

## ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis <input checked="" type="checkbox"/> Original <input type="checkbox"/> Updated <input type="checkbox"/> Corrected	2. Date 02/08/2023
3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable) SPS 381 to 387	
4. Subject Plumbing and Plumbing products	
5. Fund Sources Affected <input type="checkbox"/> GPR <input type="checkbox"/> FED <input checked="" type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG-S	6. Chapter 20, Stats. Appropriations Affected s.20.165(2)(j)
7. Fiscal Effect of Implementing the Rule <input type="checkbox"/> No Fiscal Effect <input type="checkbox"/> Increase Existing Revenues <input checked="" type="checkbox"/> Increase Costs <input type="checkbox"/> Decrease Costs <input checked="" type="checkbox"/> Indeterminate <input type="checkbox"/> Decrease Existing Revenues <input type="checkbox"/> Could Absorb Within Agency's Budget	
8. The Rule Will Impact the Following (Check All That Apply) <input type="checkbox"/> State's Economy <input type="checkbox"/> Specific Businesses/Sectors <input type="checkbox"/> Local Government Units <input type="checkbox"/> Public Utility Rate Payers <input type="checkbox"/> Small Businesses <b>(if checked, complete Attachment A)</b>	
9. Estimate of Implementation and Compliance to Businesses, Local Governmental Units and Individuals, per s. 227.137(3)(b)(1). \$0	
10. Would Implementation and Compliance Costs Businesses, Local Governmental Units and Individuals Be \$10 Million or more Over Any 2-year Period, per s. 227.137(3)(b)(2)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
11. Policy Problem Addressed by the Rule Chapters SPS 381 to 387, referred to collectively as the "Wisconsin Plumbing Code", apply uniformly to the design, construction, installation, supervision, maintenance, and inspection of plumbing, including POWTS, sanitary and storm drainage, water supplies, wastewater treatment, dispersal, or discharge for buildings, as well as plumbing products. The plumbing code is uniform in application, meaning municipalities may not enact ordinances that are more stringent, except as specifically permitted.  The primary focus of this rulemaking is to perform a comprehensive update of the Wisconsin Plumbing Code. These administrative rule revisions update Wisconsin's plumbing regulations to allow Wisconsin to continue to ensure Wisconsin's buildings are safe and sanitary. Wisconsin's plumbing regulations were last comprehensively updated in 2018.  Pursuant to s. 145.02, Stats., the purpose of the plumbing code is to provide that all plumbing in connection with buildings and facilities in the state, including buildings owned by the state or any political subdivision shall be safe and sanitary as to safeguard the public health and the waters of the state.  While Wisconsin does not adopt a nationally recognized model plumbing code, the proposed rule incorporates several nationally recognized technical standards, most of which are also incorporated in the model plumbing codes. This rulemaking updates technical standards, either incorporated by reference or permitted for use, to align Wisconsin's rules with national standards and best practices for safe plumbing systems.	
12. Summary of the Businesses, Business Sectors, Associations Representing Business, Local Governmental Units, and Individuals that may be Affected by the Proposed Rule that were Contacted for Comments. The department is currently soliciting information from the public and industry stakeholders to determine the potential impact of the proposed rule on the overall economic impact and the impact of the rule on small business.	
13. Identify the Local Governmental Units that Participated in the Development of this EIA.	

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The following is a summary of the comments received during the 60-day comment period:

-- Fernando Fernandez from TOTO USA, Inc: "I have been made aware today is the last day for public comment. I have reviewed the proposed language concerning the addition of language in relation to the items below and find no objection to the inclusion of terms and language related to personal hygiene devices covered by the reference standard below:

- standard ASME A112.4.2 / CSA B45.16 in Table 384.11
- definition of bidet sprayer

The goal of these additional references shall serve to facilitate local building authorities validation of compliance of referenced product to industry standards via product markings / labelling required by the standard and via 3rd party certification."

-- Jeffrey Beiriger from Plumbing, Heating, Cooling Contractors Association (PHCC) and Steve Breitlow from Plumbers Local 75 Wisconsin Pipe Trades Association: "We have reviewed the code draft and below listed certain concerns and clarifications:

1. Draft Section 172, 173. The first item of concern is the proposed repeal of SPS Table 382.41-1.
    - a. The removal of SPS Table 382.41-1 does not aid the plumber. In fact, it will make it more difficult for the plumber to determine the device or assembly for an installation not listed on the proposed Table. The proposed SPS Table 382.41-1 & Table 382.41-2 is an updated version of a current table already in the Appendix of SPS 382, but this table does not address the hydraulic conditions and pressure duration (backpressure/back siphonage &/or continuous/non-continuous). The original table is still needed. Removing it is not recommended.
    - b. The proposed changes to SPS Table 382.41-1 do not reflect the advisory committee proposed changes to this Table. Refer to the committee rule changes 6/22/2021.
  2. Draft Section 78. The proposed draft does not include the advisory committee proposed changes to SPS Table 382.30-1.
    - a. The previous advisory committee proposed SPS Table 382.30-1 had several DFU and trap size changes that reflected current water usage of today's plumbing fixtures. These changes would have the potential to reduce drain and vent sizes, which in turn would lead to building cost savings. Refer to committee rule changes 4/3/2019.
    - b. The previous code package also included the "emergency floor drain" concept. Again, this idea could greatly reduce the sizes of drain and vent systems.
    - c. The previously proposed changes to SPS Table 382.30-1 would also make our code current with the International Plumbing Code, the Uniform Plumbing Code, and the National Standard Plumbing Code.
    - d. Refer to Attachment #2 for proposed SPS Table 382.30-1.
  3. Draft Section 58, SPS Table 381.20-4. We have questions regarding the adoption of certain standards as proposed for SPS 381.20.
    - a. Proposed SPS Table 381.20-4, Line 19, includes ASSE 1024. The ASSE 1024 standard, although originally created in 1979, was not adopted by DILHR, Commerce or DSPS. The adoption of ASSE 1024 does not reflect the advisory committee changes to SPS Table 381.20-4. Refer to committee rule changes 10/17/2018.
    - b. Proposed SPS Table 381.20-4, Line 20, includes ASSE 1032. The ASSE 1032 standard, although originally created in 1980, was not adopted by DILHR, Commerce or DSPS. The adoption of ASSE 1032 does not reflect the advisory committee changes to SPS Table 381.20-4. Refer to committee rule changes 10/17/2018.
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- c. Proposed SPS Table 381.20-4, Line 13. Although a few the ASSE standards being adopted identify the most current edition (ASSE 1003-2020, ASSE 1022-2021), the ASSE 1013-2011 and ASSE 1015-2011 are proposed, but ASSE 1013-2021 and ASSE 1015-2021 are the current editions. The draft would be adopting a decade old standard for no apparent reason. Recommend adopting the current edition of ASSE 1001-2021, ASSE 1012-2021, ASSE 1013-2021, ASSE 1015-2021, ASSE 1047-2021, ASSE 1048-2021, and ASSE 5000-2022e1.
- d. Proposed SPS Table 381.20-4, Line 26. The proposed adoption of ASSE 1049 "Air Admittance Valves for Chemical Waste Systems" potentially conflicts with draft Section 87, SPS 382.31 (17m) (c) 4. "The AAV may not serve..." "A fixture serving a chemical waste system...". If the adoption of ASSE 1049 permits an AAV to be installed conforming to ASSE 1049, but not installed serving a chemical waste system, would the adding of a "Note" be advisable?
4. Draft Section 149. The proposed draft relating to SPS 382.40 (5) (bm) is significantly different than the advisory committee language.
- a. Proposed draft reads, SPS 382.40 (5) (bm) "Temperature maintenance..." All public buildings as defined by s. 101.01 (12) Stats., except for those buildings 3 stories or less in height above grade plane..."
- b. Refer to committee rule changes 9/28/2021. The committee proposed language reads, "For application to all commercial buildings. Inclusive of residential buildings with 3 tenants or more, which are 4 stories in height or greater above grade plan."
- c. The proposed draft seems to exempt all "public buildings" 3 stories or less. Would not this exempt approximately 80% of all commercial buildings in Wisconsin from the water efficiency requirements?
5. A few of the proposed draft Sections may lead to confusion. Some would need modest editing. More importantly, these items will require code clarifications in the future, but could be addressed prior to the legislative review.
- a. Draft Section 216. The draft proposes to repeal SPS Table 384-30-10, but SPS 384 (5) (a) states, "Pipe fittings shall conform to the pipe material standards listed in Table 384.30-10. The proposed draft in its current form does not amend this code section.
- b. Draft Section 58 & 200. In the proposed draft, ASSE 1006, 1007 and 1009 are repealed (primarily because these standards are inactive). SPS 384.20 (5) (a) requires residential clothes washer to conform to ASSE 1007. SPS 384.20 (5) (e) 1. requires a residential dishwasher to conform to ASSE 1006. SPS 384.20 (5) (h) 1. requires a commercial food waste grinder to conform to ASSE 1006. These code sections are not being proposed for amending in the Draft.
- d. Draft Section 200. The proposed draft for Table 384.11, Note "e." and "f." read, "Reduced pressure backflow preventers and... are not permitted for cross connection control." (Same statement is identified for the double check assembly. The RP valve assembly as well as the DC assembly are cross connection control assemblies. Delete Note "e" and "f." The advisory committee recommended to remove the notes. Refer to advisory committee rule changes 5/26/2021.
- e. Draft Section 163. The proposed update includes moving the PVC Sch 80 Tables from the Appendix of SPS 382 to SPS 382.40 (creating SPS Table 382.40-12 & 382.40-13). This might suggest the use of PVC Sch 80 for water distribution piping; yet PVC Sch 80 is not identified as approved water distribution material for SPS Table 384.30-8 in the proposed draft. If the rationale is the approved use of PVC Sch 80 for water distribution piping with the limitation of SPS 384.30 (4) (e) 2. "Cold water distribution pipe installed underground...shall conform to one of the standards in Table 384.30-7 or 384.30-8...", would the adding of a "Note" be advisable?
- f. Draft Section 144. The proposed draft language concerning SPS 382.40 (3) (e) 3. reads, "Materials for multipurpose shall be acceptable under NFPA 13D or ss. SPS 384.30 (4) (e) and SPS 384.30 (5)." NFPA 13D covers fire sprinklers systems for one and two-family dwellings. It includes stand-alone systems and multipurpose piping systems. NFPA 13D Table 5.2.2 permits black welded and seamless steel pipe, which is not an approved water distribution material as per SPS 384.30 (4) and (5). SPS 384.30 (4) and (5) permit water distribution material not listed or approved as specified in

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NFPA 13D Table 5.2.2 or Table 5.2.3.2. The existing wording of SPS 382.40 (3) 1. Note 1 seem to more in line with NFPA 13D 6.3.3 and 6.3.3.1.

g. Draft Section 15. The proposed draft language concerning SPS 305.92 (1) reads, "A person may obtain a license as a master plumber-restricted service by taking..." SPS 305.92 refers to master plumber restricted license, both types of restricted, restricted service and restricted appliance. SPS 305.92 includes eight subsections' categories. To apply SPS 305.92 (1) to one of the two types of restricted license contradicts the structure of SPS 305.92. Do not add "service" to SPS 305.92 (1).

h. Refer to Attachment #1 for additional recommended editing issues.

6. The advisory committee and a few plumbing contractors agree with the previous proposed draft: "Master Plan Review Exemption Proposal." Refer to Attachment #3. In light of ongoing discussions regarding plan review, we continue to believe that proposals such as these, where we look at ways to improve processes while still maintaining public health and safety, should be adopted. As always, we stand ready to work with the Department on other innovations regarding the plan review process.

In closing, we are grateful to the Department for moving forward with this update. We welcome it, but we would also like to get it right. We see an opportunity to reduce potential issues related to the update in its current form."

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14. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)

These proposed rules may have an economic impact on small businesses, as defined in s. 227.114 (1), Stats., and will be submitted to the Small Business Regulatory Review Board for a determination on whether the rules will have a significant economic impact on a substantial number of small businesses. The Department of Safety and Professional Services estimates a total of \$135,800 in one-time costs for staffing and supplies and \$18,200 in annual costs for IT subscriptions to implement the rule. The estimated costs may not be absorbed in the agency budget.

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15. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule

The policy alternative is to maintain the existing plumbing code regulations. As plumbing codes have not been updated in more than a decade, this alternative would continue existing inconsistencies with national standards and practices related to the plumbing industry. It would also increase concerns for health and safety for Wisconsin residents and businesses.

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16. Long Range Implications of Implementing the Rule

The long range implications of implementing the rule are the update of plumbing standards and practices throughout Wisconsin to ensure public health and safety and ensure Wisconsin buildings are safe and sanitary.

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17. Compare With Approaches Being Used by Federal Government

There are several existing federal regulations that relate to plumbing. Some of these regulations require compliance with specific 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 (IAPMO). A search of the United States Code (USC) found the following existing federal rules that impact plumbing:

33 USC § 1342 - National Pollutant Discharge Elimination System (NPDES). This law established Phase I of the storm water program in 1990. Nine years later, Phase II of the program was signed into law and requires smaller communities to develop and implement a comprehensive storm water management program.

42 USC Chapter 6A, Subchapter XII (§§ 300f-300j) – Safety of Public Water Systems. This law establishes standards for and enforcement to protect the public drinking water supply. The "Safe Drinking Water Act (SDWA)" was originally passed by Congress in 1974. This law regulates plumbing for the purpose of protecting the public drinking water supply.

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Under this law, the Environmental Protection Agency (EPA) sets national health-based standards to protect against contaminants that may be found in public drinking water. EPA sets enforceable maximum contaminant levels for public drinking water, establishes required ways to treat water to remove contaminants and includes requirements for water systems to test for contaminants that may adversely affect public health. The EPA also evaluates risks from several specific contaminants, including microbial contaminants, such as Legionella and Cryptosporidium.

42 USC § 300g-1 - National Primary Drinking Water. This law established 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 EPA, the regulations are applicable to public water systems. Subpart I establishes monitoring requirements for lead and copper in tap water.

42 USC § 300g-6, Section 1417 - The Reduction of Lead in Drinking Water Act. This federal law amends the Safe Drinking Water Act (SDWA) and sets new, lower standards for the amount of lead permissible in plumbing products that come into contact with potable water. The U.S. Environmental Protection Agency (EPA) has primary responsibility for interpreting the SDWA with individual states using health or plumbing codes or other standards consistent with the SDWA and EPA regulations to enforce those standards. The law prohibits use lead in pipes, fittings, or fixtures, in any public water system or facility providing water for human consumption and 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%.

42 USC § 300j-24 - Lead contamination in School Drinking Water. This law provides federal guidance on how to decrease or eliminate lead contamination in school drinking water. It requires each state to develop a testing program to remedy lead contamination.

21 CFR § 211.48 - Plumbing. The Food and Drug Administration sets current good manufacturing practice for finished pharmaceuticals. This section establishes standards for plumbing in buildings and facilities that manufacture pharmaceuticals and requires portable water to be supplied in a plumbing system free of defects that could contribute contamination to any drug products. Potable water is required to meet the standards prescribed in the EPA's Primary Drinking Water Regulations under 40 CFR 141.

24 CFR § 3280.601 - Plumbing Fixtures. Subpart G of this standard covers the plumbing materials, fixtures, and equipment installed within or on manufactured homes.

30 CFR § 71.402 - Minimum requirements for bathing facilities, change rooms, and sanitary flush toilet facilities. This section was established by the Department of Labor to protect miner's safety and health.

40 CFR § 141 - Primary Drinking Water Regulations. This part establishes primary drinking water regulations pursuant to section 1412 of the Public Health Service Act, as amended by the Safe Drinking Water Act, and related regulations applicable to public water systems. These regulations set maximum levels for contaminants in drinking water.

10 CFR § 430.31-35 - Energy and Water Conservation Standards. The Energy Policy and Conservation Act (EPCA), as amended, requires the Department of Energy to administer an energy and water conservation program for consumer products consisting of certain major household appliances and commercial equipment, including certain plumbing products.

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18. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)  
Illinois:

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The Illinois Plumbing Code is administered by the Illinois Department of Public Health (IDPH). The IDPH licenses plumbers, plumbing contractors, plumbers' apprentices, irrigation contractors and retired plumbers other than those regulated by a local ordinance under the Illinois Plumbing License Law. All persons engaged in plumbing must comply with the minimum code of standards for plumbing and the fixtures, materials, design, and installation methods of plumbing systems. The Plumbing Code Advisory Council, whose members are appointed by the state's governor, consults with and advises the IDPH.

Cities, villages, or incorporated towns with a population of 500,000 or more may, by an ordinance containing provisions substantially the same as those in the Illinois Plumbing License Law and specifying educational or experience requirements equivalent to those prescribed in the Illinois Plumbing License Law, provide for a board of plumbing examiners to conduct examinations for, and to issue, suspend, or revoke, plumbers' licenses, within such city, village or incorporated town. (77 Ill. Admin Code 890).

Iowa:

The Iowa Plumbing Code is administered by the Iowa Department of Public Health (IDPH). Iowa currently adopts the 2021 edition of the Uniform Plumbing Code (UPC), with amendments. (IAC 641—25.1(105)). Iowa law requires the Iowa Plumbing and Mechanical Systems Board to adopt the most current version of the UPC within six months of its release as the state's plumbing code to govern the installation of plumbing in the state. Local jurisdictions are not required to adopt by ordinance the state plumbing code but a local jurisdiction that adopts the state plumbing code may adopt standards that are more restrictive. Local jurisdictions are not required to conduct inspections or take any other enforcement action under the state plumbing code regardless of whether they adopt the state plumbing code. A city may set standards and requirements which are more stringent, but not less stringent, than those imposed by state law.

The Iowa Plumbing and Mechanical Systems board performs investigations and administers and enforces Iowa law regarding the licensing and regulation of plumbers, mechanical professionals, and contractors. Anyone working in these disciplines in the state of Iowa is required to be licensed with the board with the exception of an enumerated list of activities found in IAC s. 105.11, primarily consisting of individuals performing specific work on their own home, professionals engaged in related trades, and government employees working on government facilities.

Michigan:

The Plumbing Division of the Michigan Department of Licensing and Regulatory Affairs (LARA) is responsible for the administration and enforcement of the Michigan Plumbing Code and the plumbing provisions of the Michigan Residential Code by conducting inspections of plumbing equipment and installations. Michigan's plumbing code establishes minimum standards and currently adopts the 2018 edition of the International Plumbing Code. (Mich. Admin. Code R408.30701). Michigan licenses plumbing apprentices, journey plumbers, master plumbers, plumbing contractors, and plumbing inspectors. Michigan law creates a state plumbing board consisting of the director of the department of licensing and regulatory affairs or his or her authorized representative, the director of the department of environmental quality or his or her authorized representative, a member or employee of the drinking water and radiologic protection division of the department of environmental quality, selected by the director of the department of environmental quality, and five members who are appointed by the governor for 3-year terms and who are United States citizens and residents of the state. The board recommends to the state construction code commission the promulgation of rules the board considers necessary for the safe design, construction, installation, alteration, and inspection of plumbing. The board may also recommend acceptability under the state construction code for a material, product, method of manufacturing, or method of construction or installation of plumbing equipment. (See Mich. Stats. s. 339.6101 to 339.6133).

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### Minnesota:

The 2020 Minnesota Plumbing Code is administered and enforced statewide by the commissioner of the Minnesota Department of Labor and Industry and incorporates the 2018 edition of the Uniform Plumbing Code, with amendments. (MN Admin Code 4714.0050). The state plumbing code is a section of the Minnesota State Building Code. The plumbing code establishes minimum requirements and applies to all new plumbing installations performed anywhere in the state, including additions, extensions, alterations, and replacements, unless an agreement exists between the commissioner and the municipality. The state may enter into agreements with local municipalities for plan approval and inspections if the municipality adopts the state plumbing code by ordinance. Governmental units may not adopt regulations that are in conflict with the code. The 14-member Minnesota State Plumbing Board, of which 12 members are appointed by the governor, has the authority to license plumbing contractors and restricted plumbing contractors, master plumbers and restricted master plumbers, and journeyworker plumbers and restricted journeyworker plumbers. Registered plumber's apprentice and registered unlicensed plumbers are allowed to assist in the installation of plumbing under the direct supervision of one of the other categories of licensed plumbers.

19. Contact Name Joseph Ricker	20. Contact Phone Number 608-267-2242
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**ATTACHMENT A**

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1. Summary of Rule's Economic and Fiscal Impact on Small Businesses (Separately for each Small Business Sector, Include Implementation and Compliance Costs Expected to be Incurred)

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2. Summary of the data sources used to measure the Rule's impact on Small Businesses

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3. Did the agency consider the following methods to reduce the impact of the Rule on Small Businesses?

- Less Stringent Compliance or Reporting Requirements
  - Less Stringent Schedules or Deadlines for Compliance or Reporting
  - Consolidation or Simplification of Reporting Requirements
  - Establishment of performance standards in lieu of Design or Operational Standards
  - Exemption of Small Businesses from some or all requirements
  - Other, describe:
- 

4. Describe the methods incorporated into the Rule that will reduce its impact on Small Businesses

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5. Describe the Rule's Enforcement Provisions

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6. Did the Agency prepare a Cost Benefit Analysis (if Yes, attach to form)

- Yes    No
-