

Clearinghouse Rule 10-011

**PROPOSED ORDER OF THE
DEPARTMENT OF COMMERCE**

CREATING RULES

The Wisconsin Department of Commerce proposes an order to repeal Comm 45.05 (5) and (6),

to renumber Comm 2.13 (1); 41.02 (1) (b); 45.01 Note [1]; 45.02 (1) (b) and (2); 45.03; 45.05 (1), (2), (4) and (7) to (9); 45.07 (title) and (1) (title), (a) and (b); 45.09 (title); 45.12 to 45.14; and 45.21 (title), (1), (3) and (5);

to renumber and amend Comm 45.01 (title) and 45.01 and Note [2]; 45.02 (title) and 45.02 (1) (title), (intro.), (a), (c) and (d); 45.07 (1) (intro.), (2) and Note, (3) and Note and (4) and Note; 45.08 (3); 45.09 (1) to (4); 45.10; 45.11; and 45.21 (2) and (4);

to amend Comm 45 subchapter I (title);

to repeal and recreate 45.02 (3) and (4), 45.05 (3), 45.08 (1) and (2), 45.20, and 45 subchapter V;

and to create Comm 2.13 (1) (b); 41.02 (1) (b) 2.; 45.11 (1) (d) Notes and (e) to (g) and (5); 45.20 (4) and (9); 45.30 (1) (c), (d) and Note; 45.31 (3) Note; 45.32 (5) and Note; 45.35; 45 subchapter VI and subchapter VII (title); and 45.70 (5) Note, relating to mechanical refrigeration, and affecting small businesses.

Rule Summary

1. Statutes Interpreted

Sections 101.02 (1) and (15) (h) to (j), 101.17, 101.177 and 101.19.

2. Statutory Authority

Sections 101.02 (1) and (15) (h) to (j), 101.177, 101.19 and 227.11 (2) (a).

3. Explanation of Agency Authority

Under sections 101.02 (15) (h) to (j) and 101.17 of the Statutes, the Department is required to establish rules and prescribe safeguards for protecting the life, health, safety and welfare of employees and frequenters of public buildings and places of employment. Under section 101.177 of the Statutes, the Department is required to establish rules relating to proper handling and use of ozone-depleting refrigerants and associated equipment. Section 101.19 of the Statutes authorizes the Department to assess fees for providing services.

The Department also has authority under section 227.11 (2) (a) of the Statutes to promulgate rules interpreting any statute that is enforced or administered by the Department, if the rule is considered necessary to effectuate the purpose of the statute.

4. Related Statute or Rule

Some of the mechanical refrigeration systems addressed by the proposed rules include pressure vessel components that are regulated by chapter Comm 41.

5. Plain Language Analysis

The proposed rule changes primarily consist of updating chapter Comm 45 to have it directly reference the latest editions of two applicable national standards, and to make it consistent with current industry and regulatory practices for mechanical refrigeration systems. The primary referenced national standard is ANSI/ASHRAE 15-2007, including its addenda a to i – and ANSI/IIAR 2-2008 is referenced for closed-circuit ammonia mechanical refrigeration systems. Comm 45 currently instead references ANSI/ASHRAE 15 indirectly by incorporating chapter 11 of the 2000 edition of the *International Mechanical Code*[®] (IMC), which in turn references a previous version of ANSI/ASHRAE 15. No substantive changes to administrative requirements are included.

6. Summary of, and Comparison With, Existing or Proposed Federal Regulations

The US Environmental Protection Agency has regulations relating to production or release of various ozone-depleting refrigerants, but the proposed rule changes do not directly address the topics covered by those regulations.

7. Comparison With Rules in Adjacent States

Michigan regulates the design and installation of mechanical refrigeration systems by adopting the 2006 edition of the IMC. The IMC in turn references the 2001 and 1999 editions of the ASHRAE 15 and IIAR 2 standards, respectively.

Minnesota's regulation is the same as Michigan – except closed-circuit ammonia refrigeration systems must comply with the 2008 edition of IIAR 2, and with the 2006 edition of B31.5 and the welding and welder criteria in section IX of the 2007 edition of the *ASME Boiler and Pressure Vessel Code*.

Illinois does not regulate mechanical refrigeration systems, and no corresponding Iowa regulations were found.

8. Summary of Factual Data and Analytical Methodologies

In considering the latest editions of ANSI/ASHRAE 15 and ANSI/IIAR 2, Department staff compared these standards to the requirements currently in Comm 45, and concluded that these standards are clearer and provide more detail than the current requirements and standards included in Comm 45, and would not impose significant costs or other impacts on a substantial number of businesses.

The rules were also developed with assistance from the Department's advisory council for mechanical refrigeration. The organizations represented on that advisory council are as follows:

Central Storage and Warehouse Company
City of Milwaukee
Mechanical Contractors Association of Wisconsin
Sheet Metal and Air Conditioning Contractors Association of Milwaukee, Inc.
University of Wisconsin – Madison
Vilter Manufacturing Corporation
Wisconsin Pipe Trades Association

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

An economic impact report was not prepared. Consideration of the potential effects on small business was based on guidelines produced by the federal Small Business Administration's Office of Advocacy. The advisory council referenced above did not identify any significant impacts relative to compliance with the proposed revisions updating chapter Comm 45.

10. Effect on Small Business.

The proposed rules are not expected to impose significant costs or other impacts on a substantial number of businesses because the primary effect of the changes is to make chapter Comm 45 consistent with current regional and national standards for mechanical refrigeration, and with current industry and regulatory practices.

11. Agency Contact Information

Sam Rockweiler, Wisconsin Department of Commerce, Division of Environmental and Regulatory Services, P.O. Box 14427, Madison, WI, 53708-0427; telephone (608) 266-0797; e-mail sam.rockweiler@wi.gov.

12. Place Where Comments Are to Be Submitted, and Deadline for Submission.

Comments on the proposed rules may be submitted by e-mail to sam.rockweiler@wisconsin.gov, no later than March 8, 2010. If e-mail submittal is not possible, written comments may be mailed, by the same date, to Sam Rockweiler, Department of Commerce, Division of Environmental and Regulatory Services, P.O. Box 14427, Madison, WI 53708-0427.

File reference: Comm 45/rule analysis