more beginning electrician. • Recommends that the rules create a new electrician category (Industrial Electrician or Industrial Maintenance Electrician) allowing properly trained and educated maintenance electricians to install new circuitry in facilities where employed. • Recommends that to facilitate the ability of a master electrician's ability to work in other states that the department license indicates that license is equal to some type of "advanced" journeyman license. 	<p>Support noted.</p> <p>The rules have been revised establishing a job-site ratio of non-apprentice beginning electricians to the number of master and journeymen electricians. In addition, under the proposed rules, untrained workers (beginning electricians) require direct supervision on the job site by at least one master or journeyman electrician. Every electrical wiring installation has to be under the responsibility of a master electrician. Worker safety, whether or not employees are licensed, falls typically under the jurisdiction of OSHA. From a liability perspective, the employer/contractor has a vested interest to accomplish code compliant installations. The implementation of a statewide inspection strategy for electrical wiring installation under the proposed rules of CR 09-029 is intended to strengthen the safety net for compliant installations.</p> <p>The rules have been revised establishing an industrial electrician category for a journeyman and apprentice.</p> <p>The license names reflect statutory provisions. The rules have been revised to allow the exchange of a master's license for a journeyman's license similar to that currently allowed for plumbing licenses. The department will continue to educate other states as to the scope and nature of Wisconsin electrical licenses.</p>
Speaker #2	John Mielke ABC of Wisconsin, Madison	<p>Suggests adding an application requirement for the electrical contractor to provide a social security number or federal employer identification number.</p> <p>Suggests adding a provision for the electrical contractor to provide their department identification on number bids and contracts.</p>	<p>Such a requirement exists under the current rules of s. Comm 5.01 (3) and 101.02 (20), Stats.</p> <p>The suggestion has been incorporated into the draft.</p>

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	Mielke continued	<p>Suggests adding a provision requiring the electrical contractor to either be a licensed master electrician or employ one or more master electricians.</p> <p>Asks whether the elimination of the electrical contractor-restricted license after 2013 will necessitate the individual to comply with s. Comm 5.41. Contends that the limitation for residential electricians to wiring associated with dwellings and dwelling units should be defined to work that is described under s. Comm 20.02 (1) and multi-family dwellings.</p> <p>Indicates the word “residential” is missing under s. Comm 5.445 (1). Notes that earlier working drafts proposed beginning electricians obtain 24 hours of continuing education over 4 years and the public hearing draft now requires the 24 hours in just one year - while the master or journeyman electrician providing supervision over the beginning electrician is required only to obtain either 18 or 24 hours over 4 years – suggests that the continuing education for the beginning electrician be reduced to 8 hours for the one year term.</p>	<p>Unless exempted, statutory provisions require that all electrical installations need to be the responsibility of a master electrician.</p> <p>In 2013 all electrical contractors will be subject to the s. Comm 5.41</p> <p>The rules are intended to provide a broad scope of work to reflect the types of structures or uses that may be associated with a home, including swimming pools, attached or detached garages, and work sheds.</p> <p>The correction has been made.</p> <p>The department considers beginning electricians to be in a more intense learning phase as compared to journeyman or master electricians.</p>
Speaker #3	Ronald Natzke IBEW 1147 Wisconsin Rapids	Asks that the rules create a new maintenance electrician category to recognize the trained and educated in-plant electricians who are currently performing various installation activities. Indicates that statutory exemption under s. 101.862 (4) (b) only allows work on existing wiring and not new wiring that these in-plant electricians have been trained and historically performed.	The rules have been revised establishing an industrial electrician category for a journeyman and apprentice.
Speaker #4	John Schwab Southeast Wisconsin Electrical Inspectors Association Wauwatosa	<p>Believes that some issues have been overlooked:</p> <ul style="list-style-type: none"> • Advocates for establishment of penalties for violations similar to that under chapter 145, Stats. • Asks for a more definitive definition for “direct supervision” to mean an on-site person who is there for when the installation is occurring. • Asks for clarification regarding the scope of work for residential electricians and “dwelling unit”. • Indicates that the city of Wauwatosa has a “maintenance” license for the maintenance and repairs but not for extensions. 	<p>The administrative forfeitures authorize under ch. 145, Stats., are limited to plumbing licensing violations. Separate legislation would need to be enacted to enable the department to levy forfeitures or citations.</p> <p>The term “direct supervision” is currently defined under s. Comm 5.003 (14) and has been effectively applied for other licensing programs, plumbing, automatic fire sprinkler system installations and elevator installations. See response under Mielke.</p> <p>Under the statutory exemptions of s. 101.862 (4) (b), Stats., this work does not require a license in 2013.</p>

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Speaker #5	Richard Pokorny City of Marshfield	<p>Concurs with previous speaker advocating for penalties.</p> <p>Suggests that a definition for “direct supervision” relates to on the premises. Believes that maintenance electricians would need to have supervision similar to that for construction wiring.</p> <p>Opposes the rules allowing a master electrician to serve more than one shop; contends that the previous statutes required a contractor to employ a full time master.</p> <p>Contends the rules need to have a ratio for how many beginning electricians may be supervised by one journeyman or master electrician. Notes Marshfield has a ratio of 4 beginners to one journeyman or master with 5th-year apprentices not counting toward the ratio.</p>	<p>See response under Schwab.</p> <p>See response under Schwab. The rules have been revised establishing an industrial electrician category for a journeyman and apprentice and address supervision provisions. The previous statutory provisions did not limit a master electrician from serving more than one shop nor require full time employment. It is unclear what problem the suggestion addresses. See response under Boetcher.</p>
Written #1	Loyal O’Leary National Electrical Contractors Association Madison	<p>Registered in favor of the proposed rules.</p> <p>Advocates for a job-site limit on the number of beginning electricians that be supervised by a journeyman.</p>	<p>Support noted.</p> <p>See response under Boetcher.</p>
Written #2	Shari Brunner National Electrical Contractors Association Madison	Registered in favor of the proposed rules.	Support noted.
Written #3	Terry Roovers IBEW Appleton	<p>Registered in favor of the proposed rules.</p> <p>Believes that there is a need to address the issue of displacing maintenance (in plant) electricians.</p>	<p>Support noted.</p> <p>See response under Boetcher.</p>
Written #4 (email)	Joseph Heimsch City of Watertown	<p>Indicates that the city has required a ratio of one journeyman or master for each apprentice or beginner to help ensure competent or skilled electricians on the job, otherwise believes that there can be just beginning electricians on a job.</p> <p>Raises the question if an electrical contractor must have at least one master electrician on staff and how may electrical contractors could one master electrician work for.</p>	<p>See response under Boetcher.</p> <p>See response under Pokorny.</p>

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Written #5	Lee Fochs, Chairman Northwest Building Inspectors Association Chetek	<p>Indicates that the association endorses the proposed licensing rules and electrical inspection rules.</p> <p>Believes that there should be clarification as to how many journeymen may be supervised by a single master electrician and how many beginning electricians may be supervised by a single master or journeyman electrician. Also believes that allowing owners to do their own electrical work would seriously weaken the effect of the licensing requirements. It is recommended that electrical rules follow plumbing licensing rules which require a homeowner to live in the home for a year before being allowed to do any work of their own.</p> <p>Feels that there should be more time given between the formulation of the new code and legislation action. Believes a second hearing should be held to allow association sufficient time to evaluate changes.</p>	<p>Support noted.</p> <p>See response under Boetcher.</p> <p>The exemption of homeowners to do electrical installations has been established by the statutes.</p> <p>The department believes that the comment period of May 15, 2009 provided sufficient time for evaluation and comment.</p>
Written #6 (email)	Pete Scheuerman	<p>Believes that the proposal for raising the bar for electrical installations in Commercial and Agricultural installations is an excellent idea.</p> <p>Believes that requiring permits for agricultural installations will pose the greatest challenge for compliance. Suggests communication to the affected parties may aid in mitigating resistance.</p> <p>Believes that the cost of the permits and the inspections may affect the degree of resistance.</p>	<p>See response under CR 09-029 relative to electrical inspections.</p> <p>See response under CR 09-029 relative to electrical inspections.</p> <p>See response under CR 09-029 relative to electrical inspections.</p>
Written #7 (email)	David Phillipps	<p>Suggests defining residential electrical contractors as those that work on one and two family dwellings and commercial electrical contractors working on 3-family and more. This would be consistent with the UDC and WCBC and in light of the differences between the two in the electrical codes.</p> <p>Suggests allowing a home owner to do electrical work on their own home should have the same limitations as in the Wisconsin Plumbing Code. Home owners would be limited to do electrical work on their own home only after it has been issued a CO for a new single family home or duplex unit that they own and occupy. A home owner should not be able to work on an individual dwelling unit of a multi-family building consisting of 3 units or more except for minor maintenance of such as light fixtures, switches, outlets, etc. The unit owner would have a very limited access to the wiring system of the building which may or could involve the wiring system of other units or the building itself.</p>	<p>The limitations on the scope and nature of electrical work relates to the individuals licensed to perform the installations and not the contractor business licenses.</p> <p>The exemption of homeowners to do electrical installations has been established by the statutes.</p>

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	Phillipps continued	<p>Feels that some agricultural wiring should be allowed to be inspected by UDC inspectors. Farm uses that would be on a larger scale and have the potential for stray voltage should be done by commercial electricians and inspected by a commercial electrical inspector. A pole shed that is constructed by a home owner for storage and then would decide to have a 4-H horse in this shed would go from residential to commercial; requiring all farms to be inspected by a commercial electrical inspector will be a very cumbersome program for the State to enforce. These hobby farms change frequently when they are on a smaller scale. A farmer trying to obtain an electrical permit from someone other than the local Township might find will be an enforcement nightmare. Questions how many permits are obtained for large scale agricultural farms; contends that the Electricians don't even bother to even check on permits let alone inspections. The small hobby farms/sheds/equipment have more permits and inspections done on them than the large scale farming operations.</p> <p>Feels the licensing program work follow the State Plumbing Code and only allow an electrician with a master's license to be able to pull permits. Home owners would be able to pull permits as would be required in #2 above. From an inspectors viewpoint it would be easier to monitor.</p> <p>Feels using the State Plumbing Code as a basis for how many apprentices or journeymen a master can supervise or who can work unsupervised has worked out well and seems reasonable. Why reinvent the wheel on something that seems to be an excepted industry standard.</p>	<p>See response under CR 09-029 relative to electrical inspections.</p> <p>The plumbing code does not dictate who may or may not apply for plumbing permits. Such limitations are at the discretion of the municipality to establish by ordinance.</p> <p>See response under Boetcher.</p>
Written #8	Don Turner, Wausau Paper Specialty Products Wausau	Seeks clarification whether the proposed permits and inspections would be required for maintenance/alterations within existing facilities and whether in-house electrical technicians would not be required to hold master licenses.	Inspections would be required if new or additional electrical services, feeders or circuits are part of the alterations. This type of work is required to be under the responsibility of a master electrician. The rules have been revised establishing an industrial electrician category for a journeyman and apprentice. Other maintenance work would not require a license under the statutory exemption of s. 101.862 (4) (b), Stats.
Written #9	Kevin Benner East Central Wisconsin Association of Electrical Inspectors	Raises the question whether additional department staffing may be needed to process applications and conduct resolution management in a timely and effective manner.	Concern noted.

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	Benner continued	<p>Suggests that when issuing the electrical contractor license the master electrician of record should be a full time employee and should not be the master of record for any other firm.</p> <p>Suggests that there should be a defined process to handle complaints and address the complaints within a timely manner; if the department cannot remedy the situation immediately then the process should be implemented through a review board or council.</p> <p>Suggests that the electrical contractor be required to hold a certificate of insurance to ensure the end-user that the contractor is truly qualified.</p> <p>Asks for clarification as to the scope of work for residential electricians noting that large multi-family dwelling projects may include parking garages, swimming pools, high-rise systems.</p> <p>Suggests there be a definition for “direct supervision” as it pertains to beginning electricians.</p> <p>Suggests the implementation of defined ratio such as one journeyman or master electrician for every two beginning electrician (apprentice).</p> <p>Contends that if a maintenance electrician license is created that inspections will be need to be done to follow-up and verify that the maintenance electricians are not conducting work beyond their license and the work is compliant.</p> <p>Believes that the term “premises” needs to be defined relative to s. 101.864 (2) (a), Stats., to address the potential concern that residential owners may pose a hazard to others if allowed to perform unlimited wiring.</p> <p>Suggests plagiarizing s. Comm 5.10 for enforcement of electrical licensing.</p> <p>Suggests the use of citations or discontinuance of electric service to address installation issues.</p> <p>Advocates for an online complaint process to address licensure problems.</p>	<p>The previous statutory provisions did not limit a master electrician from serving more than one shop nor require full time employment. It is unclear what problem the suggestion addresses.</p> <p>A compliant process currently exists and is available through the Safety and Buildings Division web site.</p> <p>It is unclear how the suggestion facilitates the installation of compliant electrical systems.</p> <p>See response under Mielke.</p> <p>The term “direct supervision” is currently defined under s. Comm 5.003 (14) and has been effectively applied for other licensing programs, plumbing, automatic fire sprinkler system installations and elevator installations.</p> <p>See response under Boetcher.</p> <p>See response under CR 09-029 relative to electrical inspections.</p> <p>The term defaults to the dictionary definition; without legislative direction, the department does not intend to create restrictive limitations beyond the law.</p> <p>The administrative forfeitures authorize under ch. 145, Stats., is limited to plumbing licensing violations.</p> <p>Separate legislation would need to be enacted to enable the department to levy forfeitures or citations.</p> <p>See response under CR 09-029 relative to electrical inspections.</p> <p>A compliant process currently exists and is available through the Safety and Buildings Division web site.</p>
Written #10	Guy Hendrickson Rhinelander	Asks for clarification whether private companies doing in house electrical wiring installations need to be licensed electrical contractors.	Companies doing in house electrical wiring are exempted by the statutes from contractor licensure.
	Hendrickson continued	Believes the exemptions under s. 101.862 (4) (b) and (g), Stats., will be	The rules have been revised establishing an industrial

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		<p>confusing as the scope of permitted activity; suggests all electricians be licensed.</p> <p>Contends that all registered beginning electricians should perform electrical work under direct supervision to facilitate proper training.</p> <p>Advocates the all apprenticeship programs such as their manufacturing electrical plant program be recognized under s. 101.87 (1) (a), Stats., as eligible to qualify for the journeyman electrician license.</p>	<p>electrician category for a journeyman and apprentice. Other maintenance work would not require a license under the statutory exemption of s. 101.862 (4) (b), Stats. The Wisconsin Department of Workforce Development apprenticeship standards will dictate the supervision requirements for beginning electrician-apprentices. The rules have been revised establishing an industrial electrician category for a journeyman and apprentice. The industrial journeyman electrician license can be obtained through completion of an apprenticeship program.</p>

FINAL REGULATORY FLEXIBILITY ANALYSIS

Department of Commerce

CLEARINGHOUSE RULE NO.: 09-028

RULE NO.: Chapter Comm 5

RELATING TO: Licensing of Electricians

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 beyond that imposed by 2007 Wisconsin Act 63 which requires state-wide electrician licensure by April 1, 2013.

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.

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