

STATE OF WISCONSIN
Department of Safety and Professional Services

IN THE MATTER OF RULEMAKING	:	NOTICE OF TIME PERIOD
PROCEEDINGS BEFORE THE	:	FOR COMMENTS FOR THE
DEPARTMENT OF SAFETY AND	:	ECONOMIC IMPACT ANALYSIS
PROFESSIONAL SERVICES	:	

NOTICE IS HEREBY GIVEN of the time period for public comment on the economic impact of this proposed rule of the Department of Safety and Professional Services relating to water treatment devices; including how this proposed rule may affect businesses, local government units, and individuals. The comments will be considered when the Department prepares the Economic Impact Analysis pursuant to section 227.137 of the Wisconsin Statutes. Written comments may be submitted to:

Sam Rockweiler, Rules Coordinator
Division of Policy Development
Department of Safety and Professional Services
PO Box 8366
Madison, WI 53708-8366
sam.rockweiler@wi.gov

The deadline for submitting economic impact comments is September 8, 2014.

PROPOSED ORDER

An order of the Department of Safety and Professional Services to renumber SPS 384 Table 384.10 Rows 1 to 5, to renumber and amend SPS 384 Table 384.10 Row 6, and to create SPS 384 Table 384.10 Rows 1 and 9 and (Note), relating to water-treatment devices.

ANALYSIS

Statutes interpreted:

Section 145.02 (2).

Statutory authority:

Sections 145.02 (2) and 227.11 (2) (a).

Explanation of agency authority:

Under section 145.02 (2), the Department has general supervision of all plumbing in connection with all buildings in Wisconsin, and must prescribe and enforce reasonable standards therefor that must be uniform statewide so far as practicable, in order to safeguard the public health.

Section 227.11 (2) (a) 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.

Section 227.24 (1) (a) of the Statutes authorizes the Department to promulgate rules as emergency rules if preservation of the public peace, health, safety, or welfare necessitates putting the rules into effect prior to the time they would take effect if the agency complied with the otherwise-applicable procedures in chapter 227.

Related statute or rule:

Chapter SPS 382 contains the Department’s statewide requirements for construction, installation, and maintenance of all plumbing in connection with all buildings in Wisconsin.

Plain language analysis:

These rule revisions discontinue the Department’s review of water treatment devices that (1) are certified as complying with a material-safety standard by a certification body which is accredited by the American National Standards Institute, and (2) are then used in compliance with that listing.

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

Maximum levels for contaminants in drinking water are established in Title 40 of the *Code of Federal Regulations*, Part 141. Individual states develop and apply health or plumbing codes to achieve compliance with those maximums.

Comparison with rules in adjacent states:

An Internet search of state-level rules for water-treatment devices in the adjacent states yielded the following results:

Illinois: The Illinois Department of Public Health requires their approval of all devices in all plumbing systems, under section 890.210 of subchapter r in chapter I of title 77 of the Illinois Administrative Code. All plumbing devices must comply with an applicable referenced standard, and be listed by an accepted third-party agency. The only referenced standard for water softener and treatment systems that was found is NSF/ANSI 44–2012, in section 890.Appendix A, Table A.

Iowa: The Iowa state plumbing code incorporates the 2012 edition of the *Uniform Plumbing Code*[®] (UPC), from the International Association of Plumbing and Mechanical Officials. The 2012 UPC requires compliance with and incorporates several industry standards for water treatment devices. The UPC similarly requires testing and listing of these devices – to demonstrate compliance with these standards – by a similarly accredited, third-party certification body.

Michigan: The Michigan state plumbing code incorporates the 2012 edition of the International Plumbing Code[®] (IPC), from the International Code Council[®]. The 2012 IPC requires compliance with and incorporates several industry standards for water treatment devices.

Minnesota: No references to adopted standards for water treatment devices were found in the Minnesota state plumbing code.

Summary of factual data and analytical methodologies:

These rule revisions were developed by reviewing current industry and regulatory best practices, in conjunction with stakeholder input – and in relation to the Department’s corresponding statutory authority.

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

Because these rule revisions, in essence, simply discontinue a duplicative review by the Department, they are not expected to negatively affect small business.

Fiscal Estimate:

The Department estimates that these rule revisions will have positive rather than negative fiscal impacts.

Effect on small business:

These rule revisions do not have an economic impact on small businesses, as defined in section 227.114 (1) of the Statutes. The Department’s Regulatory Review Coordinator may be contacted by e-mail at Tom.Engels@wisconsin.gov, or by calling (608) 266-8608.

Agency contact person:

Sam Rockweiler, Rules Coordinator, at the Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8366, Madison, WI, 53708-8366; or at telephone (608) 266-0797; or by e-mail at sam.rockweiler@wi.gov; or by telecommunications relay services at 711.

TEXT OF RULE

SECTION 1. SPS 384 Table 384.10 Rows 1 to 5 and 6 are renumbered SPS 384 Table 384.10 Rows 2 to 6 and 8, and SPS 384 Table 384.10 Row 8, as renumbered, is amended to read:

SPS 384 Table 384.10
(Partial Table – title and column heading are provided for reference only.)

SUBMITTALS TO DEPARTMENT

Product Categories

- | |
|---|
| 8. <u>Water treatment devices or bottled water vending machines that make a contaminant reduction claim which is not listed certified by a nationally recognized listing agency as complying with NSF Standard 44 certification body accredited by the American National Standards Institute.</u> |
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SECTION 2. SPS 384 Table 384.10 Rows 1 and 9 and (Note) are created to read:

SPS 384 Table 384.10

(Partial Table – title and column heading are provided for reference only.)

SUBMITTALS TO DEPARTMENT

Product Categories	
1.	Bottled-water vending machines that are not listed by a certification body accredited by the American National Standards Institute.
9.	Water treatment devices that are not certified to a standard which covers material safety, by a certification body accredited by the American National Standards Institute.

Note: More information about the certification bodies accredited by the American National Standards Institute (ANSI), such as the National Sanitation Foundation, is available at the ANSI website at www.ansi.org; or at 1899 L Street, NW, 11th Floor Washington, DC, 20036; or at telephone 202.293.8020.

SECTION 3. 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.

(END OF TEXT OF RULE)

File reference: SPS 384/EIA notice and rules2