

STATE OF WISCONSIN
Department of Safety and Professional Services

IN THE MATTER OF RULEMAKING PROCEEDINGS BEFORE THE DEPARTMENT OF
SAFETY AND PROFESSIONAL SERVICES

ORDER OF THE DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES,
ADOPTING RULES CLEARINGHOUSE RULE 14-056

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.

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.

Under current rules, water treatment devices – including water softeners – may need two separate approvals before being used in Wisconsin. The first approval is typically from a third party, such as NSF International, and is based on an industry standard. The second approval is under SPS chapter 384, which addresses situations where a plumbing product must receive approval from the Department. The Department has reason to believe that its secondary review is delaying some users of water supply wells from accessing plumbing products which would improve the safety of their drinking water. These products have been approved under industry standards and are available to consumers in other states but have not yet received approval from the Department.

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 and economic impact analysis:

The Fiscal Estimate and Economic Impact Analysis is attached.

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:

Dan Smith, 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) 261-4463; or by e-mail at Daniel2.Smith@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>

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. EFFECTIVE DATE. This rule shall take effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22 (2) (intro.), Stats.

(END OF TEXT OF RULE)
