



PLUMBING and MECHANICAL CONTRACTORS
Association of Milwaukee and Southeastern Wisconsin, Inc.

SHEET METAL & AIR CONDITIONING CONTRACTORS'
Association of Milwaukee, Inc.



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Department of Commerce

Public hearing, proposed rule: Chapter Comm 5, Thermal Insulator Credentials

Testimony of Peter Lentz, Executive Director of the Plumbing Mechanical Sheet Metal Contractors Alliance

I am the Executive Director of the Plumbing and Mechanical Contractors Association of Milwaukee and Southeastern Wisconsin and the Executive Vice President of the Sheet Metal and Air Conditioning Contractors' Association of Milwaukee. These two construction trade associations represent approximately 200 business firms of all sizes. Together we are known as the Plumbing Mechanical Sheet Metal Contractors Alliance.

The contractors represented by the Alliance employ more than 4,000 union-affiliated skilled trades persons in Southeastern Wisconsin. Most of these contractors are directly involved in the heating, ventilating, cooling, plumbing, or refrigeration system businesses. These firms and their skilled employees will be directly and substantially impacted by proposed Comm 5.

Rule making process

Before I comment on the substance of Comm 5, I would like to make an observation about the process. The legislature recognized the topic of thermal system insulation to be of sufficient importance to enact a specific statute. The legislature established an agency of the state, thermal system insulation council, and specifically mandated among other things that the council was to "[r]ecommend to the department requirements for the licensure of mechanics ..." The department has not followed that process

On or about July 13, the department published proposed rule Comm 5 and immediately set this matter for today's hearing. This accelerated process is undertaken despite the fact that there has been no substantial discussion among council members. In fact, the council has never met. As far as I can tell, only 3 of the 7 members of the council have been appointed—less than a quorum. In view of the fact that the license requirement does not become effective until July 1, 2011, the Alliance believes that this haste is inadvisable, unnecessary, and of uncertain validity.

In making the following comments on the substance of the proposed rule, we want to make it clear that we do not mean to waive our concerns with regard to the rule making process.

Mechanical Contracting Industry Concerns.

License Requirements. By limiting the pool of applicants for licensure to persons who have completed a heat and frost insulator apprenticeship, the rule proposed by the commerce department neglects to take into account the other construction trade apprenticeship programs that provide training in installing and maintaining thermal system insulation.

According to the statute, *“thermal system insulation” means a product used in heating, ventilating, cooling, plumbing, and refrigeration systems.* The design, installation, maintenance, and repair of those systems is precisely what the contractor firms represented by the Alliance do for a living. That work includes the proper installation, maintenance, and repair of insulation products related to those systems. From the first use of insulation products in thermal systems, sheet metal workers/environmental service technicians, steamfitters/ refrigeration fitters, and plumbers have worked with insulation products.

Alliance firms contribute millions of dollars annually to Joint Apprenticeship and Training Committees regulated by the department of workforce development under ch. 106, stats. These JATC training programs and the related on-the-job training provide instruction and experience in the installation and maintenance of insulation products. These sheet metal worker/environmental service technician, steamfitter/ refrigeration fitter, and plumber apprenticeship programs fall squarely within the language of Subsection 101.136(6)(c) 2. Each such apprentice *“has successfully completed training in installing and maintaining thermal system insulation under an apprenticeship program that is approved by the department and that meets the requirements of the department of workforce development under ch.106.”*

Today, and for many years past, sheet metal workers/environmental service technicians, steamfitters, refrigeration fitters, and plumbers have worked with insulation products that they have been trained to use. And the training does not stop with apprentices. For example, Local #18 sheet metal workers recently held lagging (insulation) classes for journeyworkers.

I am able to give an example to illustrate the extent of the participation of these mechanical trades in thermal system insulation work. One of the mechanical contractors doing utility construction work in the Milwaukee metropolitan area has verifiable records showing almost 52,000 hours worked last year specifically involving thermal system insulation (known as “lagging”) by journeyworkers who are graduates of the sheet metal apprenticeship program.

Comm 5.741 (1)(b) and Comm 5.741 (5)(b) 2. should be modified to include reference to the sheet metal worker, the environmental service technician, the steamfitter/refrigeration fitter, and the plumber apprenticeship programs recognized by the department of workforce development.

Further, the sunset provision of Comm 5.741(1)(c)2. is inconsistent with the statute.

Minor Repairs. Subsection 101.136 (5) (b) stats. provides for the definition by rule of the term minor repairs (which are exempt from the license requirement). The definition of minor repairs set forth in the proposed rule fails to aid the determination of what repair work is exempt. The definition should be modified to give effect to the intent of the statute. Specifically, the rule should make clear that when a component of an existing heating, ventilating, cooling, plumbing, and refrigeration system is repaired the insulation affected by the repair to that component is exempt as a minor repair.

Waivers. Subsection 101.136 (6) (d) stats. provides for waivers concerning the license requirement. The proposed rule fails to provide standards, criteria, or any guidance with regard to the issuance of such waivers; nor does the rule address subsection 101.136 (8) Temporary Emergency Licenses.

License fees and penalties. The license fee for insulation mechanics is very high and would constitute a burden on the industry, whether born by the workers or by their employers. This would be true in ordinary times but is especially true in the present economy. Proper thermal system insulation results in energy efficiency. The energy resources and the reduction of carbon emissions are societal benefits that justify governmental investment in energy conservation programs. Reduction of the license fee for insulation mechanics would represent an investment by the state in energy conservation efforts. Furthermore, the expansion of the pool of potential licensees to the other trades mentioned above will result in higher revenue at a lower fee and help to meet the projected cost of the licensing program. With the expanded pool of licensees, a fee of \$100 every 2 years would generate approximately the same revenue as projected for the proposed rule.

The penalties seem extraordinarily high, especially with regard to the first offense (which are likely to be inadvertent). We recommend \$100, \$500, and \$1,000. Comm 5.125(3m) is completely unenforceable and probably unconstitutional. It imposes an impossible duty on the part of a thermal insulation mechanic and assumes a degree of control that is unrealistic.

Thank you for the opportunity to testify before the department today and for your consideration regarding the concerns of the contracting firms represented by the Alliance and the concerns of their employees.

We appreciate the opportunity to supplement or modify our comments by written testimony, if appropriate.



Peter Lentz
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