State of Wisconsin \ Department of Commerce

HEARING DRAFT of PROPOSED RULES

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

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

COM-10544 (N.03/97)

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 $100; or $90 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 $40 fee, or a $30 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 $527,000, 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, (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.

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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 ~~devices~~ assemblies:	
a. Reduced pressure principle backflow preventer	$~~200.00~~ 100.00 per ~~device~~ assembly
b. Reduced pressure ~~detector~~ fire protection principle backflow preventer	$~~200.00~~ 100.00 per ~~device~~ assembly
c. Pressure vacuum breaker assembly	$~~200.00~~ 100.00 per ~~device~~ assembly
d. ~~Back siphonage backflow~~ Spill resistant vacuum breaker	$~~200.00~~ 100.00 per ~~device~~ assembly

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	$100.00 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) One hundred dollars.

(b) Ninety 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) Forty dollars.

(b) Thirty 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

Type of Plumbing Installation
1. All plumbing, new installations, additions and alterations, regardless of the number of plumbing fixtures involved, serving hospitals, nursing homes and ambulatory surgery centers.[a]
2. Plumbing, new installations, additions and alterations involving 16 or more plumbing fixtures, serving buildings owned by a metropolitan or sanitary sewer district.[b]
3. Plumbing, new installations, additions and alterations involving 16 or more plumbing fixtures, serving buildings owned by the state.[b]
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, spill resistant vacuum breakers serving health care and related facilities.
6. Stormwater and clearwater infiltration plumbing systems serving a public building or facility.[c]
7. Treatment systems, other than POWTS, designed to treat water for compliance with Table 82.70-1. [c]

[a] 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.
[b] Water heaters, floor drains, storm inlets, roof drains and hose bibbs are to be counted as plumbing fixtures.
[c] 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

Type of Plumbing Installation
1. ~~Except for direct replacement, new~~ 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.[a,b]

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 <u>accompanied by a filing fee as specified in s. Comm 2.645 (2)</u>.

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

Table 82.22–1
TESTING AND SUBMITTTING 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 CAN/CSA B64.5 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 CAN/CSA B64.4 and Reduced Pressure Principle Backflow Preventers For Fire Protection Systems ~~CAN/CSA-B64.4~~ CAN/CSA B64.4.1	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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