

STATEMENT OF SCOPE

Department of Safety & Professional Services

Rule No.: Chs. SPS 381 – 387 and chs. SPS 302, 305, 325, and 361 to 366.

Relating to: Plumbing and Plumbing Products

Rule Type: Permanent

1. Finding/nature of emergency (Emergency Rule only):

N/A

2. Detailed description of the objective of the proposed rule:

Wisconsin's plumbing regulations were last comprehensively updated in 2008. This administrative rule revision will update Wisconsin's plumbing regulations, as needed, to allow Wisconsin to continue to ensure Wisconsin's buildings are safe and sanitary.

The primary focus of the review will be to revise ch. SPS 381 (Definitions and Standards); ch. SPS 382, (Design, Construction, Installation, Supervision, Maintenance and Inspection of Plumbing); ch. SPS 382 (Appendix); and ch. SPS 384 and appendix (Plumbing Products). Several additional administrative rule chapters are included in this scope statement to accommodate incidental changes that may be needed to ensure consistency with the plumbing code. These include: Chapters SPS 302 and 305, which relate to fees, licensing and other administrative processes; chs. SPS 383, 385, 386 and 387, which relate primarily to Private Onsite Wastewater Treatment Systems; ch. 325 which relates to plumbing as part of Wisconsin's Uniform Dwelling Code; and chs. 361 to 366, which relates to Wisconsin's Commercial Building Code.

3. Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:

This rule revision will update, as needed, technical requirements for the design, construction, installation, inspection, and maintenance of plumbing systems and requirements for ensuring the quality and proper installation of plumbing products. The department, in consultation with the Plumbing Code Advisory Committee, will assess whether and the extent to which Wisconsin's plumbing regulations should be revised to align Wisconsin's rules with national standards and best practices for safe plumbing systems. Standards incorporated by reference will be reviewed and updated, as needed. The rule revision will ensure Wisconsin rules are consistent with federal regulations. The rule will be reviewed to ensure clarity.

Without this rule revision, Wisconsin's plumbing regulations may not be consistent with currently recognized national standards and practices related to the plumbing industry.

4. Detailed explanation of statutory authority for the rule (including the statutory citation and language):

s. 227.11 (2) (a), Stats. – Authorizes the Department of Safety and Professional Services to promulgate rules interpreting the provision of any statute the Department enforces or administers.

s. 101.02 (1), Stats. - "[t]he department shall adopt reasonable and proper rules and regulations relative to the exercise of its powers and authorities and proper rules to govern its proceedings and to regulate the mode and manner of all investigations and hearings."

s. 145.02, (1) and (2) Stats. - "The construction, installation and maintenance of plumbing in connection with all buildings in this state, including buildings owned by the state or any political subdivision thereof, shall be safe, sanitary and such as to safeguard the public health and the waters of the state."

s. 145.02 (2) - "The department shall have general supervision of all such plumbing and shall after public hearing prescribe and publish and enforce reasonable standards therefore which shall be uniform and of statewide concern so far as practicable. Any employee designated by the department may act for the department in holding such public hearing. To the extent that the historic building code applies to the subject matter of these standards, the standards do not apply to a qualified historic building if the owner elects to be subject to s.101.121."

s. 145.02 (3)(g) and (h) - "The department may exercise such powers as are reasonably necessary to carry out the provisions of this chapter. It may, among other things:

(g) By rule, fix fees for the examination and approval of plans of plumbing systems and collect the same.

(h) Promulgate rules concerning the testing of cross-connection control devices, including rules identifying the types of cross-connection control devices that may be tested only by a registered cross-connection control tester and the circumstances under which cross-connection control devices shall be tested."

s. 145.02 (4)(a) - "The department shall prescribe rules as to the qualifications, examination and licensing of master and journeyman plumbers and restricted plumber licensees, for the licensing of utility contractors, for the registration of plumbing apprentices and pipe layers and for the registration and training of registered learners. The plumbers council, created under s. 15.407 (16), shall advise the department in formulating the rules."

s. 145.02 (4)(b) - "The department may promulgate rules for the qualification and registration of cross-connection control testers."

s. 101.122 (2) (a) 1. - "The department shall: Promulgate rules which establish a code of minimum energy efficiency standards for the attics, sill boxes, heat and plumbing supply systems in unheated crawl spaces, shower heads, furnaces, boilers, air conditioners, appliances, lighting systems and storm windows and doors of rental units. The rules shall include a standard that establishes a maximum air infiltration rate of the thermal envelope, as defined by the department by rule. At the request of the owner of a rental unit, the department shall apply this air infiltration standard in lieu of the standard for storm windows and doors. The rules shall require installation of specified energy conservation measures. The present value benefits of each energy measure, in terms of saved energy over a 5-year period after installation, shall be more than the total present value cost of installing the measures."

5. Estimate of amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule:

The staff time needed to revise the rules is expected to be approximately 1,000 hours, which includes research, consulting, drafting the rule revisions, meeting and consulting with the Plumbing Code Advisory Committee, processing the rule revisions through public hearings, legislative review, and adoption. There are no other resources necessary to revise the rules.

6. List with description all entities that may be affected by the proposed rule :

This rule project may affect various entities involved with the plumbing industry. It will affect any building, structure, or premises with plumbing. The rules will also affect plumbing designers, installers, or inspectors, and building owners. It will affect everyone in the state who uses plumbing.

7. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule :

There are several existing federal regulations that relate to plumbing. Some of these regulations require compliance with prior editions of the *International Plumbing Code* (IPC), a national model code developed by the International Code Council (ICC), and the *Uniform Plumbing Code* (UPC), a national model code developed by the International Association of Plumbing and Mechanical Officials. A search of the *United States Code* (USC) found the following existing federal rules that impact plumbing:

24 USC § 3280.601-612. “Manufactured Home Construction and Safety Standards.” This law sets standards for plumbing materials, fixtures, and equipment installed within or on manufactured homes as of April 1, 2009.

42 USC § 300f-300j-9. “Safe Drinking Water Act (SDWA).” This law regulates plumbing for the purpose of protecting drinking water from contaminants. It sets limits on the amount of contaminants in drinking water.

42 USC § 300g-1. “National Primary Drinking Water”. This law established primary drinking water regulations pursuant to section 1412 of the Public Health Service Act, as amended by the Safe Drinking Water Act. Regulated by the Environment Protection Agency (EPA), the regulations were revised July 1, 2009, and are applicable to public water systems. Subpart I established monitoring requirements for lead and copper in tap water.

42 USC § 300g-6 section 1417. “The Reduction of Lead in Drinking Water Act”. This federal law amends the Safe Drinking Water Act (SDWA) and sets new, lower standards for the amount of lead permissible in plumbing products that come into contact with potable water. The U.S. Environmental Protection Agency (EPA) has primary responsibility for interpreting the SDWA with individual states using health or plumbing codes or other standards consistent with the SDWA and EPA regulations to enforce those standards. The new law reduces the permissible levels of lead in the wetted surfaces of pipes, pipe fittings, plumbing fittings and fixtures to a weighted average of not more than 0.25%.

42 USC § 300j-24. “Lead contamination in School Drinking Water”. This law provides federal guidance on how to decrease or eliminate lead contamination in school drinking water. It requires each state to develop a testing program to remedy lead contamination.

33 USC § 1342. “National Pollutant Discharge Elimination System (NPDES)”. This law established Phase I of the storm water program in 1990. Nine years later, Phase II of the program was signed into law and requires smaller communities to develop and implement a comprehensive storm water management program.

21 CFR § 211.48. “Plumbing”. The Food and Drug Administration sets current good manufacturing practice for finished pharmaceuticals. This section establishes standards for plumbing in buildings and facilities that manufacture pharmaceuticals.

30 CFR § 71.402. “Minimum requirements for bathing facilities, change rooms, and sanitary flush toilet facilities.” This section was established by the Department of Labor to protect miner’s safety and health.

40 CFR § 141. “Primary Drinking Water Regulations.” These regulations set maximum levels for contaminants in drinking water.

10 CFR § 430.31-35. “Energy and Water Conservation Standards.” The Energy Policy and Conservation Act, as amended (EPCA), requires the Department of Energy to administer an energy and water conservation program for certain major household appliances and commercial equipment, including certain plumbing products.

8. Anticipated economic impact of implementing the rule :

The department believes that the proposed changes will have little or no adverse economic impact. The department will solicit information and advice from the Plumbing Code Advisory Committee, as well as businesses, local government units and individuals.

Contact Person: Sandra Cleveland, Administrative Rules Coordinator, sandy.cleveland@wisconsin.gov, (608) 266-0797.