

**Clearinghouse Rule 14-056**

STATE OF WISCONSIN  
Department of Safety and Professional Services

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IN THE MATTER OF RULEMAKING : NOTICE OF PUBLIC HEARING FOR  
PROCEEDINGS BEFORE THE : EMERGENCY RULES AND  
DEPARTMENT OF SAFETY AND : PROPOSED PERMANENT RULES,  
PROFESSIONAL SERVICES : AND PROPOSED ORDER ADOPTING  
: PERMANENT RULES

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NOTICE IS HEREBY GIVEN that pursuant to authority vested in the Department of Safety and Professional Services in sections 145.02 (2), 227.11 (2) (a), and 227.24 (1) (a) of the Wisconsin Statutes, and interpreting section 145.02 (2) of the Statutes, the Department will hold a public hearing at the time and place shown below to consider an order 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. As provided in section 227.24 (4) of the Statutes, this hearing will also be for emergency rules that identically address these chapter SPS 384 criteria.

**Hearing Date, Time, and Location**

**Date:** October 27, 2014  
**Time:** Commencing at 1:00 P.M.  
**Location:** 1400 East Washington Avenue  
Room 121C  
Madison, Wisconsin (enter at 55 North Dickenson street)

**APPEARANCE AT THE HEARING:**

Interested persons are invited to present information at the hearing. Persons appearing may make an oral presentation but are urged to submit facts, opinions, and arguments in writing as well. Facts, opinions, and arguments may also be submitted in writing without a personal appearance, by e-mail to [sam.rockweiler@wi.gov](mailto:sam.rockweiler@wi.gov) or by mail addressed to the Department of Safety and Professional Services, Division of Policy Development, P.O. Box 8366, Madison, Wisconsin 53708-8366. Written comments must be received at or before the public hearing to be included in the record of rulemaking proceedings.

The proposed rulemaking order and permanent rules and an analysis of the rules follow. Copies of the emergency rules and the proposed permanent rules are also available upon request to the Rules Coordinator shown above, or on the Department's website at

<http://dsps.wi.gov/Default.aspx?Page=44e541e8-abdd-49da-8fde-046713617e9e>, through links to SPS 384: Water-Treatment Devices.

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### 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.

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### ANALYSIS

#### **Statutes interpreted:**

Section 145.02 (2).

#### **Statutory authority:**

Sections 145.02 (2), 227.11 (2) (a), and 227.24 (1) (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*<sup>®</sup> (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<sup>®</sup> (IPC), from the International Code Council<sup>®</sup>. 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:**

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.

**Place where comments are to be submitted and deadline for submission:**

Comments may be submitted to the agency contact person as listed immediately above. Comments must be received on or before October 27, 2014, to be included in the record of rulemaking proceedings.

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TEXT OF RULE  
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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**

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|---|
| 8. <del>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.</del> |
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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**

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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.
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**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](http://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 emergency rule shall take effect upon publication in the official state newspaper as provided in s. 227.24 (1) (c), Stats.

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(END OF TEXT OF RULE)  
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Dated \_\_\_\_\_

Agency \_\_\_\_\_

Dave Ross, Secretary of the  
Department of Safety and  
Professional Services

*File reference: SPS 384/Hearing notice, order, and rules*