

Chapter Comm 67

RENTAL UNIT ENERGY EFFICIENCY STANDARDS

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Note: Chapter ILHR 67 was renumbered to be chapter Comm 67 under s. 13.93 (2m) (b) 1., Stats., and corrections made under s. 13.93 (2m) (b) 6. and 7., Stats., Register, October, 1996, No. 490.

Subchapter I—Purpose and Scope

Comm 67.01 Purpose. The purpose of this chapter is to establish rules for the department to administer and enforce s. 101.122, Stats.

History: Cr. Register, February, 1983, No. 326, eff. 3-1-83; r. and recr. Register, December, 1984, No. 348, eff. 1-1-85.

Comm 67.02 Scope. (1) MINIMUM STANDARDS AND PROCEDURES. The rules contained in this chapter establish minimum energy efficiency standards for rental units that must be met before the ownership of a rental unit may be transferred; inspection or evaluation procedures for determining whether a rental unit complies with the energy efficiency standards specified in this chapter; procedures for certifying that a rental unit meets the energy efficiency standards specified in this chapter; procedures for obtaining an exemption from a specific energy conservation measure based on a 5-year cost payback; procedures for obtaining a stipulation or waiver for rental units that do not meet the standards specified in this chapter; and procedures that the department will use to administer and enforce this chapter.

(2) STATE RENTAL UNIT ENERGY CODE. The energy efficiency standards in this chapter shall apply to all rental units in this state unless specifically exempted.

(3) MUNICIPAL RENTAL UNIT ENERGY CODES. After the effective date of this chapter, no municipality may enforce a code or ordinance of minimum energy efficiency standards for rental units in the municipality unless the energy efficiency standards of the code or ordinance are at least as strict as the energy efficiency standards specified in this chapter.

(a) Department authorization. The department may authorize a municipality in writing to issue the department certificate specified in s. Comm 67.08, if the department determines that the municipality can provide adequate inspection or evaluation service of the standards under subch. III.

(b) Filing of certificates. A copy of all certificates issued by the municipality under par. (a) shall be filed with the department.

(c) Revocation of municipal authority. The department may revoke the authority of a municipality to issue the department certificate at any time that it determines the municipality is issuing department certificates without adequate inspection or evaluation of the standards under subch. III.

History: Cr. Register, February, 1983, No. 326, eff. 3-1-83; r. and recr. (intro.), Register, December, 1984, No. 348, eff. 1-1-85; renum. (intro.) to (2) to be (1) to (3) and am. (1), (3) (a) and (c), Register, February, 1999, No. 518, eff. 3-1-99.

Comm 67.03 Application. (1) RENTAL UNITS COVERED. After January 1, 1985, no owner may transfer a rental unit unless

an inspector certified by the department has issued a certificate indicating that the rental unit meets the rental unit energy efficiency standards specified in this chapter; or unless a waiver has been issued as specified in s. Comm 67.08 (3); or unless a stipulation is issued as specified in s. Comm 67.08 (4).

(2) RENTAL UNITS EXCLUDED. All of the following buildings and rental units are excluded from the provisions of this chapter:

(a) Any dwelling unit not rented at any time from November 1 to March 31.

(b) Any building which contains up to 4 rental units and one of the dwelling units will be owner-occupied.

(c) Any building constructed after December 1, 1978, which contains up to 2 dwelling units.

(d) Any building constructed after April 15, 1976, which contains more than 2 dwelling units.

(e) Mobile homes and manufactured homes.

(f) Hotels and motels used primarily for transient residency.

(g) Health care facilities.

(h) Bed and breakfast establishments.

(i) Condominium buildings of three or more dwelling units.

(3) MULTIPLE USE OCCUPANCY. Any building which contains a rental unit, and which is not excluded under sub. (2), and is located in a building with another occupancy shall comply with the following:

(a) If the rental unit comprises more than 50% of the total gross area of the building, the entire building shall be made to conform to the provisions of this chapter.

(b) If the rental unit comprises 50% or less of the total gross area of the building, only items specific or unique to the rental unit portion of the building shall comply with the provisions of this chapter.

(4) RENTAL UNITS IN CONDOMINIUMS. Any condominium unit, as defined under s. 703.02 (15), Stats., which is a rental unit shall, at the time of transfer, be brought into compliance with the provisions of s. Comm 67.05. The provisions of s. Comm 67.05 shall apply to all building elements of the individual unit as defined in s. 703.02 (15), Stats., but not to the common elements which are defined in s. 703.02 (2), Stats., and contained in the condominium declaration as outlined in s. 703.09, Stats.

Note: The definitions of s. 703.02, Stats., which are referred to above, are as follows:

“Common elements” means all of a condominium except its units; and

“Unit” means a part of a condominium intended for any type of independent use, including one or more cubicles of air at one or more levels of space or one or more rooms or enclosed spaces located on one or more floors (or parts thereof) in a building. A unit may include 2 or more noncontiguous areas.

History: Cr. Register, February, 1983, No. 326, eff. 3-1-83; am. (1), (2) and (h), cr. (3) and (4), Register, December, 1984, No. 348, eff. 1-1-85; am. (2), r. and recr. (4), Register, November, 1985, No. 359, eff. 12-1-85; emerg. am. (2) (intro.) to (f), cr. (2) (h), eff. 6-30-98; am. (1), (2) (intro.) to (f), cr. (2) (h) and (i), Register, February, 1999, No. 518, eff. 3-1-99.

Subchapter II—Definitions

Comm 67.04 Definitions. In this chapter:

(1) “Accessible” means capable of being reached without removal or alteration of any part or parts of the permanent structure finish materials or paved sidewalk or driveway. Cavities under floors in unfinished attic areas are accessible. Exposed foundation areas located above paved sidewalks or driveways are accessible.

(2) “Annual fuel utilization efficiency (AFUE)” means the efficiency rating of the heating plant model. Unlike steady-state conditions, this rating is based on average usage conditions, including on and off cycling as set out in the U.S. department of energy test procedures.

Note: The higher the AFUE rating, the higher the heating plant efficiency will be.

(4) “Authorize” means to affix a DILHR authorization stamp to a form for a Certificate of Compliance, Stipulation or Waiver, sign the form in the space marked “Inspector Signature” or “Signature of Agency Office” and write the relevant dates, identification of the signing official and authorization stamp number in the appropriate spaces.

(4m) “Basement” means a space of full story height below the first or ground floor with its entire floor line below exit discharge grade.

(5) “Box sill” means that portion of the building envelope between the top of the foundation wall and the sub-floor immediately above, or the perimeter of the floor joists.

(6) “British thermal unit (Btu)” means the quantity of heat required to raise the temperature of one pound of water one degree Fahrenheit at or near 39.2° F.

(8) “Condominium” means a multiple dwelling unit building in which there is separate ownership of individual dwelling units, as created by ch. 703, Stats.

(8m) “Crawl space” means an unfinished space of less than full story height below the first or ground floor. Crawl spaces may be vented or unvented to the outside.

(8t) “Degree day” means a unit based upon temperature difference and time, used in estimating annual heating energy consumption. One degree day accrues for each degree of difference between the daily mean temperature and a reference temperature of 65°F.

(10) “Department” means the department of commerce.

(11) “Dwelling unit” means a building or that part of a building which is used as a home or residence.

(12) “Energy conservation measure” means any measure which increases the energy efficiency of a rental unit, including, but not limited to, the installation of caulking, weatherstripping, insulation and storm windows.

(12m) “Exit discharge grade” means the elevation of finished exterior surface of paved or unpaved ground at any exit discharge doorsill.

(13) “Fahrenheit” means a thermometric scale in which 32° denotes freezing and 212° denotes boiling of water under normal pressure at sea level.

(14) “Financial institution” means any state or nationally chartered bank, savings and loan association, credit union, mutual savings bank, trust company bank or other lending authority created or licensed under state or federal law.

(15) “Finish material” means drywall, plaster, siding or other material covering the structure, but does not include floors in unfinished spaces.

(17) “Gross area” means the occupied or usable floor area in a building but not including space occupied by columns, walls, partitions, mechanical shafts or ducts.

(17g) “Gross floor area” means the sum of the floor areas of the spaces within the building including basements, mezzanine

and intermediate-floored tiers, and penthouses of headroom height 7.5 feet or greater.

(17m) “Ground floor” means a space of full story height which is a level of a building on a sloping or multilevel site and which has the floor line partly, but not entirely, below exit discharge grade.

(18) “Habitable room” means any room used for sleeping, living or dining purposes, excluding such enclosed places as kitchens, closets, pantries, bath or toilet rooms, hallways, laundries, storage spaces, utility rooms, and similar spaces.

(19) “Health care facilities” means either hospitals or nursing homes.

(20) “Inspector” means a person certified by the department to perform inspections or evaluations for energy efficiency in rental units.

(22) “Issue” means to authorize a certificate of compliance, stipulation or waiver and give the authorized copy of the form to the owner, owner’s representative or other appropriate person who may use it for recordation of the property transfer.

(23) “Municipality” means a city, village or town.

(24) “Owner” means any person having a legal interest of 50% or more in a rental unit or a purchaser of a rental unit under a land contract, but does not mean a tenant with or without an option to purchase.

(25) “Owner-occupied” means one dwelling unit in a rental unit building used as the primary residence by the owner for at least one year immediately after the date of transfer.

Note: If a dwelling unit is subject to an existing lease held by a person other than the owner, the dwelling unit cannot be owner-occupied at the time of transfer. The dwelling unit may be owner-occupied on termination of the lease if the requirements of s. Comm 67.08 (3) (c) are met.

(27) “Rental unit” means a dwelling unit which is rented for a monetary exchange or is part of an agreement between employer and employee where a dwelling unit is provided as part of the remuneration for employment. The definition of a dwelling unit as a rental unit will be based on its use after transfer.

Note: Single family dwellings which are used as rental units after transfer are subject to the provisions of this chapter.

(28) “Sidewalls” means the exterior building envelope walls excluding the box sill and including windows, doors, and other openings above the box sill.

(28m) “Thermal envelope” means the collective assemblies of a building that enclose the heated, unvented spaces. The components that make up the thermal envelope form a continuous, unbroken surface.

(29) “Thermal performance” means the gross heat loss from the exterior building envelope.

(30) “Thermal resistance (R)” means a measure of the ability of materials to retard the flow of heat. The R-value is the reciprocal of a heat transfer coefficient or thermal transmittance, expressed by U; $R = 1/U$.

Note: The higher the R-value of a material, the more difficult it is for heat to flow through the material.

(31) “Thermal transmittance (U)” means the coefficient of heat transmission expressed in units of Btu per hour per square foot per degree F. It is the time rate of heat flow. The U-value applies to combinations of different materials used in series along the heat flow path and also to single materials that comprise a building section, and includes cavity air spaces and surface air films on both sides.

Note: The lower the U-value of a material, the more difficult it is for heat to flow through the material.

(32) “Transfer” means a conveyance of ownership interest, including a controlling stock or partnership interest, in a rental unit by deed, land contract or judgement; or conveyance of an interest in a lease in excess of one year which was contracted after January 1, 1985. Transfer does not mean a conveyance under chs. 851 to 879, Stats., (probate) or mean:

- (a) Transfers for nominal or no consideration which confirm, correct or reform a transfer previously made;
- (b) Transfers for delinquent taxes or assessments to federal, state or local governments provided that, before subsequent transfer, the transferee presents the stipulation described in this chapter, and that compliance shall be no later than one year after the date of the subsequent transfer;
- (c) Transfers resulting from court-ordered partitions of property;
- (d) Transfers resulting from involuntary merger or liquidation of financial institutions;
- (e) Transfers from a subsidiary corporation to its parent for no consideration, or in sole consideration of cancellation, surrender or transfer of capital stock between parent and subsidiary corporation;
- (f) Transfers between husband and wife or parent and children for nominal or no consideration;
- (g) Transfers between agent and principal or trustee and beneficiary without actual consideration;
- (h) Transfers made solely to provide security for a debt or obligation or transfers made to or from financial institutions solely for release of security for debt or obligation;
- (i) Transfers pursuant to or in lieu of condemnation;
- (j) Transfers pursuant to property division under ch. 767, Stats., (divorce);
- (k) Transfers of property pursuant to foreclosure or in lieu of foreclosure provided that, before subsequent transfer, the transferee present a stipulation as described in s. Comm 67.08 (3), and that compliance shall be no later than one year after date of the subsequent transfer. These transfers include but are not limited to property which reverts back to financial institutions, land contracts which revert back to the seller and property transferred due to delinquent taxes awaiting sheriff's sale.
- (L) Transfers to trustees in court-declared bankruptcies, provided that before subsequent transfer, the transferee present a stipulation as described in this chapter, and that compliance shall be no later than one year after date of the subsequent transfer; and
- (m) Transfers pursuant to condominium declaration as under ch. 703, Stats.

Note: It is the intent of this definition to exempt transactions which are involuntary, for security purposes or for nominal consideration.

- (32) "Unvented space" means a space that is not vented.
- (33) "Vapor barrier" means a material, including vapor barrier paint, with a vapor transmission rate not greater than 1.00 perm.
- (34) "Vented" means provided with outside air by natural or mechanical means via permanent openings. This venting may be for purposes of removing moisture or exhausting fumes.

History: Cr. Register, February, 1983, No. 326, eff. 3-1-83; am. (1) and (6), r. and recr. (4) and (11), r. (22), renum. (10), (12) to (21) to be (12) to (22) and am. (16), (17) and (22), cr. (10), Register, December, 1984, No. 348, eff. 1-1-85; renum. (2) to (23) to be (5), (6), (8), (10) to (15), (17), (19), (20), (23), (24), (25), (27) to (33) and am. (24), (27), (32) (intro.) and (k), cr. (2), (4), (18), (22), (32) (n) and (34), Register, November, 1985, No. 359, eff. 12-1-85; emerg. am. (1), cr. (3), (4m), (7), (8m), (9), (12m), (16), (17m), (21) and (26), eff. 2-17-86; am. (1), cr. (3), (4m), (7), (8m), (9), (12m), (16), (17m), (21) and (26), Register, June, 1986, No. 366, eff. 7-1-86; r. (3), (7), (9), (16), (21) and (26), Register, June, 1989, No. 402, eff. 7-1-89; emerg. cr. (28m) and (32t), am. (34), eff. 6-30-98; cr. (8t), (17g), (28m) and (32t), am. (20) and (34), r. (32) (L), renum. (32) (m) and (n) to be (L) and (m), Register, February, 1999, No. 518, eff. 3-1-99.

Subchapter III—Rental Unit Energy Efficiency Standards

Comm 67.05 Energy efficiency standards. (1) GENERAL.

Any building containing rental units, except those specified in s. Comm 67.03 (2), transferring ownership after January 1, 1985, shall meet either the minimum prescriptive energy conservation measures specified in this section or the performance standards specified in s. Comm 67.055, unless an exemption has been issued under s. Comm 67.06, unless a petition for variance has been granted as specified in s. 101.02 (6), Stats., or unless a waiver or stipulation has been issued as specified in s. Comm 67.08 (3) and (4).

(2) **INSULATION.** (a) *R-value.* For the purpose of this section, "R-value" applies only to the amount of insulation. R-value does not refer to the total overall R-values of all components of an assembly such as framing, finish materials or air films.

(b) *Insulation of attic areas and access panels or doors.* Insulation shall be provided in all accessible areas as specified in Table 67.05-A.

(c) *Insulation of box sills.* Insulation shall be provided in all accessible areas that form a portion of the thermal envelope as specified in Table 67.05-B.

(d) *Insulation of ducts and pipes.* Insulation shall be provided in all accessible vented crawl spaces as specified in Table 67.05-C.

TABLE 67.05-A

INSULATION OF ATTICS AND ACCESS PANELS OR DOORS

	If insulation of an R-Value less than or equal to R-5 is present	If insulation of an R-Value greater than R-5, but less than or equal to R-10 is present	If insulation of an R-Value greater than R-10, but less than R-19 is present	If insulation of an R-Value of R-19 or greater is present
Attics (a) (b) (c)	Insulation shall be added to bring the total insulation level to R-38	Insulation shall be added to bring the total insulation level to R-38	R-19 insulation shall be added to the existing insulation	No additional insulation is required
Horizontal Access Panels or Doors to Attics or Other Vented Spaces	Insulation shall be added to bring the total insulation level to R-19	Insulation shall be added to bring the total insulation level to R-19	Insulation shall be added to bring the total insulation level to R-19	No additional insulation is required
Vertical Access Panels or Doors to Attics or Other Vented Spaces	Insulation shall be added to bring the total insulation level to R-5	No additional insulation is required	No additional insulation is required	No additional insulation is required

- (a) Wall and ceiling cavities open to the attic area shall be insulated.
- (b) If knob and tube wiring is present, insulation shall be installed in such a way as not to cause a hazard. The owner may wish to consult the municipal inspector or an insulation contractor for the correct insulation procedure.
- (c) If floor boards are present, insulation shall be installed over the floor boards to the required R-value or the cavities below the floor boards shall be completely filled with insulation.

(3) **STORM WINDOWS AND DOORS.** (a) *General.* Except as provided in sub. (4), storm windows and doors shall be provided and weatherized in accordance with this subsection.

(b) *Storm windows.* All windows shall be double glazed or shall be provided with exterior or interior storm windows except that windows of store fronts are exempt from the requirements of

this subsection. Where exterior storms are installed over openable windows required for natural ventilation, a portion of the storm shall be openable from the inside. Windows located in boiler or furnace rooms do not need to be double glazed or equipped with storms. Windows located in basement areas that are not habitable rooms may be permanently sealed and insulated in lieu of double glazing or installing exterior or interior storm windows.

(c) Storm doors. Patio doors shall be insulated, double glazed or equipped with storm doors. Where no vestibule exists, inward swinging exterior doors shall be insulated, double glazed or equipped with storm doors. Door lites need not be double glazed if they are part of the door. All storm doors shall be equipped with self-closing devices.

(d) Openings or cracks. All accessible openings or cracks in storm windows or doors shall be caulked, gasketed or otherwise sealed.

(4) BLOWER DOOR TESTING. (a) Storm window and door requirements of sub. (3) are not required to be met when blower door testing shows that the air infiltration limits of this subsection are met.

(b) The blower door testing shall be conducted in accordance with ASTM E 779, "Standard Practice For Measuring Air Leakage By The Fan Pressurization Method," as adopted by reference in s. Comm 20.24.

(c) The blower door test results and documentation shall show one of the following:

1. The natural air change rate of the thermal envelope is 1.0 air change per hour or less.

2. Work has been done to reduce the natural air change rate of the thermal envelope by at least 10%.

(d) Testing done on any date prior to certification shall be acceptable, provided no change has occurred to the building that would impact the test results in a negative or indeterminate way.

(5) MOISTURE CONTROL. (a) *Ceilings*. Vented spaces shall be provided with minimum ventilation in accordance with this paragraph. The ventilation shall be provided above any ceiling or attic insulation. The free area of ventilation shall be at least 1/300 of the horizontal area. Where overhangs with soffits are provided, one-half of the free area shall be at the eaves and one-half in the upper one-third of the roof or gable. Where it is impractical to install gravity venting, power vent systems may be used to provide equivalent ventilation. Power vents shall be connected to a humidistat.

(b) *Crawl spaces*. Vented crawl spaces shall be provided with minimum ventilation in accordance with this paragraph. The area of ventilation shall be at least 1/300 of the floor space. The area of ventilation shall be distributed equally to at least 2 openings in the foundation wall. The openings shall be located to provide cross ventilation. Where accessible, a vapor barrier shall be applied to cover the exposed earth.

TABLE 67.05-B
INSULATION OF BOX SILLS

	If insulation of an R-Value less than or equal to R-2.5 is present	If insulation of an R-Value greater than R-2.5, but less than or equal to R-10 is present	If Insulation of an R-Value greater than R-10 is present
Box Sills ^(a)	Insulation shall be added to bring the total insulation level to R-19	R-11 insulation shall be added to the existing insulation	No additional insulation is required

^(a)Box sills that separate the rental unit from a garage which is unvented or is vented with outside air shall be insulated, if accessible

(6) EQUIPMENT. (a) *Combustion air*. Combustion air openings shall be unobstructed.

(b) *Flow restricters*. All showers shall be equipped with flow restricters rated at three gallons per minute or less.

TABLE 67.05-C
INSULATION OF DUCTS AND PIPES

BUILDING ELEMENT	TOTAL AMOUNT OF INSULATION REQUIRED
Heating Supply Ducts Located in Vented Crawl Spaces	R-5
Steam Heating Supply Pipes Located in Vented Crawl Spaces	R-4
Hydronic Heating Supply Pipes Located in Vented Crawl Spaces	R-2
Domestic Hot Water Pipes:	
Circulating, Along Entire Accessible Length in Vented Crawl Spaces	R-2
Noncirculating Hot and Cold Water Pipes Within 5 Feet of Water Heater in Vented Crawl Spaces	R-2

History: Cr. Register, February, 1983, No. 326, eff. 3-1-83; am. (intro.), (2) to (5) and (7), r. and recr. table, Register, December, 1984, No. 348, eff. 1-1-85; emerg. am. table, (6) (b) and (7), eff. 1-1-85; am. (intro.), (2) to (5) and (7), r. and recr. (1), Register, November, 1985, No. 359, eff. 12-1-85; am. table 67.05-C, Register, December, 1985, No. 360, eff. 1-1-86; emerg. am. table 67.05-C, cr. (1) (d) and (e), eff. 2-17-86; am. table 67.05-C, cr. (1) (d) and (e), Register, June, 1986, No. 366, eff. 7-1-86; am. table 67.05-B, r. (1) (d) and (e), tables 67.05-D and E, Register, June, 1989, No. 402, eff. 7-1-89; emerg. renum. (1) (a) to (c) to be (1) (b) to (d) and am. (d), cr. (1) (a), r. and recr. (2) to (7), eff. 6-30-98; renum. (intro.) and (1) to be (1) and (2) (b) to (d) and am. (1) and (2) (d), cr. (2) (a), r. (2) to (7), cr. (3) to (6), Register, February, 1999, No. 518, eff. 3-1-99; **correction in (4) (b) made under s. 13.93 (2m) (b) 7., Stats., Register, September, 1999, No. 525.**

(1) PERFORMANCE STANDARD. Buildings shall have an annual space heating energy use, in BTUs per square foot, per heating degree day, which is no greater than the value shown in Table 67.055. The annual heating energy use shall be determined in accordance with sub. (2) or (3).

(2) CALCULATION FROM FUEL USE DATA. The annual space heating energy use may be calculated from one year of representative fuel use data using a department-provided form or an equivalent method approved by the department prior to use. The building area used in the calculation shall be the total gross floor area, including any basement floor area. The gross floor area is measured from the exterior faces of exterior walls or from the center-

Comm 67.055 Performance energy efficiency standards. The following performance standards may be met in place of the prescriptive standards specified in s. Comm 67.05:

line of walls separating buildings, excluding covered walkways, open roofed-over areas, porches and similar spaces, pipe trenches, exterior terraces or steps, chimneys, roof overhangs, and similar features. The determination of annual space heating energy use per square foot shall be performed by or verified by an inspector.

(3) MEASUREMENT OF BUILDING PERFORMANCE. The annual space heating energy use may be determined in accordance with

field measurement methods approved by the department prior to use. At a minimum, the method must be nationally recognized, meet a national standard, or be demonstrated to have equivalent accuracy.

Note: The department approves use of the Wisconsin Energy Bureau Home Energy Rating System for buildings of four dwelling units or less provided a blower door test is used to estimate the building infiltration. Information demonstrating the accuracy of other field measurement methods may be submitted to the department for review.

**TABLE 67.055
MAXIMUM ANNUAL SPACE HEATING ENERGY USE**

Number of Dwelling Units	Certificate of Compliance Issued Prior to Sale ¹	Certificate of Compliance Issued after Sale ¹
8 or Fewer Dwelling Units	9.0	7.0
9 or More Dwelling Units	7.0	5.0

¹Refers to property transfers after March 1, 1999.

History: Cr. Register, February, 1999, No. 518, eff. 3-1-99; reprinted to correct table under s. 13.93 (2m) (b) 7., Stats., Register, September, 1999, No. 525.

Comm 67.06 Cost payback exemptions. (1) GENERAL. No specific energy conservation measure may be required under s. Comm 67.05 (2) to (4) and (6) where the cost payback obtained from installing the specific energy measure exceeds 5 years. In order to receive an exemption for a specific energy measure, the owner shall submit evidence to the department to demonstrate that the cost payback for the specific energy measure exceeds 5 years. Envelope cost payback calculations shall be made in accordance with this section unless otherwise approved by the department. All calculations and analyses shall be based on the actual conditions to which the specific energy measure is subject. Other nonenvelope cost payback calculations utilizing principles and concepts outlined in this section may be approved by the department. The final acceptance of any cost payback shall be made by the department.

(2) APPLICATION FOR COST PAYBACK EXEMPTIONS. Any request for an exemption of a specific energy conservation measure based on cost payback shall be made in writing on application forms provided by the department.

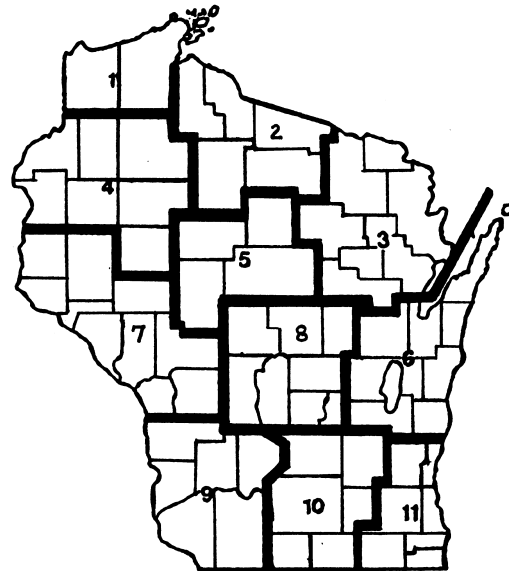
(3) PROCESSING APPLICATIONS FOR EXEMPTIONS. (a) *Information required.* Any application for an exemption shall be submitted to the department for processing along with the 5-year payback calculations, drawings and pictures describing the specific energy conservation measure to be exempted, fuel bills or utility documentation of fuel cost, the cost estimate for the installed specific energy conservation measure, and processing fees. The application form shall be signed and dated by the owner requesting the exemption.

(b) *Department processing.* The department shall evaluate and process the application in accordance with this section and shall process the applications for exemption in the order of the date the applications are received by the department. All forms shall be completed and all information requested shall be received by the department before processing of the exemption will occur. Submitted cost estimates which differ significantly from the average or typical costs established by the department, will be subject to department examination. The applicant may be asked for additional information concerning the particular energy conservation measure. Analyses submitted on department worksheets or pre-approved analyses shall receive priority over alternative analysis methods.

(4) EXEMPTION FOR STORM WINDOWS. Any request for an exemption from storm windows shall include an analysis of the cost payback for each of the following conditions:

- (a) Installing storm windows from the exterior, if accessible; and
- (b) Installing storm windows from the interior, if accessible.

(5) PROCEDURES FOR CALCULATING PAYBACK. The calculation of the envelope energy savings and the determination of the economic feasibility for each minimum energy efficiency standard shall be computed as follows:



**FIGURE 67.06
HEATING DEGREE DAYS PER YEAR – BASE 65°F**
Wisconsin Division of State Energy Degree Day Zones

Zone 1—8960	Zone 5—8354	Zone 8—7872
Zone 2—9128	Zone 6—8089	Zone 9—7466
Zone 3—8608	Zone 7—8330	Zone 10—7673
Zone 4—8686		Zone 11—7324

(a) *Energy savings calculations.* The following energy savings equation shall be used to calculate the heat loss of the specific energy measure:

$$ES = \frac{(U_i - U_f) \times A \times D \times 24}{K \times V}$$

where:

- ES = The fuel or energy savings in the appropriate energy units for the estimated period; e.g., hundreds of cubic feet of natural gas, gallons of fuel oil, or kilowatt-hours of electricity.
- U_i = U value of the existing building element, including any insulation that is already contained in the building element being evaluated, expressed in Btu/hr – ft²–F°.

- Uf = U value of the existing building element, including the level of insulation required in Table 67.05 for the specific building element being evaluated, expressed in Btu/hr - ft²-F°.
- A = The gross area of the building element being evaluated, in square feet.
- V = The heating value of the fuel type:
- | | |
|-----------------------|-------------------------------------|
| Oil | 138,500 Btu/Gal |
| Gas | 100,000 Btu/CCF |
| Electricity | 3413 Btu/Kilowatt-Hr |
| LP (Propane & Butane) | 91,500 Btu/Gal |
| Coal | 10,000 Btu/lb |
| Wood | 4,000 Btu/lb or 25,000,000 Btu/cord |
- K = A correction factor which includes the effects of rated full load efficiency, part load performance, oversizing and energy conservation devices. The following factors shall be used unless higher AFUE's for newer equipment can be substantiated:
- | | |
|-------------|------|
| LP | 0.55 |
| Gas | 0.55 |
| Oil | 0.55 |
| Electricity | 1.00 |
| Wood | 0.50 |
| Coal | 0.50 |

D = Number of 65° F degree days for the estimated period based on geographical zones in Figure 67.06.

(b) *Energy price.* The current retail price per unit of energy (P) shall be determined for the annual energy savings at the time the calculations are submitted.

(c) *Cost of improvement.* The actual total cost (C) of the energy savings improvement shall be determined and an itemized breakdown of the total cost for labor and materials shall be submitted to the department. Additional information may be requested from the applicant if the cost is outside the range of expected, current regional costs.

(d) *Cost payback.* The cost payback period shall be calculated using the following formula:

$$P.B. = \frac{C}{P \times ES}$$

where:

- P.B. = Payback in number of years
- C = Total cost of energy measure
- ES = Total energy savings
- P = Current retail price of energy unit

(6) **PAYBACK LESS THAN 5 YEARS.** If the payback period (P.B.) is less than or equal to 5 years, the specific energy measure shall be installed.

(7) **PAYBACK EXCEEDS 5 YEARS.** If the payback period (P.B.) is more than 5 years, the department shall issue an exemption. Although an exemption may be issued for any requirement, the department may specify an alternative requirement.

(8) **DEPARTMENT DETERMINATION AND NOTIFICATION.** After the department reviews the calculations and information submitted by the owner, the department shall notify the owner of its findings in writing. The department shall review and make a determination on payback calculations within 15 business days of receipt of all calculations and documents necessary to complete the review.

(9) **OWNER'S RESPONSIBILITY.** Upon receipt of the department's determination, the owner shall install the specific energy

measure or provide a copy of the exemption letter to the certified inspector.

(10) **EXEMPTION EXPIRATION.** The exemption shall be valid for a period of 5 years from the date specified on the exemption.

History: Cr. Register, February, 1983, No. 326, eff. 3-1-83; r. and recr. Register, December, 1984, No. 348, eff. 1-1-85; emerg. r. (3), eff. 1-1-85; am. (7), Register, April, 1985, No. 352, eff. 5-1-85; am. (2) (b), (4) (a) and (6), r. and recr. (3), Register, November, 1985, No. 359, eff. 12-1-85; renum. (3) to be (3m), cr. (3), Register, December, 1985, No. 360, eff. 1-1-86; emerg. r. and recr. (3), eff. 2-17-86; r. and recr. (3), Register, June, 1986, No. 366, eff. 7-1-86; r. (3), Register, June, 1989, No. 402, eff. 7-1-89; renum. (intro.) to (9) to be (1) to (10) and am. (1), r. and recr. Figure 67.06, Register, February, 1999, No. 518, eff. 3-1-99.

Subchapter IV—Inspection and Certification of Rental Units

Comm 67.07 Request for energy efficiency inspection or evaluation.

(1) **REQUEST.** An owner of a rental unit may request an energy efficiency inspection or evaluation from the department or any person certified by the department as a rental weatherization inspector under ch. Comm 5 for the purpose of determining whether the rental unit meets the energy efficiency standards specified in this chapter. If an owner, after reasonable effort, is unable to procure an inspection or evaluation from an authorized municipality or an independent certified rental weatherization inspector, a request for an inspection or evaluation may be made to the department.

(2) **APPLICATION FOR INSPECTION OR EVALUATION FROM THE DEPARTMENT OR MUNICIPALITY.** Where an owner requests the inspection or evaluation from the department or municipality, the owner shall apply for the inspection or evaluation on forms obtained from the department or municipality.

(3) **FILING OF APPLICATION.** No application for inspections or evaluations will be accepted by the department or municipality that does not contain all of the information requested on the application form. The application shall be filed with the department or municipality enforcing this chapter.

(4) **FEEES.** (a) *Municipal fees.* Any fee required by the municipality for administering and enforcing this chapter shall be deposited with the municipality at the time the application is filed.

(b) *Department fees.* Where the department administers and enforces this chapter, the fees required for inspection or evaluation and certification shall be submitted at the time the application is filed with the department.

(c) *Certified inspection or evaluation fees.* Where inspections or evaluations are performed by a certified inspector, other than the department or municipality, the certified inspector may charge a fee to cover the cost of the inspection or evaluation and issuance of the certificate as specified in ch. Comm 2, Fee Schedule.

(5) **INSPECTIONS OR EVALUATIONS.** All energy efficiency inspections or evaluations for the purpose of certifying rental units under this chapter shall be performed by the department, municipality or inspector certified by the department.

(6) **ACTION TO INSPECT OR EVALUATE.** The municipality or department performing inspection or evaluation services under this chapter shall perform inspections or evaluations within 10 business days after an application is filed.

History: Cr. Register, February, 1983, No. 326, eff. 3-1-83; am. (5), Register, April, 1985, No. 352, eff. 5-1-85; correction in (3) (c) made under s. 13.93 (2m) (b) 7., Stats., Register, September, 1995, No. 477; am. (intro.), Register, October, 1996, No. 490, eff. 11-1-96; renum. (intro.) to (5) to be (1) to (6) and am., Register, February, 1999, No. 518, eff. 3-1-99.

Comm 67.08 Issuance of certificate, waiver or stipulation.

(1) **PARCELS PER DOCUMENT.** No stipulation, waiver or certificate of compliance may be issued using more than one legal description or parcel per document.

(2) **CERTIFICATE OF COMPLIANCE.** (a) *General.* If upon inspection or evaluation, the inspector determines that the building conforms to the energy conservation measures or performance standard specified in this chapter, the inspector shall authorize the certificate of compliance by signing and affixing the Commerce

Transfer Authorization label and then issue the certificate prescribed by the department and file a copy of the certificate with the department. The inspector shall issue the certificate within 10 business days of determination that the building conforms to the energy conservation measures or performance standard.

(b) *Certificate forms and transfer authorization stamps.* Any certified inspector may obtain certificate forms and transfer authorization stamps from the department.

(c) *Requests for certificate form.* All requests for certificate forms shall be made in writing. The fee for the certificate forms shall accompany the request. The department shall respond to all requests for certificate forms within 10 business days of receipt of an application for forms and the required fee.

(d) *Notice of noncompliance.* 1. If upon inspection or evaluation, an inspector determines that the rental unit does not conform to the energy measures specified in this chapter, the inspector shall specify in writing the energy conservation measures necessary to make the rental unit comply with the energy efficiency standards specified in this chapter and notify the owner of the findings. The department shall specify the energy conservation measures necessary to make the rental unit comply with the energy efficiency standards within 10 business days of completion of the inspection or evaluation.

2. Stipulation may be issued where the energy efficiency standards are not met as specified in sub. (4).

3. A certification may be issued after a reinspection or reevaluation if all the required energy measures have been installed. Any request for reinspection or reevaluation performed by the department shall be accompanied with a fee for reinspection or reevaluation. If the effective date of any rule in this chapter occurs after a notice of noncompliance (inspection or evaluation field report) has been issued, then only the energy measures specified in the notice of noncompliance need be installed provided that a certificate of compliance is issued within 30 days after the date of the notice of noncompliance.

(3) **WAIVER OF CERTIFICATE.** (a) *General.* If a rental unit is scheduled for demolition within 2 years, the department, a department agent or an authorized municipality may issue a written waiver to the energy efficiency standards specified in this chapter. A copy of the waiver shall be filed with the authorized municipality or department agent and the department. No waiver may be requested for a rental unit which has been issued a previous waiver or stipulation unless the rental unit had received a certificate of compliance from a certified inspector on some date after the date of issuance of the latest waiver or stipulation under sub. (4).

(b) *Filing of waiver.* The waiver shall be on department forms and signed by the purchaser and submitted to the authorized municipality or department agent or the department for authorization. The department, department agent, or authorized municipality shall place a transfer authorization stamp on the waiver. Authorized municipalities and department agents shall obtain transfer authorization stamps from the department. Where a waiver is issued by the authorized municipality or a department agent, a copy shall be filed with the department.

(c) *Conditions of waiver.* The waiver shall be conditioned on the demolition of the rental unit within the 2 years of the date of the waiver.

(d) *Notification of demolition.* The owner shall notify the department in writing the date that the building was demolished.

(e) *Failure to demolish.* If demolition does not occur within 2 years of issuance of the waiver, the department or the municipality may do one or more of the following:

1. Order demolition of the rental unit no sooner than 90 days after the order;
2. Withdraw any certificate of occupancy; or
3. Order the owner to bring the rental unit in compliance with the energy measures specified in this chapter.

(f) *Department orders.* 1. 'Order for demolition'. Where the department orders the building to be demolished, the owner shall notify the department in writing the date the building was demolished.

2. 'Order for compliance'. Where the department orders the building to comply with the energy measures in this chapter, the owner shall notify the department that the energy measures have been installed and apply for an inspection or evaluation of the rental unit as specified in s. Comm 67.07.

(4) **STIPULATION.** (a) *Stipulation requirements.* 1. If a rental unit does not meet the provisions of this chapter, the transferee or new owner may present a signed stipulation issued by the department, department agent or authorized municipality to the register of deeds for recording.

2. Any rental unit for which a stipulation was issued, but for which no certificate of compliance has been issued, is exempt from any requirement for interior or exterior foundation insulation or basement ceiling insulation.

3. If a stipulation is issued after February 17, 1986, the new owner of the rental unit shall be responsible for bringing the rental unit into compliance with the provisions of this chapter which are in effect on the date of issuance of the stipulation, except for any requirement for interior or exterior foundation insulation or basement ceiling insulation.

(b) *Owners responsibility.* 1. The new owner shall bring the rental unit into compliance and receive a certificate of compliance from a certified inspection or evaluation no later than one year after the date of transfer. The date of transfer is the date the stipulation is validated by the department, department agent or authorized municipality, unless acceptable documentation of another date is provided to the department.

2. No stipulation may be requested for a rental unit which has been issued a previous stipulation or waiver unless the rental unit had received a certificate of compliance from a certified inspector on some date after the date of issuance of the latest waiver or stipulation under sub. (3). No stipulation may be requested for a rental property in which the owner has been issued orders on that property pursuant to s. 101.122 (7) (b), Stats.

(c) *Transfer of stipulation responsibility with property.* A purchaser who has agreed to a stipulation may transfer both the property and the stipulation to another person within the initial one year period. The transferee shall sign the original stipulation in the appropriate space provided on that document. The transferee shall send a copy of the modified stipulation to the department or authorized municipality which issued the original stipulation. Authorized municipalities shall file a copy of the modified stipulation with the department. The stipulation may not be extended beyond the original one year agreement.

(d) *Issuance of stipulations to purchasers who wish to occupy the rental unit on termination of an existing lease.* A purchaser of a rental unit who intends to occupy that rental unit as an owner but is unable to occupy the rental unit because it is leased to another person at the time of transfer, shall obtain a certificate of compliance or a stipulation. The stipulation shall be obtained as specified in this section. The purchaser shall indicate "owner to occupy upon termination of existing lease" in the signature box of the stipulation form. The purchaser, within one year after the date of transfer, shall either:

1. Bring the rental unit into compliance with the energy measures specified in this chapter and obtain a certificate of compliance from a certified inspector; or

2. Take occupancy of the rental unit and occupy the rental unit for at least one year. Upon occupancy, the purchaser shall notify, in writing, the department or the authorized municipality which issued the stipulation, stating the date of the occupancy and including a copy of the original stipulation. After review and approval, the department or authorized municipality shall then terminate the stipulation and confirm the termination with the

owner by return letter. Where a stipulation is terminated by an authorized municipality, the authorized municipality shall notify the department of the termination of the stipulation.

(e) *Filing stipulation.* The stipulation shall be on department forms signed by the purchaser and be submitted to an authorized municipality, a department agent or the department for authorization. Where a stipulation is issued by the authorized municipality, or by a department agent, a copy shall be filed with the department. Only the department, department agent or authorized municipality may place transfer authorization stamps on the stipulation. Authorized municipalities and department agents shall obtain transfer authorization stamps from the department.

(f) *Stipulation inspection or evaluation.* 1. Once the new owner has installed the necessary energy conservation measures, the owner shall apply for inspection or evaluation from a certified inspector, an authorizing municipality or the department.

2. If upon inspection or evaluation, it is determined that the rental unit conforms to the conditions specified in the stipulation, the inspector shall issue a certificate indicating the rental unit conforms to the energy measures specified in this chapter. The department shall issue the certificate within 10 business days after determination that the rental unit conforms to the conditions specified in the stipulation.

3. If upon inspection or evaluation, it is determined that the rental unit does not conform to the conditions specified in the stipulation, the inspector shall notify the owner in writing, specifying the measures necessary for compliance. A certification may be issued after reinspection or reevaluation if all the required energy measures have been installed.

4. The department shall conduct a clerical follow-up no later than 180 days after the stipulated compliance date to determine if a certificate has been issued for the rental unit. If no certificate is on file, the department shall order the owner with a specified time to comply with the energy measures and take the necessary action to secure compliance.

(g) *Filing of certification, waiver and stipulation.* A copy of the certificate, waiver or stipulation shall be filed with the department.

History: Cr. Register, February, 1983, No. 326, eff. 3-1-83; am. (1) (intro.) and (a), (2) (intro.), renum. (2) (a) to (d) to be (2) (b) to (e), cr. (2) (a) and (3) (c), r. (3) (b), renum. (3) (intro.) and (a) to be (3) (a) and (b) and am., Register, December, 1984, No. 348, eff. 1-1-85; am. (1) (intro.), (b) and (c) (intro.) and (3) (c) 1., Register, April, 1985, No. 352, eff. 5-1-85; am. (1) (c) 2., (2) (intro.) and (a) and (3) (a), renum. (3) (b) to (d) to be (3) (d) to (f) and am. (3) (d), cr. (3) (b) and (c), Register, November, 1985, No. 359, eff. 12-1-85; emerg. r. and recr. (3) (a), (b) and (c), renum. (3) (d) to (f) to be (3) (e) to (g), cr. (3) (d), eff. 2-17-86; r. and recr. (3) (a), (b) and (c), renum. (3) (d) to (f) to be (3) (e) to (g), cr. (3) (d), Register, June, 1986, No. 366, eff. 7-1-86; r. and recr. (3) (a), Register, June, 1989, No. 402, eff. 7-1-89; correction in (2) made under s. 13.93 (2m) (b) 1., Stats., Register, September, 1995, No. 477; renum. (1) to (3) to be (2) to (4) and am., cr. (1), Register, February, 1999, No. 518, eff. 3-1-99.

Comm 67.09 Proof of certification. The certificate shall be proof that the rental unit complies with the energy measures specified in this chapter. The certified inspector shall retain a copy of the inspection report or evaluation report and documentation and certification for at least 5 years. The certificate shall include the results of the inspection or evaluation of the rental unit.

History: Cr. Register, February, 1983, No. 326, eff. 3-1-83; emerg. am. eff. 6-30-98; am. Register, February, 1999, No. 518, eff. 3-1-99.

Comm 67.10 Recordation. Pursuant to s. 101.122 (6), Stats., a register of deeds may not accept for recording, any deed or other document of transfer of real estate which includes a rental unit which is not excluded as specified in s. Comm 67.03 (2) unless the deed or document is accompanied by the certificate, a waiver, or a stipulation. The register of deeds shall record the cer-

tificate, waiver or stipulation. The register of deeds may require an exclusion determination form to certify that the property being transferred is not subject to the requirements of this chapter.

History: Cr. Register, February, 1983, No. 326, eff. 3-1-83; am. December, 1984, No. 348, eff. 1-1-85; am. Register, November, 1985, No. 359, eff. 12-1-85.

Comm 67.11 Revocation of certificate. The department or municipality may revoke any certificate where it appears the certificate was obtained through fraud or deceit or where the owner has willfully refused to comply with a stipulation issued under this chapter.

History: Cr. Register, February, 1983, No. 326, eff. 3-1-83.

Subchapter V—Appeals and Penalties

Comm 67.12 Appeals. (1) APPEAL OF A DETERMINATION BY A CERTIFIED RENTAL UNIT ENERGY INSPECTOR. Appeal of any determination made by a certified rental unit energy inspector or municipality shall be made in writing to the department. All appeals shall be filed with the department within 30 business days after the date of the determination. The department shall render a written decision on all appeals within 60 business days of receipt of all calculations and documents necessary to complete the review.

(2) APPEAL OF RULES, ORDERS AND DETERMINATION BY THE DEPARTMENT. Appeals of any rule, determination, or special order issued by the department, shall be made to the department pursuant to the procedures specified under s. 101.02 (6) (e) to (i) and (8), Stats. The department shall review and make a determination on an appeal of a rule, order or determination by the department within 60 business days of receipt of all calculations and documents necessary to complete the review.

History: Cr. Register, February, 1983, No. 326, eff. 3-1-83; am. Register, April, 1985, No. 352, eff. 5-1-85.

Comm 67.13 Penalties. Penalties in this section are established pursuant to s. 101.122 (7), Stats.

(1) INSPECTORS. Any inspector falsifying a certificate shall have his or her certification revoked by the department and may be required to forfeit not more than \$500 per dwelling unit in the rental unit for which the certificate is issued.

(2) OWNERS. Pursuant to s. 101.122 (7) (b), Stats., any person who offers documents evidencing transfer of ownership for recordation and who, with intent to evade the requirements of these rules, falsely states under s. 706.05 (12), Stats., that the real property involved does not include a rental unit, may be required to forfeit not more than \$500 per dwelling unit in the rental unit being transferred.

(3) WAIVER. Pursuant to s. 101.122 (7) (c), Stats., any person who fails to comply with the requirements of a waiver issued under this chapter may be required to forfeit not more than \$500 per dwelling unit in the rental unit for which the waiver is issued.

(4) STIPULATION. Pursuant to s. 101.122 (7) (d), Stats., any person who fails to comply with a stipulation issued in accordance with this chapter may be required to forfeit not more than \$500 per dwelling unit for the rental unit for which the stipulation was issued. Pursuant to s. 101.122 (7) (d), Stats., any person who fails to comply with a stipulation issued in accordance with this chapter may be issued a citation for each period of 90 consecutive days of continued failure to comply.

Note: Any forfeitures, penalty assessments, jail assessments, additional penalties or fees pursuant to citations will be assessed by the court assigned to exercise jurisdiction.

History: Cr. Register, February, 1983, No. 326, eff. 3-1-83; am. (4), Register, February, 1999, No. 518, eff. 3-1-99.