

STATEMENT OF SCOPE

Department of Safety and Professional Services

Rule No.: SPS 381-387 and SPS 325, 361-366

Relating to: Plumbing Code Review

Rule Type: Permanent

1. Finding/nature of emergency (Emergency Rule only):

N/A

2. Detailed description of the objective of the proposed rule:

The objective of the proposed rule is to fix inconsistencies between the current plumbing code, other department rules, and other national standards the department has adopted. In addition, this project will address change in federal standards for use of lead in plumbing materials. This project will modify code language to help increase clarity for stakeholders. The department will take into account feedback from the Plumbing Code Advisory Committee and other stakeholders to ensure consistency between plumbing code, other department codes, national regulations and standards.

3. Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:

The plumbing code is in SPS 381 (Definitions and Standards), SPS 382 (Design, Construction, Installation, Supervision, Maintenance and Inspection of Plumbing and Appendix), and SPS 384 and Appendix (Plumbing Products). SPS 383, 385, 386 and 387 relate primarily to private onsite wastewater treatment systems. SPS 325 relates to plumbing within Wisconsin's uniform dwelling code. SPS 361 to 366 relates to plumbing within Wisconsin's commercial building code.

This rule project will review requirements for the design, construction, installation, inspection and maintenance of plumbing systems and requirements to ensure the quality and proper installation of plumbing products. The department will take into account feedback from the Plumbing Code Advisory Committee and other stakeholders to ensure consistency between plumbing code, other department codes, national standards, and industry best practices. Standards incorporated by reference will be reviewed and updated as needed. The rule will be reviewed to ensure consistency with state statutes.

The alternative is not to do this project, which would allow for inconsistencies to confuse stakeholders and may affect the effectiveness of the plumbing code. Additionally, if no changes are made our Code will continue to conflict with federal regulations as it relates to lead materials.

4. Detailed explanation of statutory authority for the rule (including the statutory citation and language):

Section 101.02 (1) (b), Stats.: "The department shall adopt reasonable and proper rules and regulations relative to the exercise of its powers and authorities and proper rules to govern its proceedings and to regulate the mode and manner of all investigations and hearings..."

Section 145.02 (1), Stats.: "The construction, installation and maintenance of plumbing in connection with all buildings in this state, including buildings owned by the state or any political subdivision thereof, shall be safe, sanitary and such as to safeguard the public health and the waters of the state."

Section 145.02 (2) (a), Stats.: “The department shall have general supervision of all plumbing described under sub. (1). The department shall promulgate rules that shall uniformly apply to all types of buildings, private or public, rural or urban, including buildings owned by the state or any political subdivision. The rules promulgated by the department shall constitute the state plumbing code. The state plumbing code shall comply with ch. 160. To the extent that the historic building code applies to the subject matter of these standards, the standards do not apply to a qualified historic building if the owner elects to be subject to s. 101.121. The standards do not apply to a primitive rural hunting cabin, as defined in s. 101.61 (3).”

Section 145.02 (2) (b), Stats.: “The department shall promulgate rules that establish separate plumbing standards applicable only to camping units that are set in a fixed location in a campground for which a permit is issued under s. 97.67, that contain a sleeping place, and that are used for seasonal overnight camping. The standards established in the rules shall also take into account the uses, including seasonal use, that are unique to recreational and educational camps, as defined in s. 101.053 (1). If the department has appointed one or more committees under s. 227.13 to advise the department on rule making with respect to private on-site wastewater treatment systems or other plumbing systems, the department shall promulgate the rules required under this paragraph in consultation with those committees.”

Section 145.02 (3), (3) (g), and (3) (h), Stats.: “The department may exercise such powers as are reasonably necessary to carry out the provisions of this chapter. It may, among other things:

(g) By rule, fix fees for the examination and approval of plans of plumbing systems and collect the same.

(h) Promulgate rules concerning the testing of cross-connection control devices, including rules identifying the types of cross-connection control devices that may be tested only by a registered cross-connection control tester and the circumstances under which cross-connection control devices shall be tested.

Section 145.02 (4) (a), Stats.: “The department shall prescribe rules as to the qualifications, examination and licensing of master and journeyman plumbers and restricted plumber licensees, for the licensing of utility contractors, for the registration of plumbing apprentices and pipe layers and for the registration and training of registered learners. The plumbers council, created under s. 15.407 (16), shall advise the department in formulating the rules.”

Section 145.02 (4) (b), Stats.: “The department may promulgate rules for the qualification and registration of cross-connection control testers.”

Section 145.245, Stats., provides the department with authority to make rules relating to private on-site wastewater treatment system replacement or rehabilitation, including criteria for determining if a system is failing, eligibility for grant funding, and mechanisms for disbursing grant funds.

Section 227.11 (2) (a), Stats.: “Each agency may promulgate rules interpreting the provisions of any statute enforced or administered by the agency, if the agency considers it necessary to effectuate the purpose of the statute, but a rule is not valid if the rule exceeds the bounds of correct interpretation.”

5. Estimate of amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule:

Approximately 80 hours.

6. List with description of all entities that may be affected by the proposed rule:

This proposed rule generally affects any entity involved with the plumbing industry as plumbing regulations affect any building, structure, or premises with plumbing. The rules will affect plumbing designers, installers, inspectors, and building owners, and manufacturers and sellers of plumbing products.

7. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule:

Several existing federal regulations relate to plumbing code in Wisconsin. Some of these regulations require compliance with prior editions of the International Plumbing Code (IPC), a national model code developed by the International Code Council (ICC), and the Uniform Plumbing Code (UPC), a national model code developed by the International Association of Plumbing and Mechanical Officials. A search of the United States Code (USC) found the following existing federal rules that impact plumbing:

The provisions of 24 USC § 3280.601-612 cover the "Manufactured Home Construction and Safety Standards" law. This law sets standards for plumbing materials, fixtures, and equipment installed within or on manufactured homes as of April 1, 2009.

"Safe Drinking Water Act" is codified under 42 USC § 300f-300f-9. This law regulates plumbing for the purpose of protecting drinking water from contaminants. The provisions identify the acceptable level of contaminants in drinking water.

Under 42 USC § 300g-1, the provisions of the "National Primary Drinking Water Law" are codified. This law establishes primary drinking water regulations pursuant to section 1412 of the Public Health Service Act, as amended by the Safe Drinking Water Act. Regulated by the US Environment Protection Agency (EPA). The regulations are applicable to public water systems including monitoring requirements for lead and copper in tap water.

"The Reduction of Lead in Drinking Water Act" is a federal law that amended the Safe Drinking Water Act (SDWA). The Act set new, lower standards for lead amounts permissible in plumbing products that encounter potable water. SDWA is codified under 42 USC § 300g-6 section 1417. The law reduces the permissible levels of lead in the wetted surfaces of pipes, pipe fittings, plumbing fittings, and fixtures to a weighted average of not more than 0.25%. EPA has primary responsibility for interpreting SDWA. Individual states utilize health or plumbing codes or other standards consistent with the SDWA and EPA regulations to enforce those standards.

The provisions of 40 USC § 143.10-143.20 and 42 USC § 300j-24 identify guidance on lead contamination drinking water. Provisions identify guidance to decrease or eliminate lead contamination drinking water. It requires each state to develop a testing program to remedy lead contamination and meet the lead-free federal definition. The "National Pollutant Discharge Elimination System (NPDES)" is codified in 33 USC § 1342. Created in 1972 by the Clean Water Act, the NPDES permit program is authorized to state governments by EPA to perform many permitting, administrative, and enforcement aspects of the program. The Clean Water Act prohibits anybody from discharging pollutants through a "point source" into a water of the United States unless they have an NPDES permit.

The Food and Drug Administration sets standards for manufacturing practice for finished pharmaceuticals. Federal codes under 21 CFR § 210-211 establish standards for plumbing in buildings and facilities that manufacture pharmaceuticals.

The federal code section, 30 CFR § 71.402 was established by the Department of Labor to protect miner's safety and health. The code sets minimum requirements for bathing facilities, change rooms, and sanitary flush toilet facilities.

Under 40 CFR § 141, "Primary Drinking Water Regulations" further set maximum levels for contaminants in drinking water.

The Energy Policy and Conservation Act, as amended (EPCA), requires the Department of Energy to administer an energy and water conservation program for certain major household appliances and commercial equipment, including certain plumbing products such as shower heads, faucets and water closets. The regulations implementing EPCA are found under 10 CFR § 430.

8. Anticipated economic impact of implementing the rule (note if the rule is likely to have a significant economic impact on small businesses):

The changes to the plumbing codes may have an economic impact on a person or entity, such as a business, that is required to follow plumbing codes. This includes the design, construction and implementation of buildings and structures with plumbing and manufacturers and sellers of plumbing products.

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Secretary

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