

ANALYSIS

Statutes interpreted: Sections 145.02 and 145.13, Stats.

Statutory authority: Section 227.11 (2), Stats.

Explanation of agency authority:

Section 227.11 (2) (a) Stats., authorizes the Department 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.

Related statute or rule: Chapters SPS 381 to 387

Plain language analysis:

The major change in this proposed rule lies within s. SPS 382.20 (2) (a) whereby the requirement of employing two full-time plumbing inspectors is no longer required for the granting of or maintaining municipal agent status. In addition, the proposed rules correct a typographical error in s. SPS 382.40 (6) (a), updates Appendix A-382.20 (2) to direct the reader to the department's webpage to access the most current listings of agents for plumbing plan review and Appendix A-382.3333 (9) (f)-1 (Note) which reflects the correct citation in the Commercial Building Code, ch. SPS 364.

Summary of, and comparison with, existing or proposed federal regulation:

None.

Comparison with rules in adjacent states:

An Internet-based search found the following requirements for plumbing plan review at the local level in the four adjacent states:

By Illinois statutes and codes each local governmental unit shall with the advice of the State Department of Public Health, provide by ordinance, bylaws, or rules and regulations for the materials, construction, alteration, and inspection of all plumbing placed in or in connection with any building and to provide for and appoint a competent plumbing inspector or more as required. In addition, "No person shall be appointed as a Plumbing Inspector who is not a licensed plumber under this Act, including persons employed as Plumbing Inspectors in home rule units." [225 ILCS 320/18 (Ch. 111, par. 1117)] No mention of staffing levels for conducting such review or inspection was found.

The State of Iowa has adopted the 2009 edition of the UPC, (uniform plumbing code) as rule 641—Chapter 25(105), Iowa Administrative Code. The search revealed that a separation of state-level plan review and inspection are conducted on the local level when that local unit of government adopts an ordinance to enforce the state codes. However, no

mention of staffing levels or credentials for individuals conducting such review or inspection was found.

In the Michigan construction code, (part 7. plumbing code, R 408.30701), the code official enforces such code. Michigan maintains a statewide jurisdiction list that contains the units of government having assumed responsibility for plan review of various trades' permits, including plumbing. No information was found as to the application or approval requirements for a unit of government to be included on this list or any stipulated staffing levels in this regard.

In Minnesota plumbing installations and licenses are maintained in Minn. Stat. §326B.43; Minn. Rule 4715. Regarding plan submittal and review, the state recognizes cities of the first class (Minneapolis, St. Paul and Duluth) as having their own plumbing programs, including plan submittal and review. A number of other municipalities in this state have plan review agreements with the state agency overseeing plumbing and therefore, take responsibility for plan review on most plumbing projects. No information was found as to the application or approval requirements for a city to be granted plan review with respect to stipulated staffing levels.

Summary of factual data and analytical methodologies:

The proposed rules were included in a listing of suggested code revisions from the Small Business Regulatory Review Board (SBRRB), October 2012. The recommended changes are expected to make the granting of agent status for plumbing plan review less burdensome to municipalities who desire to be authorized to conduct such service.

Analysis and supporting documents used to determine effect on small business or in preparation of economic impact analysis:

The proposed rules follow the direction of Executive Order 61 whereby reducing the burden to job creation while complying with the provisions of state statutes. This proposed rule would provide flexibility in staffing levels based on local need and may allow municipalities to utilize staff on a part-time or as-needed basis.

Fiscal Estimate and Economic Impact Analysis:

See attached.

Effect on small business:

The department does not believe that the proposed rules will create an impact on small businesses.

Agency contact person:

Jean MacCubbin, Program Manager, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8935, Madison, WI 53708; telephone (608) 266-0955 or Contact Through Relay; email at Jean.MacCubbin@wisconsin.gov.

Place where comments are to be submitted and deadline for submission:

Comments may be submitted to Jean MacCubbin, Program Manager, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8935, Madison, WI 53708-8935, or by email to Jean.MacCubbin@wisconsin.gov. Comments must be received on or before the public hearing on Monday July 29, 2013 at 10:00 a.m. to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. SPS 382.20 (2) (a) and (2) (a) 2. Note are amended to read:

SPS 382.20 (2) (a) An agent municipality shall ~~employ at least 2 full-time plumbing inspectors who have been~~ utilize a plumbing inspector qualified by the department to conduct plumbing inspection and plan review at a staffing level based on local need.

Note: ~~See Appendix for~~ For a listing of agent municipalities, see Appendix A-382.20 (2) or <http://www.dsps.wi.gov/Documents/Industry%20Services/Industry%20Services%20Division%20Plumbing%20Agent%20Municipalities.pdf>.

SECTION 2. SPS 382.40 (6) (a) is amended to read:

(6) LOAD FACTORS FOR WATER SUPPLY SYSTEMS. *Intermittent flow fixtures.* The load factor for intermittent flow fixtures on water supply piping shall be computed in terms of water supply fixture units as specified in Tables ~~382.40-1a~~ 382.40-1b and 382.40-2 for the corresponding fixture and use. Water supply fixture units may be converted to gallons per minute in accordance with Table 382.40-3 or 382.40-3e.

SECTION 3. SPS 382 APPENDIX A-382.20 (2) and (Note) are amended to read:

A-382.20 (2) AGENT MUNICIPALITIES. The department has designated several municipalities the authority to review and approve plumbing plans and specifications for those plumbing installations located within the boundary limits of the

municipality and that require approval under s. SPS 382.20. ~~The cities of Appleton, Eau Claire, Green Bay, Janesville, Madison, Milwaukee, Oshkosh, and West Bend have been designated as authorized municipalities. (A project in Janesville or West Bend may be submitted to the state or to the municipality.) Eau Claire, Janesville, and Madison have been designated as authorized~~ There are also municipalities designated for stormwater infiltration review when required as per s. SPS 382.20.

~~Note: This listing is~~ These listings are maintained on the department's web site at <http://dsps.wi.gov/sb/sb-PlumbingAgentMunis.html> <http://www.dsps.wi.gov/Documents/Industry%20Services/Industry%20Services%20Division%20Plumbing%20Agent%20Municipalities.pdf>. Also see the Plumbing Program page on the ~~Safety and Buildings Division of Industry Services~~ web site at <http://dsps.wi.gov/sb/sb-PlumbingProgram.html> <http://dsps.wi.gov/Default.aspx?Page=cd6bb415-5f37-490c-87be-910d6f543172>. Both web pages are subject to change.

SECTION 4. SPS 382 Appendix A-382.33 (9) (f)-1 (Note) is amended to read:

A-382.33 (9) (f)-1. Note: ~~Section SPS 318.23 SPS 362.3004 (2) (b) includes requirements for the installation of drains and sumps. Section SPS 318.23 reads: "Drains and sumps complying with ss. SPS 382.33 and 382.36 shall be provided. Drains connected directly to sanitary drain systems shall not be installed in elevator pits."~~ Section SPS 362.3004 (2) (b) reads: "1. Except as provided in subd. 2., A drain or sump complying with ss. SPS 382.33 and 382.36 shall be provided in an elevator pit. Connection of the drain or sump to a sanitary system is prohibited.

2. An elevator pit is exempt from the sump or drain requirement under subd. 1. for any of the following situations:

- a. The floor of an elevator walk-in pit is level with the adjacent floor.
- b. The elevator does not extend to the building's lowest floor level and the pit floor is not in contact with the earth.
- c. The pit floor is above adjacent grade where the elevator hoistway shaft has one or more exterior walls.

3. The aggregate capacity for drainage from the pit shall be at least one of the following:

- a. 30 gpm in a hoistway with one elevator.
- b. 50 gpm in a hoistway with two or three elevators.
- c. 80 gpm in a hoistway with four elevators.

Note: See s. SPS 382.36 for the width or diameter and depth of a sump pump located in an elevator pit."

SECTION 5. EFFECTIVE DATE. The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin administrative register, pursuant to s. 227.22 (2) (intro.), Stats.

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(END OF TEXT OF RULE)

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COPIES OF RULE

Copies of this proposed rule are available upon request to Jean MacCubbin, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708, by email at Jean.MacCubbin@wisconsin.gov or on our website at <http://dsps.wi.gov/Default.aspx?Page=44e541e8-abdd-49da-8fde-046713617e9e>.

File: 165-SPS 382 Plumbing Plan Review hearing notice final