



(FORM UPDATED: 08/11/2010)

WISCONSIN STATE LEGISLATURE ...  
PUBLIC HEARING - COMMITTEE RECORDS

2009-10

(session year)

Joint

(Assembly, Senate or Joint)

Committee for Review of Administrative Rules ...

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)  
(**ab** = Assembly Bill)                      (**ar** = Assembly Resolution)                      (**ajr** = Assembly Joint Resolution)  
(**sb** = Senate Bill)                              (**sr** = Senate Resolution)                              (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

September 22, 2009

Robert Marchant  
Senate Chief Clerk  
B20 Southeast, State Capitol  
P.O. Box 7882  
Madison, Wisconsin 53707-7882

Patrick Fuller  
Assembly Chief Clerk  
Room 401  
17 West Main Street  
Madison, Wisconsin 53703

Dear Chief Clerks:

**TRANSMITTAL IN FINAL DRAFT FORM OF ADMINISTRATIVE  
RULES AND REPORT**

CLEARINGHOUSE RULE NO.: 09-050

RULE NO.: Chapters Comm 2 and 82

RELATING TO: Permits to Operate, Registration and Filing Fees

Pursuant to section 227.19, Stats., agencies are required to submit, in triplicate, copies of the proposed administrative rules in final draft form together with a rule report and an analysis. The recommendations received from the Legislative Council are also to be submitted.

At this time, this material, together with cover letters to the President of the Senate and the Speaker of the Assembly, is being transmitted for referral to the standing committees for legislative review.

Respectfully submitted,

  
for Richard J. Leinenkugel  
Secretary

September 22, 2009

Senator Fred Risser  
President of the Senate  
Room 220 South, State Capitol  
Madison, Wisconsin 53702

Representative Mike Sheridan  
Speaker of the Assembly  
Room 211 West, State Capitol  
Madison, Wisconsin 53702

Dear Senator Risser and Representative Huebsch:

### NOTICE OF ADMINISTRATIVE RULES IN FINAL DRAFT FORM

CLEARINGHOUSE RULE NO.: 09-050

RULE NO.: Chapters Comm 2 and 82

RELATING TO: Permits to Operate, Registration and Filing Fees

Section 227.19, Stats., requires agencies to submit proposed rules in final draft form to the presiding officer of each house for referral to the appropriate legislative standing committees.

The following information, as required by law, is being submitted to you.

1. Rules in final draft form (in triplicate).
2. Report consisting of:
  - a) Rule Report.
  - b) Public Hearing Attendance Record.
  - c) Public Hearing Comment and Agency Response Form.
  - d) Legislative Council Rules Clearinghouse Report.
  - e) Response to Legislative Council Rules Clearinghouse Report.
  - f) Fiscal Estimate.
  - g) Final Regulatory Flexibility Analysis.

If you have any questions regarding this matter, please do not hesitate to contact us.

Respectfully submitted,

  
for Richard J. Leinenkugel  
Secretary

# RULE REPORT

## Department of Commerce

Clearinghouse Rule No.: 09-050

Rule No.: Chapters Comm 2 and 82

Relating to: Permits to Operate, Registration and Filing Fees

*Contact person for substantive questions:*

*Contact person for internal processing:*

Name James Quast

Name James Quast

Title Program Manager

Title Program Manager

Telephone Number (608) 266-9292

Telephone Number (608) 266-9292

1. Basis and purpose of the proposed rule.

The objective of the rule is to update the provisions of the Department's administrative rules relating to the fees charged by the Safety and Buildings Division. The update is intended to provide a sufficient revenue stream to cover the operational costs of the division.

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

Section 101.19, Stats., requires the Department to fix and collect fees by rule which shall, as closely as possible, equal the cost of providing services such as plan examination, inspections, and permits to operate.

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

The rule analysis and fiscal estimate have been updated to reflect a reduction in the proposed fees from the public hearing draft associated with the cross connection registration and the filing of test reports.

FISCAL ESTIMATE  
DOA-2048 (R06/99)

ORIGINAL  
 CORRECTED

UPDATED  
 SUPPLEMENTAL

LRB or Bill No./Adm. Rule No.  
Chs. Comm 2 and 82  
Amendment No. if Applicable

**Subject**

Permit to Operate, Registration and Filing Fees

**Fiscal Effect**

State:  No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation

Increase Existing Appropriation  
 Decrease Existing Appropriation  
 Create New Appropriation  
 Increase Existing Revenues  
 Decrease Existing Revenues

Increase Costs - May be Possible to Absorb Within Agency's Budget  Yes  No  
 Decrease Costs

Local:  No local government costs

1.  Increase Costs  
 Permissive  Mandatory

3.  Increase Revenues  
 Permissive  Mandatory

5. Types of Local Governmental Units Affected:

Towns  Villages  Cities  
 Counties  Others \_\_\_\_\_  
 School Districts  W/KS Districts

2.  Decrease Costs  
 Permissive  Mandatory

4.  Decrease Revenues  
 Permissive  Mandatory

**Fund Sources Affected**

GPR  FED  PRO  PRS  SEG  SEG-S

**Affected Ch. 20 Appropriations**

**Assumptions Used in Arriving at Fiscal Estimate**

Current rules require owners to obtain and hold permits to operate any boiler, pressure vessel, anhydrous ammonia system, mechanical refrigeration system, conveyance and passenger ropeway. Permits to operate are typically issued after a code required periodic inspection. Permits to operate for conveyances and passenger ropeways are issued on a yearly basis. Most permits to operate for boilers, pressure vessels, anhydrous ammonia systems, and mechanical refrigeration systems are issued on a three-year basis. Over the last 3 years on average the department has issued approximately 38,000 permits to operate annually. Raising the permit to operate fee by \$15 will increase the department's revenues annually by \$570,000.

Under current rules certain types of cross connection control devices that protect public water supplies are required to be registered with the department upon installation and tested annually. The types of cross connection control assemblies under this program are reduced pressure principle backflow preventers, reduced pressure fire protection principle backflow preventers, spill resistant vacuum breakers, reduced pressure detector fire protection backflow prevention assemblies and pressure vacuum breakers. Currently, there are just over 33,000 of these assemblies registered with the department. The department is proposing to reduce the registration fee for these assemblies from \$200 to \$30; or \$20 if completed through the Safety and Buildings Division's web site. Over the last 3 years an average of 2275 new assemblies have been annually registered with the department. In 2008 approximately 25,000 performance tests were submitted to the department. The department is proposing a \$30 fee, or a \$20 fee if completed through the Safety and Buildings Division's web site, for the filing of the performance test reports. The department estimates that annual revenues would increase by \$118,000, if 90% of the registrations and performance tests are reported through the Division's web site and 10% are filed by paper.

The proposed rules to update and streamline the department's oversight of certain types of cross connection control assemblies do not increase the workload beyond current resources and staff levels.

**Long-Range Fiscal Implications**

No long-range fiscal implications are anticipated.

Agency/Prepared by: (Name & Phone No.)  
Commerce/James Quast, 266-9292

Authorized Signature/Telephone No.

*James Quast* 6-8976

Date

9/21/09

**FISCAL ESTIMATE WORKSHEET**  
 Detailed Estimate of Annual Fiscal Effect  
 DOA-2047(R06/99)

ORIGINAL  
 CORRECTED

UPDATED  
 SUPPLEMENTAL

LRB or Bill No./Adm. Rule No.  
 Chs. Comm 2 and 82

Amendment No.

**Subject**

Permit to Operate, Registration and Filing Fees

**I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):**

II. Annualized Costs:	Annualized Fiscal impact on State funds from:	
	Increased Costs	Decreased Costs
<b>A. State Costs By Category</b>		
State Operations - Salaries and Fringes	\$	\$ -
(FTE Position Changes)	( FTE)	( - FTE)
State Operations - Other Costs		-
Local Assistance		-
Aids to Individuals or Organizations		-
<b>TOTAL State Costs By Category</b>	\$	\$ -
<b>B. State Costs By Source of Funds</b>		
GPR	\$	\$ -
FED		-
PRO/PRS	0	-0
SEG/SEG-S		-
<b>III. State Revenues- Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)</b>		
GPR Taxes	\$	\$ -
GPR Earned		-
FED		-
PRO/PRS	688,000	-
SEG/SEG-S		-
<b>TOTAL State Revenues</b>	\$ 688,000	\$ -

**NET ANNUALIZED FISCAL IMPACT**

	STATE	LOCAL
NET CHANGE IN COSTS	\$ 0	\$ 0
NET CHANGE IN REVENUES	\$ 688,000	\$ 0

Agency/Prepared by: (Name & Phone No.)  
 Commerce/ James Quast, 266-9292

Authorized Signature/Telephone No.

*James Quast* 6-8976

Date

9/2/09

# FINAL REGULATORY FLEXIBILITY ANALYSIS

## Department of Commerce

CLEARINGHOUSE RULE NO.: 09-050

RULE NO.: Chapters Comm 2 and 82

RELATING TO: Permits to Operate, Registration and Filing Fees

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.

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.

*(Continued on reverse side)*





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

Clearinghouse Rule Number: 09-050		Hearing Location: Madison	
Rule Number: Chapters Comm 2 and 82		Hearing Date: August 13, 2009	
Relating to: Permits to Operate, Registration and Filing Fees			
Comments: Oral or Exhibit No.	Presenter, Group Represented, City and State	Comments/Recommendations	Agency Response
Written #1	Loretta Trapp, Clack Corporation Windsor	<p>Suggests revising line 7 in Table 82.20-1 requiring plan reviews on water treatment systems for two separate circumstances:</p> <ul style="list-style-type: none"> <li>• Water reuse systems</li> <li>• Contaminants treatment of non-community wells or private wells when directed by DNR</li> </ul> <p>Suggests revising the sizing criteria in ch. Comm 82 to more accurately reflect actual flow rates; contends current requirements results in gross over sizing and poor performance. Revisions to include sizing requirements if retention tanks are used.</p> <p>Suggests revising ch. Comm 82 relative to limit for bypasses to acute contaminants rather than both chronic and acute; also limit criteria to devices critical for treatment rather than devices needed to reduce maintenance frequency.</p> <p>Contends the ch. Comm 82 is inconsistent with ch. NR 812; suggests that delaying rule implementation until NR 812 is changed.</p> <p>Suggests chs. Comm 82 and 84 be revised to limit the scope of required product approval of water treatment devices to products installed in one- and two-two-family dwellings, two or less dwelling units in multifamily dwellings and in-store, consumer self-service, bottled water vending machines.</p> <p>Suggests that because of limited staff time consideration should be made to create a specific list for review of critical water treatment devices tailored for plan review on non-community well installations.</p>	<p>The department believes that the suggestion would not clarify the requirement more than the proposed language.</p> <p>The suggestion is not germane to the objectives of the rule package. The suggestion will be considered in the next update of the plumbing code.</p> <p>The suggestion is not germane to the objectives of the rule package. The suggestion will be considered in the next update of the plumbing code.</p> <p>Comment is not germane to the rule package.</p> <p>The suggestion is not germane to the objectives of the rule package. The suggestion will be considered in the next update of the plumbing code.</p> <p>The suggestion is not germane to the objectives of the rule package. The suggestion will be considered in the next update of the plumbing code.</p>
Written #2	Jeffrey Hellenbrand, Clack Corporation Windsor	<p>Suggests revising line 7 in Table 82.20-1 requiring plan reviews on water treatment systems for two separate circumstances:</p> <ul style="list-style-type: none"> <li>• Water reuse systems</li> <li>• Contaminants treatment of non-community wells or private wells when directed by DNR</li> </ul>	<p>See response under Trapp.</p>

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

Clearinghouse Rule Number: 09-050		Hearing Location: Madison	
Rule Number: Chapters Comm 2 and 82		Hearing Date: August 13, 2009	
Relating to: Permits to Operate, Registration and Filing Fees			
Comments: Oral or Exhibit No.	Presenter, Group Represented, City and State	Comments/Recommendations	Agency Response
	Hellenbrand continued	<p>Suggests revising the sizing criteria in ch. Comm 82 to more accurately reflect actual flow rates; contends current requirements results in gross over sizing and poor performance. Revisions to include sizing requirements if retention tanks are used.</p> <p>Suggests revising ch. Comm 82 relative to limit for bypasses to acute contaminants rather than both chronic and acute; also limit criteria to devices critical for treatment rather than devices needed to reduce maintenance frequency.</p> <p>Contends the ch. Comm 82 is inconsistent with ch. NR 812; suggests that delaying rule implementation until NR 812 is changed.</p> <p>Suggests chs. Comm 82 and 84 be revised to limit the scope of required product approval of water treatment devices to products installed in one- and two-two-family dwellings, two or less dwelling units in multi-family dwellings and in-store, consumer self-service, bottled water vending machines.</p> <p>Suggests that because of limited staff time consideration should be made to create a specific list for review of critical water treatment devices tailored for plan review on non-community well installations.</p>	



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## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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**Ronald Sklansky**  
*Clearinghouse Director*

**Terry C. Anderson**  
*Legislative Council Director*

**Richard Sweet**  
*Clearinghouse Assistant Director*

**Laura D. Rose**  
*Legislative Council Deputy Director*

### CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

#### CLEARINGHOUSE RULE 09-050

AN ORDER to repeal Comm 82.22 (9) and 82.41 (6); to renumber Comm 5.99 (4); to amend Comm 2.11 (6), 2.12 (4), 2.13 (3), 2.15 (4), 2.21 (4), Table 2.64-1 lines 16. a. to 16. d., 5.99 (1) and (3), Comm 82.20 (1) (intro.), (b) 1., and Table 82.20-1 line 1., and 82.22 (8) (b) 4., and Table 82.22-1; to repeal and recreate Comm 2.645, 82.20 (1) (a), Table 82.20-1, and 82.20 (1) (c); and to create Comm 2.64 Table 2.64-1 line 16. 3., and 5.99 (4), relating to permits to operate for boilers, pressure vessels, anhydrous ammonia systems, mechanical refrigeration systems, conveyances and passenger ropeways, and registration and performance tests for cross connection control assemblies.

Submitted by **DEPARTMENT OF COMMERCE**

07-13-2009 RECEIVED BY LEGISLATIVE COUNCIL.

08-04-2009 REPORT SENT TO AGENCY.

RNS:LAK

**LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT**

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]  
Comment Attached            YES             NO
2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]  
Comment Attached            YES             NO
3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]  
Comment Attached            YES             NO
4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS  
[s. 227.15 (2) (e)]  
Comment Attached            YES             NO
5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]  
Comment Attached            YES             NO
6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL  
REGULATIONS [s. 227.15 (2) (g)]  
Comment Attached            YES             NO
7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]  
Comment Attached            YES             NO



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**WISCONSIN LEGISLATIVE COUNCIL  
RULES CLEARINGHOUSE**

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**Ronald Sklansky**  
*Clearinghouse Director*

**Richard Sweet**  
*Clearinghouse Assistant Director*

**Terry C. Anderson**  
*Legislative Council Director*

**Laura D. Rose**  
*Legislative Council Deputy Director*

**CLEARINGHOUSE RULE 09-050**

**Comments**

**[NOTE:** All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Reference Bureau and the Legislative Council Staff, dated September 2008.]

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

- a. In s. Comm 5.99 (4) (a), a comma should be added after the second use of the word “test.”
- b. In s. Comm 82.20 Table 82.20-1, item 5, the word “and” should be added before “spill resistant vacuum breakers.”

# RESPONSE TO LEGISLATIVE COUNCIL CLEARINGHOUSE REPORT

## Department of Commerce

CLEARINGHOUSE RULE NO.: 09-050

RULE NO.: Chapters Comm 2 and 82

RELATING TO: Permits to Operate, Registration and Filing Fees

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



State of Wisconsin \ Department of Commerce

# **RULES IN FINAL DRAFT FORM**

**Rule No.:** Chapters Comm 2 and 82

**Relating to:** Permits to Operate, Registration  
and Filing Fees

**Clearinghouse Rule No.:** 09-050

The Wisconsin Department of Commerce proposes an order to repeal Comm 82.22 (9), and Comm 82.41 (6); to renumber Comm 5.99 (4); to amend Comm 2.11 (6), Comm 2.12 (4), Comm 2.13 (3), Comm 2.15 (4), Comm 2.21 (4), Comm 2.64 Table Comm 2.64-1 lines 16. a. to 16. d., Comm 5.99 (1), Comm 5.99 (3), Comm 82.20 (1) (intro.), Comm 82.20 (1) (b) 1., Comm 82.20 Table 82.20-1 line 1., Comm 82.22 (8) (b) 4., and Comm 82.22 Table 82.22-1; to repeal and recreate Comm 2.645, Comm 82.20 (1) (a), Comm 82.20 Table 82.20-1, and Comm 82.20 (1) (c); and to create Comm 2.64 Table Comm 2.64-1 line 16. e., and Comm 5.99 (4), relating to permits to operate for boilers, pressure vessels, anhydrous ammonia systems, mechanical refrigeration systems, conveyances and passenger ropeways, and registration and performance tests for cross connection control assemblies.

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**ANALYSIS OF PROPOSED RULES**

**1. Statutes Interpreted.**

Sections 101.02 (1), 101.10, 101.19, 101.17, 101.983, 145.01, and 145.02, Stats.

**2. Statutory Authority.**

Sections 101.02 (1), 101.19, 145.02 (3), 101.982, and 101.983, Stats.

**3. Related Statute or Rule.**

None

**4. Explanation of Agency Authority.**

Chapters 101 and 145, Stats., grant the department general authority for the purpose of protecting public health, safety and welfare by establishing standards and regulatory oversight programs for the construction and maintenance of buildings, structures and dwellings and their components. These programs are administered by the Safety and Buildings Division. Section 101.19, Stats., grants the department authority to promulgate rules to fix and collect fees that reflect the cost of providing certain programs. Section 145.02 (3) (h), Stats., grants the department authority to promulgate rules concerning the testing of cross-connection control devices.

**5. Summary of Proposed Rules.**

The rules propose to increase the permit to operate fees for boilers, pressure vessels, anhydrous ammonia systems, mechanical refrigeration systems, conveyances and passenger ropeways from \$35 to \$50.

The rules propose to update and streamline the department's oversight of certain types of cross connection control devices (assemblies), reduced pressure principle backflow preventers, reduced pressure fire protection principle backflow preventers, spill resistant vacuum breakers, reduced pressure detector fire protection backflow prevention assemblies and pressure vacuum breakers. The proposal reduces the registration fee for these assemblies and establishes filing requirements and fees for the annual performance test reports for these assemblies. The fees reflect the ability to register and file the information electronically via the internet.

The rules also propose to clarify that department plan review and approval is required for certain water treatment systems where the source of water is a well or surface water.

## **6. Summary of, and Comparison with Existing or Proposed Federal Regulations.**

An internet-based search in the *Code of Federal Regulations and the Federal Register* did not identify any existing or proposed federal regulations that address these topics.

## **7. Comparison with Rules in Adjacent States.**

The following is a comparison of permit to operate fees charged in adjacent states.

### **Illinois**

Illinois requires payment of \$200 for an annual certificate of operation for an elevator. Illinois regulations for boilers require certificates of inspection for \$70.

### **Iowa**

Iowa's fee for an annual elevator permit is \$50.

### **Michigan**

For elevators, Michigan's biennial and annual certificates of operation are \$45.

### **Minnesota**

The annual registration fee for a boiler in Minnesota is \$10.

An internet-based search regarding the registration of cross connection control devices or filing of cross connection control device performance testing results did not produce any results for the 4 adjacent states of Illinois, Iowa, Michigan and Minnesota.

## **8. Summary of Factual Data and Analytical Methodologies.**

The fees for permits to operate have not been revised since 2000. The proposed changes are necessary in order to bring revenues in line with the cost of providing Division services.

The fee currently required by the Safety and Buildings Division to register testable cross connection assemblies was intended to cover the Division's costs for overseeing the annual filing of performance tests over the entire life of each assembly. The proposed fee structure is more equitable because it reflects that some assemblies are in use longer than other assemblies. The proposed fee

changes are also necessary in order to bring revenues in line with the cost of providing Division services.

**9. Effect on Small Business including an Analysis and Supporting Documents Used to Determine the Effect or in Preparation of Economic Impact Report.**

The proposed fee increase for permits to operate will affect businesses which own any boiler, pressure vessel, anhydrous ammonia system, mechanical refrigeration system, conveyance and passenger ropeway. Permits to operate are typically issued after a code required periodic inspection. Permits to operate for conveyances and passenger ropeways are issued on a yearly basis. Most permits to operate for boilers, pressure vessels, anhydrous ammonia systems, and mechanical refrigeration systems are issued on a three-year basis. Over the last 3 years on average the department has issued roughly 38,000 permits to operate annually. Raising the permit to operate fee by \$15 will increase the department's revenues annually by \$570,000.

The proposed revisions regarding the cross connection control program will affect businesses where certain types of cross connection control assemblies are to be installed or exist to protect public water supplies. The types of cross connection control assemblies under this program are reduced pressure principle backflow preventers, reduced pressure fire protection principle backflow preventers, spill resistant vacuum breakers, reduced pressure detector fire protection backflow prevention assemblies and pressure vacuum breakers. Currently there are just over 33,000 of these assemblies registered with the department. These types of assemblies are required to undergo an annual performance test to ensure their continued protection of water supplies. The department is proposing to reduce the registration fee for these assemblies from \$200 to \$30; or \$20 if completed through the Safety and Buildings Division's web site. Over the last 3 years an average of 2275 new assemblies have been annually registered with the department. In 2008 approximately 25,000 performance tests were submitted to the department. The department is proposing a \$30 fee, or a \$20 fee if completed through the Safety and Buildings Division's web site, for the filing of the performance test reports. The department estimates that annual revenues would increase by \$118,000, if 90% of the registrations and performance tests are reported through the Division's web site.

An economic impact report has not been required pursuant to s. 227.137, Stats.

**10. Agency Contact.**

James Quast, Program Manager, [jim.quast@wisconsin.gov](mailto:jim.quast@wisconsin.gov), (608) 266-9292

**11. Public Hearing Comments.**

The hearing record on this proposed rulemaking will remain open until August 21, 2009. Written comments on the proposed may be submitted to James Quast, at the Department of Commerce, P.O. Box 2689, Madison, WI 53701-2689, or email at [jim.quast@wisconsin.gov](mailto:jim.quast@wisconsin.gov).

\*\*\*\*\*

SECTION 1. Comm 2.11 (6) is amended to read:

**Comm 2.11 (6) PERMIT TO OPERATE.** The fee for the issuance of a permit to operate for each boiler or pressure vessel shall be ~~\$35.00~~ 50.00.

SECTION 2. Comm 2.12 (4) is amended to read:

**Comm 2.12 (4) PERMIT TO OPERATE.** The fee for the issuance of a permit to operate for each anhydrous ammonia system shall be ~~\$35.00~~ 50.00.

SECTION 3. Comm 2.13 (3) is amended to read:

**Comm 2.13 (3) PERMIT TO OPERATE.** The fee for the issuance of a permit to operate for each mechanical refrigeration system shall be ~~\$35.00~~ 50.00.

SECTION 4. Comm 2.15 (4) is amended to read:

**Comm 2.15 (4) PERMIT TO OPERATE.** The fee for the issuance of a permit to operate for each ~~elevator~~ conveyance shall be ~~\$35.00~~ 50.00.

SECTION 5. Comm 2.21 (4) is amended to read:

**Comm 2.21 (4) PERMIT TO OPERATE.** The fee for the issuance of a permit to operate for each passenger ropeway shall be ~~\$35.00~~ 50.00.

SECTION 6. Comm 2.64 Table Comm 2.64-1 lines 16. a. to 16. d. are amended to read:

**Table 2.64-1  
(partial table)  
Plan Examination Fees for Plumbing Systems**

Plan Type	Fee
16. Cross connection control <del>devices</del> <u>assemblies</u> :	
a. Reduced pressure principle backflow preventer	<del>\$200.00</del> <u>170.00</u> per <del>device</del> <u>assembly</u>
b. Reduced pressure <del>detector</del> <u>fire protection principle</u> backflow preventer	<del>\$200.00</del> <u>170.00</u> per <del>device</del> <u>assembly</u>
c. Pressure vacuum breaker assembly	<del>\$200.00</del> <u>170.00</u> per <del>device</del> <u>assembly</u>
d. <del>Back siphonage backflow</del> <u>Spill resistant</u> vacuum breaker	<del>\$200.00</del> <u>170.00</u> per <del>device</del> <u>assembly</u>

SECTION 7. Comm 2.64 Table Comm 2.64-1 line 16. e. is created to read:

**Table 2.64-1  
(partial table)  
Plan Examination Fees for Plumbing Systems**

Plan Type	Fee
16. Cross connection control assemblies:	
e. Reduced pressure detector fire protection backflow preventer	\$170.00 per assembly

SECTION 8. Comm 2.645 is repealed and recreated to read:

**Comm 2.645 Cross connection control assemblies. (1)** The registration fee for each cross connection control assembly submitted to the department in accordance with s. Comm 82.20 (1) (c) shall be one of the following:

(a) Thirty dollars.

(b) Twenty dollars, if completed and filed electronically via the safety and buildings division's web site.

**Note:** The Safety and Buildings web address is <http://www.commerce.wi.gov/SB>.

**(2)** The filing fee for each cross connection control assembly performance test report required under s. Comm 82.22 (8) shall be one of the following:

(a) Thirty dollars.

(b) Twenty dollars, if completed and filed electronically via the safety and buildings division's web site.

SECTION 9. Comm 5.99 (1) is amended to read:

**Comm 5.99 (1) GENERAL.** Pursuant to s. 145.06 (3m), Stats., no person may conduct a performance test of a cross connection control ~~device~~ assembly as required by s. Comm 82.22 ~~(9)~~ (8) unless the person holds a registration issued by the department as a registered cross connection control tester.

SECTION 10. Comm 5.99 (3) is amended to read:

**Comm 5.99 (3) QUALIFICATIONS FOR REGISTRATION.** A person applying for a cross connection control ~~device~~ tester registration shall have completed at least 40 hours in an approved course or courses in the theory of cross connection control, the operation, testing and maintenance of cross connection control ~~devices~~ assemblies, and the national standards for these cross connection control ~~devices~~ assemblies. The course or courses shall include instruction in at least all of the following:

- (a) Reduced pressure principle backflow preventers;
- (b) Reduced pressure detector fire protection backflow ~~preventers~~ prevention assemblies;
- (c) Pressure vacuum breaker assembly;
- (d) Double check detector ~~assembly~~ fire protection backflow ~~preventers~~ prevention assemblies;
- (e) Double check fire protection backflow prevention assemblies; ~~and~~.
- (f) ~~Back siphonage~~ backflow Spill resistant vacuum breakers.

SECTION 11. Comm 5.99 (4) is renumbered Comm 5.99 (5).

SECTION 12. Comm 5.99 (4) is created to read:

**Comm 5.99 (4) RESPONSIBILITIES.** A person who, as a registered cross connection control tester, conducts performance tests of cross connection control assemblies shall be responsible for all of the following:

- (a) Maintaining a record of each cross connection control assembly performance test conducted, including the date and the result of the test, for at least 2 years.
- (b) Making available to the department upon request his or her performance test records.
- (c) Following all procedures established by the department for conducting performance tests and filing the results.

SECTION 13. Comm 82.20 (1) (intro.) is amended to read:

**Comm 82.20 (1) GENERAL.** Plans and specifications shall be submitted to the department or to an approved agent municipality for review in accordance with pars. (a) and (b). ~~All registrations for cross connection control assemblies shall be submitted to the department in accordance with par. (c).~~

SECTION 14. Comm 82.20 (1) (a) is repealed and recreated to read:

**Comm 82.20 (1) (a) Department review.** Plumbing plans and specifications for the types of plumbing installations, except direct replacements, listed in Table 82.20-1 shall be submitted to the department for review, regardless of where the installation is to be located. A municipality shall be designated as an agent municipality in accordance with sub. (2). Written approval for the plumbing plans shall be obtained prior to installation of the plumbing.

SECTION 15. Comm 82.20 (1) (b) 1. is amended to read:

**Comm 82.20 (1) (b) 1.** Plumbing plans and specifications for the types of plumbing installations, except direct replacements, listed in Table 82.20-2 shall be submitted for review to an agent municipality, if the installation is to be located within the agent municipality or to the department, if the installation is not to be located within an agent municipality. A municipality shall be designated as an agent municipality in accordance with sub. (2). Written approval for the plumbing plans shall be obtained prior to installation of the plumbing.

SECTION 16. Comm 82.20 Table 82.20-1 is repealed and recreated to read:

**Table 82.20-1  
SUBMITTALS TO DEPARTMENT**

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<b>Type of Plumbing Installation</b>
1. All plumbing, new installations, additions and alterations, regardless of the number of plumbing fixtures involved, serving hospitals, nursing homes and ambulatory surgery centers. <sup>a</sup>
2. Plumbing, new installations, additions and alterations involving 16 or more plumbing fixtures, serving buildings owned by a metropolitan or sanitary sewer district. <sup>b</sup>
3. Plumbing, new installations, additions and alterations involving 16 or more plumbing fixtures, serving buildings owned by the state. <sup>b</sup>
4. Alternate and experimental plumbing systems.
5. Reduced pressure principle backflow preventers, reduced pressure fire protection principle backflow preventers, pressure vacuum breaker assemblies, reduced pressure detector fire protection backflow prevention assemblies, and spill resistant vacuum breakers serving health care and related facilities.
6. Stormwater and clearwater infiltration plumbing systems serving a public building or facility. <sup>c</sup>
7. Treatment systems, other than POWTS, designed to treat water for compliance with Table 82.70-1. <sup>c</sup>

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<sup>a</sup> The registration of cross connection control devices as required under s. Comm 82.20 (1) (c) is included as a part of plan review and approval.

<sup>b</sup> Water heaters, floor drains, storm inlets, roof drains and hose bibbs are to be counted as plumbing fixtures.

<sup>c</sup> Agent municipalities may perform this review when so authorized by the department.

SECTION 17. Comm 82.20 Table 82.20-1 line 1. is amended to read:

**Table 82.20-2  
(partial table)  
SUBMITTALS TO DEPARTMENT OR AGENT MUNICIPALITY**

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<b>Type of Plumbing Installation</b>
1. <del>Except for direct replacement, new</del> New installations, additions and alterations to drain systems, vent systems, water service systems, and water distribution systems involving 16 or more plumbing fixtures to be installed in connection with public buildings. <sup>a,b</sup>

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SECTION 18. Comm 82.20 (1) (c) repealed and recreated to read:

**Comm 82.20 (1) (c) *Cross connection control assembly registration.*** The installation of each reduced pressure principle backflow preventer, reduced pressure fire protection principle backflow preventer, spill resistant vacuum breaker, reduced pressure detector fire protection backflow prevention assembly or pressure vacuum breaker shall be registered with the department no later than 7 days after installation of the assembly.

SECTION 19. Comm 82.22 (8) (b) 4. is amended to read:

**Comm 82.22 (8) (b) 4.** The results of the cross connection control assembly performance test shall be submitted as specified in Table 82.22-1 in a format prescribed by the department accompanied by a filing fee as specified in s. Comm 2.645 (2).

SECTION 20. Comm 82.22 Table 82.22-1 is amended to read:

**Table 82.22-1  
TESTING AND SUBMITTING REQUIREMENTS FOR CROSS CONNECTION CONTROL  
ASSEMBLIES**

ASSE Standard Name and Number	CAN/CSA Standard Name and Number	ASSE Test Standard Number and Test Required	Test Results to be Submitted to Department and Purveyor
Double Check Backflow Prevention Assemblies and Double Check Fire Protection Backflow Prevention Assemblies ASSE 1015	Double Check Valve Backflow Preventers <u>CAN/CSA B64.5</u> and Double Check Valve Backflow Preventers For Fire Protection Systems CAN/CSA-B64.5.1	5015	No
Double Check Detector Fire Protection Backflow Prevention Assemblies ASSE 1048	-----	5048	No
Pressure Vacuum Breaker Assembly ASSE 1020	Pressure Vacuum Breakers CAN/CSA-B64.1.2	5020	Yes
Reduced Pressure Principle Backflow Preventers and Reduced Pressure Fire Protection Principle Backflow Preventers ASSE 1013	Reduced Pressure Principle Backflow Preventers <u>CAN/CSA B64.4</u> and Reduced Pressure Principle Backflow Preventers For Fire Protection Systems <del>CAN/CSA B64.4</del> <u>CAN/CSA B64.4.1</u>	5013	Yes
Reduced Pressure Detector Fire Protection Backflow Prevention Assemblies ASSE 1047	-----	5047	Yes
Spill Resistant Vacuum Breaker ASSE 1056	Spill Resistant Vacuum Breakers CAN/CSA B64.1.3	5056	Yes

SECTION 21. Comm 82.22 (9) is repealed.

SECTION 22. Comm 82.41 (6) is repealed.

**(END)**

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**EFFECTIVE DATE**

Pursuant to s. 227.22 (2) (intro.), Stats., these rules shall take effect on the first day of the month following publication in the Wisconsin Administrative Register.

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